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The Human Rights Centre at University of Essex presents

The 13th
Human Rights in Asia
Conference 2021

**A Bird's Eye View of Asia: The Asylum-Seeking
Climate**

20th March 2021 and 27th March 2021

FINAL REPORT

Human
Rights
Centre



University of Essex

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Acknowledgement

Each of the student participants would like to express their gratitude to every member of staff at the University of Essex who gave up their time to help contribute to this conference. While this was a student-led project, the guidance, support and assistance that was offered by many willing members of staff is what made this conference possible.

In particular we would like to take this opportunity to thank; Matthew Capes and Catherine Freeman and Sophie Conlon for their logistical support and much needed coaching to ensure the smooth running of the conference; Dr Carla Ferstman for her participation and interest in moderating one of our panels; Dr Andrew Fagan for his introductory remarks and inputs; Dr Ahmed Shaheed for his closing speech and input; and finally Dr Sanae Fujita for introducing us to, and guidance throughout, this worthwhile and rewarding project.

We would also like to thank each of the external speakers that gave up their time to contribute to the conference. Thank you for sticking with us throughout the pandemic and finding the time to take part once it was rescheduled. Your expertise and inputs are greatly appreciated, and we owe this conference to your participation. So, thank you; Ms Aurvasi Patel; Mr Takgon Lee; Mr Saburo Takizawa; Mr M. Alvi Syahrin M.H., C.L.A; Dr Sriprapha Petcharameesree; Dr Renos K Papadopoulos; Ms Youngah Kim; Ms Eri Ishikawa; Mr Isa Soemawidjaja; Ms Kornkanok Wathanabhoon.

Finally, we would like to express our gratitude towards one another. This has been a turbulent year by any standards and yet we found the patience to work on this project throughout the entire academic year. While COVID-19 led our conference to be held online, the resilience and enthusiasm of the team facilitated an online format for the conference that allowed for the attendance of over 300 interested participants. We are grateful to one another for the opportunity to create something so worthwhile and the chance to develop lasting relationships in the process.

Event Bio

The Human Rights in Asia Conference is an annual student-led project, which is organised by a group of postgraduate students of the School of Law at University of Essex under the supervision from the Human Rights Centre of the university. The conference aims to highlight human rights-related issues in Asia and educate our viewers, whether they are students, academics, or general members of the public around the globe, regarding these issues.

This year of 2021, the conference will be featuring the rights of refugees and asylum seekers in Asia, with a special focus on South Korea, Japan, Indonesia, and Thailand. Our team at Human Rights in Asia Conference this year have noted that much of the focus of the media surrounding refugees and asylum seekers have been on the hotspots, such as The Middle East and Europe, and we have decided that Asia is as much of an important component that should be included in these debates and discussions. In our 13th conference, we are particularly interested in the contrast between the two Asian countries that have signed and ratified the 1951 Refugee Convention and another two that have not, and whether this makes an indication on the treatment of refugees and asylum seekers in these regions.

Conference Summary – Day 1

Event Day 1: Legal and Political Perspectives on Refugee Protection with a focus on South Korea, Japan, Indonesia, and Thailand

Saturday, 20th March, 2021 (11AM – 1PM in UTC)

[Opening Remarks]



Andrew Fagan
Director of the Human Rights Centre
Senior Lecturer at School of Law, University of Essex

Dr Andrew Fagan has been teaching human rights at Essex since 1998 in the Department of Philosophy, the School of Law and the Human Rights Centre. He has occupied several positions within the Human Rights Centre, including Deputy Director, Research Director, Director of Academic Studies and, currently, he is the Co-Director of Postgraduate Studies (Human Rights) within the School of Law. He has extensive multi-disciplinary teaching experience and interests, spanning the theory and practice of human rights. His research focuses upon the normative, political and cultural challenges to human rights. He is particularly interested in the contributions which radical philosophies and politics can make to defending human rights against multiple challenges. He has taught and lectured upon human rights across the world; including, Central Asia, East Asia, Europe, South East Asia and North and South America.

[Greeting]



Sanae Fujita
Fellow at School of Law, University of Essex

Dr Sanae Fujita is a fellow of the Human Rights Centre at the University of Essex and has been a supervisor for the annual student-led Human Rights in Asia conference since its establishment in 2009. Her research closely engaged with Asian Development Bank and published 'The World Bank, Asian Development Bank and Human Rights: Developing Standards of Transparency, Participation and Accountability' (Edward Elgar Publishing, 2013). Since 2013, she has played a crucial role in raising international awareness of human rights in Japan, including problems of the amendment bill to the Immigration Control and Refugee Recognition (2021). She has been leading a project by assisting the UN Special Rapporteurs on Freedom of Expression as well as Right to Privacy.

[Keynote Speaker]



Aurvasi Patel

Head of Protection Service, UNHCR Regional Bureau for the Asia and Pacific

Topic: *Leaving No One Behind, Improving Refugee Rights in a Complex and Diverse Region*

Aurvasi Patel is from the United Kingdom and commenced her career with UNHCR in 1991 in Hong Kong. She is currently the United Nations High Commissioner for Refugees (UNHCR) Head of the Protection Service in the Regional Bureau for the Asia and Pacific having previously worked in a variety of protection related functions in the Balkans, Tajikistan, Sri Lanka, Greece, Afghanistan, Iraq and in Headquarters.

[Country Specific Speakers]

[South Korea]



Takgon Lee

Attorney at Law, Dongcheon Foundation

Topic: *Refugee Law in South Korea: Always an Alien, Sometimes an Asylum Seeker*

Takgon Lee is an attorney working at Dongcheon Foundation, a public interest law foundation founded by Bae, Kim and Lee, LLC. Before joining Dongcheon, Takgon worked as a corporate counsel. Now, he focuses on legal advocacy and policy reform for refugees and migrants. His current interest includes, among others, universal birth registration, right to stay for undocumented migrant children, as well as domestic interpretation and implementation of international human rights treaties and instruments including Convention on the Elimination of Racial Discrimination and Global Compact for Migration. He also serves as the secretary at the Human Rights Committee of the Korean Bar Association, and the deputy Chair at the International Solidarity Committee of MINBYUN – Lawyers for a Democratic Society.

[Japan]



Saburo Takizawa

Former Representative of UNHCR Japan

Topic: *Japan's Migration and Refugee Policies*

Saburo Takizawa, Professor Emeritus of Toyo Eiwa University, Japan, was born in Nagano prefecture in 1948. He received a BA from Saitama University, MA from Tokyo Metropolitan University and an MBA from Haas School of Business, the University of California, Berkeley. In 1981, he joined the United Nations Office in Geneva, and then worked for the United Nations Relief and Works Agency for Palestine Refugees (UNRWA), the United Nations Industrial Development Organization (UNIDO) as Director of Program Coordination and for the United Nations High Commissioner for Refugees (UNHCR) as Controller/Director of Finance as well as the UNHCR Representative in Japan (2007-2008). From 2009 till 2016 he was a professor at Toyo Eiwa University. He specializes in Japan's refugee policy and has written a number of articles and books, including English ones such as "Japan's Refugee Policy: Issued and Outlook" published by the Japan Institute of International Affairs (http://www2.jiia.or.jp/en/digital_library/peace.php).

[Indonesia]



M. Alvi Syahrin, M.H., C.L.A.

Head of Research Centre, Immigration Polytechnic

Topic: *Refugee Protection based on Human Rights: Legal and Political Perspectives in Indonesia*

M. Alvi Syahrin is Law and Immigration Expert of Directorate General of Immigration (Ministry of Law and Human Rights, Indonesia). His current research focuses on Forced Migration, International Refugees, Border Security, Law and Development. Currently is a Head of Research Centre at Immigration Polytechnic.

