ICVA
A GLOBAL NGO NETWORK
FOR PRINCIPLED
HUMANITARIAN ACTION

DIALOGUE on Protection at Sea and Statelessness in Asia

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Dialogue on Protection @ Sea and Statelessness in Asia

Summary

The International Council of Voluntary Agencies (ICVA) organized a three-day workshop in Bangkok on 22-24 September 2015, which brought together various international and national NGOs with UNHCR, IFRC and IOM. During the first day participants reviewed the quality of partnership between UNHCR, NGOs and IFRC in the framework of the Structured Dialogue Initiative\(^1\). The aim of the Dialogue on Protection at Sea and Statelessness in Asia held on the second day was threefold: i) to improve understanding about NGO coordination on Protection at Sea and Statelessness in Asia, ii) discuss the associated challenges and best practices and iii) contribute to the development of an informal NGO thematic network on Statelessness to work with UNHCR regional and country offices in Asia. The debate stimulated a lot of discussion and offered a great opportunity for participants to share ideas, experiences, and challenges but also try to identify possible concrete solutions to advance action in the two areas of work. Key action points to improve collaboration on Protection at Sea and Statelessness have been put forward at the end of the meeting for follow up. The ICVA Asia Hub together with UNHCR and ICVA members will monitor their implementation.

Methodology

Following brief welcoming remarks from the UNHCR Regional Assistant Representative for Protection, Alistair Boulton, the workshop started with two plenary sessions to set the scene on both protection themes. Participants were then divided into 2 working groups to identify what works well, what needs strengthening and possibly suggest recommendations for way forward. The groups were co-facilitated by UNHCR and APRRN (Asia Pacific Refugee Rights Network). All 43 participants had the opportunity to debate around both themes and report back in plenary the outcomes of their discussion. Building on suggested recommendations in his closing remarks, Mr. Boulton, highlighted UNHCR Regional Office commitments in advancing Protection at Sea and Statelessness in Asia in the near future.

Framing the discussion

1. Protection at Sea

Protection at Sea was the theme chosen for the 7th High Commissioner’s Dialogue on Protection Challenges held in Geneva on 10-11 December 2014. The Dialogue, the largest to date, brought together delegations from 88 countries, 52 NGOs, and 13 IGOs as well as academics and experts. The Dialogue informed the implementation of a two-year Global Initiative on Protection at Sea\(^2\). NGOs, under ICVA coordination, contributed to the Dialogue in December and later to follow up meetings held in Geneva with key messages

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\(^1\) A detailed report is available at https://icvanetwork.org/resources/regional-structured-dialogue-report-asia

\(^2\) http://www.unhcr.org/5375db0d9.html
that continue to be valid and relevant in the region aiming at strengthening protection and improve coordination between UNHCR, IFRC and IOM.

Chris Horwood, from the Regional Mixed Migration Secretariat – hosted by DRC in Nairobi, provided a comparative analysis of refugee / migrant movements between 4 major regions namely, Central and Eastern Mediterranean, Gulf of Aden/Red Sea and Bay of Bengal/Andaman Sea. The matrix presented, further reviewed together with participants, offered a basic identification of some of the differences between profiles, context and conditions associated with protection at sea and mixed migration between the three regions and four movements. Despite significant differences between the regions and the changing environment, at a policy level there are generic ‘contested issues’, such as forced migration vs economic migration, refugee/migrants rights vs security, etc. that point to the heart of the ‘crisis’ around complex flows and mixed migration globally.

Some issues are more relevant for specific regions and could/should be taken forward for more in depth analysis. The presentation provided room for open discussion and information sharing on protection at sea. Several participants underlined the specificity of the movement and challenges in the Andaman Sea and in particular with reference to the Rohingya situation. One of the main differences highlighted was in Thailand smugglers are paid once they arrive on land, creating an incentive to ensure safe arrival, which now includes the use of larger cargo ships to ensure survival. Many stressed the importance of the Bali Process, although the reaction of States has been incredibly different in each country and the issue has been viewed as a national, not regional issue.

Participants showed a great interest in looking at the broader picture and in better understanding experiences from other regions.

UNHCR Alistair Boulton provided a brief overview of the recent Bay of Bengal crisis complemented by IOM (Jeffrey Labovitz). Reference was made in particular to the UNHCR, IOM and UNODC Bay of Bengal Proposals for Action and its 10 recommendations including on disembarkation, reception and addressing root causes which were picked up and reflected in the 29 May 2015 Special Meeting in Bangkok at which 17 countries from within and beyond the region participated.

2. Statelessness

Nickolas Oakeshott, Regional Protection Officer UNHCR, framed the discussion around Statelessness, presenting a summary of the initial thinking on the High Commissioner’s Dialogue on Root Causes and the link to implementing the Global Action Plan to End Statelessness in the region whilst emphasizing the role and cooperation with civil society.

