

[ADRN Issue Briefing]

**State of Legal and Social Support for Refugees and
Displaced Foreign Nationals in Asia:
Comparison of Five Asian Countries**

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The refugee crisis came to a head in the international community with the rise of the Syrian civil war. The number of Syrian refugees has continued to increase over the past decade, and they have relocated around the world to countries like Turkey, Lebanon, and Jordan. Although the majority of the refugee population is from the Middle East and Africa, the Myanmar coup in 2020 has made it evident that Asia is not an exception to the refugee crisis. Currently, Myanmar, with 1.1 million displaced citizens, is in the top five countries where the refugees originate from.¹ It is urgent and crucial for Asian countries to cooperatively propose joint responses to tackle issues that directly and indirectly link with human rights and human security.

The Refugee Situation in Asia

Like Europe, many countries in Asia have different attitudes towards the refugee issue. Through the study of five country cases, Bangladesh, Indonesia, Thailand, Japan, and Korea, it is possible to observe that each country possesses a unique situation. In Japan, the refugee issue holds importance due to two reasons. First, there is a significant number of refugee seekers and settlers that are granted refugee status in Japan. According to the United Nations High Commissioner for Refugees (UNHCR), as of December 2020, there are approximately 1,390 refugees in Japan.² Second, Japan has a strict refugee acceptance policy which is evident through the notoriously low acceptance rate. In 2017, a record number of 19,629 people applied for refugee status in Japan but only 20 (0.1%) were accepted. Under the pandemic situation, the number of refugee seekers has declined. Most recent data shows that in 2020, 47 people out of the 3,936 applicants (approximately 1.2%) were granted refugee status. This is an improvement compared to the 0.4% acceptance rate in 2019 but it is still far from sufficient.³

¹ United Nations High Commissioner for Refugees (UNHCR). “Refugee Statistics.” The UN Refugee Agency, [n.d] <https://www.unhcr.org/refugee-statistics/>

² United Nations High Commissioner for Refugees (UNHCR). 2021. “Factsheet: Japan.” <https://reporting.unhcr.org/sites/default/files/JAPAN%20Fact%20Sheet-June%202021.pdf>

³ Japan Association for Refugees, “Refugees in Japan,” [n.d] <https://www.refugee.or.jp/en/refugee/#section03>

Korea also exhibits a similar case to Japan. A total of 72,800 refugee applications were received in South Korea from 1994 to September 2021. However, in 2020, the rate of recognition in South Korea was 1.1 percent, which is the lowest record in history. From 1994 to December 31, 2020, the largest nationalities that applied for refugee status, were China, Kazakhstan, Pakistan, Russia, and Egypt.⁴ In Korea, Myanmar is the most represented country of origin among refugee status holders comprising 33% of all refugees from 1994 to 2020, followed by Ethiopia, Bangladesh, Pakistan, and Iran.

South Korea and Japan are state parties to the 1951 UN Refugee Convention and the 1967 Protocol. Both are developed democracies with good human rights records. Nonetheless, they have shown passive refugee policies under conventionally strict immigration control. As both countries' major cities have high population density, they allow foreign laborers to stay only for a contract period. Public sentiments in South Korea and Japan are also not favorable towards taking in foreign workers or refugees with an exception to the foreigners who are married to their own nationals.

On the other hand, Bangladesh, Thailand, and Indonesia, countries that are not state parties to the Convention and the Protocol, host the most Asian refugees. This is geographically inevitable since Bangladesh and Thailand are bordering on Myanmar. In the case of Rohingya refugees, the Bangladeshi people are more sympathetic to them due to the same religious background. Hosting refugees since 1981, currently, there are about 902,947 Rohingya refugees in Bangladesh.⁵ Throughout the genocide, Bangladesh has done a wonderful job in providing the Rohingya refugees with shelter and the civil society offered whatever support they could. As a result, 1.5 million unofficial refugees are recorded to reside in the country. Overwhelmed by this size, Bangladesh started to relocate some of the Rohingyas to a remote island called Bashan Char, and now about 19,000 refugees are living on the island.⁶ However, the island is a cyclone-prone area and not a livable place. Therefore, Bangladesh debated on this issue with UN agencies. There were also some local NGOs that protested the relocation.

