



Evolving Patterns, Unchanged Suffering:

ROHINGYA TRAFFICKING TRENDS IN 2022

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Executive Summary

Since the 1 February 2021 coup, Rohingya communities in Rakhine State have endured tightening movement restrictions, a lack of job opportunities, rising living costs, and even greater precariousness in terms of their legal status. The nearly 1 million Rohingya refugees in Bangladesh have not fared much better, facing such a sharp deterioration in conditions that some told this analytical unit they suspect authorities to be deliberately destroying any prospect for a dignified life in order to force Rohingya to leave Bangladesh by whatever means possible. Rohingya people in both countries — especially youth — resort to high risk, illegal travel to third countries like Malaysia, where they reportedly believe that increased access to education and opportunities will result in a more secure and fulfilling future. Respondents in Bangladesh and northern Rakhine State still report significant numbers of individuals in their communities undertaking dangerous journeys abroad; however, it is difficult to verify whether the number of Rohingya doing so has increased, because exhaustive data on successful arrivals at intended destinations is not available.

While large-scale Rohingya movement away from Myanmar and Bangladesh and on to Malaysia and elsewhere has been ongoing for at least the last 10 years, several significant shifts have taken place recently. Checkpoints have proliferated across Myanmar as the State Administration Council (SAC) struggles to secure control over the country, increasing the risk that Rohingya people will be caught if they violate movement restrictions by travelling beyond their state or township boundaries. Indeed, there are regularly 20–30 arrests per week.¹ Despite this, crackdowns on maritime trafficking and disastrous, high-profile pushback incidents involving boats carrying desperate Rohingya people² have led overland routes to become more prevalent relative to the sea routes favoured in the past. Those facilitating these journeys are reported to include, at a minimum, members of the Arakan Army (AA) and the Myanmar military-affiliated Border Guard Police (BGP). Women and girls are the most likely members of the Rohingya community to undertake the journey abroad by any route, and they are

¹ This information is sourced from both traditional media and social media such as Facebook, as well as sources from the ground. The information should not be considered comprehensive.

² See, e.g., "Drownings Draw Attention to Immigrants' Efforts to Sneak into Malaysia," Benar News, 17 December 2021: <https://www.benarnews.org/english/news/malaysian/immigrants-efforts-12172021152754.html>; "Deaths of 16 Rohingya at sea raises fears trafficking ring has been revived," Guardian, 12 February 2020: <https://www.theguardian.com/global-development/2020/feb/12/deaths-of-16-rohingya-at-sea-raises-fears-trafficking-ring-has-been-revived>.

also at the highest risk of experiencing a range of abuses en route and upon arrival, including rape and other forms of sexual and gender-based violence (SGBV). Moreover, research by this analytical unit has found that, due to their dire circumstances in Bangladesh and Myanmar, many — if not most — Rohingya people likely lack the agency, options, and information to make a fully volitional, informed choice with respect to high-risk migration to Malaysia or beyond. With conditions likely to deteriorate further in the near term across Rohingya communities in both Bangladesh and Myanmar, the pressure and push factors that render Rohingya individuals prime targets for exploitative migration schemes will only continue to intensify over time. Acutely vulnerable on both sides of the border, Rohingya people will be at critical risk of further victimisation by transnational criminal networks for the foreseeable future.

Upon examination of the facts and circumstances pertaining to Rohingya movement as conveyed to this analytical unit in over 160 interviews in 2022, it appears that the experience of many — perhaps most — Rohingya individuals seeking to reach Malaysia and other countries fits one basic fact pattern. First, these individuals are coerced or otherwise deceived into making the journey; second, they are clandestinely harboured and transported along perilous routes over a period of several months; third, they are subjected to exploitation upon arrival to their destination, in line with the apparent intentions of those facilitating their movement.³ These steps appear to fulfil each of the three elements of the crime of trafficking in persons as defined and proscribed under international law.⁴ In instances where various actors facilitate Rohingya persons' unlawful crossing of one or more international borders simply in exchange for financial or material benefit — in other words, where movement is facilitated for purposes other than exploitation — the fact pattern

would fulfil the criteria of migrant smuggling, rather than trafficking.⁵

In prosecuting any crime that is defined, in part, by a specific intent on the part of the perpetrator, that intent element is often the most difficult to establish. Trafficking is no different; as regards ongoing Rohingya movement, establishing the intent of the actors facilitating that movement — in order to determine whether it is facilitated for the purpose of exploitation — is a challenge.⁶ A definitive account of the facts and circumstances surrounding each journey is unavailable; although this analytical unit has conducted over 160 interviews with Rohingya community members with varying degrees of knowledge and direct experience of exploitative migration schemes, this analytical unit has not undertaken a broader investigation to identify the specific intent of those facilitating Rohingya movement or to establish their potential criminal liability. Such an investigation lies beyond the scope of this research and beyond the expertise of this analytical unit. However, consistent statements shared with this analytical unit by Rohingya community members suggest intention to exploit travellers is, in many if not most cases, contributing to the trend in Rohingya outflows from Myanmar and Bangladesh. Based on these statements, it would seem the movement of Rohingya individuals from these countries to Malaysia and elsewhere is best generally categorised as 'trafficking' rather than 'smuggling'.⁷

Wherever trafficking is suspected to occur, identifying the criminal activity as 'trafficking' rather than 'smuggling' can help enable the recognition and protection of the rights of victims. In part, this is because the most widely ratified international protocol that defines and prohibits human trafficking outlines a broad range of support to be provided to victims,⁸ while the protocol outlawing migrant smuggling merely affords victims protection

³ For further discussion, see the Ongoing Operations section, below.

⁴ For further discussion and analysis of the definition of trafficking under Article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol), see "Trafficking in persons" in the Legal Framework section, below. For full text of the Protocol, see "Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime," opened for signature 12 December 2000, United Nations Treaty Series, vol. 2237, p. 319, Doc. A/55/383, https://treaties.un.org/Pages/ViewDetails.aspx?src=ind&mtsg_no=XVIII-12-a&chapter=18.

⁵ For further discussion and analysis of the definition of migrant smuggling under the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Smuggling Protocol), see the Legal Analysis section below. For the full text of the Protocol, see "Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime," opened for signature 12 December 2000, United Nations Treaty Series, vol. 2214, p. 507, Doc. A/55/383, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-b&chapter=18.

⁶ For discussion of the challenges inherent in proving 'specific' as opposed to 'general' intent in criminal law, see Eric A. Johnson, "Understanding General and Specific Intent: Eight Things I Know For Sure," *Ohio State Journal of Criminal Law* vol. 13, no. 2 (2016): pp. 521-41.

⁷ For further discussion of applicable law, the distinction between 'trafficking' and 'smuggling,' and the potential advantages of using the term 'trafficking' more widely, see the Legal Analysis section below.

⁸ For further analysis of the most widely ratified treaty pertaining to the prohibition on trafficking in persons, see the Legal Analysis section below, which discusses the protections to be afforded victims of trafficking under Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Trafficking Protocol). For full text of the Trafficking Protocol, see Trafficking Protocol, https://treaties.un.org/Pages/ViewDetails.aspx?src=ind&mtsg_no=XVIII-12-a&chapter=18.

from prosecution.⁹ Regardless of which criminal definition is most pertinent in the case of those facilitating Rohingya people's movement, interviews indicate that Rohingya individuals transferred to Malaysia and elsewhere experience a range of serious abuse over the course of their journeys. International human rights law stipulates that all victims of such abuse be provided with appropriate assistance, protection, and remedies.¹⁰ Rohingya individuals who have been subjected to abusive migration schemes should thus be afforded a far higher level of support than they are now receiving.

This paper aims to contribute to a clearer understanding of the experiences of Rohingya individuals who have attempted perilous international journeys, as well as the pressures facing Rohingya individuals remaining in Myanmar and Bangladesh, in order to help to inform a stronger, better coordinated, and more comprehensive response to the crisis of exploitative migration schemes targeting Rohingya people.

Key Recommendations

1. **Adopt a rights-based approach to the ongoing crisis of Rohingya migration by assuming all Rohingya attempting to reach third countries to be trafficking victims until proven otherwise**, in order to facilitate the maximum protection of Rohingya human rights and the greatest possible support to Rohingya individuals involved in exploitative migration schemes.
2. **Expand protection programming, including activities focused on prevention of and responses to SGBV and the risks of migrant smuggling and human trafficking** — with emphasis on the gendered harms of dangerous Rohingya movement. Increased psychological support services should be made immediately available to Rohingya communities in Bangladesh and Rakhine State.
3. **Enhance and increase protection programming to be delivered remotely through community members in order to raise awareness of, and improve responses to, abuses that pose critical risks to Rohingya individuals on both sides of the Rakhine State/Bangladesh border**, including: human trafficking, SGBV, child abuse, and child marriage.
4. **Scale up education, livelihood assistance, and other programming that can be delivered remotely through community members** to improve conditions for Rohingya people in Bangladesh and Rakhine State, in order to decrease push factors driving Rohingya toward exploitative migration schemes.
5. **Plan and implement immediate remote interventions to provide urgent support to survivors of SGBV**, while working towards building capacity of Rohingya communities living throughout the region to deliver justice for SGBV and related crimes.
6. **Allocate greater resources to local responders in Myanmar, Thailand, and Malaysia for the provision of crucial support services to Rohingya victims of exploitative migration schemes**, including those arrested by the SAC, those intercepted elsewhere along their travel routes, and those who reach destinations where they remain in situations of insecurity, exploitation, and/or abuse.
7. **Advocate to armed actors and governance personnel involved in the operations of law enforcement and judicial systems in Bangladesh and Rakhine State to make credible efforts to investigate and hold to account those responsible for illicit, abusive Rohingya migration**; encourage stakeholders within Bangladesh, Rakhine State, and elsewhere along active migration routes to end any active or tacit support for exploitative migration schemes.
8. **Engage with armed actors, governance personnel, and local responders along the Thai-Myanmar border to increase awareness of and safe responses to dangerous and illicit Rohingya migration schemes in their areas of operation**. Support the development of safe reporting mechanisms and intervention strategies to meet the needs and increase the protection of Rohingya victims without triggering negative impacts for ongoing cross-border humanitarian assistance operations.
9. **Call on authorities throughout the region to end arrests and refoulement of Rohingya individuals — especially children — who have been subjected to exploitative migration schemes**.

⁹ For analysis of the protections to be afforded smuggled migrants under Article 16 of the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime (Smuggling Protocol), see "Migrant Smuggling" in the Legal Framework section below. For the full text of the Protocol, see Smuggling Protocol, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-b&chapter=18.

¹⁰ For further discussion, see the Legal Framework section below. For sources of law, see for example the International Covenant on Civil and Political Rights, Article 2(3), indicating victims of abuse are entitled to a remedy. "International Covenant on Civil and Political Rights," opened for signature 19 December 1966, United Nations Treaty Series, vol. 999, p. 407, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-4&chapter=4.

Methodology

This research was undertaken to identify developing trends and their associated risks, in order to inform and bolster efforts to respond to the ongoing crisis of exploitative migration schemes targeting Rohingya. It is intended to help donors and response actors more effectively support Rohingya individuals who either have been or are at risk of being victimised by exploitative migration schemes. By definition, human smuggling and trafficking networks are informal, clandestine, and illegal transnational structures. As a result, this research is primarily based on informal and semi-structured interviews, informed by a grounded theory approach to data gathering and analysis.

Researchers interviewed 20 Rohingya respondents, around 30 percent of whom were female, in Myanmar's northern Rakhine State as well as in Bangladesh's Cox's Bazar District and Bhasan Char island. Interviews with these individuals were conducted each month from January to August 2022. A further eight interviews — of four men and four women — were conducted in August on the specific topic of illicit Rohingya migration. Over the course of the more than 160 interviews conducted by this analytical unit in 2022, key informants residing across northern Rakhine State and within camps in Bangladesh have consistently reported a significant number of individuals from their communities undertaking high risk, covert journeys to third countries — typically Malaysia, but occasionally Indonesia, India, or Thailand. An additional 10 interviews were conducted with stakeholders along the Thai-Myanmar border in July and September 2022. The data gathered during these interviews led to the development of this research, which is first and foremost an attempt to depict the realities, risks, and rise of exploitative Rohingya migration in the post-coup context. All interviews have been anonymised for security reasons but, wherever safe to do so, basic location and demographic data is included for reference.

This research examines the ways patterns of illicit Rohingya migration have changed over recent years, and it builds on the findings of extensive earlier investigations, including those published by Reuters from 2013¹¹ to present,¹² as well as the comprehensive 2019 report released by the NGO Fortify Rights and the Human Rights Commission of Malaysia (SUHAKAM).¹³ Those accounts detail the context within which research was carried out for this paper, which explores how exploitative migration operations are still widespread and viscerally felt by Rohingya communities in Bangladesh, Myanmar, and Malaysia.

