

Stateless Persons and Climate Refugees in Asia

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Abstract

UNHCR has indicated that 65.3 million individuals were forcibly displaced in 2015; 40.8 million people around the world were displaced within their own countries. These figures, however, did not include stateless persons, those who may not belong to any state. In fact, Asia has the largest number of stateless persons. Moreover, Asia comprises about one-third of the world's land in the low evaluation coastal zones. Climate refugees are already growing in the region, while 150 million is estimated by 2050 world-wide. Both the stateless and climate refugees are not satisfactorily covered by international law. Similarly, the protection mandate of UNHCR is limited. More and more people seek nationality and protection. Existing gender inequality contributes to the stateless women and children living with fears and threats of sexual exploitation. Contrarily, many people are still reluctant to welcome them in their countries. As the worst, the stateless might be seen as threats, trouble makers, terrorists or related to transnational organised crime. Fear arises among people when they do not know "who is who". Sharing responsibilities for the stateless is critical but "how" is uncommitted. International law enforcement has been challenged by national sovereignty, national laws and territorial integrity. Thus, this research investigates the following aspects of the problem of stateless in Asia (1) the crises and fear, (2) who is supposed to protect the stateless beyond national boundaries, and (3) who (and how) can alternatively protect them alternatively.

Keywords: Stateless persons, Climate refugees, Protection, ASEAN, Humanitarian Assistance

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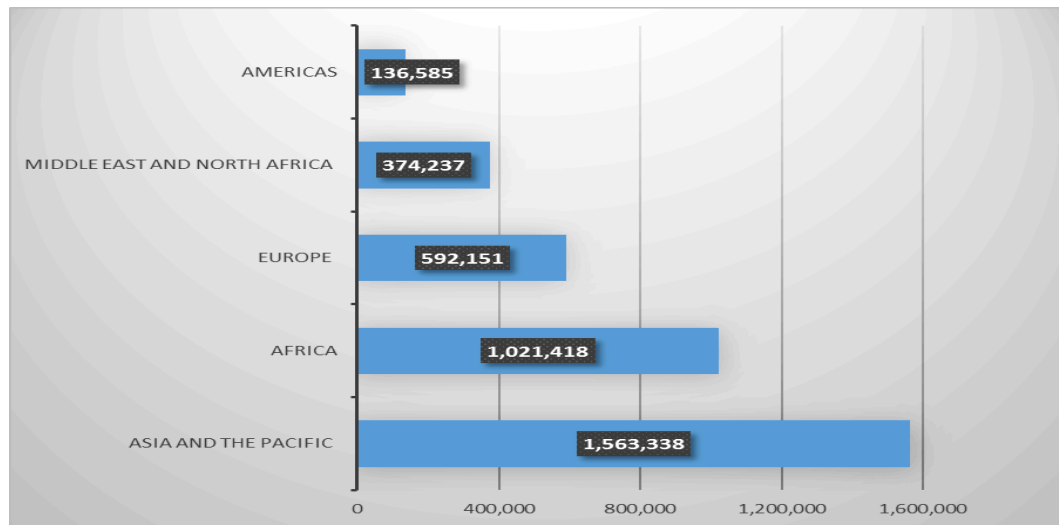
Introduction

UNHCR has indicated that 65.3 million individuals were forcibly displaced in 2015; 40.8 million people around the world were displaced within their own countries. These figures, however, did not include stateless persons and climate refugees, those who may not belong to any state. The number of climate refugees or Internally Displaced Persons by climate change is already growing while more than 150 million is estimated by 2050 world-wide (McGranahan, et al, 2007). However, both the stateless and climate refugees are not satisfactorily recognized by international law: the law enforcement has been challenged by national sovereignty, national laws and territorial integrity. Similarly, the protection mandate of UNHCR is limited. Thus, this research investigates the following aspects of the problem of stateless in Asia (1) the crises and fears, (2) who is supposed to protect the stateless beyond national boundaries, and (3) who can alternatively protect them, including existing humanitarian assistance and the roles of the Association of Southeast Asia Nations (ASEAN).

Stateless persons and Climate Refugees in Asia

“Article 1 of the 1954 Convention Relating to the Status of Stateless Persons defines a stateless person as a person who is not considered a national by any state under the operation of its law” (UNHCR, 2014). According to the Report of UNHCR (2016), approximately 3.7 million stateless persons in 2015 (3.4 million in 2014) were officially reported while at least 10 million are estimated as the stateless. The definition of stateless persons, however, has its own problem. For instance, “Should a state cease to exist, citizenship of that state would cease, as there would no longer be a state of which person could be a national” (ISI, 2014). As a similar critique, the convention shall be questioned by climate change: will Small Island Developing States (SIDS) physically remain surely in future? What if the small islands disappear and all the islanders become stateless and right-less? In fact, Asia has the largest number of stateless persons (more than 1.5 million out of 3.7 million stateless persons) (Figure 1). Moreover, Asia comprises about one-third of the world’s land in “the Low Evaluation Coastal Zones” (MacGordon *et al.*, 2007), which indicates that the region and people are vulnerable to becoming climate refugees or the displaced (Table 1). However, the term climate “refugee” is controversial (Atkins, 2011; UN News, 2014), arguing with existing legal definitions, because such a refugee status may be granted for those who fled from an armed or political conflict, crossing a national border to take refuge.

