

ROHINGYA REFUGEES IN MALAYSIA: RHETORIC VS REALITY

Shimaa Shazana Mohd Ali^{1*}, Yarina Ahmad², Nor Suziwana Tahir³, & Nor Azira Ayob⁴

^{1,3,4}Faculty of Administrative Science and Policy Studies, Universiti Teknologi MARA (UiTM), Malaysia

²Institute of Biodiversity and Sustainable Development, Universiti Teknologi MARA (UiTM), Malaysia

*E-mail: shimaa.uitm@gmail.com

1. INTRODUCTION

The issue of Rohingya refugees is not new in Malaysia. It has existed since the end of the 1970s and escalated by the 1980s (Kassim, 2015; Letchamanan, 2013). However, some scholars argue that their first arrival was in the late 1990s (Palik, 2020). Despite many measures undertaken by the Malaysian government to strengthen border security and enforcement, statistics of Rohingya refugees continue to increase (UNHCR, 2021). Based on the latest record from UNHCR in Malaysia, it is estimated around 178,450 refugees and asylum seekers are registered. It comprises 153,800 Myanmar, dominated by Rohingyas (102,020), Chins (22,440), and other ethnicities (29,340). While many debates are surrounding the Rohingya refugees' issue, this paper argues the rhetoric and reality of this issue in the Malaysian context. The discussion of this paper is based on reviewing relevant literature in Malaysia, as well as in other countries.

2. THE EVOLUTION OF ROHINGYA REFUGEES IN MALAYSIA

The evolution of Rohingya refugees in Malaysia is always interrelated with the actions and persecution of the Myanmar government towards Rohingyas in Myanmar. The history of Rohingyas migration from Myanmar started in 1942, during the invasion of Japan towards Myanmar. However, a massive influx of Rohingya refugees, mostly into Bangladesh as the nearest border to Rakhine state, had been repeatedly recorded before it evolved to other countries, including Malaysia. Dragon Min Operation in 1978 has been recorded as the earliest incident on Rohingya migration. This operation has resulted in the first major wave of around 200,000 Rohingyas who forcedly left Myanmar and sought protection in Bangladesh (Khairi et al., 2018; Pittaway, 2008; Ullah, 2011, 2016). Subsequently, the tension worsened as the Myanmar government introduced the 1982 Burma Citizenship Law that did not recognise Rohingyas as an ethnic group from Myanmar. This incident resulted in another mass influx in 1991 until 1992, with around 250,000 Rohingya fleeing again to Bangladesh (Hamzah et al., 2016; Parnini, 2013). Moreover, the racial riot that began in June 2012 between the Buddhist and Muslim Rohingyas led to the massive inflow of Rohingya in Bangladesh. Following this extensive communal oppression in 2012, about 140,000 Rohingya refugees fled to Bangladesh (Khairi et al., 2018). This oppression also led to thousands of Rohingyas arriving in Malaysia to escape inter-ethnic conflict with Buddhists (Kassim, 2015). The persecution towards Rohingya continues for another year. Another incident showing the mass migration of Rohingya refugees occurred during the tragedy of 'boat people' in 2015. This incident resulted from the decision of the Myanmar government that instructed the Rohingyas to return the

Temporary Registration Certificates. As they were afraid of another torture by Myanmar military government, this incident led them to risk their lives and travel by boat to uncertain destinations to seek protection. Unfortunately, this situation led to the opportunity for smuggling activities among smugglers who take their situation for granted. The Rohingya have to pay a huge amount to the agents to avoid being detained by authorities during their journey to other countries (Khairi et al., 2018).

As an alternative to fleeing Bangladesh, Rohingyas also chose the nearest countries to seek protection, such as Thailand, Malaysia, and Indonesia. Due to the declaration of the 1982 Citizenship Law that caused the Rohingyas to be stateless, many of them fled to Bangladesh and later to Malaysia (Hoffstaedter, 2017). Parnini (2013) mentioned that since the 1991 tragedy, every year, thousands of Rohingyas left Myanmar by boats traveling to Thailand and Bangladesh as transit countries before arriving in Malaysia for the sake of finding a job. Malaysia has become one of the destinations to find new hope and start a new life. During the third clash with the ARSA in 2012, approximately 150,000 have fled to Thailand and Malaysia (Beyrer & Kamarulzaman, 2017). Recently, even the world is attacked with Covid-19, the number of Rohingya refugees' keeps increasing as they continuously flee from Myanmar. It was reported that more than 260 Rohingya came ashore in Langkawi Island.

