

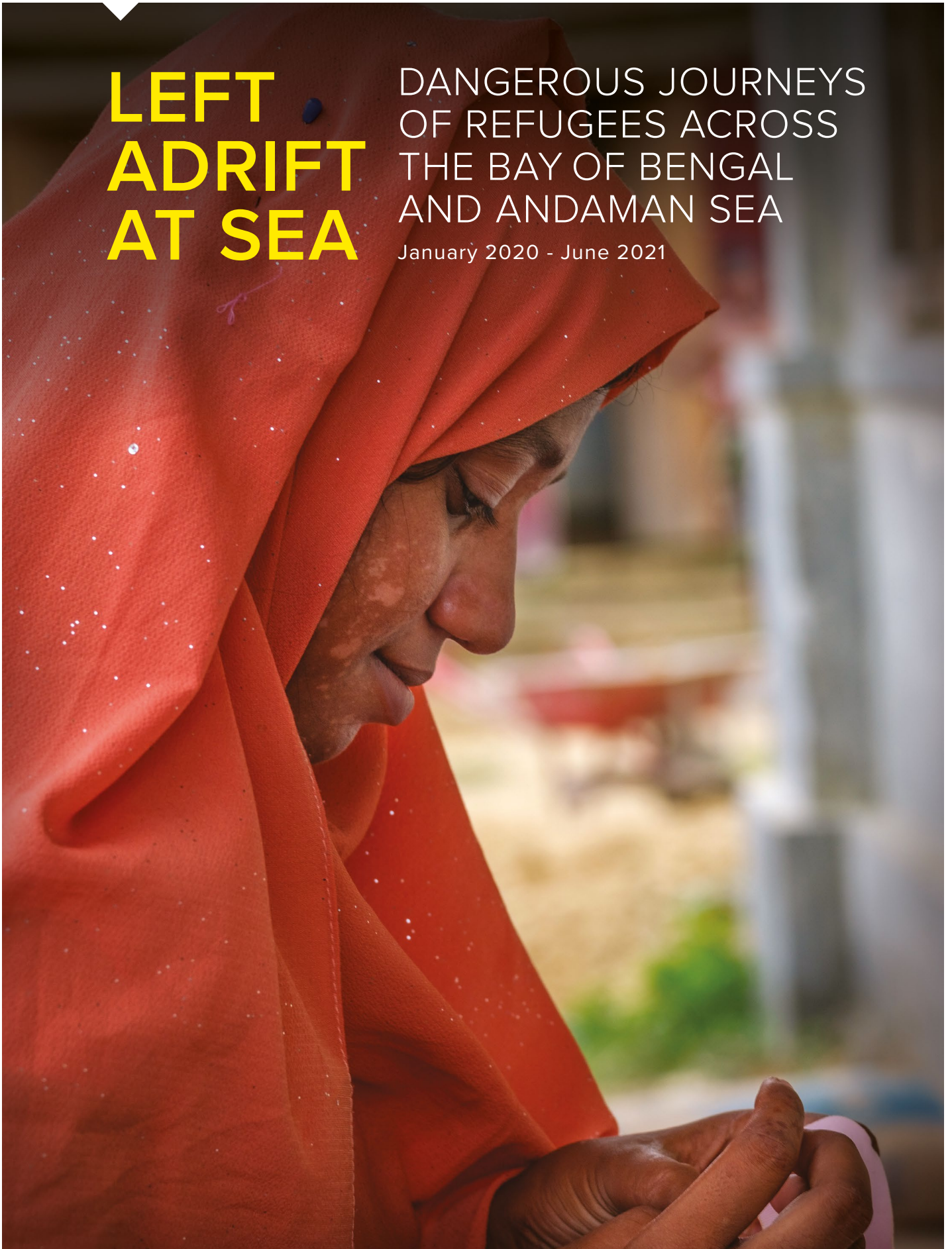


UNHCR
The UN Refugee Agency

LEFT ADRIFT AT SEA

DANGEROUS JOURNEYS
OF REFUGEES ACROSS
THE BAY OF BENGAL
AND ANDAMAN SEA

January 2020 - June 2021



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1

Foreword

2020 was the deadliest year on record for refugee journeys in the Bay of Bengal and Andaman Sea. Governments and leaders across Asia Pacific have been confronted with the question of whether we have collectively learned from history. Even more critically, we must ask ourselves whether we can sit by and repeat past tragic mistakes.

These past twelve months call to mind the events of 2015, another harrowing, landmark year for refugees and migrants at sea. The world was shocked by not one but two major, almost simultaneous humanitarian emergencies: the Andaman Sea crisis followed swiftly by the desperate journeys of more than a million men, women and children by sea to Europe.

Here in the Asia Pacific, the abandonment at sea of some 5,000 men, women and children by people-smugglers, with no government willing to bring them ashore, was a moment of reckoning. We watched in horror as human beings who had fled discrimination and persecution were left adrift, starving and sick, for months. Hundreds died. Not long afterwards, on the other side of the globe, the body of the young Syrian refugee, Alan Kurdi, washed ashore in Turkey. The collective tide of emotion was not only one of grief, but shame that such tragedies could happen.

In South East Asia, governments resolved to prevent collective inaction and its fatal consequences. Through the 2016 Bali Declaration, States acknowledged the need for a reliable and concerted response to this genuinely regional challenge. In establishing the ASEAN Trust Fund, member states also committed in 2015 to provide financial support to emergency and humanitarian relief efforts during similar movements of people, so that such vessels are never denied entry for fear of carrying the responsibility for reception and solutions alone.

Today, some six years later, these mechanisms have failed to live up to their promise. We see once again increasing movements of Rohingya refugees in the Bay of Bengal and Andaman Sea. We know their voyages are becoming more deadly. The longer a ship remains at sea, the more refugees are exposed to life-threatening risks. Increasingly, a majority of those aboard are women and children.

International Laws and conventions stipulate clear obligations for States to provide a safe harbour for those in distress at sea. But these legal frameworks derive from a much older and more instinctive truth – that rescue at sea is a fundamentally humanitarian act.

We have seen this humanity reflected in myriad acts of ordinary citizens around the world and in Asia. Acehnese fisherman who, with no fanfare or agenda, quietly rescued some 470 Rohingya refugees and brought them ashore between June 2020 and June 2021. Host communities in Bangladesh who, despite limited resources, have taken in more than 800,000 Rohingya refugees and provided them with sanctuary.

This report sets out the developing trends in movements of refugees in the Bay of Bengal and Andaman Sea, and the clear need for more comprehensive solutions. Equally critically, however, it gives voice to the thousands of refugees who have risked their lives in desperation – to reunite with family, to access education, to support themselves through gainful employment.

Among them, a young Rohingya father who was reunited with his wife and daughter after their seven-month ordeal at sea. “It was the happiest day of my life,” he told UNHCR staff upon seeing his family for the first time in over six years. “We are faceless, homeless and left adrift; we need a solution. I want to say to the whole world, please find a solution for us.”

Finally, this report makes clear and actionable recommendations on how to avoid further tragedies. These include bolstering search and rescue efforts at sea, stopping the deadly practice of pushbacks, and working towards a regional mechanism for predictable and equitable disembarkation.

For as long as States bordering the Andaman Sea and Bay of Bengal are reluctant to rescue and land those in distress at sea, that collective failure to act will have tragic and fatal consequences. We can and must do better.

Indrika Ratwatte

*Director of the Regional Bureau for
Asia and the Pacific, United Nations
High Commissioner for Refugees*

2 | Background

In the past decade, thousands of Rohingya refugees have left by sea from Rakhine State in Myanmar or from Cox's Bazar in Bangladesh seeking safety in other countries. From January 2020 to June 2021, 3,046 Rohingya attempted to cross the Andaman Sea and Bay of Bengal. More than two-thirds of those travelling are women and children. In 2021, movements are continuing, and will likely continue until there is a lasting solution to the discrimination and violence the Rohingya face in Rakhine State, Myanmar.

