

Rohingya Refugee in Bangladesh: The Search for Durable Solutions?

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Abstract: The aim of this paper is to discuss the most feasible durable solutions to be implemented in the case of Rohingya refugees in Bangladesh. As part of its core mandate, UNHCR introduced three durable solutions for refugees' namely voluntary repatriation, resettlement and local integration. Prior to the violent attack by Burmese Army that broke out in August 2017, nearly 650.000 Rohingya has fled over the border to Bangladesh. Since then, the country has overwhelmed by the massive exodus. The recent event shows that both Bangladesh and Myanmar agree on the deal to repatriate hundreds of thousands of Rohingya that fled Myanmar within two years. However, neither Rohingya nor the UN was involved in the deals. The recent talks have been debatable since voluntary repatriation must consider the aspect of voluntary, safety and dignity, so that Rohingya could fully reintegrate into their community without any discrimination, persecution and marginalization. If a voluntary repatriation is not a doable option, then either resettlement or local integration becomes the most desirable solution for Rohingya. To address the issue of this study, this paper used the concept of durable solutions introduced by UNHCR in deal with protracted refugee situation. Thus, the current study believes that the three solutions have their own challenges and possibilities. However, de facto integration might be the best option to deal with protracted situation, when the recent talks on voluntary repatriation might be hard to achieve until Myanmar changes its regulation and legislation over the status of the Rohingya.

1 INTRODUCTION

Prior to the violence attack by Burmese Army that broke out in August 2017, nearly 650.000 Rohingya have fled over the border to Bangladesh. Thus, the latest exodus became the largest influx comparing with earlier arrival in 1978, 1992 and 2012. As of June 2018, UNHCR recorded there were 886.778 Rohingya occupies two refugee camps in Kutapalong and Nayapara camps in the Cox Bazaar District of Southeast Bangladesh (UNHCR, 2018).

The Rohingya refugee in Bangladesh was portrayed as protracted refugee situation. They fled the border to escape the alleged persecution by Myanmar authorities on the basis of religious and ethnic discrimination. The history has shown there were hundreds of thousands of Rohingya in Bangladesh have been pushed back to Myanmar since 1978. However, many of them have determined to return to Bangladesh despite they are living with uncertainty in the country. In many protracted refugee situations, durable solution such local integration, resettlement and voluntary

repatriations are needed to be implemented to end the prolonged displacement.

In early 2018, Bangladesh agreed on a bilateral agreement with Myanmar to repatriate more than 700,000 Rohingya, since the massive arrival of Rohingya in Bangladesh in the last quarter of 2017 (Paul, 2018). Repatriation is indeed one of the fastest solutions to implement durable solution. But the history of Rohingya repatriation from Bangladesh has shown that the process does not respect the aspect of voluntarily, safety and dignity.

The study on Rohingya refugee, mostly discussed the historical context, such as questioning the origin of Rohingya and how the group was end marginalized and discriminate by Myanmar authorities as discussed by Ullah (Ullah, 2011). Others scholars like Rahman focused on the dilemma and insecurity facing by Bangladesh as a host country in coping with a Rohingya case (Rahman, 2010). In the other hand, Parnini raised the issue in Bangladesh and Myanmar bilateral relation in deal with Rohingya refugee in Bangladesh. Parnini (Parnini, Othman and Ghazali, 2013) stated that the arrival of massive Rohingya in Bangladesh has loosened the relation between the

two neighborhoods. Meanwhile, the study done by Crabtree focused on economic deprivation faced by refugee in Bangladesh. Although Bangladesh restricts Rohingya to involve in legal work, many of them have participated in low-skilled jobs to sustain their livelihood while they are stacked in limbo.

The gap that existed in the literature was that the issue of durable solution was rarely studied. This discussion paper attempts to bridge the gap by questioning the most doable option of durable solutions for the protracted refugee situation in Bangladesh. Thus, this study would be discussed by looking for the past, present and upcoming policy to end the crisis of Rohingya refugee. This study believes that the current repatriation effort will not reach the durability if Myanmar cannot guarantee the safety and dignity of Rohingya when returning from Bangladesh. While repatriation might not be the best option while Myanmar has not changed its policy, de facto integration could be the main solution for refugees to foster them to be self-reliance to live independently from humanitarian assistance.

