



**The Regional Impacts of Australian Asylum Seeker Policies
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Workshop Report

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Introduction

This workshop was convened following media and non-government organisation reports that raised concerns about the impacts of Australian asylum seeker policies in Indonesia, Malaysia and Sri Lanka since the commencement of the Coalition Government's Operation Sovereign Borders in 2013. Australian policies in response to asylum seekers who arrive by boat have been highly politicised and long focused on efforts to deter the arrival of others. While the election of the Labor Government in 2007 saw the reversal of some of these policies, such as the closure of offshore processing centres on Nauru and Papua New Guinea's Manus Island, in recent years these policies have been re-introduced. Since the election of the Coalition Government in September 2013 and the commencement of Operation Sovereign Borders, further measures aimed at intercepting and deterring the arrival of asylum seekers via maritime routes have been implemented. This includes Australian Government funding that supports joint operations with Indonesia, Malaysia and Sri Lanka to disrupt people smuggling activities and increase intelligence operation. As at September 2014, it had also included the turning back by Australian naval personnel of 383 asylum seekers on twelve boats, mostly to Indonesia, and the prevention of the arrival of 45 other boats with the assistance of authorities in Indonesia, Malaysia and Sri Lanka.¹ As a result, Operation Sovereign Borders has severely limited the flow of asylum seekers arriving to Australia by sea at a time when the United Nations High

¹ Griffith, Emily (2014) 'Immigration Minister Scott Morrison confirms 12 asylum seeker boats turned back since the start of Operation Sovereign Borders' ABC News, 18 September, <http://www.abc.net.au/news/2014-09-18/immigration-minister-confirms-12-asylum-seeker-boats-turned-back/5752262>

Commissioner for Refugees (UNHCR) reports that the number of people displaced globally and regionally has increased.

Adopting a human rights framework, this workshop brought together key researchers, regional refugee support agencies and others with strong links with asylum seekers and refugees² in the region. A human rights framework enabled the impacts of state policies on individual asylum seekers to be elevated. In contrast, Operation Sovereign Borders prioritises border protection and national security concerns and thus little attention is given to the impacts on the individuals most affected by policies within such a framework. Current research and knowledge on the impacts of Australian policies on asylum seekers and refugees, governments and civil society in Indonesia, Malaysia and Sri Lanka was explored in the workshop and this has made a significant contribution to understandings of the regional implications of Operation Sovereign Borders.

Regional and National Context

To set the scene, the early part of the workshop provided an overview of the global, regional and national context. Thomas Albrecht (Regional Representative of UNHCR) outlined that given 86 per cent of refugees throughout the world reside in developing countries, there is a need for greater efforts to share the responsibility for refugees across the globe. In our region, state coordination is needed to address the causes of refugee flows and to respond to these flows. Short term solutions, such as allowing refugees to access work, education and health services in countries of asylum in the region, as well as long term solutions that address the precarious nature of seeking asylum, are also required.

In terms of the coordination of regional non-state actors, Associate Professor Savitri Taylor (La Trobe) outlined the challenges facing the Asia Pacific Refugee Rights Network (APRRN) given its growth and the increasing numbers of people in the region who are seeking asylum. Established in 2008, APRRN now has a diverse membership of 241 organisational and individual members across 26 countries in the region. While APRRN aims to become an agenda setter in advancing the rights of people needing protection in the region, Taylor argued that it faces challenges in achieving this given its current supporting infrastructure. Thus it may need to consider whether it retains its focus on being a regional agenda setter or places more emphasis on supporting its organisational members to achieve their (mostly) national goals.

At the national level, Paul Power (Refugee Council of Australia) provided an overview of the history of Australia's harsh deterrence policies and challenged assumptions that numbers of asylum seekers arriving by boat have been primarily due to "pull" factors such as government policies in host countries. He argued that after addressing its own policy shortcomings, Australia could exercise areas of leverage within the region, including encouraging improved protection mechanisms in the region for refugees who will not be resettled; providing Australian aid to fund

² The term asylum seeker refers here to a person who arrived to a country of asylum but whose refugee status is yet to be determined. According to the United Nations Convention Relating to the Status of Refugees, a person is found to be a refugee if it is considered likely they would face persecution in their home country due to their race, religion, nationality, membership of a particular social group or political opinion.

state and non-state regional protection efforts; applying positive diplomatic efforts to improve human rights practices in refugee source countries; and sharing expertise in the areas of refugee status determination, protection, settlement and refugee community engagement.