Junaida, 15 years old

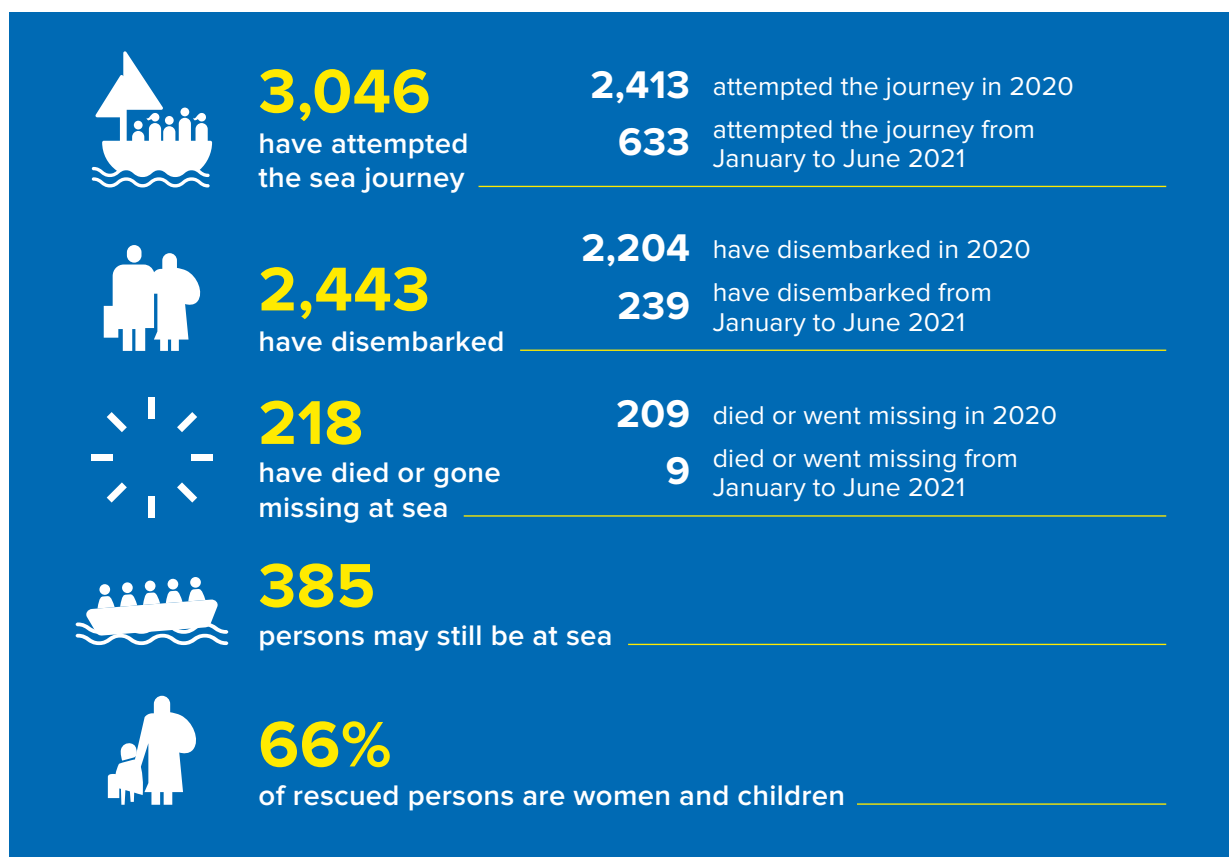
...decided to join her sister in Malaysia after fleeing to Bangladesh and then losing her mother. Her brother-in-law gave her a phone number to call.

“Someone came with a car and ... I was taken somewhere,” she said.

“Then I got on a boat... We didn't hope for the future. We didn't know whether we would live or die. We just decided that we would try to move towards somewhere.”



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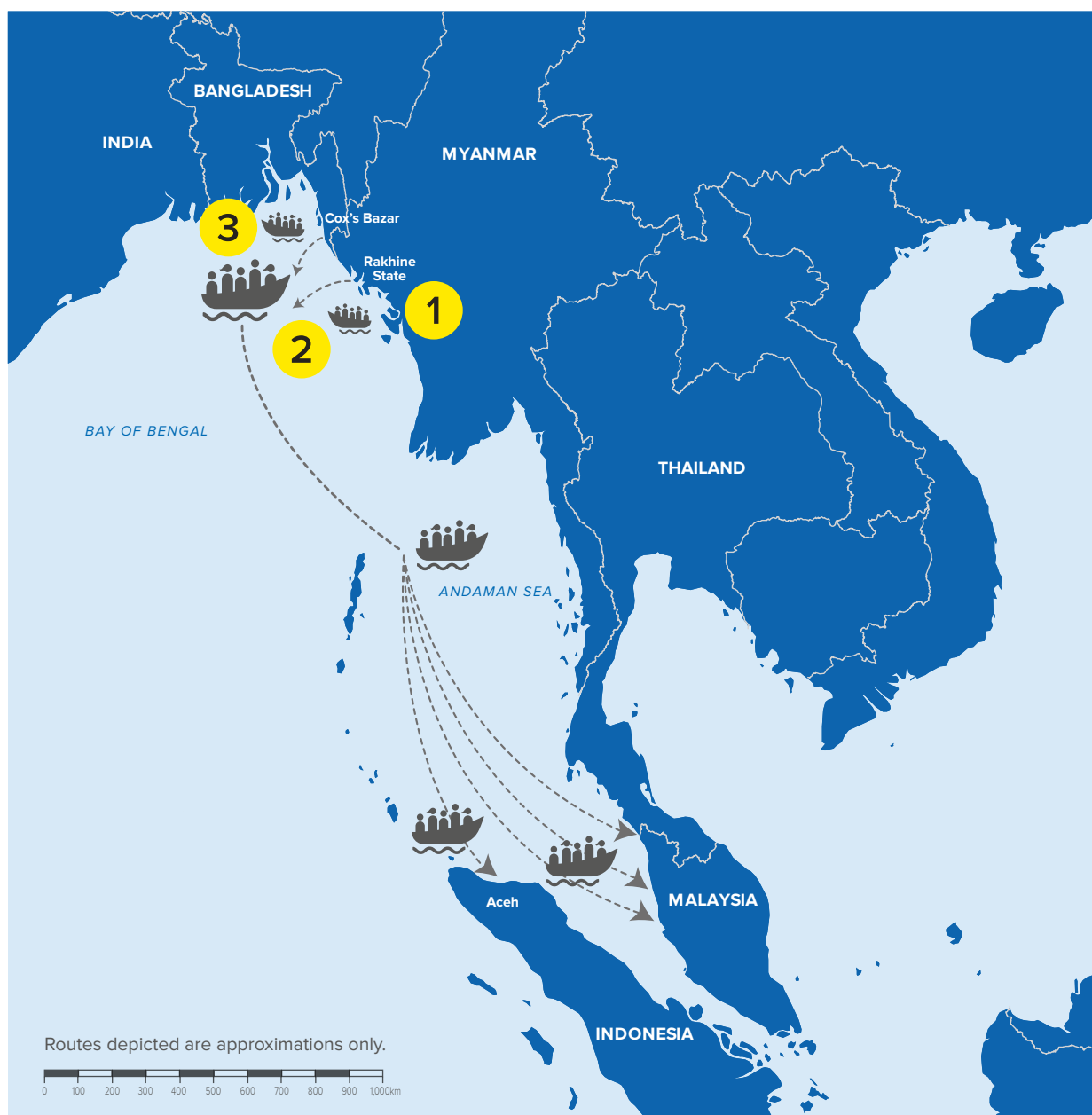
Figure 2.1 Key stats at a glance¹: January 2020 - June 2021

a) Where do they come from?

