



RESEARCH FINDING

We Are Just Floating on Water Without an Identity

Fulfilling ASEAN's mandate to protect Rohingya genocide survivors in their quest for rights and accountability

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Asia Justice and Rights (AJAR) is a regional human rights organisation that works to increase the capacity of local and national actors, in particular victims, victims' groups and local civil society organisations (CSOs) in the fight against entrenched impunity. This work focuses on conflict transformation, human rights documentation, education and the development of strong south-south connections across the Asia-Pacific region.

Beyond Borders Malaysia works for refugee voices to be heard, connects them with the Malaysian society and lobbies the Malaysian government for a comprehensive policy that gives refugees the right to work, healthcare and education.

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Komisi untuk Orang Hilang dan Tindak Kekerasan (KontraS) Sulawesi or the Commission for Enforced Disappearances and Victims of Violence Sulawesi is a civil society organization that advocates for human rights and peace discourse in Sulawesi. Formed in November 2004, KontraS Sulawesi's agenda was formed in accordance with the victim's and advocacy networks across Sulawesi to encourage and ensure Legal and Human Rights Advocacy. Their work includes spreading anti-violence rhetoric and peaceful discourse in Sulawesi, monitoring the reformation of the security sector, and strengthening the family of human right violation's victim and grassroot society solidarity network to encourage the formation of a just society and upholding the humanity value.

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Executive Summary

Since April 2023, Asia Justice and Rights (AJAR), in partnership with the International Coalition of Sites of Conscience (ICSC) and five regional organizations¹, led the Rohingya Oral History Archives (ROHA) project, which aimed to document the journeys and struggles of Rohingya refugees across Bangladesh, Indonesia, Malaysia and Thailand. From more than 100 testimonies, this research captures the resilience and hope of Rohingyas facing severe challenges as stateless refugees in southeast Asia. Although the oral history project is ongoing, this paper presents findings for ASEAN, and its member states, to urgently address.

Key Findings

Despite promises to protect refugees under the ASEAN Human Rights Declaration (Article 16), the study reveals widespread barriers in each host country, exacerbated by a lack of legal recognition of refugees:

Bangladesh: Over a million Rohingya refugees in Cox's Bazar face overcrowding, inadequate health-care and high crime rates. Conditions in the camps continue to worsen, prompting many to risk perilous sea journeys to nearby countries. A 60-year-old refugee expressed desperation, saying, "We face threats and violence every day... I left because someone set fire to our camp." Young women often face social pressures to marry early for their safety, with one man remarking, "People leave the camps because of family problems and the dowry system... most women and their brothers leave to earn enough money for marriage."

Indonesia: While Indonesia has received Rohingya refugees, it is not a signatory to the 1951 Refugee Convention, meaning refugees lack formal legal protections and have no pathway to citizenship or permanent resettlement in the country. Refugees are confined to temporary shelters, with only limited access to basic services like healthcare and education, often provided by NGOs rather than the government. Work restrictions and mobility limitations severely impact their ability to support themselves. One long-term refugee expressed frustration, stating, "I have skills and can do many things, but without a clear status I cannot work. Maybe if I broke the law, I'd be able to work." Many are left in limbo for years, awaiting resettlement, often with little communication with authorities. A refugee who has been in Indonesia for over a decade noted, "UNHCR told us we'd only be here temporarily, but now it's been more than ten years, and we still have no idea where we're going."

Malaysia: Refugees are classified as illegal immigrants, barring them from legal employment, formal education or adequate healthcare. Rohingya families often work in the informal sector, living under constant threat of arrest. One young woman recounted, "My father worked in secret, collecting scrap metal. If the police came, he would have to run and hide." Families struggle to access even

¹ KontraS Aceh, Yayasan Geutanyoe, KontraS Sulawesi in Indonesia, Beyond Borders in Malaysia and the Cross-Cultural Foundation in Thailand.

informal education, as one refugee noted, “Parents still can’t afford the school fees, even with a 50% discount. Their children never get past Grade 7 or 8.”

Thailand: Rohingya refugees who enter Thailand face lengthy and expensive processes to secure legal status, often leaving them vulnerable to exploitation. The “pink card” process, required to access basic healthcare, costs an estimated 30,000 baht (or US\$820) and involves a complex application process. Long-term residents are often subjected to daily racism and discrimination. One refugee shared, “In the hospital, they called us ‘aliens’... I told them, I have a name. I feel hurt.” Newly-arrived refugees without documentation struggle even more, with no avenue for protection or access to basic services.

Recommendations

Recognition and protection: ASEAN member states are legally obliged to recognize Rohingya refugees and grant them access to essential services. ASEAN members should ratify the 1951 Refugee Convention, creating a unified framework to protect Rohingya rights. This would ensure basic healthcare, education and work opportunities across the region.

Enhanced Humanitarian Assistance: Urgent improvements in humanitarian aid are essential, especially for vulnerable groups like women and children living in overcrowded camps. The ASEAN Intergovernmental Commission on Human Rights (AICHR) and ASEAN Coordinating Centre for Humanitarian Assistance (AHA) should collaborate with national and local organizations to provide effective, safe aid, prioritizing the Rohingya’s basic needs and protection from violence.

Accountability and regional cooperation: ASEAN’s Five-Point Consensus on Myanmar’s crisis has faced strong criticism for its lack of enforcement and impact, with the Burmese military disregarding its provisions. ASEAN’s passivity has left the Rohingya vulnerable, failing to address their humanitarian needs or advance a path to justice and safe repatriation. ASEAN should engage with Myanmar’s National Unity Government (NUG) to address the root causes of the crisis. Member states must support international investigations into human rights abuses, and set up regional mechanisms for accountability.

Recognition as genocide survivors and pathways to justice: ASEAN member states and the international community must recognize the Rohingya as survivors of genocide, affording them special protections as outlined in international humanitarian law. This includes prioritizing their safety, mental health and access to essential services. Given the atrocities they have endured, it is vital to support Rohingya efforts to seek justice, including engagement with the International Criminal Court (ICC) and other international mechanisms. ASEAN should advocate for the Rohingya’s rights to participate in investigations and be represented in international fora, ensuring their voices are central to the global response to the Myanmar crisis. Special protections must be implemented to protect them from further discrimination and re-traumatization, and uphold their dignity as they pursue long-overdue justice.

Through these initiatives, ASEAN and its members can provide a regional support system, safeguarding the dignity and rights of Rohingya refugees. As one Rohingya refugee poignantly summarized, “We are floating on water without an identity,” underscoring the urgent need for ASEAN to fulfil its promise to protect asylum seekers.

When I was on the boat, my feelings were all over the place. I felt extremely sad and my tears often ran down my face. When I looked up, I could only see the sky wherever I looked, and when I looked down, it was water as far as my eyes could see. There were no signs of land around us and I started fearing for the worst. I felt isolated from the rest of the world, without anyone to help me – woman (30) who travelled from Bangladesh to Indonesia

Chapter I: Introduction

Since the 1970s, discriminatory policies and extreme violence by Myanmar's government and security forces against the minority ethnic Rohingya has resulted in a steady flow of refugees seeking asylum in neighbouring countries. The 2021 military coup d'état, and the resultant ongoing conflict, provides scant hope of a safe return for these refugees.

Close to a million Rohingya refugees travelled by land to neighbouring Bangladesh. This number grew substantially in 2017, following renewed violence and ethnic cleansing by the Myanmar military, and the conditions in the refugee camps are worsening, heightened by insecurity and limited access to essential services, including health, education and employment. As a result, increasing numbers of Rohingya refugees are fleeing the camps in search of safety and security by making the perilous journey, often by sea, to neighbouring countries like Indonesia, Malaysia and Thailand. After leaving Cox's Bazar, many encounter Rohingya who have been in camps for more than a decade ago. Some travel between these countries in search of their families, or to meet relatives who have recently arrived. Challenges with cultural norms, like the dowry system, also drive some to make these journeys.

In 2023, AJAR, together with ICSC, launched the Rohingya Oral History Archives (ROHA). ROHA is a pilot aimed at documenting the journey of Rohingya from their homeland. This initiative, which ran from April 2023 to March 2024, recorded the experiences of refugees compelled to flee Myanmar, and examined the obstacles they faced on their journey to neighbouring countries, including Indonesia, Malaysia and Thailand.

AJAR, in collaboration with five civil society organisations from three countries, implemented the project by working with refugees to gather stories and testimonies. In addition to field partners, the ROHA team was supported by the Rohingya Advisory Board to help guide the project and respond to its findings.

Methodology and approach

This project endeavours to preserve the voices, memories and perspectives of individuals, offering first-hand accounts that reveal their experiences collected through oral interviews. By recording these stories, there was an attempt to understand the collective impact of human rights abuses on the Rohingya community. It is crucial to document these experiences to raise public awareness, and to advocate for improvements in relevant government policy.

To achieve this, the project developed guidelines and participatory research approaches by using interviews, storytelling and focus group discussions with Rohingya refugees. The project engaged Rohingya communities in Indonesia, Malaysia and Thailand, listening to their stories and documenting their challenges, hopes and recommendations for change. In order to build a comprehensive picture, stories and accounts from Rohingya refugees in Cox's Bazar were included, reflecting a close engagement with them over the past few years.

Currently, the project has collected 108 narratives from participants, including 65 men and 43 women. [See Annex 1 for details; a microsite is in development to showcase these narratives].

