



# Forced Migration in Southeast Asian: Policies and Migration Governance

Untari Narulita Madyar Dewi<sup>1</sup>

<sup>1</sup>Department of International Relations, University of Slamet Riyadi Surakarta  
untari.narulita.madyar@unisri.ac.id

**Abstract.** The perspective of international migration studies is becoming increasingly complex in the 21st century. Increased escalation of conflict and persecution can encourage the creation of a massive amount of forced migration. Migration governance in the Southeast Asian region is in the spotlight when faced with the forced migration flows of ethnic Rohingya. This study focuses on the forced migration governance in the Southeast Asian region by taking the framework of the analysis of the ‘model of forced migration’ from William B. Wood and the ‘international migration management’ of Martin Geiger and Antoine Pécoud. This research uses qualitative research methods by prioritizing observations on seminar, literature studies and internet-based research. The Rohingya humanitarian crisis is the concern of various related parties, including the extent of migration management in the Southeast Asian region. In this case, there are three pillars of international migration management, including the response of countries in the Southeast Asian region to Rohingya refugees. Although, until now only three Southeast Asian countries have signed the 1951 convention and the 1967 protocol regarding refugee status. Second, the management of this migration is not only completed by state actors but also involves Inter-Governmental Organizations such as UNHCR and ASEAN in dealing with Rohingya refugees in each Southeast Asian country. Third, it is necessary to create a legal framework for the protection of refugees in the Southeast Asian region and comply with international refugee law in order to realize safe international migration flows and protect refugees.

**Keywords:** ASEAN, Forced Migration, the Refugee Crisis, Southeast Asian, Migration Governance.

## 1 Introduction

The Southeast Asian region is an area that has an essential role in the economic field, remarkable social, and technological transformations, also as a global strategy player. ASEAN which is a regional organization in the Southeast Asian region is also involved in various contemporary issues that develop in the region. One of the contemporary issues faced by countries in the Southeast Asian region is refugees forced due to conflict and persecution from Rakhine State. The ASEAN member states are affected as the source, transit, or destination country for such cases.

## 1.1 Background

The humanitarian crisis that occurred in the state of Rakhine, western Myanmar has been in the spotlight of the world for the last few years. Historically, the state of Rakhine, West Myanmar is a place to live for Muslim populations and most of the Rohingya ethnic groups. For decades, the Rohingya minority ethnicity has experienced discrimination both legally and socially [1]. This can be seen in Myanmar's 1982 Citizenship Law which revoked the citizenship rights of the Rohingya ethnicity. Not only that, the law also revokes the right to self-identification. The rules regulate the social activities of the Rohingya ethnicity, such as being prohibited from traveling without permission, prohibited from working outside the village, and cannot marry without prior permission. Including in terms of mobility in daily life, the Rohingya do not have access to adequate livelihoods, health services, and access to education [1].

Human rights violations of the Rohingya ethnic highlights from the United Nations (UN) which states that the Rohingya ethnic minority is one of the minority ethnicities that is worst and unfairly treated in the world [2]. Myanmar's humanitarian crisis continued and erupted again in 2016 and 2017, marked by an escalation of the conflict as Rohingya militias launched small-scale attacks. However, after the militia attack, the Myanmar military carried out retaliatory operations such as killings, torture, rape, and burning of villages. The United Nations has called the Myanmar military's retaliatory attacks against the Rohingya a crime against humanity [2].

The implications of the Myanmar military's retaliatory offensive against the Rohingya have killed thousands of Rohingya and some 87,000 Rohingya Muslims have fled to Bangladesh. Rohingya asylum seekers are not just heading to Bangladesh. However, also to countries in the Southeast Asian region such as Indonesia, Malaysia, and Thailand. Data from the United Nations High Commissioner for Refugees [3], states that until June 2021 there were 683 Myanmar refugees in Indonesia [4]. Meanwhile, at the end of June 2022, there were around 157,860 refugees and asylum seekers registered at UNHCR Malaysia. The Myanmar refugees consist of around 104,890 Rohingya ethnic groups, 23,190 ethnic chin [5], and 29,780 other ethnic groups from areas affected by conflict or escape from persecution in Myanmar [6]. Meanwhile, data in July 2022, Thailand continued to host 91,166 refugees from Myanmar [7]. The refugees from Myanmar were placed in nine temporary shelters on the Thailand-Myanmar border managed by RTG [8], [9]. In the Southeast Asian region, three countries are of concern to UNHCR in handling Rohingya refugees such as in Indonesia, Malaysia, and Thailand. However, other countries in the Southeast Asian region also have the same concern in paying attention to the humanitarian crisis that occurred in Myanmar. Such as the Singapore government's policy that focuses more on providing humanitarian assistance to Rohingya refugees [10].

The focus of the study on handling Rohingya refugees in the Southeast Asian region has attracted the attention of researchers. Previous research related to the Rohingya humanitarian crisis has been published in Atlantis Press Advances in Social

Science, Education, and Humanities Research, Volume 413, the year 2020 by Sophia Listriani, Rosmawati, and M. Ya'kub Aiyub Kadir under the title 'Toward a New Legal Framework for Settling Rohingya's Refugee Crisis in Indonesia A Lesson Learned from Aceh Province' [11]. The research focuses on handling the Rohingya refugee crisis by taking a case study in Indonesia's Aceh province. The authors say that the Rohingya humanitarian crisis is an accumulation of global and national issues. In this study, the national issue studied is the Indonesian government by referring to Aceh Province. In addition, this article explains the formal legal in Indonesia. Indonesia is not a party to the 1951 Convention and the 1967 Protocol on the status of refugees. It was also conveyed related to the involvement of actors outside the country, namely international organizations such as UNHCR representatives in Indonesia.

