



**TECHNIUM**  
**SOCIAL SCIENCES JOURNAL**

**Vol. 15, 2021**

**A new decade  
for social changes**

[www.techniumscience.com](http://www.techniumscience.com)

ISSN 2668-7798



9 772668 779000

## The Plight of Refugees in ASEAN Member Countries

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**Abstract.** This paper identifies and analyzes the efforts of ASEAN member states in addressing the contemporary threats and hardships experienced by refugees. The situation is further exacerbated by the pandemic brought about by the COVID-19 coronavirus. As an international organization, ASEAN is expected to have a collective and cooperative strategy to address this. However, ASEAN member states do not exhibit large-scale collaborative efforts to resolve the plight of the refugees. Rather, mutual agreements seem to be limited to the host/transit country and the native country of the refugees. Liberal institutionalist theory that emphasizes the function of international institutions to aid multinationals cooperation in certain areas is used to explain ASEAN's role to deal with the plight of refugees in South East Asia. It is recommended for ASEAN members to re-examine the potential of international relations in securing a safer and sustainable future for refugees.

**Keywords.** ASEAN member states, refugees, Covid-19, coronavirus, South East Asia

### Introduction

The COVID-19 pandemic has riled up global affairs, and its long-lasting impact on various social groups remains uncertain. It is feared that refugees, who make up almost one percent of the global population<sup>1</sup>, will be hard hit by the dangers and impact of the pandemic as they are a significantly vulnerable group to begin with.

Refugees are recognized by the United Nations (UN) as people who are forced to leave their home or country for fear of being persecuted, whether this is because of ethnicity, nationality, religion, membership, political views, or historical ties, among other factors. Refugees may have escaped violence by fleeing their countries but they still face many serious obstacles ahead of them, as they are not easily given the rights that can help them towards a decent living.

Prior to the pandemic, international efforts to mitigate the refugee crisis were already necessary. In 1950, the UN General Assembly established the office of the UN High Commissioner for Refugees (UNHCR) to lead and coordinate international action to protect refugees and resolve refugee problems worldwide. The functions and services of the UNHCR include promotion of advocacy, education, public health, shelter, and coordinating assistance, livelihood, and economic inclusion, among others.

The 1951 Refugee Convention was drawn up by the UN to convey the underlying principle of upholding the rights of refugees, namely 1) The right not to be expelled, except under certain, strictly defined conditions; 2) The right not to be punished for illegal entry into the territory of

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<sup>1</sup> Sheany, "The Plight of Refugees in Indonesia"

a contracting State; 3) The right to work; 4) The right to housing; 5) The right to education; 6) The right to public relief and assistance; 7) The right to freedom of religion; 8) The right to access the courts; 9) The right to freedom of movement within the territory; and 10) The right to be issued identity and travel documents. While the UNHCR can be said to fulfill a significant and pivotal role in helping refugees, it cannot be alone in this mission, as the global issue concerns a large network of international relations, national and local governments, and the private sectors.

In this connection, it becomes crucial to know how member states of the Association of Southeast Asian Nations (ASEAN) are responding to the crisis, given that in this specific region of the world, there are prolific and diverse cases of refugee crisis.

The thrust of the intergovernmental association ASEAN is described to foster diplomatic and economic relations among member countries. With this in mind, the researchers explored the state of refugees in the ASEAN member states with reference to a liberal institutionalist perspective. The conclusion provides recommendations on what ASEAN member states should do to address the existing refugee crisis amidst the pandemic crisis.

### **Research Method**

This research applies qualitative content analysis on data collected from journal articles, official public documents, and reports in online media. On the theoretical aspect, this research uses liberal institutionalist theory which emphasizes on the role of international organizations and societies in world affairs. The idea of liberal institutionalism began when Robert Keohane and Joseph Nye proposed the complex interdependence concept in world affairs that distinguishes institutionalism from realism.<sup>2</sup> Those distinctions are multiple channels connecting societies that can be summarized as interstate, trans-governmental, and transnational relations; the absence of hierarchy among issues which neglect whether the issue is high or low-politic; and military force is not used by governments towards others within the region.<sup>3</sup> From this interdependence, the actors of world affairs can join hands together with absolute gain in mind to deal with transnational issues. Furthermore, Graham Allison, a fellow institutionalist, argues that globalization and contemporary issues have proven that states cannot react unilaterally, but they need regional and global set of rules or government in the form of institutions to deal with threats.<sup>4</sup>

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<sup>2</sup> Robert O. Keohane and Joseph S Nye, "Power and interdependence." *Global Politics and Strategy* 15(1973): 158-165.

