INDONESIA COUNTRY BRIEFING
September 2015

OVERVIEW
Indonesia is not party to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. Asylum seekers, refugees and stateless people in Indonesia face difficulties staying in the country in the absence of any legal frameworks for refugee protection. While the Government of Indonesia upholds the non-refoulement principle as long as asylum seekers and refugees are undergoing the UNHCR refugee status determination process, the Government may detain asylum seekers and refugees at any time. The Government also does not provide access to basic human rights; however, it does allow UNHCR, IOM and NGOs to provide humanitarian support.

KEY STATISTICS
- As of May 2015, a total of 13,138 individuals were registered by UNHCR in Indonesia, including 7,920 asylum seekers and 5,218 refugees. Of those, 3,189 were male and 9,949 were female. The total includes 1,221 children; 148 are separated children.
- The main countries of origin are Afghanistan (47%), Myanmar (14%), Somalia (7%), Iran (6%), Iraq (5%), Sri Lanka (5%), and Palestine (4%).
- From January-May 2015, 278 refugees departed for resettlement, 333 refugees submitted resettlement applications and a further 1,203 refugees were waiting for a decision by resettlement states.
- Less than 10% of refugee children were enrolled in Indonesian public schools, as of September 2014.

AREAS OF CONCERN
1. Refugee Status Determination (RSD)
Many asylum-seekers arrive in Indonesia lawfully through a 30-day visa exemption, however they cannot then apply for an extension of their visa whilst in Indonesia. This means that there will often be a period of time when they have no protection from arrest and detention. UNHCR conducts refugee status

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1 UN High Commissioner for Refugees Monthly Statistical Report May 2015 (for limited distribution), provided by SUAKA Indonesia.
2 UN High Commissioner for Refugees, op. cit.
4 UN High Commissioner for Refugees, op. cit.
5 UN High Commissioner for Refugees (Factsheet). op. cit.
6 UN High Commissioner for Refugees. op. cit.
determination in Indonesia. The UNHCR cards for recognised refugees provide some semblance of protection – for example, they protect against arrest by local law enforcement officers.

There continues to be a significant backlog in the processing of applications for RSD. Most recent figures show 4,810 cases of 6,413 individuals were waiting for their first instance RSD interview at the end of May 2015. The average wait-time from registration to first instance interview is currently between 8 and 20 months. UNHCR only operates one office in Jakarta and has also Eligibility Officers stationed in IOM offices in Makassar, Medan, Pontianak, Kupang, Surabaya, and Tanjung Pinang. Therefore, refugees living outside those areas face significant challenges in accessing RSD. Once recognised by UNHCR, refugees are submitted for resettlement to ‘third countries’. In the past many left to Australia; however asylum seekers and refugees that registered with UNHCR on and after 1 July 2014 are no longer eligible for resettlement to Australia. This decision has increased the number of refugees left in limbo for many years.

2. Detention

Conditions in detention centres continue to be a concern, being characterised by overcrowding, unsanitary conditions, lack of basic necessities (including food), incidences of violence and abuse and lack of access to legal advice. There are 12 main immigration centres located across the archipelago, with no uniform policies or procedures in place regulating conditions. The IOM and the Indonesian Directorate of Immigration under the Ministry of Law and Human Rights are responsible for detention centres, although the UNHCR does have access. As at May 2015, there are 4,589 individuals located in immigration detention facilities, including 3,542 asylum seekers and 1,047 refugees. This figure includes 831 female and 1,167 children; 561 are unaccompanied minors and separated children.

In Indonesia, there is no bail process, however, UNHCR does have the capacity to secure release from detention for families and unaccompanied minors by submitting a letter and attempting to accelerate RSD in these vulnerable cases. The 2010 Immigration Directive provides for the release of persons from detention into the care of an international organisation. The relevant organisation is IOM. However, there are also delays in securing release from detention as there is a gap in terms of the numbers of persons in detention and the capacity of the IOM to accommodate them.

3. Access to Human Rights

Access to Education

- Although the Indonesian Constitution nominally provides access to education for all children, many refugee children do not have access to formal education due to administrative requirements and reluctance from school administrators to accept them. When exceptions are made, most refugee children are not fluent enough in the local language to participate meaningfully in education. In addition, families often lack sufficient financial to pay for school supplies and transportation.

- While some NGOs and community based organisations offer informal education programs, these often fall short of the children's needs and are not formally recognised. In addition, lack of access to further education and training opportunities after secondary school is a significant issue for young people.

Access to Health

- Access to healthcare remains a major challenge for refugees in Indonesia. Language difficulties and the high costs of services at the more accessible international hospitals present significant barriers. Assistance provided by UNHCR and NGOs for health services is also limited.

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7 Ibid.
8 Ibid.
9 Ibid.
10 Ibid.
12 UN High Commissioner for Refugees. op. cit.
13 Ibid.
14 Ibid.
While mental health is key concern for refugee communities, few mental health services are available to meet their needs.

