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### Abstract

Much of refugee protection focuses on the legal aspects within the international refugee protection regime, which arguably results in less attention being paid to the more practical aspects to the realisation of that protection including the processes the refugees have to undergo as well as its impacts. As a cornerstone of the international refugee protection regime, *non-refoulement* (the forcible return of people to countries where they face persecution) is also a *jus cogens* (peremptory norm from which no derogation is permitted) principle. While crucial in and of itself, a meaningful protection regime should ideally result in further non-violation of refugees' human rights including the prevention of refugees being revictimised, particularly when undergoing processes intended in securing their protection. Through refugee narratives, this article takes us on a journey in exploring some of the ways in which the protection regime may contribute to harming refugees. Further, based on refugee testimonies, this article sheds light on the probable impacts to refugees' future orientation, an outcome of having undergone the protection processes as they take the perilous journey from flight to resettlement. More critically, this article aims to open the discussion further with a view to improve protection outcomes and prevent revictimisation of the refugees themselves as they navigate these various processes.

### Keywords

refugee protection, future orientation, forced migration, beyond non-refoulement, potential for harm

### Introduction

Year on year, the number of forcibly displaced persons increases. United Nations High Commissioner for Refugees (UNHCR) statistics indicate a drastic increase of forcibly displaced people since 2010 (which was at 41 million), with an estimate of over 82.4 million by the end of 2020 (UNHCR, 2020, p. 6). While much of the response initiatives taken by affected states and relevant stakeholders have emphasised *addressing* the crisis, not so much attention has been directed towards *understanding* it, despite having attended the Eighth Annual High Commissioner's Dialogue on Protection Challenges in 2015, carrying the theme *Understanding and Addressing Root Causes of Displacement*. While having acknowledged and stressed that “it is imperative to address the underlying and often overlapping factors that fuel violence and conflict, whether they emanate from serious human rights violations, the breakdown of the rule of law, the arms trade, extraction industries, severe inequality, authoritarianism, or environmental change and degradation” (Türk, 2019, p. 64; see also, UNHCR UK, 2015), the *understanding* aspect seems to be missing.

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A deeper understanding of the underlying factors is undoubtedly a critical step to take, but also raises an important question: is addressing the root causes truly enough? I posit that it is also imperative to take this *understanding* further to include aspects that explore refugee perspectives while they navigate such challenging scenarios throughout all phases of their flight experience.

Taking on an expanded understanding of HARM, as poignantly envisioned by Chakkarath & Gudehus (2023), I raise the more critical question of whether the current international refugee protection regime and the existing processes therein, processes which the refugees go through, is inadvertently and indirectly causing them potential harm, more than already faced. In the preamble to the Constitution of the World Health Organization (1946), health, or being healthy, is defined as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.” Unfortunately for refugees, the stressful flight experience may lead to an adverse state of health.

The flight experience that refugees go through, while they may differ, may also be harmful to their mental health (Schlaudt et al., 2020; see also Marković et al., 2023). More critically, studies have indicated that there has been no improvement to the measures taken to ensure adequate protection provided to refugees, especially those in-transit, even after risks have been identified (see e.g., Marković et al., 2023). According to Schlaudt et al. (2022), “[r]efugees who settle in Western countries exhibit a high rate of mental health issues, which are often related to experiences throughout the pre-displacement, displacement, and post-displacement processes” (p. 1) with post-traumatic stress disorder (PTSD), anxiety, and depression having been identified to be the most prevalent mental health conditions among this vulnerable population (pp. 1–2). When these mental health issues remain unidentified and left untreated, it can exacerbate the struggles that refugees may face when trying to resettle in a new place.

A 2021 study on refugee worries in the integration process, with data taken from the German Socio-Economic Panel (SOEP) says, “most [refugee] worries are related to uncertain conditions of the refugee experiences,” in that, uncertainty creates future-oriented worries (Gürer & Sözer, 2021). Given the predicament refugees find themselves in, it is not at all unrealistic to postulate that refugees’ flight experiences, including those they undergo intended for their protection (for instance, resettlement interviews; more on this below) have the power to shape their *future orientation*.

According to Rachel Seginer, “[f]uture orientation is the image individuals have regarding their future, as consciously represented and self-reported” (2005, p. 208). Lindstrom Johnson et al. (2014) understand future orientation as an important component of identity development; greater future orientation indicates that one has “clearer goals, a better planning ability, and a stronger ability to overcome obstacles to their future” (p. 2). However, they contend that more work needs to be done to understand the “various mechanisms through which future orientation impacts health ... [and] the individual and environmental determinants of future orientation” (p. 10), that is, the factors which influence the development of future orientation. In the context of refugees, “new and unknown conditions” (Ginevra et al., 2021, p. 275) experienced by refugees at any point during the flight experience can influence future orientation; “poor future orientation [can] interfere with their ability to achieve work and personal goals” (Ginevra et al., 2021, p. 275).

Through five narrative interviews with third-country resettled Rohingya individuals, this article serves as an exploration, a jumping point of sorts, for the discussion of future orientation in refugees and its vital importance in including refugee voices to ensure adequate protection programs are developed and existing ones reformed. Such a direction is, after all, in line with a human-rights based approach (HRBA) to refugee protection. While without a clear definition, HRBA is a “conceptual framework for the process of human development that is normatively based on international human rights standards and operationally directed to promoting and protecting human rights” (UNSDG, n.d.). HRBA remains a cornerstone in human rights protection where “[p]eople are recognized as key actors in their own development, rather than passive recipients of commodities and services” (UNFPA, n.d.).

To that end, this article begins with a brief description of the Rohingya situation and the condition they find themselves in, including current and contemporary challenges of the existing international refugee protection regime. The article continues to expand further into some of the ways in which the protection regime has indirectly caused harm to the refugees, tapping into narratives shared by the interviewees where relevant and appropriate. The article ends with an open query, compelling researchers and policy makers to reconsider areas where the current protection regime may lack and how these can be improved for better protection outcomes, one that includes refugees’ perspectives and minimises a harmful impact on their future orientation.

