



## Article

# Muslim Solidarity and the Lack of Effective Protection for Rohingya Refugees in Southeast Asia

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**Abstract:** Southeast Asia has the weakest normative frameworks for refugee protection of any region in the world apart from the Middle East. Only two out of ten member states of the Association of Southeast Asian Nations (ASEAN) have signed the 1951 International Refugee Convention. Nevertheless, the 2012 ASEAN Human Rights Declaration explicitly mentions the right to seek and receive asylum ‘in accordance with the laws of such State and applicable international agreements’ (ASEAN 2012). One of the litmus tests for this right has been the regional treatment of the Rohingya, a Muslim minority from Myanmar that faces forced displacement, discrimination, and large-scale state violence. Based on media content analysis and a scientific literature review, this paper sheds light on how ASEAN’s most prominent Muslim member countries, Indonesia and Malaysia, advocate on behalf of the forcibly displaced Rohingya. In particular, this paper focuses on competing forms of political interventions and shifting notions of Muslim solidarity. While Indonesia and Malaysia have been very vocal in bilateral, regional, and international forums to criticise the Myanmar government for their violation of basic human rights, both countries remain highly reluctant to offer sanctuary to Rohingya refugees, of which several thousand have attempted to reach Indonesia and Malaysia. This research finds that the notion of Muslim solidarity remains a symbolic rhetoric primarily directed at domestic audiences and the failure to render effective protection to refugees has rather increased over the last five years.

**Keywords:** forced displacement; refugee protection; Rohingya; Association of Southeast Asian Nations (ASEAN); Indonesia; Malaysia; Myanmar



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## 1. Introduction

Despite the close political and economic cooperation between member states of the Association of Southeast Asian Nations (ASEAN), the region still lacks a common and comprehensive approach to dealing with and responding to cross-border forced displacements. Among all ASEAN countries, only Cambodia, the Philippines, and Timor-Leste, a soon to become ASEAN member, are signatory parties to the 1951 Geneva Convention and its 1967 Protocol. With most ASEAN members abstaining from the international refugee regime, the region is considered to have the weakest normative refugee protection framework in the world apart from the Middle East (Missbach et al. 2018; Stange et al. 2019). Although the 2012 ASEAN Human Rights Declaration does mention the right to seek and receive asylum—i.e., ‘every person has the right to seek and receive asylum in another State in accordance with the laws of such State and applicable international agreements’ (ASEAN 2012)—the ASEAN member states’ response to the issue of forced migration has mainly adhered to the so-called ASEAN Way. The ‘ASEAN Way’ refers to a set of principles or a style of diplomacy that ASEAN members have maintained in their intraregional relations, characterised by non-interference, dialogue, and a consensus style of decision making (Amer 2009; Nishikawa 2020). Regional cooperation is considered as one of the answers for the refugee movement around the world since hardly any single country can deal

with forcible mass displacements on its own (Moretti 2020). Due to the region's political heterogeneity and diverse political interests, it remains highly unlikely that ASEAN will adopt a joint regional framework on forced migration any time soon (McCaffrie 2020; Petcharamesree 2016).

Despite the lacking regional commitment for refugee protection, the member states of ASEAN host considerable numbers of refugees and asylum seekers in their respective territories. According to the United Nations High Commissioner for Refugees (UNHCR), in 2019, there were more than 1.1 million refugees, people in refugee-like situations, and asylum seekers in Southeast Asian countries (UNHCR 2020a, 2020b). Refugees and asylum seekers from Myanmar continue to be the largest population, with many being stateless Rohingya from Myanmar. While the Rohingya have lived in Rakhine State in western Myanmar for centuries, the conflict with the Government of Myanmar can be traced back to the Second World War, when Rohingya and other non-Buddhists sided with the retreating British against the invading Japanese, who were supported by the Buddhists in Rakhine (Singh 2014). The Myanmar government repeatedly tried to expel the Rohingya across the border into Bangladesh, where they were not welcomed either. When thousands of Rohingya wanted to return from Bangladesh to Myanmar, Myanmar refused to accept them and the 1982 Citizenship Law cemented their status as stateless people because they were not part of the recognised minorities in Myanmar (Cheesman 2015). Ever since, Rohingya lack fundamental rights and are considered 'resident foreigners' in their country of birth (Ullah 2016).

