POLICY TOWARDS ROHINGYA REFUGEES:  
A COMPARATIVE ANALYSIS OF BANGLADESH,  
MALAYSIA AND THAILAND

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Abstract
The paper offers a comparative analysis of the policies taken by Bangladesh, Malaysia and Thailand to Rohingya refugees. The study illustrates both nature and dimensions of these states policies in dealing with Rohingya refugees. It discusses the diverse initiatives of these states based in three periods: before the 1990s, after the 1990s, and with a particular focus on the riots after 2012. The study attempts to describe the rationales of states’ policies as well as comparatively elucidates both similarities and dissimilarities among their policies in different time frames. The study also analyzes states’ policies from theoretical frameworks, classical liberalism and political realism—to figure out both human and state centric principles of national policies towards Rohingyas. Having discussed some issues of conformity and inconformity with states’ policies, the paper explores some possible policy prescriptions for these states to resolve the crisis.

Introduction
The rights of all persons irrespective of their nationality and citizenship are clearly mentioned in the 1948 Universal Declaration of Human Rights.1 According to the principle of non-refoulement, a customary international law, states are “obliged not to return or extradite any person to a country where the life or safety of that person would be seriously endangered.” States that are even not parties to the United Nations instruments are bound to respect non-refoulement as a fundamental principle of customary international law.2 The United Nations General Assembly Resolutions “[C]alls upon all States to uphold asylum as an

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indispensable instrument for international protection of refugees and to respect scrupulously the fundamental principle of nonrefoulement, which is not subject to derogation”. The UNHCR’s Executive Committee’s Conclusion 99 calls on states to ensure “full respect for the fundamental principle of nonrefoulement, including non-rejection at frontiers without access to fair and effective procedures for determining status and protection needs.” Both Bangladesh and Thailand are members of the UNHCR Executive Committee. Bangladesh, Malaysia and Thailand are also obliged to preserve refugee rights under domestic principles. Despite these international legal obligations, in recent years, the three Asian nations—Bangladesh, Malaysia, and Thailand, appear to have ignored the principle of nonrefoulement of Rohingya refugees. This paper explores how the official policies of these three countries have evolved over a period of four decades.

The exodus of Rohingya refugees from Myanmar to neighbouring countries is not a new phenomenon. Historically, the Rohingyas have been fleeing to Bangladesh, Malaysia and Thailand to escape serious repressions in their country of origin, Myanmar. Myanmar’s military government launched violent oppressions against the Rohingyas that led thousands of refugees to flee into neighboring countries. In 1978, when Myanmar’s military junta launched Operation Nagamin, thousands of Rohingyas fled to Bangladesh. A large number of Rohingyas also began arriving in Bangladesh, Malaysia and Thailand in 1991, 1992, and 2012 after experiencing various forms of persecution in their home country.

How have the three host countries—Bangladesh, Malaysia, and Thailand—dealt with the Rohingya refugees, and which factors have shaped their official policies toward the Rohingyas? This article seeks to investigate this question by adopting

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a comparative case study method. It mostly relies on media reports, scholarly analyses, and official statements from concerned governments. It has four sections. The first section presents an analytical framework. The second section provides a historical narrative of the host nations’ official policies toward the Rohingyas. The third offers a comparative analysis. The concluding section generates some policy recommendations.

**Analytical Framework**

This section conceptualizes whether Rohingyas can be defined as ‘refugees’. Therefore, the part tends to analyze the basic principles of political realism and classical liberalism in order to trace Bangladesh, Malaysia and Thailand’s policy towards Rohingya refugees within these theoretical frameworks.

**Refugees**

The notion of the protection of ‘refugee’, the responsibility of international community and solution for refugees first came into attention at the League of Nations. In the aftermath of the Second World War, the International Refugee Organization (IRO) that was created in 1947 started dealing with the problems of refugees in Europe. Later, the General Assembly adopted the Statute of the UNHCR on December 14, 1950 replacing the IRO.\(^7\) Finally, the well-accepted definition of ‘refugee’ derived from the 1951 International Convention on the Status of Refugees and the 1967 Protocol on the Status of Refugees namely the 1967 Protocol.\(^8\) The Statute of the United Nations High Commissioner for Refugees (UNHCR) and the 1951 Convention on the Status of Refugees no longer define ‘refugee’ simply as a displaced person, rather identify in specific terms.\(^9\)

According to the Article 1. A. (2) of the 1951 Refugee Convention, a refugee is a person who,

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\text{[O]wing to well-founded fear}^{10}\text{ of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside} \\
\]

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10 The ‘well-founded fear’ limits the scope of being ‘refugee’ under law. It means “the people who face a genuine risk of persecution in their state of origin are entitled to the protections”. See, James C. Hathaway, ‘Well-Founded Fear’, Chapter 2. James C.
the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.  

The Organization of African Unity’s 1969 Convention on Refugee Problems in Africa namely the African Convention defines:

Every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part of the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.  

Though all these concepts focus on individual persecution excluding people fleeing from war and civil strife, every Rohingya falls under the universal concept of ‘refugee’. Each Rohingya is being persecuted due to state’s repression and is also unwilling to avail himself of the protection of that country. Myanmar’s two most brutal campaigns against Rohingyas namely ‘Operation Dragon King (1978)’ and ‘Operation Pyi Thaya (1991-1992)’ created risk of persecution in their state of origin through mass killing and expulsion of Rohingyas from their land which led thousands of Rohingyas to flee as well as seek refuge in another place. Later, in the mid 2012, another case of violence against Rohingyas once again led them to seek refuge in neighbouring countries. The United Nations, therefore, defines Rohingyas as the most persecuted community in the world. 