Another study entitled 'Criticizing the Handling of Rohingya Refugees in Southeast Asia by ASEAN and Its Members' by Widya Priyahita Pudjibudojo was published in Politics Journal of Political Sciences, Volume 10 Number 2, in October 2019 (Pudjibudojo, 2019). The basis of the argument in this study is how to handle Rohingya refugees in Southeast Asia, put forward the analysis of ASEAN documents such as the ASEAN Charter, Blueprint of the ASEAN Political-Security Community, and ASEAN Declaration of Human Rights. The analysis framework in this study focuses on the 'security approach' and the concept of 'human security' to analyze Rohingya refugees. In addition, in this article explained the policies issued by several ASEAN member countries in dealing with the problem of the Rohingya ethnic humanitarian crisis.

From the two relevant previous studies, the authors see the need for a perspective of international migration studies to see the implications arising from the Rakhine state conflict. Meanwhile, in this study, the author focused more on migration governance in the Southeast Asian region. The Southeast Asian study perspective was chosen to be able to see the extent of the development of migration governance in the Southeast Asian with a case study of Rohingya refugees. In addition to seeing the governance of handling migration at the state level, this study also focuses on migration governance at the level of regional organizations such as the Association of Southeast Asian Nations (ASEAN). At the state-actor level, the author highlights the handling of Rohingya refugees in Southeast Asian countries. Meanwhile, at the level of regional organizations such as ASEAN, the author focuses on the extent of ASEAN's comprehensive steps as a regional organization in regional regional migration management. In the theoretical framework, the author focuses on the analysis of international migration studies by taking the 'Model of Forced Migration' and the conceptual framework of 'International Migration Management'.

## **Research purposes**

This research focuses on forced migration that occurs in the Southeast Asian region by looking at how ASEAN as a regional organization is facing the challenges of the refugee crisis both in its implementation and legally the migration governance

framework in the Southeast Asian region. As well as to understand the extent to which migration policies are implemented by each ASEAN member state.

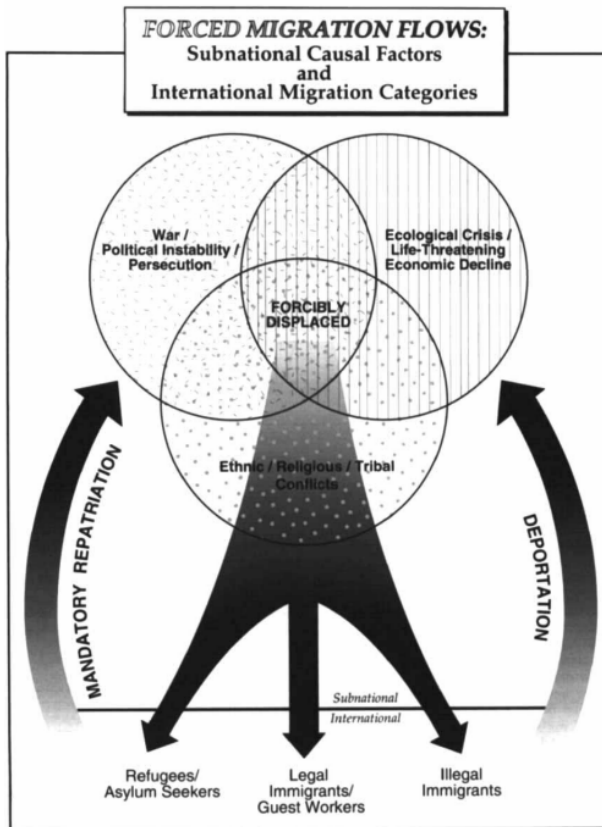
## 2 Literature Review

In understanding the phenomenon of forced migration in the Southeast Asian region, the author uses the theory and conceptual framework of ‘International Migration Management’ initiated by Martin Geiger and Antoine Pécoud and the model of ‘Forced Migration’ from William B. Wood. The theoretical framework ‘Model of Forced Migration’ is used to analyze the phenomenon of forced migration that occurs in Southeast Asian while to analyze the extent of migration governance in the Southeast Asian region, the author uses the conceptual framework ‘International Migration Management’ initiated by Martin Geiger and Antoine Pécoud.

### 2.1 Forced Migration (William B. Wood)

A journal published in 1994 entitled ‘Forced Migration Local Conflicts and International Dilemmas’ by William B. Wood explained the phenomenon of forced migration. Wood said that the ‘Forced Migration Model’ not only highlights forced migration due to persecution and coercion carried out by certain parties, but migrants also consider going to survive [12]. This forced migration can occur in individuals or masses. Based on forced migration flows, Wood explained that forced migration is divided into two groups, namely 1) refugees who have left their homeland, and 2) displaced persons who are still in their country [13]. According to William B. Wood, there are three ‘push factors’ forced migration: first, political instability, war, and persecution – conditions usually blamed for causing refugees; second, economic downturn and life-threatening ecological crises – conditions usually blamed for causing the flow of illegal migrant workers and environmental refugees; and third, racial, religious, and ethnic conflict – conditions that give rise to intolerance of “foreigners” and “ethnic cleansing.”