2 CONCEPTUAL FRAMEWORK

According to the article no. 33 in Refugee Convention 1951, person with the status of Refugees should not be returned or pushed back to their home country. This means that the host country must accept the arrival of refugees, despite their religious, ethnic, affiliations, and political background. They also supposed to get the basic rights guaranteed by the state that received them. Among these rights are the right not to be discriminated against, the right to obtain shelter, education, employment and so forth as has been set out in the convention. This is also in accordance with the Article 14 of the Universal Declaration of Human Rights, which stated that anybody has the right to seek asylum in another country in order to get the protection from any disruptions. Still and all, the concept of non-refoulement has obliged the country, not to expel refugees when their lives are threatened. Thus, the concept has become an internal customary law. That is, the principle compels not only to the country that ratified the 1951 refugee convention, but also the country that did not ratify, all must respect the principle.

Rohingya refugees in Bangladesh have been categorized as protracted refugees. UNHCR describes the protracted refugee situation as a prolonged condition facing refugees, who find it

difficult to find a way out in solving it. Such prolonged conditions, do not endanger their lives directly, but their economic, social, psychological needs and basic rights are generally not fulfilled. This protracted status is caused by political stagnation and precarious diplomatic efforts both in home and the host country. So there is no final agreement that can be implemented to solve the displacement. This stagnation causes many restrictions towards refugee movement in the host country, especially in relation to employment (UNHCR, 2004).

In dealing with the protracted refugee situation, UNHCR introduced three durable solutions to resolve the issues which are the local integration, voluntary repatriation and resettlement. According to UNHCR, there is no hierarchy in implementing durable solutions. But the best way to implement them is to combine these three solutions with a strong collaboration between the home and host countries, the humanitarian organizations and the refugees themselves (UNHCR, 2007). Voluntary repatriation is to return refugees to their home country with safety and dignity. The repatriation must be based on the basic principle of voluntary and cannot be done by force and coercion. Safety and dignity means that both the host and home country must ensure that the security and dignity of refugees would be guaranteed upon arrival in the home country. According to Long, voluntary repatriation not only indicates the peace process between refugee with their home country, but also denotes the presence of community reconciliation between refugees and indigenous communities in their home country (Long, 2013).

Furthermore, resettlement is defined as the process of transferring refugees from host countries to third countries. As for Stein, resettlement becomes the last resort of durable solutions to be implemented. That is because, although the third country generally categorize as developed, in reality they are also limiting the refugees number entering their country, so that only few refugees can be absorbed in the resettlement process (Stein, 1986).

Jacobsen was described the local integration as the forgotten concept of durable solutions in dealing with refugees (Jacobsen, 2001). Jacobsen might have a point for there is only little literature so far discussing local integration as durable solution for refugees. However, as stated by Fielden and Hovil (Fielden, 2008; Hovil, 2014) it was not a matter of ignored concept, but mostly due to the fact that local integration was undocumented. As mentioned by Hovil, in many protracted refugees situation, local

integration is mostly used and more popular among refugees than the other two durable solutions, the repatriation and resettlement. In legal term, local integration means a situation where refugees are fully accepted by local community which includes citizenship provision. Thus, the formal ways are called as the *de jure* integration. As for *de facto* terms, the integration take place locally only. This means that integration is not only a matter of legal status provision by Government, but also the provision of self-sufficiency and settlement for refugees in local community. Therefore, integration could become a better option for in dealing with protracted situation rather than short term assistance (Jacobsen, 2001; Crisp, 2004; Fielden, 2008; Hovil, 2014).