Key themes of the HC’s Dialogue on Root Causes to be held in Geneva on the 16-17 of December 2015 are: Prevention of the need to flee; Addressing new ‘root causes’ for displacement like environmental degradation, natural disaster and climate change; and, Reinvigorate solutions to protracted situations. There is a clear link between the Root Causes Dialogue and Statelessness. Statelessness, amongst other things, can be a root cause of displacement due to limitations and restrictions linked to their nationality status.

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5 NGO scan join the ICVA « Friends of the Dialogue 3 group if they wish to engage in advance to the Structured Dialogue event in Geneva- more details at: https://icvanetwork.org/forced-displacement
The Global Action Plan to End Statelessness aims within 10 years by resolving existing situations and preventing the emergence of new cases of statelessness. It includes 10 key actions that States can take to address that goal. UNHCR launched the #IBelong campaign to End Statelessness on 4 November 2014. The theme for the campaign for 2015 and 2016 is the importance of addressing statelessness amongst children and youth. At this time UNHCR will also release a report based on participatory consultations held in eight countries with children and youth setting out key reasons why statelessness amongst this group should be resolved. It will be interesting to link the result of this study with the upcoming Annual NGO Consultations in 2016 centered on Youth.

UNHCR is keen in finding opportunities for collaborative engagement with civil society and welcomes the outcome of the Asian Civil Society Retreat on Statelessness held this summer and in particular the participants’ agreement to establish a new Asia civil society network on statelessness.

**Working Groups**

An overview of the outcomes of the discussion held in the 4 different working groups focusing on Protection at Sea and Statelessness is provided below.

1. **Protection at Sea**

There have not been any fundamental changes in the root causes of why people migrate via boat in the region and all participants pointed to the fact that people will be leaving again once the monsoon season passes; hence there is a need for an urgent action.

**Works well:** While Europe has incentivized the picking up of migrants at sea by corporate boats and private fisherman, Asian authorities have done the opposite, going as far as to punish anyone trying to help migrants disembark. Fisherman initiatives have shifted the situation in Indonesia - fulfilling the obligation to save every life at sea. There are examples of good practices in Indonesia of capacity strengthening/awareness workshops in host communities. Thai government profiling of affected population has led to trafficked women and children being transferred to safe shelters.

**Not so well:** Disembarkation is a critical concern in the region. NGO access is almost completely absent in reception countries/disembarkation sites/detention centers and ICRC, UNHCR, and IOM must request access each time; in Malaysia only a few NGOs have access to camps. Many pointed to the new practice introduced by Thai government officials screening new arrivals as not legitimate and not in line with ASEAN/ international provisions. Some participants expressed concerns with regards to the “negative” media attention that could have a dampening effect on this year’s maritime migration numbers. There is a great need for capacity building to understand how national law works and how it applies to long-term protection so that civil society organizations can be most effective. Reaching out and engage with local/community-based organizations has been identified as key. It is also critical to monitor the political environment, especially in Thailand.

**Recommendations:**

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4 For more information on the UNHCR- NGO Annual Consultations and how to engage consult: https://icvanetwork.org/forced-displacement
• Proposals and recommendations from the May 29th meeting on Irregular Migration need to be followed up and implemented;
• Identify a common platform to stimulate coordinated advocacy before another crisis strikes;
• Formulate specific advocacy messages for increased access to disembarkation and detention sites but also on disembarkation issues and on push back, anchoring all of this on the regional mechanisms (to ASEAN and the Bali Process);
• In the advocacy strategy consider engaging victims of trafficking who want to bring cases against their smugglers, pushing for more legal avenues of legal migration;
• Advocate for an expanded role of CBOs in service provision in urban settings, particularly in Malaysia;
• Improve information-sharing between agencies and NGOs possibly identifying an entity to facilitate dissemination of information and act as a key mechanism for improvements.
• Consider Litigation as an avenue to advance certain legislation that would force countries to abide by their rescue at sea or anti-trafficking laws.
• Continue addressing root causes in the region and further engage in the HC’s Dialogue on Root causes at global level

2. Statelessness
The majority of stateless people in Southeast Asia are not migrants and they are often living in the country in which they were born and their ancestors were born. From community consultations held in Northern Thailand, 7 out of 11 indigenous groups identified statelessness (lack of citizenship) as their #1 concern. Another important issue to consider is the risk that children of refugees become stateless as a consequence of losing links to their family’s country of nationality.

Works well: The Rights of the Child is seen as a strong entry point in this region for the #IBelong campaign. There is a good example in Indonesia where linking statelessness to the “Children on the Move” campaign had already gained traction within the Child Protection Unit in the Indonesian government.