Challenges and limitations

The team faced a number of challenges and limitations, mainly around access to refugees in the three ASEAN countries and the relatively short project timeframe. Other challenges, included:

- **Language:** Many Rohingya speak multiple languages, like Burmese, Bangla and Malay. However, this is often not the case for new arrivals, especially women and children. In Cox's Bazar, some commonalities across languages help communication, making it easier to find interpreters for research. However, in Indonesia, Malaysia and Thailand, research teams interacted mostly with those who speak the local language or English, which can skew research towards men and long-term residents, often excluding women and new arrivals.
- **Gender barriers:** Throughout the research there were significant barriers to the participation of women. These included difficulties accessing women refugees, in terms of both physically meeting them and finding spaces which allowed them to speak freely. Such challenges also stemmed from layers of trauma experienced by women and children. In addition, women and children constitute the bulk of recent arrivals to Indonesia, Malaysia and Thailand, and have had insufficient time to become proficient in local languages. In the camps, men often work while women are relegated to domestic responsibilities. This further prevents women interacting with local people, limiting their engagement with local languages. In most cases where interpreters were used, the interpreters were male and family members, such as husbands or elders. Particularly when the interpreter was a family member, questions were answered on behalf of the women, rather than interpreting accurately. Even when male relatives were not interpreting, they were present during the interview. Consequently, there were real barriers accessing responses directly from Rohingya women.

- **Safe space for interviews:** Interviews conducted with Rohingya refugees varied by location. In Indonesia, most refugees live in UNHCR- and IOM-managed accommodation, making access easier. In Malaysia, community networks were used to assist in locating refugees. However, issues of trust as well as challenges due to restricted movement and threats of extortion and arrests added layers of complexity. In Thailand, fewer refugees all living in urban areas made access more difficult.

Chapter II: Expulsion From Myanmar

The Rohingya have a long and rich history as a distinct ethnic group in Myanmar, yet their rights to full citizenship have been denied over decades of discrimination and repression by the government. Justification for these state-sponsored discriminatory practices date back to the British colonial period, where “divide and rule” tactics were used to elevate some Rohingyas to positions of authority.² As Myanmar struggled to define its national identity after independence in 1948, the Rohingya’s distinct ethnicity, religion and colonial history led to successive governments targeting them with exclusionary policies, describing them as migrants from Bangladesh who settled during the colonial period.³ This culminated in the Citizenship Act of 1982, which denied Rohingya full citizenship in Myanmar, rendering them stateless and vulnerable to discrimination and violence.

Limited rights due to systemic discrimination

Myanmar’s refusal to recognise the Rohingya as legitimate citizens presented fundamental barriers to accessing rights and freedoms, driving many to leave the country. The Citizenship Act of 1982 severely limits freedom of movement and freedom of religion, as well as the right to own property. This system of ethnic and religious discrimination has often been described as apartheid.⁴

When reflecting on their time in Myanmar, many Rohingya refugees spoke about the impact of systemic discrimination including on their access to fundamental rights such as the right to own prop-

2 See Jacques Leider, “Rohingya: The History of a Muslim Identity in Myanmar,” Oxford Research Encyclopedia of Asian History, ed. David Ludden (Oxford University Press, 2018), accessed 11 June 2024, <<https://doi.org/10.1093/acrefore/9780190277727.013.115>>; Jobair Alam, “The Current Rohingya Crisis in Myanmar in Historical Perspective,” Journal of Muslim Minority Affairs, no. 1, vol. 39 (2019): 1–25.

3 Azrin Afrin, “Rohingyas in Post-Colonial Myanmar,” Buddhist Nationalism, Rohingya Crisis and Contemporary Politics, ed. Asif Bin Ali and Sabbir Ahmed (Dhaka: Borno Prokash, 2019), 98–109.

4 Amnesty International, “Caged without a Roof”: Apartheid in Myanmar’s Rakhine State (Amnesty International, 21 November 2017), accessed 11 June 2024, <<https://www.amnesty.org/en/documents/asa16/7484/2017/en/>>

erty and to healthcare. One refugee who left in the late 1990s spoke about the seizure of family land which had been passed down for generations:

My dad has passed away, but he used to own some agricultural land that has been passed down in our family since my grandfather's time. We were all born in Myanmar. However, the government seized our property and revoked our ownership because we had no documents for the land.

Man (45) living in Indonesia, left Myanmar in 1998

One woman told of how her family was prevented from travelling to access life-saving medical treatment for her father:

When I was seven, my father passed away. I remember he was very ill – he'd got diarrhoea, and he was vomiting – but we didn't have a medical facility in our village. There are no hospitals or doctors that we can access. Yet the police and the army still didn't permit us to find a doctor.

Woman (31) in Indonesia, left Myanmar in 1999

Recurring violence targeting Rohingya

As well as discriminatory policies, a key driver of the Rohingya exodus was the systematic violence perpetrated by the military. The first exodus came in 1978 as part of Operation Nagamin, where many were rounded up, tortured and forced to do hard labour under the pretext of a national census. This led to more than 200,000 people fleeing to neighbouring Bangladesh.⁵ Just over a decade later, the military's suppression of pro-democracy movements in Rakhine State led to a second wave of Rohingya leaving. Approximately 250,000 Rohingyas fled to Bangladesh to escape systematic human rights violations, which included forced labour, sexual violence and confiscation of property.⁶ One Rohingya refugee who fled during the violence in 1978 recounted his experience:

I chose to leave and come to Thailand] because I couldn't bear the discomfort of having soldiers harass us. [My family and I] were forced to do heavy labour. It was relentless. My aunt couldn't escape. I managed to flee but the soldiers harmed my aunt.

Man (60) in Thailand, who left Myanmar during Operation Nagamin in 1978

The most recent driver of the Rohingya refugee crisis however, was the military's crackdown on the Rohingya population in 2017. At that time, clashes in Rakhine broke out between the military and Rohingya insurgent groups. The military responded to attacks on police and army posts by launching a widespread campaign of violence against Rohingya civilians. The violence, involved clear patterns of abuse by systematically targeting civilians, extrajudicial killings, mass sexual violence, destruction of property and other serious human rights violations.⁷

5 Human Rights Watch, *Burmese Refugees in Bangladesh: Still No Durable Solution* (Human Rights Watch, 1 May 2000), accessed 11 June 2024, <<https://www.hrw.org/reports/2000/burma/index.htm>>.

6 Chowdury R. Abrar, *Repatriation of Rohingya Refugees*, Network Myanmar (Online Burma/Myanmar Library, 4 October 2015), accessed 7 June 2024, <<https://www.burmalibrary.org/en/repatriation-of-rohingya-refugees>>.

7 See generally Amnesty International, "Caged without a Roof"; Human Rights Watch, *Massacre by the River: Burmese Army Crimes against Humanity in Tula Toli* (Human Rights Watch, 19 December 2017), accessed 11

The severity of the military's crackdown led to allegations of crimes against humanity by the International Criminal Court,⁸ and the creation of an Independent Investigative Mechanism for Myanmar by the UN Human Rights Council.⁹ The horrific violence forced more than 700,000 Rohingya to seek refuge in Bangladesh. From there, arrivals of refugees into Indonesia, Malaysia, Thailand and other countries also increased.¹⁰

On 24 March 2017, the United Nations Human Rights Council adopted a resolution establishing the Independent International Fact-Finding mission (IFFM).¹¹ The IFFM's mandate was "to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State ... with a view to ensuring full accountability for perpetrators and justice for victims."¹² The IFFM concluded that there were grounds to believe serious crimes under international law have been committed, including genocide in Rakhine State, crimes against humanity in all three states, and war crimes in all three states (of Rakhine, Kachin and Shan.)

During interviews, many Rohingya described the atrocities which occurred in 2017. One woman who was forced to flee her village recounted the experience of having to run from the military amid the violence and indiscriminate killing of civilians:

I ran away from the village for my own survival. I ran towards the sea. My mother, family members, and everyone in the village ran towards the sea for around two hours. As we were running, the soldiers just kept on shooting. Bullets were whizzing past us. I could only hear the sound of the rifles. I was really scared but we didn't have a chance to look back. We just kept running. So many people were hit by the bullets. That's why so many people died. Woman (28) in Indonesia, who left Myanmar in 2017

In February 2021, the Myanmar military overthrew the democratically elected government, sparking widespread protests and a civil disobedience movement.¹³ This has intensified the conflict, causing renewed violence between the military and ethnic armed groups, including in Rakhine State.¹⁴ The coup not only added to the stream of Rohingyas fleeing Myanmar, but extinguished any hope for repatriation for many of those seeking safety outside of the country.

June 2024, <<https://www.hrw.org/report/2017/12/19/massacre-river/burmese-army-crimes-against-humanity-tula-toli>>; Medecins Sans Frontieres, 'No One was Left' - Death and Violence against the Rohingya (MSF, 9 March 2018), accessed 11 June 2024, <<https://www.msf.org/myanmarbangladesh-'no-one-was-left'-death-and->

8 Situation in the People's Republic of Bangladesh/Republic of the Union of Myanmar (Request pursuant to article 15) ICC-01/19 (4 July 2019) [75], accessed 7 June 2024, <<https://www.icc-cpi.int/court-record/icc-01/19-7>>.

9 UN Human Rights Council, Resolution 39/2, Situation of human rights of Rohingya Muslims and other minorities in Myanmar, A/HRC/RES/39/2 (3 October 2018), accessed 7 June 2024, <https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/RES/39/2>.

10 See generally Amnesty International, "Caged without a Roof"; Human Rights Watch, Massacre by the River (2017); Medecins Sans Frontieres, 'No One was Left'.