Subnational and international constitute two distinct areas of forced migration. In the forced migration model (Figure 1) below, we can see three ‘push factors’ forced migration in subnational areas. The implications of these three ‘push factors’ migration are forced to cause people to decide to migrate. People who migrate either still within national borders, or cross national borders. When it has crossed the state boundary there are three categories, namely refugees or asylum seekers, immigrants through legal way, and immigrants outside the legal way [12].

**Table 1.** Figure 1 Model of forced migration

## 2.2 International Migration Management (Martin Geiger & Antoine Pécoud)

The concept of migration management proposed by Martin Geiger and Antoine Pécoud explains that there are three significant pillars in migration management. First, migration management stems from the idea of actors increasing their intervention in migration problems. Second, migration management is a set of practices that are part of the migration policy carried out by the institution. Third, migration management refers to discourse in international migration studies [14]. The three pillars in migration management according to Martin and Antoine are the involvement of actors, the implementation of practice as a form of implementing migration policies, and discourse on global policy studies related to international migration [13]. Meanwhile, the beginning of the 'Migration Management' idea was triggered by Bimal Ghosh in 1993 [15]. The result of Bimal Ghosh's first collaboration with the UN Commission on Global Governance and the Swedish government [14]. Ghosh mentioned three significant pillars regarding migration management. First, the harmonization of policies and interests of state actors; Second, the framework or framework of international agreements; Third, the role of non-state actors such as NGOs, practitioners, and companies in managing migration [16].

Then in 2010, Geiger and Pécoud suggested that the actor pillar was done by Inter-Governmental Organizations or IGOs. Meanwhile, the second pillar is the pillar of migration management practices which includes various policies and activities such as border control efforts, counter-trafficking, and capacity building. In this second pillar, not only state actors are involved in managing migration. This is related to the characteristics of the practical pillars consisting of multi-actors because the state or government or international organizations cannot work alone. The need for cooperation from various actors both international to local actors in creating complex relationships. The third pillar of migration management is a discourse on global migration policy governance relating to normative assumptions about how to manage migration and how actors should take policies [14].

Based on the model of forced migration, the determinant factor of the Rohingya ethnic movement to various countries is a form of implication for ethnic persecution and conflict in the country of origin namely Myanmar. Meanwhile, the Rohingya ethnic crossing can also be seen as a forced movement or forced migration. Although, it cannot be denied that the reasons for the Rohingya ethnic to evacuate to other countries are also influenced by their decisions to survive and seek security in other countries. The complexity of the Rohingya ethnic migration problem is not only a contemporary issue in the study of international migration. But also a concern in efforts to manage migration governance in the Southeast Asian region.

The characteristics of the contemporary migration regime governing the movement of cross-country people are comprehensive, regular, can be managed, predictable, and provide benefits to migration policymakers [13]. This is related to the governance of handling Rohingya ethnic refugees which does not only involve state or government actors. However, harmonization of the involvement of the three pillars in migration management is needed. The three pillars are state actors such as countries in the Southeast Asian region and non-state actors such as ASEAN, AICHR, UNHCR, and other relevant institutions, as well as a global migration policy framework in response to the Rohingya refugee problem.

### 3 Methodology

This study uses qualitative research methods that focus on describing the phenomenon of forced migration and migration governance policies in the Southeast Asian region [17]. Data collection strategies based on observations in seminar with AICHR, internet data, books, journals, and migration policy documents in regional organizations in the Southeast Asia region [18]. The search for data sources related to this study uses keywords such as ‘forced migration’ with specifics in the Southeast Asian region including ASEAN member countries. In addition, the keyword ‘forced migration’ is also used by the author to find out how many ‘forced migration’ narratives are in the legal framework of ASEAN and international organizations below the United Nations. Then, the use of the keyword ‘migration governance’ to see the extent of migration governance in the Southeast Asian region. Other keywords such as ‘ASEAN’ to find literature reviews on the role of ASEAN as a regional

organization in the Southeast Asian region in the management of migration have been forced in the region. While the keyword 'The Refugee Crisis' to see the phenomenon of the refugee crisis that occurred in the Southeast Asian region.

## 4 Result and Discussion

### 4.1 Forced Migration as an Implication of the Rohingya Conflict

The pattern of individual or mass transfer in a country can be driven by acts of persecution or conflict. Although it cannot be denied that another reason for asylum seekers leaving their home country is because of the desire to survive. This forced migration phenomenon makes Myanmar the fifth largest country globally with a population without citizenship (stateless person).

