



# From Myanmar to Malaysia: Protracted Refugee Situations of Rohingya People

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## Abstract

This paper examines the prolonged situation of Rohingya Refugee who are escaped from Myanmar to Malaysia for survival. Based on the literature, the Protracted Refugee Situations of rohingya people occurred due to the several factors in Myanmar and Malaysia. For example, the Rohingya people forced to escape from their place of origin because of the government persecution and also the discrimination by locals. The journey as refugees are not easy for Rohingya and they need to face some risk before reach to a new destination like Malaysia. Although the Rohingya refugee made to reach Malaysia to start a new life, another problems are emerged due to the host government policy which not recognize the status of them as refugees. Hence, the Rohingya refugees' live in Malaysia possibility in limbo and this situation relates to the protracted refugee situations concept. However, the Rohingya refugee assuming the life in Malaysia is better than Myanmar and at the same time Malaysia also strives to find a durable solution in order to manage the Rohingya refugees' problem.

**Keywords:** Rohingya; Refugees; Myanmar; Malaysia; Protracted Refugee Situations

## 1. Introduction

The years of 2015 and 2016 show the rights of Rohingya people from Myanmar are still in denied and persecuted. Due to the lack of justice and recognition from the government of Myanmar, the long-building discriminatory policies have caused them to flee from their hometown to another uncertain destination. According to [1] Malaysia is the one of the most wanted destination for Rohingya refugee due to the sea route while escaped by boat. Along year of 2015, there were two main issues regarding the Rohingya refugee and Malaysia. First was about the issue of stranded "boat people" and followed by the human trafficking camp and mass grave issues which located nearby Malaysia-Thailand border. The issue of stranded "boat people" occurred when the Rohingya refugees have been left by the human traffickers after embarked from Rakhine State in Myanmar and Bangladesh's shore [2]. The human traffickers left them on the Malacca's Straits because they aware about the presence of local authority. Many of Rohingya were suffering from malnutrition and disease due stranded for many days [3].

Another issue in 2015 was about the reveal of camp and mass grave in the jungle nearby Malaysia-Thailand border. Based on the police report, the camps were built by the human traffickers as transit area for Rohingya refugees before waiting a good time to cross the Malaysia border. The Rohingyas have been brought up from Myanmar by boat and cross to Malaysia from Thailand by jungle. The mass grave used by human traffickers to buried Rohingyas whom died while on journey to cross Malaysia due to sickness, exhausted, and violated by human traffickers.

Previously on 2016, the democracy-leader of Myanmar, Aung San Suu Kyi told to the United Nations special rapporteur on human rights that the government of Myanmar avoid the terms of Rohingya. Aung San Suu Kyi which also as the Nobel Peace Prize winner and the permanent secretary at the ministry of foreign affairs said the terms of Rohingya is controversial in addressing the persecuted Muslim minority in Rakhine State due to previous policy by the former junta General Thein Sein which was stated Rohingya as a group of Bengalis from Bangladesh [4].

In the end of year 2016, there was another tragic situation happened in Myanmar for Rohingya people because of the massive destruction in Rohingya Villages. According to [5], Asia director at Human Rights Watch said Human Rights Watch identified a total of 430 destroyed buildings in three villages of Maungdaw District from an analysis of very high resolution satellite imagery recorded on the mornings of October 22, November 3, and November 10, 2016. The villages were destroyed by Myanmar authorities while strives to attack the Rohingya group which were believed shot dead Myanmar personnel in Maungdaw, Rakhine State even though actual responsibility remains unclear. This conflict shows the Rohingya Muslim minority in Myanmar continues to face statelessness and systematic persecution by the government and locals. The discussion will be expand through the literature review based on previous studies to address why Rohingya people relate to the Protracted Refugee Situations concept.