Dr Amy Nethery (Deakin) similarly addressed the Australian policy landscape and highlighted that Operation Sovereign Borders is characterised by executive control over asylum policy with concerning implications for the transparency of actions taken within this policy area. The Minister for Immigration now tightly controls information and pressure has been applied to journalists who report on this area of policy, with some reported to the Australian Federal Police for investigation. Access to offshore sites of detention on Nauru and Manus Island has been severely limited for external observers and, since May 2015, legislation imposes the severe penalty of two years imprisonment if a person who is or has been employed by the Department of Immigration, its contractors or consultants discloses any information learned on the job. Nethery argued that the implications for asylum seekers are very concerning given the correlation between transparency and human rights protection.

Associate Professor Mary Anne Kenny (Murdoch) and Dr Caroline Fleay (Curtin) discussed the research on asylum seekers and choice of destination in relation to the relative significance of “push” and “pull” factors. Australian government responses to asylum seekers who arrive by boat are primarily underlined by assumptions that “pull” factors, such as asylum policies in destination countries, are the key considerations that need to be addressed. Overall, however, research recognises the difficulty in making distinctions between those in need of protection and those who move for “economic reasons” and that there are close links between underdevelopment and conflict and hence between “economic” and forced migration. In the Australian context, several recent studies commissioned by the Department of Immigration highlight that while multiple factors contribute to asylum seekers journeying to Australia by boat, the most prominent motivation for seeking asylum in Australia was for protection reasons.

Impacts of Australian Policies in Malaysia

While there is little research that explores the impacts of Australian asylum seeker policies in Malaysia, Malaysian media reports suggest that the commencement of Operation Sovereign Borders has influenced the extension of Australia’s asylum policies beyond its geo-political boundaries. Dr Sharuna Verghis (Health Equity Initiatives, Malaysia) outlined some of the border management practices and agreements that Australia shares with Malaysia as a transit country. These include a range of memoranda of understanding, such as policies and interventions that impact on the ability of asylum seekers to undertake onward movements.

Verghis argued that Australian asylum seeker policies align with Malaysian government strategies that internalise its borders through immigration controls on employment, health care, and education. In recent times there have been further constrictions such as large-scale crackdowns leading to the arrest and detention of undocumented migrants, including asylum seekers, as well as increasing numbers of policies denying access to social services, especially health care. The alignment of the externalisation of Australia’s border control policies and the internalisation of Malaysia’s has had the impact of immobilising refugees and asylum seekers

into spaces and states of exclusion. This is reinforced through an increasing climate of fear within refugee communities in Malaysia.

Verghis also highlighted that while fewer people from Iran, Syria, Iraq and Sri Lanka had arrived in Malaysia since the commencement of Operation Sovereign Borders, reports from community members suggest that these groups may now be undertaking longer and more hazardous journeys to Europe. However, there has been no decrease in the number of Rohingya asylum seekers coming to Malaysia. To give context to the present situation for Rohingyas, Habib Habiburrahman (Burmese Rohingya Community in Australia) provided an overview of the persecution of the Rohingya in the Arakan (Rakhine) state of western Burma (Myanmar) that has led to many fleeing to neighbouring countries. Only approximately 1,500 Rohingya refugees have arrived to Australia over the past nine years while hundreds of thousands remain in precarious or perilous situations across the region, including in Malaysia. Very few Rohingya refugees have been accepted under Australia's humanitarian program, further diminishing the prospects for their resettlement. The situation for the vast majority of Rohingyas in the region, including in Malaysia, remains dire.

Impacts of Australian Policies in Indonesia

There is a growing body of research that explores the impacts of Australian asylum seeker policies in Indonesia. Professor Susan Kneebone (Melbourne) provided a regional-political context to the discussion arguing that although recent migration laws and policies suggest the influence of Australia, Indonesia's interests in controlling forced migration are multilateral. Further, Kneebone discussed how Indonesia's migration laws are designed to make asylum seekers "irregular" by preventing movement and that Indonesia prioritises the issue of people smuggling as opposed to refugee protection or status.

