

Statement on the Treatment of Rohingya and Bangladeshi 'Boat People' in Asia

06 February 2009

We, the undersigned organizations, are extremely concerned about the treatment of over a thousand Rohingyas from Burma and migrants from Bangladesh who have been forcibly expelled and abandoned in international waters by the Thai security forces since December 2008.

Over the past few weeks, several boats have been rescued off the coasts of Indonesia and the Andaman Islands of India. Survivors tell of having been detained in Thailand, beaten, and towed out to sea on boats without engines or sufficient food and water. Several hundred remain missing and are feared dead.

We are also concerned about the fate, including possible *refoulement*, of the Rohingya who remain in detention in Thailand, Indonesia and India. If Rohingyas are returned to Burma they could face widespread human rights violations, including forced labour, forced eviction, land confiscation and severe restrictions on freedom of movement. *Refoulement* of such individuals is prohibited under customary international law.

Background

Over the past two years, the number of people leaving Bangladesh and Burma by boat for Southeast Asia has grown. They have fled in search of protection, safety and/or work. Most are Rohingyas, a Muslim minority from western Burma.

The Rohingya have been rendered stateless in Burma and have experienced systematic discrimination, exclusion, and human rights violations in Burma for decades, prompting hundreds of thousands to seek refuge in neighbouring countries, most notably Bangladesh, Malaysia and Thailand. Most are without legal status and are vulnerable to arrest, imprisonment, detention and deportation.

Aside from the Rohingya, millions of ethnic minorities and political activists have fled Burma, fearing persecution, violence and human rights abuses.

Specific Concerns

We are concerned by the following reports about the Rohingya:

- The ill-treatment and failure to provide adequate assistance to hundreds who were arrested and detained in Thailand. Since December 2008, those captured at sea by the Thai Navy were directly transferred to the custody of the Thai Army at Koh Sai Daeng. Despite their weak condition, they were not provided with adequate food, were forced to sleep outside under armed guard, and were subject to ill-treatment such as kicking and beatings with a stick. They were then forced to board boats that were not seaworthy, were given inadequate provisions, and then towed out to sea and abandoned.
- Those who initially refused to board the vessel were threatened at gunpoint. Four men were thrown overboard with their hands tied.
- Hundreds, perhaps thousands, remain missing, including children.
- Thailand and Indonesia have announced their intention to deport the Rohingya in their custody.

We recognize that:

- The Indonesian and Indian Governments have conducted rescue at sea operations, providing relief and medical attention to rescued Rohingyas and Bangladeshis.
- On 26 January 2009, the Thai Government transferred 78 new arrivals to Police and Immigration authorities rather than the Army.
- The Thai Government has indicated that it will postpone the deportation of the 78 Rohingya arrivals until further investigation of their injuries. The Thai Government has also called for a regional solution to the plight of Rohingyas.

Recommendations

Given the gravity of situation, we recommend that:

The Burmese Government:

- End the systematic persecution of the Rohingya ethnic minority and recognise them as citizens with full rights and protection.

The Thai Government:

- Cease forcibly expelling the Rohingyas, which is in violation of international law. Investigate serious allegations of mistreatment by the Thai security forces which may be in serious violation of Thailand's obligations under the 1984 the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and bring to justice those responsible.
- Ensure that detainees have access to humanitarian assistance, protection and independent legal counsel by relevant international and local agencies. The UN Refugee Agency (UNHCR, the UN High Commissioner for Refugees) should have access to all detainees to ensure fair determination of their status.
- Facilitate an open and independent inquiry by the Thai National Human Rights Commission and/or an international body into the allegations of human rights violations, providing them with full access to survivors and detainees, relevant government and army officials, and records related to the events.

The Indonesian and Indian Governments:

- Respect the principle of *non-refoulement* in relation to those rescued at sea and currently being detained.
- Ensure that detainees have access to humanitarian assistance, protection and independent legal counsel by relevant international and local agencies. UNHCR should have access to all detainees to ensure fair determination of their status.

The Bangladeshi Government:

- Uphold its international obligations as a country of first asylum to ensure the protection and assistance of Rohingyas with the support of the international community.

The members of the Association of South East Asian Nations (ASEAN), the Bay of Bengal Multi-Sectoral Initiative for Technical and Economic Cooperation (BIMSTEC) and the South Asian Association for Regional Cooperation (SAARC):

- Launch immediate search and rescue operations for the remaining boats pushed back into international waters, as well as other boats of migrants reported to have left Bangladesh.

- Work with the UNHCR, the international community and civil society groups to find equitable regional solutions that meet the protection needs of those forced to leave Burma, with responsibility-sharing arrangements regionally and internationally.
- Urge the Burmese Government to stop the systematic persecution of the Rohingya minority, which is the root cause of their flight to neighbouring countries.
- Meet their obligations as state parties to the 1982 United Nations Convention on the Law of the Sea (UNCLOS) and the 1974 International Convention for the Safety of Life at Sea (SOLAS) and the 1979 International Convention on Maritime Search and Rescue (SAR).
- Urge all members to ratify the 1951 Convention Related to the Status of Refugees, its 1967 Protocol, the 1954 Convention Relating to the Status of Stateless Persons, and the 1990 International Convention for the Protection of the Right of All Migrant Workers and Members of their Families .