**Access to Employment**

- Indonesia does not provide asylum seekers and refugees with the right to work.
- A small number receive assistance through UNHCR’s implementing partners or other charities. IOM also provides accommodation and support, although statistics on the number of people receiving this support are not available. With budgets for support services and assistance severely limited, over the last 1½ years approximately 3,000 asylum seekers and refugees have sought admission to detention centres in desperation to access basic services. In 2014 more than 2,600 asylum seekers and refugees reported themselves to immigration authorities and, as a result, roughly 30% of current detainees are accommodated in temporary facilities under immigration supervision as all immigration detention centres have surpassed their capacity. Thus far in 2015, approximately 723 individuals have reported themselves to immigration authorities. Since the beginning of 2015, a total of 654 persons of concern have been released from detention and placed in IOM-run community accommodation. 16 1,614 persons of concern were released from detention in 2014, while in 2013 a total of 1,033 persons were released. 17

**RECOMMENDATIONS TO THE AUSTRALIAN GOVERNMENT**

1. **Resettlement:** Reopen and expand resettlement programmes for refugees registered in Indonesia to provide protection to a greater number of vulnerable refugees.
2. **Development assistance:** Provide financial support to national organisations and community-based organisations that provide essential services to refugees and asylum seekers in Indonesia.
3. **Support to UNHCR:** Fund the expansion of UNHCR Indonesia with the specific aim of improving procedural standards for refugee status determination by speeding up the process and ensuring greater fairness, transparency and consistency when processing claims.
4. **Indonesia’s treatment of refugees:** Engage in constructive dialogue and equal partnership with the Indonesian Government, civil society, UNHCR and refugee communities with the aim of responding effectively to refugee protection needs in Indonesia. This should include urging and supporting Indonesia to: develop national legislation on refugee status determination and protection; expand alternatives to detention; and allow refugees and asylum seekers to work, giving them the opportunity to be self-reliant and not dependent on government assistance or foreign aid.
5. **Human rights in Myanmar:** Work with Indonesia and other states in the region to pressure Myanmar to improve protection of its population and cease the persecution of ethnic minorities, with particular emphasis on the Rohingya. Encourage ASEAN states to take proactive steps to address the root causes of irregular migration from Myanmar and Bangladesh.

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16 Ibid.
17 Ibid.
Malaysia is not party to either the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) or its 1967 Protocol and currently lacks an effective legislative and administrative framework to protect refugees within its territory. The available protection space for refugees, asylum-seekers and stateless people in Malaysia is fragile and unpredictable, further compounded by the introduction of increasingly restrictive policies that continue to narrow access to asylum.

The above restrictive legal and policy framework has created a situation of extreme difficulty for asylum seekers, refugees and stateless people. Although the Malaysian government does grant recognised refugees who hold a card issued by UNHCR freedom of movement in Malaysia, nevertheless cardholders are often subjected to random document checks and arbitrary arrest and detention. Lacking legal status in Malaysia, refugees and asylum seekers are also prevented from access to the labour market and basic services, including affordable healthcare and education.

In Malaysia there are no refugee camps. Malaysia hosts one of the world’s largest urban refugee populations. Refugees live in towns and cities across the country in low-cost housing amongst Malaysian citizens, often in small over-crowded flats. It is not uncommon for several families, or dozens of individuals to share the same living space for cost-saving and security reasons.

KEY STATISTICS

- As of June 2015, a total of 152,835 refugees and asylum seekers were registered with UNHCR in Malaysia.  
- 14,2098 are from Myanmar, compromising a variety of ethnic groups including Chin, Rohingya, Myanmar Muslims, Rakhine & Arakan.  
- There are 10,910 refugee and asylum seekers (registered with UNHCR) who originate from other countries, including Sri Lanka, Pakistan, Somalia, Syria, Iraq and Iran, as well as 429 Palestinians. Palestinians have heightened protection concerns as stateless refugees.

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18 Since the end of 2013, asylum seekers and recognised refugees are issued a UNHCR card containing their picture and basic biodata. Previously this was only issued to recognised refugees. The cards are almost identical except that those issued to refugees state that the holder is a “pelarian” (refugee) according to UNHCR’s mandate. Cards issued to asylum seekers state the holder to be a “pencarisuaka” (asylum seeker) whose status is still being assessed/determined by the agency. UNHCR cardholders have de facto protection against arrest, detention and refoulement.


19 International Rescue Committee. 2012. In search of survival and sanctuary in the city. Refugees from Myanmar/Burma in Kuala Lumpur, Malaysia. IRC.

20 UN High Commissioner for Refugees, ‘Active Caseload Breakdown as of: 30 June 2015’ in UNCHR Representation in Malaysia

21 Ibid.

22 Ibid.
• 69% of refugees and asylum seekers are men, while 31% are women.23
• An estimated 33,000 refugee and asylum seekers are children below the age of 18.24
• UNHCR estimated a total of approximately 40,000 stateless persons were residing in Malaysia at the end of 2014.25

AREAS OF CONCERN

1. Detention
• The overall state of Malaysia’s detention infrastructure is gravely substandard. The UN Working Group on Arbitrary Detention noted that conditions in immigration detention depots are poor, with overcrowding, insufficient access to water, poor sanitation, and inadequate medical care, as well as cases of deaths in detention.26
• The provision of food for immigration detainees is less than that provided to inmates in prisons and police lockups27,28. Moreover, those with illnesses like diabetes do not have access to appropriate food29
• Overcrowding was a problem30 with the number of detainees exceeding the capacity that was officially gazetted31.
• Daily necessities sold at the depot to detainees lacked a price tag and exceeded the market price32.
• Medical screening for detainees was lacking and skins diseases, tuberculosis, and malaria were common in detention centres33.
• Children, including unaccompanied minors, are detained with non-relative adults, exposing them to the risk of abuse34.
• Earlier, a SUHAKAM commissioner had attributed deaths in immigration detention centres, prisons and police lockups to denial of timely medical care35.