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12 Isabelle R. Gunning, op. cit., 37.
13 Ibid.
15 See, Aymen Ijaz, “Burma’s burning Rohingya’s crisis”, UNHCR, at <http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=52fc6fb5&id=5590d3b95> (accessed December 10, 2015). However, Rohingyas are not recognized as “refugee” in neighbouring countries. They are rather also labelled “illegal immigrants” and “economic migrants” as well. Rohingyas are also defined with different concepts. For example, sometimes Rohingyas are called as ‘stateless persons’ under the 1954 UN Convention relating to the status of statelessness because they do not belong to any nationality of any country. Following the irregular movements of large number of Rohingyas towards Southeast Asian countries through sea routes, Rohingyas are also termed as ‘boat people’.
**Political Realism**

Hans Morgenthau, a towering figure in international relations, popularizes the theory of political realism with its emphasis on the inevitability and the evilness of man’s lust for power.\(^{16}\) One of the basic characteristics of Morgenthau’s political realism is that the primary function of a state is to satisfy and protect national interest while state must place its survival above all other moral goods.\(^ {17}\)

Political realism prioritizes rational foreign policy as ideal to maximize benefits and minimize risks, whereas nation state is the ultimate point of reference of contemporary foreign policy.\(^ {18}\) The foreign policy is also regulated through the ideological preferences of statesmen in order to attain national goals in terms of power.\(^ {19}\)

For political realists, the pursuit for power is the overriding concern for a state because political relationship entails unending struggle for power and interests.\(^ {20}\) To political realists, there is a distinction between moral aspiration of a nation and universal moral laws, whereas universal moral principles cannot be applied to the actions of states. They reject the moral and liberal premises e.g. education, culture, and technology as well as prospects for peace and international stability.\(^ {21}\)

Another important characteristic of Morgenthau’s political realism is pragmatism. The national policies must be empirical and pragmatic that Morgenthau elucidated its validity in ‘theory of international politics’.\(^ {22}\) Rejecting the principle of liberal internationalism, Morgenthau concludes that perpetual peace can never be attained under the moral, social, and political conditions in the realist world.\(^ {23}\) As no international community is capable of guaranteeing national security, nation chooses the realist ones separating itself from moral values.\(^ {24}\)

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17 David A Welch, ‘Morality and the National Interest’, Chapter 01. Andrew Valls, *Ethics in International Affairs: Theories and Cases*, (Rowman and Littlefield publications, INC, 2000), the USA, p.03.
22 *Ibid*.
The realist theory emphasizes national interest over any humanitarian interest. In recent years, states receiving Rohingya refugees have increasingly been concerned about the national security threats posed by such refugees and thus legitimized the expulsion of Rohingyas trying to enter their territories. When describing such hostile attitudes toward the Rohingyas, this paper uses the term ‘realist policy’ due to the overemphasis of the state in protecting its own interest, and even by neglecting many customary and treaty-based international law which guarantee the humanitarian protection of refugee population.

**Classical Liberalism**

The foundation of classical liberalism originates from John Locke’s ‘Second Treatise of Government’. The other prominent scholars of classical liberalism are Adam Smith, Immanuel Kant, Giuseppe Mazzini, and John Stuart Mill. Liberalism supports core principles of human rights such as individual freedom, political participation, private property, and equality of opportunity that all liberal democratic societies, by definition, share to some degree. The theory promotes moral freedom as well as equal rights to all human beings. It also reiterates liberal foreign policy and international regimes in order to promote cooperative relations among states. The four main basic elements of John Locke’s political theory are limited government, the rule of law, freedom from restraint, and personal responsibility.

Classical liberalism limits the role of state and only support for its legitimate functions subsequent to the constitutional limits of governmental power. Classical liberals observe that the main responsibility of a legitimate state authority is only to protect individuals’ rights, liberty, and property, regardless of their national identity. Governmental institutions need to be capable of upholding the rule of law and defending societies against internal and external threats where there will

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be no unlimited power to the central authority although they appreciate effective governmental institutions for domestic stability.30 The theory, thus, paves the way to provide basic humanitarian needs conducive to an adequate protection of such individuals’ fundamental rights. It also emphasizes on establishing a political order with a view to promoting peace and social cooperation.31

With regard to the Rohingya refugees, the liberal policy focuses on hosting such refugees and providing them with basic needs supports, as well as preserving their rights. Advocates of liberalism argue that when a large number of Rohingyas flee state-sponsored persecution in Myanmar, it becomes a humanitarian obligation for the neighboring countries to provide shelter and security to such refugee population. A host of international refugee laws and humanitarian laws provide the legal and normative basis for such a liberal refugee policy. The list includes the 1951 Refugee Convention, its 1961 protocol, and nearly half a dozen other international instruments focusing on the preservation of cultural and political rights and elimination of discrimination and torture.

In summary, a realist refugee policy prioritizes host state interest and legitimizes the expulsion of refugees on national security grounds. By contrast, a liberal refugee policy emphasizes the vulnerability of the displaced persons and calls for shelter and care for them. In addressing the central question of whether the official policies of Bangladesh, Malaysia, and Thailand resemble either a realist or a liberal attitude or a mix of both, the next section provides historical data that reveal changing dynamics of state policies.

State Policies on Rohingya Refugees

Bangladesh
Bangladesh has been the largest destination for Rohingya refugees. The country has received a large number of Rohingyas in three phases. In dealing with the Rohingya refugees Bangladesh has moved from liberal refugee-welcoming policy to a realist refugee-hostile policy. Such transformation in the official policy of Bangladesh took place in the past four decades.

When the first batch of more than 200,000 Rohingyas fled Myanmar in 1978, Bangladesh saw it as a humanitarian crisis, and arranged temporary shelters and other supports for the refugees. In the second phase, during 1991-1992 when

250,000 Rohingyas fled to Bangladesh after the serious state repression in the Northern Rakhine State of Myanmar, the Government of Bangladesh granted temporary asylum as well as provided food and medical services to Rohingya refugees. The government also called on humanitarian aid from the United Nations High Commissioner for Refugees (UNHCR) for those refugees.\textsuperscript{32} Around 20 refugee camps were built up in Cox’s Bazar and Bandarban districts in September 1991 in order to accommodate the Rohingya refugees.\textsuperscript{33} As a result, some 250,877 Rohingyas got shelter as registered refugees in those camps in the Cox’s Bazar district from November 1991 to June 1992.\textsuperscript{34} During this time, some diplomatic initiatives were taken for make peaceful resolution of the crisis and an orderly repatriation of the refugees. For example, a Memorandum of Understanding (MOU) was signed on April 28 1992 between the Foreign Ministers of Bangladesh and Myanmar in Dhaka to resolve the issue.\textsuperscript{35} Bangladesh also worked with international organizations such as the UNHCR and the Red Cross to deal with the crisis.\textsuperscript{36}

Though Bangladesh initially adopted liberal policies towards the Rohingya refugees such soft stance changed over the years. For instance, after 1992, Rohingyas were no longer given refugee recognition in Bangladesh; instead they were identified as ‘illegal immigrants.’\textsuperscript{37} Bangladesh took repatriation policy under the auspices of the UNHCR between 1993 and 1997.\textsuperscript{38} In order to stop the

\begin{footnotesize}
\begin{enumerate}
\item Syeda Naushin Parnini \textit{et al.}, 2013, \textit{Op cit}, p.137.
\item Julfikar Ali Manik, “Refugees’ long stay to stretch even further”, \textit{The Daily Star}, July 08, 2012.
\item Ahmad Ibrahim, The Rohingya: The History of Prescription”, \textit{The Daily Star}, June 09, 2014.
\end{enumerate}
\end{footnotesize}
influx of Rohingya refugees, Bangladesh appealed to the UNHCR in February 1992 to assess the Rohingya crisis. The country strongly proposed her unwillingness to continue receiving more refugees from Myanmar in a parliamentary debate on the Representative of the United Nations’ Secretary General on May 1992. The country forcibly repatriated some 5,000 refugees under the MOU signed between Bangladesh and Myanmar in April 1992. Nearly 50,000 refugees were also involuntarily repatriated from Bangladesh despite the MoU signed between the UNHCR and the Government of Bangladesh in May 1993.

