

# From the Sea to the Land: Navigating the Ambiguity of Rohingya Refugees Boat People in Malaysia and Indonesia

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## ABSTRACT

This study explores the complex experiences of Rohingya refugees in Malaysia and Indonesia, two Southeast Asian countries that have become significant destinations for these displaced populations. The Rohingya, a persecuted ethnic and religious minority from Myanmar, undertake treacherous journeys across the Bay of Bengal and the Andaman Sea in search of safety and refuge in these host nations. Upon their arrival, they face a multitude of challenges, which have not been thoroughly explored, making this study vital in understanding the dynamics of their lives in these unique socio-political landscapes. To address this, a qualitative research methodology combined with a case study approach is employed. This approach allows for an in-depth exploration of the intricacies of their experiences and the examination of the policy responses of both Malaysia and Indonesia to this global humanitarian crisis. The findings of this study emphasize the ambiguity and lack of clarity in the treatment of Rohingya refugees due to the absence of clear legal frameworks for recognition. International organizations, non-governmental organizations (NGOs), and local communities play a pivotal role in shaping the lives of these refugees, highlighting their resilience in the face of adversity. The study underscores the necessity for clearer and more consistent treatment of Rohingya refugees in both Malaysia and Indonesia and calls for more transparent and effective policies to address their challenges. Furthermore, it emphasizes the importance of continued efforts by international organizations and NGOs to provide support and advocate for the rights of refugees.

**Keywords:** Rohingya boat people, Malaysia, Indonesia, refugee crisis, humanitarian response.

## 1. INTRODUCTION

A terrible voyage unfolds across the stormy waters of the Bay of Bengal and the Andaman Sea, a trip born of desperation and the tireless desire for refuge[1]. This is the story of the Rohingya boat people, a persecuted population fleeing persecution and brutality in Myanmar. Having braved the treacherous seas, these people are being forced towards the welcoming shores of Southeast

Asia. Malaysia and Indonesia, in particular, have become crucial destinations for individuals who undertake this perilous journey, signaling the start of a complicated and diverse process of adaptation, assimilation, and survival[2]. The situation of the Rohingya, an ethnic and religious minority in Myanmar, has sparked international outrage. Many have risked their lives by embarking on rickety vessels heading for distant countries, leaving their birthplace behind in quest of safety, stability, and a

brighter future. The experiences of these Rohingya boat people, once they reach Malaysian and Indonesian coasts, provide a unique and painful view into the dynamics of refugee migrations in the twenty-first century.

This study takes a comparative tour, diving into the lives of Rohingya refugees boat people seeking refuge in Malaysia and Indonesia. It is hoped to understand the parallels and differences in their experiences through this comparative study, from the moment they step onto solid ground to their continual struggle for recognition and acceptance. The purpose of this study is to shed light on the multiple obstacles that these refugees encounter in their host nations, as well as the ways in which their respective policies and attitudes impact the course of their lives[3]. Despite their geographical proximity, Malaysia and Indonesia have unique legal frameworks, historical contexts, and socio-political landscapes. By contrasting the experiences of Rohingya boat people in these two countries, this study not only contributes to a better understanding of the challenges faced by displaced communities, but also provides valuable insights into host countries' policy responses to a global humanitarian crisis.

It is important to understand the intricate interactions between geopolitics, human rights, and resiliency that shape the lives of Rohingya boat people in Malaysia and Indonesia in this study[4]. Their experiences show not only the difficulties but also the tenacious spirit of neighbors trying to maintain some sort of normalcy in the face of hardship.

## **2. METHODOLOGY**

In order to explore the complex experiences of Rohingya refugees in Malaysia and Indonesia, this study uses a qualitative research method in conjunction with a case study approach[5]. The qualitative approach enables an in-depth examination of their stories, difficulties, and interactions, providing a more thorough understanding of the complex dynamics at work. By using this approach, it could capture the subtleties and intricacies of their lives and provide insightful information that quantitative research by itself would miss[6]. A significant percentage of the data was acquired through extensive library research and web research. A detailed assessment of academic literature, government reports, and credible news sources was conducted in order to determine the historical and contextual context of the Rohingya refugee issue[7]. Background information from websites, papers, and scholarly articles proved invaluable in framing our investigation.

