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BURMA'S ROHINGYA CASE IN INTERNATIONAL LAW PERSPECTIVE

ABSTRACT

Nowadays, the refugees issue is becoming serious problem to the international community. The problems of refugees becomes increase day by day along with a man-made disaster or a nature disaster. The Rohingyas ethnic is one of examples for refugee who caused by man-made disaster. They, the Rohingyas, experienced a persecution done by the military junta of Myanmar, their own government. The government of Myanmar doesn't recognized that the Rohingyas belong to the citizen of Myanmar. With this condition, the Rohingyas called as a stateless person. They have no citizenship status. So they have no protection from any countries because they are stateless. The persecution from the Myanmar's government make them, the Rohingyas, fled to another countries to get an asylum. Sometimes the presence of refugees in the country of transit or destination countries were forcibly repatriated . Such treatment is clearly contrary to the principles of international law recognized by civilized nations. There are some regulations pertaining to the issue of refugees, which are guarantee the rights of refugee. The right to get an asylum as stated in Article 14 (1) Universal Declaration of Human Rights. But the fact, there are many violations in refugees treatment done by some countries. The study is

normative legal research with Statute Approach and Case Approach. This study would analysis the Rohingyas asylum-seeker based on some international laws concerning this problem as for the 1951 Convention Relating to the Status of Refugees and its protocol. The result shows the international law relating to the refugees issue that applicable to the Rohingyas case.

Keywords: Refugees, Persecution, Stateless, Human Rights

Abstrak

Isu mengenai pengungsi sekarang ini menjadi masalah serius bagi komunitas internasional. Masalah mengenai pengungsi ini bertambah dari hari ke hari seiring dengan banyaknya bencana yang disebabkan oleh manusia maupun bencana alam. Etnis Rohingya adalah salah satu contoh pengungsi yang disebabkan oleh bencana dari manusia. Etnis Rohingya mengalami tekanan yang dilakukan oleh junta militer Myanmar, pemerintah mereka sendiri. Pemerintah Myanmar tidak mengakui orang-orang Rohingya sebagai warga negara Myanmar. Dengan demikian, etnis Rohingya adalah orang-orang yang tidak memiliki kewarganegaraan. Mereka tidak mendapatkan perlindungan dari negara manapun karena mereka adalah stateless person (orang tanpa kewarganegaraan). Tekanan yang dialami oleh etnis Rohingya yang dilakukan oleh pemerintah Myanmar membuat mereka lari ke negara lain untuk mencari suaka. Terkadang kehadiran pengungsi yang mencari suaka ke suatu negara dikembalikan secara paksa. Perlakuan seperti ini sangat jelas melanggar prinsip-prinsip hukum adat internasional yang diakui oleh negara-negara beradab. Terdapat beberapa peraturan yang berkaitan dengan masalah pengungsi, yang mana menjamin hak-hak dari para pengungsi. Hak untuk mendapat suaka sudah tercantum dalam pasal 14 (1) Universal Declaration of Human Rights. Tetapi dalam kenyataannya terdapat berbagai pelanggaran dalam perlakuan terhadap pengungsi di beberapa negara. Penelitian ini adalah penelitian hukum normatif dengan menggunakan Pendekatan Prundang-Undangan dan Pendekatan Kasus. Penelitian ini akan menganalisa para pencari suaka Rohingya berdasarkan hukum internasional yang berkaitan dengan masalah pengungsi, antara lain: the 1951 Convention Relating to the Status of Refugees dan protokolnya. Hasil kajian akan menunjukkan hukum internasional yang berkaitan dengan masalah pengungsi dapat diterapkan pada kasus pengungsi Rohingya.

