

***THE ANALYSIS OF NON-REFOULEMENT PRINCIPLE TOWARDS
ROHINGYA REFUGEES IN BANGLADESH***

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Abstract: *Crime against humanity is still happening in some parts of the world for several reasons, includes the conflict of interest, politics as well as religion. It makes the victims like the Rohingya ethnic have to flee for finding peace and a secure place to survive. Non-Refoulement Principle which stated in 1951 Refugee Convention is being an important principle as the tools to protect the refugee and stateless person. In the Rohingya case, Bangladesh has argued about the 'security problem' of Rohingya's pose, and Bangladesh also stated it became an important reason in sending the Rohingya back. From March 1, 2019, Bangladesh Authority no longer accepts refugees from Rohingya. The research aims to know further on the implementation of Non-Refoulement principle. In addition, the research was made by using library research analysis as the method of research; whole data and information that contained on the research were collected through literature review by referring to books, journals, articles and websites. The research found that Bangladesh does not apply the Non-Refoulement principle and violates the Humanitarian Assistance principle. Even though 'security issues' have been raised as land to repatriate refugees by Bangladesh to Myanmar, it cannot be applied and impose Non-Refoulement obligations to Bangladesh as a matter of customary international law.*

Keywords: *Non-Refoulement Principles; Refugees; Stateless; Humanitarian Assistance*

INTRODUCTION

The United Nations High Commissioner for Refugees (UNHCR) created a remarkable idea on the Protecting Refugee situation; it aims to promote important and strong living standards for the world's growing refugees. That idea is then proposed to maintain and protect some refugee's situations such as Afghanistan refugees, Pakistan refugees, as well as Rohingya refugees. As the executor of United Nations' solution in handling Rohingya Refugees, United Nations High Commissioner for Refugees Policy Development and Evaluation Service (PDES) has already been reviewing the progress that has been fixed to implement the gold idea, primary obligation of United Nations High Commissioner for Refugees would be very big concern in exercising its mandate for the solution of refugees, it has a vital role in discovering and playing with another actors of international humanitarian, and increase the quality life of refugees. However, the situation of Rohingya refugees has been existed as a new challenge to the initiative of UNHCR since Rohingya refugees is categorized as the biggest refugees on earth¹.

Bangladesh is assumed as a state that should not be the provider camp for Rohingya refugees since it deals with high poverty; high rate of population growth as well as it is full of possibilities of natural disasters and climate change². Somehow, the present of Rohingya in Bangladesh only happens for a sin-

gle reason, namely Islam, it is because most part of refugees derive from various characteristics that they share with the community. The big concern of the world is to resolve all problems of life nowadays, including humanitarian matter. The action of Bangladesh has shocked the world since the action is categorized as an international crime, namely crime against humanity³.

In case, Arakani minorities are required to struggle and maintain their amount of population from tyrannical government. The Muslim of Rohingya in Myanmar are one the most ethnics that being slaughtered and one of the biggest groups of Stateless people. The horrible persecution in Arakan Myanmar has made Rohingya ethnic refugees to Bangladesh to find a secure place for maintaining their life as human. According to UNHCR, Bangladesh has ever accepted the refugee of Rohingya, it was more than 250,000 refugees that arrived in the 1990s and another 70,000 was in October 2016⁴.

The Rohingya in Myanmar are assumed as a society who lost the rights in their home country. It tends to be a crucial question whether they are merely "refugees" or "stateless", it deals with two main facts where Rohingya ethnic are being persecuted in Myanmar and treated unpropitious in Bangladesh, which means they can be categorized as stateless from Myanmar who transferred to be stateless in Bangladesh. Determining and qualifying refugees from economic and po-

1 United Nations High Commissioner for Refugees. 2011. *States of denial: A review of UNHCR's response to the protracted situation of stateless Rohingya refugees in Bangladesh*. Available from: http://www.netipr.org/policy/downloads/20111201_UNHCR-states-of-denial.pdf. [Accessed January 1, 2020].

2 *Ibid*

3 Abdul Ghafur Hamid, *et al.* 2015. *Human Rights Law: International, Malaysian and Islamic Perspective*. Selangor, Malaysia: Sweet & Maxwell Asia. p. 238-239.

