



# *Handling Rohingya Refugees Found in an Emergency in Indonesia: A Legal and Human Rights Approach*

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**Abstract—** This study intends to characterize and analyze how refugees discovered in Indonesia during an emergency are treated. This paper presents qualitative research that employs a case approach and gathers information from informants who can provide case-related details. Additionally, it reviews and analyzes multiple kinds of literature about managing refugees discovered in Indonesia during an emergency. The findings revealed that Rohingya refugees located in Indonesian territorial waters during an emergency were in consistently perilous circumstances. This circumstance arose due to the prolonged stay of the Rohingya refugees on overcrowded boats for several months, inadequate provisions, and a lack of medical equipment, food, and clean water. Consequently, these refugees were classified as "Persons in Distress" and, by Indonesian national law and humanitarian considerations, are obligated to be brought ashore in Indonesian territory during an emergency.

**Keywords—** Handling, Rohingya Refugees, Emergency, in Indonesia.

## I. INTRODUCTION

The discourse surrounding Rohingya ethnic refugees is prevalent in Indonesia; however, the extent of public discourse regarding this group does not necessarily reflect the level of awareness that many individuals have regarding the refugees themselves. For instance, in Indonesia, widespread discussion of the Rohingya refugees has only commenced since 2015, even though a genuine crisis exists. Long before that, ethnic minorities in Myanmar have been subjected to the current situation.[1]

Decades of conflict have been devoted to the Rohingya ethnic group, which is not expected to be resolved quickly. Furthermore, there exist accusations that the Rohingya ethnic group's distress was intentionally neglected. Due to the denial of existence by a significant portion of the Rohingya ethnic group, they have not been conferred citizenship in Myanmar as of yet.[2]

An indication of this is the Myanmar government's blatant and unequivocal rejection of United Nations Resolution 70/233, dated December 23, 2015, which sought to reinstate the

Rohingya's complete citizenship rights that had been lawfully revoked after the enactment of the Myanmar Citizenship Law in 1982. An individual of Rohingya ethnic descent named Muhammad Yusuf, originating from the Rakhine region of Myanmar, personally perished in an attempt to escape the nation. This action was taken as a result of nine Burmese individuals from Myanmar, the country that expelled the Rohingya, torturing members of the Rohingya ethnic group.[3]

Boats carrying ethnic Rohingya refugees have persisted to enter Indonesia over the past decade. This is inextricably linked to several events that transpired among the Rohingya ethnic refugees, including the conflict in their native Myanmar, where, according to an Amnesty International report on the Rohingya, As stated in the article Persecuted In Myanmar, Neglected In Bangladesh, refugees were responsible for acts of violence against humanity. Instances of murder, rape, pillage, and house fires committed against the Rohingya ethnic group by the Myanmar military.[4]

In addition to the factors previously mentioned, Rohingya ethnic refugees who cross national borders and seek refuge in other nations, such as Bangladesh, where they are housed in the Cox Bazaar Kutupalong camp, continue to face significant challenges. This is the result of overcrowded refugee camps, decreased international aid, and rising insecurity in the area housing refugees as a result of desperation and poverty, all of which threaten to generate refugees, particularly young men who join armed groups and criminal organizations, thereby inciting violence.[5]

Ethnic Rohingya refugees, predominantly women, and young children, embark on a dangerous maritime or land migration to Malaysia via Myanmar and Thailand. In Malaysia, extended families of Rohingya refugees hailing from the Kutupalong Refugee Camp in Bangladesh assemble. The findings derived from the compromise of numerous cell phones belonging to Rohingya ethnic refugees, seized during joint operations spearheaded by Lhokseumawe Immigration, indicated that individuals already residing in Malaysia supplied financial support to the Human Trafficking Crime Syndicate (TPPO) to emancipate their relatives who remained in Bangladesh.[6] The influx of Rohingya ethnic refugees into Indonesia significantly affects the social fabric of the host nation. Indonesia has emerged as a transit point for Rohingya ethnic refugees, the majority of whom are en route to multiple neighboring countries.[7]

The extensive littoral of Indonesia facilitates the utilization of maritime routes by smugglers, unauthorized immigrants, and refugees seeking entry into the country. Almost the entirety of the numerous cases associated with the influx of refugees in Indonesia involve groups of Rohingya ethnic refugees who entered the westernmost region of Indonesia via the sea as a means to enter other nations. This is due to the topography of the westernmost part of Indonesia, including Aceh province, which is situated near the Andaman Sea—the primary passageway for ethnic Rohingya refugees traveling to Malaysia from refugee settlements in Bangladesh.[8]

