

## *In perspective of International Legal Protection Law, the Rohingya Refugee Crisis*

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### *Abstract*

*The refugee issue is currently a serious challenge for the international community. Along with natural disasters or man-made crises, the problems faced by refugees are getting worse day by day. Currently, UNHCR still exists to provide refugee protection. A brief definition of refugees are people who have fled their native country due to persecution, conflict, public violence, or other conditions that have seriously upset public orders and need international protection. The Rohingya refugee crisis is one example of a situation that will be discussed. A quick overview of the Rohingya situation shows that they are Muslim inhabitants or ethnic groups whose presence is not acknowledged by the state. The Rohingya people were also the target of persecution, oppression, or assault, which drove many to leave their homeland in search of safety abroad. This article will clarify and evaluate how international law may defend or protect refugees from the Rohingya crisis.*

### INTRODUCTION

The term "refugee" refers to a person who has fled their place of origin because of persecution, armed conflict, acts of public violence, or other circumstances that have significantly disrupted public order and require international protection. They can't go back to their house until things are safer or better for them. The worry that this is what distinguishes locally based refugees from other migrant groups, regardless of condition, and other people in need of humanitarian help. Since refugees cannot rely on the governmental protection intended to protect them, the international community must take extraordinary efforts to solve the tragic conditions they find themselves in. A refugee is defined as follows under the 1951 Refugee Convention: "someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion,

nationality, membership of a particular social group, or political opinion." The issue of refugees is spreading globally. A group of nations around the world known as the "international community" feels compelled to defend refugees. The Rohingya refugee issue, which has attracted the attention of the world community, is similar in this regard. This article will clarify and evaluate how international law may defend or protect refugees from the Rohingya crisis.

### Methodology

- A. Literature Review  
 1. Refugees

*A person who has fled their home country due to persecution, armed conflict, acts of public violence, or other situations that have seriously broken public order and necessitated international*

protection is referred to as a "refugee." There are two definitions of refugees according to the 1951 Refugee Convention, namely before and after the 1951 Refugee Convention. This difference stems from the provisions of international accords, particularly those that define refugees. Before 1951, the majority of refugees covered by the International Agreement came from a few specific regions. As a result, it is based on individuals from particular regions. As a result, this story is centered on individuals who originate from particular regions and are compelled to leave owing to those regions' unique circumstances. In this scenario, international law's protection is limited to a few individuals and is not meant to provide broad protection for refugees. International agreements made after 1951 that define refugees are constructed generally, rather than only in specific contexts.

Refugees are unable to return to their home until situations are better or safe for them. The concern that this is what sets based refugees apart from other migratory groups, regardless of circumstance, and other persons in need of humanitarian aid. The international community must take exceptional measures to address the dreadful situation facing refugees since they cannot rely on the governmental protection meant to safeguard them. There are two sorts of reasons why refugees appear: first,

natural disasters that result in displacement (Natural Disaster). Theoretically, this refuge is still protected by the nation, and its residents are still able to contact their home country and request permission to depart in order to save their lives. Secondly, eviction caused by man-made disasters (Man Made Disaster). The major reason refugees enter this country is to escape persecution (demands) back home. For political reasons, the bulk of these migrants are driven from their country, and their native government no longer ensures their protection. The second of the two categories of refugees mentioned above is governed by international law's refugee law, whereas refugees caused by natural disasters are not subject to international law's protection or regulation

## 2. Legal Protection

Legal protection is understood to mean Legal Protection is the insurance coverage that will be offered to You in accordance with the terms and conditions of the Policy, which is negotiated by Us with the Insurer. Expert Phillipus M. Hadjon claims that Legal protection is the safeguarding of human worth and dignity as well as the acknowledgement of human rights as belonging to legal subjects in a legal country in accordance with laws or norms in place there to prevent arbitrariness. Legal protection was typically codified into a written rule, making it more binding and

