



**MOBILIZING GLOBAL KNOWLEDGE: REFUGEE RESEARCH IN AN AGE OF DISPLACEMENT**

Edited by Susan McGrath and Julie E. E. Young

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## The Asia Pacific Forced Migration Connection: Linking Activists, Advocates, and Academics

*Susan Kneebone*

The Asia Pacific Forced Migration Connection (APFMC) was launched in November 2013 to create a hub to bring together research scholars of forced migration in Australia and the Asia Pacific region, and to connect with relevant civil society organizations, especially the Asia Pacific Refugee Rights Network (APRRN). As I will explain in this chapter, APFMC has had considerable success in raising awareness of normative frameworks in the face of challenges that arise from the context of forced migration in Asia Pacific generally, and more specifically the Southeast Asian (SEA) context. APFMC has responded to the regional institutional and normative context of forced migration and thereby provided a link between global “north” and “south” discourses on these issues (Chimni 2009). It has worked directly with scholars and organizations within the region and has challenged the perception that human rights responses to forced migration are Eurocentric (Davies 2008). Overall, the regional institutional framework, which provides challenges for the participation of civil society organizations (CSOs) vis-à-vis states in the region, has provided opportunities to APFMC to contribute to the debate on these issues. Some of these opportunities crystallized during the 2015 Andaman Sea crisis when it is estimated that as many as 6,500 persons, many of whom

were stateless Rohingya, departed from Myanmar and Bangladesh mainly by boat, only to be turned away by Thailand, Malaysia, and Indonesia.

First, I explain the regional Southeast Asian institutional context, including the lack of focus on forced migration, before elaborating on the challenges and opportunities this environment provides for developing a network. I will differentiate the work of APFMC from organizations such as APRRN that sometimes compete with “top-down” actors such as UNHCR and IOM for “protection space.” In this chapter, I highlight the participation of two academics in the APFMC and the Asia Dialogue on Forced Migration (ADFM), which is described as a “Track II” regional institutional dialogue: Sriprapha Petcharameesree and Alice Nah. The latter was also one of the founding members of APRRN demonstrating the interrelationship between APFMC and other actors in the region.

## The Region and Its Institutions

The Asia-Pacific region essentially contains two subregions within Asia: South Asia (Afghanistan, Sri Lanka, India, and Bangladesh) and South-east Asia. The latter comprises countries in the Mekong River Delta (Myanmar, Thailand, Lao PDR, Cambodia, and Vietnam) that are linked from Thailand through the Malaysian Peninsula to Malaysia and Singapore. Indonesia and the Philippines are also part of this SEA region. An important unifying factor is that these countries are all members of the ASEAN Community.<sup>1</sup> The unique nature of that community and the exclusion of CSOs from direct participation within ASEAN was a key driver for the establishment of the APFMC.

In SEA, there are three main causes of forced migration. The first is displacement arising from conflict and hostilities, leading to both internal and external displacement. This creates internally displaced persons (IDPs) and asylum seekers/refugees, many of whom are stateless persons who lack a formal nationality. The region is both a source of refugees and a region of transit. Whilst the majority of refugees originate from Myanmar, many refugees are from Afghanistan and countries in Africa and the Middle East. Malaysia and Thailand are the two major destination and transit countries, whereas Indonesia is largely a country of transit for refugees intending to travel to Australia. A second cause of forced migration is displacement resulting from development or uneven development



**FIGURE 3.1**  
Map of ASEAN Countries. Source: Colourbox 10558323.

within countries and within the region (Kneebone and Debeljak 2012). Such displacement may lead to smuggling and exploitative labour migration, amounting to human trafficking. Aside from this specific example of displacement, much labour migration within the region involves persons who migrate to work in semi and low-skilled occupations because of lack of opportunities in their home state. Singapore, Malaysia, and Thailand are the main receiving countries, and the sending countries are the Philippines, Indonesia, Vietnam, Cambodia, and Lao PDR. A substantial proportion of such migration is “irregular” or “informal”—that is, it begins as or subsequently becomes migration outside of legal channels. Natural disasters are a third cause of forced migration in the region; the region has achieved a substantial degree of cooperation on disaster management (following events such as the 2004 Boxing Day tsunami in the Indian Ocean and Cyclone Nargis in Myanmar in 2011).