As this report is based on a small sample size relative to the massive scale of illicit Rohingya movement, its observations should not be assumed to be representative. Rather, it is a snapshot of the perceptions of community members; the value of the qualitative approach is in the context-specific knowledge it provides.

Background

In Myanmar, systematic discrimination against Rohingya people has long been enshrined in law,¹⁴ restricting their ability to travel legally and ensuring they have little power to advocate for themselves in any capacity. In Rakhine State, where the majority of Rohingya have lived for centuries,¹⁵ armed actors including the Myanmar military have relegated Rohingya people to restricted areas with poor living conditions, enforcing what human rights experts have described as a de facto apartheid system.¹⁶ For decades, Rohingya people's lack of rights under Myanmar law has made them perpetually vulnerable to arrest throughout the country.¹⁷ The combination of these factors has long rendered Rohingya people especially vulnerable to exploitative migration schemes carried out by transnational criminal networks.

As of 2012, rights groups reported that Bangladesh hosted at least an estimated 200,000 Rohingya people, with

¹¹ For discussion of and links to Reuters' initial Pulitzer Prize-winning investigation into Rohingya trafficking, see "Reuters, Guardian US, Washington Post, Boston Globe win Pulitzer prizes," Reuters, 14 April 2014: <https://www.reuters.com/article/idUSBREA3D0NG20140414>. For some of the agency's more recent coverage, see, e.g., "Traffickers demand ransoms for Rohingyas held at sea in SE Asia," Reuters, 15 June 2020: <https://www.reuters.com/article/us-bangladesh-malaysia-rohingya-traffick-idUSKBN23M1AC>.

¹² "Lured with a happily-ever-after dream, Rohingya girls sold in India," Reuters, 22 January 2018: <https://jp.reuters.com/article/us-india-trafficking-rohingya/lured-with-a-happily-ever-after-dream-rohingya-girls-sold-in-india-idUSKBN1FB1LD>.

¹³ "Sold Like Fish: Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015," Fortify Rights, 27 March 2019: <https://www.fortifyrights.org/reg-inv-rep-2019-03-27/>.

¹⁴ See, e.g., "The Burma Citizenship Law" (Pyithu Hluttaw Law No. 4 of 1982): <https://www.legal-tools.org/doc/d3e586/pdf> [omitting Rohingya people from those eligible for citizenship].

¹⁵ "The Rohingya People," National Geographic, 9 April 2019: <https://www.nationalgeographic.co.uk/2019/02/the-rohingya-people>.

¹⁶ "Caged without a roof: Apartheid in Myanmar's Rakhine State," Amnesty International, November 2017: <https://www.amnesty.org/en/latest/news/2017/11/myanmar-apartheid-in-rakhine-state/>

¹⁷ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

30,000 residing in two recognised refugee camps, 40,000 in a third informal camp-like settlement, and 130,000 living outside of camp settings.¹⁸ At the time, unknown thousands of other Rohingya individuals were living in Bangladesh, largely undocumented, having sought refuge from previous Myanmar violence and having managed to stay in Bangladesh despite rounds of forced returns carried out throughout the 1990s.¹⁹ Facing grim conditions in both countries and eruptions of intense violence in Myanmar from 2012 to 2015,²⁰ Rohingya individuals were easy prey for transnational criminal networks throughout this period. According to the UN Refugee Agency (UNHCR), from 2012 to 2015, almost 170,000 Rohingya people left for other countries from Bangladesh and Myanmar.²¹ During this time, transnational criminal networks typically transported them by sea from Bangladesh and Rakhine State to Malaysia or Thailand. Investigations into this era of trafficking detail the abuses victims suffered, the discovery of mass graves of trafficking victims, and the complicity of Thai and Malaysian officials.²² The high visibility of maritime Rohingya trafficking and the 2014 demotion of Thailand and Malaysia to the lowest tier on international trafficking indices triggered a crackdown by Thai authorities, starting in 2015.²³

Following this trafficking boom period, the Myanmar military's campaigns of violence against Rohingya communities in 2017 pushed over 700,000 Rohingya people into Bangladesh,²⁴ where most remain confined to sprawling camps. Following this mass displacement, and despite an increase in anti-trafficking efforts by Malaysian officials,²⁵ journalists and rights groups documented how Rohingya people on both sides of the Myanmar-Bangladesh border

continued to be victimised by trafficking networks from 2018 to 2020, albeit with lower visibility and potentially on a smaller scale than in the previous era.²⁶ There were at least 1,520 recorded arrests of Rohingya people in Myanmar for movement violations over this period; these arrests are understood, in almost all cases, to have intercepted attempted international travel, based on the fact that a broker or guide was frequently reported to have been arrested with the Rohingya individual or to have fled the scene of the arrest.²⁷ These numbers are, as a result, a useful proxy in the absence of comprehensive data on exploitative migration schemes. They illustrate that, with the exception of token arrests of low-level guides and brokers,²⁸ Rohingya victims bore the brunt of prosecution and imprisonment over these years. A 2020 report by the Burma Human Rights Network found that Myanmar courts had resolved cases against Rohingya defendants mechanically and without due process, typically sentencing them to the harshest available punishment within one day of their arrest — thus robbing victims of the right to counsel.²⁹ In addition to the arrests of Rohingya individuals inside Myanmar at the time, Interpol observed a spike in Rohingya movement by sea in early 2020, a trend the organisation considered likely to have been driven by a rise in Rohingya attempts to escape overcrowded camps by any means possible, due to fears that COVID-19 would soon spread through camps with devastating effect.³⁰

Despite arrests and crackdowns on nautical trafficking operations in Thailand and Malaysia over recent years, Rohingya people continued to depart Bangladesh and Rakhine State throughout 2021. Perhaps in response to the increase in anti-trafficking efforts focused on known

¹⁸ "Bangladesh: Assist, Protect Rohingya Refugees," Human Rights Watch, 22 August 2012: <https://www.hrw.org/news/2012/08/22/bangladesh-assist-protect-rohingya-refugees>.

¹⁹ "Burmese Refugees in Bangladesh: Still No Durable Solution," Human Rights Watch, May 2000: <https://www.hrw.org/reports/2000/burma/burm005-01.htm>.

²⁰ "All You Can Do is Pray": Crimes Against Humanity and Ethnic Cleansing of Rohingya Muslims in Burma's Arakan State," Human Rights Watch, 22 April 2013, <https://www.hrw.org/report/2013/04/22/all-you-can-do-is-pray/crimes-against-humanity-and-ethnic-cleansing-rohingya-muslims>.

²¹ "Mixed Maritime Movements in South-East Asia in 2015," UNHCR, 23 February 2016: <https://reporting.unhcr.org/sites/default/files/UNHCR%20-%20Mixed%20Maritime%20Movements%20in%20South-East%20Asia%20-%202015.pdf>.

²² "'Sold Like Fish': Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015," Fortify Rights, 27 March 2019: <https://www.fortifyrights.org/reg-inv-rep-2019-03-27/>; For discussion of and links to Reuters' initial Pulitzer Prize-winning 2013 investigation into Rohingya trafficking, see: "Reuters, Guardian US, Washington Post, Boston Globe win Pulitzer prizes," Reuters, 14 April 2014: <https://www.reuters.com/article/idUSBREA3D0G20140414>.

²³ "Special Report: Inside Thailand's trafficking crackdown," Reuters, 9 July 2015: <https://www.reuters.com/article/us-thailand-trafficking-specialreport-idUSKCN0PJ14520150709>;

²⁴ "New evidence shows how Myanmar's military planned its brutal purge of the Rohingya," Reuters, 4 August 2022: <https://www.reuters.com/investigates/special-report/myanmar-rohingya-warcrimes-investigation/>.

²⁵ "Malaysia's crackdown on illegal migrants puts trafficking victims in danger," Reuters, 31 August 2018: <https://www.reuters.com/article/us-malaysia-migrants-trafficking-idUSKCN1L610V>.

²⁶ See, e.g., "Traffickers demand ransoms for Rohingyas held at sea in SE Asia," Reuters, 15 June 2020: <https://www.reuters.com/article/us-bangladesh-malaysia-rohingya-traffick-idUSKBN23M1AC>.

²⁷ This information is sourced from both traditional media and social media such as Facebook, as well as sources from the ground. The information should not be considered comprehensive.

²⁸ See, e.g., "Irrawaddy Authorities Arrest 104 Rohingyas," BNI, 1 June 2022: <https://www.bnionline.net/en/news/irrawaddy-authorities-arrest-104-rohingya>.

²⁹ "Nowhere to Run in Burma: Rohingya trapped between an open-air prison and jail," Burma Human Rights Network, 25 August 2020: <https://www.bhrn.org.uk/en/component/edocman/bhrn-report/nowhere-to-run-in-burma-rohingya-trapped-between-an-open-air-prison-and-jail.html>.

³⁰ "Traffickers demand ransoms for Rohingyas held at sea in SE Asia," Reuters, 15 June 2020: <https://www.reuters.com/article/us-bangladesh-malaysia-rohingya-traffick-idUSKBN23M1AC>.

sea routes, as well as high-profile disasters at sea generating problems in the region,³¹ routes began to shift towards overland travel.³² This trend may help to explain a larger number of arrests of Rohingya in parts of Myanmar other than Rakhine State in recent years. In January 2021 alone, Myanmar authorities in Yangon Region detained 99 Rohingya people apparently bound for Malaysia.³³ Over the course of 2021, this analytical unit tracked reports of 926 Rohingya people arrested for violating movement restrictions in Myanmar.³⁴ In December 2021, a court in Rakhine State sentenced 199 others, mainly Rohingya people from Rakhine State, to five years in prison under Myanmar's Immigration Act for "illegally trying to migrate".³⁵

Current Context

Interviews conducted by this analytical unit consistently indicate that, since the 2021 coup, increased movement restrictions, a lack of job opportunities, increased living costs, and even greater precariousness of Rohingya people's status in Rakhine State have all contributed to their hardship there. While the military coup coincided with an informal ceasefire between the Myanmar military and the AA, and a cooling of conflict in Rakhine State, this did not translate into increased rights for Rohingya people. Community members interviewed in August 2022 noted the various forms of insecurity in Rakhine State camps,³⁶ as well as widespread poverty and dearth of job opportunities for Rohingya individuals, as push-factors

amplifying younger people's desire to seek opportunities in other countries.³⁷

In both Myanmar and Bangladesh, Rohingya boys and men are largely barred from attending decent schools or enrolling in universities; they are also unable to travel freely to pursue employment.³⁸ As such, they have few options for education and livelihoods. Still, the situation of Rohingya girls and women is even more dire. Relative to boys and men in their communities, Rohingya women and girls living in both Bangladesh and Myanmar endure even more limited access to education, greater physical insecurity, poorer access to health care, and minimal decision-making power within the household.³⁹ In both countries, Rohingya women have extremely limited opportunities, even relative to Rohingya men. While men can pursue some forms of income generation and can socialise with one another in public settings, women are often expected to remain within the home and perform all family care and domestic labour. Some rarely venture out except to collect firewood or water.⁴⁰ These realities restrict the visibility of Rohingya women, which in turn contributes to the perpetuation of harmful gender norms that lead them to be undervalued by their families and communities, in both camp and village settings in Rakhine State, as well as in Bangladesh.⁴¹ The option to 'sell' unwed women to husbands abroad — essentially as chattel — represents an economic opportunity for the men exercising power over Rohingya women, particularly since it means avoiding the payment of a dowry (reportedly around 3–4

³¹ See, e.g., "Drownings Draw Attention to Immigrants' Efforts to Sneak into Malaysia," Benar News, 17 December 2021: <https://www.benarnews.org/english/news/malaysian/immigrants-efforts-12172021152754.html>; "Deaths of 16 Rohingya at sea raises fears trafficking ring has been revived," Guardian, 12 February 2020: <https://www.theguardian.com/global-development/2020/feb/12/deaths-of-16-rohingya-at-sea-raises-fears-trafficking-ring-has-been-revived>.

³² However, despite this shift, maritime movement does still continue. See, e.g., "Around 20 Rohingya missing after their boat sank in Myanmar's Ayeyarwady region," RFA Burmese, 1 November 2022: <https://www.rfa.org/english/news/myanmar/rohingya-missing-ayeyarwady-11012022060914.html>.

³³ "Rohingya Arrested in Myanmar Just for Travelling," Human Rights Watch, 7 January 2021: <https://www.hrw.org/news/2021/01/07/rohingya-arrested-myanmar-just-traveling>.

³⁴ This information is sourced from both traditional media and social media such as Facebook, as well as sources from the ground. The information should not be considered comprehensive.

