

Asia Pacific Refugee Rights Network Vision for Regional Protection

June 2014

BACKGROUND

The Asia-Pacific region is currently home to the largest numbers of forcibly displaced persons in the world. In spite of this, there is no coherent regional vision for the protection of refugees, asylum seekers, torture survivors and complainants, trafficked persons, internally displaced persons (IDPs), stateless persons and returnees. While states have been actively engaged in dialogue and cooperation on cross-border movements, this has mostly focused on combating people smuggling and trafficking with limited attention to the protection of refugees and other displaced persons.

In light of this, the Asia Pacific Refugee Rights Network (APRRN)¹ is setting out its Vision for Regional Protection to galvanize multi-stakeholder collaboration for effective protection. This Vision, the culmination of extensive consultation, will be accompanied by a Plan of Action which sets out what various stakeholders need to do in order for the Vision to be realised, and a Research and Consultation Framework which identifies challenges, opportunities and good practices, and guides research and further consultation.

PREAMBLE

1. Respecting the international legal framework that exists to protect the human rights of all individuals and to offer specific protections for refugees, asylum-seekers, torture survivors and complainants, trafficked persons, IDPs, stateless persons, children, women and people with disability (PWD), in particular; the 1951 Convention relating to the Status of Refugees and its 1967 Protocol (the Refugee Convention), the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness (the Statelessness Conventions), the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention Against Transnational Organized Crime's 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Trafficking Protocol), the 1989 Convention on the Rights of the Child (CRC), the 1979 Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), and the 2006 Convention on the Rights of Persons with Disabilities (CRPD); the principles of *non-refoulement*, non-discrimination and the prohibition on torture as customary international law; the human rights of all individuals as set out in the Universal Declaration of Human Rights (UDHR) and all other relevant treaties; and the 1998 Guiding Principles on Internal Displacement, which are based on international law;
2. Recognising the existence of relevant regional agreements in the Asia-Pacific, including the 2013 Jakarta Declaration on Addressing Irregular Movement of Persons, the 2012 Regional Cooperation Framework of the Almaty Process on Refugee Protection and International Migration, the 2012 Association of Southeast Asian Nations (ASEAN) Human Rights Declaration, the 2011 Regional Cooperation Framework of the Bali Process on People Smuggling, Trafficking in Persons and Related

¹ APRRN is a growing civil society network of over 180 members, predominantly civil society organisations, which are committed to the advancement of refugee rights across the Asia-Pacific region, via information-sharing, mutual capacity building and joint advocacy. APRRN was founded in 2008 and now has members based in over 20 countries, spanning New Zealand through to Iran and across to Japan.

- Transnational Crime, and the 1966 Bangkok Principles on the Status and Treatment of Refugees;
3. Recognising that states bear primary responsibility for preventing displacement and for the protection of refugees, asylum seekers, torture survivors and complainants, trafficked persons, IDPs, stateless persons, and returnees; that both signatories and non-signatories to the Refugee Convention and other relevant treaties have been engaged in protection; and that the United Nations High Commissioner for Refugees (UNHCR) has a mandate to pursue protection, assistance and solutions for refugees and stateless persons, to prevent and reduce statelessness, and to supervise application of the Refugee Convention;
 4. Recognising that regional protection frameworks require an effective, integrated global protection system, in which actors outside the region, including states, are committed to and meaningfully involved with regional actors;
 5. Acknowledging the complexity and challenges of mixed migration flows and of combating exploitative and dangerous people smuggling without prejudicing the right of refugees and others owed international protection to obtain it; the protracted nature of many refugee situations, the frequency of maritime movements and associated loss of lives, and the absence of cooperative frameworks in the Asia Pacific region that currently generate far-reaching responsibility sharing for refugee protection between states;
 6. Recalling that many in need of international protection remain unregistered or misclassified; that refugee status determination is declarative, not constitutive; and that the provision of assistance, protection and durable solutions are humanitarian acts, not political ones;
 7. Reaffirming the rights and agency of refugees, asylum seekers, torture survivors and complainants, trafficked persons, IDPs, stateless persons and returnees, and the need to ensure that they are treated with dignity and respect and provided with effective opportunities to participate in decisions affecting their lives, including in processes relating to their countries of origin (such as elections, reconciliation processes, development and peace-building programs);
 8. Reaffirming the critical importance of civil society organisations (CSOs) as protection actors, and emphasizing the need for state cooperation and collaboration with each other, civil society, UNHCR and other actors in order to ensure protection for those who require it;
 9. Recalling that everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels; and
 10. Reaffirming APRRN's commitment to take a rights-based approach, to act in accordance with humanitarian principles, to uphold the highest standards of individual and organisational conduct, and to ensure quality, accountability and effectiveness in our work;

VISION STATEMENT

APRRN envisions a region in which all refugees, asylum seekers, torture survivors and complainants, trafficked persons, IDPs, stateless persons and returnees (hereafter 'people in need of protection') have equal and adequate access to assistance and protection, and to timely durable solutions as relevant. We envision a region in which states (including those outside the region), civil society, UNHCR and other actors collaborate effectively towards a common purpose of regional protection, with respect for their

differentiated roles and responsibilities.