[Thailand]



Sriprapha Petcharamesree

Senior Lecturer of Human Rights and Peace Studies, Mahidol University

Topic: *Exist, yet not recognized- Refugees in Thailand*

Sriprapha Petcharamesree is a faculty member at the Institute of Human Rights and Peace Studies, Mahidol University in Thailand. She received her Ph.D. (Doctorat) in International Politics from the University of Paris-X Nanterre, France. Sriprapha was awarded, in 2017, an Honorary Doctor by the University of Oslo, Norway for her contribution to human rights. From 2009-2012, she served as the Representative of Thailand to the ASEAN Intergovernmental Commission on Human Rights (AICHR).

Her first formal contact with the works on migration started when she served UNHCR during the Indochinese refugee crisis in 1977. She was also employed as a social worker at the UNICEF's Emergency Operations for Cambodian Refugees between 1979-1981 before joining the Thai government and then academia. Her recent works focus, among others, on issues of citizenship, migration, refugees and asylum seekers as well as statelessness, human rights in international relations, and human rights education.

[Moderator]

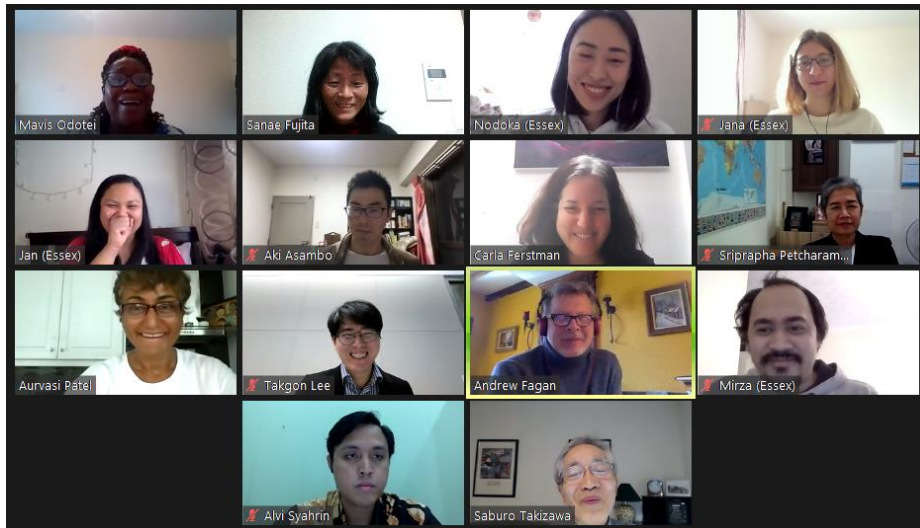


Carla Ferstman

Senior Lecturer of School of Law, University of Essex

Carla Ferstman joined the school of law at Essex in January 2018. She is a Canadian qualified barrister and solicitor (year of call 1994). DPhil (Public International Law) (Oxon); LL.M (NYU); and LL.B (UBC); BA (Philosophy) (UWO).

Dr Ferstman is a member of the Council of Europe's Expert Council on NGO Law (a specialist body that provides commentary and expertise on the regulation of civil society activities throughout the Council of Europe) and a member of the JRR-UN Women SGBV Justice Experts Roster. She is also on the experts committee of the group of friends of the Convention Against Torture Initiative (CTI) - an inter-governmental initiative to secure global ratification of the Convention Against Torture by 2024 and part of the Advisory Committee of Lawyers for Justice in Libya. In 2020, Dr Ferstman was appointed to the ABAN Tribunal, an International 'People's Tribunal' to investigate alleged atrocities of the Iranian State that will convene in The Hague in 2021. The purpose of the Tribunal is to determine whether the Islamic Republic of Iran committed any international crimes in their response to the November 2019 protests.



Opening Remarks

Dr Andrew Fagan, Director of the Human Rights Centre, Senior Lecturer at School of Law, University of Essex

The Director of the Human Rights Centre, Dr Andrew Fagan, has started the 13th Human Rights in Asia by explaining why the Human Rights Centre chose to focus on human rights in the Asia thirteen years ago. It was stressed that Asia has been overlooked and neglected as a key region for defending human rights.

Now, focusing the human rights climate in Asia has become more urgent than before with the rise of China as a global power which gives a complex challenge to the human rights as we can see in Hongkong and other countries. As a scholar who has expertise in Myanmar, Dr Fagan showed his concern on the situation in the Myanmar and the role of China in that region. He also highlighted the positive trend such as the protest from young generation in Asia which called the 'Milk Tea Alliance' that demand democracy and human rights across the region.

Finally, Dr Fagan gave appreciation to the conference committee which were organized by Essex students and Dr Fujita.

Greeting

Dr Sanae Fujita, Visiting Fellow at School of Law, University of Essex

Dr Fujita has emphasised the importance of highlighting the situation surrounding asylum-seekers and refugees in Asia. She has particularly highlighted the detention of asylum-seekers in Japan which is not being given the media attention. In 2015, Tokyo was chosen as the host city for the Olympics and the Japanese Government decided to strengthen the measures against "illegal immigrants" and "deportation avoiders" for "the safe and secure society." Since then, detention in centres have massively increased. Dr Fujita has also stressed the increasing and frequent inhuman and degrading treatment in detention centres with many detainees succumbing to hunger strikes in protest for

their release. UN bodies have given strong recommendations and yet, Japan is currently amending their immigration law to dilute the standards even more. Dr Fujita has also stressed the mental suffering experienced by the detainees in two short videos.

Keynote Speech

Aurvasi Patel, Head of Protection Service, UNHCR Regional Bureau for the Asia and Pacific



Ms Patel started her keynote speech for the first panel by thanking Carla, Sanae, and Andrew for the introduction and the videos which set the scene. She thanked Sanae and the organising student for the choice of the theme. She went on to introduce the work of UNHCR in the Asia-Pacific region by presenting a map showing the 45 countries in the region the Bureau covers. The coverage of the total 9.2 million persons of concern, including 4.4m refugees and asylum seekers, 3.3 m Internally Displaced Persons (IDPs) and 2.3 Stateless Persons in the region.

The caseload is managed with 13 UNHCR country offices and 3 multi-country offices covering a total of 25 of the 45 countries. The biggest refugee hosting countries in the regions are Pakistan, Iran and Bangladesh

Ms Patel described how the UNHCR was first created in 1950 to assist Europeans that had been displaced in the events of World War II. She then explained the subsequent creation of the UN Refugee Convention in 1951. The 1967 Protocol removed time and geographical limits. The Convention and Protocol forms the basis of UNHCR's work today and outlines the necessary requirements to obtaining refugee status and the legal obligations of states in that context. She described the role of UNHCR as the 'guardian' of the convention/Protocol that assists states in its implementation.

She then presented the UNHCR's mandate and how it has developed over time. Originally, the only persons of concern to the UNHCR were individuals that fulfil the legal definition of a refugee as it is outlined by the UN Refugee

Convention. This definition requires a person to be someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for one of five reasons; race, religion, nationality, membership of a particular social group, or political opinion. Ms Patel then outlined how the UNHCR came to include the protection of IDP's into its mandate. This was prompted by the

developments in the Balkans. During the Balkan crisis, for the first time UNHCR operated within a conflict region and UNHCR's mandate evolved to include monitoring of the situation of conflict IDPS and to try and find ways for them to be able to return home and reintegrate. She explained an IDP is like a refugee, but they have not crossed any international border. This difference is critical, because a person who remains on their own territory has the protection of their Government – and thus has no need for international protection. Later, UNHCR's mandate was expanded to include IDPs that had been displaced as a result of natural disasters in 2005 following the tsunami in 2004 in the

Refugee

Who is a refugee?



> Someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.

Internally displaced persons (conflict)

Who is an internally displaced person (IDP)?



