

Hospitality as a Horizon of Aspiration (or, What the International Refugee Regime Can Learn from Acehese Fishermen)

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In May 2015, Acehese fishermen rescued over 1,800 displaced Rohingya who were stranded in the Andaman Sea. They did so in the face of a regional governmental stand-off that threatened to leave the Rohingya to drown. What compelled the fishermen and the villages from which they came to respond in this way? How might this example be instructive for an international refugee regime that failed in this case, as in others, to offer even the most basic form of protection to some of the world's most egregiously displaced? In this article, we respond to these questions, drawing on fieldwork based in Aceh and Jakarta alongside the insights of Jacques Derrida on the subject of hospitality. We show how the Acehese example speaks to a general paradox of hospitality that all potential hosts confront, including those states currently denying *entrée* to asylum seekers. We identify three specific ways in which the Acehese example can be drawn on as a source of both critique and inspiration. These concern the limits of refugee law as a 'solution' to the current 'refugee crisis', the ways in which capacity to provide hospitality is measured and the value of contingency in generating pathways oriented towards more hospitable responses to displacement.

Keywords: Hospitality, international refugee regime, human displacement, mobility, migration management, refugee law

Introduction

In May 2015, Acehese fishermen rescued over 1,800 displaced Rohingya who were stranded in the Andaman Sea. They did so in the face of a regional governmental stand-off that threatened to leave the Rohingya to drown. What compelled the fishermen and the villages from which they came to

respond in this way? How might this example be instructive for an international refugee regime that failed in this case, as in others, to offer even the most basic form of protection to some of the world's most egregiously displaced?

In this article, we explore how the impulse to respond generously to displacement manifests beyond the compulsions of refugee law. We show how the village-level response balanced a spirit of hospitality with a cautious weighing-up of the risks at stake to fishing communities and to the Rohingya, as both hosts and guests. Whilst grounded in local custom, the village-level response holds wider significance because it reflects a more general paradox of hospitality that all potential hosts confront, including those states currently denying entrée to asylum seekers. In order to move between the specific and the general with respect to hospitality, we draw on Jacques Derrida's treatment of the subject. Derrida's account of '*the law*' and '*the laws*' of hospitality provide a frame of reference through which to compare contending responses to displacement.

We argue that the Acehese example provides a compelling source of critique of the international refugee regime and a source of inspiration for alternative and more hospitable courses of action. Working through a Derridean lens, we identify three specific ways in which the Acehese example can be drawn on to offer wider instruction. First, the Acehese example speaks to the limits of refugee law as a mechanism for establishing what is due to those who are displaced and those seeking access to mobility. The actions of the fishermen are a reminder that these questions are ethical and political, as much as legal, in nature. Second, the Acehese example compels a more realistic reckoning with the ways in which capacity to offer hospitality is measured, and one that takes account of available resources as well as their most effective and equitable deployment. Third, the Acehese example provides a lesson in the value of contingency. In a context where state authorities are attempting to eradicate unpredictability from the management of migration, it was precisely what was unexpected in the Acehese example that allowed an expansion of the possible with respect to hospitality.

The discussion draws on fieldwork conducted in Aceh and Jakarta in November 2015 and April 2016. Our fieldwork included site visits to four camps in Aceh housing displaced Rohingya and interviews with a range of actors involved in their initial rescue, longer-term care and in the broader Indonesian response: fishermen conducting the rescue, heads of the villages initially receiving the Rohingya, local non-governmental organizations (NGOs) providing ongoing support, representatives from Indonesian Search and Rescue, the Indonesian Navy and the Foreign Ministry. Our existing networks provided some initial contacts and others were made independently on site visits. Most interviews were conducted in Bahasa Indonesia without an interpreter. In addition to reports by international agencies documenting the case of the Rohingya in Aceh, our discussion also draws on local (Acehese and Indonesian) media sources.

The article as a whole contributes to a number of inter-related interdisciplinary debates. It builds on a body of literature that engages hospitality as a critical resource for rethinking border politics and human displacement (Dikeç 2002; Friese 2010; Baker 2013; Wilson 2013; Vaughan-Williams 2015). It does so in light of a compelling challenge to humanitarianism as a bulwark against the violence and injustice at stake in contemporary border policing. As numerous scholars have shown, the theory and practice of humanitarianism are now implicated in securitized border policing against refugees and asylum seekers in ways that compound the urgency of seeking alternative resources for critique (Chimni 2000; Ticktin 2011; Walters 2011; Fassin 2012). In addition, the article engages with literature focused specifically on the politics of refugee protection in the Indonesian and South East Asian context (Taylor 2008; Kneebone 2014; Nethery and Gordyn 2014; Missbach 2015; Nah 2016). It contributes to recent efforts to correct the Euro-centrism of scholarly, legal and administrative approaches to borders and forced migration, and to look to Asia as a site that reveals the ‘multiplicity of forced migration regimes’ operating historically and contemporaneously (Ho et al. 2015: 13; see also Cons and Sanyal 2013). The empirical and geographical focus of the article serves as a prompt to consider how alternative and exemplary responses to human displacement emerge from settings that are frequently considered ‘backwards’ (or at least in need of ‘capacity-building’) in terms of global governance norms, expertise and will. In this respect, finally, the article aligns with the task of recognizing the Global South less in terms of exceptional or unique cases and more in terms of settings that offer general insight for theorists and practitioners of world politics (Comaroff and Comaroff 2012; de Sousa Santos 2014; Ling 2014).

