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THEMATIC PROTECTION BULLETIN

PROTECTION OF MIGRANTS AND FORCED RETURNEES IN MINDANAO

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QUICK STATISTICS

- 800,000 (estimated) Filipino mixed migrants and refugees currently residing in Sabah, Malaysia
- 105,000 (estimated) Filipinos forcibly returned from Sabah since 2005
- Each week hundreds of Filipinos are forced to return from Sabah.

Approximately 400 persons are recorded in Tawi-Tawi and another 400 persons in Zamboanga.

- Many of the forced returnees include women and children separated from husbands and other family members. They are exposed to serious protection risks, including trafficking, exploitation, and abuse.

Background

- UNHCR in Mindanao is working with local authorities to strengthen their protection monitoring of hundreds of Filipino nationals who are forced to return from Sabah, Malaysia each week. Many of these persons arrive to Tawi-Tawi and Zamboanga in extremely vulnerable conditions, and many, in the process of their forced return, they are separated from family members who remain in Sabah. Often individuals have physical, psycho-social and legal protection concerns that are not identified and addressed upon their arrival to the Philippines from Malaysia. The DSWD in Zamboanga and Tawi-Tawi have increased their efforts to provide support to this large number of forced returnees who are expected to continue to arrive, however their access to services and specific needs require more attention to ensure the human rights concerns are being adequately addressed both in the Philippines and Malaysia.
- Secondary data review reveals that there were three waves of migration of Filipinos to Sabah, Malaysia. This includes (1) the pre - World War period when Sabah was under the political and administrative control of the Sultanate of Brunei and the Sultanate of Sulu. The ethnic links and social networks between what was to become the southern Philippines and a part of Malaysia played a role in facilitating and sustaining a significant migration flow, (2) Filipinos affected by fighting between the Philippine Government and Moro National Liberation Front (MNLF) in the 1970s to the mid-1980s fled to Sabah. As many as 73,000 were recognized as refugees by the Malaysian government in cooperation with UNHCR. Many were provided social work passes by the government and allowed to stay and work in Sabah. Today with the population growth of refugee families who remained, there are thought to be over 300,000 Filipinos living in Sabah linked to this original refugee population. (3) Economic migration, Filipinos have traditionally sought work in and traded with Sabah. With a sinking economy in the Philippines in the late 1970s many Filipinos found Sabah a welcoming environment due to the labor shortage for unskilled workers as the Malaysian economy was growing. This growth and opportunity for employment and better wages in Malaysia exists to this day. Many Filipinos from as far as Manila continue to seek employment in Sabah de-

spite the hardships and risks of being arrested, detained and forced to return from Sabah.

- Over the years, the Malaysian authorities have been extremely tolerant of the migration of Filipinos and other nationalities seeking employment as their economy needed the additional workforce. The last census conducted in 2010 of the Sabah population comprised a total number of 3.2 million. Of these, about one third or 899,000 were considered legal or illegal migrants. The Malaysian authorities themselves admit that the accuracy of these figures is in question. Malaysia started to take illegal economic migration to Sabah seriously after realizing that the population growth rate of Sabah is three times higher than other parts of Malaysia and the majority of this growth is from foreigners, mainly Filipinos and Indonesians. A major crackdown against 'illegal' migrants took place during the Berjaya administration in 2002 when studies showed a large increase of Filipinos in Sabah. In 2013, after the standoff in Sabah between the Malaysian forces and the "Royal Security Forces of Sulu and North Borneo", thousands of Filipinos residing in Sabah with an irregular status, many for decades, were deported following the conflict. The ensuing security-related crackdown forced many Filipinos to flee and in the panic many family members were separated and left behind. Since January until December 2013, around 19,500 Filipinos most of them without legal documents or permits were forced to return from Sabah. In 2014, Tawi-Tawi and Zamboanga registered about 11,000 forced returnees and in the first half of 2015, there has already been close to 10,000 forced returnees registered with these two DSWD offices.
- Monitoring of population movements to and from the Philippines is challenging because of the porous land and sea border between Malaysia and the southern Philippine islands. To date, there is no comprehensive information including the total number of Filipinos who have been forced to return from Sabah. It is estimated that as of 2013, there are around 800,000 Filipinos in Sabah, so mixed-migration and forced returns are expected to continue without a comprehensive political agreement on Sabah and a reform of migration policy and practice coordinated between Malaysia and the Philippines.



