

# Asia's new boat people

Chris Lewa

**Thousands of stateless Rohingyas are leaving Burma and Bangladesh, dreaming of a better life in Malaysia.**



*Boat people arrested in Thailand 2008.*

On 25 November 2007, a trawler and two ferry boats carrying some 240 Rohingyas being smuggled to Malaysia sank in the Bay of Bengal. About 80 survived; the rest drowned. A week later, another boat sank, allegedly fired at by the Burmese Navy. 150 are believed to have perished. Many Rohingyas are ready to embark on a risky sea journey in order to escape oppression, discrimination and dire poverty. On 3 March 2008, the Sri Lankan Navy rescued 71 passengers, most of them Rohingya, from a boat that had drifted for 22 days in the Indian Ocean with a broken engine. Twenty had already died from starvation and dehydration.<sup>1</sup> The Arakan Project<sup>2</sup> estimates that, from October 2006 to mid March 2008, more than 8,000 boat people departed mostly from the coast of Bangladesh towards Thailand and then Malaysia, including about 5,000 during the sailing season from the end of October 2007 to the present.

The Rohingya are a Muslim minority group numbering some 725,000 and inhabiting North Arakan (Rakhine) State, adjacent to Bangladesh. They are related to the Chittagonian

Bengali in terms of ethnicity, language and religion. The Rohingya were rendered stateless by the Burma Citizenship Law of 1982.<sup>3</sup> Gross human rights abuses and discriminatory practices against them since then include severe restrictions on their movements, requirement of special permission to marry, confiscation of land, forced labour and

arbitrary taxation as well as neglect of health and education services.

Bangladesh was the destination of two mass exoduses in 1978 and 1991-92 of a total of 250,000 Rohingya refugees, each followed by a repatriation exercise often conducted under duress. To date, 26,000 remain in Bangladesh in two official refugee camps supervised by UNHCR. An estimated 200,000, including many repatriated refugees who then fled for a second time, have settled in precarious conditions in villages and semi-urban slums outside the camps or in an unofficial makeshift site near Teknaf, with little or no access to humanitarian assistance and protection.

Migratory movements of Rohingyas beyond Bangladesh are nothing new. For decades, smugglers and traffickers have sent Rohingyas to Saudi Arabia, Pakistan and the UAE where many obtained a temporary permit to stay. At the end of 2005, 11,000 were also registered for temporary protection with UNHCR in Kuala Lumpur, Malaysia, although Saudi Arabia remained the

preferred destination. Travel agents in Bangladesh arranged 'Bangladeshi passports', Hajj or Umra visas to Mecca and air tickets. The trip was usually paid for by migrants' relatives who had already settled there.

In previous years, several boats had carried Rohingyas to Malaysia via Thailand but their number swelled considerably from the end of October 2006. While the human rights situation in North Arakan remains a constant push factor, there has been no significant deterioration which would explain this sharp increase in boat people but rather the combination of several pull factors. Tighter security measures implemented by Bangladesh following the nation-wide bombing campaign by Islamic extremists in 2005 made the procurement of Bangladeshi passports very difficult.

This coincided with stricter regulations governing the issuing of visas plus reinforced immigration control at airports in Saudi Arabia. As other alternative migration routes are now virtually closed to the Rohingyas, Malaysia is currently the only affordable Muslim destination and the sea voyage the only option for leaving Bangladesh and Burma without travel documents.

## **Malaysia: primary destination**

In August 2006, Malaysia started registering Rohingyas for residence/work permits. Although the process was soon suspended due to allegations of fraud, rumours of registration and job opportunities in a booming economic environment spread like wildfire among Rohingyas in North Arakan and Bangladesh. Local smuggling and recruiting networks in North Arakan and Bangladesh swiftly emerged. Two deals are offered to prospective candidates: sea passage to the shores of southern Thailand for less than US\$300 or an all-inclusive package up to the final destination in Malaysia for between \$700 and \$1,000. Most boat passengers are males aged between 18 and 40 but children as young as eight have been found among them.