Not so well: There is in general limited discussion regarding protection of stateless people while the broad focus is on prevention and solutions. Many participants felt that UNHCR country offices need to do more to raise civil society’s awareness in order to mobilize support around the Ending Statelessness by 2024 campaign, although it was recognized that the civil society retreat has helped to progress this. It is extremely important to join forces and build on complementarities of each agency/organization. Some participants suggested that consultations with stateless populations are conducted before civil society begins advocating for their rights, considering that some people don’t want awareness/attention of their stateless conditions since it might trigger discrimination from government and local communities (do no-harm principle)
The #IBelong campaign is viewed as very aspirational and perhaps unrealistic in many countries (e.g. Bhutan). Terminology is key, given the politicization and conceptual ambiguity of “statelessness” in certain contexts → consider the use of proxy terms that won’t evoke estrangement/hostility from authorities.
There are challenges addressing statelessness through ASEAN structures because some States considered that citizenship and nationality were matters of national rather than
regional or international concern. There’s a lack of detailed, evidence-based, accessible research regarding national issues of statelessness, for example, the stateless in Bhutan, which lacks international attention; more work should be done to identify populations affected by statelessness.

Recommendations:

• Stress the importance of the #IBelong campaign in all affected countries and increase awareness and understanding at local level;
• Consider in specific countries re-conceptualize citizenship and raise debates on belonging, identity and inclusion;
• Build on the Principle of Partnerships with a focus on utilizing the complementarities between agencies (UNHCR) and organizations (NGOs);
• Stimulate further contextualized discussion on the protection of stateless persons and promote participatory approaches including statelessness people;
• Strengthen capacities of local authorities to improve implementation of nationality laws (UNHCR can build capacity and help the district offices, especially in Thailand, where some people consider that more than 40 per cent of the currently stateless population could acquire citizenship under the current law.);
• Identify alternative avenues to promote the ending statelessness campaign; integrating statelessness into development programs, particularly the realization of the sustainable development goals to ensure that no one gets left behind and fostering links with other on-going campaigns (“Children on the move”),
• Ensure the fundamental Do No Harm principle is applied before starting any mapping or advocacy project; and
• Improve the quantitative and qualitative data on stateless populations in the region to ensure better understanding of the many different situations.

Conclusions

At the end of the workshop UNHCR and NGOs agreed to commit to the following key action points to be followed up in the next 12 months:

• Information sharing – Together ICVA and APRRN will ensure an appropriate mailing list of partners is created to share UNHCR sit-reps in order to disseminate information more efficiently with regards in particular to Protection at Sea, taking advantage of existing networks for information sharing.
• Joint-advocacy - Reinforce advocacy messages on Search and Rescue, Access, and Disembarkation. UNHCR will share with NGOs for inputs into the “white paper” currently being drafted, which builds on the outcomes of the Special Meeting on irregular migration held on 29 May 2015. The white paper, to be further shared with governments, will include a related action plan and will offer a great opportunity to follow up on a joint advocacy initiative and serve to increase stakeholder buy-in. ICVA and APRRN will facilitate NGOs contribution to the white paper.

5 “Children can be used as an entry point for a number of reasons, and more specifically because many countries in the region are not signatory to international refugee conventions, but they have all signed onto the rights of the child one”.
6 Foster a heightened sense of awareness around what are helpful ways of engaging different actors at different levels; Being mindful of terminology -referring to a population as stateless when speaking with the government might shut down the conversation--; Being careful of differences in reporting -undetermined nationality, de facto statelessness, or officially stateless.
• **Capacity Building** - UNHCR will endeavor to support the organic efforts of NGOs to train first responders, engaging more with local communities and CBOs.

• **Root Causes** – NGOs need to further engage in collective efforts to address root causes, identifying concrete measures of collective advocacy and anchoring them to regional mechanisms. Where possible, ICVA to assist and facilitate NGOs participation to HC’s Dialogue on Root causes in Geneva later this year (December 2015).

• ICVA to facilitate a research study based upon the previous work of UNHCR and APRRN which has mapped the relevant actors working on Statelessness in the region so as to gather evidence–based information that can be used in advocacy as well as further studies.

• **#iBelong campaign** - it’s important that this campaign is understandable in the local context. UNHCR and NGOs have to work jointly with local country offices and local government authorities. Ideally, allow for consultations within the next few months. The promotion of the campaign should be part of multi-year strategies, reflected in country operation plans and be made more understandable in the local context, allowing everyone to target advocacy better at the local levels; NGOs should advocate for including the campaign and awareness raising initiatives in UNHCR Country Operations Plan.
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