

THE
NANSEN
INITIATIVE

DISASTER-INDUCED CROSS-BORDER DISPLACEMENT



HUMAN MOBILITY IN THE CONTEXT OF DISASTERS AND CLIMATE CHANGE IN SOUTHEAST ASIA

BACKGROUND PAPER

**Prepared by the Nansen Initiative Secretariat
For the Southeast Asia Regional Consultation**

Manila, Philippines, 15-17 October 2014

DISASTERS
CLIMATE CHANGE AND
DISPLACEMENT

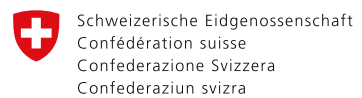
EVIDENCE
FOR ACTION

PARTNERS





The project is funded
by the European Union
with the support of
Norway and Switzerland



Federal Department of Foreign Affairs FDFA

TABLE OF CONTENTS

1. INTRODUCTION	6
1.1 Background to the Nansen Initiative Southeast Asian Regional Consultation	7
2. BACKGROUND TO DISASTERS AND HUMAN MOBILITY IN SOUTHEAST ASIA	9
2.1 Natural Hazards and Climate Change in Southeast Asia.....	10
2.2 Displacement.....	11
2.2.1 Examples from Southeast Asia	12
2.2.2 Challenge of Data Collection and Analysis	13
2.3 Migration	13
2.3.1 Examples from Southeast Asia	14
2.3.2 Natural Hazards, Environmental Degradation and Migration in Southeast Asia.....	15
2.4 Planned relocation	16
2.4.1 Examples from Southeast Asia	17
3. TOWARDS A PROTECTION AGENDA: THEMATIC ISSUES IN SOUTHEAST ASIA	18
3.1 Preventing and Mitigating the Negative Effects of Internal Displacement	18
3.1.1 Disaster Risk Reduction, Climate Change Adaptation, and Development Planning.....	18
3.1.2 Protection for Internally Displaced Persons (IDPs).....	19
3.1.3 Planned Relocation	20
3.2 Cross-Border Population Movements	20
3.2.1 Migration as Adaptation.....	20
3.2.2 Measures to Promote Free Movement.....	21
3.2.3 Preparing for Cross-Border Movements in the Context of Disasters and Natural Hazards.....	21
3.3 Migrants Abroad in Disaster Contexts	24
3.3.1 Access to Humanitarian Assistance.....	24
3.3.2 Consular Assistance.....	25

4. INTERNATIONAL COOPERATION AND SOLIDARITY	26
4.1 Global	26
4.1.1 Post-2015 Framework for Disaster Risk Reduction	26
4.1.2 World Humanitarian Summit.....	27
4.1.3 UN Framework Convention on Climate Change	27
4.2 Regional	27
4.2.1 Asian Development Bank.....	27
4.2.2 The Jakarta Declaration.....	27
4.2.3 Bali Process	27
4.2.4 Asia Pacific Forum of National Human Rights Institutions.....	28
4.3 Sub-Regional: ASEAN	28
4.3.1 ASEAN Agreement on Disaster Management and Emergency Response (AADMER)	28
4.3.2 ASEAN Climate Change Initiative.....	28
4.3.3 ASEAN Inter-governmental Commission of Human Rights (AICHR).....	28
4.3.4 Mekong River Commission	29
4.3.5 Humanitarian Coordination and Response.....	29
5. CONCLUSION.....	30



1. INTRODUCTION

Southeast Asia¹ is one of the world's most vulnerable regions to natural hazards, experiencing numerous disasters annually. Such disasters, including typhoons, earthquakes, tsunamis, volcanos, floods, droughts forest fires, and landslides, often trigger displacement and migration, primarily within national borders but also abroad. Given many countries' high exposure and current adaptive capacity, Southeast Asia is also increasingly facing the negative impact of climate change such as through rising sea levels and rainfall variability that threaten human settlements, infrastructure, natural resources and associated livelihoods. While recognizing that natural hazards contribute to human mobility in Southeast Asia, in many circumstances such movements occur within a complex environment impacted by wide variety of social, political and economic factors including poverty, a growing demand for foreign labour, increased urbanization, violence, and conflict.

The number of people internally displaced each year by sudden-onset disasters in Southeast Asia is significant. Over the last five years, a total of 24.55 million people were displaced in Southeast Asia, including approximately 7.14 million people displaced in 2013 alone.² Yet in some years the annual total is even higher following a mega-disaster or a succession of large-scale disasters, such as the 2004 Indian Ocean Earthquake and Tsunami that displaced over 500,000 people in Indonesia alone. Cyclone Nargis displaced some 800,000 people in Myanmar in 2008. Flooding in 2011 displaced more than 1.5 million people in Cambodia, Lao PDR, Myanmar, Thailand and Viet Nam, and, most recently, in 2013, Typhoon Haiyan/Yolanda displaced over four million people in the Philippines.

Human mobility is also common in slow-onset disasters, such as during the 2010 drought when hundreds of Cambodians crossed the border irregularly into Thailand in search of work after drought caused food shortages in their home villages.³ Although the number

of people displaced, or even moving irregularly, across international borders in Southeast Asia is not known, displaced people and migrants moving in the context of disasters face numerous protection challenges that are compounded by the human smuggling and trafficking practices prevalent within the region's mixed migratory flows.

In light of the overlapping factors impacting human mobility in the context of disasters and climate change in Southeast Asia, there are a number of existing national and regional laws and policies can play a role in i) addressing the underlying causes to prevent displacement when possible, ii) preparing for and providing protection and assistance to displaced persons when it cannot be avoided, and iii) finding solutions to displacement and building resilience to future disasters.

¹ Southeast Asia includes Brunei, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

² IDMC, *Global Estimates 2014: People displaced by disasters* (Geneva 2014) <http://goo.gl/zVHQm8> accessed 25 September 2014.

³ Tep Nimol, 'Drought prompting cross-border exodus' *The Phnom Penh Post* (25 August 2010) <http://goo.gl/QllgR0> accessed 26 September 2014.

1.1 BACKGROUND TO THE NANSEN INITIATIVE SOUTHEAST ASIAN REGIONAL CONSULTATION

This background paper informs the Nansen Initiative Southeast Asian Regional Consultation to be held in Manila, Philippines from 15-17 October 2014, which will explore the issue of human mobility (displacement, migration and planned relocation) in the context of disasters and climate change in the Southeast Asia. Launched by the Governments of Norway and Switzerland in October 2012, the Nansen Initiative is a state-led, bottom-up consultative process intended to build consensus on the development of a protection agenda addressing the needs of people displaced across international borders in the context of natural hazards, including those linked to the effects of climate change.⁴ To feed the Nansen Initiative process with practical experiences and build consensus, inter-governmental Regional Consultations and Civil Society Meetings are taking place in the Pacific, Central America, the Horn of Africa, Southeast Asia, and South Asia over the course of 2013 to 2015. The Southeast Asian Civil Society meeting was held in Bangkok, Thailand from 30 June to 1 July 2014. Outcome documents from all of the Regional Consultations contain recommendations for further action at the community, national, regional and international levels.

In October 2015 the results of the Nansen Initiative Regional Consultations and Civil Society Meetings will be consolidated and discussed at a global inter-governmental meeting in Geneva, Switzerland to discuss a protection agenda for cross-border displacement in the context of disasters. The Nansen Initiative does not seek to develop new legal standards, but rather to discuss and build consensus among states on the potential elements of a protection agenda, which may include standards of treatment. Its outcomes may be taken up at domestic, regional and global levels and lead to new laws, soft law instruments or binding agreements.

All Southeast Asian countries have national disaster risk reduction, development, humanitarian assistance, migration, climate change adaptation, and human rights laws and policies relevant to the protection of displaced persons in disaster contexts. Notably, the Government of the Philippines has a draft law on the protection of internally displaced persons, which also addresses natural hazards. To date, Southeast Asia does not have a regional or sub-regional temporary protection mechanism that allows people displaced in disaster contexts to enter another country.⁵ However, a number of existing legal frameworks and ongoing processes are relevant to the protection of displaced persons in disaster contexts. For example, the ASEAN Agreement on Disaster Management and Emergency Response (AADMER), which established the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre), is a legally binding regional instrument aimed at improving national and regional responses to disasters through coordination with national actors. Equally relevant is the Mekong River Commission, which was designed to coordinate sustainable management and development of water resources in the Mekong River Basin.⁶ Both can play an important role in preventing and mitigating displacement, strengthening host communities capacity to receive displaced persons, and finding durable solutions.

Also relevant are the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (Bali Process) that focuses on the harmonization of assessment processes for asylum seekers, law enforcement border management, strengthening national legal frameworks, and sharing migration-related information,⁷ and the Regional Consultative Process on Overseas Employment and Contractual Labor for Countries of Origin in Asia (Colombo Process), which has identified “the possible nexus between environmental degradation and climate change on one hand and human mobility on the other, and its likely implications on labour migration” as an emerging issue.⁸ The ASEAN Declaration on the Protection and Promotion

⁴ The Nansen Initiative is funded by the Governments of Norway and Switzerland, with additional financial support from the European Commission, the Government of Germany, and the MacArthur Foundation. It is governed by a Steering Group, which at the time of writing is comprised of nine Member States: Australia, Bangladesh, Costa Rica, Germany, Kenya, Mexico, Norway, the Philippines, and Switzerland. A Consultative Committee informs the process through expertise provided by representatives from international organizations addressing displacement and migration issues, climate change and development researchers, think tanks, and NGOs. The Envoy of the Chairmanship represents the Nansen Initiative throughout the process, providing strategic guidance and input. Finally, the Nansen Initiative Secretariat, based in Geneva, supports the process with additional strategic, research, and administrative capacity.

⁵ Notably, within the region, only Cambodia and the Philippines have ratified the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. Most countries also lack national legislation addressing the rights of asylum-seekers and refugees.

⁶ Member Countries include Cambodia, Lao PDR, Thailand, and Viet Nam, with China and Myanmar as Dialogue Partners. <http://www.mrcmekong.org/about-the-mrc/organisational-structure/> accessed 28 May 2014.

⁷ Co-chaired by Indonesia and Australia, all ten ASEAN countries are members of the Bali Process, in addition to 34 other states, UNHCR, and IOM.

⁸ Dhaka Declaration of Colombo Process Member Countries, as at 21 April 2011, para. 3(ii).

of the Rights of Migrant Workers (Cebu Declaration), which followed the 2007 12th ASEAN Summit in the Philippines, sets out general principles and obligations of sending and receiving states, as well as commitments by ASEAN Member Countries.⁹ Finally, regional human rights institutions, such as the ASEAN Inter-governmental Commission of Human Rights (AICHR) and the Asia Pacific Forum of National Human Rights Institutions' (APF) have also recently engaged on issues related to migration, and disasters and climate change.

Building upon these existing legal frameworks and processes, the Nansen Initiative's fourth Regional Consultation will be hosted by the Government of the Philippines in Manila from 15-17 October 2014. The Consultation will be co-organized by the Government of the Philippines, the Nansen Initiative and the Ateneo School of Government. The Regional Consultation is organized back to back with the Disaster Response Dialogue's Global Conference from 13-15 October 2014, which will share its outcomes at the outset of the Nansen Initiative Regional Consultation.

