

MARCH 2016

# “ EVERYWHERE IS TROUBLE ”

An Update on the Situation of  
Rohingya Refugees in  
Thailand, Malaysia, and Indonesia



FORTIFY RIGHTS and  
BURMESE ROHINGYA ORGANIZATION UK



## **“Everywhere is Trouble”**

A Briefing on the Situation of Rohingya Refugees from Myanmar  
in Thailand, Malaysia, and Indonesia

Cover Photo: Rohingya refugee from Myanmar detained in Songkhla jail, Thailand, ©Fortify Rights, 2015

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# Summary

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In May 2015, human trafficking syndicates abandoned boats of thousands of Rohingya refugees and Bangladeshi nationals coming from Myanmar's Rakhine State and Bangladesh, leaving them adrift in the Andaman Sea. Instead of initiating search and rescue efforts, key countries in the region reinforced their borders and some intercepted and towed stranded boats farther out to sea. Following international outcry, some member states of the Association of Southeast Asian Nations (ASEAN) agreed to allow disembarkation and provide temporary shelter to survivors. The failure of ASEAN to immediately prioritize the protection of survivors led to an unknown loss of life at sea.

Almost ten months later, the Burmese Rohingya Organization UK (BROUK) and Fortify Rights traveled to Thailand, Malaysia, and Indonesia from February 15 to March 9 to assess the situation of Rohingya refugees in each country. Representatives from the organizations met with government officials, United Nations officials, and nongovernmental organizations; visited immigration detention facilities, government-operated shelters, and refugee camps; and conducted interviews with Rohingya refugees and survivors of human trafficking.

This briefing is based on those meetings and interviews.

Rohingya refugees continue to lack access to basic protections in Thailand, Malaysia, and Indonesia. As a result, thousands of Rohingya refugees in Southeast Asia are subject to abuse, exploitation, human trafficking, protracted and indefinite detention, and refoulement.

In Thailand, BROUK and Fortify Rights are gravely concerned about the protracted detention of hundreds of Rohingya refugees in Immigration Detention Centers (IDCs) and government-run shelters. For instance, Thailand has detained at least 40 Rohingya refugees for approximately ten months at the Songkhla IDC, including reportedly a dozen or more boys under the age of 18. All of the children in the Songkhla IDC are reportedly unaccompanied. Detainees told BROUK and Fortify Rights that they are confined to overcrowded cells, where they sleep side-by-side on the floor. Detainees in Songkhla said that they lack access to healthcare, mental health services, and opportunities to exercise or be in open air for any amount of time.

International law forbids arbitrary, unlawful, or indefinite detention, including of non-nationals. A state may only restrict the right of liberty of migrants in exceptional cases following a detailed assessment of the individual concerned. Any detention must be necessary and proportionate to achieve a legitimate aim. Failure to consider less coercive or restrictive means to achieve that aim may also render the detention arbitrary.

The Government of Thailand's promise to take human trafficking seriously and to prosecute those responsible has not been matched by action with respect to the trafficking of Rohingya refugees from Myanmar. Witness intimidation by security forces has marred a high-profile human trafficking case involving 91 defendants accused of involvement in the trafficking of Rohingya and Bangladeshis. The chief investigator in the case, Police Major General Paween Pongsirin, fled to Australia in November 2015, claiming to be in fear for his life, raising further concerns about Thailand's commitment to prosecute human traffickers. Meanwhile, the continued detention of survivors of trafficking in Thailand, including in government-run shelters, puts them at greater risk of being re-trafficked in addition to other abuses.

In Malaysia, BROUK and Fortify Rights are extremely concerned for the well-being of Rohingya survivors from the May 2015 boat crisis, who reportedly remain detained in the Belantik IDC, where access for the United Nations High Commissioner for Refugees (UNHCR) and service providers is extremely limited. Thousands of other Rohingya may be being held indefinitely in poorly equipped IDCs located throughout Malaysia.

Rohingya refugees told BROUK and Fortify Rights that Malaysian authorities routinely use the threat of arrest to extort money and property from them, particularly those who are unable to produce proper documentation.

While UNHCR officials in Malaysia recognize that informal UN documentation provides invaluable informal protection to refugees in the country, changes in UNHCR's registration practices have considerably narrowed access to asylum procedures for Rohingya refugees, leaving many without any documents and at risk of serious security concerns, including the possibility of indefinite detention. Rohingya refugees repeatedly said the lack of access to UNHCR registration is the single-most important issue they face in Malaysia, followed by the lack of access to affordable healthcare and the lack of access to livelihoods.

Despite the lack of protections for refugees in Malaysia, the country remains the primary destination for Rohingya fleeing Myanmar. This is primarily because Malaysia is a predominantly Islamic country where many Rohingya have family or social networks. Human trafficking syndicates have preyed on Rohingya refugees' desire to travel to Malaysia. Malaysian authorities have failed to prosecute those involved in trafficking Rohingya to Malaysia via Thailand, and in this context of impunity, new human trafficking networks may have been established, targeting Rohingya in Indonesia.