- 1 Rohingya refugees make up the vast majority of people taking these boats. The Rohingya are a persecuted minority from Rakhine State in Myanmar. They have been stripped of their citizenship in Myanmar and denied basic rights. They do not have the right to move freely within their own country and their access to education, healthcare and basic rights is extremely limited. Due to their stateless status, the vast majority of Rohingya find it impossible to obtain the identity documents from their country of origin required to travel legally.
- 2 Rohingya have been under immense pressure to flee their homes. In late 2017, the most recent outbreak of violence against Rohingya in Rakhine State led to a massive exodus into neighboring Bangladesh. Even before the military takeover in Myanmar in February 2021, the situation in Rakhine was already extremely challenging, with a recent history of armed conflict and continuing social exclusion of the Rohingya population, fueling irregular departures of Rohingya by sea from Rakhine State. While some boats from Rakhine State deposit passengers onto larger boats heading for other countries, many Rohingya leaving Rakhine go to other parts of Myanmar, where they meet smugglers that take them by land to other countries.²

¹ Mixed maritime movements are by nature clandestine, making the data on such movements difficult to independently verify. The information in this report is compiled and triangulated from various sources including governments, partners, media reports and interviews with refugees. The numbers provided remain estimates.

² While over 22,000 refugees have fled Myanmar between February and mid-July 2021 due to violence and the deteriorating situation in the country, these departures have been predominantly by land routes and have not yet resulted in departures by sea. These individuals were generally not Rohingya.

Figure 2.2 Map of sea movements of Rohingya in the region

- 3** There are now some 884,000 Rohingya refugees in Bangladesh. The Government of Bangladesh has shown immense generosity in hosting this large population of refugees and endeavoring to provide access to their basic needs. However, there are factors that compel refugees to seek livelihood opportunities outside Bangladesh, which include the congested camp environment, dwindling resources to meet basic needs, worsening criminal activity, and the uncertain scope for sustainable solutions in Myanmar. Furthermore, restrictions on movement, livelihoods and education that were increasingly tightened during the COVID-19 pandemic further contribute to refugees' intentions to leave Bangladesh for other countries. To do this, they resort to using smugglers to facilitate risky journeys, placing them at risk of trafficking and other forms of abuse and exploitation.

The boats leaving Bangladesh carrying passengers from the camps in Bangladesh as well as smaller numbers of Rohingya who have departed Rakhine State on small boats, before joining the larger boat leaving Bangladesh.

b) Who are on the boats?

- More women and girls on the move:** Rohingya women and girls often seek to travel to other countries in Southeast Asia to enter into arranged marriages with Rohingya men already there. In many instances they have never met the man, as their parents have arranged the marriage over a phone call with the prospective husband in the destination country. Some are teenagers. Communities perceive this practice as facilitating the escape of women and girls from harsh conditions and the risk of sexual violence in their homes or in camps. Further incentivizing this practice is the fact that prospective husbands usually cover the cost of sending women and girls to the destination country for the purposes of marriage. Families also perceive that marrying their daughters to wage-earning men in another country will enable their daughters to send remittances to support them, an advantage where there are extremely limited livelihood opportunities in exile. Many women and girls express the view that entering into these marriages is a pathway to a better life and a way to support their families.



- Unaccompanied children:** Some children travel alone, as families are not able to afford the cost of sending an older family member to be their guardian. Many children are traveling to be reunited with parents or other family members, and to seek an education or employment opportunities. These children may become child brides, labourers or caregivers for sick or elderly family members in the destination country. Children travelling alone are especially vulnerable and in need of special care and protection by States as recognized by ASEAN³ as well as international legal instruments such as the Convention on the Rights of the Child.

66% of those moving between 2020 and June 2021 were women and children.

³ See ASEAN Declaration on the Rights of Children in the Context of Migration

- **Men and boys looking for a chance at a livelihood:** Men and boys who make the journey are expected upon arrival to quickly obtain a job in the destination country and send money back to help their families survive increasingly difficult conditions. As refugees do not have the right to work in most countries in Southeast Asia, the jobs these men and boys accept are often in the informal economy, which means they endure some of the most difficult labour conditions in those countries.



13 year-old Rohingya boy

My father told me; *“Since you were born, your life has been nothing but suffering. There is no opportunity to work or get an education here in this camp. This is not how a child should live. You deserve to go somewhere else.”* My father didn’t have money to send all of us, and he had to stay to take care of my four sisters, so I was the one he chose to go on this journey.”

- **Persons at risk of human trafficking:** The promise of safety and the lure of a better future leads some Rohingya to fall prey to human traffickers who arrange sea journeys. Rohingya women and girls have reported being promised with an arranged marriage but were instead sold by traffickers into sexual exploitation and/or forced domestic labour. Rohingya men report being promised jobs but instead are sold to employers who exploit them for forced labour. As these networks operate clandestinely and successful prosecutions have been rare, there is little data about their prevalence.
- **Persons at risk of bonded labour:** For those families who can afford it, usually only one family member can make the journey due to the cost. Rohingya report paying US\$3,400 to \$4,900 to smugglers to travel by sea. The high cost of travel can lead to some refugees being forced to work under harsh and unfair conditions in order to repay the debt they owe to smugglers.

Experiences of forced labour: One 25-year-old woman who arrived in Malaysia in 2018 reported being a victim of forced labour upon arrival in Malaysia by boat. Her family was not able to pay a ransom amount that would allow the smugglers to release her. Eventually, the smugglers sold her to the owner of a palm oil plantation, who covered the cost of her ransom in exchange for nine months of unpaid labour. She was released from the plantation after completing the 9-month “term.” In this case, what began as an arrangement with a human smuggler turned into a situation of trafficking for the purposes of labour exploitation.

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Dangers of travelling during the COVID 19 Pandemic

While travelling by land or sea, you may not be able to access medical care for several months. Conditions while travelling are dangerous. Many boats used by smugglers load many more passengers than their capacity.

You may be prevented from disembarking in or entering a country because of fears that you may be carrying COVID-19, even if you do not have symptoms. If so, you could be stranded at sea or in border areas indefinitely.

Passengers must stand shoulder to shoulder with others. These conditions do not allow anyone to avoid contact with people who are sick. If anyone on the boat is sick with COVID-19, there is a high likelihood that all other passengers will be infected.

If you or anyone you travel with is confirmed to be sick with COVID-19, the general public may blame all refugees for transmitting the disease and governments may impose tighter restrictions on refugees.

If you have fever, cough, or difficulty breathing, do not travel. A sick person is at risk of infecting everyone travelling with them. Instead, seek medical care early to protect yourself and others.

If you are allowed to disembark, you may be detained in crowded detention centers which could make you sick with COVID-19.

Thinking of Marriage... Think again.
Girls travelling for a potential marriage often experience sexual exploitation and violence during and after the journey. Upon arrival many girls have reported domestic violence, exploitation and abuse from their in-laws, with some being sold to traffickers to be used in the sex trade. Many people are separated from family and friends, and access to assistance and support is often not available.

Thinking of a better future for your children...
Families may be permanently separated when their children undertake dangerous sea journeys. Accidents en route and detention upon arrival are harsh realities, while maintaining contact through mobile phone or other forms of communication is often impossible.

Boys seeking education and livelihoods opportunities often find themselves on rubber plantations or fishing boats, forced to work under dangerous conditions with no documentation, no salary, no education, and no one to turn to for help.

Thinking of Escaping From an Abusive Home...
There are solutions that can be found in Bangladesh. Ask for help from humanitarian agencies or government social services.

Awareness campaigns:

Smugglers and human traffickers are preying on the desperation of refugees to escape difficult and dangerous living conditions. UNHCR and partners run awareness campaigns in the camps to inform refugees about the dangers of the sea journey and the risks of being trafficked. However, the issue of irregular maritime movements can only be solved by a multi-pronged response that involves awareness-raising, arrest and prosecution of smugglers and human traffickers, protection of refugees who disembark, and tackling root causes motivating persons to move by sea.

A poster from an awareness campaign in Cox's Bazar on the dangers of the sea journey.

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c) Why do Rohingya take to the sea?

Figure 2.3 Rohingya refugees have various motivations for taking the journey, many of which may overlap



3

Current trends in maritime movements

3.1 More journeys, deadlier outcomes:

a) The number of sea journeys have been increasing since 2018

As seen in the chart below, arrivals by sea in the countries surrounding the Bay of Bengal and Andaman Sea have steadily increased since 2018, after a fall from the peak years of 2013-2015. In 2016 and 2017, there was a lull in sea journeys as the vast majority of Rohingya refugee movements were overland or river crossings from Myanmar to Bangladesh. Crackdowns on smuggling networks operating in Thailand and Malaysia also seriously disrupted maritime movement routes. In 2018, journeys resumed on a reduced scale, with smugglers using smaller boats to disembark passengers to avoid detection. Furthermore, while boats from Bangladesh which travelled from 2013-2015 had a mix of Rohingya refugees and Bangladeshi migrants on board, boat movements from 2018 onward are predominantly composed of Rohingya refugees.