UNHCR in close coordination with local authorities recorded around 19,500 forced returnees from Sabah during the Sabah standoff in March 2013.

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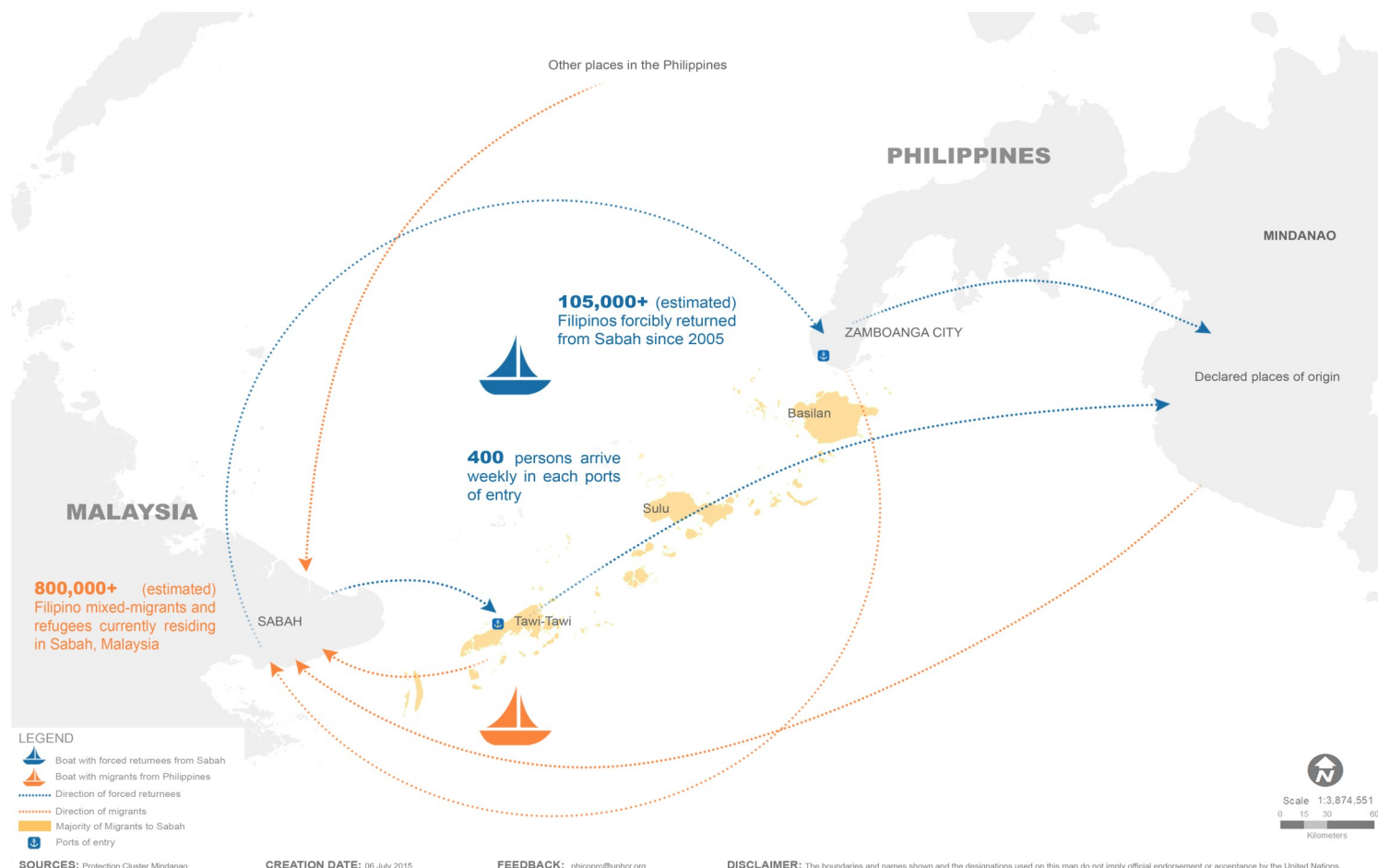
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- A Processing Center for Displaced Persons in Zamboanga City of the Department of Social Welfare and Development (DSWD) Office was established in 2005 to provide assistance to the increasing number of forced returnees arriving direct from Sabah to Zamboanga. It has served up to 76,000 persons as of June 2015. Malaysia is not a signatory to the 1951 Refugee Convention or the 1954 Convention on Statelessness. This potentially leaves previously recognized refugees and undocumented persons at-risk of being stateless and vulnerable of being arrested and forcibly returned to the Philippines without taking into consideration their and family members' specific protection concerns. Further complicating the provision of an effective protection reception mechanism is that some returnees for different reasons try to avoid registration with the local authorities and soon after arrival in the Philippines, they immediately find a way to return to Sabah where their family and livelihood remain.
- A roundtable discussion organized by DSWD in Tawi-Tawi including all government departments and NGOs concerned with the large number of persons arriving from Sabah was carried out, it was agreed that trainings and capacity support for them and all regional DSWD offices would be helpful. Construction of a reception center similar to the one