The largest groups of forced migrants in SEA are asylum seekers/refugees and semi/low-skilled migrant workers. It is estimated that 5 million of 13.5 million workers from ASEAN states are working in other ASEAN countries (International Labour Organization 2005). The UNHCR, which has a mandate over both statelessness and refugees, projected in 2017 (UNHCR 2017a), that in the ASEAN countries that comprise Southeast Asia, there were 1.5 million stateless persons (comprising 40 per cent of the world's stateless population) and that 519,816 were refugees and 79,580 were asylum seekers. This population also included over 502,000 IDPs, mainly in Myanmar, Indonesia, and the Philippines where there are ongoing internal conflicts. The main country of origin of asylum seekers/refugees within SEA is Myanmar. UNHCR has estimated that 500,000 refugees from different ethnic groups have fled Myanmar over several decades in search of protection from ethnic conflict and violence prior to 2017 (UNHCR 2017a). The Rohingya refugees are the largest group from Myanmar; UNHCR has estimated that 168,500 fled Myanmar from 2012 to 2016 (UNHCR 2017b). The world and the region were alerted to the plight of the (mostly stateless) Rohingya fleeing persecution in Myanmar by the discovery of twenty-six bodies in a mass grave of smuggled Rohingya in a trafficking camp in southern Thailand in early May 2015 (di Gaetano 2015). As the Rohingya crisis that escalated in 2015 illustrated, asylum seekers may be both stateless persons and refugees whilst at the same time also undocumented migrant workers and smuggled and trafficked persons. From August to December 2017, over 600,000 Rohingya fled from Myanmar to Bangladesh (UNHCR 2017a). The number of refugees and asylum seekers in Malaysia is currently approximately 154,000 of whom 91 per cent are from Myanmar. In Thailand there are about 106,000 refugees (mostly in nine camps on the Thai-Myanmar border), and about 9,500 asylum seekers in urban areas (UNHCR 2017c).

As Petcharamesree (2016) has explained, the term “forced migrant” is not well known or accepted in the ASEAN/SEA context. Under the two regional processes that operate in SEA—namely ASEAN and the Bali Process (Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime)—the focus is on “securitizing” migration by eliminating human smuggling and trafficking (Kneebone 2014a). The issues of human smuggling and trafficking are well covered by normative and institutional frameworks in SEA and ASEAN, which include inter-state

cooperation and arrangements with CSOs at the national level as well as with international non-government organizations (INGOs) (Kneebone and Debeljak 2012). On the issue of labour migration, there is a well-mobilized civil society approach, which has a semi-formal relationship with ASEAN (Kneebone 2014a). Although this group was frustrated in its efforts (at the recent 30th ASEAN Summit held in Manila the draft declaration on promoting the rights of migrant workers was again shelved) it does have a voice (Regional Civil Society Statement, 18 July 2017). For this reason, a large focus of APFMC is on asylum seekers/refugee issues, which are dealt with at the state level under ASEAN and the Bali Process, and where it is difficult for individual CSOs to be heard.

## Challenges and Opportunities for APFMC: Filling the Gaps

In its efforts to contribute to “norm enhancement” the APFMC has an opportunity to fill the normative gap on refugee protection, as the institutional norm entrepreneurs, states, and the regional processes appear to have rejected the international refugee protection and human rights normative frameworks. Although the UNHCR, and more recently the International Organization for Migration (IOM), play a large role in advocating for and protecting asylum seekers/refugees, this role is often contested by CSOs as privileging the international perspective at the expense of the local. As an “outside-insider” APFMC has the advantage of being a non-state actor that can engage both in the region and outside on issues of refugee protection through scholarly outputs including media.<sup>2</sup>

## The Institutional and Normative Gap: The Rejection Theory

Whilst countries within the Southeast Asian region have considerable experience with providing shelter to refugees, and indeed have signed up to the complementary instruments that guarantee non-refoulement (such as the International Convention on Civil and Political Rights and the Convention against Torture), there is a persistent reluctance to recognize their international status in refugee law and to accord them protection

in domestic law (Alexander 2008). As the 2015 UNHCR Overview of South East Asia pointed out (and the situation is unchanged): “Only three States are parties to the 1951 Refugee Convention and only one State has signed the 1954 Statelessness Convention” (UNHCR 2015). The UNHCR Overview laments the “lack of asylum laws and diversity of national legal frameworks, as well as government practices and protection environments in the region’s countries.” As UNHCR explained, states in SEA “generally consider refugees and asylum-seekers to be illegal migrants, who as such are susceptible to detention, expulsion, refoulement and other serious protection risks” (UNHCR 2015).

Despite the experience of states in sheltering and processing refugees fleeing from Indochina in the 1970s and 1980s, and their participation in the Comprehensive Plan of Action (CPA) for Indo-Chinese Refugees brokered by ASEAN, which operated from 1989–96 (Kneebone and Rawlings-Sanaei 2007, 11–18), this experience failed to imbue norms of refugee protection in the region (Davies 2008). Further, this context encouraged states in the region to consider that the refugees were the responsibility of the “developed” world. In the SEA region, as Petcharamesree (2016) explains, there is a lack of “norm entrepreneurs” advocating for refugee rights at the state level, as they are largely characterized as irregular migrants in national laws. She points out that despite the creation of the ASEAN Community, with its plethora of institutions, in reality the interests of “national governments predominate.” These interests centre on issues of national security (Petcharamesree 2016). Although ASEAN has produced a “soft-law” instrument that promotes the right to seek asylum as well as human rights (Kneebone 2014), during the 2015 Andaman Sea crisis it was individual states rather than ASEAN that took the initiative to convene a meeting (despite calls for ASEAN to intervene) (Petcharamesree et al. 2016). This is in contrast to the CPA situation, which was an ASEAN-led initiative supported by UNHCR.