³⁵ "More than 100 Rohingya fleeing persecution in Rakhine State sentenced to five years in prison," Myanmar Now, 16 December 2021: <https://myanmar-now.org/en/news/more-than-100-rohingya-fleeing-persecution-in-rakhine-state-sentenced-to-five-years-in-prison>.

³⁶ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

³⁷ Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

³⁸ "Navigating at the Margins: Family, mobility and livelihoods amongst Rohingya refugees in Bangladesh," Asia Foundation and BRAC University Centre for Peace and Justice, August 2020: <https://asiafoundation.org/wp-content/uploads/2020/09/Navigating-the-Margins-Family-Mobility-and-Livelihoods-Amongst-Rohingya-in-Bangladesh.pdf>; "Nothing Called Freedom: A Decade of Detention for Rohingya in Myanmar's Rakhine State," Human Rights Watch, 14 June 2022: <https://www.hrw.org/feature/2022/06/14/nothing-called-freedom/a-decade-of-detention-for-rohingya-in-myanmars-rakhine-state>.

³⁹ "Dangerous Journeys through Myanmar: Insecurities and immobilities for Rohingya and Muslim women in post-coup Myanmar," Institute on Statelessness and Inclusion, March 2022: <https://www.institutefor.org/resources/dangerous-journeys-through-myanmar>.

⁴⁰ "Rohingya Resiliencies," CASS, September 2020: <https://cass-mm.org/rohingya-resiliencies/>.

⁴¹ "Four Years On: Shifting Gendered Perceptions and Experiences: Comprehensive Gender Analysis within Rohingya and Host Communities in Cox's Bazar, Bangladesh," Gender in Humanitarian Action Working Group, March 2022, pp. 33–35: https://asiapacific.unwomen.org/sites/default/files/2022-03/ap-Comprehensive-Gender-Analysis_web_FINAL.pdf; "Gender Profile for Humanitarian Action: Rakhine, Kachin, Northern Shan and Kayin States, Myanmar," UNFPA and UN Women, June 2021, p. 12: <https://reliefweb.int/report/myanmar/gender-profile-humanitarian-action-rakhine-kachin-northern-shan-and-kayin-states>.

million Myanmar kyat, or roughly 1,437–1,916 USD).⁴² One respondent in Rakhine State explained:

Here the camps are very crowded and the shelters are very small, so parents are concerned about the safe space for their daughters. [...] In Rakhine State, women's families are required to pay dowry to men and it is very expensive. They cannot afford the dowry and they started thinking of their daughters as a burden to the family.

– 25-year-old female, Sittwe

According to residents, conditions in the Cox's Bazar camps of Bangladesh, which are inhabited by nearly 1 million Rohingya refugees, have deteriorated sharply over recent months. This has triggered concern among refugees as to whether local and national authorities could be deliberately allowing or contributing to the worsening of the situation, as a means to pressure them to leave informally, given the slow progress of repatriation plans. Bangladesh authorities strictly limit freedom of movement and access to essential services for those within the camps, and impose policies that restrict refugees' livelihood opportunities.⁴³ A series of fires in refugee camps, the shutting down of schools and businesses in camps,⁴⁴ and the reemergence of the Arakan Rohingya Salvation Army and smaller criminal gangs inside refugee camps

and elsewhere along the border have made the situation in Cox's Bazar even more untenable for Rohingya refugees.⁴⁵

Indeed, armed actors have expanded their presence and activities throughout Rohingya communities on both sides of the Bangladesh–Myanmar border. While this would heighten the vulnerability of community members in any context, the threat posed by multiple armed entities in Rakhine State and Bangladesh is amplified for Rohingya people, whose enjoyment of human rights is already heavily curtailed. Armed actors are exerting pressure — including through economic exploitation, harassment, and abuse⁴⁶ — on Rohingya individuals, in line with their various agendas.⁴⁷ There has been a rise in the prevalence of illicit activity across Rohingya communities in Rakhine State and Bangladesh.⁴⁸ The situation appears to be having a particularly severe impact on women. For example, it was reported in August 2022 that Rohingya women in refugee camps were entering polygamous marriages with increasing frequency, in part out of the hope that marrying might decrease their risk of suffering abuse and harassment.⁴⁹

Amid such trying circumstances, refugees in Cox's Bazar have resisted pressure to relocate to Bhasan Char island — where Bangladesh authorities began transferring Rohingya people in 2020, and where living conditions are even more dire⁵⁰ — while watching crises across Myanmar escalate into armed violence and conflict. In this landscape of few good options, many refugees continue to protest for their right to a safe, dignified repatriation;⁵¹ they recognize, though, that this is not likely in the short term.⁵² Repatriation efforts have been stymied by a range of obstacles, including the SAC's unwillingness to move the process forward — although it is currently discussing

⁴² Interview on file, female, 31, Rathedaung Township, August 2022.

⁴³ "Bangladesh Authorities Bulldoze 1,000 Rohingya Shops," Voice of America, 10 December 2021: <https://www.voanews.com/a/bangladesh-authorities-bulldoze-1-000-rohingya-shops/6348833.html>.

⁴⁴ "Bangladesh: New Restrictions on Rohingya Camps," Human Rights Watch, 4 April 2022: <https://www.hrw.org/news/2022/04/04/bangladesh-new-restrictions-rohingya-camps>.

⁴⁵ "Refugees: ARSA rebels threaten Rohingya leaders who push for repatriation," Radio Free Asia, 25 August 2022: <https://www.rfa.org/english/news/myanmar/bangladesh-rohingya-08252022035957.html>.

⁴⁶ "New research exposes beatings, abuse of Rohingya refugees by Bangladesh police," Mizzima, 30 May 2022: <https://mizzima.com/article/new-research-exposes-beatings-abuse-rohingya-refugees-bangladesh-police>.

⁴⁷ "Rohingya in Bangladesh camps fear both the police and ARSA," Al Jazeera, 12 November 2021: <https://www.aljazeera.com/news/2021/11/12/rohingya-bangladesh-camps-police-armed-group-arsa>; "Oral update on the human rights situation in Myanmar to the Human Rights Council," 51st Session of the UN Human Rights Council, 26 September 2022: <https://www.ohchr.org/en/statements-and-speeches/2022/09/oral-update-human-rights-situation-myanmar-human-rights-council>.

⁴⁸ "Bangladesh caught in a narco triangle," Daily Star, 22 November 2022: <https://www.thedailystar.net/opinion/views/closer-look/news/bangladesh-caught-narco-triangle-3176611>.

⁴⁹ "Rising polygamy: Cost of being a woman in Rohingya camps," Daily Star, 2 August 2022: <https://www.thedailystar.net/opinion/views/news/rising-polygamy-cost-being-woman-rohingya-camps-3086101>.

⁵⁰ "An Island Jail in the Middle of the Sea: Bangladesh's Relocation of Rohingya Refugees to Bhasan Char," Human Rights Watch, 7 June 2021: <https://www.hrw.org/report/2021/06/07/island-jail-middle-sea/bangladeshs-relocation-rohingya-refugees-bhasan-char>.

⁵¹ "It's hell: Rohingya refugees in Bangladesh rally to 'go home'," Al Jazeera, 19 June 2022: <https://www.aljazeera.com/news/2022/6/19/rohingya-refugees-in-bangladesh-rally-to-go-home>.

⁵² Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022.

plans to do so⁵³ — as well as its refusal to address conditions in Myanmar to ensure returnees would be able to live dignified lives free from threat of further persecution. With no solution on the horizon, participation in exploitative migration schemes is thus viewed by many Rohingya refugees as a pathway to a more secure future, despite the inherent risks.⁵⁴

Ongoing Operations

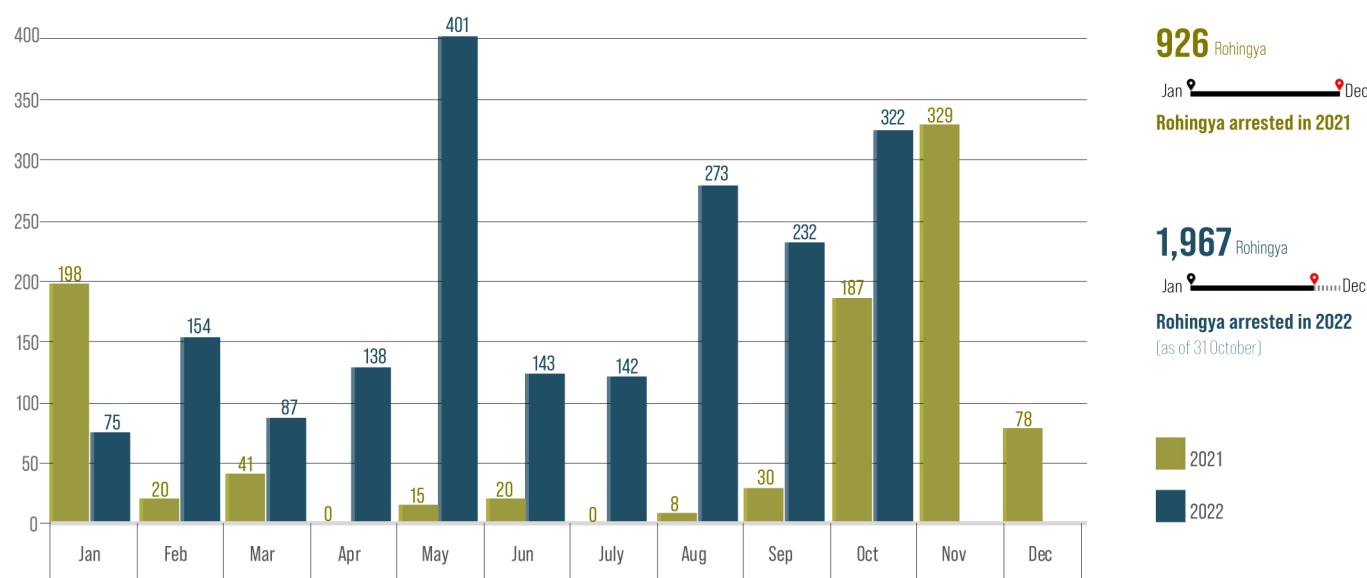
Numbers rising

While the situation of Rohingya communities in Bangladesh and Myanmar has deteriorated further, the greater lawlessness and illicit activity across Myanmar since the 2021 coup⁵⁵ have helped to remove obstacles for human trafficking and smuggling networks. In interviews with this analytical unit conducted throughout 2022,

Rohingya residents in Bangladesh and northern Rakhine State have reported members of their communities undertaking illegal journeys to third countries, despite the considerable risks. Respondents said that Rohingya travelling out of Rakhine State and Bangladesh now do so at greater risk than in recent years — with potential outcomes including detention and even death — due in part to the recent resurgence of hostilities between the Arakan Army (AA) and the SAC,⁵⁶ and to the increase in SAC checkpoints set up as part of its effort to assert control; new checkpoints in Yangon Region are said to have been particularly disruptive to Rohingya movement.⁵⁷ Respondents also noted that, since the coup, Rohingya individuals who have been caught en route have been held in prolonged detention, whereas under the National League for Democracy (NLD) government, intercepted Rohingya individuals had been allowed to return to their villages.⁵⁸

Rohingya Arrested for Unauthorised Travel inside Myanmar (2021 - 2022)

(as of 31 October 2022)



Disclaimer: The information on this graph is sourced from traditional media and social media such as Facebook, including sources from the ground. The information should not be considered comprehensive. This product is designed for information purposes only.

⁵³ "The perils of repatriation for Rohingya refugees," Asia Times, 31 October 2022: <https://asiatimes.com/2022/10/the-perils-of-repatriation-for-rohingya-refugees/>.

⁵⁴ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022.

⁵⁵ See, e.g., "Upward trend in Myanmar online wildlife trade endangers biodiversity and public health," World Wildlife Fund For Nature, 1 April 2022: <https://asiapacific.panda.org/?372899/> (reporting a 74 percent increase in online illegal wildlife trade in Myanmar from 2020 to 2021); "Poverty, impunity and profits: Experts warn coup could lead to opium surge," Frontier Myanmar, 5 January 2022: <https://www.frontiermyanmar.net/en/poverty-impunity-and-profits-experts-warn-coup-could-lead-to-opium-surge/>; "Scam City: How the coup brought Shwe Kokko back to life," Frontier Myanmar, 23 June 2022: <https://www.frontiermyanmar.net/en/scam-city-how-the-coup-brought-shwe-kokko-back-to-life/>.

⁵⁶ "Situation Update: Arakan Army Attacks SAC in Northern Rakhine and Paletwa," CASS, 18 August 2022: <https://cass-mm.org/situation-update-arakan-army-attacks-sac-in-northern-rakhine-and-paletwa/>.

⁵⁷ Interview on file, female, 35, Malaysia, August 2022.