The interviews were conducted in 2019 as part of pre-research to assess the viability of the entire research design for a PhD dissertation (while the interview transcripts were not utilised for the

PhD dissertation, concepts unveiled became the impetus for a more evolved exploration for the PhD dissertation itself.) Five resettled refugees, aged 32–42, were interviewed. Ahmed (32), Mejid (42), Nima (40), Syed (39), and Dilla (35); Nima and Mejid, and Syed and Dilla are married; Ahmed is not married at the time of interview. The interviews were conducted in Malay and in an open discussion setting. Because I speak Malay (Bahasa Melayu) at a native level, the interviewees were able to speak very colloquially with me (using street Malay) while they shared their experiences. Translations have been provided underneath each quoted excerpt; these translations (including the spelling of words) are as close as possible to the originally spoken versions and may appear short and, at times, choppy. Also, colloquial Malay (or street Malay) is quite different from formal textbook Malay. Interviewee names have been changed to protect their identities.

### **The Plight of the Rohingyas**

Zooming into Southeast Asia (SEA), Myanmar is the largest refugee producing country (in the region) and has been so for a long time (Asylum Insight, 2017). For decades, the Rohingyas have faced institutionalised violence and exclusionary citizenship laws. Past years have been characterised by sectarian violence within the Rakhine state of Myanmar, leading to mass displacement of over 100,000 Rohingyas into neighbouring Bangladesh. In August 2017, more violent clashes broke out in the Rakhine state after militant group Arakan Rohingya Salvation Army (ARSA) claimed responsibility for attacks on army and police posts. Prior to that, a series of violent incidents broke out in Rakhine in June 2012 — the catalyst was the rape and murder of an ethnic Arakan Buddhist woman, allegedly by three Muslim men (Diamond & MacLean, 2021; also Hosain, 2021; for further historical clashes in the Rakhine State in Myanmar, Smith & Hassan, 2012). Even though the June 2012 events brought the Rohingya crisis into the international spotlight, the Rohingyas have been subjected to ethnic persecution for generations (Smith & Hassan, 2012).

According to UNHCR (2019), since August 2017, 741,947 Rohingya refugees have fled their homes in Rakhine state in Myanmar into neighbouring Bangladesh to escape violence and persecution (p. 2). Being caught in a protracted conflict, the Rohingyas suffer serious limitations on their basic human rights. Most notably, Rohingya refugees are deprived of their right to *life*, and by extension, other related rights including the right to work, right to adequate standards of living, and right to health (Lee-Winter et al., 2021) not only in their country of origin, but also during their migration journey (Bangladesh or otherwise). A state having (or running) a refugee camp, or immigration detention centres (IDCs), does not automatically equate to the protection of refugee rights. Perhaps, at best, refugees are protected against being refoiled by being in the camps. However, there are many refugee camps with living conditions that are not at all dissimilar to prisons (examples include camps or IDCs in Malaysia, Thailand, and Indonesia).

“The right to life is interpreted as creating both negative and positive obligations on the state. The government of Myanmar [or any government for that matter], therefore, is not only obligated to respect and protect this right, but also act affirmatively to fulfil it” (Lee-Winter et al., 2021). The UN Human Rights Committee (HRC), in General Comment No. 36, interprets the right to life expansively, linking it to the notion of human dignity (UNHRC, 2019, paras. 2–3, 6), evoking entitlement to certain standards of living and access to services. However, because the Rohingya response plan and aid remains humanitarian-focused,<sup>1</sup> Rohingya refugees in Cox’s Bazar, Bangladesh, continue to live in squalid conditions and lack decent work opportunities.

Adding to the mass influx of Rohingya refugees into Bangladesh, irregular maritime movements increased exponentially in several bouts within the region. Many Rohingyas who managed to secure maritime passage do so at their own peril; human traffickers and smugglers are quick to exploit those vulnerable, shipping them off on unseaworthy boats or overland through dangerous terrain to Thailand, Malaysia, or Indonesia, with hopes of Australia as a final destination (UNODC, 2018, pp. 82–85). In general, neighbouring countries in the region “reacted unfavorably to the attempted influx” — Malaysia, Indonesia, and Thailand were even accused to have engaged in a “three-way game of human ping-pong” (Gleeson, 2017, pp. 8–9). For those who managed to access the foreign territory, their fate is uncertain; SEA is considered to be one of the most hostile environments for refugees and asylum-seekers.

<sup>1</sup> See data obtained by UN OCHA Financial Tracking Service. Information for other years can be selected from a drop-down menu located at the top-right hand corner of the webpage. United Nations Office for the Coordination of Humanitarian Affairs (UN OCHA), “Appeal Summary: Rohingya Humanitarian Crisis Joint Response Plan 2022,” UN OCHA Financial Tracking Service (website), n.d., accessed January 6, 2023, <https://fts.unocha.org/appeals/1082/summary>.

Aside from Cambodia and the Philippines, the other Association of Southeast Asian Nations (ASEAN) states, along with Bangladesh, are non-signatory to the 1951 Refugee Convention and the 1967 Protocol. Compounded with a lack of an asylum system and regional refugee protection framework, along with the uneven application of national framework (where available), many refugees are also “illegal immigrants” for having violated immigration laws of these countries (Muntarhorn, 2013, p. 258). Consequently, due to their lack of legal status, many refugees continue to live on the fringes of society, unable to reclaim the agency they have lost (Channel News Asia [CNA], 2022). Many refugees and asylum-seekers in affected ASEAN states, namely Malaysia, Indonesia, and Thailand, are detained in immigration detention centres (IDCs) and thus unable to seek justice or enjoy their basic human rights like access to education, employment, or health. Those who managed to disembark in either country found themselves in the informal sector. Those who managed to find their way from Malaysia to Indonesia — “a jumping-off point for Australia before a zero-tolerance policy for boat arrivals shut off that destination” — have become stuck in Indonesia, either waiting to be resettled or to somehow return to Malaysia (Newland, 2015, pp. 7). Those who remain in Myanmar end up living in squalid IDP (internally displaced persons) camps, constantly exposed to precarious settings with no action taken by local (or national) authorities (Newland, 2015, p. 6).