## The Normative Gap: Human Rights, Democracy, and the Security Discourse

The lack of academic engagement with these issues is a manifestation and consequence of the institutional and conceptual gap in refugee protection in SEA, which the APFMC can harness. For example, at the 14th Asian

**TABLE 3.1:** Search of SCOPUS Journals 2007–17, Based on the Country of the Organization to Which the Author Is Affiliated

	Asylum Seeker	Refugee	Migrant Worker	Migrant	Migration	Forced Migration
Singapore	23	145	179	518	738	20
Philippines	5	31	52	127	222	8
Indonesia	10	39	26	77	129	14
Thailand	12	92	79	163	230	27
Vietnam	0	0	0	0	0	0
Malaysia	18	85	64	198	309	20
Australia	816	2395	440	3179	5224	382
UK	1484	5302	1211	7992	14308	949
Global	5499	30853	6721	49497	94713	4202

Note: SCOPUS was chosen as the search as it includes both legal and social science journals.

Law Institute (ASLI) conference held in Manila in May 2017, despite the fact that migration was a denoted theme of the conference, only one panel on Institutional and Normative Responses to Migration, comprising three papers (organized by me) out of thirty-six panels (and 131 papers) dealt with the issue. One other paper by a scholar from Indonesia dealt with the issue of asylum seekers in another panel on International Law and Human Rights (ASLI 2017). The lack of regional academic engagement with issues of forced migration is demonstrated by a SCOPUS search of journals based on key words (Table 3.1 above). As can be seen, a search over the past decade demonstrates that scholars from the region engage far less with issues of asylum-seekers and refugees than others outside the region (in contrast to what Sánchez-Mojica’s chapter reveals about Latin America).

Moreover, a survey of individual Asia-focused law and migration policy journals using the same keywords delivers similar findings (Table 3.2 below).

There are several explanations for this lack of engagement. As previously explained, the term “forced migrant” is not well known in the



**TABLE 3.2:** Comparison of Asian and Pacific Migration Journal (APMJ); Asian Journal of Comparative Law (AsJCL); Asian Journal of International Law (AJIL); Asian Journal of Law and Society (AJLS)

	Asylum Seeker	Refugee	Migrant Worker	Migrant	Migration	Forced Migration
APMJ 2007–17	6	88	51	277	281	18
AsJCL 2007–17	1	0	2	2	0	0
AJIL 2011–17	0	1	3	3	2	11
AJLS 2014–17	0	0	4	3	3	4

Notes: The APMJ is an interdisciplinary journal on human migration in the Asia-Pacific region. It has been published by Sage since 1992. The APMJ is based in the Scalabrini Migration Center, Philippines. The AsJCL has been published by Cambridge University Press since 2006. It is an initiative of the Asian Law Institute (ASLI) of the National University of Singapore. The Asian regional international law focus of the journal is widely conceived, and includes research applying an “Asian” approach to global issues. The AJLS is the most recent of the four journals, published by Cambridge University Press since 2014 on behalf of KoGuan Law School of Shanghai Jiao Tong University. The journal publishes socio-legal articles relevant to Asia generally.

region; rather the focus of states is on the irregular status of the migrant, who is seen as threat to the state. As one commentator on the region has said, there is a fear of the “outsider” and the desire to control borders in the region: “There is the perpetual fear of the outsider and the fear that foreigners will create trouble within the borders of the state and, if present in sufficient numbers, lead to changing identities of the nation itself” (Skeldon 2000). As Caballero-Anthony has explained, within the region migration is “elevated by the state above the course of normal politics” and is viewed through a “security lens” (Caballero-Anthony 2008, 165).

Within the SEA region, refugees are perceived as a political problem and a threat to border security (Goodwin-Gill 2008, 8). As Vitit Muntarbhorn has explained in relation to Thailand, refugees are seen as a political embarrassment, and as a threat to state sovereignty and national security (Muntarbhorn 2004; Nah 2007, 37). In Malaysia, refugees recognized by the UNHCR are at risk of being sanctioned as “illegal migrants.” Refugees are seen in traditional security terms as a potential threat to social

cohesion and as posing “transboundary challenges.” This has a deep resonance with the ASEAN process, which emphasizes state sovereignty, non-conflict, and consensual decision-making.

A distrust of human rights mirrors the characterization of forced migrants as illegal migrants. The region has long been characterized as being distrustful of human rights or seeing them as another postcolonial example of Eurocentric measures being imposed by a foreign state. It reflects the democratic deficit that exists in SEA states and the tentative, indeed precarious, role of CSOs in some states such as Cambodia and Thailand. Thus the APFMC is provided with an opportunity, as unlike CSOs it does not claim a democratic gap-filling or public accountability role (Petcharamesree 2013). Unlike local actors, it does not put itself in direct conflict with the state.