11 See paragraph 11 of UN HRC resolution 34/22 (<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/081/98/PDF/G1708198.pdf?OpenElement>).

12 Id

13 See generally Amy McKenna, "2021 Myanmar Coup D'etat," Encyclopaedia Britannica (12 July 2022), accessed 11 June 2024, <<https://www.britannica.com/event/2021-Myanmar-coup-d-etat>>; Angela Clare, The Myanmar Coup: A quick guide, Report to the Parliament of Australia (2 July 2021), accessed 11 June 2024, <https://www.aph.gov.au/About_Parliament/Parliamentary_departments/Parliamentary_Library/pubs/rp/rp2122/Quick_Guides/MyanmarCoup>.

14 See supra note 10.

Chapter III: ASEAN's response to the Myanmar crisis

The Myanmar military hold constitutionally guaranteed seats in the government,¹⁵ a factor widely regarded as contributing to the failure to protect the Rohingya. Given this, ASEAN, as the regional body in the region, should take a more active role in pressuring for accountability, advocating for a peaceful resolution to the crisis and protecting refugees.

ASEAN was established in 1967 with principle that member states' sovereignty was supreme – aimed at preventing unwanted foreign interference in domestic affairs.¹⁶ Although the focus on non-interference is crucial in facilitating regional development and economic cooperation, it ultimately impairs any meaningful response to humanitarian emergencies and human rights crises. Furthermore, the mandate, as stated in the ASEAN Charter, excludes sanctions on members that violate the principle. The Charter only provides for dispute settlement between member states which involve peaceful dialogue, consultation and negotiation.¹⁷ Therefore, the lack of authority to pressure rogue states leaves ASEAN in a position where the regional body cannot meaningfully intervene to prevent human rights violations against the Rohingya.

ASEAN a role in addressing human rights and humanitarian issues, through: (i) the ASEAN Coordinating Centre for Humanitarian Assistance (AHA), which facilitates disaster management and emergency responses; and (ii) the ASEAN Intergovernmental Commission on Human Rights (AICHR), which works to promote and protect the rights and freedoms of the people. These mechanisms operate on the basis of the ASEAN Human Rights Declaration (AHRD) of 2012, which outlines a list of guaranteed rights and freedoms. Article 16 is especially relevant to the Rohingya crisis, stating that “every person has the right to seek and receive asylum in another State in accordance with the laws of such State and applicable international agreements.” However, despite these mechanisms, ASEAN has been slow and ineffective in providing solutions to the Rohingya crisis. The lack of decisive action raises questions about ASEAN's commitment to its stated human rights principles, and its ability to effectively address regional humanitarian crises.

AHA's humanitarian efforts in Myanmar been limited in recent years. Initially, AHA played a key role as the interface between Myanmar's Social Welfare and Relief Ministry and the larger international community, acting as a facilitator for humanitarian, with large numbers of aid deliveries for IDPs in

15 Marco Bunte, “The NLD-Military Coalition in Myanmar: Military Guardianship and Its Economic Foundations,” *Khaki Capital: The Political Economy of the Military in Southeast Asia*, eds. Paul Chambers and Napisa Waitoolkiat (NIAS Press, 2017), 99–130.

16 Jorn Dosch, “Southeast Asia: ASEAN and the Challenge of Regionalism in the Asia Pacific,” *The New Global Politics of the Asia Pacific*, eds. Michael K. Connors, Remy Davison & Jorn Dosch (New York: Routledge, 30 October 2017), 121–139.

17 The ASEAN Charter, Chapter VIII

Rakhine State.¹⁸ Starting in 2018, the AHA also provided support for Myanmar's plans to repatriate displaced Rohingya from Bangladesh, conducting needs assessments in both Rakhine State and Cox's Bazar. However, with the COVID pandemic, the military coup and the conflict in the country, AHA has seemingly been unable to respond to the broader humanitarian needs of IDPs in Rakhine State and refugees in Bangladesh.¹⁹

Further, the narrow mandate of AICHR prevents the use of sanctions or investigative mechanisms, and limits the commission's ability to respond to the Rohingya crisis.²⁰ As such, the role of AICHR has only a limited mandate for monitoring and reporting on the Rohingya. This is evident from annual reports – where the Rohingya issue was first addressed in 2019 in receiving updates on assessments in Rakhine State and reports on AHA activities. In 2021, AICHR discussed Myanmar's human rights situation post-coup, and issued a statement of concern. Nonetheless, AICHR remains primarily a consultative body, and so it often only engages with civil society organisations on Myanmar, and receives correspondence through the ASEAN Secretariat.²¹

Meanwhile, ASEAN's Five-Point Consensus, designed to address Myanmar's political crisis following the coup, has been widely criticized for its limited impact and lack of enforcement. The approach calls for an end to violence, constructive dialogue, mediation by an ASEAN special envoy, humanitarian aid and a peaceful resolution, but the Myanmar military has disregarded these provisions. ASEAN's failure to take firm action, such as imposing sanctions or holding Myanmar to account, has weakened its credibility and left the crisis unresolved. For the Rohingya, this inaction means continued vulnerability, as ASEAN's lack of action fails to address either the humanitarian needs of displaced populations or the structural causes of persecution, leaving the crisis to fester without a pathway to justice or safe repatriation.

18 See generally AHA Centre, "AHA Centre Delivers 80 Tons of Relief Materials to Rakhine State, Myanmar," 26 October 2017, accessed 7 June 2024, <<https://ahacentre.org/press-release/aha-centre-delivers-80-tons-of-relief-materials-to-rakhine-state-myanmar/>>; AHA Centre, "AHA Centre Facilitates Humanitarian Assistance between Singapore and Myanmar for Displaced Communities in Rakhine State," 14 December 2017, accessed 7 June 2024, <<https://ahacentre.org/press-release/press-release-aha-cen>

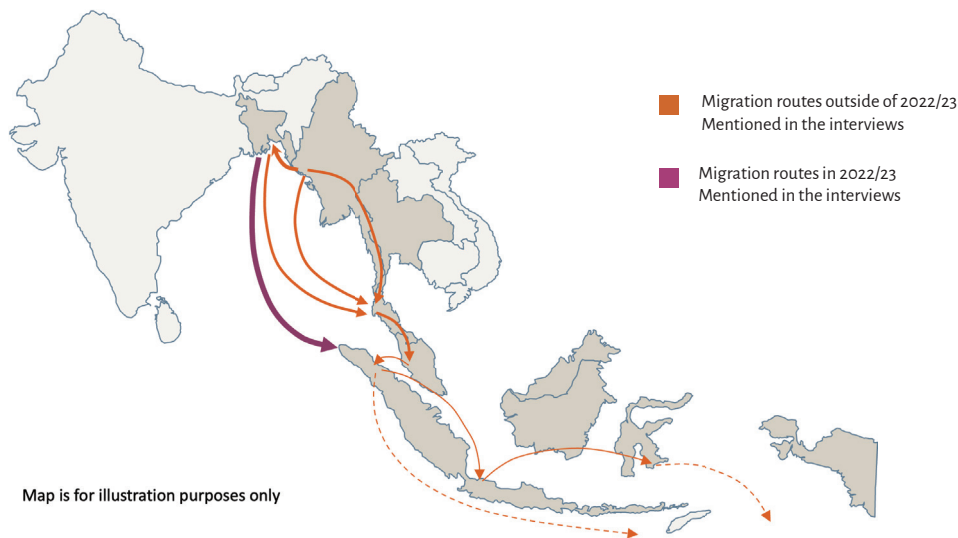
19 In 2021, the AHA Centre formulated a plan to address the Myanmar situation by providing simultaneous COVID-19 and broader humanitarian aid. Despite its purported two-pronged approach, however, the AHA Centre's annual reports indicate that its operations in Myanmar have only emphasised pandemic response, while there is no mention of the continuation of aid deliveries to IDPs in Rakhine State nor efforts to repatriate displaced Rohingyas from Bangladesh. See AHA Centre, Annual Report 2021 (Jakarta: AHA Centre, 2021), accessed 7 June 2024, <<https://ahacentre.org/publication/annual-report-2021/>>.

20 ASEAN Secretariat, ASEAN Intergovernmental Commission on Human Rights (Terms of Reference) (Jakarta: ASEAN, July 2008), accessed 7 June 2024, <<https://aichr.org/wp-content/uploads/2020/02/TOR-of-AICHR.pdf>>.

21 AICHR, "Special Meeting 2/2021 of the ASEAN Intergovernmental Commission on Human Rights", (Jakarta: AICHR, 2021), accessed 15 June 2024, <<https://asean.org/special-meeting-2-2021-of-the-asean-intergovernmental-commission-on-human-rights/>>

Chapter IV: The Rohingyas' journey and motivation for leaving

Common Patterns of Migrations



The dire situation facing the Rohingya in Myanmar has forced many to flee to Bangladesh. From Bangladesh, many refugees make the journey to other countries such as Indonesia, Malaysia, and Thailand. Countries within the region are also used as transit points, sometimes from one country to the another, and other times as transit sites, while refugees wait for applications to be resettled in new host countries.

