

Protection of Rohingya Refugees: Collective Responsibility of ASEAN Member States under International Law

Alejandro

San Beda University
jandro@sanbed.edu.ph

Abstract

The Rohingya refugee crisis has emerged as one of Southeast Asia's most pressing humanitarian and legal challenges. Rooted in systemic persecution and statelessness in Myanmar, the plight of the Rohingya has led to large-scale forced displacement across the region. This article examines the legal obligations of ASEAN member states concerning refugee protection under international law, particularly the principle of non-refoulement, and evaluates ASEAN's role as a regional organization in coordinating collective responsibility. Using a normative legal methodology, the study adopts statute, case, and conceptual approaches to analyze the gaps between international legal standards and ASEAN's regional practices. Findings reveal that while most ASEAN states have not ratified the 1951 Refugee Convention and the 1967 Protocol, they remain bound by customary international law. ASEAN's current response—largely humanitarian and short-term—falls short of establishing durable legal protection mechanisms. The article argues for the urgency of developing a regional refugee protection framework, modeled on the Comprehensive Plan of Action (CPA) for Vietnamese refugees in 1989, as a viable strategy to balance humanitarian imperatives with state sovereignty.

Keywords:

Rohingya
Refugees; ASEAN;
International Law;
Non-refoulement;
Responsibility-
Sharing; Human
Rights Protection

INTRODUCTION

The Rohingya refugee phenomenon represents one of the most pressing humanitarian issues in Southeast Asia over the past decade. The Rohingya, a predominantly Muslim ethnic group, have faced systematic discrimination, expulsion, and violence in Myanmar. This persecution has led to the forced exodus of approximately 800,000 individuals to neighboring countries, particularly Bangladesh, Malaysia, Indonesia, and Thailand (Shohel, 2020; Khan et al., 2023). The humanitarian crisis stemming from the Rohingya's plight not only underscores significant human rights violations but also highlights the broader implications of ethnic conflicts and displacement within the regional context.

From an international legal standpoint, the refugee issue is closely linked to the principle of non-refoulement as established in the 1951 Refugee Convention and the 1967 Protocol. However, many ASEAN member states have yet to ratify these instruments, raising critical questions about the extent of ASEAN's collective responsibility in ensuring legal and humanitarian protections for Rohingya refugees (Hamilton et al., 2022; Kamruzzaman et al., 2024). The absence of a legal framework complicates the provision of aid and the safeguarding of rights for the Rohingya, further exacerbating their vulnerable situation.

This paper aims to analyze the international legal obligations of ASEAN countries regarding the protection of Rohingya refugees and assess the role of ASEAN as a regional organization in coordinating collective responsibilities. It seeks to bridge the gaps in understanding how regional frameworks can be utilized to address the challenges faced by Rohingya refugees (Tay et al., 2021; Hossain, 2020).

The complexities of the Rohingya refugee crisis require a multifaceted approach that considers not only the immediate humanitarian needs but also the long-term implications of their status and well-being. The challenges encountered by the Rohingya in the host countries, such as social stigma, lack of legal recognition, and restricted access to essential services, necessitate comprehensive regional strategies (Khan et al., 2020; Faruque et al.,

2022). Ensuring the effective integration and protection of Rohingya refugees will contribute not only to the welfare of this population but also to the stability and social cohesion within host communities in ASEAN countries.