3. FACTORS

Generally, the movement of people was influenced by the need to have better chances in life. In contrast, others were forced to migrate due to war or climate change like desertification or natural disasters (Kassim, 2009). However, war, ethnic and religious violence are the leading causes of refugees fleeing their countries (Ahmad et al., 2012). Thus, among the most prominent factors that lead to the influx of Rohingya refugees in Malaysia are:

Government Persecution - Since the junta military coup data in 1962, persecution towards Rohingyas never ended. The action of the military junta that stripped Rohingyas' identity cards sparked persecution towards them. Then, it was followed by the introduction of the 1974 Immigration Act and the 1982 Citizenship Act. The continuous action on denial of their citizenship and regular military violence has increased the number of Rohingya refugees (Ahmad et al., 2012). The violence is done by the government that conducts ethnic cleansing includes mass killing, rape, and destruction of the mosque since the introduction of the Immigration act caused Rohingyas to become refugees (Pittaway, 2008).

Discrimination by Government and Local People - Many studies indicate that discriminatory of the 1982 Citizenship Law was the main reason for the born of Rohingyas refugees or statelessness of Rohingya (Kyaw, 2017). Action by the government that classified citizens into three categories and dismissed Rohingyas totally from that definition then denied the rights and discriminated them in practising and enjoying the rights as citizens include health, education, or even work. Besides that, mass migration embarked from the local discrimination by Buddhists in Rakhine towards the Muslim Rohingyas that led them to be unequally treated. The misunderstanding between Muslim Rohingya and the Rakhine's Buddhists sparked the riot and continuous discrimination and persecution towards Rohingyas (Khairi et al., 2018).

Livelihood in Malaysia – The opportunity to have a better life as they can work illegally in Malaysia becomes one of the main pull factors. According to Ahmad et al. (2012), recent studies indicate that thousands of Myanmar's refugees predominantly seeking improved

economic opportunities. They are being overloaded with the hardship of living as stateless in their homeland or as illegal immigrants or refugees in Cox's Bazar, Bangladesh. Besides that, as most Rohingyas are Muslims, choosing Malaysia with most Muslims is another reason for risking their long and challenging journey.

4. ROHINGYA REFUGEES IN MALAYSIA: RHETORIC VS REALITY

1951 United Nations Convention Relating to the Status of Refugees vs 1989 Convention on the Rights of the Child (CRC) – Many international legal frameworks are related to the refugees. Various rights of refugees listed in the 1951 Convention, including the right to be protected from refoulment, right not to be expelled, right not to be punished, right to work, right to housing, right to education, right to public relief, right to freedom of religion, right to freedom of movement within the territory and right to be issued identity and travel document (UNHCR, 2011). Malaysia is not the signatory of the 1951 Convention. Thus, there is no obligation and responsibility in offering those rights to the Rohingya refugees. However, Malaysia had signed the Convention on the Rights of the Children (CRC) in 1995. Hence, the 54 articles in CRC put Malaysia under the responsibility to practice the children's right and requires the government to protect children's interest without diminishing roles of the caretaker. Thus, it is understood that Rohingya children are part of the Malaysian government's responsibility. Doctoral research done by Azmi and Mat Basir (2019) indicated that Malaysia does not have any legal framework regarding the right of refugee children. This situation leads the Malaysian government in a dilemma as CRC is the highest guideline to refer to, especially regarding refugee children's rights. Unfortunately, many incidents and scenarios lead to discrimination of Rohingya children in practising those rights (Siah et al., 2020). Unfortunately, this situation leads to another persecution in another context towards Rohingya refugees in Malaysia, such as in gaining free education in government primary school.