The original data obtained through extended fieldwork is at the heart of this study[8]. This involved meeting with

Rohingya refugees as well as a variety of critical players in Malaysia and Indonesia. Fieldwork was carried out by traveling to various sites where Rohingya refugees have taken asylum, including Bireuen in Aceh, Indonesia, and Langkawi Island in Kedah, Malaysia. Through on-site observations, it is possible to witness firsthand the living conditions, daily struggles, and the environment in which Rohingya refugees have been compelled to adapt. These observations are able to gain insights beyond what words on a page can convey, offering a tactile understanding of their circumstances.

In-depth interviews formed a central component of the primary data collection by engaging with Rohingya refugees themselves, allowing them to share their stories, challenges, and hopes. These interviews were based on open-ended, semi-structured questions, providing refugees the opportunity to express their experiences in their own words[9]. Additionally, conducted interviews with various stakeholders involved in the lives of Rohingya refugees, including government officials, representatives from non-governmental organizations (NGOs), and local fishermen. These interviews were essential for understanding the policy environment, humanitarian efforts, and the economic dynamics that influence the lives of Rohingya refugees in both Malaysia and Indonesia.

The obtained material, both secondary and primary, was painstakingly analyzed using content analysis[10]. This strategy allows for a thorough evaluation of the data in order to find reoccurring themes, storylines, and patterns. It made it easier to organize and analyze the diverse information obtained from observations and interviews. Content analysis is able to draw important insights, comparisons, and contrasts between the lives of Rohingya refugees in Malaysia and Indonesia[11]. The results are able to explain and contribute to a better understanding of their hardships and resilience within the host countries.

## **3. RESULTS AND DISCUSSIONS**

### ***3.1. The Rohingya Boat People Phenomenon***

The Rohingya boat people phenomenon was a problem prior to 2015 and was still there at that time. Muslim ethnic minorities known as Rohingya are mostly from Rakhine State in Myanmar[12]. In Myanmar, they have long endured discrimination, brutality, and persecution. The term "Rohingya boat people" refers to the tens of thousands of Rohingya refugees who attempted to leave Myanmar by boat in an effort to flee the oppression and brutality they experienced there. Many of them set out on dangerous sea voyages in search of safety in nearby nations, mainly Thailand, Malaysia, and Indonesia.

The situation of the Rohingya boat people emerged in 2015 as a result of Myanmar's government policy, which continues to deny their rights as citizens. For example, on February 11, 2015, President Thein Sein declared that all Temporary Registration Certificates (TRC), sometimes known as "White Cards," would expire on March 31, 2015, and must be returned to authorities by May 31, 2015[13]. At a stroke, this action has disenfranchised approximately a million people, mostly ethnic Rohingya, from voting in Burma's upcoming general election in November 2015. It also precludes the Rohingya from participating in a planned referendum on Burma's constitution that year. According to Myanmar's official declaration, approximately 25,000 Rohingya fled Myanmar in the first quarter of 2015. Thousands of Rohingya fled Myanmar by boat from March to May, with the assistance of human traffickers[13].

This issue drew public attention in 2015, when many boats transporting Rohingya refugees became trapped at sea, with reports of human trafficking and deadly conditions on board these overcrowded vessels[14]. It compelled regional governments and international organizations to intervene in the crisis and give humanitarian aid. The Rohingya issue, particularly the boat people phenomenon, has lasted well into 2015, with many Rohingya refugees seeking sanctuary in other countries and encountering severe conditions along the way. The situation remains a major humanitarian problem, prompting a number of initiatives by governments, non-governmental organizations, and the international community to resolve the crisis and assist Rohingya refugees[15].

### **3.2. Malaysia's Response**

Malaysia has not ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Concerns about sovereignty, resource restrictions, internal political considerations, and a preference for managing refugee issues through bilateral and regional accords may have influenced this choice. On humanitarian grounds, the Malaysian government allows Illegal Immigrants (PATI) with a UNHCR (United Nations High Commissioner) Card for Refugees to temporarily reside in the nation. The national policy on this subject is on a "case by case" basis[16]. In this context, the National Security Council issued Directive No. 23, signed by the Prime Minister of Malaysia on August 24, 2009, concerning the Mechanism for Unauthorized Foreign Immigrants Holding UNHCR Cards.

