



Between Humanity and Security: The Dilemma of Malaysian Maritime Enforcement Agency (MMEA) Towards Rohingya Refugees

Aizat Khairi¹, Andika Ab. Wahab², and Mohd Na'eim Ajis³

¹Institute of Social Sciences and Humanities & Student Development Section, Universiti Kuala Lumpur (UniKL) & Fellow, Research Institute for Indonesia, Thailand & Singapore, Universiti Utara Malaysia (ITS-UUM)

²Institute of Malaysian and International Studies, Universiti Kebangsaan Malaysia (UKM) & Fellow, Research Institute for Indonesia, Thailand & Singapore, Universiti Utara Malaysia (ITS-UUM)

³College of Law, Government and International Studies, Universiti Utara Malaysia & Fellow, Research Institute for Indonesia, Thailand & Singapore, Universiti Utara Malaysia (ITS-UUM)
aizat@unikl.edu.my

Abstract. This article examines the dilemma faced by the Malaysian Maritime Enforcement Agency (MMEA) in balancing humanitarian concerns with national security imperatives in their response to the Rohingya refugee crisis. The MMEA is tasked with safeguarding Malaysia's maritime borders and combating transnational crimes, including human trafficking. However, the Rohingya crisis has strained the agency's operational capacities, as the irregular maritime arrivals of Rohingya refugees continue unabated. The MMEA's response is characterized by the delicate tension between upholding humanitarian obligations and addressing security concerns. In this study, a qualitative methodology was applied. Purposive sampling was used to identify MMEA personnel with experience dealing with the Rohingya refugee crisis. In-depth interviews were done with respondents to collect data using semi-structured questions. As result, the ethical and legal challenges faced by the MMEA in managing the Rohingya refugee crisis could be seen based on the Malaysian government policy of security concern and its impact on the treatment and protection of Rohingya refugees. The securitization of migration and the perception of refugees as potential security threats further complicate the agency's decision-making process. Nevertheless, MMEA strives to adopt a comprehensive and multidimensional approach that reconciles humanitarian values with security imperatives. The findings underscore the need for enhanced regional cooperation, policy coherence, and the development of sustainable solutions to ensure the protection of Rohingya refugees while addressing the legitimate security concerns of host countries.

Keywords: Malaysian Maritime Enforcement Agency (MMEA), Rohingya refugees, Maritime Security, Sovereignty, Humanitarian Assistance

Introduction

The Rohingya issue in Myanmar is a complex and longstanding problem involving the Rohingya people, an ethnic and religious minority group primarily residing in the western state of Rakhine (formerly Arakan) in Myanmar [1]. The Rohingya are a Muslim minority in a predominantly Buddhist country. They have faced a history of discrimination, marginalization, and denial of basic rights in Myanmar. The government of Myanmar has long considered the Rohingya as illegal immigrants from Bangladesh, despite the fact that many Rohingya families have lived in Myanmar for generations. The conflict between the Rohingya and the Myanmar government escalated in 2017, resulting in a large-scale exodus of Rohingya refugees to neighbouring countries, primarily Bangladesh. The trigger for this mass displacement was a military-led crackdown in response to attacks by Rohingya militants on security forces. However, reports from human rights organizations and the United Nations have documented severe human rights abuses committed by the Myanmar military, including widespread killings, sexual violence, torture, and the burning of Rohingya villages [2].

The Myanmar government has been accused of ethnic cleansing and genocide against the Rohingya population. The government's actions have drawn international condemnation and scrutiny. The United Nations has referred to the situation as a "textbook example of ethnic cleansing"[3]. In 2021, the International Court of Justice (ICJ) ordered Myanmar to take measures to prevent genocide against the Rohingya and protect them from further acts of violence. The Rohingya crisis has resulted in a massive humanitarian challenge, with hundreds of thousands of Rohingya refugees seeking safety in neighbouring countries, particularly Bangladesh. The conditions in refugee camps in Bangladesh, such as Cox's Bazar, have been overcrowded and difficult, with limited access to essential services and a lack of long-term solutions for the refugees [4].

Therefore, to explore this issue, a qualitative methodology was applied. Purposive sampling was used to identify the Malaysian Maritime Enforcement Agency (MMEA) personnel with experience dealing with the Rohingya refugee crisis. In-depth interviews were done with respondents to collect data using semi-structured questions.