in Zamboanga is also planned. UNHCR Mindanao is examining ways to support the ARMM authorities to improve their reception, registration and identification of protection risks for forced returnees that include a mix of men and women of all ages. In addition, coordination between DSWD offices needs to improve so returnees can be traced from their registration at place of arrival to the barangay where they will settle so they can continue to access the specific support identified. Many forced returnees are caught up in a cycle of being forcibly returned and then immediately traveling back to Sabah to families and livelihoods and then forced to return again. In a recent meeting with all regional DSWDs it was emphasized that a protection mechanism that supports family unity and access to livelihoods needs to be mainstreamed into national level programme support of the regional DSWDs of the Island provinces and Zamboanga. These offices, mainly Tawi-Tawi and Zamboanga are receiving people on a weekly if not daily basis. UNHCR has recently conducted a protection monitoring support training with the Zamboanga DSWD and the island provinces in ARMM region DSWD offices providing capacity building support to staff that are on the front lines serving the forced returnees from Sabah. More support and assistance is needed as described below.

CYCLICAL MOVEMENT OF FORCED RETURNEES IN MINDANAO



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Protection Needs and Gaps

- **Data collection system needs strengthening:** Although Regions IX and ARMM are using the same Intake Sheet, there has been no official memorandum from the national government on the final and standard form to be used in the registration of this vulnerable population.
- **Collected data needs to be comprehensively analyzed and circulated and become the basis for programming decisions:** Current reports lack analysis and recommendations on how to identify and address the issues of persons with specific vulnerabilities. Reports are mostly for internal circulation only which limits the general awareness of the issue to relevant stakeholders.
- **Lead agency who will register and monitor these deportees needs to be identified:** No agency takes responsibility in consolidating information about forced returnees. To date, Region IX and ARMM region have their own data banking system and information analysis and reporting standards. There is a need to advocate at the national level to properly mainstream this issue for programming support.
- **Vulnerable populations need to be properly identified and highlighted in the current registration system:** To date, registration lacks assessment of the specific condition of persons with specific needs.
- **Dedicated staff needs regular technical support and mentoring:** Assigned staff in the registration and monitoring of the movement of returnees have limited skills when it comes to data processing and analysis which are crucial for reporting, programming and advocacy materials development.
- **Convergence groups need common or shared vision and functions:** Member agencies of organized task force to assist with the registration and support of this group participate on an *ad hoc* basis. Support is based on individual mandates and not on a unified strategy. There is a lack of clear strategic direction of the government response which impacts on the work of DSWD with no apparent coordination among the agencies to respond, hence, so much is left to DSWD to do by themselves (except in Tawi-Tawi where there is coordination with other offices).
- **Holistic humanitarian response is needed to provide quality services to forced returnees:** Response to the needs are usually very provisional i.e. transportation is provided but no facilitation with authorities in the communities the persons are returning to.
- **Human trafficking and other forms of human rights violations need to be prevented, monitored and addressed:** Difficulty of preventing the entrance/exit point of trafficked persons coming from other areas because of freedom of movement to the islands in Tawi-Tawi province. The province is composed of 11 island municipalities with 203 islets. Furthermore, cases of HRV (maltreatment, abuse

