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NGO Statement on Asia and the Pacific
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This statement has been drafted in consultation with, and is delivered on behalf of, a wide range of NGOs from the Asia Pacific region. It reflects the diversity of views within the NGO community.

Introduction

NGOs continue to be deeply concerned by the on-going lack of protection for asylum seekers, refugees, IDPs and stateless people in most countries of the Asia Pacific region. Many asylum seekers and refugees remain unregistered, which undermines the ability of refugees to obtain effective protection. This lack of protection is characterised by severe rights violations including arbitrary detention, lack of access to basic healthcare and education, inability to access sustainable employment lawfully, exposure to exploitation and sexual and gender-based violence and, most seriously, forced returned to countries in which they are likely to suffer persecution (refoulement). Refugees also endure lengthy registration and refugee status determination procedures, which often leave them in limbo. Once again, NGOs call upon states to protect and uphold the human rights of all forced migrants as outlined above. We also draw urgent attention to the increased vulnerabilities of particular groups such as women, children (especially unaccompanied and separated children), youth, people living with disabilities, and the elderly.

Ratification of the 1951 Refugee Convention and Introduction of national refugee legislation

NGOs continue to be concerned that only 20 of the 45 countries in the Asia Pacific region are states parties to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol. NGOs call upon governments to take steps to ratify these treaties, but also to develop national legislation to ensure the protection of refugees and asylum seekers. We also encourage those states which have signed other international human rights instruments to extend the associated protections to refugees, asylum seekers and other people of concern. NGOs are alarmed over recent policy changes made by those states which have signed and ratified the Refugee Convention. The Australian government’s highly controversial but continuing policy of processing and detaining asylum seekers (including children) in offshore centres, as well as several cases of the refoulement of asylum seekers seeking protection by boat, all indicate the beginning of a trend in policies that shrink protection spaces rather than enlarge them. We urge all states that have signed the Refugee Convention to respect their obligations under international law and set positive examples in the region for other states to follow.
Regional Cooperation

NGOs urge governments to enhance regional cooperation mechanisms through adopting rights-based and humanitarian approaches to addressing conditions in refugees’ source, hosting and destination countries. NGOs stand ready to support governments in this endeavour, but voice concern over the very limited attention paid to date within the Bali Process and ASEAN/SAARC mechanisms for strengthening and raising standards of protection. NGOs also recommend that effective and sustained systems be developed for multilateral stakeholder engagement, especially between states and civil society, to ensure a protection-focused approach to managing practical and humanitarian aspects of irregular migration and human trafficking.

In light of the decades of maritime movements across the region, and the humanitarian crisis of refugees and migrants stranded in the Andaman Sea and Bay of Bengal in May and June 2015, NGOs appeal to UNHCR and states to realise the commitments made during the High Commissioner’s Dialogue in 2014 and at the two Special Meetings on Irregular Migration in the Indian Ocean by developing more comprehensive response mechanisms that value human life, dignity and protection from refoulement as grounded in international law.

Durable solutions

NGOs are concerned over the limitations to the durable solutions available to refugees in the region, particularly for those in protracted refugee situations. The reality of limited durable solutions is resulting in refugees being stuck in limbo, which forces them to consider unsafe and irregular onward migration channels, and also heightens their susceptibility to trafficking. NGOs appeal to UNHCR and states to ensure faster resettlement processing times and increased resettlement spaces. NGOs commend Japan for recently providing resettlement for 40 Karen refugees from Myanmar, and South Korea's positive efforts in setting up a similar programme, but also maintain concern over the relatively low rates of refugee recognition of refugees in both countries.

NGOs are also mindful of the decreasing opportunities for third country resettlement, and thus encourage UNHCR to strengthen dialogue with states on the feasibility of integrating refugees into local host communities. We reiterate the findings of multiple studies which clearly show that refugees and migrants contribute significantly to the development and economy of their host countries. We also call upon UNHCR to refrain from actively encouraging the voluntary repatriation of refugees, so long as conditions remain unstable and refugees are unable to return safely and with dignity, for example in the cases of Afghanistan and Myanmar.

