

CHAPTER II

THE INFLUX OF ROHINGYA REFUGEES, THE PREVIOUS POLICY AND THE POLICY DURING YINGLUCK GOVERNMENT

This chapter begins by introduction of the Rohingya condition in Burma which explains the factor why they have to leave their home. Furthermore, it describes how they reach Thailand which is explaining the condition along their journey in the sea. The situation at the Thailand shores when they found by the Thai navy. Besides, this will explain how Rohingya refugees concern human trafficking, how the condition of Rohingya in Thailand is And how Thai government take an action on this problem.

A. Background information about the Rohingya in Burma.

The Rohingya are a Muslim minority group who live in the North Arakan State of Burma, adjacent to Bangladesh. There are presently over 2 million Rohingyas in the world, and most of them work as casual laborers, farmers and fishermen. The Burmese Junta has always viewed the Rohingya people as illegal immigrants from Bangladesh, even though they had settled in Burma for centuries. The Rohingyas' vulnerable and marginalized status worsened when the 1982 Burma Citizenship Law was enacted rendering

them stateless. The Rohingya people are not included in the 135 racial groups listed by the General Ne Win government.¹

A.1 Causes of Migration: Push and Pull Factors

a. Push Factors

The Thai action committee for democracy in Burma (TACDB) spoke with some of the Rohingyas residing in Thailand, who confirmed, that the Rohingyas are not recognized by the Burmese government as citizens. TACDB additionally found that the Burmese Junta had undertaken measures to systematically deny the Rohingyas their citizenship rights. The 1982 Citizenship Act formalized the ‘statelessness’ of the Rohingyas. It was also learnt that in 1977, the Myanmar Government launched ‘Operation Nagamin’ (Dragon King) to “scrutinize each individual living in the State (of Arakan), designating citizens and foreigners in accordance with the law and taking actions against foreigners who have filtered into the country illegally.”²

Since 1995, the authorities started issuing Rohingyas with a Temporary Registration Card (TRC), but these cards do not grant any right to citizenship. As a result of their lack of legal status, the Rohingyas thus

¹Vittayakorn, B. (2007, June 10). *Talking with human rights activist for Rohingya people*. Salwin Newsletter, p. 52.

²Refugee Watch. (2013). *South Asian Forum for Human Rights*. Retrieved April 20, 2013, from http://www.safhr.org/refugee_watch18_4.htm

have been subjected to many forms of discrimination and violations of their human rights³, such as:

- Restrictions on their freedom of movement, the Rohingya are restricted within their own village and must ask for travel permission and pay a fee to visit other villages. They are prohibited to travel beyond the 3 townships which form North Arakan. Their inability to conduct business or find work outside these areas deprives them of economic means and opportunities. It also affects their access to education and health.

- Forced labor, the Rohingya are forced to work on numerous military projects, and as guards, on average one day and one night-per week, sometimes more.

- Land confiscation, land used for agriculture by the Rohingya is confiscated by the Burmese government for the expansion of military camps and given to Buddhist settlers brought in their area by the government.

- Marriage restriction, the Rohingya must apply to the NaSaKa (border security forces) for permission in order to marry. This process can take up to 2 years or more and involves large bribes, and the couple to be wed has to pledge that they will not have more than 2 children.

³*AI International Myanmar . (2013). The Rohingya Minority: Fundamental Rights Denied. Amnesty.*

- Establishment of Buddhist settlers' villages: Building Buddhist villages in Muslim areas have exacerbates tension between the two communities.

- The Rohingya are constantly subject to arbitrary taxes and various forms of extortion.

As a result of government discrimination, coercive measures and lack of economic opportunities, poverty is widespread in Rohingya communities. The Rohingyas low economic status and high birth rate have resulted in food shortages and poverty. These, along with mistreatment by the Burmese government, have caused many Rohingya to attempt to leave the country and escape to Chittagong division in Bangladesh, which is the nearest to the border area, in fear for their life and safety.

b. Pull Factors

- Rohingya network overseas – Many Rohingya have left Burma and settled overseas. Most of them are in Muslim countries such as in Saudi Arabia, UAE, Indonesia, and Malaysia. Some have settled in other countries, including Thailand. Networks of settled migrants in foreign countries can provide financial and logistical support, as well as encouragement, to their family, kith, kin, friends or the other members of the Rohingya community in leaving Arakan to join them abroad. Given the fact that they are unable to have any life inside Burma, the lure of a possible new life with possibilities to support the family is a dominant pull factor.