Periodic crackdowns by the Myanmar military, paired with violent campaigns against Rohingya led by extremist, ultranationalist Buddhist monks who strategically fuelled anti-Islamic sentiments among the Buddhist majority population in the Rakhine state, have resulted in successive waves of forced displacement of large segments of the Rohingya population from Myanmar to Bangladesh, peaking in 2012, 2015, and most severely, in 2017 (Wade 2019). UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein (2017) called the expulsion 'a textbook example of ethnic cleansing', stressing also the great risk that the Myanmar military might attempt to expel the remaining Rohingya population. After the mass-scale expulsion of 2017, only 600,000 Rohingya remain in Myanmar and continue to suffer from repression and persecution (HRW 2020).

As of January 2021, UNHCR had registered 866,457 Rohingya refugees from Myanmar in neighbouring Bangladesh, where the Bangladesh government offered them temporary sanctuary in 35 camps situated around Cox's Bazar (ICG 2017; UNHCR 2021a). Although the Bangladesh government has so far tolerated the presence of close to one million Rohingya in its territory despite many negative impacts and fears, the capacities in Bangladesh are starting to wear out (Zaman et al. 2020). Due to the substandard conditions in the refugee camps in Bangladesh, thousands of Rohingya have engaged in secondary movements within Southeast Asia. Destinations include Thailand, Indonesia, and most importantly, Malaysia, which offers a chance to earn a living despite the dire conditions that come with being undocumented (Azis 2014; Huennekes 2018; Lego 2012; Nungsari et al. 2020; O'Brien and Hoffstaedter 2020). After Bangladesh, the second-largest group of forcibly displaced Rohingya—over 100,000—lives in Malaysia (UNHCR 2021b). In comparison, the numbers in Indonesia are relatively small, with 909 in 2020 (UNHCR 2020d).

According to UNHCR estimates between 2012 and 2015, 112,500 Rohingya refugees travelled to Malaysia by boat, and approximately 1800 died on those journeys (UNHCR 2015). The humanitarian crisis that unfolded in May 2015, when Thailand, Malaysia, and Indonesia at first refused to allow Rohingya refugees stranded at sea to disembark in their respective territories, became a major test of regional cooperation (Gleeson 2017; Moretti 2020). Responding to international pressure, Malaysia and Indonesia agreed to offer those stranded people a temporary retreat instead of pushing them back into the sea, as they had already done in several cases (Ahmad et al. 2016; Ghráinne 2017). On 21 May 2015, the foreign ministers of Indonesia, Thailand, and Malaysia met in Putrajaya, Malaysia, and announced a 'solution to the crisis of influx of irregular migrants' (Joint Statement 2015).

Eventually, only Indonesia and Malaysia provided humanitarian assistance. However, their offer for temporary refuge was based on the condition that ‘the resettlement and repatriation process [would] be done in one year by the international community’ (ibid.). The only country that allowed for the resettlement of several thousand Rohingya, mainly in the years 2015 and 2016, was the USA (Refugee Processing Center 2016). Given the lack of resettlement options to third countries that materialised after the rescues, the main responsibility remained with the two hosting countries. Indonesia and Malaysia handled the Rohingya based on their domestic law and national policies (Dewansyah and Handayani 2018), not least because there is no regional mechanism for refugee protection.