4 Guy S. Goodwin-Gill. 2011. "The Right to Seek Asylum: Interception at Sea and the Principle of Non-Refoulement." *International Journal of Refugee Law*, 23(3): 443-457.

litical sides, humanitarian groups and another political activist are present to expand the natural landscapes of climate change in current time.

METHOD

The research used a normative legal research and qualitative approach by referring to some primary sources such as books, legal instruments, international journals as well as websites. All data and information were obtained through library research by analyzing and identifying the issue of *Non-Refoulement* principle in a case of Rohingya refugees in Bangladesh. In addition, the research used descriptive approach by analyzing the fact on the implementation of *Non-Refoulement* principle.

ANALYSIS AND DISCUSSION

Humanitarian Assistance and Coordination Concept

The term “humanitarian assistance” is known as the larger concept of humanity activity within the broader concept of “humanitarian action”. It is started from a simple term namely repatriation and reconstruction, the latter start from a simple term for repatriating and reconstructing activities and to develop cooperation deeply, even constantly covering measures of disaster preparation, measuring of prevention and minimizing of risk. In a narrow sense, activities of humanitarian assistance are constantly referred to a number of differing terms aid of humanitarian, relief of humanitarian, relief of assistance, relief of action.

All activities that are mentioned are addressed, including development of assistance as well as cooperation. In other words, humanitarian assistance is governed by ex-

tremely important principles such as impartiality and neutrality which stated in Article 70 paragraph 1 of Additional Protocol, customary law point of view as well as independence principle. In different terminology, this concept (humanitarian assistance) may consist of providing goods and services that have purpose for helping people to survive; the concept is directly affected by disaster which is caused by human beings, including conflict of armed, as well as natural disaster. The humanitarian activities may be consisting of material or personnel services. Humanitarian legal rules have already been developed in the context of armed conflict in the twentieth century. People suffered because of the armed concept⁵.

Humanitarian assistance is an action aimed at helping the lives of people suffering from humanitarian crises, natural disasters, epidemics, and wars. It also intended to prepare for events such as natural disasters and wars to occur again. Humanitarian assistance is based on moral obligations, neutral, impartial, and independent which are far from economic or political interests. In addition, humanitarian assistance helps all parties, not only intended for certain parties⁶.

The concept of humanitarian assistance deserves to be used by UNCHR, Bangladesh and all states over the world to accept Rohingya Refugees due to it will be the real nature of humanitarian assistance in helping certain groups of people who suffer from wars, epidemics and other disasters. Coordination is cooperation between actors or stakehold-

5 Heiker Spieker and Springer. 2011. *The Right to Give and Receive Humanitarian Assistance*. Berlin Heide: Springer-Verlag. p. 9.

6 H. J. Heintze and A. Zwitter. 2011. *International Law and Humanitarian Assistance*. Berlin Heide: Springer-Verlag. p. 155.

ers to improve performance in responding to an issue so that it can solve a problem more effectively⁷. In the field of humanity, the practice of coordination is also carried out so that the provision of humanitarian assistance such as food, medicine, clean water, and shelter to victims of conflict or natural disasters can be done more effectively and efficiently and in accordance with humanitarian principles such as neutral, impartial, and independent.

The collaboration is carried out by reviewing situations and needs, making collective agreements, developing joint strategies to solve problems through negotiation and collecting funding, providing information to the public and exercising control. In case, Bangladesh that assumed as a poor country with high rate of poverty, possibility of facing natural disaster and other weaknesses should use the coordination concept as a weapon for coordinating with other international actors or stakeholders such as UNHCR and other international humanitarian organization to increase its performance in solving humanity problem⁸.

In providing assistance to Rohingya Refugees of course Bangladesh does not work alone. Bangladesh requires cooperation from many parties in order they can be able to accommodate and fund assistance to hundreds of thousands of Rohingya refugees. Donors of funds and humanitarian assistance continue to arrive from other countries, International Organizations, UNHCR, and also international NGOs. International Humanitarian Organiza-

tions such as International Organization for Migration, Human Rights Watch, Amnesty International, and others continue to help Bangladesh Government in providing assistance to Rohingya refugees.