> Someone who is forced to leave their home but who remains within their country's borders

emphasised that signatory status is not synonymous with better rights protection. Focusing on China as a signatory state she outlined how, despite having signed the Refugee Convention in 1982 China still has no domestic legislation protecting refugees and asylum seekers. While China does respect the principle of non-refoulement, refugees are not always able to access full rights to education, work, health, etc., instead refugees in China depend on the help of UNHCR. Her next example for a signatory state was Australia who signed the convention in 1954. It is a critical partner for UNHCR in terms of resettlement – one of the three durable solutions for refugees – to start a new life in a third country when going back home and staying in the country of asylum are not possible. Australia's domestic laws lack critical protection safeguards and allow for offshore processing of refugees and asylum seekers. Furthermore, Australia has been involved in pushbacks and practices mandatory onshore detention of individuals lacking valid visas. After that she turned to Pakistan as a non-signatory state. It has no domestic asylum system but has been hosting large numbers of Afghan refugees for over 40 years. In recent years Pakistan's policy towards refugees living in the country has been improving, increasing their rights and protection. However, refugees are still at risk of arbitrary arrest and have no access to the formal labour market. Finally, she presented the example of India, which is not a signatory state but, similar to Pakistan, has been hosting different groups of refugees for many years. India's approach to refugee protection is currently being tested due to recent developments in Myanmar and arrival of the Rohingya into India.

region. She went on to explain UNHCR's work with stateless persons and ended the overview by presenting the challenges faced by returnees when they repatriate to their place of origin.

Following this short overview, she went on to compare her experience of the protection provided by states signatory to the UN Refugee Convention to that provided by non-signatory states in the Asia-Pacific region. She presented a table showing signatory states and non-signatory states and

Internally displaced persons (natural disaster)



Returnees:
Who is a returnee?

> Someone who was a refugee, and who returned home voluntarily



Ms Patel concluded her presentation by briefly outlining three key challenges to UNHCR's work. The first being the continually rising numbers of forcibly displaced persons. The second being the way in which the agency's humanitarian mandate is constantly challenged by politicization of refugee issues. And the third challenge being the refugee crises becoming more and more protracted.

Country Specific Speech

South Korea

Takgon Lee, Attorney at Law, Dongcheon Foundation

Mr Lee firstly thanked to the student committee for inviting him to the conference.

Mr Lee started his presentation by introducing an event happened in 2018 where 561 Yemenis refugees sought refuge on the Jeju Island. The Ministry of Justice banned these refugees from entering the mainland and later that year removed Yemen from the visa free list to the Jeju Island in 2018. The surge of these refugees from Yemen for the first time in years brought the issue of refugees and refugee rights into the public domain. This also led to the tightening of refuge laws and discriminatory policing of foreigners in Korea. However, eventually the ministry of justice granted humanitarian status to 339 Yemenis and denied 34 applications. Statistics show that Korea 139th place in the world on refugee status applications.

On paper, Korea has a standard refugee procedure, but the reality tells a different story. For example in 2019, only 6.9% of applications at the port of entry were successful with most applications termed “manifestly unfounded claims”. The appeal system offered by the refugee committee is overburdened with caseload and are not permanently staffed. In 2018, only 2 out 1,598 refugee lawsuits were successful with many refugee applicants refused court ordered litigation aid. With all applications done in Korean language, refugees are usually disadvantaged within the judicial process. Asylum seekers are usually referred to as “abusive applicants” and others detained with no judicial oversight or limitation on the length of period with no consideration for minors. Some refugees have lost their lives as a result many because there is minimum access to medical care.

Because all asylum/refugee seeking documentations are written in Korean, refugee words are twisted during initial interview in order to make their application loose validity in court. When this came to light, the Ministry of Justice changed its stance and allowed all applicants who were

interviewed from sept 2015 to June 2018 to re-apply without penalty by making the recording of interviews mandatory. The Ministry of Justice however made no official apology or reparation for victims, nor either gathered any statistics on applicants who were refused or repatriated. The Human Rights Commission of Korea in 2020 found that these mishaps were brought about by the hostile environment towards refugees and recommended that caseloads need to be lessened for case officials and for the application process to speed up.



The efforts of civil society have been on the rise since 2018 when the general public joined forces with human rights organisations to highlight the plight of refugees by holding rallies and public demonstrations. The Minority Refugee Human Rights Network was one of such an organisation. There are many faith-based organisations and law firms that are fighting for the rights of refugees in Korea.



Japan

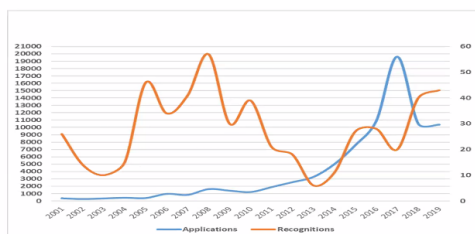
Saburo Takizawa, Former Representative of UNHCR Japan

Mr Saburo Takizawa firstly thanked the Human Rights Centre and organising members for the invite to this conference. He started his presentation by overviewing the relationship and differences between refugees and migrants as well as the international scheme of refugee protection, which consists of asylum (local integration in the country of asylum) and burden-sharing (resettlement in a 3rd country' and financial contributions).

He went on to discuss the asylum policy in Japan. Japan ratified the 1951 Refugee Convention in 1981 and has granted refugee status to 794 asylum seekers against 81,543 applications. The Immigration Services Agency carries out the Refugee Status Determination (RSD) but, as the agency's core function is immigration control, refugee status recognition rate has remained low at around 1 per cent. The negative attitude of Japan towards refugee protection has been criticised by civil society organizations and the media.

He explained that the reasons for the low recognition rate are: only a small number of refugees can reach Japan which is far away from countries that produce most of refugees, very narrow definition of "persecution", and the negative attitudes of the public towards refugees.

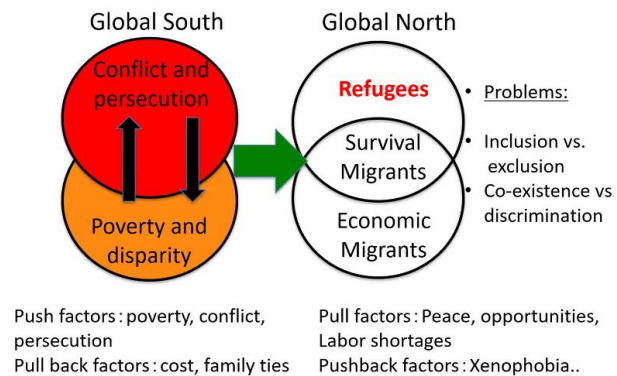
Asylum in Japan



- Japan joined the 1951 Refugee Convention in 1981
- Since then, 794 have been granted refugee status (against 81,543 applications)
- RSD is carried out by the Immigration Services Agency (ISA), not by an independent body

Mr Takizawa then briefed about the on-going reform of the RSD including the introduction of "Complementary Protection" and the publication of the first RSD Guidelines. As for burden-sharing, Japan has doubled the number of resettled refugees from 30 to 60 annually. The government, UNHCR and the civil society have launched scholarship programs to provide academic opportunities for refugees. Furthermore, Mr. Takizawa said that the Japanese government and civil society organizations have been generous in providing financial resources to the UNHCR and other humanitarian organizations carrying out refugee and IDP protection programs abroad. Financial burden-sharing is Japan's main contribution to the international protection of refugees, he stressed.

1. Overview



Indonesia

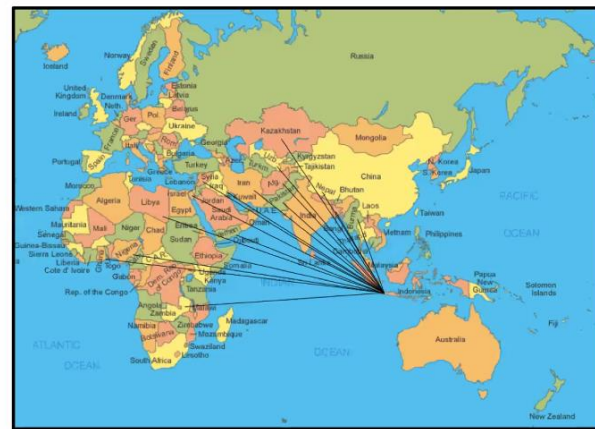
M. Alvi Syahrin, M.H., C.L.A., Head of Research Centre, Immigration Polytechnic

Mr Syahrin began his talk by introducing that Indonesia protects refugees and asylum seekers through regulation and its management. According to the 1945 Constitution of Republic of Indonesia, everyone has the right to choose a place to live in the territory of the country and to leave it, and the right to return (Art 28E para 1). Everyone (also) has the right to be free from torture or other

degrading treatment and is entitled to political asylum from other countries (Art 28G Para 2).