Myanmar's situation refers to forced migration or forced migration be it internal displacement, asylum-seekers, and refugees [19]. In forced migration studies since 2011, international refugee regimes have faced thousands of traditional and non-traditional challenges in identifying and implementing policies for refugee protection. Massive displacement does not only occur in the Middle East region such as Syria, but also occurs in the Southeast Asian region [20]. The Rohingya ethnic fled violence in Myanmar after the escalation of the conflict in 2017 and the number was increasing. There are 2.4 million people displaced from Myanmar where 67 percent are stateless people in Rohingya ethnic person, 50 percent are asylum seekers or refugees, and 27 percent are internally displaced persons. Until February 1, 2021, there were 30,700 people fled to neighboring Myanmar [19]. At the peak of the crisis, thousands of people crossed the border of Myanmar to Bangladesh every day. Most asylum seekers run through the forest and mountains for days or sail in the dangerous sea across the Bay of Benggala. They arrived in a state of fatigue, hungry, and sick. So it requires international protection and humanitarian assistance. More than 742,000 refugees fled to Bangladesh since 2017. Based on UNHCR data, more than one million Rohingya refugees fled from the violence that occurred in Myanmar and created a gradual wave of refugees since the early 1990s [21].

The Rohingya ethnic exodus began on August 25, 2017, when the peak of violence in the state of Rakhine Myanmar. The Rohingya ethnic destination country at that time was Bangladesh and the Rohingya refugees mostly arrived in the first three months after the crisis. It is estimated that more than 12,000 asylum seekers arrived in Bangladesh in early 2018. Most of them are women and children; more than 40 percent are under 12 years old, and many parents need extra help and protection. The Rohingya refugees then settled in the refugee shelter in Kingutalong and Nayapara Cox's Bazar area, Bangladesh. At the same time, some refugees have relatives in the area. With the massive displacement of Rohingya to Bangladesh, it puts great pressure on destination countries such as Bangladesh in providing facilities for refugees. Given that Bangladesh is not a party to the 1951 Convention, which is obliged to meet the needs of the arriving refugees [22].

The phenomenon of forced migration is closely related to the concept of ‘securitizing’. The security of a country is a major concern given that the destination country of these forced migrants will consider various things such as whether the forcibly displaced people carry radical ideologies or the new phenomenon of ‘foreign terrorist fighters’ and consider the adaptation of the country’s society to the migrants. Other implications related to forced migration flows are not only in the political, and socio-cultural but also have an impact on the economic sector [20]. Based on a statement delivered by Yuyun Wahyuningrum Indonesia’s representative in AICHR, Rohingya are stateless ethnicities whose basic rights as human beings are violated. This self-restriction policy for the Rohingya then has an impact on children who cannot go to school, productive age who do not get access to work, and stagnant economic growth. This resulted in many countries parties to the 1951 Refugee Convention, not accepting refugees from the Rohingya ethnicity [23].

#### **4.2 Migration Governance in the Southeast Asian Region**

In recent decades international relations in the Southeast Asian region have undergone quite dynamic changes. These changes can be seen through ASEAN. The regional organization of the Southeast Asian region underwent significant Post-cold War changes. The return of ASEAN as a competition for major countries and the future of ASEAN in facing the complexity of regional problems [24]. One of them is related to a massive movement of individuals and masses due to persecution, conflict, and ecological crisis. The issue of migration between countries in the Southeast Asian region needs attention. This is related to changes in domestic and international political constellations. At these conditions, this study focuses on the extent of migration mechanisms and governance in the Southeast Asian region by taking case studies of handling Rohingya refugees in several Southeast Asian countries and ASEAN regional organizations. In addition to the role of state actors, this study also looks at the extent of the role of IGOs such as UNHCR in handling Rohingya refugees in various countries. The study of international migration management is a complex issue, considering the dynamics of international political changes and the existence of Indonesia as a country that actively contributes to the ASEAN regional organization.

#### **4.3 State Response to Rohingya Refugees**

The Rohingya conflict is not only a domestic problem in Myanmar. The implications of the Rohingya conflict are widespread and give rise to the phenomenon of forced migration or forced migration of Rohingya refugees to several countries in the Southeast Asian region. Based on UNHCR data, Rohingya refugees and asylum seekers are scattered in Indonesia, Malaysia, and Thailand. Not only these three countries have concerns about the problem of Rohingya refugees. But also, other countries in the Southeast Asian region. Each country’s stance in responding to Rohingya refugees is still based on national security considerations and the world’s refugee regime.



#### 4.4 Indonesian

Indonesia is one of the countries in the Southeast Asian region that is not a signatory to international refugee laws such as the 1951 Convention and the 1967 Protocol on the status of refugees. However, Indonesia is known as a transit country among asylum seekers heading to third countries under the refugee convention. However, the Indonesian government does not have the authority to regulate and manage refugees because it is not a party to the Convention. Based on this, UNHCR representatives in Indonesia have the mandate to be able to manage asylum seekers who choose to transit in Indonesia before placement in third countries [25]

The Government of Indonesian based on the Presidential Regulation of the Republic of Indonesia Number 125 of 2016 concerning the Handling of Refugees from abroad states in Article 1 that refugees are foreigners who are in Indonesia due to reasons of racial, ethnic, and religious persecution, and do not want protection from their country of origin and have obtained asylum seeker status or refugee status from the United Nations High Commissioner for Refugees in Indonesia [26].

Before the Presidential Regulation of the Republic of Indonesia regarding the handling of refugees from abroad. Indonesia's stance in 2015, has explained to fishermen in Aceh not to help migrants unless their boat sinks or they are in the water. Military spokesman, Fuad Basya, stated that Acehese fishermen can send food, fuel, and water to the migrant ships and can help with repairs, but bringing them to the coast to land is an illegal entrance to Indonesia [2].