The Bangladesh authorities further reiterated their policy of non-acceptance of those refugees who came back after August 15, 1997. In pursuance of that policy, the country sent back as many refugees as possible and forcibly expelled over 300 Rohingyas across the Naaf River and some 400 refugees across Myanmar’s northern Arakan state in July 1997. All of these hard-line steps reflected a state-centric realist foreign policy posture in which national interests of Bangladesh prevailed over humanitarian concerns of the Rohingyas.

In 2008 and 2009, Bangladesh continued to adopt a policy of informal deportation of Rohingya refugees. The country’s law enforcement agencies arrested large number of Rohingyas across the border to Myanmar from 2007. Since July 2009, along with new arrivals, state authorities deported those people who had settled in Bangladesh for several years. Along with the crackdown of Rohingyas in Bandarban District in mid-2009, Bangladeshi officials also pushed back refugees across the Naaf River. The deportation process was done informally because the paramilitary Bangladesh Rifles (BDR) did not hand over the deportees to Myanmar’s border force NaSaKa.

43 The BDR is the former name of Border Guard Bangladesh (BGB). It was renamed in 2010 after a 2009 bloody mutiny in Dhaka.
44 The Nasaka is an inter-agency border security force of Myanmar. It is comprised of immigration, police, intelligence and customs officials. It operates in the Muslim-
The Rohingya crisis once again became a burning issue after the clashes between the Buddhists and Muslims in Rakhine state of Myanmar in 2012. More than 100,000 people were displaced due to the violence since June 2012. This had led to a new wave of Rohingya refugees in the neighboring countries. Bangladesh continued to adopt a policy of ‘push back’ (Table 1). The law enforcement agencies were ordered to strengthen close observation along the border areas. The Border Guard Bangladesh (BGB), Coast Guard, Bangladesh Police, Bangladesh Navy, and Rapid Action Battalion (RAB) were deployed to resist the intrusion of Rohingyas into the country.

Bangladesh’s government also did not allow humanitarian agencies to operate at refugee camps. Soon after the violence, the state authorities ordered three international aid agencies, including the Médecin Sans Frontières (MSF), Action Against Hunger (ACF), and Britain’s Muslim Aid to stop assisting unregistered Rohingya refugees. As per its policy, Bangladesh’s cabinet approved the ‘Strategy Paper on Addressing the Issue of Myanmar Refugees and Undocumented Myanmar Nationals in Bangladesh’ on September 9, 2013 to reinforce vigilance along the Bangladesh-Myanmar border in order to stop the intrusion of Rohingya refugees; take the undocumented Rohingya refugees under observation; forbid non-governmental organizations’ assistance in refugee camps as well as to create pressure internationally in Myanmar to take Rohingyas back.

The strategy paper is mainly framed from national security approach emphasizing majority northern part of the state, near the Bangladesh border. Due to violations against Rohingya Muslims, Myanmar’s President, Thein Sein has disbanded that security force after the violence in 2012. See, Jared Ferrie, “Myanmar President Disbands Controversial Border Force”, Reuters, July 15, 2013.


enhanced capacity building of the border security agencies. The policy is also shaped by the government’s concern of rising unwanted economic migrants from Myanmar.\textsuperscript{51}

Despite taking a tough policy on the Rohingyas, the cabinet proposed to provide basic humanitarian needs such as food, water, medical care, sanitation facilities, and other essential services to Rohingyas on a temporary basis before pushing them back to Myanmar. Bangladesh’s security forces and law enforcement agencies, therefore, provided short-term emergency services such as food, water and medicine to them. The BGB and Coast Guard provided drinking water, food, medical assistance as well as fuel engines of the motorised boats before sending them back. They also provided required emergency medical assistance to pregnant women, wounded men and children.\textsuperscript{52}

Table 1: A Snapshot of Bangladesh’s Push Back Policy (June to Sept., 2012)

<table>
<thead>
<tr>
<th>Date</th>
<th>Number of Rohingyas attempting to enter Bangladesh</th>
<th>Means of transport used by Rohingyas</th>
<th>Channels used to enter Bangladesh</th>
<th>Number of Rohingyas pushed back by Bangladesh</th>
<th>Number of Rohingyas arrested by Bangladesh</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 11, 2012</td>
<td>600</td>
<td>Trawlers, boats, engine boats</td>
<td>Mistripura, Jaliapara and Nayapara ferry; Shahrung union of Shah Pori Island</td>
<td>Around 500</td>
<td>167</td>
</tr>
<tr>
<td>June 12, 2012</td>
<td>700</td>
<td>Engine boats</td>
<td>Saint Martin Island under Teknaf upazilla</td>
<td>Around 90</td>
<td>At least 182</td>
</tr>
<tr>
<td>June 13, 2012</td>
<td>83</td>
<td>Trawlers</td>
<td>Seradwip in St Martin’s Island under Teknaf upazilla</td>
<td>16</td>
<td>139</td>
</tr>
<tr>
<td>June 14-16, 2012</td>
<td>Around 2,000</td>
<td>15 boats</td>
<td>Ghorarchar and Majherpara village. Also stranded in the Naf River</td>
<td>At least 30</td>
<td>16</td>
</tr>
</tbody>
</table>


<table>
<thead>
<tr>
<th>Date</th>
<th>Number</th>
<th>Description</th>
<th>Location</th>
<th>Number</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>June 18, 2012</td>
<td>140</td>
<td>7 or 8 small boats</td>
<td>Teknaf</td>
<td>140</td>
<td>----</td>
</tr>
<tr>
<td>June 23, 2012</td>
<td>9</td>
<td>------</td>
<td>Teknaf</td>
<td>944</td>
<td>Around 350</td>
</tr>
<tr>
<td>August 25, 2012</td>
<td>62</td>
<td>Small boats and trawlers</td>
<td>Teknaf upazilla of Cox’s Bazar and Naikhongehhar i upazilla of Bandarban.</td>
<td>62</td>
<td>------</td>
</tr>
<tr>
<td>September 08, 2012</td>
<td>54</td>
<td>------</td>
<td>Cox’s Bazar</td>
<td>------</td>
<td>------</td>
</tr>
<tr>
<td>November 11, 2012</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Police detained 5</td>
</tr>
<tr>
<td>April 4-5, 2013</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Cox’s Bazar</td>
</tr>
<tr>
<td>January 11, 2014</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>82</td>
</tr>
</tbody>
</table>

Source: author.

