



Protecting Migrants through Good Security Sector Governance in Southeast Asia

Thematic SSG Brief

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ASIA-PACIFIC



SECURITY SECTOR
GOVERNANCE NETWORK

DCAF Geneva Centre for Security Sector Governance

Published in Switzerland by DCAF - Geneva Centre for Security Sector Governance
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First published in January 2023.

Cite as: Kevin Socquet-Clerc, Holly O'Mahony, Anak Agung Banyu Perwita, Lorraine Elliott, and Sumitha Shaanthinni Kishna. Protecting Migrants through Good Security Sector Governance in Southeast Asia. Thematic SSG Brief. Geneva: DCAF - Geneva Centre for Security Sector Governance, 2023.

Series editor: Albrecht Schnabel

ISBN: 978-92-9222-668-8

Cover picture: Migrant fishermen queue up for an immigration officer in Samut Sakhon, Thailand. © International Labour Organization Asia (2011)

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Additional resources

The workshop programme and links to recordings of the public webinar are available at <https://www.asiapacificssg.com/post/public-webinar-protecting-vulnerable-migrants-through-good-ssg-in-southeast-asia>.

Acknowledgements

We would like to thank our DCAF colleagues from the Policy and Research Division, particularly Daniel Reimers, for their support, inputs and comments in developing the workshop that served as a basis for this thematic brief. We greatly benefitted from their previous research and analysis and their readiness to answer our questions throughout the process.

We are deeply appreciative of the insightful comments, inputs and contextualisation provided by the DCAF Asia-Pacific Unit's SSG Associates in Southeast Asia, who proposed the topic, participated in the preparation of the workshop and provided regular feedback and inputs throughout the development of this thematic brief. As for all activities by the DCAF Asia-Pacific Unit, the contributions of our SSG Associates are essential to producing quality work. The SSG Associates are Abel Amaral, Altaf Deviyati, Somsri Hananuntasuk, Jennifer Santiago Oreta, Asyura Salleh, Riyani Sidek, Kim Sun, Amara Thiha, and Julius Cesar Trajano.

We are very grateful to our fellow contributors for the insights shared in this volume, and for their patience in responding to our requests for revision and updates during the preparation of this research.

We thank Sabeena Bali for copyediting and proofreading and Floris de Klerk Wolters for the layout.

Executive Summary

Populations in Southeast Asia (SEA) have traditionally been mobile for a range of reasons, but mostly due to economic need, natural disasters or the outbreak of violence in their countries of origin. With a rapidly growing population in the region and increasingly disruptive impacts of climate change, SEA has experienced increased intra-regional migration in recent decades which will likely continue for the foreseeable future. Most migrants will face danger during their journey or in their country of destination. Their physical security can be impacted through direct abuse such as human trafficking or smuggling, which may involve or even be perpetrated by state and non-state security providers. More widely, their basic human rights such as access to health care or justice, or labour rights, are often violated. Some groups, such as women, are more often placed directly in vulnerable situations. For instance, female economic migrants are more likely to be employed in informal sectors such as domestic work, where employment is more precarious and workers face greater risk of mistreatment and exploitation. Female migrants also suffer disproportionately as a result of discriminatory migration laws and practices affecting equal pay, restrictions on work, pregnancy and childcare. Although the human security threats faced by migrants are clear, and there has generally been a shift from traditional state-centric security to non-traditional/human security, migrants are still overwhelmingly perceived as a security threat rather than a population in need of protection, leaving their security needs unmet.

Fortunately, there exist at the international, regional and national levels robust legal frameworks, norms and standards pertaining to the protection of migrants, which partly address the roles and responsibilities state security sector actors should play. However, these are rarely or only partially implemented due to a combination of insufficient capacity and lack of willingness from SEA governments. Furthermore, these provisions mostly ignore the importance of strong oversight mechanisms to ensure security sector providers are held accountable and provide their services with transparency. Finally, the legal frameworks created at the level of the Association of Southeast Asian Nations (ASEAN), like all ASEAN initiatives, are non-binding and thus often signed by member states less due to a genuine intention to implement and more for reputational benefit. Consequently, significant variation in the roles played by security sector actors in protecting migrants is observed in practice, with both positive and negative outcomes. Nonetheless, as migrants will come into contact with a whole range of security sector actors during their journey, these actors have the significant potential to protect them if they apply the principles of good security sector governance (SSG).

Non-state actors, including non-state security providers and oversight bodies, typically play a very important role in trying to compensate for state security institutions' shortcomings. Some non-state security providers help migrants during their journey, while others might facilitate their safe settlement in the country of destination. Local security providers such as religious or traditional leaders can support integration in the country of destination, and civil society organisations (CSOs) often provide material assistance and important information to migrants regarding their rights and

their options for accessing justice. In the absence of efficient governmental oversight mechanisms, CSOs and to a certain extent the media help to hold state security providers accountable and provide information to central authorities, who are often located far from the borderlands where migration occurs. Unfortunately, cooperation between state and non-state security actors is largely insufficient, if not non-existent, meaning that best practice-sharing and collaboration are not exploited to their full potential. Once the importance of the role of all security sector actors – both state and non-state, and both security providers and oversight bodies – is illustrated, we can understand how security sector reform (SSR), as the process of implementing good SSG principles, has an essential role to play in improving the protection of migrants in SEA. Based on this, a series of concrete recommendations can be proposed to support the efficient inclusion of migrant protection into SSR at all levels, from the regional or ASEAN level all the way to local authorities and local non-state security actors such as community leaders. **Crucially, the need to secure buy-in from security sector institutions at all levels underlies many deficiencies in migrant protection and presents a major entry point for improvements moving forward.**

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Introduction

Southeast Asia (SEA) is home to 10.6 million migrants.¹ Their motives for migrating are varied, but they all face a myriad of security threats along their journey. This situation of insecurity is exaggerated for migrants who find themselves in particularly vulnerable situations, often because they are forced to resort to illegal forms of migration or are unable to access the rights and protections they are entitled to.

While there are a plethora of existing resources and policy instruments supposed to ensure migrants' security, these tools rarely translate into improved security outcomes for migrants. The particular security threats faced by migrating populations are inadequately incorporated into conceptualisations and operationalisations of security at sub-national, national and international levels. As a result, state security sector actors fail to effectively recognise or respond to migration-related security threats, and so are not offering sufficient protection to migrating groups. The ineffectiveness of security provision for migrating populations is exacerbated by the fact that security sector institutions themselves are often direct contributors to the insecurity experienced by migrants, a failing which may stem from the continued portrayal of migrants' security as at odds with national security in the discourse and policies of many governments and regional bodies.

This misalignment of security provision with the realities of migrants across SEA can be improved through good security sector governance (SSG). Undertaking security sector reform (SSR), the process of applying principles of good governance such as accountability, inclusivity, effectiveness and the rule of law to the security sector, is thus a crucial policy response for improving the protection of migrants across SEA. Considering this underexploited nexus between migration and SSG/R for improving the protection of migrants, this Thematic SSG Brief gathers the insights of several experts on the topic to offer concrete suggestions for overcoming implementation barriers and better protecting migrants in SEA through security sector governance and reform (SSG/R), targeting relevant state and non-state actors at all levels.

Trends of Migration in SEA

SEA has a long history of domestic, regional, and transcontinental migration that is characterised by many overlapping patterns. Uniquely, SEA experiences more intra-regional migration than other parts of the world. Of the 23.6 million migrants from SEA that live outside their country of origin, nearly 15 million stay in Asia, and 7.1 million within SEA - representing nearly two-thirds of migrants in the region.² This not only shapes the specifics of the region's migration dynamics, but also highlights the relevance of regional responses and solutions to the ongoing challenges of migrant protection. The proportion of migrants received by each SEA nation relative to their total population

1 United Nations (2020) "International Migrant Stock 2020", https://www.un.org/development/desa/pd/content/international-migrant-stock_destination_and_origin_table_2.

2 Ibid.

varies significantly from country to country, dependent on migratory patterns but also on the vastly different population sizes among SEA countries.

In SEA, migration is mainly seasonal or short-term, with workers typically staying one to three years at a time.³ This impermanence is reflected in the main motives for migration in the region, with the majority being labour migrants working in sectors such as domestic work, fisheries or heavy manufacturing. The desire for domestic work has influenced the gender balance of SEA migrants, and consequently almost half of migrants from SEA are women, higher than the global average. In countries such as Thailand, this figure is as high as 61 percent.⁴

The onset of the COVID-19 pandemic has, predictably, significantly impacted migration trends in SEA. The closure of international borders and suspension of visas across the region have greatly inhibited migratory flows, and the economic consequences of the pandemic have curbed the incentives and demand for labour-related migration, causing many migrants to lose their jobs and return to their home countries. The imposition of domestic travel bans in some SEA countries, for example Myanmar and the Philippines, has also inhibited domestic movements of people. While travel restrictions are gradually lifted and migratory flows begin resuming as the pandemic eases, accurate figures on migratory trends in SEA from 2020 onwards will still be unavailable for at least several months. As a result, the true scale and nature of migration in the region, an underreported phenomenon to begin with, is even more uncertain at present. That being said, the fundamental motives for migration in SEA remain largely unchanged by the pandemic.