At first, the government refused to take care of all the stranded boat people due to security reasons as stated by the Malaysian former Deputy Home Minister, Wan Junaidi Jafaar "*We have been very nice to the people who*

*broke into our border. We have treated them humanely, but they cannot be flooding our shores like this"*[17]. Furthermore, various foreign organizations as well as local non-governmental organizations pushed the government to preserve the Rohingya people. For example, Human Rights Watch (HRW) recommended Malaysia and other neighboring nations like as Thailand and Indonesia quit playing a dangerous game by refusing to accept stranded boat people on their shores[18].

Despite an official claim that humanitarian help is only temporary, Malaysia has consented to assist in bringing the damaged boats ashore due to pressure from the UN and international NGOs. This is Malaysia's most recent policy change, bringing boat people ashore and then to a temporary shelter that will be established, rather than forcing them back into the sea[19]. The move appears to be in conformity with international humanitarian law in order to aid those affected by the disaster, the Rohingya. Malaysia, on the other hand, made it clear that the international community should not expect it to deal with this problem again if another inflow arises in the future.

### **3.3. Indonesia's Response**

Despite not being a signatory to the 1951 Convention Relating to the Status of Refugees and its addendum, Indonesia is one of the major refugee transit hubs in Southeast Asia. Indonesia was one of the first Southeast Asian countries to pass national umbrella legislation to protect refugees on humanitarian grounds[20]. The Presidential Regulation No. 125/2016 on the handling of Refugees and Asylum Seekers in Indonesia, signed by President Joko Widodo on December 31, 2016, provides guidelines, standards, and uniformity in the handling of refugees by government entities[21].

There have been waves of undocumented immigrants entering across the Bay of Bengal and Andaman Sea since the late 2000s. Most of the Rohingya refugees are looking for asylum. The "2015 crisis," in which authorities in Indonesia, Malaysia, and Thailand turned away thousands of stranded asylum seekers, garnered the greatest media attention[22]. Indonesia's response to Rohingya refugees boat people may appear inconsistent because of a number of intricate interrelated variables. These include global responsibilities, humanitarian issues, national immigration laws, regional collaboration, and evolving conditions. In addition to carrying out humanitarian relief efforts and search and rescue missions for Rohingya refugees, the government also imposes stringent immigration laws that may lead to incarceration. Various conditions may cause the balance between these factors to change, resulting in an approach that seems inconsistent.

Nevertheless, the residents of Aceh, a region in northwest Indonesian Sumatra Island, welcomed these boat people and called it "a rare place of welcome".[23] These humanitarian gestures are motivated by elements such as indigenous maritime customary law (Hukum Adat Laot), the tradition of welcoming guests (Peumulia Jamee), Islamic solidarity, and shared experiences of conflict. Aceh Maritime Customary Laws, on the other hand, have been around for millennia. One of these unwritten norms is that while at sea, fishermen must aid anyone in need. This explains why Acehese fishermen volunteered to assist stranded Rohingya refugees. On the other hand, to honor guests, Peumulia Jamee is part of Acehese cultural customs rooted in Islamic teachings. This custom has been carried on for centuries.

### ***3.4. In Land Rohingya Refugees' Treating by Malaysia and Indonesia: A Comparative Study of Aid Ambiguity and Dilemma***

#### ***3.4.1 Policy Interpretation***

It is important to investigate the uncertainty or lack of clarity surrounding humanitarian assistance provided to Rohingya refugees who arrive by boat in Malaysia and Indonesia. It may examine the challenges and complexities in delivering aid to these refugees and how the ambiguity in the aid process affects both the refugees and the governments of Malaysia and Indonesia. Malaysia and Indonesia are neither signatory to the Refugee Convention. However, both countries have developed their unique policies to address this issue[24]. Nonetheless, those policies appear to be ambiguous in terms of execution and clarity.