Regarding this constitution mandate, the granting of asylum to foreigners is carried out in accordance with national laws and regulations and with due observance of international law and practice. The Republic of Indonesia recognized and upholds human rights and basic human freedoms as rights inherently and inseparable from humans, which must be protected, respected and upheld for the sake of enhancing human dignity, welfare, happiness, and intelligence and justice. The Indonesian Law also recognized that everyone has the right to seek asylum in order to obtain political protection from other countries. The right to live, not to be tortured, and personal freedom are the rights that cannot be reduced under any circumstances and by anyone.

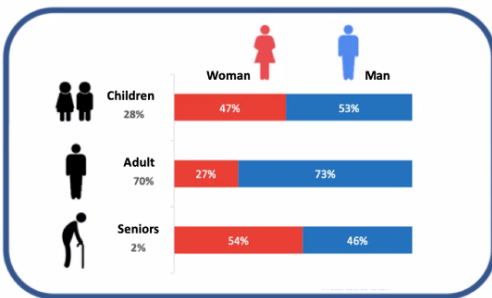
Overview



Immigration Polytechnic
Ministry of Law and Human Rights
Republic of Indonesia

MA Syahrin, 2021

UNHCR Indonesia As of 31 January 2021



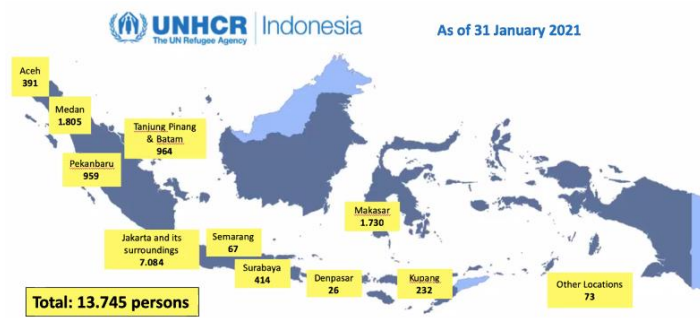
Asylum Seekers	Refugees
3.603	10.142

Indonesia also has ratified CAT and ICCPR that stated no country shall refuse, return or extradite a person to a country where there is a strong belief/reason that he or she will be dangerous due to being subjected to torture. A foreigner who is legally present in the territory of a State Party to the present Covenant may only be expelled from the territory as a decision which is made based on law, and unless there are compelling reasons for national security. Indonesian Law concerning immigration stated that the victims of human trafficking and people smuggling (refugee and asylum seekers) cannot be deported. Criminal provision cannot be applied to human trafficking and people smuggling.

From those laws, the

Indonesian government has created refugee and asylum seekers management schemes, including when it discovers refugees in sea and mainland.

However, durable solutions are still needed to improve the Refugees and Asylum Seekers in Indonesia. The government need to provide state budget for handling refugees and asylum seekers. From this funding, the regional government able to provide accommodation (shelter) and empower refugees while waiting for



CASE PROCESS IN UNHCR		
REGISTRATION	REFUGEE STATUS DETERMINATION	
451 Cases in 2020 (678 persons)	Status Accepted 74 Cases in 2020 (219 persons)	Final Rejected 2 Cases (2 persons)

resettlement through education and others. IOM also needed to provide assistance to independent refugees and final rejection.

Thailand

Sriprapha Petcharamesree, Senior Lecturer of Human Rights and Peace Studies, Mahidol University

The presentation started with a brief overview and timeline of refugees in Thailand. Then the presentation moved to the important recent developments in law and policy in the Thai government regarding refugees and asylum-seekers. Finally, it ended with existing and new shortcomings regarding these laws.



Thailand is not party to the 1951 Refugee Convention. Despite that, Thailand was willing to allow UNHCR to establish an office in Thailand in 1975 and pledged to cooperate in providing temporary humanitarian aid to those forcibly displaced, and in seeking durable solutions including voluntary repatriation or resettlement in third countries. The Thai government has provided assistance and temporary asylum to refugees from various countries based on a humanitarian principle and has opted for compromised measures to deal with refugees.

Thailand shares long borders with its neighbouring countries, making it a crossroad for migration. And because of its long borders and long coastline, Thailand is the main country in Southeast Asia that receives refugees. As of June 2020, Thailand hosts 93,138 refugees from Myanmar in the nine Royal Thailand Government-run temporary shelters along the Thailand-Myanmar border. There are also approximately 5,000 urban refugees and asylum-seekers in the country from over 40 countries. UNHCR recorded some 475,000 persons as stateless persons. Dr Petcharamesree also reported that these numbers do not include the 3 – 4 million migrant workers with some could be qualified as refugees.

Thailand's influx of refugees can be traced back to the 1940s and in the 1970s, because of the war and political turmoil in Indochina, the country was obliged to deal with the massive exodus of refugees. The refugee outflow from neighbouring countries has repeated and has been continuous with varying degrees of intensity. Recently, due to the ongoing violence against protesters of the coup d'état in Myanmar, Thailand will experience another influx of people fleeing for their safety and survival.

Although Thailand has been dealing with refugees ever since the World War II, there is no clear-cut definition of refugees in the Thai legal system and there are no laws directly mentioning about refugees. Thus, they are not recognised as refugees under the 1951 Refugee Convention but rather other kinds of status with more lenient policy under Thai law.

However, in recent years, there has been a positive development in the Thai government policy surrounding the protection of the refugees. In September 2016, it was pledged at the UN Summit on Refugee and Migration that the Thai government would stop the detention policy of child refugees and asylum-seekers and that an effective screening system would be established to differentiate refugees from economic migrants. In 2019, a Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centres B.E. 2562 was signed by the Royal Thai Police and relevant ministries. There was also an adoption of a Standard

Exist yet not recognised :
Refugees in Thailand

Sriprapha Petcharamesree, PhD.
Institute of Human Rights and Peace
Studies, Mahidol University, Thailand.

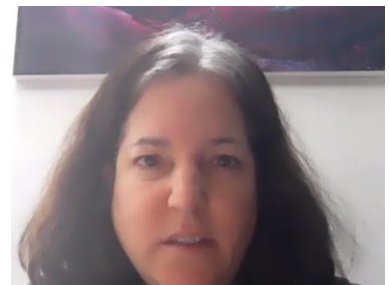


Operation Procedure under the Memorandum of Understanding for proper implementation of the policy. In December 2019, a Regulation of the Office of the Prime Minister on the Screening of Aliens who Enter into the Kingdom and are Unable to Return to the Country of Origin B.E. 2562 (henceforth “2019 Regulation”) was published. This regulation was considered as a key development on the management and the right of protection to the refugees in Thailand.

Dr Petcharamesree, however, stated that the 2019 Regulation does not meet the expectations of the academics and civil society groups. As the determination of refugees and asylum-seekers is

not mentioned in the regulation, the 1979 Immigration Act remains the sole reference in the screening process. The wording of the preamble of the 2019 Regulation also frames ‘aliens’ as problematic and the document does not give a clear definition in that whilst it includes some aspects of the definition of refugees specified by the 1951 Convention, the reasonable ground for persecution is still to be determined by the Committee on screening a person under protection. This gives them a large margin of discretion and it is undetermined on who are deserving protection under the 2019 Regulation. There is also a flaw on the composition of the Committee which consists of high-ranking officials chaired by the Commissioner-General of the Royal Thai Police or the Deputy Commissioner-General with the Deputy Permanent Secretary of the Ministry of Interior as the Deputy Chairperson. The four experts in the Committee do not include other stakeholders, including academia that was recommended by civil society groups, and are mainly retired high-ranking officials. As a consequence, a security approach prevails in the screening rather than of human rights.

