

MYANMAR/BANGLADESH

ROHINGYAS - THE SEARCH FOR SAFETY

INTRODUCTION

Thousands of Burmese Muslims from the Rakhine (Arakan) State in Myanmar, known as Rohingyas, fled into southeastern Bangladesh during the first half of 1997. Unlike more than 250,000 Rohingya refugees who came to Bangladesh in 1991 and 1992, these new arrivals are largely living in local villages rather than in designated refugee camps. The Government of Bangladesh has not permitted the United Nations High Commissioner for Refugees (UNHCR) to interview these people, asserting that they are all economic migrants. Amnesty International is aware of reports that some of the new arrivals have stated that they have left Myanmar solely because of economic hardship. However, it is concerned that others are in fact people fleeing serious human rights violations in Myanmar, and therefore would be in need of protection. Indeed, it should be noted that the distinction between economic hardship and violations of civil and political rights is not necessarily a clear one; for example, many of the Rohingyas have been unable to make a living due to continuing (unpaid) forced labour in Rakhine state. Given the grave human rights situation in Myanmar, it is impossible to state in a blanket fashion that Rohingyas are only fleeing economic hardship and therefore are not worthy of protection.

Rohingya refugees who arrived in Bangladesh in 1991 and 1992 fled massive human rights violations in the Rakhine State, including extrajudicial executions, torture, forced labour and portering. The range and extent of these abuses constituted widespread repression of the Rohingyas by the Burmese security forces, resulting in huge numbers of refugees fleeing the country. This pattern of repression occurred in the context of the Burmese authorities' denial of citizenship rights to the Rohingyas. Under the 1982 Citizenship Law most Rohingyas along with members of other ethnic minorities are not recognized as citizens. As a result, Rohingyas do not enjoy the right to freedom of movement within Myanmar. Amnesty International is concerned that the 1982 Citizenship law is being used to deny Rohingyas and members of other ethnic minorities their basic rights.

Although the human rights situation in the Rakhine State has marginally improved, forced labour, portering and forcible relocations under harsh conditions continue to be reported. Such practices are common throughout Myanmar, but members of ethnic minorities such as the Rohingyas are particularly vulnerable. Amnesty International has received reliable reports from eye-witnesses who have recently observed forced labour of civilians in the Rakhine State. According to witnesses Rohingyas and other ethnic minorities including the Arakanese and Mro, were forced to work on roads and bridges by the Burmese security forces in December 1996 and during the first half of 1997. Because civilians were forced to perform labour for substantial amounts of time, they were often unable to provide for their families. The

border patrol administration in the Rakhine State, known as the *Na Sa Ka*, were reportedly one of the security forces responsible for seizing them as labourers.

The long-term human rights crisis in Myanmar has meant that tens of thousands of refugees from various ethnic minorities have fled to neighbouring countries, primarily Bangladesh and Thailand. Such massive outflows have created an enormous burden for these two countries, who are under pressure to provide safe havens for these people with very limited resources themselves. Bangladesh needs continued international support to ensure that refugees are given protection and an appropriate level of treatment. Mass flights of refugees are an international responsibility; countries that happen to be the nearest point of safety should not be left alone to bear that responsibility. The refugee burdens Bangladesh and Thailand face make it even more imperative for the international community, including both governments and intergovernmental organizations, to increase pressure on the SLORC to improve its human rights record.

These new arrivals joined over 21,000 Rohingyas living in camps in Bangladesh, the remainder of the over 250,000 refugees who had fled in the early 1990s.¹ The others were repatriated back to Myanmar under an April 1992 agreement between the Bangladeshi authorities and the State Law and Order Restoration Council (SLORC, Myanmar's military authorities). That agreement, which came under harsh international criticism, did not provide for the involvement of the UNHCR. In May 1993 UNHCR signed a Memorandum of Understanding with the Government of Bangladesh and in April 1994 initiated an organized repatriation process. In November 1993 UNHCR was granted permission to establish a presence in the Rakhine State in order to monitor the status of the returnees. Since then tens of thousands of Rohingyas have been repatriated, although various non-governmental organizations (NGOs) have expressed concern that the repatriation operation has gone forward without a fundamental improvement in the human rights situation in Myanmar, and have questioned whether the repatriation of many of these refugees was truly voluntary.

The SLORC has reportedly agreed to accept only 7,500 of the remaining 21,800 Rohingyas; UNHCR has requested the Bangladeshi authorities to allow the remaining 14,000 Rohingyas to settle in Bangladesh.² The repatriation process stopped in April 1997, but on 20 and 22 July 1997 the Bangladeshi security forces forcibly returned 399 Rohingyas from Kutapalong and Nayapara camps. After protests from UNHCR, who had been denied access to the refugees, the Government of Bangladesh agreed not to return any Rohingyas against their will. However the government stated at the same time that none of the Rohingya refugees would be allowed to remain in Bangladesh permanently.

¹For a discussion of the human rights violations which caused the Rohingyas to flee, please refer to *UNION OF MYANMAR (Burma): Human rights violations against Muslims in the Rakhine (Arakan) State*, May 1992, (AI Index ASA 16/06/92).

