

Rohingya in Thailand: Existing social protection in dynamic circumstances

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ABSTRACT—Rohingyas who have arrived Thailand with various motivations are vulnerable. They need legal and social protection and face the risk of being indefinitely arrested by Thai immigration. The purpose of this article is to identify existing protection mechanisms for the Rohingyas in Thailand by examining preventive, protective, promotive and transformative measures provided to them. Field research conducted in 2016 reveals that there are four main groups of Rohingya immigrants: those who arrived earlier than 2006; the arrivals during 2015-2016; Rohingya victims of human trafficking; and Rohingya asylum seekers in temporary shelters. Each group has different access to protection based on its legal status. They are also socially protected by civil society groups and existing Muslim and Rohingya networks in Thailand.

Keywords: Rohingya, social protection, displacement, Thailand policy

Introduction

The violence against the Rohingya people in Rakhine State (also known as Arakan State) in Western Myanmar since 2012 has gradually worsened. Several hundred thousand Rohingya have fled Rakhine State and entered Bangladesh as asylum seekers.

In August 2017, there was an exodus of 507,000 Rohingya fleeing from Myanmar across the border into Bangladesh after skirmishes between the Myanmar military and Rohingya groups. This event has been called “the world’s fastest-developing refugee emergency” by the United Nations (France-Presse 2017). The form of violence seems to be no different from the previous ones but what makes this current incident different is the huge number of people who fled and were lost

during the attack (Jerryson, Kulisz, and Seniuk 2017). Additionally, this time the incident was attributed to “Rohingya insurgents” by the Myanmar military and by the even more intense phrase “Rohingya Extremists” to identify the alleged perpetrators. On the other side, the phrase “ethnic cleansing” or “clearance operations” has been ascribed to what the Myanmar military did to the Rohingya. These extreme words were used to reflect the degree of violence which rapidly worsened. There was a proposal from the Myanmar government to repatriate the Rohingya but no final decision has been made. The attention of the international community mostly focused on the response of the de facto civilian leader Aung San Suu Kyi, who has ended up in a fragile position (Jerryson, Kulisz, and Seniuk 2017).

Previously, the violence between the Rohingyas and the Arakanese in Rakhine State of Myanmar at the end of 2016 indicated there was a situation of protracted conflict between the two groups. In 2015 and early 2016, the plight of the Rohingya boat people who arrived on Thailand’s shores and the discovery of mass graves in border areas between Thailand and Malaysia attracted great attention from the world. The Rohingya have become considered to be the most vulnerable group of people in Southeast Asia due to the fact that they have been subjected to racial and religious discrimination which has escalated into violence and ethnic conflict in the Rakhine State of Myanmar.

The flow of Rohingya from Rakhine and the southwestern part of Bangladesh has been known in Southeast Asia for more than a decade. The irregular maritime movements comprise a mixed population (UNHCR 2014, 1). The flow includes both economic migrants who are looking for better employment opportunities and political asylum seekers who are escaping from violence and discrimination. The Myanmar policy of the “Arakanisation of Arakan” or Rakhine State has excluded the Rohingya from economic and social development opportunities (Boutry 2014). In 2012, many Rohingya fled from the hardships resulting from the cancellation of their citizenship and severe ethnic discrimination as a result of radical Buddhist nationalism especially after the “2012 Rakhine State Riot.” The riot prompted them to migrate to other countries to seek for protection. More than 6,000 Rohingyas became “boat people” who were brutally abused by the traffickers (Letchamanan 2013, 89). In reality, the Rohingya have migrated from Myanmar since before 2012 in the same pattern as

other Myanmar migrants who desire to seek prosperity and a better life in the country of their destination. Due to a common religious background, many Rohingya have aimed to reach Malaysia by passing through Thailand.

Thailand is adjacent to Myanmar and has become the strategic country for the Rohingya in transit to Malaysia to seek asylum (Azis 2014, 841). As a consequence of systematic isolation in Myanmar, Rohingya who faced limitations to their political, economic and even social life have sought outside the country. Some networks of human smugglers and traffickers have taken advantage of them (Ullah 2016, 292). In the past, Thailand played the role of transit country for the boat people. Later, the pattern of migration changed and some Rohingya migrants landed on Thai shores. Some continued to Malaysia and others settled in Thailand temporarily or permanently.