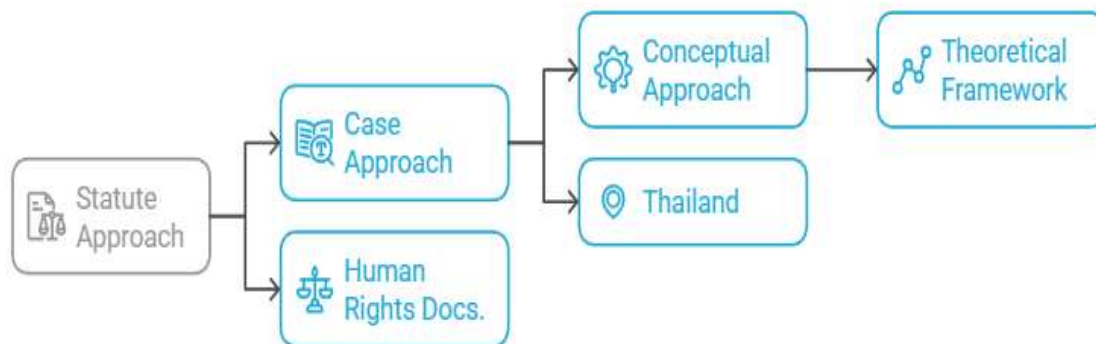
METHODS

This study employs a normative legal methodology utilizing three distinct approaches to comprehensively analyze the Rohingya refugee crisis. Firstly, the Statute Approach explores international legal instruments related to refugees, particularly the 1951 Convention and the 1967 Protocol, as well as relevant international human rights documents. This approach is vital as it provides a foundational legal framework to assess the obligations of the ASEAN member states and their adherence to international refugee laws, facilitating a clearer understanding of legal norms governing refugee protection (Shukri, 2021; Hossain et al., 2021; Missbach & Stange, 2021). Understanding these statutes helps identify gaps in legal protections and the implications for the Rohingya under ASEAN's purview as more states face increasing pressure to align with these international standards (Hamilton et al., 2022; Hossain et al., 2021; Missbach & Stange, 2021).

Secondly, the Case Approach examines the handling of Rohingya refugees in Indonesia, Malaysia, and Thailand, allowing for a comparative analysis of regional practices (Kamruzzaman et al., 2024; Kakinuma, 2021; Siddiqi, 2022). By focusing on these specific countries, the study scrutinizes how each state responds to the refugee crisis and the impact of such responses on the Rohingya's plight. This analysis indicates substantial variances in the reception and treatment of Rohingya refugees, which are influenced by each country's resource availability, political climate, and public sentiment towards refugees, highlighting systemic barriers and supportive measures that coexist within these environments (- et al., 2023; Ahammad et al., 2024).

Lastly, the Conceptual Approach investigates the doctrine of responsibility-sharing within international refugee law and its relevance to ASEAN. This theoretical exploration is crucial for examining how ASEAN can collectively address the Rohingya refugee situation. It critiques the credibility of ASEAN's Principle of Non-Interference against the pressing need for cooperative action among member states to provide adequate support and protection for refugees (Ruhullah & Mutiarin, 2021; Tay et al., 2021). Data for this research comprises primary legal materials (international treaties, ASEAN declarations, official UN documents), secondary literature (academic publications, journal articles, NGO reports), and tertiary sources (legal dictionaries, encyclopedias). The analysis is conducted qualitatively, focusing on deriving normative conclusions that can inform policy recommendations (Faruque et al., 2022; Sakib, 2023; Neef et al., 2023).

Research Methodology Framework



RESULTS AND DISCUSSION

1. Principles of International Law on Refugee Protection

The central principle of international refugee law is the concept of non-refoulement, which prohibits the return of refugees to their countries of origin where their safety is at risk. This principle is recognized as customary international law and is binding on all states, including those that have not ratified the 1951 Convention relating to the Status of Refugees (Siregar, 2024; Lutz et al., 2021). Additionally, there exists the principle of shared responsibility (burden-sharing), emphasizing that the protection of refugees is a collective obligation of the international community (Gauci, 2022; Lutz et al., 2021). The acknowledgment of these principles is critical in fostering a cooperative international environment aimed at safeguarding vulnerable populations (Masoumi, 2021; Sutiarnoto et al., 2020; Lutz et al., 2021).

2. Status of ASEAN Countries Regarding Refugee Legal Instruments

Most ASEAN countries, with the exceptions of the Philippines and Cambodia, have not ratified the 1951 Convention and the 1967 Protocol (Haron et al., 2023; Almustafa, 2021). This lack of ratification results in legal limitations within domestic frameworks for granting official status to refugees. For instance, Indonesia lacks a specific law governing refugees and instead relies on Presidential Regulation No. 125 of 2016 regarding the management of refugees from abroad (Sutiarnoto et al., 2020; Siregar, 2024). Similarly, countries such as Malaysia and Thailand experience comparable scenarios concerning the absence of structured legal protocols for refugee status recognition (Haron et al., 2023; Almustafa, 2021). This absence critically constrains the humanitarian responses these nations can provide (Taha et al., 2024; Zhu, 2024).

3. ASEAN's Responsibility as a Regional Organization

ASEAN operates under the principle of non-interference, which often hampers regional responses to pressing issues such as the Rohingya crisis (Ferdous & Atar, 2025; Haron et al., 2023). Nonetheless, ASEAN has endeavored to respond through mechanisms such as the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre) to facilitate humanitarian assistance (Tappis et al., 2021; Mancini et al., 2021). Despite these efforts, the interventions remain short-term and do not adequately address the long-term legal protections that refugees require in such crises (Ling & Hayashi, 2024; O'leimat et al., 2022). The challenge remains for ASEAN to develop a more

cohesive strategy that aligns with the shared responsibility principle recognized in international law (Scales et al., 2023; Mlambo, 2024).

