

8 October 2018

Urgent APRRN Statement

India Forcibly Returns Persecuted Rohingyas back to Myanmar

The Asia Pacific Refugee Rights Network (APRRN) strongly condemns the Indian Government's recent decision to forcibly remove seven Rohingya refugees from India back to Myanmar. Occurring on 4 October 2018, the deportation followed an unsuccessful eleventh hour plea to the Supreme Court to halt the forcible return. Labeled incorrectly by the Indian Government as "illegal immigrants", the seven men were handed over to Myanmar authorities at a border crossing in Manipur in northeast India.

This action by the Indian Government to deport the seven men to Myanmar contravenes the international customary law principle of *non-refoulement*, and represents a dangerous precedent that must be condemned by the international community. With an estimated 40,000 Rohingya refugees living in India, including 6,000 in Jammu, this blatant act of refoulement runs the risk of becoming a precursor to further involuntary deportation of this vulnerable population.

APRRN is seriously concerned that the Rohingya deportees could be at great risk of abuses, persecution and possibly detention and torture in Myanmar. The Rohingya, a stateless ethnic group, have been subjected to widespread and systematic persecution and discrimination for decades in Myanmar – a situation that they continue to face until this day. There is international consensus that present conditions in Rakhine State are not conducive for a safe and dignified repatriation.

As recently as August 2017, ruthless clearance operations by the Myanmar security forces in northern Rakhine State, during which thousands of Rohingya civilians, including children, were killed and hundreds of women and girls raped, forced approximately 700,000 Rohingya to flee to and take shelter in Bangladesh.

In September, a UN Fact-Finding Mission released their report and concluded that the Myanmar security forces committed crimes against humanity and that "*there is sufficient information to warrant the investigation and prosecution of senior officials in the Tatmadaw chain of command, so that a competent court can determine their liability for genocide in relation to the situation in Rakhine State.*"¹ On 28 September, the UN Human Rights Council adopted a resolution establishing an accountability mechanism to prepare case files to facilitate criminal prosecutions. The International Criminal Court has also started a preliminary examination into the recent expulsion of hundreds of thousands of Rohingyas from Myanmar to Bangladesh.

The fact that the Indian Government considers it appropriate to return individuals to a country accused of atrocity crimes against the Rohingya is disturbing, reprehensible, arbitrary and discriminatory. This is in addition to a range of negative anti-Rohingya sentiment throughout the country including government statements about deportation, anti-foreigner campaigns and violent attacks on Rohingya refugees. Such actions (or in some cases lack of action) by the Indian Government clearly indicates a genuine lack of interest in offering assistance or protection to the Rohingya population in India.

¹ United Nations Human Rights Council, *Myanmar: Tatmadaw leaders must be investigated for genocide, crimes against humanity, war crimes* – UN report, available at www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23475&LangID=E

We are also deeply concerned about the protracted detention of Rohingya asylum seekers and refugees in jails and detention centres in various states across India. According to the UNHCR, there are approximately 200 Rohingya asylum seekers detained for 'illegal' entry, some detained for more than eight years without access to legal services.

The Asia Pacific Refugee Rights Network does acknowledge that India has played an important role within the region for refugee protection for many years. This includes the long-term protection of Sri Lankan refugees in Delhi and Tamil Nadu, and the significant numbers of Tibetans that reside throughout the country. Such protection and support to these populations is duly commended and recognised. However, in light of the Indian government's recent actions of returning these Rohingya to Myanmar, APRRN strongly urges the government to adhere to their international obligations.

APRRN calls upon the **Indian Government to:**

- Provide immediate protection to all Rohingya refugees and asylum seekers living in India and take immediate steps towards the eradication of malicious misinformation campaigns that have been circulating throughout the country since 2016.
- Immediately halt the proposed deportation of any Rohingya, whether or not they have official status from the United Nations High Commissioner for Refugees (UNHCR).
- Cease the improper use of the *Passport (Entry into India) Act 1967* and the *Foreigners Act 1946*; two pieces of legislation deliberately being used to punish the Rohingya population.
- Release all Rohingya refugees with valid UNHCR issued Refugee documents detained across different parts of India. Others without refugee documentation should be given access to UNHCR's Refugee Status Determination process and released if their asylum claims are verified by the UN body.
- Take necessary measures towards assuming responsibility for the Rohingya inside their borders. This includes the provision of skills training, access to education, and extension of welfare measures to those living below to the poverty line, to allow the Rohingya to live their time in India in dignity and safety.

While APRRN statements are prepared in consultations with APRRN members, they do not necessarily reflect the views of all members.

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