The development of the notion of human rights in modern law is linked to the principle of popular sovereignty, as human rights focus on the responsibility of the democratic state (Habermas 1996). In this region, the concept of human security (Edwards and Ferstman 2010, 3) is promoted as an alternative to human rights and ASEAN is promoted as the body that protects human security rather than human rights. This idea is indeed strongly advanced by a number of Singaporean scholars (Caballero-Anthony and Cook 2013, 1–13). For example, Caballero-Anthony argues that the human security concept has developed under ASEAN into a people-centred discourse that reflects the concept of human rights. She suggests that there is “tentative consensus on locating human rights at the core of a human security community” in Southeast Asia (Caballero-Anthony 2012, 127).

Song has explained the Asian preference for a human security paradigm through focusing on the role of states (Song 2015). He argues that the concept of individual human rights is a Western construct whereby the state is seen as responsible for human rights protection, and indeed as a potential perpetrator of human rights breaches. That is, he suggests that the Western concept of human rights pits society against the state and challenges state authority. In Asia, human security is preferred by states to this confrontational concept; it recognizes the moral authority of the state as the primary guarantor of international human rights and the need for supra-national measures to solve issues of irregular migration (which he uses as a specific example). Human security is promoted as a

collective concept; it acknowledges that the issues cannot be solved by one state alone.

The concept of human security fits serendipitously with ASEAN and its mode of operating. ASEAN is known to prefer decision-making through consultation and consensus-formation, and also to respect the individual sovereignty of states, which translates into the principle of non-interference. Its methods of governance and its approach to irregular migration mean that it is unlikely to insist that individual states conform to the paradigm of universal human rights that underlies the international conventions. Indeed, the issue of human trafficking is the one area of irregular migration that ASEAN has tackled very conscientiously.<sup>3</sup> In this context, the lack of academic engagement on contentious issues of refugees and asylum-seekers is unsurprising. For example Jonathan Rigg, the director of the Asia Research Institute's (ARI) migration group at the National University of Singapore, has said: "It is important to emphasise that ARI is a research and not a policy institute" (ARI 2017).

## **APFMC, APRRN, and Top-Down Approaches: Creating a Space for Debate**

ASEAN's relationship with CSOs can be characterized as one of exclusion.<sup>4</sup> This exclusion of CSOs within ASEAN and the Bali Process dialogue was a key driver for the establishment of the APFMC. An external actor with an independent voice, APFMC is immune from tensions between CSOs and international non-governmental organizations such as IOM and UNHCR; it does not compete for protection space—that is not the objective. It is also sheltered from confrontation with states since it is not dependent on them for legitimacy. As an invited outsider and commentator, the legitimacy of APFMC is assumed—evidenced in particular by my role during the 2015 Rohingya crisis for example.

By contrast, APRRN is self-perceived as an advocate for refugee issues, competing with UNHCR for available protection space (UNHCR 2017a). UNHCR plays a large role in the SEA region due to the lack of national protection mechanisms. It claims to fill the vacuum of protection space created by the fact that few states in the region are parties to the Refugee Convention. In particular, it is primarily responsible for refugee status determination (RSD) in Malaysia and Indonesia. It also leads policy

formulation in the region. In recent years, the UNHCR has promoted protection norms via the Asian African Legal Consultative Organization (AALCO) and other regional processes (Kneebone, 2014a). UNHCR has focussed on promoting adherence to basic principles of protection such as rescue at sea, non-refoulement, and addressing statelessness. The UNHCR attempts to fill the gap within the two regional processes, the Bali Process and ASEAN.

Nah observes that there is a negative side to this: “government officials in Asia tend to see refugees as an ‘international’ or ‘UNHCR’ problem, rather than a domestic problem” (Nah 2016). She explains that within the SEA region there is rivalry between the UNHCR and civil society for entrepreneurship of the issue. Nah (and Martin Jones) critique UNHCR’s protection space approach. Jones (2014, 257) argues that it “privileges international interests, fora, and UNHCR as the negotiator; devalues the normative strength of obligations towards refugees; and, allows the underlying responsibility for the provision of refugee protection to drift from the state to UNHCR.” Nah explains that local civil society actors often work under the protection of UNHCR—but also under their shadow. The APRRN 2016 Annual Report shows that it engages with UNHCR processes on a global level and works with it on a number of projects regionally (such as refugee status determination). APRRN is also dependent on UNHCR for a large proportion of its funding (APRRN Report 2016, 15–16, 28).<sup>5</sup>

Nah suggests that the advantage of APRRN is that it enables local civil society actors to pressure states from below; that it has a unique location vis-à-vis states. APRRN focuses on advocacy at the national level (APRRN Report 2016, 8–10); as an umbrella organization it shelters individual CSOs from national states (Kneebone 2014b, 610–13). Nah argues that working through a formalized network (in this case, APRRN) has changed the way in which local civil society actors engage in norm entrepreneurship in several important ways. She argues that it has changed the attributes of actors, helping them develop visibility, capacity, and connectedness through the formation of a “community of practice”; it has changed power-relations between them and other actors—in particular, the UNHCR; and it has facilitated the development of “regional imagination” and the practice of “scale shifting,” helping local actors move beyond domestic contexts to engage with state and non-state actors through regional and international fora. It practices participatory regionalism that is intended to influence

states in the region, and to shift their views that refugees are an international and UNHCR problem (Nah 2015).