The Consultation will begin with a two day technical workshop, followed by a one day dialogue on the workshop's outcomes and agreement for follow-up. Participants will primarily include representatives from states, but also from international organizations, NGOs, civil society, academic institutions and other key actors working on issues related to displacement, disaster risk reduction, disaster management, climate change adaptation, human rights protection, migration management, development and climate change.

The overall objectives of the Nansen Initiative Southeast Asian Regional Consultation are to: i) learn more about displacement and human mobility dynamics in the region, ii) identify the region's specific challenges related to disasters and displacement, and iii) develop concrete, practical, policy and programmatic outcomes to enhance the region's overall preparedness and response to these challenges.

This paper has been drafted to accompany the four thematic issues that will be discussed during the Nansen Initiative Southeast Asian Regional Consultation. The next section (II) will provide an overview of disasters and human mobility in the region, including reflections on the underlying causes and characteristics of such movements. Section III will then explore three specific thematic issues: 1) Preventing and Mitigating the Negative Effects of Internal Displacement; 2) Cross-Border Population Movements; 3) Migrants Abroad in Disaster Contexts.

⁹ 'ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers' (2007) <http://goo.gl/sctSio> accessed 24 September 2014.



2. BACKGROUND TO DISASTERS AND HUMAN MOBILITY IN SOUTHEAST ASIA

Southeast Asia, which includes the ASEAN Member States, is comprised of two distinct geographical regions: 1) the maritime region of island nations includes Brunei, Indonesia, East Malaysia, the Philippines, and Singapore; and 2) the mainland region of countries, many which share a land border with China, includes Cambodia, Lao PDR, Myanmar, Thailand, Peninsular Malaysia and Viet Nam. Southeast Asia's vast land area of some 4.5 million km² hosts a population of over 600 million people who speak hundreds of different languages, representing distinct and diverse cultural, religious, and ethnic backgrounds. Sitting astride the intersection of major tectonic plates, the region has numerous mountains and active volcanos, as well as the world's second largest tropical rainforest, low-lying deltas, and long coastal areas. Given the prevalence of disaster-induced displacement and migration in Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, Thailand, and Viet Nam, this background paper places a greater emphasis upon these countries.

Southeast Asia is in the midst of rapid economic growth, which has resulted in large, sprawling mega-cities, with corresponding trends of an increasingly urbanized population. As one author stated, "The significance of urbanisation as both an intra- and inter-state migration trend in Southeast Asia is difficult to overstate,"¹⁰ with its rapidity and scale at unprecedented levels. Although countries such as Cambodia, Lao PDR, Myanmar and the Philippines still have a large number of people living in rural areas, this trend is changing. The region's urban population rose from 15.4 per cent of the total in 1950 to over 40 per cent in 2012, and is expected to be close to 50 per cent by 2025.¹¹ Mid-sized cities are also experiencing significant growth, and currently host 67 per cent of all urban residents.

Human mobility within the context of natural hazards and the effects of climate change takes various forms in Southeast Asia. There is no internationally agreed upon

terminology to describe these different categories of movement. For the purposes of this paper, and building upon paragraph 14(f) of the UN Framework Convention on Climate Change's (UNFCCC) Cancun Outcome Agreement, human mobility will be discussed within three categories: (forced) displacement, (predominantly voluntary) migration, and (voluntary or forced) planned relocation. The Nansen Initiative specifically addresses the protection needs of people displaced across international borders in the context of disasters associated with natural hazards, with migration and planned relocation addressed from the perspective of preventing displacement or finding durable solutions to displacement.

This section will provide an overview of disasters induced by natural hazards in Southeast Asia, followed by descriptions and examples of different forms of human mobility (displacement, migration, and planned relocation) that have occurred in the context of these disasters.

¹⁰ J. J Ewing, 'Contextualising Climate as a Cause of Migration in Southeast Asia' in Lorraine Elliott (ed), *Climate Change, Migration and Human Security in Southeast Asia* (S. Rajaratnam School of International Studies 2012).

¹¹ Edited by Yap Kioe Sheng and Moe Thuzar, *Urbanization in Southeast Asia: Issues and Impacts* (ISEAS Publication, Singapore 2012).

Figure 1: Environmental Hot Spots in Southeast Asia



Source: Asian Development Bank, “Addressing Climate Change and Migration in Asia and the Pacific: Final Report,” Philippines, 2012.¹²

2.1 NATURAL HAZARDS AND CLIMATE CHANGE IN SOUTHEAST ASIA

Southeast Asia faces a wide variety of natural hazards and experiences numerous disasters annually. Indonesia and the Philippines are both located on the Pacific Ring of Fire and thus are exposed to earthquakes and volcanic eruptions. However, floods are the most common natural hazard in Southeast Asia, occurring with increasingly frequency and severity over the last two decades.¹³

Taking the form of either riverine, coastal, or flash floods, floods are often accompanied or caused by other natural hazards, such as cyclones, tsunamis, storm surges, or landslides. Countries along the Mekong River system face the greatest exposure to heavy rainfall (regular seasonal rainfall or heavy rainfall caused by storm systems) causing flash flooding or coastal flooding. Riverine floods (also known as monsoonal flooding) occur annually in Viet Nam, Lao PDR, and Cambodia, often rising slowly over a period of 3-5 months in the Delta, while rising more quickly in the central region. Malaysia and Thailand are both at risk for coastal flooding caused by flood tides during tropical storms.

Areas susceptible to coastal flooding are also the same areas expected to be adversely affected by climate change, through rising sea levels and an increased frequency and extreme changes in weather phenomena. Low-lying areas of Indonesia, the Philippines, and Malaysia are at risk for coastal erosion, land loss, inundation and sea flooding, and seawater intrusion into freshwater sources and agricultural lands.¹⁴ Coastal areas and deltaic regions in Viet Nam, Thailand, and Myanmar are also threatened by expected sea level rise, although it the Mekong Delta where effects are predicted to be most severe. Bangkok is particularly vulnerable to coastal flooding and sea level rise as it is, on average, only one meter above sea level. This threat is compounded by the fact the city is also slowly sinking due to the lowering of its water table as a result of residents’ water use.

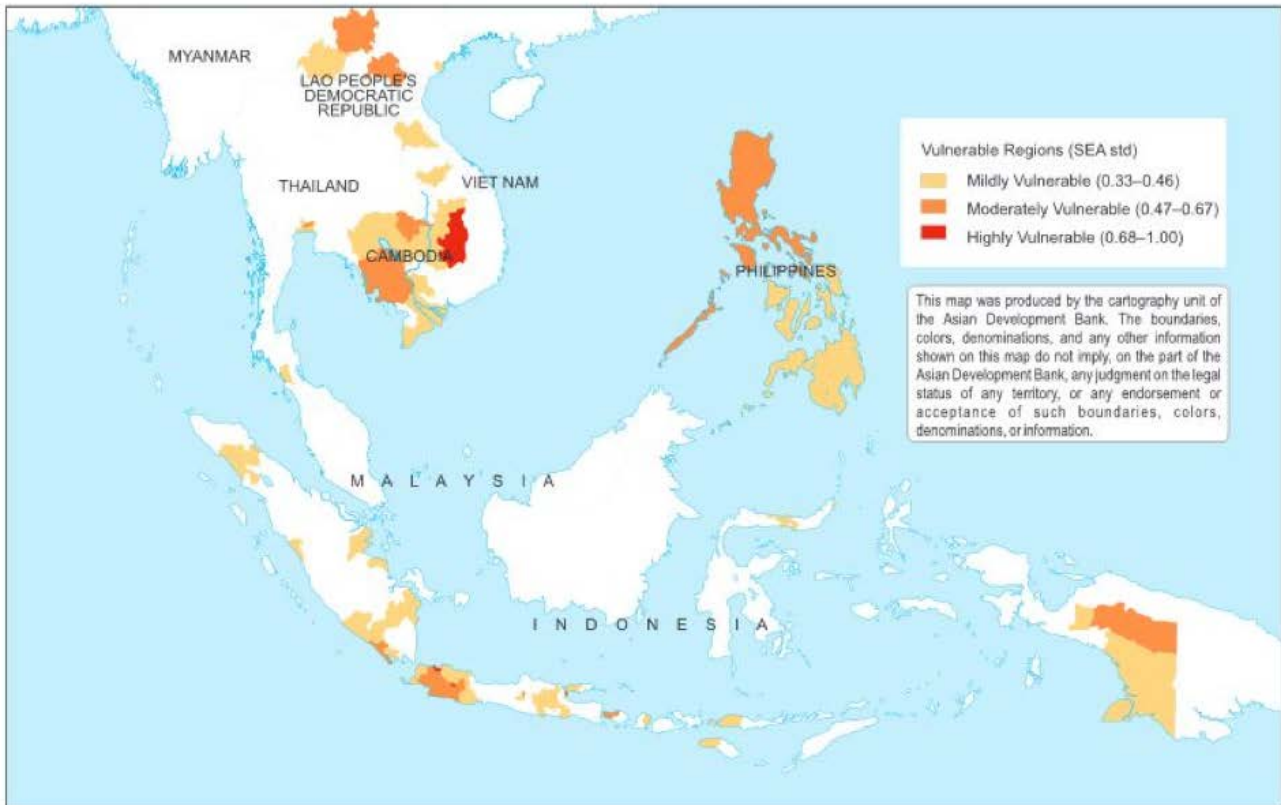
Droughts generally occur less frequently than floods, although it is notable that droughts and flooding are interrelated phenomena – periods of drought, which may also lead to fires, are usually followed by powerful floods that affect the entire region. Recent examples of drought include the 1997 drought in Indonesia that affected over one million people, the 1998 drought in the Philippines which affected over 2.5 million people, the 2008 drought in Thailand which affected 10 million

¹² Asian Development Bank, *Addressing Climate Change and Migration in Asia and the Pacific: Final Report* (Philippines 2012) <http://goo.gl/SzXrCz> accessed 21 January 2014.

¹³ Save the Children, *Responding to emergencies in Southeast Asia: Can we do better?: A review of the humanitarian response to the 2011 Thailand and Cambodia Floods* (2012) <http://goo.gl/lbnHnW> accessed 04 February 2014. 8.

¹⁴ The Global Mechanism, *Climate Change Impacts: South East Asia* (2007) http://www.ifad.org/events/apr09/impact/se_asia.pdf accessed 24 February 2014.

Figure 2: Socio-economic Vulnerability in Southeast Asia



Source: Asian Development Bank, “Addressing Climate Change and Migration in Asia and the Pacific: Final Report,” Philippines, 2012.¹⁵

people, and the 2010 drought that affected some 65 million people in Cambodia, Lao PDR, Thailand and Viet Nam.

The incidence and severity of droughts, as well as floods, is expected to increase as a result of climate change.¹⁶ The Asian Development Bank has identified key “environmental hot spots” in Southeast Asia that are most likely to face hydro-metrological hazards. (See figure 1)

Whether, and to what extent, a natural hazard develops into a disaster is dependent on a community’s capacity to withstand the effects of the hazard. Factors such as weak levels of governance, poor infrastructure, conflict, climate change, food insecurity and poverty can all contribute to weakened resilience to natural hazards. In the regions that experience monsoonal flooding every year (i.e., the Mekong region), many people living in flood-prone areas have developed the capacity to cope with, or even benefit from, normal flooding. Therefore, while identifying precisely when flooding becomes a

disaster can be difficult, a disaster is generally declared when flood levels are significantly higher than normal and/or remain elevated for longer than normal,¹⁷ such as when agricultural land is rendered unfit for use or crops are lost due to oversaturation.