However, the situation for Rohingya refugees in Bangladesh remains critical, especially in Cox's Bazar's crowded camps. In mid-2024, student-led protests across Bangladesh escalated tensions, spilling over into the camps and leaving refugees in a security vacuum without any visible police presence. The unrest, spurred by demands for political and economic reforms, fostered hostility toward the Rohingya, who were sometimes blamed for social grievances. Amid the protests, refugees faced movement restrictions, limited services and internet blackouts, deepening their isolation. While interim leader Mohammad Yunus has pledged continued support for the Rohingya, he also emphasized their "eventual repatriation to Myanmar with safety, dignity and full rights," leaving uncertainties about their immediate future.²²

²² AJAR and SAVE "Call for Increased Support and Protection for Rohingya Refugees" 1 October 2024, <https://asia-ajar.org/press-release/bangladesh-ajar-and-save-call-for-increased-support-protection-for-rohingya-refugees/>

In light of this, many Rohingya chose to leave their current locations (mostly in Myanmar and Bangladesh) in search of a better life in other countries. Refugees typically travel either by land (from Myanmar to Thailand, and then to Malaysia) or by sea (from Bangladesh to Malaysia or Indonesia). In both cases, they resort to using informal agents because of lack of documentation.

When travelling via land, many encounter violence and abuse by agents who exploit their desperation. A common method to extort Rohingya is by threatening to hurt or abandon them halfway, if their family members do not send more money. One young Rohingya explained how his lack of legal status in left him no choice but to rely on an agent:

Once we got to the place, the middlemen tied us up and hit us. ... Their method was to call our parents, and once they picked up the phone, they would hurt us so that our parents could hear us get tortured. ... They didn't want to hear their children being hurt so they would quickly send money to the middlemen. ... The reason I had to come like this was because the Myanmar government wouldn't issue me an ID, so I had to face so many difficulties.

Man (21) who travelled from Myanmar to Thailand

It is also extremely dangerous for refugees to travel by sea. Often, the boats are ill-equipped for long journeys, and many people die due to a lack of food, water and basic medicines. One young Rohingya recounted his experience traveling from Bangladesh to Indonesia:

Our journey from Bangladesh was very difficult because we didn't have enough food, many people were sick and we only had limited water. On the boat, my head was aching and I was extremely thirsty, but water was so scarce. I felt [life on the boat] was very difficult, and I sometimes cried because of my situation. ... When the storms came, everyone was very scared. We also only ate once a day.

Man (23) who travelled from Bangladesh to Indonesia

Adding to these problems, boats are often overcrowded, and have to sail through extreme weather and rough seas. Many boats capsized. One Rohingya recounted having to remove people who had died because of harsh conditions and overcrowding:

There were around 130 people [when we left Myanmar], and out of those, two people died on the boat and we had to toss them out into the sea. The people who died were old, they were over fifty years old. One of them died because of hypothermia, and the other died because of hunger.

Man (16) who travelled from Myanmar to Malaysia

Many refugees felt helpless throughout their journey because of the uncertainty of whether they would reach their destination:

When I was on the boat, my feelings were all over the place. I felt extremely sad and my tears often ran down my face. When I looked up, I could only see the sky wherever I looked, and when I looked down, it was water as far as my eyes could see. There were no signs of land around us and I started fearing for the worst. I felt isolated from the rest of the world, without anyone to help me.

Woman (30) who travelled from Bangladesh to Indonesia

Another refugee based in Cox's Bazar summarised the lived experience of being stateless and what that means for Rohingya refugees:

It would be better if our issues can be solved as soon as possible, because then we will be recognized as citizens, Bengali or refugees. Now we are neither [Myanmar] citizens nor Bengali nor refugees, we are just floating on water without an identity.

Rohingya refugee in Bangladesh

Push factor: safety concerns and lack of economic opportunities

Rohingya refugees who have travelled to Indonesia, Malaysia and Thailand from Cox's Bazar, cite three reasons for leaving: (i) safety and survival; (ii) economic opportunities; and (iii) cultural norms, such as the dowry system.

Most of the refugees described living in the camps in Bangladesh as unsafe and crime-ridden. The major crimes were attributed to rivalries between armed groups, particularly the Arakan Rohingya Salvation Army (ARSA) and the Rohingya Solidarity Organisation (RSO). One refugee who had lived in the camp for over 30 years highlighted how the security situation including compelled him to leave:

I decided to leave Bangladesh because someone set fire to our camp and conditions were unsafe. It wasn't my intention to make this decision, but the situation in the camp where I lived was deteriorating. We faced threats and violence on a day-to-day basis and many people became victims.

Man (60) who lived in Bangladesh for 35 years

Compounding this problem is the bleak economic situation in the camps. Multiple interviewees mentioned not being able to make ends meet:

Life in Bangladesh was extremely difficult. I couldn't give any money to my wife. ... I could only work as a fisherman and I could only afford to live in a simple house that cost 1,200 taka (10 USD) a month. That's the reason why I decided to leave Bangladesh.

Man (33) who left Bangladesh in 2006

The worsening security situation and dire economic conditions encouraged the practice of marrying off young women for their own well-being. Traditionally, Rohingya women take on domestic roles in the family, restricting their mobility and access to education and employment. Marriage is one of the only ways for families to ensure their daughter's security and welfare. Due to gender dynamics in Rohingya communities, it is customary for a young woman's family to give considerable sums of money for dowry to the family of a potential husband. Furthermore, cultural norms stigmatise having young single women in the family, adding pressure for parents to find spouses for their daughters.

Many Rohingya mentioned that people are leaving Bangladesh because of financial pressures of the dowry system. One refugee observed:

Rohingya people leave the camps for depression and anxiety due to family problems and the dowry system. A wedding requires a lot of money from the bride's family. If they cannot afford it, the girl cannot get married. Due to this problem, most women and their brothers leave the camps to have sufficient money for marriage.

Man (35) who came to Bangladesh in 2012

Pull factors: Reunion, resettlement, religion and economic opportunities

Refugees migrate to be reunited with family

Another reason Rohingya choose to migrate to Indonesia, Malaysia or Thailand is to be reunited with family members. In many cases, one family member will have left Myanmar for economic or security reasons before choosing to migrate again to one of the other destinations. One man shared how the desire to be reunited with his family after being separated for 14 years drove him to make the journey from Malaysia to Aceh:

Due to the conflict in Myanmar, many Rohingyas were killed, captured and tortured. So, in 2014, I decided to leave Myanmar for Malaysia by boat. I was really sad during the journey because I had to leave my family behind. Now, after nine years living in Malaysia, I decided to come to Aceh so I can be reunited with my family.

Man (35) who came to Indonesia in 2023

Rohingya refugees travel to Indonesia for better chances at resettlement

Many Rohingya move with the hope of increased chances of resettlement in a third country. A number see Indonesia as a place where they can expedite resettlement:

I left Bangladesh for Indonesia in 2012 with the hope that I would get resettled in a third country after living there for more than three years. I now live in Medan and I'm waiting for the IOM and UNHCR to fulfil their promises to get me resettled in another country.

Man (45) living in Indonesia

Religion plays a role in the choice of Indonesia or Malaysia as destination countries

While the majority of Rohingya refugees flee Bangladesh without a specific destination, Indonesia and Malaysia have become destinations of choice as they are Muslim or Muslim-majority countries:

Ten days into my journey leaving Bangladesh, I arrived at a mountain. It turned out to be in Indian territory. The local police came and threatened to arrest us, but we told them to go ahead and put us in jail. The UNHCR came and helped us, but we said, we don't want to stay in India. We want to get out of here. We want to go to Malaysia or Indonesia.

Woman (28) who left Bangladesh in 2023

Thailand perceived to offer more economic opportunities

For many refugees, Thailand serves as a transit point between Myanmar and other countries in southeast Asia. While many end up staying in Thailand because they were unable to continue their journey, some held the view that Thailand is a place where they have a higher chance of economic prosperity:

I saw my friends go overseas, sending back lots of money. I wanted to do that too, but I didn't know how they got the money, what work they did. At that time, I was still a child, still young, right? I thought, if I go then I can get money, and so I came.

Man (37) who came to Thailand in 2007

Chapter V: Rohingya refugees in Indonesia, Malaysia and Thailand

There are around 115,000 Rohingya refugees and asylum seekers in ASEAN member states, with the majority living in Malaysia and Thailand. In recent years, much attention has been given to the small numbers arriving in Indonesia.

Rohingya refugees in ASEAN countries have diverse experiences which are influenced by different factors. For example, some arrived many years ago during times of violence in the 1990s and early 2000s. Others fled through Bangladesh following the 2017 violence. Their living conditions vary widely depending on place. Some receive UNHCR support in refugee shelters, others seek formal employment with work permits, while many live illegally, facing the constant risk of detention.

	Indonesia		Malaysia	Thailand	
How many?	~ 2,000 ²³		~ 109,000 ²⁴	~ 3,000–4,000 ²⁵	
Where did they come from?	Came via boats from Bangladesh	Came directly from Myanmar	Came directly from Myanmar	Came directly from Myanmar	
When did they come?	Majority are newly-arrived refugees who came <2 years ago	Minority are long-term refugees who came >10 years ago	>10 years ago	Minority are newly-arrived refugees who came after the 2017 violence	Majority are long-term migrants who came >10 years ago
Living situation	Camp-like temporary immigration shelters	Community housing or independently alongside locals in urban areas	Alongside locals in urban areas	Alongside locals in urban areas	Alongside locals in urban areas
Official status	Have to be reregistered by UNHCR Indonesia despite having undergone Refugee Status Determination (RSD) in Bangladesh	Underwent the RSD and received refugee status by UNHCR in Indonesia	Underwent the RSD by UNHCR in Malaysia	Considered to be asylum seekers but not registered by UNHCR	Considered to be economic migrants possessing work and stay permits

Figure 1—Table outlining the variety of experiences, backgrounds, and legal status of Rohingya refugees in Indonesia, Malaysia, and Thailand²⁶

23 UNHCR, Indonesia, Fact sheet (UNHCR: December 2023), accessed 7 June 2024, <<https://reporting.unhcr.org/indonesia-factsheet-6805>>.