## 2. Literature Review

### 2.1. Rohingya: Demography Perspective

After the Rohingya Muslims and Rakhine Buddhists lived together under the rule of the King, the British was came and turned down the throne [6]. The discrimination of the Rohingya people begin during the British colonialization when they cannot hold a single high position in the government [7]. The condition for the Rohingya people seems became better when Myanmar had won an independence from Britain in 1948. The Myanmar's civil leader, U Nu had been promised to accord the autonomous region in northern Rakhine for Rohingya people. U Nu as a Myanmar's Prime Minister ousted by General Ne Win, as the leader of military. During the era of military rule in Myanmar, Ne Win as a leader of the state accused Rohingyas as illegal immigrant who were brought by British government to Rakhine. Then, the 1974 Myanmar's Immigration Act officially denied the rights of Rohingyas as citizen in Myanmar. In 1977, the juntas launched an operation called Dragon Min to hunt those illegal immigrants who were resided in Myanmar. During the operation, the Rohingyas had been victimized by the authority through violence action. The implication of the violence in Dragon Min operation to Rohingyas, in 1978, there were first mass influx of Rohingyas as refugees to Bangladesh [1]. About 200,000 Rohingya were forced to leave the country and majority of them crossed Bangladesh and settle down at a camp [8].

### 2.2. The Junta Persecution

After the Rohingya Muslims and Rakhine Buddhists lived together under the rule of the King, the British was came and turned down the throne [5]. The discrimination of the Rohingya people begin during the British colonialization when they cannot hold a single high position in the government [4]. The condition for the Rohingya people seems became better when Myanmar had won an independence from Britain in 1948. The Myanmar's civil leader, U Nu had been promised to accord the autonomous region in northern Rakhine for Rohingyas.

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### 2.3. The Second Mass Influx for Rohingya Refugees

The second mass influx for Rohingyas occurred in 1991 until 1992 due to the 1982 Myanmar Citizenship Law which totally denied the right for Rohingyas to become citizen in their own country. The junta made official statement about the case of Rohingyas citizenship as:

*"In actual fact, although there are (135) national races living in Myanmar today, the so-called Rohingya people is not one of them. Historically, there has never been a 'Rohingya' race in Myanmar. The very name Rohingya is a creation of a group of insurgents in the Rakhine State. Since the First Anglo-Myanmar War in 1824, people of Muslim Faith form the adjacent country illegally entered Myanmar Ngain-Ngan, particularly Rakhine State. Being illegal*

*immigrants they do not hold immigration papers like other national of the country."* [9].

From the statement above, the Rohingyas are not only as refugees but also as people without state or stateless person. Even though they were born and rise in Myanmar, they do not possess any identification that can prove them as Myanmar citizen officially. So, they fail to enjoy the same rights like other ethnic groups in Myanmar. The Rohingya people have been treated like illegal immigrants in their homeland [10]. Furthermore, as illegal immigrants they are prohibited to receive the identification card and fail to enjoy the public facilities. The issues of the citizenship and vicious in Myanmar forced the Rohingyas to become refugees in order to seek the better life in other countries [11].

### 2.4. Suppression of the Local Buddhist and the Third Mass Influx of Rohingyas

The plight of the Rohingya people in Rakhine still in dark side when not only the junta not recognized their citizenship, but at the same time the local Rakhine's Buddhist also treated them unequally. Thus, on 2012 the riots emerge in Rakhine State due to sectarian misunderstanding between the Muslim Rohingya and the Rakhine's Buddhist. The clash had been spread widely and it made things became worse because many house were burned and many people were killed. Therefore, a lot of Rohingya people became refugees because during the riots the Burmese army and police of playing a role in targeting Rohingya through mass arrests and arbitrary violence [12]. The communal violence and fear of persecution forced them to cross the border in order to secure their life. As a result of October 2014, they were about 140,000 Rohingya refugees are still staying in camps in Bangladesh [13]. The discriminations and persecution in Myanmar make Rohingyas feel fear to return to their home and this situation will affect the future life of Rohingyas.

### 2.5. The Forth Mass Influx and "Boat People" Issue

Another mass influx was happened in 2015 because of the protracted discriminatory policy by the junta to Rohingya people. This time the Myanmar's President, Thein Sein which announce on 11<sup>th</sup> February 2015, that all Temporary Registration Certificates, known as 'White Cards', would expire on 31<sup>st</sup> March 2015 and had to be returned to the authorities by 31<sup>st</sup> May [14]. Therefore, this situation has effect around a million people, mostly ethnic Rohingya that could not involve in the upcoming general election in Myanmar in November 2015. It also prevents the Rohingya from taking part in a possible referendum on Burma's constitution, which could take place this year [15].