Kata Kunci: Pengungsi, Tekanan, Orang Tanpa Kewarganegaraan, Hak Asasi Manusia

I. BACKGROUND

In 1962, Ne Win took over the authority of government of Myanmar by staging a coup of U Nu era. The reason for the coup was to resolve an insurgency by ethnic minorities against the government. Then Myanmar Military Junta headed the regime in Myanmar. Since the ruling of military junta, they pressed the Rohingya ethnic in many ways and did not recognize that the Rohingyas one of the minority ethnics or communities in Myanmar Ministry of Foreign Affairs of the Union of Myanmar said:

“In actual fact, although there are (135) national races living in Myanmar today, the so-called Rohingya people are not one of them. Historically, there has never been a ‘Rohingya’ race in Myanmar. The very name Rohingya is a creation of a group of insurgents in the Rakhine State. Since the First Anglo-Myanmar War in 1824, people of Muslim Faith from the adjacent country illegally entered Myanmar Ngain-Ngan, particularly Rakhine State. Being illegal immigrants they do not hold immigration papers like other nationals of the country.” (Alternative ASEAN Network on Burma, 2006: 2)

The government of Myanmar recognized the ethnic of Rohingya as an illegal immigrants who come from Bangladesh. But the Rohingyas themselves state that they are an indigenous Burmese

ethnic group descended from the first Muslim inhabitants of Arakan who arrived in or around the 9th century (Irish Centre for Human Rights, 2010: 22).

Amnesty International notes the human rights violations committed on the Rohingya ethnic by military junta of Myanmar: in 1978 about 200,000 Rohingya people fled to Bangladesh due to the enactment of Nagamin operation by the Military Junta. This operation is done in an effort to examine every individual who is in Myanmar, documenting citizenship status, as well as lists of people who illegally entered Myanmar (Amnesty International, 2004: 5).

According to Amnesty International, Myanmar is one of the countries with long records of human rights violation. The restrictions on freedom of expression, violations of international human rights against ethnic minorities still ongoing. In general periodic reports issued by the Human Rights Council on human rights in Myanmar in January 2011 stated that the government of Myanmar does not done any responses to poor situation in the country or commit to take comprehensive corrective action, including the government has declared that the ethnic minorities, the Rohingyas, have no citizenship rights in Myanmar, so that they are an illegal immigrant status (Amnesty International, 2011).

The following points summarize abuse of 'rights of vulnerable people', including the Rohingyas: denial of the right of citizenhip, restriction on freedom of movement, control of the economy through monopoly system, extortion and arbitrary taxation, forced labor, confiscation of land and property, limitations on access to education, torture and physical extermination, etc. (Alam, 2011: 5-11)

The treatment of military junta of Myanmar who do not consider the Rohingyas as one of the ethnic originally from Myanmar resulting in difficulty to obtain employment and other resources. This treatment led many Rohingya people fled to other countries by sea using boats.

Discriminatory treatment or persecution has forced them, the Rohingyas, to choose to become "boatpeople" and left Myanmar to seek safety in another country to get asylum. A countries that become a transit or destination by them such as Bangladesh, Malaysia, Pakistan, Saudi Arabia, Thailand, Indonesia, and Australia (Rismayati, 2009: 16)

The ongoing conflict in Myanmar if not treated properly can compromise the security as well as a burden for the countries as a destination or transit for the Rohingya refugees. They have become a regional issue because it involves many countries in the region around Myanmar, particularly in Southeast Asia. Therefore it should be a negotiation to find the best solution in order to stop violations of human rights against the Rohingyas. The problem settlement becomes more complicated because the Myanmar military junta refuses to recognize the Rohingyas as one of the original ethnic of Myanmar.

A refugees, asylum, and those who do not have citizenship (stateless person) already regulated in many International legal instruments that originated from the UDHR, such as the Declarations on Territorial Asylum, the 1951 Convention relating to the Status of Refugees, the 1967 Protocol relating to the Status of Refugees (Clayton, 2012: 23).

Refugees are vulnerable to get abuse treatment from the authorities in any countries they landed. As individuals, community groups, and as human beings they are entitled to humane treatment. The rights attached to the refugees are rights concerning civil rights, political, economic, social and cultural rights, which apply to all of the people in the world (Hamid, 2012: 304).

But the fact that these rights cannot be fully enjoyed by many people because some countries are not yet become the party to the international human rights instruments that guarantee the rights of refugees. Some countries have not yet ratified it.

Sometimes the presence of refugees in the country of transit or destination countries were forcibly repatriated (send them back to their originally place). Such treatment is clearly contrary to the principles of international law recognized by civilized nations.