24 UNHCR Malaysia, “Figures at a Glance,” accessed 7 June 2024, <<https://www.unhcr.org/my/what-we-do/figures-glance-malaysia>>.

25 Rough estimate of the number of Rohingya people in Thailand according to one of our interviewees. TH015, interview by Cross Cultural Foundation, 2023.

26 Unless otherwise specified, the data in this table is made up from interviews carried out for the purpose of the ROHA project, and may not be representative of all Rohingya refugees.

It is important to note that Indonesia, Malaysia and Thailand have neither ratified the 1951 UN Refugee Convention or the 1967 Protocol. Instead, and each country has a policy framework for refugee welfare and protection. In Indonesia, for instance, UNHCR-registered refugees have access to basic formal education and government-provided healthcare, but not to employment. In Thailand, the government provides formal education, healthcare insurance and employment permits, while the UNHCR assists with the welfare protection of refugees in camps. In Malaysia, refugees possessing a UNHCR card are entitled to partial healthcare subsidies, but cannot access formal education and employment.

	Indonesia	Malaysia	Thailand
Access to education	Refugee children are allowed to attend public schools	Refugee children are not allowed to attend public schools	Rohingya children are allowed to attend public schools
Access to healthcare	Coverage for basic healthcare services for UNHCR-card-holders by the government	Fifty percent coverage for UNHCR-card-holders by the government	Health insurance for basic treatments available for purchase
Access to employment	Refugees are not allowed to work	Refugees are not allowed to work	Rohingya migrants can acquire permits to legally work

Figure 2 – Table outlining the differences between Indonesia, Malaysia, and Thailand's refugee policy frameworks

As indicated in the table above, there are policy deficiencies that hinder refugees in all three countries from accessing their fundamental human rights. Even when regulations allow refugees to access essential services, these policies often focus more on formalities, than ensuring crucial aspects like availability, accessibility and acceptability of those rights.

Indonesia

Throughout the research, Rohingya refugees were interviewed in four main locations: Makassar, Medan, Pekanbaru and Aceh. In Medan and Makassar, a significant portion consisted of long-term refugees. Conversely, in Aceh and Pekanbaru, new arrivals constituted the majority.

Until recently, Rohingya refugees in Indonesia experienced a relatively welcoming environment compared to other southeast Asian countries. The government, NGOs and civil society groups provided substantial humanitarian aid and support. While Indonesia is not a signatory to the 1951 Refugee Convention, it demonstrated a commitment to human rights and international cooperation by offering temporary shelter and access to basic services. However, the lack of legal status creates significant barriers to long-term integration and stability for the Rohingya in Indonesia.

In the absence of a framework outlining refugee rights, there are gaps in the application and provision for refugees. This leads to better protection of some rights over others. For instance, in principle Rohingya refugees can formally access primary healthcare and education. However, in practice, access remains limited in some locations, making refugees dependent on the support of local and international organisations. Moreover, Indonesia still prohibits refugees from formal employment, placing many in a difficult financial position. Concerns were raised about the protocol on refugee arrivals, as well as the UNHCR's slow and opaque resettlement process.

The latest waves of arrivals in Aceh, beginning in November 2023, were accompanied with a shift in how Rohingya were received by the local people. This was fuelled by misinformation and hoax campaigns on social media. With boat arrivals continuing into 2024, there was a tragic incident in March when three dead bodies, suspected to be Rohingya, were found floating near Lhok Rigaih beach.²⁷ Further, a boat carrying around 150 refugees, including women and children, capsized approximately 12 miles from Kuala Bubon beach a few days earlier.

Existing protocols for new arrivals are sub-optimal

Many refugees received tremendous help from the local community on arrival. In many cases, they described receiving food, clothes and medical treatment. However, there have also been instances where refugees were not welcomed. In November 2023, local communities in Aceh refused to allow 249 Rohingya refugees to disembark. These refugees, mostly women and children, landed in two locations: Bireuen, and northern Aceh. Local NGO reported that the police were present at the landing sites,²⁸ but the communities still managed to force the refugees back to sea.

The refusal of refugees in Aceh highlights how Indonesia's current mechanism of refugee protection has been ineffective. Officially, Presidential Regulation No. 125 of 2016 on the Handling of Refugees establishes a clear protocol for rescuing and sheltering refugees found in Indonesian territory: boats shall be towed to shore, and refugees handed over to an Immigration Detention Centre. The failure of police to secure the refugees and hand them over to relevant authorities is a clear breach of the Presidential Regulation. Further, Indonesia's inability to uphold its protocol on refugee protection, resulting in the rejection of refugees who had landed on its territory, is a clear violation of the non-refoulement principle, which prohibits countries from sending refugees to places where they might face persecution, torture or degrading or inhuman treatment.

27 Radhiyya Indra, 'Bodies of Three Rohingya Refugees Found at Sea', The Jakarta Post, 24 March 2024, accessed 18 June 2024, <<https://www.thejakartapost.com/indonesia/2024/03/24/bodies-of-three-rohingya-refugees-found-at-sea.html>>

28 See also The Jakarta Post, 'Aceh Residents Reject Rohingya Refugees Ship in Bireuen Shores,' The Jakarta Post (Jakarta and Bireuen, Aceh), 17 November 2023, accessed 14 June 2024, <<https://www.thejakartapost.com/indonesia/2023/11/17/aceh-residents-reject-rohingya-refugees-ship-in-bireuen-shores.html>>; The Indonesian Police has also been reported by local media to patrol surrounding waters to intercept and push away refugee boats. See AFP, 'Indonesian Police, Fishers Start Patrols to Stop Rohingya Boats,' The Jakarta Post (Lhokseumawe, Aceh), 26 November 2023, accessed 14 June 2024, <<https://www.thejakartapost.com/indonesia/2023/11/26/indonesian-police-fishers-start-patrols-to-stop-rohingya-boats.html>>.

The current protocol does not adequately reflect the realities of the refugee situation. Local communities remain the first point of contact with new arrivals and, as such, their successful protection hinges on communal compliance with the Presidential Regulation. Nevertheless, the regulation was targeted for government bodies, and makes no mention of the role of community. The protocol is also not tailored to Aceh, which remains the primary entry point for Rohingya into Indonesia. Specifically, Article 26(2) of the Presidential Regulation states that refugee shelters must be located within the same regency as an Immigration Detention Centre. However, Aceh does not have an Immigration Detention Centre, which means that Rohingya refugees can only stay in temporary accommodation. While the Presidential Regulation provides minimum criteria for refugee shelters, including clean water, food and clothing, basic health, sanitation services and religious facilities are not mentioned. This has led to at least 137 Rohingya having to stay in makeshift accommodation, with poor access to basic necessities.²⁹

Refugee children rely on external sponsorship to access formal education, but acceptability remains questionable

Many Rohingya face difficulties accessing formal education for their children. Some refugees shared that access for their children to attend school depends on sponsorships by external organisations, such as UNHCR or IOM:

Between Myanmar, Bangladesh and Indonesia, I feel the safest in Indonesia. But there is one downside: there is no support for my child's education [from the IOM] here. So, I have to pay for the fees myself. I have had to cut back on food because I want my child to go to school. It is okay that I starve as long as my child can receive an education.

Woman (28) who arrived in Indonesia in 2023

This reliance on scholarships and financial aid is a result of Indonesia's discriminatory educational policy towards refugees. The Ministry of Education's Circular Note no. 30546/A.A5/MK.01.00/2022 only allows refugee children to enter public schools if funding is drawn from a source other than the local government or state budget. Refugees who do not receive external sponsorships are unlikely to be able to afford school fees. Through this policy it is evident that Indonesia's approach to education for refugees is merely formalistic, and does not address the real obstacles to an education.

What is deemed acceptable evidence of refugee children's education remains a challenge in Indonesia. Formally, the circular note states that refugee students who have completed a level of education, e.g., primary, middle, or high school, shall receive a letter of completion in lieu of a diploma, and that the letter of completion can be used to advance to the next level. However, local NGOs report that some schools still refuse to admit refugee students that do not have a diploma.

²⁹ See Human Rights Watch, "Indonesia: Protect Newly Arrived Rohingya Refugees," Human Rights Watch (Jakarta), 16 January 2024, accessed 14 June 2024, <<https://www.hrw.org/news/2024/01/16/indonesia-protect-newly-arrived-rohingya-refugees>>.

Refugees have access to low-cost basic health services, but not to advanced medical treatment

A number of Rohingya spoke of only having access to basic healthcare. One woman living in Aceh with her children reflected on the medical care that is available:

My children keep falling sick here, and every time they get brought to the clinic. They are given medicine there. But they have never been taken to a hospital.

Woman (30) living in Aceh

In principle, refugees enjoy comprehensive coverage for basic health. According to local advocacy partners, IOM collaborates with local community health centres and the Infectious Diseases Agency to conduct health screenings on arrival.³⁰ After initial health screenings, refugees who need immediate treatment are taken to IOM-assigned clinics, while the rest are taken to a refugee shelter, where there is a health facility.³¹ After obtaining a card from the UNHCR, they can visit community health centres anywhere in the country.³²

However, in practice many refugees face difficulties accessing advanced healthcare while living in temporary accommodation. Local NGOs reported that the medical facilities within refugee shelters are extremely basic, which means that Rohingya refugees have to seek treatment from outside facilities for more serious conditions. As refugees living in shelters are heavily monitored and need approval from shelter authorities to travel, these restrictions make it difficult to treat more serious conditions.