The Acehese Reception of the Rohingya

A brief introduction to the Indonesian context helps to situate the Acehese example. Whilst not a signatory to the Refugee Convention, Indonesia is party to other international and regional legal instruments and customary forms of law (prohibiting *refoulement*, for instance) that contribute to the broader framework of refugee law (for details, see Taylor and Rafferty-Brown 2010). Indonesia is also co-chair, with Australia, of the Bali Process. The Bali Process is the key regional intergovernmental forum addressing irregular migration and has consistently maintained an emphasis on preventing transnational crime rather than expanding refugee protection (Kneebone 2014; Gleeson 2017). Indonesia has never openly welcomed asylum seekers and refugees. It has, however, tolerated their temporary presence and allowed the United Nations High Commissioner for Refugees (UNHCR) to operate in its territory since 1979. Indonesia considers itself a transit state for those awaiting return or resettlement elsewhere (Missbach 2015). Since 2001, under the terms of a Regional Cooperation Arrangement, the International Organization for Migration (IOM) provides various forms

of support to Indonesia-based refugees (funded by Australia) including accommodation and ‘assisted voluntary return’ to countries of origin. Whilst in Indonesia, asylum seekers and refugees are subject to policing and detention at the discretion of authorities and no formal pathway for local integration exists.

Reconsideration of Indonesia’s status as a transit state has been prompted more recently by Australia’s comprehensive non-entrée policies. Since 2013, these have included the interception and return to Indonesia of any boats en route to Australia carrying asylum seekers, as well as a refusal to resettle refugees processed in Indonesia who registered with the UNHCR after a cut-off date of 1 July 2014. As Australia had previously provided the majority of resettlement places for Indonesia-based refugees, the shift in policy has forced Indonesia to confront the prospect of refugees residing in its territory indefinitely.

Against this backdrop, in May 2015, some 5,000–8,000 people became stranded on boats in the Andaman Sea, north of Aceh, Indonesia. The crisis was preceded by the discovery of mass graves in Thailand in areas near the Malaysian border that were known as reception points for Rohingya, smuggled from Myanmar. A long-persecuted ethnic minority, whose citizenship is denied by the government of Myanmar, the Rohingya experienced an upsurge of violence directed towards them from 2012. In 2015, details emerged that Rohingya were being held, beaten and murdered in the camps in Thailand, unless and until payments extorted from their families abroad were received. As police and international media focused on the discovery of the graves, smugglers en route to the camps abandoned their Rohingya ‘cargo’ at sea. When some of the abandoned passengers managed to steer their vessels towards the coasts of Indonesia, Malaysia and Thailand, authorities refused them permission to land. The Bali Process remained silent on the issue and Australia refused to get involved. In a response that mimicked Australian turn-back policies and signalled the convergence of state security and humanitarian agendas (Williams 2016; Pallister-Wilkins 2017), Indonesian, Malaysian and Thai authorities met the boats, provided them with fuel, water and other provisions, and returned them to sea (Amnesty International 2015b; UNHCR 2015a).

The stranded vessels were located in waters where Acehnese fishermen regularly fished. On 10 May, fishermen from the village of Seunuddon near the port of Lhokseumawe assisted in bringing 578 passengers to shore. Indonesian authorities promptly relayed messages in ports along the Acehnese coast warning fishermen *not* to engage in rescue operations, at risk of breaching state law, and to be wary of security risks that passengers on board the vessels might represent.¹ Despite the prohibition, fishermen from two other villages, close to the port city of Langsa, brought two additional boats to land, on 15 and 20 May. Some 1,807 passengers were rescued in total; passengers reported that another 23 on board the boats had died en route (UNHCR 2015a). Fishermen involved with the second rescue initially

had their documentation (such as licenses or proof of boat ownership) seized by authorities.² However, by the time of the third rescue, local and international media were praising the fishermen as heroes and the official reaction had softened.

Initial regional paralysis on the fate of the stranded vessels shifted after the rescues (Kneebone 2016). On 18 May, the Philippines announced that it would not deter the vessels and would provide shelter for 3,000 people. On 20 May, following the first of a series of regional meetings prompted by the events, the foreign ministers of Malaysia and Indonesia jointly announced that they would temporarily shelter the Rohingya and others on board the vessels, provided that the international community took responsibility for return or resettlement within one year. The deadline was unrealistic from the outset, given that, in both countries, processing time for asylum seekers was well in excess of one year and waiting times for resettlement (if available at all) frequently extended to several years (Missbach 2016). Local NGOs formed a consortium to manage aid and services for the Rohingya (*Komite Nasional untuk Solidaritas Rohingya*). Four emergency camps were constructed to accommodate the Rohingya. Local governments coordinated with the IOM and the UNHCR to work towards status determination, assisted returns and resettlement. On 29 May, a popular Acehese singer organized a welcome concert and fundraiser, and promised to lobby the central government to allow the Rohingya to stay more permanently (IRIN 2015). Acehese district heads (*bupati*) subsequently offered to continue to host the Rohingya if they were not resettled within a year and, by March 2016, the Indonesian Foreign Minister had acknowledged that the year-long deadline would be extended on account of pressures facing potential resettlement countries in Europe in particular.

Notwithstanding at least one allegation of sexual assault against the Rohingya (IOM 2015), the hospitality the Rohingya received in Aceh is notable to the extent that it differed from that extended to asylum seekers and refugees elsewhere in Indonesia. While the latter have been tolerated under a low profile, they have nevertheless been subject to suspicion, protest and sometimes violence on account of local tensions relating, amongst other concerns, to the newcomers' Shia religious identity and romantic relationships formed with local women (Missbach 2016). In one Indonesian commentator's view:

Never has a group of forced migrants in Indonesia seen so many donations and so much public support [as the Rohingya in 2015]. The status of the Rohingya as a displaced Muslim minority has inspired great feelings of solidarity in Indonesia (Pudjiastuti 2016).