A request for protection must be submitted to a competent authority by the refugee under the clause 15 of the 2019 Regulation. Dr Petcharamesree has further identified a series of flaws within this process. First, there is an issue of the language barrier and the reliance on written application that would disadvantage applicants who cannot read or write. Second, there will be limited access to a legal counsel. Third, there is no indication if interviews are required. Then, there is also the possibility of delays of the screenings and it is identified that since the appointment of the Committee there has been no sign of the screening being moved forward and numbers have yet to level up. A barred appeal is also a possibility as officials do not provide explanation for rejections on applications and the opportunity to contest the decision is lost. These flaws often lead to incorrect rejections and, by extension, deportation of refugees. There is no guarantee as of recent if the 2019 Regulation will be amended for better determination of refugees.



Dr Petcharamesree then ended her presentation stating that Thailand still have a long way to go in terms of refugee protection and with regards to the international obligations and standards. However, the recent developments have shown that Thailand has taken a small step forwards in the determination of refugees.



Conference Summary – Day 2

Event Day 2: Everyday Experiences of Refugees and Asylum Seekers with a focus on South Korea, Japan, Indonesia, and Thailand

Saturday, 27th March, 2021 (11AM – 1PM in UTC)

[Keynote Speaker]



Renos K Papadopoulos

Professor and Director of Centre for Trauma, Asylum and Refugees, University of Essex

Topic: *Psychosocial Perspectives on Human Rights*

Renos K Papadopoulos is founder and director of the 'Centre for Trauma, Asylum and Refugees', founder and Course Director of the MA and PhD in 'Refugee Care'. A member of the 'Human Rights Centre', of the 'Transitional Justice Network' and of the 'Armed Conflict and Crisis Hub' all at the University of Essex. Honorary Clinical Psychologist and Systemic Family Psychotherapist at the Tavistock Clinic. He is a practising Clinical Psychologist, Family Therapist and Jungian Psychoanalyst, who also has been involved in the training and supervision of these three specialists. As consultant to the United Nations and other organisations, he has been working with refugees, tortured persons and other survivors of political violence and disasters in many countries. He lectures and offers specialist trainings internationally and his writings have appeared in 16 languages. Recently, he was given Awards by the European Family Therapy Association for Life-time 'Outstanding contribution to the field of Family Therapy and Systemic Practice', by the University of Essex for the 'Best International Research Impact', and by two Mexican Foundations for his 'exceptional work with vulnerable children and families in Mexico'.

[Country Specific Speakers]

[South Korea]



Youngah Kim

Founder and Executive Director of the Migration of Asia Peace (MAP)

Topic: *Life of Refugees in the Republic of Korea since the 2013 Refugee Act*

Youngah Kim has been devoting to refugee protection in the Republic of Korea since 2013, the year when the domestic refugee law came into effect. She founded the Migration to Asia Peace (MAP) in 2015. Under her leadership, the MAP has provided refugees and asylum seekers with services such as counselling, translation/interpretation, information distribution, and case management. The MAP also launched a project Human Library with Refugees to raise public awareness and address prejudices. The areas of advocacy she is interested in are refugee health right, family unification, child protection, refugee representation, and labour rights. She studied International development cooperation/conflict resolution studies for MA at University for Peace. She majored in International relations and Political science at University of Toronto.

[Japan]



Eri Ishikawa

Chair of the Board of Japan Association for Refugees (JAR)

Topic: *Current Status of Refugee Support in Japan -What JAR Does to Help-*

Eri Ishikawa earned her Bachelor's degree at Sophia University in Tokyo. The 1994 Rwandan genocide made her become more interested in refugee issues, and she joined to establish the NPO Japan Association for Refugees (JAR) while in the undergraduate course. She joined JAR in 2001 after finishing study and working with a company. She has engaged in the assistance to Afghan refugees, the first amendment on the Japanese refugee status determination-related law, the coordination among the parties concerned in the occasions of a sit-down strike in front of the United Nations University by and deportations against Kurdish refugees so far. Since January 2008, she had been working in a position of secretary-general of JAR while taking maternity leaves for two times. She was appointed as Chair of the Board of JAR in December 2014. She is currently working as a part-time lecturer at Sophia University and Hitotsubashi University Graduate School of International and Public Policy.

[Indonesia]



Isa Soemawidjaja

Humanitarian Worker

Topic: *Advocating Refugee Rights in Indonesia during COVID-19 Pandemic*

Isa Soemawidjaja is a humanitarian worker at UNHCR working for the refugees, asylum seekers and stateless persons in Indonesia since July 2018. He deals with detention/potential refoulement cases, access to territory/asylum, access to universal birth registration and birth certificates for the refugees and any other legal protection issues affecting UNHCR's

persons of concern in Indonesia's archipelago. Prior to Indonesia, from 2010 to 2018, he worked as a UNHCR's Refugee Status Determination (RSD) specialist assigned in Yemen, Egypt, Iraq, Pakistan, and Turkey.

[Thailand]



Kornkanok Wathanabhoom
Public Advocacy and Communication Coordinator, Asylum Access Thailand

Topic: *Urban Refugees in Thailand*

Kornkanok Wathanabhoom is a Policy Advocacy and Communication Coordinator of Asylum Access Thailand. Currently, she is also the Coalition for the rights of Refugees and Stateless Persons (CRSP) coordinator. She cooperates with the CRSP partner organizations to uphold the urban refugee rights in Thailand particularly on the implementation of the national screening mechanism and the MOU on Alternative to Detention. Moreover, she promotes the understanding of refugee's issue to the general public on Asylum Access Thailand's social media platform as well as teaching law students on the issue of the refugees in Thailand. She used to work for vulnerable groups such as stateless people, to promote birth registration and acquire the nationality and basic rights. She is Essex's alumni; she studied the International Human Rights Law program in 2018-2019.

[Closing Remarks]

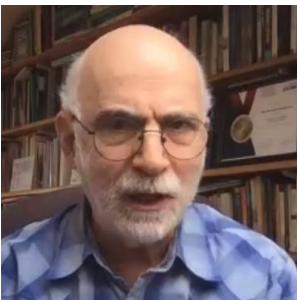


Ahmed Shaheed
Senior Lecturer of School of Law, Deputy Director of Human Rights Centre, University of Essex

Ahmed Shaheed is Deputy Director of the Essex Human Rights Centre. He was the first Special Rapporteur of the Human Rights Council on the situation of human rights in the Islamic Republic of Iran since the termination of the previous Commission on Human Rights mandate in 2002. A career diplomat, he has twice held the office of Minister of Foreign Affairs of Maldives. He led Maldives' efforts to embrace international human rights standards between 2003 and 2011. In 2015, Mr. Shaheed won the UN Foundation Leo Nevas Human Rights (Global Leadership) Award. In 2010, he was granted a Presidential Medal of Gratitude by Albania and in 2009, he was recognized as the Muslim Democrat of the Year by the Centre for the Study of Islam and Democracy.

[Keynote Speech]

Renos K Papadopoulos, Professor and Director of Centre for Trauma, Asylum and Refugees, University of Essex



Renos began by thanking the organisers for the invitation and emphasised the importance of the conference and of looking at human rights from a variety of different perspectives. He then went on to introducing his own area of study and the relevance of including psychosocial dimensions into the human rights discourse.

He then continued to present the central question he was aiming to answer in his talk, i.e. how best to grasp the complexities of the everyday experiences of Refugees and

Asylum Seekers. The short answer he gave was that it could be accomplished by not ignoring the psychosocial complexities of the situation. He elaborated that this meant to include not only the psychosocial complexities of the refugees'/ asylum seekers' own situation, but also the situation of those who work and interact with them, as well as the role the wider social discourses play in forming the perception of refugees and asylum seekers. Renos stressed that this perception matters greatly, emphasising that these are not phenomena that we should take for granted; instead, these are phenomena that are shaped by narratives co-constructed by media, politics, cultural, historical and many other sources.