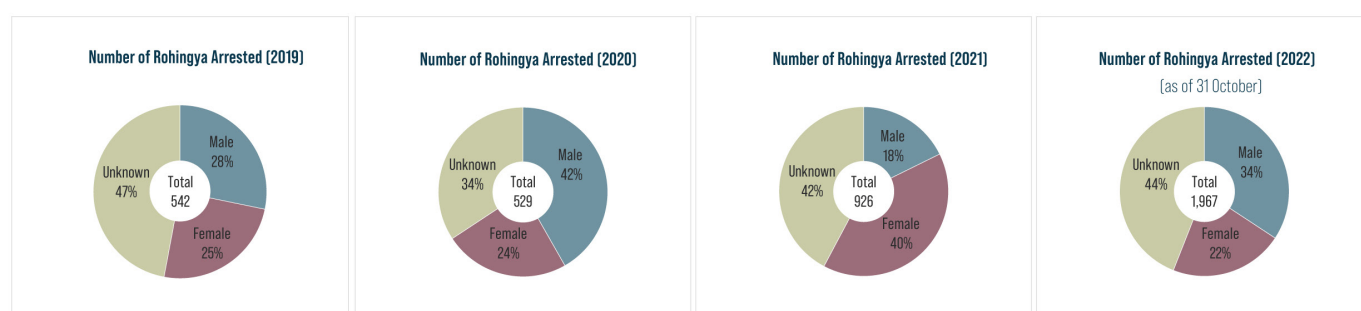
⁵⁸ Interview on file, male, 38, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

Significant numbers of Rohingya people appear to be taking the extreme risks associated with illicit migration. Though comprehensive data is not available on the numbers of Rohingya people departing Myanmar and Bangladesh, one respondent reported that approximately 300–400 Rohingya individuals leave Rathedaung Township every month, and that there are no signs of that number decreasing.⁵⁹ Data is likewise unavailable on Rohingya arrivals to destination countries — most commonly Malaysia, but occasionally Indonesia, India, or Thailand — but tracking by this analytical unit indicates a sharp increase in recent arrests of Rohingya for ‘illegal’ travel within Myanmar. From 1 January – 31 October 2022, this analytical unit tracked reports of 1,967 Rohingya people arrested within Myanmar, and 41 in Thailand. The data suggests that the number of arrests in January–October 2022 was higher than that for the entire year of 2021, and that the number of arrests in May, June, and July of 2022 was the highest recorded over these three months in any year since this analytical unit began tracking data, in 2019.⁶⁰ Indeed, there are regularly 20–30 Rohingya arrests weekly nationwide.⁶¹ These higher arrest numbers could indicate an overall increase in exploitative migration; they could also reflect the higher risks of interception associated with greater reliance on overland travel.⁶² Indeed, higher rates of arrest could point to the decreased ‘success rate’ of exploitative migration operations. In either case, they reflect heightened risks to a significant number of Rohingya victims.

Inducing victims

According to information provided by respondents to this analytical unit, actors involved in exploitative migration schemes typically initiate contact with potential travellers, by approaching a vulnerable Rohingya person or family. They either convince an individual that a better life awaits them on the other end of a proposed journey, or convince men that it would be to their benefit to have one of their female relatives take part in an arrangement — often marriage — in another country.⁶³ Indeed, Myanmar arrest data compiled, investigative reports reviewed, and interviews conducted by this analytical unit demonstrate that, over the past decade, Rohingya sent abroad are often women and girls. Interviews suggest that most of these victims are coerced by their family or community into arrangements with men abroad. Many interviewees told this analytical unit that these women are led to believe such an arrangement is the key to a better, more secure future, with greater opportunities.

Other victims of exploitative migration schemes are men and boys, who may have been induced to travel illegally by the promise of a better livelihood abroad. However, respondents in Malaysia noted that fewer men and boys make the journey now.⁶⁴ In a small number of cases, couples or entire families seek to travel together in hopes of a better life.⁶⁵



⁵⁹ Interview on file, female, 31, Rathedaung Township, August 2022. This analytical unit cannot independently verify this estimate.

⁶⁰ This information is sourced from both traditional media and social media such as Facebook, as well as sources from the ground. The information should not be considered comprehensive.

⁶¹ Interview on file, female, 35, Malaysia, August 2022.

⁶² Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

⁶³ Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe, August 2022.

⁶⁴ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

⁶⁵ "‘Sold Like Fish’: Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015," Fortify Rights, 27 March 2019: <https://www.fortifyrights.org/reg-inv-rep-2019-03-27/>.

Local brokers also induce people to attempt travel by lying about or misrepresenting the journey. Respondents from Bangladesh and Rakhine State reported that the journey abroad takes at least three months, but that brokers consistently lied about the duration (although these lies could vary in magnitude, with some claiming it would take a few days, 15 days, or a month).⁶⁶ In some cases, brokers lie about the means of travel, saying it will be entirely by car when, in fact, victims are forced to walk for days and are simply abandoned if they cannot keep up or continue walking.⁶⁷ In other cases, brokers omit details about the journey,⁶⁸ or say that it is safe when it is not.⁶⁹

Most flagrantly, brokers induce people to travel by lying about the cost. They tell young people in dire economic straits that they do not need to pay until they arrive at their destination,⁷⁰ then extort money from the victims or their families once the journey is underway.⁷¹ Once en route, they demand that people pay, or pay more, if they want to eat or get through checkpoints;⁷² or they threaten harm to the victims if families do not send money (this extortion can involve recording audio of the victims being beaten, which is then sent to the family).⁷³ One respondent explained that, after her son had been told he did not need to pay before travelling, those transporting him called the family of another victim travelling with him and demanded 13,500,000 Myanmar kyat (around 6,468 USD).⁷⁴ One respondent said:

In the past few months, many children from Bazadupa camp and Thet Kae Pyin camp have been trafficked by the brokers.

I know four children from Bazadupa camp [were trafficked], but I do not know how many in total. All the children are under 18 years old and families did not know their children were trafficked by the brokers. The traffickers called the families and threatened to kill the children if the families did not send money.

— 25-year-old female, Sittwe

Respondents gave figures for the cost of exploitative overland migration schemes that ranged from 6–11 million Myanmar kyat (around 2,870–5,270 USD).⁷⁵ Several said costs are broken down by journey leg — from a starting point in Bangladesh or Rakhine State to a staging point in Rathedaung, Rakhine State, from there to Yangon, from Yangon to Karen State, from there into Thailand, and from there into Malaysia — and often paid in instalments corresponding to one or a combination of these steps.⁷⁶ They noted that costs could vary or change partway through the journey: if smugglers or traffickers decided to demand more money from victims' families; if they handed victims over to other traffickers with new terms; or if the travel took longer than expected.⁷⁷

Some Rohingya victims, or their families, find ways to scrape together this money. Some receive money from the promised husband, or from relatives working abroad.⁷⁸ Some borrow money from neighbours or other

⁶⁶ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

⁶⁷ Interview on file, female, 25, Sittwe Township, August 2022.

⁶⁸ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

⁶⁹ Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

⁷⁰ Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022.

⁷¹ Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

⁷² Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

⁷³ Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022.

⁷⁴ Interview on file, female, 70, Minbya Township, August 2022.

⁷⁵ Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

⁷⁶ Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

⁷⁷ Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

⁷⁸ Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022.

community members.⁷⁹ Some sell their houses, lands, livestock, valuables, or other property.⁸⁰

Finally, in addition to the risks and costs of the abusive migration operations to which they have been subjected for over a decade,⁸¹ Rohingya refugees in Cox's Bazar are now vulnerable to new means of exploitation arising from the prevalence and endurance of these operations. In a trend that appears to be on the rise, criminals reportedly approach refugees and say they will deliver people to Rakhine State or Bangladesh, for a fee; they then confuse victims into thinking they have travelled a great distance and just take them to another part of the camp; in some cases, one respondent told this analytical unit, the victims do not immediately understand they have been duped, because their movement, up until this point, has been so limited.⁸²

Routes in use

Once underway, exploitative migration is now dependent mostly or entirely on overland travel.⁸³ Rohingya coming from Bangladesh are typically brought across the border by land, with payments made to enable them to pass the Myanmar police or BGP.⁸⁴ Those escorting and guiding Rohingya en route typically bring them by boat, car, or on foot, or a combination thereof⁸⁵ — depending on their point of origin — to Thamee Hla village in Rathedaung Township, as a staging point, where respondents say onward travel is then facilitated by a member of the AA.⁸⁶ Interviews with Rohingya community members in 2022 suggest Mingalargyi village and Zin Paing Nyar village, in Maungdaw Township, have also become hubs

for exploitative migration operations, as they abut the Bangladesh border. From there, Rohingya individuals travel on foot through forests and mountains to the next staging point, potentially in Sittwe, or by boat to Gwa or Ann.⁸⁷ Next, Rohingya groups are taken to Yangon or Ayeyarwady, and then to Karen State.⁸⁸ From there, they cross into Thailand and travel through the country and into Malaysia.⁸⁹ Those starting out from other parts of Rakhine State, such as Mrauk U Township, follow an itinerary that takes them directly to Sittwe and then onward as described above.⁹⁰

Efforts to bypass checkpoints along these overland journeys may be leading to the use of increasingly dangerous routes. According to a Yangon-based Rohingya organisation, in June, after brokers escorting 98 Rohingya people attempted to elude a SAC checkpoint by using motorbikes to transport the group into the forest, the group was split and attempted to travel on foot over the Bago Yoma mountains; one to two people reportedly died each day of the journey. However, the Rohingya organisation in touch with the brokers lost contact in June. Consequently, the total duration of that journey is unknown. Although at least 19 of the Rohingya individuals involved are understood to have been arrested in Bago Region, the current status of the rest of the group remains unknown.⁹¹ In an incident further highlighting the flow of Rohingya individuals toward Myanmar's eastern borders, in April 2022, SAC forces opened fire on a bus carrying 55 Rohingya people in Karen State, killing two women and seriously wounding two men. The SAC then detained survivors.⁹²

⁷⁹ Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022.

⁸⁰ Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022.

⁸¹ "'Sold Like Fish': Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015," Fortify Rights, 27 March 2019: <https://www.fortifyrights.org/reg-inv-rep-2019-03-27/>.

⁸² Interview on file, male, 27, Cox's Bazar, July 2022.

⁸³ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

⁸⁴ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022.

⁸⁵ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 70, Minbya Township, August 2022.

⁸⁶ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022.

⁸⁷ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022.

⁸⁸ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022.

⁸⁹ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

⁹⁰ Interview on file, female, 70, Minbya Township, August 2022.

⁹¹ Interview on file, male, 54, location withheld, June 2022.

⁹² ထိုင်းနယ်စပ်သို့ သွားရောက်မည့် ရိုဟင်ဂျာများ စီးနင်းလိုက်ပါခဲ့သည့် ခရီးသည်တင်ယာဉ်အား ဂျိမ်းတောကိတ်တွင် မြန်မာစစ်တပ်မှ ပစ်ခတ်ခဲ့ရာ ရိုဟင်ဂျာ အမျိုးသမီး (၂)ဦး သေဆုံး [A passenger car carrying Rohingya to Thai Myanmar border was fired upon by Myanmar military at Jai Bridge gate and two Rohingya women were killed by gunshot], Arakan Express, 14 April 2022: <https://www.facebook.com/theakanexpress/posts/136270582307055> [Burmese language].