The escalation of conflict of ethnic between the Rakhine ethnic group and the Rohingya ethnic group in 2012 led to a very huge number of Rohingya refugees returning to Bangladesh. Bangladesh's unwillingness to accommodate more Rohingya refugees, one of which is shown in the exclusive interview of Bangladeshi Prime Minister Sheikh Hasina with international media Aljazeera on July 28, 2012. Hasina said that Bangladesh cannot accept more Rohingya refugees anymore because Bangladesh itself is an overpopulated country. Sheikh Hasina added that the Rohingya are not the responsibility of Bangladesh, but Myanmar Government.

Responding to the ongoing Rohingya refugee issue, on 9 September 2013 Bangladesh made a Strategy of Paper to address the Issue of refugees in Myanmar and Myanmar undocumented nationals in Bangladesh. The strategy paper was signed in 2014. Broadly speaking, this strategy paper contains Bangladesh policies to arrange Rohingya refugees in Bangladesh, including:⁹

1. Collecting data on Nationals of undocumented Myanmar in Bangladesh;
2. Providing basic needs for refugees who have been recorded;
3. Strengthening the Bangladesh-Myanmar state boundary arrangement;
4. Conduct a diplomatic approach with the Myanmar Government at both Bilateral and Multilateral levels; and
5. National level coordination

In 2017 the Myanmar Government held

7 Dan Bulley. 2014. "Inside the Tent: Community and Government in Refugee Camps." *Security Dialogue*, 45(1): 63-80.

8 Suzan Ilcan and Kim Rygiel. 2015. "Resiliency Humanitarianism: Responsibilizing Refugees through Humanitarian Emergency Governance in the Camp." *International Political Sociology*, 9(4).

9 *ibid*

a meeting with the Government of Bangladesh to make agreements related to Rohingya refugee issues in Bangladesh. The agreement was named Arrangement on Return of Displaced Persons from Rakhine State, the core of which was to procure repatriation to repatriate 650,000 Rohingyas back to Myanmar within 2 years which is generally in accordance with the Joint Statement signed by Myanmar and Bangladesh in 1992. The agreement was signed in Naypyidaw by de facto Myanmar leader Daw Aung San Suu Kyi and Bangladesh's foreign minister AH Mahmood Ali on November 23, 2017. Neither Myanmar nor Bangladesh directly mentioned what date the repatriation process would begin, but stated that the repatriation process would begin two months after the agreement was held and 1,500 Rohingya refugees would be returned to Myanmar every week¹⁰. Rohingya refugees in Bangladesh are still afraid to return to Myanmar after years of oppression and human rights violations. The Rohingya agree to return to Myanmar only if the Myanmar Government can guarantee the security and life of the Rohingya ethnic group so that they can live in peace like other ethnic groups in Myanmar. Rohingya refugees then make a list of requests inside petition forms as a condition that must be fulfilled by the Myanmar Government so that the Rohingya can trust and voluntarily return to Myanmar. The contents of the petition include guarantee of recognition and citizenship from the Government of Myanmar; asking the Government to announce that Myanmar will give Rohingya ethnic citizenship status; the Rohingya ethnic land that they used to occupy must be returned to them; houses, schools and mosques must

be repaired; freeing innocent Rohingya from detention; as well as the military of Myanmar must be responsible for the murder, oppression, sexual abuse committed against the Rohingya ethnic group¹¹.

The plan for procuring repatriation by Myanmar and Bangladesh still raises doubts by many parties, especially because there is no guarantee of Rohingya ethnic security in Myanmar. In addition, two months before the agreement was signed, the Rohingya crossed into Bangladesh with the largest number ever due to repressive actions from the Myanmar military, murder, sexual harassment, detention and burning of Rohingya ethnic homes in the Rakhine region. UN refugee agency UNHCR Reemphasized that this repatriation process could only be carried out if Rohingya refugees agreed and voluntarily returned to Myanmar, not because of coercion from any party. Amnesty International also doubts the plan if the apartheid policy is still applied by the Government of Myanmar. The repatriation, which was scheduled to be scheduled two months after the signing of the Displaced of Persons from Rakhine State, around January 23, 2018, has not been carried out until now. The Bangladeshi said that the delay was due to the process of verifying the list of refugees who will be returned to Myanmar is still incomplete¹².