By April 2016, only 285 persons remained in the camps (IOM Indonesia 2016: 1). It was widely presumed amongst local government officials, staff of relevant NGOs and international agencies that most of the Rohingya had been smuggled to Malaysia seeking work that was not available in Indonesia,

formally or informally. Yet, for those who remained, approval was given by central government authorities for involvement in a cattle-and-fish-farming project, initiated by a local NGO.³ While all authorities involved were careful to avoid descriptors such as ‘work’ or ‘integration’, insisting that no legal basis existed for either of these options, the project nevertheless incorporated modest remuneration for the Rohingya. The project appeared, moreover, to be intended to counter the perception within local communities facing their own developmental challenges that Rohingya were receiving money (or assistance) for nothing and to foster positive relations with locals over the longer term. A new camp, Tambang Langsa, was also built with more permanent infrastructure and capacity for up to 1,500 people, anticipating future arrivals.

The precedent set by the reception of the Rohingya was tested in June 2016, when a vessel carrying 43 Sri Lankan asylum seekers approached the coast near Lhoknga, Aceh. The boat was initially refused permission to land by Indonesian authorities, who announced their intention to escort the passengers out to sea once supplies and repairs could be arranged. As police warning shots were fired over the heads of passengers attempting to disembark, Amnesty International argued that Indonesia risked ‘squandering the good will it generated’ in the previous year’s events and also risked inviting comparison with the ‘notorious record’ of turn-back policies in the region (cited in *The Guardian* 2016). Local NGO, Yayasan Geutanyoe, cited the experience with the Rohingya in 2015 as a solid foundation for receiving the Sri Lankans (Simanjuntak and Primanita 2016). Days later, the Indonesian government allowed the passengers to disembark and, as per the arrangement provided for the Rohingya, agreed to work with the IOM and the UNHCR to process and shelter the Sri Lankans until return or resettlement could be arranged. In some ways, therefore, the rescue and initial reception of the Rohingya precipitated subsequent responses (district-level welcome, development projects, receiving Sri Lankan asylum seekers) that might otherwise have seemed impossible.

Comparing Different Levels of Response: From the State to the Village

It is difficult to disentangle the range of motivations that factor into the hospitality extended towards the Rohingya. A range of interested parties exploited opportunities arising from the initial rescues. For example, numerous informants (and promotional material we observed in the camps themselves) made it clear that NGOs operating in the camps were linked to particular political candidates and that the narrative of ‘Muslim solidarity’ pursued in this context provided a platform from which to build support for broader political agendas in the region, including upcoming local elections.⁴ The funding made available through NGOs was also attractive to local governments in order to provide the ongoing support of the Rohingya, but also for development spin-offs in which locals could be involved and from which

officials could skim unofficial income. Amongst local media and religious press, the reception of the Rohingya quickly became narrated as evidence of Acehese goodness (*kebaikan*), honour (*kemuliaan*) and sincerity (*ketulusan*) (see e.g. Dani 2015; Voice of Islam 2015). This narrative served as a counter to negative coverage of human rights abuses and religious conservatism in Aceh and allowed a certain moral high ground that could be held over the central Indonesian government, with whom the Acehese have long-standing grievances. The central government was, in turn, keen to exploit comparisons between Indonesia's decision to host the Rohingya and Australia's refusal to assist, and to point out in a regional context that Indonesia's generosity was aligned with the spirit of the Refugee Convention despite the country's non-Convention status.⁵ Given, moreover, that more than 600 camp residents identified as Bangladeshi were returned to Bangladesh under the IOM's 'assisted voluntary return' programme and that most of those remaining had absconded from the camps within months of arriving (IOM 2015), it is difficult to measure the substance or longevity of the hospitality offered by contending authorities and organizations.

Less complicated, we suggest, was the spontaneous response of the Acehese fishermen involved in the three acts of rescue as well as the initial response at the village level. As one fisherman, Myusup Mansur, explained to a journalist after the second rescue on 15 May: 'We helped them because they needed help' (Lamb 2015). According to another, Suryadi:

We helped out of solidarity. If we find someone in the ocean we have to help them no matter who they are. The police did not like us helping *but we could not avoid it*. Our sense of humanity was higher. So we just helped with the limited resources that we had at the time (Lamb 2015: emphasis added).

Pawang Saifal, a fisherman involved in one of the rescues remained undeterred by police admonishment after the rescue. 'Even if the government won't, I will rescue them,' he said. 'They are human. We have to help other humans.' He added: 'I can get that money [that the rescue cost me] back again from the gods [*sic*] when I go back to the sea. I believe they will help me get fish' (Vanderklippe 2015). Suleiman Es, village head of Seunuddon, where the first rescue took place, explained that it was a 'right' (*hak*) to offer help to the Rohingya, claiming only to look at the 'souls' (*jiwa*) of those in need; their identities remained irrelevant.⁶

The rescues were narrated to us by villagers and by other informants after the event in terms of Acehese customary law, and more specifically in terms of 'honouring one's guests' (*peumulia jamee*).⁷ The concept of *peumulia jamee* has at least two distinct meanings: the narrow meaning refers to a ritual within a welcome dance ceremony in which betel (*sirih*) is shared with the welcomed guest. The broader meaning of *peumulia jamee* is a more encompassing culture of respecting guests and welcoming strangers to Aceh by Acehese (Hadi 2013: 455). In our conversations with Acehese interlocutors,

peumulia jamee became a kind of catchphrase that signalled the collective act of a friendly welcome and solidarity. In conversations, it was also a code for a complex attitude towards dealing with strangers that did not require much explanation and was deemed to speak for itself. With respect to the Rohingya, this particular code of conduct mandated welcome on the basis of their humanity alone, without seeking clarification as to the strangers' status or authorization to be where they were and without calculation as to whether the strangers represented a burden, a threat or an opportunity. To the extent that the village response adhered to *peumulia jamee*, it can be distinguished from the more politically inflected responses that ensued at the governmental and organizational level in the days, weeks and months that followed. Identifying as both hosts and guests within the scope of *peumulia jamee*, villagers and other local informants spoke of their own experience of temporary displacement during the tsunami of 2004 and the longer-term asylum that tens of thousands of Acehnese had sought, particularly in neighbouring Malaysia, during the armed conflict with central Indonesian government forces between 1976 and 2005.⁸ Welcoming the Rohingya was described as a way of reciprocating the generosity that had been extended to the Acehnese when they had been in the position of strangers.