Considering ASEAN’s meagre responses in protecting the Rohingya, the two Muslim majority countries, Indonesia and Malaysia, have been at the forefront of humanitarian action, often subsumed under the rhetoric of Muslim solidarity. This paper sheds light on measures taken by the Governments of Indonesia and Malaysia, as well as on the related media discourse in both countries concerning the Rohingya from 2015 onwards. As founding members of ASEAN, the two countries occupy very significant roles in the regional discourse on the Rohingya crisis, not least because the domestic population of both countries are Muslim majorities. In particular, this paper addresses the question of why Malaysia and Indonesia were the only countries in the region to take on humanitarian responsibilities actively for Rohingya refugees, and why the shifting rationales have resulted in very different outcomes of their ostensible Muslim solidarity. This article proceeds as follows: at first, we briefly explain the methodology applied for retrieving and analysing the material this paper is based on. Next is a short discussion of how the so-called Rohingya crisis has been unfolding in South and Southeast Asia, and the highly ambivalent, if not cynical, political responses in the region. Then, we briefly introduce the concept of humanitarian containment, which serves to capture the attitudes towards the prosecuted Rohingya, who receive aid and charity but remain immobilised and prevented from seeking sanctuary outside the camps in Bangladesh. Finally, we will present our findings from Indonesia and Malaysia and explain how and why the discourses on Muslim solidarity have developed rather differently in both countries. We end this paper with a short summary of the key findings.

## 2. Method

Given the recent developments in the Rohingya crisis, the authors regarded research on the topic as warranted despite the current global COVID-19 related travel restrictions. As qualitative field research had not been an option for data collection, this paper is based on qualitative content analysis, that is a ‘systematic examination of communicative material’ (Mayring 2004, p. 266), in this case of media reports, official statements by ASEAN and ASEAN member states as well as relevant policy papers. Specifically, this paper is grounded in the directed qualitative content analysis approach (Elo and Kyngäs 2008), in which relevant research findings provide the necessary information to code and analyse the retrieved data corpus. To this end, we first identified a body of relevant scientific literature in the Google Scholar database with regard to the main analytical concepts referred to in this paper. For the research process, the search terms ‘Muslim solidarity’, ‘non-interference’, ‘sanctuary’, and ‘hospitality’ were combined with the search terms ‘Rohingya’, ‘ASEAN’, ‘Malaysia’, and ‘Indonesia’. Since this research intends mainly to reflect upon scientific and public debates with regard to the so-called Rohingya crisis, the authors included scientific publications published mostly since 2012. In a second step, the authors performed a Google as well as Google News search that combined the search terms ‘Rohingya’, ‘ASEAN’, ‘Malaysia’, and ‘Indonesia’ to retrieve relevant media reports, official statements as well as policy papers. As this paper deals with developments since 2015, the search focused on communication materials published between 2015 and 2020 in the English language.

### 3. A Crisis Unfolding

The 2015 Andaman Sea crisis revealed the lack of coordinated regional response mechanisms for refugees and forcibly displaced people amongst ASEAN and therefore cemented the inconsistent, ad hoc approaches by individual ASEAN members such as Indonesia and Malaysia. Traditionally, Indonesia and Malaysia perceive themselves as non-immigrant nations, which means that they do not allow for permanent refugee resettlement in their respective territories (Dewansyah et al. 2017; Dewansyah and Handayani 2018). De facto, Indonesia and Malaysia have become hosting states that informally tolerate the presence of refugees and asylum seekers without offering any effective pathway for their naturalisation or long-term integration (Lego 2012, 2018; Missbach 2017; Missbach and Hoffstaedter 2020). ASEAN has not addressed the root causes of the Rohingya crisis and has failed to support efforts to investigate the military's atrocity crimes or pursue accountability (Moretti 2018). Instead, ASEAN has prioritised repatriation over ending abuses and providing justice for the Rohingya; or, as Barber and Teitt (2020) put it more drastically, ASEAN 'has been notably silent on genocide in Myanmar, ducking behind the myth of non-interference'.

Between the end of the 2015 Andaman Sea crisis and 2019, only a few boats with a small number of Rohingya refugees managed to reach Malaysia. Despite temporary repressions of maritime travel across the Andaman Sea since 2015, in 2020 Indonesia and Malaysia saw more Rohingya boat arrivals heading their way amidst the COVID-19 pandemic (Tan 2020; UNHCR 2021b). In 2020, about 2400 Rohingya attempted the sea crossing, and 200 died according to the UN refugee agency (Aljazeera 2021).