The Non-Refoulement Principle

The *Non-Refoulement* principle is a principle regarding international refugee law, which regulates the prohibition towards states whereas the states are not able to return the

10 Gina Clayton. 2012. *Textbook on Immigration and Asylum Law*. Oxford University Press. p. 7.

11 Suzan Ilcan, et al. 2015. *Humanitarian Assistance, Refugee Management, and Self-Reliance Schemes*. London: Routledge. p. 8.

12 *ibid*

refugee or resist, in any places where the refugees are not able to execute their rights and obligations, or may be threatened. It is a principle that was mainly formulated that regarded to the refugee issues which are commonly happened in several certain states, overseas¹³. The Non-*Refoulement* principle is regulated in Article 32 of 1951 Refugee Convention, it stated in Article 32 about Expulsion, “The Contracting States shall not expel a refugee lawfully in their territory save on grounds of national security or public order. The expulsion of such a refugee shall be only in pursuance of a decision reached in accordance with due process of law”¹⁴.

Other than that, the Convention of Torture and other related Convention, Degrading of Treatment, Inhuman as well as Punishment also never forget to discuss concern Non-*Refoulement* Principle, it is stated in Article 3 “A State is not required to repatriate or return (“*refouler*”) people to other State where they are not able to obtain peaceful and security”. In addition, the other legislations also discuss concern on the principle, International Convention for The Protection of All Persons from Enforced Disappearance, Article 16 (1) “A state is not required to repatriate or return (“*refouler*”) people to other State where they are not able to obtain peaceful and security or in danger condition of being subjected to enforce disappearance”¹⁵. (2) In objective of

to determine whether there are such potential grounds where an authority shall take to account all reciprocal considerations, including the existence of a pattern of gross consistent, flashy or human rights violations or international humanitarian law serious violations. Even though, this principle tend to be categorized based on its definition, between the 1951 Convention and the Law of International Humanitarian, the law recognizes that principle where it only applies to particular group of people that affected by armed conflict¹⁶.

Regarding the international human rights law, Non-*Refoulement* principle is able to protect everyone under its state jurisdiction. According to Universal Declaration of Human Rights, the principle shall not be encompassed by another legal entities which consists of risk of capital punishment, cruel of punishment, recruitment of children and as well as participation in battle, in which the danger of people based on discriminatory reasons¹⁷.

Therefore, travelling of refugees is by using small boats without any flag. The state may establish *de jure* jurisdiction towards such ships and an implementation step, this practice is through interception measures and Refugees who travel generally use small boats without any flag. States can therefore establish *de jure* jurisdiction over such vessels and takes steps to implement this practice is including through interception measures¹⁸.

13 Seline Trevisanut. 2008. *The Principle of Non-Refoulement at Sea and the Effectiveness of Asylum Protection*. Netherlands: Max Planck UNYB. p. 205-246.

14 Lauterpacht and D. Bethlehem. 2001. *The Scope and Content of the Principle of Non-Refoulement*. United Nations High Commissioner for Refugees. p. 20-21.

15 Antonio Cassese, *et al.* 2011. *International Criminal Law: Cases and Commentary*. Oxford

University Press. p. 257.

16 Erika Feller. 2001. “Evolution of the International Refugee Protection Regime”. *Journal of Law and Policy*, 5: 130.

17 Isabelle R. Gunning. 2016. “Expanding the International Definition of Refugee: A Multicultural View.” *Fordham International Law Journal*, 13(36).

18 Bernard Ryan and Valsamis Mitsilegals. 2010. *Extraterritorial Immigration Control*. Leiden:

Law of the sea allows vessels interception activities as long as the concern consent has already been obtained. In case, refugees of Rohingya who travel to another state beside Bangladesh such as Indonesia and Malaysia, these states are required to build state jurisdiction as long as they have been a part of United Nations Convention on the Law of the Sea. UNCLOS¹⁹.

Refugees forced return is not only prohibited by *Non-Refoulement* principle, but also an indirect action which causes the similar effect. Principally, activity of people such as moving from a state is protected by the principle and shall not be threatened by the individual automatically, but which will not protect the person effectively from subsequent transfers that violate the principle of *Non-Refoulement*. In other word, it prohibits the state from not only transferring a person directly to a place that is harmful, but also from taking certain cover or indirect actions that can be indicated to put a person without any real alternative other than returning to the harmful situation²⁰.