Even prior to COVID-19, migration in SEA was characterised by a high degree of ‘irregular’ migration, particularly from the Mekong sub-region to Thailand and Malaysia, and from Indonesia to Malaysia. Irregularity is a broad and poorly defined umbrella term, encompassing all migration that deviates to any extent from the official legal route(s) offered by governments. As a result, a huge range of different scenarios qualify as irregular, from migrants who simply hire an unofficial broker to speed up slow, inefficient legal systems – a common occurrence in SEA – to instances of human trafficking. There are many reasons why migrants in SEA may be forced to take alternative routes, all of which expose them to a range of vulnerabilities. For groups such as refugees or asylum seekers for whom migration serves as a disaster response mechanism, taking ‘regular’ routes is often even less feasible. As of 2020, SEA is home to more than 290,000 refugees and asylum seekers. Most of these are Rohingya refugees from Myanmar, yet even more Rohingya have left the sub-region and fled to neighbouring Bangladesh. However, within SEA Malaysia is by far the largest host of refugees and asylum seekers, hosting close to 184,000.⁵ Moreover, internal displacement is frequent in the region owing to its vulnerability to natural disasters and other climate-related security risks. The Philippines is easily the most affected by this, recording 4.1 million new disaster-

3 International Organization for Migration (2021) “Asia-Pacific Migration Data Report 2020”, <https://publications.iom.int/books/asia-pacific-migration-data-report-2020>, p. 46.

4 United Nations, note 1 above, destination and origin, table 1.

5 United Nations High Commissioner for Refugees (2022) “Figures at a Glance in Malaysia”, <https://www.unhcr.org/en-my/figures-at-a-glance-in-malaysia.html>.

induced displacements in 2019 alone.⁶

Although obtaining accurate data on irregular migration is particularly difficult, the onset of the pandemic clearly amplified the proportion of migrants in SEA experiencing vulnerabilities along their journeys. The interruption of safe, legal migration routes through the closure of international borders and the suspension of visas has forced more migrants in SEA to opt for irregular routes, exposing them to greater vulnerabilities. For instance, the International Organization for Migration reports that usage of falsified travel documents and rates of human trafficking among migrants have increased due to COVID-19.⁷ Relatedly, rates of internal displacement have increased since the onset of the pandemic, but asylum applications have decreased; restrictions on movement, decreased asylum processing capacities and the shutting of borders to asylum seekers altogether by some SEA countries have reduced the feasibility of seeking asylum. The magnitude of the challenge of protecting migrants is therefore evident, illustrated by the multitude of existing policy instruments on the topic which will be evaluated in subsequent sections. However, these provisions fail to translate into the successful protection of migrants in practice, due to weak policy effectiveness and implementation by security sector institutions at every level. As a result, governments and security sector institutions are inaccurately assessing, mitigating and responding to the varied security threats faced by migrants in SEA. However, SSG/R presents a promising entry point for improving their protection.

This Thematic SSG Brief will explore key dimensions of, and concrete steps towards, the question of better protecting migrants in SEA through good SSG. Firstly, the range of security threats faced by migrating populations in the region will be laid out. A more focused exploration of the specific threats faced by migrants in vulnerable situations, such as women and migrants during the COVID-19 pandemic, will then be presented to illustrate the relationship between migration, vulnerability and the role of security sector institutions. Secondly, the SSG/R-migration nexus will be examined, including the roles and responsibilities of security sector actors in migration processes and the potential place for SSG/R as a tool to improve the protection of migrants. Finally, suggestions will be offered to demonstrate how security sector actors at the regional, national and local levels can offer improved protection to migrants across the region.

Migration Challenges in SEA

Security Threats Faced by Migrating Populations

Although migrants in SEA and their journeys are extremely diverse, one common factor underlying their experiences is exposure to varied security risks along the way. Occurring anywhere from the point of origin to the final destination, these threats can arise no

6 Internal Displacement Monitoring Centre (2020) “Global Report on Internal Displacement”, <https://www.internal-displacement.org/sites/default/files/publications/documents/2020-IDMC-GRID.pdf>, p.14.

7 International Organization for Migration, note 3 above, pp. 83-85.

matter the reason for migrating and can encompass traditional security risks as well as the full range of human security concerns, such as health, food, water and economic insecurity.

For instance, at their point of origin, prospective migrants in SEA are often faced with complex and inefficient national migration procedures which can be extremely costly, imposing a financial burden on migrants that can have subsequent effects on human security. In instances where legal migration frameworks prove too slow, migrants often find themselves having to engage in corruption to navigate through the process, for instance to obtain the necessary identity documentation. Moreover, because existing procedures that facilitate legal migration in the region are often overcomplicated, migrants often lack crucial information on how to utilise the routes available to them or protect their rights as migrants. Finally, in their destination countries, migrants in SEA often suffer from poor living conditions and precarious terms of employment, with much of their income often being sent home as remittances, leaving them no more financially stable than when they arrived. These factors, plus the general long-term economic uncertainty migrants face, impose various limitations on migrants' human security by affecting their living conditions, income and health. Furthermore, because migrant populations often lack voting rights or other opportunities for political participation in their destination countries, their needs are rarely represented in the political arena. This constitutes a fundamental security threat to migrating populations, as their security needs are systematically omitted from security policymaking at the national and sub-national levels.

While these challenges threaten the security of all migrating populations, they are particularly acute for migrants in vulnerable situations. Irregular migrants are a major migrating group in SEA who are placed in vulnerable situations, as having to operate outside the purview of the law and state exposes them to additional security risks while also reducing their ability to seek support or redress in the event of wrongdoing. Irregular movements across borders are often operated by smuggling networks, who may place migrants in physical danger or extort them for large sums of money. This coercion, which can occur at any stage of the journey, often takes place with the complicity of security forces who may be profiting directly from extortionary practices. For instance, it has been reported that Thai security forces are directly involved in extorting money from refugees leaving Myanmar along the shared border they are responsible for monitoring,⁸ constituting a significant source of vulnerability for this group who have limited opportunity to utilise regular migration routes.

Once in their country of destination, irregular migrant workers typically have to take up roles in informal sectors due to their lack of legal documentation. Such informal employment tends to be lower paid, less certain and with worse working conditions, and since most informal labour occurs in low skilled sectors, workers are perceived as more easily replaceable and so are more vulnerable to exploitation, mistreatment and precarious

8 Marshall, A.R.C and Szep, J. (2013) "Thailand's anti-trafficking effort loses steam", *Reuters*, <https://www.reuters.com/article/thailand-rohingya-usa-idINDEE9B400V20131205>.

terms of employment. Consequently, irregular migrants may suffer from reduced access to public services, inferior housing and poor sanitation, impacting various dimensions of their human security. Moreover, informal workers (especially domestic workers) are often subject to coercive practices such as having their passports confiscated on arrival. This often renders them unable to leave their place of employment, and if they do return home without the correct documentation, they are more vulnerable to exploitation by corrupt security officials. These factors combine to render migrants in SEA particularly vulnerable to exploitation. Indeed, it is estimated that almost half of Asia's victims of exploitation are exploited in SEA,⁹ and three-quarters of victims are from SEA.¹⁰

Specific Threats Faced by Female Migrants

While the security threats associated with migration are clearly higher for migrants in vulnerable situations, a closer examination of the unique security challenges faced by female migrants can illustrate how migration and security overlap in practice. Female migrants in SEA are exposed to many unique vulnerabilities, in part because the national migration policies of many countries in the region are discriminatory towards women. For instance, Malaysia's Immigration Act prohibits low-skilled migrant workers from having families in order to deter high levels of low-skilled migration, in practice exposing pregnant low-skilled migrant workers to a heightened risk of job loss or deportation and reduced access to essential maternity healthcare.¹¹ Additionally, these migrants' children cannot obtain Malaysian citizenship as of right even if their fathers are Malaysian, rendering them undocumented and effectively stateless - in violation of international law. As a result, these children are exposed to a wide array of vulnerabilities, such as inadequate access to basic public services like education and healthcare, and increased risk of deportation. Similarly, female migrant workers in both Brunei Darussalam and Singapore are not allowed to become pregnant and are subjected to regular pregnancy tests before and after entry to the country.¹²

In destination countries such as Thailand and Malaysia, female migrants have in the past been subjected to paternalistic restrictions on their ability to work, including rules against working in dangerous occupations or at night.¹³ Consequently, female migrants' ability to earn money is restricted, impairing their autonomy and exposing them to a range of vulnerabilities. This unique challenge is exacerbated by other commonplace features of SEA labour markets which reduce female migrants' abilities to fully participate in wage earning, such as gender wage gaps and the limited availability of day care services.

9 International Organization for Migration (2022) "Victims Exploited in Asia", Counter-Trafficking Data Collaborative, <https://www.ctdatacollaborative.org/story/victims-exploited-asia>.

10 International Organization for Migration (2022) "Victims from Asia", Counter-Trafficking Data Collaborative, <https://www.ctdatacollaborative.org/story/victims-asia>.

11 Ethical Trading Initiative (2019) "Human Rights Due Diligence in Malaysia's Manufacturing Sector", https://www.ethicaltrade.org/sites/default/files/shared_resources/ETI%20Malaysia%20HRDD.pdf, p.10.

