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We are grateful to the Oak Foundation for supporting this research and report.

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Design and layout by Tezeta Tulloch.

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Suggested citation: Bhabha, Jacqueline, et al. *Children on the Move: An Urgent Human Rights and Child Protection Priority*. Boston: Harvard FXB Center for Health and Human Rights, 2016.

THE IMPACT OF PERSISTENT EXCLUSION

Rohingya Leaving Myanmar



INTRODUCTION

One of the world's most tumultuous places for children on the move over the past three decades is Southeast Asia, where hundreds of thousands of migrants from Myanmar have been displaced by conflict or have left their homes seeking a better life. For the Rohingya, an ethnic Muslim group residing primarily in Rakhine State in western Myanmar, increased levels of conflict in recent years have led to mass migration of historic proportions.

Of particular concern is the fact that most of the approximately one million Rohingya in Myanmar are stateless, with their lack of citizenship having been used as a mechanism for institutionalized discrimination and oppression since at least the 1960s. As a result of more than 50 years of policies designed to deny them their identity, public opinion is decidedly against the Rohingya. The majority of Myanmar's citizens concur with the official government declaration that "there are no Rohingya" in Myanmar and consider the Rohingya to be illegal Bengali immigrants.¹ Without legal recourse to address injustice at home, many Rohingya have felt their only choice is to flee the country. Unfortunately, those who make it to another country usually still find themselves in a hostile environment where they are unwelcome, lack access to basic services, and have little economic opportunity. Since none of the destination countries in the Southeast Asia region have ratified the 1951 International Refugee Convention,² there is little if any legal protection for Rohingya migrants.

Against this backdrop of statelessness and lack of legal protection, Rohingya children face significant obstacles from the moment they are born. Despite the fact that all countries in the region are States Parties to the Convention on Rights of the Child (CRC),³ albeit with some reservations,⁴ Rohingya children in Myanmar and in the Rohingya destination countries are systematically denied fundamental rights guaranteed by the CRC. They frequently grow up without access to education and adequate health care as they remain vulnerable to starvation, disease, trafficking, detention, and a wide range

of other abuses of their basic human rights. This paper seeks to understand the situation of Rohingya children on the move – including why, how, and where they move – and the child protection issues they deal with at each stage of their migration journey. It ends with a summary of rights-based recommendations to enhance protection for Rohingya children.

BACKGROUND

While the full history of the Rohingya is a hotly disputed topic, numerous historians agree that an ethnic group of Muslims has existed within Rakhine State for centuries.⁵ Although this original group probably incorporated later waves of Muslim immigrants during British rule, available evidence indicates that the Rohingya have lived in Rakhine State since long before the British colonial period. After British colonization of Myanmar began during the first Anglo-Burman war in 1824, the British encouraged Muslim migration into the territory from India and Bangladesh. Following Burma's independence from Britain in 1948, the Rohingya were not identified as one of the "indigenous races of Burma" automatically entitled to citizenship. However, the government allowed people whose families had lived in Myanmar for two generations to gain citizenship or identification cards. After a military coup in 1962, the new government denied citizenship to new generations by introducing a prohibition on the provision of documentation to Rohingya children.

In 1982 the country's military government passed a citizenship law that defined full citizens as members of ethnic groups that had "permanently settled within the boundaries of modern-day Myanmar prior to 1823." Despite the historical evidence of the Rohing-

ya's presence in Myanmar, the government failed to include the Rohingya on the list of 135 recognized ethnic groups. Additionally, Rohingya who had already been issued identification cards were forced to prove that their family had lived in Myanmar since before 1948. These combined policies resulted in the majority of the Rohingya population being denied citizenship and being effectively rendered stateless.

In the decades following the 1982 law, Rohingya rights have been systematically violated and stripped away by the Burmese government. The situation worsened after 1992 when the NaSaKa, an interagency border protection force, was established to help control Rohingya movement and activities in north Rakhine State, leading to the mass exodus of two hundred and fifty thousand Rohingya to Bangladesh.⁶ Thousands more left in subsequent years as oppression and conflict continued. The most recent wave of migration began in 2012 after ethnic conflict forced over one hundred thousand Rohingya from their homes.⁷ Although some hoped that the 2015 election victory of the National League for Democracy (NLD) party, led by human rights icon Aung San Suu Kyi, would be a turning point, it appears for now that the NLD government plans to stay the course of denying the Rohingya their rights and refusing to recognize them as citizens.⁸

RESEARCH FINDINGS

This section presents findings from a review of relevant literature, focused on reports from organizations that have conducted original research, and from interviews of a few key informants that have insight into the Rohingya migration crisis.⁹ This research aims to

understand the factors that lead Rohingya children to migrate, the challenges they face at each stage of migration, and the opportunities for intervention.