APRRN also engages regionally with other umbrella CSO organizations that work differently to APRRN as they run parallel to ASEAN—in contrast to APRRN’s bottom-up approach. These are SAPA (Solidarity for Asian People’s Advocacy) (Kneebone 2014b, 612) and ASEAN Civil Society Conference/ASEAN Peoples’ Forum (ACSC/APF). Recently 1,000 persons marched with ACSC/APF in Manila to complain of fifty years of exclusion of CSOs from ASEAN processes (InterAksyon 2017). By contrast, APRRN has had considerable success in advocating for the rights of individual refugees (Kneebone 2014b, 611–12).

More recently APRRN has developed regional engagement with an ASEAN side institution, namely the ASEAN Intergovernmental Commission on Human Rights (AICHR) (APRRN Report 2016, 11), which was established on 23 October 2009 pursuant to Article 14 of the ASEAN Charter. AICHR’s task is to engage with ASEAN sectoral bodies and relevant CSOs to mainstream human rights across the three pillars of the ASEAN Community (AICHR 2017). In 2015–16 APRRN engaged with AICHR in relation to the Rohingya issue, and on Alternatives for Detention for children and other issues affecting asylum seekers and refugees. However, AICHR can be described as a “toothless tiger”; despite its mandate there has been little progress on human rights protection in the region. Recently for example, the ASEAN Parliamentarians for Human Rights (APHR) released a statement to coincide with ASEAN’s fiftieth birthday urging ASEAN to do more to “operationalize” human rights protection (ASEAN 2017). Despite the “bottom-up” efforts of APRRN and its regional engagement it seems that refugee protection still suffers from a normative deficit in Southeast Asia.

## The Andaman Sea (Rohingya) Crisis, State (In)Action, and IOM

The response to the 2015 Rohingya crisis confirms the prevalence of both the UNHCR protection-space approach and the influential role of IOM, as states in the region continue to regard refugee protection as a humanitarian problem requiring an international response. The crisis, which came to a head in May 2015, initially produced a blame game amongst the three

most affected states: Indonesia, Malaysia, and Thailand. However, when it became clear that continued pushbacks of boatloads of migrants would not solve the problem, these three states began to work cooperatively to broker a solution to the crisis. The Ministers of Foreign Affairs of Malaysia, Indonesia, and Thailand met on 20 May 2015 ahead of an international meeting on 29 May, to discuss the issue of “irregular movement of people” into their countries. The purpose of the meeting of 20 May was for: “finding a solution to the crisis of influx of irregular migrants and its serious impact on the national security of the affected countries.” The joint statement issued following the meeting asserted the need to address the “root causes”; the ministers pledged to uphold their “responsibilities and obligations under international law and in accordance with their respective domestic laws, including the provision of *humanitarian* assistance to . . . those 7,000 irregular migrants still at sea” (Ministry of Foreign Affairs of Malaysia, Indonesia and Thailand 2015, emphasis added). However, they agreed only to offer them temporary shelter “provided that the resettlement and repatriation process will be done in one year by the international community.”

The seventeen recommendations in the 29 May 2015 statement by states following the Special Meeting on Irregular Migration largely endorse those of 20 May, with some additional focus (Ministry of Foreign Affairs of the Kingdom of Thailand 2015). “The IOM underlined the importance of comprehensive migration management while the UNHCR called for innovative solutions to the complex problem and to ensure assistance for those in need of protection” (para 5). The recommendations focus upon preventing and responding to the issue of human trafficking and “people smuggling” rather than upon lasting solutions for refugees. Only the final recommendation [q], which referred to root causes and improving livelihoods in “at-risk communities,” alluded to the protection needs of the Rohingya. This 29 May statement was followed in March 2016 by a new Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime. In this instrument, the focus is again on “irregular migrants” and “mixed migratory movements” (Bali Process 2016, 5). Concrete measures suggested are to “enhance safe and orderly migration pathways, including for migrant workers,” but for refugees the states are merely encouraged to “explore potential temporary protection and local stay arrangements for asylum seekers and refugees, subject to

domestic laws and policies of member states” (Bali Process 2016, 6). In this respect the declaration acknowledges “the need for adequate access to irregular migrants wherever they are, by humanitarian providers especially the UNHCR and the IOM, as appropriate” (Bali Process 2016, 6). IOM plays a large role in refugee protection in the region; for example, under the Regional Cooperation Arrangement (RCA), which is a bilateral agreement between Australia and Indonesia dating from the late 1990s, IOM and UNHCR are responsible for the care and protection of asylum seekers in Indonesia. Of these two, IOM is better funded and has the largest role. During the Andaman Sea crisis, IOM statements were very influential to the final outcome of the 29 May statement and also to the March 2016 Bali Declaration. IOM stresses the “mixed flows” from Myanmar and promotes the need for regular work rights rather than durable solutions for refugees. In Malaysia currently, there is a pilot project for 300 Rohingya refugees, but the overall refugee crisis is largely unresolved. It is estimated that there are 56,000 registered Rohingya refugees in Malaysia in need of a permanent solution.

