

A BETTER PLAN FOR ROHINGYA REFUGEES

AMNESTY
INTERNATIONAL



Background

The Australian Government must take decisive action and show regional leadership through the Bali Process to strengthen solutions to a worsening crisis for those seeking asylum and refuge, particularly Rohingya refugees fleeing violence and persecution.

Since seizing power in a coup d'état on 1 February 2021, the Myanmar military has committed massive human rights violations across the country. Armed conflict has erupted or escalated in several regions, including in Kayin and Kayah States, on the country's eastern border with Thailand. The military's operations there have reflected its signature policy of collective punishment of civilian communities perceived to support an armed group or, in the coup's aftermath, the wider protest movement. Amid international inaction and waning global interest, the military has proceeded to attack civilians and civilian infrastructure from the air and the ground, unleashing a new wave of war crimes and likely crimes against humanity that have caused mass displacement and a deepening humanitarian crisis.

The fighting and myriad violations by the Myanmar military have caused widespread displacement in various parts of the country, including Kayin and Kayah States. In some cases, entire villages have been emptied of their populations; at times, civilians have had to flee more than once over the past months. As of 23 January 2023, there were 1.2 million people displaced by conflict and insecurity since the military takeover in Myanmar in February 2021, bringing the total number of internally displaced people (IDPs) across Myanmar to more than 1.5 million.

This is in addition to the targeted violence, persecution and crimes against humanity perpetrated by the Myanmar military in August 2017, in Rakhine state, that saw over 770,000 Rohingya forced to flee, a reality that has contributed to Rohingya refugees being one of the largest refugee populations in the Asia region. With close to 1 million Rohingya now in camps on the border in Bangladesh it is important that Australia not only continues to join international efforts to support these individuals but also shows solidarity with the region by helping to resettle those Rohingya identified as in need by UNHCR in Bangladesh, Thailand, Malaysia and Indonesia.

The Rohingya camps in Cox Bazaar, Bangladesh attracted one of the largest humanitarian responses in the world, welcomed by the Bangladesh authorities and supported by the UN and NGOs. However, the Rohingya are stuck in limbo, most of them are not formally recognised by Bangladesh as refugees, and are subjected to live in temporary shelters, unable to lawfully work, and have limited access to education. Dependent on aid, the Rohingya are subjected to harsh living conditions, and are extremely vulnerable to disease outbreaks such as diphtheria, acute watery diarrhoea, and most recently scabies. With reduced humanitarian services being provided, especially in the realms of water, hygiene, and sanitation, the camps are not a tenable option even in the short term.

According to the UNHCR, more than 3,500 Rohingya attempted deadly sea crossings in 2022, mainly from Myanmar and Bangladesh, a 360 per cent increase from the previous year. 348 people died on the journey, many drowned, while children died from hunger and thirst.

This recent escalation of movement reflects the urgent need to action a coordinated and regional response to save the lives of Rohingya stranded at sea and the Bali Process provides a unique opportunity to achieve this goal.



Recommendations

In its role as co-chair, Australia should encourage governments attending the Ministerial Conference on the Bali Process to:

- Coordinate continuous monitoring of search and rescue (SAR) areas, establish clear and efficient channels of inter-governmental communication when boats carrying refugees and migrants are identified, and coordinate rescue and disembarkation of boats; and
- Support an agreement whereby all states agree to refrain from returning people to Myanmar.

At the Ministerial Conference, Australia should facilitate regional solutions, including:

- Allowing disembarked passengers access to humanitarian assistance, alternatives to detention, asylum procedures, and other support and rehabilitative services provided by UN agencies and civil society actors;
- Establishment of regional dialogue to effectively address irregular and forced movement of refugees and migrants by sea and overland, including improving conditions and protections in asylum countries, providing safe and legal pathways to third countries, as well as access to family reunification;
- Addressing irregular boat movements through a comprehensive response that includes a wider set of stakeholders and addresses root causes of displacement and irregular movement, and solutions for which responsibility is more equitably shared; and
- Activating the Consultative Mechanism and Task Force on Planning and Preparedness of the Bali Process, and other recommendations for structural and procedural reform.

Taking a leadership role, Australia should:

- Commit to increasing the Refugee and Humanitarian Program to 30,000 places per annum in the 2023-24 Budget, with the vast majority being visa subclass 200 (UNHCR referred) refugees;
- Along with an increased Refugee and Humanitarian Program, provide a greater number of places for Rohingya refugees from Myanmar, while taking a leading role in resettling Rohingya refugees out of Bangladesh;

- If the Refugee and Humanitarian Program is not increased to 30,000 places in the 2023-24 Federal Budget, the Australian Government should facilitate an additional emergency intake of Rohingya refugees out of Bangladesh, separate to Australia's existing Program.
- Adapt Australia's foreign policy settings to recognise the need for a coordinated regional response, including adapting and boosting Australia's aid program to help neighbouring countries support refugees better and by providing humanitarian assistance when necessary;
- End hazardous boat push-backs at sea and instead utilise Australia's maritime capabilities to run proper search and rescue operations; and
- Immediately end the policy of offshore processing, and bring all refugees and people seeking asylum to Australia while they await resettlement.



The Bali Process

Last year marked 20 years since the signing of the Bali Process Declaration, but the cooperation envisaged in its goals and the operationalisation of the mechanism that can address safe disembarkation at sea, smuggling and trafficking, and the protection of victims has not materialised.