Why Rohingya Children Move

Rohingya children in Myanmar face an increasingly bleak situation. Over one hundred thousand displaced Rohingya are being forced to live in squalid conditions in internal displacement camps where the basic needs of food, water, and health care go largely unmet.¹⁰ Government officials and local communities of Buddhists have even prevented some humanitarian aid from reaching these camps while children die from severe malnutrition, diarrhea, and other preventable diseases.¹¹ Educational opportunities in the internment camps are nearly non-existent. Domestic violence, depression, and hopelessness are common, and children often work long hours farming or collecting firewood in order to help support their families.¹²

Rohingya living in their home villages also struggle with oppressive government policies, hostile neighbors, and much of the same hopelessness and denial of human rights as those who have been displaced. Health care and education are severely limited due to lack of citizenship and restrictions placed on movement. Scarce economic opportunities for adults result in the vast majority of Rohingya children growing up in extreme poverty. In addition to those living in official camps, an estimated thirty thousand displaced Rohingya have sought shelter in Rohingya villages, where they have even less

access to humanitarian aid.¹³

It is not surprising that so many Rohingya think their only viable option is to leave Myanmar. Families often separate as men seek employment in another country until they earn enough money for their wives and children to join them.¹⁴ Many child migrants are older teenaged boys who, with the future holding so little for them in Myanmar, are willing to risk danger and uncertainty to seek a livelihood outside their homeland.¹⁵

Migration appears to have slowed in recent months, due in part to a crackdown on smuggling in Thailand and harsher conditions for refugees in Malaysia, and also because the Rohingya are waiting to see how the new NLD government will address the situation. With little change on the horizon, some experts predict that migration from Myanmar will pick up again later in 2016 once the monsoon season passes and it becomes possible to travel again.¹⁶

How Rohingya Children Move

Since most Rohingya lack any official documentation, including birth records or identification cards, there is no legal path for them to leave the country. Thus, those who decide to leave are usually forced to place themselves in the hands of human traffickers who charge up to two thousand US dollars to transport migrants to Malaysia or Thailand by sea.¹⁷ An estimated one hundred and fifty thousand Rohingya and Bangladeshis have started this journey since 2012,¹⁸ with thirty-one thousand leaving between January and June of 2015 alone.¹⁹

This trip is full of peril. While it can be completed in as little as four days, it can take up to three weeks or more.²⁰ Crowded conditions and insufficient food and water on the boats often lead to severe cases of beriberi and other nutrition-related and infectious diseases.²¹ Children have starved to death after being refused opportunities for disembarkation by officials of neighboring countries.²² Criminal trafficking syndicates frequently detain the migrants in jungle camps in Thailand while attempting to extort money from the victims' relatives in order to deliver them to Malaysia.²³ The refugees that are intercepted by Thai authorities on their way to Malaysia are held in detention camps or shelters for victims of trafficking. Rohingya children as young as age 10 have been documented in these facilities with limited access to health care, physical activity, and fresh air.²⁴

The Rohingya's journey has been the source of significant international attention as recently as 2015 when eight boats carrying an estimated five thousand Rohingya and Bangladeshis were abandoned by smugglers and left adrift in the Andaman Sea.²⁵ Some of the boats were reportedly towed back to sea after being refused disembarkation by Malaysia, Thailand, and Indonesia.²⁶ They were all eventually rescued by Indonesian fisherman or allowed to disembark in Malaysia, but not until most had endured severe physical and mental suffering or even death. One investigation found numerous examples of children among these groups, including a three-year-old girl who died of tetanus shortly after being rescued.²⁷ It is estimated that up to one-third to one-half of those abandoned at sea were under 18 years of age.²⁸

The fatality rate for this journey has been estimated to be 1.1 percent, or three times

higher than that of refugees traveling via the Mediterranean.²⁹ Women and girls make up approximately 15 percent of all sea-bound migrants.³⁰ Recent years have seen an increase in the number of children, many of whom are unaccompanied, making this trip as they seek to be reunited with family members or escape poverty and oppression.