However, as will be discussed later, efforts are underway in the Southeast Asian region to strengthen resilience by integrating disaster risk reduction and climate change adaptation strategies within development plans.

2.2 DISPLACEMENT

The term “displacement” refers to situations where people are forced to leave their homes or places of habitual residence. Displacement may take the form of spontaneous flight, an evacuation ordered or enforced by authorities, or the relocation of a community to another location. Displacement can occur within a country, or across international borders. Again, the Nansen Initia-

¹⁵ Asian Development Bank (n 15).

¹⁶ Danny Marks, ‘Climate Change and Thailand, Impact and Response’ [2011] 33 Contemporary Southeast Asia <http://goo.gl/IRk28T> accessed 24 February 2014.

¹⁷ Louis Lebel and others, *Risk reduction or redistribution?: Flood management in the Mekong region*, accessed 06 February 2014.

tive focuses on meeting the protection needs of people forcibly displaced across international borders in the context of disasters associated with natural hazards.¹⁸

Due to the multi-causal nature of human mobility, the tipping point between a forced and voluntary movement can be difficult to pinpoint.¹⁹ This is especially true in the case of slow-onset disasters, when displacement arises as a consequence of a gradual erosion of resilience. In comparison, the forced nature of a population movement in the context of a sudden-onset disaster such as an earthquake is easier to recognize, although other factors such as poverty and lack of preparedness contribute to whether displacement occurs. Finally, the cumulative effect of a series of smaller, sudden-onset disasters can also lead to displacement over time.

2.2.1 Examples from Southeast Asia

As in other parts of the world, the drivers of displacement in Southeast Asia are multi-causal and inter-linked to other factors such as poverty, levels of development, or conflict. Thus, displacement in Southeast Asia often includes people who have moved for a variety of reasons, one of which may be a sudden or slow-onset natural hazard. In such circumstances, it may be difficult to distinguish people displaced by disasters within larger mixed migration flows, particularly those crossing international borders given the lack of common criteria to identify such people. Therefore, in the absence of more precise data and analysis, the examples presented in this paper are not comprehensive representations, but rather are intended to highlight a few situations of displacement in disaster contexts (noting cross-border examples when possible) and the corresponding need to improve data collection.

Despite the large number of irregular migrants moving across international borders within Southeast Asia, only isolated incidents of cross-border displacement have been recorded in the wake of large sudden-onset disasters. For example, in 2008, a reported 600 Cyclone Nar-

gis survivors entered Thailand through the Thai border town of Mae Sot in the months following the disaster and received assistance from two local NGOs.²⁰ Following the 2004 Indian Ocean Earthquake and Tsunami, “large numbers” of migrants from Myanmar living in Phangnga Province reportedly returned to Myanmar.²¹ Similarly, following the 2011 floods in Thailand, some 100,000 migrants from Myanmar crossed back into Thailand using Mae Sot pass between September and November 2011.²²

The vast majority of recorded displacement in the context of sudden-onset disasters in Southeast Asia is internal. Some of the largest levels of displacement in Indonesia occurred following the 2004 Indian Ocean Earthquake and Tsunami, which caused unprecedented destruction along the coasts of India, Indonesia, Sri Lanka, Thailand, the Maldives, Myanmar, the Seychelles, and Somalia, displacing more than 2 million people (over 500,000 in Indonesia) and killing over 250,000 others in the affected areas.²³ In 2010, Indonesia’s Mount Merapi volcano erupted, forcing the evacuation of 365,000 people from their homes, many for over a month.²⁴ Three months later, in January 2011, floods caused by the mixing of rainwater and volcanic rock displaced hundreds more people.²⁵

In 2011, monsoon rains and multiple tropical storms on the mainland resulted in some of the region’s worst flooding in 50 years, affecting Cambodia, Lao PDR, Myanmar, Thailand, and Viet Nam. The Government of Thailand was forced to evacuate some 1.5 million people from Bangkok alone²⁶ and housed 50,000 people in evacuation centres. In Cambodia, an estimated 214,000 people were displaced²⁷ with 250,000 homes damaged or destroyed, while in Lao PDR, two months of flooding destroyed over 140,000 homes. Malaysia is also regularly affected by flooding, and was hit by two waves of flash floods in December 2006 and January 2007 along the southern and south-west coasts of the Malay Peninsula forcing the evacuation of 58,000 and 133,400 people, respectively.²⁸

¹⁸ People displaced within their own countries are protected under national laws as well as international human rights and humanitarian law. However, for those who cross international borders in the context of disasters, international legal protection is lacking.

¹⁹ Foresight, “Migration and Global Environmental Change” (Final Project Report, The Government Office for Science, Foresight, 2011).

²⁰ ‘Myanmar-Thailand: Cyclone migrants face challenges’ IRIN (03 December 2008) <http://goo.gl/qeT8S5>, accessed 12 February 2014.

²¹ IOM/UNHCR/UNIFEM/UNOHCHR/WB (Inter-agency), *Technical Assistance Mission Report: Joint Tsunami Migrant Assistance Mission to the Provinces of Krabi, Phangnga, Phuket and Ranong, Thailand* (February 16, 2005) <http://goo.gl/1Bi5i5> accessed 29 January 2014.

²² Patrick Phongsathorn, ‘Environment and Migration: The 2011 Floods in Thailand’ in Francois Gemenne, Pauline Bruker and Dina Ionesco (eds), *The State Environmental Migration 2011* (Paris 2012).

²³ WHO, *Tsunami 2004: A Comprehensive Analysis - Volume I* (2013) <http://goo.gl/lh6rtI>, accessed 23 January 2014.

²⁴ ACT Alliance, ‘Indonesia, ACT Preliminary Appeal: Mount Merapi Displaced’ (23 November 2010) <http://goo.gl/UUY4Y>, accessed 17 February 2014.

²⁵ ‘Indonesia, Government to relocate volcano survivors’ IRIN (02 May 2011) <http://goo.gl/jtzHLL>, accessed 20 February 2014.

²⁶ Michelle Yonetani, ‘Global Estimates 2011, People displaced by natural hazard-induced disasters’ (June 2012) <http://goo.gl/iH8WUe>, accessed 16 January 2014. 20.

²⁷ FAO and WFP, *FAO/WFP Crop and Food Security Update Mission to Cambodia: Report* (2012) <http://www.fao.org/docrep/015/al988e/al988e00.pdf> accessed 25 February 2014. 2.

²⁸ IFRC, *Malaysia: Floods* (2007) <http://goo.gl/GiQuBO>, accessed 04 March 2014.

Typhoons, cyclones and tropical storms also cause significant displacement. In November 2013, Typhoon Haiyan/Yolanda – one of the most powerful storms ever recorded – hit the Philippines, affecting 14 percent of the country’s population, and displacing four million people.²⁹ Similarly, Cyclone Nargis struck Myanmar’s Irrawaddy Delta in May 2008, sending a 40km storm surge through the densely populated area, affecting 2.4 million people and displacing approximately 1.6 million others.

Recurrent slow-onset hazards, such as droughts or the annual flooding in the Mekong and Irrawaddy Deltas, have also prompted individuals or families to move internally or abroad, usually in search of alternative livelihood activities and/or assistance, as will be described in the following section. However there is not sufficient evidence to determine whether any movements associated with such slow-onset disasters could accurately be described as “involuntary” or “forced.”

Finally, the region’s past and ongoing conflicts have also led to significant internal displacement and refugee flows, with some of those people subsequently displaced again by disasters.

2.2.2 Challenge of Data Collection and Analysis

In general, comprehensive data collection and analysis on displacement in the context of disasters in Southeast Asia is lacking. Gathering this information is by nature complex due to the diverse drivers of displacement, scientific uncertainties, and unsystematic data collection and sharing. Therefore, participants to the Regional Consultation may want to discuss how existing information management tools for disasters and migration could be adapted to help inform the development of public policy and operational responses for disaster-related displacement, building upon existing resources such as the Regional Support Office within the Bali Process.

2.3 MIGRATION

The term “migration” commonly refers to a broad category of population movements.³⁰ The term “mixed migration” has been defined as “complex population migratory movements that include refugees, asylum seekers, economic migrants and other migrants, as opposed to migratory population movements that consist entirely of one category of migrants.”³¹ Thus, mixed migration encompasses regular and irregular movements, and also denotes the diverse and overlapping motives that influence an individual’s decision to move, which can change over time. Likewise, the International Organization for Migration’s (IOM) working definition of an “environmental migrant” includes various groups of individuals moving within different contexts: voluntarily or involuntarily, temporarily or permanently, within their own country or abroad.³²

Because the Nansen Initiative specifically focuses on the distinct protection needs of people displaced across international borders in the context of disasters, migration in this paper is used to refer to human movements that are *preponderantly* voluntary; for example, to work abroad in order to support families at home with remittances, or in order to avoid a situation where moving to another country at a later stage becomes unavoidable. In the context of slow-onset environmental degradation, “migration as adaptation” refers to the primarily voluntary decision to “avoid or adjust to”³³ deteriorating environmental changes that may result in a humanitarian crisis and displacement in the future.

For the Nansen Initiative, understanding the dynamics of migration flows, including the associated motives, also provides insight into the overall conditions within which displaced people move in a region. Pre-existing migration patterns frequently indicate the paths that displaced people will follow, and may illustrate some of the risks and challenges of moving in the region.³⁴ Migration management tools and mechanisms are also useful examples of existing practice that could potentially be adapted to differentiate disaster-displaced people from other migrants which, in turn, could facilitate the development of policy responses to adequately meet the specific protection needs of different groups of people.

²⁹ OCHA, *Philippines: Typhoon Haiyan Action Plan* (2013) <http://goo.gl/K5eDGt>, accessed 14 February 2014.

³⁰ IOM defines migration as, “The movement of a person or a group of persons, either across an international border, or within a State. It is a population movement, encompassing any kind of movement of people, whatever its length, composition and causes; it includes migration of refugees, displaced persons, economic migrants, and persons moving for other purposes, including family reunification.” International Organisation for Migration, *Glossary on Migration* (2011).

³¹ *ibid.*

³² IOM’s working definition states: “Environmental migrants are persons or groups of persons who, for reasons of sudden or progressive changes in the environment that adversely affect their lives or living conditions, are obliged to have to leave their habitual homes, or choose to do so, either temporarily or permanently, and who move either within their territory or abroad.” International Organization for Migration (ed), ‘Discussion Note: Migration and the Environment MC/INF/288-1’ (2007).

³³ Barnett, Jon and Webber, Michael, “Migration as Adaptation: Opportunities and Limits” in Jane McAdam (ed), *Climate Change and Displacement: Multidisciplinary perspectives* (Hart, Oxford, Portland, Or 2012).

³⁴ Nicholas van Hear, Oliver Bakewell and Katy Long, ‘Drivers of Migration’ (2012) 1 Migrating out of Poverty Research Programme Consortium Working Paper. Falmer, University of Sussex.