12 Napier-Moore, R. (2017) "Protected or put in harm's way? Bans and restrictions on women's labour migration in ASEAN countries", *International Labour Organization and UN Women*, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_555974.pdf, pp. 20-21.

13 Kingdom of Thailand (1998), "Labour Protection Act", <http://www.ilo.ch/dyn/natlex/docs/ELECTRONIC/49727/91041/F1354902912/THA49727.pdf>, Chapter 3.

Moreover, since female migrants are more likely to send remittances back to their country of origin, they often live off less income in their destination country.

Furthermore, because SEA's unusually large female migrant population is disproportionately employed in informal and precarious sectors such as domestic work, they are additionally faced with greater vulnerability to forced labour both during recruitment and at later stages of their migration journey. This is exacerbated by the fact that women generally have less access to mainstream economic systems such as property ownership or lending institutions, making them more likely to have to borrow money from untrustworthy lenders who may exploit them. Additionally, the lack of recognition of the female-dominated sex work industry as legitimate employment in many SEA nations leaves its employees vulnerable to mistreatment and abuse, with limited avenues for support or legal redress. These circumstances jointly render female migrants particularly vulnerable to human trafficking, constituting one of the most serious security threats to migrants both in the region and beyond. While by no means a women-only threat, the majority of trafficking victims in Malaysia, Myanmar, the Philippines and Singapore in 2016 were women.¹⁴ In response to the scale of this problem in SEA, some positive concrete efforts have been taken to date to improve security sector responses to human trafficking. For example, in Malaysia dedicated units have been established in the policing and justice institutions for handling trafficking cases,¹⁵ security sector officials are sensitised to the issue through dedicated training, and local non-governmental organisations (NGOs) have emerged to successfully provide shelter and holistic care to victims. Despite these steps in the right direction, however, issues persist with the translation of provisions into practice and many more national security sectors are lacking appropriate provisions altogether. As a result, security sector officials tend to lack sensitivity to the issue of human trafficking and a stigma against victims endures, discouraging victims from reporting the crime or seeking support or justice.

Additional Threats Posed by COVID-19

Finally, the onset of the COVID-19 pandemic has created an additional range of security threats for migrants in SEA, particularly those already in the most vulnerable situations. As a result of pandemic-induced economic downturns across the region, many migrants have lost their jobs, resulting in income loss, poverty and instability. Some of these migrants have been unable to return to their countries of origin nor a third country to search for alternative employment, leaving them stranded in extremely vulnerable situations. Furthermore, in many SEA nations, migrants typically live in cramped and unsanitary conditions with inadequate access to COVID-19 vaccines and general healthcare, leading to many outbreaks in migrant dormitories. In Singapore, for instance, over 90 percent of COVID-19 cases during the first year of the pandemic were estimated to have come

14 United Nations Office on Drugs and Crime (2018) "Global Report on Trafficking in Persons 2018", https://www.unodc.org/documents/data-and-analysis/glotip/2018/GLOTiP_2018_BOOK_web_small.pdf, p.67.

15 International Labour Organization (2018) "Judges, prosecutors and legal aid practitioners' training on forced labour", https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_686734.pdf, p. 25.

from migrant workers.¹⁶ Consequently, migrants region-wide have experienced greater discrimination and xenophobia in their countries of destination due to fears of migrant-related importation of the virus, with some SEA nations even imposing movement restrictions upon migrant worker populations.¹⁷

Moreover, the region-wide closure of international borders has eliminated regular migration routes, resulting in an increased use of falsified travel documents and an increase in human trafficking cases.¹⁸ Similarly, asylum processing capacities have been scaled down during the pandemic, and several SEA nations (Cambodia, Malaysia, Singapore, Thailand, Timor-Leste and Vietnam) banned the entry of asylum seekers altogether.¹⁹ This has resulted in rising levels of internal displacement and large numbers of asylum seekers being left in acutely dangerous situations, such as the thousands of Rohingya refugees left stranded on boats in the Bay of Bengal during the early stages of the pandemic.²⁰ Coupled with the suspension of many on-the-ground programmes aimed at caring for displaced populations such as refugees and asylum seekers, the onset of the pandemic has evidently had a disproportionately large impact on the security of migrants on the whole, and especially migrants in the most vulnerable situations.

The SSG/R-Migration Nexus

There is a high frequency of interaction between security sector actors and migrants during their journeys. While in some cases security sector actors can cause insecurity if improperly overseen or trained, they can also reduce the threats faced by migrants and help signpost them to the relevant (state or non-state) support structures. Through the implementation of good SSG and SSR, security sector actors at all levels – state and non-state, local to regional – can play a vital role in improving the protection of migrants. However, despite the recognised shift from traditional state-centric security to non-traditional human security, migrants are still seen as more of a security threat than a population to be protected across SEA.

Current Roles of Security Sector Actors in Migration Processes

Insecurity in the country of origin can be a push factor for migration, and in many cases that insecurity is linked to the state's mismanagement of its security institutions, resulting in security providers either being unable to provide effective and efficient security to the entire population or even directly causing insecurity themselves through corruption and

16 Yihang, S. "Shedding Light on the Plight and Laws Regulating Migrant Worker Dormitories in Singapore", *National University of Singapore, Faculty of Law*, <https://law.nus.edu.sg/impact/covid-19-shedding-light-on-the-plight-and-laws-regulating-migrant-worker-dormitories-in-singapore/>.

17 Singapore Ministry of Health (2020) "Measures to Contain the COVID-19 Outbreak in Migrant Worker Dormitories", <https://www.moh.gov.sg/news-highlights/details/measures-to-contain-the-covid-19-outbreak-in-migrant-worker-dormitories>, paragraph 5.

18 International Organization for Migration, note 3 above, pp. 83-85.

19 United Nations High Commissioner for Refugees (2021) "COVID-19 Platform – Temporary Measures and Impact on Protection", https://im.unhcr.org/covid19_platform/#_ga=2.66742638.1789881933.1594899720-611184440.1594056193.

20 Human Rights Watch (2020) "Bangladesh: Rohingya Refugees in Risky COVID-19 Quarantine", <https://www.hrw.org/news/2020/05/05/bangladesh-rohingya-refugees-risky-covid-19-quarantine>.

other abuses. During their journey and in their country of destination, migrants come into contact with the full range of security providers, both state and non-state. Despite their duty to protect all parts of the population, including migrants, state security providers are commonly used to tightly control and even repress migration. Existing oversight mechanisms able to reign in these abuses are often limited at the state level, leaving a void filled by non-state oversight bodies that they can only partially succeed in filling. This lack of oversight and widely shared information perpetuates a skewed discourse on the part of certain governments and segments of society which portray migrants as dangerous and therefore not worth investing in protecting.

Regional and International Frameworks

An abundance of legal and policy-related frameworks for addressing the good governance of migration exist at the international and regional levels, including many from the Association of Southeast Asian Nations (ASEAN). These tend to focus on building the capacities of security providers managing migration, making institutional changes including updating laws and regulations, and providing protection for migrants. For example, the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers states that stakeholders throughout the migration process should abide by the laws, policies and regulations of the sending and receiving countries.²¹ This includes migrants themselves, as well as governmental agencies and national governments who are expected to facilitate migrants' access to legal and social assistance. In theory, all ASEAN member states offer equal access to the law for migrants and ensure protection against the illegal seizure of identity documents, bolstering the rule of law.

However, there are limits to the power of these existing protocols. For instance, many existing ASEAN frameworks only apply to properly documented migrants, who are unlikely to be in the most vulnerable situations and constitute only a small portion of the region's total migrant population.²² While the exact proportion of irregular migrants in SEA is unknown, particularly due to the difficulty of harmonising definitions of 'irregular' across countries, an estimated 660,000 irregular migrants arrived in Thailand from the Mekong subregion in 2013 alone, constituting over 80 percent of all arrivals.²³ For ASEAN, its principle of non-interference constitutes a major barrier to more substantive provisions on migration in SEA. More generally, the existing frameworks usually avoid addressing fundamental issues such as the abuse of power by security forces, nor do they recognise the necessity of stronger oversight mechanisms.²⁴

21 The Association of Southeast Asian Nations (ASEAN) (2018) "ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers", <https://asean.org/wp-content/uploads/2018/03/3.-March-2018-ASEAN-Consensus-on-the-Protection-and-Promotion-of-the-Rights-of-Migrant-Workers.pdf>, p. 5.

22 International Organization for Migration (2019) "World Migration Report 2020", https://publications.iom.int/system/files/pdf/wmr_2020.pdf, p. 76.

23 United Nations Office on Drugs and Crime (2013) "Transnational Organized Crime in East Asia and the Pacific: A Threat Assessment" https://www.unodc.org/documents/southeastasiaandpacific/Publications/2013/TOCTA_EAP_web.pdf, pp. 12-13.

24 One notable exception is the 2015 ASEAN Convention Against Trafficking in Persons, Especially Women and Children, which calls for the criminalisation, deterrence and punishment of corruption by public officials (including public service providers) linked to trafficking in persons.