Refugees who live outside shelters also face obstacles in accessing advanced healthcare. This is because most community health centres do not have the capacity to provide advanced treatments, such as reproductive or mental healthcare.³³ The UNHCR provides financial assistance for advanced medical care, but only for emergencies.³⁴ The IOM collaborates with local hospitals to allow refugees access with relative ease. However, local NGOs report that such collaboration only exists in places with an immigration detention centre.

30 See also IOM Indonesia, "IOM Provides Food, Water and Health Screening to Latest Rohingya Arrivals in Indonesia," IOM (Jakarta/Bireuen), 31 December 2021, accessed 14 June 2024, <<https://indonesia.iom.int/news/iom-provides-food-water-and-health-screening-latest-rohingya-arrivals-indonesia>>.

31 As stipulated in Article 26(4) of Presidential Regulation No. 125 of 2016.

32 UNHCR Indonesia, "Primary Health Care," accessed 7 June 2024, <<https://help.unhcr.org/indonesia/assistance-and-support/health/primary-health-care/>>.

33 UNHCR Indonesia, "Mental Health Support," accessed 7 June 2024, <<https://help.unhcr.org/indonesia/assistance-and-support/health/mental-health-support/>>.

34 UNHCR Indonesia, "Emergency and Advanced Health Care," accessed 7 June 2024, <<https://help.unhcr.org/indonesia/assistance-and-support/health/emergency-and-advanced-health-care/>>.

Refugees face the burden of both being prohibited from work and reduced financial support

Many Rohingya discussed their financial difficulties due to restrictions on seeking employment. In particular, new arrivals living in shelters face restrictions of movement that prevent them from looking for work. Even though long-term refugees living outside of shelters do not face the same restrictions, they still cannot access formal employment:

Alhamdulillah, I have quite a few marketable skills. I can operate excavator machines and crane machines. I know how to build bridges and I know the engineering for it. I have the certificate for it. I actually can do many things. But without government support and a clear status, I cannot work. Maybe if I broke the law, I'd be able to work. ... But that'd be a mess and I didn't want to get into legal trouble.

Man (32) living in Makassar

This fear of legal trouble stems from Law No. 6 of 2011 on Immigration, which provides that only permanent residents and some temporary residents are allowed to work in Indonesia. This is a real obstacle to Rohingya accessing employment. Consequently, many refugees rely on financial assistance from international organisations. For example, the UNHCR provides a limited number with cash assistance, but this is only available to refugees in dire need of financial aid.³⁵ Rohingya refugees living in IOM-affiliated community housing can qualify for a stipend to cover basic living expenses.³⁶ Many Rohingya stated the stipend was not enough to cover basic living expenses:

Now my wife is sick. I can't go to the hospital because the IOM only gave me Rp 1,250,000. Considering rent and food costs, I need another 2 to 3 million per month. If I can't work, where am I supposed to get the money from? The UNHCR and the government simply don't understand this.

Man (29) living in Makassar

IOM provides Rp 1,250,000 for each qualifying adult refugee, and Rp 500,000 for each of their children. However, this does not adequately cover basic necessities. According to a number of refugees, this stipend amount has not increased since 2008. While it has been adjusted to inflation to Rp 2,295,429, it still falls far below local minimum salaries. In Makassar, where the majority of long-term refugees receiving IOM stipend were interviewed, the minimum salary was Rp 3,523,181.³⁷ The increased cost of living in Indonesia and the stagnation of IOM's monthly stipend makes it extremely difficult for refugees to make ends meet, especially when combining this with the legal restrictions on accessing formal employment.

35 UNHCR Indonesia, "Financial Assistance," accessed 7 June 2024, <<https://help.unhcr.org/indonesia/assistance-and-support/financial-assistance/>>.

36 IOM Indonesia, "Migrant Assistance," accessed 7 June 2024, <<https://indonesia.iom.int/migrant-assistance>>.

37 Makassar Government, "Penetapan UMK Makassar 2024 Rp 3.64 Juta Tunggu SK, Pj Gubernur Sulsel," [Makassarkota.go.id](https://makassarkota.go.id) (Makassar), 27 November 2023, accessed 7 June 2024, <<https://makassarkota.go.id/penetapan-umk-makassar-2024-rp364-juta-tunggu-sk-pj-gubernur-sulsel/>>.

IOM Stipend for Refugees vs Minimum Wage in Makassar, 2008-2023

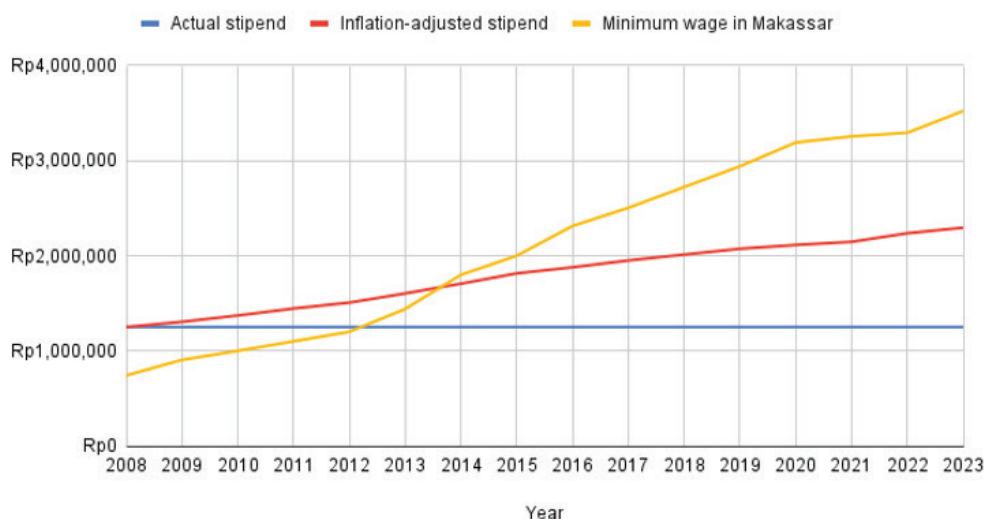


Figure 3 – Graph showing the change over time of IOM Indonesia's stipend for refugees versus the minimum wage in Makassar from 2008–2013

Long-term refugees face slow and opaque resettlement processes

Many refugees talked about how they have waited for resettlement for a long time, without clear communications from UNHCR:

I am unhappy here. UNHCR told us we'll only be living here temporarily, but now it's been more than 10 years. We are yet to be resettled and there is no information about where we're going.

Man (29) living in Indonesia since he was 18

The resettlement process is slow and lacks transparency. This has frustrated many long-term Rohingya refugees. Many Rohingya refugees have waited for more than a decade to be resettled, with one interviewee still waiting after 20 years.

Adding to the slow resettlement process is the perceived unfair treatment of Rohingya refugees as compared to others. Many long-term refugees spoke of how refugees from countries including Afghanistan, Somalia, and Pakistan have been resettled much more quickly:

After the pandemic, they resumed the resettlement process. The refugees from other countries have now all been resettled, and us Rohingyas are the only ones left. So, we asked [the UNHCR] why they treated us differently, why they couldn't sort us out as quickly. They said, "No, we didn't treat you differently." But other refugees who came in 2014 have been resettled. Those who came in 2018 have been resettled. I came in 2013 and my friend came in 2009 and we still haven't been resettled. So, what exactly is happening?

Man (32) living for 10 years in Indonesia

Resettlement is a complex process that needs to take into account the demand from destination countries. This slow resettlement mainly occurs due to the fact that refugees are unable to settle in Indonesia because Indonesia has not ratified the 1951 Refugee Convention. Legally, Law No. 37 of 1999 on Foreign Affairs provides the president the power to grant asylum in Indonesia. However, this law does not specify any mechanism for screening asylum seekers, instead providing that such matters shall be regulated in a separate presidential regulation. To this date, no such presidential regulation has been made, leaving the law neglected and refugees relying on the UNHCR to find resettlement elsewhere.

Despite the hardships faced in Indonesia, many Rohingya remain hopeful of returning safely to their homeland:

If I get to see my later years, I pray to Allah that I may visit my father's grave, my mother's grave and my childhood home. I want to live there again safely. I hope to return there if it's safe.

Man (30) living in Indonesia

Malaysia

In 2020, Malaysia announced that they will no longer accept Rohingya refugees.³⁸ This impinged on the right of Rohingya to seek asylum. Malaysia's approach to refugee protection has been piecemeal. In terms of healthcare, for instance, the Malaysian government provides a partial subsidy for Rohingya refugees. Despite this, Rohingya refugees are classified as illegal immigrants, preventing them from formal education and employment.

Lack of official status prevents access to other rights

Many Rohingya refugees expressed how the Malaysian government classified them as illegal immigrants:

I lived in Malaysia for almost 11 years. I didn't want any food, nor any luxuries. The only thing I wanted was an identity.

Man (45) who spent 11 years in Malaysia

Lack of official documentation is due to the absence of a legal framework pertaining to refugees in the country. Officially, the only legal document concerning refugees is the National Security Council (MKN) Directive No. 23 of 2009, which provides that UNHCR card-holders shall be allowed to stay in the country temporarily on humanitarian grounds. Nevertheless, the directive does not accord any rights to refugees, and uses the term 'illegal immigrants' when referring to them. As such, the legal classification of Rohingya refugees is left to the more general Immigration Act No. 63 of 1959, which designates anyone who enters the country illegally as illegal immigrants.