Dr Antje Missbach (Monash) presented a paper co-written with Dr Anne McNevin (Monash) exploring the public information campaign of the International Organisation of Migration (IOM) that intended to curb "irregular migration" and people smuggling from Indonesia. Supported by Australian government funding, the IOM launched two main rounds of campaigns between 2009 and 2014. Despite substantial outreach and distribution to coastal populations, the success of the campaign was in many cases rather modest, as local fishermen still became involved in transporting asylum seekers to Australia. The focus of the campaign on crime prevention and safeguarding the lives of asylum seekers at sea was highlighted as reinforcing the fantasy that absolute migration control is possible.

A number of presenters noted that the number of boats departing Indonesia and arriving to Australia had decreased since the commencement of Operation Sovereign Borders and attributed this to Australia's policy of turning back boats to Indonesia. Dr Andrew Dodd (Swinburne) discussed his research conducted in January 2014 that included interviews with four asylum seekers who were returned to Indonesia in orange boats by Australian authorities after attempting to journey to Australia by sea. They told harrowing stories of verbal abuse received from Australian officials on the water.

Yunita Purnama (SUAKA – Indonesian Civil Society Network for Refugee Rights Protection) outlined that asylum seekers and refugees have continued to arrive to Indonesia since the commencement of Operation Sovereign Borders, with 13,170 asylum seekers and refugees currently living there in limbo. Barat Ali Batoor (Maker of documentary *Batoor: A Refugee Journey*) reported that Hazara asylum seekers in particular, including families and young children, continue to travel to Indonesia in view of the ongoing security situation in Afghanistan and Quetta, Pakistan. He detailed the negative impacts of Australia's policy of not resettling those arriving in Indonesia after 1 July 2014, including increased levels of stress and uncertainty.

Further reports on the situation for Rohingya asylum seekers were provided by Graham Thom (Amnesty International). He had recently returned from Aceh where most of the 1,000 Rohingya and 800 Bangladeshi who had been permitted to land by Indonesia in May 2015 after being abandoned by people smugglers and stranded at sea were being housed. Thom reported that while local officials, community members and NGOs had generally welcomed the arrivals, they had been confined to particular sites and there were security issues exacerbated by a lack of clear coordination. The Indonesian government had also announced that the situation for the Rohingya in Aceh would need to be resolved in twelve months.

Dr Claudia Tazreiter (UNSW) discussed research conducted with Professor Sharon Pickering (Monash) that examined the information gathering undertaken by asylum seekers and refugees to inform journeys to Indonesia and decisions around onward movements to Australia by boat. While many of their 150 Afghan and Iranian interviewees in Indonesia in 2013-2014 were aware of Australian funded advertising campaigns (such as posters at transit airports stating those who arrive to Australia by boat will not be settled in Australia), those interviewed had mostly gathered information through a range of informal networks including social media, people smugglers and community links. Social media was also found to offer a form of support and connection with those along the journey. In addition, the most prominent motivation for journeying to Indonesia was for safety and protection reasons.

With asylum seekers and refugees still arriving in Indonesia, coupled with a decrease in onward movements to Australia by boat and reduced opportunity to access UNHCR protection and resettlement options, Lars Stenger (Jesuit Refugee Service Indonesia) described how asylum seekers and refugees are facing protracted periods of time living in limbo. While some live in supported shelters or independently in the community, others are detained in immigration detention centres or temporary holding places. Stenger outlined how asylum seekers and refugees living independently in the community have no right to work and material assistance is only provided by IOM after a referral from the Directorate of Immigration. Since the commencement of Operation Sovereign Borders, many asylum seekers and refugees have faced increasing levels of destitution and an estimated 3,300 – including unaccompanied children, families and single women – have presented themselves to immigration detention centres requesting access to food, shelter and health care.

In view of the financial, social, and health challenges, and the lack of legal status and access to durable solutions, Muzafar Ali (former refugee and co-founder of Cisarua Learning Centre) discussed how asylum seekers and refugees have begun to re-negotiate their existence in the

West Java location of Cisarua. This includes the formation of refugee communities and positive relationships with local Indonesians. Ali described community-led initiatives such as the Cisarua Refugee Learning Centre for refugee children, which is managed and run by refugees and has become a symbol of refugees' resilience. Professor Linda Briskman (Swinburne) discussed the research she had conducted with Dr Lucy Fiske (UTS) in Cisarua that also highlights the resilience, innovation, and community building strategies being employed by asylum seekers and refugees. Those they interviewed spoke of creative ways in which they managed to develop some limited economic security, the basics of health provision and education for children. Dr Andrew Dodd (Swinburne) similarly discussed how community led initiatives, such as sporting games, have developed in response to the trend from transience to semi-permanent living in Cisarua.