2. Access to Health Care
• In theory, healthcare services are available to refugees and asylum seekers. But, they experience several barriers to accessing health care. These include a fear of moving in public because of fear of arrest, language barriers and the cost of treatment. Regarded by authorities as ‘non-Malaysians’, refugees and asylum seekers are charged at a substantially higher user fee than non-citizens for healthcare treatment and medicines at public hospitals. Refugees registered by UNHCR get a 50% off foreigners’ rates. However, since refugees and asylum seekers are prohibited from engaging in formal work, the majority experience instability of employment. As such, healthcare is unaffordable for both

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23 Ibid.
24 Ibid.
28 Ibid, para 30. Overall, the budget for food per detainee per day ranged between RM 4.50 and RM 6.50 or about USD 1.5 and 2.1 respectively at the time of publication of the report.
31 SUHAKAM 2013, op. cit. para 31
32 SUHAKAM 2013, op. cit. para 33
33 SUHAKAM 2013, op. cit, paras 34 and 35
refugees and asylum seekers. As of January 1 2015, the Ministry of Health Malaysia enforced higher costs for health care services for non-citizens because of the partial withdrawal of subsidy with a view to withdrawing healthcare subsidy for non-citizens totally by 2017.

The government also stipulated that the prescription of medication by government hospital pharmacies cannot exceed five days. There is an immigration depot in General Hospital Kuala Lumpur where undocumented migrants, including asylum seekers are arrested after obtaining treatment.

There are a few NGOs which run clinics for refugees where interpreters are available and services are either free or at a low cost, with the aim of making healthcare more accessible and affordable.

3. Access to Education

There are approximately 20,000 refugee children below 18 years old registered with UNHCR in Malaysia. However, with over 11,000 refugee children in Malaysia at school – going age, less than 40% have no access to formal education.

Despite ratifying the Convention on the Rights of the Child (CRC), the Malaysian government continues to hold a number of reservations to the provisions of CRC including Articles 2, 7, 14, 28 (1) (a) and 37. As such they take no responsibility for the education of non-Malaysian children including refugees, asylum seekers and stateless children. With the exception of the few who are able to receive an informal education at learning centres run by NGOs or faith-based organisations, or community based education classes that are organised by refugee communities themselves.

A lack of resources, including qualified teachers, heavily restricts the reach and scope of these community classes. With the classes themselves held in rooms of shop houses or rented flats which are often overcrowded and lack basic teaching facilities.

Informal programmes are not given recognition by the Ministry of Education, and students are unable to take exams or receive recognised qualifications.

4. Access to Employment

Refugees in Malaysia have no access to legal employment, although some refugees are able to find work in the informal sector in jobs that the local population does not wish to work in.

One study investigating forced labor in the asylum seeking population from Burma in the Klang Valley, found that about 30% of the study population had experienced forced labor in Malaysia with this experience being significantly related to mental health problems.

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38 Ibid, para 7
40 UN High Commissioner for Refugees, UNHCR The UN Refugee Agency Malaysia in ‘UNCHR the UN Refugee Agency’, viewed on 26 August 2015, http://bit.ly/1N3IKF4
43 Ibid.
44 MWG 2009 Feb. A joint submission by members of the Migration Working Group (MWG) and the Northern Network for Migrants and Refugees (Jaringan Utara Migrasi dan Pelarian, JUMP) for the 4th Session of the Universal Periodic Review of the UN Human Rights Councill. Migration Working Group.
45 UNCHR. op. cit.
RECOMMENDATIONS TO THE AUSTRALIAN GOVERNMENT

1. **Resettlement:** Work with other resettlement nations to continue the resettlement of the most vulnerable refugees from Malaysia while strongly encouraging Malaysia, in return, to improve the treatment of refugees who remain within the country.

2. **Financial assistance:** Provide support, wherever possible, to national organisations and community-based organisations in Malaysia that provide essential services to refugees and asylum seekers.

3. **Support to UNHCR:** Fund the expansion of UNHCR Malaysia with the specific aim of improving procedural standards for refugee status determination by speeding up the process and ensuring greater fairness, transparency and consistency when processing claims.

4. **Treatment of refugees in Malaysia:** Encourage the Malaysian government to provide legal status to refugees. This would include the development of national legislation on refugee status determination and protection and reforming the immigration act which currently considers refugees as "illegal immigrants". Refugees should also be provided with the right to work, enabling them to be protected legally while they strive to be self-reliant.

5. **Human rights in Myanmar:** Urge the Malaysian government as the current ASEAN Chair to pressure Myanmar to improve protection of its population and cease the persecution of ethnic minorities, with particular emphasis on the Rohingya. The Malaysian government should also pressure the ASEAN to take proactive steps in addressing the root causes of irregular migration from Myanmar and Bangladesh.
THAILAND COUNTRY BRIEFING

OVERVIEW

Thailand is not a signatory to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol and does not have a formal national asylum framework. In the absence of legal protection, refugees and asylum-seekers remain at risk of arrest, arbitrary and indefinite detention, deportation and possible refoulement. Ninety percent of Thailand’s refugees and asylum seekers are from neighbouring Myanmar and have been living in camps along the Thailand-Myanmar border for more than two decades. Rohingya fleeing violence and persecution in Myanmar and trying to reach Malaysia are often trafficked through Thailand.