Where Rohingya Children Move

While most displaced Rohingya live in internal displacement camps, thousands of others, many of whom come from these camps, escape the country every year. Malaysia is usually the destination of choice since it is a relatively highly developed Muslim country with a large community of Rohingya. The route to Malaysia leads many refugees to Thailand and sometimes to Indonesia,³¹ but most have the goal of continuing on to Malaysia where they feel they have the best opportunities. Previous waves of migration in the 1990s saw thousands of Rohingya migrate across the border to Bangladesh, but this has been limited in recent years as Bangladesh has worked hard to create an unattractive environment for the Rohingya.³² A limited number are resettled outside the region, although some refugees have been known to turn down resettlement because they prefer to stay in a Muslim country or are seeking family reunification.³³

Malaysia

Malaysian migration policies are focused on border control, removal, and deterrence rather than protection,³⁴ meaning that Rohingya who make it to Malaysia continue to face countless challenges. Since Malaysia has not ratified the 1951 Refugee Convention, it makes no distinction between refugees, asylum seekers, and irregular migrants,³⁵ so

Rohingya migrants, all of whom have arrived illegally due to their lack of documentation, lack the legal protections provided to other refugees. All Rohingya, including children, face mandatory detention upon arrival until UNHCR is able to register them and secure their release, a process that has become increasingly difficult and can take months due to limited UNHCR capacity.³⁶ With an estimated three thousand Rohingya being detained as of March 2016,³⁷ detention centers are overcrowded and fail to provide sufficient basic necessities like food and water.³⁸

Refugees registered by UNHCR receive a UNHCR identification card that is supposed to protect them against detention and provide them with other benefits, such as a discount on health care rates for foreigners at government facilities.³⁹ In practice, however, even Rohingya with cards are commonly subjected to arbitrary detention and extortion by police.⁴⁰ Health care is still unaffordable to most Rohingya and education is usually limited to opportunities that are provided by the Rohingya community itself or by international aid organizations, which prevents integration with the public school system.⁴¹ Even registered refugees are not permitted to work in all sectors, so economic opportunities are extremely limited and poverty is rampant.⁴²

For the estimated seventy thousand Rohingya without any documentation in Malaysia, the situation is even grimmer.⁴³ While many migrants would like to register with UNHCR, they must wait for up to three years due to UNHCR backlogs; others avoid contact with any authority, including the UNHCR, out of fear of detention or harassment.⁴⁴ Lack of official registration is a major barrier to accessing public services. In addition to the exorbitant health care costs that non-registered refugees are required to pay, official policy

requires health providers to report unregistered refugees to immigration officials, so refugees seeking health care can find themselves placed in detention facilities when they seek medical attention.⁴⁵ Immigration bureaus have even been set up within hospitals to intercept refugees seeking care.⁴⁶

Thailand

Despite Thailand's "push-back" and "help-on" migration policies that seek to prevent illegal migrants from disembarking in Thai territory, it is common for Rohingya to be brought to Thailand by human traffickers who use Thailand as a staging area en route to Malaysia. Migrants that are intercepted by Thai authorities are usually held in detention facilities under harsh conditions. Rohingya that authorities determine to be victims of human trafficking are held in shelters that impose similar restrictions on movement and lack adequate services.⁴⁷ Detained Rohingya usually spend months in facilities until they are either resettled elsewhere or released into Thailand, at which time most attempt to continue their journey to Malaysia.⁴⁸

Many Rohingya are held in jungle camps in southern Thailand by traffickers until a ransom is paid by their relatives in Malaysia.⁴⁹ Mass Rohingya graves discovered in 2015 led the Thai government to crackdown on smuggling and, subsequently, led traffickers to abandon thousands of Rohingya at sea.⁵⁰ Investigations by the Thai government found evidence of collaboration between traffickers and Thai police, many of whom are now being prosecuted. The situation remains dangerous for Rohingya victims of trafficking as they wait in shelters with inadequate protection to testify against their traffickers.⁵¹