In many protracted refugee cases, *de facto* integration is far more popular than the formal one. It is because legal integration is much more complex to be implemented in today situation. The generosity of the host country has changed significantly for refugees after 9/11 tragedy, when they consider the forced migration phenomena as a threat to national security. Moreover since the issue of refugee has been securitized in many occasions, it is now getting harder for refugees to gain citizenship from the host country.

3 THE ROHINGYA IN BANGLADESH

Myanmar Citizenship Law 1982 does not include Rohingya as one of the 135 Burmese national ethnic, so they are not regarded as citizens and labeled as stateless people. The Rohingya, Muslim minority living predominantly in Burma's northern Rakhine state, are considered illegal immigrants from Bangladesh, despite the fact that they have settled in Myanmar for hundreds of years (Parnini, Othman and Ghazali, 2013). This unrecognized status affects the Rohingya where they are susceptible to discrimination, oppression, torture, physical abuses, and religious persecution by the Government of Myanmar. That is, making Rohingya took refuge to the neighboring countries, without exception Bangladesh.

The condition of Bangladesh shows that the country is not a well place to receive refugees. As one of the most densely populated countries in the world, Bangladesh is still struggling with poverty and massive growing population. Moreover, the country also known for its vulnerability because it is

often exposed to natural disasters and climate change (Kiragu, Rosi and Morris, 2011). In fact, in terms of legality, Bangladesh does not ratify the 1951 Refugee Convention and its Protocol of 1967. Thus, the country does not have an obligation to deal with Rohingya refugee. However, the country has ratified several human rights conventions such as the Convention on the Rights of Migrant Workers and Their Families.

In connection with the forced migrations, the authors categorize four phases of Rohingya influx into Bangladesh. The first wave took place in 1978, when the Burmese military junta deployed Dragon King Operation. The massive operation resulted in mass murder and ethnic expulsion of Rohingya from his residence (Parnini, 2013). As a result, an estimated 200,000 Rohingya fled over the border to Bangladesh. In an attempt to provide protection for Rohingya, the Government of Bangladesh constructed 20 refugee camps in 1992, but only two camps remain as yet, which are Kutapalong and Nayapara camps in the Cox Bazaar district in southern Bangladesh (Milton *et al.*, 2017).

Dating back to 1991-1992, the Government of Myanmar deployed military forces in the Rakhine. They're increasing the construction of military companies and highways throughout the area, in which Rohingya was charged with ethnic discrimination and alleged for violating Myanmar citizenship law North Rakhine region to the border of Bangladesh. The construction of military facilities is accompanied by forced labor, seizure and eviction, physical torture, murder and rape against ethnic Rohingya living in Rakhine. Similarly, mosque facilities are destroyed while religious activities are prohibited as well as attacks on Muslim leaders (Wiggers, 2002). As a result, over 250,000 Rakhine Muslims fled Myanmar seeks a protection to Bangladesh, that event was called as the second wave.

Furthermore, in 2012 as many as 140,000 Rohingya escaped to Bangladesh due to the communal conflict that occurred with the majority Buddhist Rakhine (Wiggers, 2002). In that third influx, the communal conflict led to massacres, mass killings and burning of Rohingya household by the majority of Buddhist Rakhine along with local military groups (Fuller, 2012). The arrival of Rohingya Muslims in Bangladesh increased significantly in early August 2017, when some 700,000 Rohingya Muslims crossed the border into Bangladesh due to attacks and massacres perpetrated by Myanmar military and police officers (Bearak, 2017).

Although Bangladesh did not ratify the 1951 Refugee Convention and the 1967 Protocol, the non-refoulement concept obliged Bangladesh to respect the principle by not pushing back the refugees to their home country. However, it creates the dilemmas for Bangladesh. According to Crabtree, beside to security challenges, the presence of Rohingya in Bangladesh creates tension between refugees and local people because they are considered as a burden that exacerbate the recent problems facing Bangladesh such as poverty, unemployment and underdevelopment (Crabtree, 2010).