In further meaning, the *Non-Refoulement* principle applies to refugees and asylum seekers. In addition, for protecting refugees from any repatriation, in which their protection is legal under the legal body. On the contrary, refugees' protection under law of human rights means anyone may not be repatriated, but it does not mean that person shall be provided status of refugees and shall be provided all rights as they are entitled to. In all situations, however, the state shall respect, protect and provide the human rights of everyone under

its jurisdiction²¹. This law prohibits countries from moving or putting away people from their jurisdiction or effective control when there is a possibility of the people will face a risk of harm, including mistreatment, torture, ill-treatment or other serious human rights violations. Therefore, *Non-Refoulement* principle has a huge impact regarding humanity, thus, it is important to be upheld.

Bangladesh: Implementation of Non-Refoulement Principle

Rohingya refugees who keep coming to Bangladesh makes Bangladesh must be wise in formulating policies related to the regulation of Rohingya refugees in the country so that it can reduce problems and not endanger Bangladesh's national security. The Rohingya refugee problem is actually a dilemma for Bangladesh. On the other hand, Bangladesh cannot close its eyes that the Rohingya are in dire need of humanitarian assistance to protect themselves from oppression by Myanmar. Bangladesh's Policy towards the Rohingya refugees underwent a transition as time went from being welcome to be more closed by refusing to recognize the Rohingya who came to Bangladesh as refugees.

Bangladesh is not a party of Convention on Refugees 1951 and Protocol 1967, both of which form the basis of international law regarding refugees. Bangladesh is not a party of Statelessness Convention in 1954 and 1961 as well. Even so, Bangladesh is a member of the Executive Committee of UNHCR (EXCOM).²² In Bangladesh, there are no laws

Martinus Nijhoff. p. 95.

19 *Ibid.*

20 David Kennedy. 2010. "International Refugee Protection". *Human Rights Quarterly*, 8(1): 2.

21 Ademola Abass. 2010. *International Law: Text Cases and Materials*. Oxford University Press. p. 676.

22 Johnny Ibrahim. 2010. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayu Media Irish Centre for Human Rights. p. 59.

that directly regulate refugees, only a few laws that can be used to regulate foreigners in Bangladesh, namely the Act concern on Passport 1920, the Act concern on Naturalization 1926, Act concern of Foreigner Registration 1939, Act concern on Foreigners 1946, Act concern on Citizenship 1951, Act concern on Control of Entry 1952, Rules of Foreigners' Registration 1966, the Bangladeshi Citizenship 1972, Act concern Passport Order 1973, and Act concern on Extradition 1974. Then in the Bangladesh Law Chapter 3 on fundamental rights, there are several articles which can also be used for refugees, namely Article 31 concerning the right to protection under the law, Article 32 concerning the protection of the right to life and freedom, Article 33 concerning protection from detainees, and Article 34 concerning the prohibition of forced labor.²³

Rohingya refugees first arrived with a very large number to Bangladesh precisely in the Cox's Bazar region in 1978, which were around 250,000 people. At that time, Bangladesh that was concerned about the humanitarian crisis that occurred in the Rohingya ethnic group opened the widest door to receive and help the Rohingya refugees who came from Myanmar. Bangladesh provides humanitarian assistance in the form of food, medicine, clothing, and making shelter for Rohingya refugees.²⁴ The welcoming openness to Rohingya refugees one of the reasons is based on sympathy and empathy for what has happened to the Rohingya ethnic. As a country with a majority Muslim population, Bangla-

desh feels the need to help fellow Muslims who are experiencing calamity.²⁵

Solidarity with fellow Muslim is one of the bases used by Bangladesh in making its foreign policy. This sympathy did not only come from the government, the local people of Bangladesh also showed their sympathy by accepting Rohingya refugees and allowing them to temporarily take refuge in Bangladesh. Bangladeshis lend their farmland and serve as shelters for places living Rohingya refugees. After Nagamin's operations abated, around 187.250 Rohingya refugees were returned to Rakhine through 10 bilateral negotiations with the Government of Myanmar. Rohingya refugees who had been returned to Myanmar returned to Bangladesh in 1991.

