

AMNESTY INTERNATIONAL

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To the governments of Bangladesh, India, Indonesia, Malaysia, Myanmar and Thailand

Your Excellencies,

We write to you to raise our serious concern about the plight of the Rohingyas, a Muslim minority from Rakhine State, western Myanmar. Thousands of Rohingyas have fled in recent months on boats sailing for Thailand and Malaysia, and hundreds are missing, feared drowned. Their situation has reached a critical stage over the last two months, as the Thai military have forcibly expelled approximately 1,000 Rohingyas arriving in southwest Thailand by boat, while the Indian and Indonesian authorities have rescued hundreds of them.

In order to address this crisis, Amnesty International makes the following recommendations to the governments of Bangladesh, India, Indonesia, Malaysia, Myanmar and Thailand as a matter of urgency:

- ◆ Myanmar must immediately stop the systematic persecution of the Rohingya minority, which is the root cause of the crisis;
- ◆ All governments should meet their obligations under the law of the sea and provide assistance to those in distress at sea, including search and rescue service;
- ◆ All governments should provide immediate access to the UN Refugee Agency (UNHCR) to all Rohingyas in their territory;
- ◆ All governments should ratify the UN Convention relating to the Status of Refugees, its 1967 Protocol, and the UN Convention relating to the Status of Stateless Persons.

With lives still at risk, Amnesty International reminds regional governments of their specific obligations under the law of the sea which are applicable to situations of migrants found or intercepted at sea. In addition to the UN International Convention on Maritime Search and Rescue (SAR), both the United Nations Convention on the Law of the Sea (UNCLOS) and International Convention for the Safety of Life at Sea (SOLAS), to which Bangladesh, Malaysia, Indonesia, India, Myanmar, Thailand and India are parties, include obligations to provide assistance to those found in distress at sea. These obligations exist concurrently to human rights obligations.

Specifically, the United Nations Convention on the Law of the Sea (UNCLOS) obliges state parties to require the master of a ship flying its flag to render assistance to any person found at sea in danger of being lost and rescue persons in distress. The obligation to provide assistance applies regardless of the nationality, status or circumstances of the individuals. Moreover, all coastal states are obliged to establish and maintain search and rescue services for this purpose, including through regional cooperation arrangements.

Ensuring the safety and dignity of those rescued and of the crew must be the immediate consideration in determining where individuals rescued at sea are taken. Under international law, the state responsible for the search and rescue region in which survivors were recovered is responsible for providing a place of safety or ensuring that such a place of safety is provided.

However, each state must ensure that individuals are not returned or transferred to a place where they may be at risk of serious human rights violations. Where individuals may be seeking or be in need of international protection, the rescuing state must transfer them to territory where access to a fair and satisfactory asylum process with full procedural safeguards is guaranteed.

Amnesty International calls on regional governments to cooperate in providing follow-up care for Rohingya survivors, deliver persons rescued at sea promptly to a place of safety, and ensure that they have access to a fair and satisfactory asylum process to assess their protection needs.

Amnesty International welcomes Thai Prime Minister Abhisit Vejjajiva's stated commitment to convene a regional forum on the Rohingyas. Flows of Rohingyas from Myanmar to neighbouring countries present an enormous challenge which can only be addressed regionally. Any regional solution must ensure that those Rohingyas who have a well-founded fear of persecution in Myanmar are not returned there, and that those found not to be in need of protection are returned in a humane manner. Specifically, the Thai government must stop forcibly expelling Rohingyas and provide them with immediate humanitarian assistance and cease any plans to proceed with more expulsions, as has been credibly reported. Hundreds of Rohingyas are missing or have died after the Thai security forces set them adrift in unseaworthy boats with little or no food and water. Some of the Rohingyas reported being beaten by the Thai security forces, which the Thai government has categorically denied. On 29 January Indonesia announced it was still determining the fate of almost 200 Rohingyas and Bangladeshis, who had landed in Weh Island, Aceh province on 7 January. The Indian navy have rescued hundreds of Rohingyas on or near the Andaman Islands.

Amnesty International is encouraged by reports on 27 January that Prime Minister Abhisit invited UNHCR to participate in the proposed regional forum. This move is crucial given that the Thai authorities have not yet granted UNHCR access to all Rohingyas held in detention, so that their protection needs can be assessed. Most notably, UNHCR had requested access to a group of 126 Rohingyas reportedly detained by the Thai authorities. According to subsequent reports, the group may have been collectively expelled by the Thai military on 23 January. Amnesty International urges the governments of India, Indonesia, Malaysia and Thailand not to return these individuals, to grant UNHCR immediate access to the Rohingyas in their countries in order to determine their protection needs, and to ensure that no one who would face serious human rights violations in any country be returned there.

It is only through a regional initiative, involving Bangladesh, India, Indonesia, Malaysia, Myanmar and Thailand, and with the participation of UNHCR, that a durable solution can be found to the plight of the Rohingyas. For the last three decades hundreds of thousands of Rohingyas have fled systematic persecution to neighbouring countries in Asia, the vast majority to Bangladesh. Moreover, within Myanmar, the Rohingyas suffer from specific deeply discriminatory policies targeting them. They are denied citizenship and are thus effectively stateless. Rohingyas who are returned to Myanmar continue to be at serious risk of human rights violations, including forced labour, forced eviction, land confiscation, and severe restrictions on freedom of movement. Such violations have had a severe impact on the group's livelihood and food security. It is imperative that the Myanmar authorities immediately stop subjecting the Rohingyas to these violations and change discriminatory policies aimed at denying them their fundamental rights. Until these root causes are addressed by the Myanmar government, Rohingyas will continue to flee to neighbouring countries.

Until the human rights situation in Myanmar improves, Rohingyas and others facing persecution in Myanmar will continue to flee their homes and seek safety elsewhere. In this context, Amnesty International also urges the governments of Bangladesh, India, Indonesia, Malaysia, Myanmar and Thailand to ratify the UN Convention relating to the Status of Refugees, its 1967 Protocol, and the UN Convention relating to the Status of Stateless Persons. Ratification of these Conventions will provide a suitable legal framework for a consistent, coherent regional approach necessary to address this growing problem.

We thank you for your immediate attention to this urgent matter.

Yours very truly,

Sam Zarifi
Asia-Pacific Director
Amnesty International

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