KEY STATISTICS

- As of December 2014, there were 130,238 registered refugees residing in Thailand.47 Around 120,000 are refugees from Myanmar who can be found in the refugee camps on the Thailand-Myanmar border and the rest in Bangkok or in the south of Thailand.48
- Up to 150 people are held in overcrowded immigration detention cells at any one time.49
- 50,000 Baht (US$1470) bail charge for immigration detainees. This is only available to a small number of refugees and a Thai guarantor is also required.50
- 4,548 refugees from the camps, 345 refugees from urban areas, and 25 Rohingya refugees from detention centres and government shelters departed for resettlement to seven different countries between January and August 2014.51
- Over 40 ethnic groups are represented in Thailand’s refugee population including: Pakistanis, Sri Lankans, Rohingya, Vietnamese (Hmong, Khmer Krom), Lao Hmong, Syrians (Palestinian), Somali and other African nationalities.52

AREAS OF CONCERN

1. Urban Refugees in Bangkok

As of June 2015, there are 1,685 refugees and 7,423 asylum seekers registered with UNHCR in Bangkok.53 Over the last three years there has been a notable influx of new arrivals, predominantly from Pakistan. This sudden increase has put stress on already under-resourced service providers, with the result that only the

52 UN High Commissioner for Refugees, op. cit.
Refugees from Pakistan also face very long wait times for their first instance interviews with UNHCR (up to 3-4 years). During that time, there is no protection available.

2. Refugees on the Thai-Myanmar Border

Myanmar refugees continue to live in the nine camps on the border. The Thai Government refers to them as “temporary shelters”, however many of them have been there for over two decades. Conditions inside the camps remain harsh and further funding cuts have led to a noticeable reduction in service provision, affecting the most vulnerable. Due to the ceasefire agreements between the Myanmar army and most ethnic groups, discussion about repatriation of refugees residing in camps have increased among the concerned stakeholders. In July 2014, the Thai Government and the Government of Myanmar announced plans to repatriate over 100,000 refugees living on the Thai-Myanmar border, back to Myanmar. In July 2015, UNHCR presented its first draft of a repatriation plan titled "Operations Plan for Voluntary Repatriation". Specific concerns include the increased militarisation and on-going presence of Burmese military troops in ethnic areas, active armed conflict in northern Myanmar, reports of ongoing human rights violations, continued placement and existence of uncleared landmines, oppressive and discriminatory laws, lack of equal access to citizenship rights, landownership issues, the lack of equal access to adequate assistance, healthcare, livelihoods, and education services. The continued lack of meaningful engagement with refugee communities on the repatriation process has resulted in the spread of rumours, fear and anxiety.

3. Southern Thailand and Rohingya Refugees

Rohingya hoping to reach Malaysia continue to flee Myanmar by sea, relying on boat operators that are often part of a well-established human trafficking network. Rohingyas are often trafficked to Thailand and held for steep ransoms in human trafficking camps along the Thailand-Myanmar border. Rohingyas rescued by Thai authorities from human traffickers are often subject to indefinite detention in immigration detention facilities or government-run shelters. Following the discovery of mass graves within suspected trafficking camps on the border in April and May 2015, Thailand and Malaysia tightened its border enforcement and prevented the entry of asylum seekers arriving boats. Unable to disembark in Thailand or Malaysia, human traffickers abandoned boats carrying hundreds of Rohingyas asylum seekers at sea in May 2015. Following significant and sustained media attention on this crisis, governments in the region came together to discuss the situation. While Malaysia and Indonesia agreed to allow boats to disembark and provide temporary shelter, Thailand maintained its stance and agreed only to deploy a floating hospital to provide relief and assistance to potential survivors. Because of the lack of coordinated and sustained search and rescue operations during this crisis, the number of lives lost at sea is unknown.

4. Repatriation of Uyghur Refugees

In March 2014, Thai authorities detained two groups of ethnic Uyghurs (including a large number of a number of children and women) that were discovered in southern Thailand. The majority were subsequently detained in the central Immigration Detention Centre (IDC) in Bangkok. In July 2015, after a year in detention 109 of the Uyghur were refouled to China by Thailand despite ongoing calls by rights groups and UNHCR not to deport the refugees due to on-going persecution in China. Uyghurs who have previously been refouled to China faced arbitrary arrest, detention and criminal prosecution.

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57 Ibid.
5. Detention

Under Thailand’s immigration law, any migrant who enters the country without proper documentation is regarded as an "illegal alien" and may be subject to arrest, detention and deportation. As such, safety and security is one of the key concerns of the refugee community in Bangkok. There are currently no alternatives to detention in place. Detainees include women, children, unaccompanied minors, the sick and the elderly. In addition to the Immigration Detention Centre (IDC) in Suan Phlu (Bangkok), urban refugees are now also transferred to the IDC in Kanchanaburi, where access for NGOs is limited and health services are not available. In southern Thailand there are also a number of IDCs, housing mostly Rohingya as well as Uyghur refugees. Failed asylum seekers may face several years in detention (the longest known case is ten years) with no hope of being released. Sanitation conditions in IDCs have been described by detainees as appalling, with limited water, filthy wash areas, tainted food and an insufficient number of toilets. Cells are overcrowded with incidents of violence and degrading treatment reported.