Additionally, the protocols that do exist tend to be unsystematically applied in practice, owing to both a lack of capacity and lack of willingness from governments in the region. For ASEAN, this can be partly attributed to the non-binding nature of its frameworks and policies.²⁵ This criticism can equally be levelled against some wider international frameworks, such as the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, which is the predominant regional forum for policy dialogue, information sharing and cooperation on many migration-related crimes.²⁶ Comprising 49 members including dozens of Asian nations and key international organisations, the Bali Process has the significant potential to address trafficking and related issues in SEA through its convention of ministerial conferences, workshops and ad-hoc support to individual states. Yet, the Bali Process' plethora of mechanisms have translated to limited concrete impact on the ground due to their informal and non-binding natures.²⁷

Furthermore, the language used in the predominant governance frameworks and international directives on migration is skewed to perpetuate an unproductive understanding of migration. For instance, the 2018 Global Compact – the United Nations' internationally-negotiated agreement for a common approach to managing international migration – boasts the central aim of promoting 'safe, orderly and regular migration', a choice of language which reinforces an unrealistic understanding of migration as something that can be controlled and thus overlooks the human security-related drivers of migration.²⁸ 'Irregularity' of migration is similarly defined in ASEAN documentation in terms of 'failure to comply', attributing blame to migrants for their situation and indicating that they are undeserving of assistance. This quite clearly and directly feeds into the type of migration policies that result.

National Governments

The link between migration and SSG/R tends to be poorly conceived at the national policymaking level in SEA. The range of government policies with implications for migrants' security are typically spread across several policy areas such as immigration, labour and security. In particular, the ministry responsible for migration in each country has disproportionate influence over the design of security-related responses to migration, leading to different treatments. In many countries, security policy has the greatest influence, directly impacting the treatment of migrants by risking conceptualising them as a security threat rather than a group to provide security for. Current language used by politicians and in public discourse in SEA is often highly securitised, presenting migrants as outsiders who pose a threat to society. In Malaysia, for instance, the Ministry of Home Affairs wields significant authority over migration issues, resulting in labour

25 Aimsiranun, U. (2018) "Regional Approaches to Labour Migration: Mercosur and Asean in Comparative Perspective", *Proceedings of New York International Business and Social Science Research Conference*, Vol. 13, p. 63.

26 The Bali Process (2022) "Bali Process", <https://www.baliprocess.net/>.

27 Douglas, J. H. and Schloenhardt, A. (2012) "Combatting Migrant Smuggling with Regional Diplomacy: An Examination of the Bali Process", *University of Queensland Migrant Smuggling Working Group Research Paper*, Brisbane, p. 12.

28 United Nations (2022) "Global Compact for Migration", <https://www.un.org/en/migration2022/global-compact-for-migration>.

migration policy that is centred around preserving public security through the control of immigration. This perpetuates the view that migrants present a threat to national security and are a disruption to Malaysian society,²⁹ which then feeds into the treatment of migrants by security sector actors and broader society, directly impacting migrants' safety. Furthermore, discriminatory (or outright xenophobic) language by state officials can be linked to societal anti-migrant violence in Indonesia³⁰, and profound mistreatment of Rohingya refugees by security officials in Thailand.³¹

National immigration policy determines the range of 'regular' migration options available to prospective migrants. The more legal channels for migration that exist and the more accessible they are, the less likely people are to have to resort to illegal routes, automatically reducing the risk that migrants will end up in vulnerable situations such as exposure to trafficking or smuggling. Many policies outlining the conditions under which migrants can legally work in their country are overprotective and discriminatory towards women, amplifying the myriad of unique security challenges faced by women outlined in Section 2. For instance, in 2011 Cambodia banned migration to Malaysia for domestic work and in 2014 Myanmar banned migration to any country for the same purpose,³² both significantly restricting women's earning abilities given the female-dominated nature of the domestic work sector.

National labour policy also has an impact on migrants' security. The level of protection for migrant workers can only be as good as the provisions for national workers, which in SEA already tend to be limited - Myanmar, Thailand, the Philippines, Indonesia, Malaysia and Cambodia were all identified in 2021 as having among the worst labour rights and practices globally.³³ Consequently, in many cases the poor treatment of migrant workers can be attributed to poor labour laws more generally. However, there are also some good examples of government policies to protect migrants. For example, during the COVID-19 crisis, Malaysia made provisions for migrants to be able to stay despite not being able to renew their documents due to official office closures during lockdowns.³⁴ However, such policies still failed to account for the needs of undocumented migrants.

29 International Labour Organization (2016) "Review of labour migration policy in Malaysia: Tripartite Action to Enhance the Contribution of Labour Migration to Growth and Development in ASEAN", https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_447687.pdf, p. 3.

30 Tarahita, D. and Rakhmat, M.Z. (2019) "Understanding Indonesians' Souring Sentiment Toward China", *The Diplomat*, 6 June, <https://thediplomat.com/2019/06/understanding-indonesians-souring-sentiment-toward-china/>.

31 Al Imran, H. (2022) "The Plight of Boat Refugees to Thailand", *International Journal on Minority and Group Rights*, 12 May, <https://brill.com/view/journals/ijgr/aop/article-10.1163-15718115-bja10081/article-10.1163-15718115-bja10081.xml?language=en>, p 17.

32 Napier-Moore, note 12 above, p. xii.

33 International Trade Union Confederation (2022) "Global Rights Index 2021", <https://www.globalrightsindex.org/en/2021/countries>.

34 World Bank Group (2020) "Potential Responses to the COVID-19 Outbreak in Support of Migrant Workers", <https://documents1.worldbank.org/curated/en/428451587390154689/pdf/Potential-Responses-to-the-COVID-19-Outbreak-in-Support-of-Migrant-Workers-June-19-2020.pdf>, p.33; International Labour Organization (2020) "COVID-19: Impact on migrant workers and country responses in Malaysia", 8 May, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_741512.pdf; Ern, J.C.K. (2020) "COVID-19: legal position of migrant workers in Malaysian construction sector", 27 May, *Lexology*, <https://www.lexology.com/commentary/employment-immigration/malaysia/skrine/covid-19-legal-position-of-migrant-workers-in-malaysian-construction-sector>.

Finally, national governments also contribute to migrants' security through bilateral and multilateral policies. While the bilateral policies that already exist are essential given the cross-border nature of most migration, they usually do not go far enough in ensuring migrants' protection or are not implemented in good faith. For example, previous negotiations between Malaysia and Indonesia stalled over the issue of a minimum wage for Indonesian migrants, and another bilateral agreement contained provisions for the retention of migrants' identification documents in their country of arrival, in violation of their human rights.³⁵ The frequent lack of prioritisation of migrants' rights in these agreements can be explained by various factors, particularly when we consider the competing incentives of governments in the region. For instance, countries of departure are reliant on migrants' remittances, and therefore tend not to place a high enough value on the protection of their citizens relative to economic goals. Also, departure states might prefer for migrants to go abroad rather than having to address the fundamental issues that cause their citizens to leave in the first place. This is particularly the case in countries which see themselves only as temporary transit points in the migration process rather than final destinations, further reducing their interest in the wellbeing of migrants. For instance, Indonesia has historically considered itself a transit country for migrants leaving SEA for Australia, and consequently has given little priority to establishing robust protection mechanisms for migrants. However, the number of migrants permanently settling in Indonesia is increasing, resulting in a mismatch between the responsibility the state acknowledges to ensure migrants' protection and the actual influence it has over these outcomes.³⁶

Militaries

In the aforementioned national and regional frameworks on migration, there are limited explicit roles for the armed forces. However, given the close link between the armed forces and government in many SEA nations, statements for government action are often taken as a proxy for military roles. Indeed, it has been observed that most ASEAN member states' security providers play a core role in border governance and management, mainly through bilateral frameworks aimed at maintaining traditional security at borders.³⁷ Consequently, armed forces are often involved in reducing what their government categorises as illegal migration flows, including 'pushbacks' against refugees at sea, forced returns or detentions at border crossings. This is particularly the case for SEA nations with limited provisions in place for protecting or handling refugees, such as Thailand, whose military frequently engages in pushbacks of Rohingya refugees arriving by sea that allegedly sometimes turn violent.³⁸ On the other hand, militaries are also involved in rescue missions, the provision of humanitarian services

35 UN General Assembly (1948) "Universal Declaration of Human Rights", <https://www.refworld.org/docid/3ae6b3712c.html>, Article 6.

36 Mixed Migration Centre (2021) "A Transit Country No More: Refugees and Asylum Seekers in Indonesia", *MMC Research Report*, https://mixedmigration.org/wp-content/uploads/2021/05/170_Indonesia_Transit_Country_No_More_Summary_Report.pdf.

37 The Association of Southeast Asian Nations (ASEAN) (2019) "2019 Concept Paper on the Role of ASEAN Defence Establishments in Supporting Border Management", 11 July, <https://cil.nus.edu.sg/wp-content/uploads/2019/11/2019-ADMM-CP-Border-Mgt.pdf>.