- Smuggling of persons and human trafficking - Syndicates of Bangladeshi and Rohingya people smugglers/brokers in the area assist Rohingya boat people from the very beginning of the journey.

Before departure, smugglers and their agents recruited passengers, purchased boats and necessary supplies as well as bribe local authorities to turn a blind eye. These smugglers also arranged contacts with other brokers along the way, including brokers in Thailand. The brokers in Thailand frequently made deals with some corrupt Thai officers, who allowed the brokers and smugglers, for the payment of some money, to bring the detained Rohingyas to Thai-Malaysia border areas and left them with another broker from their destination country.

These destination-country brokers kept them in temporary holding places and then upon payment took them further on to their journey or transferred them to still another set of brokers who will do so. In case the payments were not made, they were sold to the fishing trawlers in Southern Thailand and, if there were women, they were then sold into the entertainment business or sexual slavery.

The route through Thailand to Malaysia appears to be popular with Rohingya people. The Rohingyas have been telling each other that traveling through Thailand is the easiest route to sneak into Malaysia.

A.2 Perilous Journey of the Boat People

a. Implications of Brokers and Traffickers

The Rohingya population in Bangladesh is increasing as many Rohingyas continue to flee with their families from Burma to Bangladesh. Since out-migration from Bangladesh to countries in the Middle East has become difficult, Malaysia had become a popular destination for the Rohingya people in the past years due to its economic development and demand for cheap manual labor.

Stateless and undocumented, the Rohingyas cannot enter Malaysia legally or obtain work permission and, as a result, most resort to the dangerous measures available to them in their desperate situation.

It is very dangerous to enter Malaysia directly. There is a risk of being shot by the Malay military that are much stricter than the Thai military. Also, if the Rohingya would arrive directly to Malaysia, they would first be detained for a long period and then deported to Thailand and pay the same fee to re-enter Malaysia. Thus most of them find it cheaper and faster to arrive in Thailand first, where they feel they are treated humanely. For this reason, traveling from Burma or Bangladesh through Thailand to Malaysia has become the most popular route for Rohingyas.

The number of Rohingya people entering Thailand illegally has increased over the past seven years. A number of deserted islands are well-known among smugglers and brokers who use them for illegal activities. It was learnt that smugglers and brokers have various techniques for drilling

and sinking boats so that the Rohingya aboard them will be rescued by Thai fishing trawlers and taken to the mainland and booked for violating the Thai immigration law. Thai officers often arrested those who entered illegally in provinces along the Andaman coast such as Phuket, Pang-nga and Ranong. Thai military officials have taken a harsh stance towards illegal migrants:

“Rohingyas migration is involved with human smuggling and trafficking from the beginning, during journey, until they reach the destination which sometimes they connect with terrorists, drug trafficking and weapon trade.” – General Manus Kongpant, director of Internal Security Operations Command (ISOC) 4th division part 1, exclusively responsible for the Rohingya boat phenomenon.⁴

The route taken by the Rohingya is dangerous and risky: Each journey is a gamble of life and death. Boats are generally in bad conditions, supplies insufficient and in most of the cases the boat crew is inexperienced. Most of them have never sailed before, and there are no guarantees that they would be reaching the shore. It is also likely that the passengers caught by the Burmese armed forces would be arrested and beaten before they are released and threatened never to come back again.