<sup>3</sup> Robert O. Keohane and Joseph S Nye, *Power and interdependence* (New York: Longman).

<sup>4</sup> Graham Allison, "The Impact of Globalization on National and International Security." In *Governance in a Globalizing World*, ed. J Donahue and J Nye (Washington D.C.: Brookings Institution Press, 2000), 84.

## **Discussion and Analysis**

To present the varying levels of response of ASEAN member countries towards the plight of the refugees, the discussion features the status of refugees in each member country.

### **Brunei**

Based on a UNHCR report, it is stated that Brunei is not a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness.<sup>5</sup> Despite the assertion in the report that there are no asylum-seekers or refugees in Brunei, it has ratified international human rights instruments that are relevant to the protection of refugees, asylum-seekers and stateless persons, including: the Convention on the Elimination of All Forms of Discrimination against Women; the Convention on the Rights of Persons with Disabilities; and the Convention on the Rights of the Child.

These are significantly helpful because as of December 2013, the Government reported that there were 20,524 stateless permanent residents in Brunei, where a significant number of stateless persons were of Chinese or aboriginal descent. The Brunei government can be lauded for its cooperative efforts with UNHCR with regard to the statelessness mandate, specifically on facilitating the integration and naturalization of stateless persons who are permanent residents. A total of 2,420 stateless persons acquired Brunei citizenship in the period of 2009 to 2012.<sup>6</sup> The Nationality Law of Brunei indicates that minors can be registered as nationals depending on the Majesty and that non-nationals depending on certain eligibility criteria.

### **Cambodia**

In October 2014, Cambodia had an agreement with Australia to receive 1,1000 asylum seekers, receiving \$35 million in development aid from the latter.<sup>7</sup> However, deals such as this are met with criticism, such as Australia not upholding its commitment to the 1951 Refugee Convention, and that Cambodia is not really capable of taking care of the refugees, if it could barely help its own people. Even the aid that is received is said to be going to corrupt hands:

Cambodia has a deplorable human rights record and is infamous for using refugees as bargaining chips in bids for foreign aid. And like many struggling third world nations, Cambodia is easy prey for huge multinationals. Most recently, Toll Holdings Limited, an Australian company has agreed to a joint-venture 30-year deal with the Cambodian government to restore their defunct railway system that has been in a state of disrepair since 2009. Toll received \$84 million from the Asian Development Bank, none of which will trickle down to the people living there.<sup>8</sup>

The deal between Cambodia and Australia has been described as an expensive failure, as just three of seven resettled refugees are still in Cambodia, with families still not reunited.<sup>9</sup> Later

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<sup>5</sup> United Nations High Commissioner for Refugees, "Brunei Darussalam Human Rights' Compilation Report Universal Periodic Review."

<sup>6</sup> Ibid.

<sup>7</sup> George Nickels, "Cambodia's refugee crisis."

<sup>8</sup> Ibid.

<sup>9</sup> Sophie McNeill, Sashka Koloff, and Patricia Drum, "Cambodia's Hun Sen 'preparing' to receive more refugees under deal with Australia."

on, the controversial deal would be said to have “expired”, with critics continuing to say that the Cambodian government would not have gone out of its way to protect refugees, give residency or any path towards citizenship<sup>10</sup>.

### **Indonesia**

In Jakarta, Indonesia, the government as well as private companies and social foundations have begun efforts to see to it that refugees, mostly coming from Afghanistan and Somalia, get access to basic necessities such as clean water, sanitary supplies, free medical checkup and education for their children.<sup>11</sup> The current shelter of the refugees is a disused military building in West Jakarta. Siloam International Hospitals had taken in refugees with critical illnesses, whereas the Pelita Harapan Education Foundation has opened a learning centre for children near the refugee center.<sup>12</sup>

It has been said that these refugees had wanted to be relocated to Australia, but the country had shown continued reluctance to accept them.<sup>13</sup> Refugees in Indonesia ultimately long for independence, waiting for a country to accept them so that they can work to support themselves. The Indonesian Foreign Affairs Ministry is working towards urging countries such as Australia to follow the 1951 Refugee Convention, to expedite the assistance to refugees and asylum seekers.<sup>14</sup> Indonesia is dipping into its own budget to find solutions for the refugees, as there is a shortage of funds in the UNHCR.<sup>15</sup> The civil society has also mobilized efforts to help refugees by establishing centers and networks dedicated to protect and promote the rights of the refugees, such as the Indonesia Civil Society Network for Refugee Rights Protection, The Refugee Learning Center, and the Refugees and Asylum Seekers Information Center<sup>16</sup>.