The Rohingya refugee crisis and forced migration

The Rohingya refugee crisis refers to the mass migration of Rohingya people, a Muslim ethnic minority from Myanmar (formerly known as Burma) to other countries, including Malaysia. The Rohingya have faced long-standing persecution and discrimination in Myanmar, which has led to large-scale displacement and forced them to seek refuge in neighboring countries. In recent years, Malaysia has become one of the primary destinations for Rohingya refugees. The reasons for this include geographic proximity, existing Rohingya communities in Malaysia, and the percep-

tion of better economic opportunities. However, it's important to note that Malaysia is not a signatory to the 1951 Refugee Convention or its 1967 Protocol, which means it does not have a formal legal framework to protect refugees [5].

Due to the lack of official refugee status, Rohingya refugees in Malaysia often face challenges and difficulties. They are considered undocumented migrants and are at risk of arrest, detention, and deportation by Malaysian authorities. The Malaysian government's policy towards Rohingya refugees has been inconsistent, with periodic crackdowns and deportations, but also instances of providing temporary shelter and assistance [6]. The living conditions for Rohingya refugees in Malaysia can be difficult. Many live in crowded urban areas, facing limited access to healthcare, education, and employment opportunities. Non-governmental organizations (NGOs) and community-based organizations play a vital role in providing support and assistance to Rohingya refugees in Malaysia, including access to healthcare, education, and livelihood opportunities.

The Rohingya refugee movement from Myanmar and Bangladesh to Malaysia

The Rohingya refugee movement from Myanmar and Bangladesh to Malaysia is a consequence of the dire circumstances faced by Rohingya people fleeing persecution and violence in their home countries [7]. Many Rohingya refugees initially sought refuge in Bangladesh due to its proximity to Myanmar and the ongoing conflict in the Rakhine State. Over the years, Bangladesh has been hosting a significant number of Rohingya refugees, particularly in Cox's Bazar, which is home to one of the world's largest refugee camps.

However, the living conditions in the refugee camps in Bangladesh have been extremely challenging, with overcrowding, limited access to healthcare and education, and a lack of long-term solutions. The difficult circumstances, combined with the perception of better economic opportunities and the existence of Rohingya communities in Malaysia, have prompted some Rohingya refugees to undertake further journeys in search of safety and a better life. The route from Bangladesh to Malaysia is often perilous and involves crossing multiple borders and relying on human smugglers [8]. The journey may involve traveling by land and sea, passing through countries such as India, Thailand, or Indonesia. It is important to note that these journeys are often irregular and risky, putting the refugees at the mercy of traffickers and exposing them to exploitation, abuse, and dangerous conditions.

Sea Route Journey

The journey of Rohingya refugees from Myanmar and Bangladesh to Malaysia by sea route is marked by significant risks and challenges. Rohingya refugees in Bangla-

desh who decide to undertake the perilous journey to Malaysia often begin their voyage from coastal areas near Cox's Bazar, such as Teknaf which provide access to the Bay of Bengal [9]. Embarking on small boats or fishing vessels, often in overcrowded and poor conditions, the refugees rely on human smugglers to facilitate their transportation. These smugglers charge fees for their services, taking advantage of the refugees' desperation. The boats used for the journey are typically unsafe and inadequate for long voyages, subjecting the refugees to numerous dangers.

Crossing the Bay of Bengal, the refugees face risks such as rough seas, storms, and the potential for accidents like capsizing or sinking. The absence of proper provisions and limited access to sanitation facilities on these boats exacerbate the difficulties faced by the refugees during the journey [10]. The sea route to Malaysia may involve transiting through other countries, such as India, Thailand, or Indonesia. The specific path taken can vary depending on factors like facilitators, weather conditions, and the level of enforcement by authorities in different regions. Throughout the journey, Rohingya refugees are at the mercy of human smuggling networks, which operate covertly and exploit their vulnerable situation. Reports have documented cases of extortion, abuse, and exploitation of the refugees by these networks.