In 2020, an estimated 2,413 persons are confirmed to have taken the sea journey, up from 1,337 in 2019 and 762 persons in 2018. From January to June 2021, 633 persons are known to have travelled by sea. As these maritime movements are by nature clandestine, data on such movements is difficult to independently verify, and many more movements may have occurred undetected.

Figure 3.1 Movement trends: 2013 - June 2021



Maritime Movements in Andaman Sea and Bay of Bengal (persons)⁵

	2013	2014	2015 ⁴	2016	2017	2018	2019	2020	2021 (until June)
	51,870 *	63,590 *	32,610 *	n/a	n/a	762	1,337	2,413	633



Dead and missing⁶

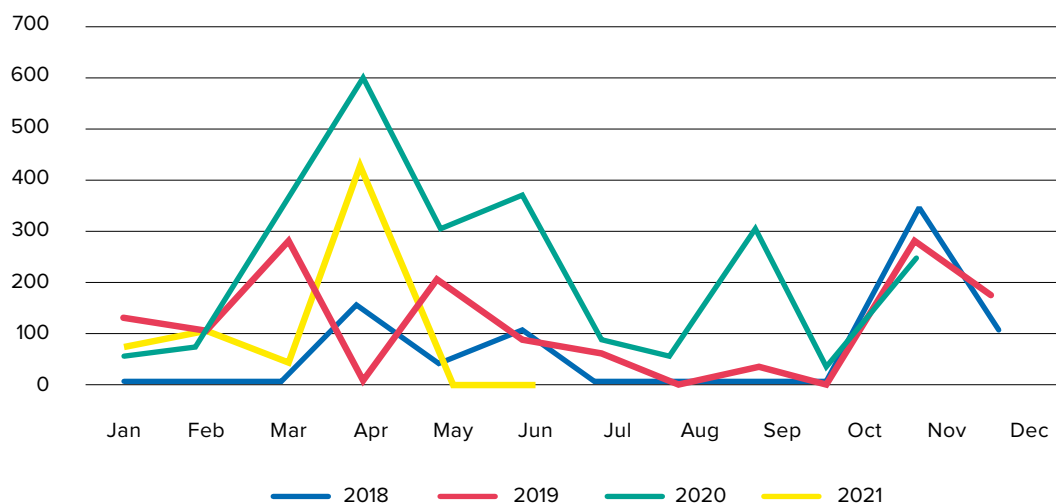
	2013	2014	2015	2016	2017	2018	2019	2020	2021
	890	730	200	n/a	200 ⁷	11	4	209	9

⁴ *Numbers of departures and numbers of deaths for years 2013-2015 are estimates derived from interviews with refugees who arrived on boats in Indonesia, Malaysia and Thailand from 2013-2015. Figures during this timeframe have been rounded to the nearest ten to denote the increased reliance on estimates relative to more recent years.

⁵ This includes both Rohingya refugees and Bangladeshi migrants. However, as of 2018, the vast majority of those travelling by sea are Rohingya refugees.

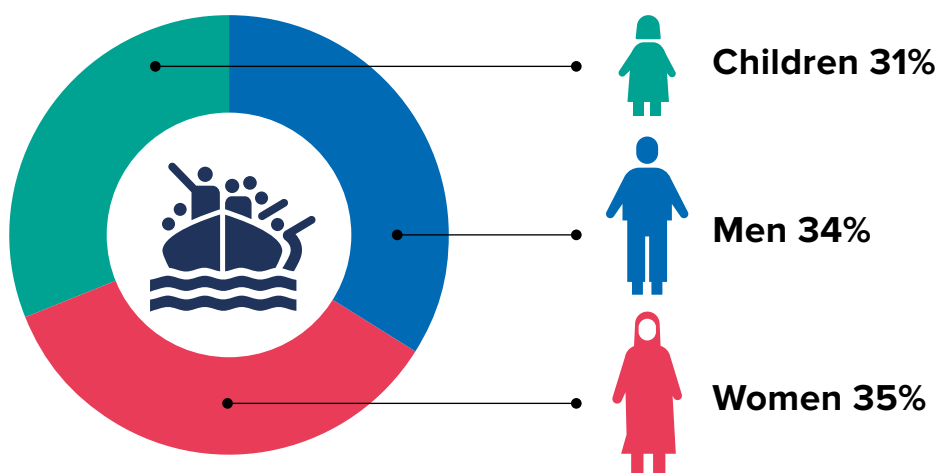
⁶ The number of dead and missing are already included in the count of maritime movements that year. For example, 2,413 persons moved in 2020, and 209 of this number died or went missing.

⁷ In 2017, more than 200 Rohingya fleeing the violence in Rakhine with rafts and boats died between August and October 2017 after their crafts capsized on the river separating Bangladesh and Myanmar. As these are not sea movements, no number is recorded under "maritime movements".

Figure 3.2 Confirmed sea movements by month: January 2018 - June 2021

b) More women and children are taking the journey

Before mid-2015, most Rohingya who made the journey were men. In recent years, however, the number of women and children making the trip has been increasing. From 2020-2021, two-thirds of the people who made the trip were women and children, and most of the children were girls. The percentage of women increased and the percentage of children slightly decreased as at the end of 2020 (28% women, 36% children, 37% men) to June 2021 (35% women, 31% children, 34% men).⁸ This can be attributed to the increasing prevalence of women and girls taking the journey to enter into arranged marriages with Rohingya men already in the destination country. Communities are aware of the risks involved in the journey and upon arrival, but the practice continues because they perceive these risks as more acceptable than leaving their daughters to endure harsh conditions back home.

Figure 3.3 Gender age breakdown of Rohingya taking the sea journey: January 2020 - June 2021⁸

⁸ Due to access constraints, the gender age breakdown is only available for 43% of passengers that are known to have moved during this time period.

c) Sea journeys are becoming deadlier

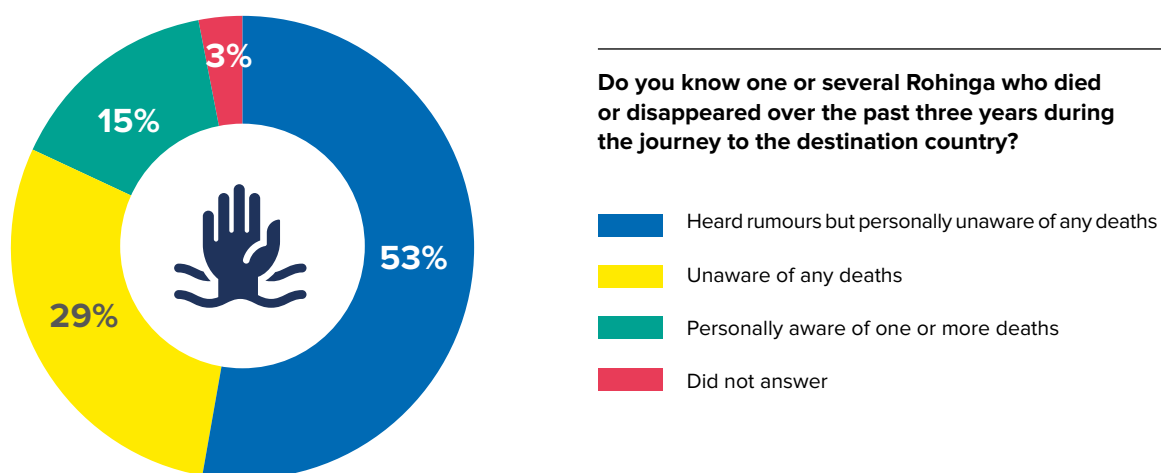
2020 was the deadliest year in the Bay of Bengal and Andaman Sea since UNHCR began monitoring deaths at sea in the region, with more than 200 people dying or going missing. This death rate amounts to 8% of those taking the sea journey. In contrast, in 2019, less than 1% of persons attempting the journey died at sea, and between 2013 and 2015, an average of 1.2% of persons attempting the journey died. Many more deaths may have gone unreported.