The new influx of Rohingya boats was driven by both the poor conditions in the refugee camps in Bangladesh and the shrinking hope for swift returns to Myanmar. Given that ASEAN had still not installed an effective mechanism for dealing with maritime refugee movements, Malaysia and Indonesia took matters into their own hands. The formerly reluctant hospitality, however, had given way to more open hostilities. In April 2020, Malaysia started pushing back Rohingya refugee boats, using as an excuse its restrictive border measures introduced in response to COVID-19 (Beech 2020). In May 2020, two more boats with an estimated 500 Rohingya on board were sighted near the coast of Aceh, Indonesia. The Indonesian coastguard refused to rescue these people or allow for their disembarkation (Lamb and Costa 2020). Appeals by religious leaders, scholars, and activists to conduct rescue missions were ignored by the Indonesian government. Meanwhile, according to official statements, Malaysia turned back 22 Rohingya boats in May-June 2020 (Malaysia Detains 270 Rohingya 2020). In June, 269 Rohingyas were detained in Malaysia after their vessel had reportedly been intentionally damaged, thus thwarting efforts to push it back to sea. In a rather exceptional move, in late June 2020, a boat carrying 99 Rohingya managed to disembark in Aceh, Indonesia, after local people urged the authorities and protested until local fishermen brought them to shore (Amnesty International 2020). In early September 2020, another group of almost 300 Rohingya came ashore in Aceh, after a several-months-long journey at sea, during which the organisers of the boat had demanded additional payments from the family members of the passengers to continue their passage. While it remains unknown how many other refugee boats were left drifting in the Andaman Sea without food or water, these events exacerbated fears that the 2020 situation could turn into another refugee crisis of the likes seen in 2015. Meanwhile, the military takeover in Myanmar in early 2021 after Aung San Suu Kyi's National League for Democracy (NLD) won the national elections by a landslide (Charney 2021) has abolished any chances for the repatriation of the Rohingya from Bangladesh and, more importantly, has put the lives of the remaining Rohingya in Myanmar at higher risk.

Amongst ASEAN members, reactions to the Rohingya crisis and the renewed secondary movement have been mixed, and member states' attitudes towards Myanmar and the Rohingya have been as diverse as their opinions regarding the notions of refugee protection and human rights more generally. By far and large, the ASEAN member states can be divided into three camps reflecting their different geopolitical affiliations as well as

their domestic political situations (ASEAN 2020). Member states such as Cambodia, Laos, the Philippines, Vietnam, and Myanmar asserted that the situation was an internal one and thus adopted the approach of non-interference. Highly critical of the violence and the human rights violations against the Rohingya and most concerned by the implications of the exodus of the Rohingya into their respective territories, Malaysia and Indonesia have expressed solidarity with the persecuted Rohingya and urged the other ASEAN members for a combined and assertive response towards the Myanmar government. Yet, they have also fallen short of offering resettlement options for Rohingya. The remaining ASEAN member states, Singapore, Brunei, and Thailand, are sitting on the fence, preferring to take a moderate stance vis à vis the regime in Myanmar.

While ASEAN, as a regional forum, has remained widely silent on the violent attacks, forced displacement, and fundamental lack of rights, Malaysian politicians have condemned the Myanmar government more vocally on a number of occasions. Former Malaysian Prime Minister Datuk Seri Najib Razak led a rally in Kuala Lumpur to protest the 'ethnic cleansing' of the Rohingya community in Rakhine State (Ha and Htut 2016; Shamira 2017). Similarly, his successor, Prime Minister Mahathir Mohamad, referred to the targeting of Myanmar's Rohingya as 'genocide' and 'institutionalized terrorism' (Sukumaran 2019). Malaysia has continuously raised the Rohingya issue within ASEAN and called for an independent ASEAN-led investigation into allegations of abuse by Myanmar's army (Dziedzic 2018; Rosyidin 2017). Indonesian President Joko Widodo made public statements on the Rohingya plight yet chose a more moderate wording than did his Malaysian counterparts. Deciding in favour of pursuing a path of quiet diplomacy, Widodo sent Foreign Minister Retno Marsudi on a diplomatic marathon across the region to initiate a peace process (Adiputera and Missbach forthcoming). Besides activities pursued on the bilateral level, Malaysia and to a lesser extent Indonesia tried to garner international support for the Rohingya through the Organisation of Islamic Cooperation (OIC) (Jati 2017).