Human Rights and the Psychosocial

Key consideration:

• Persons should be entitled to protection, care and support not because they are 'traumatised' or not physically or psychologically 'damaged' by HRVs or other political factors

BUT

• Because they are entitled to, according to their human rights.

Another important consideration is the complexities of the interrelationship between human rights approaches and psychosocial approaches.

Renos presented the key ingredients of the psychosocial dimension by examining the specific requirements of the legal right to asylum. He stressed two main points. First, the right to asylum requires only the fear of persecution, not the proven fact of persecution. Second, the mention of a willingness to be availed to the protection. This shows that the factual events alone are not the deciding factor, but the experience of events by the individual asylum seeker and the impact this experience has on them is relevant to the legal status.

He went on to talk about the presentation of traumatic events by first showing a short video of Antonio Guterres who, at the time the video was recorded, was Director of UNHCR. The video showed Guterres talking about the risk of a 'lost generation' in Syria caused by trauma and anger from the ongoing civil war. Talking about trauma Guterres explained that 75% of children fleeing Syria are less than 11 years old and how the experience of the civil war had people lose their speech, children lose sleep, and showing behavioural challenges. Guterres argued that, based on his own experience of visits to refugee camps and children's artwork that he had seen, the whole generation of Syrian children would suffer from their experiences for the rest of their lives, hence calling them a 'lost generation'.

Commenting critically on the video, Renos pointed out that Guterres's assessment was not only an exaggeration but, in fact, presented the danger of further traumatising those we wanted to help. He analysed that Guterres was simply taking ordinary situations and over-dramatizing them in order to achieve an effect. According to Renos, Guterres was using the plight of Syrian refugee children in order to raise awareness of their suffering and mobilise help for them, which was appropriate, but was also, imperceptibly, condemning them that they will be damaged for life, which is both incorrect and inappropriate. Renos introduced a distinction between two forms of dehumanisation: 'negative dehumanisation', when people's human rights are brutally violated, and 'positive dehumanisation' when reducing individuals to just 'traumatised victims', ignoring their resources and abilities to recover from traumatising experiences. He emphasised that refugees and asylum seekers should be entitled to protection, care and support not because they may be 'traumatised' or not, but because they are entitled to, according to their human rights.



Renos defined the psychosocial dimension as the interaction between three main dimensions: the intrapsychic, the interpersonal, and the socio-political. Applying this to reparation, which is where human rights and the psychosocial dimension intersect, he stressed the importance of acknowledging the status of a person as victim without imposing a victim identity. He emphasised the importance of the distinction between being a 'victim of adversity' as opposed to developing a 'victim identity', the latter fostering passivity, 'learned helplessness' and distortion of reality. Addressing experiences with the appropriate epistemological precision, he pointed out, is particularly relevant in human rights work. It is important to strike the right balance between validating the original adverse experiences whilst also avoiding the perpetuation of helplessness. Incorporating psychosocial dimensions in the human rights discourse allows us to also perceive the transformational potentialities of traumatic experiences instead of focusing exclusively on their detrimental impacts.

Renos concluded by touching on the psychosocial implications of human rights violations interventions. Human Rights practitioners have an impact on the people they try to help and are themselves impacted by them. The understanding of psychosocial dimensions can enrich the grasping of the profound implications of these impacts.

Country Specific Speech

South Korea

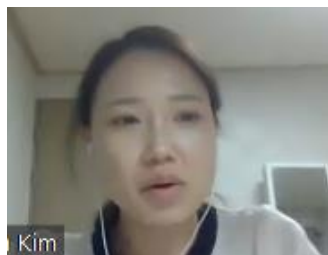
Youngah Kim, Founder and Executive Director of the Migration of Asia Peace (MAP)

Ms Kim firstly implied that there has not been much in terms of change with regards to the situation surrounding refugees and it has been suggested that there should be more participation from refugees to emancipate the rights of refugees. South Korea

signed the Refugee Protocol in 1992 and, under the immigration control law, the asylum process was put into motion, but the actual recognition of refugees started in 2001. In 2009, the ruling party and the human rights community collaborated and started enacting the refugees laws that finally came into force in 2013.

Raising awareness of refugees since 2013 has been a huge challenge however, in 2018, the issues faced by refugees were brought into the public domain. One instance is when about 540 refugees arrived within a period of 3 months. Stake holders within South Korea missed the opportunity to create a friendly atmosphere for refugees instead this was politicised and lead to animosity between the public and refugees. This resulted in demonstrations been held against refugees week after week. There was an uproar from the South Korean public, conservative politicians, and the media against The Refugee/Asylum Act.

The increase in people seeking refugee/asylum status in Korea is a result of many factors. Some of these are International violation of human rights and in particular the Arab spring. Most refugees/asylum seekers



from the Middle East Asia were granted humanitarian status but not refugee status. This status does have limited social rights and is not very different from asylum seekers. After the enactment of the Refugee Act, there was a decrease in refugee recognition in Korea. A small percentage of refugees/asylum seekers are granted either refugee status or humanitarian status but this is manipulated to the international community to give the impression that South Korea is doing well in terms of granting refugee status to foreigners just like the European countries.



2018 was the year when refugees were able to openly protest on the streets in Korea. Refugees/asylum seekers mounted a sort of protest by writing down their feelings and thoughts on cards. Some refugees held a hunger strike in front of the presidential building with support from civil society organisations. Although at the moment refugees/ asylum seekers are actively involved in creating awareness of refugee rights and other related issues, they do not have access to the decision-making machinery to enable their issues to be considered when it comes to the formulation of laws.

Both the Refugee Act and the Immigration Act are being tightened and more restrictions are placed on refugees which has led to unprofessional, intimidating, and abusive handling of refugees. Refugees are being punished through documentation checks and excessive control to the extent that some are stripped off their refugee status. Until 2019, refugees are not given access to health care and were expected to pay for health insurance and failure to do this would result in the non-extension of visas. This put refugees/asylum seekers at the bottom of the rights pyramid in South Korea.

It was suggested that refugees/asylum seekers should be given access to the emergency relief fund for the COVID-19 pandemic. They are unable to access the public distribution of masks. This has led

to a deterioration of mental health issues among refugees/asylum seekers. Systems and procedures should be built into the refugee Act to enable it work in the way it was designed to assist refugees/asylum seekers have a better life and experience in South Korea.



Japan

Eri Ishikawa, Chair of the Board of Japan Association for Refugees (JAR)

Current Status of
Refugee Support in Japan
-What JAR does to help-

Japan Association for Refugees
Chair of the Board Eri Ishikawa



Ms. Eri Ishikawa firstly thanked the Human Rights Centre and the organising committee for the invite to the conference.

She started her talk by introducing her organisation which is Japan Association for Refugees (JAR) established in 1999. JAR's mission is to 'support refugees to settle down safely in a new land' and to 'work with authorities and the civil society to build an inclusive society'. JAR has assisted approximately 7,000 refugees and asylum seekers from 70

different countries so far.

She moved on to overviewing types of refugee admission available Japan; refugee admission by policy, by law, and resettlement. Under policies, the Government of Japan has accepted more than 10,000 Indo-China refugees even since before its ratification to the 1951 Refugee Convention, and 30 Myanmar refugees resettle in Japan every year. However, under the law, the rate of refugee status recognition is really low. As for complementary pathways to resettlement, the Government of Japan and the civil society have several scholarships for

refugees, especially for Syrian refugees.

3 Types of Refugee Admission

1. Refugees Admission by the Policy
 - Indo-China refugees (11,000 refugees)
 - Resettlement (up to 60 people/ year)
2. Admission by Law
 - Refugees under Refugee Convention
3. Complementary Pathways to Resettlement
 - Scholarship for Syrian Refugees (government, Civil Society)



She concluded her presentation explaining the main challenges of the domestic refugee policy in Japan as there is no comprehensive asylum policy, asylum applications barely succeed, not enough social and legal supports for vulnerabilities of asylum seekers are available, and it contains severe risks of indefinite immigration detention.