Such perception has turned Bangladesh to implements various restrictions for the Rohingya. One is the prohibition of refugees to work both in formal and informal sectors. In reality, however, many refugees are working in the informal sector as low-skilled labor. This then caused tension with the local Bangladeshi population as many of them also worked in the lower job sector (Crabtree, 2010). Another limitation is the policy of encampment, in which Bangladesh imposed a ban on refugees to leaving the camp area without formal approval from local authorities (Parnini, 2013).

4 FORCED REPATRIATION: THE SOLUTION OF NO SOLUTION?

Following the massive arrival of Rohingya to Bangladesh in August 2017, the Government of Bangladesh and Myanmar, proposed the idea to repatriate 650.000 Rohingya back to Myanmar. The agreement was signed by both parties in the first quarter of 2018 and decided to complete the repatriation process within two years, with scheme of 300 people being repatriated to Myanmar every day. To facilitate the repatriation process, five transit camps will be built on the Bangladesh-Myanmar border. However, since the two parties begin the talks, UNHCR has not been widely involved in refugee repatriation scheme (Paul, 2018).

The question over the scheme would be whether the repatriation as one of the three durable solutions, has fulfilled the principle of voluntary, safety and dignity that must be respected in the repatriation process. The UN emphasize that the principal of voluntarily in repatriation process need to get refugee's approval to be returned back to the home country, unless the repatriation defined by forced and coercion and thus, considered as a violation of

individual rights in seeking for protection. Thus, the aspects of safety and dignity also must be considered in doing repatriation.

In the case of Rohingya, the question raised whether Myanmar has been willing to guarantee the safety and security upon the arrival of Rohingya. According to Long (Long, 2013) the repatriation is also a forms of peace agreement between refugees and their home country. It is also forms of reconciliation between refugee and the local community. In the case of Myanmar, the current condition shows there is still no clear stance from the country regarding its policy towards the Rohingya. Myanmar Citizenship Law 1982 has not included Rohingya as part of 135 national ethnic of Myanmar listed in the document. That is, the Rohingya are still stateless because they do not have citizenship status. Means, even Rohingya returns to Myanmar, they will not get proper citizenship rights such as the right to education, health insurance, political rights and so on. Such concern should be emphasized by Myanmar if the country has ready to receive Rohingya back. Technical issues such as the construction of refugee camps in Myanmar also must be considered, as the returnees are no longer having a place to live because their homes were destroyed.

Furthermore, although in the end UN has been involved in the process of repatriation by Bangladesh and Myanmar, the agency is not fully convinced that the repatriation process undertake in the basis of voluntary, safety and dignity. This is because Myanmar has not been able to ensure that all parties will guarantee security, safety, human rights and the status of Rohingya when they are arrived in Myanmar. Just like the recent statement made by UNHCR representatives who visited Myanmar, "From what I've seen and heard from people - no access to health services, concerns about protection, continued displacement - condition are not conducive to returns," (Słodkowski, 2018).

This is not the first time for Bangladesh to repatriate thousands of Rohingya back to Myanmar. In the first influx of refugee arrival in 1978, both countries agreed on agreement to repatriate 200.000 Rohingya back to Rakhine. The agreement was resumed in 1992, when the two countries signing a Memorandum of Understanding (MoU) to re-establish the repatriation program by giving a small portion involvement of UNHCR in the process. However, when the repatriation take placed, Bangladesh completely excluded UNHCR from the process and that makes the country was widely

criticized by international community (Nemoto, 1991).

Thus, both repatriation in 1978 and 1992 strongly indicates the violating aspects of repatriation. Repatriation is indeed becoming the fastest way from three durable solutions to be implemented in protracted refugee situation. But it only becomes a durable solution if Bangladesh could guarantee that the three aspects have been respected. The consequence of neglecting the aspects has resulted in the re-entered thousands of Rohingya back to Bangladesh after series repatriation because Myanmar still cannot guarantee the safety and well being of Rohingya. This repeated pattern only created the solution of no solution and not establishes any significant result to achieve the essence of durables solutions.