Fishermen were also attuned to a culture of rescue prescribed by customary maritime law (*hukum adat laot*). Breaching that code of conduct would place all seafarers at risk, including the fishermen themselves. The fisherman's potential to shift from rescuer to rescued in this respect placed their own vulnerability at the forefront of their minds when contemplating rescue of others and appeared to inform their sense of obligation to offer hospitality in whatever way they could. It was in this sense therefore that, in fisherman Suryadi's words, they '*could not avoid*' the rescue.

Crucially, however, risks were attached to all courses of action open to the fishermen. To rescue risked incurring costs in time and money, as well as trouble with authorities. A decision not to rescue risked costs of a different kind. As a representative of a local NGO explained to us, *peumulia jamee* incorporates an expectation of good fortune (*rejekki*) if the code is followed, but also of misfortune (*musibah*) should one fail to extend appropriate welcome.⁹ Thus, not to rescue risked trouble with God, trouble with one's personal and social integrity, as well as the risk of undermining collective maritime safety. The decision was a negotiation of contending risks that had ethical and political dimensions.

Ultimately, the fishermen and villagers acted upon an obligation to rescue, assist and welcome that sprang from moral codes and bonds of solidarity that for them *trumped* what state law might technically demand or minimally require. The rescues and the wider displays of hospitality that followed provided a source of great pride for the fishermen and their villages; some fishermen spoke of wanting to build a museum to commemorate the events. At the village level, it was possible to discern in the narrative of the rescues a sense of a community that was conscious of its vulnerabilities as well as its

strengths, and in which coming good on exchanges of welcome (as hosts and as former or potential guests) aligned with traditions and laws that provided a source of common identity.

The village response was limited to the provision of shelter, food, care and welcome in the first days of the Rohingya's arrival in Aceh. It was significant, nevertheless, relative to capacity, and in terms of the way in which it subtly precipitated an expansion of the possible for local, national and regional responses to displacement. This is the case despite the quality of the response beyond the village level, which included periods of extended encampment and far from ideal processes of status determination and 'voluntary return'. A generous and welcoming response at the village level came as a result of being able to embrace the contingencies inherent in the uninvited guests' arrival, in the consequences of receiving them and in the fluid and relational positionality of being both guest and host over time. In these respects, the response served as a check on governmental imperatives, which threatened to narrow, if not preclude, the possibility of welcome.

It would be all too easy to dismiss the example of the Acehnese fishermen as an isolated and exceptional case that has little bearing on the breadth of challenges facing the international refugee regime. It is easy to imagine a narrative that reduces the hospitality displayed by Acehnese fishermen to the simplistic actions of people whose capacity for effective border control and migration management is yet to be developed and who could not possibly comprehend the scale and complexity of the broader issues at stake. From this perspective, and deploying all too familiar distinctions between reason and emotion, developed and undeveloped, and advanced and backwards people, the rescues might well be dismissed as being from the heart rather than from the head. Admirable perhaps, but simply inappropriate as lessons from which experts engaged in the global governance of migration might learn.

We want to suggest a different possibility: that the Acehnese fishermen knew very well what was at stake, emotionally *and* intellectually, and chose to act according to a different calculus of action required. That calculus was a particular response to a more general paradox of hospitality with which all communities confronting unexpected guests must grapple, including states currently deterring asylum seekers. It is in this sense of negotiating a particular manifestation of a more general dilemma that the village example holds wider significance. In order to make the link between the specific and the general, we turn to Jacques Derrida's treatment of hospitality.

On Hospitality

As a virtue, a sentiment and a code of conduct, hospitality has long traditions in the Abrahamic faiths (Wilson 2013), in tribal societies (Gellner 1988) and in political thinking on the law of nations (Cavallar 2013). Some scholars go so far as to call it a universal cultural trait in one form or another

(Onuf 2013: 175). In spite of its widespread resonance, hospitality remains ‘an object of contention, concern, and debate’ (Candea 2012: 46). In the current context, for example, there is no consensus on the form or longevity of hospitality owed to the displaced. However, hospitality in some form is commonly perceived as an admirable and appropriate response such that governments and communities are often at pains to depict their particular responses to displacement in terms of being hospitable (from sanctuary cities that welcome asylum seekers and migrants, to states that narrate their own identity in terms of a generous record of refugee resettlement).

In his treatment of the subject, Derrida (2000: 147) identifies two ‘regimes of law’ with respect to hospitality: ‘unconditional hospitality [on one hand], and on the other hand, the rights and duties that are the conditions of hospitality.’ Unconditional hospitality represents an impossible ideal that is offered without expectation of anything in return to a guest that arrives without notice. It knows no limits and, precisely because it is premised on the unexpected visitor, it cannot be prepared for in advance. Unconditional hospitality is impossible first, argues Derrida, because one cannot prepare adequately for that which is genuinely unexpected. It is impossible second, on account of its limitlessness: to offer unlimited hospitality implies surrender to the needs and desires of the guest in a way that risks the very thing that makes hospitality possible—that is, the integrity of the home and the self.

According to Derrida, the impossibility of unconditional hospitality means it cannot be codified in law and yet it requires law in order to be approximated in practice. If hospitality is *not* to be contingent on the invitation of the host, *not* to be given with a condition of repayment and *not* to be limited by the host’s subjective assessment of what is reasonable or possible—if, in other words, it is to be offered as a matter of right—then *only* law can guarantee such a right. But, in order to preserve the host’s capacity to offer hospitality, any such right must be limited. Thus, any such right can only be extended to those who meet a certain threshold, beyond which the host’s capacities are exceeded. For Derrida, this represents both a paradox and a tragedy: the same law that enables hospitality also authorizes the denial of hospitality. Without this law, hospitality as a right could not exist; yet, with the law, hospitality is diminished.