Upon arrival in Malaysia, Rohingya refugees face the challenge of disembarkation and evading detection by authorities. Malaysia's maritime enforcement agencies have intensified efforts to combat irregular arrivals, leading to interceptions and detention of boats carrying Rohingya refugees [11]. However, once in Malaysia, Rohingya refugees are considered undocumented migrants since the country does not have a formal legal framework to recognize them as refugees. Consequently, they are vulnerable to arrest, detention, and deportation by Malaysian authorities. Their living conditions in Malaysia are often difficult, characterized by limited access to healthcare, education, and formal employment opportunities. The sea route taken by Rohingya refugees is fraught with danger and is driven by the desperate desire to escape persecution and find safer conditions elsewhere. The risks involved highlight the urgent need for comprehensive solutions to address the root causes of the Rohingya crisis and ensure the protection and well-being of displaced populations.

Between Security and Humanity of Refugees

The discussion of the refugee issue often involves a complex interplay between security concepts and humanity concepts. On one hand, security concepts focus on protecting borders, maintaining national security, and addressing potential risks associated with the arrival and settlement of refugees [12]. On the other hand, humanity concepts emphasize the moral obligation to provide assistance, protection, and respect for the human rights and dignity of individuals fleeing persecution and seeking refuge. Security concerns in the context of refugees may arise due to various reasons, including potential security threats, economic pressures, strains on public resources, or the fear of social and cultural tensions. Governments and policymakers often grap-

ple with balancing these security considerations with their obligations to respect and uphold human rights and provide humanitarian assistance.

From a security perspective, measures such as border controls, identity verification, and screening processes are implemented to ensure the safety and well-being of the host country and its citizens [13]. These measures aim to prevent potential security risks, such as the infiltration of criminals, terrorists, or individuals with malicious intentions. Security concerns also extend to issues such as public health and the capacity to provide essential services. On the other hand, humanity concepts emphasize the ethical and moral responsibility to provide refuge and protection to individuals fleeing persecution, violence, or extreme hardships [14]. International human rights standards, including the principle of non-refoulement, advocate for the protection of refugees and their rights to seek asylum.

Humanitarian organizations and advocates argue that security concerns should not overshadow the pressing need to address the vulnerabilities and protect the rights of refugees. They stress the importance of fair and efficient asylum processes, access to basic necessities, healthcare, education, and opportunities for integration. The discussion often involves finding a balance that addresses security concerns without compromising the principles of humanity [15]. This can include implementing robust and efficient screening processes to ensure the safety of host communities while streamlining asylum procedures to expedite protection for those in need. Cooperation and collaboration between countries and international organizations play a crucial role in managing the refugee issue effectively while respecting both security and humanity concerns. It's important to note that the specific nature of the discussion surrounding refugees can vary depending on regional, political, and cultural contexts. The balance between security and humanity is often a delicate and challenging task, requiring thoughtful and comprehensive approaches that consider the rights and well-being of both refugees and host communities.

Malaysian Maritime Enforcement Agency

In April 1999, the government announced its intention to establish a marine law enforcement agency. As a result, the Malaysian Maritime Enforcement Agency Act (MMEA) 2004 was gazetted on July 1, 2004, under Malaysian law, through Act 633, and it entered into force on February 15, 2005. The MMEA officially began operations on March 21, 2006, and was inaugurated by Malaysia's Deputy Prime Minister at the time, Dato' Sri Najib Tun Razak [16]. According to Act 633, the Malaysian Maritime Enforcement Agency Act 2004, the MMEA has 11 functions and authorities such as:

1. Enforce law and order under any federal law (Malaysian Maritime Zone)
2. Perform maritime search and rescue tasks (Malaysian Maritime Zone and high seas).

3. Preventing and restricting the commission of offenses (Malaysian Maritime Zone).
4. Provide assistance in any criminal matter at the request of the State foreign as provided under the Mutual Assistance Act in Articles Crimes 2002 (Act 621).
5. Conduct aerial and coastal surveillance.
6. Provide platform services and support to any agency related.
7. Establish and manage a maritime institution for the training of Agency officers.
8. Generally, perform any duty to ensure well-being and maritime security or do all the things that are incidental with him.
9. Control and prevention of maritime pollution.
10. Prevent and restrict piracy and prevent and restrict distribution illegal narcotic drugs in the high seas.
11. Placed under the control of the Malaysian Armed Forces during the period of emergency special crisis or war.

