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£BANGLADESH: @Threat of forcible return of refugees to Myanmar (Burma)

Amnesty International is deeply concerned at reports it has received that the Bangladesh Government is planning to return over 30,000 Rohingya refugees to Myanmar (Burma) where it believes many of them risk serious human rights violations.

The Rohingyas are a Muslim minority from the Arakan (Rakhine) State in Myanmar. They are apparently fleeing because of human rights violations committed by the Myanmar armed forces who have intensified the level of their operations in Arakan State. Amnesty International has received reports that the armed forces have forcibly evicted Rohingyas from their homes, arbitrarily detained them and, in some cases, tortured or executed them. These reports are consistent with the actions of the Myanmar armed forces in other parts of Myanmar where there are large ethnic minority populations.

The Rohingyas have reportedly been fleeing in large numbers into Bangladesh since early 1990. Amnesty International believes many of them would be at risk if forcibly returned to Myanmar. It is therefore calling on the Bangladesh Government to ensure that they are given effective and durable protection.

Fear of forcible return

The over 30,000 Rohingya refugees from Myanmar have fled into the southern region of Bangladesh. In part of this area, the Chittagong Hill Tracts, the Bangladesh security forces have reportedly committed human rights violations in the context of counterinsurgency measures against local tribal insurgents who since the 1970s have been fighting for autonomy.

Despite the Rohingya refugees' stated fears of suffering serious human rights violations in Myanmar, the Bangladesh authorities have not granted them effective and durable protection against being forcibly returned to Myanmar. Indeed, according to reports, the Bangladesh Foreign Minister travelled to Myanmar in late November 1991 to meet with the the ruling military group in Myanmar,

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the State Law and Order Restoration Council (SLORC). At this meeting the Foreign Minister reportedly signed an agreement with the SLORC allowing for the return of the Rohingya refugees to Myanmar. Apparently, the SLORC asked the Bangladesh authorities to submit to them a list of names of the refugees prior to their return so that the SLORC can establish which of them are actually Myanmar citizens. The SLORC may not necessarily recognize all of the refugees as possessing Myanmar citizenship. This agreement reportedly makes no provision for the involvement of international agencies, such as the United Nations High Commissioner for Refugees (UNHCR), to ensure that the refugees are returning voluntarily and to assist with their return, although it is common practice for such agreements between governments to include such a provision¹.

UNHCR has not been granted access to the Rohingya refugees in Bangladesh although it has requested the Bangladesh Government for such access to be granted. UNHCR has also asked the Bangladesh Government to ensure that any return of the refugees be in accordance with international standards governing the voluntary nature of such return, and that arrangements be made for them to return in safety and dignity. UNHCR has expressed its willingness to provide the Rohingya refugees with humanitarian assistance in Bangladesh and, if circumstances permit, eventually to become involved in arranging for their voluntary return.

There have also been reports that members of the Bangladesh armed forces have on some occasions prevented refugees from crossing the border into Bangladesh and have forced them back into Myanmar.

Risk of human rights violations if forcibly returned to Myanmar

The Rohingya refugees could, if sent back to Myanmar, face serious human rights violations at the hands of the military authorities.

Rohingyas suspected of supporting multi-party democracy, the transfer of power to an elected government, or the establishment of a federal state could be detained as prisoners of conscience on the basis of their ethnic or religious identity or for their non-violent opposition to the SLORC, in particular its policies concerning ethnic minorities. They would thus join the hundreds, possibly thousands, of other prisoners of conscience currently held by the SLORC, which include Nobel Peace Prize Laureate Daw Aung San Suu Kyi. Some of the prisoners of conscience detained by the SLORC are held without charge or trial, and others have been imprisoned after unfair trials by

¹ Conclusion 40(XXXVI), adopted by the intergovernmental UNHCR Executive Committee in 1985, states:

"On all occasions [UNHCR] should be fully involved from the outset in assessing the feasibility and, thereafter, in both the planning and implementation stages of repatriation.

(...)

