



25 May 2015

# UNDERSTANDING AND RESPONDING TO THE ROHINGYA CRISIS

## 1. UNDERSTANDING THE CRISIS

---

### 1.1 A crisis largely ignored for more than 35 years

As a Muslim minority in Rakhine or Arakan state in western Burma (Myanmar), the Rohingya have suffered brutal oppression and official discrimination since the country's current rulers took power in 1962. Violent crackdowns on the Rohingya population such as Operation Naga Min (Dragon Land) in 1978 and Operation Pyi Thaya (Clean and Beautiful Nation) in 1991 resulted in hundreds of thousands of Rohingya fleeing to Bangladesh. In 1982, Burma's Citizenship Law excluded the Rohingya from Burmese citizenship, making them stateless. The Government forbids the use of the term "Rohingya", refers to them as "Bengali" and promotes the view that they have no right to be in Burma, despite historical evidence linking Rohingya with the Arakan region as far back as the 8<sup>th</sup> century. Rohingya people cannot marry without government approval, are forbidden from having more than two children, have their freedom of movement restricted and cannot repair damaged homes without official permission.

### 1.2 'A level of suffering I have never seen before'

Buddhist extremists have led a campaign of hate speech and boycotts of Muslim businesses in Rakhine state. Communal violence in June and October 2012 and March 2014 resulted in many casualties, with thousands of homes and businesses destroyed. Around 140,000 Rohingya now live in temporary camps in Rakhine state where humanitarian access is severely restricted. After a visit to camps in June 2014, UN Assistant General-Secretary for Humanitarian Affairs, Kyung-hwa Kang, said "I witnessed a level of human suffering in IDP camps that I have personally never seen before, with men, women, and children living in appalling conditions with severe restrictions on their freedom of movement, both in camps and isolated villages. Many people have wholly inadequate access to basic services including health, education, water and sanitation."<sup>1</sup>

International observers are concerned that, without concerted action, violence and displacement will continue. After a fact-finding mission to Burma (Myanmar) in April 2015, the ASEAN Parliamentarians for Human Rights concluded: "Nearly every common risk factor for atrocity crimes identified in the United Nations' Framework of Analysis for Atrocity Crimes is present in Myanmar today ... it is clear that there is a high risk of atrocity crimes in Myanmar in 2015 and beyond."<sup>2</sup>

---

<sup>1</sup> UN Office for the Coordination of Humanitarian Affairs (2014). *Assistant Secretary-General and Deputy Emergency Relief Coordinator, Kyung-hwa Kang Press Remarks on Myanmar*, 17 June 2014 <http://reliefweb.int/report/myanmar/assistant-secretary-general-and-deputy-emergency-relief-coordinator-kyung-hwa-kang>

<sup>2</sup> ASEAN Parliamentarians for Human Rights (2015). *The Rohingya Crisis and the Risk of Atrocities in Myanmar: An ASEAN Challenge and Call to Action*, p. 3 <http://www.aseanmp.org/wp-content/uploads/2015/04/The-Rohingya-Crisis-and-the-Risk-of-Atrocities-in-Myanmar-An-ASEAN-Challenge-and-Call-to-Action.pdf>

#### Sydney office:

Suite 4A6, 410 Elizabeth Street  
Surry Hills NSW 2010 Australia  
Phone: (02) 9211 9333 • Fax: (02) 9211 9288  
admin@refugeecouncil.org.au  
Web: [www.refugeecouncil.org.au](http://www.refugeecouncil.org.au) • Twitter: @OzRefugeeCounc

#### Melbourne office:

Level 2, 313-315 Flinders Lane  
Melbourne VIC 3000 Australia  
Phone: (03) 9600 3302  
melbourne@refugeecouncil.org.au  
Incorporated in ACT • ABN 87 956 673 083

### 1.3 Stateless and 'illegal' nearly everywhere they flee

UNHCR estimates the number of stateless Rohingya within Burma at over 800,000<sup>3</sup> but in 2013 Burma's Minister for Immigration and Population said there were 1.33 million Rohingya in the country, 1.08 million of them in Rakhine state and only 40,000 with citizenship.<sup>4</sup>

Close to half of all Rohingya people now live outside the country. UNHCR says there are 32,000 registered Rohingya refugees in Bangladesh but another 200,000 to 500,000 without documents or status.<sup>5</sup> Many international organisations, including MSF and Amnesty International, have long described the living conditions for Rohingya in Bangladesh as appalling and among the worst for refugees anywhere in the world.<sup>6</sup> Some estimates put the number of Rohingya living in Saudi Arabia without refugee status as high as 400,000. There are estimated to be more than 150,000 Rohingya elsewhere, with the largest population being in Malaysia (estimated 40,000) where nearly all live without legal status. Few of the world's estimated two million Rohingya have citizenship or permanent residency anywhere.