*resulting in penalties for those who resist it.*

### 3. *Stateless*

*A person who is not regarded as a national by any State under the operation of its law is referred to as a stateless person in international law. This simply means that a person without a state lacks a nationality. Some people are born without a certain state, whereas others acquire it. Everywhere in the world, there are people without a state. According to the U.S. Department of State, under national law, a person is considered to be stateless if they lack citizenship, which establishes a legal tie between them and their country. As contrast to individuals who are de jure or legally stateless, that is, not recognized as citizens by any state's laws, many people are de facto or practically stateless. i.e., they are not considered citizens by any state's legal system.*

### 4. *International Convention*

*An international convention or treaty is a pact between states that has legal effect against the signatory States. Existing international accords cover a wide range of issues, including commerce, crime, disarmament, and human rights. A state recognizes a convention as having legal force when it ratifies it. By signing a convention, a nation expresses its intention to ratify*

*it; this does not make the convention binding legally, but it does demonstrate support for its core principles. Since contracting States are legally bound to respect the principles contained in the agreement, a monitoring body is typically created to review State parties' progress in implementing the convention by taking into consideration reports regularly submitted by States.*

*International conventions are agreements or treaties between states. International convention, international treaty, compact, and contract between states are all terms that are occasionally used interchangeably. Conventions between two or more states may take the form of general or specific agreements. Agreements between two countries are known as bilateral treaties, agreements between a few states (but more than two) are known as plurilateral treaties, and agreements between numerous governments are known as multilateral treaties.*

### B. *Data Gathering Method*

A qualitative research approach was employed in this study. This approach was chosen because it is thought to be utilized to examine how the Rohingya problem may be protected or defended by international law. Secondary data were employed in this investigation. The necessary information will come from the literature and be backed by

trustworthy information and news found through the media.

## ANALYSIS

### Myanmar demographics and history of Rohingya

In 1948, Myanmar became a sovereign nation. Following its declaration of independence, the nation experienced intense internal struggle and strife, which eventually turned into civil war. The population of Myanmar, which is bordered by Thailand, Bangladesh, Laos, India, and China, has been growing steadily over the past few years. The population of the Southeast Asian nation, officially known as Burma, is less than that of its neighbors despite being the biggest mainland Southeast Asian state. Myanmar has still been listed as the 26th most populous nation in the world.

Tens of thousands of Muslims landed in what was then the Arakan Kingdom in the fourteenth century; this is when the Rohingya may have traced their origins. Many more people moved to Rakhine when it was governed colonially as a part of British India in the late nineteenth and early twentieth century. Since the nation's proclamation of independence in 1948, successive governments in Burma—later known as Myanmar—have denied the historical claims of the Rohingya people and refused to accept the minority as one of the country's 135 recognized ethnic groups. Despite the fact that many Rohingya may trace their genealogy back hundreds of years to Myanmar, they are seen as undocumented residents of Bangladesh. The name Rohingya, which originated in the 1950s and which historians claim gives the population a collective political identity, is not accepted by the central government or Rakhine, the predominant ethnic group and ethnic Buddhist community in Rakhine.

Despite disagreements over the name's origin, the most frequently recognized idea is that Rohang comes from the Rohingya dialect's term Arakan, where ga or gya denotes origin. Chris Lewa, the head of the Arakan Project, a Thailand-based advocacy organization, claims that the Rohingya ethnic Muslim community uses their identification as such to claim its connections to the region that was originally governed by the Arakan Kingdom.

### When did the situation with Rohingya begin?

An ethnically Muslim group called the Rohingya lives in Myanmar. The Rohingya are a Muslim-majority ethnic community that have long resided in Myanmar, which is predominantly Buddhist. Approximately 1.1 million Rohingya live in the nation of Southeast Asia at the moment. The Rohingya people speak a dialect of Myanmar known as Ruaingga, also known as Rohingya. Following the establishment of Myanmar's citizenship laws in 1982, the Rohingya were refused citizenship and became stateless. The Rohingya people have been subjected to continued violence, persecution, and denial of rights associated with citizenship in Myanmar. The Rohingya have been subjected to violence, discrimination, and persecution for decades. Their largest exodus began in August 2017 when a terrible wave of violence in Myanmar's Rakhine State pushed more than 700,000 people, half of whom were children, to flee for safety in Bangladesh. Many Rohingya families, including children, were left with nowhere else to stay and were forced to sleep in the open or by the side of the road in and around Cox's Bazar, a Bangladeshi area close to the Myanmar border.