²*Reuter*, July 18 1997.

The fundamental basis of Amnesty International's refugee work is the principle of non-*refoulement*, which forbids the returning of any person to a country where he or she would be at risk of serious human rights violations. As part of its human rights mandate, it opposes the *refoulement* of any person to a country where he or she would be at risk of falling victim to imprisonment as a prisoner of conscience,³ torture, "disappearance", extrajudicial execution or the death penalty. It should be noted that the principle of non *refoulement* includes non-rejection at the frontier.

It should also be noted that the principle of non-*refoulement* is widely recognized as a principle of customary international law, binding on all states. Bangladesh has yet to become a party to the 1951 Convention relating to the Status of Refugees (Refugee Convention) or its 1967 Protocol. However, Bangladesh, like all other countries, is still bound by this principle of international law, and should afford effective and durable protection from *refoulement* to all those who would be at risk of serious human rights violations. Bangladesh is also a member of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees (UNHCR Excom), which is the only international forum where refugee issues are discussed in a comprehensive manner. The Excom meets every year and reaches Conclusions regarding important issues of refugee protection and assistance, and has on numerous occasions reaffirmed the importance of the principle of non-*refoulement*. Amnesty International is concerned that Bangladesh, which sits on the Excom and therefore plays a crucial role in setting standards of refugee protection, is contravening the very standards Excom has upheld.

THE SITUATION OF NEWLY-ARRIVED ROHINGYAS

Estimates of Rohingyas who have recently arrived in Bangladesh in the first half of 1997 vary widely from 2,000 to 20,000. Because these new arrivals tend not to enter refugee camps and instead stay in local villages, it is impossible to be more precise about their numbers. In June UNHCR in Bangladesh expressed its concerns about new arrivals: "*These people are facing different problems, including excessive high rice prices, forced labour and excessive taxation, besides discrimination in their freedom of movement.*"⁴

Local Bangladeshi authorities also reported in June that there was an influx of at least 5,000 Rohingyas in one month alone, stating that 500 of them had been sent back across the border over a two week period. Lieutenant Colonel Khaled Reza, a

³Amnesty International considers people to be prisoners of conscience if they have been detained for their beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status, and if they have not used or advocated violence.

⁴ *Agence France Presse*, 17 June 1997.

commander of Bangladesh's border security force, said: *"If caught, we are pushing the infiltrators back or sending them to jails"*.⁵ In Cox's Bazaar Police Superintendent Matiur Rahman said that more than 2,000 newly-arrived Rohingyas had been sent back to Myanmar "in the last few months".⁶ Amnesty International is concerned that Rohingya asylum-seekers have been denied access to local UNHCR personnel, and that people may have been returned to a situation where they would be at risk of serious human rights violations.

On 18 July 1997 UNHCR asked the Government of Bangladesh for access to the new arrivals, stating: *"We again call on the Bangladesh government to allow us to interview these people and establish who might be deserving of UNHCR protection"*. A UNHCR spokesperson also said that many of the new arrivals had left Myanmar for purely economic reasons, but that others had cited excessive forced labour and torture.⁷ However the government has continued to deny UNHCR access to newly-arrived refugees.

Thousands of Rohingyas fled to Bangladesh in the first half of 1996 as well. UNHCR estimated that some 5,500 left Myanmar while some non-governmental organizations put the number at 10,000. This group of Rohingyas gave the same reasons for its flight as the most recent arrivals - the high price of food and extensive forced labour. Some of them were also sent back by the Bangladesh Rifles (BDR). In April 1996 when a BDR patrol attempted to push a boatload of Rohingyas back across the Naaf River, which marks the border, the boat capsized and 15 of them drowned.

THE SITUATION OF ROHINGYAS IN BANGLADESHI CAMPS

Although the Government of Bangladesh had planned to close the two remaining camps housing Rohingya refugees⁸ at the end of June 1997, delays in the repatriation process have meant that over 21,000 are still living in these camps. The SLORC delayed the process until 15 July 1997, when they agreed to receive only those of the 21,000 refugees who had been cleared by them by a 15 August deadline. Amnesty International is particularly concerned about the fate of the 14,000 refugees who have been told by the Government of Bangladesh that they cannot remain, yet have apparently not been permitted to return by the SLORC.

⁵ *Reuter*, 23 June 1997.

⁶ *Reuter*, 26 July 1997.

⁷ *Agence France Presse*, 18 July 1997.

⁸ There are some 8,000 refugees in Kutapalong camp and some 13,000 in Nayapara camp.

According to reports, on 20 July the Bangladeshi security forces forcibly returned 187 refugees from Nayapara camp across the Naaf River to Myanmar. Apparently no one volunteered for repatriation, so the authorities picked mostly women and children to be sent back. The police had entered Nayapara camp on 19 July to search for refugees cleared for return, but some of the refugees resisted by throwing stones. The police responded by throwing tear gas. A group of refugees singled out for return was locked in a building overnight the day before the repatriation. The next day the authorities reportedly forced this group of refugees on to awaiting buses, beating some of them and separating families in the process. Many of the men whose families were returned had hidden outside the camps and so were not sent back at the same time. Refugees who were ill or disabled were also forced to return with no medical supervision.

