



No. 52101/ 717

PERMANENT MISSION OF THAILAND
GENEVA

30 October B.E. 2556 (2013)

Dear Sirs and Madam,

I wish to refer to your joint letter dated 30 July 2013 regarding the alleged information received concerning the conditions of detention of Rohingya illegal migrants in Thailand and my preliminary response dated 5 August 2013.

In this connection, I have the honour to transmit herewith the clarification on the above-mentioned case. The information on the matter has been received from the authorities concerned, including the Police Immigration Bureau, the Ministry of Social Development and Human Security and the Ministry of Public Health of Thailand.

I hope that the information provided would address your concerns and be helpful for the preparation of your respective report.

The Permanent Mission of Thailand remains at your disposal should you require additional information.

OHCHR REGISTRY

Yours sincerely,

31 OCT 2013

Recipients : SPD.....

(Thani Thongphakdi)

.....
.....
..... Ambassador and Permanent Representative

Mr. Anand Grover,

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health,

Mr. François Crépeau,

Special Rapporteur on the human rights of migrants,

Mr. Juan E. Méndez,

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment,

Ms. Rashida Manjoo,

Special Rapporteur on violence against women, its causes and consequences,

Office of the High Commissioner for Human Rights,

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**Clarification by the Royal Thai Government regarding
the conditions of the Rohingya migrants in Thailand**

Summary of allegations

- The Special Rapporteurs expressed concerns regarding the living conditions of Rohingya migrants and refugees at the immigration detention centers in Thailand. They also inquired about the death of some Rohingya persons allegedly as a result of poor conditions and lack of medical care, the rape of one Rohingya woman, and the possible refoulement of Rohingyas.

Reply to the allegations

- General comments

- Addressing a sudden influx of irregular migrants into a country is not an easy task for any government. The burden of such movement should not be shouldered by any country alone. It requires close cooperation of all the countries concerned: from countries of origin to countries of transit and countries of destination. Moreover, the perspectives of all sides including relevant push and pull factors should be taken into account in order to gain a comprehensive understanding of the situation.
- Despite the difficulty of the task before us, Thailand is committed to looking after the Rohingya illegal immigrants to the best of its ability on a temporary basis and based on humanitarian principles, pending solutions. We will continue to work in close collaboration with relevant countries and international organizations to this endeavour.

- Please provide the details, and where available the results, of an investigation, medical examinations, and judicial or other inquiries carried out in relation to the conditions of detention in immigration detention centers.

- Please inform about the steps taken to immediately transfer the Rohingya migrants and refugees from overcrowded cells in immigration detention centers.

- Please provide information on the measures taken to ensure the enjoyment of the right to the highest attainable standard of physical and mental health, including adequate detention conditions and access to medical care, of Rohingya migrants and refugees in Thailand.

- It is admitted that the Immigration Detention Centers (IDCs), where over 1,400 Rohingya illegal migrants have been detained, were not originally intended to host such a large number of detainees. The IDC officials have experienced challenges in carrying out their work as there are staffing, financial and space constraints. Notwithstanding the said limitations, IDC officials continue to do their best to look after the people. Their tireless efforts indeed deserve understanding, if not recognition.
- At the same time, the relevant agencies in the Royal Thai Government are working closely to overcome those limitations and further improve the quality of the IDCs, including the plan for relocation to some alternative sites. Among others,

delegations by the National Human Rights Commission and various Parliamentary Committees, have paid visits to the various facilities to ensure proper delivery of treatment and services.

- Around 1/3 of the Rohingya illegal migrants are women and children, whom we consider to be vulnerable groups. We have therefore arranged for them to be taken care of at the Ministry of Social Development and Human Security (MSDHS) shelters, which are open shelters with the support of social workers.
- The Royal Thai Government attaches high importance to the right to the highest attainable standard of physical and mental health, and shares the Special Rapporteurs' concerns over the health situation of the Rohingya people detained at the IDCs. The Ministry of Public Health (MoPH) is working in close collaboration with the International Organization for Migration (IOM) to improve the health conditions of these Rohingyas. A discussion between the IOM and the MoPH has been arranged with a view to establishing a coordinating/working mechanism to jointly work on the improvement of the health situation on the ground.
- The IOM recently assessed the health situation in various IDCs to identify the needs and recommend the way forward. The assessment exercise revealed that there was indeed overcrowding in many of the IDCs, which led to psychological problems, skin diseases, airborne diseases and muscle problems of the detainees. Some other areas that need improvements include: a ventilation system to prevent respiratory diseases; physical activities to prevent muscular problems; provision of nutritious food and a system of medical records.
- Many activities have already begun in response to the assessment, including the provision of medication and basic treatment on-site, the positioning of dedicated nurses in some IDCs, the establishment of individual medical records within the IDCs, the improvement of the air ventilation system, and the provision of psychological support in the IDCs. Other projects under way include: screening for communicable and non-communicable diseases; providing supplemental nutrition; regular de-worming support; water filter replacement; vaccination support and treatment for skin infections.

- Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the circumstances surrounding the death of the six Rohingya men and one boy while held in immigration detention centers.

- There have unfortunately been reports of the death of seven Rohingya men and one boy. Medical examinations have revealed the causes of death as including sepsis, lung infection, kidney infection and heart failure. Six out of the eight cases who showed the symptoms prior their deaths were taken to local hospitals for treatment, but their severe conditions led to their eventual deaths at the hospitals.
- According to the physicians, most of these cases had existing medical conditions prior to their arrival in Thailand. The difficult conditions during their travel in the sea for a long period of time further complicated their health conditions.
- However, after the working mechanism between the MoPH and the IOM was established, the health situation in the various IDCs has been significantly improved and there have been no deaths since. It should also be noted that the

fragile health of the Rohingyas has posed similar challenges to other countries that are receiving them, although this has received less publicity.

- Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to the circumstances surrounding the rape of one Rohingya woman living in a government shelter in Phang Nga province and the alleged involvement of a Thai police officer therein.

- The Royal Thai Government spares no effort in upholding the rule of law and bringing those responsible to justice. The rape case of a Rohingya woman during her the course of her flight from a government shelter is no exception.
- The Government took a prompt action upon receiving the complaint: the police officer involved in facilitating the woman's transportation was apprehended and dealt with seriously in accordance with the law. In particular, that police officer was expelled from the police force, and a court case is ongoing. The investigations also found that the perpetrator of the rape of the woman was a Rohingya man. His case is also undergoing due process of the law.

- Please indicate if there are any plans to return the Rohingya concerned to Myanmar, and if so, indicate what steps have been taken in this respect.

- The Embassies of Myanmar and Bangladesh in Bangkok have been working closely with the Thai Government with a view to identifying the area of origin and verifying the status of the Rohingyas currently in our care.
- The first group of 28 individuals, that were interviewed and verified to be Bangladeshi nationals by the Embassy of Bangladesh, have already availed themselves of the Assisted Voluntary Return (AVR) services provided by relevant agencies for their voluntary return.
- As for the group of individuals with their place of origin in Myanmar, the verification process is underway. This process is the initial step towards finding possible solutions for these individuals, including: voluntary and safe return; family reunification in a third country; or resettlement.

- Please indicate what measures have been taken to find a long-term solution for the refugees in Thailand.

- Please explain what measures are taken to ensure that Thailand does not expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture in accordance with article 3 CAT and other international standards.

- As mentioned earlier, Thailand is working closely with both Myanmar and Bangladesh to verify the status of those persons in our care. Interviews at various IDCs have been conducted by officials from the Embassy of Myanmar and the Embassy of Bangladesh in Bangkok. These interviews are facilitated by officials from relevant Thai government agencies who are also present during the interview

sessions. Interpreters are on hand to assist with the communication between the interviewers and the detainees. The aim of these interviews is to determine their place of origin in order to pave ways for solutions including a safe return. Such a return would be on a voluntary basis, and in a safe and dignified manner.

- Efforts should focus on addressing the root causes, however. There must be cooperation to create proper conditions for the people to be able to remain in the areas of origin. These conditions must include: security, economic and social development, and improved livelihood in the place of origin. Thailand has long been a committed development partner of Myanmar, and will continue to work with Myanmar in addressing these root causes.

- Please indicate if an individual assessment has been made of the need for detention for all the Rohingya concerned, as well as on the procedure for judicial review of the lawfulness of detention, and on the maximum duration of detention.

- Please inform about steps taken to allow for screening and protection from the United Nations High Commissioner for Refugees (UNHCR) for all refugees, including steps taken to allow Rohingya refugees to seek asylum.

- The cooperation from all countries concerned as well as relevant international organizations is necessary for a long-term solution. From the outset, the Royal Thai Government has worked closely with the UNHCR and other relevant international organizations to ensure proper treatment and care for the Rohingya in the country.
- As mentioned above, a policy of immigration detention has not been applied to the whole group. From the very beginning, the women and children have been looked after in open shelters, assisted by social workers.
- As early as February 2013, the UNHCR began its regular visit to all IDCs and shelters of the MSDHS. As part of these visits, the names of particularly vulnerable individuals with protection needs have been identified and communicated to the relevant partners.
- The UNHCR has expressed its appreciation on several occasions to the Royal Thai Government for looking after the Rohingya illegal migrants on a humanitarian basis. The UNHCR indicated that it was satisfied with the Thai Government's official declaration that it would provide temporary protection for the whole group, and confirmed with the Thai side that individual refugee status determination was unnecessary in such case.
- Meanwhile, although Thailand is not a party to the 1951 Convention relating to the Status of Refugees, it has facilitated access for the UNHCR to conduct referrals for third country resettlement for vulnerable individuals on medical and other humanitarian grounds.

**Ministry of Foreign Affairs of Thailand
October 2013**

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