After the implementation of Presidential Regulation of the Republic of Indonesia Number 125 of 2016, the refugee handling mechanism is carried out based on cooperation between the central government and UNHCR. This includes the mechanism of finding, sheltering, safeguarding, and supervising refugees in Immigration Detention Centers. The Immigration Detention Center is a work unit within the ministry that organizes government affairs in the field of law and human rights in carrying out the affairs of foreign detention. The response of UNHCR representatives in Indonesian to the Rohingya refugees seeks the first long-term solution, namely that local integration in Indonesian cannot be implemented because Indonesian does not yet have refugee regulations at the local level. Asylum seekers and refugees only obtain temporary residence permits. Second, voluntary repatriation is an option for a small percentage of asylum seekers and refugees from the Rohingya. This voluntary repatriation is the result of interviews with each refugee by UNHCR. Third, resettlement in third countries for asylum seekers who have been refugees [27].

#### 4.5 Malaysia

Malaysia also has the same attitude when the Rohingya refugees first arrived in Malaysia. The government blockaded the sea border to stop Rohingya refugees from entering Malaysia. Malaysia's stance is based on that it is not a party to the 1951 Refugee Convention [2]. In Malaysia, the number registered as UNHCR's Persons of Concern (POC) in 2017 was 150,430 with 56,000 being ethnic Rohingya. With the

growing number of refugees, the Malaysian government provides an opportunity to strengthen and protect refugees through the cooperation of ASEAN regional organizations. The Malaysian government initiated anti-trafficking and people smuggling. The Malaysian government also experienced a dilemma because it was estimated that there were 2-4 million non-documents. This has an impact on the social and economic sectors and state security [28]. Malaysian Prime Minister Muhyiddin Yassin, at the 36th ASEAN Summit, stated that Malaysia could no longer accept Rohingya refugees from Myanmar. Yassin stressed that Malaysia was not the signing of the 1951 Refugee Convention. It was said that Malaysia became the country with the highest number of Rohingya refugees in ASEAN and the fourth highest in the world. Supporting Rohingya is part of the elements of Malaysian Muslim solidarity in foreign policy. However, since May 1, 2020, Malaysia has turned away 27 boats carrying Rohingya refugees. Malaysian authorities have stepped up security including preventing the spread of the Covid-19. The Malaysian government's stance is in response to social, economic, and security threats at home [29].

#### 4.6 Thailand

Thailand is not a party in the 1951 Convention on the status of refugees and protocols in 1967. However, the Thai government accommodates refugees from Myanmar. However, that refugees from Myanmar are from ethnic Karen, Karenni, and Burma. Not specifically explained how many Rohingya ethnic refugees are in Thailand. UNHCR Thailand data states that the refugees in Thailand are 91,401 Myanmar refugees, 5,155 asylum seekers and refugees, and 561,329 refugees registered by RTG (the Royal Thai Government) as stateless persons. Myanmar refugees are settling in nine temporary places on the Thai-Myanmar border. Meanwhile, asylum seekers and refugees as well as stateless people settled in various parts of Thailand. With a large number of refugees in Thailand, as of March 31, 2022, the funding for refugees reached 24.8 million USD [9]. On June 4, 2022, the Thai Navy found 59 Rohingya migrants consisting of 31 men, 23 women, and 5 children, who were stranded on Koh Dong Island close to Satun Province in South Thailand. Then, the Thai authorities took them to Unit 436 Police Patrol Border. The Rohingya asylum seekers were abandoned by smuggling or smugglers, who asked asylum seekers to pay 1,750 USD per person to get to Malaysia. Human Rights Watch said that to protect Rohingya asylum seekers from the threat of smugglers, the Thai government must allow UNHCR representatives in Thailand to determine the status of Rohingya refugees. In the previous government, the Prime Minister of Thailand, Prayut Chan-Oocha, treated Rohingya migrants who arrived at the border as illegal immigrants. One of the Western Embassies in Bangkok explained that Thailand arrested 470 Rohingya asylum seekers without access to the procedure for determining refugee status. Meanwhile, the Thai Navy explained that it was taking a stand to intercept Rohingya boats approaching the shore. After, Thai authorities provided fuel, food, water, and other supplies. The ships will be driven to Malaysia and Indonesia, this is then referred to as the 'pushback policy' [30].

#### 4.7 Philippines

The Philippines is one of the three countries in the Southeast Asian region that has signed the 1951 Convention on Refugee Status. The Philippines ratified the 1951 Refugee Convention on July 22, 1981. UNHCR welcomed the Philippine government's policy to accept refugees and forced migrants, including Rohingya refugees. This was conveyed by the President of the Philippines, Rodrigo Duterte, in the 75th Session of the United Nations General Assembly on September 22, 2020. In addition, Duterte said that the Philippines had been open to accepting refugees such as the Rohingya ethnic [31]. The Philippine Government's response to Rohingya refugees received appreciation from UNHCR for assisting 100,000 USD. In addition, UNHCR praised the Filipino's ongoing commitment to accepting refugees. This was conveyed by the Philippine Foreign Secretary, Teodoro Locsin, with the term 'Malasakit' which means an uncontrolled concern for the welfare of others. Locsin also said that the Philippine government will be together with ASEAN in supporting the provision of humanitarian assistance through UNHCR and ASEAN Coordinating Center for Humanitarian Assistance [32]. To support Rohingya refugees and asylum seekers to be able to continue their lives in the future. The Philippine government granted permission to Rohingya refugees to study in the Philippines. This framework can provide access to proper education for Rohingya refugees and can encourage a better life in the future. This was conveyed by the Department of Foreign Affairs (DFA) of the Philippines on June 24, 2022. The Legal Framework for the Complementary Pathways (CPath) program will allow Rohingya refugees to take advantage of educational training in the Philippines. This CPath program will be launched in 2022 by connecting relevant government institutions and private institutions to provide access to education to beneficiaries and help Rohingya refugees to achieve independence in the future. CPath became the first program in the world made specifically for Rohingya refugees and became a milestone in providing humanitarian assistance to refugees [33].

