

## 70 Year Protecting People Forced to Flee

### Short regional panel reports

*Please complete this form for each regional panel hosted by your institution. Each panel report should be approximately 1000 words.*

*All regional reports will be compiled into a final document. The purpose is to provide a general description of what took place in each panel and provide specific policy/advocacy recommendations for stakeholders. Please write in paragraphs rather than bullet points.*

**Region:** Asia-Pacific

**Hosting/organising institution:** Kaldor Centre for International Refugee Law, University of NSW, Sydney, Australia

**Session Title:** The Rohingya refugee crisis: Reflections from the region

**Context/Background of the panel** (*you may wish to use your panel concept note to provide context to your panel's topic*):

This panel brought together a range of experts to reflect upon key aspects of the Rohingya refugee crisis and discuss paths forward from this seemingly intractable problem. The Andaman Sea crisis of 2015 saw some 8,000 Rohingya and Bangladeshis stranded at sea in dire humanitarian conditions, and threw into sharp relief the region's limited capacity to respond in a timely manner to the challenges of maritime migration. Subsequently, in 2017, the mass exodus of Rohingya from Myanmar saw almost 750,000 Rohingya flee into Bangladesh, joining those who had fled in previous years. Thus far, repatriation attempts have failed to meet the minimum acceptable standards, yet remaining indefinitely in Bangladesh is not a solution either. This panel sought to explore some of the key outstanding issues resulting from this crisis, and how progress towards durable solutions might be made.

#### **Major points arising from speakers and discussions:**

- Many people trace the Rohingya refugee crisis and the issue of maritime migration of Rohingya through the Bay of Bengal and Andaman Sea to the Andaman Sea crisis of 2015. In fact, this crisis is much older than that, and it's important to understand the history to see how current movements by boats in the Andaman Sea, and by land across Myanmar and Thailand more recently, are recurrences of a continuing cycle involving changing policies and responses of the frontline States of Thailand, Indonesia, Malaysia and Bangladesh.
- Maintaining the humanitarian and protection space for Rohingya communities within Myanmar is a necessary first of many steps towards the eventual voluntary repatriation of Rohingya refugees located elsewhere in the region, particularly in Bangladesh. The focus should be on restoring the rights of the

Rohingya, particularly their freedom of movement and citizenship rights, which remain restricted. Ensuring access to education, livelihoods, healthcare, other basic services is essential to creating conditions that will one day hopefully be conducive to the voluntary return of refugees in safety and dignity, and in a sustainable way. The treatment of internally displaced Rohingya in Rakhine State is indicative of whether Rohingya in Bangladesh will return. However, the security situation in Rakhine has deteriorated since 2019 because of the armed conflict between the ethnic Rakhine Arakan Army and the Myanmar military.

- Other States in the regions host significant numbers of Rohingya refugees – most notably Bangladesh, but also Malaysia and India. Across the region, the lack of education, livelihood opportunities and durable solutions, as well as risks of detention, have also continued to drive Rohingya movements. In Malaysia, recent xenophobia against the Rohingya, combined with COVID-19 related fears and a change of government, have made that country a place where the Rohingya are increasingly unwelcome.
- The Asia Dialogue for Forced Migration, a Track 1.5 Forum comprising government officials and representatives from NGOs as well as UN and other international bodies, undertakes consultations, does research, and prepares advice on forced migration matters, with a particular focus on the Rohingya refugee situation. One of their areas of focus is on securing the conditions for safe, voluntary and dignified repatriation of the Rohingya, through comprehensive and integrated international, regional and bilateral cooperation.
- The specific experiences of Rohingya women are missing from most dialogue and commentary on the refugee crisis. Rohingya women face gender based and sexual violence prior to, during and following flight from Myanmar. This violence includes girls sold into child marriage and girls and women being repeatedly raped both on boats and after disembarkation. Despite international treaties addressing women's rights, such as CEDAW, globally there is a lack of recognition or consideration of the specific measures needed to address the specific experiences of women and girls fleeing by sea. The prohibition of sexual violence can be considered international customary law, imposing a positive obligation upon States to prevent and protect women as well as ensure institutional measures to address these violations.

**Recommendations/Conclusions on the way forward** *(These should be actionable and directed to specific actors):*

- All parties involved in decision-making processes moving forward should ensure that the Rohingya are consulted and that their voices are involved. This includes States, ASEAN and UN bodies.
- Myanmar should restore full citizenship rights to the Rohingya and ensure that those who are displaced are able to return in safety and dignity to their places of origin.

**Top two quotations from the session:**

- 'Women and girls were without food, water or access to menstrual hygiene, and many died. There are testimonies that women were held hostage, women were taken away, girls were sold into child marriage, women were singled out and raped repeatedly, sometimes for months. This is the gendered experience of refugees, which is committed with entitlement and impunity. States fail to account for the gendered nature of violence that women [experience] in interpreting international customary law and key regional standards, with deadly consequences. The prohibition of sexual violence can be considered international customary law, imposing a positive obligation upon States to prevent and protect women as well as ensure institutional measures to address these violations.' (Wai Wai Nu)
- 'A constellation of individual contributions from a coalition of actors can come together to comprehensively solve the Rohingya crisis. And that this needs to happen now, while refugees retain some sense of hope for return, while there are positive developments to build on, because the alternative is really in no one's interest and the longer the status quo prevails, the more harm it will do to Myanmar's development and democratization, to regional relationships and security, and of course to a whole generation of Rohingya youth and children.' (Keane Shum)