### *The International Refugee Protection Regime: A Challenge*

The protection of refugees is primarily done through two legal regimes, international refugee law and international human rights law, both operating in parallel. While international refugee law defines who is (or is not) a refugee and specifies the different range of rights (see list below) to which the individuals (refugees) are entitled to, international human rights law “is a set of rights that are applicable to all persons” regardless of their immigration status (Edwards, 2018, p. 539). Despite the two bodies of law sharing common roots, they are separate. Nevertheless, the human rights protection instruments remain applicable to refugees in the absence “of an individual complaints procedure under the Refugee Convention” (Edwards, 2018, p. 543).

International refugee law is unique in two ways: (1.) Its scope; and (2.) its intersected application. In the first aspect (scope), it is a law that is intended for the protection of a specific class of individuals, namely refugees. In the second, international refugee law is informed by international human rights law, and they both operate in parallel. The 1951 Refugee Convention and its 1967 Protocol (Refugee Convention) are the primary sources of law protecting the rights of refugees at an international level, premised on Article 14(1) of the Universal Declaration of Human Rights (UDHR), the human right “to seek and enjoy in other countries asylum from persecution.” While the UDHR itself is not legally binding, its contents have been elaborated upon and incorporated into subsequent international treaties as well as regional human rights instruments and other national laws (Çalı, 2018, pp. 411–413).

Additionally, the principle of *non-refoulement* (i.e., the forcible return of people to countries where they face persecution) is recognised as a *jus cogens* (non-derogable under no circumstances under international law) norm (Allain, 2001). Even though the Refugee Convention is only legally binding to signatory states, the principle of *non-refoulement* (part of the Refugee Convention, see list of rights below) is part of customary international law and thus, *non-refoulement* is binding on all states (UNHCR, 2001). Besides the principle of *non-refoulement*, however, recall that, for the case of the Rohingyas, most of the ASEAN member states are non-signatories to the Refugee Convention. Even so, Maja Janmyr (2021) posits that non-signatory states “may even be conceived as *shadow parties* to the Convention” due to their high levels of engagement in responding to refugee issues (p. 213). In Southeast Asia, the Rohingya situation is especially evident in three of the ASEAN states, namely Thailand, Indonesia, and Malaysia.

Aside from defining the term *refugee* and protection from *non-refoulement* (Art. 33), the Refugee Convention specifies the range of rights a refugee is entitled to, namely:

- Arts. 3 and 4: non-discrimination and freedom of religion,
- Arts. 13 and 14: property rights,
- Art. 15: freedom of association,
- Art. 16: access to courts,
- Arts. 17–19: employment rights,
- Arts. 20–24: welfare rights including housing, social security, and education
- Art. 31: guarantee of non-penalization.

Nonetheless, the rights listed above offer very little meaning if states practice indicate a disrespect for these rights. In SEA, in particular, due to strict immigration policies and the preference for legal pathways for migration, the rights listed above are rendered inconsequential.<sup>2</sup> In fact, there is a brewing trend criticising the Refugee Convention for the rather weak protection that it affords, calling for the development of refugee policy that reflects closer the realities on the ground (Mathew, 2015, pp. 162–163; see also online lecture by IFHV Bochum, 2021). According to human rights lawyer Rez Gardi (2021), in her presentation about the current state of the refugee protection regime vis-à-vis the history of refugee protection, the current legal framework (which was developed within a European context after the Second World War)<sup>3</sup> is simply inadequate in providing the necessary protection to the intended beneficiaries (i.e., the refugees) today:

Acceding to European norms and institutions after independence, the Global South embraced solutions that had been fine-tuned to a European context. The Global South's displacement during their struggles for independence and after independence, and to some extent even today, resemble those of the inter-war period displacement — the existing legal framework is simply not fit for purpose. (Presentation by Rez Gardi, IFHV Bochum, 2021, 00:43:30 – 00:43:55)

Additionally, consensus remains that “refugee law [still] remains an incomplete legal regime of protection” (Goodwin-Gill & McAdam, 2021, p. 1), particularly with regards to its contents. Apart from the rights that the refugees supposedly *have*, as enshrined in the Refugee Convention, there is nothing within the convention itself outlining how state parties should manage the refugee situation and cooperate; “the Convention [does not] contain any legally binding obligation [for countries] to share responsibilities” (Mathew, 2015, p. 163) More frighteningly, there is no provision in the Refugee Convention binding any country to guarantee refugees entry into their territory (Mathew, 2015, p. 163).

### **Factors Affecting Future Orientation in Refugees**

In this section, we will be exploring some of the ways in which the international refugee protection regime may indirectly cause further harm to the refugees through three different stages, categorised based on what was shared by the interviewees. The first stage is the initial escape, entry into, and stay in Bangladesh. The second stage is the journey towards Malaysia and their stay in Malaysia. It has been indicated that some of them had stayed in Malaysia for more than eight years before they were finally resettled. And the third stage is their experience upon arrival into the US and their first year of living there. The first two stages generally reflect the flight journey of Rohingyas within SEA (see e.g., UNHCR, 2014; UNHCR, 2015). The third stage will vary based on resettlement; some end up staying in the transit country for an undetermined amount of time.

It is important to emphasise that the refugee flight journey varies from refugee to refugee and is not linear (that is, from displacement directly to resettlement). However, with that said, it does not mean that the existing refugee protection regime, which includes laws, policies, and states' practices, does not affect the refugees. On the contrary, because they (the refugees) are the intended beneficiaries of such policies, the impacts, whether positive or negative, are felt. To put this into context and clarify, for example, when a Rohingya refugee flees Myanmar and manages to enter one of the many refugee camps in Cox's Bazar in Bangladesh without first registering with UNHCR upon arrival versus another Rohingya refugee in the same circumstance but has managed to register with UNHCR; the former refugee might not be able to receive aid (at least not before registering). Other practical examples: a boat with Rohingya refugees being pushed back in Indonesian waters; a

<sup>2</sup> In my PhD dissertation (2024), I conducted an interdisciplinary study (grounded theory and socio-legal) on the 10 ASEAN states immediate responses to refugee and mixed migration issues. Data and analysis showed that states practice for refugees are hostile in comparison to victims of trafficking. This is primarily due to the salience in human trafficking as a problem, further exacerbated by labour migration in the region. Refugees have their rights violated at all stages of their flight experience, including while in internment camps (IDPs, IDCs, and refugee camps).

