

The Future of Forced Migrants in ASEAN

How ASEAN deals with forced migrants shows in how far it is actually people-centered and people-oriented. This vulnerable group used to be integrated in the past. However, today it appears integration efforts are not truly inclusive.

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Kinder in Malaysia schauen aus einem Fenster – Creator: Andika Ab. Wahab.  This image is licensed under [Creative Commons License](#).

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This article is part of our dossier [50 years of ASEAN – Still waiting for social and ecological justice.](#)

The Association of Southeast Asian Nations (ASEAN) turns 50 in 2017, and this coincides with the Philippines' Chairmanship with the set theme of "*partnering for change, engaging the world*". Half a century after coming into existence, is the regional grouping ASEAN becoming better or worse? Generally, ASEAN has progressed quite well in many aspects, including regional integration efforts, narrowing development gaps, maintaining peace and improving social landscapes across the region.

Nevertheless, such progress is not all-encompassing. In other words, it's not entirely inclusive as of yet. There are vulnerable segments of the population who are not being included or who are left behind in the integration process. One such group is the forced migrant population, broadly referred to here as *refugees and asylum seekers*.

As of 2015, a total of 284,949 refugees and asylum seekers had registered in Cambodia, Indonesia, Malaysia, Thailand and the Philippines (UNHCR, 2017). There were no records of forced migrants registered in any other ASEAN member states in 2015.

One simple question worth explanation - are forced migrants who seek refuge in ASEAN member states included in the national population census? Or are they a part of the nearly 630 million people in ASEAN (ASEAN, 2016)? If not, they are not likely to be included in national development initiatives, let alone regional integration initiatives.

In the meantime, the number of people fleeing persecution is unlikely to decrease in the near future due to geopolitical uncertainty, ongoing civil wars, military intervention and human rights violations occurring in almost all parts of the world.

The trend of forced migration

Trends of forced migration have evolved unconventionally due to globalisation, technological advancement and a higher level in transport connectivity. Consequently, ASEAN is no longer a safe haven for the forced migrant population from its individual member states, but from other regions and continents as well.

For example, about 14 percent of the total 65.3 million forced migrant population are currently hosted by nations in the Asia-Pacific region, where the majority (53 percent) come from three major nations, namely, Somalia, Afghanistan and Syria (UNHCR, 2017). How ASEAN is to respond to these trends relies heavily on the commitment of individual member states and shared responsibility to make the region a place called “home” for everyone.

This article seeks to discuss how ASEAN could ensure that their regional integration efforts are truly “inclusive”, guaranteeing a better future for the forced migrant population in the region. This article also discusses what commitments ASEAN and its member states have pledged in the past.

To what extent have past experiences influenced the regional grouping and its member states to address the present situation of forced migration? More importantly, how can ASEAN and its member states best respond to the situation of forced migration in the future?

Regional Approach in Handling Indo-Chinese Refugees

The regional approach in handling a massive influx of forced migrants within the Southeast Asian (SEA) region is not a new phenomenon. The founding members of ASEAN, namely, Indonesia, Malaysia, Philippines, Singapore and Thailand, served as asylum countries for almost half a million Indo-Chinese refugees in the late 1970s, and this continued up until the early 1990s.

Each of the member states had its shared responsibility. Malaysia, Thailand and Indonesia played the leading role by providing more spaces and opportunities for the Indo-Chinese refugees to seek temporary shelter before being resettled to third countries or repatriated back home.

Singapore, despite obvious space limitations, committed to host around 900 refugees in 1979 and 480 refugees in 1982 (UNHCR, 2017). Likewise, the Philippines, despite its remoteness, managed to provide

asylum to 5,300 refugees in 1979, and this number increased nearly fourfold to 20,300 refugees in 1980 (UNHCR, 2017).

This commitment was not made without acknowledging the actual risks and future implications for ASEAN or its member states. ASEAN fully acknowledged that such a commitment would establish a precedent, and ultimately would create a “refugee magnet phenomenon” that would attract more and more asylum seekers to seek refuge in the future.

The individual member states also recognized that such a commitment would create more social problems internally.

Government agencies would face economic costs and administrative burden by handling the influx of refugees and coordinating humanitarian responses from international organisations (Suhrke, 1980).

Despite multiple barriers, their collective commitment to provide temporary asylum to Indo-Chinese refugees demonstrates ASEAN’s common stance and positive track record in responding to the complex and highly politicised situation of forced migration in the region. There are three observations that could better explain why such a commitment was successful from the late 1970s up until the early 1990s, but this might not be necessarily replicable at present.

The dealing with forced migration in the past

Firstly, there was a greater international response and commitment by third countries such as the U.S., and international organisations were able to reduce the burden of first asylum countries in ASEAN through rapid resettlement and substantial financial assistance.