The route, which for most starts in North Arakan with a brief transit in Bangladesh, passes through Thailand and continues overland to Malaysia. The sea crossing lasts about one week. As most, if not all, boats are captured upon arrival, the itinerary via Thailand is deemed safer. Arrest in Malaysia would mean a longer detention period and eventual deportation across the border to Thailand. Complex networks of smugglers and brokers, mostly but not exclusively Rohingyas, are involved at various levels in transporting Rohingya from North Arakan to Bangladesh, from Bangladesh to Thailand and, finally, overland from Thailand to Malaysia. The networks operate in collusion with law enforcement personnel in these four countries.

Until 21 March 2007, boat people arrested along the coast of South Thailand were briefly detained and subsequently deported 'informally' into a cease-fire zone in Burma close to Mae Sot. Brokers would release them upon payment of a

fee of around \$700 and carry them across Thailand to Malaysia. The Thai authorities later attempted to deport a few directly into the hands of the Burmese immigration authorities, probably as a test case, but these deportees were pushed back to Thailand the following day.

However, since the onset of the new sailing season in November 2007, the whereabouts of the boat people after initial detention remain unknown and a matter of serious concern. It is believed that the Thai immigration authorities hand them over to brokers in south Thailand who allegedly detain them near the Malaysian border until a fee is paid for them to be smuggled across. As on the Thai-Burmese border, brokers on the Thai-Malaysian border routinely beat their detainees to pressure them into arranging payment. Those unable to pay have reportedly been sold to plantation owners or fishing boats as bonded labour. Many ultimately reach Malaysia and find jobs as illegal migrants but many also disappear on the way. As the number of boat

departures continues to rise, more and more families are desperately seeking news of missing relatives.

### Responses in the region

The Burmese regime does not appear interested in stemming the movements of Rohingya boat people. In 2007, some boat people caught in Burma were briefly detained and released – after payment of a bribe – or simply towed back towards Thai territorial waters. However, more recently, a couple of boats landed on the Burmese coast and boat people were given seven-year jail sentences for having re-entered the country illegally.

So far, Bangladesh has only taken minor steps to counter the smuggling of Rohingya boat people. Since October 2007, Bangladesh law enforcement agencies have intensified raids at departure points and at Burmese border crossing points. A few people were even pushed back across the Naf River to Burma. Usually only passengers are caught – not the smugglers themselves, who

## Myanmar's forgotten people

Nyi Nyi Kyaw

The Rohingyas have a history which dates back to the beginning of the 7th century when Arab Muslim traders settled in Arakan (Rakhine).

They were recognised as an indigenous ethnic group by the U Nu government during the parliamentary era in the 1950s but lost their political and constitutional identity when the military government of General Ne Win promulgated the Citizenship Act of Burma in 1983. This effectively denied the Rohingyas recognition of their status as an ethnic minority group. Harsh discrimination against them soon followed.

The military junta maintains a clearly articulated stance on the Rohingya people. In a press release issued by the Ministry of

Foreign Affairs of Myanmar on 26 February 1992, the government declared: "In actual fact, although there are [135] national races living in Myanmar today, the so-called Rohingya people is not one of them. Historically, there has never been a 'Rohingya' race in Myanmar."

In response to criticisms from the UN Committee on the Rights of the Child in April 2004, the junta stated that it had granted full and equal treatment to the Rohingyas, as with other races, in matters relating to birth and death registration, education, health and social affairs. Moreover, the junta also mentioned that the Rohingyas are listed as a Bengali racial group and recognised as permanent residents of Myanmar.

However, in practice, the rights of the Rohingya population

remain greatly restricted. The presence of UNHCR and some other international NGOs in northern Rakhine State can help ameliorate the current plight of the Rohingyas but without political will from within the Myanmar military government, their plight cannot be resolved.

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pay kickbacks to the authorities to operate freely. Brokers who have been arrested are soon released.

Thailand, as a transit country, faces a particular challenge. The Thai authorities perceive the Rohingyas as a threat to national security. 'Informal deportation' in the form of a transfer to brokers who will move them to Malaysia appears to be the order of the day, an approach that is exploitative rather than punitive. However, such a response is likely to create an additional pull factor.