Around the last of January 2009, a Thai Navy patrol spotted a boat with 78 ethnic Rohingyas, They were found to have several lacerations, burns and other wounds which they claimed were inflicted by the Burmese soldiers. As per news reports, they were found in the Andaman sea off Thailand’s southwest coast in a rickety boat with a broken engine. Currently

⁴*Ranong governor brainstorming to attack Rohinya problem. (2013, Febuary 13). Delinews , p. 5*

they are in police custody in Ranong, pending the decision by Thai government.⁵

“The group of 78 Rohingya were arrested and beaten by the Burmese military along the way. Some were severely injured, e.g., broken legs, burns etc. They were also tortured. The Thai government provided medical assistance to those Rohingya, they were then charged for illegally entering Thai territory as per the Thai immigration law by terming them as “illegal migrant workers”.

b. Cost of Journey from Burma – Thailand – Malaysia⁶

TACDB says the currently detained 78 boat people in Ranong, reportedly contributed the equivalent of 5,000-10,000 baht, per-head, to pay for their journey. None of them had families or relatives in Thailand or Malaysia.

c. Travel Itineraries’ Offered

There are three routes which are offered from Burma / Bangladesh to Thailand and finally to Malaysia: the most popular is via Bangladesh and the second directly from Burma by boat. The sea route is the same.

⁵ *Thailand detains 78 more Rohingya migrants. (2013, January 12). Associated Press , p. 3.*

⁶ *Refugee Watch. (2013). South Asian Forum for Human Rights. Retrieved April 20, 2013, from http://www.safhr.org/refugee_watch18_4.htm.*

1. Travel via Bangladesh - Rohingyas from North Arakan, especially from Maungdaw and Buthidaung, first cross the border to Bangladesh where they board the boats. This trip takes about 10-14 days. They usually come ashore in the provinces of Ranong, Phang-Nga or Phuket.

2. Travel directly from Burma - from Maungdaw Township or from Sittwe, Arakan State, Burma

3. Overland - The migrants enter Thailand through Mae-Sod, Kanchanaburi and Tachilek. This is the least popular route because it's dangerous and time-consuming as the journey is in part or in whole made on foot across Burma.

Departing from Chittagong District of Southeast Bangladesh by boat is the most popular route because these areas are suitable for preparing boats and food, without interference by the Burmese military.