## The Asian Dialogue on Forced Migration

A new actor has entered this space in the form of the Asian Dialogue on Forced Migration (ADFM), which developed out of the Centre for Policy Development (CPD)—an Australian-based lobby group. The ADFM was conceived as a “Track II” dialogue, comprised of individuals with “very significant expertise in the field of forced migration.” These are academics, ex-government experts, ex-international organization experts, think tank staff, and international organization members (CPD 2015). Because of the close links of some of its members with governments, it is now closely aligned with the Bali Process. This alignment flags the advisory role that ADFM sees itself playing in the international environment. The Fourth Meeting of the ADFM, held in Jakarta in March 2017, “deepened its policy contributions” to both the Bali Process and ASEAN. The Bali Process has in turn requested that the ADFM continue to provide policy advice to its member countries. At this meeting, the ADFM agreed to work toward contributing to the Global Compacts on Migration and Refugees (ADFM 2017). Importantly, two of its members are Sriprapha Petcharamesree and Alice Nah, each of whom had previously participated in APFMC

workshops, and whom I recommended to the CPD when it was establishing the ADFM in 2015. The ADFM has been quite vocal in its critique of regional inaction in the Andaman Sea crisis (Petcharamesree et al. 2016).

## Conclusions

The context for refugee protection in Southeast Asia is a contested and contentious space, created by the lack of state take-up on responsibility and burden-sharing for lasting solutions. This response reflects a perception that refugee protection is an issue for northern states to tackle (in contrast to Landau's chapter on Africa and Sánchez-Mojica's chapter on Latin America). This lack of solidarity amongst this group of southern states is manifested by the focus on the national migration status of refugees and the preference for a "human security" approach to resolution of the issues, in place of human rights. These framings, which show the deficit of normative standards, are reflected at the regional level processes, such as ASEAN and the Bali Process. In this context it is difficult for CSOs to find a strong voice, but at the same time their exclusion creates opportunities at the intraregional level to build "local legitimacy" (see chapter 1).

In contrast to CSOs working in this area, the APFMC does not compete for protection space with international organizations or come into direct conflict with states; unlike the ADFM, the APFMC operates independently of any connection with states or state-led processes. It has the freedom to network widely through invited participation in roundtables and through publications and conference papers that emanate from APFMC, activities are disseminated globally, thereby informing the work of others.<sup>6</sup>

Through workshops and direct engagement with refugee advocacy groups (e.g., Justice Hong Kong, Human Rights Watch Australia, Refugee Council of Australia, Refugee Legal) APFMC forms a bridge between academia and advocacy. It works with other refugee networks and their leaders, such as professor Susan McGrath from the Refugee Research Network (RRN) and professor David Cantor, director Refugee Law Initiative (RLI) and the Kaldor Centre (University of New South Wales). Through its work with engaged academics such as Sriprapha Petcharamesree and Alice Nah, the APFMC creates links across other networks and is linked to other networks. It is indeed a model networking network.



## Notes

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- 1 ASEAN (Association of South East Asia Nations), founded in 1967, originally involved five states—Singapore, Malaysia, Thailand, Philippines, and Indonesia—to promote “common political interests as well as a forum for private business and community-level interactions.” Brunei was added in 1984, Vietnam in 1995, Lao PDR and Myanmar in 1997, and Cambodia in 1999.
- 2 For example, in May–June 2015 at the height of the Andaman Sea crisis I was interviewed by media (television and radio) based in Singapore on at least six occasions.
- 3 A prominent recent example is the ASEAN Convention on Trafficking in Persons (2015).
- 4 Although note that in the Chairman’s Statement of the recent 30th ASEAN Summit, the importance of dialogue between ASEAN and CSOs was held up as being of importance in terms of successfully attaining the ASEAN Vision 2025.
- 5 According to the financial statement it received \$1.7 million from the UNHCR in the 2016 income period out of a total of approximately \$9.3 million.
- 6 Recent citations include: Tan 2016; Curley and Vandyk 2016; Moretti 2016.