<sup>3</sup> It is worth to mention that postcolonial theory is concerned with the disparities in global power and wealth accumulation as well as why some states and groups exercise so much power over others. This is relevant to the topic of refugee protection as the postcolonial critique includes the ongoing harmful effects Eurocentric policies have in many areas including in refugee protection. Chapter 3 of my PhD (2024) briefly touches on this aspect, albeit vis-à-vis the universality of human rights debate.

refugee in Malaysia, while registered with UNHCR, but not having his UNHCR card recognised at a doctor's visit and thus resulting in his arrest; or refugee children living in the refugee camps located at the Thai-Myanmar border not being able to access formal education.

What these examples illustrate is that the refugee protection regime has two components: (1) the laws intended to protect the refugees and (2) how these laws are applied in practice — essentially, what happens on the ground. The preoccupation with only the former component is to the detriment of the latter. Moreover, these examples (and the narratives below) also highlight the weakness of the Refugee Convention, in that there are no guidelines as to how states should cooperate in managing such large-scale crises. Such lack of clarity can often result in duplication of efforts (at best) and no protection (at worst). And finally, these examples (and the narratives below) expose the various opportunity points throughout the flight journey in which refugees can be harmed, particularly by the laws, policies, and programmes created with good intentions and meant for their protection. In essence, the refugees are revictimised by the process that is *supposed* to protect them, which then results in potentially adversely impacting their mental health and then further impacting their future orientation.

#### The Initial Escape, Entry into and Stay in Bangladesh

All interviewees have indicated a surge of hope, hope to escape, hope that the *other side* is better, hope for a generally better life. Some interviewees also mentioned that some of their families had pleaded with them to simply leave Myanmar and join the rest of the family in Bangladesh where life was said to be *better*, better being safer. For all interviewees, there is a focus on safety. This was the case for Ahmed, a single man who at first stayed behind hoping to protect his small family land plot.

Abang saya duduk<sup>4</sup> di Bangladesh. Dia sudah lama disana, dekat Kutupalong sana. Dia ada mesej saya suruh mari. Mula-mula saya mau jaga tanah di Tula Toli. Lagipun bapak sudah tua. Jadi saya tak mau pigi dulu. Tapi mereka tak suka orang kita. ... Lepas agak-agak satu tahun bapak sudah takda. Dari situ saya pikir (fikir) ok... ini masa ok... saya pigi ikut abang. Dia kata hidup sana lagi baik dari sini. [My brother lives in Bangladesh. He has been living there, near Kutupalong. He messaged me before, asked me to come join him. At first, I didn't want to go, I wanted to stay to look after our land at Tula Toli. Plus, my father is old. So, I didn't want to leave. But they (the Buddhists/Tatmadaw) don't like us. ... After about a year later, our father left us. That was when I thought, ok... This time is ok... I will follow my brother. He told me that life there (in Bangladesh) is better than here (in Myanmar).] (Ahmed, 2019, A2)

Saya ada dengar dari rakan, tanah sudah takda. Mereka datang satu malam, semua mereka bakar. Nasib baik emak sama bapak sudah takda. Masa itu saya sudah di Bangladesh. Sana memang susah tapi kita selamat. [I heard from a friend that our land was gone. They came one night and burned everything. Luckily my mom and dad are not alive anymore. That time I found out about the news I was already in Bangladesh. There, life is not easy but at least we are safe.] (Ahmed, 2019, A3)

Similarly, like Ahmed, Syed and Dilla also had family in Bangladesh who had left from earlier waves of displacement. Both Syed and Dilla finally left in July 2012, making them one of those who took the least amount of time to be resettled.

Syed: Adik perempuan saya duduk di Bangladesh. Satu keluarga dia disana, suami, anak, semua disana. Mereka ada jemput kita. Suruh kita datang. Tapi kita ada rumah disini. Lagipun, Dilla satu keluarga di Myanmar. Jadi kita takda pernah mau tinggalkan

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<sup>4</sup> The word *duduk* means to sit down. But in this context, it means to reside.

mereka. [My younger sister lives in Bangladesh. Her whole family (in-laws) are there. They (her and her in-laws) invited us all the time. They asked us to join them. But we have our home here (in Myanmar). Also, Dilla's entire family is in Myanmar. So, we never wanted to leave them.]

Dilla: Mak bapak saya ada suruh kita pigi. Mereka ada jiran dan kawan-kawan... kata Bangladesh lagi baik. Lagi selamat. Mekera suruh kita pigi. Tapi mana sampai hati. Ini rumah kita. [My parents had asked us to leave. They heard from some neighbours and friends... who said Bangladesh is better. Safer. They asked us to go. But (we) didn't have the heart to leave. This is our home.]

After reports of the June 2012 murder of ethnic Arakan Buddhist woman (the incident said to have been the catalyst for the Rohingya crisis; see *The Plight of the Rohingyas* section above), the local situation further destabilises:

Syed: Dilla lagi tidur. Saya pikiran jauh. Duduk tepi tangga. Tiba-tiba, saya terdengar orang, suara jerit. Tak nampak dari mana. Tiba-tiba nampak api. Mula-mula kecil... sampai jadi besar. Saya lari masuk dalam cepat suruh Dilla bangun. Kita takda banyak barang. Dari tingkap boleh nampak api sudah jadi besar. Asap sudah naik banyak. Kita terus lari. ... Lari jauh sampai sungai. Nasib baik kita dua orang saja, takda orang tua, takda anak. Nanti sampai Bangladesh akan selamat. [Dilla was asleep. I was deep in thought. Sat on the stairs. Suddenly I heard someone, a voice, a scream. I could not see anything or where from. Suddenly I saw fire. It was a glimmer at first... until it became bigger. I ran inside and woke Dilla up. We did not have much. From the window we could see the fire grow bigger. Smoke thickened. We ran. ... We ran far until we reached the river. Luckily, we were only two persons, no elderly, no children. We will be safer once we reach Bangladesh]

