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Issues:

- AUSTRALIAN HIGH COURT RULES REFUGEE SWAP WITH MALAYSIA UNLAWFUL
- HUMAN TRAFFICKING
- INTERNAL AND CROSS-BORDER CONFLICT
- MIGRATION
- TRANSNATIONAL CRIME
- WATER SECURITY

Note: Please click on the respective titles or headers for the full report.

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MAIN HIGHLIGHT

Australian High Court Rules Refugee Swap with Malaysia Unlawful

The controversy surrounding the Australia-Malaysia refugee swap agreement that would have seen 800 asylum seekers sent to Malaysia in exchange for 4,000 processed refugees took a decisive turn on 31 August when the Australian High Court ruled the pact illegal. The Court essentially argued that, as Malaysia is not a signatory to the 1951 Refugee Convention, there are insufficient protections in place to ensure that asylum seekers sent to Malaysia would have their human rights respected as required by Australia's obligations under international law.

In the aftermath of the decision, several Australian Labor MPs have distanced themselves from their party's present position on offshore processing, with proposals that the policy be abandoned altogether and replaced with a more human approach based around onshore processing.

The debate over offshore processing has also naturally turned into one about the merits and legality of Australia's corollary policy of mandatory detention. In the words of one Senator, 'Our position is now unequivocally that we go back to the [Labor] party platform [which] basically says that we should process people onshore and that mandatory detention is only to identify health issues, people's identity and security risks.'

Legal advice sought by the Gillard government after the High Court ruling suggests that all offshore processing of asylum seekers may now be invalid. This has implications not only for the Malaysia deal but also for offshore processing plans being considered in Nauru and in Manus Island, Papua New Guinea. However, Opposition leader Tony Abbott has offered to cooperate with the Gillard government on possible legislative changes to the Migration Act in order to place 'beyond legal doubt [the] offshore, third-party processing' of asylum seekers. The Australian Greens party, on the other hand, has a bill before parliament that would eliminate the indefinite mandatory detention of asylum seekers as a first resort. The bill seeks the release of individuals into the community after initial health and security checks, the freeing of children from detention and a 30-day limit on detention.

In the meantime, 335 asylum seekers initially destined for Malaysia exist in limbo on Christmas Island. Immigration Minister Chris Bowen has noted, however, that their protection claims will now be assessed.

Additional Info:

- Australia, 2011, *Plaintiff M70/2011 v Minister for Immigration and Citizenship; Plaintiff M106 of 2011 by His Litigation Guardian, Plaintiff M70/2011 v Minister for Immigration and Citizenship*, High Court of Australia, 31 August.
- Harvey, Claire, 'WikiLeaks Sinks Labor Boats Policy', *The Sunday Telegraph*, 4 September 2011.
- Coorey, Phillip, 'PM Stares Down Threats from the Left on Asylum', *The Sydney Morning Herald*, 6 September 2011.
- Hanson-Young, Sarah, 'High Court Decision Presents an Opportunity To Start Afresh', *The Sydney Morning Herald*, 6 September 2011.

HUMAN TRAFFICKING

News & Commentaries

- Cohn, Julie, 'In Vietnamese Village, Stitching the Wounds of Human Trafficking', *The New York Times*, 16 August 2011.
- Letchumanan, A., 'KL-Beijing To Sign Pact on Tackling Human Trafficking', *The Star*, 17 August 2011.
- Corben, Ron, 'UN Urges Asia To Enforce Human Trafficking Laws', *Voice of America*, 19 August 2011.
- 'ASEAN Makes Public Anti-Human Trafficking Report', *Bernama*, 24 August 2011.
- 'Aussie Law on Human Trafficking Challenged', *Gulf Times*, 31 August 2011.
- 'China Warns of Mail-order Bride Ads', *UPI*, 31 August 2011.
- 'Malaysia Believes Asylum-seekers Swap Best Way To Tackle Human Trafficking', *Bernama*, 31 August 2011.



Selected Publications

- Kaur, Manpavan, 2011, 'Responding to Protection Gaps in Malaysia's Anti-Human Trafficking Policies', *NTS Alert*, August (Issue 2), Singapore: RSIS Centre for Non-Traditional Security (NTS) Studies for NTS-Asia.

The article discusses the protection gaps in national anti-human trafficking policies perpetuated by the dominance of the *US Trafficking in Persons (TIP) Reports*. Using Malaysia as a case study, it discusses how over-reliance on the *TIP Reports* has led certain states to focus their national policies on prosecuting traffickers. This discourages an approach that is more responsive to internal conditions, leaving trafficked persons inadequately protected.