### **Laos**

The Hmong ethnic group in Laos has been reported as persecuted by the Laos government since 1975, since expressing support to the American soldiers in the time of the Vietnam War.<sup>17</sup> Over 17,000 Hmong fighters and 50,000 Hmong civilians are reported as casualties of the Pathet Lao administration, and this has resulted in over 40,000 Hmong leaving Laos to save themselves, although over 100,000 refugees are said to have died while attempting to go to Thailand. Most of the Hmong refugees live in a military-patrolled camp in the Petchabun province of Thailand, with limited food, water, and medical services.<sup>18</sup>

Laos and Thailand are now in talks to repatriate the Hmong back to Laos, but the plan was criticized by human rights groups as the safety of the Hmong is not guaranteed, although the

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<sup>10</sup> David Boyle and Hul Reaksmey, “Australia’s Cambodia Refugee Deal is Dead.”

<sup>11</sup> Bayu Marhaenjati and Lenny Tambun, “Refugees in Jakarta Get Free Education, Health Service, but Uncertainty Remains.”

<sup>12</sup> Ibid.

<sup>13</sup> Primus Dorimulu, “House Speaker Tells Australia to Stop Avoiding Responsibility for Refugees Stranded in Indonesia.”

<sup>14</sup> Bayu Marhaenjati and Lenny Tambun, “Refugees in Jakarta Get Free Education, Health Service, but Uncertainty Remains.”

<sup>15</sup> Primus Dorimulu, “House Speaker Tells Australia to Stop Avoiding Responsibility for Refugees Stranded in Indonesia.”

<sup>16</sup> Sheany, “The Plight of Refugees in Indonesia.”

<sup>17</sup> Maria Carmen Martin, “The Hmong Crisis: The Secret Tragedy of Laos.”

<sup>18</sup> Aljazeera, “Hmong refugees sent back to Laos.”

government of Laos has denied this.<sup>19</sup> The government of Thailand, which has described the situation as a “never-ending problem”, seems to be keen on sending the Hmong back to Laos, as it is also home to a great number of refugees from Myanmar and Cambodia. The repatriation had begun as well for years, with Thailand moving ahead “despite complaints from the US, the UN, and human rights and aid groups” with the belief that the refugees are still in “serious danger of persecution at the hands of the Lao authorities.”<sup>20</sup> Moreover, it is widely believed that the repatriation is forced, rather than voluntary, as medical services and food from aid groups had been halted by the military.

### **Malaysia**

Previously a transit country, Malaysia is currently home to more than 170,000 refugees, with over 80% hailing from Myanmar.<sup>21</sup> This is despite the country not ratifying the 1951 Refugee Convention, which provides basic standards of treatment to refugees. However, this also means that refugees do not have legal rights in Malaysia, and this has forced some refugees to work in informal jobs with a high risk of exploitation and deportation.<sup>22</sup> One study conducted by the Asia School of Business shows that Malaysians with negative perceptions of refugees have never met one before, but this attitude changes after interacting with refugees for as few as three hours.<sup>23</sup> A spark of hope can be seen in the growing popularity of social enterprises selling products made by refugees, which are said to be well-received by local patrons. Refugees are also permitted to have relatively free movement in Malaysia, unlike in Thailand, where refugees are situated in camps. The Malaysian Foreign Ministry has called for the Myanmar government to “pursue justice for alleged human rights abuses against the Muslim Rohingya minority” in order for the refugees to feel secure in returning to their country<sup>24</sup>. The Organization of Islamic Cooperation has agreed to take Myanmar to the International Court of Justice for human right violations, based on evidence that the Myanmar military had committed genocidal crimes towards the Rohingya in 2017, which led to more than 700,000 Rohingya fleeing for safety to Bangladesh<sup>25</sup>.