Bangladesh

Given its shared border with Rakhine State,

Bangladesh has been a popular destination for Rohingya migrants during past conflicts, including as recently as 2009 when eight thousand Rohingya fled to Bangladesh.⁵² However, after the Bangladeshi government stopped conferring refugee status on Rohingya in 1993, securing access to basic services and economic opportunities has been extremely difficult, and on occasion impossible. About thirty thousand Rohingya live in official UNHCR-run camps near the border, but over one hundred thousand more live in informal camps without UNHCR recognition.⁵³ Especially in the informal camps, Rohingya children are in extremely poor health due to lack of food, health services, and sanitation. One study found that large proportions of children in these settings experienced chronic malnutrition and that others had died due to starvation and various infectious diseases.⁵⁴ Children receive very limited education due to lack of school availability and to the need for even young children to help support their families by working in informal jobs like collecting firewood.⁵⁵ The local population is openly hostile to the Rohingya. It has prevented humanitarian aid from reaching the camps, formed resistance committees, and promoted anti-Rohingya propaganda in the media.⁵⁶ Of concern currently is a government census of Rohingya that is suspected of being an attempt to prevent Rohingya from blending in with the local population.⁵⁷ This could potentially spark another wave of mass migration if the census leads to additional persecution.⁵⁸

DISCUSSION

This section draws on the research findings to highlight some of the key child protection

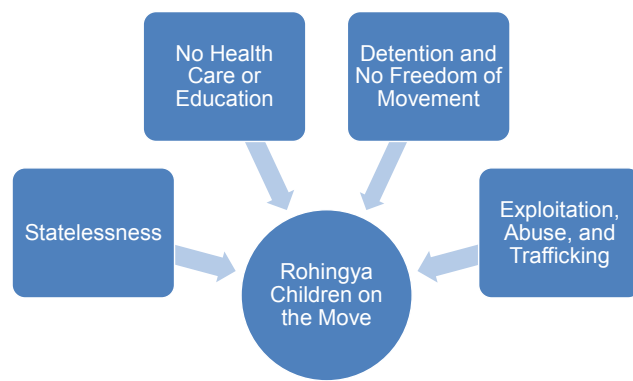
issues Rohingya children face and to suggest opportunities for intervention.

Key Child Protection Issues

Statelessness

The Rohingya's lack of citizenship and documentation has been a source of significant hardship that increases with each new generation. The CRC states that all children have the right to be registered immediately at birth and to acquire a name and nationality.⁵⁹ States are also required to take into account the exceptionally vulnerable position of stateless persons when making immigration determinations.⁶⁰ As the Equal Rights Trust has reported, in Myanmar, "The lack of citizenship became the anchor for an entire framework of discriminatory laws and practices that laid the context for coming decades of abuse and exploitation."⁶¹ After the government stopped issuing birth certificates for Rohingya children in 1994, many Rohingya were unable to receive any documentation at all.⁶² As a result, tens of thousands of unregistered Rohingya children do not exist administratively and must be hidden during population checks.⁶³ In some cases government officials have actively seized documentation from Rohingya that have already been registered.⁶⁴ Besides its detrimental effects on a child's mental well-being, statelessness creates practical challenges in Myanmar and elsewhere as citizenship determines in large part what rights, services, and opportunities are accessible.

The problem of statelessness appears to be worsening in Myanmar. Rohingya were not allowed to register as Rohingya for the 2014 census⁶⁵ and were denied the right to vote in recent elections.⁶⁶ After being displaced



Case Figure 5.1: Key Protection Risks for Rohingya Children on the Move

by the most recent waves of violence, some Rohingya have been promised resettlement assistance if they agree to officially register as Bengali.⁶⁷ Officials have used threats of physical violence to attempt to force this change.⁶⁸ As the report *Countdown to Annihilation* points out, this move appears to be a “blueprint for permanent segregation and statelessness” and a deliberate attempt to further institutionalize the state policies of systemic discrimination.⁶⁹ Until the statelessness issue is addressed, masses of oppressed Rohingya will likely continue to flee Myanmar.

Outside Myanmar, either registration by the state or recognition from UNHCR has an enormous impact on the Rohingya’s quality of life. Although the Malaysian constitution provides for citizenship to be granted to stateless children born in the country, this provision has not been put into practice;⁷⁰ thus, new generations of Rohingya remain stateless. Birth certificates of Rohingya children born in Ma-

laysia are stamped with the designation of “non-citizen,” which prevents them from attending government schools and receiving other public services.⁷¹ Non-registered Rohingya regularly fail to register their children’s births out of fear of detention or arrest.⁷²

Denial of Access to Health Care and Education

Article 24 of the CRC stresses the state’s responsibility to “ensure that no child is deprived of his or her right of access to...health care services” and recognizes the right of the child to “the enjoyment of the highest attainable standard of health,”⁷³ a right that is plainly denied to Rohingya children across the region. Rohingya are not able to access most basic health care services in Rakhine State due to their classification as illegal immigrants, limitations on freedom of movement, and government restrictions on humanitarian aid organizations. There is evidence that, as a form of population control,⁷⁴ officials have consciously neglected to pro-

vide health care in internment camps, even for fatally ill children and women.⁷⁵ Starvation and disease are common in these camps and usually continue for Rohingya children after they leave. Health care is non-existent for Rohingya during their migration journey, and continues to be widely inaccessible once they arrive in most destination countries.

