

# **Joint NGO Statement on the Requirements of a Regional Solution for the Rohingya**

6 March 2008  
(for immediate release)

We, the undersigned organizations, wish to express our support for the development of a regional solution to the plight of the Rohingya that is founded upon a respect for their rights and draws upon the support of the international community. However, we are concerned that while regional solutions have been discussed, including at the recent ASEAN summit, some of the proposals suggested to date and some of the recent actions towards the Rohingya are in violation of their rights.

## *Background and Recent Developments*

We recall the earlier statement of 6 February 2009 drafted by the Asia Pacific Refugee Rights Network in which grave concern was expressed about the well-being of more than one thousand Rohingya from Burma (Myanmar) and migrants from Bangladesh who were forcibly expelled and abandoned in international waters by the Thai security forces since December 2008.<sup>i</sup>

We express our grave concern at the attitudes and actions of the government of Burma towards the Rohingya over the last few weeks, including its disavowal of the Burmese citizenship of the Rohingya and its continuing violation of the rights of Rohingya still residing in Burma. We are appalled at its racist characterization of the Rohingya in recent diplomatic correspondence as “ugly as ogres” which is emblematic of its flagrant discrimination against and gross mistreatment of the Rohingya. We note that these actions are the root cause of the displacement of the Rohingya within the region.

In contrast, we are pleased to observe that the Prime Minister of Thailand has admitted that Thai officials have pushed Rohingyas back to sea, and that there have been no new reports of expulsion or *refoulement* from Thailand, Indonesia and India.

## *The Requirements of any Regional Solution*

In recent weeks, governments in the region have begun discussing “regional solutions” to the situation of the Rohingya.

We emphasise that any regional solution must be founded upon a recognition of and respect for the rights of the Rohingya. We are concerned that the Bali Process,<sup>ii</sup> the suggested forum for the negotiation of a regional solution, may not adequately focus on the rights of the Rohingya. In this regard, we remind states that any regional solution must be based upon the following principles:

1. Refuge must be provided to those in need of international protection;
2. No refugee or migrant should be forcibly returned (*refouled*) to Burma;
3. The rights of refugees and migrants must be respected;

4. The United Nations High Commissioner for Refugees (UNHCR) must be granted full, unconditional access to the Rohingya in states of the region; and,
5. The international community must be included in and provide support to any regional solution.

*1. Refuge must be provided to those in need of international protection*

States have an obligation under international refugee and maritime law to grant safe harbour to boats in distress; the abandonment of people at sea is a grave breach of international law. During the past week, the Prime Minister of Malaysia threatened to “push back” any future refugees or migrants who arrive by sea. Such a threat is fundamentally incompatible with the humanitarian spirit of granting refuge and, if acted upon, is in violation of international law. A regional solution is only achievable if states share responsibility for the international protection of the Rohingya, not if they attempt to unilaterally shirk their obligations to refugees and neighbouring states. Any regional solution must provide refuge to those in need of international protection, including those stranded on the high seas.

*2. No refugee or migrant should be forcibly returned (refouled) to Burma*

Those who have fled Burma are at risk of rape, forced labour, forced eviction, land confiscation, prolonged and indefinite detention, and severe restrictions on freedom of movement. We note that Rohingyas crossing the Burmese border and sentenced for illegal re-entry constitute the majority of the prison population in North Arakan State (Burma) and that no international observers are allowed inside Burma to monitor the treatment of those imprisoned or those returning from abroad. In these circumstances, the mass voluntary repatriation of the Rohingya is not a viable option; any individual voluntary repatriation must be fully informed, genuinely voluntary and include guarantees of non-prosecution for illegal exit and full reintegration into communities in Burma. Any regional solution must guarantee explicitly that the Rohingya will not be subject to *refoulement*.

*3. The rights of refugees and migrants must be respected*

Arguments have been made that the Rohingya are migrants, not refugees, and therefore not entitled to international protection. We remind states in the region that even individuals who depart from their country of residence solely for economic reasons may nonetheless be refugees if they would face persecution for reasons of race, nationality, religion, political opinion or membership in a particular social group. We also remind states that migrants, including those in an irregular situation (so-called “illegal migrants”), are also entitled to various rights under international law. Any regional solution must accord international protection to refugees and respect the rights of migrants.

*4. The United Nations High Commissioner for Refugees (UNHCR) must be granted full, unconditional access to the Rohingya in states of the region*

We call on states in the region to give unconditional access to UNHCR to all of the Rohingya in the region. In this regard, we decry the refusal of the government of Thailand to give UNHCR access to these individuals unless UNHCR committed not to make determinations of refugee status. Any regional solution must recognize the authority of the UNHCR concerning the international protection of refugees and the stateless, its role in the determination of status and must provide for the unconditional access of UNHCR to the Rohingya throughout the region, including in Burma.

*5. The international community must be included in and provide support to any regional solution*

The international community must provide support for states in the region as they deal with the Rohingya. Specifically, the international community must provide financial assistance to countries of first asylum and guidance on best practices in dealing with mass influxes and rescue at sea. We are pleased by Australia's offer of assistance to Indonesia and its current commitment to resettle a small number of Rohingya in the coming years. However, the support of the international community must increase; it must be directed at the protection of the rights of the Rohingya, and be long lasting.