The previous 2015 situation made Rohingya to risk their life as being refugees to another uncertain destinations. According to the Guardian, about the 25,000 Rohingyas have left Rakhine since first quarter of 2015 and majority of them travel by boats lead by the smuggler agent. The Rohingya also need to pay to the agent with high amount to make sure they can escape without being arrest by the authorities [16]. Nevertheless, The Rohingya were left by the agent in the middle of sea due to information that the Thai's authority was launch a crackdown operation on trafficking matters during the voyage to enter and cross the Straits of Malacca. Thus, the Rohingya people were being abandoned and leave them in suffer and exhausted as report of the Spokesman for the International Organization for Migration, Jeff Labovitz, (IOM), said: *"We are really concerned about these people because we have seen many instances of malnutrition or passengers suffering from beriberi (a disease caused by vitamin deficiency) and they need immediate humanitarian assistance because beriberi leaves them like a living skeleton."* [17].

Furthermore, the Rohingya refugees cannot handle the boat since the engine was scuttled by the smugglers. So, this situation leave them at risk of dying of starvation or thirst as they have had no food or water for many days.

### 3. Discussion

#### 3.1. Rohingya as Refugees

According to the Article 1 of the 1951 Convention as amended by the 1967 Protocol, defines a refugee as:

*"A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.."* [18].

Based on the definition above, Rohingya can be relate to the definition of refugees due to the persecution by the government of Myanmar and the discrimination by the locals. [19]describes the situation for Rohingya people as the most persecuted refugees in the world due to her statement:

*"Imagine you were denied an identity or a place to call home. Your rights to study, work, travel, marry and practice your religion didn't exist – because you belong nowhere. You're not given any way to prove who you are or where you're from, which restricts your ability to gain full citizenship status. Wherever you try to find refuge you're locked up in detention because of who you are. This is the life of a Rohingya person."* [19].

The current situation leave Rohingya no choice instead being refugees and escape from their homeland due to the injustice and persecuted by the government. However, for the forth influx the Rohingya were leave the origin place by using the boat lead by the smuggler agent. Even though they have to pay to the agent with high amount, it is better than stay at their home place and waiting for persecution [20]. Normally, the main destination for Rohingya refugees is not clear and it depends on the agent to bring them up and it is possible if they can voyage to Australia [21]. Normally, once the boats embark from Rakhine State or Bangladesh shores, it will crossing the Bengal Sea, Andaman Sea and Straits of Malacca before they can arrive the Australia as the last destination. About the 25,000 Rohingyas have left Myanmar since first quarter of 2015 and majority of them travel by boats [22].

#### 3.2. Rohingya Refugees in Malaysia

*"The Rohingyas' freedom of movement is severely restricted and the vast majority of them have effectively been denied Burmese citizenship. They are also subjected to various forms of extortion and arbitrary taxation; land confiscation; forced eviction and house destruction; and financial restrictions on marriage"* [23].

Life under the rule of juntas and mistreat from the locals turn the Rohingyas people to be refugees. Although becoming refugees are not easy, the Rohingyas take the risk to have better life in the new place. The incoming of Rohingyas in Malaysia could be described as pull and push factors [24]. The push factor that forces Rohingyas to be refugees is caused by violence, persecution, abuse, and denied rights from the government as well as locals. The pull factors for Rohingyas is to go to Malaysia because this country achieves the prosperity of economic growth and enjoys multicultural understanding in daily life. Basically, the Rohingya refugees move into Malaysia with several ways. First, they travel by plane and to do that the Rohingyas need to cross to Bangladesh and meet the agents who can create fake passport. Second, the Rohingyas travel by land route across Thailand to Malaysia. Normally, the trip will take about two weeks or even longer based on the agents and security matters.<sup>1</sup>

The third way is they use the sea route by boat and this is a popular method for Rohingyas to leave their country recently. But, travel by boat is the most challenging for Rohingyas due to several

factors like weather, time and lack of food. In order to reach Malaysia, they need to cross the Bengal Sea and Andaman Sea and it takes about more than two weeks. This condition makes the Rohingyas in risk because the ration of food will finish or the boat will sink before they reach Malaysia.