Malaysia's promise to issue work/residence permits to Rohingyas appears to have vanished; the registration process has been indefinitely postponed and is unlikely to resume. Crackdowns against illegal migrants, which include refugees, are commonplace. UNHCR ceased the registration of Rohingyas for temporary protection at the end of 2005 and has yet to restart it.

These maritime movements present a serious challenge in a region where protection mechanisms for asylum seekers are already weak and where there is an ever shrinking space for UNHCR to exercise its mandate. None of the concerned countries has ratified the Refugee Convention nor have they enacted any domestic legislation for the protection of refugees. They identify these movements as the smuggling of economic migrants and are not prepared to view the Rohingya boat people as asylum seekers and to allow

UNHCR's involvement. There is no doubt that Rohingya boat people embark on these perilous journeys in order to escape systematic oppression, discrimination and human rights violations, and not only for economic reasons. One could thus argue that the Rohingya boat people are 'persons of concern' on a prima facie basis.

These irregular movements by boats are generally identified as human smuggling rather than trafficking because they fail to meet all three conditions of the Palermo Protocol<sup>4</sup> definition of trafficking: a movement, a means (deception or force) and delivery into a situation of exploitation. However, if brokers who receive them in Thailand or in Malaysia are forcing them into forced labour or slavery as defined in the Protocol, it would be trafficking. Thailand has signed but not ratified the two Protocols on trafficking and smuggling and recently passed a new anti-trafficking domestic law. Malaysia is not party to any of these international legal instruments. Nevertheless, all concerned countries have ratified the Convention on the Rights of the Child and children should be protected under the provisions of this convention. The fact that the Rohingyas are stateless further complicates this issue and exposes more acutely the inability of the international community to address their plight and to protect them.

Because of its international mandate to protect refugees and

stateless people, UNHCR should be involved and, in collaboration with receiving countries, seek appropriate solutions for them. Adequate protection strategies should take into account the legitimate concerns of these governments about irregular movements but should also guarantee the rights of the Rohingya boat people.

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On 28 March 2008 the Thai Prime Minister announced that Thailand was exploring the option of detaining Rohingya boat people on a deserted island. "To stop the influx, we have to keep them in a tough place. Those who are about to follow will have to know life here will be difficult in order that they won't sneak in," he said. See [www.bangkokpost.com/290308\\_News/29Mar2008\\_news03.php](http://www.bangkokpost.com/290308_News/29Mar2008_news03.php)

1. See [www.unhcr.org/news/NEWS/47cd360411.html](http://www.unhcr.org/news/NEWS/47cd360411.html)

2. The Arakan Project is a research and advocacy NGO based in Thailand primarily focusing on the plight of the stateless Rohingya in North Arakan State of Burma. Papers and reports produced by Chris Lewa are available on the Online Burma Library [www.burmalibrary.org](http://www.burmalibrary.org)

3. The 1982 Citizenship Law defines citizens as members of ethnic groups that have settled in Burma before 1823, the start of British colonial rule in Burma. The Rohingyas do not feature among the 135 'national races' listed by the government and are therefore rendered stateless.

4. Trafficking and smuggling protocols at [www.unodc.org/unodc/en/treaties/CTOC/index.html#Fulltext](http://www.unodc.org/unodc/en/treaties/CTOC/index.html#Fulltext)

## Difficult to remain: the impact of mass resettlement

**In a context where the durable solutions of repatriation and local integration are not available, resettlement has become increasingly attractive.**

"Chuwa ma yeh, ga ma ye" is an expression in the Karenni language that translates roughly as "between a rock and a hard place" or, more accurately, "difficult to move forward, difficult to go back." The phrase aptly characterises the emotions of many

of the 145,000 refugees on the Thai-Burmese border who, after decades of living in refugee camps with their eyes metaphorically turned towards Burma, are now being offered the possibility of resettlement to a third country. In 2007, more than 14,000

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refugees from the camps resettled to third countries and as many as 20,000 are expected to resettle in 2008.

On the one hand, it is difficult to move forward; refugees are understandably anxious and confused about what life in a new country will hold if they choose to resettle. Most recognise that even the best educated among them will experience