## References

- ACSC/APF. 2017. “ASEAN Civil Society Conference (ACSC)/ASEAN People’s Forum (APF).” Accessed 8 Nov 2018. <https://www.forum-asia.org/?p=25084>.
- Alexander, Amy. 2008. “Without Refuge: Chin Refugees in India and Malaysia.” *Forced Migration Review* 30: 36.
- Association of Southeast Asian Nations (ASEAN) Convention on Trafficking in Persons. 2015.
- ASEAN Human Rights Declaration. 2012.
- ASEAN Intergovernmental Commission on Human Rights (AICHR). 2017. “Press Release: Special Meeting of AICHR, 4–6 Aug 2017, Manila, the Philippines.” <http://aichr.org/press-release/press-release-special-meeting-of-the-aichr-4-6-august-2017-manila-the-philippines/>.
- ASEAN Parliamentarians for Human Rights (APHR). 2017. “On 50th Anniversary of ASEAN’s Founding, MPs Urge Regional Grouping to Evolve, Improve Rights Mechanisms.” <http://mailchi.mp/aseanmp/50th-anniversary-mps-urge-asean-to-evolve>.
- ASEAN Summit. 2017. “Chairman’s Statement, 29 April 2017.” <http://asean.org/chairmans-statement-30th-asean-summit/>.

- Asia Pacific Refugee Rights Network (APRRN). 2016. *Annual Report*. Asia Research Institute (ARI). 2017. "Message from the Director." <http://www.ari.nus.edu.sg/about%20us/message-from-the-director.html>.
- Asian Law Institute (ASLI). 2017. "14th ASLI Conference: A Uniting Force? 'Asian Values' and the Law." [http://law.nus.edu.sg/asli/14th\\_asli\\_conf/](http://law.nus.edu.sg/asli/14th_asli_conf/).
- Bali Process. 2016. "The Bali Process on People Smuggling, Trafficking in Persons, and Related Transnational Crime." <http://www.baliprocess.net/>.
- Caballero-Anthony, Mely. 2008. "Reflections on Managing Migration in South East Asia: Mitigating the Unintended Consequences of Securitisation." In *Security and Migration in Asia: The Dynamics of Securitisation*, edited by Melissa G. Curley and Wong Siu-lun, 165–76. New York: Routledge.
- . 2012. "The Responsibility to Protect in Southeast Asia: Opening up Spaces for Advancing Human Security." *Pacific Review* 25, no. 1: 113.
- Caballero-Anthony, Mely, and Alistair D. B. Cook. 2013. "NTS Framework." In *Non-Traditional Security in Asia: Issues, Challenges and Framework for Action*, edited by Mely Caballero-Anthony and Alistair D. B. Cook, 1–14. Singapore: ISEAS-Yusof Ishak Institute.
- Chimni, B. S. 2009. "The Birth of a Discipline: From Refugee to Forced Migration Studies." *Journal of Refugee Studies* 22, no. 1: 11–29.
- Centre for Policy Development. 2015. "Project Briefing: Track II Dialogue on Forced Migration in the Asia Pacific." (On file with the author).
- Curley, Melissa, and Kahlia Vandyk. 2016. "The Securitisation of Migrant Smuggling in Australia and Its Consequences for the Bali Process." *Australian Journal of International Affairs* 71, no. 1: 42–62.
- Davies, Sara. 2008. *Legitimising Rejection: International Refugee Law in South East Asia*. Leiden, Boston: Martinus Nijhoff Publishers.
- Edwards, Alice, and Carla Ferstman. 2010. "Humanising Non-Citizens: The Convergence of Human Rights and Human Security." In *Human Security and Non-Citizens: Law Policy and International Affairs*, edited by Alice Edwards and Carla Ferstman, 3–46. Cambridge: Cambridge University Press.
- di Gaetano, Silvia. 2015. "How to Solve Asia's Refugee Crisis: Steps Can and Should be Taken to Alleviate the Plight of Rohingya." *Diplomat*, 28 Sept 2015.
- Goodwin-Gill, Guy. 2008. "The Politics of Refugee Protection." *Refugee Survey Quarterly* 27, no. 1: 8–23.
- Habermas, Jürgen. 1996. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Cambridge and Malden: Polity Press.
- InterAksyon. 2017. "Southeast Asian civil society to ASEAN, 50 years of exclusion is enough." <http://www.interaksyon.com/southeast-asian-civil-society-to-asean-50-years-of-exclusion-is-enough/>.