While Indonesia was widely praised for opening its borders to Rohingya refugees after Acehese fishers courageously saved more than 1,000 survivors of human trafficking in May 2015, our findings suggest the authorities deserve little to none of the praise intended for the fishers. Indonesian authorities continue to frame the situation of Rohingya refugees in Indonesia as an emergency response and continue to confine Rohingya survivors from

the May 2015 boat crisis to poorly equipped camps in Aceh province. Rohingya refugees living in the camps are not free to leave the camps and must depend on service providers for basic necessities. Rohingya refugees living in other parts of Indonesia with UNHCR status lack freedom of movement in the country

Moreover, in the course of travels for this briefing, Indonesian authorities effectively deported BROUK President Mr. Tun Khin on March 6, following a “meet and greet” with a community of Rohingya refugees in Makassar on March 4. Immigration authorities took Tun Khin’s UK passport and questioned him about his activities in Indonesia. Following the questioning, immigration officials required him to sign a statement written in the Bahasa language. The authorities refused to provide him with a copy or allow him to take a photograph of the statement. Upon return of his passport, Tun Khin departed the country on March 7.

In each country visited, the rights of Rohingya refugees are being continually violated and protections are lacking.

These abuses only compound the realities Rohingya Muslims face in their native Myanmar, where authorities have systematically persecuted them for decades. In Rakhine State, more than 145,000 Rohingya men, women, and children are confined to more than 65 squalid internment camps. Rohingya and other Muslims were displaced from their homes in 2012 following violent clashes with local Rakhine Buddhists and targeted, coordinated, state-sanctioned attacks. More than 1 million Rohingya in Myanmar are denied freedom of movement and equal access to citizenship rights, rendering most stateless. While many Rohingya in Myanmar hold out hope that the incoming government, led by the National League for Democracy, will reverse decades-old abuses and persecution, the root causes of the regional Rohingya refugee crisis remain unaddressed.

Until the situation in Myanmar changes, Rohingya will continue to flee, and until protections for refugees improve in Thailand, Malaysia, and Indonesia, Rohingya will continue to suffer needlessly.

“I have no job and no earnings and that is difficult. It is not easy to get a job without a UN card,” lamented an undocumented Rohingya-refugee woman living in Kuala Lumpur, Malaysia since June 2014. “I’m not in good health. My family is separated . . . Everywhere is trouble.”

# Methodology

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This briefing by the Burmese Rohingya Organization UK (BROUK) and Fortify Rights focuses on the situation of Rohingya refugees from Myanmar in Thailand, Malaysia, and Indonesia. It is based on meetings and interviews conducted by BROUK and Fortify Rights in each country from February 15 to March 9.

Tun Khin, President of BROUK, and representatives from Fortify Rights travelled to Kuala Lumpur and Penang, Malaysia; Jakarta, Makassar, and Aceh, Indonesia; and Bangkok and Songkhla Province, Thailand.

BROUK and Fortify Rights met with government officials, UN officials, and NGOs; visited an immigration detention facility, a government-run shelter, and refugee camps; and attended Rohingya community meetings. BROUK and Fortify Rights interviewed four Rohingya men in the Songkhla IDC. Additionally, Fortify Rights conducted one group interview and eight individual interviews with Rohingya refugees in Penang, Malaysia. Research conducted by Fortify Rights in Indonesia, Thailand, and Malaysia is also considered in this briefing.

Interviews with refugees were conducted in English or in the Rohingya language with English interpretation. None of the interviewees received compensation and all understood the purpose of the interview, its voluntary nature, and the ways that the information they shared might be used. All provided informed consent. Names of interviewees and other identifying information have been withheld for security purposes.

This briefing is not based on in-depth research and human rights documentation conducted over an extensive period of time, but rather on a targeted, three-country mission over the course of approximately three weeks.

# THAILAND

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## Detention of Rohingya Refugees