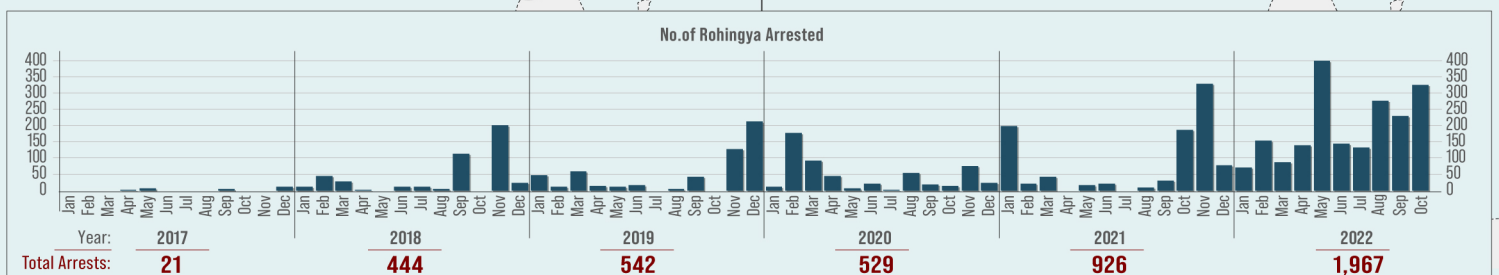
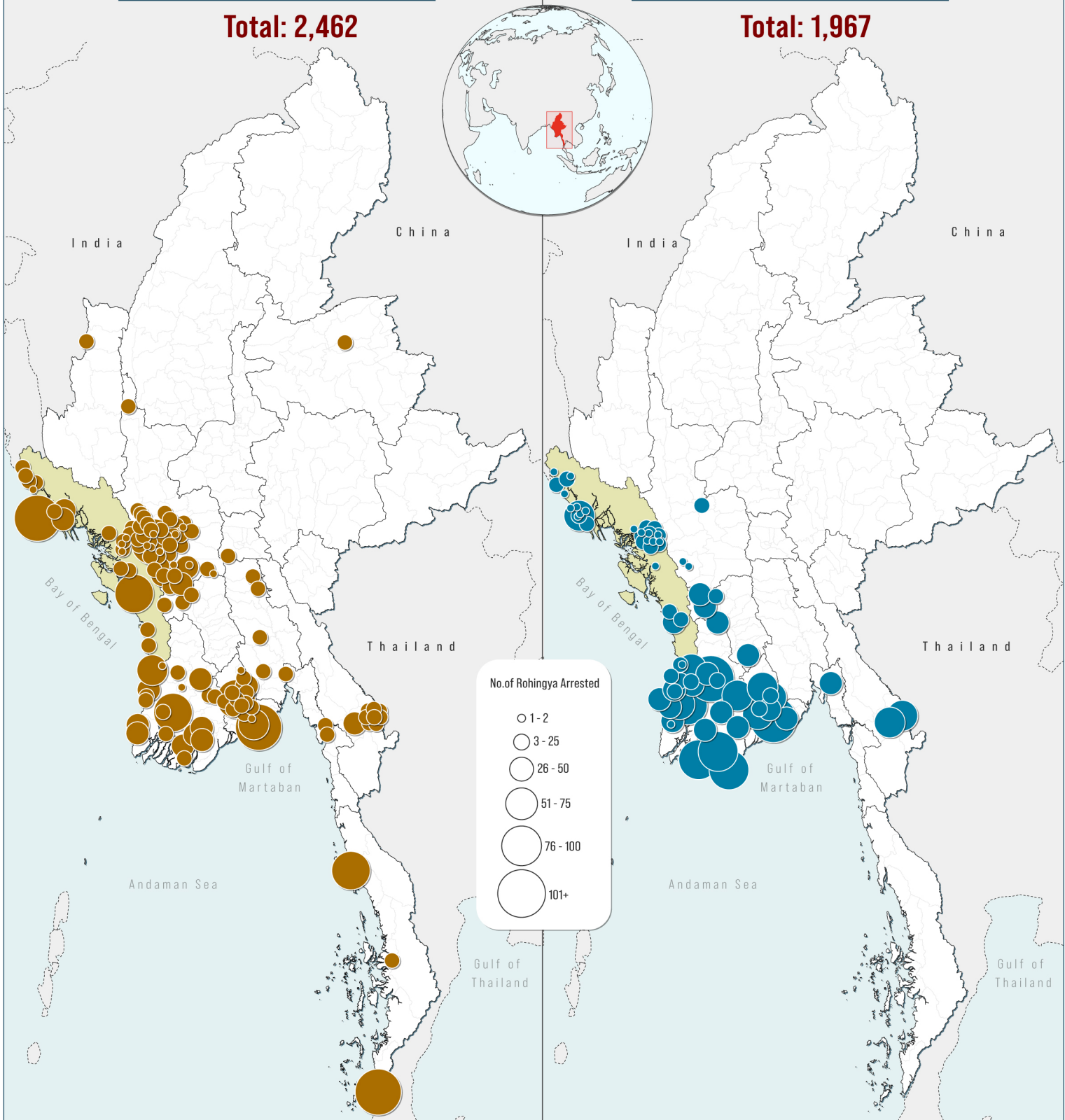
Rohingya Arrested for Unauthorised Travel inside Myanmar

2017 - 2021

Total: 2,462

2022 (as of 31 October)

Total: 1,967



The information on this graphic is sourced from both traditional media and social media such as Facebook including sources from the ground. The information should not be considered comprehensive.

Disclaimer: This product is designed for information purposes only. This map may not show all topographical areas due to scale limitations. Base map data provided by MIMU and copyrighted to MIMU at <http://themimu.info/mimu-terms-conditions>. The accuracy of specific attributes and their geo-locations are manually added and cannot be confirmed.

Respondents noted that some Rohingya people are able to pay more to travel ‘safely’ by avoiding overland routes. In such instances, individuals manage to get an ID card — real or fake — to fly to Yangon, where brokers can help them secure a passport for an international flight.⁹³ However, this is relatively uncommon as the cost is double or triple that of travelling overland.⁹⁴ Success is also not guaranteed: the broker may take the money but not be able, or not even try, to secure an ID for the traveller.⁹⁵ If an ID is acquired, the victim is still in danger of being intercepted and detained at the airport.⁹⁶

Abusive treatment en route and on arrival

Respondents familiar with the conditions of travel for Rohingya people moved along these routes consistently emphasised the prevalence of physical and sexual abuse; deprivation of food, water, and medicine; challenging travel conditions; and the risk of arrest.⁹⁷ They also said that some victims died on the journey, whether from exhaustion, suffocation, or as a result of being shot by the traffickers.⁹⁸ Those charged with guiding Rohingya groups are said to sometimes abandon victims in the forest.⁹⁹ One key informant relayed:

The brokers from Rakhine and Yangon did not sexually abuse women and girls who came with me. But the Burmese brokers in Mae Sot did. The brokers from Yangon and Mawlamyine often beat us if we complained to them to feed us. They did not provide food for

many days and many of us suffered from malnutrition. If we could not walk any longer they beat us.

– 28-year-old male, Malaysia

Previous research into earlier waves of trafficking indicated that local brokers in Thailand had been known to put Rohingya victims into camps, where they kept them while demanding further payments from victims’ family members. Or, they might demand initial payments in Thailand from Rohingya bound for Malaysia, even though they had told victims they would not need to pay anything until they had arrived successfully at their destination.¹⁰⁰ It is unclear whether this practice has outlasted the shift from nautical to overland routes. Research conducted by this analytical unit in September 2022 found that many Rohingya victims are, at least initially, held clandestinely in more densely populated areas of Thailand near the Myanmar border¹⁰¹ relative to the more isolated jungle encampments that served as common holding areas when Rohingya were brought ashore in southern Thailand. This analytical unit has not independently confirmed whether such camps remain in regular use.

Rohingya individuals who reach their intended destination — often Malaysia — still encounter significant challenges. They often cannot access the healthcare they need, including mental health and psychosocial support, following their harrowing journey.¹⁰² Their legal status upon arrival is tenuous and they are often too afraid to go outside to access services.¹⁰³ Although local groups try to help — albeit with limited resources — victims may be too afraid to take advantage of this assistance, fearing arrest or potential social consequences of making their experiences known.¹⁰⁴

⁹³ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox’s Bazar, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

⁹⁴ Interview on file, male, 26, Cox’s Bazar, August 2022.

⁹⁵ Interview on file, male, 62, Pauktaw Township, August 2022.

⁹⁶ Interview on file, male, 26, Cox’s Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

⁹⁷ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022; Interview on file, male, 26, Cox’s Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

⁹⁸ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 70, Minbya Township, August 2022.

⁹⁹ Interview on file, female, 35, Malaysia, August 2022; Interview on file, male, 26, Cox’s Bazar, August 2022.

¹⁰⁰ “‘Sold Like Fish’: Crimes Against Humanity, Mass Graves, and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015,” Fortify Rights, 27 March 2019: <https://www.fortifyrights.org/reg-inv-rep-2019-03-27/>.

¹⁰¹ Interview on file, male, 28, Malaysia, August 2022.

¹⁰² Interview on file, male, 38, Malaysia, August 2022.

¹⁰³ Interview on file, male, 38, Malaysia, August 2022.

¹⁰⁴ Interview on file, male, 38, Malaysia, August 2022.

Rohingya women and girls delivered as brides to men abroad face a particularly daunting set of gendered challenges upon arrival to their destinations. Often told they have been ‘purchased’ by their new ‘husbands,’ Rohingya women and girls endure myriad forms of abuse at the hands of these men once they arrive in destination countries. Respondents tell this analytical unit that many Rohingya women and girls are regularly subjected to physical, sexual, and psychological abuse in their new ‘married’ lives.¹⁰⁵ Those who have been raped by traffickers or others en route face an additional set of challenges upon arrival. The men who had promised to marry them often refuse to do so when they find out about this abuse,¹⁰⁶ if the woman is pregnant, the ‘husband’ may demand she gets an abortion.¹⁰⁷

Rohingya individuals’ lack legal status and vulnerability to arrest in destination countries provide a pretext for their confinement to out-of-sight homes and businesses. As a result, it is relatively easy for local men to perpetrate unseen abuse against their Rohingya ‘wives’. Likewise, Rohingya individuals who manage to pursue livelihoods are also vulnerable to exploitation at work.¹⁰⁸ Malaysian authorities frequently conduct raids in neighborhoods where they know undocumented Rohingya people are living, as well as raids on employers.¹⁰⁹ While there are processes in place for Rohingya individuals to secure formal refugee status in certain locations, there is wide variation in accessibility to these services across the areas where exploitative Rohingya migration schemes are operative. Bangladesh, India, Indonesia, Malaysia, Myanmar, and Thailand are not party to the 1951 Refugee Convention or its 1967 Protocol, so access to formal refugee status is irregular and often highly limited.¹¹⁰ Where processes do exist, they can be extremely challenging to navigate and take years to complete.¹¹¹

Perpetrator profiles

Transnational movement of Rohingya people is conducted by complex, established networks involving larger, international syndicates and local brokers and handlers.¹¹² Respondents said individual brokers and escorts work as part of a larger network, with local actors responsible at each staging point.¹¹³ Those working in Bangladesh and Rakhine State are typically Rakhine or Rohingya.¹¹⁴ Those handling parts of the journey elsewhere in Myanmar are likely to be Burmese, or, at least, are not likely to speak Rakhine or Rohingya languages, but they work with people who can translate if necessary.¹¹⁵ Because these are local actors, communities in Bangladesh and Rakhine State often know the brokers who recruit Rohingya victims or initiate their journeys.¹¹⁶ One respondent noted that, in other parts of Myanmar and in Thailand, there is high turnover among individuals accompanying Rohingya groups, as guides are arrested and replaced.¹¹⁷ While these low-level facilitators are frequently detained, more powerful individuals who profit from these operations at higher levels tend to do so with impunity.

In heavily militarised Rakhine State, where movement of any sort is under high scrutiny, the unimpeded transport of large groups of Rohingya individuals would be impossible without the cooperation of armed actors. In Rakhine State and Bangladesh, respondents understand members of armed entities to play crucial roles in operations¹¹⁸ moving groups of Rohingya across the border and through Rakhine State. It is possible many are acting in an individual capacity, but the scale and degree of organisation suggests that high-ranking members of various armed entities are likely to have knowledge of these operations, if not tacitly condone or actively participate in them. Respondents indicate that the range of armed stakeholders involved is likely to include: members

¹⁰⁵ Interviews on file; See, e.g., “Lured with a happily-ever-after dream, Rohingya girls sold in India,” Reuters, 22 January 2018: <https://jp.reuters.com/article/us-india-trafficking-rohingya/lured-with-a-happily-ever-after-dream-rohingya-girls-sold-in-india-idUSKBN1FB1LD>.

¹⁰⁶ Interview on file, male, 38, Malaysia, August 2022.

¹⁰⁷ Interview on file, male, 38, Malaysia, August 2022.

¹⁰⁸ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

¹⁰⁹ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

¹¹⁰ “Convention Relating to the Status of Refugees,” adopted July 25, 1951, United Nations Treaty Series, vol. 189, p. 137, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtldsg_no=V-2&chapter=5&Temp=mtldsg2&clang=_en.

¹¹¹ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

¹¹² “The Human Trafficking of Rohingya,” MOAS: <https://www.moas.eu/blog-human-trafficking-of-rohingya/>.

¹¹³ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

¹¹⁴ Interview on file, male, 38, Malaysia, August 2022.

¹¹⁵ Interview on file, male, 28, Malaysia, August 2022.

¹¹⁶ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

¹¹⁷ Interview on file, female, 35, Malaysia, August 2022.