Thailand also hosts many refugees. According to UNHCR Thailand, as of current, there are 96,411 refugees in Thailand with 9 refugee camps.⁷ Most of the refugees are ethnic Karen and Karenni minorities who fled from Myanmar since the 1980s. Recently, there has been a number of border-crossing asylum seekers from Myanmar due to the military coup. The conditions of refugee camps have been deteriorating with the increasing number of refugees. This is evident through the staggering mental health of refugees as there were 28 cases of suicide and 66 cases of attempted suicide recorded from Mae La camp, one of the largest of the nine refugee camps in Thailand.⁸

Indonesia has also displayed problems with displaced foreign nationals and refugees for a long period of time. 7,458 people, which is the majority of the refugee population, came from Afghanistan. 1,364 refugees are reported to have originated from Somalia. 707 were reported to be

⁴ The Ministry of Justice, Republic of Korea, 2020. "Refugee Statistics" <https://www.moj.go.kr/moj/145/subview.do>

⁵ Government of Bangladesh-UNHCR. 2021. "Joint Government of Bangladesh-UNHCR Population Factsheet." <https://data2.unhcr.org/en/documents/details/89093>

⁶ Ruma Paul. "Bangladesh Signs U.N. Deal to Help Rohingya Refugees on Island." Reuters. Thomson Reuters, October 9, 2021. <https://www.reuters.com/world/asia-pacific/bangladesh-signs-un-deal-help-rohingya-refugees-island-2021-10-09/>.

⁷ United Nations High Commissioner for Refugees (UNHCR). 2021. "Factsheet: Thailand." <https://data2.unhcr.org/en/documents/details/89215>

⁸ Auethavornpipat, Ruji, "Thailand's Weak Reaction to the Myanmar Coup." East Asia Forum, April 22, 2021. <https://www.eastasiaforum.org/2021/04/22/thailands-weak-reaction-to-the-myanmar-coup/#more-344838>.

from Myanmar, and 677 and 506 were reported to have come from Iraq and Sudan respectively.⁹ Although these numbers are smaller than that of other countries, the number is perceived as large since the entire Indonesian population is huge.

Domestic Legislation and International Conventions

The question that must then be addressed is, how different is the domestic law in these countries? In the case of Japan, the country has imposed very strict domestic measures in recognizing refugees. To improve the situation and increase the protection of refugees, the Bill for the partial amendment to the Immigration Control and Refugee Recognition Act was submitted to the 204th Diet by the Immigration Services Agency (ISA) of Japan.¹⁰ Although this was met with criticism, it is possible to observe the government's attempt to deal with the refugee issue. The Constitutional Democratic Party of Japan, the leading opposition party, also submitted a bill on the protection of refugees to the Diet in February 2021. The goal was to better protect the rights of refugees by separating the provisions on refugee status from the current Immigration Control and Refugee Recognition Act. This would first allow a third-party committee, independent from the Immigration and Refugee Recognition Agency, to determine refugee status. Second, this bill revised the standard that determined the refugee status so that it is in accordance with international norms. In Japan, this has been deviating from international standards. Third, it ensured the transparency and appropriateness of the examination process. Lastly, it called for livelihood support for asylum seekers to be included in the law. Although both bills have not been passed, these actions show that consistent effort is being made internally to improve the current situation in Japan.¹¹