For example, the treatment of refugees and asylum seekers in Indonesia is governed by Presidential Decree No. 125/2016, which makes no mention of the provision for refugee children's education. The only piece of legislation that governs how refugees are treated in Indonesia is still this edict[25]. The requirements for refugee shelters are outlined in Article 26(2), which also directs local authorities to consider the distance that refugees must travel to access religious and medical institutions. According to Article 26(5), refugee shelters must give their residents access to clean water, food, clothing, and places of worship. Nevertheless, neither article makes reference to educational resources or anything that has to do with providing school-age refugees with an education[26].

In Malaysia, there is no specific provision or definition in national legislation that touches on refugees including the Immigration Act 1959/63 (Act 155)[27]. The group of refugees in Malaysia are basically treated as illegal immigrants (PATI) who hold UNHCR cards which are

administered through National Security Council Directive No. 23 on the Management Mechanism for Unauthorized Illegal Immigrants Holding UNHCR Cards. National Security Council Directive No. 23 aims to establish policy and management mechanisms regarding PATIs who are given UNHCR cards. It also contains the principle that illegal immigrants who hold UNHCR cards are allowed to stay temporarily in this country on humanitarian grounds and on a case-to-case basis.

The difficulty in interpreting humanitarian reasons for Rohingya refugees in Malaysia on an individual basis stems from the lack of a defined legal framework for recognizing refugee status[28]. As a result, refugees are treated differently and inconsistently, making it impossible to receive necessary services and live with long-term uncertainty. Refugees are also prone to exploitation and abuse since they lack a clear legal status. For example, Rohingya refugees will be facing the consequences of events such as family separation, access to education, detention conditions, employment opportunities, and asylum applications[29]. Thus, International organizations, non-governmental organizations, and human rights organizations lobby for clearer and more consistent treatment, putting pressure on the government to give greater protection and assistance to Rohingya refugees in Malaysia.

#### ***3.4.1 Uncertainty in Temporary Shelter and Detention Centre***

Based on Indonesia's Presidential Decree No. 125/2016, it provides refugees with temporary shelter and basic necessities but does not address other critical issues like as employment authorization or educational access[30]. In Indonesia, United Nations agencies such as the UNHCR and the International Organization for Migration (IOM) are in charge of managing refugees in close collaboration with the Indonesian government. In the case of the Rohingya refugees in Aceh, it was usual practice for the Indonesian government to provide temporary shelter while UNHCR was in charge of refugee administration. The Indonesian government granted permission for the stranded Rohingya to land in Aceh and provided emergency aid.

However, it can be ambiguous and difficult for governments to respond immediately to the arrival of Rohingya refugees. Creating formal shelters and infrastructure takes time to plan and implement, and government agencies may confront logistical and regulatory challenges along the way. For example, Rohingya refugees who arrived in Aceh were often provided with temporary shelter in ad hoc facilities like community halls, training centers, and even Meunasah

(Islamic prayer house in Aceh terms)[31]. The exact locations and arrangements may vary depending on availability and funding. Therefore, the local NGOs and the Acehnese community play an important role in providing quick-response housing and humanitarian support in various instances. These organizations and people frequently step in to provide urgent assistance, such as food, drink, clothing, and temporary shelter. While the government works on more official arrangements, their actions are invaluable in meeting the acute needs of refugees[32]. Local NGOs and community initiatives can assist in filling the gap in the immediate aftermath of arrival, ensuring that basic requirements are satisfied.

The Malaysian Maritime Enforcement Agency (MMEA) discovered Rohingya refugees boat people nearing Malaysian shores in the Langkawi Island area because of its international border with Thailand, which also connects the sea path to them[33]. When the Rohingya refugee boat people are brought to this island, the MMEA normally docks at piers regulated by the Malaysian Fisheries Department because they provide a proper landing spot for the boat to dock and discharge Rohingya people, as well as other critical facilities such as water and restrooms. In order to make it easier to serve food and drink to the Rohingya refugees, the MMEA will instruct them to proceed to the jetty platform area and sit down politely after docking at the jetties. The MMEA also made contact with the closest government clinic or hospital to arrange for medical personnel to visit the jetty and treat individuals who were hurt.