### **Myanmar**

The Rohingya of Myanmar have long been victims of systematic discrimination, statelessness, and targeted violence in the Rakhine state of Myanmar, and have fled to congested camps in Bangladesh for safety in the last decades, and most recently in 2017.<sup>26</sup> Horrifying reports of burned villages, execution and gang rapes are associated with their fleeing. Through international collaborative efforts, the Rohingya are being given some level of humanitarian aid, although their future and safety is still uncertain.<sup>27</sup> Whereas Myanmar denies the ethnic group of Rohingya citizenship, they would be considered as illegal migrants in Bangladesh.<sup>28</sup> Another major area of concern is the fact that Rohingya children are missing basic education opportunities as an effect of this refugee crisis, particularly because Rohingya

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<sup>19</sup> Ibid.

<sup>20</sup> Seth Mydans, “Thailand Begins Repatriation of Hmong to Laos.”

<sup>21</sup> Lamia Mounavaraly, “Refugees can contribute to nation.”

<sup>22</sup> Ibid.

<sup>23</sup> Ainaa Aiman, “Don’t like refugees? Try meeting one.”

<sup>24</sup> Associated Press, “Malaysia: Myanmar must be accountable for Rohingya to return.”

<sup>25</sup> Associated Press, “Malaysia: Myanmar must be accountable for Rohingya to return.”

<sup>26</sup> United Nations Office for the Coordination of Humanitarian Affairs, “Rohingya Refugee Crisis.”

<sup>27</sup> Ibid.

<sup>28</sup> British Broadcasting Corporation, “Myanmar Rohingya: What you need to know about the crisis.”

children are not allowed to attend public schools in Bangladesh.<sup>29</sup> Their current situation is described as follows:

The United Nations Children's Fund and its partners offer Rohingya refugees aged 4 to 14 two-hour daily lessons on Burmese, English, math and life skills at about 1,600 learning centers located at the camps. These classes keep about 145,000 Rohingya children – or about 30% of the Rohingya youngsters in Bangladesh – occupied for part of the day but do not provide the kind of formal education that will allow the children to work toward a high school degree and enter the job market.<sup>30</sup>

Recently, Rohingya refugees have requested Myanmar to grant them citizenship during a meeting held at South Bangladesh, with the aim of discussing repatriation issues.<sup>31</sup> Doubts still cloud over the efforts of Myanmar to reach out to the Rohingya, as the latter believe that as Muslims, they will continue to not be recognized in a Buddhist nationalist country.<sup>32</sup>

Moreover, there is still fear that their villages and towns in the Rakhine state of Myanmar are still not secure<sup>33</sup>. Appeals to stop violence in Myanmar had been made by the UN Security Council<sup>34</sup>.

### **Philippines**

The Philippines has been lauded by the UNHCR for its continued practice of welcoming refugees escaping war and persecution in their home countries, at a time when inward-looking, security-focused policies have become dominant.<sup>35</sup> It is the only ASEAN country that has ratified the UN Refugee Convention to help refugees integrate in their new communities.<sup>36</sup> Since the end of World War I, the Philippines opened its doors to “White Russian” refugees in 1922, European Jews in 1934, Spanish Republicans in 1939, Chinese immigrants in 1940, the second wave of “White Russians” in 1948, Vietnamese in the 1970s, Iranians in the late 1970s, Indo-chinese in the 1980s, and the East Timorese in 2000.<sup>37</sup> The incumbent Philippine President Rodrigo Duterte is quite vocal in keeping the Philippine doors open to refugees, stating that this decision is due to western countries' failure to help them.<sup>38</sup> In 2019, he has also publicly offered citizenship to Rohingya refugees, at a time when Bangladesh is experiencing difficulties in providing humanitarian assistance and repatriation.<sup>39</sup> The Philippine Refugee Processing Center has facilities to accommodate refugees in need.

### **Singapore**

In the midst of the Rohingya migrant crisis, Singapore is not accepting any refugees or asylum seekers, citing limited land and natural resources as the primary reasons.<sup>40</sup> Indeed, Singapore is

<sup>29</sup> Jesmin Rubayat, “Without school, a ‘lost generation’ of Rohingya refugee children faces uncertain future.”

<sup>30</sup> Jesmin Rubayat, “Without school, a ‘lost generation’ of Rohingya refugee children faces uncertain future.”

<sup>31</sup> Shehab Sumon, “Rohingya refugees press citizenship demands in talks with Myanmar.”

<sup>32</sup> Ibid.

<sup>33</sup> Adam Bemma, “Rohingya refugee voices amplify across Southeast Asia.”

<sup>34</sup> British Broadcasting Corporation, “Myanmar Rohingya: What you need to know about the crisis.”