Similar to Japan, efforts have been made to improve the situation of refugees and displaced foreign nationals. In South Korea, the government acceded to the 1951 Refugee Convention and the 1967 Protocol. Ten years later in February 2001, the government recognized its first refugee and in July 2013, the government enforced the Refugee Act of Korea. In December 2015, the government launched the pilot resettlement program for refugees. Legal rights and treatments include 'F-2 Resident Visa and Permission for Employment', 'Issuance of Refugee Travel Document and Exemptions of Re-Entry Permit', 'Permission for Family Reunification for the Spouse and Minor Children', 'Guarantee of Social Security at the same level as Korean citizens per the Framework Act on Social Security, 'Allowances pursuant to the National Basic Living Security Act (if eligible)', 'Health Insurance Benefits pursuant to the National Health Insurance Act' language programs, and vocational programs.¹² Other than legal rights, the Korean government also provides protection

⁹ United Nations High Commissioner for Refugees (UNHCR). 2021. "Fact Sheet: Indonesia"
<https://www.unhcr.org/id/en/fact-sheets>

¹⁰ United Nations High Commissioner for Refugees (UNHCR), "UNHCR comments on the Bill for partial amendments to the Immigration Control and Refugee Recognition Act submitted to the 204th Diet session of year 2021 Based on the Recommendations of the Sub-Committee on Detention and Deportation (SCDD), 7th Immigration Control Policy Discussion Panel 9 April 2021." [n.d.] <https://www.unhcr.org/jp/wp-content/uploads/sites/34/2021/04/20210409-UNHCR-Full-Comments-on-ICRRA-Bill-English.pdf>

¹¹ Constitutional Democratic Party of Japan, "Submit Refugee Protection Bill/ Immigration Law Revision Bill to the Upper House [in Japanese]." February 18, 2021. https://cdp-japan.jp/news/20210217_0768

¹² Department of Refugees at the Immigration and Foreign Policy Headquarters of the Ministry of Justice. "Refugee Status Determination Procedures in Korea" March 9, 2016.
https://www.immigration.go.kr/immigration_eng/1833/subview.do?enc=Zm5jdDF8QEB8JTJGYmJzJTJGZW1taWdyYXRpb2

such as permission to stay in Korea until the circumstances connected to the humanitarian status recognition ceases to exist, no forcible return to the country of origin or country of habitual residence, permission to work with a “comprehensive employment activity permit,” access to assistance services, and access to medical care services provided under the “Medical Care Service Support Project for Marginalized People including Migrant Workers.”

Though Indonesia is not a party of the Refugee Convention it approaches the refugee issue as a humanitarian policy. Therefore, the government authorizes the UNHCR and International Organization for Migration to play a big role in protecting refugees and identifying possible solutions for refugees in Indonesia.¹³ In May 2015, however, The Andaman Sea Crisis triggered a substantial increase in Indonesia’s attention to asylum seekers and refugees. Although the government, at first refused to accept the Rohingya asylum seekers, as the situation worsened the government agreed to accept the displaced people stranded at sea.¹⁴ In 2016, Presidential Regulation No.125 concerning the Treatment of Refugees was enacted. The regulation listed key definitions and also outlined the process in detecting, offering shelter, and safeguarding refugees.¹⁵ Despite Indonesia is not being a party of any international convention to protect refugees, the government does not turn a blind eye in times of crisis.

Although legislation to protect refugees exists in many countries, this does not apply to the whole of Asia. Thailand is not a party to the 1951 Refugee Convention and has very limited policies protecting refugees. Therefore, refugees and displaced foreign nationals are treated as illegal immigrants as they do not have a legal right to remain in the country.¹⁶ Consequently, on November 14, 2021, when Cambodian Prime Minister Hun Sen requested Thailand to send back the members of the Cambodian National Rescue Party (CNRP) who fled to Thailand in 2017, the Thai government consented. However, embassies intervened to send the remaining refugees to the 3rd party countries (e.x. Canada, Switzerland, U.S.).¹⁷ Despite the urgent push by multiple international organizations and treaties, Thailand has yet to ratify the Refugee Convention. The UNHCR’s role also remains limited because, without the Thai Government’s approval, it cannot take any action. Thus, UNHCR works at a very low profile in Thailand.

