

A REGIONAL APPROACH TOWARDS REFUGEES AND ASYLUM SEEKERS IN THE ASIA PACIFIC

INTRODUCTION

In May 2015, the world witnessed harrowing scenes as fishing boats crammed with refugees and migrants from Myanmar and Bangladesh were pushed back to sea by Thailand, Malaysia and Indonesia. Desperate children, men and women were left without food, water and medical care for a week, before the Philippines and later Indonesia and Malaysia offered to take them in. This crisis exposed the willingness of some governments in the region to ignore humanitarian imperatives as well as a range of core obligations under international law. Sadly, it is emblematic of the wider issues refugees face in the Asia Pacific region.

Amnesty International, Auckland Refugee Council and the Asia Pacific Refugee Rights Network (APRRN) strongly support a regional approach towards improving the protection of refugees and asylum seekers in the Asia Pacific. According to UNHCR, the region hosts more than 3.9 million refugees and 4.8 million people who are internally displaced, stateless or seeking asylum. We believe that this displacement crisis will not be solved unless states recognise it as a regional problem and deal with it as such. A constructive regional approach, firmly grounded in the principles of international human rights and refugee law, would positively impact not only on the well-being of refugees and asylum seekers but also on the stability of the region as a whole.

New Zealand has a key role to play in advancing this form of regional cooperation. Given the country's historically strong record on refugee protection, it is well-placed to foster dialogue with its neighbours and promote efforts to tackle some of the most pressing issues refugees and asylum seekers face in the region. As such, this paper contains a number of recommendations for the New Zealand government to apply bilaterally, domestically as well as through its diplomatic efforts in international fora. It is not intended to be an exhaustive summary but serves as a brief snapshot of key issues and a platform for further discussion.

INCREASING PROTECTION IN COUNTRIES OF ASYLUM

Essential to a regional approach is ensuring that refugees and asylum seekers are better protected in countries closer to their countries of origin. Refugees in South and South East Asia have very few opportunities to find protection – countries such as Malaysia, Thailand and Bangladesh often treat them not as people desperately seeking safety but as criminals deserving of punishment. Across the region, effective domestic refugee laws are virtually non-existent, and only 19 countries are state parties to the Refugee Convention. As such, refugees typically struggle to access timely and fair asylum procedures, have no formal legal status and are denied the right to work, to send their children to school or to enjoy basic health services.

This lack of status and integration places refugees at great risk of harassment, abuse, exploitation, detention and refoulement. It often leaves them desperate to seek protection via dangerous unofficial channels involving human smugglers and traffickers. With regional states resistant to recognise their human rights, refugees risk taking dangerous boat journeys in search of places of greater safety.

New Zealand can encourage and support, through financial and technical means, the development of robust domestic refugee protection systems across the region. Strengthening the protection of refugees would require governments in countries of asylum to take a number of basic steps, including to:

- Respect the key customary international law principle of **non-refoulement** and ensure that protection is provided to all those who require it regardless of their mode of travel and place of origin.
- Increase access to timely and fair refugee **status determination** processes, either via UNHCR or domestic asylum systems; and to provide greater financial and other **assistance to UNHCR** for its refugee registration and status determination work.
- Develop **alternatives to detention** while refugee status is determined; and to grant **full NGO access** to detention centres in order to identify and remove from detention all genuine refugees and asylum seekers.
- Increase the **legal recognition** of refugees and grant permissions to stay while refugee claims are processed.
- Grant refugees and registered asylum seekers **work rights**.
- Provide **access to basic services** such as food, education and health care; and to **support local NGOs** to deliver essential assistance to vulnerable refugees and asylum seekers.
- Develop **national refugee legislation**; and to sign and ratify the 1951 Convention Relating to the Status of Refugees (**Refugee Convention**) and/or its 1967 Protocol.

These steps can be advanced by New Zealand through constructive bilateral action between two, three or more states working in partnership with UNHCR and NGOs. New Zealand's Aid Programme also provides an opportunity to support governments, UNHCR and civil society in increasing refugees' access to status determination and basic services. Further, action to achieve immediate improvements can be promoted through New Zealand's engagement with various established regional frameworks such as APEC, the Bali Process, East Asia Summit, ASEAN Regional Forum and ASEAN Defence Ministers' Forum. All of these fora shape the region's security and trade architecture, yet members have been reluctant to address refugee protection issues in a meaningful way.

EXPANDING OPPORTUNITIES FOR RESETTLEMENT

Durable solutions for refugees and asylum seekers are difficult to find. As voluntary repatriation and integration into asylum countries often prove impossible, resettlement remains the only viable option. However, resettlement to third countries is currently available only to a very limited number of refugees. In 2014, nearly one million refugees needed resettlement or other forms of humanitarian admission, yet global annual resettlement commitments were less than a tenth of this number. Only 30,661 of the 3.9 million refugees between Iran and Indonesia were resettled through programs involving UNHCR.

New Zealand has an internationally recognised resettlement programme, but lags far behind other countries in the number of refugees it resettles annually. The current refugee quota stands at 750, a number which has not been increased since it was first set nearly 30 years ago. According to UNHCR figures, when compared to other countries New Zealand ranks 90th in the world for hosting refugees. As such, our organisations believe that New Zealand can and should do more – now is an important time to double the annual quota and model good policies for the region. Further, it is important that New Zealand encourages other governments in the region to increase their humanitarian intakes or develop resettlement capacity in the first place.

ADDRESSING THE ROOT CAUSES OF DISPLACEMENT

A comprehensive regional strategy must address issues of forced displacement at their very source. The majority of the region's refugees originate from Afghanistan, Iraq, Iran, Myanmar and Sri Lanka – countries that are either emerging from or in the middle of protracted conflict, all with complex histories involving the persecution of minority groups. However, violations of fundamental human rights are a daily reality *throughout* the region, with human rights defenders often at risk of arbitrary detention and torture, and the right to peaceful assembly and freedom of expression severely curtailed. In order to reduce the numbers of people fleeing, New Zealand should prioritise the promotion of international human rights standards in all countries it has diplomatic relations with. As a non-permanent member of the UN Security Council, New Zealand has the authority – and responsibility – to meaningfully address human rights conditions that cause instability, violence and displacement. Making the protection of civilian populations a primary consideration for New Zealand's engagement on the UN Security Council will significantly benefit the country in the long-term.

CONCLUSION

It is crucial that governments across the Asia Pacific put measures in place to improve the protection of refugees and asylum seekers. Inaction now could pave the way for disaster later as those facing persecution in their home countries will continue to flee to seek asylum. It is clear that as long as refugees have little chance of finding safety through official channels, many will be forced to seek protection through dangerous unofficial channels, frequently involving human smugglers and traffickers.

New Zealand has a key role to play in mobilising its neighbours to take steps towards a genuine regional solution. Bilateral action now to achieve immediate improvements will serve as the basis for an agreed and common regional strategy later. As a country that forms part of the Asia Pacific region, and as a historically strong proponent for human rights, New Zealand is well-placed to demonstrate leadership in ensuring that refugees and asylum seekers are adequately protected.