In the period between 1979 and 1980, for instance, the monthly resettlement quota to third countries was increased to 23,000 applicants, and two-thirds of the applicants were taken by the U.S. On the financial side, international organisations spent about 100 million US dollar on managing the refugee population in Thailand over a

period of six months from October 1979 to March 1980, while UNHCR allocated roughly 30 US dollar million for Malaysia (Suhrke, 1980).

With commitments from the U.S., international and intergovernmental organisations, the number of refugees temporarily sheltered in ASEAN member states rapidly decreased, and simultaneously lessened the cost implications incurred by asylum countries.

Secondly, Vietnam (the origin country of the majority of Indo-Chinese refugees) was not part of ASEAN until 1995. Hence, the collective commitment of ASEAN member states to provide temporary shelter to Indo-Chinese refugees was not incompatible with ASEAN'S non-interference principle.

Third, the willingness of ASEAN member states to take the risk and shared responsibility to provide temporary shelter was meant to maintain a good relationship with the U.S., with a very clear objective of balancing the growing influence of China and the Soviet Union in the region.

These are the three factors that helped strengthen the collective response of ASEAN and its member states in handling forced migration in the past.

A Rule-Based Commitment in the Age of Uncertainty

Present-day ASEAN consists of 10 member states, including countries which had initially produced refugees, such as Cambodia, Lao PDR, Myanmar and Vietnam. To further strengthen their collective integration efforts, ASEAN leaders from the 10 member states came together in Singapore in 2007 to sign and witness the creation of the ASEAN Charter, and hence become a legally binding document for the regional grouping.

Without a doubt, the establishment of the ASEAN Charter is a manifestation of a renewed political commitment to boost the community-building process. It also paved the way for the expanded


roles and mandates of the ASEAN Foreign Ministers and the proliferation of ASEAN bodies related to human rights, among others, the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC).

These regional human rights institutions are expected to promote and protect the rights of ASEAN citizens in accordance with the ASEAN Human Rights Declaration (AHRD), the ASEAN Charter and the Universal Declaration of Human Rights (UDHR). Unlike the European Charter of Fundamental Rights, however, no specific mention of the term “refugee”, “asylum-seeker” or “forced migrant” is referred to in any of these key ASEAN documents including the ASEAN Charter and AHRD.

This is due to the lack of ratification among member states - only Cambodia (1992) and the Philippines (1981) ratified the 1951 Refugee Convention and its 1967 Protocol. The rest of the member states are not ready, and have not shown any indication to ratify the convention, despite having demonstrated positive commitment in the past.

At the national level, the term “refugee” is not officially recognised or referred to in national laws, policies and administrative procedures among non-signatory parties to the 1951 Refugee Convention, including Thailand, Malaysia and Indonesia. Apart from the lack of collective political commitment by the regional grouping, there are other observations that could better explain the reluctance of individual member states to commit to a legally-binding obligation in handling forced migration in the region.



ASEAN foreign ministers interface with AICHR Representatives, Kuala Lumpur, Malaysia 2015 – Creator: Andika Ab. Wahab.  This image is licensed under [Creative Commons License](https://creativecommons.org/licenses/by-nc-nd/4.0/).

Reasons for the lack of collective political commitment to receive refugees

Firstly, the post-Cold War era marked the proliferation of emerging and multifaceted security threats that weakened and exposed states and society to transnational security risks. These included threats originating from terrorism and militancy, the smuggling of atypical immigrants, human trafficking as well as drug and arms smuggling - all of which were broadly linked to the movement of refugees in the region.

The complex nature of these threats prompted ASEAN member states to be overprotective and subsequently unwilling to provide a rule-based

commitment in handling forced migrants. Member states such as Thailand, Malaysia and Indonesia, however, claimed that despite their lack of a legally-binding commitment, they would provide minimal protection to refugees including adherence to the *non-refoulement* principle on humanitarian grounds.

Secondly, the post-Cold War era also marked new trends of forced migration, especially from other regions and continents to ASEAN countries. Although the number of people seeking refuge in ASEAN member states reduced by nearly half from 437,530 in 1980 to 284,949 in 2015 (UNHCR, 2017), the variety of nationalities is more diverse now than ever before. For instance, Malaysia is now a country of asylum for forced migrants originating from Angola, Burundi, Bhutan, Central African Republic, Cameroon, Democratic Republic of Congo, Algeria, Guinea, Ethiopia, Iran, Iraq, Kenya, Kuwait, Rwanda and Senegal (other than Myanmar) (UNHCR, 2017).

Similar trends of forced migration occurred in Thailand and Indonesia, which saw a greater diversification of nationalities compared to the period before the 1990s. Overall, of the 284,949 registered refugees across the ASEAN member states, about 11.3 percent (32,127) are non-ASEAN refugees, the majority of which come from Western Asia, South Asia and certain African regions. This indicates that the forced migration population will likely be the toughest challenge facing the regional grouping in the future.