6. Access to Human Rights

Access to Education
- Although Thai national legislation establishes that all children, regardless of legal status, have a right to education, the reality of the system is far from practical for refugees. Thai schools typical offer subjects only in the Thai language. Most refugee children are not fluent enough in Thai to actually learn in Thai schools.
- Additional obstacles faced by refugees and asylum seekers include a lack of financial resources for materials, uniforms and transportation as well as reluctance from school administrators to accept refugee children.
- Classes offered by NGOs and community based organisations often fall short of children's needs and are also not formally recognised. In refugee camps, funding cuts and a departure of teachers to resettlement countries has left significant gaps.
- Tertiary education and skills development is a significant gap for youth and adolescents.

Access to Health
- For urban refugees, access to health care is one of the most difficult obstacles to overcome in Thailand.
- Many refugees have language problems at local Thai hospitals and are unable to cover the costs of treatment and medical expenses. Costs are extremely high at international hospitals that offer better services.
- Assistance provided by UNHCR and NGOs for health services is limited.
- Mental health is a big concern among refugee communities, with few services available for referral.

Access to Employment
- According to Thai law refugees are not allowed to work.
- Some groups receive money from abroad and may receive basic support from charities. This is often not enough to even cover their most basic needs.
- As a result many refugees are forced to work in the informal sector, where they have no rights and are more vulnerable to exploitation and abuse.

RECOMMENDATIONS TO THE AUSTRALIAN GOVERNMENT

1. Resettlement: Work with other resettlement nations to continue the resettlement of the most vulnerable refugees from border camps and urban areas while strongly encouraging Thailand, in return, to improve the treatment of refugees who remain within Thailand.
2. Development assistance: Provide financial support to national organisations and community-based organisations in Thailand that provide essential services to refugees and asylum seekers. Continue to provide adequate funding to refugee camps and NGOs on the Thai-Myanmar border that ensures refugees have adequate access to shelter, food, education and health services.

3. **Support to UNHCR:** Fund the expansion of UNHCR Thailand with the specific aim of improving procedural standards for refugee status determination by speeding up the process and ensuring greater fairness, transparency and consistency when processing claims.

4. **Thailand’s treatment of refugees:** Encourage the Thai government to provide legal status to refugees. This would include the lifting of current restrictions on refugee registration development of national laws as well as the reform of the immigration act, which currently considers refugees as "illegal aliens". Urge Thailand to give refugees the right to work, giving them the opportunity to be self-reliant and not dependent on assistance or foreign aid.

5. **Human rights in Myanmar:** Work with Thailand and other states in the region to pressure Myanmar to improve protection of its population and cease the persecution of ethnic minorities, with particular emphasis on the Rohingya. Encourage ASEAN states to take proactive steps to address the root causes of irregular migration from Myanmar and Bangladesh.

**Further Reading**

PAKISTAN COUNTRY BRIEFING

OVERVIEW

September 2015

Pakistan has been hosting Afghan refugees for over 35 years and refugees are dispersed across various parts of Pakistan, living in camps, villages and urban areas. Registered Afghan refugees have very limited access to basic services and face severe challenges in being able to work and support their families.

Pakistan is not a signatory to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. Furthermore, there is no national legislation that provides for asylum or refugee status and the state lacks a legal and regulatory framework to provide adequate protection to these vulnerable groups. However, in most cases the government provides protection against the expulsion or involuntary repatriation of registered refugees to countries where their lives or freedom would be threatened. In addition, the Government of Pakistan has worked in cooperation with UNHCR to manage the Afghan refugee population. In July 2013, the Government of Pakistan agreed on a new National Policy on Afghan refugees, which focuses on voluntary repatriation, sustainable reintegration in Afghanistan, and assistance to refugee host communities.

KEY STATISTICS

- There are over 1.6 million registered Afghan refugees and an estimated additional 1.2 million undocumented Afghans in Pakistan.
- In addition to Afghans, Pakistan also hosts refugees from Somalia, Iran and other countries - mostly in urban areas.
- Pakistan is also a refugee producing country with 335,915 registered refugees originating from Pakistan around the world.
- An estimated 77% of Internally Displaced Persons (IDPs) in Pakistan are women and children, who are especially vulnerable in displacement settings.
- More than 3.8 million Afghans have returned to their country of origin from Pakistan since UNHCR began its assisted voluntary repatriation programme in 2002.

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62 UN High Commissioner for Refugees, op. cit.
AREAS OF CONCERN

1. Voluntary Repatriation

In May 2012, the Government of Pakistan joined Iran, Afghanistan and UNHCR in the launch of the Solutions Strategy for Afghan Refugees (SSAR). This collaborative negotiation process was developed with the aim to support increased voluntary repatriation and sustainable reintegration and provide assistance to countries of first asylum. The SSAR also outlines the need for enhanced resettlement as a means of international responsibility sharing, assistance to refugee hosting areas and alternative stay arrangements for refugees in Pakistan. Resettlement is considered to be a strategic component of the SSAR and a vital tool for maintaining adequate protection spaces. The SSAR represents an important step forward in preserving asylum space for Afghan refugees in Pakistan.

However, Afghan refugees voluntarily returning from Pakistan are faced with a number of significant challenges – including high levels of unemployment, landlessness and limited access to basic services – that continue to present impediments to return and reintegration. Furthermore, ongoing disputes, intimidation and extortion, mines and unexploded ordinances reflect the deteriorating security situation in Afghanistan and are among the key factors affecting the physical safety and wellbeing of returnees. Many returnees also face limited access to basic services due to an inability to obtain proper documentation and recognition of their Afghan identity. Similarly, the Afghan Ministry of Education does not recognize formal education acquired in Pakistan limiting the prospects of further training or employment.