4. Urgency for a Regional Refugee Protection Mechanism

Given the inadequacies present in national instruments, there is an urgent need for ASEAN to create a regional framework for refugee protection, potentially established as a regulatory agreement—an initiative aligned with the responsibility-sharing ethos in international law. This framework could take inspiration from past successes, such as the Comprehensive Plan of Action (CPA) utilized for the Vietnamese refugee crisis in 1989, which serves as a historical reference for effective collective action by ASEAN (Cheng et al., 2024; Lutz et al., 2021). Establishing such a mechanism would not only enhance the region's capacity to address refugee issues but also contribute to a more stable and humane response to refugee crises (Li & Li, 2022; Tappis et al., 2021).

Discussion

1. Principles of International Law on Refugee Protection

- The principle of *non-refoulement* is binding as customary international law, obligating ASEAN states regardless of treaty ratification.
- Shared responsibility highlights refugee protection as a collective duty of the international community.

2. Status of ASEAN Member States

- Most ASEAN states, except the Philippines and Cambodia, have not ratified the 1951 Convention and 1967 Protocol.
- Domestic legal frameworks remain weak; e.g., Indonesia relies only on Presidential Regulation No. 125/2016.
- Absence of comprehensive legal recognition limits protection and service access for Rohingya refugees.

3. ASEAN's Role and Limitations

- ASEAN's *non-interference* principle hinders regional collaboration.
- Current interventions, such as the AHA Centre, focus on humanitarian aid but lack legal protection mandates.
- A regional strategy aligned with international law is urgently needed.

4. Towards a Regional Protection Mechanism

- ASEAN could establish a refugee protection framework, inspired by the 1989 Comprehensive Plan of Action (CPA).
- Such a mechanism would enhance long-term legal safeguards, promote responsibility-sharing, and strengthen regional stability.

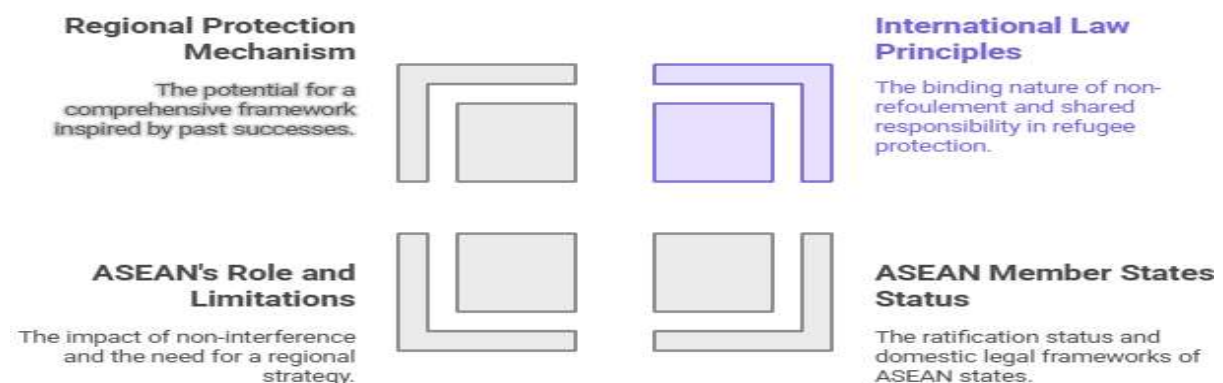


Figure I. ASEAN Refugee Protection Framework

CONCLUSION

The Rohingya refugee crisis underscores the urgent need for ASEAN to move beyond ad hoc humanitarian measures and develop a coherent legal framework for refugee protection. While ASEAN member states' limited ratification of refugee treaties constrains domestic legal recognition, the binding force of *non-refoulement* obligates them under customary international law. ASEAN's reliance on short-term humanitarian mechanisms is insufficient to address the scale and complexity of the crisis. A regional refugee protection mechanism, modeled on the CPA for Vietnamese refugees, offers a pragmatic pathway to harmonize state sovereignty with humanitarian responsibility. Strengthening ASEAN's collective response not only ensures the protection and dignity of the Rohingya but also contributes to regional stability and international credibility.

