

Asia Pacific Refugee Rights Network

March 2012 Updates

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APRRN Southeast Asia Legal Aid Training

From February 21-23, 2012, the Asia Pacific Refugee Rights Network's (APRRN) Legal Aid and Advocacy Working Group held the Southeast Asia Legal Aid Training in Bangkok, Thailand. Twenty participants from four countries across the region- Thailand, Malaysia, Indonesia, and Cambodia- gathered to share best practices and discuss common challenges for improving access to effective legal aid in the refugee status determination process (RSD) as well as enhanced human and refugee rights protection.

APRRN's close collaboration with the FAHAMU Trust on the Asian Legal Aid Network Project (ARLAN), an organization that works to promote legal aid provision to refugees in respect to status determination (RSD) and rights, has been underway since ARLAN's foundation in June 2010. Over the past two years, APRRN members have met with ARLAN in Hong Kong, Kuala Lumpur and Jakarta. The ARLAN project will end in March 2012 and the APRRN Legal Aid Training is an effort to build on the momentum created by ARLAN.

The training was convened by Brian Barbour, Chair of the East Asia Working Group and Director of the External Relations Unit of the Japan Association for Refugees. Other speakers hailed from Asylum Access Thailand, the Thai Committee for Refugees Foundation and the UN High Commissioner for Refugees (UNHCR) Asia Pacific Regional Hub.

APRRN's Coordinator, Anoop Sukumaran, provided opening remarks and introduced APRRN as a forum for refugee rights advocacy. The panel discussion addressed the underlying challenges for a fair RSD process such as the needs for greater capacity in legal aid provision, transparency, and increased cooperation between the UNHCR and NGOs. Other sessions covered the refugee definition, case studies, the Nairobi code and ethics as well as the development of legal aid projects. The training provided an opportunity for the working group members to identify and create action plans to mitigate common protection issues affecting refugees and asylum seekers across the region, including lack of legal status, detention, exclusion from rights to work and access to social services.

Some of the action points identified include more national training for lawyers and also interpreters, development of self-help kits, the sharing of past and present case law, continuing the engagement with ASEAN, the development of quarterly RSD reports and the development of a directory of legal aid service providers.

In an effort to continue on the momentum created, APRRN will also organize a legal aid training for the South Asia region at the end of May in Nepal as well as a separate side session/workshop during the upcoming APCRR in August.

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Participants are discussing action plans during the legal aid training

Campaign to end the immigration detention of children

National civil society groups across the Asia Pacific region contributed to the Immigration Detention Coalition's (IDC) global campaign to end the detention of children in mid-March. IDC's recently released report, *Captured Childhood*, details the testimonials of more than 70 detained children over the past two years.

The document was presented in Geneva on March 21, 2012 at the 19th session of the UN Human Rights Council and aims to regularize the rights of children who are asylum-seekers, refugees, irregular migrants and stateless persons in accordance with their Child-Sensitive Community Assessment and Placement Model (CCAP) [<http://idcoalition.org/ccap/>].

The immigration detention of children is a growing international phenomenon and increasing in its use in Asia Pacific. Across the region there have been reports of children being held in prison-like environments, separated from caregivers and left vulnerable to abuse to human rights abuses.

By collecting recorded stories and documentation on child detention from national civil society groups and NGOs, the IDC campaign demonstrates that alternatives to detention are necessary to protect the best interests and human rights of the child.

Campaign Actions: "Children don't belong in detention!"

- Global petition – As of today, members of the general public can sign a global petition, calling for an end to immigration detention of children. This will be presented to the Human Rights Council in one year's time www.endchild-detention.org.
- Speak up for children behind bars – video message petition- Under 18's are invited to record a video message of support and post it on the YouTube channel: *Speak up for Children Behind Bars*. www.youtube.com/speakupbehind-bars

APRRN members in the region will be conducting national activities that contribute to the campaign. The campaign will have activities in countries such as Thailand, Malaysia, Indonesia, Australia, South Korea, India, Pakistan and Nepal.