While Table 1 shows an unwelcoming attitude of Bangladesh Government toward the Rohingya refugees, this push back policy has largely deviated from a liberal humanitarian attitude toward the Rohingyas adopted by Bangladesh in the late 1980s and early 1990s. Several factors can explain this policy shift: The constant arrival of Rohingyas into Bangladesh, and the increasing number of registered and unregistered Rohingyas in refugee camps have created financial burdens for the economy. Currently, there are 32,000 registered Rohingya refugees in two official camps, Nayapara and Kutupalong in the Cox’s Bazar district of Bangladesh. However, there is no official statistics of illegal or undocumented Rohingyas. An estimated 300,000 Rohingyas are living illegally in outside the refugee camps of Cox’s Bazar district.

A senior Foreign Ministry official also reiterated the government’s stance citing the large number of refugees as the single most important factor behind a hard and realist stance toward the Rohingyas:

> Our position is clear that we will not accept any more refugees in Bangladesh. There are already 0.5 million Rohingyas here and we cannot allow anymore. Rather, we are in a process to send back the existing refugees.55

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Another key factor behind Bangladesh’s policy shift towards the Rohingyas has been the security threats rooted in the illegal activities by these refugees both at home and abroad. According to intelligence sources, both registered and unregistered Rohingyas in Bangladesh are allegedly involved with the militant organizations operating in and outside the country. As for instance, it is evident by the media reports that the Rohingya Solidarity Organisation (RSO) maintained close ties with two banned Islamist outfits, Jamaat-ul Mujahideen Bangladesh (JMB) and Harkat-ul-Jihad-al Islami (Huji) Bangladesh by providing training about operating arms and explosives. Rohingya are also involved in killing, trafficking, robbery, smuggling and other crimes in the local areas of Cox’s Bazar. As a result, they are often termed as “violent and crime-prone people by nature” by the locals. In addition, Rohingyas use fake Bangladeshi passports to go abroad for work, especially to the Middle Eastern countries. They often become involved in illegal activities in those countries, which threaten the image of Bangladeshi workers in the international arena.

Rohingyas are also held responsible for damaging environmental resources in local areas. The forest department of Cox’s Bazar reported about the destruction of forest resources worth Tk 13.5 crore immediately after the influx of Rohingya refugees during the 1991-92. The Rohingya refugees were also reported of creating various illegal activities in Cox’s Bazar and Bandarban during that period. It is in this context, the foreign minister of Bangladesh justified the government’s decision to resist the ‘infiltration’ of Rohingyas:

[T]he recent Rohingya influx does not help our interests. We are in consultation with Myanmar to send back the Rohingya refugees to their homeland (…) The presence of Rohingyas is taking its toll on society, environment and the law and order situation.

Bangladesh is a densely populated country and the Rohingyas have seriously impacted on our society, law and order, and environment. Considering all

aspects, it will create serious problems for us. We are not interested in more people coming to Bangladesh.\textsuperscript{62}

In summary, the presence of huge number of Rohingyas in refugee camps and coastal areas of Bangladesh is creating heavy burden on Bangladesh’s economy and its scant resources. Their involvement in undesirable activities in both local and border areas is not only posing security threats to local people but also is creating bad image in abroad as well. Most importantly, the serious misunderstanding between Bangladesh and Myanmar generated from unresolved Rohingya crisis as well as Myanmar’s constant denial to accept Rohingyas as citizens of Myanmar are also prescribed as the crucial factors to the shift in policy making procedures.\textsuperscript{63}

\textbf{Malaysia}

Like Bangladesh, Malaysia also moved from a liberal and humanitarian policy to a rejectionist refugee policy in dealing with the Rohingyas in the past decades. Malaysia has past records of hosting refugees from Indonesia, Bosnia, and Myanmar in the 1970s and the 1980s.\textsuperscript{64} Later, in 1991 and 1992, the Malaysian Government was less hostile to the arrival of large number of Rohingya refugees into the country. The Government issued ‘pass card’ and granted six months permits to those Rohingyas who had been arriving in Malaysia before 1992.\textsuperscript{65} The country also offered the IMM13 permits\textsuperscript{66} issued by Malaysia’s Ministry of Immigration to those who had been arriving in Malaysia as early as the 1980s and in 1992.\textsuperscript{67}

\textsuperscript{62} \textit{The Daily Star}, “‘No More Refugees’”, June 13, 2012;

\textsuperscript{63} Harun Ur Rashid, “Why are Rohingyas being refused entry into Bangladesh?”, \textit{The Daily Star}, June 20, 2012.


\textsuperscript{66} The authorities only allow to IMM13 holders to live legally and permit employment and other public services. As these are temporary in nature, the authorities renew the service on an annual basis for a fee of 90 Ringgit and it can be cancelled at the Minister’s decision. See, Aizat Khairi, “Managing the Challenges of Refugees and Their Rights in Malaysia”, 2012, at <http://ejournal.umm.ac.id/index.php/jshi/article/viewFile/1143/1233> (accessed March 06, 2014).

\textsuperscript{67} In order to grant IMM13, the Malaysian government announced its decision to regularize the residency of Rohingyas in October 2004. As a result, the government
However, due to challenges from illegal immigrants such as their involvement in criminal activities, unemployment, and border threats, Malaysia reformed its ‘foreign worker policy’. After the Asian financial crisis in 1997, the Malaysian Government took away work permission and deported illegal immigrants. During 1991 and 1992, while about 8,000 Rohingyas fled to Malaysia, the country adopted a policy of arrest and detention, which forced many Rohingyas to go back to Thailand, which was used as a transit point between Myanmar and Malaysia. It is in this context, the Malaya Government’s announcement of ‘zero tolerance policy’ in August 2002 focused on the imprisonment of the illegal migrants. It enacted six months imprisonment for illegal immigrants which threatened both refugees and migrant workers.