B. Rohingyas in Thailand

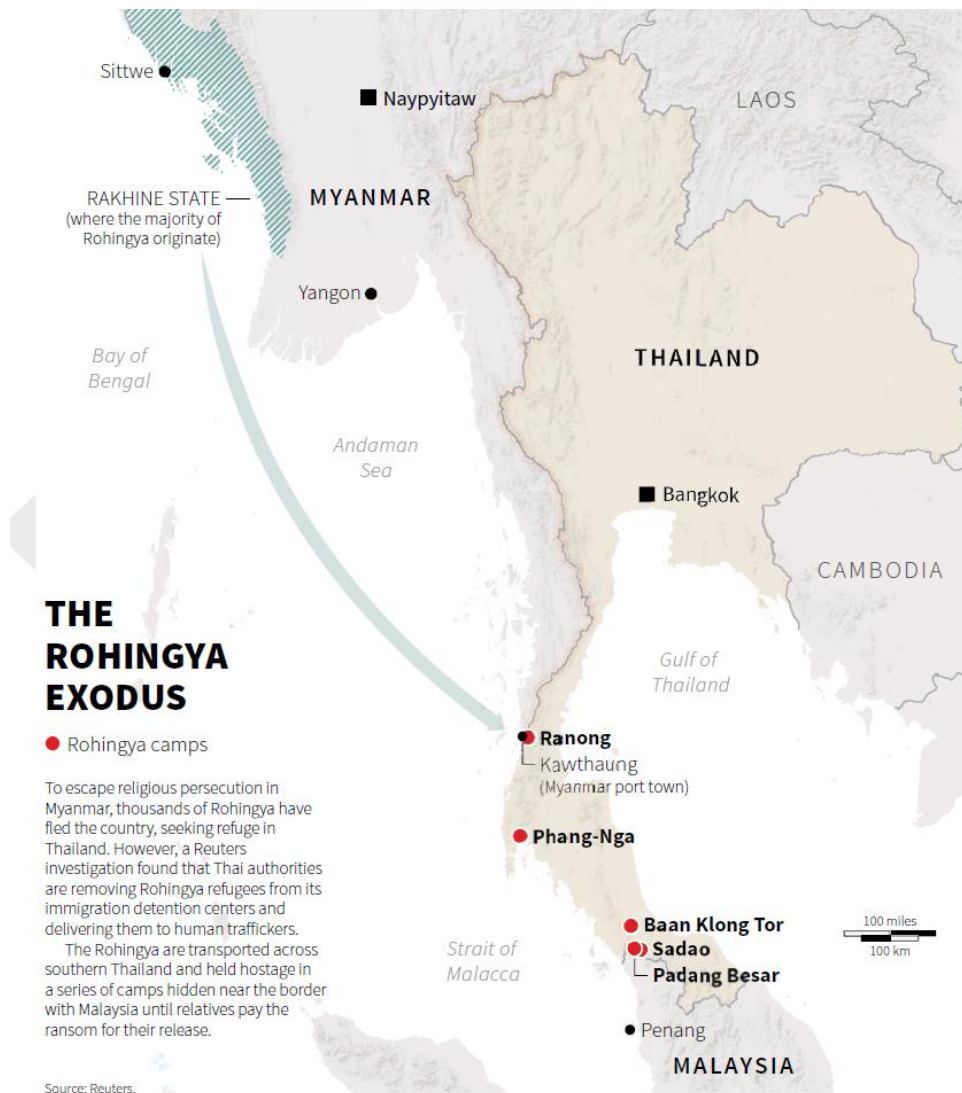


Figure.2 Map of Rohingya exodus from Burma to Thailand

According to the Thai government, there are 20,000 Rohingya in Thailand. Yet a survey conducted under the initiative of the Thai National Human Rights Commission in 2008, on the legal status of Rohingyas in Thailand, revealed approximately 3,000 Rohingyas spread out over

Thailand, particularly in Bangkok, Mae sot, Ranong and the southern provinces. Some of the Rohingya have been in Thailand for over 20 years with many trying to make their living by selling Roti.

Rohingya who enter into Thailand through Ranong usually pay their broker who is a fishnet maker in Ranong. They pay 3,300 baht each. Most of them only pass through Thailand heading towards Malaysia. They usually understand that when they will be arrested by Thai authorities and then they have to pay another 2,000 baht for their freedom. Travel through Thailand is not only shorter but cheaper. Besides, there are systematic brokers operated by Burmese and Thai syndicates. If they are short of money or are arrested, they call their relatives to give the broker or their contacts money in Burma or Bangladesh or Malaysia to make the payments. Those who have no money usually enter into a bond-labor deal. Sometime such arrangements happen on the boats itself or some abandoned Islands

The Rohingyas, desperate to escape the oppression of the Burmese government, accept whatever means they can find in order to escape for their lives and their severely restricted conditions. Since they are not given issued any travel document by the Burmese Junta, they cannot officially travel outside the country and they are forced to rely on the smugglers or traffickers even if the outcome could be life endangering. It is common knowledge that people smugglers are often organized criminals having strong associations with illegally engaged in drug trafficking and bonded

labor. People smugglers often ensnare victims by making false promises of jobs in particular destinations.

Since smuggling activity involves either the use of fraudulent documentation or no documentation at all, it is extremely difficult for a country to accurately distinguish between victims of trafficking and violators of immigration laws as well as between economic migrants and genuine asylum seekers. As a result, the smuggled refugees' claims of how they entered the country are often disbelieved and found not to be credible. Genuine refugee and asylum claims are arbitrarily and summarily dismissed, without the government agencies allowing the proper agencies concerned to carry out refugee status determination or providing the detained people with any independent legal representation and identify those with genuine protection needs.

Victims of trafficking need separate protection and assistance vis-à-vis refugee protection needs, as refugees cannot be deported to the country where their life will be in danger. Any government doing so is thus violating the principles of international law of non-refoulement. Thai Government is thus at the risk of violating its international obligations.

During 1991-2010, Thai government turns their eyes of refugees coming. When Thai navy found them at the shore then they mostly push the rohingya refugees back to the sea. Due to Thai government at that time considered the Rohingya as an illegal immigrant. Therefore, there is no law to protect them. To make it more obviously, I'd like to explain more about

the meaning of Refugees. Refugees are people who are outside their country of origin because they fear of persecution. Most refugees lose everything, way of life, home and sometimes even family.