Derrida refers to the two regimes of law as ‘*the* law’ of unconditional hospitality and ‘the laws’ that render hospitality conditional in ways that simultaneously enable and prevent its realization. Crucially, for Derrida, there is no possibility of hospitality without both regimes of law. Without the laws that give hospitality effect, it would be nothing more than a utopian ideal. Without the idea of unconditional hospitality, there would be no sense of needing to defend hospitality as a right—that is, as something due beyond the conditions set at the host’s discretion. It is precisely ‘because hospitality mandates the unlimited welcome of the [uninvited] *stranger*’ (Baker 2013: 3, emphasis in original) that laws are required to defend a right to conditional hospitality. Derrida explains:

without at least the thought of this pure and unconditional hospitality, of hospitality *itself*, we would have no concept of hospitality in general and would not even be able to determine any rules for conditional hospitality (with its rituals, its legal status, its norms, its national or international conventions). . . . Unconditional hospitality, which is neither juridical nor political, is nonetheless the condition of the political and the juridical (Derrida, cited in Borradori 2003: 129).

If the two regimes of law that give shape to hospitality are co-constitutive and inseparable, so too are the risks attached to hospitality for both guest and host. To the extent that unconditional hospitality is an impossibility, the risk to guests is of no hospitality at all. The laws that guard against this risk and enable hospitality in modified form also come with the risk to the guest of exclusion. Hosts too face risks from unconditional hospitality in the form of depletion (one cannot offer hospitality if there is nothing left to offer) and laws are designed to reduce that risk. At the same time, however, the desire to comprehensively safeguard against depletion introduces a parallel risk of going too far (preserving *at all costs* the capacity to offer hospitality). In the most perverse scenario, laws designed to preserve the capacity for hospitality give rise to xenophobia. In this case, the uninvited guest becomes a threat and/or enemy to which the host is perpetually vulnerable. Fear of the uninvited guest then begins to dominate the host's worldview and serves to justify ever greater restrictions on the home in order to keep it safe from threat. These kinds of restrictions can *threaten* rather than preserve the host's integrity (Derrida 2000: 53). For Derrida, then, there is no escape from risk to either guest or host. The potential for today's hosts to become tomorrow's guests and for guests, in turn, to become hosts to others further complicates the nature of risks entailed in encounters that generate precedents and expectations.

Derrida's account of hospitality provides a reference point from which to compare contending responses to displacement, including both the fishermen's response and that of a variety of states that operate within the framework of the international refugee regime. We do not engage this comparison in order to suggest that the Acehnese example should somehow act as a model to be scaled up or replicated elsewhere. Anthropologists have rightly warned that 'scale-free abstractions' concerning hospitality risk its reduction to a matter of cliché, devoid of the material and socio-historical texture that shapes its expression in any one context (Candea 2012). Abstractions of this kind also fail to take on board the insight that hospitality is a matter of negotiation rather than application. Our purpose is rather to reflect on the ways in which the Acehnese example, with all of its particular laws, constraints and risks, speaks to the broader paradox of hospitality identified by Derrida. Doing so prompts questions about the laws, constraints and risks, according to which responses to displacement are shaped in other settings and at other scales. We contend that reading these different responses through the lens of hospitality provides an instructive point of comparison in

at least three ways. In the remainder of this article, we highlight these points of comparison in turn. We suggest that reflection on unlikely instructors, such as Acehese fishermen, can orient the negotiation of hospitality with respect to the displaced towards more generous and less deadly ends.

The Limits of Law

The rescue of the Rohingya by Acehese fishermen stands in stark contrast to the non-entrée strategies increasingly deployed by states that are signatories to the 1951 International Refugee Convention and its 1967 Protocol (Convention states). Non-entrée strategies include rapid status determination of asylum seekers on land and at sea, turning back asylum-seeker vessels to international waters, offshore processing and detention of asylum seekers and refugees, outsourcing interception of asylum seekers to origin and transit states, excision of territories from relevant domestic migration zones and other attempts to manipulate territorial jurisdiction in order to avoid obligations under international refugee law. Some of these strategies have been subject to effective legal challenge; others are subject to varying opinion as to their legality (Hathaway and Gammeltoft-Hansen 2015).

Regardless of whether a technical breach of refugee law has occurred, non-entrée strategies drastically reduce the scope of hospitality offered to the displaced. Non-entrée strategies are frequently justified at least partly on the pretext of preserving states' capacity (in material terms and in terms of public support) to offer hospitality in the form of refugee protection according to predictable refugee-resettlement schemes.¹⁰ But, by seeking to eradicate the *uninvited* guest (the asylum seeker who arrives spontaneously) from the scope of welcome, in favour of guests who can be prepared for in advance (refugees processed offshore), states pursuing non-entrée strategies effectively set aside the right to seek asylum, at least within their own state territory. By logical extension, the general pursuit of non-entrée strategies would leave nowhere open for asylum seekers to make a claim for protection. Thus, non-entrée strategies run the risk of undermining the foundations of the international refugee regime that preserve the conditions (right of entry) under which refugee protection becomes possible at all. In Derrida's terms, the outcome is a perversion of 'the laws': the host-state has taken to extremes the defence of its capacity to provide hospitality and in the process has jeopardized the right to hospitality that 'the laws' defend.