#### 4.8 Singapore

Although Singapore is not the main destination country for Rohingya refugees and asylum seekers, it is actively involved in helping with refugee issues. According to Singapore's Foreign Minister Vivian Balakrishnan, Singapore will send more humanitarian aid to Rohingya refugees. However, the Singapore government prefers to send humanitarian aid when the Rohingya refugees return to Myanmar. In October 2017, the Singapore government sent humanitarian assistance such as tents, blankets, food, and medical equipment worth 270,000 USD[10]. In addition, providing humanitarian assistance, the Singapore government is considered capable of being an ideal mediator in completing the Rohingya refugee crisis. This is because Singapore has a very good relationship with Myanmar and Bangladesh. Meanwhile, Bangladesh continues to urge the Singapore government to immediately solve the Rohingya refugee problem, because the Rohingya refugee problem in the refugee camp in Cox's Bazar is a burden for Bangladesh. According to the Singapore Ministry of Foreign Affairs seeking support for refugees from the state of Rakhine through ASEAN by utilizing the mechanism in providing humanitarian assistance in accordance with the

principles of the ASEAN Charter. Thus, the Singapore government provides humanitarian assistance to the refugees of the state of Rakhine through the ASEAN Humanitarian Assistance (AHA Center) (Hasan, 2021). Singapore believes that ASEAN can play a constructive role in facilitating stability in Myanmar following the ASEAN Charter. In addition, the Singapore government stressed the importance of safely and voluntarily repatriating Rohingya refugees to Rakhine State. Singapore fully supports ASEAN's efforts to assist the Rohingya refugee repatriation process through the Preliminary Needs Assessment (PNA) and the ASEAN Secretariat's Ad-hoc Support Team. According to the Singapore government, in the end, the solution to the political issues and the humanitarian crisis lies in Myanmar itself and the hands of its people [34].

#### 4.9 Inter-Governmental Organization (IGO) Response to Rohingya Refugees

The problem of international migration cannot be solved alone by state actors, harmonization between various actors including IGOs is needed in overcoming the problem of Rohingya refugees in the Southeast Asian region. The study focused on UNHCR's response to Rohingya refugees. The United Nations High Commissioner for Refugees (UNHCR) as a UN refugee is a global organization dedicated to saving individual lives, protecting refugee rights, and building a more future for refugees, 'forced' refugees (forced migration), and forced migration, and people without citizenship. The role of UNHCR is to ensure that everyone has the right to seek asylum and find safe protection after escaping violence, persecution, war, or disaster in their home country. Since 1950, the UN Refugee Agency has faced many refugee crises on various continents, as well as providing vital assistance to refugees, asylum seekers, internally displaced people, and stateless people. In carrying out its function as the world's refugee agency, UNHCR collaborates with governments, international agencies, and NGOs that focus on handling refugees in specific countries. With polemics and complexities on refugee issues on various continents, UNHCR has representative offices in more than 130 countries. The representative office in each country has the same task of protecting millions of people and providing assistance to save lives. In addition, they help protect human rights and develop solutions that can ensure refugees have a safe place and can build a better future [35].

Included in the humanitarian crisis that occurred in the state of Rakhine, West Myanmar. UNCHR is actively involved and contributes to the practice of completing refugees in various countries which are the destination of asylum seekers and refugees from Rohingya. The Rohingya ethnic destination country that directly borders Myanmar on the west side is Bangladesh. More than 742,000 asylum seekers from Rohingya arrived in Bangladesh in August 2017. With this amount, the Bangladesh government is unable to meet humanitarian needs on a massive scale. In addition, Bangladesh is not a state party to the refugee convention. Thus, UNHCR as the world's refugee agency is working with the government of Bangladesh to respond to humanitarian needs on a large scale. Then, UNHCR sent humanitarian assistance to Rohingya refugees in Bangladesh in the form of blankets, sleep mats, family tents, plastic scrolls, and cooking utensils. On March 16, 2018, the United Nations and the cooperation partners launched the Joint Response Plan (JRP) for the Rohingya