Despite having nowhere to live legally, few Rohingya refugees are given access to refugee resettlement, a point the Refugee Council of Australia has made each year for several years in our annual submissions to the Australian Government on the Refugee and Humanitarian Program.<sup>7</sup> Australia resettled 230 Rohingya refugees (mostly from Bangladesh) in the three years to 2010-11 but has resettled fewer than 20 since then.<sup>8</sup> This is despite pleas from UNHCR to resettle Rohingya refugees with serious protection needs and no other viable options. Nearly all Rohingya refugees currently being resettled anywhere in the world are being accepted by the United States, which has resettled more than 1000 Rohingya since October 2014.<sup>9</sup>

### 1.4 Desperation of persecuted people with no legal means of escape

With no citizenship and no access to a passport, Rohingya people trying to escape persecution have no way of crossing borders with permission. As the border with Bangladesh has been largely closed for more than three years and movement through Burma in any direction is heavily restricted, desperate Rohingya have increasingly taken to the seas to escape. The Rohingya leaving Burma in boats have been joined by Rohingya trying to flee appalling living conditions as "illegal" entrants in Bangladesh and a significant number of Bangladeshis trying to escape deep poverty. UNHCR estimates that more than 150,000 people (Rohingya and Bangladeshis) have fled across the Bay of Bengal and Andaman Sea over the past three years (16,000 in the second half of 2012, 55,000 in 2013 and more than 88,000 since 2014).<sup>10</sup>

The increasing international focus on restricting movement across borders and by air has forced the most desperate to seek even more desperate means of escape. As UN High Commissioner for Refugees, Antonio Guterres, observed in December at his global dialogue on protection at sea:

*Those who believe that the easy solution is to close doors should forget about it. When a door is closed, people will open a window. If the window is closed, people will dig a tunnel. If there is a basic need of survival, a basic need of protection, people will move, whatever obstacles are put in their way – those obstacles will only make their journeys more dramatic.*<sup>11</sup>

<sup>3</sup> 2015 UNHCR country operations profile – Myanmar <http://www.unhcr.org/pages/49e4877d6.html> (accessed 24/5/15)

<sup>4</sup> Szep, J & Marshall, A (2013) Myanmar minister backs two-child policy for Rohingya minority, Reuters, 11 June 2013 <http://www.reuters.com/article/2013/06/11/us-myanmar-rohingya-idUSBRE95A04B20130611>

<sup>5</sup> UNHCR (2014), Bangladesh Factsheet, September 2014. <http://www.unhcr.org/50001ae09.html>

<sup>6</sup> See, for example, <http://www.doctorswithoutborders.org/news-stories/field-news/bangladesh-rohingya-moved-one-deplorable-situation-another> and <http://www.amnesty.org.au/refugees/comments/2246/>

<sup>7</sup> Refugee Council of Australia's annual submissions on Australia's Refugee and Humanitarian Program can be viewed at <http://www.refugeecouncil.org.au/publications/intake-submission/>

<sup>8</sup> Statistics calculated by the Refugee Council of Australia from Department of Social Services settlement figures.

<sup>9</sup> Associated Press (2015). U.S. is Willing to Take in Rohingya Boat People, 20 May 2015 <http://time.com/3891541/rohingya-myanmar-asia-boat-people/>

<sup>10</sup> See <http://www.unhcr.org/5396de0f9.html> and <http://www.unhcr.org/555aee739.html>

<sup>11</sup> UNHCR (2014). High Commissioner's Dialogue on Protection Challenges, Protection at Sea. Closing remarks by Mr. António Guterres, 11 December 2014 <http://www.unhcr.org/549988e19.html>

## 2. RESPONDING TO THE CRISIS

---

In considering how to respond, Australia and the international community must look simultaneously at immediate steps to protect those at risk at sea, how to improve human rights and living conditions within Burma and how countries in the region and around the world can work together in to share responsibility. The following recommendations are drawn from recent authoritative statements and reports on the current crisis.