<sup>35</sup> Laurice Peñamante, “Nine Waves of Refugees in the Philippines.”

<sup>36</sup> Adam Bemma, “Rohingya refugee voices amplify across Southeast Asia.”

<sup>37</sup> Adam Bemma, “Rohingya refugee voices amplify across Southeast Asia.”

<sup>38</sup> Steve Chao, “Duterte offers refugees a home in the Philippines.”

<sup>39</sup> Daily Star, “The Philippines offers Rohingyas citizenship.”

<sup>40</sup> Jasmine Osada, “Singapore can't accept refugees: MHA.”

one of the smallest countries in the world, with the city-state becoming one of the most densely populated as well.<sup>41</sup> However, the government has pledged to send humanitarian assistance, so that refugees can depart to a host country. This is with reference to the plight of the Rohingyas being unable to find a haven after fleeing Burma in 2009.<sup>42</sup> It should be noted though, that from 1975 to 1996, Singapore once served as the home to some 32,000 refugees from Vietnam, with the condition that a third country can guarantee their departure in a limited time.<sup>43</sup> Singapore even had a Vietnamese refugee camp (a former British army barrack) in Hawkins Road for almost twenty years, which was considered to be one of the better and more humane refugee camps in the region as it did not house more than 150 refugees at one given time.<sup>44</sup> The camp was closed down by June 1996, when the last batch of Vietnamese refugees went back to their home country voluntarily. This has been described as an “unpleasant historical experience” for Singapore, as many refused to return home voluntarily, even going on protests and hunger strikes outside the UNHCR office in Singapore. On the basis of these events and its own size limitations, Singapore has followed a closed-door policy for refugees since then. True to the government’s position, in 2012 a vessel carrying 40 Burmese asylum seekers arrived in Singapore but was denied entry by Singaporean authorities<sup>45</sup>.

### **Timor-Leste**

The road to independence of Timor-Leste from Indonesia in the late 90s and early 2000 was marked by violence, leading to a quarter of a million East Timorese seeking refuge in neighboring West Timor (Bremner, 2014)<sup>46</sup>. Refugees were said to have been fleeing vicious beatings, shootings, machete attacks, decapitations, torture, sexual violence and mass killings, at the hands of pro-integration militias and Indonesian military and security forces<sup>47</sup>. In 1999, UNHCR opened its office in Timor-Leste to assist people to return home by assisting in the building of new homes and other reconciliation efforts.<sup>48</sup> However, even UNHCR staff became casualties to domestic violence. These were Samson Aregahegn, Carlos Luis Caceres-Collazo and Pero Simundza - who were killed during violence in Atambua, West Timor, in September 2000.<sup>49</sup> This deplorable act shows the extent of the brutality related to the struggle for national independence. The incident also led to the immediate evacuation of NGO and UN workers from Atambua and Kupang<sup>50</sup>.

In recent times, Timor-Leste is described to have addressed its humanitarian problems through sustained nation-building efforts, and in 2012, the UNHCR office was closed after 12 years of operations, and is described to have almost no refugees or asylum seekers.<sup>51</sup> It is also one of the countries to have signed the 1951 UN Refugee Convention, and is praised by the UN for having national laws in effect to process refugee or asylum-seeker claims. However, anecdotal reports from 2013 of the experiences of refugees returning to Timor-Leste cite that they still felt that

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<sup>41</sup> Jerry Lewis Ong, “Does Singapore Have a Reason to Refuse Refugees?”

<sup>42</sup> Audrey Palzkill, “Facts about refugees in Singapore.”

<sup>43</sup> Jasmine Osada, “Singapore can't accept refugees: MHA.”

<sup>44</sup> Belmont Lay, “In 1978, S'pore's Vietnamese Refugee Camp in Sembawang was one of the more humane camps in the region.”

<sup>45</sup> Jerry Lewis Ong, “Does Singapore Have a Reason to Refuse Refugees?”

<sup>46</sup> Sharna Bremner. “Asylum seekers: fear and uncertainty in Timor-Leste.”

<sup>47</sup> Ibid.

<sup>48</sup> Kitty McKinsey, “Timor-Leste vows never to turn back on refugees as UNHCR office closes.”

<sup>49</sup> Andrej Mahecic, “UNHCR closes office in Timor-Leste, ending 12 year operation.”

<sup>50</sup> Ibid.

<sup>51</sup> Kitty McKinsey, “Timor-Leste vows never to turn back on refugees as UNHCR office closes.”

personal safety was their utmost concern, as they were still subjected to poverty, intimidation, beating, and psychological problems<sup>52</sup>.