- Rahman, Majeed A., 2011, 'Human Trafficking in the Era of Globalization: The Case of Trafficking in the Global Market Economy', *Transcience Journal*, Vol. 2, No. 1.

This article analyses the impact of globalisation on consumer needs and supply chains related to human trafficking. It uses Bangladesh as a case study and distinguishes among the different forms of human trafficking.

Events & Announcements

- 'Asia Pacific Forum on Human Trafficking 2011', 2–3 November 2011, Chiang Mai, Thailand.
- 'Incorporating Human Trafficking in Academic Institutions: The European Experience', 25–26 November 2011, Amsterdam, Netherlands.

[^ To the top](#)

INTERNAL AND CROSS-BORDER CONFLICT

News & Commentaries

- 'Myanmar's Suu Kyi Tests Freedom, Meets Supporters', *The Jakarta Post*, 14 August 2011.
- 'Malaysia/China: Prevent Forced Return of Uighurs', *Human Rights Watch*, 22 August 2011.
- 'Nepal: Bhutanese Refugee Numbers Nearly Halved', *IRIN*, 24 August 2011.
- Padden, Brian, 'Aceh Peace Model Stumbles in Troubled Indonesian Papua Region', *Voice of America*, 25 August 2011.
- Teoh, Francis, 'The Underlying Issue of Statelessness', *The Jakarta Post*, 25 August 2011.
- Tran, Mark, 'Donor Governments Asked To Review Cambodia Aid if NGO Law Is Passed', *Guardian*, 26 August 2011.
- 'UN-backed Cambodia Genocide Tribunal Begins Fitness Hearing for Accused', *UN News Centre*, 29 August 2011.
- 'UNHCR Urges More Support for Statelessness Treaty on 50th Anniversary', *UN High Commissioner for Refugees (UNHCR)*, 30 August 2011.
- Purnell, Newley, 'Muslim Insurgency in Thailand's Restive South Heats Up', *The Christian Science Monitor*, 31 August 2011.
- Siegel, Matt, 'Australian High Court Rules Out a Refugee Exchange Program', *The New York Times*, 31 August 2011.
- 'Sri Lanka Ends State of Emergency, Introduces New "Anti-Terror" Law', *Voice of America*, 31 August 2011.



Selected Publications

- Oxfam Australia, 2011, *Early Warning for Protection: Technologies and Practice for the Prevention of Mass Atrocity Crimes (3–4 November 2010)*, Outcome Document, Carlton.

This outcome document explores three issues related to early warning in the context of the responsibility to protect populations from mass atrocity crimes, namely, understanding early warning mechanisms, communication, and responses to early warning signals. In addition to traditional channels, the application of technology for early warning is discussed.

- Nasu, Hitoshi, 2011, 'Operationalizing the Responsibility to Protect in the Context of Civilian Protection by UN Peacekeepers', *International Peacekeeping*, Vol. 18, No. 4, pp. 364–78.

This article explores why and how to operationalise the Responsibility to Protect (RtoP) for the purpose of civilian protection in UN peacekeeping missions. Despite its limited political impact currently, the RtoP may still assist in clarifying the doctrines and mandates of civilian protection. The application of RtoP requires a holistic approach to preventing mass atrocities which integrates the military with other specially trained units, such as the military police and formed police units (FPU).

Events & Announcements

- 'Peace, Environment and Tourism Conference 2011', 20–21 September 2011, Pokhara, Nepal.
- 'Inaugural ISA Asia-Pacific Regional Section Conference 2011', 29–30 September 2011, Brisbane, Australia.
- 'International Conference on Peace', 4–7 November 2011, Islamabad, Pakistan.

[^ To the top](#)

MIGRATION

News & Commentaries

- Needham, Kirsty, 'Refugee Unrest in Malaysia after Deportation Bungle', *The Sydney Morning Herald*, 26 August 2011.
- DeParle, Jason, 'Surge in Global Migration Expands Scale of an Aid Group's Influence', *The New York Times*, 30 August 2011.
- Islam, Shada, 'ASEM Partners To Meet on Immigration', *Voxy*, 1 September 2011.
- Packham, Ben, 'Legal Advice Suggests All Offshore Processing of Asylum-seekers May Now Be Unlawful', *The Australian*, 1 September 2011.
- Hill, Evan, 'Migrants Suffer in Tripoli Camps', *Al Jazeera*, 2 September 2011.
- 'Labor Splits over Offshore Processing', *ABC*, 2 September 2011.
- 'Legal Advice Rules Out Offshore Processing: Bowen', *ABC*, 4 September 2011.



Selected Publications

- Deacon, Bob, Philippe De Lombaerde, Maria Cristina Macovei et al., 2011, 'Globalisation and the Emerging Regional Governance of Labour Rights', *International Journal of Manpower*, Vol. 32, No. 3, pp. 334–65.