When Dilla was asked about her parents, Dilla responded, "Kita lari 10 minit, pigi rumah mak sama bapak. Tapi sudah lambat [We ran around 10 minutes, until we reached my parents' house. But it was too late]" (Dilla, 2019, E2). She paused for a few short moments and as tears streamed down her cheeks, she continued:

Kita lari lagi tapi saya satu badan sakit. Badan macam tak boleh gerak lagi. Apa saya nampak tadi saya tak boleh lupa. ... Saya pikir takda lain. Kita mesti sampai Bangladesh. Kita mesti selamat. Bangladesh kita mesti selamat. [We ran some more but my whole body ached. It felt like I couldn't move anymore. What I saw, I cannot forget. ... I could not think of anything else. We must reach Bangladesh. We must get to safety. In Bangladesh, we will be safe.] (Syed & Dilla, 2019, D1-2, E2-3)

Hidup di Kutupalong tak senang. Banyak orang kata selamat tapi sebenarnya tak selamat. Banyak orang susah. Makan tak cukup. Kita tak dapat bekerja. Wang put sikit saja. [Life in Kutupalong was not easy. Many people say it is safe but actually it is not. Many people live in poverty conditions. There was not enough food. We cannot work. There was little money.] (Dilla, 2019, E4)

Saya tolong abang saya. Dia ada kedai runcit kecil. Tapi wang tak besar. Apa kita dapat, hari ini makan, hari ini habis. Lagi selamat sikit dari Myanmar. ... Mungkin duduk di Kutupalong

sekejap ok-lah. Tapi kalau lama-lama, takda harapan. Saya lagi muda. Dulu masa saya kecil mau jadi cikgu. Tapi tak pigi sekolah — macam mana mau jadi cikgu ... tak boleh-lah [I helped my brother at his small convenience store. But the earnings are not big at all. What we earn, we eat today, and today it is finished. It is a little bit safer than Myanmar. ... Perhaps to live in Kutupalong temporarily is ok. But to live for a long time, there's no hope. I am still young. When I was younger, I wanted to be a teacher. But I didn't go to school — how to be a teacher... I can't possibly.] (Ahmed, 2019, A2–3)

Kita datang Kutupalong dari dulu lagi, sudah lama. Tapi kita masih ada keluarga di Myanmar. Ada sedara masih duduk Myanmar tapi lari jauh — sudah takda di Rakhine. Ada satu-dua di Thailand, tapi kita tak tau dekat mana. Asalkan mereka selamat. ... Masa di Bangladesh kita tak dapat kerja. Kita ada anak sudah satu, tapi dia masih kecil lagi, masih baby. ... Kutupalong pun tak senang. Saya sama Nima pikir ini tempat tak bagus untuk anak. Anak-anak terlalu banyak dan mereka semua sakit. Susah mau dapat ubat. Tak dapat sekolah. ... Saya ada sedara boleh tolong ... dia boleh hantar kita pigi Malaysia. Kita dengar Malaysia ada banyak peluang. Boleh bukak bisnes. [We came to Kutupalong from awhile back. But we still have family in Myanmar. Some relatives still live in Myanmar but they ran away far — no longer in Rakhine. There are also a few living in Thailand, but we don't know where. As long as they are safe. ... When we lived in Bangladesh, we could not work. We already had one child, but he was still very small, a baby. ... Kutupalong was not easy. Nima and I always thought that this is no place to raise children. There are too many children around and they are all ill. Hard to get medication. No schooling. ... I had a friend/relative who was able to help us ... he was able to send us off to Malaysia. We heard there are more opportunities in Malaysia. We can even open a small business.] (Mejid, 2019, B1–2)

Regardless of when and under which conditions the interviewees had entered Bangladesh, their experiences in Bangladesh contributed to their desire to leave due to the lack of employment opportunities and poor living conditions. This time, while future positive outlook for a *better* life in Bangladesh has waned, it has shifted towards the desire to leave for a *safer* elsewhere. The term *tak selamat*, which literally means *not safe*, is frequently used to describe general living conditions in Myanmar. From the interview data, it can be surmised that before fleeing, Bangladesh was regarded or thought to be able to provide relative safety to the interviewees, that is, safety from death. However, once in Bangladesh, it became clear that *safety* has now evolved to include *security* (livelihood) — the ability to provide for one's self and/or family (see above, for instance, Dilla's description of impoverished life in the camps).

#### The Journey To and Stay in Malaysia

Because all interviewees experienced hardships of varying degrees during their stay in Bangladesh, all have indicated a general decreased level of hope. Despite this, many still showed the desire to leave, to make their way to Malaysia.

Saya ada sikit wang simpanan untuk Dilla sama saya. Tak banyak tapi orang kapal itu kata tak mahal. Kita bayar sikit, dia hantar naik kapal kecil pigi Malaysia. Sebab kehidupan di Kutupalong susah, kita put dengar Malaysia bagus, jadi kita pikir ini masa baik kita pigi. Kutupalong pun penuh sangat. Takda kerja. Takda kerja jadi takda wang. Takda wang susah. ... Kita takda pikir panjang. Kita bagi wang simpanan sikit naik kapal kecil. Saya



masih ingat-lah — 3 atau 4 pagi naik itu kapal kecil. [I had a very small amount of savings for Dilla and I. Not a lot at all but the ship guy (smuggler) said it was not going to be expensive. We pay a little bit and he will send us up the small ship to Malaysia. Because life in Kutupalong was hard and we heard that Malaysia was good; so, we thought this is a good time to go there. In any case, Kutupalong was overcrowded. There was no work. No work means no pay/money. Not having money is difficult. So, we didn't think far. We gave the ship guy our savings to take the small ship. I still remember — it was around 3 or 4am we boarded that small ship.] (Syed, 2019, D3)