II. RESEARCH METHOD

A. The Type of Research

The type of this research is a normative legal research with the international law and Indonesian law approach through the regulations and conventions that regulate it, especially that related with the issue of Rohingya refugee

This research would use statute approach (Ibrahim, 2006: 302), because it would tell some regulations such as Universal Declaration of Human Rights and other conventions relating to the issue of refugees which applicable to the Rohingyas case, for instance 1951 Convention Relating to the Status of Refugees and its Protocol.

This research would also use case approach (Ibrahim, 2006: 321), because this research aims to study the norms or regulations in practice pertaining to the Rohingyas case.

B. Technique of Collecting Data

The methods of collecting data in this research will be done through library research by literature learning. This method will collect data from reading, analyze, and try to make conclusion from related documents namely convention, laws books, legal journals, and others which related to the main problem as the object of this research.

C. Technique of Data Analysis

The data will be analyzed systematically through juridical thinking. Systematically means the research will be analyzed based on international law and Indonesian law, especially relating to the issue of human right. Juridical thinking means it would be connected with the principle of law, conventions, and others related regulations.

III. RESULT AND DISCUSSION

A. The Historical Background of the Rohingya Ethnic

Myanmar became independent on January 4, 1948 from the United Kingdom by a peace

agreement between the British and Burmese Nationalists which led by Thakin Nu. On June 18, 1989 Burma was changed to Myanmar. This change was made by the military junta to show that the government is also protecting other ethnic groups in Myanmar, because Burma is the name of the largest ethnic groups in Myanmar. (Pramono, 2010: 1)

Approximately one third of Myanmar's population consists of ethnic minority groups; the seven ethnic minority states take their names from the Shan, Kachin, Chin, Kayin, Kayah, Mon, and Rakhine nationalities. These states surround the central plains of Myanmar, where most of the majority Bama (Burman) people live in the seven Divisions. However every State and Division comprises a mixture of ethnic nationalities; for example thousands of Kayin people live in the Ayeyarwaddy Division. (Amnesty International, 2004: 1-2)

The vast majority of Rohingyas live in the Rakhine State, a geographically isolated area in western Myanmar. The Rakhine State, historically known as Arakan. This region formerly known as Rohang and is now better known as the Rakhine. That is why the Muslims who inhabited the region Rohang called Rohingya, also known as Arakanese Muslims. (Aryanto, 2013: 1) Hence, "Rohingya" is synonymous with "Arakanese" or "Rakhine".

The characteristics of the Rohingyas from the physical appearance, language, and culture that shows closeness with South Asian communities, particularly Chitagonian people (Krustiyati, 2012: 172). The Rohingyas was inhabited in Rakhine since the 7th century (Rismayati, 2009: 21). Although the Rohingyas have for centuries lived in Myanmar, Myanmar's military junta government considers that the Rohingyas are Bengali ethnic which come from Bangladesh. So that the government does not recognize them as one of the ethnics in Myanmar. With the enactment of the Burman Citizenship Law in 1982, made the Rohingyas lost their citizenship in Myanmar.

By the statement of Myanmar's government that states that the Rohingyas have no citizenship status in Myanmar, so it is make the Rohingya face a persecution in their former habitual residence. They have no Myanmar citizenship status so they do not get any protection by the state. There are so many human rights violation that experienced by them. This condition, the treatment of military junta of Myanmar, force them to choose to escape to another country to get an asylum. A countries that become a transit or destination to get an asylum by them such as Bangladesh, Malaysia, Pakistan, Saudi Arabia, Thailand, Indonesia, and Australia.

B. The Rohingyas Asylum-Seekers

The persecution that experienced by the Rohingyas who done by government of Myanmar, make them go to other countries to seek an asylum protection. There is no national security for them because they are not recognized as citizen in Myanmar. The Rohingyas seek an asylum in near neighboring countries of Myanmar, such as Bangladesh, Thailand, Malaysia, etc.

The Rohingyas who reach Thailand by the end of November and December 2008, they detained by Internal Security Operations Command (ISOC) officers for a few days. They were then taken by military units to the Koh Sai Deng island. At December 18, 2008, around 400 Rohingya

people were expelled by the navy of Thailand. They were given food supplies for two days only (<http://www.republika.co.id>).