The non-entrée strategies of Convention states raise questions about what is often presented as an obvious step on the path to regional and global 'solutions' to the current 'refugee crisis': that more states should sign on to the Refugee Convention. This recommendation is a fixture of commentaries calling for a regional protection framework in South East Asia (Amnesty International 2015a; International Commission of Jurists 2015; SAPA 2015). Various parties encourage Indonesia, in particular, to sign on to the Refugee Convention as part of any new domestic approach to irregular

migration, and as part of steps towards an appropriately regional response.¹¹ For Indonesia, however, such a move may well result in an intensification of its ‘burden’ with respect to hosting asylum seekers and refugees, rather than greater regional ‘burden-sharing’. Given the narrow, minimalist approaches to refugee law that prevail amongst Convention states, there is every indication that Australia, in particular, would act on such a move to further alleviate its own obligations by virtue of Indonesia becoming a ‘safe third country’ from which there was even less compulsion to accept refugees for resettlement. Unsurprisingly, therefore, plans for Indonesia’s accession to the Refugee Convention were not included in the central government’s most recent (five-year) legislative agenda.¹²

It is doubtless the case that clearly articulated norms, coordinated responses and shared responsibilities for providing emergency and longer-term protection for asylum seekers and refugees would enhance regional capacity and will to respond in humane and sustainable ways to ongoing displacement. However, given trends amongst Convention states, it is not at all clear that becoming a signatory to the Refugee Convention corresponds with a commitment to implement its norms in practice or to uphold them in spirit. Refugee law has in many respects become a technical battleground against which states test the limits of restrictive border policing against asylum seekers. From this perspective, the crisis affecting Rohingya and the crisis in relation to unprecedented numbers of displaced people worldwide is a crisis of the international refugee regime. It is also a crisis of hospitality. Notwithstanding the expansion of signatories to the Refugee Convention over the twentieth and twenty-first centuries, ‘the hardening of borders ... across the world’, as Gideon Baker (2013: 3–4) reminds us, suggests that ‘ours is perhaps the most inhospitable time there has ever been’.

At times such as this, when one particular set of ‘the laws’ (refugee laws) that give effect to ‘*the law*’ of unconditional hospitality are skewed towards their more perverse expressions in terms of placing at heightened risk the very objects they ostensibly defend (the security of the guest, the protection of the refugee), then the actions of the Acehese fishermen offer a point of contrast. The actions of the Acehese fishermen expose the extent to which ‘the laws’ have been realized in such a way as to narrow the scope of hospitality to the point of offering no hospitality at all. The fishermen were moved to rescue the Rohingya at a point where the entire regional apparatus of refugee law and governance failed to generate sufficient compulsion to search and rescue in a timely way, and in fact militated against rescues compelled under maritime law. The fishermen refused to be bound by state law to the extent that it represented an unacceptable compromise of *peumulia jamee*. Read through a Derridean lens, state law represented an unacceptable compromise of ‘*the law*’ of hospitality. The fishermen’s actions and the villagers’ welcome are a reminder, first, that ‘the laws’ enabling hospitality to come into effect assume multiple forms beyond refugee law and state law. In the current context, there is much to suggest that alternative sources of law (religious, customary, tribal

but also international and European law that does not pertain exclusively to refugees) might offer more generous reasoning as to what is due to irregular border crossers (see e.g. the collections in Lippert and Rehaag 2013; Mavelli and Wilson 2016). The fishermen's actions are a reminder, second, that, without attention to a spirit of hospitality emanating from 'the law', any set of 'the laws' remains an insufficient safeguard against the erosion of hospitality.

While essential to realizing hospitality as a form of right, no set of laws can settle the political question of limits, thresholds and exclusions according to which hospitality (or asylum, or protection) is extended. No set of laws can settle the optimal balance of the risks entailed to guests and hosts alike in the extension of hospitality. Reforming refugee law and advocating a more comprehensive uptake of the Refugee Convention may be worthy pursuits, but will always be subject to the sovereign and geopolitical interest that has shaped refugee law from its outset (Hathaway 1990). Hence the suggestion that such strategies offer solutions to the current crisis of hospitality is in many ways a distraction from the necessity of confronting its ethical and political dimensions. Reflection upon the example of the Acehnese fishermen and the village and district-level responses that followed compels precisely this kind of confrontation, because of the extent to which they were inspired by a combination of ethics, politics and law.

The Calculation of Capacity

As Derrida's account of hospitality makes clear, the conditions attached to hospitality by virtue of capacity are precisely what makes hospitality as a form of right possible. Capacity, at the Acehnese village level, was limited by the most mundane of concerns: Suleiman Es, village head of Seunuddon, explained to us that the sanitation system operating in his village could not have coped for more than a few days with so many people and that, after the provision of initial assistance, the village was compelled to call on authorities beyond the village to offer longer-term support.¹³ The provision of initial assistance was nevertheless considerable. According to Es, his village of 1,500 inhabitants quickly coordinated to feed, wash, clothe and attend to the care of over 500 people who had been cramped in a small fishing boat for several weeks at sea. Several of our informants noted the speed with which donations of food and clothing arrived from the village and immediate surrounds, despite the considerable challenges faced by those communities in terms of sustaining their own livelihoods. Once the resources available to the villages are taken into account, their response to the Rohingya can only be described as extraordinarily generous.

The example does not lend itself to direct comparisons with encounters between asylum seekers and state authorities or international agencies providing emergency relief, not least because of the short-term nature of the village-level response. It is also hard to imagine how the face-to-face immediacy of the village encounter with the Rohingya that contributed to the impulse for

generosity could be replicated within the bureaucratic fora that are a necessary part of the international refugee regime. However, the village response, viewed relative to capacity, does invite the question as to how the capacity of the international refugee regime is represented and whether its capacity is understated.

