

URGENT ACTION

REFUGEES AND MIGRANTS ADRIFT REMAIN AT RISK

Malaysia has ordered search and rescue operations but thousands of refugees and migrants remain at risk of death in seas around Thailand, Malaysia and Indonesia. Malaysia and Indonesia have agreed to provide temporary shelter to those who land.

Up to 4,000 people remain adrift at sea. Malaysia began search and rescue operations on 21 May, but it is the only country in the region so far to have done so. Malaysia and Indonesia announced on 20 May that they will offer temporary shelter to up to 7,000 refugees and vulnerable migrants. Thailand did not sign up to the commitment citing domestic legal constraints, but said it would provide humanitarian assistance to people on the boats and would not push back migrants stranded in Thai waters.

While these are welcome developments, it is not clear how these countries propose to implement these new policies and ensure they are consistent with international human rights law.

Refusing to rescue the boats through maritime search and rescue missions would leave thousands at risk of death. Many have been at sea for more than two months and are in urgent need of food, water and medical care. At least 2,800 people have already arrived in Indonesia and Malaysia this month, with some being detained and at risk of return to countries where their life or rights are at risk, in violation of international human rights law.

The thousands of people who have fled Myanmar and Bangladesh include refugees such as the persecuted Rohingya minority fleeing discrimination and dire conditions in Myanmar, vulnerable migrants, and victims of human trafficking. Regardless of their legal status, their means of arrival or where they come from, the rights of these people must be protected and none should be detained, prosecuted or otherwise punished solely because of their method of arrival.

Please write immediately in English, Bahasa, Malay, Thai or your own language calling on these countries to:

- Co-ordinate search and rescue operations to locate and assist boats in distress;
- Allow all boats carrying refugees and migrants to land safely in the nearest country to their vessel and not push them back, threaten or otherwise intimidate them;
- Provide for the immediate humanitarian needs of refugees and migrants including food, water, shelter and health care;
- Ensure that people claiming asylum are able to access refugee status determination procedures and that individuals are not criminalized, detained or otherwise punished solely for their method of arrival in the country;
- Respect the principle of non-refoulement, by ensuring that people are not transferred to any place, including their country of origin, where their lives or freedoms are at risk;
- Urge the Government of Myanmar to end all discrimination against the Rohingya in law, policy and practice.

PLEASE SEND APPEALS BEFORE 2 JULY 2015 TO:

Prime Minister
Datuk Seri Najib Tun Razak
Prime Minister's Office of Malaysia
Main Block, Perdana Putra Building
Federal Government Administrative
Centre, 62502 Putrajaya, Malaysia
Fax: +603 8888 3444
Email: ppm@pmo.gov.my
Salutation: Your Excellency

Deputy Prime Minister and Minister for
Foreign Affairs
Thanasak Patimapragorn
Ministry of Foreign Affairs
Sri Ayudhya Road
Bangkok, 10400, Thailand
Fax: +66 2643 5320, +66 2643 5314
Email: minister@mfa.go.th
Salutation: Your Excellency

Minister of Foreign Affairs
Retno Marsudi
Jl. Pejambon No.6.
Jakarta Pusat, 10110
Indonesia
Fax: +62 21 385 7316
Email: kontak-kami@kemlu.go.id
Salutation: Your Excellency

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date. This is the first update of UA 108/15. Further information:

<https://www.amnesty.org/en/documents/asa01/1659/2015/en/>

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ADDITIONAL INFORMATION

Reports from UNHCR – the UN Refugee Agency – suggest that 4,000 people may still be adrift on boats off the coasts of Thailand, Malaysia and Indonesia. During a crisis meeting held on 20 May following strong international pressure, Malaysia and Indonesia stated that they would provide temporary shelter for up to 7,000 refugees and migrants on the condition that the international community “take responsibility for the repatriation of the irregular migrants to their countries of origin or resettlement to third countries within a period of one year”. Last week, Malaysian authorities said that they would use punitive measures, including pushing back boats and deporting refugees and vulnerable migrants, to prevent further arrivals. On 12 May, Indonesian authorities turned away a boat carrying around 400 people, claiming that they were provided with food, water and directions to Malaysia. Thai authorities also stated earlier last week that they would not allow boats to land and have pledged to prosecute migrants for illegal entry.

In Indonesia, over the last two weeks, at least 1,800 people landed in the provinces of Aceh and North Sumatra. They have been housed in temporary shelters and provided with food and medical treatment. Amnesty International understands that UNHCR is registering people who are seeking asylum. In Malaysia, on 11 May more than 1,000 people including Rohingya Muslims and Bangladeshis landed on Langkawi Island. They have been held at a temporary detention centre and have been transferred to Belantik Immigration Detention Depot, in Kedah state. Another vessel carrying 500 people, found by the Malaysian navy on 13 May off the northern Penang state, was given fuel and provisions and sent back into open water. A third carrying about 300 people was reportedly turned away by the authorities near Langkawi Island on 14 May. Many are desperate enough to put their lives at risk by braving dangerous journeys at sea in order to escape unbearable conditions at home.

Many of those on board the boats are Rohingya – a minority from Myanmar who have faced discrimination for decades. They are not recognized as an official ethnic group and continue to be denied equal access to citizenship rights under the country's 1982 Citizenship Act. They face severe restrictions on their right to freedom of movement, which prevent them from travelling between townships without authorization. This has had serious repercussions on their livelihood and food security, as they are often unable to seek employment outside their village or trade goods and produce unless they have permission. Other rights - for example the rights to study, work, travel, marry, practise their religion, and receive health services are also restricted to various degrees. In 2012, widespread violence between Buddhist and Muslim communities in Myanmar's Rakhine state led to the displacement of tens of thousands of people. Today, 139,000 people – mainly Rohingya – remain displaced in IDP camps across Rakhine state in squalid conditions.

According to UNHCR, some 25,000 Rohingya from Myanmar and Bangladeshis left the Bay of Bengal on boats between January and March this year – almost double the number over the same period in the two previous years. Reports suggest that at least 300 people have died on the boats so far in 2015. Their preferred destination is usually Malaysia, with many crossing the border irregularly after being held in poor conditions in smugglers' or traffickers' camps after landing in Thailand. Some hundreds of Rohingya who originally travelled by sea from the Bay of Bengal and reached Malaysia have in recent years undertaken further irregular maritime journeys to Indonesia across the Straits of Malacca.

Although Indonesia, Malaysia and Thailand are not signatories to the 1951 Refugee Convention, and Thailand and Malaysia lack formal legislative and administrative frameworks to address refugee matters, all these countries must abide by principles enshrined in customary international law. This includes the principle of non-refoulement, which prohibits the transfer of anyone to a place where his or her life or freedom would be at risk, as well as the ban on torture and other cruel, degrading and inhuman treatment. Other binding principles of international law include provisions set out in the 1982 UN Convention on the Laws of the Sea (of which Indonesia, Malaysia and Thailand are states parties), such as the duty to establish search and rescue operations. In addition, under Article 1 (7) of the ASEAN Charter, ASEAN countries have a responsibility to promote and protect human rights and fundamental freedoms. There will be a regional meeting on 29 May, called by Thailand, to address “irregular migration at sea”.

Name: unknown
Gender m/f: both

Further information on UA: 108/15 Index: ASA 01/1701/2015 Issue Date: 21 May 2015