*Conclusion*

In conclusion, the predicament of the Rohingya has been caused by the chronic and consistent violation of their rights by the government of Burma. Any solution will only be durable and effective if it fully respects and promotes the rights of the Rohingya in Burma and in the countries of the region. At a minimum, any regional solution must include the aforementioned provisions.

The predicament of the Rohingya underscores the ongoing need for a regional treaty to ensure the protection of refugees in the region in line with international standards. Unlike other regions, notably Africa and Latin America, there is no regional legal instrument governing refugee protection in Asia. We call on states in the region to commit themselves to the drafting of such an instrument, which would also eliminate the need for *ad hoc* policies to deal with refugee flows such as are being sought for the situation of the Rohingya. Such action would reaffirm the commitment of states in the region to the protection of human rights and would be consistent with the recent ratification of the ASEAN Charter and the development of an ASEAN Human Rights Body.

*This statement was written by members of the Asia Pacific Refugee Rights Network (APRRN)<sup>iii</sup>, and has been endorsed by the following organizations and individuals:*

Australia

- 1. Amnesty International Australia**
- 2. Australian Council of Trade Unions**
- 3. ChilOut**
- 4. The Association for Services to Torture and Trauma Survivors Inc.**
- 5. The Australian National Committee on Refugee Women**

Bangladesh

- 6. Ain o Salish Kendra**
- 7. Odhikar**
- 8. WARBE Development Foundation**

Burma

- 9. Arakan Rohingya National Organisation**
- 10. Shan Women's Action Network (Burma/Thailand)**

Cameroon

- 11. Women Poverty Eradication Centre**

Egypt

**12. Egyptian Foundation for Refugee Rights**

Hong Kong

**13. Asian Center for the Progress of Peoples**

**14. Hong Kong Coalition for a Free Burma**

Indonesia

**15. Indonesia Legal Aid Foundation**

Iran

**16. ADVAR**

Lebanon

**17. Frontiers Ruwad Association**

Malaysia

**18. All Women's Action Society**

**19. Community Residents Association of Selangor and Federal Territory  
(Persatuan Masyarakat Selangor & Wilayah Persekutuan, PERMAS)**

**20. Empower**

**21. Health Equity Initiatives**

**22. Malaysia Youth and Students Movement (DEMA)**

**23. Malaysian Social Research Institute**

**24. Migrant Care**

**25. National Human Rights Society**

**26. Oppressed People's Movement (Jaringan Rakyat Tertindas, JERIT)**

**27. Pusat KOMAS**

**28. SUARAM**

**29. Workers Organisation Malaysia**

Mexico

**30. Movimiento Migrante Mesoamericano**

New Zealand

**31. Refugee Services Aotearoa New Zealand**

Norway

**32. Norwegian Burma Committee**

**33. Rohingya Community in Norway**

Pakistan

**34. Pakistan International Human Rights Organization**

Singapore

**35. Transient Workers Count Too**

**36. UNI Apro**

Sri Lanka

**37. Commission for Justice and Peace of the National Christian Council**

**38. Community Development Services**

### **39. SANRIM**

#### Thailand

- 40. Burmese Rohingya Association in Thailand**
- 41. The Arakan Project**
- 42. U.S. Committee for Refugees and Immigrants**

#### Turkey

- 43. Refugee Support and Assistance Program of the Helsinki Citizens' Assembly**

#### United Kingdom

- 44. Burmese Rohingya Organization UK**
- 45. Equal Rights Trust**

#### United States of America

- 46. Asylum Access**
- 47. Project Maje**

#### Regional/International

- 48. Alternative ASEAN Network on Burma**
- 49. ASEAN Service Employees Trade Union Council**
- 50. Asia Pacific Forum on Women Law and Development**
- 51. Building and Wood Workers International – Asia Pacific Regional Office**
- 52. CARAM Asia**
- 53. Christian Solidarity Worldwide Hong Kong**
- 54. FAHAMU**
- 55. International Detention Coalition - International Project**

#### Individuals

- 56. Amy Braun (Maryknoll, Thailand)**
- 57. Bruce Van Voorhis (Hong Kong)**
- 58. Chato Olivas-Gallo (Hong Kong)**
- 59. Dr. Barbara E. Harrell-Bond, OBE**
- 60. Edith Mirante (USA)**
- 61. Khairul Amin (Rohingya from Arakan living in Norway)**
- 62. Lee Siew Hwa (Malaysia)**
- 63. Peter Cotton (New Zealand)**
- 64. Professor Emeritus Howard Adelman (York University, Canada)**
- 65. Professor Sharryn Aiken (Faculty of Law, Queen's University, Canada)**
- 66. Risa Tokunaga (The Australian National University, Australia)**
- 67. Rosie Scott**

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<sup>i</sup> “Over 90 organizations worldwide call for Rohingya and Bangladeshi protection” (Amnesty International (Australia) and the Asia Pacific Refugee Rights Network, 6 February 2009) accessible online at <http://www.amnesty.org.au/news/comments/20180/> The statement was originally signed by 94 organizations; it has subsequently been endorsed by an additional 17 organizations.

<sup>ii</sup> Formally known as the “Regional Ministerial Process on People Smuggling, Trafficking in Persons and Related Transnational Crime.”

<sup>iii</sup> 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.