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Thailand: Ensure access to justice and protection for Rohingya asylum-seekers

Thai authorities must ensure the investigation into the alleged rape of a Rohingya asylum-seeker from Myanmar is impartial and that all those involved, including the police, are held accountable in a trial that meets international standards of fairness. Thailand has a responsibility to ensure effective protection, both in law and practice, of asylum-seekers and migrants arriving at its shores and living within its borders.

On 27 May 2013, three Rohingya women and two girls, aged 9 and 12, left a government shelter in Phang Nga province to join two men who promised to take them to Malaysia to reunite with their husbands and other relatives in exchange for payment. One of the men was later identified as a police officer stationed in Khao Lak, Phang Nga province and the other was an undocumented Rohingya man from Myanmar. Between 9 and 11 June 2013, the Rohingya man allegedly held one of the women in a secluded location and repeatedly raped her.

During a visit to Phang Nga province in southern Thailand on 1 July 2013, Amnesty International confirmed that the Rohingya man is currently detained and charged with rape, human trafficking, and being in Thailand without documents. He has denied the charges and claims that his boss is a police officer. The Thai police officer involved in this case was a Senior Sergeant. He was arrested on 28 June 2013 and charged for his involvement in human trafficking and abuse of his position. He has since been released from detention on bail and dismissed from the police force.

This case highlights the risks that asylum-seekers in Thailand face at the hands of potential human traffickers and as a result of their lack of legal protection as refugees. Thailand does not recognize refugees in its domestic law and is not party to the 1951 UN Convention relating to the Status of Refugees. Without legal protection, asylum-seekers are subject to arrest, detention, and deportation in Thailand and are at greater risk of exploitation and abuse, particularly by human traffickers. Asylum-seekers who have been abused or exploited in Thailand, including these women, must be provided with full and equal access to the justice mechanisms in Thailand, including access to legal representation and an independent interpreter. The accused in this case should also be afforded legal safeguards in accordance with Article 14 of the International Covenant on Civil and Political Rights (ICCPR), to which Thailand is a state party.

Moreover, Amnesty International urges Thai authorities to diligently and thoroughly investigate all reports of human trafficking, including allegations of involvement in trafficking networks by Thai authorities. This case is not the first report of potential involvement of Thai officials in human trafficking. In late January 2013 the Royal Thai Army suspended, but then reinstated and transferred a Lieutenant Colonel and a Lieutenant to other locations in Thailand following allegations of their involvement with human traffickers in the south. Charges were not brought against them. Officials found to be complicit in human trafficking should be immediately suspended from their duties and prosecuted in a fair trial.

The three women and two girls involved in the Phang Nga case have been living at a government shelter since January 2013, along with more than 55 other women and children asylum-seekers. They are among thousands of Rohingya, a Muslim minority from Myanmar's Rakhine state, who have fled human rights abuses and severe discrimination in Myanmar and arrived in Thailand in small boats in late 2012 and early 2013. On 25 January 2013, the Thai authorities announced that humanitarian assistance would be provided for six-months to Rohingya in Thailand. This period is set to expire in late July 2013.

In addition to the hundreds of Rohingya women and children being held in Thai government-run shelters, more than 1,500 Rohingya men have been detained in overcrowded and ill-equipped immigration centres throughout Thailand's southern provinces since January 2013. Amnesty International recently raised concerns about the conditions of detention in the immigration facilities in an Open Letter to the Royal Thai Government on 10 June 2013, highlighting recent deaths (see: <http://www.amnesty.org/en/library/info/ASA39/002/2013/en>). On 4 July 2013, two further deaths were reported from the immigration facility in Songkhla province, bringing the total number of deaths of Rohingya men in detention to seven since January 2013.

The continued detention of Rohingya asylum-seekers and migrants in immigration detention centres and shelters is a violation of the right to liberty as guaranteed in the ICCPR. The conditions of detention for Rohingya men, in particular, do not meet the UN Standard Minimum Rules for the Treatment of Prisoners. The Royal Thai Government should release asylum-seekers and migrants who are detained in violation of international law and ensure the conditions of detention comply with international law and standards. Thailand should also establish a national mechanism to ensure that all individuals who have fled persecution in their country of origin and wish to seek asylum have access to a full, effective and fair procedure to assess their asylum claims.

Thousands of Rohingya left Myanmar in boats heading for Thailand and Malaysia following violence between Buddhist and Muslim communities in Rakhine state that started in June 2012. The violence led to considerable deaths and injuries as well as widespread destruction of property and displacement of people. While both communities were affected in Myanmar, the majority of victims were Rohingya. Most of the 140,000 individuals currently displaced in locations throughout Rakhine state are Rohingya. The Rohingya are not recognized as an official ethnic group by the Myanmar authorities and continue to be discriminatorily denied equal access to citizenship. Their freedom of movement and rights to study, work, marry, and have a family are restricted to various degrees.