Figure 1: The official number of stateless persons (UNHCR, 2015)



Top 10	Country	Population: Counts ('000) in the Lower Evaluation Coastal zone
1	China	143,800
2	India	63,188
3	Bangladesh	62,524
4	Vietnam	43,051
5	Indonesia	41,610
6	Japan	30,477
7	Egypt	25,655
8	USA	22,859
9	Thailand	16,478
10	Philippines	13,329

Table 1: Population at risk in Lower Evaluation Coastal Zone (McGranahan *et al*, 2007)

Two sides of the same coin: Crises and fears of the vulnerable and the host countries

The personal crises and fears, the vulnerabilities of the stateless and climate refugees, are complex. The stateless remain often invisible: they need protection, but they do not always wish to be identified in order to avoid deportation or detention. Moreover, their free movement is restricted without a nationality, which makes them further vulnerable to human smugglers and traffickers. Many are caught in violence, sexual exploitation and abuse (Ullah, 2016; Persoob, 2010) and transnational crime (Emmers, 2003). Claiming Climate refugee status was also denied in the Pacific (Dastgheib, 2015).

Contrarily, the crisis and fears caused in the host countries, those who receive them, by the influx of people, are different from those of stateless persons and climate refugees. Many states and their people are reluctant to welcome the vulnerable in their countries. As the worst, the stateless might be seen as threats, trouble makers, terrorists or related to transnational organised crime. This kind of fear arises among people when they do not know “who is who”. A gender-unequal nationality law also

contributes to increase the number of statelessness; e.g. mothers in Brunei have no right to confer their nationality to their children (Caster, 2016).

Existing humanitarian assistance and the roles of the Association of Southeast Asian Nations (ASEAN)

Sharing responsibilities for the stateless is critical but “how” is uncommitted. International law enforcement has been challenged by national sovereignty, national laws and territorial integrity. However, international communities keep addressing humanitarian options to recognise and protect stateless persons and climate refugees, e.g. birth registration programme (Plan International, 2014), training for lawyers on arbitrary detention (UNGA, 2014) etc. The ASEAN member countries also have critical roles to play, in particular, holding the largest number of the stateless, i.e. the Rohingya-Muslims, in the region. Except the Philippines, the ASEAN countries have not pledged to accede the 1954 Convention (UNHCR, 2012), however, all signed the Convention on Eliminating Discrimination Against Women and Children (CEDAW). Moreover, the ASEAN also adopted the ASEAN Human Rights Declaration (the AHRD) in the Phnom Penh statement (ASEAN, 2012). These existing processes and the transnational cooperation mechanism are the potential platform that can develop regional integration of the vulnerable (Renshaw, 2013) although the ASEAN includes Islamic members such as Brunei, Indonesia and Malaysia and their involvement makes the issues of human rights of the Rohingya-Muslims sensitive to Myanmar (Paik, 2016).

Concerning climate refugees, a global platform, namely the Nansen Initiative, has been established for providing humanitarian assistance for disaster-induced cross-border displacement (The Nansen Initiative Secretariat, 2014; Walter, 2012). Concerning the recent humanitarian assistance in Southeast Asia, ASEAN’s role became visible with the cyclone Nargis flooding in Myanmar (Paik, 2016): all ASEAN member countries provided disaster relief materials to the cyclone-affected areas based on the ASEAN Agreement on Disaster Management and Emergency Response (AADMER). Furthermore, an ASEAN Emergency Rapid Assessment Team was deployed, comprising government officials, disaster experts, and Non-Governmental Organizations (NGOs), from the ASEAN countries. The ASEAN-led coordination mechanism as a regional cooperation does exist to deliver humanitarian assistance to those who are in need.

Conclusion

We have fearful futures in Asia: more and more people need and seek nationality and protection. Current legal and policy frameworks need to be revisited because the complex issues of stateless persons and climate refugees cannot be addressed just simply as legal issues in isolation. In December 2016, ASEAN took a further step, holding the ASEAN meeting on the Rohingya-Muslims in Myanmar. Such political, cooperative measures are not always efficient, but have potential for understanding and framing the extensive impacts of stateless persons and climate refugees on all ASEAN countries (Neo, 2016). Furthermore, protecting the stateless need to be re-framed as to include preventing transnational crime beyond regional security and/or domestic legal perspectives (Emmers, 2003). The ASEAN have critical roles to defend and protect the most vulnerable from transnational crime.

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