Human rights vs Humanitarian – As Malaysia is not the signatory of the 1959 Convention, the obligation to comply with any provisions stated is not compulsory. However, Malaysia had agreed to temporarily receive the refugees as in an agreement in 1979 with the condition that refugees would be resettled in a third country (Gatrell, 2013). Thus, the treatment and action taken to handle Rohingya issues are on a humanitarian basis (Moretti, 2018; Wake & Cheung, 2016; Azrul Affendy et al., 2016). In addition, Malaysian law makes no distinction between refugees and undocumented migrants; thus, whoever does not have legal or travel documentation is considered an illegal immigrant (Kassim, 2009). As illegal immigrants, Rohingya refugees are subject to harsh penalties, detention, and deportations. Besides that, they are not permitted to work and are not allowed to enter public schools provided by the government (Dryden-Peterson et al., 2019). However, Malaysia again had shown humanity towards the Rohingya refugees by allowing them to land in Malaysia in seeking protection since the 1980s, issuing IMM13 permits which offered some form of legitimacy (Letchamanan, 2013), provide temporary work permits (Rahimah, 2017). Moreover, education is a fundamental human right, and Malaysia has alerted on this responsibility and includes it in the Education Act 1992. As Malaysia amended the Act in 2002, it affects children of foreign workers, asylum seekers, and refugees receiving free education in Malaysian government schools (Lumayag, 2016). However, foreign children are still allowed to access public schools with legal documents from the Immigration Department with specific fees imposed (Azmi & Mat Basir, 2019).

Repatriation vs non-refoulment principle – Repatriation to the third country is one of the solutions in managing and solving refugee issues. However, this can only be done when the

third countries have fulfilled and satisfied the requirement. The tension of the Covid-19 situation and the recent military coup in Myanmar has increased the impossibility of repatriation to third countries. It then creates another challenge for Malaysia as borders of most third countries are still closed to avoid transmission of Covid-19 the particularly with the new variants. Hence, the Malaysian government cannot force the third countries to receive Rohingya refugees or force the Rohingyas to return to their origin country. This is also related to the non-refoulment principle. Though Malaysia is not the signatory of the 1951 Convention, the Malaysian government has agreed on the non-refoulment principle as part of customary international law binding on all states. However, the Covid-19 situation has put Malaysia in a dilemma in allowing them to enter Malaysian borders illegally. This can be seen when the Malaysian government decided differently by rejecting the entry of Rohingya in April 2020. However, there were supplied with food, water, and diesel before leaving the Malaysian sea. Many parties have criticized this action as violating the non-refoulment principle. However, the Malaysian government has its reasons, especially in the early stages of the Covid-19 outbreak. In addition, Malaysia should not be solely burdened with this responsibility. The action of state parties to the 1951 Convention who refuse to receive the Rohingyas might be more unacceptable.

5. CONCLUSION

The issues of Rohingya refugees have been debated around the world for many decades. The persecution and violence by the Myanmar junta government since the 1960s has never ended. Their identity and human rights have been revoked, including the right to hold any position in the national party, the right to education, or even to serve as an army or police force (Ragland, 1994). Continuous coercion and implementation of citizenship law in Myanmar resulted in them living without citizenship and becoming refugees (Ullah, 2016). Concerned with their difficulties, the Malaysian government has accepted the Rohingyas on a humanitarian basis. Though with certain limitations and restrictions, they can still live in Malaysia without being forced to return to Myanmar. The Malaysian government should find different ways in managing the Rohingya issues. This should be done to avoid the Rohingya being a burden to Malaysia. Addressing their issues in the right way might not tarnish Malaysia's image in the eyes of beholders and other countries.

6. ACKNOWLEDGEMENT

Appreciation to the coordinator and participants of FSPPP- Graduate Researchers in Print for their comments and ideas on the improvement of this paper as well as to FSPPP for support and encouragement.