2. Proof of Registration Cards

The Pakistan Government, with UNHCR’s assistance, has issued Proof of Registration (PoR) cards to more than 1.6 million registered Afghan refugees. Pakistan's Cabinet decided in July 2013 to further extend the temporary stay of Afghan refugees by extending the validity of their cards, which are currently valid until 31 December 2015. The PoR card is important as it provides Afghans the right to legally remain in Pakistan and thereby protects against risks such as extortion, arbitrary arrest and detention, as well as deportation under the Pakistan Foreigners Act: 1946. However, Afghans also face frequent challenges with the PoR process in terms of preparing their applications, obtaining required documentation, and accessing information regarding expiry, renewal or loss of cards. As a result many Afghans do not register with the National Database and Registration Authority and their PoR cards are not renewed. Furthermore there are fears that the PoR cards may not be extended after 2015, as the prospects of renewal remain unclear. Continued advocacy is required to ensure that this vulnerable group has the right to remain in Pakistan until the situation in Afghanistan is conducive to their return.

3. Discrimination

Afghans are increasingly negatively stereotyped in public discourse and the media. Once praised as the ‘heroic mujahideen’ (religious fighters), Afghans in Pakistan are now seen more in the light of the...

69 Ibid.
70 Ibid.
71 UN High Commissioner for Refugees, op. cit.
72 UN High Commissioner for Refugees, ‘UNHCR urges Afghan refugees to renew their PoR to retain refugee status’ in UNHCR The UN Refugee Agency Pakistan, viewed on 12 August 2015, http://bit.ly/1HgBWC
74 National Database and Registration Authority (NADRA): National Database Organisation (NDO), an attached department under the Ministry of Interior Pakistan. ‘NADRA’ viewed on 19 August 2015, http://bit.ly/1iWEd8d
destructive Taliban. This increased hostility towards Afghans has had a number of negative impacts for the Afghan refugee population. After the attack on the Army Public School in Peshawar on 16 December 2014, media reports suggest that the situation for Afghan refugee has further deteriorated. Government officials, law enforcement agencies and local populations are of the opinion that Afghan refugees were involved in the attacks, coupled with a growing perception that Afghanistan, and the refugee populations in Pakistan, are providing a breeding ground for extremist ideologies. This has resulted in strident public opinion demanding the return of all Afghan refugees, while routine arrests, harassment, arbitrary detention and even deportation of Afghan refugees have become common. Furthermore, the systematic targeting of Afghans is seen by many as a strategy to ‘encourage’ repatriation to Afghanistan.

4. Persecution of Hazaras in Balochistan Province

Hazaras are an immensely vulnerable community in Pakistan, particularly because they are Shia Muslims and there is an ongoing religious tension between minority Shia and the majority Sunni populations in Pakistan. Almost half a million Hazaras live in and around Quetta, and other parts of Pakistan’s Balochistan province. Enforced disappearance is among the most blatant violations of human rights against Hazaras in the province. Despite years of efforts by civil society and consequent hearings by the courts, disappearances continue in Balochistan, and elsewhere in Pakistan.

In the past decade, the upsurge of extremist militants has led to unprecedented bloodshed in Balochistan. Militant groups such as the Taliban and Lashkar-e-Jhangvi have claimed the responsibility for some of the major attacks in the province, including many suicide attacks and bomb blasts. In 2014 alone, dozens of ethnic Hazaras were killed in attacks in Quetta and other parts of Balochistan.

People from the Hazara community often receive threats against their lives and the kidnapping of Hazara people is fairly commonplace. As a result the Hazara community lives in a very hostile and insecure environment. They cannot freely access basic human rights including freedom of movement, freedom of speech, freedom of religion and freedom to earn a livelihood. In these circumstances Hazara community members often leave Afghanistan to seek refuge and avoid persecution.

5. Access to Human Rights

Access to Education
- Through the Refugee Affected and Hosting Areas Programme (RAHA), UNHCR supports Afghan children to attend public schools within host communities. The main impact of the RAHA project is improved social cohesion and increased literacy and numeracy amongst primary school-aged children. The completion of grade six enables students to increase their chances of securing employment.
- More than 51% of the total Afghan refugee population in Pakistan is under 18 years of age (with the majority born in Pakistan). Without education or skills training, these young refugees will find it hard to make a decent living in the host community, creating pressures for onward movement.

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79 Sanaa Alimia, op. cit.
80 Ibid.
82 Ibid. p. 25.
83 Ibid. p. 5.
84 Human Rights Watch, ‘We are the Walking Dead: Killings of Shia Hazara in Balochistan, Pakistan’ in Human Rights Watch, viewed on 15 August 2015, http://bit.ly/1MOIpbr
85 Amnesty International, op. cit.
87 Ibid.
Access to Health

• The influx of over a million IDPs in 2014 in hosting communities in the districts of Bannu, Peshawar Valley, Dera Ismail Khan, Kohat, and Tank has put tremendous strain on the limited existing facilities. Health facilities are overburdened and there is a lack of adequately trained health professionals, particularly females, to meet the increased number of patients. Diarrhea and respiratory infections among children are reported to be steadily increasing and the risk of epidemics is high.\(^8\)

• Afghan women are particularly vulnerable to and at risk of sexual assault, rape or exploitation through sex work and trafficking. In addition, there is also a severe lack of protection services for sexual and gender based violence (SGBV) survivors and a lack of reproductive health services.