¹¹⁸ Interview on file, male, 26, Cox’s Bazar, August 2022; Interview on file, 62, male, Pauktaw, August 2022.

of the AA; the Myanmar military and its affiliated BGP and immigration personnel, who generate fake identification cards to facilitate some Rohingya movement; and criminal gangs. In Bangladesh, these networks may include members of ARSA, the Rohingya Solidarity Organisation (RSO), and other smaller criminal groups.¹¹⁹

Rohingya respondents consistently mentioned the involvement of AA members in, as well as the group's general acquiescence to, exploitative migration operations targeting Rohingya people.¹²⁰ One claimed to have audio recordings of AA soldiers authorising traffickers to move victims through parts of Rakhine State, although this analytical unit has not been able to independently verify this claim.¹²¹ Another respondent said AA members receive a payoff (allegedly 200,000 Myanmar kyat, or around 96 USD) for each Rohingya victim they allow to pass through certain areas.¹²²

Some respondents expressed doubt that armed actors outside Rakhine State, including near the border crossing from Karen State into Thailand, were involved in or accepting of smuggling and trafficking operations. They said escorts took pains to hide Rohingya groups from the Myanmar military and police at checkpoints and elsewhere en route, and that Myanmar military members had shot at and detained Rohingya individuals.¹²³ Interviews conducted by this analytical unit suggest the reality may be more complex; a multitude of armed actors have long been actively engaged in a range of lucrative, illicit cross-border enterprises along the Thai-Myanmar border — particularly armed actors with close ties to the Myanmar military. Among these, certain entities operate as local experts in smuggling all manner of contraband, including, when profitable, human beings. Sources along the border expressed concern to this analytical unit that these actors are now understood to be available for hire for those seeking to move Rohingya people into Thailand.¹²⁴

Resistance actors and humanitarian responders along the Thai-Myanmar border tell this analytical unit that a spike

in Rohingya smuggling and trafficking — or a rise in its visibility, if indeed a drastic increase in activity is already underway — could pose a threat to both the resistance and the emergency response launched from border areas.¹²⁵ Their concern is that if Thailand once again comes under pressure related to human trafficking, this time along its Myanmar border, Thai authorities could seek to avoid a return to the punitive measures Thailand faced in 2014 by responding with a show of force, which could entail scaling up the presence and operations of security personnel in border areas that are crucial to both the Myanmar armed resistance and humanitarian response.¹²⁶ Whatever its impact on Rohingya trafficking and smuggling, such a reaction could place a chokehold on the flow of aid and threaten the security of undocumented and displaced persons on both sides of the border. Citing fears of such a scenario, several actors involved in resistance and response activities expressed interest in training and support with respect to identifying and addressing trafficking, to help address the problem before it reaches a threshold that could trigger formal Thai intervention.¹²⁷ There is some indication the Thai government is already alert to the apparent influx of Rohingya by way of the Myanmar border; some response actors have told this analytical unit that a charity has recently been granted approval to open an office and work specifically on trafficking and related issues from border areas of Thailand; however, this analytical unit has heard conflicting information from actors engaged on these issues and cannot confirm these reports.

Community perceptions

Interviews with respondents suggested that, within Rohingya communities, there is a range of awareness about the dangers of exploitative migration operations. This is likely due in large part to the lack of — and inconsistencies in — information available to them. Reflecting this range: one respondent said many people were uneducated about and did not really understand the risks;¹²⁸ another expressed pain that her son was on

¹¹⁹ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, male, 26, Cox's Bazar, August 2022.

¹²⁰ Interview on file, male, 38, Malaysia, August 2022; Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022.

¹²¹ Interview on file, male, 38, Malaysia, August 2022.

¹²² Interview on file, female, 31, Rathedaung Township, August 2022.

¹²³ Interview on file, male, 28, Malaysia, August 2022; Interview on file, female, 35, Malaysia, August 2022.

¹²⁴ Interviews on file, demographic data omitted, Thai-Myanmar border, September 2022.

¹²⁵ Interviews on file, demographic data omitted, Thai-Myanmar border, September 2022.

¹²⁶ Interviews on file, demographic data omitted, Thai-Myanmar border, September 2022.

¹²⁷ Interviews on file, demographic data omitted, Thai-Myanmar border, September 2022.

¹²⁸ Interview on file, female, 31, Rathedaung Township, August 2022.

this dangerous journey and that she had not known of the dangers before he left.¹²⁹

There is a serious concern that, while they may be generally aware of the high-risk nature of journeys to third countries, many Rohingya community members may not be aware of specific dimensions of the risks involved. For example, while they may know that those who attempt to reach Malaysia could be intercepted and detained by security forces en route, they may not be cognisant of the dangers posed by the individuals ‘helping’ Rohingya groups along the way. Respondents’ tendency to emphasise external threats, such as interception by state or de facto forces, suggests that Rohingya people may be more mindful of these than of the risks posed by the individuals facilitating their movement. For instance, one respondent explained to this analytical unit that overland travel is considered particularly dangerous, due to the risk of arrest:

Some families are concerned about the arrest of SAC during the journey and think they should choose a safer way to leave the camp.

– 26-year-old male, Cox’s Bazar

Indeed, in discussions with this analytical unit, respondents raised potential arrest much more frequently than potential abuse en route as a known threat facing Rohingya people attempting to reach Malaysia and elsewhere. The, at least partial, awareness of these journeys’ significant risks also illustrates the desperation of those undertaking them and raises concerns that Rohingya victims engage with brokers under duress. Indeed, one respondent said that people disregard the risks, or cannot see them clearly, because their situation in Bangladesh or Rakhine State is so unbearable.¹³⁰ In June 2022, a Rohingya respondent in Bangladesh noted:

People know that they might get arrested and die during the journey, but they think if they are lucky they can find a better life in Malaysia.

– 37-year-old male, Bhasan Char

Rohingya people in Rakhine State and Bangladesh told this analytical unit that community members were willing to allow family members and friends to take part in exploitative migration schemes because they focused on the perceived advantages — a decreased financial burden and a potential source of income — of their daughters or sons moving abroad. One respondent said that even some people who were fully aware of the risks desired to make the journey, and set out despite knowing that previous victims had to walk through forests for days, faced hardship upon arrival in Malaysia, and were arrested, beaten, extorted, and raped.¹³¹

Several factors deprive Rohingya community members of the knowledge required to make an informed decision about engaging with traffickers. First, due in large part to widespread internet blackouts in Rakhine State¹³² and restrictions on Rohingya people’s ability to use SIM cards in Myanmar,¹³³ many do not have access to social media or other sources of information shared by trafficking victims.¹³⁴ Second, according to one respondent, Rohingya communities in Bangladesh and Rakhine State do not trust those who have arrived in Malaysia and elsewhere, because they think those who have travelled successfully don’t want others to go.¹³⁵ Third, respondents noted that trafficking victims are often unwilling to share their experiences, particularly regarding rape and other forms of sexual violence, for fear of stigma, negative perceptions, and potential consequences for their marriages.¹³⁶ While this reticence is understandable, it also means people considering making these dangerous journeys are missing important information about the risks involved. Finally, escorts confiscate Rohingya victims’ phones once the journey is

¹²⁹ Interview on file, female, 70, Minbya Township, August 2022.

¹³⁰ Interview on file, male, 62, Pauktaw Township, August 2022.

¹³¹ Interview on file, male, 26, Cox’s Bazar, August 2022.

¹³² “Internet blackout in Myanmar’s Rakhine enters its second year,” Al Jazeera, 21 June 2020: <https://www.aljazeera.com/news/2020/6/21/internet-blackout-in-myanmars-rakhine-enters-its-second-year>.

¹³³ “Myanmar: UN Human Rights Council must urge newly-elected government to prioritise legal reform to guarantee the right to freedom of expression,” Article 19, 23 December 2020: <https://www.article19.org/wp-content/uploads/2020/12/2020.12.23-HRC-Briefing-2021-FINAL.pdf>.

¹³⁴ Interview on file, female, 25, Sittwe Township, August 2022.

¹³⁵ Interview on file, male, 26, Cox’s Bazar, August 2022.

¹³⁶ Interview on file, male, 26, Cox’s Bazar, August 2022.

underway.¹³⁷ Respondents said no victims call family members or other contacts to give updates on the progress of their journey — even to let them know that Rohingya individuals have died or been arrested.¹³⁸ In addition to compounding the anxieties of family members, these communication gaps contribute to the lack of information available to those considering travel.

Respondents said community members have tried to share their stories with neighbours to discourage or prevent them from involvement in dangerous exploitative migration operations.¹³⁹ Respondents also told this analytical unit that some Rohingya religious leaders have tried to discourage community members from undertaking these journeys. In March 2022, one respondent said:

Religious leaders are now preaching to the community every Friday not to force their daughters to travel to Malaysia.

– 32-year-old male, Buthidaung

However, efforts to slow these criminal, coercive operations via official channels have been stymied by powerful actors' lack of concern. One respondent said religious leaders are afraid to speak out too loudly on the topic, lest those involved call on the AA to punish them.¹⁴⁰ Another said people don't bother to report those operating dangerous migration schemes to the SAC police because the police require bribes before they will take action — and, in the past, police have released traffickers after only a few months of arrest. The newly free traffickers reportedly went straight back into business, so the costs of involving the police are thought to outweigh the benefits.¹⁴¹

Forecast

The flow of Rohingya people outward from Rakhine State and Bangladesh through clandestine, illicit networks is likely to continue, and to increase in scale. There has been no alleviation of the push factors compelling Rohingya people to risk escape via abusive migration schemes. Indeed, these factors have only grown in prevalence and severity since the coup. In 2021, the same military that stands accused of perpetrating a genocide¹⁴² against Rohingya people wrested power from the elected government; it remains in power as the SAC, further hampering repatriation efforts for those in Bangladesh and jeopardising the security of those in Myanmar. The SAC has suggested it will move forward with repatriations of Rohingya people currently living in Bangladesh, but this is unlikely to affect trafficking activity. Firstly, because repatriation is not likely in the short term — for years, the Myanmar military has refused to meaningfully engage with Bangladesh to facilitate repatriation.¹⁴³ Since the coup, SAC leader Min Aung Hlaing has said Myanmar would not repatriate Rohingya people because they are not citizens of the country.¹⁴⁴ There have been no reports of the SAC cooperating with the AA on repatriation (in fact, rising tensions make cooperation seem increasingly unlikely) and it is unclear how repatriation efforts could move forward, in practice, without at least tacit United League of Arakan/AA approval, given the group's level of control and influence on the border and across the state. Secondly, even in the unlikely case of a formal repatriation, the military is unlikely to return Rohingya people to their places of origin, and it has made no suggestion that the harrowing conditions pushing Rohingya toward exploitative migration schemes will be alleviated.

¹³⁷ Interview on file, female, 25, Sittwe Township, August 2022.

¹³⁸ Interview on file, male, 26, Cox's Bazar, August 2022; Interview on file, female, 25, Sittwe Township, August 2022; Interview on file, female, 70, Minbya Township, August 2022; Interview on file, female, 31, Rathedaung Township, August 2022; Interview on file, male, 62, Pauktaw Township, August 2022.

¹³⁹ Interview on file, female, 25, Sittwe Township, August 2022.

¹⁴⁰ Interview on file, female, 31, Rathedaung Township, August 2022.

¹⁴¹ Interview on file, female, 25, Sittwe Township, August 2022.

¹⁴² See "Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar): Application Instituting Proceedings and Request for Provisional Measures," International Court of Justice, 11 November 2019: <https://www.icj-cij.org/public/files/case-related/178/178-20191111-APP-01-00-EN.pdf>.

¹⁴³ "Bangladesh Hands Over List of 492,000 Rohingya to Myanmar," Irrawaddy, 20 March 2020: <https://www.irrawaddy.com/news/burma/bangladesh-hands-list-492000-rohingya-myanmar.html>.

¹⁴⁴ "Myanmar junta leader casts doubt on return of Rohingya," Reuters, 24 May 2021: <https://www.reuters.com/world/asia-pacific/myanmar-junta-leader-casts-doubt-return-rohingya-2021-05-24/>.

Legal Framework

Overview, sources of law

Human trafficking and smuggling are crimes defined and prohibited under international law. It remains a subject of legal debate precisely whether and how human trafficking is proscribed by international criminal law (ICL), which is “the branch of international public law that defines and covers typically the so-called core crimes, such as genocide, war crimes, crimes against humanity and aggression.”¹⁴⁵ However, both human trafficking and smuggling are clearly explained and banned by transnational criminal law, which is the body of international law that pertains to “crimes of international concern” or so-called treaty crimes.¹⁴⁶

International criminal law

Neither human smuggling nor trafficking is among the core crimes defined by the leading source of ICL — the Rome Statute of the International Criminal Court (ICC). However, legal scholars assert that human trafficking can nonetheless be understood as being among the proscribed acts that constitute crimes against humanity when committed in furtherance of a widespread or systematic attack against a civilian population “pursuant to or in furtherance of a state or organizational policy.”¹⁴⁷ Indeed, as defined by the Rome Statute, the criminal act of “enslavement” as a crime against humanity entails the exercise of ownership powers over a person, “and includes the exercise of such power in the course of trafficking in persons, in particular women and children.”¹⁴⁸ Based on this provision, as well as language pertaining to “other

inhumane acts,” scholars contend there is legal basis on which the ICC could prosecute human trafficking cases. However, the inclusion of trafficking as a crime against humanity is not settled law, and the ICC has never heard a human trafficking case. For these reasons, and because the Rome Statute does not offer a clear definition of trafficking in persons or human smuggling, ICL is of limited utility in framing and distinguishing these crimes within the scope of international law.