As of June 2021, at least 9 people have already died or gone missing at sea in 2021.

Journeys in 2020 were
8 times deadlier
than those taken before 2019.

Figure 3.4 Awareness of deaths and disappearances at sea by members of a Rohingya diaspora community

Of 62 Rohingya surveyed by UNHCR in a destination country who arrived in the past three years, more than half were aware of rumours of deaths or disappearances at sea, and 15% were personally aware of one or more persons who died during the journey.



d) Refugees are spending longer periods at sea exposed to deadly risks

The increase in prevalence of deaths on the journey in recent years can be attributed to the fact that refugees are spending longer periods unable to disembark. These ships are usually poorly equipped for the sea journey, inadequately stocked with essential supplies and crewed by smugglers who often abuse the passengers and treat them as “human cargo.” The longer a ship remains at sea, the more refugees are exposed to the following life-threatening risks:

- Unseaworthy vessels:** Smugglers often use boats that are poorly equipped for the long sea journeys required to reach the destination. This has led to some refugees being adrift on the sea when their boat's engine stopped functioning, stranded on remote islands after their boat ran aground, or drowning when boats capsized in poor weather. Travelling during the monsoon season is particularly treacherous due to frequent storms that can capsize boats or blow them off course. Smugglers often fill boats with many more refugees than they can safely carry, increasing the likelihood of deadly accidents at sea.
- Insufficient supplies:** Boats often carry supplies of food and water that are insufficient for the length of the sea journey. When boats are prevented from disembarking, these supplies can dwindle and run out. Refugees have reported that their daily ration could be as meagre as one or two handfuls of rice, a small amount of dried fish and one cup of water per day. Meals may be reduced to once every two days as supplies run low, or eventually none at all. Some survivors have reported fellow passengers becoming delirious with thirst and drinking seawater that accelerated their deprivation. Other refugees have suffered and died from beriberi; a nutritional deficiency caused by inadequate intake of Vitamin B1. While rarely seen in the general population, beriberi is especially prevalent in those taking these boat journeys because of the poor diet of white rice and fermented fish given to passengers, which aggravates this nutritional deficit.
- Abuses by smugglers:** Survivors often report brutal physical abuse at the hands of smugglers. In the middle of the ocean with no authorities around, smugglers commit abuses with impunity. Smugglers arm themselves with clubs, knives, or guns in order to “enforce order” on the boats. Refugees are beaten for asking for more food or water. Women and girls have reported being forcibly taken by smugglers into their quarters and sexually abused. Smugglers sometimes prevent refugees from disembarking until they extort more money from the refugee's family members back home. Deaths at the hands of smugglers have been reported. The children who witness these atrocities may survive but are likely to be traumatized.

Figure 3.5 Deadly voyages: 2020 - June 2021

Boats on which people died or went missing between January 2020 and June 2021 are depicted below, with the time spent at sea, incident date and location, and number of estimated dead or missing.

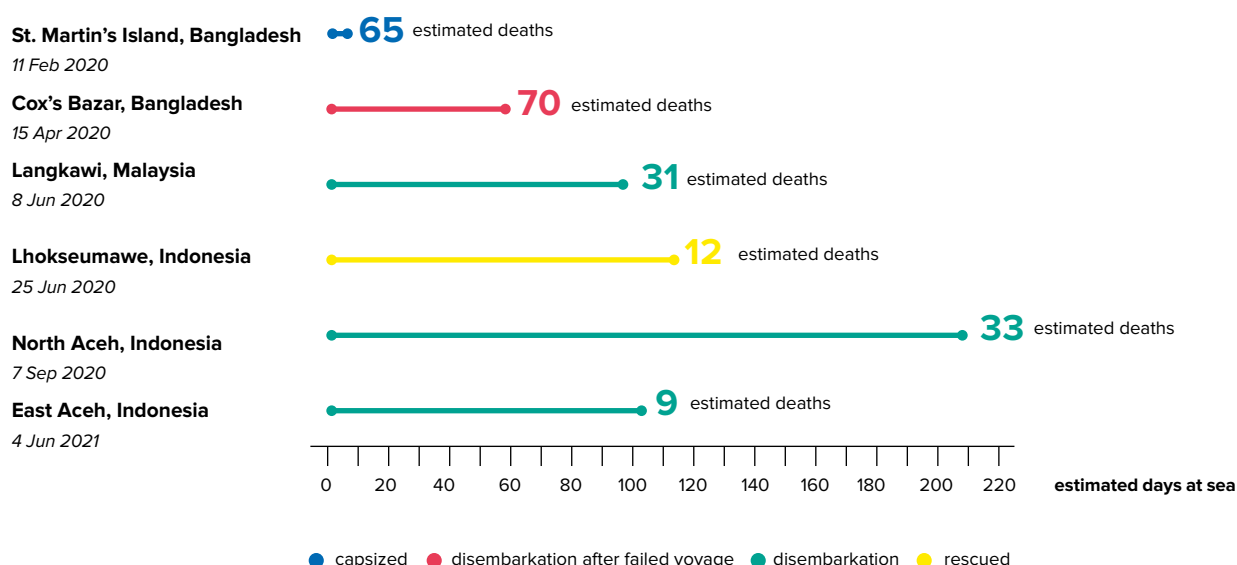
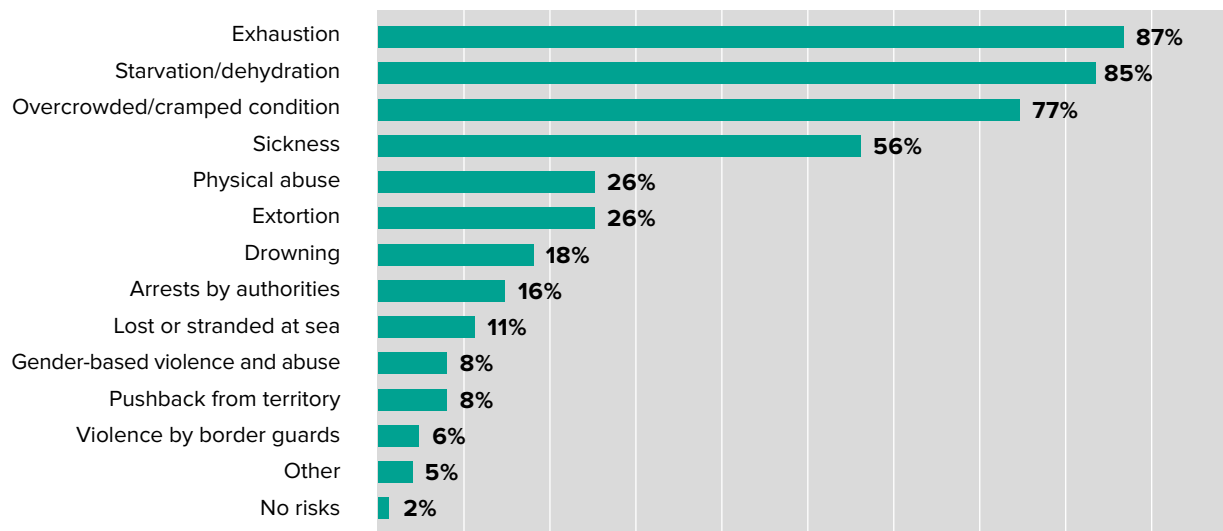


Figure 3.6 Most common risks reported by refugees during the journey⁹

Those left behind

I remember my daughter Yasmin* as a storyteller. She was very popular with her siblings and other children in the neighbourhood because she was always entertaining them with stories she read aloud from books. Yasmin had studied up to Grade 8 and I was so proud of her. When our village in Myanmar was burned during the violence, we fled to Bangladesh and Yasmin could not continue with school. This was hard for her, but we were happy to still be alive.