MMEA Roles Towards Rohingya Refugees: Between Security and Humanity

The Malaysian Maritime Enforcement Agency (MMEA) plays a significant role in maritime security and enforcement within Malaysian waters. However, it's important to note that the MMEA's role specifically concerning Rohingya refugees might be limited, as the agency primarily focuses on safeguarding Malaysia's maritime interests, ensuring maritime safety, combating maritime crimes, and protecting the country's territorial waters. However, in the context of Rohingya refugees, Malaysia has been one of the destinations for Rohingya people fleeing persecution in Myanmar [17]. While the MMEA's primary responsibility is not directly related to refugee management, they may become involved in certain situations involving Rohingya refugees at sea.

Previously, there have been instances where Rohingya refugees, including women and children, embarked on perilous boat journeys across the Andaman Sea in search of safety and better lives. These journeys often involve smuggling networks and risky conditions. In such cases, if Rohingya refugees are intercepted or found in distress at sea within Malaysian waters, the MMEA may be involved in search and rescue operations to ensure their safety and prevent loss of life. MMEA's role in relation to the Rohingya refugee problem in Malaysia began specifically in the period from 2011 to 2015 as stated by the former Director of the Maritime Criminal Investigation Division, Dato' Tan Kok Kwee:

"We as MMEA who look after the country's maritime area are faced with the problem of Rohingya refugees began from 2011 to 2015 because they have entered our country's waters illegally and intend to land in our land area. In 2015 was the most challenging year for MMEA because many Rohingya people used boats by sea to enter Malaysia".

The year of 2015 was significantly important due to sectarian violence, hundreds of thousands of Rohingya people were forcibly evacuated from their communities and internally displaced persons (IDP) camps in Rakhine State, Myanmar. Nearly one million people fled to neighbouring Bangladesh, and some made their way to South-east Asian countries such as Malaysia, Indonesia, and Thailand across the shaky waters of the Malacca Strait, the Bay of Bengal, and the Andaman Sea. Rohingya refugees fleeing their home country by sea will attempt to enter Malaysia through the northern direction of Peninsular Malaysia, which is in the Ring Strait, the waters of the Malacca Strait, which is Malaysia's international maritime border with Thailand. According to MMEA, agents who bring in Rohingya refugees use a strategy to enter Malaysian waters, particularly through Langkawi. The reason why Rohingya refugees enter Malaysian waters via Langkawi Island as stated by Dato' Tan:

"While we were investigating the Rohingya refugees who arrived in the waters of our country by boat, we interviewed some of them about how they did to reach Malaysian waters. Then some of them told us that they didn't know the island or land area they found was Malaysia, but they headed here at night with the light from the top of Gunung (mountain) Mat Cincang in Langkawi, Kedah which is famous as a tourist destination and car service cable (cable car or sky cab) which is an attraction for tourists."

In order to address the security issue of Rohingya refugees illegally entering Malaysian waters on boats, MMEA follows government instructions, which vary depending on the situation. However, MMEA typically receives a push back policy as instruction. Push back policy directed by the government through National Security Council (NSC) to MMEA to prevent Rohingya refugees from entering national waters and push them back to international waters. This is because the Rohingya refugees are considered as illegal immigrants by the Malaysian government, and they are considered to have invaded the country's waters without the permission of the authorities. The modus operandi of the push back policy was explained by one of the MMEA Commander who was once in charge of dealing with the problem of Rohingya refugees who entered the country's waters by boat:

"When I was conducting a routine patrol in national waters, we received information that there was an unknown boat entering national waters. So, we were instructed to go to the location of the boat to investigate. When we arrived there which is in the waters of Perak Island, Malacca Strait (near Langkawi Island, Kedah) we found a boat full of many people and we believe they are Rohingya refugees. Then, we directly contacted NSC to get further instructions and they asked us to implement the

push back policy. Before we implemented the push back policy, we helped the Rohingya refugees in terms of medicines and food supplies on our patrol boat. We give all the supplies we have, then we tow the boat out into international waters and it's up to them to go wherever they want".

Nevertheless, the push back policy can change to a humanitarian aid policy when the MMEA officer who investigated the Rohingya refugee boat found that it was likely to sink due to the state of the boat being worn out, leaking and suffering engine damage. Therefore, the MMEA will make a decision to tow the boat to the land area in the country to take further action. This was also stated by Dato' Tan regarding the decision to tow the Rohingya refugee boat to the mainland:

"When the commanding officer of the MMEA patrol boat who conducted the investigation reported to me that the condition of the Rohingya refugee boat was in a bad condition and at risk of sinking, then I ordered that the MMEA patrol boat tow the boat to land to save them. We don't want to risk letting them drown in front of our eyes due to their boat sinking and we try to avoid criticism from the international community which will affect the image of the country".