1. BROUK and Fortify Rights are gravely concerned about the treatment, conditions, and future of Rohingya refugees detained in IDCs in Thailand. There are an estimated 400 Rohingya detained in IDCs and government-run shelters throughout Thailand. International law forbids arbitrary, unlawful, or indefinite detention, including of non-nationals. A state may only restrict the right of liberty of migrants in exceptional cases following a detailed assessment of the individual concerned. Any detention must be necessary and proportionate to achieve a legitimate aim. Failure to consider less coercive or restrictive means to achieve that aim may also render the detention arbitrary.
2. On March 8, BROUK and Fortify Rights visited the Songkhla IDC, where 40 Rohingya refugees along with 17 Bangladeshi nationals and 23 others are detained. BROUK and Fortify Rights met with immigration detention officials at the Songkhla IDC and spoke in private to four Rohingya detainees, aged 21 to 45 years old, from northern Rakhine State.
3. BROUK and Fortify Rights are particularly concerned by the protracted length of confinement and risk of indefinite detention for Rohingya refugees in Thailand. The Rohingya detainees told BROUK and Fortify Rights that they were sentenced in 2015 for immigration offenses and had been detained for approximately ten months. Rohingya detainees expressed uncertainty about their future. As stateless refugees, Rohingya are unable to return to Myanmar. They told BROUK and Fortify Rights that UNHCR representatives visited them “every month or two” and informed them that they would be resettled to the United States, pending approval from the Government of Thailand. When BROUK and Fortify Rights asked the immigration officials overseeing the Songkhla IDC about the resettlement process to the US or another third country, the official said UNHCR has “failed to provide the paperwork.” When asked about the fate of unaccompanied children in the detention center with regard to resettlement, the same official responded, “families would be resettled together,” which failed to answer the question.
4. The conditions of detention in the Songkhla IDC appear to fall well below international standards. Detainees told BROUK and Fortify Rights of being confined 24 hours a day to a cell with inadequate personal space, where they sleep side-by-side on the floor and 40 people share one functioning toilet. Detainees reported not having access to soap or toothpaste. Detainees told BROUK and Fortify Rights that they receive food three times daily, including rice and fruit, but described the quantity of food provided as inadequate. According to international standards, basic necessities, such as bedding and toiletries as well as adequate and nutritional foods, should be provided to detainees.



5. International standards require the provision of appropriate medical treatment to detainees, including psychological counseling. This should include a physical and mental examination conducted by competent medical professionals upon arrival as well as periodic assessments. When asked about an inch-wide wound on his forearm, one detainee, 23, told BROUK and Fortify Rights that he bit himself. He described depression and an intense desperation regarding his confinement in the IDC as well as anxiety about violence and abuses perpetrated against his family and community in Myanmar. Following the interview, an official at the IDC applied what appeared to be peroxide on the wound.
6. Detainees in Songkhla IDC described experiencing body, leg, and joint pain as well as general weakness. They told BROUK and Fortify Rights that they had not been examined by medical professionals during their time in detention and had only ever received paracetamol from a Rohingya-speaking woman who visited the IDC. Detainees told BROUK and Fortify Rights that immigration officials failed to arrange medical treatment for one Rohingya boy Mohammed Amin, 16, who was coughing and shaking. They said authorities provided only paracetamol, and only after “shouting and crying” by detainees, who feared that the boy might die. Detainees also expressed concern about the well-being of a 10-year-old Rohingya boy who has become particularly weak while in detention. The detainees told BROUK and Fortify Rights that no one had died during their ten months in detention.
7. Detainees should be provided access to suitable outside space as well as the opportunity to conduct some form of daily physical exercise. An immigration official at the Songkhla IDC confirmed information provided by detainees to BROUK and Fortify Rights that detainees are not provided any time outdoors or in fresh air. BROUK and Fortify Rights noted a room on the ground floor of the IDC building bearing the UNHCR logo and containing exercise equipment that appeared unused, including an unplugged treadmill. An immigration official claimed that detainees could access this room and make use of the equipment for exercise. However, Rohingya detainees told BROUK and Fortify Rights that the authorities had never provided anyone from their group with an opportunity to access the exercise room or use the equipment.
8. Some men detained in the Songkhla IDC have wives and/or children who are being held at shelters managed by the Ministry of Social Development and Human Security. International standards call for the authorities to provide accommodation for families, where possible. BROUK and Fortify Rights urge the Government of Thailand to prioritize family reunification.
9. On March 7, BROUK and Fortify Rights visited a government-run shelter in Rathaphum District in Songkhla Province, southern Thailand. This shelter is the primary facility for Rohingya who have been screened as survivors of trafficking and are being called to testify as witnesses in the Rohingya trafficking trial involving 91 defendants. Most of the Rathaphum shelter residents are teenage Rohingya boys, according to the senior-ranking on-site official. During the visit, BROUK and Fortify Rights met with the shelter manager and observed dozens of youth at the shelter.

10. The government has justified the continued detention of Rohingya in the Rathaphum shelter as a form of witness protection. However, the Rathaphum shelter, which is overseen by the Ministry of Social Development and Human Security, does not appear to be part of any official witness protection program, which would be overseen by the Ministry of Justice in Thailand. The shelter is located near a road and does not appear to be secure from potential outside threats. The Rohingya in this shelter are expected to testify against officials of Thailand's Army, Navy, Police, and the Internal Security Operation Command—an agency under the Office of the Prime Minister devoted to matters of national security—as well as local government officials and civilians. Fortify Rights highlighted the need for increased protection for witnesses in the trial in a press release issued on December 24, 2015.
11. BROUK and Fortify Rights are concerned that both the Songkhla IDC and shelter appeared to lack on-staff Rohingya interpreters. Government staff managing other shelters holding Rohingya women and children told BROUK and Fortify Rights that the lack of competent and vetted Rohingya interpreters posed a major challenge and protection concern. Shelter staff reported relying on members of the Rohingya community in order to communicate with detainees, which has allegedly led to the re-trafficking of some shelter residents.
12. Unlike the Songkhla IDC, BROUK and Fortify Rights observed detainees in the Rathaphum shelter enjoying outdoor exercise with what appeared to be regular access to fresh air. The shelter detainees also appeared to be in comparably better health than the Songkhla IDC detainees. While the conditions in the Rathaphum shelter appeared to be notably better than the Songkhla IDC, BROUK and Fortify Rights remain concerned about the continued confinement of Rohingya to the shelters. Rohingya are not allowed to leave the shelter in violation of their right to liberty.
13. First and foremost, BROUK and Fortify Rights recommend that the Government of Thailand immediately end the abusive detention of Rohingya refugees in IDCs and government-run shelters. The continued detention of Rohingya refugees without a legitimate or necessary aim contravenes international law. BROUK and Fortify Rights also remind Thailand that when a State deprives a person of their liberty, it assumes a duty of care for that person. Thailand has a responsibility not only to ensure that the decision to detain an individual is lawful but also that the treatment and conditions for detainees are in line with international standards. BROUK and Fortify Rights strongly urge Thailand to protect refugees and survivors of human trafficking living within its borders.