Transnational criminal law

The best available and most widely endorsed definitions of the crimes of human trafficking and smuggling are found in transnational criminal law. The Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children¹⁴⁹ (Trafficking Protocol) and the Protocol against the Smuggling of Migrants by Land, Sea and Air¹⁵⁰ (Migrant Smuggling Protocol) are specifically concerned with the crimes of human trafficking and smuggling. The Trafficking Protocol expressly defines and prohibits human trafficking, while the Migrant Smuggling Protocol does the same with respect to human smuggling. Together, these make up two of the three protocols known as the Palermo Protocols,¹⁵¹ which supplement the United Nations Convention against Transnational Organized Crime.¹⁵²

These Palermo Protocols function as the leading, and most widely ratified, sources of international law with respect to the prohibitions on human trafficking and smuggling.¹⁵³ Both were adopted by the UN General Assembly in November 2000; they entered into force

¹⁴⁵ “Firearms Module 5: Key Issues: International public law and transnational law,” UNODC: <https://www.unodc.org/en/firearms/module-5/key-issues/international-public-law-and-transnational-law.html>.

¹⁴⁶ “Firearms Module 5: Key Issues: International public law and transnational law,” UNODC: <https://www.unodc.org/en/firearms/module-5/key-issues/international-public-law-and-transnational-law.html>.

¹⁴⁷ “Taking Down One of the World’s Largest and More Profitable Criminal Industries: Trafficking in Persons (Part I),” Harvard International Law Journal: <https://harvardilj.org/2021/05/taking-down-one-of-the-worlds-largest-and-more-profitable-criminal-industries-trafficking-in-persons-part-i/>.

¹⁴⁸ “Rome Statute of the International Criminal Court,” opened for signature 17 July 1998, United Nations Treaty Series, vol. 2187, p. 3, [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-10&chapter=18&clang=en,art.7\(2\)\(c\)](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-10&chapter=18&clang=en,art.7(2)(c)).

¹⁴⁹ “Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” opened for signature 12 December 2000, United Nations Treaty Series, vol. 2237, p. 319, Doc. A/55/383, https://treaties.un.org/Pages/ViewDetails.aspx?src=ind&mtsg_no=XVIII-12-a&chapter=18.

¹⁵⁰ “Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime,” opened for signature 12 December 2000, United Nations Treaty Series, vol. 2214, p. 507, Doc. A/55/383, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-b&chapter=18.

¹⁵¹ The third is known as the Firearms Protocol; it pertains to the production and transport of firearms. “Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime,” opened for signature July 2, 2001, United Nations Treaty Series, vol. 2326, p. 208, Doc. A/55/383/Add.2, https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtsg_no=XVIII-12-c&chapter=18.

¹⁵² “United Nations Convention against Transnational Organized Crime and the Protocols Thereto,” UNODC: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

¹⁵³ While the Council of Europe Convention on Action against Trafficking in Human Beings and its Explanatory Report (Warsaw, 16.V.2005) is another leading source of transnational criminal law with respect to trafficking in persons, it is not considered here due to its more limited geographic scope and the fact that the Convention has not been ratified by southeast Asian nations affected by the trafficking and smuggling of Rohingya persons. For the text of the Convention, please see: <http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168008371d>.

in 2003 and 2004, respectively.¹⁵⁴ Notably, Bangladesh, India, Indonesia, Malaysia, Myanmar, and Thailand are among the 178 states that are party to the Trafficking Protocol;¹⁵⁵ India, Indonesia, and Myanmar are also party to the Migrant Smuggling Protocol.¹⁵⁶ Thailand has signed but not ratified the Migrant Smuggling Protocol,¹⁵⁷ although it has expressed its intention to do so; if this intention is realised, the protocol could prove influential in guiding the country's response to migrant smuggling.¹⁵⁸ As the protocols proscribing human trafficking and smuggling both supplement the UN Convention against Transnational Organised Crime, they serve a particular purpose within the space of transnational criminal law, and all ratifying states are obligated to incorporate their terms into national legislation.

Trafficking in persons

As defined by the Trafficking Protocol, the crime of trafficking in persons comprises three constituent elements: an act; a means; and a purpose.¹⁵⁹ Where victims are under the age of 18, 'trafficking' does not require any particular means; the act and the purpose are sufficient to establish the crime.¹⁶⁰

First, the 'act' must include the "recruitment, transportation, transfer, harbouring, or receipt of persons."¹⁶¹ Respondents throughout Bangladesh and Rakhine State told this analytical unit that local actors and transnational syndicates regularly recruit and transport Rohingya people. Rohingya individuals who had reached Malaysia informed this analytical unit that they had been transported, transferred, and harboured by a range of actors over multi-month journeys; respondents also indicated that women and girls were delivered to awaiting men in Malaysia.¹⁶² Based on these accounts, it appears the act

requirement of trafficking is frequently fulfilled by those who recruit Rohingya individuals, move them abroad, and take custody of them upon arrival in other countries.

Where victims are adults, the second necessary element of trafficking is the 'means;' this requirement does not apply in cases where the victims are children.¹⁶³ Where victims are above the age of 18, the means of trafficking must include "the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person".¹⁶⁴ As described by respondents taking part in this research, powerful individuals prey on Rohingya victims' vulnerability, promising them a better life elsewhere while concealing the risks of the journey. This inducement would satisfy the means element of trafficking, as it involves deception, fraud, and abuse of power and vulnerability. In other situations, respondents emphasised that brokers simply instrumentalise the power of male family and community leaders within deeply patriarchal environments to compel less powerful persons — especially women — to head abroad.¹⁶⁵ In such instances, brokers' use of deception and incentives to convince Rohingya men to use their power to send women under their control to Malaysia or elsewhere would likewise fulfil the means component of trafficking.

The final component of the crime of trafficking is the purpose — exploitation — which "shall include, at a minimum, exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (emphasis added).¹⁶⁶ As described by respondents to this research, Rohingya

¹⁵⁴ The Trafficking Protocol entered into force in December 2003; the Migrant Smuggling Protocol entered into force in January 2004. Trafficking Protocol, https://treaties.un.org/Pages/ViewDetails.aspx?src=ind&mtsg_no=XVIII-12-a&chapter=18; Smuggling Protocol, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-b&chapter=18.

¹⁵⁵ Trafficking Protocol, https://treaties.un.org/Pages/ViewDetails.aspx?src=ind&mtsg_no=XVIII-12-a&chapter=18.

¹⁵⁶ Smuggling Protocol, https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtsg_no=XVIII-12-b&chapter=18.

¹⁵⁷ Ibid.

¹⁵⁸ Kohnwilai Teppunkoonngam, "Legal Measures to Suppress the Smuggling of Migrants by Land," *Journal of Politics and Governance* vol. 10, no. 2 (2020), pp. 104–23.

¹⁵⁹ Trafficking Protocol, Article 3; see also "Smuggling and Trafficking Human Beings," Human Rights Watch, 7 July 2015: <https://www.hrw.org/news/2015/07/07/smuggling-and-trafficking-human-beings>.

¹⁶⁰ Trafficking Protocol, Articles 3(c) and 3(d).

¹⁶¹ Trafficking Protocol, Article 3; see also "Smuggling and Trafficking Human Beings," Human Rights Watch, 7 July 2015: <https://www.hrw.org/news/2015/07/07/smuggling-and-trafficking-human-beings>.

¹⁶² See Ongoing Operations section above.

¹⁶³ Trafficking Protocol, Article 3(c)–(d).

¹⁶⁴ Trafficking Protocol, Article 3; see also "Smuggling and Trafficking Human Beings," Human Rights Watch, 7 July 2015: <https://www.hrw.org/news/2015/07/07/smuggling-and-trafficking-human-beings>.

¹⁶⁵ Confidential interviews on file.

¹⁶⁶ Trafficking Protocol, Article 3(a).

women and girls are sent abroad as ‘wives’ to ‘husbands’ that typically have not been chosen by the women or girls in question, and are instead preselected by their male relatives or community leaders in Myanmar and Bangladesh, on the basis of financial incentives. In these situations, respondents indicate that Rohingya women and girls are expected to provide sexual services, reproductive labour, and domestic services to awaiting men in Malaysia and elsewhere.¹⁶⁷ When Rohingya women and girls are sent abroad in order to perform compulsory sexual, reproductive, and domestic service, this fulfils the third component of trafficking as it entails a purpose of sexual exploitation and, potentially, forced labour or servitude. As respondents indicate that Rohingya boys and men are typically sent abroad to provide exploitative labour, including forced labour and labour performed in situations of slavery, servitude, or similar practices,¹⁶⁸ these situations would likewise satisfy the purpose requirement of trafficking. Notably, a victim’s consent to exploitation is considered irrelevant in situations where any of the means described above are used.¹⁶⁹

In light of these patterns, the experiences of Rohingya individuals attempting to complete high-risk journeys from Bangladesh and Myanmar to Malaysia appear to satisfy all three components required to indicate that they have been trafficked, as a matter of law. Their experiences further illustrate that trafficking is a composite crime, carried out by sprawling, and often informal, networks. A broker in Cox’s Bazar who is inducing Rohingya to travel may simply be paid per person and remain unaware of the ultimate intended exploitation. Likewise, those who harbour and accompany Rohingya groups at different stages of their journeys may have limited visibility of the other components of the crime. However, each actor fulfils one or more of the three elements of trafficking laid out under the Trafficking Protocol, and the involvement of each is facilitated by those with greater knowledge of the crime. Thus, based on the findings of this research, it appears that many — perhaps most — instances of successful and attempted Rohingya movement from Myanmar and Bangladesh to Malaysia meet the criteria of human trafficking as proscribed by international law.

Migrant smuggling

Like the Trafficking Protocol, the Migrant Smuggling Protocol is intended to improve efforts to prevent and respond to dangerous and illicit migration schemes, including by protecting victims and bolstering cooperation among states.¹⁷⁰ Under the Migrant Smuggling Protocol, migrant smuggling consists of “the procurement ... of the illegal entry of a person into a [state] of which the person is not a national or a permanent resident”, effected “in order to obtain, directly or indirectly, a financial or other material benefit”.¹⁷¹

Fewer components are required to establish the crime of smuggling than that of trafficking. The first element of the crime is the facilitation of unlawful entry for a person into a state where that person is not a citizen or permanent resident. So long as there is an unlawful border crossing facilitated by another person, this element is fulfilled. In the case of Rohingya individuals, who are not recognised as citizens or permanent residents by any state and lack the legal documents to comply with immigration formalities, this element would be met whenever one or more persons facilitates their movement across an international boundary, including the border from Bangladesh to Myanmar, or from Myanmar to Thailand, and onwards to any other country.

Besides the actual facilitation of illegal entry, migrant smuggling requires only that such facilitation be provided “in order to obtain ... financial or other material benefit.” Thus, as long as those enabling the movement of Rohingya individuals are doing so with the aim of receiving a payment or other concrete reward, this element would be fulfilled. In the instances described by respondents to this research, where brokers demanded and received a range of payments from Rohingya individuals in exchange for facilitating their movement, this element appears to be fulfilled in all cases shared with this analytical unit.

Because the exploitative migration schemes used to facilitate the movement of Rohingya individuals from Bangladesh and Myanmar onward to Thailand, Malaysia, and other countries appear to meet the two criteria of migrant smuggling as defined by the Migrant Smuggling

¹⁶⁷ Confidential interviews on file.

¹⁶⁸ Confidential interviews on file.

¹⁶⁹ Smuggling Protocol, Article 3(b).

¹⁷⁰ Smuggling Protocol.

¹⁷¹ Smuggling Protocol, Article 3(a).

Protocol, those responsible for these abusive practices could likely be prosecuted for the crime of migrant smuggling in instances where it may not be possible to show fulfilment of the additional requirements of trafficking.

Response Implications

Adoption of a rights-based approach

While transnational criminal law best defines and offers guidance for accountability efforts with respect to human trafficking and smuggling, criminal law is, by design, narrow in scope; at the national level, states define and proscribe illicit acts as necessary to enable the prosecution and punishment of those who disrupt the smooth functioning of society — without placing an unmanageable burden on states themselves to expend resources on an impossibly high number of offenders or offences. At the supranational level, criminal law is even more narrow in scope; ICL is based in part on custom as well as on treaties, while transnational criminal law is rooted in treaties drafted and signed by states — actors that typically seek to avoid curtailing their own sovereignty, overburdening their courts, and imposing upon themselves the responsibility to intervene in any situation where they might otherwise consider it against their interests to do so. While both ICL and transnational criminal law exist to enable accountability for serious crimes, their narrow scope and carefully restrictive treaty wording are intended to avoid triggering an unmanageable burden for states.