APRRN fully supports the campaign and has drafted a press release, which can be downloaded here: [Click](#)

For more information on the Campaign and report, see: <http://idcoalition.org/idc-policy-document-captured-childhood-launches-today-in-geneva/>

<http://endchilddetention.org/>

SAPA Task Force Meetings

Since 2010, APRRN has functioned as the Refugee Focal Point for the Solidarity for Asia Peoples' Advocacy (SAPA) Taskforce on ASEAN Human Rights. The ASEAN Civil Society Conference in 2011 in Jakarta sparked momentum for collaborative networking between civil society organizations in the region working to further human rights, and for placing refugee rights on the discussion table as a prominent issue. The APRRN Secretariat and members were present at the meeting for the SAPA Task Force on ASEAN and human rights (January 29, 2012) as well as during the annual SAPA Working Group Meeting on ASEAN (January 30, 2012). In both meetings APRRN was able to highlight the most pressing issues around refugees in the region and liaised for joint actions with other groups present.

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NGO Statement for the 53rd UNHCR Standing Committee Meeting

APRRN has drafted the Asia Pacific NGO Statement for the 53rd UNHCR Standing Committee Meeting. The final statement was presented in Geneva during March 13-15, 2012 and highlighted key protection gaps in the region, including weak domestic legal frameworks and the lack of ratification to international treaties to concretize the rights of refugees and asylum seekers.

The refugee experience in asylum countries across Asia and the Pacific is fraught with the risk of arrest, detention, exclusion from employment and social services, and unacceptably long waiting times for status verification. Access to social services, such as health and education, are severely lacking along with psychosocial support and right to livelihoods.

APRRN members generally support the development of a Regional Cooperation Framework (RCF), which would promote greater coordination between NGOs working to address refugee protection issues, as well as to encourage states' ratification of the 1951 Refugee Convention. At the same time members highlighted the need for clear guidelines and more collaboration between all involved stakeholders.

On the issue of detention, NGOs in the region encourage governments to seek alternatives to detention, allow NGOs and national human rights institutions (NHRIs) access to detainees, and freedom for women, children, and vulnerable persons.

While statelessness remains another confounding issue that continues to marginalize populations across the region, the Philippines ratification of the 1954 Convention Relating to the Status of Stateless persons marks a historic first for any state in Southeast Asia.

National issues of concern include the potential repatriation of nearly 160,000 Burmese refugees residing along the Thai-Burma border in one of the longest standing cases of PRS in the world. The baseline template for repatriation requires a cessation of hostilities in ethnic areas of Myanmar and the voluntary nature of return.

Inside Myanmar, Rohingya people living in the western Arakan state continue to be marginalized and excluded from citizenship with appalling human rights abuses committed against them by the state. In Bangladesh and India, Rohingya remain unrecognized without access to humanitarian aid.

Meanwhile, in Hong Kong attempts to implement the Convention Against Torture and the minimum needs of refugees is a valuable step towards improving the human rights situation. Local integration of refugees and CAT claimants would further support this momentum. Further north in the Pacific Ocean, refugees in Japan partnered up with local citizens in efforts to rebuild post-earthquake and tsunami. Twenty-seven Burmese refugees in Japan have been resettled through a three-year pilot project launched in 2010; despite this low refugee recognition rates remain a consistent barrier towards mainstreaming legal protective processes.

Positive developments in Thailand due to the collaboration between civil society groups the government have allowed for the release of a significant number of refugees and asylum seekers from the immigration detention center (IDC). A Task Force on Alternatives to Detention in Thailand was established with cooperation from local/international NGOs, IOM, UNICEF and UNHCR.

In further national developments, in May 2011 Bangladesh rejected an appeal by the UN Joint Initiative development assistance program of US \$33 million targeted towards improving living conditions for populations in Cox's Bazaar District. Furthermore humanitarian access to two unregistered Rohingya settlements continues to be denied, leading to the prevention of a durable solution for hundreds of thousands. NGOs call for access and UNHCR screening in the camps to be allowed.