Based on the data derived from [25], about 150,559 refugees registered with this UN agency in Malaysia on October 2016. From the total of registered refugees in Malaysia, there are some 135,475 are from Myanmar, comprising some 54,856 Rohingyas, 41,420 Chins, 10,928 Myanmar Muslims, 5,221 Rakhines & Arakanese, and other ethnicities from Myanmar. On the other hand, there are some 15,194 refugees and asylum-seekers from other countries, including some 2,859 Sri Lankans, 2,692 Pakistanis, 1,809 Yemenis, 1,600 Somalis, 1,525 Syrians, 1,323 Iraqis, 841 Afghans, 633 Palestinians, and others from other countries. Based on the figures, Rohingya are the largest refugees in Malaysia presently.

#### 3.3. Protracted Refugees Situation

Protracted refugees situation concept was introduced by UNHCR on 2001 to describe the prolonged refugees' situation based on African Region. In light of the crucial distinction between minimum standards and essential needs as guiding parameters for UNHCR's activities, UNHCR stated a protracted refugee situation is:

*"...one where, over time, there have been considerable changes in refugees' needs, which neither UNHCR nor the host country have been able to address in a meaningful manner, thus leaving refugees in a state of material dependency and often without adequate access to basic rights (e.g. employment, freedom of movement and education) even after a substantial number of years spent in the host country"* [25].

On 2004, the concept of protracted refugee situations has been reviewed by the UNCHR's committee members to expand the roles of States and other partners about several mechanisms such as the feasibility of comprehensive plans of action, bringing into play each of the available durable solutions, to be implemented in close consultation with countries of origin, host countries, resettlement countries and refugees themselves. So, according to UNHCR the new concept of protracted refugee situations is:

*"...one in which refugees find themselves in a long-lasting and intractable state of limbo. Their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. A refugee in this situation is often unable to break free from enforced reliance on external assistance... Protracted refugee situations stem from political impasses. They are not inevitable, but are rather the result of political action and inaction, both in the country of origin (the persecution or violence that led to flight) and in the country of asylum. They endure because of ongoing problems in the countries of origin, and stagnate and become protracted as a result of responses to refugee inflows, typically involving restrictions on refugee movement and employment possibilities, and confinement to camps. The short-term nature of planning and funding modalities is a contributing factor"* [25].

Based on the definition above, the protracted refugees situations describes about the factors that contribute to the problem. The persecution or violence by the government of the origin country not only led towards the protracted refugees situations, but also the country of asylum which not recognized and help them. So, this factors live them in uncertainty and refugees find themselves in a long-lasting situation and intractable state of limbo.

#### 3.4. Rohingya as Protracted Refugees Situation

Although some of the Rohingya refugees made to reach to Malaysia and start a new life here, but the problem for them are more of the same. Despite the Rohingya refugees are not violated physically in Malaysia, their daily life are in uncertainty due to the gov-

ernment policy which not recognized them the status of refugees. The official statement made by Malaysian government was delivered in March 2007 through his Foreign Minister, Syed Hamid Albar said *"If we recognize refugees, we could open the flood-gates and encourage them to come here just to escape economic hardship in their own country"* [26]. However, he added *"In the first place, we never treated them as criminals. They are illegal immigrants as they don't have proper documents. This is different from being a criminal"*. On 2015, Malaysian government again declare its stand to not recognising or accepting refugees and asylum seekers in Malaysia. Minister in the Prime Minister's Department Shahidan Kassim reiterating the government's stand to not open its door especially to the Rohingya refugees from Myanmar, even under humanitarian grounds, as they have become a security threat here [27]. He said:

*"On humanitarian grounds, we let them run businesses in pasar malams (night markets), but they are giving problems to locals and we now cannot handle this type of people as our local businesses are also feeling threatened by them.... Now they are no longer refugees but economic migrants."* [28].