### 2.1 Immediate protection for people at risk at sea

In a joint statement on 19 May 2015, the UN High Commissioner for Refugees, the High Commissioner for Human Rights, Director-General of the International Organization for Migration (IOM) and the Special Representative of the UN Secretary-General for International Migration and Development<sup>12</sup> called on leaders, with the support of the Association of South East Asian Nations (ASEAN), to:

1. **Make saving lives the top priority** by significantly strengthening Search and Rescue Operations.
2. **Stop boat push-backs** and measures to 'help on' boats to leave territorial waters, while ensuring that all measures taken are in strict accordance with the principle of non-refoulement and other fundamental human rights standards.
3. **Provide for effective, predictable disembarkation** to a place of safety with adequate and humane reception conditions.
4. **Avoid the use of immigration detention** and other punitive measures, and ensure that the human rights of all migrants and refugees are protected, and that all actions in regard to children are guided by the best interests of the child.
5. **Set in place screening procedures** staffed jointly by government and relevant international organisation personnel to identify the individual circumstances of all those arriving, including
  - a) individuals in need of protection as refugees, asylum-seekers, or stateless persons,
  - b) victims of trafficking or persons at risk of torture or other cruel, inhumane, or degrading treatment if returned to their country of origin,
  - c) migrants with health conditions in need of emergency medical care and first aid assistance, and
  - d) migrants or others interested in voluntary return home.

### 2.2 Changes needed in the country of origin

After its March 2015, fact-finding mission to Burma, the Simon-Skjoldt Center for the Prevention of Genocide made a series of recommendations to the Burmese Government<sup>13</sup> which could be taken up through international advocacy:

1. **Change unjust laws which discriminate against the Rohingya**
  - *End all discriminatory laws and policies targeting the Rohingya, including those that restrict the freedom of movement and infringe on marriage rights and family choice.*
  - *Revise the 1982 Citizenship Law so that it conforms to internationally recognized legal standards and does not exclude any ethnic group from citizenship. Clearly and publicly outline the process for applying for citizenship under any new law.*
  - *Reject, or significantly revise in accordance with international human rights law, discriminatory legislation designated to purportedly "protect race and religion."*

---

<sup>12</sup> Joint Statement by UNHCR, OHCHR, IOM and SRSG for Migration and Development: *Search and rescue at sea, disembarkation, and protection of the human rights of refugees and migrants now imperative to save lives in the Bay of Bengal and Andaman Sea*, 19 May 2015  
<http://www.unhcr.org/555aee739.html>

<sup>13</sup> Simon-Skjoldt Center for the Prevention of Genocide (2015). *"They Want Us All to Go Away": Early Warning Signs of Genocide in Burma*  
<http://reliefweb.int/sites/reliefweb.int/files/resources/Burma%20Bearing%20Witness%205.1.15.pdf> Recommendations on page 13 of this report (sub-headings added by Refugee Council of Australia).

## **2. Improve living conditions for Rohingya and other displaced people**

- *Ensure that Rohingya living in camps and other restricted areas in Rakhine State have adequate access to food, clean water, health care, and education.*
- *Provide physical protection for humanitarian aid organisations delivering assistance throughout Rakhine State, and allow humanitarian organisations unhindered access to displaced populations so that they can serve more individuals and expand the services provided.*

## **3. Act to end and prevent communal violence**

- *Investigate attacks on Rohingya and other minority groups, and hold perpetrators accountable in accordance with internationally recognised legal standards.*
- *Partner with other governments and international agencies to monitor potential violence against Rohingya and other groups.*
- *Work with other governments and international organisations to coordinate strategies for preventing future violence and mass atrocities.*

## **4. Improve access to information**

- *Encourage the free flow of information throughout Burma, including by promoting unimpeded access for local and international journalists and investigators to all areas of Rakhine State.*

## **3. HOW NATIONS CAN SUPPORT SHARING OF RESPONSIBILITY**

---

Nations in the Asia-Pacific region and beyond can participate in an effective international response to the crisis, based on the principle of shared responsibility:

### **3.1 Encourage ASEAN in its leadership role in responding to the crisis**

- **Protection at sea:** Support ASEAN nations to take the lead in protection at sea, as outlined in section 2.1, with nations outside the ASEAN region offering support as requested with logistics or financial resources to support search and rescue, humane reception arrangements, alternatives to detention and fair screening processes.
- **Pressure on Burma:** Encourage ASEAN nations to work together on a regional response to issues within Burma, supporting the recommendations about ASEAN monitoring, promotion of human rights and regional refugee protection initiatives outlined in the Call to Action from ASEAN Parliamentarians for Human Rights (See Appendix A).