The UNHCR reports a significant and growing gap between funding available and funding requirements (UNHCR 2015b: 18–19). The scant availability of what the agency calls ‘durable solutions’ (resettlement, local integration or repatriation) leaves an increasing proportion of the world’s displaced stranded in countries offering temporary asylum. These ‘protracted refugee situations’ tend to concentrate in states surrounding conflict zones, exposing those states to greater risks of depletion than others. Fear of precisely this kind of depletion surfacing elsewhere has prompted more distant (Convention) states to enhance non-entrée strategies. Accordingly, 84 per cent of the world’s displaced are hosted today by countries in developing regions (UNHCR 2017: 2). The two states currently hosting the greatest number of refugees per capita are Lebanon and Jordan—both non-Convention states (UNHCR 2017: 20).

Arguably, the constraints faced by the UNHCR and states like Jordan and Lebanon have less to do with a shortage of available funds (and therefore capacity) and more to do with the refusal of Convention states and others to commit to adequate funding and to a system that effectively disperses funding to areas of greatest need. Many of the funds that might otherwise be available to the international refugee regime and directed towards those states and regions confronted most directly with the pressures of displacement have been diverted to the costs of deterring asylum seekers—costs that have, in turn, been dramatically increased by non-entrée strategies such as extra-territorial border controls, offshore processing and detention.

It does not require a sophisticated economic analysis in order to suggest that, relative to capacity, the resources expended by the Acehese fishing villages in order to host the Rohingya far exceed the resources extended by wealthy Convention states in terms of their commitment to funding the key institutions of the international refugee regime and offering hospitality directly to refugees. The villages’ resources were genuinely limited, and the assessment of capacity took this into account. The resources of wealthy Convention states are also genuinely limited, but the implicit assessment of capacity made by those states is difficult to justify in light of the contributions currently being made by states in the developing world.

Reflection on the example of the Acehese fishermen thus compels a far more realistic reckoning with the measurement of capacity for hospitality with respect to available resources as well as their most effective deployment. At present, the diversion of resources to non-entrée strategies contributes to the ‘crisis’ those strategies are designed to address by driving demand for irregular passage. When licit means of transit are increasingly unavailable to those who are displaced or otherwise in need of mobility, a market is

sustained for illegal border crossings. The costs of this circular pattern are high in financial and human terms. The expense of measures taken to defend borders against irregular entry contribute to the perception that states' capacities to offer hospitality are stretched to their limit. A more realistic reckoning with the question of capacity would reassess how resources can best be expended in order to counteract these circular effects.

The Value of Contingency

If we take seriously Derrida's account of the necessary risks entailed in hospitality, then any response to displacement that aspires to some form of hospitality cannot avoid risk to both host and guest alike and must entail an openness to the unpredictable (including and especially the uninvited guest). In the case of the Acehnese fishermen, it was a willingness to confront and negotiate risks (the risk of breaking the law, the risk of the Rohingya drowning, the risk of betraying customary codes, the risk of material depletion) that determined the action pursued.

This negotiation of risk differs considerably from the focus on risk within security discourse related to migration management. As Aradau and Van Munster have argued, the combination of risk management and the security problematic has entailed 'the emergence of a "precautionary" element that has given birth to new configurations of risk that require that the catastrophic prospects of the future [say, mass irregular migration] be avoided *at all costs*' (Aradau and Van Munster 2007: 91, emphasis added). Accordingly, securitized issues are approached in terms of worst-case scenarios, requiring extreme precautions against those scenarios coming to pass (non-entrée strategies can be understood as one such extreme). The incorporation of risk analysis into governmental strategies has in this way entailed not so much an acceptance of risk as an unavoidable aspect of life and politics (including hospitality) in the way Derrida intends, but rather a projection into the future of risks of an extreme kind. As argued above, this latter sense of risk compounds the sense of crisis at stake and diverts available resources into circular strategies.

The attention to risk that we advocate with respect to hospitality does not rest on calculations of worst-case scenarios, but on learning to live with contingency. Doing so need not imply that contingencies will be as dramatic or disastrous as our worst fears presume. However, contingencies may imply shifts or breaks from what has gone before and from what has been taken as the norm. Accepting risk, in this sense, means learning to live without full predictability, complete manageability or absolute control (the hallmarks of migration management). This is important because efforts to achieve absolute control come with their own dangers, which, taken to extremes, put at heightened risk the very object being secured. This is what happens when maintaining control over the capacity to offer hospitality is taken to such an extreme that no hospitality is offered at all. When governments engaged in

the Bali Process reflected on their failure to rescue the Rohingya and offer hospitality in 2015, they acknowledged that the ‘crisis’ had been predictable and called for better regional coordination to anticipate and manage similar ‘crises’ in the future (Gleeson 2017: 10). More effective management *could* entail an injunction to expect the unexpected, as it were, and orient planning towards the protection of displaced persons in the region whose ongoing presence *is* largely predictable even if their specific circumstances and timing are not. It remains to be seen, however, whether more effective management will be interpreted beyond what has become a regional norm of non-entrée, maintaining an approach that denies hospitality in the name of preserving its possibility.

Learning to live with contingency is also important because pathways that emerge from the unexpected sometimes offer promising responses and recastings to security challenges faced or perceived. For example, a certain momentum followed the Acehese fishermen’s rescue of displaced Rohingya in terms of expanding the limits of the possible for responding to displacement at the district level and beyond. A culture of hospitality emerged (albeit one that entailed certain political advantages for its advocates) through opportunities for interaction between locals and the Rohingya. Because of prior experiences of displacement amongst the Acehese, those interactions were more complex and nuanced than a hard distinction between host and guest would suggest. This example, therefore speaks back to those who have reservations about hospitality as a critical analytic, insofar as it reinforces an unequal relation between benefactor and beneficiary (Squire and Darling 2013). While inequalities may be reinforced through hospitality, this need not be the case or represent a *fixed* relation. In the Acehese example, the host’s ability to be benevolent was not assumed to be permanent, but contingent on time, circumstance and reciprocity.