## Detention of Rohingya Children

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14. BROUK and Fortify Rights are gravely concerned that detainees in the Songkhla IDC reported that there are Rohingya refugee children detained in the Songkhla IDC. Four Rohingya detainees informed BROUK and Fortify Rights that 16 of the 40 Rohingya detained in the IDC are boys under the age of 18, two of whom are approximately ten years old. An official in the IDC also confirmed there are children detained in the IDC.
15. BROUK and Fortify Rights remind Thailand of its obligations as a party to the Convention of the Rights of the Child (CRC) to protect children and ensure that the best interests of the child are a primary consideration. In principle, children should never be detained. When children are detained, international law requires certain special needs are met, including the right to recreation and play as well as the right to education. The treatment and facilities at the Songkhla IDC do not meet these requirements for children. BROUK and Fortify Rights strongly urge Thailand to immediately release children detained in immigration facilities in Thailand.
16. All of the Rohingya-refugee children in the Songkhla IDC are reportedly unaccompanied and are detained with unrelated adults, according to the four Rohingya detainees interviewed by BROUK and Fortify Rights. Under international law, children should be separated from adults unless they are related to the adults. In cases involving a child detained and separated from a relative or guardian in Thailand, BROUK and Fortify Rights recommend Thailand immediately facilitate the reunification of family members. In cases involving unaccompanied children in detention, Thailand should facilitate alternative care arrangements in line with international standards.

# Human Trafficking

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17. Fortify Rights and BROUK note significant changes in Thailand's involvement in human trafficking of Rohingya refugees over the past year. On April 22, 2015, Fortify Rights provided testimony to U.S. Congress on the complicity of Thai government officials with transnational criminal syndicates to facilitate the human trafficking of tens of thousands of Rohingya refugees. Many of the Rohingya refugees that Fortify Rights and BROUK met with in Malaysia survived human trafficking through Thailand and shared horrific details of their experiences in Thailand, including beatings, torture, deprivation of food, water, and shelter, and deaths at sea and on shore.
18. BROUK and Fortify Rights commend Thailand for taking initiative to uncover mass graves and dismantle trafficking camps on the Thailand-Malaysia border in May 2015. However, BROUK and Fortify Rights are concerned about reports that Thai authorities prematurely closed the investigation into the human trafficking of Rohingya refugees and Bangladeshi nationals. Eyewitness and survivor testimony collected over the past two years by Fortify Rights suggests the existence of additional mass graves beyond the graves uncovered by Thai authorities in May 2015. Thai officials told BROUK and Fortify Rights that human trafficking syndicates who have preyed on Rohingya are still active in southern Thailand, which would indicate the need for an ongoing investigation. One official speaking in his personal capacity told BROUK and Fortify Rights that Rohingya refugees coming into Thai waters are at risk of encountering pirates "who will take everything, including the people." It is vital that Thailand reopen its investigation into the crimes of human trafficking in Thailand and provide adequate resources to ensure the investigation is complete, independent, and effective. To ensure human trafficking networks are dismantled rather than merely disrupted, Thailand must hold accountable individuals at the top echelons of the human trafficking syndicates, including complicit government and military officials, regardless of rank.
19. BROUK and Fortify Rights applaud Thailand for bringing 91 defendants, including government, police, and military officials, to trial in Thailand for the crime of human trafficking of Rohingya refugees and Bangladeshi nationals. Despite these positive steps towards holding perpetrators of human trafficking accountable, BROUK and Fortify Rights note with concern allegations of threats against investigators and key witnesses involved with the case. Fortify Rights released two publications on December 9 and December 24 concerning threats against the lead investigator in the case and the lack of witness protection. Such threats may prejudice the trial and affect its outcome. As of late December 2015, only 12 of 500 witnesses in the trial were receiving formal witness protection. BROUK and Fortify Rights encourage Thailand to increase measures to protect investigators and witnesses involved in this case as well as other informants on human trafficking in Thailand.
20. BROUK and Fortify Rights also reiterate our disappointment with the lack of protection for Rohingya survivors of human trafficking, who are largely confined to government-run shelters including the shelter BROUK and Fortify Rights visited on March 7 in Songkhla Province. BROUK and Fortify Rights remind the Government of Thailand that detention does not constitute a form of witness protection and recommend that the government take immediate action to end the arbitrary detention of Rohingya in Thailand.