Although the ongoing plight of the Rohingya receives significant media coverage in Malaysia and Indonesia and generated substantial pressure on the respective governments to support the Rohingya out of a sense of Muslim solidarity, this concern has not mitigated the conflict or properly addressed the root causes. One of the reasons behind this is that amongst solidarity groups and Muslim organisations, there is no uniform conception of what Muslim solidarity should actually entail or where they should direct their focus—e.g., at the domestic Rohingya, only those in the refugee camps in Bangladesh, or those remaining in Myanmar (Adiputera and Missbach forthcoming; Murphy 2020). While the governments of Indonesia and Malaysia, together with domestic Muslim aid organisations, donate substantial aid to Rakhine and the Rohingya camps in Bangladesh, no effective sanctuary has been offered to the Rohingya refugees already in Malaysia and Indonesia (Missbach 2017). While it might be far from realistic to equate Muslim solidarity with unlimited acts of hospitality and an open-door policy for specific, persecuted people (Muslims), religious sentiments that do not translate into any pragmatic action will eventually belie their proponents.

#### 4. Conceptual Framework: Containing the Crisis

In light of the magnitude of the Rohingya crisis and the potential that it might affect the wider region, particularly if irregular movements were to increase, a stronger intervention by ASEAN to curtail forced mass displacement of the Rohingya should have been plausible or even deemed desirable by external observers. Yet, ASEAN's response has remained muted, constrained by its own principle of non-interference (Rosyidin 2017). Sovereignty and domestic security are central concerns of Southeast Asian countries and are considered fundamental to state survival (Jones 2012). Southeast Asian governments thus often equate having to accept and host refugees for longer periods with loss of control (see, for example, Sultoni and Efendi 2020).

Potential host states tend to perceive a large influx of Rohingya as a security threat, which may further fan the fires of Muslim radicalisation amongst their domestic populations through adopting the cause of the Rohingya through armed resistance. Pro-Rohingya sentiments have fed into public agendas of extremist and jihadist elements in Indonesia and Malaysia, particularly at a time when religious tensions and the trend towards Islamic orthodoxy are running high in these countries (Chew 2019; IPAC 2018; Osman and Arosoaie 2018; Sukhani 2020). Since 2012, there have been protest marches and demonstrations in Indonesia in support of the persecuted Rohingya by sending armed volunteer fighters and calling for revenge. Unsurprisingly, the anxieties concerning potential spillover effects on the wider region are an important reason why ASEAN member states bordering Myanmar have strong interests in containing the Rohingya refugees, thereby preventing their onward movements in the first place.

Containment usually refers to state action that aims at keeping something harmful under control or within limits. Concerning refugee movements, containment refers to the techniques and strategies to immobilise refugees and prevent them from crossing international borders. Refugees are either locked up in camps (McConnachie 2016), on islands (Mountz 2011), or in detention centres (Silverman and Nethery 2015), usually within the region of origin. Containment practices are diverse and function beyond strict spatial restrictions through the temporal suspension of lives and by making refugees highly dependent on aid deliveries (Tazzioli and Garelli 2018). Refugees remain 'locked up' for long periods of time while being prevented from working and living outside the camps, therefore fully depending on daily supplies of food, medical care, and even information, particularly if internet access is capped by camp authorities. The provision of humanitarian assistance and aid—such as food, health, and basic social welfare—is hoped to ensure that camp conditions remain sufficient and thus reduce the likelihood of refugees embarking on secondary movements.