Within this broad framework, we envision a region in which:

1. All refugees, whether living in camps or in urban or rural areas, are assured of equal and adequate access to assistance, fair procedures, protection and durable solutions.
2. Each state recognises the right to a nationality on a non-discriminatory basis and has in place effective mechanisms to prevent and reduce statelessness, including statelessness determination procedures, universal birth registration, access to civil status registration, and procedures to determine and obtain citizenship.
3. Multilateral action to address the root causes of forced displacement, combined with collective efforts to prevent and resolve protracted refugee, IDP and statelessness situations, has substantially reduced the number of 'people in need of protection' living in limbo and has significantly reduced the need for them to make onward movements in search of protection.
4. States have procedures for managing mixed migration flows that ensure due process, humane standards of treatment and the protection of all who require it.
5. Family unity and reunification is respected in all decisions concerning 'people in need of protection'.
6. There is a commitment to harmonization of approach so that legal and procedural standards are adopted and interpreted consistently jurisdiction to jurisdiction and ensure depth of judicial analysis, due process of law and relative consistency in refugee recognition rates.

To this end, we see the need for collaboration amongst stakeholders to ensure:

1. *Freedom from Violence, Coercion, Deprivation, Exploitation and Abuse*

We envision a region in which:

1. All persons enjoy their full civil and political rights in accordance with international human rights law.
2. The principle of non-discrimination is respected in all contexts such that everyone is entitled to rights and freedoms, without distinction of any kind, including distinction based on gender, age, race, disability, health status, sexual orientation, family status, ethnic background, nationality, language, political opinion or affiliation, religion, culture, social status or indigence. All persons have equal access to protection and assistance without stigmatisation, including highly vulnerable people such as unaccompanied and separated children (UASC), the elderly, people living with HIV/AIDs, people of differing sexual orientation and gender identities and minority ethnic, linguistic and religious groups.
3. All persons are physically safe from violence and enjoy adequate protection to that end. In particular, sex and gender-based violence (SGBV) is prevented and addressed, enabling effective remedies for survivors.
4. Gender equality exists such that the rights of women and girls are respected, protected and fulfilled in spirit and in law, and the agency and capabilities of women and girls are recognised.
5. All children enjoy their full range of rights under the CRC. To this end, child protection measures

exist which uphold the best interest principle, and which include dedicated and appropriate child-friendly procedures and support services for children, whether separated, unaccompanied or accompanied.

6. No-one is subject to arbitrary or indefinite detention or to conditions of detention that amount to cruel, inhuman or degrading treatment. Detention is used only as 'a last resort', and for the shortest time possible. If detention is necessary, the dignity and rights of those detained are respected and protected in all cases, and detention is never used to deter, penalise or create pressure to return.
7. All people who are in need of them, have the right to request and receive humanitarian assistance and international protection, including in the context of rescue at sea and interception at sea operations. All rescue at sea and interception operations ensure access to territory and access to full and fair asylum procedures for those who express a need for international protection. No refugee is penalized because of the way that she or he entered a country.
8. All authorities involved in border and immigration management treat all persons with dignity and respect and in accordance with their obligations under human rights law.
9. States respect and promote the humanitarian and non-political character of refugee protection, and any extra-territorial border control activities are protection-sensitive and fully compliant with international law. States do not coerce or create incentives that result in other states or actors breaching international law.

2. Access to Essential Services and Livelihoods

We envision a region in which:

1. All persons enjoy their economic, social and cultural rights in accordance with international human rights law.
2. All persons enjoy the right to the highest attainable standard of health, enjoying access to timely, acceptable and affordable healthcare, including preventive care and mental health services.
3. All persons enjoy the right to work and a sustainable livelihood (including access to lawful employment and social security), enabling them to enjoy independence, self-reliance, and to be active members of society.
4. All persons enjoy the right to education, with safe and relevant learning opportunities made accessible to all learners, regardless of their gender or abilities.
5. All persons have safe and adequate access to food, water, sanitation, nutrition, shelter and clothing, provided in a way that promotes human dignity.

3. Legal Protection

We envision a region in which:

1. All persons enjoy equality before the law and have timely access to justice and effective remedies for human rights violations.
2. All States have signed, ratified and implemented the Refugee Convention, the Statelessness

Conventions, CAT and its Optional Protocol and the Trafficking Protocol; and have extended application of these instruments to all territories.