### **3.2 Work together on a collective resettlement response for identified refugees**

Malaysia, Indonesia and Thailand have asked for international assistance to resettle, within one year, Rohingya people rescued from the current crisis who are identified as refugees. Nations involved in refugee resettlement, including United States, Australia, Canada, New Zealand and EU member states are best placed to provide resettlement places.

### **3.3 Develop effective responses to the causes of refugee and migrant flows**

The 19 May joint statement of UNHCR, OHCHR, IOM and SRSG for Migration and Development called on nations to “redouble efforts, nationally [within ASEAN] and through strengthened international cooperation, to address 'push factors' and the root causes of refugee and migrants flows”. These efforts must include:

- **Supporting economic and social development in Bangladesh:** Realistic and effective international responses to the needs of Bangladeshi migrants fleeing to escape deep poverty, including dialogue with the Government of Bangladesh about how best to support and fund critical economic and social development needs.
- **Opening up safe migration options:** Serious exploration of avenues for “safe and legal migration, including for labour migration at all skills levels”<sup>14</sup> for people trying to escape

---

<sup>14</sup> As recommended in the joint statement of UNHCR, OHCHR, IOM and SRSG for Migration and Development

Bangladesh and Burma, with this dialogue to include nations with a net inflow of migrant workers in the Asia-Pacific region and the Middle East.

- **Prosecuting traffickers:** In line with the joint statement led by UNHCR, “expand efforts to prosecute traffickers and smugglers for their crimes in full accordance with international standards for human rights, while fully respecting the rights of victims”.

### **3.4 Increase international pressure on Burma to end persecution**

As recommended in the report of the Simon-Skjoot Center for the Prevention of Genocide, the international community should:

- **Insist on humanitarian and human rights benchmarks:** *Condition any agreements—including on preferential trade status, military training and provision of military equipment, concessionary lending by international financial institutions, or new large-scale development packages—on clear benchmarks that must be met by the government regarding increasing humanitarian assistance to Rohingya, protecting Rohingya voting rights, and ensuring that those responsible for anti-Rohingya and anti-Muslim violence are held accountable.*
- **Outline consequences of inaction:** *Articulate a credible set of consequences if the Government of Burma does not adhere to the benchmarks listed above.*
- **Support efforts to counter hate speech:** *Privately support local civil society and interfaith leaders working to counter hate speech and promote tolerance through the provision of funding and technical assistance.*
- **Sanctions against those responsible for violence:** *Be prepared to introduce a new UN sanctions regime targeting funders and organizers of anti-Rohingya and anti-Muslim violence.*
- **Independent monitoring by UN:** *Press for the establishment of an office of the United Nations High Commissioner for Human Rights in Burma and ensure that this office can freely access and report on the condition of the Rohingya.*

## **4. RECOMMENDATIONS FOR THE AUSTRALIAN GOVERNMENT**

---

In the light of the above, the Refugee Council of Australia recommends that Australia:

1. **Offer logistical and financial assistance to nations rescuing boat arrivals:** Actively offer support to Indonesia, Malaysia and Thailand, to UNHCR, IOM and relevant NGOs with logistics or financial resources to support search and rescue, humane reception arrangements, alternatives to detention and fair screening processes.
2. **Negotiate resettlement places for refugees:** In dialogue with UNHCR, Malaysia, Indonesia and Thailand, make a specific pledge, above and beyond the current Refugee and Humanitarian Program, of refugee resettlement places and encourage the United States, Canada, New Zealand and EU states to do the same.
3. **Encourage dialogue and commit financial resources to addressing causes of migrant and refugee flows:** Acknowledging the leadership of ASEAN states and Bangladesh, indicate Australia’s willingness to participate in regional and international dialogue about the causes of the refugee and migrant movements and its willingness to contribute funding towards agreed strategies to improve human rights conditions in Burma, economic and social development in Bangladesh and constructive action to tackle human trafficking.
4. **Increase diplomatic pressure on Burma to address persecution of Rohingya:** Acknowledging the need for leadership from ASEAN states, work with other nations to increase pressure on the Government and all political parties in Burma to take action to restore citizenship to Burma’s Rohingya people, address pressing human rights concerns and counter communal violence and hate speech, insisting on international action if such pleas are ignored.
5. **Advocate for the establishment of UN human rights presence in Burma:** Through UN forums, advocate for the establishment of an office of the UN High Commissioner for Human Rights in Burma to provide independent monitoring.