Shaidan Kassim also announced that Malaysia does not intend to sign a convention relating to the status of refugees because it will be a factor that contribute to the number of illegal immigrants and problems brought by them. The host government like Malaysia strives to protect its country from refugees and asylum seekers due to security and sovereignty reasons, but at the same the policy also has affected the living situation for Rohingya refugees in Malaysia. Even though, their lives may not be at risk, but their basic rights and essential economic, social and psychological needs remain unfulfilled after years in exile. For example, there are some of Rohingya refugees have been live in Malaysia since the second mass influx on 1991 and 1992. Unfortunately, their daily lives remain the same and sometimes they are also face the problem like being tortured by locals and forced to give money to local authority because they do not possess some legal identification.

The UNHCR Malaysia has put much efforts to help them in terms of documentation process and giving them a UNHCR card as temporary identification. But, their role is limited due to the government policy which is not comfortable with UNHCR effort to provide UNHCR card for refugees in Malaysia. Furthermore, the government has constantly urged UNHCR to increase the repatriation process to the country of origin for refugees or a third country [29]. The UNHCR's representative to Malaysia, Richard Towle said the government has confused with UNHCR roles in Malaysia: *"Our role here is given to us by the United Nations of which Malaysia is one of the members - let's be clear that Malaysia is part of the United Nations - and the United Nations has been given the responsibility to help take refugees where countries don't feel they can do it on their own.... We are here to help Malaysia deal with the refugee problem, we are not a substitute for Malaysia's responsibilities to deal with refugees"* [30].

The repatriation process is very limited due to the availability of the third country to receive those refugees especially for Rohingyas in Malaysia. So, UNHCR Malaysia told that resettlement is not an option for everyone and it wants the government to consider granting those who remain access to basic rights, such as the right to work. In regards with the UNCHR recommendation, Deputy Home Minister Nur Jazlan said the government are looking into via a pilot programme launched last December. According to Nur Jazlan:

*"We are not signatories to the UNHCR agreement, therefore we are not responsible for the fate of the refugees here but for humanitarian reasons and because there's a large number of them in this country, due to the mismanagement of the UNHCR, we are now thinking of (how they can work here)"* [31].

Based on the humanitarian concern, the Rohingya refugees in Malaysia has allowed by the government to work in informal sectors for the sake of survival. Therefore, many Rohingyas end up to find jobs as garbage collectors, janitors, and construction sites. However, due to the lack of official documentations they are easy

to be exploited. According to Andrew Khoo, a co-chairperson of the human rights committee at the Malaysian Bar, the country's main legal professional body said *"As long as the government doesn't recognize their status, let alone the ability to access work legally, they are susceptible to abuse, exploitation and mistreatment"* [32].

## 4. Conclusion

"I believe that Malaysia will recognize refugees... I don't know why in my heart I believe in this, but I do" [33]. This statement made by Sharifah Binti Hussein, a Rohingya refugee in Malaysia which was quoted in Jennifer Pak entitled "Rohingya Muslims want to call Malaysia home", BBC News, June 2012. Many of Rohingya refugees in Malaysia assumed this country is a better place rather than their place of origin in Myanmar. Although the host government policy is not supported them but at least the government still allowing them to work informally and stay temporarily until the situation in Myanmar is become more peaceful. However, the Rohingya still being risk due to the unclear policy made by government. This situation is according to the protracted refugee situations concept that shows the Rohingya people have facing the obstacle from their place of origin, Myanmar until their daily life in Malaysia.

As long the conflict is ongoing, the Rohingya refugees in Malaysia cannot go back to their homeland due to the possibility being persecuted by the ruler even locals. The prolonged dilemma for Rohingya refugees in Malaysia leave their daily life are in limbo and uncertainty. Thus, the host government like Malaysia should use the diplomacy channel through the Association of Southeast Asian Nations (ASEAN) platform to advocate the issue of the human rights of Rohingya refugees that being persecuted by Myanmar government. In addition, the international organization like United Nations (UN) and Organization of Islamic Cooperation (OIC) should cooperate each other to give a political pressure to Myanmar government to receive back its people (Rohingya) and declare them as one of its citizen.

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