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REALISING REFUGEE PROTECTION IN THE REGION: HOW DONORS CAN SUPPORT HOST STATES IN SOUTHEAST ASIA

DR ASHER HIRSCH
ASIA DISPLACEMENT SOLUTIONS PLATFORM – EXPERT COMMENTARY
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EXECUTIVE SUMMARY

Southeast Asia is a region that hosts a significant number of refugees, yet struggles with providing adequate protection and rights due to various challenges, including a lack of legal frameworks, funding, and regional cooperation. This Expert Commentary focuses on the role donor states, especially those in the Global North, can play in supporting Southeast Asian host states to enhance access to protection and durable solutions for refugees.

CONTEXT AND CHALLENGES

Many Southeast Asian states have not ratified the 1951 Refugee Convention, resulting in a lack of formal legal frameworks for refugee protection. This situation leaves refugees vulnerable, with limited access to essential services, legal work opportunities, and pathways to durable solutions. The Expert Commentary discusses these challenges in detail, outlining the complex political, social, and economic factors contributing to refugees' precarious situation in the region.

INCREMENTAL APPROACH FOR CHANGE

Recognising the complexities of the regional context, the Expert Commentary advocates for an incremental approach to refugee rights enhancement. It suggests that donor states should support host states through a series of practical, context-sensitive steps, in addition to pushing for the longer-term goal of wholesale adoption of international refugee law standards. This approach is grounded in the understanding that small, steady improvements can lead to significant long-term changes in refugee protection and long-term solutions for displaced communities.

The Expert Commentary builds on the work done by the Refugee Council of Australia (RCOA) since 2012, advocating for an incremental process of change in the region, which would begin with the most pressing needs of refugees and move gradually towards an agreed and common regional strategy to protect refugees. RCOA has outlined 10 interconnected steps that could be taken in any order, country by country, as opportunities arise:

- *Removing current barriers to existing refugee status determination procedures*
- *Creating space for and supporting NGOs and RLOs to provide vital services to refugees and people seeking asylum*
- *Granting people seeking asylum legal permission to remain while refugee status is determined*
- *Developing and implementing alternatives to immigration detention*
- *Granting refugees and people seeking asylum the right to work*
- *Providing access to basic government services, including education and health*
- *Providing refugees with access to durable solutions*
- *Developing national asylum legislation*
- *Promoting ratification of the Refugee Convention*
- *Building greater regional consistency in asylum processes and protection strategies, supported by equitable sharing of responsibility for refugees, based on national capacity.*

EMERGING OPPORTUNITIES IN SOUTHEAST ASIA

Despite the challenges, there are emerging opportunities for enhancing refugee protection in Southeast Asia. The paper identifies recent positive developments in Thailand, Malaysia, and Indonesia, which indicate a growing recognition of the need for improved solutions for refugees.



Thailand has recently implemented a National Screening Mechanism (NSM), which will assist the Thai Government in identifying refugees and ensure they are referred to relevant services for support. Thailand has also made positive steps towards Alternative to Detention (ATD), presenting opportunities for donor states to support ongoing developments towards ending the practice of immigration detention. In January 2019, Thai Government Officials signed the Memorandum of Understanding on the Determination of Measures and Approaches to Alternatives to Detention of Children in Immigration Detention Centres (the ATD MOU).



Malaysia has recently committed to the release of children in immigration detention centres to non-governmental welfare organisations. There are currently approximately 1,382 children in immigration detention centres in Malaysia, and it is hoped that the announcement will lead to their release.



Indonesia ended its practice of detaining refugees in 2018, corresponding with Australia's change of policy in funding such detention through IOM. In 2019, Indonesia allowed refugee children to attend primary education and some secondary education. It is also understood that Indonesia is working on opportunities for some refugees to undertake vocational training in certain industries and work-experience opportunities.

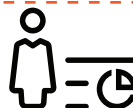
These opportunities demonstrate positive developments in the region, which donor states should support.

STRATEGIES FOR DONOR STATES

The paper outlines several key strategies for donor states to support refugee protection in Southeast Asia:



Diplomatic Engagement: Encouraging host states to adopt more refugee-friendly policies and constructively engage in regional and international dialogues on refugee protection.



Targeted Aid and Capacity Building: Offering targeted financial aid and capacity-building initiatives to strengthen the institutional capacity of host states in managing refugee situations effectively.



Strategic Use of Resettlement: Using resettlement not only as a durable solution for refugees but also as a tool to encourage host states to improve their refugee protection regimes.



Complementary Pathways: Supporting alternative avenues such as education and employment visas to provide refugees with access to safety and opportunities for self-reliance.

RECOMMENDATIONS

This paper proposes a number of recommendations for donor states wishing to improve refugee protection in Southeast Asia. Key recommendations include:

- *Engage in sustained and constructive dialogue with host states.*
- *Increase aid and capacity-building initiatives, especially for NGOs and RLOs working directly with refugees.*
- *Consider how resettlement programs can be used strategically also to leverage protection in host states.*
- *Utilise complementary pathways to expand access to protection in resettlement states and access to work and education in host states.*
- *Provide flexible and targeted support that respects host states' sovereignty and unique contexts.*
- *Use their influence in international forums to advocate for enhanced refugee protection in Southeast Asia.*
- *Ensure that any such cooperation and support is provided in good faith and in a way that increases international refugee protection.*