The prevailing strategy employed by Rohingya ethnic refugees is to infiltrate Indonesian territory through unofficial sea routes. Rohingya ethnic refugees' principal objective is to access Malaysia via Indonesian waters before temporarily anchoring off the east coast of Sumatra. Rohingya refugees, originating from Myanmar and, to a lesser extent, Bangladesh, who are commonly known as "boat people," traverse the Andaman Sea and the Malacca Strait before becoming stranded along the northern or eastern coasts of Sumatra Island, particularly in the Aceh region.[9]

The numerous instances of Rohingya ethnic refugee groups becoming stranded in Indonesian waters, particularly in the sea region of Aceh province, provide evidence of this. For example, in 2015, 800 individuals constituted a group of Rohingya refugees in the area. In 2020, 2021, 2022, and the present year, 2023, vessels transporting ethnic Rohingya

refugees continue to frequently become stranded within the territorial jurisdiction of the Indonesian state.

Despite the absence of Indonesian ratification of the refugee convention, UNHCR data indicates that Indonesia is currently accommodating 12,805 refugees from 51 countries, of which approximately 1,000 (8 percent) are Rohingya ethnic refugees. Indonesia, along with other Southeast Asian nations, continues to provide humanitarian assistance to Rohingya ethnic refugees stranded under challenging conditions in the Indonesian Sea or on the Indonesian plains. The plight of these refugees is a matter of concern for the entire region.[10]

## II. LITERATURE REVIEW

The Rohingya, a Myanmar-based stateless Muslim ethnic minority, comprise one of the world's most sizable refugee communities. Continued from decades ago, the Rohingya refugee crisis is an extension of a campaign of state-sanctioned persecution. Myanmar, a militarized nation characterized by a Buddhist majority, actively participates in a methodical and systemic erasure of the Rohingya people, disregarding their profound historical significance within the borders of the nation. Since the 1970s, the Rohingya people have been subjected to persistent religious persecution that includes denial of education and citizenship (a prerequisite for statelessness), as well as a systematic cutoff and eradication of all vital services and provisions. Since the early 1990s, more than one million Rohingya refugees have escaped the violence in Myanmar for Bangladesh, India, Thailand, and Malaysia, placing them among the world's most displaced groups. In contrast to the worldwide refugee crisis, which has experienced an approximate 50% growth rate in the last five years, the number of Muslim refugees admitted into the United States has decreased by two-thirds, from nearly 85,000 in 2016 to 18,000 in 2020.

As a result of the Trump administration's "Muslim travel ban," which specifically targeted several predominantly Muslim countries and prohibited the entry of their citizens into the U.S. under the pretext of national security, the decline in Muslim refugees can be largely ascribed to the country's deeply ingrained Islamophobia, which was exacerbated.[11] The existing and expanding corpus of scholarly work concerning Rohingya refugee youth is concerned with their identity; mental health; and education. A qualitative case study investigates the experiences of two Rohingya refugee boys residing in Malaysia. These boys, despite lacking official recognition as refugees, employ linguistic and social capital to foster a sense of belonging by displaying patriotism and assimilating into the local culture. Youth in Kachin State, Myanmar, engage in active political participation to resist state actors and defend the multiethnic Arkanese population, which includes Rohingya displaced populations, in order to construct, maintain, and reaffirm self-identity. These variations in the formation of identities underscore the significance of environment in the lives of Rohingya refugee youth.[12]

## III. METHOD

A research methodology referred to as juridically normative research is utilized by the author. The scholarly field of normative juridical research is dedicated to the scrutiny of legal materials via the methodologies of reading, researching, and analyzing. The information obtained via the literature review methodology is obtained through a qualitative examination of legal documents. Using descriptive analytics, the author then analyzes data according to systematic principles in order to provide an overview of the issues addressed in this work.

#### IV. RESULT AND DISCUSSION

The Indonesian government remains committed to safeguarding and housing ethnic Rohi refugees who are stranded in the country during times of crisis. Despite Indonesia not being a signatory to the refugee convention, refugees still require protection efforts because they are individuals seeking refuge in a secure haven when danger is imminent in their region.[13]

Indonesia can implement several provisions from the World Refugee Statute. For instance, Article 4 of the document addresses the right to freedom of religion, while Article 22 pertains to the right to education. The Indonesian government is implementing policies remarkably similar to those in effect globally. Indonesia strictly upholds the principle of non-refoulement, which explicitly forbids the repatriation or expulsion of refugees and asylum applicants. Numerous international law observers have ascribed the interpretation of this principle to *Jus Cogens*. McNair defines *Jus Cogens* as a coercive and obligatory legal principle. *Jus Cogens* bind the creators of an international law that enforces these standards. *Jus Cogens*, a fundamental principle established by the 1969 Vienna Convention, is applicable.