38 Al Imran, note 31 above, pp.19-20.

and other positive functions vis-à-vis the security of migrants. These considerations are relevant across SEA due to national militaries' established roles in responding to natural disasters, to which SEA is acutely vulnerable.³⁹ Consequently, these positive functions are particularly pertinent in the SEA nations most affected by natural disasters, such as the Philippines.⁴⁰

Police

Beyond the enforcement of laws, police forces also play a role in facilitating legal processes and investigating crimes against migrants, such as human trafficking. In most countries, these migration-related crimes are addressed by specific police divisions, such as the Anti-Trafficking in Persons Division in Thailand or the Office of Human Trafficking in Cambodia, although the transboundary nature of many migration-related crimes makes investigation extremely difficult.⁴¹ However, allegations of mistreatment of migrants at the hands of the police are commonplace, given that police forces often work closely alongside other security providers at borders with little-to-no oversight. This was particularly the case during the COVID-19 pandemic, when enforcement agencies in SEA continued to arrest migrants and place them in overcrowded detention centres where outbreaks of COVID-19 were happening regularly, such as in Malaysia.⁴² Meanwhile in Thailand, the police are often accused of bribing victims of migrant smuggling, thereby directly participating in migration-related crime.⁴³ According to CSOs, migrants who report such violations are often threatened or disregarded rather than supported by the police.⁴⁴

Intelligence Services

Intelligence services play a pivotal role in helping to fight migration-related transnational organised crimes, such as human trafficking and smuggling networks. However, due to the cross-border nature of such crimes, national intelligence services have limited ability in isolation to uncover and disrupt criminal networks. While cooperation between national intelligence agencies does exist, such as through the network of border liaison offices located in the 'Golden Triangle' area between Thailand, Myanmar and Laos, these agencies have limited ability to tackle increasingly sophisticated organised crime groups and must simultaneously address major crimes that are unrelated to migration, such

39 Chen, C. (2021) "Greening Security: The Military as a Climate Game Changer?", *Institute of Defence and Strategic Studies Paper*, No. 009/2021, 27 October, www.rsis.edu.sg/wp-content/uploads/2021/10/IP21009-Chen-masthead-final-uploaded-1.pdf, p. 4.

40 Nepomuceno, P. (2021) "AFP mobilizes units for relief missions in 'Odette'-hit areas", *Philippine News Agency*, <https://www.pna.gov.ph/articles/1163048>.

41 Luong, H. T. (2020) "Transnational Crime and its Trends in South-East Asia: A Detailed Narrative in Vietnam", *International Journal for Crime, Justice and Social Democracy*, Vol. 9, Issue 2, p. 93.

42 Reuters (2020) "Malaysia says second virus cluster breaks out at migration detention centers", <https://www.reuters.com/article/us-health-coronavirus-malaysia-idUSKBN22Z0IR>.

43 United States Department of State (2013) "2013 Trafficking in Persons Report - Thailand", 19 June, <https://www.refworld.org/docid/51c2f3824d.html>.

44 International Labour Organization (2016) "Migrants, CSOs and the battle for labour rights in Thailand", 11 January, <https://apmigration.ilo.org/news/migrants-csos-and-the-battle-for-labour-rights-in-thailand>.

as drug, wildlife and timber trafficking.⁴⁵ This issue is exacerbated by the widespread collusion between government officials and criminal networks who engage in the smuggling or trafficking of migrants, which can inhibit the exchange of intelligence and otherwise undermine ongoing investigations.⁴⁶ Furthermore, the clandestine nature of irregular migration and migration-related crime greatly impacts the availability of reliable data related to trafficking, further impeding intelligence services from collecting evidence to support the counter-trafficking efforts of other state security institutions such as police forces.

Border Guards and Coastguards

Border officials are often the first point of contact between migrants and state security institutions in origin, transit and destination countries. Interactions might occur at legal border crossings at any stage of the journey, or when irregular migration is intercepted either in transit or destination countries, but in all cases border officials are responsible for controlling the entry, processing and appropriate treatment of migrants at borders. In cases of irregular migration, where migrants are often in particularly vulnerable situations and there is limited oversight of their interactions with border guards, border officials' interactions have significant potential to either protect or undermine migrants' security. Much like militaries, for migrant groups in SEA who are forced to make dangerous maritime journeys, coastguards make the vital decision of either rescuing them or pushing them back to sea where they face significant danger. For instance, in June 2020, the Malaysian coastguard detained hundreds of Rohingya refugees who had floated in dangerous seas for weeks before reportedly sending them back to sea, citing concerns over COVID-19.⁴⁷ Moreover, the effectiveness of monitoring of land and sea borders by border officials shapes the opportunities available to smugglers to facilitate alternative, riskier entry routes. This is particularly pertinent in SEA countries with porous and difficult-to-monitor borders, such as Thailand.⁴⁸ Occasionally, border guards may even actively collude with criminal groups involved in the trafficking of persons, as was revealed to be the case with corrupt airport immigration officials in Malaysia and the Philippines.⁴⁹ Furthermore, even in legal instances of migration, immigration and customs officers can have a significant impact on migrants' security outcomes as they are often bestowed with powers of investigation, arrest, search and seizure.

45 United Nations Office on Drugs and Crime (2022) "UNODC and Thailand hold high-level national border management dialogue", 5 May, <https://www.unodc.org/roseap/2022/05/thailand-high-level-national-border-management-dialogue/story.html>.

46 United Nations Office on Drugs and Crime (2021) "Corruption as a Facilitator of Smuggling of Migrants and Trafficking in Persons in the Bali Process Region with a focus on Southeast Asia", https://www.unodc.org/documents/southeastasiaandpacific/Publications/2021/Corruption_of_SoM_and_TiP_with_focus_on_Southeast_Asia_Mar2021.pdf, p. v.

47 BBC News (2020) "Malaysia detains 270 Rohingya refugees who had drifted at sea for weeks", 9 June, <https://www.bbc.com/news/world-asia-52975138>; Amnesty International (2020) "Malaysia: 'Heinous' plan to send Rohingya people back to sea", 19 June, <https://www.amnesty.org/en/latest/news/2020/06/malaysia-heinous-plan-rohingya-people-sea/>.

48 Thompson, N. (2015) "Human Trafficking: Thailand's Porous Borders", *The Diplomat*, <https://thediplomat.com/2015/06/human-trafficking-thailands-porous-borderlands/>.

49 United Nations Office on Drugs and Crime, note 46 above, pp. 29-32.

Justice Institutions

Migrants often lack information regarding their legal rights or how to access justice in their destination country, particularly when justice institutions operate in another language. Therefore, even if there are legal provisions in place to both support legal migration and protect migrants in their destination country, their access to justice is usually very limited in practice. In essence, even when a justice system supporting migrants does exist, it is rarely effective or efficient and lacks transparency in its application. This is also true when migrants need to seek justice in response to mistreatment by state security actors. For instance, fourteen migrant workers from Myanmar filed a complaint against their employer in Thailand with the National Human Rights Commission of Thailand in 2016, and were later placed on trial themselves for defamation charges, illustrating the limited effectiveness of existing judicial processes in protecting marginalised migrant populations in practice.⁵⁰ By contrast, migrants may be more likely to find themselves on the wrong side of the law. A widespread lack of proper information about how to migrate legally, due to limited access to information or the overcomplicated nature of legal migration procedures, encourages smugglers and traffickers to take advantage of this situation to ‘promote’ illegal channels. Consequently, in SEA countries where irregular migration is criminalised, migrants might find themselves in violation of the law and subject to judicial proceedings. In fact, given the clandestine nature of the smuggling and trafficking industries, migrants often face greater penalisation than the smugglers themselves.⁵¹

Oversight Agencies

This Thematic Brief has aimed to demonstrate that despite the abundance of existing policies, frameworks and institutions regulating migrants’ security, there is often little willingness of governments to proactively implement these and migrants often lack access to their rights. However, these frameworks’ existence on paper is nonetheless valuable, as they provide tools which oversight mechanisms – both state and non-state – can utilise to hold the state accountable to its previous commitments.

In terms of state oversight bodies, parliaments can fulfil the central function of approving legislation and budgets on a number of key policy areas related to migration, such as national security policy, immigration policy and labour policy. They can also instigate investigations of cases of abuse and provide other crucial checks and balances on the powers of central governments and security sector institutions, which risk overstepping their prescribed levels when migration issues are overly politicised and securitised. In Malaysia, for example, emergency powers were granted to military forces during the pandemic which bestowed them with all the powers of a police officer. These powers were used in part to arrest and detain undocumented migrants, generating fears that

50 Human Rights Watch (2018) “Thailand: Burmese Workers on Trial for Reporting Abuses”, <https://www.hrw.org/news/2018/02/07/thailand-burmese-workers-trial-reporting-abuses>.

51 United Nations Office on Drugs and Crime (2018) “Migrant Smuggling in Asia and the Pacific: Current Trends and Challenges, Volume II”, https://www.unodc.org/documents/human-trafficking/Migrant-Smuggling/2018-2019/SOM_in_Asia_and_the_Pacific_II_July_2018.pdf, p. 127.

such emergency powers were being abused and were undermining the human rights of Malaysia's undocumented migrant population.⁵² However, the ability of parliaments across SEA to exercise these oversight duties is far from the ideal standard in practice, as parliaments region-wide generally lack the specialised training and knowledge of issues at the migration-security nexus, and the influence of such bodies varies significantly depending on the national political system.