The CRC sets out a child's right to education, including free and compulsory primary education.⁷⁶ For Rohingya children, access to education in Myanmar has become extremely limited since the outbreak of violence in 2012 and subsequent forced displacement. Displaced Rohingya children living in camps are usually confined to whatever makeshift schools may have been established by NGOs or the local community.⁷⁷ In Aung Mingalar, a section of Rakhine's capital city of Sittwe where four thousand Rohingya remain imprisoned in an urban ghetto, the only primary school has also been converted into a military base, which acts as a major barrier to school attendance.⁷⁸ In Rakhine State and in destination countries, the limited informal schools, or "learning centers," established by Rohingya communities or NGOs are not accredited by the government, a policy which severely limits higher education opportunities.⁷⁹ Higher education also requires documents, which most Rohingya do not have. Challenges with local languages in destination countries represent another major barrier to Rohingya integration into public school systems.

Detention and Denial of Freedom of Movement

In clear violation of the CRC, Rohingya children are routinely subjected to unlawful migration-related detention and limitations on freedom of movement.⁸⁰ Article 37 of the CRC clarifies that detention should only be used as a measure of last resort and that detained

children should be treated with dignity, be separated from unrelated adults, and receive prompt legal assistance; all of which are not standard practice for detained Rohingya children. Malaysia and Thailand routinely detain children in overcrowded conditions without access to sufficient health care, food, and recreation. In Malaysia, parents are sometimes separated from their children for placement in detention facilities.⁸¹ Researchers found that all children in one detention facility in Thailand were unaccompanied yet they were being detained with unrelated adults.⁸² Children can remain in detention centers for many months without adequate protection from traffickers.⁸³

In Myanmar, internal displacement camps and the urban ghetto of Aung Mingalar have effectively been turned into concentration camps where Rohingya are held as prisoners without access to basic services or livelihoods. Local police or military are strategically stationed within and nearby these camps to enforce restrictions on movement.⁸⁴ Even non-displaced Rohingya living in their home villages are subject to considerable limitations on freedom, both due to official policy and to fear of violence or harassment. Rohingya are regularly forced to pay costly fees, and often bribes. They must request permission from local authorities with advance notice to travel to neighboring villages or anywhere outside of Rakhine State.⁸⁵ Restrictions have worsened since 2012 and Rakhine State has become effectively segregated.

Vulnerability to Exploitation, Abuse, and Trafficking

Articles 34, 35, and 36 of the CRC require states to protect children from all forms of exploitation and abuse, including trafficking.⁸⁶ For Rohingya children, exploitation begins at the start of their migration since those

who leave Myanmar are usually forced to seek help from human smugglers. In some cases, young girls have been forced to make the journey against their will.⁸⁷ As discussed above, this journey is highly perilous as children are crowded onto boats without sufficient food or water. Many are then taken to Thailand where, if not intercepted and detained by Thai authorities, they are held in jungle camps until the traffickers receive a ransom payment to take them the rest of the way to Malaysia. Children, and particularly girls, in these circumstances are exceptionally vulnerable to violence and trafficking, both for sex and for manual labor.⁸⁸ Additionally, there are multiple reports of women and girls trafficked to be sold as brides to Rohingya men willing to pay their ransom.⁸⁹ Some of these marriages are pre-arranged by the girls' parents before starting the journey.⁹⁰ Women and children in detention in Thailand are especially vulnerable to sex and labor trafficking since the facilities where they are held do not provide adequate protection from traffickers.⁹¹ Rohingya girls in Bangladesh have also been exploited for work in the sex industry.⁹²

Best Practices

It is essential that the international community agree on a human rights-based approach to specific policies and interventions designed to address the child protection issues highlighted in this paper. While not a comprehensive list of solutions, this section draws on the research to provide suggestions for best practices that should be included in the international response.