Reference

- Ahammad, T., Ahmed, S., & Sharmin, S. (2024). Decoding online narratives and unraveling complexities in the Rohingya refugee crisis. *Social Media + Society*, 10(4). <https://doi.org/10.1177/20563051241288942>
- Almustafa, M. (2021). Reframing refugee crisis: A “European crisis of migration” or a “crisis of protection”? *Environment and Planning C: Politics and Space*, 40(5), 1064–1082. <https://doi.org/10.1177/2399654421989705>
- Cheng, Y., Wang, S., & Liu, Y. (2024). Construction of a comprehensive international legal protection mechanism for climate refugees. *Ecological Civilization*, 1(3), 10007–10007. <https://doi.org/10.35534/ecolciviliz.2024.10007>
- Faruque, A., Alam, B., Nahar, B., Parvin, I., Barman, A., Khan, S., ... & Ahmed, T. (2022). Water, sanitation, and hygiene (WASH) practices and outreach services in settlements for Rohingya population in Cox's Bazar, Bangladesh, 2018–2021. *International Journal of Environmental Research and Public Health*, 19(15), 9635. <https://doi.org/10.3390/ijerph19159635>
- Ferdous, J., & Atar, E. (2025). Stalled repatriation of Rohingya refugees: Diplomatic hurdles, regional politics, and the path to sustainable solutions. *Asia & the Pacific Policy Studies*, 12(3). <https://doi.org/10.1002/app5.70037>
- Gauci, J. (2022). Protecting trafficked persons through refugee protection. *Social Sciences*, 11(7), 294. <https://doi.org/10.3390/socsci11070294>
- Hamilton, D., Sultana, M., Ho, L., Arai, M., Businge, E., Lukwata, R., ... & Wright, J. (2022). Managing hypertension in a Rohingya refugee camp: A brief report. *BMJ Open Quality*, 11(4), e001846. <https://doi.org/10.1136/bmjopen-2022-001846>
- Haron, A., Saidin, M., & Othman, Z. (2023). The human (in)security of Syrian refugees in Malaysia. *Social Sciences*, 12(6), 317. <https://doi.org/10.3390/socsci12060317>
- Hossain, A. (2020). How is ICT shaping the refugee governance landscape in transitional Bangladesh? *Central and Eastern European EDem and EGov Days*, 338, 203–215. <https://doi.org/10.24989/ocg.338.16>
- Hossain, I., Ali, I., Azman, A., Ahmad, I., & Mehedi, N. (2021). The Rohingya refugee crisis: A threat to peace and security in South Asia. *The International Journal of Community and Social Development*, 3(4), 353–371. <https://doi.org/10.1177/25166026211028365>
- Kakinuma, Y. (2021). Nexus between Southeast Asian stock markets, Bitcoin and gold: Spillover effect before and during the COVID-19 pandemic. *Journal of Asia Business Studies*, 16(4), 693–711. <https://doi.org/10.1108/jabs-02-2021-0050>