7. REFERENCES

- Ahmad, A. A., Rahim, Z. A., & Mohamed, A. M. H. (2012). The refugee crisis in Southeast Asia: The Malaysian experience. *International Journal of Novel Research in Humanity and Social Sciences*, 3(6), 80–90.
- Azmi, N., & Mat Basir, S. (2019). The role of the convention on the Rights of the Child (CRC) in protecting refugee children. *International Journal of Asian Social Science*, 9(12), 681–690.
- Azrul Affendy, S., Safeek Afendi, R., Mohd Nasaruddin, P., Luqman Arif, A. K., & Suhael, A. (2016, December 3). *Najib, Hadi kongsi pentas solidariti buat Rohingya*. Berita Harian. Retrieved from

- <https://www.bharian.com.my/berita/nasional/2016/12/220169/najib-hadi-kongsi-pentas-solidariti-buat-rohingya> at 30 July 2021.
- Dryden-Peterson, S., Adelman, E., Bellino, M. J., & Chopra, V. (2019). The Purposes of refugee education: Policy and practice of including refugees in national education systems. *Sociology of Education*, 92(4).
- Gatrell, P. (2013). *The making of the modern refugee*. O. U. Press (Ed.), Localities. Oxford University Press 2013.
- Hamzah, I. S., Shamshinor, M., & Azzis, A. (2016). *Migrasi Dan ancaman keselamatan malaysia : Analisa terhadap Etnik Rohingya*. Persidangan Pemantapan Citra Kenegaraan 4 (Vol. 4).
- Hoffstaedter, G. (2017). Refugees, Islam, and the state: The role of religion in providing sanctuary in Malaysia. *Journal of Immigrant and Refugee Studies*, 15(3), 287–304.
- Kassim, A. (2009). Filipino refugees in Sabah: State responses, public stereotypes and the dilemma over their future. *Southeast Asian Studies*, 47(1), 52–88.
- Khairi, A., Askandar, K., & Wahab, A. (2018). From Myanmar to Malaysia: Protracted refugee situations of Rohingya people. *International Journal of Engineering and Technology(UAE)*, 7(3), 192–196.
- Letchamanan, H. (2013). *Myanmar's Rohingya refugees in Malaysia: Education and the Way Forward*. 2(2), 86–97.
- Lumayag, L. A. (2016). A question of access: Education needs of undocumented children in Malaysia. *Asian Studies Review*, 40(2), 192–210.
- Moretti, S. (2018). Protection in the context of mixed migratory movements by sea: The case of the Bay of Bengal and Andaman Sea Crisis. *International Journal of Human Rights*, 22(2), 237–261.
- Munir-Asen, K. (2018). *(Re)Negotiating Refugee protection in Malaysia: Implications for future policy in refugee management* (Vol. 8). German Development Institute. www.die-gdi.de
- Palik, J. (2020). *Education for Rohingya refugee children in Malaysia*. Prio Policy Brief, 02. www.prio.org
- Parnini, S. N. (2013). The crisis of the Rohingya as a Muslim minority in Myanmar and bilateral relations with Bangladesh. *Journal of Muslim Minority Affairs*, 33(2), 281–297.
- Pittaway, E. (2008). The Rohingya refugees in Bangladesh: A Failure of the international protection regime. In Howard Adelman (Ed.), *Protracted Displacement In Asia* (p. 282). Ashgate Publishing Group.
- Ragland, T. K. (1994). Burma's Rohingyas in crisis: Protection on humanitarian refugees under international law. *Boston College Third World Law Journal*, 14(2), 301.
- Rahimah, A. (2 February 2017). Projek benarkan pemegang kad UNHCR Rohingya Bekerja bermula 1 Mac. *Astro Awani*. Retrieved from <https://www.astroawani.com/berita-malaysia/projek-benarkan-pemegang-kad-unhcr-rohingya-bekerja-bermula-1-mac-131001>, pada 4 September 2021.
- Siah, P. C., Low, S. K., Lee, W. Y., Lim, Y. Y., & Tan, J. T. A. (2020). Discrimination perceived by child refugees in Malaysia: From the views of representatives from refugees' community service centres and non-government service. *Vulnerable Children and Youth Studies*, 15(2), 110–113.
- Ullah, A. K. M. A. (2011). Rohingya Refugees to Bangladesh: Historical exclusions and contemporary marginalisation. *Journal of Immigrant and Refugee Studies*, 9(2), 139–161.
- Ullah, A. K. M. A. (2016). *Rohingya Crisis in Myanmar: Seeking Justice for the "Stateless"* Retrieved from <https://doi.org/10.1177/1043986216660811>
- Wake, C., & Cheung, T. (2016). *Livelihood strategies of Rohingya refugees in Malaysia 'We want to live in dignity'* (Issue June).