2.3.1 Examples from Southeast Asia

Migration in Southeast Asia involves large, constant, mixed flows of people, including those moving voluntarily for education or employment, but also to access basic needs. According to IOM, the majority of all migrants in Southeast Asia move within the region³⁵ and many scholars now argue that intra-regional migration has become a structural feature in Asia.³⁶ Regular and irregular migrants often opt to move to a nearby country, creating significant movements in particular between Thailand, Myanmar, Cambodia, Lao PDR, and Viet Nam, as well as between Malaysia and Indonesia, most frequently on a temporary basis.³⁷

While all Southeast Asian countries experience both immigration and emigration, they can generally be grouped into major source countries and major destination countries. Myanmar, Cambodia, Lao PDR, Viet Nam, the Philippines, and Indonesia are major source countries for migrants moving within the region. Thailand and Malaysia, while significant sources of outgoing migrants, are also major destination countries for those migrating within the region. As the most economically developed countries in the region, Singapore and Brunei are primarily destination countries for labour migrants coming from Southeast and South Asia.³⁸

As in the past, emigrants from Southeast Asia continue to migrate to Australia, Canada, and the United States. Out migration from Southeast Asia to the oil economies in the Middle East grew dramatically in the 1970s and 1980s,³⁹ and remains a major destination for temporary workers as labour migration to the Middle East continues to grow. For example, in 2004, “Indonesia and the Philippines combined deployed about 146,000 more workers to the Middle East than to Asia and the Pacific.”⁴⁰

In addition to the Gulf States, the industrialized economies of East Asia (Hong Kong, Taiwan, and South Korea) and Japan are also major destinations for low-skilled and semi-skilled workers from Southeast Asia.⁴¹

Movement to these countries is often temporary or circular, as individuals seek economic opportunities not available in their home country but are not necessarily permitted to remain on a permanent basis.⁴²

To date, migration is largely managed bilaterally between states, although ASEAN is in the early stages of negotiating the ASEAN Economic Community, which would have a labour migration component. Singapore is considered to have the most pro-active migration policies for all types of migrants, whereas other countries in the region that actively recruit skilled workers have a tendency to underestimate the demand for low-skilled migrant workers. Consequently, the overall trend toward restrictive migration policies for low-skilled workers has led to an increase in irregular migration,⁴³ which often begins with “migrants skirting immigration and employment regulations.”⁴⁴

Graeme Hugo highlights the interplay of economic and demographic factors when examining the regions’ migration patterns.⁴⁵ For example, he observes that the demand for labour in the newly industrialized economies of Malaysia and Thailand – two countries still considered labour-surplus countries – also make them major destination countries for workers from neighbouring states. Low-skilled workers are often employed in low-status, low-paying jobs such as the 3D jobs (dirty, dangerous and difficult) that domestic workers increasingly choose to eschew. Consequently, these migration flows have continued even in times of economic downturn and high unemployment, aided by the fact that as migration channels and social networks become more established, these existing patterns become more and more entrenched.

In recent decades there has been an increasing feminization of migration in Southeast Asia. Traditionally, women commonly accompanied male relatives who moved to find work. However, over the last thirty years, women have increasingly been making the move abroad on their own to work, primarily, in the domestic service industry and, to a lesser extent, in the entertainment

³⁵ IOM, Regional Office for Southeast Asia, *Situation Report on International Migration in East and South-East Asia: Regional Thematic Working Group on International Migration including Human Trafficking* (2008) <http://goo.gl/n8SAA5>, accessed 27 January 2014. 116.

³⁶ Rupa Chanda, *Migration between South and Southeast Asia: Overview of Trends and Issues* (2012) accessed 05 March 2014. 8. And Graeme Hugo, ‘The Future of Migration Policies in the Asia-Pacific Region’ (2010) <http://goo.gl/FWsMFz>, accessed 17 December 2013.

³⁷ Chanda (n 36). 10.

³⁸ *ibid.* 3-4.

³⁹ Stephen Castles and Mark J Miller, *Migration in the Asia-Pacific Region* (2009) <http://goo.gl/4ZqVxF>, accessed 27 January 2014.

⁴⁰ IOM, Regional Office for Southeast Asia (n 35). 116.

⁴¹ Chanda (n 36). 8.

⁴² IOM, Regional Office for Southeast Asia (n 35). 123.

⁴³ Jacqueline J Larsen, *Migration and people trafficking in southeast Asia* (2010) accessed 05 March 2014. And IOM, Regional Office for Southeast Asia (n 35). 123. (Graeme Hugo 2005 in IOM)

⁴⁴ *ibid.* 119.

⁴⁵ Graeme Hugo, ‘International Migration in Southeast Asia since World War II’ in Aris Ananta and Evi N Arifin (eds), *International Migration in Southeast Asia* (ISEAS Publication, Singapore 2004).

industry and in factories.⁴⁶ Migration for the purposes of marriage within or from South-East Asia is also increasingly common, with Japan, Taiwan and China as major destinations for brides-to-be.⁴⁷

Women and children may also be more susceptible to human trafficking and smuggling, which is pervasive across Southeast Asia, with countries in the region acting as a source, transit, and destination. As of 2000, an estimated 200-225,000 women and children were trafficked from Southeast Asia each year.⁴⁸ The movement of irregular migrants is facilitated by a well-developed international migration industry, where officials and middlemen may serve both documented and undocumented migrants.⁴⁹ According to IOM, human trafficking is prominent in Southeast Asia given the region's socio-economic disparities, its long contiguous border, and the "relatively few legal migration alternatives."⁵⁰ While the extent of irregular migration is difficult to quantify, it has been estimated that 30 to 40 percent of all migration in Southeast Asia is irregular.⁵¹ As of 2008, Malaysia and Thailand, as the primary destinations, had an estimated three million undocumented migrants,⁵² with Thailand hosting approximately 1.7 million of those migrants,⁵³ some 75 to 80 per cent originating from Myanmar.⁵⁴ However, as of 2004, "the largest single flow of undocumented migration has been from Indonesia to Malaysia, a flow which is second only to the Mexico-U.S. movement in terms of the sale of long-standing undocumented migration."⁵⁵

By joining the overall migration flows, displaced people are potentially exposed to the same risks of other migrants. Identifying these broader migration risks can help inform possible mechanisms for mitigating them in disaster contexts.

2.3.2 Natural Hazards, Environmental Degradation and Migration in Southeast Asia

Increasingly, environmental factors have been identified as a driver of migration in Southeast Asia. Studies in Viet Nam,⁵⁶ Cambodia,⁵⁷ Myanmar,⁵⁸ and Thailand⁵⁹ have all identified natural hazards such as floods, river bank erosion, and droughts as factors influencing migration, albeit in many cases indirectly through the effect of such disasters on livelihoods.⁶⁰ For example, the 2012 *Where the Rain Falls* Study in Viet Nam found that "poor, landless and land-scarce households are most vulnerable to the adverse effects of changing rainfall patterns and flood regimes" and consequently "out-migration is an increasingly important adaptation to multiple threats."⁶¹ The study also found that seasonal migration is common during the flood season to supplement household income, with some 60 percent of households having at least one person migrate, generally beginning in their early twenties, to work as industrial workers outside the province, or on farms or local factories within the province.⁶² The 2011 flooding in Cambodia also had a significant impact on migration, with almost ten percent of households reporting that after the flood a household member had migrated, with more than half citing the flood as the main reason.⁶³

⁴⁶ *ibid.* 51.

⁴⁷ Castles and Miller (n 39).

⁴⁸ Annuska Derks, *Combating Trafficking in South-East Asia: A Review of Policy and Programme Responses* (2000) accessed 07 October 2014.

⁴⁹ Hugo (n 36). 29.

⁵⁰ IOM, Regional Office for Southeast Asia (n 35). 114.

⁵¹ Larsen (n 43).

⁵² *ibid.*

⁵³ Castles and Miller (n 39).

⁵⁴ Larsen (n 43).

⁵⁵ Hugo (n 45). 44. 52

⁵⁶ Nguyen Viet Khoa, Nguyen Cong Thao and Kees Van der Geest, *"Where the Rain Falls" Project Case Study: Viet Nam: Results from Dong Thap Province, Thap Muoi District* (Bonn 2012).

⁵⁷ Social Environment Research Consultants, 'A Comparative Picture of Migration in Laos, Myanmar, Cambodia, Vietnam and Thailand' <http://goo.gl/HRXyP>, accessed 25 September 2014.

⁵⁸ Mekong Migration Network and Asian Migrant Centre, *Climate Change and Migration: Exploring the Impacts of Climate Change on People's Livelihoods and Migration in the Greater Mekong Sub-region* (2013) accessed 25 September 2014.

⁵⁹ Panomsak Promburom and Patrick Sakdapolrak, *"Where the Rain Falls" Project Case Study: Thailand: Results from Thung Hua Chang District, Northern Thailand* (Bonn 2012).

⁶⁰ 'Climate Change Adaptation and Migration in the Mekong Delta, Workshop Report' (2012).

⁶¹ Nguyen Viet Khoa, Nguyen Cong Thao and Kees Van der Geest (n 56).

⁶² *ibid.*

⁶³ UNWFP and others, *2012 Cambodia Post-Flood Relief And Recovery Survey* (2012) <http://goo.gl/QG35n9>, accessed 04 February 2014 xi.

Another 2012 study in Cai Nuoc District, Ca Mau Province, Viet Nam, which is facing increased levels of saltwater intrusion due to environmental and agricultural changes, found that families used different migration strategies: permanent vs. temporary, and single person vs. entire family moving.⁶⁴ Dun concluded that her study “serves to show the cascade of changes that can lead to financial distress and trigger an eventual migration decision following a slower process of environmental change, namely increasing salinization in the particular agrarian context of the Mekong Delta.”⁶⁵

Yet another 2012 study in a drought prone region of Myanmar found that lack of employment (77 per cent) and environmental changes (72 per cent) were the main reasons for migrating, when provided with the opportunity to choose more than one main reason.⁶⁶ Other reasons included low wages, lack of education and insufficient basic services. Similarly, in a drought-affected area of Cambodia, it was found that “drought had exacerbated the economic hardships” motivating many young people primarily from farming families to migrate.⁶⁷ Finally, in Thailand’s Northern Province of Lamphun, rainfall-related events were found to negatively impact livelihoods within a context in which migration is “widespread and strongly associated with economic and social factors.”⁶⁸ Thus, while environmental factors were found to play only “subordinate role” in migration decisions, the study concluded that migration is “an important dynamic to strengthen community resilience against climatic stress.”⁶⁹

2.4 PLANNED RELOCATION

According to the *IASC Operational Guidelines on the Protection of Persons in the Context of Natural Disasters*, permanent relocation is defined as, “The act of moving people to another location in the country and settling them there when they no longer can return to their homes or place of habitual residence.”⁷⁰ Permanent planned relocation may be relevant in the context of disasters and effects of climate change in three scenarios:

- ❶ as a preventative measure within the country of origin to reduce the risk of displacement in the future by moving people out of areas particularly at risk of sudden-onset disasters (such as flooding or land-slides) or becoming inhabitable in the face of environmental degradation;
- ❷ as a durable solution within the country of origin to allow for the return of people displaced internally or across international borders whose homes may need to be moved in the event that a disaster rendered their place of origin as no longer fit for habitation;
- ❸ as a durable solution in a receiving country in the extreme event that natural hazards or environmental degradation render large parts of or an entire country unfit for habitation (e.g., low-lying island states).

There is a significant body of literature on relocation (both forced and voluntary) in different contexts that are relevant to displacement in disaster contexts.⁷¹ In general, because of the many potential negative effects associated with the process, research strongly suggests that relocation in the context of natural hazards and environmental degradation only take place as a last resort after all other options have failed and community resilience has significantly eroded.⁷²

⁶⁴ Olivia Dun, ‘Agricultural Change, Increasing Salinisation and Migration in the Mekong Delta: Insights for Potential Future Climate Change Impacts?’ in Lorraine Elliott (ed), *Climate Change, Migration and Human Security in Southeast Asia* (S. Rajaratnam School of International Studies 2012).