Based on the premise that labour policies cannot be dealt with at the national level alone, the authors examine the approaches and progress of different regions in responding to labour rights and migrant workers' rights. In the Asia-Pacific, it is noted that these rights issues are still primarily dealt with in terms of trade in services, and business- and investment-related concerns. Ultimately, the authors propose, significant opportunities exist for new regional policies in this area.

- Leighton, Michelle, Xiaomeng Shen and Koko Warner (eds), 2011, *Climate Change and Migration: Rethinking Policies for Adaptation and Disaster Risk Reduction*, Studies of the University: Research, Counsel, Education (SOURCE) No. 15, Bonn: United Nations University and the Institute for Environment and Human Security.

This report is the outcome of a series of workshops and roundtables in 2010 attended by PhD researchers and international experts from the UN High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM), the European Commission and the Council of Europe. Participants explored issues of human displacement and migration associated with climate variability and disaster, with a particular focus on identifying and remedying gaps in existing legal and institutional frameworks for protecting vulnerable populations.

Events & Announcements

- 'Multisectoral Consultation on the Campaign against Illegal Recruitment, Trafficking and Irregular Migration', 12 September 2011, Antique, Philippines.
- 'Global Migration Group Principals Meeting', 16 November 2011, Paris, France.

TRANSNATIONAL CRIME



News & Commentaries

- 'Tracking Crime in Real Time', *ScienceDaily*, 8 August 2011.
- Graham, Ronan, 'Honduras Guns Feeding Central America's Arms Trade', *In Sight*, 12 August 2011.
- Barry, Carolyn, 'Australia's Wildlife Blackmarket Trade', *Australian Geographic*, 16 August 2011.
- 'Academic Urges Legalisation of Casinos', *Bangkok Post*, 30 August 2011.
- 'Fewer than Half See Progress in Drug War: Crime and Drug Cartels Top Concerns in Mexico', *Pew Research Center*, 31 August 2011.
- Fiegel, Eric, 'Report: Manufacturers Lost Track of More than 16,000 Guns since 2009', *CNN*, 2 September 2011.
- Norton-Taylor, Richard and Nick Hopkins, 'Libya Warned Smugglers Are Looting Gaddafi's Guns', *Guardian*, 2 September 2011.
- 'Malaysian Trio To Hang for Drug Trafficking', *New Straits Times*, 4 September 2011.
- Lubchenco, Jane and Maria Damanaki, 'Pirates Stealing Fish', *ABC*, 6 September 2011.

Selected Publications

- Small Arms Survey, 2011, 'Scraping the Barrel: The Trade in Surplus Ammunition', *Issue Brief*, No. 2.

This brief focuses on the relevance of the trade in surplus ammunition to transfer controls by drawing on a selection of recent case studies. The first section explains the significance of the international surplus ammunition business, with examples of surplus transfers involving Europe, US, Afghanistan and Iraq. The second section discusses case studies of surplus transfers in African conflict zones – including West Africa and the Great Lakes region.

- Le Roux, Pierre, Jean Baffie and Gilles Beullier (eds), 2010, *The Trade in Human Beings for Sex in Southeast Asia: A General Statement of Prostitution and Trafficked Women and Children*, Bangkok: White Lotus.

This volume brings together 28 senior scholars and experts in various disciplines to provide a general statement on slavery, prostitution and trafficking in persons in the region. It examines the issues surrounding the trafficking in women and children for the purpose of sexual exploitation, and offers some suggestions on how to deal with the problem.

- UN Office on Drugs and Crime (UNODC), 2011, *The Global Afghan Opium Trade: A Threat Assessment*, Vienna.

Opiates originating in Afghanistan threaten health and well-being. The illicit trade in opiates also adversely impacts governance, security, stability and development – in Afghanistan, in its neighbours, in the broader region and beyond. This report covers worldwide flows of Afghan opiates, as well as trafficking in precursor chemicals used to turn opium into heroin. By providing a better understanding of the global impact of Afghan opiates, this report can help the international community identify vulnerabilities and possible countermeasures.

- Bennett, Elizabeth L., 2011, 'Another Inconvenient Truth: The Failure of Enforcement Systems To Save Charismatic Species', *Oryx*, pp. 1–4.

An immense, increasingly sophisticated illegal trade in wildlife parts by organised crime groups, coupled with antiquated enforcement methods, is decimating some of the world's species, including rhinos, tigers and elephants. This paper argues that trade in wildlife must be treated as a serious crime, with sufficient resources, highly trained personnel and appropriate technologies allocated to address the problem. The commitment of governments and non-governmental organisations and the support of civil society will be vital to the success of any effort to tackle the trade.