Kita naik itu kapal kecil. Nima perut sudah sakit. Anak sudah mau keluar. Kita tak tahu bila sampai Malaysia. Naik dari Bangladesh. Kita tak tahu kita sekarang dimana. Mereka cakap sama sendiri... sebut-sebut Malaysia. Saya rasa kita mau sampai Malaysia. Kita semua harap tinggi sampai Malaysia selamat. [We boarded that small boat. Nima's stomach started to hurt. The baby is coming out soon. We don't know when we will arrive in Malaysia. Boarded from Bangladesh. We don't know where we are now. They (the boat operators) talked amongst themselves... kept mentioning Malaysia. I think we will arrive in Malaysia soon. We all hope we will arrive in Malaysia safely.] (Mejid, 2019, B3)

... takde siapa-siapa sambut. Kita turun itu kapal kecil takda orang sambut. Malahan macam main sembunyi-sembunyi. [... no one received us. We got off the boat without any reception. In fact, it was like playing hide-and-seek.] (Nima, 2019, C2)

Mejid and Nima knew no one in Malaysia. They had a very hard time in the first few months to orientate themselves, especially since Nima had actually delivered their child on the boat, several days prior to their arrival in Malaysia. As a young mother, Nima repeated many times how thankful she was to be young and healthy and how she was able to deliver a baby under such trying conditions. Both Mejid and Nima only received help after about two months from a neighbour:

Ada satu jiran dari bilik sebelah. Dia tanya kita datang dari mana. Itu masa saya wang takda banyak. Sikit saja. Dia tolong saya sama Nima. Dia bilang kita mana kita boleh pigi. Boleh register sama UNHCR. ... Takda office-lah. Satu kedai tapi dekat belakang itu kedai. Kita jumpa satu lagi orang. Dia bagi bantuan. Sikit demi sikit kita dapat sikit bantuan. ... Lepas agak-agak satu tahun lebih baru dapat itu UNHCR kad. ... [There was a neighbour from the next room. He asked where we came from. At that time, I did not have much money left. Just a little bit. He helped Nima and I. He showed us where we could go. To register with UNHCR. ... There are no official offices. We went to a shop, behind the shop. We met with someone. He helped us. Bit by bit we received some aid. ... After around one year were we then registered with a UNHCR card. ...] (Mejid, 2019, B5–7)

Similarly, for Syed, Dilla, and Ahmed, the time from when they set foot on Malaysian soil illegally until they managed to receive a UNHCR card, was around a year or so. The only difference was that Syed and Dilla had a distant relative who helped direct them where to go. For Ahmed, he had a friend who was already working in the informal sector and who *knew the ropes* so to speak.

Kawan saya dari kerja tolong saya. Dia bawak saya pigi ini satu tempat — macam office kecil, tapi bukan office-lah. Kita pigi

banyak kali sampai satu hari saya dapat itu UNHCR kad. [I had a friend from work who helped me. He took me to this place — it was like a small office/room, but not like an official office. We went there many times until one day I received my UNHCR card.] (Ahmed, 2019, A4)

Syed: Kita pigi jumpa ini satu orang. Dia tanya banyak soalan. ... Lepas itu kita dapat UNHCR kad. [We went to see this one person. She asked many questions. ... Then we finally got our UNHCR card.]

Dilla: Kita pigi dua orang, Syed sama saya. Tapi ada sedara saya bawak. Mula-mula dia bawak, teman kita. Tapi, lepas kali kedua atau ketiga, kita pigi dua orang saja. ... Tempat itu macam bilik kecil-lah. Takda macam office orang kerja punya. [We went just the two of us, Syed and myself. At first, one of my relatives took us there and accompanied us. But, after the second or third visit, we went on our own. ... That place was like a small room. Not really like a big office where people go to work.] (Syed & Dilla, 2019, D4, E5)

All five interviewees confirmed that the journey or steps in obtaining the UNHCR card were quite informal. There were neither proper pathways nor service centres of sorts to direct them to get themselves registered (a working paper was published confirming that refugee registration remained an ad-hoc process in Malaysia; see Wake, 2016).

Even after possessing the UNHCR card, all five interviewees faced challenges due to the lack of recognition of the UNHCR cards, refugees in Malaysia are still unable to avail any of the aid or services allegedly available to them. For example, Nima (2019) reported her challenges with healthcare and post-maternity health services. Nima reiterated throughout the interview how lucky she was that she was young when she had her baby. After years had passed, Mejid and Nima still could not send their child to kindergarten or school even if they possessed a UNHCR card. Mejid worked in the informal sector, and they only earned enough to survive on daily wages. Nima stayed at home.

Saya ada warung kecil, jual nasi lemak pagi-pagi. Dilla tolong masak dari malam. ... Nampak polis saja, saya lari. Kalau dia nampak saya, saya tak dapat lari-lah. Saya kadang-kadang kasi dia dua-tiga paket — cakap sama dia, “Abang, ini nasi lemak buat abang makan-lah...” — dia ambik. Dia tengok paket nasi lemak. Dia tengok saya. Lepas tu dia jalan. Besok saya tak tolak troli saya dekat jalan simpang situ... Saya pigi tempat lain beberapa hari... jadi dia tak bertembung-lah. [I had a small pushcart stall selling nasi lemak (Asian breakfast dish of rice, anchovies, chili dressing, cucumber slices, slice of omelette, and a small fried fish) in the early mornings. Dilla helped cook and prepare the night before. ... Every time I see the police, I will run off. If he spotted me, unfortunately I cannot run. Sometimes, I have to give him 2–3 packets — I tell him, “Brother, this nasi lemak for you to eat...” — he takes it. He looks at my nasi lemak packets. He looks at me. After that, he walks away. The next day, I don’t push my pushcart at that road intersection... I would go somewhere else for a few days... so I won’t have to bump into him.] (Syed, 2019, D7–8)

Informal sector employment is typical for refugees simply because they are still considered illegal migrants in Malaysia (Wake, 2016; my dissertation also explores the issue of illegal immigration in ASEAN states further; see also Wake & Cheung, 2016, pp. 10–12). Similarly, Syed and Ahmed also worked in the informal sector. All five interviewees had expressed their initial

hopes that *at least there was a source of income*. However, because this was prolonged, it was not tenable. One of the reasons was the constant need to bribe police officers to avoid arrest.