While containment and non-entree policies are well researched for the Global North (Besteman 2019; McConnachie 2016; Tazzioli and Garelli 2018), academics so far have not scrutinised the containment techniques in the Global South with the same vigour. The technologies and tools of containment employed by the Global North to immobilise refugees and keep them in inhospitable places have sparked iterations across the Global South, yet with certain modifications and adjustments. For example, maritime blockades and pushbacks have taken place on numerous occasions, particularly in Southeast Asia. During the 2015 Andaman Sea crisis, Thailand enacted a maritime blockade, which in turn precipitated the standoff of thousands of Rohingya at sea, before Indonesia and Malaysia allowed them to disembark in their territories. Current containment and deterrence strategies utilised in Southeast Asia are not necessarily driven by the same rhetoric of preventing 'deaths at sea' that have been propagated by countries of the Global North (Pallister-Wilkins 2015). Moreover, pushbacks are disguised as anti-trafficking/anti-smuggling operations and as means to combat transnational crime. However, the fact that international (and domestic) laws are ignored during such operations becomes clear when recalling that some Rohingya boats were intercepted by Thai, Malaysian, and Indonesian authorities, who then equipped them with minimum amounts of fuel, food, and water and escorted them beyond their territorial waters instead of bringing them to their shores to provide them with the required treatment (UNHCR 2015; Ghráinne 2017).

Instead of directing the focus at the drivers of forced displacement and thus attempting to address the roots of the conflict, the logic of containment is solely concerned with the dangerous journeys and their potentially fatal outcomes that therefore need to be prevented. Yet, while seemingly advancing such concerns for the well-being of the forced migrants, behind the rhetoric of 'preventing deaths at sea' are the pure interests of nation-states and their sovereignty. While the parallels between containments and deterrence strategies used in the Global South and Global North might be striking at first view, they differ in extent and materiality, mostly because countries in the Global South, i.e., Indonesia and Malaysia, do not have the same resources to be spent on border protection and foreign aid. As we

will explain later, these containment efforts and refusal policies are in strong contrast with the rhetoric of Muslim solidarity, which is very prominently used by politicians and civil society organisations in Malaysia and Indonesia. With the term Muslim solidarity, we refer to a rhetoric formula and a normative framing practice that bases the deservingness of expressions of solidarity such as social, economic, political, and/or humanitarian support on the grounds of affiliation to the religion of Islam. This paper argues that transnational statements in support of Muslim minorities in distress abroad that are being made by politicians and/or civil society activists in Muslim majority countries are rather a means to an end to address and mobilise domestic electorates and support networks than an expression of the belief in the existence of a collective, worldwide Islamic community (*ummah*) (Müller 2010; Pratisti et al. 2019).

In light of the containment logic that drives the humanitarian engagement of Indonesia and Malaysia, it is not surprising that both are keen supporters of swift repatriations of the Rohingya from Bangladesh back to Myanmar, hoping that this could also help to prevent the crisis from spilling over to other ASEAN member states. Despite warnings from human rights organisations that premature repatriations could result in great dangers to the Rohingya, Indonesia's Foreign Minister Retno Marsudi has stated, 'repatriation [of Rohingya] remains a priority for Indonesia. We have to keep trying to return them to their home in Rakhine State' (Idrus 2020). Both Malaysia and Indonesia have offered additional aid to conduct those envisioned returns.

The first repatriation attempt began in November 2017 with Myanmar and Bangladesh signing an agreement to repatriate the refugees as soon as possible. The first batch of Rohingya was slated to return at the end of January 2018, but this was postponed by the Bangladesh government amidst concerns about the procedures and the unwillingness of the refugees to return (Oh 2019). In June 2018, the UNHCR, the UN Development Programme, and the Myanmar government signed a memorandum of understanding on return, which lacked guarantees of citizenship. This led to a second attempt at repatriation in mid-November 2018, which fell through because the Rohingya were unwilling to return without guarantees of citizenship and housing (Oh 2019). It is likely that the Rohingya will remain in Bangladesh for the near future because the Myanmar authorities were unwilling to resolve the issues of citizenship and the recognition of Rohingya as a national race. In light of the most recent military coup in Myanmar, any progress in this regard appears even less likely and it is expected that the military rule will end all hopes for a return home.