In early 2009, around a 1000 Rohingya boatpeople arrested when going into the area of Thailand. Thailand Navy arrested Rohingya boatpeople in Andaman Sea and then forcing them back to sea in boats without engines and with no water and food supplies for them. According to the UNHCR representative in Bangkok, although the exact number is not known, at least there are still about a 78 Rohingyas were detained in Ranong, in southern Thailand. The Thai government claimed that the Rohingya boat people as illegal border crossers and categorized as economic migrants, they are not the asylum seekers who could entitled to refugee status (Rismayati, 2009: 21-22).

In Malaysia, the Rohingya people became an illegal migrant workers, while some others were given permanent asylum seekers. In early March 2010, Malaysia maritime authorities have arrested 93 Rohingya who had been floating on a boat for 30 days. Their boat was found off the northwest coast of the Langkawi island (<http://www.voa-islam.com>).

In Bangladesh, about 1,160 Rohingya people have been detained since January 2010 and most of them have been deported to Myanmar. Most of those detained were subjected to torture, even the Rohingyas who are in refugees camps also do not get any protection. They are starving because of Bangladesh's government refused to give permission to international aid agencies to help the refugees (<http://www.voa-islam.com>).

In Indonesia, the police handle as many as 129 people of ethnic Rohingya. They were found in a boat at sea near Krueng Port in Nanggroe Aceh Darussalam on February 15, 2011 around 23:00 p.m. after their boat adrift for 20 days. They reported adrift at sea after their wooden boat's engine was stalled. They, the Rohingyas, claimed to get away from persecution in their homelands, Burma (<http://www.bbc.co.uk>).

The article 14 of the Universal Declaration of Human Rights, states that:

- 1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- 2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Universal Declaration of Human Rights is the root of all instruments that regulates the issue of refugees, especially in the Article 14 (1) UDHR which clearly states that everyone has the right to seek and enjoy in other countries asylum from persecution, in this case is the Rohingya people who seek an asylum to another countries (Clayton, 2012: 187).

Before someone or a group of people be given refugees status, they are an asylum-seekers. Asylum-seekers is general term for a person who has not yet received a decision on his/her claim for refugee status (Jastram and Achiron, 2001: 48).

When internal disputes cause an international refugee problem, it is the responsibility of all nations, especially neighboring countries, to help restore peace and security within the troubled

country (Jastram and Achiron, 2001: 48). In the Rohingya refugees case, it is the responsibility of neighboring countries to help them, such as give them an asylum. It is become an international refugee problem because it's cross boarder countries case.

C. International Law Perspective on the Rohingya Refugees

In seeking to ensure humane treatment for a particularly vulnerable group of people, international refugee law is closely related to international human rights law, which focuses on preserving the dignity and well-being of every individual.

In terms of the entitlements that refugees and asylum-seekers have under international human rights law in the country of asylum (UNHCR, 2005: 30). In international law, to determine or identify a person's status as a refugee or not by use the Convention Relating to the Status of Refugees 1951 and Protocol Relating to the Status of Refugees 1967 (Frenwick and Glancey, 2013: 189).

Article 1A (2) Convention Relating to the Status of Refugee 1951, defines a refugee as:

"... any person who: "As a result of events occurring before 1 January 1951 and owing to wellfounded fear of beingpersecuted for reasons of race, religion,nationality, membership of a particular social group orpolitical opinion, isoutside the country of his nationality and is unable or, owing to such fear, isunwilling to avail himself of the protection of that country; or who, not having anationality and being outside the country of his former habitual residence as aresult of such events, is unable or, owing to such fear, is unwilling to return to it."

The definition of the refugee in the 1951 Convention was later expanded to in Article 1 (2) Protocol Relating to the Status of Refugees 1967:

"For the purpose of the present Protocol, the term "refugee" shall, except as regards the application of paragraph 3 of this article, mean any personwithin the definition of article 1 of the Convention as if the words "As aresult of events occurring before 1 January 1951 and ..." and the words"... a result of such events", in article 1 A (2) were omitted."

Based on the definition of refugees under the provisions on 1951 Convention and its protocol, the Rohingya people have fulfilled a refugee criteria. Because the Rohingyas meet these following criterias (UNHCR, 2005: 56-57):

1. Well Founded Fear

The person concerned must have good reason for fearing return to his/her home country. There are both a subjective element (the person's fear) and an objective element (external evidence "justifying" this fear) to the well-founded fear. In the case of the Rohingyas, it could be seen from the real risk of persecution if they return to their home country, Myanmar.