Impacts of Australian Policies in Sri Lanka

Concerning impacts of Australian policies in Sri Lanka were raised by both Lakshan Dias (SANRIM and Lakshan Dias Associates Refugee Lawyers, Sri Lanka) and Emily Howie (Human Rights Law Centre) and these further highlight Australian efforts to 'offshore' its protection obligations. Dias outlined that constitutional changes brought about since the election of President Maithripala Sirisena in January 2015 have decreased presidential powers and strengthened democratic institutions, but that these changes remain largely symbolic with the majority of the previous regime remaining in government. Thus it is not safe for asylum seekers to be returned to Sri Lanka by countries such as Australia. Given the ongoing militarisation of daily life in many parts of Sri Lanka, Dias also argued that the Australian Government's "No Way, You Will Not Make Australia Home" advertising in the Sri Lankan media that features General Angus Campbell, is a deliberate strategy to instill fear into those who may be considering journeying to Australia.

In its efforts to prevent the arrival of boats of Sri Lankan asylum seekers, Howie outlined that the Australian Government has provided assistance to Sri Lanka's Criminal Investigation Department and the Police to prevent the departure of Sri Lankan asylum seekers. This assistance includes the provision of technology, vehicles, surveillance equipment and training. According to the Sri Lankan Government, more than 4,500 people have been prevented from leaving Sri Lankan shores and Howie reported that those prevented from leaving are detained in sites where the use of torture is a common practice.

Howie also outlined that at least 1,300 Sri Lankan asylum seekers who arrived to Australia by boat, or were intercepted at sea by Australian forces, have been subjected to an 'enhanced screening' process and returned to Sri Lanka during the terms of both the Coalition and previous Labor Government. Under this process, asylum seekers from Sri Lanka have been subject to a brief screening interview by Australia's Department of Immigration and, if the Department considers that a person raises claims during this interview that potentially engage Australia's protection obligations, they are "screened in" and can make a protection claim. If not, they are "screened out" and removed from Australia. This process is more likely to lead to incorrect negative decisions and there are no prospects for independent review. For those returned, Australia has done little to monitor their situation and Dias reported that some have been subsequently tortured by Criminal Investigation Department officials. Howie reported that

documents released under Freedom of Information from Australia's Department of Foreign Affairs show the presence of an Australian Federal Police official present in the building in Sri Lanka where a Sri Lankan man was tortured. The document outlines that the AFP official declined to interview the man but sighted him from a doorway.

Conclusions and Future Directions

Australia's asylum seeker policies have had significant impacts in Indonesia, Malaysia and Sri Lanka, particularly on asylum seekers and refugees. The presentations outlined above highlight some specific and very concerning impacts. Research gaps were also evident. Particular areas identified as needing further investigation include how Australian aid is being used in the region; IOM projects being funded by Australia; the experiences of asylum seekers whose boats were turned back to Indonesia; the experiences of asylum seekers journeying to Australia by sea from Sri Lanka who did not arrive; and the capacity of asylum seekers and refugees as active agents in the region.

In the concluding session of the workshop, Professor William Maley (ANU) noted that the UNHCR model of tripartite solutions (voluntary repatriation, local reintegration and resettlement) appeared to be crumbling. As outlined in various presentations, large numbers of asylum seekers and refugees are being warehoused on a long term basis in the region. It is also evident that there is an extremely diverse range of factors that explain refugee movements and Australian policies need to address this complexity. At the very least, in the wake of durable solutions, the active agency of refugees in the region needs to be supported and further fostered, including with funding. However, while efforts to support refugee agency in protracted situations in the region are important, so too are continuing efforts to challenge governments to change their policies to foster the protection of refugees.

A number of themes that emerged in discussions highlight the need for Australian policies to incorporate a human rights framework rather than continue to privilege security concerns that result in a militarised response. There is the need to appreciate that the linking of ourselves to fellow human beings should lie at the heart of any response to refugee movements. There is an extreme danger involved in the dehumanisation of refugees, not only for refugees but also for those doing the dehumanising. Despite the difficulties of political mobilization, civil society groups can play an important role in challenging this. A greater appreciation should also be placed on the actions of individuals responding to the needs of other human beings. Our capacity for compassion and the agency that can be exercised by all individuals needs to be elevated.