To handle numerous facets pertaining to the Rohingya refugees on Langkawi Island, the MMEA has collaborated with a number of parties[34]. For instance, MMEA collaborates with the Langkawi Municipal Council to identify an appropriate housing place for Rohingya migrants. Following negotiations, about 1,000 Rohingya refugees were temporarily housed at Malaysia's Langkawi International Shooting Range (LISRAM) In terms of food and beverages, the MMEA collaborated with neighborhood non-governmental organizations to assist with the procurement of ingredients, the preparation process, and the delivery of the finished product to the Rohingya refugees housed at LISRAM.

The MMEA's next move regarding the Rohingya refugees is to get in touch with immigration for more action. Once immigration assumed responsibility for handling the Rohingya refugee issue, the MMEA's work on the matter could be considered finished. The issue of Rohingya refugees will be handled by the Malaysian Immigration Department (MMD) in order to facilitate further action, including the investigative process. The

inquiry procedure is crucial as some of the people who were saved from the boat were Bangladeshis and not all of them are Rohingya[35]. The investigation's findings will assist the MMD in differentiating between the Rohingya and the Bangladeshi population, which would enable the government of Malaysia to defend its laws and policies. When Rohingya refugees arrive without appropriate travel documents or visas, they will be detained by the Immigration Department[36]. Detention is necessary for administrative tasks, identity verification, and border security maintenance. These detention institutions are under the department's supervision. The length of detention can vary widely. It can range from a few days to several months or even longer, depending on individual circumstances and the time it takes to resolve their immigration status.

### ***3.4.2 Documentation and The Way Forward of Uncertainty***

Once Rohingya refugees in Aceh are placed in temporary shelters, a series of critical steps and considerations come into play. The initial phase involves an assessment and registration process, where the identities and backgrounds of the refugees are examined through interviews and data collection to understand their immediate needs[37]. UNHCR is mainly involved in this process, assessing claims for asylum and determining refugee status, providing refugees with a crucial legal framework for protection and rights under international law[38]. This process is also coordinated by the government together with local NGOs and IOM. The assessment and registration process can be seen as ambiguous for Rohingya refugees due to several factors like lack of documentation, the absence of a formal legal framework for recognition, and also lack of standardized procedures. Thus, the process will make it difficult to establish their identities and backgrounds accurately, creating uncertainty about their legal status and the information available for decision-making.

The UNHCR's engagement is crucial because it gives the Rohingya refugees in Aceh a recognized status as refugees and evaluates their protection needs, even though the evaluation and registration process are seen as unclear by them. Simultaneously, the IOM's role in commencing the relocation process is critical for improving the Rohingya refugees' living conditions and future possibilities[39]. Typically, relocation means relocating refugees from temporary shelters to more sustainable conditions to stay. For example, IOM, jointly with the national and sub-national government and partners including UNHCR, European Civil Protection and Humanitarian Aid Operations (ECHO), and the U.S. Department of State's Bureau of Population, Refugees,

and Migration (PRM) is supporting the relocation of Rohingya refugees from Aceh to Pekanbaru, Riau[30].

The process of asylum claim determination for Rohingya refugees in Malaysia is a complex and multistage procedure involving both the Immigration Department and the UNHCR[40]. It typically commences with the arrival of Rohingya refugees who are often detained by Malaysian immigration authorities due to their undocumented status[41]. While in detention, some refugees express their intent to seek asylum, which designates them as asylum seekers. Interviews and assessments are then conducted by immigration authorities, often in collaboration with UNHCR officials, to gather comprehensive information about their backgrounds and the risks they face in their home countries. Upon being recognized as asylum seekers, their cases are referred to the UNHCR, the agency responsible for determining refugee status and providing international protection.