One day, we heard that a young man from our village in Myanmar was now in Malaysia, and he was interested to marry Yasmin. The man offered to come to Bangladesh from Malaysia to marry her, and our family was considering this. Before we decided, however, Yasmin heard about three girls from our camp that took boats to Malaysia and arrived. Yasmin tried to convince me that she should do the same, telling me: **"you see that three more girls from our camp block have already reached Malaysia, so why do we have to ask this man to come to Bangladesh and get married? Shouldn't I take the boat to Malaysia to meet him, and get married there?"** But I refused to allow her to go because I know the risks; I have heard of people who have died during the journey.

One afternoon, I came home from my work as a schoolteacher. I was surprised to find Yasmin not in the house. I asked my wife, **"Where is Yasmin?"** My wife said that Yasmin had left for Malaysia. I was shocked and angry. I called Yasmin on her mobile phone and demanded to know where she was, so I could ask the authorities to bring her back home safely. She refused to give her location. I pleaded with her to come back numerous times, but she refused to reconsider. What else could I have done?

For the next five days, I spoke to Yasmin on the phone to make sure she was okay. But after the fifth day, she stopped answering my calls. About three days later, I heard there was a boat accident and bodies were recovered by the Bangladeshi authorities. I went to the place that the bodies were kept and found the dead body of my daughter Yasmin there. I heard from others that Yasmin had boarded a small boat that was supposed to take her to a big ship, which would take passengers to Malaysia. But she never even reached the big ship. The small boat hit a rock on the way, breaking its hull and sinking it. Yasmin drowned in the sea.

How can I express the suffering of losing a daughter? I could not sleep properly, I struggled to eat, I never felt at rest. Overall, I feel like a part of me is missing. I also feel shame, because I am a well-respected schoolteacher and yet I failed to stop my daughter from going to her death. I did not leave my house for three months because I could not bear for my community to see me in this way.

Yasmin's brothers and sisters cannot stop asking **"What happened to Yasmin? Where did she die? How did she die?"** They miss her reading to them; playing with them. They are too young to fully understand. I tell them that Yasmin is gone and that we must accept God's will. But I don't say a word about the journey she took. If other villagers mention the boat journey to my children, I tell my children not to talk to them. Talk of this journey has already taken enough from our family.

- Father who lost a daughter at sea¹⁰

* name changed to protect identity

⁹ Data obtained from a sample of 62 Rohingya refugees who arrived by sea in a destination country in the past 3 years. Overall, more refugees reported facing risks during the journey than those surveyed by UNHCR in 2018.

¹⁰ This story is adapted from an interview with a Rohingya refugee residing in Cox's Bazar whose daughter passed away in 2020.

3.2 Disembarkation remains an ad-hoc response



There are to date no regional mechanisms in place to ensure equitable and predictable disembarkation of refugees and migrants in distress at sea, despite the maritime obligations of all States in the region and the political commitments made by all Bali Process member states in their March 2016 Bali Declaration.¹¹ The Indonesian Presidential Regulation No. 125 of 2016 remains the sole commitment in South-East Asia to rescue and disembark refugees in distress. In the absence of a common regional framework, disembarkation occurs in an ad-hoc manner in the region, which puts the lives of vulnerable refugees at risk.

Asmotulleh, 21 years old

...decided to travel to accompany his sister. When Asmotulleh's sister's fiancée offered to bring her to Malaysia, Asmotulleh agreed to accompany her. He thought he would find a job and finally be able to support his parents and other siblings, since he was not permitted to work in Bangladesh. Unable to obtain passports, he and his sister turned to smugglers. On the boat, the crew beat him. **"We could not move around. We had inadequate food and ... we couldn't even dream of a shower. It was as if we had reached the day of judgement,"** he said. When the boat came ashore, he had no idea where he was. The locals said they were in Aceh, Indonesia. Asmotulleh did not care where he was. **"Nobody wanted to continue at sea. So no matter the country, everybody just wanted land to set their legs on,"** he said. **"We were so happy to see the lights,"** he recalled.



¹¹ Full title: [Bali Declaration on People Smuggling, Trafficking in Persons, and Related Transnational Crime](#). The Bali Declaration was reaffirmed at the August 2018 Bali Process Ministerial Conference.

a) Disembarkation in the context of COVID-19

The COVID-19 pandemic has resulted in States tightening their borders since 2020, leading to the highest number of refugees stranded at sea in a single year since 2015. However, even under the conditions of a global pandemic, some states have saved human lives by allowing refugees to disembark on their territory.

- **Bangladesh** allowed 698 refugees to disembark in Cox's Bazar in April and May 2020 after the boats they were travelling on failed to reach Malaysia and turned back. Bangladeshi authorities also rescued 73 survivors of a refugee boat which capsized near its coast in February 2020 and rescued 30 refugees after their boat was left adrift in April 2021, allowing them to disembark.
- **Indonesia** allowed 395 refugees to disembark in the northern province of Aceh in June and September 2020. Passengers on the boat that disembarked in September 2020 had been at sea for nearly seven months under awful conditions. In June 2021, Indonesia allowed 81 refugees to disembark in East Aceh.

A good practice upon disembarkation is the implementation of immediate quarantine and health screening to ensure against the spread of COVID-19. This was implemented by Bangladeshi authorities in response to a disembarkation that took place in April 2020 as well as Indonesian authorities in response to disembarkations in Aceh. All of the refugees that disembarked on these occasions tested negative for COVID-19 upon arrival. These instances have shown that upholding strict disease prevention measures can go hand-in-hand with saving the lives of vulnerable refugees.



Figure 3.7 Countries of disembarkation: January 2020 - June 2021



b) Pushbacks

In contrast, on other occasions, some countries in the region have used navy ships to push back boats carrying refugees, preventing them from landing. Such actions prolong refugees' time at sea under deadly conditions, which leads to the deaths of children, women and men. It also extends the impunity of smugglers to continue abusing vulnerable people, instead of taking smugglers into custody and prosecuting them for their illegal acts. Pushing boats back also makes it more likely that boats are forced to return to their country of origin, where their passengers could face persecution. In this way, pushbacks may in some situations lead to *refoulement* – sending a person back to a country where they will likely face persecution – which is prohibited under international law.

Q: *State laws are strict that only individuals with proper legal authorization may enter the territory. Why should refugees at sea be treated differently?*

A: Refugees are people outside their country of origin because of feared persecution, conflict, violence or other circumstances that have seriously disturbed public order, and who, as a result, require international protection. Their situation is often so perilous and intolerable that they cross national borders to seek safety in nearby countries. Due to the circumstances of their departure, they may lack either the ability or opportunity to obtain documents required to travel legally. In the case of Rohingya, the fact that they have been stripped of citizenship in Myanmar and are therefore stateless (do not have a nationality of any country) means that it is virtually impossible for most of them to obtain any legal document to travel. In recognition of these and other circumstances, the 1951 Convention on the Status of Refugees calls for States not to deny access to their territory for refugees who do not possess proper documentation to enter.

The principle of extending protection to some people arriving without proper documentation is not exclusive to the 1951 Convention, especially where children or trafficking victims are involved:

- **The UN Convention on the Rights of the Child**, which all States in the Asia-Pacific region have signed, requires that the rights of all children be protected, including their right to life, without discrimination as to their status (Article 2, 6.) It also requires that children who are refugees or seeking refugee status “receive appropriate protection and humanitarian assistance” (Article 22.)
- **The ASEAN Declaration on Children in the Context of Migration** acknowledges the need to enhance the identification, referral, protection and assistance of all children in the context of migration, including refugees, asylum-seekers and victims of trafficking (Paragraph 2.)
- **The ASEAN Convention Against Trafficking in Persons, Especially Women and Children** calls for Member States to consider adopting legislative or other measures to permit victims of trafficking in persons to remain on the territory, temporarily or permanently, in order for them to receive protection and participate in legal proceedings against traffickers (Article 14, 16.)
- **Member States of the Bali process agreed in the 2016 Bali declaration** to “encourage members to identify and provide safety and protection to migrants, victims of human trafficking, smuggled persons, asylum seekers and refugees” and “explore potential temporary protection and local stay arrangements for asylum seekers and refugees, subject to domestic laws and policies of member states” (Paragraph 3,6.)
- **The Universal Declaration on Human Rights** grants the right to seek and enjoy asylum from persecution (Article 14.)
- **Customary International Law:** Most legal scholars agree it is not permissible for a State to return a refugee to a country where they would face persecution (principle of non-refoulement), regardless of whether that State is a party to the 1951 Refugee Convention.

c) Detention on arrival vs. release into the community or alternatives to detention

Some states fulfilled their obligations to rescue refugees in distress at sea and allowed them to disembark, but immediately placed them in immigration detention without a timeframe for release and without UNHCR being granted access to them. Children are among those imprisoned indefinitely.