⁶⁵ *ibid.*

⁶⁶ Mekong Migration Network and Asian Migrant Centre (n 58).

⁶⁷ Social Environment Research Consultants (n 57).

⁶⁸ Panomsak Promburom and Patrick Sakdapolrak (n 59).

⁶⁹ *ibid.*

⁷⁰ IASC, *IASC Operational Guidelines on the Protection of Persons in Situations of Natural Disasters*. The Brookings-Bern Project on Internal Displacement (2011).

⁷¹ See for example, Graeme Hugo. “Lessons from Past Forced Resettlement for Climate Change Migration,” Revised Draft Chapter 9, Etienne Piguet, Antoine Pecoud and Pal de Guchteneire (eds.), *Migration and Environment and Climate Change*, UNESCO, May 2010; Anthony Oliver-Smith and Alex de Sherbinin. “Something Old and Something New: Resettlement in the Twenty First Century,” Institute for the Study of International Migration, Georgetown University, Washington, 2013; Elizabeth Ferris. *Protection and Planned Relocation in the Context of Climate Change*. UNHCR Legal and Protection Policy Research Series. Geneva, UNHCR, July 2012.

⁷² Hugo, Graeme. “Climate Change-Induced Mobility and the Existing Migration Regime in Asia and the Pacific,” in *Climate Change and Displacement: Multidisciplinary Perspectives*. McAdam, Jane, Ed., Hart Publishing, Oxford, 2012, 10.

2.4.1 Examples from Southeast Asia

The Government of Viet Nam's "Living with Floods" policy addresses the needs of populations affected by the extensive flooding that occurs annually in the Mekong Delta. As part of this policy, from 2001-2005, some 1 million people in 200,000 households were moved to resettlement clusters, which are designed to be accompanied by new infrastructure and public buildings.⁷³ Similarly, although on a lesser scale, as of July 2012, the Government of Cambodia planned to relocate 125 households as part of a project to improve drought and flood risk management through the Flood and Drought Risk Management and Mitigation Project.⁷⁴

Elsewhere in the region, volcanoes, landslides and mudslides have necessitated the relocation of villages in Indonesia and Cambodia. For example, the Government of Indonesia relocated some 2,500 families who were displaced by the 2010 eruption of Indonesia's Mount Merapi and subsequent flooding when their villages were designated as within a disaster prone region.⁷⁵

Relocation has also been necessary in the Philippines after a number of typhoons, including Typhoon Fengshen, Tropical Storm Washi, and, Typhoon Haiyan/Yolanda. For example, an unspecified number of families from Iloilo Province were relocated to nearby sites after Typhoon Fengshen destroyed their homes in 2008.⁷⁶ Prior plans by NGOs, community groups, and local governments to relocate poor households exposed to flood risks in the area had already led to the purchase of land for relocation, which allowed affected families to purchase homes using low-interest loans.⁷⁷ Myanmar also relocated disaster-affected communities following Cyclone Nargis.

⁷³ Vo T Danh and Shahbaz Mushtaq, 'Living with Floods, An evaluation of the resettlement program of the Mekong Delata of Vietnam' . 183.

⁷⁴ Royal Government of Cambodia, *Greater Mekong Subregion: Flood and Drought Risk Manament and Mitigation Project* (2012) <http://goo.gl/xf6jS6>, accessed 17 February 2014.

⁷⁵ Bambang Muryanto, 'Residents refuse to relocate from slopes of Merapi' The Jakarta Post (08 December 2012) <http://goo.gl/jsw0Xs>, accessed 20 February 2014.

⁷⁶ *Philippines: Typhoon Sendong - A disaster that waited to happen* (2011). 85.

⁷⁷ *ibid.* 85.



3. TOWARDS A PROTECTION AGENDA: THEMATIC ISSUES IN SOUTHEAST ASIA

Building upon the background of disasters and human mobility in Southeast Asia presented above, this section addresses three specific thematic issues for further discussion within the Regional Consultation: 1) Preventing and Mitigating the Negative Effects of Internal Displacement; 2) Cross-Border Population Movements; 3) Migrants Abroad in Disaster Contexts.

3.1 PREVENTING AND MITIGATING THE NEGATIVE EFFECTS OF INTERNAL DISPLACEMENT

States have the primary responsibility to provide protection and assistance to their citizens. In the context of natural hazards, this duty requires states to prepare for foreseeable disasters and to do what is possible to prevent threats to the lives and property of their people, including preventing displacement.⁷⁸ Disaster risk reduction activities, contingency planning exercises, infrastructure improvements, relocating people at risk of displacement to safer areas, land reform and other measures to improve resilience are all potential actions to prevent displacement. State responsibility may also require the government to mobilize relevant regional and international organizations, arrangements and resources.⁷⁹

3.1.1 Disaster Risk Reduction, Climate Change Adaptation, and Development Planning

Disaster risk reduction activities play a particularly important role in building the resilience of disaster-affected communities to prevent displacement, strengthening host communities' capacity to receive displaced persons, and finding durable solutions to end displacement. Within the region, the ASEAN Committee on Disaster Management is responsible for disaster risk management at the regional level and executes the Agreement on Disaster Management and Emergency Response (AADMER), which "is the first legally binding HFA-related instrument in the world."⁸⁰

All states have designated national authorities responsible for disaster risk reduction and disaster management, with most having national disaster management legislation. Viet Nam, for example, is in the process of drafting a national law that will "embed international commitments, such as the Hyogo Framework for Action and the ASEAN Agreement on Disaster Management and Emergency Response, to address the needs of those

⁷⁸ Walter Kälin and Nina Schrepfer, *Protecting People Crossing Borders in the Context of Climate Change Normative Gaps and Possible Approaches* (2012). See also Nansen Principle II, which confirms that, "States have a primary duty to protect their populations and give particular attention to the special needs of the people most vulnerable to and most affected by climate change and other environmental hazards, including the displaced, hosting communities and those at risk of displacement" and UNHCR, 'Summary of Deliberations on Climate Change and Displacement' (2011) 23 *International Journal of Refugee Law* 561.

⁷⁹ *ibid.*

⁸⁰ ASEAN, 'ASEAN Agreement on Disaster Management and Emergency Response, Work Programme for 2010-2015' <http://goo.gl/OKS7eA>.

at risk.”⁸¹ However, to date human mobility has not been prominent within ASEAN’s regional climate change adaptation strategies, or within national adaptation plans. Development plans and strategies do, however, include provisions for building resilience for future disasters.

A persistent challenge in disaster risk reduction and resilience building measures is closing the gap between development initiatives and humanitarian response phase. At the national level, this challenge illustrates the need for coordination between government departments, and increased integration of elements of disaster risk management plans into development policies and national adaptation plans.

Participants could discuss how disaster risk reduction, climate change adaptation, and development strategies in the region could better address the concerns of displaced persons in disaster contexts, including the potential for cross-border movements, by identifying examples of good practices and lessons learned from past experience.

3.1.2 Protection for Internally Displaced Persons (IDPs)

People displaced in the context of disasters have particular protection needs linked to the type of natural hazard and the involuntary nature of their movement. For example, in the case of displacement following a sudden-onset disaster, people may flee without essential legal documents such as identity cards and marriage certificates, or documents may be destroyed. An inability to provide legal documentation in the aftermath of the 2008 Cyclone Nargis in Myanmar posed numerous problems for IDPs trying to travel, register children for school, access social service or even apply for jobs.⁸² Following Typhoon Haiyan/Yolanda, lost or destroyed documents may have prevented displaced and disaster-affected people from leaving the country to seek work abroad when they faced livelihood challenges at home.

During flight, family members may become separated, or face sexual and gender based violence. For example, to combat potential human trafficking in the aftermath of the 2013 typhoon, the Government of the Philippines and international humanitarian actors created Task-force Yolanda. Displaced people may also need emergency shelter, and access to health services, education, and psycho-social counselling. Sometimes the need for ongoing humanitarian assistance is underestimated, with assistance needed months or even years after the disaster. For example, after three typhoons hit the Philippines in 2009, humanitarian actors recognized that the continued displacement demanded a more robust IDP registration and camp management structures, as well as a durable solutions strategy linked to the closure of IDP camps.⁸³ Upon return, displaced individuals or communities may find that their right to enjoy their land and property rights has been affected in their absence. Displacement may also result in discrimination and limited access to participation and consultation in planning processes for disaster relief and recovery. Finally, the poor are often the most likely to be displaced. For example during the 2011 floods in Cambodia, “nearly 20 percent of the poorest households living in [flood affected] areas were forced from their homes compared to just one percent of the richest households.”⁸⁴

Participants to the Regional Consultation could discuss the link between internal displacement and cross-border displacement, and the extent to which the provision of protection and assistance in the event of internal displacement in disaster contexts reduces the need to seek assistance outside of one’s own country. One challenge identified in recent disaster response efforts, such as during the 2011 floods in Cambodia and Thailand, is the fact that national authorities do not always make formal requests for international assistance although it may be welcomed, which one evaluation found resulted in uncertainty and delayed the effectiveness of the humanitarian response.⁸⁵ Thus participants could also discuss the potential role of regional disaster response mechanisms, such as the AHA Centre, to support national response efforts. Participants are invited to share experiences of other protection and operational challenges, and examples of good practices about how to respond to these gaps.

⁸¹ Government of the Socialist Republic of Viet Nam and United Nations in Viet Nam, *Viet Nam One Plan 2012-2016* (Ha Noi 2012) <http://goo.gl/dvQcRX>, accessed 29 September 2014.

⁸² Susanne R Pedersen, *End of Mission Report (PROCAP)* (2009) accessed 03 February 2014. 7

⁸³ Hannah Entwisle, *The World Turned Upside Down: A review of protection risks and UNHCR’s role in natural disasters* (2013) <http://www.unhcr.org/51408d589.pdf> accessed 01 October 2014. 22

⁸⁴ UNWFP and others (n 63) xi.

⁸⁵ Rebecca Barber, *Responding to Emergencies in Southeast Asia: Can we do better?* (East Melbourne 2012) <http://goo.gl/v0x3UZ>, accessed 26 September 2014.

3.1.3 Planned Relocation

Planned relocation may be an option to prevent displacement in the context of slow-onset disasters, such as those associated with rising sea levels, or when it has been determined that particular areas face a high level of risk from a natural hazard. Planned relocation may also be appropriate as a potential durable solution to displacement, such as when displaced persons' original place of residence is no longer habitable following a sudden-onset disaster.

Studies on the planned relocation process into "residential clusters" within Viet Nam's Living with Floods policy have found variable success related to livelihoods, with farmers and fishers facing reduced opportunities,⁸⁶ while small business owners found improved opportunities. A study in Quang Tri Province found that local ethnic minorities within the receiving community benefited from knowledge from the relocated members, and women had improved livelihood opportunities, although in general the processes tended to lack transparency and adequate community participation. In Tan Chau district a study concluded that while the residential clusters were safer, the overall livelihood security and opportunities were reduced in the relocation process.