21. BROUK and Fortify Rights also note issues with the screening process for identifying survivors of human trafficking. Thai government officials involved in facilitating the screening process described the process to Fortify Rights as arbitrary, saying that it is common for some Rohingya to be categorized as survivors of human trafficking and others as “illegal migrants” despite both groups having similar experiences.

## Protection at Sea and Thailand’s “Help On” Policy

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22. BROUK and Fortify Rights commend Thailand’s role in spearheading and chairing two Special Meetings on Irregular Migration in the Indian Ocean, which brought together ASEAN member states during the boat crisis in May and December 2015 to discuss regional responses to the refugee situation. BROUK and Fortify Rights are encouraged by Thailand’s immediate commitment to deploy floating platforms to provide assistance to migrants found at sea and facilitate search and rescue operations. BROUK and Fortify Rights are disappointed that Thailand did not join its neighbors in agreeing to allow disembarkation or provide temporary shelter to survivors. BROUK and Fortify Rights urge Thailand to reconsider this position and commit to ensuring protection at sea, particularly in recognition that Rohingya refugees will continue to flee Myanmar by boat—the only means possible—until root causes in Myanmar are effectively addressed.
23. BROUK and Fortify Rights also encourage Thailand to support the mission of the Migrant Offshore Aid Station (MOAS), which is slated to initiate operations aimed at mitigating loss of life at sea in the Andaman and adjacent waters on March 17. As detailed in a press release issued on February 26, Fortify Rights is planning to join the MOAS vessel to provide support in monitoring irregular migration at sea and provide contextual guidance.
24. Despite these positive steps towards ensuring protection at sea, BROUK and Fortify Rights remain deeply concerned by Thailand’s long-held “push-back” or “helping on” policy with regard to refugees arriving to Thailand by boat. Under this policy, Thailand has prevented migrants from arriving in Thailand and has towed boats of migrants out to sea, greatly endangering the lives of migrants and refugees. In line with the principle of non-refoulement, which is part of customary international law and binding on all states, BROUK and Fortify Rights urge Thailand to protect any person from being returned to a country where they may face serious human rights violations. This would include “rejection at the frontier, interception and indirect refoulement” of individuals at risk of torture or other serious human rights violations.

# MALAYSIA

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## Lack of Access to Asylum Procedures and UNHCR Registration

25. BROUK and Fortify Rights are deeply concerned by Rohingya refugees' lack of access to asylum procedures in Malaysia. Without access to these mechanisms, refugees are at heightened risk of arrest, protracted detention, exploitation, and other serious protection concerns in Malaysia. BROUK and Fortify Rights met several Rohingya communities in Kuala Lumpur and Penang from February 19 to February 21. During these meetings, Rohingya refugees repeatedly cited lack of access to registration mechanisms and documentation as the single-most important issue for Rohingya in Malaysia. According to Rohingya refugee leaders in Malaysia, there may be more than 70,000 Rohingya living without status or documentation in Malaysia.
26. Malaysia is not a party to the 1951 Refugee Convention or its 1967 Protocol and has no legal framework in place to regulate the status and protection of refugees. Refugees are treated as "illegal migrants" who entered the country without authorization or proper documentation. BROUK and Fortify Rights remind the Malaysian Government that the right to seek and enjoy in other countries asylum from persecution is a fundamental human right. BROUK and Fortify Rights urge the Malaysian Government to implement an appropriate legal framework to regulate the status and protection of refugees within the country.
27. While Malaysia does not directly engage in the processing of refugees, UNHCR has maintained a presence in Malaysia since 1975 and has long facilitated the registration, recognition, and resettlement of refugees in Malaysia to third countries. BROUK and Fortify Rights welcome Malaysia's support for UNHCR's operations and encourage increased cooperation with UNHCR.
28. BROUK and Fortify Rights also commend UNHCR for its commitment to assist and protect refugees in Malaysia and welcome recent commitments to prioritize assistance for detained Rohingya refugees. BROUK and Fortify Rights further acknowledge UNHCR's efforts to register and provide vital documentation to several thousand Rohingya during this past year. While noting that UNHCR documents are not officially recognized by the Malaysian government, several Rohingya refugees described to BROUK and Fortify Rights the importance of holding UNHCR registration and documentation, which provides important informal protection from police harassment and extortion, labor exploitation, and arrest, as well as easier access to healthcare facilities and livelihood opportunities. This documentation is even more meaningful for stateless Rohingya, who in many cases have never held any form of identification documentation.