After the refugees from Nayapara Camp were taken by bus to the river, a group in that camp attacked security forces with canes, iron rods, and bows and arrows, who responded by firing shots and lobbing tear gas canisters. As a result, 15-20 people were reportedly injured, including several policemen. A group of refugees was arrested at the time, although Amnesty International has no further details about its status.

There was no reported violence in Kutapalong camp. The second forcible return took place on 22 July, when the security forces met with no resistance, although UNHCR was not allowed access to the refugees. 212 refugees from Kutapalong camp were returned on this occasion. The same day UNHCR protested to the Government of Bangladesh about the fact that they were not allowed to screen the refugees medically or interview them privately.

After these events refugees in the camps began to refuse to accept food rations and medical care at health centres. Sit-in demonstrations by some refugees also took place, protesting the events of 20 and 22 July. Demands included granting Rohingyas full Burmese citizenship, an end to human rights violations and other forms of persecution against Muslims in Myanmar, and the restoration of democracy there. Reports indicated that many of the refugees were coerced into refusing food by militant refugee camp leaders. UNHCR stated that some women who attempted to accept food were beaten.⁹ Scores of refugees reportedly became ill due to lack of food and medical care. Both the UNHCR and the government attempted to persuade refugees to accept food and to reassure them that they would not be returned against their will. According to reports, on 31 July refugees at Kutapalong camp began to take their rations, but some residents of Nayapara camp still refused to do so, where the atmosphere remained tense. At the time of writing refugees at Nayapara-I (one section of Nayapara Camp) were still refusing rations and medical services, reportedly because of continuing threats from militant elements in that camp.

⁹Agence France Presse, 29 July 1997.

The Government of Bangladesh announced that the repatriation process was suspended and that they would negotiate with the SLORC to extend the 15 August deadline for the return of the refugees. The government also announced that it would cooperate with UNHCR and that no one would be sent back against their will. Amnesty International welcomes this commitment on the part of the Bangladeshi authorities to co-operate with UNHCR. However Amnesty International believes that repatriation should not be considered as a viable option by the authorities until and unless it has been independently determined that the human rights situation in the refugees' country of origin (in this case, Myanmar) has undergone a fundamental improvement. This is far from the case in Myanmar, where the human rights situation remains extremely grave. While refugees may make an individual decision to return for whatever reason, repatriation should in no way be encouraged or promoted to refugees in the absence of an improvement in the human rights circumstances in Myanmar. Until this time, refugees should be given effective and durable protection.

CONCLUSIONS AND RECOMMENDATIONS

In the past 18 months, as Rohingya refugees have been repatriated from Bangladeshi camps to the Rakhine State, other Rohingyas have fled into Bangladesh, some because of human rights violations such as widespread forced labour. Some of these new arrivals were among the original quarter of a million people who fled in the early 1990s, and Amnesty International is concerned that this indicates that repatriation may have been premature. It is also nearly impossible to make a simple distinction in every case between economic hardship and human rights violations -- many of those who have fled do not have enough to eat, but this is partly because forced unpaid labour under harsh conditions prevents them from earning a living. These are difficult individual assessments which do not lend themselves to sweeping generalisations.

In view of this large outflow and of credible reports of continuing human rights violations, Amnesty International urges the Government of Bangladesh to allow UNHCR complete and immediate access to both the new arrivals and camp residents, and allow that organization to assess their protection needs. Amnesty International also calls on members of the international community, including governments and intergovernmental organizations, to increase pressure on the SLORC to end human rights violations against members of ethnic minorities in Myanmar.

Amnesty International urges the Government of Bangladesh to take the following steps:

- 1. Take immediate measures towards ratifying the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol.**
- 2. Abide scrupulously by the principle of non-*refoulement*, including the principle of non-rejection at the frontier, and ensure that no person is sent back to a country where he or she would be at risk of serious human rights violations.**
- 3. Refrain from promoting repatriation to refugees until and unless it has been independently determined that the human rights situation in Myanmar has undergone a fundamental improvement.**
- 4. Investigate reports of beatings of refugees, mostly women and children, in the course of forcible repatriation, and bring to justice any security personnel found responsible.**
- 5. Allow UNHCR immediate and complete access to newly arrived refugees who are staying in villages in southeast Bangladesh. Without UNHCR access, refugees will not be able to have their protection needs assessed and will not be able to receive humanitarian assistance.**
- 6. Allow the UN Special Rapporteur on Myanmar, Chief Justice Rajsoomer Lallah, immediate access to all Rohingya refugees in Bangladesh, in order that he can interview them about the human rights situation inside the Rakhine State. This step is particularly important in view of the fact that currently the SLORC has not permitted Chief Justice Lallah to visit Myanmar, which is part of his mandate.**