Similarly, non-state oversight actors such as NGOs, CSOs and think tanks play a key role that complements the efforts of state agencies. In cases of absent political will or insufficient capacity of state oversight bodies, non-state entities can pressure state mechanisms to better fulfil their roles or may augment their capacities with their own efforts. For instance, since migrants are often reluctant to get in contact with state authorities – particularly when they have migrated irregularly – non-state oversight mechanisms can bridge the gap by allowing migrants to register complaints and access relevant information. Moreover, non-state actors are often better able to monitor and gather information on migration dynamics and the protection of migrants in rural or remote areas that are simply unreachable for central authorities, and then share that vital information with state oversight bodies. A similar oversight role is played by the media, who are crucial in boosting public awareness of instances of mistreatment or inadequate protection of migrants. However, it is common in SEA that general limitations on freedom of speech and freedom of the press make it difficult for non-state oversight mechanisms to completely fulfil their potential roles. This is exemplified by the case in which journalists who tried to expose the corrupt collusion of Thai security officials with migrant smugglers were themselves subjected to defamation charges under a law used to silence online critics of the government.⁵³

Non-State Security Actors

Besides the oversight functions laid out above, non-state actors also play a key role in directly providing security to migrants. As above, the size of the role played by non-state actors in this regard largely depends on the quality and scope of security provision in both origin and destination countries offered by state security providers, as non-state providers often end up filling the gaps left by state institutions. This is particularly obvious along border zones with active non-state armed groups, such as between Myanmar and Thailand, where state authorities have very limited reach. Similarly, private security companies (PSCs) are increasingly used by governments in SEA to control borders and even manage detention centres for illegal migrants due to insufficient state capacity. This carries a significant risk to the protection of migrants as the legal framework governing PSCs is patchy, meaning oversight mechanisms and justice institutions cannot effectively fulfil their duties in ensuring security providers' accountability and compliance with the rule of law.

52 Human Rights Watch (2021) "Malaysia: Urgently Revise Emergency Ordinance", <https://www.hrw.org/news/2021/01/21/malaysia-urgently-revise-emergency-ordinance>.

53 BBC (2015) "Thailand Phuketwan reporters face defamation charges", 14 July, <https://www.bbc.com/news/world-asia-33517542>.

However, although non-state security providers can represent an additional threat to migrants, there are also many examples of these actors successfully providing security for them. For example, traditional or religious leaders are often the first figures migrants turn to when in need of help, particularly when there is distrust between the migrant community and state authorities and even more so when language, ethnicity and religion is common across international borders, as is often the case in SEA. However, since such support is offered on the basis of particular identity traits, migrants outside these groups may be left even more vulnerable. Moreover, such organisations are often unwilling to engage in more substantial, political activities such as advocacy, limiting their influence over migrants' security outcomes.

More generally, NGOs and CSOs can have a direct, positive impact on the safety of migrants in offering services such as life skills training, mediating between migrants and employers, and even providing shelter and support for victims of trafficking. In Singapore, migrant associations led by professionals provide assistance to migrant workers on topics such as financial literacy, and religious organisations have provided support to stranded migrant workers during the pandemic.⁵⁴ This role is especially impactful when there is absence of political will or insufficient capacity on the part of central authorities. For instance, in 2020 a group of local fishermen rescued nearly 300 refugees floating for over six months off the Indonesian coast, in the absence of rescue efforts by the Indonesian state.⁵⁵ Furthermore, the significant space and autonomy that this absent political will confers to local security actors might allow them to provide services that are actually better attuned to the needs of migrants than state equivalents would be. As outlined in Section 2, in Malaysia NGO-run shelters for victims of trafficking have emerged, which are often more holistic, victim-centred and trauma-informed in their approach, better addressing the needs of victims than the existing state-run shelters.⁵⁶

SSG/R as a Tool to Improve the Protection of Migrants

Although security sector actors are key to the protection of migrants at every stage of their journey, as demonstrated above, there is still a lack of research exploring the migration-SSG/R nexus. Moreover, there are tensions between the transnational nature of migration and the national nature of SSR. This results in these topics rarely being addressed jointly, and the security implications of migration often being looked at only from the angle of the receiving country as a potential national security threat but not also for the significant human security threats faced by migrants themselves. It also tends to be assumed by governments in SEA that these human security threats should be addressed by civil society rather than the state itself. This leads to a form of externalisation of migration management, instead of it being internalised by governments as this topic

54 Council for World Mission (2022) "Church of Bangladesh (COB) continues outreach to migrant workers in Singapore alongside Anglican Diocese", <https://www.cwmission.org/church-of-bangladesh-cob-continues-outreach-to-migrant-workers-in-singapore-alongside-anglican-diocese/>.

55 Norwegian Refugee Council (2020) "Joint Statement from INGO's: ASEAN must prevent another 'Rohingya boat crisis'", <https://www.nrc.no/news/2020/november/asean-must-prevent-another-rohingya-boat-crisis/>.

56 Global Shepherd (<https://www.goodshepherd-asiapacific.org.au/project/234>) and Tenaganita (<https://tenaganita.net/shelter-for-women-in-crisis/>) are two examples of NGO-run shelters for female trafficking victims in Malaysia, both of which are partially funded by the government.

should be, if it is to be adequately integrated into SSR strategies.

SSR is a process that aims to steer the achievements of a security sector towards principles of good governance such as accountability, the rule of law and responsiveness, implementing necessary reforms to attain a quality of governance as closely aligned as possible to these ideal values. As the ideal standard of SSG can never be achieved and contexts are always evolving, SSR is a permanent process of assessment and improvement. Through SSR, there can be clearer identification of why existing relevant legal frameworks are not applied, and better recognition of where policy revisions or extra capacity building efforts are needed. It also helps to uncover why applications of these frameworks often occur with very limited transparency and accountability, and to consequently propose reforms to improve the role of oversight mechanisms. SSR is also a way to ensure that when progress is achieved it is institutionalised, for example by being enshrined in laws and default training for state security providers. SSR can also support policymakers in better realising the complementary nature of national security and migrants' security, finally sparking the political will necessary for migrants' insecurities to be tackled effectively. Moreover, SSR could help demonstrate to SEA governments the potential benefits of applying good SSG principles to migration management, such as reducing the risk of violent radicalisation and tackling the spread of viruses like COVID-19. Ultimately, SSR can help ensure an adequate balance is struck between the ever-relevant need for traditional security policies to secure a state's borders, and the human security requirements of providing protection to all people, independent of their status.

Suggestions

The complexity of the issue of protecting the rights of migrants through SSG/R necessitates multiple levels of response, from institutions at all levels, and from binding legal frameworks to practical and pragmatic on-the-ground efforts. Given the insufficient translation of existing provisions into meaningful outcomes, it is crucial to focus on reforms favouring practical implementation and with demonstrated added value for governments and institutional actors more broadly to increase chances of buy-in. The heterogeneity within and between migrating groups also means that suggestions and SSG/R processes will never be fully replicable across all situations and contexts, but rather at most can offer a skeleton for reform and action to frame specific responses tailored to each reality.

Regional and International

Multilateral efforts are essential to responding to migration, which is by nature a transnational issue. Beyond policies based on national interests and sovereignty, there is a need for dialogue and cooperation between countries, based on commonly agreed standards and norms. Although ASEAN has created a substantial legal framework to define the role of security sector actors in managing migration, these are at times incomplete and rarely implemented properly. Thus, we would suggest:

- **Assess current implementation:** Before generating new provisions, it is essential to first take stock of the extent to which existing regional frameworks have been implemented. This would entail conducting research into the successes of and barriers to implementation to date, which could be undertaken in partnership with non-governmental research entities (see below). Subsequently, this would involve developing strategies to overcome existing barriers to implementation, as exemplified below.
- **Contextualise existing provisions:** Many frameworks developed at regional, ASEAN and even national levels are insufficiently adapted to local realities, particularly the realities of security provision in remote or border regions in SEA's larger or more archipelagic nations such as Indonesia and the Philippines. Undertaking a process of SSR would allow the existing situation to be carefully analysed, facilitating a better contextualisation of existing frameworks to specific contexts.
- **Build on existing best practices:** ASEAN and other institutions should consider identifying examples of other innovative international efforts in tackling cross-border issues and analyse the replicability of those best practices for addressing the issue of protecting migrants in SEA. For instance, the Asian Regional Partners Forum on Combating Environmental Crime, established in 2005, presents a successful model on which future collaborative efforts could be based. This was a transnational agency-to-agency network that facilitated capacity building, information exchange and intelligence gathering, bringing together relevant agencies across countries to develop best practices.⁵⁷
- **Reform securitised discourse and language:** ASEAN and other international organisations behind major migration frameworks such as the Global Compact for Safe, Orderly and Regular Migration should be mindful of the impact of their use of language regarding migrants, as this has an important trickle-down effect on conceptualisations, perceptions and discourse on migration at the national level. In reiterating the aim of 'safe, orderly and regular migration', these bodies reinforce the unnatural categorisation of migration as either voluntary or involuntary, overshadowing the human dimension and creating a negative connotation of migrants as a source of insecurity. The politicised classifications of types of migration and of countries as origin, transit or destination locations, via reform, can equally better reflect the dynamic nature of contemporary migration.
- **Recentre human security:** Clearly describing the human security threats migrants face and the appropriate role of security sector actors in protecting them would better embed human security concepts in the migration frameworks of ASEAN and other relevant international bodies. . Not only would this improve responses, but it would also reduce the leeway national governments currently enjoy in interpreting these provisions as best suits them.