According to Graeme Hugo, "Ultimately, the key indicator of success in displacement and resettlement must be that those displaced are established at their destination with, at minimum, the same level of living they enjoyed at the origin, but desirably and improved standard of living."⁸⁷ In the case of Viet Nam, an Oxfam-UNDP study identified the need for more comprehensive planning, improved services and infrastructure in relocation sites, and strengthened livelihood support,⁸⁸ such as vocational training and the provision of adequate public facilities.

Participants could discuss what lessons have been learned from past experience within Southeast Asia regarding planned relocation, and how these could be applied within the context of future disasters and the impact of climate change.

3.2 CROSS-BORDER POPULATION MOVEMENTS

3.2.1 Migration as Adaptation

In the context of slow-onset disasters or lands that gradually become uninhabitable due to cumulative sudden-onset disasters, research to date indicates that people tend to increasingly migrate from at risk areas over time, as opposed to waiting until a crisis point arrives.⁸⁹ In such situations, the responsibility to prevent displacement could also mean that states have a duty to try to secure legal, voluntary means for their citizens to move to another part of the country, or in exceptional cases, to migrate abroad. It is for this reason that the 2011 Nansen Conference, which was hosted by the Government of Norway to discuss the nexus between climate change and displacement, urged national governments to, 'proactively anticipate and plan for migration as part of their adaptation strategies and development plans...'⁹⁰

In times of flooding and drought, permanent, temporary and circular migration has commonly been utilized in Southeast Asia to generate additional income through remittances. Throughout the region, remittances sent by migrants abroad play an essential role in supporting family members left behind. For example, in 2012 the Philippines's 4.28 million emigrants sent home approximately 24.45 billion USD, just over half of the total 47.96 billion sent by Southeast Asian countries that year.⁹¹ Thus, external support networks established through migration have the potential to significantly contribute to strengthening community resilience to natural hazards, and consequently reducing displacement. However, according to an Asian Development Bank report, "The emphasis of policy in Asia and the Pacific has been on constraint, policing and exclusion, rather than migration management. These barriers are likely to be even more significant to environmental migrants in the future, unless changes are made."⁹²

⁸⁶ All referenced studies in this paragraph are taken from presentations as reported in the joint IOM, Can Tho University and UNDP 2012 Climate Change Adaptation and Migration in the Mekong Delta Workshop Report, (n 60).

⁸⁷ Graeme Hugo, 'Climate Change and Migration: Some Lessons from Existing Knowledge of Migration in Southeast Asia' in Lorraine Elliott (ed), *Climate Change, Migration and Human Security in Southeast Asia* (S. Rajaratnam School of International Studies 2012).

⁸⁸ (n 60) 16.

⁸⁹ Kälin, Walter and Nina Schrepfer, "Protecting People Crossing Borders in the Context of Climate Change: Normative Gaps and Possible Approaches," UNHCR Legal and Protection Policy Research Series, February 2012, p. 41.

⁹⁰ Cited in Kälin, Walter and Nina Schrepfer, "Protecting People Crossing Borders in the Context of Climate Change: Normative Gaps and Possible Approaches," UNHCR Legal and Protection Policy Research Series, February 2012, 61.

⁹¹ ASEAN Business News, 'The Philippines Tops List of Southeast Asia Remittances' (23 May 2013) <http://goo.gl/zzEF6D>, accessed 01 October 2014.

⁹² Graeme Hugo and et al. *Climate Change and Migration in Asia and the Pacific: Executive Summary* (Philippines 2009) <http://goo.gl/cuqBTm>, accessed 07 March 2014.

3.2.2 Measures to Promote Free Movement

The ASEAN countries are in the process of creating a regional common market – the ASEAN Economic Community (AEC) – aimed to be in place in 2015. The AEC will allow for the free flow of goods, services, investment capital, and skilled labour by reducing tariff barriers and streamlining administrative procedures. However, progress to date has been slow.

In the absence of regional frameworks, almost all states in Southeast Asia have negotiated separate bi-lateral agreements with their neighbors. Countries receiving labour migrants “generally have a two-tier migration system, one for highly skilled labour and one for unskilled or semi-skilled contract labour.”⁹³ These agreements also include visa-free entry and stay for various lengths of stay, between 14 to 30 days, with entry for many ASEAN nationals to Thailand reduced from 30 to 15 days if they do not arrive by air. Finally, as noted previously, the Cebu Declaration addresses the rights of migrant workers within ASEAN Member States.

Despite such arrangements, migrants may be extremely vulnerable to violence, exploitation and other types of protection risks from traffickers, smugglers or criminal networks. Notably, during the Fifth Ministerial Conference of the Bali Process, the Ministers in attendance “underscored the importance of addressing humanitarian and protection needs in managing irregular movement.”⁹⁴ Additionally, it was recognized that the causes of irregular movements are “complex and multi-dimensional,” and that States should “continue to work with countries of origin...to address where possible underlying factors which made people vulnerable to irregular movement.”⁹⁵

Participants in the Consultation will be invited to discuss in what contexts migration could be viewed as positive way to adapt to environmental degradation and climate change. Participants could also discuss what role governments could play in promoting migration as an adaptation measure, and explore how existing agreements could facilitate migration as a positive form of adaptation in times of environmental stress, addressing in particular the severe protection challenges facing migrants.

3.2.3 Preparing for Cross-Border Movements in the Context of Disasters and Natural Hazards

According to the IPCC, climate change is expected increase the number of people displaced. Displacement across international borders poses an additional, distinct set of protection needs and challenges. There is no temporary protection scheme in Southeast Asia that explicitly addresses cross-border displacement in disaster contexts, nor are there universally applied criteria to determine, in the context of disasters, when a movement could be characterized as forced across international borders for the purposes of international law.⁹⁶ Regional migration processes, such as the Bali Process, the Colombo Process, and follow-up to the Jakarta Declaration, have also not addressed the specific needs of displaced persons in disaster contexts, although they do seek to address the underlying causes of irregular migration.

⁹³ Hickey Maureen, Pitra Narenda and Katie Rainwater, *A Review of Internal and Regional Migration Policy in Southeast Asia* (2013) <http://goo.gl/ycErii>, accessed 28 January 2014.8-9

⁹⁴ Bali Process, *Fifth Ministerial Conference on the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime: Co-Chairs' Statement* (2013) <http://goo.gl/yelzL8>, accessed 15 April 2014. 3.

⁹⁵ *ibid.* 3.

⁹⁶ Drawing on Article 1(A)2 of the Refugee Convention, Walter Kälin proposes that a “person displaced across borders by the effects of climate change as a person in need of international protection” should meet the following criteria: 1) “Outside the country of origin or habitual residence,” 2) “Danger to life, limb or health as a consequence of the effects of climate change or the nature of the response, or the lack thereof, by competent authorities in the country of origin or habitual residence,” 3) “Unable or unwilling to avail oneself of the assistance and protection of the country of origin or habitual residence.” He suggests that these criteria be interpreted based upon a “returnability” test that analyzes the “permissibility, feasibility (factual possibility) and reasonableness of return.” Kälin in McAdam (ed) (n 33).

Admission and Stay

There is no assurance under international law that a person will be admitted and receive protection in another country in the context of a sudden-onset or slow-onset disaster.⁹⁷ Although human rights law provides “an indirect right to be admitted and to stay where the removal of a person back to the country of origin would amount to inhumane treatment,”⁹⁸ this does not address all displacement situations.⁹⁹ Furthermore, while the International Convention on Protection of the Rights of All Migrant Workers and Members of their Families provides some protection for migrant laborers, it does not grant them a right to admission or continual stay in the country. Similarly, the UNHCR Executive Committee has argued that “those rescued at sea should be provided with at least temporary admission to a State,” with Goodwin-Gill suggesting that this principle could be applied in cases where people cross borders to seek protection and assistance in the context of sudden-onset disasters.¹⁰⁰

Ensuring that displaced people can access protection in another country in the context of disasters demands international collaboration and cooperation, since national authorities cannot always find solutions on their own. Walter Kälin and Nina Schrepfer have argued, “in the absence of an ability to assist and protect them, [the state of origin] should advocate for and safeguard their interests in the state in which they have found refuge, for example by activating a temporary protection scheme where possible or even necessary.”¹⁰¹

Outside of the region, citizens from some Southeast Asian countries have been able to benefit from different forms of migration mechanisms following sudden-onset disasters. For instance, the Government of Canada has expedited immigration procedures for individuals who are “significantly and personally affected” by selected disaster situations, such as the 2004 Indian Ocean Earthquake and Tsunami and the 2013 Typhoon Haiyan/Yolanda in the Philippines.¹⁰² The Government of Australia also “put high priority” on processing temporary visas for those affected by the 2004 Tsunami, as well as fast-tracking existing applications.¹⁰³

Notably, following Typhoon Haiyan/Yolanda in 2013, the Government of the Philippines requested that the US Government activate Temporary Protected Status for its citizens. TPS is granted under the US Immigration Act of 1990 to people unable to return safely to their home country because of an environmental disaster that temporarily, but substantially, disrupts living conditions.¹⁰⁴ The TPS will only be activated upon the request of the affected country, and potentially allows for benefits such as an employment authorization document.¹⁰⁵ As of 13 August 2014, the US Department of Homeland Security had not made a decision on the Philippines’ request, which could affect some 200,000 Filipinos.¹⁰⁶ The Government of the Philippines and Filipino-American groups have argued that relief efforts continue to strain national capacity, citing that some two million people are still in need of durable shelter options. Pending a decision, US Citizenship and Immigration Services has highlighted other relief procedures available for Filipino typhoon victims, which include expediting ongoing procedures and the possibility to apply for a change in immigration status.

⁹⁷ Kälin and Schrepfer have proposed the following as necessarily elements to be addressed: “Movement-related rights: Beneficiaries should be entitled (i) to enter countries of refuge, (ii) to stay there temporarily, i.e. as long as the obstacles to their return exist; (iii) to protection against *refoulement* as well as expulsion to other countries; and (iv) to permanent admission if after a prolonged period of time (some years) it becomes clear that return is unlikely to become an option again.”

⁹⁸ *Ibid* at 50; See McAdam, Jane, “Climate Change, Forced Migration, and International Law” (Oxford University Press, 2012) 49.

⁹⁹ Note that the outcomes from the Bellagio Conference on Climate Change and Displacement stated that in the case of a mass influx of individuals, states have recognized “minimum obligations to ensure admission to safety, respect for basic human rights, protection against *refoulement* and safe return when conditions permit to the country of origin. In an analogous situation where persons are in distress at sea, states have accepted time honoured duties to come to their rescue.” See UNHCR, “Summary of Deliberations on Climate Change and Displacement,” Bellagio Conference on Climate Change and Displacement, (2011). This recognition to date has only been formally recognized within the context of identifying refugees. However, some examples of state practice suggest that states are recognizing obligations in other contexts as well, though not consistently or in a widespread manner. See also the International Convention on the Safety of Life at Sea as updated in 1974, and the International Convention on Maritime Search and Rescue of 1979.

¹⁰⁰ McAdam, Jane, “Climate Change, Forced Migration, and International Law” (Oxford University Press, 2012) 262.

¹⁰¹ Kälin, Walter and Nina Schrepfer, “Protecting People Crossing Borders in the Context of Climate Change: Normative Gaps and Possible Approaches,” UNHCR Legal and Protection Policy Research Series (2012).

¹⁰² Government of Canada, “Notice- Immigration Measures in Support of the Government’s Response to Typhoon Haiyan,” 13 November 2013. <http://goo.gl/CxqJvI>, accessed 28 May 2014.