The proposed refugee swap deal between Australia and Malaysia at the end of July 2011, where 800 asylum seekers in Australia should be swapped for 4,000 recognized refugees residing in Malaysia, represents an abrogation of Australian responsibilities towards refugees. At the same time NGOs welcomed the announcement that Australia is winding back its indefinite mandatory detention policy and its decision to process all asylum claims under a unified status determination system, regardless of the claimant's mode of arrival.

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Refugee Bill passed in Korea

On December 29, 2011, the Republic of Korea passed the Bill on Refugee Status Determination and Treatment of Refugees and Others. Thanks to six years of advocacy efforts by APRRN Korea members in conjunction with the UNHCR country office and the National Human Rights Commission, the law will come into force on the July 1, 2013. Under the new law, asylum seekers whose applications are being processed will be granted legal status to remain in the country, the right to legal employment, and access social services such as health care, housing and education. The RSD procedure will also guarantee access to legal assistance, appeal, documented process, confidentiality, and the right to apply for third country resettlement.

Although APRRN welcome the passing of the new law, members still urge the government to revise some articles:

- The accelerated procedure allows immigration officers to omit some procedures and need to be deleted
- Work permit and subsistence allowances are given only under the discretion but this should be a mandatory obligation of the Korean government
- The article which allows immigration officers discretion to determine whether they allow applicants at ports to access to the official RSD procedure should be deleted
- The article, which allows the new law to be enforced only after the first refugee applies for the RSD procedure should be deleted.

While this revision is still necessary to ensure protection for all refugee rights according to the 1951 Refugee Convention, this is a momentous step towards a brighter future for refugees and asylum seekers in the country. This builds on the nation's 1962 ratification of the Convention Relating to the Status of Stateless Persons, which also awaits the accompanying legislature for implementation.

Further information on the new law is available here: <http://refugeerightsasiapacific.org/2012/01/16/refugee-act-in-korea-passed/>

Immigration crackdown in Malaysia

Immigration crackdowns under the 6P programme initiated by the government on July 11, 2011 have led to the deportation of 94,856 migrants, according to a press release by the government's Home Ministry on February 14, 2012. Thousands more remain in detention, and NGOs such as the Tenaganita Women's Force (www.tenaganita.net) are calling for an end to the arrests and more transparency and respect for human and refugee rights.

The 6P programme, while attempting to regularize immigrant labour, has installed four million officers across the country responsible for arresting unauthorized migrants, including asylum seekers. While the 100,000 officially recognized UNHCR refugees are excluded from the crackdown, there are estimated tens of thousands of asylum seekers seeking status verification who are now under threat of detention and deportation.

The first raid on February 11, 2012 in Kuala Lumpur resulted in the detention of up to 200 refugees and migrants whose whereabouts remains unknown. Other raids and arrest followed in the succeeding weeks and also included women and children. This is particularly distressing given the particular vulnerabilities of asylum seekers who may be unlawfully returned to their countries of origin. In addition, Malaysia has a history of immigration crackdowns with high records of violence against detainees, including whipping, while prisoners are kept without access to basic legal rights such as legal aid or a phone call.

An estimated 2.6 million migrants have already come forward to regularize their status, but documents have thus far only been granted to 379,020 migrants leaving the rest in a high state of insecurity and anxiety for refugee communities. At the same time, the Malaysian government's willingness to register refugees is a valuable step towards refugee protection. But the confusion around the registration and on-going crackdowns along with horrific conditions in detention centres remain a major concern.

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Thailand's release of stateless children from Immigration Detention Centre

January 27, 2012, marked the release of a stateless family, including two children and their widowed mother, from the Immigration Detention Centre in Bangkok. After arriving in 2010, the family, belonging to the Montagnard ethnic minority group from Vietnam, was detained in the overcrowded IDC for more than one year and a half. Release was granted after successful coordinated efforts between the National Human Rights Commission (NHCR), the Thai Committee for Refugees Foundation and the Immigration Department. The children, aged 10 and 13, have now been granted generous Cognita scholarships to attend St. Andrew's International School in Bangkok.