and discrimination) committed against Filipinos (e.g. allegedly lashes as a form of punishment) are always talked about but largely undocumented and unaddressed.

- **Assessment and documentation of potential stateless children:** Cases of potential stateless children remain undocumented. This includes children born in Malaysia but were not able to secure civil documentation.
- **Civil documentation support needs to be strengthened:** Lack of proper civil documentation that either supports/legalizes the stay of Filipinos especially those who are working in Malaysia or will prevent/discourage Filipinos to enter Malaysia, illegally.
- **People returning to their declared places of origin need to be regularly monitored:** Residual issues of the returnee population are not addressed and missed during registration and are not reported. Therefore often no resources are available or agency to respond. Such cases include child protection and SGBV related issues.
- **Appropriate reception center in Bongao, Tawi-Tawi province needs to be established:** Unlike in Zamboanga City, there is no processing center in ARMM region to serve and assist forced returnees. Any HRV cases (GBV, issue of lashes) can no longer be attended as women and deportees of all ages are very exposed.
- **National government need to address circular (recurring) movements:** There is no clear policy or an agreement between Philippines and Malaysia to address the circular migration and forced return movement.



Briefing on the available humanitarian assistance to forced returnees and on the value of civil documentation are among the services being provided by the Processing Center for Internally Displaced Persons of the Department of Social Welfare and Development Office in Zamboanga City, Region IX.