The most subtle lesson to be learned from the Acehese example may also be the most profound. For the fishermen, the relational quality of host and guest and the inter-related risks at stake for host and guest alike contributed to the impetus to be hospitable. At the village level, the hospitality offered was less a matter of laying claim in a sovereign sense to the home being offered to the guest and more a matter of recognizing the contingency of circumstance that might render today’s host homeless tomorrow. This recognition exposes the contingency upon which *any* claim to home and host status rests. It stands in stark contrast to the sovereign claims according to which states ground their authority to extend or deny entry to irregular arrivals. Attention to the contingency of these sovereign claims raises fundamental questions about the legitimacy of the state system itself. For some, such questions lie beyond the realm of political realism and represent a distraction from the urgent task of compelling states to allow entry to those who need it. For others, such questions represent a long-overdue reckoning (in settler states and in former centres of empire) with precisely who is host and guest, and the potential for new negotiations of hospitality.

Conclusion

The example of the Acehese fishermen offers substantive lessons for the international refugee regime and insight into the question of how to grapple with the ongoing reality of displacement. We have drawn on the Acehese example to make a case for hospitality as a horizon of aspiration. We have read the example through a Derridean lens to show how hospitality is an impossible aspiration, when imagined as unconditional, and yet, paradoxically, more possible, in its conditional form, than current policies of convention and other states would suggest. We have emphasized three specific ways in which the Acehese example provides instruction to an international regime that has failed to offer even the most basic forms of hospitality to displaced people in the Andaman Sea and elsewhere. First, the actions of the Acehese fishermen affirm that law is a necessary but insufficient safeguard against the failure to rescue and the erosion of hospitality. Second, the generosity of Acehese villagers relative to capacity compels a reassessment of the capacities of the international refugee regime and attention to the ways in which states' non-entrée policies skew perceptions of capacity to offer hospitality and divert resources in life-threatening and circular ways. Third, the Acehese fishermen's embrace of contingency, both in relation to uninvited guests and in relation to their own positioning as hosts and guests over time, was a crucial part of what enabled hospitality towards the Rohingya in 2015. Drawing from this example, we contend that learning to live with contingency can mitigate the perverse outcomes of worst-case scenario planning with respect to uninvited guests and open states and communities to the positive potential within the unexpected. This disposition has implications for negotiating the legal, ethical and political dimensions of hospitality in relation to some of the most violent aspects of the international state system, including displacement, border control and settler colonialism.

1. The prohibition was reported in the media (Der Spiegel 2015) and was relayed to us in interviews with Suleiman Es, Seunuddon Village Head, Seunuddon, 12 April 2016; and Hermanto Hasan, Director of Yayasan Geutanyoe (Acehese NGO working with the relevant fishing communities in the wake of the rescue) Langsa, 14 April 2016.
2. Interview, Hermanto Hasan, Director of Yayasan Geutanyoe (NGO), Langsa, 14 April 2016.
3. Interview, Chairul Anwar, 5th Deputy, POLHUKAM (Coordinating Ministry for Politics, Law and Security), Jakarta, 25 April 2016.
4. Interview, Muhammad Rizwan, Lecturer, Universitas Malikussaleh, Lhokseumawe, 11 April 2016; interview, Riski Sophia, Director of Ruman Aceh (NGO), Banda Aceh, 9 April 2016; interview, Teuku Mansur, former head of Health Services, Lhokseumawe, 13 April 2016; interview, Hermanto Hasan, Yayasan Geutanyoe (NGO), Langsa, 14 April 2016; interview, Chairul Anwar, 5th Deputy, POLHUKAM (Coordinating Ministry for Politics, Law and Security), Jakarta, 25 April 2016.

5. Interview with Andy Rachmianto, Director of International Security and Disarmament, Indonesian Ministry of Foreign Affairs, Jakarta, 19 April 2016. For relevant citations from Rachmianto and Foreign Minister Retno Marsudi, see Topsfield 2015; Wicaksono and Angelia 2015.
6. Interview, Suleiman Es, Seunuddon village head, Seunuddon, 12 April 2016.
7. Interview, Alhudri MM, Head Dinsas Sosial (Social Welfare), Aceh Province, Banda Aceh, 9 April 2016; interview, Zulfadli Kawom, Yayasan Geutanyoe (NGO), Lhokseumawe, 12 April 2016; interview, Ibu Noni, Aksi Cepat Tangkan (NGO), Blang Adoe camp, 11 April 2016.
8. Interview, Suleiman Es, Seunuddon Village Head, Seunuddon, 12 April 2016; interview, Amir Yusup, *Panglima Laot* (Acehnese Fishermen's Association), Lhokseumawe, 13 April 2016; Interview, Hermanto Hasan, Yayasan Geutanyoe (NGO), Langsa, 14 April 2016.
9. Interview, Zulfadli Kawom, Yayasan Geutanyoe (NGO), Lhokseumawe, 12 April 2016.
10. Preserving capacity in this way has, for example, been a long-standing justification for Australia's non-entrée policies with respect to asylum seekers. The case was made explicitly, for example, by Arthur Sinodinos, Shadow Parliamentary Secretary to the Leader of the Opposition and former chief of staff to Prime Minister John Howard, on Q&A, broadcast on ABC television, 22 July 2013, <http://www.abc.net.au/tv/qanda/past-programs-by-date.htm> (accessed February 2018). Arguments for upper limits to Germany's more generous entrée policies have also been justified in terms of preserving capacity. See Hinger 2016: 82.
11. Indonesian accession to the Refugee Convention is advocated by KOMNAS HAM (Indonesia's Human Rights Commission), the Australian Human Rights Council and the Asia Pacific Refugee Rights Network, a key umbrella organization in the Asian refugee advocacy sector.
12. See 'Program Legislasi Nasional: 2015–2019', <http://www.dpr.go.id/uu/prolegnas-long-list> (accessed February 2018).
13. Interview, Seunuddon, 12 April 2016.

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