The indifferent response to the current crisis of forced migration has been particularly shocking compared to 2015 and 2016 where there were at least two regional meetings convened to address the situation. There has been no attempt to convene regional governments this time around, and many of the boats that have disembarked have been helped by fishermen and local communities rather than maritime authorities. Inconsistent and uncoordinated responses from governments in the region have resulted in protection and security gaps that have poorly served refugees, migrants and regional governments.

In the absence of comprehensive regional solutions and with deteriorating conditions in host countries, refugees will continue to take perilous boat journeys in search of safety, protection, family reunification and livelihoods. In 2016, Asia-Pacific governments pledged to do more to prevent people dying on such journeys, they must now live up to those commitments.

The forthcoming Ministerial Conference on the Bali Process is an important opportunity for regional leaders to develop a comprehensive regional response to address the growing crisis, a response that is underpinned by regional cooperation and leveraged responses.



Principles of Greater Regional Cooperation

A number of basic principles have already been identified through international law, the Bali Process and civil society initiatives such as the Asia Pacific Refugee Rights Network's Vision for Regional Protection. These principles include:

- Guaranteed safe entry to countries of asylum for those fleeing directly from persecution and other serious harm;
- Stabilising people's situations in countries of first asylum or transit as quickly as possible, and meeting their humanitarian needs;
- Fair and efficient asylum procedures, linked to durable solutions for those in need of them;
- Special support and procedures for particularly vulnerable groups, including unaccompanied minors, stateless people and victims of human trafficking; and
- Safeguards to ensure refugees are not vulnerable to exploitative labour practices.

Leveraging Responses

Australia must shift away from an approach solely focused on deterrence and punishment to one that is more nuanced and clearly reflects the priorities and issues facing others in the region and globally. What is needed now is greater coordination of both existing and additional initiatives that combine aid, diplomatic efforts and humanitarian assistance in a more holistic approach.

This must also include Australia reforming its own deterrence-based asylum policies, including offshore processing, mandatory detention and moratoriums on resettling particular groups, to restore credibility to its efforts to influence the policies and actions of others in the region. It is also vital for Australia's credibility in the region that any plan be framed as part of a genuine commitment to collaborate and is not seen as a hypocritical attempt by Australia to externalise its borders at the expense of its regional neighbours.

While countries in the region have been slow to operationalise commitments made in the Bali Declaration, they have at least recognised their own deficiencies. Now what is needed is the development of protocols around disembarkation, registration and reception conditions for those rescued, which will be crucial in ensuring a protection based approach is an established part of a regional search and rescue system. It's vital that Australia ends the hazardous boat push-backs at sea and instead utilises Australia's maritime capabilities to run proper search and rescue operations. Importantly, if people are rescued they must be allowed to safely disembark at nearest safe port, wherever that might be, including in Australia.

Expanding opportunities for safe and legal entry to Australia has been consistently identified as a way for Australia to engage in an alternative, human rights-based policy response to flight by sea. These opportunities include Australia taking on a greater share of resettlement and working with others in the region to ensure all countries are working towards increased resettlement.

While the previous Australian Government's commitment to earmark 2,000 places within the existing Refugee and Humanitarian Program for people from Myanmar is welcomed, concerns remain. As a percentage of the Humanitarian Program a significant portion of the program is being directed to those from Myanmar, which is warranted. However, due to the program remaining at historically low levels, this figure fails to comprehend the crisis at hand. Additionally, there has been a failure to resettle Rohingya, the largest refugee population in our immediate region. It is difficult to convince our regional neighbours to take a more rights based approach to the treatment of Rohingya refugees in their countries if Australia refuses to show sufficient solidarity through the use of its humanitarian program.

Another critical area requiring greater strategic focus is Australia's international development assistance. Australia's aid program needs to be more closely linked to a strategy that improves the circumstances currently facing refugees in the region.

Policies limiting the provision of Australian aid to middle income countries are undermining Australia's ability to assist several key asylum hosting countries in the region, specifically, Malaysia and Thailand. These countries combined host approximately 250,000 refugees from Myanmar. Targeted assistance to these countries to directly assist refugee populations could play an important role in ensuring their basic needs are met, mitigating the need for them to make dangerous onward journeys.

Strategic utilisation of Australian aid to Indonesia could also ease pressures. Australia's development partnership in 2022-23 with Indonesia accounts for \$307.3 million. However, there is very little coordination with the funding Australia provides IOM in Indonesia, which focuses on refugees and people seeking asylum. Greater linkages between these two initiatives is clearly needed, given the ongoing destitution facing refugees in Indonesia.

Conclusion

The military crackdown in Myanmar is continuing unabated and there is a humanitarian crisis spiralling out of control in host countries such as Bangladesh, Thailand and Malaysia. This is forcing people to seek safety elsewhere, often taking dangerous journeys.

Yet Australia's current regional deterrence approach has undermined Australia's diplomatic relations with regional neighbours and its reputation as a country that respects international law. In particular, it has impacted Australia's ability to effectively negotiate outcomes for those at risk in our region and refugees and people seeking asylum have suffered as a result, notably Rohingya refugees from Myanmar.

What is lacking from Australia is a coordinated and clearly articulated foreign policy position combining aid and humanitarian assistance in a comprehensive way. There are a number of measures Australia needs to adopt, including increasing Australia's Refugee and Humanitarian Program to at least 30,000 places and leveraging regional aid packages to ensure host countries have the ability to provide the necessary support to refugees and people seeking asylum.

Ultimately, it is only by ensuring refugees are safe, with access to genuine durable solutions, that Australia will be able to mitigate the risks of people making dangerous onward journeys by sea.