In March 2005, the Malaysian Government launched an operation to capture undocumented migrants in the country. This operation was carried out under the Immigration Act of 1959/1963. The Immigration Act tightened entry rules and prohibited entry of wives who had been living apart from their husbands for a continuous period of five years after December 1954. Section 6 (3) of the Immigration Act provides that anyone found guilty of illegal entry shall be “liable to fine not exceeding 10,000 ringgit (roughly US$ 2,800) or to imprisonment for a term not exceeding five years or to both, and shall also be liable to whipping of not more than strokes”. The country further amended the Immigration Act in


1997 and 2002 to enact harsh penalties for the violation of immigration rules. Under that policy, Malaysian police, army, and immigration officials regularly checked passports at Kuala Lumpur’s streets which led to the arrest and deportation of those Rohingyas who arrived the country without a valid travel document.\footnote{Amarjit Kaur, “Refugees and Refugee Policy in Malaysia”, \textit{UNEAC Asia Papers}, No. 18, 2007, pp. 81-87.}

Nevertheless, Malaysia granted some Rohingya refugees after 2000.\footnote{UNHCR, “Malaysia Grants Temporary Stay to Rohingya Refugees”, November 02, 2004, \textit{Briefing Notes}, at <http://www.unhcr.org/4187652b4.html> (accessed June 05, 2014).} In October 2004, Malaysian Government announced its policy to regularize the residency of Rohingyas. The registration process for IMM13 permits began on August 1, 2006 for about 12,000 Rohingyas under this procedure. Later, that policy had not been fruitful because the registration process was performed by few Rohingya community representatives rather than the UNHCR. The registration process was suspended within 17 days following the allegation of corruption and fraud and had not been started again ever since.\footnote{Chris Lewa, , “Trapped in a Cycle of Flight: Stateless Rohingya in Malaysia”, \textit{January 2010, The Equal Rights Trust}, UK, p.35.} However, some 11,000 Rohingya refugees were registered for temporary protection with the assistance of the UNHCR at Kuala Lumpur at the end of 2005.\footnote{Mohd Hamdan Adnan, “Refugee Issues in Malaysia: The Need for a Proactive, Human Rights Based Solution”, \textit{Malaysian Journal on Human Rights}, Vol. 6, No. 11, 2012, p.27.} The Government showed its willingness to provide work permission and to follow smooth deportation process without any fear of arrest and detention from the law enforcement agencies.\footnote{Chris Lewa, “Asia’s New Boat People”, \textit{Forced Migration Review}, No. 30, June 2008, pp. 40-41.} The Malaysian authorities also granted temporary protection to 12,133 Rohingyas till March 2008.\footnote{Human Rights Watch, “World Report: Malaysia”, 2013, at <http://www.hrw.org/world-report/2013/country-chapters/malaysia> (accessed March 08, 2014).}

do not recognize the status of refugees. ... [W]e only allow foreigners to stay on a temporary basis after which they have to go back.81 In 2007, Malaysia’s another former Foreign Minister said, “Malaysia, out of economic reasons, will not recognize refugees”.82 Though former Home Secretary of Malaysia proposed to introduce ID cards in February 2010 only for the UN-recognized refugees, the Government has not yet taken any concrete step to install ID cards for them.83

After the 2012 Rakhain State violence in Myanmar and the consequent arrival of large number of Rohingyas in Malaysia, Kuala Lumpur took strict policies to deter undocumented migrants from its territory. The Malaysian Government only provided minimum humanitarian assistance to those refugees who were recognized by the UNHCR.84 The Malaysian police detained some 500 Rohingya Muslims.85 The Rohingyas, who fled to Malaysia after 2012, were mostly the victims of abuse and deprivation in the hands of smugglers and human traffickers due to poor security arrangements of the Malaysian government. The UNHCR representative in Malaysia said, “We have heard accounts of ill-treatment and deprivation by smuggling networks”. He added, “We have also seen growing numbers of people with acute humanitarian and protection needs, especially among vulnerable groups such as women and children”.86 However, the Government of Malaysia expressed serious concerns over persecution of Muslims caused by inter-communal violence in Myanmar.

Malaysia’s Foreign Minister said,

As a member of OIC and also ASEAN [Association of Southeast Asian Nations], Malaysia is committed in helping Myanmar government to find fair and just solution to this problem. With regard to the violent attacks on the Rohingya group, bilaterally and also through ASEAN, Malaysia has urged the

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81 Human Rights Watch, 2000, op. cit.
Myanmar government to take immediate and concrete actions to end the violence and to bring responsible perpetrators to justice in transparent manner.\textsuperscript{87}

In summary, though the Government of Malaysia initially took liberal policy towards Rohingya refugees in 1970s-1980s, it was gradually changed afterwards due to socio-economic challenges caused by the illegal Rohingya immigrants. The country adopted several rejectionist policies against undocumented migrants, e.g. enacted the policy of arrest and detention, tightened border-entry rules and amended the National Immigration Act in order to stop the arrival of Rohingyas into the country. Following the sectarian violence in Rakhine state in 2012, Malaysian government has again adopted the realist policy towards Rohingyas.

\textit{Thailand}

Thailand’s official policy has never been in favor of hosting the Rohingya refugees. In 1980, former Thai Prime Minister Prem Tinsulanonda clearly mentioned a policy of not supporting Rohingyas along the Thai-Myanmar border.\textsuperscript{88} Though Thailand had provided shelters to hundreds and thousands of other displaced people such as Karen, Karenni, Mon and Shan refugees from Myanmar, the number of sheltered Rohingyas was very low.\textsuperscript{89} For example, the country provided shelters to almost 143,000 Karen and Karenni refugees while the number was relatively lower for the Rohingya refugees [how low? 10,000? 50,000?, give any number of or estimate].\textsuperscript{90} Besides, Rohingyas had been termed as ‘temporary displaced’ instead of ‘refugee’ in order to clarify Thailand’s unwillingness to accept them.\textsuperscript{91}


However, due to the demand of unskilled workers during the 1970s and the 1980s, the Thai Government adopted Cabinet resolutions from 1992 to 1999 that focused on the registration of illegal migrants. But those policies were not enduring. Thailand attempted to deport illegal migrants from Myanmar after facing economic crisis in 1997.92 According to Human Rights Watch, since 1992, Thailand took several policies. First, the Thai Government denied those refugees who would face systematic human rights abuses. Second, Thai authorities severely constrained the operational space of UNHCR to support the Rohingya refugees. Third, in order to resolve the refugee crisis, Thailand worked to promote cease-fire agreements between the ethnic insurgents and the Myanmar Government.93