57 Secretariat of the Basel Convention (2011) "Fact Sheet: Asian Regional Partners Forum on Combating Environmental Crime (ARPEC)", <http://www.basel.int/Default.aspx?tabid=2931>.

- **Speed up reforms:** Current discussions and developments on migration at the international level are only progressing at a ‘comfortable’ pace⁵⁸ for national governments. However, this rate of change is not fast enough to adequately protect migrants, especially those in the most vulnerable situations. Thus, these bodies might consider the protection of migrants by security sector actors as a more urgent matter.

Governmental

Like regional and international bodies, national governments are also central producers of statements, policies and mechanisms relevant to the migration-security nexus. As a result, many of the recommendations offered at the intergovernmental level are also applicable to national governments, including suggestions to contextualise provisions and reform securitised discourse. Nonetheless, there are several specific entry points that can be identified at the governmental level.

- **Prioritise legally binding, bilateral agreements:** Given the transnational nature of migration, an interconnected response between governments is crucial. However, existing frameworks at the ASEAN level are non-binding, reducing their effectiveness. Thus, more legally binding agreements between governments can effect meaningful change. Once effective bilateral approaches are introduced, these might provide positive examples for wider, multilateral initiatives.
- **Consider feasibility:** Any bilateral or multilateral agreements that are agreed upon need to be practical and pragmatically applicable on the ground, rather than a sum of politically motivated good intentions that would nonetheless be extremely hard to implement or oversee in practice. To achieve this, national governments could run simulation exercises to cull out the unrealistic elements of proposed provisions, such as excessive costs. Moreover, to gain the best understanding of the feasibility of applying these provisions on the ground, inclusive consultations could be undertaken that include non-state actors and migrants themselves.
- **Encourage cross-departmental cooperation:** Addressing migrants’ protection requires a whole-of-society, multistakeholder approach. At the institutional level, many ministries and other official bodies pertinent to migration work in silos with very little communication. Greater collaboration between departments on the aspects of their policy relevant to migration and the protection of migrants would improve the efficiency and effectiveness of migration policy. The creation of dedicated agencies with representatives from different state and non-state institutions involved in the management of migration could improve the effectiveness of protection, especially if supported by information-sharing mechanisms.
- **Reform domestic labour policy:** Since the treatment of migrant workers in destination countries is partly the function of a government’s treatment of its

58 The Association of Southeast Asian Nations (ASEAN) (2012) “Hanoi Plan of Action”, <https://asean.org/hanoi-plan-of-action/>.

own workers, nations across SEA might consider improving the treatment of their workers through careful reforms of labour laws, improved access to justice and augmented worker rights (e.g., providing better health coverage to employees). By improving the human security of all workers, with a focus on unskilled workers who are often more exposed to vulnerable situations, migrants in the receiving countries are directly protected. Such reforms could also reduce the 'push factors' for migration from sending countries.

- **Tackle migration drivers:** SSR could help address some of the root causes for migration in countries of origin, since a lack of (traditional or human) security and the behaviour of some security sector actors are often push factors for migration in SEA. Improving the functioning of security sectors in each country in line with good SSG principles would likely reduce migration flows, as well as support more transparent and protective migration processes.

Migration policy

- **Ensure quality of existing provisions:** In addition to establishing new arrangements, existing frameworks and agreements could be assessed for their quality and legality. Analysis through a human security lens could ensure that all elements positively contribute to migrants' rights and protection, verify that questions of abuse of power, transparency and accountability of state security providers are clearly addressed, and stipulate clear roles and processes for oversight mechanisms in order to minimise violations of migrants' rights. Similarly, existing legal provisions could be assessed to ensure accordance with recognised international norms and standards, as some national level policies currently contradict these.
- **Translate ASEAN provisions into domestic law:** In order to strengthen the domestic legal frameworks supporting the protection of migrants across SEA, the numerous legal frameworks that exist at ASEAN level could be translated into each country's law.
- **Ensure accessibility of legal migration processes:** A more transparent legal process decreases the resort to illegal routes and resultant vulnerability of migrants. To reduce the number of migrants who resort to irregular methods, governments could ensure that legal processes for migration are accessible, understandable, clearly communicated to the population and affordable.
- **Make migration policy more inclusive:** If migration governance mechanisms are to effectively protect all migrants, policy needs to be inclusive of all groups. This is missing even from many of the 'good' examples of current practices, where the issues of stateless people or children of migrants who do not get proper documentation in either country of origin or destination are not addressed. Policymakers could ensure that policy responses to migration have a human rights-based and gender sensitive approach, which are often lacking.
- **Encourage greater political participation of migrants:** As their security needs are currently underserved, opportunities for migrants to represent themselves

and their needs could be facilitated. In most countries in SEA, migrants can only indirectly communicate with government authorities, including state security providers and justice systems. While providing them with voting rights might be difficult to implement, at least some form of representation giving them a space to voice their security concerns clearly and freely could be provided, for example replicating the format of trade unions.

- **Adopt a human security-centric approach:** When developing migration policies, it is crucial to adopt a human security perspective alongside the traditional security lens. In doing so, not only would migrants receive better protection as the full range of security threats facing them would be better recognised, but provisions would also be more victim-centred and preserve the agency of migrants. Moreover, countries with migrant populations would also experience complementary positive impacts on their traditional security. For example, fewer mistreated migrants would turn towards violent extremism.

Improved collaboration with local and non-state actors

- **Empower local authorities:** Local authorities are often better aware of the reality of the field as migration happens far from central authorities. However, empowering local authorities always needs to be accompanied by clear and efficient oversight mechanisms to avoid abuse, as well as relevant training for local authorities.
- **Include non-state actors:** Mirroring the previous point, non-state security actors and civil society representatives could be well placed at all levels of trainings and policy discussions, as they can provide valuable insights into the realities of migrants and their relations with state security providers. This is particularly true in larger countries in SEA as well as border areas with shared cultures or ethnicities.
- **Engage with diverse groups:** It would be particularly incumbent upon more diverse SEA nations, such as Indonesia, to include non-state actors that are representative of varied cultural, religious and social groups. Doing so will help to promote a culture of tolerance for plurality, enhance social cohesion and strengthen trust between state and society, which will ultimately feed into a standard of security provision for all groups that is better aligned with good SSG principles.
- **Cooperate in good spirit:** For inclusivity to be productive, state authorities should genuinely listen to non-state actors who they are likely not accustomed to taking advice from. Simultaneously, non-state security actors could openly enter such dialogue and processes in the spirit of cooperation and collaboration, not using the issue of migration for political gain or to attempt to weaken state institutions.
- **Involve commercial entities:** Given their influence over migrant workers' security outcomes, representatives from relevant business entities such as trade unions (if applicable), employers and PSCs could be included in policy discussions, with appropriate responsibility placed on these actors as oversight providers to do their part in preventing exploitation of migrants.

Security Institutions

- **Tackle regulatory non-compliance:** To tackle violations of migrants' rights by state security providers, more clearly defined roles for these actors and effective legal and disciplinary sanctions for perpetrators could be introduced, with consistent implementation to ensure deterrence. Given the expanding range of actors nowadays providing security on behalf of the state, including labour officials and PSCs, robust legal frameworks should be developed to regulate the activity of these actors, particularly in legal 'blind spots' such as detention centres where maltreatment often occurs. Abuse of power can also be partially mitigated by more effective monitoring of and reporting on migrants' protection, especially in the areas most out of sight of the central government. Cooperation with NGOs and CSOs who may have unique access to information can offer a promising starting point in this regard (see above).
- **Strengthen oversight mechanisms:** Closely linked to the above, empowerment of proper and efficient oversight mechanisms (e.g., human rights commissions, ombudspersons and non-state bodies) in countries at all stages of the migration route can help to ensure that policies are implemented transparently and fairly, that all security sector actors are held accountable to their actions, and that they abide by the rule of law.
- **Train state security providers:** Often the first point of contact with migrants, state security providers should be fully familiarised with existing policies and good practices regarding the handling of migrants and trained to identify migrants in vulnerable situations. Trainings should not just be technical but also victim-centred, in order to sensitise trainees to victims' experiences. They should also be regularly and systematically provided to all relevant officials, given how regularly officers are transferred. If achieved, state security providers could serve as crucial providers of information to migrants and also report migrants' needs.
- **Develop capacities of parliaments:** As parliaments are central state oversight agencies for ensuring SSR occurs within a democratic framework and state security institutions do not overstep their assigned powers, parliamentarians could receive adapted capacity-building training that improves their understanding of migration issues and the migration-SSG/R nexus. Training would also sensitise them to migrants' experiences so that they are more likely to consider the protection of migrants a priority issue to advocate for in the future. Specific parliamentary commissions including technical specialists could contribute to this aim, allowing parliamentarians to deliver on their oversight responsibilities more efficiently. If successful, similar capacity-building mechanisms could also be rolled out to local authorities.
- **Facilitate cross-border data sharing:** Given the transnational nature of much migration in SEA, state security institutions alone cannot respond effectively without the input and intelligence of neighbouring countries. National intelligence agencies across SEA could therefore engage in increased cross-border sharing of migration-related data, in order to improve effectiveness of responses across the

region, while also allowing responses to migration-related crimes to become more preventive than reactive.