Increase Access to Documentation

Documentation is critical for protection at all stages of migration. No matter where they are

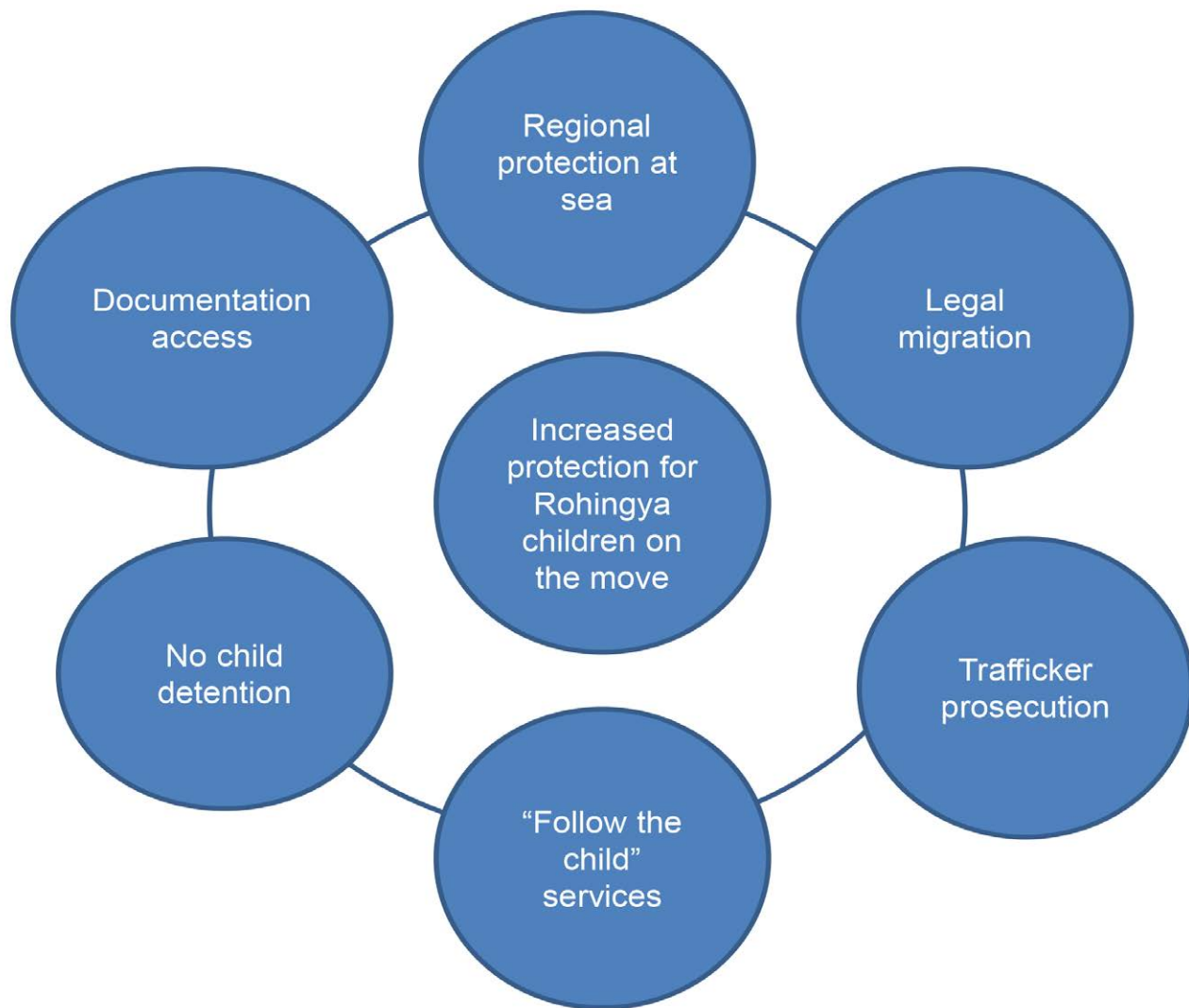
born, Rohingya children are entitled to a birth certificate and a legal identity. The governments of Myanmar and all destination countries must work together with international NGOs to ensure birth registration for all Rohingya children. UNHCR capacity should be increased in Malaysia so that newly arrived migrants receive registration documents without significant delay.