Access to Employment

• Refugees are not legally allowed to work in Pakistan. However many are able to find some informal employment as day labourers or in informal labour markets, where they are often subject to exploitation by local employers.

• Refugee women and children are particularly vulnerable, accepting underpaid and undesirable positions in unsafe workplaces. For example, Afghan children able to find employment in carpet weaving and brick factories are often subject to discrimination and forced to work in unsafe conditions. Many also suffer from health problems, such as lung disease and chest infections from working in kilns.

RECOMMENDATIONS FOR THE AUSTRALIAN GOVERNMENT

1. **Resettlement:** Continue to work with other resettlement nations to expand the resettlement of vulnerable refugees from Pakistan, encouraging the Government of Pakistan, in return, to address the critical protection concerns of refugees who remain in the country.

2. **Development assistance:** Provide humanitarian and development support in both Afghanistan and Pakistan, including sustainable reintegration programmes and cross-border programming and targeted support to national organisations and community-based organisations in Pakistan that provide essential services to refugees and asylum seekers.

3. **Treatment of refugees in Pakistan:** Engage in constructive dialogue with governments, UNHCR, NGOs and refugee communities with the aim to effectively addressing refugee protection needs in Pakistan. This would include the development of national legislation on refugee status determination and protection, as well as the provision of the right to work to refugees and asylum seekers, allowing them to be self-reliant and not forced to depend on government assistance or foreign aid.

4. **Humanitarian access to refugees:** Coordinate with the Government of Pakistan to ensure access for humanitarian organisations to populations in need and to allow for the registration of international NGOs who are able to provide direct assistance to vulnerable populations in Pakistan.

5. **Response to sectarian killings:** Encourage the Government of Pakistan to uphold its international human rights obligations and promote good governance by investigating sectarian killings in Balochistan and prosecuting those who have publicly claimed responsibility for hundreds of attacks.

6. **Protection of ethnic and religious minorities:** Encourage the Government of Pakistan to ensure safety and security of life and property for the Hazara community in Pakistan and all ethnic and religious minorities. Continue consulting with Hazara and other Shia and minority religious communities, tighten security measures in areas where minority communities congregate and ensure minorities can engage in religious, social, cultural and economic activities.

7. **Registration of Afghan refugees:** Encourage the Government of Pakistan to extend Afghan refugees’ legal status and corresponding PoR cards beyond December 2015, to ensure adequate protection until conditions in Afghanistan are conducive to return.

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SRI LANKA COUNTRY BRIEFING

OVERVIEW

Sri Lanka is not a signatory to the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) or the 1967 Protocol. The Sri Lankan government does not conduct refugee status determination (RSD) for asylum seekers and lacks a system for providing protection to asylum seekers and refugees.

While Sri Lanka does not allow asylum-seekers to permanently settle, an agreement signed in 2005 with UNHCR allows them to stay until their cases are processed by UNHCR and until they are relocated to a third country. Under Sri Lankan law it is illegal to leave the country without departing through official ports. Those found guilty of attempting to leave through unauthorised channels may be arrested, charged with illegal migration and subject to large fines.

KEY STATISTICS

- **511** registered refugees, **950** asylum seekers residing in Sri Lanka as of December 2014.
- Sri Lankan authorities claim to have intercepted **4,500** individuals attempting to leave Sri Lanka (2012 - 2014), many who would fit the UNHCR definition of a refugee if they were outside Sri Lanka.
- **100,000 SLR** (US$747) fine if caught trying to illegally leave Sri Lanka.
- An average of **8** refugees a day were refouled to their countries of origin from Sri Lanka in 2014, without adequate screening of their claims by the Sri Lankan authorities.
- **232** Sri Lankan citizens have returned through UNHCR’s facilitated voluntary repatriation programme from India and Malaysia.

AREAS OF CONCERN

1. Treatment of Refugees in Sri Lanka

In 2014 Sri Lanka started forcibly returning (refouling) foreign nationals seeking asylum in Sri Lanka, including some refugees registered with UNHCR. In June 2014, the Government also began detaining hundreds of asylum seekers from Pakistan, Afghanistan, and Iran, the vast majority of whom were

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91 ibid.
95 ibid.
Ahmadis, Christians or Shia Muslims from Pakistan. In public statements since the June detentions began, among other claims, the Government stated that the asylum seekers were threats to national security, public morality and public health as well as employment seekers. They did not provide evidence to substantiate these claims and significantly overstated the number of asylum seekers in the country. Reports have indicated that those detained and forcibly deported by the Sri Lankan authorities did not have their asylum claims adequately assessed and included individuals who were registered and awaiting interviews with UNHCR. The authorities detained 328 asylum seekers between June and mid-September in 2014, and deported 183 of them to Pakistan and Afghanistan.  

Sri Lanka’s Supreme Court rejected an attempt to prevent the forcible deportation of this group despite UNHCR and civil society expressing deep concern and calling for their deportation to be halted.

2. Treatment of Sri Lankan Tamil Returnees

The Government’s treatment of Tamils forcibly returned to Sri Lanka after being denied asylum overseas continues to be a significant concern. While there is no systematic monitoring after arrival in Sri Lanka of the treatment of those who were forcibly returned, allegations of extrajudicial killings, cases of disappearance, torture, rape and arbitrary executions have been documented by international organisations.