Alternatives to Immigration Detention

NGOs welcome the steps taken by several governments in the region to explore and implement alternatives to detention. In particular, NGOs commend UNHCR’s Regional Office in Bangkok for its continuous engagement with civil society, for example through the co-organisation of a ‘Regional Expert Roundtable on Alternatives to Immigration Detention for Children’ held in November 2015, and in advancing the resultant regional and national action plans. We further recognise UNHCR's efforts to connect governments in the region, in
order to share and learn from good practices in managing refugees and asylum seekers outside of immigration detention facilities. NGOs continue to support UNHCR’s Global Detention Strategy, but encourage further strengthened collaboration with civil society when developing action plans as well as translating key documents into local languages.

Despite the progress thus far, the use of immigration detention for asylum seekers, refugees, migrants and stateless people across the region remains of mounting concern. These concerns include:

- The regular and on-going use of arbitrary immigration detention practices as a migration management tool.
- The increasing use of arbitrary, penal and punitive detention in conditions that fail to meet minimum international standards;
- Lengthy, prolonged, and in some cases indefinite periods in detention, with restrictions on or denial of access to refugee status or statelessness determination procedures and/or judicial review of detention;
- Lack of access to legal assistance and representation, and appropriate interpretation services;
- Restrictions on, or denial of access to places of detention for NGOs and legal aid providers;
- Detention of vulnerable groups: children (including those unaccompanied and separated); pregnant women; people living with physical and psychological disabilities; the elderly; refugees, asylum seekers, stateless and undocumented people; and
- The impact of detention on these vulnerable groups, including insecurity, separation (of children and families), restricted freedom, respect and privacy, isolation, cultural insensitivity and deterioration of physical and mental health;

NGOs call upon governments in the region to explore and strengthen the use of alternatives to detention to prevent unnecessary and damaging detention practices. States must ensure that the right to liberty is ensured for those seeking international protection, and that immigration detention is only ever used as an absolute last resort. States must also ensure that children and other vulnerable groups are not subject to immigration detention.

In reference to the outsourcing by Australia to Nauru and Manus Island (Papua New Guinea) of the screening and processing of asylum seekers while Australia assesses their refugee claims, NGOs express serious concern over the harsh conditions, violence and abuses and lack of access and monitoring at these off-shore detention facilities. The far-reaching and long-lasting mental health and psychological impacts of detention, especially on children and babies, are of particular concern. It is never in the best interest of the child to be detained, and as such they should be released using the Minister’s discretion. NGOs appeal to all states to refrain from criminalising people seeking asylum, and instead put human rights, dignity and protection above securitisation of national borders.

**Refugee Status Determination (RSD)**

NGOs acknowledge that amidst the myriad crises in our world today, UNHCR is facing an unprecedented predicament in managing the highest caseload in history of people requiring Refugee Status Determination (RSD) verification. As the number of people who are displaced and seeking refuge from fear and persecution continues to rise exponentially, NGOs are concerned about refugees’ restricted and inconsistent access to due process.
UNHCR’s RSD procedures in countries across the region continue to vary significantly, and often include long and opaque recognition procedures. These processes may also have adverse effects on the lives of asylum seekers with refugee recognition itself offering little or no protection. UNHCR is falling short of meeting its own procedural guidelines on RSD, for example with regards to legal representation and appropriate interpretation services in many countries. Specifically, NGOs call upon UNHCR to ensure an open, fair and easily accessible registration process in Malaysia in line with UNHCR's protection mandate and explore options for creative alternatives to the currently failing RSD process. Further, NGOs are troubled by the lengthy waiting times for first instance interviews and the lack of legal representation during interviews in both Malaysia and Thailand. In Indonesia, refugees and asylum seekers have voiced frustration at the lack of information forthcoming from UNHCR on their status determination and resettlement prospects, resulting in prolonged periods of uncertainty. Principally, we urge UNHCR to ensure that RSD processes are consistent, fair, and transparent, and follow set standards.