38 Rozanna Latiff, "Malaysia can't take any more Rohingya refugees, PM says," Reuters (Kuala Lumpur), 26 June 2020, accessed 17 June 2024, <<https://www.reuters.com/article/idUSKBN23X1A5/>>.

Refugee children can only access informal education

Education is one of the primary concerns of Rohingya refugee. Many refugees expressed the desire for a good education for their children:

The biggest help [we can get] is education for our children. It's hard. Many children [only study up to] Grade 7, 8, or 9, and they cannot go above that. Why? Because the parents can't afford the school fees. Neither can the UNHCR help. Even with a 50% discount, parents still couldn't afford the remaining RM 300, so their children can't go to higher grades.

Rohingya refugee in Malaysia

The problem that Rohingya children have accessing education stems from the absence of a legal framework outlining refugee rights. Consequently, the only avenue for refugee children is informal learning centres. According to UNHCR, there are 150 informal learning centres across the country.³⁹ While UNHCR provides material support to the learning centres,⁴⁰ there is no financial support for the refugees, who have to pay tuition fees. As a result, the cost of education in the learning centres excludes some children from gaining access to education.

Inability to formally work leaves refugees working in the informal sector

Many Rohingya talked about having to hide from the authorities if they want to work:

I have seen my father work in the past. He looked for scrap metal, and I also saw him washing cars. ... [But] he had to work in secret, otherwise he would be arrested by the police. ... When the police came, he would run away.

Woman (29) born to Rohingya parents in Malaysia

Another said that he had to live in the forest and stay constantly on the run to avoid detection by officials:

When I was in Malaysia, I worked as a construction worker. I moved around—sometimes I'd be in Johor, sometimes I'd be in Kuala Lumpur. When I was there, I'd sleep in the jungle because I was there illegally. I was afraid the police would arrest me if I lived in the city in a nice house.

Man (33) who lived in Malaysia for two years

The Rohingya's inability to work legally is a result of not having official status, and being prohibited from formal employment. This forces refugees to seek work in the informal sector, where they are prone to exploitation and unfair labour practices.

39 UNHCR Malaysia, "Education," accessed 14 June 2024, <<https://refugeemalaysia.org/support/education/>>.

40 UNHCR, "Education in Malaysia," accessed 14 June 2024, <<https://www.unhcr.org/my/education-malaysia>>.

Even though basic necessities like employment and education remain out of reach, some refugees show remarkable resilience in navigating their difficult situations:

My wife and I were 19 when we married. We have three children. Now that I am unemployed, [we] have been making and selling cakes in front of the [mosque visited by the Myanmar diaspora]. My wife would go there and sell cakes in the evenings.

Man (31) living in Malaysia

Thailand

There are multiple pathways for refugees to access basic services in Thailand. For example, around 90,000 ethnic Karen refugees access basic healthcare and education provided by UNHCR in refugee camps. Rohingya, however, cannot access the same benefits from UNHCR because they mostly reside in immigration detention centres for long periods of time, or as ‘migrants’ among the locals. Instead, many long-term Rohingya migrants choose to apply for work and residence permits, effectively turning them into economic migrants, so they can get employment, healthcare and education. The Rohingya migrants are located mainly in the cities of Songkhla in the south and Mae Sot in the north.

Rohingya with proper residence permits have relatively straightforward access to employment, healthcare and education. However, the process to obtain such permits is long and complicated. Rohingya refugees without documentation have very little access to employment, healthcare and education. Recently, the Thai government has been criticised for its treatment of the Rohingya, including incidents of detention, kickbacks and limited access to humanitarian aid.⁴¹ Human trafficking and exploitation remain serious concerns, with many refugees falling victim to smuggling networks.

Convoluted and expensive documentation process for long-term migrants

Rohingya migrants face a long and convoluted process before they can access to the welfare system. In order to receive healthcare and enrol their children in school, migrants need a foreign identification or a ‘pink’ card. Rohingya migrants talked of the process to get a pink card is expensive and confusing:

[Even if I want to] get a foreign ID card, I can't afford it because I don't have much income. [In order to get] a foreign ID card, there are many things we have to do. I can't manage it and the income I have can't afford it. If I could, I would have done it a long time ago.

Man (33) who has lived 17 years in Thailand

⁴¹ Paul Chambers, “Thailand Must End Its Own Rohingya Atrocity”, The Diplomat, 23 October 2015, accessed 18 June 2024, <<https://thediplomat.com/2015/10/thailand-must-end-its-own-rohingya-atrocity/>>

In order to obtain a pink card, migrants first need a Myanmar passport or a certificate of identity book.⁴² They also need a job in Thailand so their employer can sponsor for a work permit. Once they have a work permit, they can apply for a pink card, which will qualify them for the welfare system.

As can be seen, there is plenty of red tape for migrants to navigate in order to get basic welfare. Each document requires comes with a cost, which can add up to some 30,000 Baht (USD 820). Further, the procedure for obtaining a pink card depends on regulations that change from time to time. So long-term migrants need to constantly keep abreast of complex and ever-changing policies. In addition, each document is valid for different periods which need regular renewal. Migrants who are missing any of these documents face the risk of being considered illegal, meaning they can get arrested and deported to Myanmar:

I was once jailed in Korat for 49 days because my visa had expired for 4-5 days. At that time, immigration officers turned up out of nowhere and asked for my identification. I said that I had it, but I left it at home. So, they followed me to my house to get it, but the visa had expired. They said that they couldn't let me off if the visa had expired, even for a day. I told them that I just had a child. She was one year old, so money was short and I couldn't renew my visa. I asked them for an exception but they wouldn't let me off. So, they arrested me.

Man (40) who has lived for 20 years in Thailand

Another expressed his desire to stay in Thailand without the worry of having to pay annual fees, renew documents and face deportation:

We're foreigners. We're born as Rohingya. [We don't have] status or a country. ... Even though we weren't born here, if it's possible, ... we just want to live here and make a living here. We exist. [We want to] not have to worry about annual fees or get arrested. I want that.

Man (37) who has lived for 21 years in Thailand

No protection for newly-arrived Rohingya refugees

While long-term Rohingya migrants have an opportunity to access the welfare system, it is a significant barrier for newly-arrived refugees. One long term activist who monitors Rohingya rights explained how the lack of official recognition in Myanmar prevents Rohingya from acquiring legal status in Thailand:

The first issue is that the Rohingya in Thailand cannot prove their citizenship. ... The Thai government requires them to prove their citizenship by obtaining a passport from the government in Yangon. But still, Myanmar refuses to recognize the Rohingya as citizens. Therefore, they cannot get passports.

Long-term Rohingya migrant activist in Thailand

42 The CI book is a document that effectively serves as a passport alternative for Myanmar migrants, but is only considered valid when travelling back and forth to Thailand. The CI book is made for long-term migrants in Thailand who are unable to return to Myanmar to renew their passport. Myanmar ID and proof of address is required to obtain a CI book. For more information, see Burma Human Rights Network, Submission to the UN Universal Periodic Review of Myanmar/Burma, July 2020, Submission to the 37th Session of the UPR Working Group of the Human Rights Council, July 2020, accessed 14 June 2024, <<https://www.bhrn.org.uk/en/report/1145-submission-to-the-un-universal-periodic-review-of-myanmar-burma-july-2020.html>>.

Newly-arrived Rohingya refugees typically do not have passports or identity documents since they were persecuted and had to abruptly leave due to the security situation in Rakhine State. Since valid documents are required to obtain a 'pink card', there is virtually no legal recourse to access basic services provided by the Thai government.

Healthcare coverage is available, but costly

Economic migrants and unregistered refugees are not covered by the Universal Coverage System in Thailand, which guarantees free healthcare. Rather, migrants with a 'pink card' can purchase the Migrant Health Insurance Scheme (MHIS), which provides basic health coverage in public hospitals.

Rohingya migrants noted how the MHIS poses a financial burden for their families:

Right now, my children and I are considered aliens [in Thailand]. My children were born here but are considered aliens, making things difficult. When we need medical treatment, we have to pay. Also, when I buy insurance, my children need it too. ... I have insurance here, but I also have to pay for my children's. The price is the same. ... The economy is very tough right now, so we have to struggle to make a living.

Woman (35) with four children in Thailand

It is especially costly for Rohingya migrants to ensure coverage for their families because the MHIS is only valid for one person for one year. MHIS plans need to be purchased for each family member every year.

Despite the MHIS, many Rohingyas remain outside the insurance scheme. Some refugees, for instance, do not enrol family members in the MHIS due to the expense of multiple plans. Many newly-arrived Rohingya refugees remain uninsured as they do not have a pink card:

Initially, [my mother and my sister] had no documents, so they mostly stayed at home and didn't go out. One day, my mother fell ill with thyroid problems. Since she had no documents, I took her to a doctor, who said, "You don't have any documents?" I asked how much, and he said it would be quite expensive. I still paid for her treatment, which was around 4,000 Baht (USD 100). After two months, we had another doctor appointment, which cost about the same. I tried to raise money by selling roti to support my mother's treatment.

Man (32) 14 years in Thailand

In 2024, the government is expected to review the universal health insurance system to include coverage for stateless and non-Thais in the country.⁴³ This is a welcome move that will begin to address the gap in coverage for undocumented Rohingya migrants.