¹⁰³ Frank Laczko and Elizabeth Collett, ‘Assessing the Tsunami’s Effects on Migration’ (April 2005) <http://goo.gl/h49Xss>.

¹⁰⁴ Martin, Susan, “Climate Change and Migration” (German Marshall Fund of the United States, 2010).

¹⁰⁵ *USCIS Extends Relief Measures for Filipino Typhoon Victims* (Washington, DC 2014).

¹⁰⁶ *US Department of Homeland Security Tells Filipino-American Community: ‘We Hear You on TPS’* (Washington, DC 2014).

One challenge identified by rights advocates is the need for the TPS scheme to address situations when people are displaced for years without a durable solution. The scheme was developed to grant displaced people a six-month stay, extendable up to 18 months. However, to date, some have held the status for as many as 20 years.¹⁰⁷

Participants to the Regional Consultation can consider under what circumstances it may be appropriate to ensure that a disaster-displaced person can legally cross an international border to receive protection assistance. In such cases, participants could discuss what criteria would be necessary to identify individuals in need of protection within the larger mixed migration flows, and what national and regional policies might need to be developed to facilitate admission.

Status during Stay

Even under normal circumstances migrants may face a number of protection related challenges, including expensive consular services, discrimination, socio-cultural adaptation, limited communication with home, lack of documentation, informal labour status and low wages. In the event that a disaster-displaced person receives the right to enter a new country, on either a temporary or longer-term basis, it will be important to clarify their rights and responsibilities for the duration of their stay, taking into account the capacity of receiving states and host communities.¹⁰⁸ As Jane McAdam points out, “limbo is in no-one’s interest.”¹⁰⁹

State cooperation to delineate and agree upon such rights would be essential.¹¹⁰ Ideally, states from sending countries could play a role in negotiating these in advance and in consultation with potentially affected individuals and communities. Consulates could also offer services for their nationals abroad, such as providing information on cultural integration, or identity card and permit applications.

Search for Durable Solutions

States have the primary responsibility to find a durable solution for their displaced citizens or habitual residents. This section is primarily focused on the possibility of return for people displaced across international borders in the context of disasters, which could also be accompanied by an internal planned relocation process.

While many people may be able to return within a short period following a sudden-onset disaster, the experience of internal displacement shows that displaced people often return before immediate and future displacement-related risks have been fully addressed (rapid return in itself is not a solution). Recovering from a slow-onset disaster like drought poses even more challenges for building resilience and thus, sustainable solutions to displacement. Absent improved resilience to future disasters and environmental stress, returnees may continue to be at a high risk of repeated crises and recurrent displacement.

In some circumstances, return to one’s home after a disaster is not always possible, such as when the place of former residence is no longer inhabitable or too exposed to the risk of recurrent disasters. In such cases, alternative ways to end cross-border displacement include returning to the country of origin followed by a planned relocation to a new place of residence within the country, or in exceptional circumstances facilitating permanent admission to the country of refuge.

¹⁰⁷ Population Displacement, Relocation and Migration, Leighton; Alistair Bell ‘Congress Looks at Fixing “Temporary” US Immigration Limbo’ *NBC News* (Washington 2013)

¹⁰⁸ Depending on the duration of the displacement, Kälin and Schrepfer have proposed that status rights address the following: “(i) access to the labor market; (ii) access to housing, health services and education; (iii) protection against discrimination; (iv) freedom of conscious, religion and opinion; (v) property rights; (vi) the rights of person belonging to an ethnic, religious or linguistic minority to enjoy together with the other members of their group, their own culture, to profess and practice their own religion, or to use their own language; and be allowed (vii) to enjoy other relevant rights.” Kälin, Walter and Nina Schrepfer, “Protecting People Crossing Borders in the Context of Climate Change: Normative Gaps and Possible Approaches,” UNHCR Legal and Protection Policy Research Series (2012).

¹⁰⁹ McAdam, p. 50. For a detailed discussion on status rights, see McAdam (2012), 252-256.

¹¹⁰ Jane McAdam *Climate Change, Forced Migration, and International Law* 263

3.3 MIGRANTS ABROAD IN DISASTER CONTEXTS

Within these broader mixed migration flows and associated risks, specific protection concerns also arise for migrants residing in or transiting through a country when a disaster strikes, such as challenges accessing state protection and assistance as a non-documented person. In the aftermath of a disaster, migrants – both documented and undocumented – may face a heightened risk of arrest and/or deportation due to lack of documentation. The resulting fear or uncertainty for those individuals may further compromise their ability or willingness to access assistance and protection. Following the 2004 Indian Ocean Earthquake and Tsunami, for example, Thai officials deported Myanmarese who were unable to demonstrate their status as a registered migrant in Thailand, including both registered migrants who had lost their documentation in the disaster as well as irregular migrants.¹¹¹

The “ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers” (Cebu Declaration), which followed the 12th ASEAN Summit held in Cebu, Philippines in January 2007, sets out general principles and the obligations of sending and receiving states, as well as commitments by ASEAN Member Countries. It recognizes state sovereignty regarding migration policy for migrant workers, “including determining entry into their territory and under which conditions migrant workers may remain.” Notably, it cites “humanitarian reasons” when identifying the need for close cooperation to resolve the case of “migrant workers who, through no fault of their own, have subsequently become undocumented.” It also stipulates that sending states will “set up policies and procedure to facilitate aspects of migration of workers, including recruitment, preparation for deployment overseas and protection of the migrant workers when abroad as well as repatriation and reintegration to the countries of origin.”

3.3.1 Access to Humanitarian Assistance

Humanitarian assistance in disasters situations should be provided according to the universal principles of humanity, neutrality, impartiality and independence. In this spirit, the Cebu Declaration states that ASEAN Member Countries will “extend assistance to migrant workers of ASEAN Member Countries who are caught in conflict or crisis situations outside ASEAN in the event of need and based on the capacities and resources of the Embassies and Consular Office of the relevant ASEAN Member Countries, based upon bilateral consultations and arrangements.”¹¹²

In the aftermath of 2004 Indian Ocean Earthquake and Tsunami, the Thai Minister for Natural Resources and Environment, Suwit Khunkitti, said in response to reports that migrants from Myanmar had been denied emergency assistance, “In a catastrophe like this, everyone is entitled to aid regardless of whether they are Thai or foreigners.”¹¹³ Even so, documented migrant workers potentially face challenges, as Thai law does not authorize workers (with the exception of domestic, fisheries and water transport workers) to travel outside of the province where they are registered to work. Notably during the 2011 floods, the Thai government ordered police not to arrest migrants fleeing the disaster-affected areas.¹¹⁴ However, human rights advocates claimed discriminatory access to humanitarian assistance, with some activists claiming that authorities “failed to help migrants trapped in houses and factories.”¹¹⁵

¹¹¹ IOM/UNHCR/UNIFEM/UNOHCHR/WB (Inter-agency) (n 21).

¹¹² (n 9).

¹¹³ Sonny Inbaraj, ‘Tsunami Impact, Thai Compassion for Burmese Migrants Wears Thin’ Inter Press Service (13 June 2005) <http://goo.gl/Qokzzh>, accessed 29 January 2014.

¹¹⁴ IRIN, ‘MYANMAR-THAILAND: Undocumented workers exploited post-floods’ (08 November 2011) <http://goo.gl/l1fqeN>, accessed 26 September 2014.

¹¹⁵ Phongsathorn (n 22).

3.3.2 Consular Assistance

Disasters may also result in the sudden return of migrants, who may need additional assistance. For example, following the 2011 floods in Thailand, some 100,000 migrants from Myanmar crossed back into Thailand using Mae Sot pass between September and November 2011, with some reporting abuse and extortion when trying to return.¹¹⁶

Governments in Southeast Asia have created mechanisms to look after their citizens' needs when they are abroad. For example, in 1980 the Government of the Philippines established the Commission Filipinos Overseas, which provides advice on national policy development, promotes the interests of Filipinos overseas, seeks to preserve cultural, economic and social ties with the Philippines, and can serve as a liaison between Filipino migrants and the receiving country's government agencies.¹¹⁷ Similarly, the Government of Viet Nam also has an International Migration Division within the Ministry of Foreign Affairs that addresses the needs of its migrants abroad.

Yet, one study comparing migration in Lao PDR, Myanmar, Cambodia, Viet Nam and Thailand found little in terms of institutional or organizational support for people considering migration, concluding, "Reliable information is generally unavailable to villagers in advance of their departure and they leave home without adequate understanding of travel requirements, employment opportunities and the risk of traveling and living abroad. Few migrants knew of any organization they could contact for information, advice or advocacy abroad."¹¹⁸

Participants are invited to share their own experiences of when their migrants have been abroad in disaster contexts. Building upon their experiences, participants could discuss the key protection concerns for migrants abroad in disaster contexts, and identify potential options to improve regional cooperation and support in such situations.

¹¹⁶ IRIN (n 114).

¹¹⁷ Hugo (n 36).

¹¹⁸ Social Environment Research Consultants (n 57).



4. INTERNATIONAL COOPERATION AND SOLIDARITY

International cooperation and solidarity are essential elements in addressing the protection risks associated with cross-border displacement in the context of disasters. States have the primary responsibility to provide protection, assistance and durable solutions for their displaced citizens, as well as all people within their jurisdiction. However, if a situation or a disaster overwhelms the national capacity to respond, State responsibility requires States to mobilize relevant regional and international organizations, arrangements and resources.¹¹⁹

In the event of cross-border displacement in the context of a disaster, inter-state and regional coordination facilitating the movement of people and the humanitarian response will be essential. Collaboration also allows governments and other actors to pool resources, avoid duplication, and develop complementary assistance. While there are larger regional cooperation systems that link Southeast Asian states to other countries across Asia and the Pacific, the Association of Southeast Asian Nations (ASEAN) is the sole regional organization for Southeast Asian states exclusively.¹²⁰

Fully anticipating and responding to potential displacement dynamics requires coordination and planning across the various fields of disaster risk management, humanitarian response, human rights, migration, border management, development, and climate change. This section reviews these complex issues by providing a brief overview of existing laws, policies and processes at the global and regional level that are relevant to human mobility in the context of disasters and climate change.

4.1 GLOBAL

4.1.1 Post-2015 Framework for Disaster Risk Reduction

The key international document on disaster risk reduction is the 2005-2015 Hyogo Framework for Action (HFA),¹²¹ which identifies priority actions and provides resources for measures to strengthen disaster resilience. As noted previously, ASEAN's AADMER is a legally binding adaptation of the HFA. Implementation and revision of the HFA is supported by the UN Office for Disaster Risk Reduction (UNISDR), which maintains a regional office for Asia and the Pacific in Bangkok.

UNISDR is undertaking regional consultations to develop a post-2015 framework for disaster risk reduction. The 6th Asian Ministerial Conference on Disaster Risk Reduction (AMCDRR) took place in Bangkok, Thailand from 23 to 26 June 2014, and will feed into the Third World Conference for Disaster Risk Reduction to be held in Sendai City, Japan, from 14 to 18 March 2015.

¹¹⁹ United National General Assembly Resolution, A/RES/46/182.

¹²⁰ Membership includes Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam.

¹²¹ UNISDR, *Hyogo Framework for Action 2005-2015: International Strategy for Disaster Reduction International Strategy for Disaster Reduction* (2005).