Statelessness

In absolute numbers, statelessness affects more people in the Asia Pacific than in any other region of the world and includes a complex combination of sizeable populations, protracted cases and multifaceted causes and impacts. UNHCR’s estimates of 1.4 million stateless people in the region are likely to be significantly underrepresenting the reality, due to challenges of unknown and unreliable data. Further, NGOs remain concerned at the low levels of accession to both the 1954 Convention Relating to the Status of Stateless Persons (six countries) and the 1961 Convention on the Reduction of Statelessness (four countries). NGOs call upon all governments to take steps to ratify these treaties, as well as develop national legislation to ensure the reduction and elimination of statelessness.

As such, NGOs welcome, endorse and back the UNHCR-led #IBelong campaign to end statelessness by 2024, and urge states to fully support it. NGOs are committed to working with UNHCR, other UN agencies, and states to solve statelessness through strong legal, political and diplomatic engagement and multidisciplinary approaches. And, appreciated the opportunity to co-organise with UNHCR’s Regional Office in Bangkok, a ‘Retreat on Resolving Statelessness in the Asia Pacific Region’ in June 2015.

While acknowledging the above advances, of particular concern to NGOs are developments that undermine protection and can perpetuate statelessness, especially obstructions to civil registration. NGOs urge UNHCR and states to enhance protection for stateless refugees, especially the Rohingya. In particular, we are concerned about the large number of Rohingya who remained detained, some indefinitely, in appalling conditions in a number of countries across the region. The root causes of their forced migration from Myanmar must be addressed, and regional and international responses must take into account and provide both immediate protection, and durable solutions for their statelessness. NGOs are also concerned that, unless preventative action is further prioritised, mass displacement resulting from the Syrian conflict could lead to statelessness among children born to refugees, including those seeking asylum in the Asia Pacific region, as has occurred amongst former refugees from the Philippines in Malaysia.

NGOs call upon the government of Myanmar to provide unfettered humanitarian access in Rakhine State. Abusive restrictions against Rohingya such as the annulment of their temporary ID cards in February 2015 rendering them undocumented, and the Population
Health Control Bill which permits authorities to impose a 3-year birth spacing in certain regions of the country (and could result in babies’ births being unregistered), must be abolished.

The newly-elected Myanmar government must amend the 1982 Citizenship Law and bring it in line with international standards in order to prevent and combat statelessness, and provide Rohingya with equal access to full citizenship rights. We appeal to all governments to explore a regional solution that would strengthen protection and provide durable solutions for stateless Rohingya across the region, and prevent prolonging the humanitarian crisis in our region.

**Internally Displaced Persons (IDPs)**

The region continues to contribute to the large populations of internally displaced people in the world, resulting from armed conflict and communal violence, as well as natural disasters. Civil society commends countries in the region which have developed frameworks to protect IDPs, however there remains concern over the failure to implement these effectively. Access to displaced populations, such as in Kachin and Rakhine states in Myanmar, also remains a key area of concern. We urge states in the region to facilitate unrestricted access to UNHCR and NGOs on humanitarian grounds, particularly in light of the continued restrictions on freedom of movement, access to basic services and livelihood activities, especially for IDPs in Northern Rakhine State. Such restrictions will only contribute to further deterioration of humanitarian and security conditions in Myanmar and will result in more people being forced to flee Myanmar and seek refuge elsewhere in the region.

**Education, health and livelihoods**

NGOs fully acknowledge the immense challenges facing both UNHCR and states to manage displaced populations in the region within the context of complex emergencies, and the shift in focus from resettlement to local integration as a durable solution. Nevertheless, NGOs express concern over the currently ineffective and failing systems attempting to provide protection for refugees, especially those living in urban centres throughout the region. NGOs support efforts by UNHCR to design and implement a sustainable livelihoods strategy for urban refugees. The dramatically reduced likelihood of resettlement points to the importance of unencumbered access by refugees and asylum seekers to basic services such as education, healthcare and civil registration, as well as the right to a standard of living adequate for their health and well-being.