There is no known record of arrivals between 2013 and 2015 but the UNHCR has estimated that approximately 53,000 departed from Bangladesh and Myanmar bound for Thailand and Malaysia (UNHCR 2014). In 2016, the recorded number of arrivals who had been assisted and processed by the Thai authorities in cooperation with the IOM and UNHCR was only 329. As of September 2016, an IOM report showed that there were 329 Rohingya in six Immigration Detention Centers, five shelters for children and families and five Welfare Protection Centers for victims of trafficking in Thailand. The group consisted of 68 women, 117 men and 144 children (IOM 2016, 1). As Thailand is not a signatory to the 1951 Convention relating to the Status of Refugees, Rohingya immigrants in Thailand are recognized primarily as “illegal immigrants” but they are also considered to be vulnerable asylum seekers and stateless persons (Slezak, Singer, and Ramadurai 2015, 59). National and regional policies responding to the crisis have led to humanitarian assistance and the provision of protection mechanisms for this mobile group. The UNHCR, as the main international organization providing protection for those persons of concern, has provided humanitarian intervention in irregular maritime movements, including Rohingya boat people, by cooperating with local authorities to reunite the families, submitting vulnerable case to the resettlement process, and ensuring that people with serious medical concerns access proper care (UNHCR 2014, 6). Special Meetings on Irregular Migration in the Indian Ocean were held in 2015 and 2016

hosted by Malaysia, Thailand and Indonesia to resolve the irregular Rohingya maritime crisis. A Trust Fund to assist the Rohingya was set up in ASEAN in 2015 (Straits Times 2015).

Some of the Rohingya have also been identified as possible human smuggling and trafficking cases. The discovery of detention camps set up by trafficking networks and mass graves in the South of Thailand in 2015, plus testimony given by survivors, revealed the suffering that victims of human smuggling and trafficking have long endured (Chantanavich 2015, 11). The Thailand Department of Special Investigation (DSI) indicated that low-ranking Thai policemen were involved in taking bribes from the smuggling rings (Prachachart News 2015). Such anecdotal information requires more in depth and systematic examination of the protection or lack of protection afforded to the Rohingya in Thailand.

At present, Rohingya who are living in Thailand for various purposes face the same challenges and needs; protection and facing the risk of being arrested by Thai immigration officers. According to field research conducted in 2016, there are many different groups of Rohingya people in Thailand and each group has a different way of surviving. Some Rohingya groups have a fluid identity and status which is significantly linked to the social protection they can obtain while living in Thailand.

The purpose of this article is to identify existing protection mechanisms for the Rohingya in Thailand. A field survey was conducted during March-July 2016 among various groups of Rohingya in Mae Sot (Tak Province) in the North and Bangkok, Nonthaburi and Pathumthani in the Central Region. Altogether, 30 displaced Rohingya were interviewed by the researcher using in-depth interviews. Thirteen key informant interviews included Rohingya leaders; the Thailand Director of the Welfare Protection Center for Victims of Trafficking, NGOs working with the Rohingya groups in Temporary Shelters for Displaced Persons; and other key public officials responsible for the protection of the group. In addition, the Director of the Welfare Protection Center for Victims of Trafficking in Bangkok and social workers were interviewed on behalf of ten Rohingya victims of trafficking who stayed at the shelter.

The concept of social protection for migrant people encompasses preventive, protective, transformative and promotive measures. Theo-

retically, social protection is an agenda to reduce the vulnerability of migrant populations (Sabates-Wheeler and Waite 2003, 4). The ILO defines social protection as “the provision of benefits to households and individuals through public or collective arrangement to protect against low or declining living standards.” In terms of policy action, the concept broadly refers to public programs of social insurance and social assistance (Sabates-Wheeler and Waite 2003, 5-6). In the past, traditional forms of social assistance included social welfare for the disabled, elderly, widows and orphans provided by a state agency. More recently, the concept and practice has broadened to include other migrants who need protection and has gradually involved development issues and the improvement of livelihoods (Sabates-Wheeler and Waite 2003, 6).