4.1.2 World Humanitarian Summit

Globally, there is no one institution with a sole mandate to address cross-border disaster-induced displacement. While there is similarly no specific funding mechanism for humanitarian assistance for those displaced by natural disasters, the regular international humanitarian funding channels are available. These include the Central Emergency Response Fund (CERF), the Humanitarian Programme Cycle, and bilateral donations provided directly to national authorities and aid agencies. IOM launched a Migration Emergency Funding Mechanism in December 2011; however this internal funding mechanism is only available for IOM's activities.

The UN OCHA has announced plans for a World Humanitarian Summit to be held in Istanbul in 2016. The Regional Consultation for North and Southeast Asia took place from 22-23 July 2014 in Tokyo, Japan.

4.1.3 UN Framework Convention on Climate Change

The UN Framework Convention on Climate Change (UNFCCC) and its Kyoto Protocol are the leading international legal documents addressing climate change.¹²² While the original text of the Convention does not mention displacement and migration as possible consequences of climate change, section 14(f) of the Cancun Outcome Agreement from COP16 makes this link clear. Human mobility issues (displacement, migration, and planned relocation) are also addressed within the Subsidiary Body for Implementation's (SBI) Work Program on Loss and Damage. The UN Convention to Combat Desertification is similarly relevant within the context of climate change.

Past National Adaptation Programmes for Action (NAPAs) within the framework of the UNFCCC from Southeast Asia did not address human mobility. Neither Cambodia nor Lao PDR included references to human mobility within their National Adaptation Programme of Action submitted within the UNFCCC process, although Timor-Leste identified the potential for displacement, particularly in urban areas, due to the convergence of disasters and climate change.¹²³ States are currently submitting their National Adaptation Plans for initial feedback.

4.2 REGIONAL

4.2.1 Asian Development Bank

The Asian Development Bank (ADB) is involved in disaster risk reduction efforts and building resilience throughout the region, and has projects and programs in Southeast Asia that address climate-induced migration.¹²⁴

4.2.2 The Jakarta Declaration

The Jakarta Declaration emerged from the 20 August 2013 Special Conference on Irregular Movement of Persons hosted by the Government of Indonesia, which included ministers and high-level officials from 13 Asian and Pacific countries most affected by irregular migration, with additional participation by UNHCR and IOM.¹²⁵ Recognizing the complex and multi-dimensional causes of irregular migration in the region, that includes people smuggling and trafficking, as well as asylum seekers and refugees in the region, the Declaration acknowledges "the importance of development cooperation to address where possible the underlying factors which made people vulnerable to irregular movement."¹²⁶ Participants also emphasized the need for "common responses involving countries of origin, transit as well as destination" to address the issue, and also recognized the importance of burden sharing, collective responsibility and enhanced coordination to develop harmonized assessment processes, including through bilateral or regional arrangements.

4.2.3 Bali Process

On 30 March 2011, Bali Process Ministers adopted the Regional Cooperation Framework, in consultation with UNHCR and IOM, to address issues related to refugees, asylum seekers and irregular migration. The Regional Support Office in Bangkok supported the implementation of the Framework, and is staffed by IOM and UNHCR staff members.

¹²² Other relevant documents include the Nairobi Work Programme; the Barbados Programme of Action for the Sustainable Development of Small Island Developing States; the Mauritius Strategy for the Further Development of Small Island Developing States.

¹²³ Jane McAdam, *Climate change, forced migration, and international law* (Oxford University Press, Oxford, New York 2012).

¹²⁴ Asian Development Bank, '43181-012: Policy Options to Support Climate-Induced Migration' (2014) <http://goo.gl/TMZbPH>, accessed 02 April 2014. And Asian Development Bank (n 15).

¹²⁵ Participating states included Afghanistan, Australia, Bangladesh, Cambodia, Indonesia, Malaysia, Myanmar, New Zealand, Pakistan, Papua New Guinea, the Philippines, Sri Lanka and Thailand. *Jakarta Declaration on Addressing Irregular Movement of Persons* (Jakarta 2013) <http://www.unhcr.org/5214ae709.pdf> accessed 24 September 2014.

¹²⁶ *ibid.*

The outcomes of the Fourth Ministerial Conference of the Bali Process, held in April 2013, included a focus on harmonization of assessment processes for asylum seekers, law enforcement border management, strengthening national legal frameworks, and sharing migration-related information. As addressed in the Co-Chair's Statement, the Ministers in attendance "underscored the importance of addressing humanitarian and protection needs in managing irregular movement."¹²⁷ Additionally, it was recognized that the causes of irregular movements are "complex and multi-dimensional", and that states should "continue to work with countries of origin...to address where possible underlying factors which made people vulnerable to irregular movement."

4.2.4 Asia Pacific Forum of National Human Rights Institutions

The Asia Pacific Forum of National Human Rights Institutions' (APF) core functions include capacity building, advice, networking opportunities and regional and international engagement, notably with the ASEAN Inter-governmental Commission on Human Rights. Full and associate members from the region include: Indonesia, Malaysia, Philippines, Thailand, and Myanmar. APF held its 19th Annual Meeting from 3-5 September 2014 in New Delhi, India, to discuss its upcoming strategic plan for 2015-2020. The Report of the Forum Council Working Group (Australia, India, Korea, Palestine, and the Philippines) determined that the "mass movement of people" should be a key factor to consider in the delivery of services by the APF," explaining that for its purposes this included 'migrants', 'refugees' and 'internally and externally displaced people' moving for a "range of 'push' factors including internal or external conflict, persecution, economic opportunity, natural and human-made disasters, environmental degradation and human-induced climate change."¹²⁸

4.3 SUB-REGIONAL

4.3.1 ASEAN Agreement on Disaster Management and Emergency Response (AADMER)

AADMER established the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre) and the ASEAN Committee on Disaster Management, which play key roles in disaster risk reduction and disaster preparedness in Southeast Asia. To date, these bodies have not systematically addressed the potential for cross-border movements in the disaster situations and the role that disaster risk reduction can play in preventing displacement.

4.3.2 ASEAN Climate Change Initiative

ASEAN cooperation on climate change is one of ten priority areas within the ASEAN Socio-Cultural Community (ASCC) Blueprint 2009 – 2015. The ASEAN Working Group on Climate Change (AWGCC) was established in 2009 to oversee the implementation of the ASCC Blueprint and to implement the ASEAN Climate Change Initiative (ACCI), which was created in 2009 as "a consultative platform to further strengthen regional coordination and cooperation in addressing climate change." Among the eleven action items on climate change is the promotion of "strategies to ensure that climate change initiatives lead to economically vibrant and environment friendly ASEAN Community taking into account win-win synergy between climate change and the economic development."

The Action Plan on Joint Response to Climate Change was developed in 2012 to provide further details regarding implementation of the ASCC Blueprint and the ACCI. ASEAN climate change initiatives and strategies make no reference to displacement, migration or cross-border movements.

4.3.3 ASEAN Inter-governmental Commission of Human Rights (AICHR)

The ASEAN Inter-governmental Commission of Human Rights (AICHR) included migration as a thematic issue within its 2010-2015 work plan. Notably, a national workshop in Myanmar hosted by AICHR addressed the topic of Human Rights, Environment and Climate Change from 13-15 September 2014.¹²⁹

¹²⁷ Bali Process (n 94). 3.

¹²⁸ Asia Pacific Forum, *Strategic Planning: 19th Annual Meeting of the Asia Pacific Forum of National Human Rights Institutions* (New Delhi, India 2014) accessed 15 September 2014.

¹²⁹ ASEAN Inter-governmental Commission on Human Rights, 'Workshop on Human Rights, Environment and Climate Change, Myanmar' (15 September 2014) <http://goo.gl/oO5FLW>, accessed 15 September 2014.

4.3.4 Mekong River Commission

Mekong River Commission coordinates sustainable management and development of water resources in the Mekong River Basin, including through the use of cross-border and trans-boundary mechanisms. In 2009, the Mekong River Commission launched its Climate Change Adaptation Initiative (CCAI), a 15-year initiative (run over four phases) concerned with climate change impact assessments and adaptation planning, which will have significant implications for human mobility.¹³⁰

4.3.5 Humanitarian Coordination and Response

Where present, National Disaster Management Offices generally coordinate a national response to a disaster, often supported by a national society of the International Federation of the Red Cross and Red Crescent. If a disaster overwhelms national capacity, government authorities may request international humanitarian and development assistance. The international response is coordinated in collaboration with national efforts under the leadership of a UN designated Humanitarian Coordinator using the cluster system.¹³¹ A regional response to disasters in Asia is supported by the Bangkok-based UN OCHA Regional Office for Asia.¹³²


As in other humanitarian relief efforts around the world, the Protection Cluster has not been systematically activated in disaster response in Southeast Asia even when other clusters are used to coordinate an international humanitarian response.¹³³ Multi-country contingency planning for disasters that affect multiple countries also do not plan for cross-border movement.

¹³⁰ Emily Polack, *Integrating Climate Change into Regional Disaster Risk Management at the Mekong River commission* (2010) <http://goo.gl/wtYeOQ>, accessed 02 April 2014. 10.

¹³¹ For a detailed explanation of the Cluster Approach see, <http://goo.gl/R1jmbI>.

¹³² OCHA also maintains country offices in Indonesia, Myanmar and the Philippines.

¹³³ As set out in global agreements, the Protection Cluster may be led by UNHCR, UNICEF or OHCHR depending on conditions and capacity at the time clusters for particular disaster response have been activated.



5. CONCLUSION

Conclusions from the Nansen Initiative Southeast Asian Regional Consultation will take the form of an Outcome Document containing a set of messages on disasters and cross-border displacement (e.g., to inform ASEAN, and the overall Nansen Initiative process).

Expected outcomes from the Southeast Asian Regional Consultation may include the following:

- ❶ A better understanding of the overall displacement dynamics in the region (drivers, trends, patterns, pathways and characteristics of the population) and the general protection needs of people displaced by disasters;
- ❷ Identification of good practices, at regional, national and community levels, in establishing mechanisms for disaster preparedness, building resilience, and responding to and managing displacement risks;
- ❸ Identification of institutions, programs and policies that address the interests and rights of displaced populations to move (including transit) with dignity, in safety and with full respect for their human rights;
- ❹ An outcome document identifying common displacement challenges in the context of disasters and climate change in Southeast Asia, and agreement on recommendations on how to address them.

DISASTERS
CLIMATE CHANGE AND
DISPLACEMENT



EVIDENCE FOR ACTION

This is a multi-partner project funded by the European Commission (EC) whose overall aim is to address a legal gap regarding cross-border displacement in the context of disasters. The project brings together the expertise of three distinct partners (UNHCR, NRC/IDMC and the Nansen Initiative) seeking to:

- 1 › **increase the understanding** of States and relevant actors in the international community about displacement related to disasters and climate change;
- 2 › **equip them to plan for and manage** internal relocations of populations in a protection sensitive manner; and
- 3 › **provide States and other relevant actors tools and guidance** to protect persons who cross international borders owing to disasters, including those linked to climate change.

THE
NANSEN
INITIATIVE

DISASTER-INDUCED CROSS-BORDER DISPLACEMENT

Nansen Initiative Secretariat

International Environment House 2
7-9, Chemin de Balexert, 1219 Chatelaine, Geneva, Switzerland
Phone: +41 22 917 8205
info@nanseninitiative.org
www.nanseninitiative.org