## 5. Malaysia's Ever-Shifting Responses

Malaysia has a mixed record in providing persecuted Muslims with sanctuary, despite the omnipresent rhetoric of being a country with a Muslim majority and in fact being an Islamic country (Hoffstaedter 2017). As a country where Islam plays a significant role in public and private life, moral appeals to Islamic values, principles, and practice are made about extending a helping hand to Muslim groups under duress and practicing solidarity with Muslim victims of conflict (Lego 2012). Malaysia has not signed the 1951 International Refugee Convention and does not have a domestic legal framework for refugee protection (Nordin et al. 2020). Although Malaysia is not considered a receiving country for refugees, there have been a number of exceptions for certain Muslim refugee groups over the past 40 years. For example, Malaysia gave special treatment to ca. 50,000 Filipino refugees from Mindanao who arrived during the late 1970s and early 1980s, a small number of Bosnian refugees in the early 1990s, and Indonesians from Aceh in the early 2000s (Ahmad et al. 2016; Hoffstaedter 2017).

Rohingya refugees who arrived in Malaysia in the early 1990s were given a 'pass card' and granted six-month stay permits (HRW 2000). The temporary toleration ended with the Asian financial crisis in 1997 when the Malaysian government started to imprison and then deport large numbers of undocumented migrants, including Rohingya refugees, whom they simply sent to Thailand. In 2004, the Malaysian government announced plans to regularise the residency of Rohingyas. The registration process for the special residency

permits ('IMM 13'), and temporary work permits began in August 2006 and included ca. 12,000 Rohingya (Azis 2014; Yesmin 2016). Due to allegations of corruption and fraud by those Rohingya leaders who had been employed for the registration, the process was suspended after only 17 days. While Rohingya refugees in Malaysia at times received special treatment from the Malaysian government, within the hierarchy of deservingness, they still occupied a low rank, which became clear by the limited assistance they received from aid and charity organisations in Malaysia. According to Gerhard Hoffstaedter (2017), Muslim solidarity was forthcoming, but it was tempered by prevalent racism and class stereotypes against people from the Indian subcontinent.

Despite the inhospitable treatment in Malaysia, the enormous extra-legal taxation that needed to be paid to avoid deportation, and the lack of prospects to ever become naturalised citizens of Malaysia, Rohingya refugees kept arriving, particularly after 2012 when renewed violence in Myanmar drove many away from their villages. Malaysia remained attractive to the Rohingya due to its reputation as a country of devout Muslim majority and for its economic prosperity. Even though Rohingya usually could only find 'three-D jobs' (dirty, dangerous, and demeaning), in which they faced exploitations by employers and authorities, the number of Rohingya refugees grew substantially over the last decade. Many Rohingya in Malaysia were in fact trafficked and subjected to highly exploitative arrangements, yet the Malaysian government chose to look the other way whenever the economy was doing well and when there was a need for cheap and exploitable labour. The growing numbers of Rohingya refugees undermined Malaysia's informal policy of hiring foreign, disposable labour, and they were determined to stay on, not least since the resettlement numbers for refugees recognised by the UNHCR were extremely low.

In early 2015, hundreds of graves were discovered at the border between Malaysia and Thailand. After initial denials from the Malaysian government, it was revealed that the remains were mostly from Rohingya refugees who had been trafficked by Thai-Malaysian syndicates that enjoyed the support of local authorities for many years (Reuters/AFP 2015). Traffickers provided the Rohingya refugees held in those camps with three options: they could pay additional fees in exchange for release, be sold into further exploitation, or die in the camps. Members of a syndicate tortured, killed, raped, and otherwise abused untold numbers of men, women, and children, buying and selling them systematically, in many cases in concert with government officials. Instead of investigating the graves after their discovery, local police officers destroyed the sites and important evidence of their involvement, which gave them impunity with many of these trafficking operations never properly documented or prosecuted (SUAKAM/Fortify Rights 2019).

