

NGO Statement on Asia and the Pacific

Dear Chair,

This statement has been drafted in consultation with a wide range of NGOs working in the Asia Pacific region. While the full diversity of the NGO community's views and experiences cannot be covered in a brief statement, we appreciate the opportunity to highlight several pertinent issues.

Across the region, asylum seekers, refugees, internally displaced persons (IDPs), and stateless populations continue to face a fundamental lack of protection in law and practice. In the context of the COVID-19 pandemic, and rapidly shifting sociopolitical environments across the region, the protection environment for displaced and stateless communities remains broadly inadequate. Issues such as indefinite and arbitrary detention, boat pushbacks, inability to access legal services and government aid, disparities accessing healthcare, and shrinking asylum space all remain of deep concern to the NGO community.

NGOs recommend action on the following:

1. Ensure durable solutions for people displaced in and from Afghanistan

More than half a million people were newly displaced by conflict in 2021¹. A further 785,000 returnees are expected in 2022². Durable solutions are now more important than ever. Any movement of Afghans either into or within the country must be safe, dignified, and voluntary, and must respect the international customary norm of *non-refoulement*. We urge authorities in Afghanistan and neighboring countries to respect these rights.

In addition, there remains many Afghans who worked with and for a range of western countries still in Afghanistan. Despite pledges by Member States to facilitate their exit from country, it remains unclear if - and when - this will occur. Other vulnerable groups such as civil society members, women's activists and media are also in hiding, fearing retaliation or harm to their personal safety. We urge Member States to expedite processing and to facilitate the evacuation of vulnerable groups.

2. Ensure that any relocation to Bhasan Char, Bangladesh is voluntary

Since December 2020, approximately 20,000 Rohingya refugees have been transferred from refugee camps in Cox's Bazar to Bhasan Char in the Bay of Bengal. During these relocations, NGOs and other human rights groups have documented incidents of coercion, dissemination of misinformation about conditions on the island, inadequate protection safeguards, and an absence of pre-departure counselling and support services.

¹ Internal Displacement due to Conflict, Afghanistan, OCHA:
<https://www.humanitarianresponse.info/en/operations/afghanistan/idps>

² Humanitarian Needs Overview Afghanistan, January 2022:
<https://reliefweb.int/sites/reliefweb.int/files/resources/afghanistan-humanitarian-needs-overview-2022.pdf>

In line with Provision 2(f) of the Memorandum of Understanding between the Government of Bangladesh and UNHCR signed on 9 October 2021, the NGO community reaffirms the principle that all relocation be voluntary. Voluntariness must be understood as refugees' having complete, relevant, and accurate information in the language and formats they understand, and not be under any form of coercion.

Moreover, UNHCR, donors and the Government of Bangladesh must work towards a unified and multi-year refugee response in Bangladesh that takes into consideration the holistic needs of refugees regardless of their location on either Bhasan Char or in Cox's Bazar. Without such an approach, it will be increasingly difficult for the NGO community to deliver the requisite support in line with humanitarian and protection principles.

3. Ensure safe, unhindered, timely, principled humanitarian access

With humanitarian needs across the region increasing, it is vital that humanitarian actors can work in a safe, unhindered, timely, and principled manner. In 2021 alone, 14 aid workers were killed in Myanmar, and 18 were killed in Afghanistan³. In addition, four aid workers were kidnapped in Myanmar and an additional two kidnapped in Afghanistan in the same period. To support affected populations, staff must be able to move safely and without undue restrictions. In Afghanistan, there has been increased restrictions on female staff, undermining principled humanitarian access. Without female staff, the needs of affected women and girls cannot effectively be met.

Following the military coup in Myanmar, the country is facing unprecedented political, social, human rights, economic and humanitarian consequences. With the escalation of armed conflict and violence across the country, 14.4 million people need assistance. Furthermore, access barriers imposed by de facto authorities appear to have been deliberately designed to prevent humanitarian aid from reaching civilian populations directly impacted by conflict, for example in Mindat and Loikaw. The international community must ensure the protection of civilians, peace and mobilize additional resources to help address emerging needs in new pockets of displacement. It is feared that the combined effects of the military seizure and COVID-19 could push half of Myanmar's population into dire poverty.

In many countries across the region, interference by authorities hinders a principled response, meaning affected populations will not get the support they need as aid is diverted. We call on all States and authorities across Asia to ensure principled humanitarian access.