This article will examine social protection in its many aspects, focusing on the way various protection “providers,” both formal and informal, offer assistance to non-citizens like Rohingya as the “receiver” within the Thai state by using the four dimensions of social protection namely “promotive, transformative, preventive and protective measures” which are defined as follows.

Promotive measures include providing education to all children, facilitating people thoroughly to access healthcare and sanitation and providing houses for the homeless people.

Preventive measures mainly aim to prevent deprivation among vulnerable groups, mainly through social insurance provision including health insurance and pensions for elderly people.

Transformative measures aim to raise the capacity of vulnerable people to negotiate the power relations by such means as raising their voice of concern to the public.

Protective measures target deprivation, for instance through funding assistance to cover the basic needs of displaced persons when these people encounter shortage.

The flow of Rohingya into Thailand

Rohingya people have migrated to Thailand for some decades. After the 1982 Nationality Law in Myanmar denied Rohingya identity, Rohingya people began migrating to other countries (Panyangnoi 2016, 29-30). The pattern of movement of Rohingya has varied

over time. Between 1991 and 1993, most Rohingya migrated from Myanmar to other countries by plane with the help of Rohingya friends and smugglers. Others crossed Thailand's borders en route to Malaysia. From 2006, the Rohingya took the sea route to their main destination in Malaysia (Equal Rights Trust and Institute of Human Rights and Peace Studies 2014, 45-46).

From fieldwork findings, some Rohingya had lived in Thailand for 40 years and have been able to informally integrate into the Thai community through the so called "de facto integration," similar to their experience in Malaysia (Cheung 2011, 66). Their children born in Thailand mostly obtained birth certificates from Thai public hospitals and were able to enter Thai schools. Other Rohingya had just arrived in Thailand for two months waiting to go to Malaysia. They stayed with "Old Rohingya" groups. Another sub-group of "Old urban Rohingya" came to Thailand by boat in 2012, were bailed out from the Immigration Detention Center (IDC), and became urban immigrants. The arrival of Rohingya people in Thailand is varied and complicated. They are vulnerable at different levels, depending on the timing of their migration and the changing situation in Myanmar. Many Rohingya who have been in Thailand for more than 20 years came in search of economic opportunity, like other Burmese migrants. After the 2012 Rakhine Riot, most of Rohingya who migrated from Myanmar were escaping severe persecution.

Thailand shares a long border with Myanmar and has become the strategic place for Rohingya to temporarily settle while waiting to go to Malaysia. Even though Thailand is not the country of destination for most Rohingya, a large but unknown number of Rohingya people remain within the country. The majority live in Bangkok (Equal Rights Trust and Institute of Human Rights and Peace Studies 2014, 5). Some Rohingya hide in Burmese Muslim communities, such as in Mae Sot, Tak Province. Some are recognized as urban "illegal migrants" who are waiting for refugee status with the hope of resettling in a third country if they are eligible. Others become displaced persons in temporary shelters along the Thai border. This last group may eventually transform into urban migrants too. The status of Rohingya in Thailand is fluid and complicated (Slezak, Singer, and Ramadurai 2015, 50).

Old and New Rohingya: Different time of arrival with different status

Rohingya in Thailand can be categorized into four main groups. The characteristics and condition of each group are described as follows:

1. The early arrivals: “Old Rohingya”

According to an interview with the Executive Director of the Thailand Committee for Refugees Foundation (TCR), the classification of “Old Rohingya” refers to those who arrived in Thailand before 2006. Most obtained an “ID card as a person with no civil registration status” or the so-called “Ten-year card” which was issued by the Thai authorities to certify that they have been recognized by Thailand and are allowed to live temporarily within limited areas. The “Ten-year card” holder’s personal information is recorded at the Thai Central Registration Bureau in the Ministry of Interior. The Registration means that they are stateless people who have been given resident status according to the principle of “Recognition of Legal Personality” in international law. They are also protected under the Thai Civil Registration Act 2008 (Saisoonthorn 2009). This card needs to be renewed every ten years. With the “Ten-year card,” Old Rohingya can obtain a medical care card which allows them to access medical services at Thai public hospitals similar to Thai people. Therefore, the Old Rohingya have a legal status with an identity card and have access to healthcare services, education for their children, and the ability to work only within the province where they are registered. They need to get a work permit issued by the Department of Employment, Ministry of Labor. One Old Rohingya described his situation as follows:

When a Thai official wants to arrest me, I show my long-life Ten-year card to him and say that I am too old to be arrested. Finally the Thai official does not arrest me. (Arzim (alias), Old Rohingya urban migrant, interview, 29 April 2016)

Some Old Rohingya in Thailand hold another card issued by the UNHCR. The card (which is just a slip of paper) indicates that they have been registered with the UNHCR to apply for refugee status.

While waiting for refugee status and being examined by the UNHCR, these slip-holders can be called applicants for asylum. The process of screening can be very lengthy and they have to wait for months or years. Such documents may not prevent them being arrested by the Thai police (Den Otter 2007, 49-50). During the waiting process, many of them integrate into the local Muslim community and become members of the local mosque, receiving some money from donations, especially for the aged. Some Old Rohingya say that they have waited for refugee status for more than ten years and it seems to be a hopeless process. They begin to look for other options such as moving to Malaysia and applying for refugee status there, or continuing to live in Thailand and accepting the life conditions that they encounter. From the field research, this group of Rohingya mostly survives by selling *roti* (Indian *chapati*) in the community. They sometimes earn 200 to 300 baht (USD 6-9) per day. However, most of them are still in debt as the money from selling *roti* is insufficient to pay the rent and they also need to pay monthly bribes to the mafia in the community so as not to be arrested by the Thai authorities. Old Rohingya children who were born in Thailand can access the Thai public school service and are treated equally with Thai students. This is different from the educational opportunities in Malaysia where Rohingya refugee children mostly attend community-based or faith-based schools assisted by the UNHCR and other NGOs (Letchamanan 2013, 90).

2. The late comers: “New Rohingya”

The situation of new arrivals is quite different from old arrivals. “New Rohingya” are those who arrived in Thailand during the crisis of 2013 to 2015, mostly by sea (Executive Director of Thailand Committee for Refugees Foundation (TCR), Interview, 4 May 2016). They live in Bangkok with some Old Rohingya and play hide and seek with the police. Some exceptional cases are those who were arrested by the Thai authorities and detained in the Immigration Detention Center (IDC) before being bailed out by Rohingya friends. Some other New Rohingya were identified for investigation as “victims of human trafficking,” but did not want to go to the shelter for screening and remain in Bangkok with an ambiguous legal status. One who was bailed out by a Rohingya friend told his story:

I was beaten by the police. This Rohingya man bailed me out. I was released from IDC because of him. Now I can stay in Bangkok on bail condition and the police do not arrest me anymore. (Kareem (alias), “Newly arrival Rohingya” urban migrant, interview 20 April 2016)

Another group live relatively freely as urban illegal migrants, but risking being arrested. Without any legal protection, New Rohingya who are urban migrants are vulnerable to being detained because they have no legal documents. They have not integrated themselves into the host community. They remain physically and culturally visible. They struggle to find jobs and living places, to pay off debts, and to evade the police. The new urban Rohingya have become the most vulnerable group of Rohingya in Thailand.

3. Rohingya victims of human trafficking

This group arrived between 2013 and 2015 and were detained by the Thai authorities as victims of human trafficking (Ministry of Foreign Affairs 2015, 65). They were placed in the shelter of the Ministry of Social Development and Human Security (MSDHS). They are protected by the Anti-Trafficking in Persons Act, 2008, and may become witness in the criminal court on trafficking cases. They are provided with all basic needs within the shelter. Life in the shelter is described by a social worker:

Rohingya victims of trafficking were sent to our shelter for men. At the beginning, they did not know why they were sent to live here. They have no target in life (to see trafficker being punished and they are compensated) so they try to flee from the shelter. But later on, they understand and agree to stay here. We are aware of their rights as victims. (Social worker in Baan Pathum Shelter for victims of trafficking, interview, 26 May 2016)