The United Nations and the International Community:

- Continue to support the governments of Bangladesh, Malaysia, Thailand and its neighbours to find a durable solution to the protection needs of Burmese refugees throughout the region, ensuring consultation with civil society.
- Engage the Burmese Government to solve the ongoing human rights crisis there, including amending the 1982 Citizenship Law which renders the Rohingya stateless.
- Ensure that urgent humanitarian assistance is provided to Rohingyas and Bangladeshis who have fled on boats.
- Ensure that human rights complaints related to the treatment of these people are thoroughly investigated and reported to the Human Rights Council

This statement was written by members of the Asia Pacific Refugee Rights Network (APRRN)¹, and has been endorsed by the following organizations and individuals:

Australia

1. A Just Australia
2. Act for Peace, National Council of Churches Australia (NCCA)
3. Austcare
4. Burmese Rohingya Community in Australia (BRCA)
5. Children Out of Detention (ChilOut)
6. Dr Savitri Taylor, School of Law, La Trobe University
7. Rosie Scott, International Detention Coalition
8. The Association of Survivors of Torture and Trauma (ASeTTS)
9. The Asylum Seeker Resource Centre
10. The Ethnic Communities Council of WA and the Multicultural Services Centre of WA
11. The Refugee Council of Australia
12. The South Australian Refugee Health Network
13. The Victorian Foundation for Survivors of Torture
14. Union Aid Abroad APHEDA
15. West Coast Refugee Sanctuary Group Inc.
16. Westgate Baptist Community

¹ The Asia Pacific Refugee Rights Network (APRRN) is a civil society network committed to advancing the rights of refugees in the Asia Pacific Region. The network includes members who work directly with the Rohingya population in Asia.

Bangladesh

17. Ain o Salish Kendra (ASK)
18. Empowerment through Law of the Common People (ELCOP)
19. IMA Research Foundation
20. Odhikar

Burma

21. Arakan Rohingya National Organisation (ARNO)
22. Shan Women's Action Network

Egypt

23. The Egyptian Foundation for Refugee Rights

Hong Kong

24. Hong Kong Refugee Advice Centre

India

25. Centre for Development and Human Rights

Indonesia

26. Human Rights Working Group
27. Indonesian Legal Aid Foundation (YLBHI)

Kenya

28. David Dickson, Solidarity House International

Korea

29. Korea Women's Hotline
30. Korean Public Interest Lawyers Group (GONGGAM)
31. The Refugee Pnan

Lebanon

32. Frontiers Ruwad Association

Malaysia

33. All Women's Action Society
34. Amnesty International Malaysia
35. Borneo Child Aid Society/Humana
36. Building and Wood Workers International (BWI)
37. Center for Orang Asli Concerns
38. Civil Rights Committee of Kuala Lumpur and Selangor Chinese Assembly Hall
39. Coalition of Burma Ethnic Groups in Malaysia (COBEM)
40. Community Residents Association of Selangor and Federal Territory (PERMAS)
41. Council of Churches of Malaysia
42. Health Equity Initiatives (HEI)
43. Empower (Persatuan Kesedaran Komuniti Selangor)
44. Jaringan Rakyat Tertindas (JERIT)
45. Justice, Peace and Solidarity In Mission, The Good Shepherd Sisters
46. Kumpulan ACTS
47. Malaysia Youth and Student Democratic Movement (DEMA)
48. Organization of Karenni Development (OKD)
49. Pusat Jagaan Kanak Kanak NurSalam, Chow Kit
50. Pusat Komus (Community Communication Centre)
51. Suara Rakyat Malaysia (SUARAM)
52. Tenaganita (Women's Force)
53. The National Human Rights Society (HAKAM)
54. Women's Aid Organisation
55. Workers Organisation

Mongolia

56. National Center Against Violence

Nepal

- 57. All Nepal Women's Association
- 58. INHURED International

Pakistan

- 59. ESCR-Asia
- 60. Pakistan International Human Rights Organization (PIHRO)

Philippines

- 61. Center for Migrant Advocacy
- 62. Foundation for Media Alternatives (FMA)
- 63. **The Pax Romana-International** Movement of Catholic Students
- 64. Virgilio "Boy" Hernandez

Singapore

- 65. Singapore Working Group for Asean Human Rights Mechanism (MARUAH)
- 66. UNI Apro

South Africa

- 67. Lawyers for Human Rights

Sri Lanka

- 68. Andrew Samuel, Community Development Services, Colombo
- 69. Commission for Justice and Peace (CJP) of the National Christian Council of Sri Lanka
- 70. South Asian Network for Refugees, IDPs & Migrants (SANRIM)

Thailand

- 71. Alternative ASEAN Network on Burma
- 72. Arakan Project
- 73. Mekong Ecumenical Partnership Program, Christian Conference of Asia
- 74. Serge Auguste, Maryknoll
- 75. Shining Som Mekong Alumni Network
- 76. U.S. Committee for Refugees and Immigrants (USCRI)

United Kingdom

- 77. Forest Peoples Programme
- 78. The Equal Rights Trust

United States

- 79. Asylum Access (US/Thailand)
- 80. Church World Service, Immigration and Refugee Program
- 81. Florida Immigrant Advocacy Center
- 82. Refugees International
- 83. U.S. Committee for Refugees and Immigrants (USCRI)

Zambia

- 84. Africa Internally Displaced Persons Voice (Africa IDP Voice)

Regional/ International

- 85. Asia Pacific Forum on Women Law and Development (APWLD)
- 86. Asian Solidarity for Peoples' Advocacy (SAPA)
- 87. Christian Conference of Asia
- 88. Coordination of Action Research on AIDS and Mobility (CARAM Asia)
- 89. Global Alliance Against Traffic in Women (GAATW)
- 90. International Detention Coalition
- 91. Nonviolence International Southeast Asia (NISEA)
- 92. The Asian Center for the Progress of Peoples
- 93. The Asian Human Rights Commission