### **Thailand**

There appears to be a bleak situation for Myanmar refugees in Thailand, as they have experienced drastic cuts to humanitarian assistance, leading to reported cases of depression and suicide among refugees.<sup>53</sup> It has been said that refugees are under pressure to move out of the ten refugee camps along the Thailand-Myanmar border and move back to Myanmar, where unfortunately, violence has still been reported to continue.<sup>54</sup> Thailand itself is not a party to the 1951 Refugee Convention.<sup>55</sup> Humanitarian workers voice out that the decreased aid has led to increased mental health problems in the refugee camps, but also point out that never-ending humanitarian aid should not replace long-term political solutions. Funding of agencies has been re-channeled towards the peace process inside Myanmar, although there is speculation that this is merely a way for Western powers to gain a foothold in the country after a long period of direct military rule.<sup>56</sup> As a result of the barriers in rebuilding their lives, more than 300 refugees from Thailand are said to have returned home, and would be the fourth batch since 2016 to come back to their home country in a process supported by the government and the UNHCR.<sup>57</sup> While there is a promise of improved conditions in parts of southeast Myanmar, the refugees will still face challenges such as lack of job opportunities, infrastructure for development and security issues, as there are still unexpected clashes between the army and rebels in some villages.<sup>58</sup> The government, led by Aung San Suu Kyi, has made ending the long-running insurgencies with rebel groups a priority<sup>59</sup>.

### **Vietnam**

Vietnam is known for having mass displacement of its Indochinese people as a consequence of the Vietnam War in the 1970s. About 65,000 Vietnamese were said to have been executed after the end of the war, and one million Vietnamese were sent to prison, where an estimate of 165,000 people died.<sup>60</sup> The Vietnamese refugees fled to neighboring Southeast Asian countries such as Malaysia, Singapore, Thailand, Philippines, and Hong Kong.<sup>61</sup> They have been called “boat people” for having fled by boats and ships, eventually moving to temporary camps in transit countries, and settling in host countries such as the United States, Canada, and Australia.<sup>62</sup> However, some refugees were not as fortunate as they were not always welcomed in some areas, and were reported to have experienced local hostility, pirate attacks, sinking of boats and ships, as well as fatal dehydration. Adding to the risk was the fact that many Vietnamese refugees used makeshift boats that were not built for open waters and when overcrowded, can lead to people falling or the boat itself sinking.<sup>63</sup> Incumbent US President

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<sup>52</sup> Sharna Bremner, “Asylum seekers: fear and uncertainty in Timor-Leste.”

<sup>53</sup> Joshua Carroll, “Stress of return stalks Myanmar refugees in Thai border camps.”

<sup>54</sup> Joshua Carroll, “Stress of return stalks Myanmar refugees in Thai border camps.”

<sup>55</sup> Ibid.

<sup>56</sup> Ibid.

<sup>57</sup> John Zaw, “Myanmar refugees head home to uncertain future from Thailand.”

<sup>58</sup> Ibid.

<sup>59</sup> Joshua Carroll, “Stress of return stalks Myanmar refugees in Thai border camps.”

<sup>60</sup> Charles Trueman, “Vietnamese boat people.”

<sup>61</sup> Mark Rowe, “Vietnam’s boat people.”

<sup>62</sup> Ibid.

<sup>63</sup> Charles Trueman, “Vietnamese boat people.”

Donald Trump is said to be trying to deport more than 9000 Vietnamese refugees who have had “trouble with the law”, even though this includes nonviolent offenses committed decades ago.<sup>64</sup> The basis for the plan would be a 2008 agreement between the U.S. and Vietnam in an apparent bid to allow for the deportation of Vietnamese people who arrived in the U.S. before 1995, including Vietnam War refugees<sup>65</sup>.