29. BROUK and Fortify Rights note with great concern the changes in UNHCR's registration procedure over the past two years, which has narrowed access to registration and negatively impacted refugee protections in Malaysia. While BROUK and Fortify Rights acknowledge that more than 50,000 Rohingya refugees are currently registered by UNHCR in Malaysia and Rohingya are increasingly being resettled to third countries, many of those registered and being resettled have lived in Malaysia for many years, in some cases more than a decade. Refugee leaders and members of the Rohingya community informed BROUK and Fortify Rights that access to UNHCR registration mechanisms for new arrivals has become increasingly restricted over the past two years and is largely limited to Rohingya in detention, leaving the larger population of Rohingya at risk of arrest and other protection concerns. Refugee leaders and NGOs working with refugees in Malaysia also told BROUK and Fortify Rights that UNHCR instituted changes in its registration procedures without meaningful consultation or dialogue with the affected community or stakeholders.
30. Rohingya refugees in Malaysia who are not registered by UNHCR explained to BROUK and Fortify Rights that they avoid leaving their residence unless it is necessary, fearing the police who commonly extort money and arrest and detain unregistered refugees.
31. In response to questions about changes in UNHCR's operations that resulted in the narrowing of access to registration procedures for refugees in Malaysia, the UNHCR Chief of Mission in Malaysia explained to BROUK that the political environment inhibited UNHCR from facilitating open access to registration procedures. While BROUK and Fortify Rights acknowledge the challenges confronting UNHCR operations in Malaysia, a former high-ranking Malaysian government official suggested that the current government would likely be open to UNHCR registration exercises as it would provide a reliable count of undocumented populations in Malaysia and help facilitate resettlement of refugees to third countries. BROUK and Fortify Rights encourage greater cooperation between the Malaysian government and UNHCR to ensure refugees have full, free, and open access to asylum procedures.

## Police Abuses and Detention

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32. BROUK and Fortify Rights are gravely concerned by the protracted and indefinite detention of thousands of Rohingya in poorly equipped IDCs located throughout Malaysia. According to UNHCR, there are more than 3,000 Rohingya in detention in Malaysia, comprising 75 percent of the refugees detained in IDCs in Malaysia. BROUK and Fortify Rights strongly urge the Malaysian Government to immediately release refugees, including Rohingya, from IDCs, reminding the Malaysian Government that international law forbids arbitrary, unlawful, or indefinite detention, including of non-nationals.
33. Malaysian authorities have long conducted immigration raids targeting undocumented migrants in the country, including refugees. Rohingya refugees told BROUK and Fortify Rights that registered and unregistered refugees are both at risk of arrest and detention by the authorities in Malaysia, but indicated that registered refugees have more leverage to negotiate with the police and avoid arrest.



34. The protracted length of confinement and risk of indefinite detention of Rohingya refugees in Malaysia is of particular concern to BROUK and Fortify Rights. Rohingya leaders and refugees told BROUK and Fortify Rights that Rohingya typically spend nine to twelve months in detention before being released with the support of UNHCR. Rohingya refugees are only released from detention in Malaysia to UNHCR through a process that requires negotiation with the Malaysian government. This process is time-consuming and is not guaranteed. BROUK and Fortify Rights commend UNHCR's efforts to prioritize the registration of detained Rohingya in order to secure their release from detention. However, UNHCR should place equal or greater emphasis on preventative strategies to protect Rohingya from detention, including through open access to registration mechanisms among the larger Rohingya refugee population.
35. BROUK and Fortify Rights are particularly concerned for the well-being of several hundred Rohingya survivors from the May 2015 boat crisis who reportedly remain detained in Belantik IDC. NGO service providers told BROUK and Fortify Rights that access to this IDC is extremely limited, including reportedly for UNHCR. Stakeholders that BROUK and Fortify Rights spoke with had little information about the conditions or treatment of detainees in Belantik IDC.
36. The Malaysian government reportedly continues to limit access to some detention facilities for UNHCR and other service providers. BROUK and Fortify Rights are deeply concerned about the well-being of refugee detainees in Malaysia, who are at heightened risk of indefinite detention and serious mental and physical health concerns.
37. BROUK and Fortify Rights were unable to access the IDCs in Malaysia to conduct a direct assessment of the situation in the IDCs. However, several Rohingya refugees who spent time in Malaysia's IDCs reported treatment and conditions in the IDCs that appear to fall far below international standards. BROUK and Fortify Rights recommend Malaysia immediately end the abusive detention of refugees in IDCs and ensure that the treatment of detainees and conditions in the IDCs are brought in line with international standards.
38. Malaysian authorities often use the threat of arrest to extort money and property from refugees who are unable to produce proper documentation. Rohingya refugees interviewed by BROUK and Fortify Rights in Kuala Lumpur said police arrived at their construction worksites and handcuffed them for several hours until they agreed to pay for their release. Rohingya refugees report that police officers routinely require them to pay 100 to 1,000 Malaysian Ringgit (US \$25 to \$250) in order to avoid arrest and detention; the latter amount is equivalent to almost a month's wages in the construction sector in Kuala Lumpur. NGOs that work with refugees in Penang and Kuala Lumpur confirmed that harassment by police officers was commonplace and said some police officers stop refugees immediately after pay day when they know they will be carrying cash.



