

CHAPTER I

INTRODUCTION

A. Background

Human rights are rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible.¹

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

The World Conference on Human Rights reaffirmed the solemn commitment of all States to fulfil their obligation to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, in accordance with the Charter of the United

¹ United Nations Human Rights, “What Are Human Rights?”, <http://www.ohchr.org/EN/Issues/Pages/WhatareHumanRights.aspx>, downloaded on April 18, 2015

Nations, other instruments relating to human rights, and international law.

The universal nature of these rights and freedoms is beyond question.²

Thus, refugees are also entitled to these universal human rights.

People become refugees because one or more of their basic human rights have been violated or threatened. Article 14 of the UDHR states that "everyone has the right to seek and to enjoy in other countries asylum from persecution."³

Many universally recognized human rights are directly applicable to refugees. These include the right to life, protection from torture and ill-treatment, the right to a nationality, the right to freedom of movement, the right to leave any country, including one's own, and to return to one's country, and the right not to be forcibly returned. These rights are affirmed, among other civil, political, economic, social and cultural rights, for all persons, citizens and non-citizens alike, in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and

²UN Women.Human Rights of Women.<http://www.un.org/womenwatch/daw/beijing/platform/human.htm>.downloaded on April 18, 2015.

³UNHCR."The Rights of Refugees".<http://www.unhcr.org/pages/4ab38876.html>,downloaded on April 18, 2015.

Cultural Rights which together make up the International Bill of Human Rights.⁴

The term “refugee” has different interpretations as known by the public in general and different in the face of law. Generally people use the term “refugee” as anyone who has escaped to another country for political, religious and economic reasons, or because of a war.⁵ While the law has a more specific definition with regards of the term “refugee” as stated in the Refugee Law 1951 as “persons 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, or owing to such fear, unwilling to avail himself of the protection of that country; or who, not having such nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (The Convention (1951) and the Protocol (1967)).”⁶

To quote a concerned issue of refugees, conditions for Rohingya inside Burma (Myanmar) today remain dismal. As Human Rights Watch has documented, the Burmese government continues to deny citizenship and its accompanying rights to most Rohingya, demand forced labor from

⁴Office of High Commissioner of Human Rights, “Human Rights and Refugees”, <http://www.ohchr.org/Documents/Publications/FactSheet20en.pdf>, downloaded on April 18, 2015.

⁵Cambridge Advanced Learner’s Dictionary Third Edition.

⁶Coutts, Evan, The Rohingya Refugees Situation in Bangladesh, American International School/Dhaka, <http://www.rna-press.com/data/itemfiles/9bcc51b07210277172cfaca50dd60ff6.pdf>, downloaded on June 01, 2015.

Rohingya villagers, and arbitrarily confiscate their property. Because these abuses, which were the structural causes of the 1991-92 mass exodus, remain unresolved, new refugee flows persist and the reintegration of those who have returned to Burma is limited.

The Myanmar government has refused to recognize the Rohingya as an ethnic group and treats them as illegal immigrants. Most Rohingyas are Muslims living near the borders of Myanmar and Bangladesh.⁷

The denial of citizenship rights to the Rohingya and the resulting discrimination provides powerful evidence that they are refugees and are, thus, entitled to protection in the countries where they are fleeing. Yet, to date, their case has not been given the weight it merits.⁸

Escaping persecution by the military-dominated government, many Rohingyas have crossed borders to seek shelter and work in Thailand, Indonesia, Bangladesh and Malaysia. The main focus of this research is Thailand and Bangladesh as host countries of Refugees.

After fleeing systematic discrimination, forced labor, and other abuses in Burma, ethnic Rohingya in Thailand and Bangladesh face a whole new set of abuses. These include beatings, extortion, and arbitrary detention. The refugees are forced to live in poverty and constant fear

⁷Global Voices, "Rohingya Boat Refugees rejected by Thailand, Malaysia and Indonesia", <http://globalvoicesonline.org/2015/05/17/rohingya-boat-refugees-rejected-by-thailand-malaysia-and-indonesia/>, downloaded on July 7, 2015

⁸*Coutts, Evan, Op. Cit.*

of expulsion from the country.⁹ Former detainees interviewed by Human Rights Watch claimed that food and medical care is grossly inadequate in some detention centers, and that some detainees had died as a result.

As irregular migrants in a country that does not recognize the rights of refugees, the Rohingya in Thailand experience constant threats to their liberty and security when entering, living, working and travelling in the country. Thailand's obligation under international law, to protect the liberty and security of all persons, is prescribed in the ICCPR. Many cases including rapes and dishonors of women happen in Thailand and Bangladesh too. This is a problem because all States are supposed to protect and promote women's human rights. Although Thailand is not party to either the statelessness or refugee conventions, many of the rights enshrined in these conventions are now also part of international customary human rights law. For example, the principle of non-refoulement – which prohibits the removal of persons to states where there is a substantial risk of persecution or irreparable harm – is enshrined in and the ICCPR.¹⁰ Many of the rights found in the international refugee instruments such as enjoying non-discrimination and protection from persecutions are guaranteed in form or another in international human rights treaties, for example, the ICCPR and other some employment issues

⁹*Ibid.*

¹⁰Equal Rights Trust, “The Human Rights of Stateless Rohingya in Thailand”, [http://www.eoi.at/d/EOI%20-%20Jahresberichte/Thailand/The%20Human%20Rights%20of%20Stateless%20Rohingya%20in%20Thailand\(small\).pdf](http://www.eoi.at/d/EOI%20-%20Jahresberichte/Thailand/The%20Human%20Rights%20of%20Stateless%20Rohingya%20in%20Thailand(small).pdf), downloaded on April 20, 2015.

are guaranteed in ICESCR. Thailand and Bangladesh are parties to the above mentioned humanrights treaties and as such, the Rohingya refugees in Thailand and Bangladesh are entitled to these provisions relating to theirprotection.

So in accordance to the plight of Rohingya Refugees and international instruments that have been created to help refugees, researcher wants to know whether the binding laws are already enacted by both Thailand and Bangladesh as host countries of Rohingya Refugees. Therefore, the title of this research is "**The Implementation of International Laws on the Human Rights of Rohingya Refugees in Thailand and Bangladesh**".

B. Research Questions

The researcher has identified some core problems based on the background of the research above. The research questions are as follows:

1. Are the Rohingya Refugees given the Human Rights protections by Thailand as ratifying country to ICCPR and ICESCR?
2. Are the Rohingya Refugees given the Human Rights protections by Bangladesh as ratifying country to ICCPR and ICESCR?
3. What are the penalties of breaching International Human Rights Law?

C. Research Objectives and Benefits

Research Objectives:

The purposes of this research are:

1. To analyze if the Rohingya Refugees are given the Human Rights protections by Thailand as ratifying country to ICCPR and ICESCR.
2. To analyze if the Rohingya Refugees are given the Human Rights protections by Bangladesh as ratifying country to ICCPR and ICESCR.
3. To analyze the international penalties of breaching the International Human Rights Law.

Research Benefits:

The benefits of this research are:

1. To the readers in understanding whether the Rohingya Refugees are given the Human Rights protections by Thailand as ratifying country to ICCPR and ICESCR.
2. To the readers in understanding whether the Rohingya Refugees are given the Human Rights protections by Bangladesh as ratifying country to ICCPR and ICESCR
3. To the readers in understanding the international penalties that can be given to countries that breach the International Human Rights Law.