The 1951 Refugee Convention establishing UNHCR spells out that a refugee is someone who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality, and is unable to, or owing to such fear, is unwilling to avail himself of the protection of that country."⁷

Refugees are different from economic migrants (illegal migrant worker) who leave their country to earn a better living. Refugees are not protected by their own country; they are forced to flee from it. Therefore, it is essential that the international community provide support and protection for refugees.

However, Thailand's refugee policy is fragmented, unpredictable, inadequate and ad hoc, leaving refugees unnecessarily vulnerable to arbitrary and abusive treatment. Thailand is not a party to the 1951 Convention Relating to the Status of Refugees (1951 Refugee Convention) or its 1967 Protocol. It has no refugee law or formalized asylum procedures. The lack of a legal framework leaves refugees and asylum seekers in a precarious state, making their stay in Thailand uncertain and their status

⁷ UNHCR. (2011). *Rohingyaa Refugee*.

unclear. Therefore Thailand considered the Rohingya is as an illegal migrant.

C. Thai Government Policy priors to Yingluck government

C.1 Inconsistency of Policy and Practice

On March 28 2008, Prime Minister Samak warned of an impending crackdown against Rohingya boat people. He said that the Thai Navy is exploring a deserted island to place all the undocumented Rohingyas living in Thailand. He made the statement after emerging from a two-hour long meeting of the country's National Security Council. He expressed his intention to show the Rohingyas "life here (Thailand) will be difficult"⁸

Shortly before the new sailing season of 2008/2009 began, there was a news report on November 6, 2008 which struck a similar tone and indicated that Rohingya boat people would face new tough government measures.⁹ It was reported that the Governor of Ranong, Wanchart Wongchaichana, also the director of Internal Security in Ranong, together with Colonel Manat Kongpan, Commander of ISOC's Fourth Region¹⁰,

⁸ *Rohingya Human Rights. (2008). Relocation of Rohingyas in a Deserted Island in Thailand. Bangkok: ovimagazin.*

⁹ Ranong governor brainstorming to attack Rohinya problem. (2013, February 13). *Delinews*, p. 5

¹⁰ The ISOC or the Internal Security Operations Command (ISOC) or, in Thai, กองอำนาจการรักษาความมั่นคงภายใน (กอ.รมน.), founded during the war against communist, is an agency in which the prime minister is its director. Usually, he appointed a political appointee, not a civil servant, to be his principal deputy to oversee the day-to-day management of the ISOC. Since it was established during the communist-fighting era, no one actually knows whether it is fitted for the current security threat this country is facing. Its recent task was to

oversaw a meeting between police, military and administrative officers on November 6, 2008.

During the meeting it was concluded that since there would be a surge in the number of Rohingya boat people coming this year, additional measures were necessary to closely monitor ocean traffic.

The panel decided to have three levels of ocean patrols:

- The outer level near the border zone, this would be under the responsibility of the Thai Navy, and those who were apprehended there would be pushed back immediately.
- The second level would be under the responsibility of administrative officers, Marine Police, as well as the military, and those who were apprehended in this second zone would also be pushed back.
- The third level, on the coast of Thailand and the nearby islands, would be assigned to the volunteer villagers to whose job it would be to monitor the Rohingya boat people who manage their way past the first two levels. The government also threatened to punish villagers who refuse to notify authorities of the presence of Rohingya boat people.

The governor's statement revealed a push-back policy and an endorsement of the same: "Sometimes, to prevent those Rohingya boat

coordinate operation related to the domestic security. The ISOC came into a spotlight near the end of the Thaksin administration. The responsibility of the ISOC is also widely expanded from fighting terrorism to drug trafficking, and combating poverty. *Retrieved on 11st November 2013*

people to reach our national water will prove more effective than take them to the mainland and file immigration charge. Even though sea patrolling will cost a lot of money especially gasoline and fuels, but bringing those boat people will have problems of how to take care of them and it will be very difficult to deport them since the Burmese government usually refuses to take them . . .”¹¹ The governor’s statement also revealed that the number of boat people had increased since the Government started to document the arrivals in 2006. From 2006 to 2008, there were 1,225, 2,763, and 4,886 Rohingya boat people were arrested by the government, respectively.¹²

C.2 Marine Police and Navy

Thai navy ships have 20-50 sailors per ship. The marine police ships will have 5 police officers per ship. All officers have weapons and a handgun.