From 2015 to 2017, the discovery of mass graves in Songkhla and Satun Provinces in the South of Thailand (Holmes 2017) showed that some Rohingya groups were victims of human trafficking. The traffickers were pursued and quickly brought to court. There were two major cases. First, in Songkhla in 2015 a group of Thai who employed

Rohingya migrants were accused of unlawfully detaining them and extorting money. In August 2015, the Songkhla Court sentenced them to prison for 22 years, and confiscated property valued at 126,000 baht (USD 4,200) to compensate their Rohingya victims (Asian Research Center for Migration 2016, 3). Second, in 2017, a large network of over a hundred people including former local administration leaders and elected representatives, an ex-high-ranking army general and some police officers was accused of trafficking Rohingya. The investigation and prosecution were transferred to the Bangkok Court of Human Trafficking Special Section. In July 2017, the Court sentenced 58 of the defendants to jail terms ranging from 27 to 75 years for acts of human trafficking, cross border human smuggling, extortion, bribery, detention of victims leading to starvation and death, and money laundering. The victims included both adults and children who were kept in secret detention (South China Morning Post 2017). An amount of 4.5 million baht (USD 150,000) was confiscated and paid as compensation to the survivors including seven boys age 15-18. The two cases reflect how Rohingya victims of trafficking have been protected by the Thai criminal justice system.

While Rohingya victims of human trafficking were waiting for the verdict from the court at the MSDHS shelter, they were occasionally brought to the court by the social worker. However, not every Rohingya wanted to seek justice from the court. Some were afraid that the traffickers might harm them or their family members again. Once the court verdict was announced, the victims received compensation, and were supposed to be repatriated. Because they feared they would not be safe in their place of origin, some preferred to be resettled in a third country. The Thai government arranges for them to wait in the shelter for possible resettlement. Some NGOs working on the resettlement process, including the International Rescue Committee (IRC), occasionally come to interview Rohingya victims of human trafficking who are eligible for resettlement in the MSDHS shelter.

4. Rohingya applying for displaced person (refugee) status in temporary shelters

Rohingya displaced persons who apply for status in temporary shelters are mostly “Old Rohingya” who originally migrated with other asylum seekers from Myanmar to Thailand during the 1990s. They stay, along with other displaced persons from Myanmar, in tempo-

rary shelters along the Thailand-Myanmar border provided by the Thai government. Most of them are waiting for their refugee status to be determined by the UNHCR. While waiting, they receive humanitarian assistance from international organizations and NGOs at the temporary shelter. The protection includes shelter, food and employment opportunities inside the shelter, healthcare services, and basic education for children. Vocational training and capacity building are also provided. However, some of the Rohingya in temporary shelters who are registered as “Muslim Burmese” and other displaced persons from different ethnic groups think that the basic needs, especially food and employment opportunities in temporary shelters, are insufficient. Most look for other economic opportunities such as working outside the temporary shelter in the Mae Sot area near the border. Their status thus changes to temporary urban migrants. According to one Rohingya informant, most displaced persons who leave the temporary shelters to find work in urban areas return every month to report themselves, receive food rations, and maintain their rights as persons of concern so that they may apply for resettlement in a third country. A Rohingya in Mae Sot town told his story:

Rice and oil were not enough for me to live on in the temporary shelter. When it was raining, the shelter was too cold for me to live. Mae Sot [town] is warmer and better. I contacted my friend in Mae Sot, he finds a job for me and he allows me to live in the rental house for free in Mae Sot. I only pay the electricity bill of 500 baht per month. I mostly live in Mae Sot to earn money and will go back to Umpiem Mai temporary shelter just two days per month for household registration checking. (Abbudin (alias), Rohingya displaced person from Umpiem temporary shelter, interview, 3 June 2016)

Social protection for Rohingya groups with different status in Thailand

The four groups of Rohingya are protected in different ways under different legal frameworks. They are assisted by both formal and informal protection providers depending on their status. In general, all Rohingya groups gain the basic needs which include shelter, food

and employment from various sources. Old Rohingya who have been living in Thailand are the best adapted and can survive in the long-term through their own social networks and existing Thai legal protection. Rohingya trafficked persons are the most protected. They obtain the most regular basic needs from the Thai authorities (in the MSDHS shelter) who also guarantee their legal staying in Thailand. On the other hand, Rohingya applicants for displaced person status in temporary shelters need to share food rations with genuine refugees (food is provided by NGOs with funds from overseas government donations) but they still need to find supplementary food for themselves.