Participation of the Civil Society and the Government’s Relationship with International Institutions

The active role of civil society organizations (CSOs) at the national level strongly influences the success of the recognition and protection of refugees. The CSOs work together with the UNHCR,

5fZW5nJTJGMjMwJTJGMzc4NTk0JTJGYXJ0Y2xWaWV3LmRvJTNG

¹³ United Nations High Commissioner for Refugees (UNHCR). “UNHCR in Indonesia.” [n.d]

<https://www.unhcr.org/id/en/unhcr-in-indonesia>

¹⁴ McCaffrie, Caitlin, “Andaman Sea Crisis: Is the region really better off in 2020?”UNSW Sydney, August 6, 2020.

<https://www.kaldorcentre.unsw.edu.au/publication/andaman-sea-crisis-region-really-better-2020>

¹⁵ United Nations High Commissioner for Refugees (UNHCR). “UNHCR in Indonesia.” [n.d]

<https://www.unhcr.org/id/en/unhcr-in-indonesia>

¹⁶ Harrison, Jennifer. *UNHCR Welcomes Thai Cabinet Approval for National Screening Mechanism*. Bangkok, Thailand: United Nations High Commissioner for Refugees, 2019. <https://www.unhcr.org/th/en/16791-unhcr-welcomes-thai-cabinet-approval-of-national-screening-mechanism.html>

¹⁷ Human Rights Watch. *Thailand: Cambodian Refugees Forcibly Returned*. Bangkok, Thailand.: Human Rights Watch, 2021. <https://www.hrw.org/news/2021/11/12/thailand-cambodian-refugees-forcibly-returned>

IOM, international and national NGOs, and other UN agencies. A two-level approach is usually adopted. At the first level, academics mostly come up with policy recommendations. At the second level, NGOs and CSOs usually work on how to provide medical assistance, care for the special needs of children, distribute cash allowance to the most vulnerable refugees, and provide educational assistance along with other types of assistance.

In Japan, the consciousness of the civil society that they must take part in protecting and recognizing refugees has increased. Therefore actions to support and protect refugees have increased at the civic level. For example, this year, the Refugee Vocational Education Programme was implemented by the UNHCR and Japan Evangelical Lutheran Association to support refugees in Japan through scholarships and organizing crowdfunding campaigns for monetary support.¹⁸ In fact, since 2010, universities have invited Syrian refugees to complete their graduate studies in Japan.¹⁹

A similar trend was also noticeable in South Korea as civil society organizations for refugees have become very active in recent years. A coalition of major Korean law firms called NANCEN Refugee Human rights center has become very prominent in the country. The organization offers financial assistance and provides professional legal assistance to asylum seekers in Korea. The Korean civil society had focused on providing legal assistance for asylum seekers but has now expanded its role to assist the resettlement of refugees.²⁰ The NANCEN Refugee Human Rights Center has been influential and also helpful for many scholars and activists.

However, it is difficult to say that the role of CSOs independent from the UNHCR is as big in Indonesia and Bangladesh. In Indonesia, independent CSOs are cautious in dealing with refugee issues due to the conflict between Islam and Hinduism and the overall lack of understanding on the issue.²¹ In Bangladesh, the refugee issue has been dominated by UN organizations or international NGOs while the local CSOs serve as a consultant. This is in part because CSOs in Bangladesh are partisan and lack neutrality.²² Additionally, as Bangladesh cannot accommodate the large number of refugees, the local attitude towards refugees has also changed for the worse. As citizens claim that refugees are taking away jobs and engaging in illegal acts such as drug trafficking, it has been difficult for the Bangladesh civil society to prioritize the rights of Rohingya refugees.²³

As previously mentioned, due to the lack of domestic policies, the UNHCR is the main actor in dealing with refugees as it cooperates with the Royal Thai Government, NGOs, and donors.²⁴ CSOs are also actively working with and independently from the UNHCR. Thailand-based and Asia-Pacific-based CSOs such as the Asia Pacific Refugee Rights Network (APRN),

¹⁸ The UN Refugee Agency. 2021. "Factsheet: Japan."