- Jones, Martin. 2014. "Moving beyond Protection Space: Developing a Law of Asylum in South East Asia." In *Refugee Protection and the Role of Law: Conflicting Identities*, edited by Susan Kneebone, Dallal Stevens, and Loretta Baldassar, 251–70. London: Routledge.
- International Labour Organization. 2005. *Labor and Social Trends in ASEAN 2005: Integration, Challenges and Opportunities*. Bangkok: International Labour Organization.
- Kneebone, Susan. 2014a. "ASEAN and the Conceptualisation of Refugee Protection." In *Regional Approaches to the Protection of Asylum Seekers: An International Legal Perspective*, edited by Ademola Abass and Francesca Ippolito, 295–324. Burlington, VT: Ashgate.
- . 2014b. "The Bali Process and Global Refugee Policy in the Asia-Pacific Region." *Journal of Refugee Studies* 27, no. 4: 596–618.
- . 2011. "ASEAN Norms and Setting the Agenda for the Rights of Migrant Workers." In *Human Rights in the Asia Pacific Region*, edited by Hitoshi Nasu and Ben Saul, 301–38. New York: Routledge.
- . 2015. "The Labeling Problem in Southeast Asia's Refugee Crisis." *Diplomat*, 12 Aug 2015. <http://thediplomat.com/2015/08/the-labeling-problem-in-southeast-asias-refugee-crisis/>.
- Kneebone, Susan, and Julie Debeljak. 2012. *Transnational Crime and Human Rights: Responses to Human Trafficking in the Greater Mekong Subregion*. New York: Routledge.
- Kneebone, Susan, and Felicity Rawlings-Sanaei. 2007. *New Regionalism and Asylum Seekers: Challenges Ahead*. New York/Oxford: Berghahn Books.
- Ministry of Foreign Affairs of Malaysia, Indonesia and Thailand. 2015. "Joint Statement: Ministerial Meeting on Irregular Movement of People in Southeast Asia." Accessed 8 Nov 2018. <https://reliefweb.int/report/myanmar/joint-statement-ministerial-meeting-irregular-movement-people-southeast-asia>.
- Ministry of Foreign Affairs of the Kingdom of Thailand. 2015. "Summary Statement: Special Meeting on Irregular Migration in the Indian Ocean, 29 May 2015, Bangkok, Thailand." Accessed 8 Nov 2018. <http://www.mfa.go.th/main/en/media-center/14/56880-Summary-Special-Meeting-on-Irregular-Migration-in.html>.
- Moretti, Sebastien. 2016. *UNHCR and the Migration Regime Complex in Asia-Pacific: Between Responsibility Shifting and Responsibility Sharing*. New Issues in Refugee Research Paper No 283. Geneva: Global Migration Centre.
- Muntarbhorn, Vitit. 2004. "Refugee Law and Practice in the Asia and Pacific Region: Thailand as a Case Study." Thailand: UNCHR. <http://www.refugeelawreader.org/en/en/english/section-v-asian-framework-for-refugee-protection/v1-protection-challenges-in-asia/core-readings-140/9456-muntarbhorn-refugee-law-and-practice-in-the-asia-and-pacific-region-thailand-as-a-case-study-1/file.html>.

- Nah, Alice. 2016. "Networks and Norm Entrepreneurship amongst Local Civil Society Actors: Advancing Refugee Protection in the Asia Pacific Region." *International Journal of Human Rights* 20, no. 2: 223–40.
- . 2007. "Struggling with (Il)legality: The Indeterminate Functioning of Malaysia's Borders for Asylum Seekers, Refugees, and Stateless Persons." In *Borderscapes: Hidden Geographies and Politics at Territory's Edge*, edited by Prem Kumar Rajaram and Carl Grundy-Warr, 35–64. Minneapolis: University of Minnesota Press.
- Petcharamesree, Sriprapha. 2016. "ASEAN and its Approach to Forced Migration Issues." *International Journal of Human Rights* 20, no. 2: 173–90.
- . 2013. "International Protection and Public Accountability: The Roles of Civil Society." In *The UNHCR and the Supervision of International Refugee Law*, edited by James C. Simeon, 275–85. Cambridge: Cambridge University Press.
- Petcharamesree, Sriprapha, Peter Hughes, Steven Wong, Travers McLeod, and Tri Nuke Pudjiastuti. 2016. "The Andaman Sea Crisis a Year On: Is the Region Better Prepared?" *Conversation*, 27 May 2016. <https://theconversation.com/the-andaman-sea-refugee-crisis-a-year-on-is-the-region-now-better-prepared-59687>.
- Skeldon, Ronald. 2000. "Trafficking: A Perspective from Asia." *International Migration* 38, no. 3: 7–30.
- Song, Jiyoung. 2015. "Redefining Human Security for Vulnerable Migrants in East Asia." *Journal of Human Security* 11, no. 1: 45–56.
- Tan, Nikolas F. 2016. "The Status of Asylum Seekers and Refugees in Indonesia." *International Journal of Refugee Law* 28, no. 3: 365–83.
- UNHCR. 2014. "Regional Office for South East Asia: Factsheet." Accessed 8 Nov 2018. <http://www.unhcr.org/519f67fc9.html>.
- . 2015. "Global Appeal 2015 Update: South-East Asia Subregional Overview." <http://reliefweb.int/report/myanmar/unhcr-global-appeal-2015-update-south-east-asia-subregional-overview>.
- . 2017a. "Global Focus: South East Asia 2017." <http://reporting.unhcr.org/sites/default/files/pdfsummaries/GR2017-SouthEastAsia-eng.pdf>.
- UNHCR Regional Office for South East Asia. 2017b. "Mixed Movements in South-East Asia 2016." <http://www.refworld.org/pdfid/590b18a14.pdf>.
- UNHCR. 2017c. "Global Focus: Malaysia." <http://reporting.unhcr.org/sites/default/files/pdfsummaries/GR2017-Malaysia-eng.pdf>.