Only trafficked persons get compensation and a regular stipend from the Thai government. The Old Rohingya and the “semi” displaced persons in temporary shelters supplement whatever they receive from the Thai authorities with the assistance of both formal and informal protection providers. Old Rohingya enjoy some formal protection according to the law but also draw on social networks which include Thai neighbors, the mosque and other Rohingya for healthcare services, education for children, and care of the elderly. New Rohingya mostly depend on Old Rohingya to survive and still struggle after facing shortages.

The various Rohingya groups fare differently on the four measures of protection proposed by Sabates-Wheeler and Waite (2003).

Promotive measures.

The four Rohingya groups access basic needs including food, housing, healthcare services and education in different ways. Rohingya trafficked persons under MSDHS shelter mostly obtain regular and sufficient basic needs from the Thai authorities who are the formal protection provider. Rohingya displaced persons in temporary shelters receive inadequate food which they need to supplement by their own efforts. Old Rohingya who are able to speak Thai and know the Thai community quite well can afford to pay for room rent and have some irregular jobs within the community such as selling *roti* or earning from construction work. Most of them have a “Ten-year card” which allows them to live legally in limited areas, and a “30-baht medical care card” for accessing healthcare services at Thai public hospitals. New Rohingya urban migrants are able to rent rooms with the assistance of Rohingya friends, but run the risk of being arrested if they go to

work outside. Most promotive measures for them come from informal protection providers like friends and landlord.

Preventive measures.

Old Rohingya urban migrants in Thailand get some financial support for ageing people from Muslim foundations or mosque, and can access medical care (30-baht medical care card) similar to Thai citizens. Rohingya who have been proved to be victims of human trafficking regularly receive a stipend from the Thai government until they leave the shelter. Asylum seekers in temporary shelters gain some protection from deprivation. There are no concrete preventive measures for New Rohingya urban migrants.

Transformative measures.

The four groups have different levels of ability to raise their voice to protect their rights and negotiate with other related actors. Old Rohingya use the “Ten-year card” as the primary document for self-protection. They know enough Thai language to negotiate with Thai people in the community and with Thai authorities to avoid arrest. Some Old Rohingya who do not have a “Ten-year card” know how to avoid being arrested by paying monthly bribes to the mafia or local police but this causes them to fall into debt. They cannot make their voice heard in public. Those with cards can form themselves into associations which indicates a certain level of empowerment. “The Bangkok Rohingya Association of Thailand (BRAT)” and “the Arakan Project” are examples. New Rohingya mostly hide their identity. Some of them join the Rohingya Association but keep a low profile. They are less empowered. Rohingya victims of trafficking can make demands on social workers in the shelters but the responses depend on the discretion of the director of the shelter. Rohingya “semi” displaced persons can empower themselves when they choose to go out of the shelter in an informal way.

Protective measures.

Rohingya displaced persons in temporary shelters have been relieved of deprivation by the assistance of both formal and informal protection providers. They have been provided with basic needs by NGOs who – are the first organizations that provide for their livelihood (Betts 2010,

Table 1: Social protection for all Rohingya groups in Thailand

<i>Social protection elements</i>	<i>Old Rohingya urban migrants</i>	<i>New Rohingya urban migrants</i>	<i>Rohingya victims of human trafficking</i>	<i>Rohingya asylum seekers in temporary shelter</i>
Promotive measure	<ul style="list-style-type: none"> – Hold “Unregistered person card” or so-called “Ten-year card” – Hold “30-baht medical care card” – Rent house – Access Thai school (for the children) 	<ul style="list-style-type: none"> – Rent house 	<ul style="list-style-type: none"> – Obtain food for three meals – Have a house for living – Obtain clothes – Access healthcare service in the center and at hospital – Attend vocational training 	<ul style="list-style-type: none"> – Obtain food supply monthly (oil, rice charcoal, beans, salt, chili, AsiaREMIX) – Have house in temporary shelter – Access school (for the children), vocational training – Access health-care center provided by NGOs in temporary shelter
Preventive measure	<ul style="list-style-type: none"> – Hold bank account book (for those who have a passport) – Get pension for elderly people from the Islamic foundation 	-	<ul style="list-style-type: none"> – Obtain annual pension from Thai government 	-