4. Promptly address sanctions, asset freezes and the lack of development funding to avoid a refugee crisis from Afghanistan

In mid-August 2021, the United States and the World Bank froze the assets of the Afghan Central Bank. These freezes are directly impacting Afghan people's access to healthcare, education, and other basic services, and threaten Afghanistan's further descent into a humanitarian disaster. With rising food prices, unpaid salaries of civil servants, food insecurity, and a healthcare system on the edge of collapse, many Afghans are being compelled to leave the country in search of safety and stability for their families. A sharp decline in development funding has exacerbated these issues and is placing the lives and livelihoods of millions of Afghans at risk.

The provision of humanitarian aid only to Afghanistan is not, and will not, be enough. We call on UNHCR and Member States to immediately expand their development funding and look at ways of investing in resilience, livelihoods and stimulating socio-economic recovery. In this regard, and following the unanimous adoption of UNSC Resolution 2615, donors and the international community should urgently find a suitable and sustainable international banking solution to enable money to enter Afghanistan more

³ The Aid Worker Security Database: <https://aidworkersecurity.org/incidents>

freely to allow the scale up of aid. Without this, countless Afghans will die or be forced to leave to other countries.

The humanitarian carveouts to sanctions recently announced by the UN, the US, and others are a welcome development but NGOs report⁴ that they are unable to take advantage of them because international banks remain wary of running afoul of sanctions. The UN and US should actively assure financial institutions that they will remain immune for all transactions related to humanitarian assistance. Canada should also exempt humanitarian operations from its sanction imposed on Afghanistan. The international community should urgently find ways to help revive the Afghan economy, including by enabling private banks to conduct international transactions.

5. Defend and promote asylum, and speak out more vociferously against pushbacks

Across the region, access to asylum space for refugees and displaced stateless persons remains limited, with many countries continuing to push back boats, thereby precluding refugees from accessing territory to claim asylum. Such action by States directly contravenes Article 14(1) of the Universal Declaration of Human Rights, which provides that all persons have the right to claim asylum. In 2020, an estimated 2,413 refugees⁵ travelled by sea across the Bay of Bengal and Andaman Sea in search of protection. Of this number, an estimated 218 died or went missing, making 2020 eight times deadlier than the previous year. Similarly, refugees from Myanmar continue to be pushed back along Myanmar's land borders, and many of those who do manage to escape are denied the opportunity to have their refugee status determined.

On 28 December 2021, off the coast of Aceh in Indonesia, authorities announced that they would push back a boat carrying 105 Rohingya refugees. The decision was reversed on 29 December, and the Rohingya onboard were allowed to disembark. The NGO community commends Indonesian authorities for allowing disembarkation and encourages all States in the region to follow this positive action. Moreover, States in the region are requested to redouble efforts to work toward a regional rights-based framework to support search-and-rescue, and to allow for disembarkation and access to asylum procedures.

6. Implement alternatives to immigration detention

The detention of refugees, asylum seekers and displaced persons across Asia remains of serious concern, despite growing calls from NGOs and other actors to cease its use and to pursue alternatives to detention. Stateless persons and refugees, including Rohingya and other refugee groups from Myanmar, face increased risks of prolonged or indefinite detention. In many countries across the region, immigration detention facilities remain overcrowded, and there are routine reports of mistreatment and limited access to essential services.

In addition, immigration detention in some countries remains indefinite, with refugees and asylum seekers spending months and years in detention, causing undue mental, physical, and psychological harm. In Malaysia, for example, detention – including of minors and children – continues in facilities to which UNHCR is not allowed access. We request all States to implement non-custodial measures and community-based care arrangements, especially in the case of families and children.

There also remains incidents of children (accompanied or unaccompanied) being subjected to prosecution, detained in child-care institutions for indefinite periods of time and separated from their families. It is common that during the course of such detentions, they lose contact with their family or are unable to

⁴ Afghanistan: Inability to transfer aid funding puts millions at risk, Norwegian Refugee Council, 27 January 2022: <https://www.nrc.no/news/2022/january/afghanistan-inability-to-transfer-aid-funding-puts-millions-at-risk/>

⁵ Left Adrift at Sea, Dangerous journeys of refugees across the Bay of Bengal and Andaman Sea, January 2020-June 2021, August 2021, Report, UNHCR: <https://www.unhcr.org/asia/611e15284.pdf>

interact with them. States must take measures to ensure that children's rights are respected, especially their right not to be subject to detention or to not be separated from their family – unless in their best interests.