This open-door policy continues until the wave of refugees' large scale came back to Bangladesh in 1991. In September 1991, Bangladesh in cooperation with the UN refugee agency UNHCR then built 20 shelters for Rohingya refugees in the Cox's Bazar and Bandarban area. Because refugees from Myanmar came continuously, Bangladesh then undertook diplomatic initiatives with the Government of Myanmar to conduct repatriation or repatriation of Rohingya refugees in Bangladesh to their home country, Myanmar²⁶.

On April 28, 1992, the Joint Agreement in the form of a Memorandum of Understanding (MoU) was signed by the Bangladeshi Minister of Foreign Affairs, Mr. A.S.M Mostafi-

23 Howard Davis. 2009. *Human Rights Law Directions*. New York: Oxford University Press. p. 195.

24 Helen and Richard Glancey. 2013. *Civil Liberties and Human Rights*. New York: Routledge. p. 237.

25 Akm Ahsan Ullah. 2011. "Rohingya Refugees to Bangladesh: Historical Exclusions and Contemporary Marginalization". *Journal of Immigrant & Refugee Studies*, 9(2): 139-161.

26 Caitlin Wake, et al. 2019. *Rohingya refugees' perspectives on their displacement in Bangladesh*. Available from: <https://www.odi.org/sites/odi.org.uk/files/resource-documents/12719.pdf>. [Accessed on January 1, 2020].

zur Rahman and Myanmar's Foreign Minister, U Ohn Gyaw Joint Statement in Dhaka to respond to the refugee issue. Myanmar agreed to take back those who carried Myanmar identity cards and could prove they lived in Myanmar. In its negotiations with Myanmar, Bangladesh emphasized four things that were the focus of the agreement.²⁷ These four things include stopping the flow of refugees from Myanmar to Bangladesh, Rohingya refugees in Bangladesh being returned to their places of origin in the Rakhine region safely and with dignity, seeking joint solutions so that the Rohingya ethnic exodus from Myanmar does not recur, and UNHCR must be involved in this repatriation process. The actual repatriation process that has been carried out since the arrival of Rohingya refugees in 1978 can be said to be unsuccessful due to the lack of commitment from the Government of Myanmar to ensure the safety of the Rohingya ethnic group in Myanmar. His ethnicity is still oppressed and discriminated against so they continue to return to Bangladesh to take refuge.²⁸

In formulating their policies regarding the issue of Rohingya refugees continued to arrive in his country, Bangladesh saw problems arising from the arrival of Rohingya refugees. At first, the Bangladeshi community was very sympathetic to what happened to the Rohingya ethnic group and accepted them to temporarily take refuge in Bangladesh. However, the arrival of the Rohingya ethnic group

which continues to this day creates various problems in Bangladesh and creates special pressure for Bangladesh's local citizens, especially for those who live in the Cox's Bazar refugee area. Broadly speaking, the problems posed by Rohingya refugees are divided into economic problems and national security problems.²⁹

Problem of Economy

The arrival of Rohingya refugees in very large numbers creates its own economic burden for Bangladesh because it impedes the average economic growth of Bangladesh. Bangladesh does not have enough capabilities to accommodate hundreds of thousands of refugees in the country. Bangladesh is one of the most populous countries in the world and must face the problem of poverty in his country. The Cox's Bazar area which is a destination for Rohingya refugees is also the poorest area, where the population lives in very high poverty rates.

Cox's Bazar is a suburb in Bangladesh where the land is infertile and difficult to grow, so the local people are very dependent on buying food in the market. High demand for food ingredients makes food prices fluctuate. Apart from that food ingredients available in the market are also not diverse. The road conditions in Cox's Bazar are not good and the infrastructure is very inadequate. The arrival of hundreds of thousands of Rohingya refugees made this situation worse.

The refugees who have to survive then do any work and cause competition with local residents in the labor markets, moreover these refugees are ready to be paid lower wages

27 Abdul Ghafur Hamid. 2012. *Public International Law: a Practical Approach*. Kuala Lumpur: Sweet & Maxwell Asia. p. 283.

28 James C. Hathaway and Colin Harvey. 2001. "Framing Refugee Protection in the New World Disorder". Ithaca, New York: *University of Michigan Law School Cornell International Law Journal*, 288.