<https://reporting.unhcr.org/sites/default/files/JAPAN%20Fact%20Sheet-June%202021.pdf>

¹⁹ Hebecker, Dirk. "Protection and Solutions for Refugees," in A Profile of Japan's International Cooperation, eds JICA (Tokyo: Hitotsubashi University 2018), 42. https://www.jica.go.jp/jica-dsp/english/university/pdf/01_02_HitotsubashiUniv_attachment.pdf

²⁰ NANCEN Refugee Rights Center. [n.d.]. "What is NANCEN Refugee Rights Center?" <https://nancen.org/1894>

²¹ Legido-Quigley, Helena, Leh Hoon Chuah, Fiona, and Howard, Natasha. 2020. "Southeast Asian health system challenges and responses to the 'Andaman Sea refugee crisis': A qualitative study of health-sector perspectives from Indonesia, Malaysia, Myanmar, and Thailand." *PLOS Medicine* 17 (11) (November) <https://doi.org/10.1371/journal.pmed.1003143>

²² Tasnim, Farhat. 2017. "Politicized Civil Society in Bangladesh: Case Study Analyses." *Cosmopolitan Civil Societies: an Interdisciplinary Journal* 9(1) (March): 98-123. <https://doi.org/10.5130/ccs.v9i1.5247>

²³ Ansar, Anas and Md. Khaled, A.F. 2021. "From Solidary to Resistance: Host communities' evolving Response to the Rohingya Refugees in Bangladesh." *Int J Humanitarian Action* 6(16) (July). <https://doi.org/10.1186/s41018-021-00104-9>

²⁴ United Nations High Commissioner for Refugees. 2021. "Factsheet: Thailand." https://www.unhcr.org/th/wp-content/uploads/sites/91/2021/10/UNHCR-Thailand-Fact-Sheet_30-September-2021.pdf

Asylum Access Thailand, People Empowerment Foundation, and Refugee Rights Litigation Project submit a joint periodic review of Thailand under the name of Refugee Rights Network in Thailand. This review describes the most current status of refugees and refugee policies in Thailand and offers recommendations to improve not only humanitarian aid but also to advocate an environment that allows stronger CSO engagement in creating and applying refugee policies.²⁵

Possible Improvements

Improvements can be made at both domestic and regional levels. Firstly, each country needs to come up with proper legal and institutional measures to support refugees. The biggest challenge for Japan resides in the refugee emergency response. Currently, the Japanese government does not have an appropriate scheme when a larger number of refugees flow in. Program diversification to aid refugees is also needed. In this effort, Indonesia has tried to increase access to education, especially for child refugees. Also, it aims to improve access to health and capacity-building development.

Second, refugee-hosting Asian governments should share roles with their own local CSOs in dealing with refugee issues. As the South Korean civil society is divided regarding the refugee issues, the government officials dominate the refugee policy and protection. Instead, the government should collaborate and provide financial assistance to the local CSOs to carry out more effective assistance programs. Bangladesh and Thailand have worked with international organizations to manage big refugee inflows. With this international linkage, their local CSOs providing services to the refugee camps are more experienced. They need to raise their voices to push their government to ratify the UN Refugee Convention.

Lastly, the issue needs to be tackled at the international level and regional level at the same time. Asian democracies need to share international responsibilities in assisting refugees and displaced foreign nationals and protecting their human rights. For that matter, they need to collect more reliable data on refugees and share the information regionally. Therefore, a sort of Asian consortium will be desirable as its cooperation with the UN and other international agencies would enhance the chance to practice the universally shared norms and rules. ■

²⁵ Refugee Rights Network in Thailand. *Refugee Rights Network in Thailand Joint Submission Universal Periodic Review of Thailand: Thailand Cycle 3, 39th Sessions*. Thailand [n.d.] https://asylumaccess.org/wp-content/uploads/2021/06/Refugee-Rights-Network-in-Thailand_en.pdf

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