## APPENDIX A

### **A Call to Action from ASEAN Parliamentarians for Human Rights**

In its report, *The Rohingya Crisis and the Risk of Atrocities in Myanmar: An ASEAN Challenge and Call to Action*, the ASEAN Parliamentarians for Human Rights (APHR) group concluded with the following Call to Action:<sup>15</sup>

*The crises in Myanmar, including the persecution of Rohingya, anti-Muslim violence, and systematic abuses against other ethnic minorities, are not only a problem for Myanmar, they are a problem for all of ASEAN. The risk factors and specific indicators enumerated in this report, including those for war crimes, crimes against humanity, and genocide, demonstrate a high risk of atrocity crimes in Myanmar in the year ahead. Such crimes threaten to undermine the human rights standards and common dignity of ASEAN citizens. They also threaten to spill over borders and affect the economic and physical security of neighboring countries.*

*APHR will remain focused on the escalating crisis and determined to draw the attention and action of ASEAN's leaders. This report is more than a detailed listing of warning signs. It also represents a call to action to prevent the further escalation and perpetration of atrocity crimes that will affect Myanmar and the entire region.*

*We call upon ASEAN's leaders to take the following actions:*

- *Recognize the escalating crisis in Rakhine State and the plight of Rohingya as a serious danger to both Myanmar and ASEAN by prioritizing the issue in Summit meetings.*
- *Conduct an independent investigation of conditions and risks of increased violence and displacement in Myanmar, as well as associated risks to ASEAN, including greater refugee flows to countries like Malaysia and Thailand.*
- *Expand the mandate of the ASEAN Intergovernmental Commission on Human Rights (AICHR) to include country visits, inquiries, complaints, and emergency protection mechanisms, and ensure adequate independence and staffing support for its members. Engage AICHR to conduct a follow-up investigation into the Rohingya crisis.*
- *Deploy ASEAN monitors well ahead of the Myanmar elections to observe and report on the Rohingya crisis and broader anti-Muslim and ethnic minority dynamics.*
- *Utilize existing mechanisms in ASEAN, such as the ASEAN Troika, AICHR, the office of the ASEAN Secretary General, and the role of the ASEAN Chair, to respond appropriately to humanitarian crises in member states in accordance with the principles of the ASEAN Charter and the ASEAN Declaration on Human Rights.*
- *Commit to protecting those fleeing the crisis in Rakhine State, including by granting prima facie refugee status to Rohingya and providing the UN refugee agency with unfettered access to asylum seekers.*
- *Ratify the 1951 Refugee Convention.*
- *Strengthen and expand the mandate of the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) to help combat threats to women's rights, including those presented by the "Protection of Race and Religion Bills" and other Myanmar government policies that restrict rights, particularly for ethnic and religious minority women.*
- *Call upon the Myanmar government to adhere to regional and international human rights and humanitarian standards, including by rejecting the "Protection of Race and Religion Bills."*
- *Call upon the Myanmar government to address the root causes of the Rohingya crisis by amending the 1982 Citizenship Law to provide Rohingya with equal access to full citizenship, promoting reconciliation initiatives, denouncing hate speech and propaganda, and holding perpetrators of violence, including government officials, accountable.*

---

<sup>15</sup> ASEAN Parliamentarians for Human Rights (2015). *The Rohingya Crisis and the Risk of Atrocities in Myanmar: An ASEAN Challenge and Call to Action*, p. 17 <http://www.aseanmp.org/wp-content/uploads/2015/04/The-Rohingya-Crisis-and-the-Risk-of-Atrocities-in-Myanmar-An-ASEAN-Challenge-and-Call-to-Action.pdf>