- Kamruzzaman, P., Siddiqi, B., & Ahmed, K. (2024). Navigating the shift in Bangladeshi host community's perceptions towards the Rohingya refugees: A declining sympathy. *Frontiers in Sociology*, 9. <https://doi.org/10.3389/fsoc.2024.1346011>
- Khan, A., Islam, M., Khan, Z., Tanvir, N., Amin, M., Khan, I., ... & Qadri, F. (2023). Implementation and delivery of oral cholera vaccination campaigns in humanitarian crisis settings among Rohingya Myanmar nationals in Cox's Bazar, Bangladesh. *Vaccines*, 11(4), 843. <https://doi.org/10.3390/vaccines11040843>
- Khan, H., Rahman, M., Molla, M., Shahjahan, M., & Abdullah, R. (2020). Humanitarian emergencies of Rohingya older people in Bangladesh: A qualitative study on hopes and reality. *Ageing International*, 47(1), 20–37. <https://doi.org/10.1007/s12126-020-09400-y>
- Li, Y., & Li, J. (2022). Representation of refugees and officials in U.S.-Mexico border crisis newsbites: A multimodal critical discourse analysis. *Journal of Social Science and Humanities*, 4(1). [https://doi.org/10.53469/jssh.2022.4\(01\).36](https://doi.org/10.53469/jssh.2022.4(01).36)
- Ling, B., & Hayashi, M. (2024). Refugee protection in Japan and Taiwan: Common challenges and ways forward for human security (pp. 29–60). https://doi.org/10.1007/978-981-97-2867-1_2
- Lutz, P., Stünzi, A., & Manser-Egli, S. (2021). Responsibility-sharing in refugee protection: Lessons from climate governance. *International Studies Quarterly*, 65(2), 476–487. <https://doi.org/10.1093/isq/sqab016>
- Mancini, T., Imperato, C., Vesco, S., & Rossi, M. (2021). Digital communication at the time of COVID-19: Relieve the refugees' psychosocial burden and protect their wellbeing. *Journal of Refugee Studies*, 35(1), 511–530. <https://doi.org/10.1093/jrs/feab082>
- Masoumi, A. (2021). Contagious terror: Violence, haunting and the work of refugee protection. *Studies in Social Justice*, 15(3), 475–496. <https://doi.org/10.26522/ssj.v15i3.2528>
- Missbach, A., & Stange, G. (2021). Muslim solidarity and the lack of effective protection for Rohingya refugees in Southeast Asia. *Social Sciences*, 10(5), 166. <https://doi.org/10.3390/socsci10050166>
- Mlambo, V. (2024). Conflicts and violence: The challenges of protecting refugees in Sub-Saharan Africa. *Humanities and Social Sciences Quarterly*, 31(1), 117–132. <https://doi.org/10.7862/rz.2024.hss.08>
- Neef, K., Jones, E., & Marlowe, J. (2023). The conflict, climate change, and displacement nexus revisited: The protracted Rohingya refugee crisis in Bangladesh. *Journal of Peacebuilding & Development*, 18(3), 231–247. <https://doi.org/10.1177/15423166231190040>
- O'leimat, A., Jones, C., & Hayter, M. (2022). Middle Eastern refugee children and adolescents mental health: A systematic review. *International Journal of Mental Health Nursing*, 32(3), 687–703. <https://doi.org/10.1111/inm.13088>
- Ruhullah, M., & Mutiarin, D. (2021). The roles of alliances in governments' relationships between Bangladesh and Indonesia epoch of H. E. Sheikh Hasina and H. E. Joko Widodo: The case of Rohingya refugees (2017–2020). *Jurnal Bina Praja*, 13(2), 343–355. <https://doi.org/10.21787/jbp.13.2021.343-355>
- Sakib, A. (2023). Rohingya refugee crisis: Emerging threats to Bangladesh as a host country? *Journal of Asian and African Studies*, 60(2), 1230–1249. <https://doi.org/10.1177/00219096231192324>
- Scales, S., Park, J., Nixon, R., Guha-Sapir, D., & Horney, J. (2023). Disease burden among refugees in camps on mainland Greece, 2016–2017: A retrospective cross-sectional study. *BMC Public Health*, 23(1). <https://doi.org/10.1186/s12889-023-16472-3>

- Shohel, M. (2020). Education in emergencies: Challenges of providing education for Rohingya children living in refugee camps in Bangladesh. *Education Inquiry*, 13(1), 104–126. <https://doi.org/10.1080/20004508.2020.1823121>
- Shukri, S. (2021). The Rohingya refugee crisis in Southeast Asia: ASEAN's role and way forward. *Journal International Studies*, 17. <https://doi.org/10.32890/jis2021.17.10>
- Siddiqi, B. (2022). Challenges and dilemmas of social cohesion between the Rohingya and host communities in Bangladesh. *Frontiers in Human Dynamics*, 4. <https://doi.org/10.3389/fhumd.2022.944601>
- Siregar, M. (2024). Indonesia's response to Rohingya refugees in the perspective of international law in 2023. *The Easta Journal Law and Human Rights*, 2(02), 51–58. <https://doi.org/10.58812/eslhr.v2i02.197>
- Sutiarnoto, S., Leviza, J., & Azam, S. (2020). Rohingya stateless persons: Role of UNHCR in refugee protection and lack of adequate legal protection in Indonesia. *Yustisia Jurnal Hukum*, 9(2), 287. <https://doi.org/10.20961/yustisia.v9i2.43196>
- Taha, I., Rofii, M., & Riyanta, S. (2024). Rohingya refugees: A study of Indonesian government policies. *AJESH*, 3(4), 813–821. <https://doi.org/10.46799/ajesh.v3i4.298>
- Tappis, H., Ramadan, M., Vargas, J., Kahi, V., Hering, H., Schulte-Hillen, C., ... & Spiegel, P. (2021). Neonatal mortality burden and trends in UNHCR refugee camps, 2006–2017: A retrospective analysis. *BMC Public Health*, 21(1). <https://doi.org/10.1186/s12889-021-10343-5>
- Tay, A., Miah, M., Khan, S., Mohsin, M., Alam, A., Ozen, S., ... & Ventevogel, P. (2021). A naturalistic evaluation of group integrative adapt therapy (IAT-G) with Rohingya refugees during the emergency phase of a mass humanitarian crisis in Cox's Bazar, Bangladesh. *EClinicalMedicine*, 38, 100999. <https://doi.org/10.1016/j.eclinm.2021.100999>
- Zhu, Y. (2024). The legal framework for refugee acceptance and protection in Japan (pp. 93–117). https://doi.org/10.1007/978-981-97-2867-1_4