JAR's Mission

At JAR, we support refugees so that they can settle down safely in a new land. We also strive for an inclusive society.



Interview with a Kurdish Asylum Seeker in Japan

In addition to speeches from country specific speakers, the student committee conducted an interview with a Kurdish asylum seeker in Japan and played the interview video at the conference to deliver the voices of asylum seekers there.

The organizing members of the 13th Annual Human Rights in Asia Conference conducted an interview with Mr. Deniz, a Kurdish asylum seeker from Turkey to Japan. He chose to seek asylum in Japan on 15th May 2007 as it is a safe and secure country. Mr. Deniz has lived in Japan for approximately 14 years and is married to a Japanese. This interview was showcased on Day 2:



Everyday Experiences of Asylum-Seekers and Refugees as a glimpse of the realities and hardships of being an asylum-seeker in Japan.

He committed suicide because of long-time detention

Mr. Deniz, upon his arrival in Japan and application for a refugee status, has suffered long detentions in the Detention Centre from 2009 until recently when he gained latest short-time provisional release. He had been informed by the staff at the Detention Centre that the period of his detention will be longer due to the Olympic Games in 2020, which will be set in Japan. He had been told that detainees “would be seen as criminals” by the spectators. Mr. Deniz’s time at the Detention Centre had been nothing short of degrading,

often causing serious mental health problems such as PTSD in which the staff of the Detention Centre did nothing about and merely prescribed strong prescription. When Mr. Deniz visited the hospital outside of the Detention Centre, he was put in handcuffs and tied with ropes.

Many of the detainees at the Detention Centre committed suicide or attempted to commit suicide – which includes Mr. Deniz – either by drinking detergent, using towels, or using broken CDs due to the degrading treatment which hurted their dignity and caused losing their will to live. Some have died in the Detention Centre due to suicide. There have also been hunger strikes within the Detention Centre, protesting about the conditions within the Detention Centre. Mr. Deniz, after his hunger strike, had his provisional release accepted. However, he was detained again after merely two weeks of release. From then on, the cycle of release and re-detention continued, and this has taken a toll on Mr. Deniz who lamented that he could not even see his wife. Mr. Deniz has been currently released on March 2020 however, due to the vicious cycle that he is facing, he confined that he has almost lost the will to live. Mr. Deniz wished for people all over the world, through this interview, to be aware of his and other detainees’ situations and for the world to act to change the Detention Centre’s rules so that the detainees’ living conditions and treatment would improve.



After the interview, it was reported that Mr. Deniz has yet again attempt to commit suicide. This interview video is available at <https://youtu.be/L-j0QBKtqHQ>

Indonesia

Isa Soemawidjaja, Humanitarian Worker

Ms Soemawidjaja started his talk by introducing that as February 2021, Indonesia has 13,528 refugees who live in different island in Indonesia archipelago. This number is smaller compared to other

countries. Most of the refugees are coming from Afghanistan, Somalia, and Iraq. Indonesia has its first national legal framework in handling refugee (Presidential Regulation 125/126) which emphasizing cooperation between different actors: Government, UNHCR, and other international organizations. It

Total population: 13,528 (February 2021)



covers Search and Rescue (SAR) at sea, individuals who seek asylum, and local government role to provide shelter for the refugee.

During Covid pandemic, UNHCR advocates refugees' rights so they have access to testing, treatment, tracing, quarantine and isolation in accordance to the Government's COVID-19 Health Protocol. Our advocacy succeeds. Whenever necessary, government quarantine and isolation facility can be used if refugee's accommodation is not considered adequate for proper quarantine or isolation. Now, the advocacy is to give refugee access for vaccines.

Regarding Sexual and Gender Based Violence (SGBV), UNHCR and partners have SGBV Hotline for refugees to report the incident and to discuss with survivors on formulating immediate actions. Furthermore, we also provide legal assistance in collaboration with partners, psychological counselling and medical assistance, and safe house for survivors.

Another COVID-19 impact is school's arrangement for distance learning which means the needs for additional costs of internet data. UNHCR through its Refugee Learning Centers adopted the distance learning modalities so refugee children able to access education.

However, since Indonesia doesn't allow the refugee to work, refugee become vulnerable group due limited means of self-reliance opportunities. Usually, they got financial support from their family overseas or others. Unfortunately, the COVID-19 reduced this support so they find difficulties in having hygiene system items to protect themselves. UNHCR priority is to advocate access to livelihood for refugee.

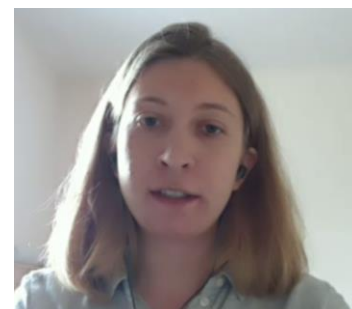
Interview with an Afghan Refugee in Indonesia

In addition to his talk, Mr Soemawidjaja kindly provided an interview video with an Afghan refugee in Indonesia which was conducted by UNHCR Indonesia.

The organizing members of the 13th Annual Human Rights in Asia has invited UNHCR to conduct an interview with an Afghan refugee from Indonesia. She is one of the 13,000 refugees living in Indonesia, more than half being Afghan refugees. She has escaped from Afghanistan in 2016 by travelling through India and Malaysia to reach Indonesia. She recalled that the boat ride from Malaysia to Indonesia is the most challenging part of her journey as she was unable to travel by plane. Her journey took several hours. Our Afghan refugee has chosen to escape Afghanistan due to a high probability of her being killed and she confided that she was able to live in Indonesia peacefully. Although she does not have a family in Afghanistan, refugees who left their families in Afghanistan fear for their uncertain future and whether they will be able to resettle with them. When she

arrived in Indonesia, she recalled that her life in Indonesia has never been easy for her and all other refugees. They usually have no source of income to support themselves. Whilst there are supporters and aid workers who help them, it is recognized that they will not be able to support refugees in long-term.

Emergency Response: Rohingya Refugees in Lhokseumawe

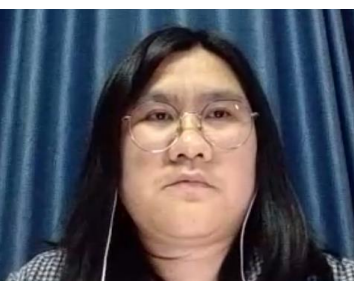


In the interview, our Afghan refugee emphasized that refugees are educated and skilled. Refugees would include doctors, artists, pharmacists, interpreters, and others. It is emphasized that they want to contribute to the Indonesian society. In 2018, they helped local people by raising donations when there was very little money received from IOM or other organizations. When basic hand sanitizers were not affordable during the COVID-19 pandemic, refugees helped to make face masks and sent them to locals who were not able to afford them.

When living in Jakarta and interacting with the local people, refugees do encounter kind people but there are some who are prejudiced towards them and view them like terrorists. Our Afghan interviewee strongly argued that refugees are not terrorists but humans and, even though they do not have their own country and are forced to live in other countries, they seek peace and do not want to put Indonesian people in danger. Our Afghan interviewee concluded the interview that refugees' dream are to get out of the uncertainty and to be settled in a place where they are able to study or maintain normal lives.

Thailand

Kornkanok Wathanabhoon, Public Advocacy and Communication Coordinator, Asylum Access Thailand



Starting her presentation, Kornkanok provided the panel with a short video from Asylum Access Thailand called “Journey to the Kitchen.” This is to highlight the situation that many urban refugee women face in Thailand and how Asylum Access Thailand helped them. An urban refugee from Afghanistan is introduced in the video who has been living in Thailand for about 15 years. She arrived in the country with her husband and started a family. Eventually, due to the husband’s beatings, she was divorced from him. Asylum Access Thailand helped her to find her livelihood by enhancing the skills that she already has and to create a business by cooking for people who orders from her to support her children. She emphasised that she wanted to prove that a woman can work like a man and that she has found happiness with the support from Asylum Access Thailand. The video is available on YouTube and can be accessed via the following link: “Journey to the Kitchen.”