The fear to go back to their country is reasonable, because the Rohingyas are not recognized as one of the ethnic in Myanmar. The Myanmar's government denied their status of citizenship,

so they do not get national protection and they suffered human rights violation.

2. Persecution

The Rohingyas clearly experienced persecution on their homelands, Myanmar. The denial of right for citizenship make their experience so many violation, such as torture, physical extermination, forced labor, etc.

3. Reasons of Race, Religion, Nationality, Membership of a Particular Social Group or Political Opinion

A person entitled to refugee status if he is afraid of being persecuted for one or more of the five grounds contained in Article 1A (2) of the 1951 Convention, namely race, religion, nationality, member of a particular social group, political opinion. In the case of the Rohingyas, they got a persecution for reasons of race and religion. The ethnic Rohingya different from Burmese ethnic as majority ethnic in Myanmar, this difference can be seen from the language used by them.

Beside the reason of race, religion also be one reason for their persecution. Myanmar's other ethnic groups also suffered persecution, such as Karen and Mon ethnic, but the persecution that received by the Rohingyas more severe compare with Karen and Mon. This happens because Karen and Mon are Buddhist which are the major religion in Myanmar, while the Rohingyas are Muslims.

4. Outside the Country of Nationality/Former Habitual Residence

It is clearly identified that the Rohingyas are in outside of their former habitual residence. They are outside of their country of nationality because they citizenship are not recognized by the Myanmar's government.

The Rohingyas went from their former habitual residence, Arakan, which is the territory of Myanmar, using baot to another country to seek an asylum. Some of them use landline across the boarder of Bangladesh.

5. Unable or Unwilling to Avail Him or Herself of that Country's Protection

In the definition of a refugee under the 1951 Convention, one of the elements is someone cannot or do not want to ask for the protection of the country of origin or former habitual residence. The Rohingyas do not receive protection from their countries of origin because the state, Myanmar, does not grant citizenship status to them. In the absence of citizenship status, the Rohingyas have no national protection from any countries.

Based on the identifications above, the Rohingya people could categorized as a refugee. So they should have a rights of refugees from the countris that have ratified the 1951 Convention and its protocol.

D. The Role of UNHCR to the Rohingya Refugees Case

The UNHCR has a responsibility to provide international protection to refugees. Indeed, it remains the only international organization with a specific mandate to protect refugees at the global level. Under its Statute and subsequent General Assembly and ECOSOC resolutions, and in conjunction with the 1951 Convention, the High Commissioner's responsibilities relate primarily to several groups of people known collectively as "persons of concern to UNHCR" (UNHCR, 2005: 12). These generally include refugees and asylum-seekers, returnees, stateless persons and internally displaced persons (Davis, 2009: 57)

By the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, UNHCR as international organizations dealing with issue of refugees, has the authority to determine the status of a person or group of people and provides long-term solutions to address the problems of refugees, in this case is the Rohingyas.

Before a person or group is given the status of refugees, UNHCR would undertake verification process to them, whether they would entitled as refugees or not.

In Article 6 of the 1950 Statute of the UNHCR, the authority to provide international protection, include:

1. *i) Any person who has been considered a refugee under the Arrangements of 12 May 1926 and of 30 June 1928 or under the Conventions of 28 October 1933 and 10 February 1938, the Protocol of 14 September 1939 or the Constitution of the International Refugee Organization.*
(ii) Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality or political opinion, is outside the country of his nationality and is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it.
2. *Any other person who is outside the country of his nationality, or if he has no nationality, the country of his former habitual residence, because he has or had well-founded fear of persecution by reason of his race, religion, nationality or political opinion and is unable or, because of such fear, is unwilling to avail himself of the protection of the government of the country of his nationality, or, if he has no nationality, to return to the country of his former habitual residence.*

The definition of refugee in UNHCR Statute does not differ much with the definition of refugee in 1951 Convention and 1967 Protocol. Based on UNHCR Statute concluded that the Rohingyas could entitled as a refugees. The Rohingyas includes in person in needs a protection by UNHCR. Moreover, as we know that the Rohingyas have no citizenship status or stateless person, so they included in "person of concern to UNHCR".

