

# Lawyers' Rights Watch Canada

NGO in Special Consultative Status with the Economic and Social Council of the United Nations

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28 May 2015

Open letter to delegations to the  
Special Meeting on Irregular Migration in the Indian Ocean, 29 May 2015  
Bangkok, Thailand

## **Re: Human rights crisis involving Rohingya people and other migrants in the Indian Ocean**

Lawyers' Rights Watch Canada (LRWC) is a committee of lawyers who promote human rights and the rule of law. LRWC is an NGO in Special Consultative Status with the Economic and Social Council (ECOSOC) of the United Nations (UN).

In early May 2015, an entrenched international human rights crisis in Southeast Asia became a humanitarian emergency as human traffickers abruptly abandoned boatloads of migrants -- men, women and children -- from Myanmar and Bangladesh in the Indian Ocean, leaving thousands stranded in life-threatening conditions. The root causes of this crisis include:

- failure by a number of States to abide by their international human rights obligations, lack of integrity of law enforcement officials and legal systems in several States;
- lack of commitment to international human rights standards by the member States of the Association of South East Asian Nations (ASEAN); and
- lack of consistent and firm insistence on implementation of human rights by other States with trading relationships in Southeast Asia.

In 2014, the UN Special Rapporteur on the situation of human rights in Myanmar stated that “the pattern of widespread and systematic human rights violations in Rakhine State may constitute crimes against humanity as defined under the *Rome Statute of the International Criminal Court*.”<sup>1</sup>

We draw your attention to LRWC's [statement released on 26 May 2015](#)<sup>2</sup> urging all States in the region and their economic partners to create a regional plan of urgent action to push the Myanmar government to end its systematic persecution of Rohingya people and to implement international human rights law in their own States and trade agreements. We hope all States involved in the Special Meeting will issue public and private statements to this effect at the meeting on “irregular migration” in

<sup>1</sup> UN Human Rights Council, *Report of the Special Rapporteur on the situation of human rights in Myanmar*, 2 April 2014, A/HRC/25/64, at para 51, available at: <http://www.refworld.org/docid/532068854.html>.

<sup>2</sup> Lawyers' Rights Watch Canada, “Southeast Asia: Systematic violations of the internationally protected rights of Rohingya and other migrants is costing lives and must be stopped”, Statement, 26 May 2015, available at <http://www.lrwc.org/?p=9116>

Bangkok on 29 May 2015.

We ask all delegations to make strong recommendations that all ASEAN states and other states in the region:

- uphold the *Universal Declaration of Human Rights*<sup>3</sup> and their multilateral human rights treaty obligations;
- Ratify the *Refugee Convention* of 1951<sup>4</sup> (which only Philippines and Cambodia have ratified);
- Ratify all relevant core UN human rights treaties, In particular:
  - Myanmar should ratify the *International Covenant on Civil and Political Rights* (ICCPR),<sup>5</sup> *International Covenant on Economic, Social and Cultural Rights* (ICESCR),<sup>6</sup> *International Convention on the Elimination of All forms of Racial Discrimination* (ICERD),<sup>7</sup> *Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (CAT),<sup>8</sup> *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (CMW),<sup>9</sup> and the *International Convention for the Protection of All Persons from Enforced Disappearance* (CED);<sup>10</sup>
  - Malaysia should ratify the ICCPR, ICESCR, ICERD, CAT, CMW, and the CED;
  - Thailand should ratify the CMW and the CED; Thailand should also uphold the its obligations under the ICCPR and immediately conduct full-suffrage elections and ensure fair trial rights and freedoms of expression and assembly (including media freedom).<sup>11</sup>
  - Indonesia should ratify the CED.
- Ensure adequate domestic legal frameworks to prevent, investigate and prosecute all those involved in human trafficking in accordance with international human rights standards; and
- Ensure protection of the legitimate work of lawyers and human rights defenders, including human rights journalists, in conformity with the provisions of the UN *Declaration on Human Rights Defenders*, adopted by the General Assembly of the UN in 1999.<sup>12</sup>

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<sup>3</sup> N General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), available at: <http://www.refworld.org/docid/3ae6b3712c.html>.

<sup>4</sup> UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html>.

<sup>5</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, available at: <http://www.refworld.org/docid/3ae6b3aa0.html>.

<sup>6</sup> UN General Assembly, *International Covenant on Economic, Social and Cultural Rights*, 16 December 1966, United Nations, Treaty Series, vol. 993, p. 3, available at: <http://www.refworld.org/docid/3ae6b36c0.html>.

<sup>7</sup> UN General Assembly, *International Convention on the Elimination of All Forms of Racial Discrimination*, 21 December 1965, United Nations, Treaty Series, vol. 660, p. 195, available at: <http://www.refworld.org/docid/3ae6b3940.html>.

<sup>8</sup> UN General Assembly, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment : resolution / adopted by the General Assembly.*, 10 December 1984, A/RES/39/46, available at: <http://www.refworld.org/docid/3b00f2224.html>.

<sup>9</sup> UN General Assembly, *International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families : resolution / adopted by the General Assembly.*, 18 December 1990, A/RES/45/158, available at: <http://www.refworld.org/docid/3b00f2391c.html> [accessed 25 May 2015]

<sup>10</sup> UN General Assembly, *International Convention for the Protection of All Persons from Enforced Disappearance*, 20 December 2006, available at: <http://www.refworld.org/docid/47fdfaeb0.html>.

<sup>11</sup> For more information see LRWC, “Thailand: Trials of civilians in military courts violate international fair trial rights: Judicial harassment of lawyers and human rights defenders,” Statement on 25 May 2015 available at <http://www.lrwc.org/?p=9095>.

<sup>12</sup> UN General Assembly, *Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms: resolution / adopted by the General Assembly*, 8 March 1999, A/RES/53/144, available at: <http://www.refworld.org/docid/3b00f54c14.html>. The *Declaration*, while not in itself a binding instrument, is based on human rights standards enshrined in other international

Finally, we urge all delegations to uphold in their public and private statements international human rights law binding on states in the region as well as the *Refugee Convention*. We also ask all governments to ensure that international human rights is a high priority in all of their trade relationships in Southeast Asia.

We look forward to your reply.

Yours sincerely,

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instruments that are legally binding including the ICCPR. The *Declaration* was adopted by consensus of the General Assembly and thus represents a unanimous commitment by States to its implementation. In particular, we draw attention to Article 1, which states that “everyone has the right, individually and in association with others, to promote and to strive for the protection and realisation of human rights and fundamental freedoms at the national and international levels,” and Article 12.2, which provides that “the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.”