Torture and mistreatment in Sri Lankan custody has also been raised as a concern by a number of United Nations bodies. Human Rights Watch has documented and published 75 cases of rape and sexual violence, accompanied by other forms of torture and cruel, inhumane and degrading treatment by Sri Lanka’s security forces against men and women in custody since the end of the civil conflict in 2009. The use of torture in particular has been used against people suspected of links to the Liberation Tigers of Tamil Eelam (LTTE), including those returned as failed asylum seekers from the United Kingdom and other countries.

3. Boat Interceptions and ‘Enhanced Screening’

The Sri Lankan authorities patrol their borders and surrounding waters for persons fleeing ongoing repression from within the state. This includes working in close cooperation with the Australian Government to forcibly return asylum seekers attempting to leave Sri Lanka. Australia has provided material resources to Sri Lanka including vehicles and investigation and surveillance equipment.

Since October 2012 Australia has utilised an “enhanced screening process” for Sri Lankan asylum seekers fleeing by sea to identity whether they raise claims that engage Australia’s non-refoulement obligations. Concerns have been raised that this process is not a fair asylum procedure and risks excluding those with legitimate claims for protection. Through blocking the pathway to safety by failing to recognise that many Sri Lankans are in genuine and urgent need of protection, Australia’s acts put Sri Lankan asylum seekers at risk of torture and mistreatment when they are returned into the hands of the Sri Lankan police and authorities.

99 Human Rights Law Centre. op. cit., p.39.
102 LTTE is a militant organisation that was based in northern Sri Lanka. It waged a secessionist nationalist insurgency to create a monoethnic, independent state in the north east of Sri Lanka for Tamil people. The campaign led to the Sri Lankan Civil War from 1983 –2009, until they were defeated by the Sri Lankan military. LTTE abuses against civilians in Vanni has been well documented by Human Rights Watch. Human Rights Watch, ‘War on the Displaced: Sri Lanka Army and LTTE Abuses against Civilian in the Vanni’ in Human Rights Watch, viewed on 30 July 2015, http://bit.ly/1WkDDCw
103 Human Rights Law Centre. op. cit., p. 4.
106 Human Rights Law Centre. op. cit., 5.
4. Detention

Detention is inherently dangerous in Sri Lanka. Torture and other serious human rights abuses are widespread in the custody of Sri Lankan security forces, including the police. Abusers are rarely, if ever, brought to account. Despite official denials and promises to improve the situation at Sri Lanka’s last UN Human Rights Committee review (October 2014), endemic torture and other ill treatment is persistent in Sri Lankan detention centres.\(^\text{107}\) There have been numerous reports of former detainees alleging torture, sometimes sexual, in detention centres run by police, the army or intelligence services.\(^\text{108}\)

Prison conditions are poor due to gross overcrowding and the lack of sanitary facilities. Cells often lack natural light or sufficient ventilation with detainees sleeping on concrete floors.\(^\text{109}\) For mandatory administrative detention of irregular migrants, there is no individual assessment of the need to detain, no maximum time limit, no use of alternatives to detention, and no limits on the detention of children.\(^\text{110}\) By September 2014, UNHCR believed there were still more than 102 people of concern to them held in detention with many belonging to minority religious groups that were subject to discrimination and violence in their home countries.\(^\text{111}\) Monitoring of detention facilities is limited with access heavily restricted by the authorities.

**RECOMMENDATIONS TO THE AUSTRALIAN GOVERNMENT**

1. **Resettlement:** Work with other resettlement nations to expand resettlement programmes to offer additional places for vulnerable refugees in Sri Lanka, encouraging the Sri Lankan Government, in return, to improve its protection of refugees within the country.

2. **Development assistance:** Provide support to national organisations and community-based organisations in Sri Lanka that provide essential services to refugees and asylum seekers.

3. **Sri Lanka’s treatment of refugees:** Engage in constructive dialogue with governments, UNHCR, NGOs and refugee communities with the aim of effectively addressing refugee protection needs in Sri Lanka. This would include the development of national laws as well as the provision of the right to work to refugees and asylum seekers, allowing them to be self-reliant and not dependent on government assistance or foreign aid.

4. **Sri Lanka’s response to irregular migration:** Urge the Sri Lankan Government to decriminalise irregular migration, emphasising the protection of the rights of people in Sri Lanka is a far more effective way to prevent flight.

5. **Australia’s assessment of asylum claims from Sri Lankan nationals:** Ensure proper and effective assessment of all asylum claims, ensuring due process and procedural fairness (including through ceasing ‘enhanced screening’), so as to guarantee non-refoulement. Further, all asylum seekers fleeing by sea should be provided with adequate information, assistance and procedural safeguards, including access to legal counsel.

6. **Forced returns to Sri Lanka:** Refrain from pressuring asylum seekers to return to Sri Lanka or any other country of origin where there is any risk that the return could violate the principle of non-refoulement and be in contravention of the 1951 Refugee Convention and its 1967 Protocol.

7. **Interception of asylum seeker boats:** Ensure greater transparency in relation to laws, policies and guidelines that apply to Australian officials acting abroad in supporting boat intercceptions.

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\(^{108}\) Ibid.

\(^{109}\) United States Department of State. op. cit.


\(^{111}\) UN High Commissioner for Refugees, ‘UNHCR urges Sri Lanka to stop deportations and provide protection to refugees and asylum seekers’ in *UNHCR The UN Refugee Agency*, viewed 6 August 2015, [http://bit.ly/1AG1gl9](http://bit.ly/1AG1gl9)