In January 1998, the Thai Government initiated a policy of arrest and detention of illegal migrations to maintain internal security.94 On January 1, 2004, Thailand imposed pressure on the UNHCR to suspend screening new asylum seekers from Myanmar. Later the country stopped registering new refugees.95 The Thai authorities also deported hundreds of Rohingyas near Ranong in southern Thailand and sent them to a detention center at Thai-Myanmar border town of Mae Sot in 2007. Therefore, the allegation of nexus between Rohingya Muslims and southern Thai Muslim separatist militants tightened law enforcement agencies’ close observations of Rohingyas. It became clear when the then Royal Thai Navy Vice Admiral told to the reporters in 2007 that the authorities “were keeping a close watch on a group of Burmese Muslims called Rohingyas…they are not coming here to take up decent jobs, but only to help insurgents in the three provinces (these Rohingya mercenaries, aged between 20 and 40, have a violent past and were ready to take orders to do anything in exchange for money”).96

92 Ibid, p.35.
94 Therese Caouette, Kritaya Archavanitkul, Hnin Hnin Pyne, op. cit., 15.
In 2008 Thailand initiated a policy of deportation and push back of Rohingya refugees.\textsuperscript{97} Former Thai Prime Minister announced, “To stop the influx, we have to keep them in a tough place. Those who are about to follow will have to know life here will be difficult in order that they would not sneak in.”\textsuperscript{98} A meeting was held on November 6, 2008 among police, military, and administrative officers in Thailand in order to take additional measures for Rohingya boat people. The meeting decided that the Thai Navy will push back Rohingyas near the border zone. The responsibility was rested upon the administrative officers, Marine Police, as well as the military forces to push those Rohingyas back who were apprehended near the second zone of the border area. It was planned that the villagers would monitor the Rohingya boat people on the coast of Thailand and the nearby islands. The villagers, who would refuse to carry out their responsibility would be subjects to punishment.\textsuperscript{99} Under that policy, a total of over 1,100 Rohingya boat people were cast to sea between December 2008 and January 2009 by Thai authorities.\textsuperscript{100} Only in January 2009, a group of 126 Rohingya boat people were pushed back to sea by Thai authorities, according to Thai officials. The then Thai Foreign Ministry deputy spokesman said, “These people have been escorted out of Thailand.”\textsuperscript{101} Though the country temporarily stopped ‘push back’ policy, after January 2009 facing severe international condemnation, Thailand restarted the pushing back the Rohingyas in 2011.\textsuperscript{102}

After the riots of 2012, Thailand had continued a policy that was less than favorable to the Rohingyas. Men, women and children were detained in immigration detention centers at different parts of the country.\textsuperscript{103} As per its policy, Thai authorities detained more than 1,800 Rohingyas who fled from

\textsuperscript{97} Chris Lewa, \textit{op. cit.}, 42.
\textsuperscript{102} Dimitrina Petrova, \textit{op.cit}.
Myanmar by sea after 2012. They also intercepted and pushed back thousands more Rohingyas out to sea.\(^\text{104}\) According to the report of Thai Foreign Ministry, nearly 1,000 Rohingyas were arrested in January 2013 under the charge of illegal entry and since January to August 2013, around 2,055 Rohingyas have been detained on the same accusation. Thai security forces also detained 1,752 Rohingyas for unlawful entry only on February 2014.\(^\text{105}\)

**Table 2: Major Attempts of Thai Push-Back Policy (Dec. 2008 - Jan. 2009)**

<table>
<thead>
<tr>
<th>Date</th>
<th>Number of Rohingyas pushed back?</th>
<th>Means of transport used by Rohingyas</th>
<th>Rescued Date and Location</th>
<th>Number of Rohingya survivors</th>
<th>Number of missing Rohingyas</th>
</tr>
</thead>
<tbody>
<tr>
<td>December 18, 2008</td>
<td>412</td>
<td>4 boats, 1 barge</td>
<td>December 27: Little Andaman and Nicobar (India)</td>
<td>107</td>
<td>305</td>
</tr>
<tr>
<td>Dec. 29 or 30</td>
<td>580</td>
<td>4 or 5 boats</td>
<td>January 5: at sea by a fishing trawler, re-arrested &amp; re-pushed back and finally rescued in Idi, Aceh</td>
<td>81</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>January 7: Sabang Island, Aceh (Indonesia)</td>
<td></td>
<td>193</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>January 10: Tillanchong Island, Andaman &amp; Nicobar (India)</td>
<td>150</td>
<td>20</td>
</tr>
</tbody>
</table>


The Government of Thailand reiterated its official policy of deporting illegal Rohingya immigrants. Royal Thai Police in Bangkok admitted the unofficial soft deportation policy. Under that policy, Thai authorities voluntarily sent Rohingyas back to the Andaman Sea and also declined to provide temporary shelters or basic services for them. The Deputy Director of the Human Rights Watch’s Asia division terms the push back policy as ‘beggar-thy neighbor approach’ towards Rohingyas. Thailand also uncovered a clandestine policy to remove Rohingya refugees from Thailand’s immigration detention centers. Due to the policy, Rohingya refugees were forced to leave the country at the earliest possible time, which eventually led most of them falling to the hands of transnational smuggling networks and human traffickers at Thailand’s secret border camps.

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<table>
<thead>
<tr>
<th>Date</th>
<th>Number of Incidents</th>
<th>Number of Boats</th>
<th>Number of Rescued Boats</th>
<th>Boats Returned</th>
</tr>
</thead>
<tbody>
<tr>
<td>January 19, 2009</td>
<td>203</td>
<td>3</td>
<td></td>
<td>198</td>
</tr>
<tr>
<td>January 13 and 14</td>
<td></td>
<td></td>
<td></td>
<td>130</td>
</tr>
<tr>
<td>February 2</td>
<td></td>
<td></td>
<td></td>
<td>4</td>
</tr>
<tr>
<td>Total: 3 incidents</td>
<td>1,195</td>
<td>10 or 11</td>
<td></td>
<td>859</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>329</td>
<td></td>
</tr>
</tbody>
</table>
The Thai Ministry of Foreign Affairs took a new policy named ‘help on’\textsuperscript{112} after 2012 that permitted temporary shelter to Rohingyas for maximum six months\textsuperscript{113} and granted temporary protection to some 2,000 Rohingyas in immigration detention centers.\textsuperscript{114} Thailand’s former Prime Minister initially permitted temporary protection for Rohingyas in the country for six months until their safe repatriation to their home or a third country.\textsuperscript{115} As per its policy, Thai authorities provided basic humanitarian services including food, water and other supplies in order to push the boats onward to Malaysia or Indonesia without allowing them to land on Thai shores.\textsuperscript{116}

The Thai Navy was ordered to catch those Rohingya boats that were near the Thai coast. Rohingya boat people were also ordered to remain on their own boats while providing those facilities.\textsuperscript{117} Thailand also granted the access of the UNHCR to the southern provinces after the influx of Rohingyas in 2012.\textsuperscript{118} One of the

\textsuperscript{112} Under the policy titled “help on” by Thai government, Rohingya boats are supplied with fuel and provisions on condition they sail onward.