# Labor Exploitation

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39. The Rohingya refugee community in Malaysia told BROUK and Fortify Rights they face a prevalence of treatment that would amount to labor exploitation. In Malaysia, Rohingya refugees, including those recognized by UNHCR, are not authorized by law to work. Without work authorization, Rohingya refugees lack access to the formal employment sector and certain labor rights and protections in Malaysia. UNHCR has attempted to identify opportunities to secure formal commitments from the Malaysian government to facilitate work permits for recognized refugees in Malaysia, which should be commended. However, current and former politicians unfortunately lacked optimism about the idea and suggested likelihood such commitments would not be forthcoming from the Malaysian government.
40. Rohingya refugees in Kuala Lumpur and Penang told BROUK and Fortify Rights about the non-payment or partial payment of wages and poor working conditions. For example, a Rohingya refugee man in Penang described how a minor dispute with his employer over a salary advance escalated to his employer calling the police, resulting in the man's detention for 24 hours until a friend paid the police 1,500 Malaysian Ringgit (US\$365) to secure his release. Other refugees told BROUK and Fortify Rights their employers refused to pay full wages or became unreachable after the refugees completed their work. Other NGOs working with refugees in Malaysia confirmed the prevalence of labor abuses against refugees in Malaysia, noting that the informal nature of refugees' work combined with their undocumented status in Malaysia made it difficult, if not impossible, for Rohingya to report labor disputes and abuses to the police.
41. In every case of labor abuses described by Rohingya refugees to BROUK and Fortify Rights, refugees avoided reporting abuses to the police out of fear of detention. Refugees told BROUK and Fortify Rights that they could not report crimes to the police because of their lack of legal status in the country and out of fear that they would be prosecuted rather than protected.
42. BROUK and Fortify Rights strongly recommend that the Government of Malaysia issue work permits to Rohingya refugees, which would not only help alleviate labor exploitation of refugees but would help meet Malaysia's labor-market demands. BROUK and Fortify Rights also urge Malaysia to ensure labor protections and access to justice for all workers, including documented and undocumented refugees and individuals employed in the informal sector.

## Lack of Access to Healthcare and Education

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43. BROUK and Fortify Rights are concerned by refugees' lack of access to healthcare in Malaysia. Rohingya refugee community members told BROUK and Fortify Rights that they have virtually no access to hospitals or healthcare in Malaysia. BROUK and Fortify Rights noted discouraging policy changes in Malaysia over the past year, resulting in significant rate hikes for migrants seeking medical treatment. Rohingya refugees confirmed that the increasingly prohibitive costs for medical treatment have precluded refugees from accessing healthcare in Malaysia.
44. BROUK and Fortify Rights note with concern that the Malaysian government denies migrants, including refugees, access to Malaysian schools. Rohingya refugee leaders told BROUK and Fortify Rights that Rohingya refugee children typically attend community-based religious-learning centers, many of which are located in rented residential buildings or shops that are often overcrowded, unhygienic, and lack basic facilities. Rohingya refugees expressed fear that an entire generation of Rohingya children who have grown up in Malaysia would be "lost" due to the lack of adequate education. BROUK and Fortify Rights remind Malaysia of its obligations as a party to the Convention of the Rights of the Child (CRC) to ensure primary education is free and accessible to all children, including refugees, in accordance with Article 28.

## INDONESIA

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### Confinement to and Conditions of Camps in Aceh

45. BROUK and Fortify Rights are concerned about the treatment and conditions of Rohingya refugees in Indonesia, particularly the several hundred that remain confined to poorly equipped camps in Aceh. BROUK and Fortify Rights visited the three camps in Aceh holding approximately 300 Rohingya refugees, who are survivors from the May 2015 boat crisis.
46. BROUK and Fortify Rights were pleased that the authorities overseeing the camps allowed families to stay together and provided separate space for women.
47. Rohingya refugees in Aceh remain confined to camps. Rohingya refugees are not allowed to move beyond the camp compounds, which are guarded by Indonesian authorities. Rohingya refugees told BROUK and Fortify Rights that they have no access to livelihood opportunities and are dependent on service providers for basic provisions due to their confinement in the camps. While Indonesia should be commended for refraining from detaining Rohingya refugees in IDCs—unlike Thailand and Malaysia—the confinement of Rohingya refugees to camps is still a violation of the right to liberty. The Government of Indonesia should lift restrictions on the right to movement for Rohingya refugees in Aceh.
48. BROUK and Fortify Rights noted with concern that the Rohingya refugee population in Aceh appears to include several dozen children, who reportedly have no access to formal education opportunities. BROUK and Fortify Rights remind Indonesia of its obligation under Article 28 of the CRC to provide compulsory and free access to primary education for all children, including refugees.