Events & Announcements

- '3rd Maritime Security & Anti-piracy Conference (MSAPC)', 5–6 October 2011, Athens, Greece.
- 'Second Annual Interdisciplinary Houston Human Trafficking Conference', 18 February 2012, Houston, US.



News & Commentaries

- Than, Ker, 'Could Seawater Solve the Freshwater Crisis?', *National Geographic*, 5 August 2011.
- 'Danger of War over Water Growing', *AsiaNews*, 6 August 2011.
- Ball, Kieran, 'Mekong River Irrawaddy Dolphins Face Extinction', *Earth Times*, 17 August 2011.
- Chestney, Nina, 'Farming Overhaul Vital for Food, Water Security: UN', *Reuters*, 22 August 2011.
- Molden, David, 'Opinion: The Water Deficit', *The Scientist*, 23 August 2011.
- Borg, Bertrand, 'Ship Leaves Malta for Tripoli with Badly Needed Drinking Water', *Times of Malta*, 30 August 2011.
- 'Water as a Tool of War: Qaddafi Loyalists Turn Off Taps for Half of Libya', *Circle of Blue*, 30 August 2011.
- Landais, Emmanuelle, 'Academic Focus on Water Scarcity', *Gulf News*, 2 September 2011.
- Toh, Elgin, 'Quenching Singapore's Thirst', *The Straits Times*, 3 September 2011.

Selected Publications

- Martens, Anja Kristina, 2011, *Impacts of Global Change on the Nile Basin: Options for Hydropolitical Reform in Egypt and Ethiopia*, IFPRI Discussion Paper 01052, Washington, DC: International Food Policy Research institute (IFPRI).

This paper discusses avenues for hydropolitical reform in the Nile Basin, including the Nile Basin Initiative, and the role of China and other donors or investors. The findings – that global change might well bring down the old hydropolitical regime – are supported by recent developments, in particular, the signing by five upstream countries of a new framework agreement for the management and development of the Nile Basin.

- Boelee, Eline, Thomas Chiramba and Elizabeth Khaka (eds), 2011, *An Ecosystem Services Approach to Water and Food Security*, Nairobi and Colombo: United Nations Environment Programme (UNEP) and International Water Management Institute (IWMI).

This report identifies and explores the links between ecosystems, water and food, and illustrates how resilient ecosystems can support and enhance food security. A way forward is suggested, which includes valuing ecosystem services, managing agriculture as a continuum of agro-ecosystems, enhancing collaboration between sectors and using adaptive integrated water resources management.

- Zeitoun, Mark and Anders Jägerskog, 2011, *Addressing Power Asymmetry: How Transboundary Water Management May Serve To Reduce Poverty*, SIWI Report No. 29, Stockholm: Stockholm International Water Institute (SIWI).

This report explores how power asymmetry mediates the relationship between transboundary water management (TWM) and poverty reduction. It argues that failure to engage the basin hegemon constructively will hamper effective TWM cooperation, but the most effective strategy to confront power asymmetries will vary from basin to basin. Different options to enable effective TWM are provided to guide decision-makers.

Events & Announcements

- 'Management of Water in a Changing World: Lessons Learnt and Innovative Perspectives', 12–13 October 2011, Dresden, Germany.
- 'Water Resource Sustainability Issues on Tropical Islands Conference', 14–16 November 2011, Honolulu, US.
- 'International Conference on Traditional Knowledge for Water Resources Management', 21–23 February 2012, Yazd, Iran.

[^ To the top](#)

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About the Centre:

The Centre for Non-Traditional Security (NTS) Studies of the S. Rajaratnam School of International Studies was inaugurated by the Association of Southeast Asian Nations (ASEAN) Secretary-General Dr Surin Pitsuwan in May 2008. The Centre maintains research in the fields of Food Security, Climate Change, Energy Security, Health Security as well as Internal and Cross-Border Conflict. It produces policy-relevant analyses aimed at furthering awareness and building capacity to address NTS issues and challenges in the Asia-Pacific region and beyond. The Centre also provides a platform for scholars and policymakers within and outside Asia to

discuss and analyse NTS issues in the region.

In 2009, the Centre was chosen by the MacArthur Foundation as a lead institution for the MacArthur Asia Security Initiative, to develop policy research capacity and recommend policies on the critical security challenges facing the Asia-Pacific.

The Centre is also a founding member and the Secretariat for the Consortium of Non-Traditional Security (NTS) Studies in Asia (NTS-Asia). More information on the Centre can be found at www.rsis.edu.sg/nts.

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