\textsuperscript{113} Jason Szep and Stuart Grudgings, “Preying on the Rohingya”, Reuters, Special Report, No. 1, July 17, 2013.

\textsuperscript{114} UNHCR, “Six Months on, Rohingya in Thailand Struggle to Keep Hope Afloat”, August 02, 2013, at \url{http://www.unhcr.org/51fbc0d66.html} (accessed March 01, 2014). The Thai authorities also discussed proposals to create alternative centres for Rohingyas or expand the capacity to hold Rohingyas at existing immigration detention centres in Songkhla, Ranong, Prachuab Khiri Kan, and Nongkhai provinces. The former Foreign Minister Surapong Tovichakchaikul also emphasized on third country resettlement and viable solution of the crisis. See, Human Rights Watch, 2013, \textit{op. cit.}


\textsuperscript{118} Avigail Olarte, “Rohingyas in Peril as Thailand Struggles to Pay for Shelter”, \textit{The Nation}, at \url{http://www.nationmultimedia.com/opinion/Rohingyas-in-peril-as-Thailand-struggles-to-pay-for-30199545.html}, February 08, 2013. However, the Human Rights Watch reports that Thai authorities did not allow the UNHCR to administer the camps as well as determine refugee status in the country. See, Human Rights Watch, “Ad Hoc and Inadequate: Thailand’s Treatment of Refugees and Asylum Seekers, September 2012.
UNHCR’s representatives in Thailand said, “The Thai authorities have agreed in principle to give us access”.\textsuperscript{119} Thai Foreign Ministry’s permanent secretary, in this regard, announced their willingness to cooperate with international humanitarian agencies, including the UNHCR, the International Organisation for Migration (IOM), and the United Nations Children’s Fund (UNICEF) to provide humanitarian assistance to refugees.\textsuperscript{120}

**Comparative Analysis**

The country-specific descriptions on the status of Rohingya refugees in Bangladesh, Malaysia, and Thailand provide ample evidence to attempt a comparative analysis. Table 3 summarizes the three countries’ official policies toward the Myanmar-origin Rohingyas.

**Table 3: Host Country Attitude toward Rohingya Refugees**

<table>
<thead>
<tr>
<th>Duration of Policies</th>
<th>Subject</th>
<th>Bangladesh</th>
<th>Malaysia</th>
<th>Thailand</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Recognition</strong></td>
<td></td>
<td>Initial acceptance</td>
<td>Initial acceptance</td>
<td>Non-acceptance</td>
</tr>
<tr>
<td>Shelters</td>
<td></td>
<td>Built up 20 refugee camps at Cox’s Bazar and Bandarban districts in September 1991</td>
<td>Issued ‘pass card’ and granted six months temporary protection in 1992</td>
<td>Temporary shelters to mostly Karen, Karenni, Mon and Shan refugees</td>
</tr>
<tr>
<td>Nature of Policy</td>
<td>Liberal</td>
<td>Liberal</td>
<td>Realist</td>
<td></td>
</tr>
<tr>
<td><strong>Policy of States before 1992</strong></td>
<td>Recognition</td>
<td>Initiated the policy of non-acceptance</td>
<td>Refused to recognize refugees</td>
<td>Denied refugees</td>
</tr>
<tr>
<td>Shelter</td>
<td>Temporary shelters to only documented refugees</td>
<td>Shelters on temporary basis</td>
<td>Shelters to only recognized refugees</td>
<td></td>
</tr>
<tr>
<td>International Refugee Law</td>
<td>Non-acceptance</td>
<td>Non-acceptance</td>
<td>Non-acceptance</td>
<td></td>
</tr>
<tr>
<td><strong>Major Policy</strong></td>
<td></td>
<td>Repatriation, informal deportation and push back policy</td>
<td>Zero tolerance policy, e.g. policy of arrest and detention</td>
<td>Constructive engagement and clandestine policy</td>
</tr>
<tr>
<td>Nature of Policy</td>
<td>Realist</td>
<td>Realist</td>
<td>Realist</td>
<td></td>
</tr>
</tbody>
</table>


\textsuperscript{120} UN Public Administration Network, 2013, *op. cit.*
As table 3 shows, before the 1990s, Bangladesh and Malaysia followed a liberal policy in dealing with the Rohingya crisis. In order to protect the refugees, the Government of Bangladesh built refugee camps in border areas, provided temporary shelters and other humanitarian assistance to Rohingya refugees mentioned earlier. The country recognized 258,000 Rohingyas as ‘refugees’ in 1991 under its executive order. Bangladesh also called on the assistance of the UNHCR for providing humanitarian aid to Rohingyas as well as attempted to resolve the crisis with the support of the UNHCR. Similarly, Malaysia was also supportive to Rohingya refugees in the pre-1990 period. The government permitted basic humanitarian assistance as well as issued pass card for their temporary protection.

The liberal Rohingya policy of Bangladesh and Malaysia was mostly driven by humanitarian needs of the refugees. Before the 1990s, the government as well as the people of Bangladesh had soft attitude to Rohingyas mainly for humanitarian

reason that relates to liberal approach.\textsuperscript{122} States’ foreign policies derived from ensuring basic humanitarian needs rather than emphasizing on national interests. Therefore, granting the role of international humanitarian organizations, both Bangladesh and Malaysia justified the necessity of international regimes to promote peace and social cooperation.

Unlike Bangladesh and Malaysia, Thailand did not initially accept the arrival of Rohingya refugees into the country. The Thai Government provided shelters to hundreds and thousands of other displaced people including Karen, Karenni, Mon, and Shan refugees from Myanmar, but the Rohingyas were mostly excluded from such protection.\textsuperscript{123}

After the 1990s, the policies of all three countries towards Rohingya refugees became quite similar. Specially, the role of Bangladesh was mostly critical in dealing with Rohingya refugee crisis.\textsuperscript{124}

A strategy of deportation and forceful repatriation of Rohingyas was adopted by all of these Asian nations. This was evident in the zero tolerance policy which focused on pushing back the refugees from the maritime border areas.