On other occasions, refugees who disembarked were allowed to return back to their families in refugee camps (disembarkation in Bangladesh in April 2020), or placed in shelters instead of detention facilities (Aceh, Indonesia on several occasions in 2020 and 2021).

A place of safety

According to the Search and Rescue Convention, a rescue operation ends where persons in distress are delivered to a place of safety. A place of safety is a location where:

- the rescued persons' safety of life is no longer threatened;
- basic human needs (such as food, shelter and medical needs) can be met;
- transportation arrangements can be made for the rescued persons' next or final destination. Accordingly, a place where the lives and freedoms of refugees would be seriously threatened would not be considered a place of safety. Likewise, disembarkation to a place where refugees are indefinitely detained would not constitute a "place of safety" since arbitrary detention is a serious threat to freedom and may not meet basic human needs.

17-year-old refugee girl in detention

"I am in jail now. I miss my parents, my brothers and sisters, and my husband who I was going to meet. We don't have enough space to sleep, no beds, and don't have enough food to eat. It is so hard to be away from my family. I have never been away from them before.

If I had known what would happen to me, I would never have agreed to come on this trip. I want to tell the world that I did not commit any crime, yet I am in jail. I am innocent; but am treated like a criminal. My only goal was to find a way to live a normal life with my husband. Each day I wonder, how much longer do I have to suffer the situation I am in?"



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UNHCR staff register recently arrived Rohingya refugees in Lhokseumawe, Aceh, Indonesia.

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4 | Future outlook

If the situation in Myanmar develops to allow Rohingya refugees to return home voluntarily in safety and dignity, or if Rohingya can access formal education and livelihood opportunities in exile, a major motivation to undertake dangerous journeys will be removed. It is not yet clear how the recent events in Myanmar in February 2021 will impact upon the prospects of a sustainable and voluntary return of Rohingya to their homes in Myanmar. It is also too early to forecast if movements in 2021 will match or exceed the numbers of movements in 2020. Movements depend on a variety of factors, including measures put in place to manage the COVID-19 pandemic. Furthermore, given the clandestine nature of these movements, their true extent may not be fully known.

COVID-19 has delayed or cancelled some movement plans due to difficulties in financing trips

Of 62 Rohingya individuals in a destination country surveyed by UNHCR, 10 reported that they recently had family members planning to join them. All 10 indicated that COVID-19 had either delayed or cancelled the plans of family members to make the journey. A factor indicated by some respondents was reduced economic opportunities because of COVID-19 related lockdowns, which meant that financing a family member's trip was no longer feasible.

No present increase in movements by sea as a result of the events of 1 February 2021 in Myanmar, but sea movements could occur if land routes are blocked

In relation to the recent events in Myanmar in February 2021, while more than 22,000 refugees have fled the country by land, UNHCR has not yet detected any irregular international movements by sea from Myanmar as a direct result. UNHCR believes that the land route will be the most immediate escape route for people to find refuge in neighbouring countries, but should armed conflict prevent access to border areas, people may take to the sea to avoid the violence.

Lack of predictable and equitable mechanism for disembarkation will mean more deaths at sea

There is to date no safeguard to prevent the tragic events of 2020 from repeating again. In mid-2015, a similar situation occurred when thousands of Rohingya refugees and Bangladeshi migrants were abandoned at sea by smugglers, with countries reluctant to allow the refugees to disembark and many perishing at sea. Despite commitments made by States in the wake of this disaster, continued inaction allowed the events of 2020 to occur, with almost three times the number of casualties as before. The lack of a predictable and equitable mechanism for disembarkation in the region will lead to more lives lost in the future.

5

Good practices spotlight – disembarkation in Aceh, Indonesia

Even under the constraints of a global pandemic, States can make the decision to allow vulnerable refugees to disembark, relying on the steadfast support of UNHCR and partners to assist in the protection of those who urgently need it. UNHCR, partner UN agencies, international non-governmental organizations, civil society groups and faith-based organizations stand ready to support local authorities on reception arrangements. The case of Aceh, Indonesia stands as an excellent example.

In June and September 2020, Indonesian authorities and the local Acehnese community saved the lives of nearly four hundred Rohingya refugees when they allowed them to disembark in Lhokseumawe, located in Aceh, Indonesia. This generosity is consistent with the Acehnese community's history of solidarity and compassion towards those in need. The refugees were housed at a site generously provided by the local authorities in Aceh. Despite challenges posed by the COVID-19 pandemic, Indonesian authorities and the local community collaborated closely with UNHCR and partners to provide much-needed protection to the refugees on land.



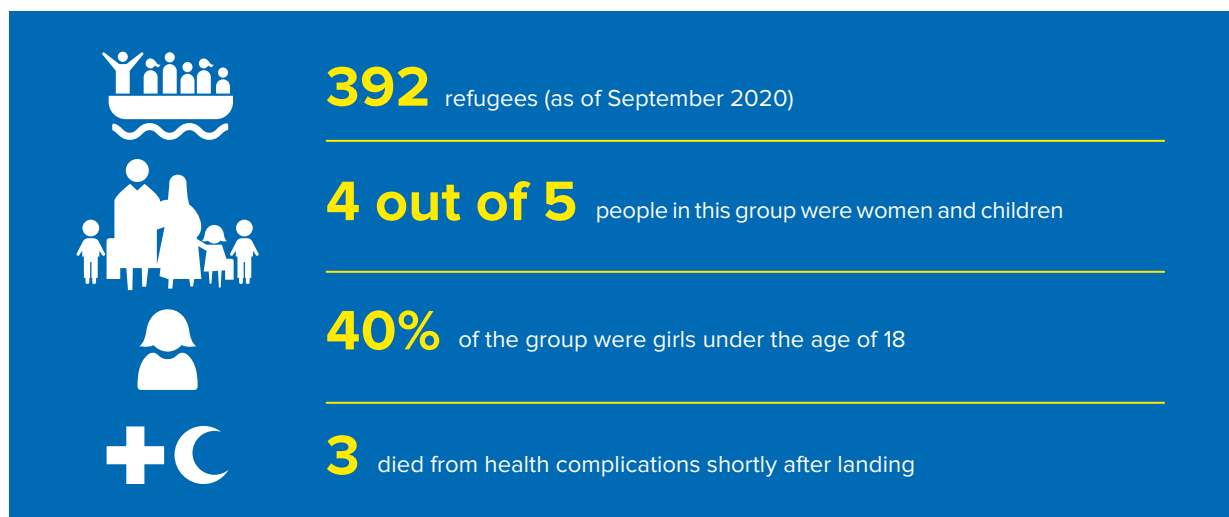
**Mohammed,
17 years old**

... finally landed in Aceh, Indonesia after enduring seven months at sea in horrific conditions. Mohammed was overjoyed at his rescue.

"I was extremely happy, as if I had moved from hell to heaven. I felt like this was a second life, a life from death," he said.