231). They sometimes look for jobs outside temporary shelters (such as corn pickers, bicycle repairers and construction workers) with the help of Rohingya friends outside the shelter. Similarly, Old Rohingya and New Rohingya urban migrants also benefit from the assistance of informal protection providers, including Rohingya friends, relatives, neighbors, Thai landlords, community leader and religious-based

<i>Social protection elements</i>	<i>Old Rohingya urban migrants</i>	<i>New Rohingya urban migrants</i>	<i>Rohingya victims of human trafficking</i>	<i>Rohingya asylum seekers in temporary shelter</i>
Transformative measure	<ul style="list-style-type: none"> – Successfully build trust in Thai community (most can speak Thai fluently) – Establish community-based organization such as Burmese Rohingya Association in Thailand (BRAT) 	<ul style="list-style-type: none"> - 	<ul style="list-style-type: none"> – Have right to show the requirement to the officer of the center 	<ul style="list-style-type: none"> – Have rights to ask for permission to go outside the temporary shelter – Have rights to report abuse or discrimination within temporary shelter to NGOs or camp leader
Protective measure	<ul style="list-style-type: none"> – Helped by rental house owner for room rental – Helped by Rohingya friends for job and financial support – Access informal loaning source – Help from mosque and the Islamic foundation 	<ul style="list-style-type: none"> – Helped by rental house owner – Helped by rental for room – Helped by Rohingya friends for job and financial support – Access informal loaning source 	<ul style="list-style-type: none"> – Officers of the center will fulfill the requirement depending on the director's command 	<ul style="list-style-type: none"> – Helped by Rohingya friends for job and financial support – Some of them receive remittance from relatives or friends from abroad

Source: Kaewkuekoonkit 2016, 116.

organizations such as mosque and the Muslim Foundation. These sources of informal protection not only provide immediate assistance to Old and New Rohingya, but also build among them a sense of collective belonging in an “alien country” (Wake and Cheung 2016,

19). In contrast, Rohingya victims of human trafficking can fully overcome any deprivation at the shelter but any extra demands depend on the discretion of the director. For instance, some Rohingya asked for religious costumes to wear during religious ceremonies, which the director approved on grounds that all religions should be respected and treated equally. Such approval helped build trust between officers and Rohingya in the MSDHS shelter.

A summary of the social protection for the Rohingya in Thailand is presented in Table 1.

Discussion

Rohingya who migrate irregularly from Bangladesh and Myanmar are one of the most vulnerable groups of mobile people. In Thailand, they have various sources of protection by both formal and informal providers. The informal sources of protection for the majority of Rohingya come from Rohingya social networks, community-based organizations and religious organizations which ensure immediate protection. This confirms the significance of informal social networks developed by former migrants to assist new arrivals (Castles and Miller 2003, 25). The same conditions can be found in Malaysia where local organization plays a vital role in helping the Rohingya immigrants who arrive in Malaysia by sea. Access to housing for new Rohingya arrivals is provided by the local community (Equal Rights Trust and the Institute of Human Rights and Peace Studies 2014, 79). In Thailand, Old and New Rohingya arrivals are recognized as “illegal migrants.” They risk arrest by the Thai authorities at any time even though they may hold some documents. Yet, they can still achieve some kind of protection according to their legal status. Although certain groups of Rohingya can survive with the assistance of informal protection providers, more concrete and institutionalized protection comes from the formal sector. Obviously, humanitarian assistance is the fundamental protection for all groups. The Thai navy and immigration police are the two main agencies in charge of “irregular maritime arrivals” (Chantavanich 2015).