5 TOWARDS DE FACTO INTEGRATIONS?

In the case of Bangladesh protracted refugee situation, the local integration might be the best option to gain durable solution. This is because repatriation would not be effective when it is violating the aspect of voluntarily, safety and dignity of refugee. Moreover, since the reluctance of Myanmar in dealing with the status of Rohingya, the solution of repatriation is in vain. The resettlement in third country is not better solution either, when neighboring countries are also burdened with the vast number of Syrian refugees. However, in Bangladesh case, where prolonged condition in terms of Government refusal to grant wide-range rights for the refugees, the *de jure* integration is completely needed.

In order to be locally integrated, the host country along with the international community has to engage to make refugee become self-reliant. This is also a solution to avoid social jealousy and limiting labor competition between locals and refugees. Besides, the purpose of this self-reliance is safeguarding and empowering refugee's activities (UNHCR, 2005, p. 3). The context of this self-reliance is by giving land or place to refugees, to be managed by them. Here, Zimbabwe is a country where refugees already are able to manage self-reliance. The refugees from Democratic Republic of the Congo (DRC) and Burundi in Tongogora Refugee Camp in Zimbabwe already do agriculture sector and do self-sufficiency to support their live. Each family gets 0.08 hectare of land from

Government and they plant maize or beans based on its expert plots (Redden, 2007)

The success example of local integration is between the refugees and local community in Northwestern Tanzania. The integration can be seen through mutual trade, open markets, and inter-marriage between locals and refugees. The local people also opened the health facilities as well as market for refugee to be self-reliant. The other case is Mexico. The country received economic benefit due to refugees' arrival. They lost nothing but gained economic contribution after integrating refugee into its economic and social spheres (Jacobsen, 2001). Through refugee, the chance of getting more loans and aids from donor states benefited Mexico to build and developed the country's economic condition.

In this case, the host countries could search for loan or get aids from the donor countries. However, the fact that international funding only partially support the economic burden (Dionigi, 2016) indicates that the funding must be allocated to investment rather than consumption. While consumption focusing on "using" sources, the investment focuses for "creating" sources. At first, investment might give burden and it seems hardly to achieve success. However, the money spent are worth with the outcomes, as what Stein has said "Relief and care and maintenance are expensive but the durable solution of local settlement? Especially when it involves developmental and infrastructural assistance and also incorporates elements of the local population? Is not inexpensive" (Stein, 1986).

Thus, the Government of Bangladesh along with international community, such UNHCR has to seek mutual agreement in response the vagueness of Rohingya refugees in Lebanon. ASEAN as a regional organization have to maximize its policy in handling human rights violations in Myanmar. ASEAN itself has emphasized the seriousness of human rights through the ASEAN Human Right Declaration (AHRD), thus the organization should take concrete steps in handling the Rohingya case in Myanmar. The role of the association along with the international community in pressuring Aung San Su Kyi's Government to intensify human rights enforcement needs to be improved, as well as pressuring the still-influential military junta in Myanmar, to determine their attitude towards Rohingya. However, the Rohingya refugee crisis will not be over as long as Myanmar still commits human rights abuses against Rohingya ethnic minorities and does not revise the Myanmar Citizenship Law 1982.

6 CONCLUSION

The durable solutions are needed in dealing with the protracted situation of Rohingya refugees in Bangladesh. The recent agreement between Bangladesh and Myanmar on repatriating more than 700.000 Rohingya within two years is not the best option unless both parties agree to guarantee the aspect of repatriation based on voluntary, safety and dignity. Moreover, with little involvement of UNHCR in the process of repatriation, the durable solution is only an illusion. Thus, when Rohingya insist not changing its current policy on Rohingya, when the violation of human rights are still haunt the Rohingya, the repatriation is not a doable solutions. The solution of resettlement is also call into doubt when the neighborhood country like Thailand and Malaysia also filled with numbers of Rohingya fleeing the persecution. Thus, the most doable solution is to implement de facto integration, which is not only a matter of legal status provision by Government, but also the provision of self-sufficiency and settlement for refugees in local community.

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