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Figure 5.1 Disembarkations in Aceh in 2020

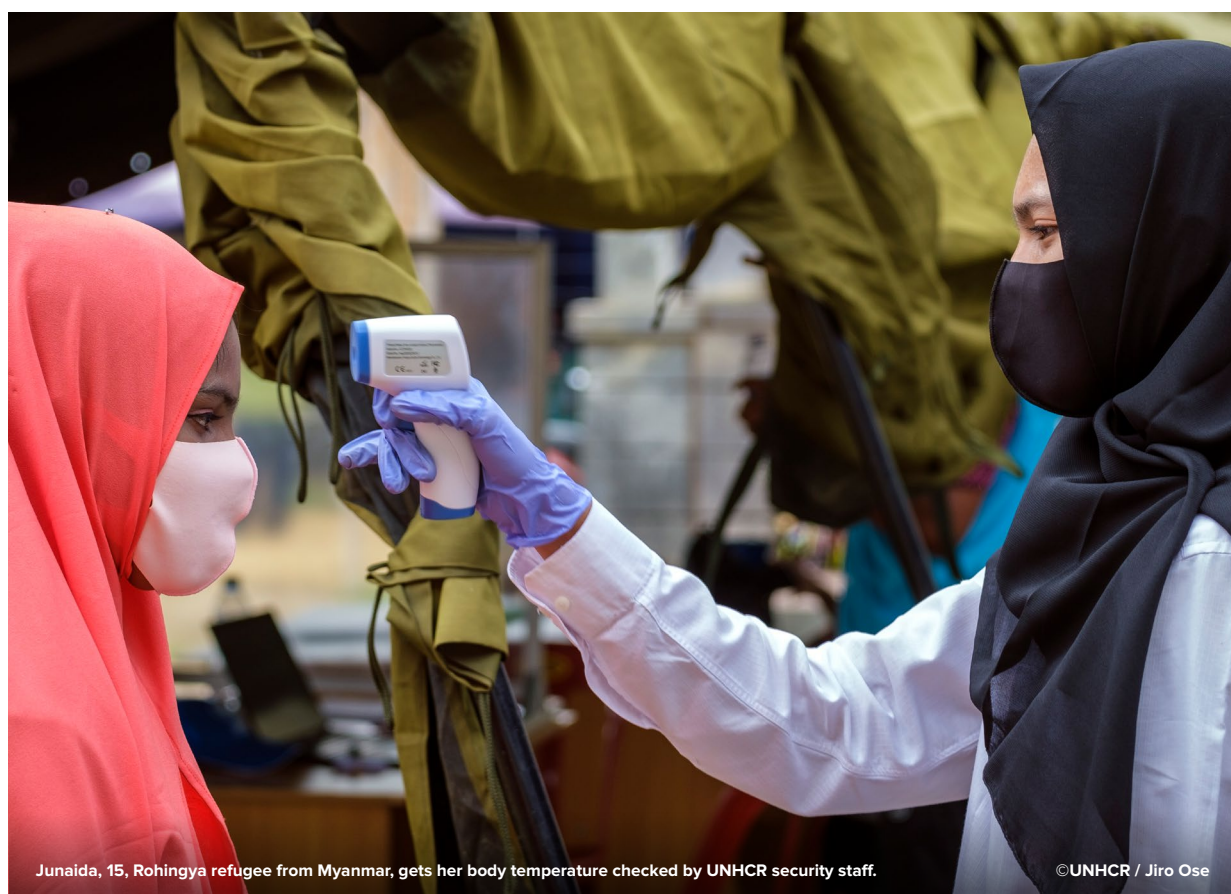


Close collaboration between government, civil society and the UN

The response to assist the refugees was led by the Indonesian government in close coordination with several UN agencies, international non-governmental organizations (NGOs) and more than 20 national NGOs. In the initial weeks after the arrival, coordination meetings were held weekly between representatives from the Indonesian government and the organizations providing assistance to the refugees. Indonesia's National Refugee Task Force met separately to discuss strategic refugee policy issues. Particularly notable was the response in the areas of health and mechanisms for screening and referral.

Health

Both groups of refugees had endured several months at sea with insufficient food and lack of an adequate water supply. Forty-two people from the two boats died at sea before reaching land. Within a few days after disembarkation, three refugees died due to the conditions they had endured at sea, all of them under the age of 25. In response to the survivors' medical needs, UNHCR coordinated the set-up of a temporary clinic facilitated by IOM, partners and local health authorities. Médecins Sans Frontières (MSF) deployed a doctor and a nurse to the site and undertook a medical assessment of the group which resulted in over 100 referrals for further treatment. Upon arrival, all refugees tested negative following a COVID-19 test. The overall physical condition of the arrivals gradually improved as they benefited from hydration, nutrition and rest.



Another good practice from the region:

- The Thailand Anti-Trafficking in Persons Task Force (TATIP) is comprised of multi-disciplinary teams made up of law enforcement officials, social workers, and NGO staff. These teams utilize standard screening guidelines to formally identify victims of trafficking and refer them to services. Teams have identified victims of trafficking among Rohingya who travel through Thailand toward Malaysia, who are then permitted to reside in government shelters and benefit from temporary stay in the country.

Screening and referral

UNHCR deployed Protection experts to identify survivors with specific needs such as potential victims of trafficking, unaccompanied and separated children, and survivors of sexual and gender-based violence. Many of the children on this boat were travelling without their parents or any adult guardian or had witnessed the death of their parent or guardian while on board the ship. Children were referred to specific agencies which could address their particular needs. For example, a phone service was set up by the Indonesian Red Cross (PMI) to help restore family links. IOM and UNHCR started a process to provide unaccompanied children with qualified foster care. The Ministry of Social Affairs, UNICEF and other partners collaborated to provide psychosocial care to children to help them recover from their ordeal.



Asama, 7, and Janatara, 8, Rohingya refugees from Myanmar, enjoy being children at a refugee site in Aceh Province, Indonesia.

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6 | Recommendations

Search, rescue and disembarkation

- **Mobilize and conduct immediate search and rescue of refugees stranded at sea, which includes ensuring timely disembarkation to a place of safety.**
- **Disembark refugees who are at sea.** Pushing back boats of refugees denies them access to life-saving assistance and can lead to their death or forced return to a country where they would be persecuted or killed.
- **Work toward a regional mechanism for predictable and equitable disembarkation** so that some States are not left shouldering the entire burden of the response. To give real meaning to the concept of regional solidarity in tackling irregular maritime movements, existing regional mechanisms, trust funds and initiatives could be mobilized around a system for regional collective action to save lives at sea.

Access to asylum

- **Provide access to asylum procedures to those who disembark and strengthen identification of those with international protection needs at borders.** Refugees should be allowed access to the territory to seek asylum and be protected against refoulement, which means they should not be returned to their country as long as it is not safe. This should already apply to Rohingya fleeing Myanmar and following the outbreak of violence throughout Myanmar starting in February 2021, should include all people from Myanmar seeking safety.

Reception arrangements

- **Seek the assistance of UNHCR and partners on implementing health screening and quarantine arrangements for those who disembark.** Together with partners, UNHCR stands ready to work with States in providing protection and assistance to those fleeing persecution and violence by sea. Cooperation between UNHCR and government authorities has repeatedly shown that protection of refugees during the COVID-19 pandemic can occur while preserving public health standards.
- **In the spirit of regional solidarity, support countries that disembark refugees** on their territory with resources and capacity to respond to the needs of rescued persons and assist in reaching solutions for them. This could include a dedicated, multi-year support framework for coastal countries that are affected by irregular maritime movements. End the detention of children for immigration purposes (including through the use of alternatives to detention) without undermining the principle of family unity and ensure early identification of asylum-seeking unaccompanied and separated children and their integration within national child protection systems.

Root causes of irregular maritime movements

- **Expand access to safe and legal migration pathways** by promoting educational opportunities (e.g. scholarship programmes), labour mobility schemes and family reunification visas for refugees.
- **Expand access to education and livelihoods opportunities in countries of asylum.** Enhancing efforts to support refugee growth and self-reliance in countries of asylum leaves them less vulnerable to exploitation, ensures their dignity and allows refugees to contribute to their host communities. In this way, they can be prepared for a future where they can re-establish their life permanently in their home country.
- **Work collectively to address the root causes of displacement in the country of origin.** This involves supporting improvement of conditions in refugees' countries of origin to make it possible for refugees to return voluntarily in safety and dignity.



Rohingya refugees from Myanmar find a moment of peace during a prayer at a refugee site in northern Aceh Province, Indonesia.

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Nashmin, 6, Rohingya refugee from Myanmar, bottom, expresses her joy with her friend Samia, 6, because her father came to be reunited with her and her mother.

LEFT ADRIFT AT SEA

DANGEROUS JOURNEYS
OF REFUGEES ACROSS
THE BAY OF BENGAL
AND ANDAMAN SEA



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