Creating A Better Future for Forced Migrants

Neither past history nor the current situation are likely to predict the future of forced migrants in the region in this age of geopolitical uncertainty, unequal development and profound inequality. The best way to predict the future for forced migrants in the region is to create it. However, to create a better future for forced migrants, it requires strong leadership, political commitment, a willingness to share burden and responsibility to protect on the part of ASEAN and its individual member states.

A concrete regional commitment to respond to forced migration can only be achieved when the majority of individual member states have a clear position and commitment at the national level.

However, this has not been the case with ASEAN thus far. Individual member states, especially the largest refugee-hosting countries such as Thailand, Malaysia and Indonesia, should play a leading role by transforming their humanitarian approach into a legally-binding commitment in order to provide concrete and sustainable protection for the forced migrant population.

The fear of the unknown implications of a legally-binding commitment should not stop countries from ratifying the 1951 Refugee Convention, as the motives of forced migration are not determined by a member state's ratification status. For instance, Malaysia has yet to ratify the 1951 Refugee Convention and does not recognize refugees in its country, but the number of refugees seeking asylum in Malaysia increased significantly from 5,412 individuals in 2000 to 154,486 individuals in 2015 (UNHCR, 2017).

This suggests a weak correlation between the country's status of ratification of the 1951 Refugee Convention and the "refugee magnet phenomenon" in the region.

Apart from geographical factors and the opportunity to benefit from various economic activities such as entering the informal labour market in Malaysia, Thailand and Indonesia, providing minimal protection to refugees collectively served as the pull factors which attracted asylum seekers to seek refuge in their respective countries, even in the absence of a legally-binding commitment.

Motivs behind forced migration

ASEAN and its member states should also acknowledge the motives (push factors) behind forced migration, whereby refugees are forced, without many options, to leave their home countries in search of international protection. In such circumstances, refugees will find a way to reach these countries by risking their lives being smuggled by careless

third parties who take advantage of the lack of integrity among certain enforcement personnel.

At the national level, individual member states should strengthen access to justice and administrative procedures, ensuring every one of the forced migrants has equal access to basic needs and rights in the asylum process. Members of civil society organisations (CSOs) including medical, faith-based and humanitarian organisations should be provided with the necessary financial support and assistance to enable them to perform their duties efficiently.

Relevant government agencies should work hand in hand with the members of CSOs in order to reach out to forced migrants and provide necessary assistance.

The willingness of individual member states to commit to these obligations would influence fellow member states to do the same. This can be witnessed in the way that the governments of Indonesia, Malaysia and Thailand unknowingly competed with each other in response to the Rohingya crisis in late 2016.

There is nothing bad about a little diplomatic rivalry, however, this is not leading to concrete commitment at the national level in any of the three countries. Given the lack of national commitment by the individual member states, exactly how and what kind of a role should the regional grouping play?

ASEAN established its regional human rights institution, namely, the AICHR in 2009, with an overarching mandate to promote and protect human rights. The AHRD (Article 16) dictates ASEAN and its member states' commitment to ensure the right to seek asylum. The AICHR is rightly positioned to leverage its mandate to develop a regional strategy to encourage member states to ratify the 1951 Refugee Convention.

This would strengthen their commitment to guarantee the right to seek asylum in the case of forced migrants. As an ASEAN body that holds meetings every year, the AICHR should establish a permanent agenda on

forced migration to be mainstreamed in its Priority Programme and Five Year Work Plan.

Strategic cooperations and partnerships are needed

The expansion of non-ASEAN refugees in the region suggests that this is no longer an intra-regional issue that can be solved exclusively through internal means. As ASEAN and the AICHR are the overarching regional human rights bodies, they should explore ways to establish strategic cooperation and partnership focused specifically on forced migration issues with the African Union, African Commission on Human & Peoples' Rights (ACHPR) or the Organisation of Islamic Cooperation (OIC).

Apart from leveraging the existing regional human rights mechanism, ASEAN should develop a more concrete and sustainable platform to discuss issues related to forced migration beyond the three pillars of the ASEAN Community. The logic is simple. Forced migration is an issue of political security, socio-cultural and economic integration. Hence, a fourth ASEAN Community pillar may be established to discuss regional solutions to multifaceted issues such as forced migration.

To conclude, the forced migrant population by default has been a part of ASEAN society since the Indo-Chinese refugee crisis in the late 1970s up until the very recent Rohingya catastrophe. The uncertain international response to reduce the burden of asylum countries indicates that forced migrants will likely be in a "protracted situation" as they wait for a definite solution.

As ASEAN strives to strengthen its regional integration efforts and pledges to be truly inclusive, people-centred and people-oriented, the regional grouping and its member states must provide opportunities and empower the forced migrant population to be a part of this regional integration process.

The growing presence of non-ASEAN refugees also indicates the need to reflect this emerging trend of forced migration into the regional agenda

and integration initiatives. The rationale behind this is to better to manage and integrate them rather than ignoring their presence in the country. By then, forced migrants, regardless of nationality, will be able to contribute to the hosting society, regional integration and create their own future.

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