Syed also mentioned that there were a few times when he had to bribe the police with money; sometimes 50 Malaysian ringgit (approximately 9.58 Euros), other times 200 RM. Syed was not the only one with such recollections. Ahmed and Mejid both had similar experiences. One time, Mejid had to bribe a police officer with 500 RM just because that police officer *had been eyeing him for a whole week*.

Such experiences led all five interviewees (at different points of their stay in Malaysia) to think of ways to better their situation, given that they all realised how untenable working in the informal sector is. Throughout the interview, they would use the terms “tak boleh” [not possible], “susah-lah” [very difficult], “tak boleh tahan lagi” [cannot take it anymore], and “berapa lama” [how long more]. These terms indicate their patience wearing thin and that day by day, the situation became increasingly hopeless. The desire for change was high, but hope was waning. Interestingly, *safety* has evolved once more to include the need to be safe from corrupt authorities, police, and from being arrested (see Syed’s excerpt above).

Mejid and Nima had initially set their sights on Australia, but this was no longer possible due to Australia’s policy change. Eventually, all five interviewees applied for the US-resettlement program via UNHCR, and while all five cases were successful, the experience and timeframe from start to relocation varied; some took longer than others, Syed’s and Dilla’s processing took around five years, Ahmed took seven years, and Mejid and Nima took around ten years. All five interviewees arrived in the US between late 2017 and early 2018 (the interviews took place in May–June 2019).

#### *The Arrival in the US and the First Year*

After many years of waiting in Malaysia, all interviewees displayed a significant loss of future orientation. The expectations they have for themselves and their future have also been lowered significantly, including expectations of standards of living, housing, career (or jobs), and general conditions of life.

A large part of the resettlement program involved attending many interviews and background checks of each individual and their family members (those who were emigrating with them; in the case of Mejid and Nima, with their two children — Nima had given birth to their second child while they were going through the interview/resettlement process; Dilla was around two months pregnant by the time they departed for the US).

Saya sudah tak ingat lagi berapa kali kita sudah pigi balik itu office. Beberapa kali office kecik, lagi beberapa kali office besar sikit. Interview banyak kali. Kasi banyak dokumen. Mereka mintak banyak dokumen. Dari ada anak satu, sampai anak sudah dua. ... Kita tunggu lama sekali. ... Hari demi hari kita makin rasa mungkin kita tak dapat. Mereka tanya terlalu banyak. [I really can’t recall how many times we had to go back and forth to that office. Sometimes the smaller office, sometimes the bigger office. Interview so many times. We gave so many documents. They asked for so many things (papers). From one child, until we had a second one. ... We waited for so long. ... Day by day we started to feel like we probably would not get resettled. They asked so many questions.] (Nima, 2019, C4–5)

Mereka tanya soalan-soalan macam kita orang jahat. Saya pelarian. Saya bukan orang jahat. Saya cuma mahu selamat. Di rumah tak selamat, di Kutupalong pun tak selamat. Sekarang di Malaysia pun tak selamat. Saya tak pasti lagi kalau di US nanti pun selamat tak? ... Saya pigi itu office agak-agak sepuluh kali. Tunggu lama. Mereka kasi date pun lama. Saya rasa saya tak dapat. [They asked so many questions as if we are bad people. I am a refugee. I am not a bad person. I only want safety. At home (Myanmar), it was not safe; in Kutupalong, it was also not safe. Now in Malaysia, also not safe. I am not sure if it will be safe in

the US or not? ... I went to the office around ten times. Waited for a long time. They also took their time to give the dates. I think I won't get it.] (Ahmed, 2019, A4, A6)

Syed and Dilla were the only two interviewees for whom it took less time to go through the interview/resettlement process. Despite the shorter processing time, both Syed and Dilla felt extremely worried, overwhelmed, and intimidated by the penetrating questions; they were told that it was for *security reasons* and that it was all part of the process. All five interviewees mentioned feeling criminalised through the interview process, which they had gone through many times, as part of the resettlement process. The term *orang jahat* literally means *bad person*. It is quite interesting that they chose this term because the term for *criminal* is *penjenayah* in Malay. That they chose *bad person* instead of *criminal* indicates that the resettlement process had a more profound albeit negative impact on their mental health, in particular, their understanding of self — the process was, indeed, demeaning. Here, the term *safety* has once again evolved, this time to include an element which makes them question their self and to defend that they are *not bad*. I posit that this contributes to the further degradation of their self-confidence with the power to negatively impact their future orientation.

It was rather surprising that out of all five interviews, only Mejid mentioned a small level of initial excitement when their application was finally approved; all interviewees shared a minimal level of excitement on the day they flew into the US. But the excitement soon diminished the minute they had to face immigration upon arrival at the airport.

Kita tunggu ditempat imigresen di airport lama. Saya ada ingat — ini mesti problem. Nima pun sudah takut. Anak-anak sudah bising. Mungkin mereka hantar kita balik ke Malaysia. [We waited for a while at the immigration at the airport. I thought — there must be a problem. Maybe they will send us back to Malaysia.] (Mejid, 2019, B8)

Kita sampai tengah-tengah malam. Saya tak ingat pukul berapa. ... Polis imigresen itu muka dia macam tak suka. Dia tanya banyak soalan. Kita disuruh masuk bilik lain. Saya ingat saya takut. [We landed quite late at night. I cannot remember what time exactly. ... The immigration officer had a sour face, he looked unhappy, like he did not like us. We were asked to go to a different room. I remember being afraid.] (Syed, 2019, D5)

Adapting to the new environment, even when provided aid, came with another set of challenges. Mejid, Syed, and Ahmed spoke of their experiences working at a meat-packing factory and while they appreciate that they now have stable jobs, the job required them to stand for extremely long hours; anywhere from eight to ten hours with only minimal rest in between. When asked about learning English or taking further skills-building courses to be able to earn more instead of working at the meat-packing factory:

Tidaklah. Ini masa bukan untuk saya pigi (pergi) sekolah... atau belajar English. Waktu<sup>5</sup> kita sudah habis. Ini masa untuk anak-anak. Waktu kita sudah habis. Kerja di factory penat pun takpa. Saya kerja diri lebih dari 10 jam satu hari. Badan sakit. Pinggang sakit. Sini sana semua sakit. Tapi takpa. Ini masa untuk saya kerja jadi anak-anak dapat pigi sekolah. Mereka dapat ilmu. Kita sudah tua. [No no. This is no longer the time for me to go to school... or to learn English. Our time is over. This is the time for the children. My life is over. It's ok if I work tirelessly at a (the)

<sup>5</sup> In Malay, *waktu* usually means *time*. Depending on context, it can also refer to the temporal experience for a given span of time, which is the case used here in this conversation. Additionally, in the second emphasis, the word *kita*, which means *we* in Malay, is also sometimes meant to refer to the singular person, usually the person who is speaking, referring to himself/herself. In this case, with body language, even though “waktu kita sudah habis” was uttered again, Mejid is referring to his own life and that it is, in his view, over.

factory. I work standing up more than 10 hours per day. But that's all right. This is the time I have the chance to work so that my children get to go to school. They can finally learn. We are now old.] (Mejjid, 2019, B4)

For the wives, Nima and Dilla, they stayed at home to look after the children. Dilla had given birth in the US, making their child a US-citizen. Despite having a small community of resettled refugees (they lived quite close to each other) and being provided financial and in-kind aid (which included paid housing, food, paid electricity/gas bills), the interviewees reported feeling uncomfortable especially when going out; in particular, when grocery shopping. Additionally, they had also reported feeling nervous when the social worker comes once a month in the first year to *check in* on them. Nima (2019) said, at various points during her interview, that it brought back feelings of being interrogated and spied upon as if they were *bad people*. Ahmed (2019) also confirmed this and said it felt intrusive; less the visiting, more the questions asked (A7, A9). At this stage, after being resettled, *safety* takes on an added dimension to include safety from insinuations and discriminations.

Surprisingly, despite the overall decline in general hopes and expectations on themselves as adults, it would seem to indicate that expectations may have shifted onto the next generation where all interviewees with children indicated high hopes for their offspring based on the now available opportunity given their resettlement.

It is important to note that at the point of interview in 2019, this was how the interviewees have perceived their life situation and how they narrated it. Humans are not static. While we cannot generalise from these narratives, it does not mean that we should invalidate their experiences. Additionally, research has corroborated the factual aspects of their experiences, that is, the movement trends, challenges while in-transit, as well as the arduous steps they have to undergo just to seek safety, among others (see, for e.g., Wake, 2016; Wake & Cheung, 2016; Newland, 2015; Niemann & Hertel, 2023; Marković et al., 2023).

### **Discussion and Open Conclusion: Can There Be Hope for Refugees? Can Future Orientation Be Rescued?**

As Immanuel Kant famously declared, the question of *what a person can hope for* — alongside the questions of what s/he can know, what s/he should do and what kind of being s/he actually is — is one of the fundamental human questions. The interview data seems to empirically confirm this, and indicates damage to the human condition when hope is harmed. Across all three flight stages and the passing of time, it can be said that future orientation wanes the longer the wait is for some sort of resolution, leading up to resettlement. Even after resettlement is confirmed, and even after the refugees have resettled, future orientation remains minimal. It is also observed that the interviewees are apprehensive about their future and prefer not to plan too far ahead, opting for shorter-term livelihood opportunities. Such an outcome is in line with previous research on future orientation and expectation in resettled refugees (see, for example, Okenwa-Emegwa et al., 2019; Lee et al., 2020; Niemann & Hertel, 2023).

Regarding welfare and livelihoods, the cost of hosting refugees is extremely high. As also noted by research, there are adverse economic effects caused by mismanaged forced migration flows towards the surrounding region and the world (Dadush & Niebuhr, 2016, p. 1). One simply needs to look at the on-the-ground situation (for example, in Bangladesh, or in Malaysia/Thailand) to observe the fragility and impacts -in action- to an already strained economy.

While resettlement remains one of the approaches in managing refugee crises around the world, the processes that the refugees undergo to be resettled can be thought to impact their mental health adversely. According to Niemann & Hertel (2023), initially, after arrival, forced migrants perceive their job prospects to be less clear and more uncertain than voluntary migrants (p. 9). This was evident in the interviewees' narratives, in particular their time in the first year after resettlement in the US. Despite the guaranteed stability, the refugees do not seem to perceive their new life as stable. This perception of life triggers the question of what could have caused them to still question their newfound stability. After having gone through their narratives in greater detail, it would appear to show that their entire flight process could have altered their psyche and their future orientation of the self. This then calls into question the tenability of the existing refugee protection system, including the resettlement program and the processes therein.

Furthermore, from the interview data, a *better* life would seem to point to *safety*. Before fleeing, Bangladesh was regarded or thought to be able to provide relative safety to the

interviewees, that is, *safety from death*. However, once in Bangladesh, it became clear that *safety* has evolved to include *security* (livelihood) — the ability to provide for one’s self and/or family. Interestingly, *safety* has evolved once more to include the need to be safe from corrupt authorities, police, and from being arrested in Malaysia. During the interview for resettlement process, the term *safety* has once again evolved, this time to include an element which makes them question their self and to defend that they are *not bad* persons. And finally, in the first year of being resettled, *safety* takes on an added dimension to include safety from insinuations and discriminations. What this underscores is the evolving and dynamic nature of the refugee flight experience; refugee needs change depending on context and at different stages of their flight. It is therefore not so inconceivable to surmise that the kind of harm felt is reflective of the different stages of the flight experience and thus needs to be *addressed* and *understood* accordingly (see introduction section).

The international refugee protection regime is already under heavy criticism today. Compounding the problem, states’ practice seems to indicate a general non-acceptance of refugees into their territory, viewing them as a burden to society. It would seem that the refugee issue and how it is currently managed provide for insufficient levels of actual protection; the refugees’ health condition seems like an afterthought, in particular, their mental health condition. In fact, it could even be said that the processes the refugees go through, in particular the resettlement process, is grounds for potential harm. With this thought in mind, is there hope for refugees? Can there be hope for them — one that does not result in a reduced or lost future orientation?

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### About the Author

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