The Presidential Decree on Refugee Management is a legislative instrument promulgated by the Indonesian government that outlines its policy regarding the reception and accommodation of foreign refugees on Indonesian soil. As Indonesia is not a signatory to the 1951 Convention, it does not rely solely on the government to manage and protect foreign refugees. Instead, cooperation between the central government and the United Nations (UN) via the High Commissioner for Refugees in Indonesia and/or international organizations specializing in migration or humanitarian matters is utilized to carry out refugee assistance in Indonesia.[14] Important international organizations, such as the UNHCR and IOM, are therefore permitted to access affected regions to assist refugees in Indonesia directly during their protection and management.

As a member of the international community, Indonesia must uphold principles of fairness and equality in treating human rights worldwide. Global ratification of the 1951 Refugee Convention is deemed crucial because it is the first international accord to address the most vital facets of the lives of refugees, including those of the Rohingya ethnicity. The Refugee Convention establishes benchmarks for international refugee rights, encompassing the entitlements that refugees are obligated to acquire. These entitlements comprise the freedom of religion, the right to education, and the right to avoid expulsion.[15] The management, safeguarding, realization of rights, and determination of the status of Rohingya refugees in Indonesia are all facilitated through UNHCR-led data registration initiatives. These international organizations are responsible for finding solutions that ensure the rights of refugees are respected and undertaking other initiatives concerning resettling refugees in countries that accept refugees.

As long as asylum applicants and refugees are within Indonesian territory, Indonesia continues to assist them. Indonesia's approach towards foreign refugees is inextricably linked to its adherence to the principle of protection and guarantee of human rights (HAM), outlined in the preamble's first paragraph of the 1945 Constitution. This paragraph asserts that "independence is the right of all nations; consequently, colonialism in the world must be abolished, as it is contrary to humanity and justice." The body of the Constitution further reinforces this principle. The Indonesian government still needs to follow the implementation of the Convention Relating to the Status of Refugees (1951 Convention) and the Protocol Relating to the Status of Refugees (1967 Protocol). Even though the convention does not yet bind it, Indonesia has a moral responsibility to humanity, which is part of the mandate of Pancasila.[16]

The government continues to provide shelter for refugees stranded on Indonesian soil. This is due to the dire circumstances refugees face as they attempt to escape dangerous conditions at sea after running unsafe zones within their own country. Refugees, including

those of the Rohingya ethnic group, have prompted the government to take the initiative to assist and protect these individuals in Indonesia.[17]

Countries worldwide, including Indonesia, must safeguard refugees and uphold their dignity and constitutional rights to implement humanitarian values. This includes Rohingya ethnic refugees who are stranded in Indonesian waters and require assistance. Considering its dedication to the protection of human rights, the Indonesian government is obligated to offer aid in an emergency involving Rohingya ethnic refugees in Indonesian waters. The management of this situation requires the collaboration of cross-stakeholders from the government and UNHCR Indonesia. Indonesia has effectively executed its pledge to adhere to the jus cogens principles of international law, ensuring that no Rohingya ethnic refugee is repatriated to a region where their life or liberty is in danger to ensure that all Rohingya refugees who arrive in Indonesia before 2023 will continue to be provided aid and treatment by the prevailing legal framework in Indonesia.[18]

## V. CONCLUSION

Indonesia is legally safeguarded in its treatment of foreign migrants, including Rohingya ethnic refugees, in times of crisis. Although legal frameworks exist to regulate the treatment of foreign refugees, the practical implementation of these regulations is fraught with difficulties, particularly concerning the Rohingya ethnic group that infiltrates the nation's borders. Due to the Rohingya ethnic refugees who have been confined to overcrowded vessels for months, Indonesia frequently encounters distressing conditions along its sea routes. In addition to inadequate nutrition, clean water, and medical supplies, these refugees are classified as "Persons in Distress" and "emergencies" requiring aid by Indonesian national law and humanitarian principles. The Indonesian government has a responsibility to facilitate the resettlement of Rohingya ethnic refugees on Indonesian soil and to offer assistance in times of emergency.

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