- **Improve access to justice:** Development of complaints mechanisms that are easily and safely accessible to migrants to report possible abuses themselves would, in turn, support oversight bodies in fulfilling their duties. To be able to fully utilise these mechanisms, strong communication about their existence and the rights they confer to migrants should be targeted towards migrant communities, for example by translating important documents and disseminating information through non-state security institutions.

Non-State Security Actors

Although the SSR process is often government-led, there is a need for greater roles for non-state security actors. This is particularly important when considering the specific issue of the migration-SSG/R nexus, where non-state security actors can be central in making migrants' protection more inclusive and responsive. However, expanding the range of actors engaged in good SSG is not without its challenges. For example, in some countries non-state security providers do not necessarily follow the rule of law, and in some cases may even be in open conflict with the central government, as is the case in Myanmar. This makes collaboration and cooperation difficult, and in instances of conflict next to impossible. However, there could be more room for impact if non-state bodies undertook research into the various limitations of existing protocols, practiced monitoring and oversight, as well as conducted direct outreach with migrant groups.

- **Evaluate existing provisions:** As mentioned directly above, existing provisions could be evaluated to determine whether they even have the potential to offer sufficiently effective protection of migrants. Rather than self-assessment, this task might be better suited to non-state entities such as research institutions or academic organisations. The IOM's Migration Governance Indicators, developed to assess national frameworks and identify areas for improvement in migration governance⁵⁹, offer a useful tool for pinpointing areas for reform and quite closely echo SSG/R priorities. As only two countries in SEA have been evaluated against these indicators to date, evaluating more countries could offer a useful entry point for research that sends a strong message to SEA nations. Alternatively, ASEAN's Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN⁶⁰ presents another framework for comparative analysis that could be replicated at the national level.
- **Identify barriers to implementation:** Among the existing legal and policy frameworks that in theory offer high-quality protection, more research would

59 International Organization for Migration (2022) "Migration Governance Indicators", *Global Migration Data Analysis Centre*, [https://gmdac.iom.int/migration-governance-indicators#:~:text=The%20Migration%20Governance%20Indicators%20\(MGI,to%20develop%20their%20migration%20governance.](https://gmdac.iom.int/migration-governance-indicators#:~:text=The%20Migration%20Governance%20Indicators%20(MGI,to%20develop%20their%20migration%20governance.)

60 The Association of Southeast Asian Nations (ASEAN) (2021) "Comparative Study on Laws and Policies in the Management of Migrant Workers in ASEAN", https://asean.org/wp-content/uploads/2021/08/Comparative_Study_Migrant_workers1.pdf.

help further understand why these provisions often fail to translate into desired outcomes. This includes examining the incentives that determine how and if countries implement agreed policies, such as the competing priorities policymakers may believe they face between protecting migrants and other areas such as security and trade policy. The approach of the Measuring Opportunities for Women in Peacekeeping Operations (MOWIP) methodology could be adapted here to evaluate protection of migrants, as it assesses practices across countries to identify areas for improvement, provides recommendations, and generates awareness of the gaps between policy and implementation.⁶¹

- **Assess institutional practices:** Beyond the policymaking level, investigation would help to uncover how frameworks which are implemented with good intentions are operationalised by security sector institutions in practice. For instance, specific comparative studies could be undertaken pinpointing the disparities between the provisions of national and regional policies on migration and their translation into state security providers' internal rules, operating procedures and training manuals. Concrete and feasible solutions could then be provided to security sector actors to enhance their engagement with existing mechanisms, improving the alignment of policies and allowing more effective implementation across state security institutions.
- **Emphasise policy linkages:** Greater research on the positive interlinkages between migration and other policy areas would help combat the above issue of insufficient political will to implement existing frameworks due to a belief among many policymakers that advancing migrant security is to the detriment of other national priorities, and would help demonstrate to policymakers the complementary nature of these goals. For instance, the 2017-2022 national development plan of the Philippines offers a positive example of policy in which migration is integrated throughout.⁶² However, developing strong interlinkages could risk securitising migration, which would need to be managed to ensure it creates no adverse repercussions for migrants' wellbeing.
- **Identify best practices:** Identification of best practices that can be promoted and adapted to other contexts can improve the above implementation problems. These can be gained from the kinds of comparative, national-level case studies mentioned in the previous recommendations, or from exemplary initiatives conducted by local actors (see below).
- **Scale up existing local efforts:** SSR efforts tend to be state-centric, assuming policy reform at the government level will trickle down and that it is the correct entry point to begin with. However, in reality many local organisations have a highly meaningful impact on migrants' protection on the ground, completely independent from government-led efforts. Thus, more focus could be placed

61 Geneva Centre for Security Sector Governance (2020) "MOWIP Methodology: Measuring Opportunities for Women in Peace Operations", https://www.dcaf.ch/sites/default/files/publications/documents/MOWIP_Methodology_4.pdf.

62 National Economic and Development Authority (2022) "Updated Philippine Development Plan 2017-2022", https://pdp.neda.gov.ph/wp-content/uploads/2021/12/122421_Updated-PDP.pdf.

on finding examples of effective local-level efforts that provide migrants with protection and agency – particularly in settings where high-level political will is lacking – and scaling up these efforts.

- **Build capacities of non-state security providers:** To the extent that non-state actors already plug certain gaps in states’ provision of security to migrants, it is in states’ interest to ensure non-state actors perform effectively. Thus, states should equally roll out the types of capacity building and training suggested for state security providers to their relevant non-state counterparts in order to pragmatically develop the whole-of-system approach described earlier in this document.
- **Improve migrants’ access to information on their rights:** As well as security institutions often not being aware of the relevant rules and rights when interacting with migrants, migrants also often lack the knowledge and tools to access the legal instruments and existing procedures at their disposal. Greater efforts to educate migrants could build upon existing examples such as The Migrant Forum in Asia, a regional network of migration NGOs which educates female migrants on their rights in order to prevent exploitation by employers.⁶³
- **Utilise digital technology:** Making better use of digital technologies can offer more effective and inclusive communication and access to important information for migrants, mostly regarding their rights and opportunities to access justice. However, reforms in this area must avoid collecting excessive data on migrant users, as this could render them even more vulnerable.

63 Migrant Forum in Asia (2021) “Recruitment”, https://mfasia.org/mfa_programs/capacity-building/recruitment/.

Conclusion

Migration has always existed in SEA for various reasons and has significantly increased in recent decades, mostly as a consequence of domestic conflicts, natural disasters and the region's rapid population growth in recent decades. While certain mobility drivers such as violent conflict are subsiding over time, other causes are increasing in pertinence in the region. Notably, climate change is accelerating intra-regional mobility, both directly as a result of SEA's increasingly frequent natural disasters, and indirectly by reducing the availability of cultivable lands that feed populations and sustain livelihoods.⁶⁴ Bilateral and multilateral agreements to support legal migration and protect migrants do exist, but are often only partially implemented. As the COVID-19 pandemic has demonstrated, keeping migrants in vulnerable situations with limited ability to exercise their rights allows for easier exploitation and increases states' flexibility to expel them without compensation in times of crisis. Thus, given the enormous economic and political interests involved, it is highly unlikely that a completely satisfactory solution to providing protection to migrants will be reached any time soon.

However, security sector actors – state and non-state, providers and oversight bodies alike – can significantly improve their protection of migrants through a systematic application of good SSG principles. Indeed, through their journeys, migrants likely interact with the entire array of security sector actors who have the potential to crucially help identify migrants in particularly vulnerable situations, such as irregular migrants. These security sector actors can also offer protection, frequently in collaboration with CSOs and local security actors such as community or religious leaders, who often already provide assistance. While this Thematic SSG Brief has identified many barriers to implementation, one major difficulty to overcome is conceptual in nature. As long as the protection of borders continues to be perceived as a traditional security priority by governments in SEA, the human security impacts of migration remain overlooked. Instead, migrants are too often seen as a tool, or even a bargaining chip, by both sending and receiving countries in pursuit of their national interests.

Thus, beyond laws and regulations and the training of security personnel, addressing the human security needs of migrants also requires a more fundamental shift in mentality towards migrants. This change of mentality is more challenging to achieve through SSR than more straightforward capacity building efforts, as it requires willingness and a proactive attitude from national governments and ASEAN. In turn, securing the buy-in of national governments and regional bodies requires demonstration that adequately protecting migrants also produces a net benefit for them and aligns with their other policy priorities – for example, by reducing the risk of migrants being recruited into extremist groups as they grow desperate. Despite this reality, it remains highly difficult at present to convince stakeholders at all levels – from communities to security providers to governments – that protecting migrants is not only the moral thing to do, but the sensible one.

64 Nor Diana, M. I., Zulkepli, N. A., Siwar, C., & Zainol, M. R. (2022) "Farmers' Adaptation Strategies to Climate Change in Southeast Asia: A Systematic Literature Review", *Sustainability*, 14(6), 3639, <https://www.mdpi.com/2071-1050/14/6/3639/pdf?version=1647696567>, p.3.

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