A close look at the most recent state policies in the three countries suggest that they have prioritized national interests rather than humanitarian needs of the Rohingyas. As a result, all these three countries undertook rational foreign policies to reduce traditional and non-traditional security challenges. For example, Bangladesh’s former Foreign Minister raised serious concern over the presence of 400,000 illegal Rohingya refugees in Bangladesh.\textsuperscript{125} Considering security threats, Bangladesh refused to accept any more Rohingyas in the country.\textsuperscript{126} Bangladesh maintained realist stance through arrest, detention, closed

\begin{itemize}
\item \textsuperscript{122} Author’s interview with an academician from the University of Dhaka on December 9, 2015.
\item \textsuperscript{123} Paul Chambers, “Thailand Must End Its Own Rohingya Atrocity,” \textit{The Diplomat}, October 23, 2015.
\item \textsuperscript{124} Delwar Hossain, 2010, \textit{Op cit.}, p. 95.
\item \textsuperscript{125} This is statement of the former Foreign Minister of Bangladesh. See, \textit{Human Rights Watch}, “Bangladesh: Open Borders for Refugees Fleeing Burma”, 12 June 2012, at <http://www.refworld.org/publisher, HRW, 4fdabc92,0.html> (accessed June 22, 2013).
\end{itemize}
Policy Towards Rohingya Refugees

The priority over national security makes a sharp departure from the country’s humanitarian approach towards Rohingya refugees.127 Similarly, both Thai and Malaysian governments perceived Rohingyas as threat to their national security for the rise of separatist insurgency, human trafficking, and drug smuggling in border areas that are also driven by national security approach.128

The major sources of international refugee laws are the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, the 1954 Convention Relating to the Status of Stateless persons or the 1961 Convention on the Reduction of Statelessness. The core international humanitarian laws are the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention against Torture and other Cruel, Inhuman or Degrading treatment or Punishment (CAT) or the Convention on the Elimination of Racial Discrimination (CERD), and other treaties.129 Neither Bangladesh, nor Malaysia and Thailand are parties to the core international refugee laws including the 1951 Convention and its 1967 protocol.130 They also lack any domestic legal instrument guaranteeing the protection of stateless and refugee population. They have only ratified some international human rights laws. This legal deficits have perhaps shaped the realist state-centric ‘push-back’ policy of Rohingya refugees.

Bangladesh spreading insurgency, smuggling, piracy, terrorism, human trafficking, illegal activities in the border areas and deteriorating law and order situation. Lt Col Zahid Hasan, former BGB commanding officer at Teknaf, said, “As Rohingyas are getting involved in local agriculture, trade, commerce and most importantly in criminal offences, their intrusion will emerge as a security threat to the local Bangladeshi community and of course to our sovereignty.” See, The Daily Star, “Rohingyas Gaining Influence”, March 17, 2014.

129 Hema Letchamanan, op. cit., 89.
Table 4: International Refugee Laws and the Status of Countries Hosting Rohingya Refugees

<table>
<thead>
<tr>
<th>International Refugee Laws</th>
<th>Bangladesh</th>
<th>Malaysia</th>
<th>Thailand</th>
</tr>
</thead>
<tbody>
<tr>
<td>1951 Refugee Convention</td>
<td>Not signed</td>
<td>Signed but not ratified</td>
<td>Not signed</td>
</tr>
<tr>
<td>1954 Convention on Stateless Persons</td>
<td>Not ratified</td>
<td>Not ratified</td>
<td>Not acceded</td>
</tr>
<tr>
<td>1967 Refugee Protocol</td>
<td>Not signed</td>
<td>Not signed</td>
<td>Not signed</td>
</tr>
<tr>
<td>1961 Statelessness Convention</td>
<td>Not signed</td>
<td>Not signed</td>
<td>Not acceded</td>
</tr>
</tbody>
</table>

Table 5: International Human Rights Laws and the Status of Countries Hosting Rohingya Refugees

<table>
<thead>
<tr>
<th>International Human Rights Laws</th>
<th>Bangladesh</th>
<th>Malaysia</th>
<th>Thailand</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICCPR</td>
<td>Ratified</td>
<td>Not ratified</td>
<td>Acceded</td>
</tr>
<tr>
<td>ICESCR</td>
<td>Not signed but ratified</td>
<td>Signed but not ratified</td>
<td>Not signed but acceded</td>
</tr>
<tr>
<td>CAT</td>
<td>Ratified</td>
<td>Not signed</td>
<td>acceded</td>
</tr>
<tr>
<td>CERD</td>
<td>Ratified</td>
<td>Not ratified</td>
<td>Ratified</td>
</tr>
</tbody>
</table>

Policy Recommendations

Several policy recommendations flow from the above discussions. First, on the subject of burden sharing, primary responsibility obviously goes to Myanmar. As Myanmar denies citizenship right to its Rohingya population, there is little hope for the Rohingyas to receive protection in their country of origin. Particularly,

131 Since the independence of Myanmar in 1948, Myanmar had recognized Rohingyas as a distinct indigenous ethnic group not as citizen of Myanmar. See, Syeda Naushin Parnini, Mohammad Redzuan Othman and Amer Saifude Ghazali “The Rohingya Refugee Crisis and Bangladesh-Myanmar Relations”, *Asian and Pacific Migration Journal*, Vol. 22, No.1, 2013. Myanmar’s military junta operated a large-scale program named ‘Operation Dragon King’ (Naga-Min) in February 1978 that led to mass killing and expulsion of Rohingyas from their land. See, Syeda Naushin Parnini,
Myanmar’s treatment to Rohingyas as ‘illegal immigrants from Bangladesh’; exclusion of Rohingyas from the census in 2014; and strong position against Rohingyas have disrupted to the proper solution of long waited crisis. An end to the Rohingyas being refugees in neighboring countries should first begin with a change in Myanmar’s discriminatory state policy.

Second, the construction of Rohingya refugees as a national security threat has generated human insecurity for the Rohingyas. This was evident in the forcible expulsion of the Rohingya boat people by Myanmar’s three Asian neighbours. Reversing this trend in refoulement or expulsion requires global funding and logistic supports for the host nations so that they can have an incentive to provide temporary shelter to the refugee population. The international community should also compel Myanmar to stop state-sponsored persecution of the Rohingyas, and adopt a repatriation policy to end their temporary refugee status. The voluntary repatriation needs to be incorporated so that Rohingya people can return to their country of origin with safety and dignity. The UNHCR and other international bodies must monitor repatriation and ensure local reintegration process.


Third, the UNHCR, Amnesty International, Human Rights Watch, International Committee of the Red Cross and other national and international non-governmental organizations need to have full and free access to the detention camps in order to assist, protect and provide adequate health care to vulnerable refugees. They may also be permitted in refugee camps to reduce the threats of humanitarian crisis. As Myanmar aspires to democratize its domestic political and economic system, regional and global diplomatic efforts support the country adopting an inclusive citizenship law that respects the rights of various ethnic and religious groups.