29 Guy S. Goodwin-Gill. 2012. "Introduction to the 1967 United Nations Declaration on Territorial Asylum". *UN Audio-Visual Library of International Law*, Historic Archives.

than local residents. The main livelihoods of local residents at Cox's Bazar are farming, fishing industry, shrimp farming, and salt production. Local residents who work as fishermen in the sea and catch fish in the Naf river even must lose their livelihood. The arrival of Rohingya refugees through the Naf River made the Government of Bangladesh forbid local residents from fishing in the river.

Problem of Security

In addition to causing an economic burden on Bangladesh, Rohingya refugees also disrupt Bangladesh's security stability. The need for survival makes the Rohingya perform various kinds of work including work related to criminal acts such as arms smuggling and drug trafficking. Condition geographically Bangladesh, located between the golden triangle of Myanmar, Thailand, Laos and the golden crescent of Pakistan, Afghanistan, as well as Iran, makes it easy for drug dealers to operate around Bangladesh and recruiting Rohingyas to become couriers. The golden triangle region is an area in Southeast Asia that produces and disseminates various types of drugs such as narcotics, heroin and amphetamine.³⁰

Rohingya refugees are also involved in various criminal activities such as murder, robbery, theft, smuggling, etc. in the Cox's Bazar area.³¹ The local people of Bangladesh even call them violent and crime-prone people by nature. Rohingya refugees also commit criminal acts with falsifying passports and Bangladesh identity cards so that they can travel abroad, especially to Middle Eastern

countries such as Saudi Arabia. In overseas, many of the Rohingya are involved in criminal activities. Actions taken by Rohingya refugees can damage the image of Bangladesh in the eyes of the international world.³²

The Rohingyas who have experienced various oppressions by Myanmar eventually formed an Islamic militant movement called the Arakan Rohingya Salvation Army (ARSA). This militant movement was also formed in Bangladesh such as Arakan Rohingya Islamic Front (ARIF) and Rohingya Solidarity Organization (RSO). These movements are active both in Myanmar and in Bangladesh. The arrival of hundreds of thousands of Rohingya refugees has also made deforestation in Bangladesh even worse. Firewood is the main fuel of local Bangladeshis for cooking³³.

Besides being used for fuel, local Bangladeshis also collect firewood for sale. Stock the firewood is running out because Bangladesh must provide land to build a shelter for Rohingya refugees. According to the Ministry of Forestry, Bangladesh has donated more than 3,000 hectares of forest land to accommodate Rohingya refugees. Forest destruction in Bangladesh is exacerbated by logging activities by Rohingya refugees. They cut down trees and the wood is sold to survive.

Various problems that arise after the arrival of thousands of Rohingya refugees that made Bangladesh take the decision to implement a push-back policy towards refugees and continue to work on bilateral negotiations with the Government of Myanmar so that the re-

30 Richard Perruchoud. 2004. *International Migration Law*. Geneva: International Organization for Migration (IOM): Glossary on Migration. p. 40.

31 *ibid*

32 Daniel G. Groody. 2009. *Crossing The Divide: Foundation of A Theology of Migration and Refugees*. Theological Studies. p. 638.

33 Alina Kaczorowska. 2010. *Public International Law*. New York: Routledge. p. 565.

patriation program can be realized properly. According to the Refoulement principle, the state should not repatriate refugees to the country where they came from which could endanger their lives again. The principle of Non-Refoulement includes *jus cogens* (the basic principles of international law which are recognized by the international community as norms that must not be violated or peremptory norms so that they are binding for all countries, including countries that have not signed the 1951 convention), except if the refugee poses a threat to national security for the country that holds the refugee. This was used as the basis by Bangladesh to repatriate Rohingya refugees because it posed a threat to Bangladesh's national security. However, the act which is conducted by Bangladesh in repatriating and displacing Rohingya's Refugees may be categorized as a violation of humanitarian assistance concept as well as Refoulement principle which applied.

CONCLUSION

By referring to all data and information that have been obtained on the research, it concluded clearly that Bangladesh has not implemented the Non-Refoulement Principle yet, in which Bangladesh treats Rohingya Refugees in properly. By means, Bangladesh may be assumed to have violated the international humanitarian assistance concept as well as Non-Refoulement principle.

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