"The High Commissioner should be recognized as having a legitimate concern for the consequences of such return (...) [and] must be entitled to insist on his legitimate concern over the outcome of any return that he has assisted."

military tribunals or by civilian courts that have been subjected to military intimidation. People so imprisoned would also be at risk of torture and other forms of severe ill-treatment, because military interrogators, particularly those of the SLORC's military intelligence agencies, have often used torture to extract information and punish prisoners of conscience. In some instances, victims were allegedly tortured to death.

Rohingyas suspected of involvement in armed separatist or other insurgent activities against the SLORC would similarly be at grave risk of torture, which is reported to be routinely inflicted on those accused of violent opposition to the military. Moreover, there have been many cases where the Myanmar military has executed alleged insurgents extrajudicially, and those brought to trial have no protection against being sentenced to death in proceedings that are flagrantly unfair.

Rohingyas would also be at risk of being seized arbitrarily by the military for use as porters to carry supplies during military operations in Arakan State, and of being severely ill-treated or summarily executed if troops felt they were failing to perform their duties satisfactorily. Amnesty International has recently documented these types of human rights violations against Muslims in other parts of Myanmar. For example, one Muslim woman was taken as a porter despite her relatives' protests that she was epileptic; she was executed when she had a seizure and was unable to continue carrying her load.

Moreover, Rohingyas accused by the SLORC of not being Myanmar citizens could face indefinite detention for "illegal immigration". The Myanmar military has in the past destroyed identity documents and engaged in other illegal actions aimed at preventing Rohingyas from establishing their citizenship. Alleged "illegal immigrants" have then been unfairly tried and sentenced to short prison terms, and subsequently held indefinitely when no country was willing to accept them. Amnesty International has previously documented the cases of Rohingyas born in Myanmar who were detained for many years after being falsely accused of "illegal immigration". These included a woman who was arrested along with her one-year-old daughter, Noor Jahan; they were both detained for some 30 years before relatives finally managed to secure their release. Amnesty International believes many ordinary Rohingyas now seeking protection in Bangladesh who have never been politically active and have never committed any recognizably criminal offence could suffer a similar fate and thus become prisoners of conscience held simply because they belong to the Rohingya ethnic group.

International standards for the protection of refugees

Amnesty International opposes the forcible return of people to countries where they risk imprisonment as prisoners of conscience, torture, "disappearance" or execution; it calls on governments to provide such people with effective and durable protection from being sent against their will to a country where they risk being subjected to such human rights violations.

The forcible return of such people is a violation of the fundamental principle of *non-refoulement*, binding on all states, and which includes non-rejection at the frontier of the country where people seek protection. International standards make clear that this principle must be scrupulously observed in all cases, including situations of a large-scale influx of refugees. However, international standards also recognize that in fulfilling this international obligation to provide protection in situations of large-scale influx of refugees, a country may face serious practical problems,

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and that, accordingly, in such situations it is the responsibility of the international community to assist in providing refugees with the protection they need. This is stated, for example, in Conclusion 22(XXXII), adopted by consensus by the intergovernmental Executive Committee of UNHCR in 1981, which states:

"A mass influx may place unduly heavy burdens on certain countries; a satisfactory solution of a problem, international in scope and nature, cannot be achieved without international cooperation. States shall, within the framework of international solidarity and burden-sharing, take all necessary measures to assist, at their request, states which have admitted asylum-seekers in large-scale influx situations."

Amnesty International calls urgently on the Government of Bangladesh not to return the Rohingya refugees to Myanmar until such time as it is clear that they would no longer be at risk of serious human rights violations there. In order to assist in ensuring their protection, UNHCR should be granted immediate access to the Rohingya refugees. UNHCR should also be involved in assessing whether conditions exist in Myanmar to permit a voluntary return of any refugees in conditions of safety and dignity. The Bangladesh Government should also issue clear instructions to its military and other forces on the border to admit refugees seeking protection in Bangladesh.

Amnesty International also calls on the states of the international community to fulfil their own international obligations to provide Bangladesh with any assistance necessary in order to ensure that the Rohingya refugees are given the protection they need, and to offer all necessary assistance and cooperation to UNHCR and other international organizations responsible for coordinating the efforts of the international community for the protection of refugees.