When the Rohingya refugee boat is towed to land, the MMEA will usually dock at the piers supervised by the Malaysian Fisheries Department because it has a good landing area to dock the boat and disembark Rohingya refugees as well as other basic facilities such as water and toilets. According to MMEA, the trend of Rohingya refugees fleeing using boats to enter Malaysia is different from year to year because:

"As a result of the observations made by the MMEA, the trend of Rohingya refugees entering Malaysia using the sea route varies from year to year because for example in 2012 it can be said that all the refugees who boarded the boats were men only. Whereas, in 2015 and above every boat we meet must have women and children including babies".

After docking at the jetties, the MMEA will instruct the Rohingya refugees to go up to the jetty platform area and sit down in an orderly manner to facilitate the process of providing food and drink to the Rohingya refugees. The MMEA also contacted the nearest government clinic or hospital to call medical personnel to come to the jetty to provide medical treatment to those who suffered injuries and wounds.

The next step taken by the MMEA on the Rohingya refugees is to contact the immigration for further action and the task of the MMEA can be said to be completed after the immigration took over the task of dealing with the Rohingya refugee problem. According to the MMEA, they can control the situation of Rohingya refugees boarding boats if their number is not so large (estimated at 200 to 300 people) but, problems will arise if there are more than 500 Rohingya refugees in national waters at one time. This was stated by one of the MMEA Officers involved in dealing with the problem of Rohingya refugees who were very numerous at one time:

"The MMEA will face problems when there are too many Rohingya refugees that need to be rescued. The problem faced is in terms of the process of preparing food, drink, shelter and transportation. This happened to us when there were more than 1,000 Rohingya refugees in the waters off Langkawi Island and most of them landed there at the same time."

In order to deal with this problem, the MMEA has established a cooperative relationship with various parties to manage various aspects related to the Rohingya refugees on Langkawi Island. For example, in terms of accommodation, MMEA works with the Langkawi Municipal Council to find a suitable accommodation area to accommodate Rohingya refugees. After discussions were held, more than 1,000 Rohingya refugees were placed at Langkawi International Shooting Range Malaysia (LISRAM) for a while. Regarding the aspect of food and drinks, the MMEA cooperated with local NGOs to help in terms of the collection of raw materials, the cooking process, and the distribution process to the Rohingya refugees placed in LISRAM. This has been explained by MMEA officials regarding the situation:

"We once faced a situation where all the MMEA food and drink supplies that had been given to the Rohingya refugees for three consecutive days had been used up. Thus, we are looking for other alternatives by working with NGOs to help us in terms of providing food to the Rohingya refugees. One of the local NGOs is MAPIM (Consultative Council of Islamic Organizations of Malaysia) and they have helped us in terms of providing food to the Rohingya refugees. Local businessmen and villagers also helped by donating clothes and blankets. They are all eager to seek the reward of helping their Muslim brothers."

Conclusion

When MMEA received instructions to bring Rohingya refugees from Langkawi Island to the mainland in Kedah, this agency cooperated with the Royal Malaysian Navy and the Marine Police Force from the aspect of sea transport through the process of transferring Rohingya refugees using their ships. Upon arrival in the mainland, the MMEA will hand over all the Rohingya refugees they deal with to the Malaysian Immigration Department for further action such as the investigation process. The investigation process is important to do because not all the rescued boat occupants are Rohingya because there are a few among them who are Bangladeshi.

So, the results of the investigation will help the Immigration Department to distinguish between the Rohingya, and the Bangladeshi and these two groups will lead to the justification of the policies and laws that have been set by the Malaysian government. According to the MMEA, from 2016 onwards the cases of Rohingya refugees who used boats to enter Malaysian waters were not as frequent and numerous as in 2015. However, the MMEA continued to conduct maritime patrols and prepared to face various possibilities in the country's waters including the arrival of Rohingya boat refugees.

Overall, the decision-making process for the MMEA is further complicated by the securitization of migration and the perception of refugees as potential security threats. However, MMEA works to adopt a thorough and multifaceted strategy that balances humanitarian values with security requirements. In order to guarantee the protection of Rohingya refugees while addressing the legitimate security concerns of host countries, the findings highlight the need for improved regional cooperation, policy coherence, and the development of long-term solutions.

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