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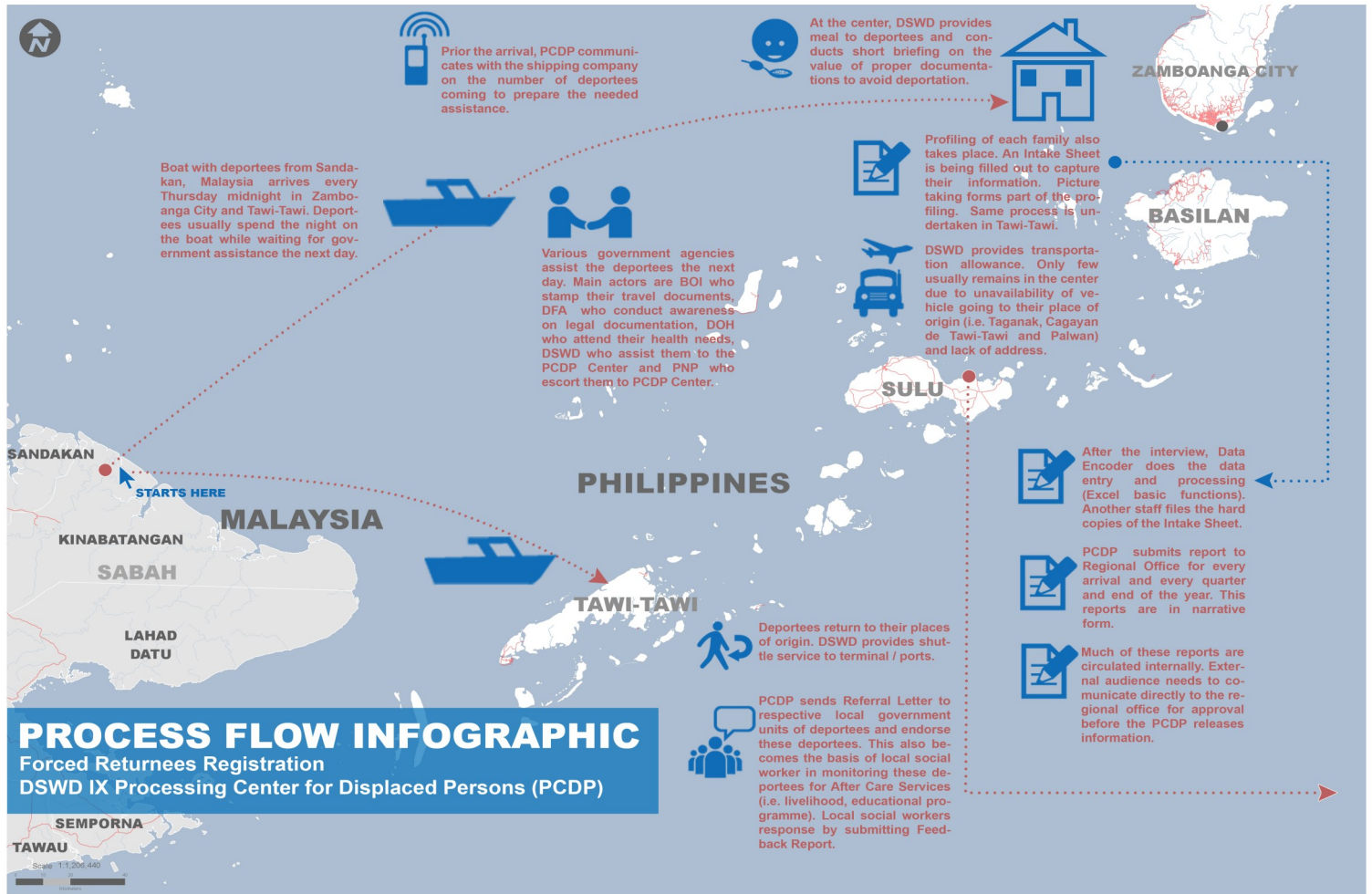
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Protection Support / Recommendations

To the national government

- Engage with Malaysian authorities to ensure forced removal/return of Filipino nationals is made in line with humanitarian and human rights principles. Many Filipinos live in Sabah with family members that are not registered with the authorities. Individuals are arrested and forced to return often separating them from their families. The principle of ensuring family unity should be observed to reduce protection risks, particularly for women and children when they are left without other family members to support them.

To the local government units

- Local government units in ARMM region to follow through on their plan for the construction of a reception center in Bongao, Tawi-Tawi province to effectively serve returnees' needs in one location. The one-stop shop concept of response will help ensure that vulnerable returnee's protection concerns are addressed in a comprehensive manner and in the most efficient way;
- Allocate for financial and infrastructure support to improve logistics and shuttling of vulnerable deportees in Tawi-Tawi province;

- Regional offices to improve management of gathered data, and reporting and circulation of protection-related information to support awareness and advocacy of the situation of Filipinos in Sabah.
- Recognize and properly prioritize vulnerable populations;
- Improve the coordination between all regions that returnees originate from. Establish a mechanism to consolidate and report information on returnees to destination locations on a regular basis;
- Enhance and continue to sustain the skills of technical staffs to apply protection and information management skills in their work;

To local and international humanitarian community

- IOM, UN agencies and NGO partners to jointly develop a plan to assess migration and potential anti-trafficking issues including the risk of statelessness, particularly for children; and encourage support from human rights advocates both at the local and international levels;
- Advocate to the Philippines and Malaysian government to work together to ensure that human rights issues are improved for this continuous mixed migration movement and for forced returnees.

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