### **The Refugees and Institutionalism**

UNHCR as an institution for refugee relief worldwide has known to be the guardian of the 1951 Refugee Convention and 1967 Protocol. But as of October 2020, only 3 countries in ASEAN that signed the convention and the protocol, which are Cambodia, the Philippines, and Timor-Leste. The rest of the members who are not the signatories party of both UNHCR’s convention and protocol for refugees. ASEAN member states like Malaysia, Singapore, Indonesia, Laos had repeatedly refused to sign the Convention because they failed to see its applicability to their particular refugee problems.<sup>66</sup> The rejection of the convention due to their view of international refugee law as flawed in two aspects, It was created to respond to European refugees problem as an aftermath of World War 2 which is not suited to the unique experiences of refugees in recently decolonized states and the refugee law is giving heavy burden on developing states.<sup>67</sup> Thus, UNHCR require to for a partnership relations with different actor including private sector, and in the Asia-Pacific, business leaders are involved to create an advantage through partnership in the Bali Process Declaration to overcome human trafficking, people smuggling, and other transnational crimes.<sup>68</sup>

Moreover, the shortcomings of 1951 Convention could be improved through time as long as the task of states, international institutions and refugee lawyers are gradually to fill the shortcomings through further codification, soft law, judicial outcomes, best practice and general interpretation.<sup>69</sup> There are several improvements from 1951 convention to the 1967 protocol which the dissolution of the geographical and temporal limitations and the gradual acceptance of the definition to encompass gender-related or sexual orientation-based persecution<sup>70</sup>. Those changes viewed by liberal institutionalists as the expansion and changing structure of international law to create order between nations and also rationalize the idea of safeguarding refugees and national interest at the same time. When the international law itself could be more generalized, it is easier to create common goals through the institutions and within the same national interests.

ASEAN as regional institutions should have an international law on its own whether it is to solve the source of refugee regionally or to handle the mass exodus of refugees. Because part of the aims of ASEAN is regional peace and stability, ASEAN should also provide its members a unitary law that could compromise the issues that they have faced. But in reality, ASEAN is not strong enough to push a law or to intervene its members – even among the member states,

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<sup>64</sup> Max Boot, “Trump’s plan to deport Vietnamese refugees betrays a sacred American principle.”

<sup>65</sup> Chantal Silva, “The Trump administration wants to deport Vietnam War refugees using a decade-old agreement.”

<sup>66</sup> Sara E. Davies, "The Asian Rejection?: International Refugee Law in Asia." *Australian Journal of Politics and History* 52 (2006): 562-575.

<sup>67</sup> Ibid.

<sup>68</sup> Fauzan et al., "Capacity Building and Market Intervention for Refugees: A Study of Current and Future Direction towards Sustainable Refugee Management." *Andalas Journal of International Studies* IX (2020): 48-60

<sup>69</sup> Thomas Gammeltoft-Hansen, "International Refugee Law and Refugee Policy: The Case of Deterrence Policies." *Journal of Refugee Studies* (2014): 1-22.

<sup>70</sup> Ibid.

since the fundamental of ASEAN is non-interference principle. That principle is an outcome of two factors, one is the common historical experience of the colonialism and proxy war between major ideology that brings internal conflict<sup>71</sup>. The second factor comes from the fragility of ASEAN member states in social and political order.<sup>72</sup> Those two factors make its members distrust each other, similar to the Prisoner's Dilemma game, in which they act according to their own national interest and don't produce the optimum outcomes.

The changes should come from within the members which see refugees as a common issue that need to be dealt with accordingly, because one of the refugee's sources is within the ASEAN itself. Approximately, the exodus of Rohingyas are 730.000 people who fled from the conflicts in Myanmar<sup>73</sup>. As mentioned in the discussion section, several states have become their destination. Those affected countries could accept or reject them depending on their domestic policies. If they reject the refugees, the probability for them to go to other countries nearby will be higher and become another issue for others. Thus, with those possibilities, ASEAN member states should join hands under the banner of the institutions to make an international law that can be applied throughout the region. A law that is more suitable for the SouthEast Asia region than the 1951 convention and 1967 protocol.

The other solution of the Rohingya mass exodus is to intervene with the conflict in Myanmar. And that is almost impossible to be executed – or even planned since the fundamental of ASEAN is non-interference. Thus, not only more practicable, the solution could solve refugee issues in general, not exclusively for Rohingya.

However, to make it feasible, ASEAN as institutions should promote self-awareness of its members to trust each other and be more unified. With those conditions, ASEAN members could have a shared national interest and join hands to solve the issue.

### **Covid-19 Pandemic**

Refugees flee to perceived safer locations, but usually with limited resources, no connections and numerous restrictions with the host society. Within the process of their exodus, they may carry infectious disease as a result of exposures in their country of origin, during exodus or conditions during exodus<sup>74</sup>. With current COVID-19 situations, the threat of the disease for both host countries and the refugees could raise more alarming points.