3. Comprehensive domestic and regional legal frameworks recognise the status and rights of ‘people in need of protection’, and are based on a full and inclusive application of relevant international law and guiding principles.
4. Complementary forms of protection are provided by States to ensure that all ‘people in need of protection’ receive it, while at the same time all refugees are duly recognized and protected under the Refugee Convention rather than being accorded a complementary form of protection.
5. All asylum seekers have safe, timely, and orderly access to reception and registration procedures, with consideration given to the needs of populations who are in camps, detention centres, urban areas, remote areas or rescued at sea. Border, defence, and immigration authorities understand and comply with the obligation to receive asylum seekers. No-one in need of protection is penalized because of the way they enter a country, whether with or without prior permission.
6. All ‘people in need of protection’ have access to timely and fair status determination procedures without fear of *refoulement*, expulsion or punishment, including measures to ensure that there is due process of law, access to information, effective and competent interpretation and translation services, a right to legal advice and legal representation, impartial decision-making, and access to UNHCR and civil society representatives. Asylum seekers are shown respect and treated with dignity throughout the process.
7. Fair and thorough procedures produce high quality asylum decisions at the first instance. Accelerated procedures are not applied except to speed up the granting of protection. All asylum seekers have the right to appeal asylum decisions, and the right to remain in the host country during the appeals process.
8. Refugees, asylum seekers, and stateless persons are provided with necessary documents in a timely manner, including travel documents, civil documents (birth, death and marriage certificates) and documents confirming their protected status and property ownership.

4. Access to Durable Solutions

We envision a region in which:

1. Refugees and other displaced persons have access to timely and appropriate durable solutions; which requires international participation and support.
2. All durable solutions are explored and pursued with the informed consent of each affected person. Procedural transparency and accountability to affected persons is assured such that they are accorded due process of law and are fully informed of their rights and responsibilities and the limitations and time frames of any proposed solution.
3. Voluntary repatriation occurs in conditions of safety and dignity. Returnees are provided with sufficient rehabilitation and reintegration support, and post-return monitoring is conducted to ensure protection and effective reintegration.
4. Opportunities for local integration are available and encouraged so that refugees and other displaced persons do not have to live in limbo and endure dependency, deskilling, idleness and indignity. This includes legal, economic and social integration such that refugees and other

displaced persons are granted a progressively wider range of rights and entitlements and can become self-sufficient and enjoy freedom from discrimination.

5. Opportunities for resettlement expand as a result of new or established resettlement programs within and outside the region.
6. All programs related to durable solutions are sufficiently resourced, and states engage with civil society and other relevant stakeholders in policy formation and implementation.
7. Family unity and reunification is respected in all decisions concerning individuals, especially children, because it is particularly important in relation to durable solutions.

5. *The Highest Possible Level of Self-Sufficiency*

We envision a region in which:

1. 'People in need of protection' actively participate in all decisions affecting their lives, have access to accurate and up to date information about actions taken on their behalf, and explicit efforts are made to listen to, consult and engage affected communities in order to ensure continuous improvement in existing programs and ensure ongoing accountability to them.
2. 'People in need of protection' are free to organise, advocate and support each other in accessing and enjoying their rights, and are supported to identify and establish supportive networks and community self-help groups.
3. All actors recognise, and where possible support, the efforts of 'people in need of protection' to attain self-sufficiency so as to ensure human dignity and the success of durable solutions.

6. *Partnerships for a Supportive Operating Environment*

We envision a region in which:

1. States show political leadership in responding to the situation of 'people in need of protection' with humanity, in accordance with their international obligations and on the basis of the principles of solidarity and responsibility-sharing. Further, States are willing and prepared to invest in building institutional capacity to this end.
2. States, civil society, UNHCR and other actors collaborate to promote rights, combat racism and xenophobia and build broad support in host communities for 'people in need of protection'.
3. 'People in need of protection' are able to build strong, democratic organisations that represent their members. States, civil society, UNHCR and other actors ensure that community leaders are able to represent their communities' interests without threats to their security or unnecessary restrictions on their activities, and without jeopardising their access to assistance, protection or durable solutions.
4. States, civil society, UNHCR and other actors value inclusiveness and collaboration and engage in regular and timely dialogue with affected communities to evaluate and improve the protection of people who need it. State funding and cooperation to provide assistance and protection is crucial.
5. Humanitarian actors have appropriate and unhindered access to affected communities in order to provide assistance and protection.

6. Civil society organisations that support ‘people in need of protection’ are equipped with sufficient resources, capacity and expertise to ensure delivery of accessible and effective services.
7. Strong regional linkages exist between states, civil society, UNHCR and other actors to facilitate ongoing dialogue, learning and multi-stakeholder solutions.

If you wish to provide comments on the content of APRRN’s Vision for Regional Protection, please email regionalprotection@aprrn.info