49. Rohingya refugees in Aceh expressed concern about their lack of access to mobile phones. Some Rohingya refugees told BROUK and Fortify Rights that an NGO at one point provided mobile phones to refugees in the camp, which the Indonesian authorities later confiscated. Other Rohingya refugees told BROUK and Fortify Rights that they could not afford to purchase phones or phone credit. BROUK and Fortify Rights recommend that whenever possible, refugees should be provided with access to mobile phones and other forms of communication as a means to contribute to their protection and basic freedoms.
50. BROUK and Fortify Rights are further concerned by allegations that staff of humanitarian organizations operating in the camps mistreated Rohingya refugees. For example, a camp resident described being slapped by an employee of an Indonesian humanitarian organization administering the camp when he asked for telephone cards, rather than food-based aid, to call relatives abroad.
51. BROUK and Fortify Rights note with concern the disappearance of several hundred Rohingya refugees from the camps in Aceh. When Fortify Rights first visited Rohingya refugees in Aceh less than two weeks after fishers rescued them from boats abandoned human traffickers in May 2015, more than 1,000 Rohingya men, women, and children were living in several makeshift camps. BROUK and Fortify Rights noted that there are now only approximately 300 Rohingya refugees in the camps in Aceh. Rohingya refugees told BROUK and Fortify Rights that many Rohingya refugees fled from the camps to Malaysia, which was their original destination. BROUK and Fortify Rights are aware that many Rohingya refugees in Aceh have family members in Malaysia and urge the government of Indonesia to work with Malaysia to develop a formal scheme to facilitate the reunification of refugee families between the countries. Such an initiative may help prevent potential human trafficking between countries.

## Lack of Durable Solutions

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52. While BROUK and Fortify Rights commend the Indonesia Government for its cooperation with UNHCR and acknowledge UNHCR's efforts to facilitate timely access to registration and recognition procedures to refugees in Indonesia, the organizations note with concern the lack of durable solutions for Rohingya refugees in Indonesia. Rohingya refugees reportedly wait long periods for resettlement to third countries. For example, BROUK and Fortify Rights met several Rohingya refugees who have spent up to 12 years in Indonesia waiting for an opportunity to resettle to a third country.
53. Local integration is also not an option for Rohingya refugees in Indonesia at this time, due to restrictions on their freedom of movement. Rohingya refugees are required to live in accommodations administered by the International Organization for Migration (IOM) and are required to obtain permission in order to travel to other locations. Indonesia should lift these restrictions and provide Rohingya refugees with opportunities to integrate into Indonesian society.

# Harassment and Effective Deportation of Mr. Tun Khin, President of BROUK

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54. BROUK and Fortify Rights are disappointed and deeply concerned that Indonesian authorities effectively deported BROUK President Mr. Tun Khin on March 6 following a “meet and greet” with Rohingya refugees on March 4.
55. On the afternoon of March 4, Tun Khin attended a community meeting with Rohingya refugees in Makassar. Immigration officials attended the meeting unannounced and demanded Tun Khin’s UK passport, which Tun Khin provided. The authorities then brought Tun Khin to his hotel, where they questioned him and threatened him with deportation. When authorities left the hotel, they took Tun Khin’s passport, instructing him to report to the immigration office the following morning. On March 5, Tun Khin reported to the immigration office, where he was questioned further. Immigration authorities required Tun Khin to sign a written statement in the Bahasa language and refused to provide him a copy of the statement or allow him to take a photograph of the statement. The authorities informed him they would escort him to Jakarta on Monday, March 7, and then out of the country. Tun Khin obtained his passport on March 6 and promptly departed the country without escort or further processing.
56. BROUK and Fortify Rights is particularly concerned that Makassar Immigration officials demanded to know the names of the refugees responsible for organizing the community meeting with Tun Khin, and threatened to take away their UNHCR cards and deport them to Myanmar. BROUK and Fortify Rights will continue to monitor the situation for individuals who participated in the community meeting on March 4.
57. BROUK and Fortify Rights believe that the Indonesian authorities attempted to intimidate Tun Khin, through questioning and effective deportation, in order to discourage him from providing moral and advocacy support for the refugee community in Indonesia.
58. BROUK and Fortify Rights remind the Government of Indonesia that the right to freedom of association and peaceful assembly applies to all, including refugees.

## Acknowledgments

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**FORTIFY RIGHTS** works to end and remedy human rights abuses. We investigate human rights violations, engage people with power, and strengthen responses to abuses through trainings and collaborative support for human rights defenders. We are an independent, nonprofit organization based in Southeast Asia and registered in the United States and Switzerland. [FortifyRights.org](http://FortifyRights.org)

**THE BURMESE ROHINGYA ORGANISATION UK (BROUK)** mission is to improve the social and human rights conditions of the Rohingya from Burma and the region. BROUK works to promote and publicize the genuine case and cause of the Rohingya, to share information, strengthen solidarity and understanding of those living in the United Kingdom and worldwide. BROUK engages government, media, international and regional human rights bodies, local communities to advocate on behalf of the Rohingya. BROUK has been a leading voice for the Rohingya since 2012 and is registered in United Kingdom. [Brouk.org.uk](http://Brouk.org.uk)



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