The issue about refugees in pandemic is not only in COVID-19 situation, but also happened in the past such as the Ebola Virus outbreak, Pig Flu (H1N1), Avian Influenza (H5N1). In those times, host country will be more hesitant to accept any outsiders and even used the pandemic as a justification to advance anti-migrant policies<sup>75</sup>. Host countries are taking advantage of the

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<sup>71</sup> Mieke Molthof, "ASEAN and the Principle of Non-Interference."

<sup>72</sup> Hiro Katsumata, "Reconstruction of Diplomatic Norms in Southeast Asia: the Case for Strict Adherence to the "ASEAN Way"." *Contemporary Southeast Asia* 104 (2003): 825-845.

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Reuters, "Timeline: Three years on, a look at the Rohingya crisis," Reuters, 21 August 2020, <https://www.reuters.com/article/us-myanmar-rohingya-timeline-idUSKBN25H03Y>(Accessed October 17, 2020.)

<sup>74</sup> Elizabeth D. Barnett, "Infectious Disease Screening for Refugees Resettled in the United State," *Clinical Infectious Diseases* 39 (2004): 833-841.

<sup>75</sup> Nezurugo et al., "On World Refugee Day, a look at how COVID-19 is affecting refugees and asylum seekers," We Forum, 19 June 2020, <https://www.weforum.org/agenda/2020/06/world-refugee-day-refugees-asylum-seekers-coronavirus-covid-19-pandemic-response> (Accessed October 17, 2020).

pandemic to push through legally dubious hardline migration policies that are not justified by public health concerns<sup>76</sup>.

The pandemic also created operational and logistical constraints on immigration services worldwide<sup>77</sup>. Especially in COVID-19 situation, Nezurugo and Sameera stated that:

Border closures and temporary halts on administering asylum claims have made it impossible for those fleeing conflict areas to evacuate and seek asylum. In addition, new asylum claims cannot be registered in countries like Italy, where immigration offices have been reassigned for emergency coronavirus-related duties. As a result, refugees and asylum seekers can't register a new status claim and are then deprived of basic health care without any formal identification and registration documents.<sup>78</sup>

### **Conclusion and Recommendation**

It can be said that based on the information gathered, the ASEAN member states do not exhibit large-scale collaborative efforts to resolve the plight of the refugees. Rather, mutual agreements seem to be limited to the host/transit country and the native country of the refugees. Furthermore, this cooperation leading to the process of repatriation is largely criticized for the manner in which the repatriation process is conducted, as in the case of Hmong refugees in Thailand, the Vietnamese refugees in the US, or the Rohingya refugees of Myanmar. A more transparent process with long-term, third-party monitors may be one solution to this issue. Transparency in this case might need to involve international media surveillance of the repatriation processes, in order to put forward the concept of accountability as well. Further beyond the promise of security, the Rohingya refugees' rights to citizenship must also be considered to facilitate a truly authentic repatriation.

When refugees need to stay in transit countries for longer periods, the right to work and make decent earnings becomes particularly pressing as continuous and sufficient humanitarian aid is not always guaranteed, and this cannot be considered as a long-term solution as well. In the case of Indonesia, Malaysia, and the Philippines, granting refugees the right to work may be a step towards the right direction, until there is more certainty with the future of the refugees. In addition, it is hoped that humanitarian assistance coursed through these countries will be efficiently delivered, as these countries can also succumb to corruption if regulatory frameworks are not taking effect. In this case, the criticism towards the Cambodia-Australia deal comes to mind.

Singapore and Brunei may be well-justified in its closed-door policy owing to their smaller land sizes. However, beyond humanitarian assistance, Singapore might want to consider how its own ageing population might benefit from the integration of young, able-bodied refugees in its society. The country will have to expand its concept of humanitarian assistance in terms of providing basic and higher education, as well as vocational education. In the same vein, Brunei as an Islamic nation may be a better-fitting transit country, at the very least, to Muslim refugees who were driven out on the basis of their religious belief or affiliation.

In the case of the plight of refugees, it might be applicable to say the old adage that "prevention is better than cure". That is to say that good governance, tolerance towards diversity, and control over military junta abuses can prevent the need of refugees to flee from their own home and country in the first place. In the pandemic era of COVID-19, and even projections of a post-

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<sup>76</sup> Ibid.

<sup>77</sup> Ibid.

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pandemic time will exacerbate the plights of refugees, and necessitate a proactive cooperative framework among ASEAN member countries in the soonest time possible.

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