Although in some countries the Rohingya people recognized as an economic migrants, not an asylum-seekers, such as Thailand that entitled the Rohingyas as an economic migrants, a Hand-

book on Procedures and Criteria for Determining Refugee Status paragraph 63, states:

“Behind economic measures affecting a person’s livelihood there may be racial, religious or political aims or intentions directed against a particular group. Where economic measures destroy the economic existence of a particular section of the population where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”

Although an economic reasons puts to the Rohingyas who fled to other countries, they are still able to obtain refugee status, they seek a better life because basically they suffered from the persecution that they experienced in Myanmar. Therefore, they are entitled to get an international protection as a refugee as well as stated in the 1951 Convention and its protocol (Davis, 2009: 78).

In the case of the Rohingya refugees, UNHCR has a function to perform long-term (durable solution) settlement to them. These solution divided into three, such as:

1. Repatriation

Repatriation is the solution taken by UNHCR to restore refugees to their home country or their former habitual residence. Repatriation consist of two, repatriation by UNHCR and voluntary repatriation.

In practice, UNHCR promotes and facilitates voluntary repatriation through various means, including organizing “go-and-see” visits for refugees; compiling updated information on their country and region of origin; engaging in peace and reconciliation activities; promoting housing and property restitution; and providing return assistance and legal aid to returnees (<http://www.unhcr.org>).

Repatriation solutions have a requirement that the country of origin of refugees must be in a safe condition. This is not good solution to applied to the Rohingyas, considering that there are a thread of persecution could happen to them because the Rohingya have no citizenship status in Myanmar, so they would not get any protection from the state. Moreover, the state/government itself who do persecution to them, the Rohingyas.

2. Local Integration

Local integration is an attempt to integrate the refugees become citizens of the country of asylum.

Local integration is a complex and gradual process which comprises distinct but related legal, economic, social and cultural dimensions and imposes considerable demands on both the individual and the receiving society. In many cases, acquiring the nationality of the country of asylum is the culmination of this process (<http://www.unhcr.org>).

It is not easy to integrate the Rohingyas with the local people, because in some countries they are marginalized in some places, detention place.

3. Resettlement

Some refugees cannot go home or are unwilling to do so because they will face continued persecution. Many are also living in perilous situations or have specific needs that cannot be addressed in the country where they have sought protection. In such circumstances, UNHCR helps resettle refugees in a third country as the only safe and viable durable solution (<http://www.unhcr.org>).

Resettlement is a solution by UNHCR that involve another country as a third party on refugee case settlement. Nine governments (<http://www.unhcr.org>), such as; United States, Canada, Australia, Sweden, Norway, Finland, New Zealand, Denmark, The Netherlands, currently host the bulk of the refugees who are annually resettled in new countries.

IV. REMARKS

A. Conclusion

On the resarch above, based on the international law pertaining to the issue of refugees, the Rohingya people could be categorized as the refugee. Because they, the Rohingyas, fulfilled the requirements to be categorized as a refugee, based on the meaning of refugee in the 1951 Convention Relating to the Status of Refugee and the 1967 Protocol.

Before the Rohingyas get a refugee status, they are an asylum-seekers who should get a protection from all of the state. It is based on the article 14 of Universal Declarations of Human Rights which states that everyone has the right to seek and to enjoy in other countries asylum from persecution. The Rohingyas escaped from their former habitual residence because of many persecution happens to them.

UNHCR as one of international organization which mandate by the United Nations have a duty to protect the right of refugees, in this case is the Rohingyas. They categorized as refugee because the Rohingya fulfilled the characteristics as a refugee based on the UNHCR statute. UNHCR give an assitance and to determine the status of the asylum-seekers whether they are refugee or not to the states have not been ratified the convention relating to the status of refugee.

B. Suggestion

Every states, especially ASEAN countries, should reatified the 1951 Convention Relating to the Status of Refugees and its protocol in order to facilitate the handling of refugees, in this case is the Rohingyas refugees case. At least all the states should respect the customary international law which is non-refoulement principle as the guidance to their applicable regulation relating to the refugees.

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