In part to avoid overburdening states or compelling them to act where doing so may not be seen as in their political interest, the crime of trafficking in persons is narrowly construed. In contrast to the lesser offence of migrant smuggling, which requires only a means and an act, human trafficking comprises an additional element: the specific intent of exploitation. Besides protecting the interests of states, the requirement of specific intent is a means to protect the rights of those suspected and accused of crimes punishable with severe sentences.

Specific intent tends to be required as an element of the most serious crimes in any body of law, including, for example, murder as defined by national legal systems¹⁷² and genocide¹⁷³ within international criminal law. A requirement of specific intent helps ensure that prosecution and punishment of such offences will be limited to those most responsible, who acted with precise, deliberate, and malicious intentions. The strict language of the Trafficking Protocol relative to the Smuggling Protocol is thus a means to safeguard the interests of states and protect the rights of suspected and accused criminal offenders; it should not be construed as a tool to limit the protection of fundamental rights of individual victims of serious international crimes.

In contrast to the limited scope of criminal law, international human rights law is grounded in the principle of universality;¹⁷⁴ it is broad in scope¹⁷⁵ and inclusive in applicability. While criminal law avoids presuming the guilt of those who may be perpetrating serious crimes, human rights law calls for the respect, protection and fulfilment of the rights of all persons, especially those most vulnerable — including survivors of serious abuses, such as those experienced by the Rohingya victims of exploitative migration schemes. While international and transnational criminal law were not envisioned to — and do not — function as the primary basis for the provision of support to survivors of grave rights violations, international human rights law was and does. It is thus an appropriate tool for guiding efforts of international actors in terms of framing and responding to the situation of Rohingya individuals subjected to exploitative migration schemes.

Taking a rights-based approach to the crisis of dangerous, clandestine, and abusive Rohingya movement requires framing the issue in a manner that best recognises and endeavours to protect the rights of the Rohingya people involved. To do so, the international community must shift its focus away from the criminal conduct of those running exploitative migration schemes and allow it to rest, instead, on the harm experienced by the Rohingya victims.

¹⁷² See, e.g., the legal guidance produced by the Crown Prosecution Service explaining that within the United Kingdom, the crime of murder requires “intention to kill or cause grievous bodily harm.” “Homicide: Murder or Manslaughter,” Legal Guidance, Violent Crime, the Crown Prosecution Service, 9 September 2022: <https://www.cps.gov.uk/legal-guidance/homicide-murder-and-manslaughter>.

¹⁷³ See Rome Statute, Article 6, defining “genocide” as any of a series of acts, “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such”; this language requiring the specific “intent to destroy” is copied from the “Convention on the Prevention and Punishment of the Crime of Genocide,” adopted December 9, 1948, United Nations Treaty Series, vol. 78, p. 277, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-16&chapter=4&clang=_en#1.

¹⁷⁴ See, e.g., United Nations General Assembly Resolution 217, Universal Declaration of Human Rights, preamble and art. 1, December 10, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

¹⁷⁵ See treaties defining and protecting a wide range of human rights under international law, e.g., “International Covenant on Civil and Political Rights,” opened for signature 19 December 1966, United Nations Treaty Series, vol. 999, p. 171, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-4&chapter=4&clang=_en; “Convention on the Rights of the Child,” opened for signature 20 November 1989, United Nations Treaty Series, vol. 1577, p. 3, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-11&chapter=4&clang=_en; “Convention on the Elimination of All Forms of Discrimination against Women,” opened for signature 1 March 1980, United Nations Treaty Series, vol. 1249, p. 13, https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtsg_no=IV-8&chapter=4&clang=_en.

In this way, the specific intentions and actions of criminals are de-emphasised and the lived experiences of Rohingya victims are placed at the centre of analysis and response.

What's in a name: Trafficking victims or smuggled migrants?

Under the Palermo Protocols, victims of human smuggling are protected from prosecution, but entitled to few other protections as a matter of law.¹⁷⁶ Victims of human trafficking, on the other hand, are entitled to an expansive set of protections.¹⁷⁷ Because of this critical distinction, a framing that seeks to afford the maximum degree of protection to vulnerable persons would consider all Rohingya subjected to abusive migration schemes to be victims of human trafficking, as a matter of default assumption. On this assumption, Rohingya intercepted en route to or on arrival in Malaysia or other countries should not be detained, punished, or subjected to abuse or other mistreatment on suspicion of 'illegal migration'; they should be treated as victims of human trafficking unless or until it is demonstrated they do not meet the criteria of persons who have been trafficked. As trafficking victims, Rohingya individuals would be entitled to a range of services, including counselling, legal support, appropriate housing, "medical, psychological and material assistance" and "employment, educational and training opportunities."¹⁷⁸ Instead, Rohingya subjected to exploitative migration schemes are more frequently referred to as 'migrants', in media reports and elsewhere. Use of the term 'migrants' instead of 'trafficking victims' serves to deprive Rohingya survivors of rights and protection, or to justify their deprivation of the same.

Part of the confusion around the use of the terms 'trafficking victim' and 'smuggled migrant' is linked to the International Organisation for Migration's use of the general term 'migrant'. As of January 2022, IOM found there were approximately 1 billion "migrants" moving around the world, meaning that "more people are on the move today than at any other time in recorded history."¹⁷⁹ It is important to note that the IOM's definition of 'migrant' is exceptionally broad, applying to:

any person who is moving or has moved across an international border or within a State away from his or her habitual place of residence, regardless of (1) the person's legal status; (2) whether the movement is voluntary or involuntary; (3) what the causes for the movement are; or (4) what the length of the stay is. IOM concerns itself with migrants and migration-related issues and, in agreement with relevant States, with migrants who are in need of international migration services.¹⁸⁰

Use of this definition enables the IOM to avoid making any potentially politically loaded or controversial distinction between refugees, asylum seekers, trafficking victims, and others who would be entitled to protected status under international law. Opting to use these more precise terms could raise implications that states have a legal obligation to protect particular individuals at risk; states unwilling to afford such protections could respond by blocking IOM presence or activities in their territory, and could hinder IOM's efforts to provide services to all people on the move. The calculated choice by the IOM to use the term 'migrants' thus serves to support the IOM in the fulfilment of its own mandate; however, it does not alter the precise legal status of refugees, asylum seekers, trafficking victims, or others entitled to specific protection under international law.

Other actors and entities opting not to adopt a default assumption that many or most Rohingya subjected to exploitative schemes are victims of human trafficking could likewise be doing so in order to avoid placing an unsupportable burden on states in terms of upholding their treaty obligations to conduct investigations, arrest and try perpetrators, and protect and provide assistance to victims.¹⁸¹ If a sizeable proportion of the 1 billion 'migrants' identified by the IOM as of January were assumed to be trafficking victims, states would lack sufficient resources to respond in line with the provisions of the Trafficking Protocol. This reality, in combination with political and economic dynamics across many contexts, contributes to a strong preference among states to assume those seeking to enter their territories are simply 'migrants', unless and until entitlement to a higher protection status is proven.

¹⁷⁶ Smuggling Protocol, Article 16.

¹⁷⁷ Trafficking Protocol, Articles 6, 7, 8.

¹⁷⁸ Trafficking Protocol, Article 6(3)

¹⁷⁹ IOM Movements, 28 January 2022, p. 1, <https://publications.iom.int/books/iom-movements-2021>

¹⁸⁰ IOM Movements, p. 4.

¹⁸¹ Trafficking Protocol, Article 6.

Programming priorities

Rohingya people in Rakhine State and in refugee camps in Bangladesh face serious security threats and impediments to living dignified lives. The refusal of successive (and parallel) Myanmar authorities to recognise Rohingya people's citizenship and rights, the impediments to their repatriation, and the myriad abuses perpetrated against them because of these factors make Rohingya people extremely vulnerable to abuses by state and nonstate actors. Lack of livelihood opportunities, healthcare, education, and funds to meet even basic needs make daily life challenging. For women and girls, in particular, additional vulnerabilities and disenfranchisement make staying in their current situations a devastating prospect. Responders should expand programming for Rohingya communities in Bangladesh and Rakhine State in order to improve living conditions and soften the impact of the factors pressuring Rohingya people into exploitative migration schemes.

Humanitarian responders should take stock of the realities of trafficking and the potential tools with which they can mitigate associated harms. Rohingya women and girls reportedly face a range of serious abuses over the course of their journeys from Bangladesh and northern Rakhine State. This analytical unit has received reports of widespread rape and sexual violence, physical violence, and other abuses. With judicial recourse not yet available to Rohingya SGBV survivors, immediate remote interventions should be planned and carried out to provide urgent support to survivors while working towards building community capacity for justice for gender crimes. Additionally, smuggled and trafficked women arrested by Myanmar authorities and sentenced to burdensome prison terms remain at high risk of further abuse while in custody; greater resources should be allocated to local responders for the provision of crucial support services — including legal and psychosocial support — to these women while in prison and upon release into their home communities.

Finally, humanitarian responders should address gender- and age-specific concerns. Some Rohingya subjected to high-risk journeys are under the age of 18, drawing attention to the issue of early and forced marriage in Rohingya communities, as well as the lack of educational opportunities available to Rohingya children and related reliance on child labour. While further research could help responders to identify and address a possible escalation in the trafficking of children for the purposes of early and forced marriage, proactive measures should be taken to increase Rohingya communities' understanding of international prohibitions on early and forced marriage,

as well as to raise awareness of the harmful impacts and interrelated abuses of such relationships — including rape, other forms of sexual violence, physical violence, and forced pregnancy. Greater support to nonformal educational programming and awareness raising about the harmful impacts of child labour could also help deter parents from attempting to send male children abroad for income generation purposes.

Recommendations

1. **Adopt a rights-based approach to the ongoing crisis of Rohingya migration by assuming all Rohingya attempting to reach third countries to be trafficking victims until proven otherwise, in order to facilitate the maximum protection of Rohingya human rights and the greatest possible support to Rohingya individuals involved in exploitative migration schemes.**
2. **Expand protection programming, including activities focused on prevention and responses to SGBV and the risks of migrant smuggling and human trafficking — with emphasis on the gendered harms of both. Increased psychological support services should be made immediately available to Rohingya communities in Bangladesh and Rakhine State.**
3. **Enhance and increase protection programming to be delivered remotely through community members in order to raise awareness of, and improve responses to, abuses that pose critical risks to Rohingya individuals on both sides of the Rakhine State–Bangladesh border, including: human trafficking, sexual and gender-based violence, child abuse, and child marriage.**
4. **Scale up education, livelihood assistance, and other programming that can be delivered remotely through community members to improve conditions for Rohingya people in Bangladesh and Rakhine State, in order to decrease push factors driving Rohingya toward exploitative migration schemes.**
5. **Plan and implement immediate remote interventions to provide urgent support to survivors of SGBV, while working towards building capacity of Rohingya communities living throughout the region to deliver justice for SGBV and related crimes.**
6. **Allocate greater resources to local responders in Myanmar, Thailand, and Malaysia for the provision of crucial support services to Rohingya victims of exploitative migration schemes, including those arrested by**

the SAC, those intercepted elsewhere on their travel routes, and those who reach destinations where they remain in situations of insecurity, exploitation, and/or abuse. All prisoners of the SAC — especially women and girls but also men and boys — remain at high risk of SGBV and physical and psychological abuse while in custody. Funding and training should be delivered to local responders to enable increased provision of psychosocial support as well as payment of court, lawyer, and translator fees for detainees in Myanmar. Local actors in Thailand, Malaysia, and elsewhere are likewise in need of technical and financial support to provide Rohingya individuals with greater assistance, including mental and physical health care and legal support.

7. **Advocate to armed actors and governance personnel involved in the operations of law enforcement and judicial systems in Bangladesh and Rakhine State to make credible efforts to investigate and hold to account those responsible for illicit, abusive Rohingya migration;** encourage stakeholders within Bangladesh, Rakhine State, and elsewhere along active routes to end any active or tacit support for exploitative migration schemes.
8. **Engage with armed actors, governance personnel, and local responders along the Thai-Myanmar border to increase awareness of and safe responses to the dangerous and illicit Rohingya migrations schemes on the rise throughout their areas of operation.** Support the development of safe reporting mechanisms and intervention strategies to meet the needs and increase the protection of Rohingya victims without triggering negative impacts for ongoing cross-border humanitarian assistance operations.
9. **Call upon authorities throughout the region to end arrests and refoulement of Rohingya individuals — especially children — who have been subjected to exploitative migration schemes.**