Enhance Regional Cooperation to Protect Migrants at Sea

The lack of enforceable legal frameworks in the region is a major cause of the protection problems faced by Rohingya children, including those who are forced to move. Though not a remedy, regional meetings on irregular migration, such as those hosted by Thailand in May and December of 2015, do provide a forum for exploring solutions or improvements to some of the most extreme protection challenges arising from the forced migration flows.⁹³ One recommendation stemming from these meetings is the establishment of a joint task force to administer and ensure necessary support to protect migrants stranded at sea.⁹⁴ So far no steps have been taken to implement this important recommendation. This task force should be created and implemented as soon as possible to assist future waves of ocean-bound migrants. One promising effort that could be expanded is the establishment of a Migrant Offshore Aid Station to monitor travel and assist with rescues.⁹⁵ These efforts must be accompanied by a change in “push-back or help-on” policies to allow for safe disembarkation.

Provide Avenues for Legal Migration

To allow for a safer journey, the Rohingya must be provided opportunities for legal migration which currently do not exist. Options that have been discussed at a regional level



Case Figure 5.2 Recommendations for Increased Protection for Rohingya Children on the Move

include seasonal working visas, humanitarian entry, temporary protective status, short-term visas, and temporary relocation.⁹⁶ Family reunification should be permitted to allow children to join their parents in Malaysia without being forced to be trafficked. High-income countries should consider increasing resettlement opportunities for refugees, with prioritization going towards the most vulnerable groups, such as stateless children.

Prosecute Traffickers

The impunity with which traffickers have operated has aggravated the dramatic rights violations facing Rohingya children on the move. In the absence of legal mechanisms for escaping persecution by the Myanmar government, desperate refugees will continue to use the services of professional transporters to escape harm. Current efforts by Thailand to crackdown on traffickers and corrupt government officials and police should be continued and enhanced. Special effort must be made to protect victims who are willing to testify against traffickers.

Incorporate “Follow the Child” Approach to Provide Services

In accordance with the CRC, Save the Children incorporates a “Follow the Child” approach to child protection that respects the child as an agent and seeks to understand the child’s perspective regarding his or her best interests.⁹⁷ This includes prioritizing family reunification as well as the provision of high quality services – such as health care, education, and recreation opportunities – at each stage in a child’s journey. To accomplish this, national policies must be changed to allow children to have unimpeded access to health care providers and facilities. Resources should be provided to train and support Rohingya teachers. Countries should develop an equivalency program, similar to

Thailand’s, in order to allow integration between educational opportunities available to migrants and the public school system.

Grant Access to Aid Organizations

Humanitarian aid organizations must be granted unencumbered access to Rohingya child migrants. This is currently a problem especially for those who are living in internment camps in Myanmar, informal camps in Bangladesh, and detention facilities in Malaysia. In Myanmar and Bangladesh, some aid groups have experienced success by ensuring their services are available to anyone in need living in the target area, regardless of whether they are Rohingya.⁹⁸ This has built trust with and prevented resentment from local communities, who sometimes perceive that the Rohingya are favored by international aid organizations.

Stop Harmful Policies of Child Detention

Children should never be detained for migration-related reasons. Destination countries should change their policies of detention and work together with international organizations and local communities to provide alternative care arrangements for child migrants that arrive in their territory. After a consultative process with several stakeholders, Jacqueline Bhabha and Mike Dottridge distilled a two-page set of recommendations for treatment of children affected by migration, which destination countries may find helpful as a tool.⁹⁹ Children and parents should be kept together and, for those children who are detained, living conditions should be brought up to a standard that respects their dignity and human rights.

CONCLUSION

The seriousness of the oppression faced by the Rohingya in Myanmar has sparked cries from human rights advocates and legal experts to investigate the situation as a genocide.¹⁰⁰ As long as statelessness, lack of legal protection, and the other root causes of Rohingya migration remain unaddressed, waves of migrants will likely continue to seek elusive refuge on foreign soil. As is the case in most humanitarian crises, children tend to experience a disproportionate share of the suffering. Thus, the international community must work together to protect the rights of Rohingya children on the move by implementing policies and programs that vigorously address harm prevention by improving the situation in the country of origin. It must also take urgent steps to provide for safer movement, and create better conditions for Rohingya child migrants in destination countries.

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Suggested citation: Bhabha, Jacqueline, et al. *Children on the Move: An Urgent Human Rights and Child Protection Priority*. Boston: Harvard FXB Center for Health and Human Rights, 2016.



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