There are about 96,803 refugees living in Thailand which was separated into two groups – the camp-based refugees and the urban refugees. Most of the camp-based refugees are from Myanmar and are divided in nine different refugee camps along the Thailand-Myanmar border. The Thai government declared that these camps are meant to be temporary however it is reported that these camps have been in place for more than thirty years. The second group of refugees are the urban refugees who mainly live in cities, particularly the capital city of Bangkok. There are approximately 5,000 urban refugees who came from at least 40 countries. Some came into Thailand illegally and some came with a valid visa but have overstayed which made it illegal to reside. Urban refugees do not have a right to reside in Thailand and many are being arrested and detained in Thai immigration centres.

Thailand is not a signatory to the 1951 Refugee Convention thus the country does not recognise refugees and asylum-seekers and does not conduct determination of these statuses. However, the UNHCR fulfills this role. However, there are some recent changes to the law and policy. In December



Overview Situations

91,809 refugees in camps



5,000 urban refugees in Bangkok

There are approximately 5,000 refugees and asylum-seekers of some 40 nationalities who live in Bangkok and the surrounding urban areas.

As of January 2021 (IHROR Thailand) <https://www.ihror.org/th/>

Unlike a camp, urban refugees are forced to live largely invisible lives on the margins of Thai society. They are at constant risk of arrest, detention and deportation, and are unable to work.

As of January 2021 (IHROR Thailand) <https://www.ihror.org/th/>

2019, the Thai government enacted the Regulation of the Office of the Prime Minister on the Screening of Aliens who Enter into the Kingdom and are Unable to Return to the Country of Origin B.E. 2562. This is a national screening mechanism which grants a protected person status to people who get to stay in Thailand temporarily. This status grants rights such as right to healthcare and right to education for students. However, once enforced, the implementation of the law is delayed and, currently, it is in the preparation stage.

Another important policy introduced in the same year is the Determination of Measure and Approaches Alternative to Detention of Children in Immigration Detention Centres B.E. 2562 (ATD MOU). This is a policy of the Thai government to ensure that no children are not detained in the immigration

detention centre. It is reported that over 230 women and children have been released from the detention centre since 2019. The use of government shelter or Daycare centre inside the immigration facilities asked the state authority about the detention faced by children. Kornkanok argued that the ATD MOU failed to ensure the principle of family unity as only mothers can ask to be with their children. There is also the problem of the process and the fees. Civil society organisations and non-government organisations are trying to promote community-based alternatives to detention of children and family units. One challenging issue is the referral from the Immigration Bureau to the Department of Children and Youths, and there is also the problem of gaps in collaboration with the government agencies who have signed the ATD MOU.

In Thailand, the law does not provide rights specifically for refugees however they do have access to some. One is access to the birth registration for those who are born in Thailand, which gives them recognition as a person before the law and reduces statelessness. There is also a right to education as Thailand has a policy to provide free education for all children. However, the existing language-barrier that refugee children face is an issue that inhibits their access to education. However, there are still many rights that refugees and asylum-seekers cannot access. Refugees have no right to reside in Thailand as they are seen as illegal persons. They also do not have the right to work in Thailand and are treated as illegal migrants. They also have no right to free movement and the possibility of arrest is always present.

With regards to healthcare, refugees and asylum-seekers will have to pay even though Thailand provides universal healthcare and public healthcare insurance to both Thai citizens, migrant workers, and some of non-Thai citizens as well. It was pointed out that refugees and asylum-seekers, which is 4% of the non-Thai, are the only non-Thai citizens that are not provided public health insurance. The migrant workers' annual health insurance is provided by the Social Security Scheme and even stateless people, that have connection to Thailand, have access to public health insurance under the Ministry of Public Health. Refugees and asylum-seekers will have to rely on the



Tzu Chi Clinic, a clinic run by non-governmental organisations.

Refoulement is also a problem that is facing asylum-seekers and refugees in Thailand. Two examples are the Cambodian activists that were arrested and deported to Cambodia in 2018 due to their activism. These show that Thailand does not respect the non-refoulement principle and its obligations under the international human rights law.

Asylum Access Thailand helps refugees and asylum-seekers with projects that help them find livelihoods to support themselves and their families. Currently, they have collaborated with Na Café on a Click Aroi Project. "Aroi " means "yummy" and the project equips refugees with cooking skills and provides a channel for them to share their stories through their home-cooked foods from their countries. They include refugees from Afghanistan, Sri Lanka, Vietnam, Palestine, and Ethiopia. Asylum Access Thailand is also involved with the CHAMALIIN project which is a social enterprise that provides safe, sustainable, and ethical livelihood opportunities for refugee women in Thailand. It started on the principle of sustainability, empowerment, and transparency. These two projects are examples of how Asylum Access Thailand supports the empowerment of urban refugees.



'We Never Know What Tomorrow Brings:' COVID Strands Thousands of Refugees in Thaila...

Asylum Access Thailand also continues to advocate for the rights of refugees. They have organised a coalition with other NGOS to promote refugee rights which is The Coalition for the Rights of Refugees and Stateless Persons (CRSP). Last year, they cooperated with the Canadian embassy to hold an Annual Meeting with Stakeholders to raise awareness and conduct panel discussion on the refugee issue. The panel participants include government agencies, diplomats, NGOs, and academics. Asylum Access Thailand also raises awareness to the general public by organising webinar series about the issue.

The COVID-19 pandemic has definitely impacted the refugees in Thailand. Those who are able to find work, albeit illegal, have lost them, the state restrictions are impacting their movement more than ever, and the free clinics for refugees have temporarily closed. They have no access to government compensation and some have to borrow money to pay the rent and buy essentials needs. It has been said that because of COVID-19, refugees will never know what tomorrow brings.

Closing Remarks



Ahmed Shaheed, Senior Lecturer of School of Law, Deputy Director of Human Rights Centre, University of Essex

In the end, the organizing members of the 13th Annual Human Rights in Asia Conference invited Dr Ahmed Shaheed, a Law and Human Rights lecturer at University of Essex and the current UN Special Rapporteur for Freedom of Religion or Belief, to offer closing remarks. He has stressed the importance of the conference and have pointed out the current situation with refugees have a connection with his own work.

Religious issues are seen as one of the huge contributing factors in relation to ongoing refugee flows in many parts of the world, including Asia, and religion persecution sadly exists in many regions. One



example is the ongoing persecution of the Rohingya people which made them refugees and asylum-seekers in border countries. There is also the problem of displacement across borders caused by militants who are often active in religious persecution. These persecutions are often not well perceived due to lack of information of the situation. One such country is Vietnam where, although the country is recognized as a peaceful country by many, there has been intense religious persecutions occurring including Christians.

Another issue that is being faced is relating to resettlement where receiving countries have sometimes expressed prejudice and preferred people from one religion over the others to enter their countries. Refugee camps is also rife with religious discrimination. Dr Shaheed stressed that right to religion, including the right to manifest worship based on variety of people's belief, should be protected. It is clear that further understanding is needed on the interface between religious freedom and refugee status.



Dr Shaheed's mandate includes an urgent appeal to Governments about the ongoing violations, making country visits and meeting people in detention including refugees, reporting to the United Nations, and creating a thematic report. Dr Shaheed assured that his mandate is to address the concerns that were expressed in the conference.

Dr Shaheed concluded that in order to improve the situations surrounding refugees, including those that are being persecuted due to their religious beliefs, the laws that discriminates certain groups should be changed through international organizations along with local governments and human rights defenders. The law enforcement and courts should also be examined to ensure impartiality and that there is no bias. Governments should make an effort to educate religious tolerance and engagement to improve situations should be carried out in multiple levels in each country.



Human Rights in Asia Conference Student Committee for 2021

Student Coordinators

Mavis Jemima Djamah Odotei, Jana Hoess, Akitaka Asambo, Jan Ashlie De Castro Decena, Muhammad Mirza Ardi, Nodoka Kishida

Supervisor Dr Sanae Fujita