### UNHCR's background and their roles

A subsidiary body of the UN General Assembly is UNHCR. It was founded on January 1st, 1951, to defend refugees internationally and to work with governments to find answers to their problem. One of the largest humanitarian organizations in the world,

UNHCR employs 6,100 people in 121 different countries, of whom 900 work in the organization's headquarters and 5,200 work in the field. Refugees are protected and helped by UNHCR in many different ways. In times of crisis, they offer physical defense against harm, individualized records, counseling, and the necessities of life including shelter, water, food, and medical attention. Additionally, they work to protect their basic human rights in their countries of refuge, notably through promoting their inclusion in policies and services. Work to prevent the forced return of refugees to nations where they may suffer persecution in the long run. In addition, UNHCR assists people in returning voluntarily to their home country when it is safe to do so or resettling in a third country. UNHCR has developed and made adjustments to meet the challenge as the scale and complexity of the displacement crisis have increased. The Statute of UNHCR serves as the organization's legal charter. It specifies that the UNHCR's activity must be wholly non-political, humanitarian, and social in nature. The UN General Assembly established the Statute in 1950, which outlines the duties of the High Commissioner. Promoting the conclusion and ratification by States of international treaties for the protection of refugees (much like 1951 Convention and its 1967 Protocol) is one of these. Another is the implementation of policies, including those put forth by States, to improve the situation of refugees and lessen their number. The Statute also requires UNHCR to solicit information from Governments about the number and condition of refugees, as well as State laws and regulations pertaining to refugees, and to encourage States to admit refugees to their territory. The major objective of UNHCR is to develop long-term solutions for refugees that will allow them the chance to rebuild their lives as they deserve in peace, in addition to defending their rights and preserving their current status.

The issue of refugees is currently posing a severe challenge to the international community. Along with a natural disaster or a man-made calamity, the issues facing refugees get worse every day. One example of a group of

refugees brought on by man-made calamity is the Rohingya ethnic group. The Rohingya are a stateless Muslim minority that live in Myanmar. The Rohingya fled in a mass migration on August 25, 2017 due to decades of institutionalized prejudice, targeted brutality, and discrimination in Rakhine State. more than 700,000 people, half of whom were children, fled for safety in Bangladesh. Many Rohingya families, including children, were left with nowhere else to stay and were forced to sleep in the open or by the side of the road in and around Cox's Bazar, a Bangladeshi area close to the Myanmar border. Interviews with Rohingyas by researchers indicated that, aside from Bangladesh, they were physically located in places like Thailand, Malaysia, Indonesia, Singapore, etc.



fig. 1 migration flows of Rohingya refugees

(Source: <https://www.cfr.org/backgrounder/rohingya-crisis>)

Due to their lack of access to clean water and food, the likelihood of children being mistreated, abused, or even trafficked was quite alarming. After Myanmar's citizenship laws were enacted in 1982, the Rohingya were refused citizenship and remained stateless. As a result of the government's refusal to grant the Rohingya citizenship, the majority of the community's members lack official status and are stateless. According to a study by the advocacy organization Fortify Rights, the government recently mandated that Rohingya begin wearing national verification cards, which essentially identify them as foreigners and do not confer citizenship. Through

limitations on marriage, family planning, employment, education, freedom of religion, and travel, the Myanmar government has successfully institutionalized discrimination against the ethnic population. The Rohingya ethnic group was subjected to different forms of torture and human rights violations while working on numerous infrastructure construction projects in Myanmar for free or for extremely low salary. The Rohingya people can thus be considered refugees in accordance with the 1951 Convention. The treaty provides several forms of protection. The rights that Rohingya refugees might claim are as follows:

Non-discrimination rights contained in articles 3 and 4, which contain about refugees have the right to exercise their religion freely, and nations that are party to the Convention are prohibited from treating them differently based on their race, religion, place of origin, or skin color. After the nondiscrimination right comes the right to personal status included in article 12, which specifies that refugees' personal status is governed by the local legislation where they reside. Their personal status is determined by the legislation of their place of residence if they do not have a domicile. After the personal status right comes the right of opportunity over rights to property that include A refugee can transfer his assets to the nation where he will reside and has the same rights as other persons in terms of owning or holding property rights, both movable and immovable. The rights to productive activity are also included in articles 17, 18, and 19, which comprise For refugees who have been legally recognized and given a permanent residence in a country, they have the right to establish a trading company, find employment, and engage in other types of free work, provided that they meet certain requirements. The key is to have the necessary skills to land a good job. Due to the fact that refugees typically earn relatively little money in their home countries, this article is incredibly beneficial and may be the most sought for by refugees. Furthermore, Articles 20 and 22 of the Constitution provide rights to social assistance. Every refugee will

be allowed to take use of social welfare rights, including the right to employment, shelter, and payment for labor. Every refugee also has the right to identify papers and travel documents overseas, namely those provisions of articles 27 and 28. save for safety and public interest concerns, he may not leave the territory of the nation where he is stationed. The nations taking part in the Convention will accept travel papers issued in accordance with international accords. Lastly, one of the most significant rights listed above is the right not to be expelled, which is found in articles 31, 32, and 33, which states that if refugees have been permanently established in a country, no act of expulsion will be carried out to an area where their life would be threatened, and there will be no penalty for refugees who arrive illegally, unless national security necessitates differently, such as when they cause chaos where they live.

Along with the rights of refugees already established, Article 2 of the Convention also outlines the duties of refugees. "Every refugee has duties to the country in which he finds himself, which require in particular that he conforms to its laws and regulations as well as to measures taken for maintenance of public order." According to Article 2 above, every refugee is required to abide by all rules and legislation that are intended to maintain public order in the nation where he is put. The aforementioned Universal Declaration of Human Rights contains broad agreements about human rights. The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights and their Additional Protocols have more specific arrangements. Indonesia, Thailand, and Myanmar have not yet joined the 1951 Convention as state parties. However, those nations are unable to ignore their obligations to the Rohingya. The Thailand government broke the terms of the agreement by catching and throwing out the Rohingya. The main cause of the Rohingya's existence for many years is Myanmar, their nation of origin. Additionally, Myanmar permitted acts of abuse and prejudice against people based on their

ethnicity and faith (persecution).the actions that the state may deem to constitute crimes. When the Rohingya were stranded or arrived in its territory via an irregular route, Thailand and Indonesia were to blame for not quickly expelling them and forcing their forced return (non-refoulement). The wisest course of action is to temporarily house them while deciding how to proceed—whether to grant asylum immediately, relocate to another country, or return to the place of origin when the circumstances permit.

## CONCLUSION

The Rohingya have been subjected to violence, discrimination, and persecution for decades. Their largest exodus began in August 2017 when a terrible wave of violence in Myanmar's Rakhine State pushed more than 700,000 people, half of whom were children, to flee for safety in Bangladesh. The 1951 Convention has multiple provisions that specify the protections and rights that refugees may claim under international law, as was previously stated in relation to the Rohingya refugee issue. The right not to be expelled, found in articles 31, 32, and 33, is one of the most important rights mentioned above. It states that if refugees have established themselves permanently in a nation, no act of expulsion will be carried out to a location where their lives would be in danger, and there won't be a penalty for those who enter the country illegally unless national security requires it otherwise, such as when they cause disorder where they live. However, if the refugees fail to meet one of the requirements for refugee status or breach it, it's conceivable that the adoption of these rights cannot be reversed. The application of these rights was, of course, in conformity with the legislation of the displaced nations as some of them, like Thailand and Indonesia, did not ratify the convention but nonetheless received refugees.

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