Humanitarian Crisis program, the JRP program was intended to continue to provide humanitarian assistance from March to December 2018 to hundreds of thousands of refugees with funds of 951 million USD [36]. In addition to working with Bangladesh, UNHCR also focuses on migration management practices in the Rohingya ethnic destinations namely Indonesia, Malaysia, and Thailand. Throughout 2016, UNHCR received news from the refugee community regarding the sea route trip of Myanmar refugees to Malaysia by boat. Some Rohingya refugees were also rescued by Aceh fishermen, in Indonesia in May 2015, it was believed that they had reached Malaysia in 2016 by crossing the Malacca Strait. The United Nations emphasized that they have condemned the ‘rejection of’ countries in the Southeast Asian region in saving thousands of migrants that were adrift at sea. There were at least 700 Bangladesh and Rohingya ethnic residents rescued by Aceh residents in 2015. UNHCR spokeswoman Vivian Tan said the lack of evacuation of refugees on the high seas was a bad sign, given the situation at the time when countries in the Southeast Asian region refused to accept migrants [2]. The rejection did not last long, as in September 2016, the Malaysian government sought to promote the protection of Rohingya rights in several regional and global forums such as ASEAN and the OIC (Organization of Islamic Cooperation). This step was taken by the Malaysian government to strengthen protection for refugees and national and regional cooperation against the humanitarian crisis that occurred [28]. Indonesia has taken a similar stance to temporarily house Rohingya refugees in their respective countries with help from the world refugee agency. Meanwhile, Thailand has hosted 90,000 refugees including refugees from Myanmar, but the refugees are not from Rohingya ethnic but from Karen and Burmese ethnic. UNHCR has an official mandate from the United Nations to manage refugees in each of the main destination countries for Rohingya refugees, namely Indonesia, Malaysia, and Thailand. This is certainly related to the decision of the three countries ‘not’ to ratify international refugee law, namely the 1951 Convention and the 1967 Protocol. Thus, the role of UNHCR representatives in each Southeast Asian country is quite crucial in dealing with Rohingya refugees.

#### **4.10 Discourse on Migration Governance in Southeast Asian Region**

The conceptual framework of ‘international migration management’ it is stated that in addition to the pillars of state actors and non-state actors, there is a third pillar, namely discourse on international migration policy and governance. In addition to knowing the extent of international migration management in the Southeast Asian region, it is also a fundamental foundation for knowing the importance of international migration management. Under the 1951 Convention on the Status of Refugees, most countries in the Southeast Asian region have not become parties to the convention, including Indonesia [37]. Countries in the Southeast Asian region that have become parties to the 1951 Convention include Cambodia on October 15, 1992, the Philippines on July 22, 1981, and Timor Leste joined on May 7, 2003 [22]. The Convention of 1951 regulates the status of refugees and people without citizenship [3]. This Convention was created to protect citizens at risk of persecution and the implications of conflict or war in their own countries.

The 1951 Convention relating to the status of refugees has been ratified by 145 countries as of April 2015. Despite this, there are still many countries that have not ratified the convention. The rules of the 1951 Convention remained fairly well in effect until the end of the Cold War. However, the convention was not designed with the complexity of migration problems in the 21st century in mind. Massive movement of individuals or masses in a relatively fast time. The emergence of various domestic and international conflicts and ecological crises that threaten humans, become a motivating factor for humans to move to safer places or countries. The growing migration flows, including the phenomenon of 'migration of the boat people', are crucial issues that need to be considered in the convention on the status of refugees [38]. In addition, from the perspective of the Indonesian government, it is seen that the provisions contained in the 1951 Convention are still quite onerous to be fulfilled and implemented, such as the regulation on the right to work for refugees. In addition, non-judicially the Indonesian government has not ratified the 1951 Convention because the convention was created to deal with post-World War II migration problems. The relevance of the provisions contained in the 1951 Convention to the phenomenon of international migration in this century, is inadequate and requires a review of the discourse on international migration management [39].

Meanwhile, the Malaysian government stated that it has not ratified the 1951 Convention due to the implications arising after signing the convention, the Malaysian government cannot fully implement the provisions on the refugee issue. The Malaysian government's concern relates to the increasing number of foreign workers entering Malaysia as refugees and asylum seekers. This can increase the number of illegal immigrants, foreign workers, and refugees [40]. Meanwhile, the Thai government is urged by the United Nations High Commissioner for Refugees, Filippo Grandi, to demonstrate its commitment to protecting refugees by ending abusive practices and instituting and implementing laws guaranteeing refugee rights in Thailand. Although Thailand is not a party to the 1951 Refugee Convention, the Thai government expresses its commitment to protecting refugees residing in Thailand [41]. Countries in the Southeast Asian region that have not ratified the 1951 Refugee Convention continue to respond to the protection needs of refugees without giving the impression that they are compromising on issues of national sovereignty and the principle of 'non-interference' in the internal affairs of other countries. In this policy that seems contradictory, these countries seek to defend 'legal fiction'. Conditions in which the state retains full sovereignty over its territorial borders while the reality is that most of the destination countries of Rohingya refugees 'accept' the presence of refugees by taking into account the provisions applicable to international refugee law [42].

In addition to looking at the paradigm of the nation-state in the 1951 Refugee Convention, this study needs to explore the discourse on migration policy in the Southeast Asian region through the ASEAN regional organization. The ASEAN Charter in November 2007 made no explicit mention of safe, orderly, and orderly migration management. Matters related to the context of this migration are the realization of good governance and the promotion and protection of human rights (Zayzda Azizah & Nurdiansyah, 2016). These provisions are contained in the 'Charter

of the Association of Southeast Asian Nations Chapter I Purposes and Principles' [43]. In detail contained in Article 1 Purposes in the fourth, seventh, and eleventh points, the details are as follows:

## **ARTICLE 1**

### **PURPOSES**

The Purposes of ASEAN are:

To ensure that the peoples and Member States of ASEAN live in peace with the world at large in a just, democratic and harmonious environment;

To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;

To enhance the well-being and livelihood of the peoples of ASEAN by providing them with equitable access to opportunities for human development, social welfare and justice.