C.3 Arrest Procedure by Marine Police

The marine police will tow the boat to the designated island and then tie the hands of the migrant’s behind their backs to prevent them from jumping off the boat as well as for the Safety of the officers.¹³

¹¹ *ibid*

¹² *ibid*

¹³ *ibid*

C.4 Strategic Islands for Arrivals, Detention and Deportation

There are 9 islands along the Thai - Burmese sea border in the Andaman Sea from Ranong to Phang -Nga and to Phuket. These islands include Payam Island, Chang Island and Sai Daeng Island, which sometimes the Rohingya migrants use as a meeting point with their brokers. These islands are also used by the government to control the Rohingya before deporting them or filing immigration charges in Thai court.

C.5 Types of Push Backs policy

As per the facts that were gathered, basically, within 12 nautical miles of radius from the Thai shores, the patrolling is under the responsibility of the Marine Police and others. Further than the 12 nautical miles into the international waters is under the responsibility of the Thai Navy. The following types of push-backs are seemingly being practiced:

1. Immediate push back by the Thai Navy: Thai navy has authority to defend Thai territorial waters further than 12 nautical miles from the coastline. They will push back the boat immediately and use the “threaten to shoot” strategy to those who try to enter the Thai waters.
2. Detention on an island and push back: Those who successfully sneak into Thai territorial waters and if captured by volunteer villagers are detained at some strategic islands mentioned above. They are

then pushed back into the sea or transferred to the Thai immigration authorities.

3. Deportation by Immigration Bureau: Some Rohingya will be brought before judges and charged with illegal immigration and remain in detention before deportation.

The first two types have been preferred by the government. Those two types of pushback bypass formal criminal procedures in order to save time. In the case of those who were allegedly pushed back into the sea, it is clear that the second type of method was used, except that they were not handed over to the Thai immigration authorities, but pushed back into the sea.

However, during PM Yingluck, the policy has changed. Thai government provides them a “six-month temporary stay” that the government allowed them in January comes to an end. Under immense international pressure, the government of Prime Minister Yingluck Shinawatra agreed in January 2013 to let these Rohingya stay in Thailand temporarily, until they could be safely repatriated to their places of origin or resettled in third countries.

D. Yingluck government policy towards Rohingya refugees

During Yingluck holding a position as a prime minister, Thai authorities have acknowledged that no third country has come forward to offer asylum to those seeking protection as a “six-month

temporary stay” that the government allowed them in January comes to an end. Under immense international pressure, the government of Prime Minister Yingluck Shinawatra agreed in January 2013 to let these Rohingya stay in Thailand temporarily, until they could be safely repatriated to their places of origin or resettled in third countries¹⁴.

However, the condition of detention in Thailand is depends. Some live in acceptable conditions. Kamal, a Rohingya refugee said he appreciates the care taker in his detention area that the men can take turns leaving the cell to exercise or to help with cleaning the centre. The local Muslim community and college students bring supplementary food on a regular basis. One immigration detention centre (IDC) worker's mother brings them fruit juice."The staff gives us everything we ask for. They say if we are happy, they are happy¹⁵, said Kamal. While the men are thankful for the understanding shown by IDC staff and the local community, they are increasingly stressed by the lack of news about the families they left behind and the prospect of prolonged detention. They spend their days praying,

¹⁴ *Rohingya detainees in thailand face dire conditions(2013)*. Hadyai: IRIN NEWS

¹⁵ UNHCR. (2013). *Six months on, Rohingya in Thailand struggle to keep hope afloat*.

reciting the Quran, crying and trying to sleep, though no one has slept much in the last six months.