A press conference was held the same day at the Foreign Correspondent's Club of Thailand (FCCT), with a panel of speakers including Dr. Amara Pongsapich, the Chairperson of the National Human Rights Commission of Thailand (NHRC), Wisa Benjamano, the National Human Rights Commissioner, Annie Hansen, Director of Admissions and Marketing of St. Andrews International School and Veerawit Tianchainan, Founder and Executive Director of Thai Committee for Refugees Foundation (TCR).

The TCR Freedom Fund, established in May 2011, assisted the bailout of the stateless family. While the Fund was originally intended solely for refugees, after encouragement from the NHRC, the fund now covers stateless persons as well. As the first stateless family to be released under the fund, this is considered a great achievement for both TCR and the NHRC for the national campaign against a case of unlawful detention. TCR has proposed legislative changes, including an Amendment of the Immigration Act to ban the arrest and detention of refugees, asylum seekers and stateless children and families. Secondly they have launched a campaign to establish a protective legal framework for refugees, entitled the Draft Bill on Domestic Legislation for Refugees in Thailand. At least 10,000 Thai citizen signatories are mandatory for its presentation at parliament.



Press Conference on the release of the stateless children.
Source: Thai Committee for Refugees Foundation

Development of Standard Operating Procedures in Indonesia

In Indonesia the Ministry of Foreign Affairs drafted standards operation procedures on how to deal with refugees. APRRN members were approached by the MFA to give input and the final draft is expected in Quarter 2 of 2012. This consultative process serves as a good model for other countries in the region, which host large refugee populations such as Thailand and Malaysia. The draft SOPs include some of the following elements:

1. Asylum seekers or refugees will not be subject to refoulement, until their status is determined under the UNHCR RSD process
2. Asylum seekers, especially women, children, and vulnerable people, or those who has been granted refugee status are subject to alternative detention
3. Refugees are entitled for local integration
4. Refugees are entitled for freedom of movement with the immigration authorization
5. Asylum seekers are entitled to formal or informal education
6. Refugees have right to earn their living in compliance with Indonesian labor law
7. Asylum seekers and refugees shall have freedom of religion and manifest their religion

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Secretariat Updates

The APRRN Secretariat is pleased to announce that on April 2, 2012, we will be moving office to a more central downtown Bangkok location. The new address of the office is:

Floor 7, Ploy Mitr Building, 81 Sukhumvit Soi 2
Bangkok, Thailand

In terms of staff development we would like to welcome our new intern, Dana MacLean, who will be a part of the APRRN team for the next six months. Dana can be reached at aprrn.intern@gmail.com.

Upcoming APRRN activities

Asia Pacific Refugee Rights Consultation (APCRR4): August 21-24, Seoul, Korea (Registration will be open on our website at the beginning of April)

South Asia Consultation and Legal Aid Training: May 21-24, Kathmandu, Nepal

Southeast Asia Consultation and Refugee Mental Health Training: Early June, Bangkok, Thailand

Other important dates

UNHCR Annual Consultations with NGOs 2012: July 3-5, 2012, Geneva, Switzerland. More information here: <http://www.unhcr.org/ngo-consultations/>

International Summer School in Forced Migration at the Refugee Studies Centre: July 2-20, Oxford, UK. The closing date for applications is May 1 and more information is available here: <http://www.rsc.ox.ac.uk/events/international-summer-school-in-forced-migration-1>

Tenth Annual Orientation Course on Forced Migration: October 1-15, Kolkata, India. More information: <http://www.mcrq.ac.in/>

World Social Forum on Migration: November 26-30, Manila, Philippines. More information available on the MFA Website: www.mfasia.org

Refugee Studies Centre 30th Anniversary Conference: December 6-7, Oxford, UK. More information: <http://www.rsc.ox.ac.uk/events/thirtieth-anniversary-conference>

4th International Association for the Study of Forced Migration: January 6-9, 2013, Swabhumi, Kolkata, India. The deadline for submissions of abstracts is on April 31 and more information can be obtained here: <http://www.iasfmconference.org/index.php?conference=iasfm14&schedConf=iasfm14&page=schedConf&op=cfp>

More information

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