ASEAN's commitment to promoting and protecting human rights as stipulated in the Charter of the ASEAN Article 1, is implemented in Article 14 concerning ASEAN Human Rights Bodies. To harmonize the purposes and principles of the relevant ASEAN Charter in promoting and protecting human rights and fundamental freedoms, ASEAN shall establish an ASEAN human rights body. The ASEAN Human Rights Agency is tasked following the reference to the reference that will be determined at the meeting of the ASEAN Foreign Ministers. In July 2008, the High-Level Panel on an ASEAN Human Rights Body compiled a draft of AICHR reference provisions of the Terms of References of the ASEAN Intergovernmental Commission on Human Rights. One year later, the ASEAN Intergovernmental Commission on Human Rights (AICHR) was inaugurated by ASEAN leaders on 23 October 2009 at the 15th ASEAN Summit in Cha-Am Hua Hin, Thailand. In November 2012, the AICHR adopted the ASEAN Human Rights Declaration. In accordance with the Phnom Penh Statement on the adoption of AHRD as a regional cooperation framework in promoting and protecting human rights. This is a manifestation of the ASEAN government's commitment to protecting the human rights and fundamental freedoms of the ASEAN community [44].

The existence of AICHR as a human rights body which was inaugurated in 2009 brings hope for the creation of human rights protection in ASEAN. Based on the results of the author's discussion with Yuyun Wahyuningrum as Representative of Indonesia to AICHR, in the webinar Ambassador Talk of Slamet Riyadi University Surakarta with the theme 'Between Advocacy and Resilience How to Champion Human Rights in ASEAN?', stated that ASEAN member countries that do not have a Human Rights Commission will certainly need the role of AICHR. In addition, AICHR continues to coordinate with the National Human Rights Commissions of each ASEAN member state. This relates to regional human rights mechanisms that still refer to the reference of the country's national Human Rights Commission. Yuyun added that at the beginning of its establishment, AICHR did not have a mechanism to

receive complaints related to human rights violations or human rights supervision in the Southeast Asian region [39].

Since the establishment of AICHR in 2009, AICHR has been faced with resolving the Rohingya crisis. Although, at that time AICHR did not have a complaint mechanism against human rights violations in ASEAN. The AICHR's new response is limited to calling on ASEAN member states to take effective and practical steps to fulfill commitments to peace and the rule of law and promote harmonization and reconciliation of different ethnicities in Myanmar [45]. Then in 2019, AICHR only has a mechanism to receive complaints related to human rights issues in ASEAN. However, steps from AICHR toward handling the Rohingya ethnic crisis have received attention from various parties because it is considered that there have been no significant results. Based on research conducted by Kimberly Ramos Gamez, AICHR has obstacles in implementing itself as a human rights body in ASEAN. First, the AICHR discipline adheres to the ASEAN Way of Cooperation. Second, the lack of authority within the AICHR. Third, AICHR adheres to the principles of the ASEAN Charter. These provisions that make AICHR's space to resolve the Rohingya humanitarian crisis have not received significant results [46].

## 5 Conclusion

The movement of individuals and masses from their countries of origin due to persecution and conflict is the main highlight of this study. This migration pattern is known as forced migration, although it is undeniable that the movement of Rohingya ethnicity to various countries in the Southeast Asian region is not only for reasons of persecution or conflict that occurs in Myanmar. However, it can also be analyzed as a pull and push factor for Rohingya refugees to save themselves from danger and for their own safety. In the 21st century, the movement of people across national borders or internally displaced persons is becoming more massive and in a relatively fast time. The complexity of the problem of international migration in the future requires solutions from various parties concerned. See that there needs to be an 'International Migration Management' in overcoming an orderly, safe, and orderly migration flow. In addition, the need for the protection of human rights for refugees so that there are no other problems such as the existence of human trafficking and harassment of female refugees. This is given that in the Southeast Asian region, there are no instruments regarding regional refugees. The lack of formal legal frameworks governing refugee protection at the national and even regional levels shows that the countries concerned are not yet compliant with the basic principles of international refugee laws. The humanitarian crisis that occurred in Myanmar was one of the case studies on how to manage international migration in the Southeast Asian region. The Rohingya ethnic movement included in the term migration was forced, which has surprised many countries in Southeast Asia in addressing the rapid migration of asylum seekers. Either by land leading to neighboring Myanmar such as Bangladesh and Thailand, as well as through Bengal Bay which is at high risk to the safety of their souls. Sea trips are at risk of being taken so that they can escape from the persecution they get in their home countries. The risks taken by refugees until finally arriving in Southeast Asian countries such as Indonesia and Malaysia. The response



of Southeast Asian countries to Rohingya refugees has received appreciation from the International Refugee Agency, considering that the destination country of Rohingya refugees is not a party in the 1951 refugee convention. UNHCR's responsive stance continues to support Rohingya host countries in managing refugees and providing adequate humanitarian assistance. Meanwhile, the last pillar, namely the discourse on migration management policies in the Southeast Asian region, needs special attention in realizing regional migration governance instruments and creating a 'legal framework' regarding refugee protection regulations in the Southeast Asian region.

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