The UNHCR subsequently conducts its own assessments to ascertain the validity of the asylum claims. If an individual is recognized as a refugee, they are granted formal refugee status, which entitles them to legal protection and assistance based on UNHCR interpretation. This recognition often leads to temporary release from immigration detention, allowing refugees to reside in the host country while awaiting durable solutions, such as third-country resettlement, local integration, or, in some cases, repatriation when conditions in their home country improve[42]. However, it is a similar situation faced by Rohingya refugees in Indonesia and Malaysia when they have to stay in a transit nation for an extended period of time, maybe leading to 'permanent' residency. Prolonged displacement is a hallmark of the Rohingya refugee experience in both Indonesia and Malaysia. They arrive in transit countries hoping to find shelter and protection after fleeing persecution and violence in their home country of Myanmar. However, their paths to long-term solutions are frequently long and unclear. The options for durable solutions are limited and this can lead to an extended period of limbo, as they navigate the complex living process in Indonesia and Malaysia[43].

The restriction on Rohingya refugees in Indonesia and Malaysia from legally engaging in employment stems from their undocumented status and the broader immigration policies of these nations[44]. As undocumented migrants and refugees, they often lack the legal right to work, and their employment opportunities are severely limited. This restriction has several consequences such as financial instability for the Rohingya refugees and their families, lack of access to healthcare and education for refugee children, human

trafficking, and exploitation[45]. The inability to work legally hinders the self-reliance and independence of Rohingya refugees, making them more dependent on humanitarian aid and less able to contribute positively to the host community or to their own well-being.

#### 4. CONCLUSION

In conclusion, the plight of Rohingya refugees boat people, escaping persecution in Myanmar and seeking refuge in Southeast Asia, reveals a harrowing narrative of desperation, survival, and adaptation. This study attempts to explore the comparative experiences of Rohingya refugees as they arrive on the shores of Indonesia and Malaysia, shedding light on the distinct challenges they face and the impact of these nations' policies on their lives. The Rohingya boat people phenomenon, driven by long-standing discrimination and violence in Myanmar, compelled these individuals to embark on perilous sea journeys in search of safety and stability. Their arrival in Malaysia and Indonesia initiates a complex process of adaptation, assimilation, and resilience. Indonesia and Malaysia, despite their geographic proximity, possess unique legal frameworks and historical contexts, influencing their responses to the Rohingya refugee crisis. Although not a signatory to the Refugee Convention, these host countries provide temporary shelter to those holding UNHCR cards, primarily operating on a case-by-case basis. These countries possess their own regulations for managing refugees. These policies, while established with humanitarian intentions, often lack clarity and consistency in execution.

Uncertainty in the aid process, from temporary shelter to detention and eventual relocation, characterizes the experiences of Rohingya refugees in both nations. The lack of standardized procedures, formal recognition, and adequate documentation can create ambiguity, hindering the refugees' access to rights and protection. The path forward necessitates a comprehensive approach involving international cooperation, clearer legal frameworks, and improved living conditions for Rohingya refugees. The ongoing support of humanitarian and non-governmental organizations is crucial, along with the establishment of procedures that enable refugees to work legally, access education, and integrate into their host communities.

As these refugees grapple with protracted displacement, it is essential for governments, the international community, and civil society to work collaboratively to transform their uncertain and challenging journey into a narrative of resilience, self-sufficiency, and hope. The future direction lies in a commitment to addressing the complex dynamics of refugee migration in the twenty-

first century, upholding human rights, and fostering a more inclusive and compassionate world.

## AUTHORS' CONTRIBUTIONS

AIZAT KHAIRI PLAYED A VITAL ROLE IN THE RESEARCH PROCESS BY CONDUCTING INTERVIEWS WITH ROHINGYA REFUGEES IN MALAYSIA AND VARIOUS STAKEHOLDERS. SUADI ZAINAL PRIMARILY FOCUSED ON THE COMPREHENSIVE ASSESSMENT OF ACADEMIC LITERATURE, GOVERNMENT REPORTS, AND CREDIBLE NEWS SOURCES. AFRIZAL TJOETRA WAS ACTIVELY ENGAGED IN FIELDWORK AND ON-SITE OBSERVATIONS, PARTICULARLY IN INDONESIA. ANDIKA AB. WAHAB CONTRIBUTIONS IS CRUCIAL IN GUIDING THE RESEARCH PROCESS FROM ITS INCEPTION TO THE FINAL PUBLICATION OF THE ARTICLE.

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