In the face of the pandemic and Member States reporting overcrowding in detention facilities, measures taken for early / temporary release in the interests of health and safety must be extended to refugees. The right of refugees to the highest attainable standards of health must be respected and vaccination coverage must be extended to them.

7. Improve targeted support to meet women and girls' needs and increase their access to and enjoyment of rights

Across the region, refugee and stateless women and girls continue to face gendered challenges and hardships. These have been exacerbated by the COVID-19 pandemic, particularly sexual and gender-based violence and intimate partner violence⁶. In addition, incidences of forced and early marriage have risen, notably in Bangladesh and Afghanistan. In Afghanistan, women have faced and continue to face challenges in fully accessing the workforce, education, and broader economic and social rights. In Bangladesh, security and cultural concerns reduce Rohingya women's mobility and, in turn, their access to information and requisite supports. Furthermore, gender discriminatory nationality laws, for instance, in Malaysia and Nepal, impose additional vulnerabilities and challenges for women and their children. Common effects include family separation, obstacles to women's freedom of movement with their children and spouse, and unequal access to COVID-19 relief for a woman's noncitizen family members.

States and UNHCR must place greater emphasis on supporting refugee and stateless women and girls to ensure that their human rights and specific needs are acknowledged and met in a timely manner. In addition, efforts must be made to ensure that women and girls have access to the information they need in the language and formats they understand and can access. The NGO community calls upon donor States to meet commitments under the Call to Action 2021–2026 roadmap, including mainstreaming gender equality and the empowerment of women and girls, to ensure sufficient, timely, and flexible multi-year funding for GBV programming.

8. Urgently address the international protection needs of Uyghurs at risk of arrest, detention & refoulement in South and Southeast Asia

As demonstrated by numerous research reports and denounced by an increasing number of state authorities, Uyghurs are facing severe human rights abuse in China and overseas taking the form of transnational repression, extradition requests, and harassment in various forms. The extremely serious and substantiated allegations are compelling: Uyghurs should be effectively protected from refoulement and be acknowledged as a group of concern by UNHCR. In 2018, the [Committee on the Elimination of Racial Discrimination](#) expressed its “fears at the current safety of [Uyghurs] returned to China against their will.” In Thailand, at least 54 Uyghur men have been in prolonged and arbitrary detention since entering the country irregularly in 2014, with no existing prospects of protection, despite numerous attempts to seek solutions through domestic and international protection mechanisms.

In recent months, detainees have reported being pressured to agree to repatriation, which they oppose. The situation was brought to the attention of the Royal Thai Government's representation in November 2021 by the Committee on the Elimination of Racial Discrimination. In the absence of any domestic mechanism providing effective safeguards against *refoulement*, it is urgent that the Royal Thai Government fully commits to its international obligations by agreeing to the release of arbitrarily detained refugees thereby

⁶ New IRC analysis: Domestic partners perpetrate 94% of gender-based violence against Rohingya women in Cox's Bazar, Press Release, International Rescue Committee, 25 January 2021: <https://www.rescue.org/press-release/new-irc-analysis-domestic-partners-perpetrate-94-gender-based-violence-against>

allowing for their resettlement and effective protection from forced return and further harm in their country of origin.

9. Expand support for states hosting protracted refugee populations, such as the Rohingya in Bangladesh

Without realistic prospects for repatriation or integration, alternative solutions including but not limited to third-country resettlement must be explored. The NGO community recognizes the role that host states such as Bangladesh have played in shouldering responsibility for the Rohingya community and encourages other Member States to work together to increase responsibility-sharing for hosting Rohingya refugees, including through donor commitments, resettlement, and support to Rohingya in host countries and countries of transit.

More broadly, refugees from a range of countries in urban centres such as Bangkok, Kuala Lumpur and elsewhere continue to find themselves in long-lasting and intractable states of limbo. They are unable to return home in the foreseeable future and have no opportunity to establish themselves in their country of refuge. Given there are now far fewer spaces available for refugee resettlement than in previous years, UNHCR and states should continue pushing for refugee resettlement where there is no realistic prospect of local integration or safe repatriation.

Thank you, Chair.