43 See generally Royal Thai Embassy, Washington D.C., "Thailand extends health coverage to non-citizens," Royal Thai Embassy, Washington D.C., 12 January 2024, accessed 14 June 2024, <<https://washingtondc.thaiembassy.org/en/content/thailand-extends-health-coverage-to-non-citizens>>; Vietnam Plus, "Thailand to provide health insurance for foreigners," Vietnam Plus (Bangkok), 19 December 2023, accessed 14 June 2024, <<https://en.vietnamplus.vn/thailand-to-provide-health-insurance-for-foreigners-post275107.vnp>>.

Children are allowed to attend school but are subject to discrimination

Newly-arrived refugees face difficulties in accessing education for their children due to a lack of documentation:

[Another] problem is the education of Rohingya children. Because their parents lack proper documentation, some schools refuse to admit Rohingya children, stating that their parents have no documentation and, therefore, they cannot attend school.

Long-term Rohingya migrant activist in Thailand

Local NGOs corroborated this statement and reported that this discriminatory practice is prevalent in the south of Thailand. This, despite the 1999 Education Act which provides that all school-age children shall receive free education. The Act entitles schools to the same financial support for local and foreign students, regardless of legal status and documentation.

Rohingya migrants face daily discrimination and racism

Besides difficulties accessing basic services, Rohingya migrants experience discrimination:

When we go to the hospital, they won't call us by our names. They would call us "aliens," because that's what our identification card says. Sometimes they called us by name, but sometimes they called us aliens. I once asked to talk to a staff[at the hospital]. I told them that I have a name, and if they didn't know how to pronounce it, they could just ask me. And they said, "An alien is an alien, so what if I call you an alien?" Talking to the staff didn't change anything. I feel hurt.

Man (40) living in Thailand for 20 years

Despite adversities faced by Rohingya refugees in Thailand, many remain hopeful for the future:

My dream is related to teaching because I think many Rohingya have little knowledge, little understanding of books, and little access to education. Because of their lack of knowledge, they are banished and struggle elsewhere. I want to pursue studying and help others who are suffering and struggling, other Rohingya who are suffering elsewhere.

Man (20) living in Thailand

VI. Conclusion

Findings indicate that oral history and lived experience effectively identify issues and provide solutions for many challenges facing Rohingya refugees. As a result of the exodus of Rohingya from Myanmar and, later, Cox's Bazar, it is important to collect and preserve Rohingya oral histories before they are lost. These findings serve as a powerful advocacy tool, providing insights into the experiences of Rohingya refugees across the region.

Listening to the testimonies of victims and survivors reveals many reasons for the growing number of Rohingya seeking refuge in Bangladesh. However, due to the unsafe conditions and other issues in the camps, the Rohingya are compelled to leave once again to seek safety in other countries, especially Indonesia, Malaysia and Thailand.

Commonalities facing Rohingya in all three countries include:

- Refugees seek security as a result of surviving genocide.
- Their journey's traumatic passage and persistent challenges steadily diminish their hope.
- Refugees long for their home and nurture memories of their life before the conflict.
- Refugees have high hopes for justice which they perceive as a gateway to other rights.
- Their lack of official refugee status prevents access to services, and Rohingya often live in precarious conditions, with limited access to healthcare, education and employment.
- Refugees lack adequate protection, they face statelessness, violence, persecution and discrimination.
- Refugees are vulnerable to exploitation, trafficking and arbitrary detention.

Despite their life challenges, their resilience and hope for better futures continue. An ongoing challenge is that recipient countries have not ratified the 1951 UN Refugee Convention or its 1967 protocol, resulting in the absence of a formal legal framework for Rohingya refugees. There is an urgent need to review current protection mechanisms for the Rohingya in the region.

ASEAN's failure to address the Rohingya refugee crisis following the 2021 coup, highlights the limitations of the non-interference principle to responding to humanitarian emergencies. Regional protection mechanisms need to be reviewed and amended to ensure they are effective. Despite the challenges, civil society continues to provide substantial humanitarian aid and support, legal assistance, truth-seeking documentation, and campaign and advocacy on issues facing Rohingya refugees.

VII. Recommendations

The situation facing Rohingya refugees in Indonesia, Thailand and Malaysia is a regional issue that requires special attention to ensure an effective and coordinated approach. It requires comprehensive policy changes. The absence of formal legal frameworks and protections underscores the need for greater international cooperation and adherence to human rights standards. After hearing the experiences of Rohingya refugees in Bangladesh, Indonesia, Malaysia and Thailand key recommendations were drafted for ASEAN and its member states.

ASEAN and AICHR:

- Uphold the rights and dignity of Rohingya refugees by ensuring they receive comprehensive protection and assistance.
- Recognize their refugee status: Ensure Rohingya refugees are recognised and acknowledged by ASEAN member states as refugees under international law, and have access to legal protections and assistance.
- Recognize the Rohingya as survivors of genocide, affording them special protections as outlined in international humanitarian law. This includes prioritizing their safety, mental health and access to essential services. Given the atrocities they have endured, it is vital to support Rohingya efforts to seek justice, including engagement with the International Criminal Court and other international mechanisms. ASEAN should advocate for the Rohingya's rights to participate in investigations and to be represented in international fora, ensuring their voices are central to the global response to the Myanmar crisis. Special protections must be implemented to protect them from further discrimination, prevent re-traumatization and uphold their dignity.
- Encourage, support and cooperating with independent investigations by governments, international bodies (including UN) and or human rights organisations, to document and report human rights abuses and violations of international law.
- Establish an ASEAN mechanism to receive communications, hear evidence of human rights violations and hold perpetrators to account.
- Ensure ASEAN member states provide basic services for refugees, including access to health-care, education, food, clean water and sanitation.
- Reinforce humanitarian aid for refugees: allow humanitarian aid and protection for vulnerable people, children, women, elderly and the wounded, particularly in refugee camps. AHA must cooperate with ICRC and civil society to provide this assistance.
- Review the non-interference principles as it applies to humanitarian crises and gross human rights violations. Respect that sovereignty should not override the duty to protect human rights, including the rights of refugees.
- Partner with UN and national human rights institutions to develop guidelines, working with member states, as well as specialist and experienced civil society organisations, on refugee rights and humanitarian access based on international human rights standards.
- Engage with the NUG and the NUCC as the legitimate representatives of the Myanmar government, to find a comprehensive and holistic resolution for the Rohingya.

The Governments of Indonesia, Thailand and Malaysia:

- Recognize refugee status: ensure Rohingya refugees are recognised and acknowledged by ASEAN member states under international law and can access legal protections and assistance.
- Ratify the 1951 UN Refugee Convention and its 1967 protocol, to provide refugees with legal protections and rights, uphold human dignity and protect the most vulnerable.
- Provide protection to Rohingya refugees under existing conventions that have already been ratified, including CEDAW, CRC, UNCLOS and ICERD.
- Initiate diplomatic action and take steps through bilateral and multilateral fora to exert pressure on the junta in Myanmar.
- Provide access to basic services: including healthcare, education, clean water and sanitation.
- Provide protection from violence: ensure safety and protection from violence, including gender-based violence, through adequate security measures and legal safeguards.
- Address violence against women: establish safe spaces within refugee camps where women can seek refuge, receive support services and access medical and psychological support, including counselling and trauma healing.
- Allow freedom of movement within the host country, and ensure that refugees are not confined to camps or restricted areas.
- Provide education opportunities: ensure access to education for both children and adults, including language and vocational training, and ensure that refugee students obtain school certificates.
- Provide healthcare that are accessible and culturally appropriate, addressing both physical and mental health needs, including access to reproductive health.
- Grant refugees the right to work and access to livelihood opportunities to support themselves and their families.
- Explore integration and resettlement opportunities for refugees, both local and in third countries.
- Involve refugees in decision-making processes that affect them, promoting their meaningful participation.

The Government of Indonesia

- Revise the Presidential Decree No. 125 of 2016 to include specific technical guidelines on refugee management by local communities, CSOs and other stakeholders, and clarify the mandates of district, provincial and national governments on handling refugees.
- Designate Aceh as an official temporary shelter for Rohingya refugees in order to consolidate humanitarian efforts at the provincial level.
- Provide support according to the differentiated needs of refugees, including basic livelihood and psychosocial support for new arrivals, and skills training, advanced education and health support for long-term refugees.
- Consider policies that allow for freedom of movement for refugees, so they can meet their basic needs and participate in local community activities.
- Establish mechanisms for evaluating pathways for long-term refugees who have been waiting for resettlement for more than ten years.
- Establish refugee protection frameworks at district and provincial levels.

Government of Malaysia

- Use existing frameworks, such as the IMM13 under the Immigration Act, to ensure refugees right to work. This can then be expanded to affordable healthcare and education.
- Ensure refugees right to work as stated in the revised National Security Council Directive 23 (MKN Directive 23).
- Allow UNHCR access to immigration detention centres so that refugees can be registered and not remain in prolonged detention, and impose a moratorium on immigration raids.
- Open Malaysia's borders to welcome Rohingya fleeing the escalation of violence in Maungdaw and Buthidaung.
- Design a nationwide campaign to control hate speech targeting the Rohingya.
- Establish a framework for protection mechanisms for survivors of conflict-related sexual violence.

The Government of Thailand

- Consider the release of Rohingya detained for illegal entry, recognizing their refugee status and right to seek safety from persecution.
- Ensure all Rohingya refugees' access to the National Screening Mechanism without facing discrimination, and recognize their refugee status through UNHCR.
- Guarantee Rohingya children access to education without discrimination.
- Ensure Rohingya refugees' access to basic healthcare and emergency medical services.
- Ensure Rohingya refugees' access to employment.