Once Rohingya immigrants move away from the border, they fall into different categories according to their legal status. Three major laws are used to manage the flow: the Immigration Act 1979, the Civil

Registration Act 2008 and the Anti-Human Trafficking Act 2008. Under the Civil Registration Act, Rohingya who arrived in Thailand before 2006 may stay for ten years with permission renewable if they remain stateless. The Immigration Act 1979 has been used in a lenient way to allow irregular migrants to stay temporarily in the Kingdom. According to international law, Thailand needs to recognize a stateless person on the Principle of “Recognition of Legal Personality.” The Civil Registration Act Article 38 also indicates the state’s responsibility to register those stateless persons and issue them with a card as a “person with no civil registration status (as a citizen).” Thus, Rohingya who arrived in Thailand before 2006 were given this identity card which lasts for ten years. With this card they have access to education, health-care and employment. The Anti-Trafficking Act has been used to identify and protect victims of trafficking. Rohingya victims can stay in Thailand for one year and will not be repatriated. It has also been granted temporary stay to immigrants whose trafficking status has not been clearly defined. Only irregular immigrants who do not fit with any screening classification are illegal immigrants who must be detained. Recently, the justice system allows illegal immigrants to be bailed out irregularly. Therefore, allowing them to be bailed out is the most appropriate solution for both sides (interview with Thailand Human Rights Commissioner, 10 May 2016). The lenient use of existing laws and flexibility in their implementation has finally led to certain levels of protection for the Rohingya in Thailand. As Schierup, Hansen and Castles (2006) argued, the complexity of migration flows invalidates the old categorization of migrants and the legal mechanisms to handle them. Through flexible use of existing laws, the Rohingya in Thailand can achieve certain levels of protection. However, such protection is not up to the expectations of some Rohingya groups. In June 2015 and May 2016, Rohingya men, women and children in detention in the South escaped from their shelters because they did not want to stay in limbo and wanted to reach the Malaysian border (Legacy Phuket Gazette 2013). It seems that the Rohingya do not want to be protected by staying in any kind of shelter. They would prefer to have freedom of movement and a legal status that provides them with social insurance under the preventive social protection. This confirms what Castles and Miller (1998, 43) have stated: “The first concern of immigrants is not the exact content of citizenship but how they can obtain it, in order to

achieve a legal status formally equal to that of other residents.”

A migrant’s ethnicity is another concern. In some cases, ethnicity is used as a criterion for exclusion by other groups. It takes on political and social meaning when it is linked to boundaries drawn between dominant groups and minorities. Becoming an ethnic minority is not an automatic result of immigration but it is a consequence of specific marginalization, which affects different groups in different ways (Castles and Miller 1998, 32). The ethnicity issue is more relevant for the analysis of Rohingya in Myanmar than in Thailand. As a destination and transit country, Thailand has the obligation to provide rights to migrants so that they can build decent lives (Blitz 2014, 18-19). The Rohingya who are old arrivals, asylum seekers, and victims of human trafficking are therefore protected. They become quasi-permanent residents in the Thai state. Economic and social welfare for them is offered by various providers, both formal and informal. According to Sabates-Wheeler and Waite (2003), the Rohingya have been given promotive, preventative and protective measures as social protection. However, transformative measures which include mainly migrants’ capacity to raise their voices of concern to the public have not yet been provided. As for the newly arrived who are classified as illegal immigrants, protection is minimal but it exists. It will require time and legal adjustment to see concrete transformative protection for them.

References

Asian Research Center for Migration. 2016. *Thailand Anti Trafficking Outlook* Vol. 1/2016: Progress on the Rohingya case. Bangkok: Asian Research Center for Migration, Institution of Asian Studies, Chulalongkorn University.

Azis, A. 2014. *Urban Refugees in a Graduated Sovereignty: The Experiences of the Stateless Rohingya in the Klang Valley*. Citizenship Studies, 841.

Betts, A. 2010. *Towards a 'Soft Law' Framework for the Protection of Vulnerable Irregular Migrants*. International Journal of Refugee Law, Volume 22, Issue 2, 231.

Blitz, B. K. 2014. *Migration and Freedom: Mobility, Citizenship and Exclusion*. Cheltenham UK: Elgar Publishing.

Board, J. 2017, September 28. *Displaced Rohingyas at Great Risk of Human Trafficking in Overwhelmed Camps*. Retrieved from <http://www.chan->