While events surrounding the 2015 Andaman Sea crisis offered the Rohingya some kind of temporary respite in Malaysia, the fundamental problems they face as irregularised migrants did not change. At a pro-Rohingya rally in 2016, Malaysia's then-Prime Minister Najib Razak stated publicly, 'I will not close my eyes and shut my mouth. We must defend [the Rohingyas] not just because they are of the same faith, but they are humans, their lives have values' (Malaysia's Najib Leads Rally 2020). Despite a warning from the Myanmar government that his presence would be seen as interference in domestic affairs, Najib joined hands with top leaders from Malay Muslim-based parties at the rally, including the opposition *Parti Islam SeMalaysia* (PAS). Stating that 'this Rohingya issue is an insult to Islam', Najib also questioned Myanmar's State Counsellor and de facto leader Aung San Suu Kyi's credentials as a Nobel Peace Prize laureate since she refused to discuss the alleged ethnic cleansing of the Rohingya with him (Teoh 2016).

In 2017, the Malaysian government once again tried to implement a pilot program to bestow Rohingya refugees with work rights and employ up to 300 of them in plantations and the manufacturing sector. Yet, this program was also a failure, as it simply did not appeal to the targeted audience. Despite strong public statements and the strong condemnation of Myanmar's politics regarding the Rohingya and humanitarian assistance rendered to the Rohingya refugee camps in Bangladesh, politics towards the Rohingya in Malaysia has



started to shift from silent toleration and occasional sympathy to open hostility among the public and government. Many Malaysians have come to reject Rohingya in their midst as social, economic, and security threats (Sukhani 2020). In addition, the COVID-19 pandemic became a welcome excuse to deny entry to Rohingya refugees arriving in Malaysia by boat. Even PM Najib, who in the past had made many pro-Rohingya statements in public, now resorted to declaring that in the pandemic, 'The interest of Malaysians should come first. The Rohingya should not take advantage of our kindness' (Sukhani 2020). In June 2020, at the 36th ASEAN Summit, the new Malaysian PM Muhyiddin Yassin announced that Malaysia could no longer accept Rohingya refugees from Myanmar (Sukhani 2020). Throughout 2020, Malaysian immigration officials and police conducted raids against people in refugee communities and locked up hundreds of Rohingya and other refugees, including children, in immigration detention centres (Amnesty International 2021). Days after the military coup in Myanmar, the Malaysian government decided to deport 1200 Myanmar nationals, possibly including Rohingya refugees, with the help of three ships that had been sent by the Myanmar military government (Latieff 2021). This deportation was a strong signal to refugees that Muslim solidarity was nothing to count on.

Maybe this change of attitude—from reluctant hospitality to outright hostilities—is not too surprising when taking into account the political intentions behind the rhetoric of Muslim solidarity. According to Osman and Arosoaie (2018), the Muslim solidarity awarded by Malaysia to Rohingya refugees served primarily domestic political purposes, calling attention to 'the poor treatment of the Rohingyas are ploys to score political points at home and brandish their Islamic credentials to appeal to Malaysia's Muslim majority' (Osman and Arosoaie 2018). Therefore, although handing out humanitarian aid to the Rohingya in the refugee camps in Bangladesh and in Rakhine, and tolerating—at times—Rohingya refugees in Malaysia while also exploiting them as a cheap workforce, Malaysia has carried out little to pressure Myanmar to stop its armed violence against and expulsion of the Rohingya. Even Malaysia's opposition party *Parti Islam SeMalaysia* (PAS), which is known for its more devout Muslim rhetoric, has taken no action to assist the Rohingya. The response of the Malaysian state, as primary duty-bearer for Rohingya refugees, 'has been and continues to be inadequate' (Wake 2016).

## 6. Indonesia's Controversial Responses

Over the past 20 years, Indonesia has developed its role as a country that fights for human rights and democracy at the regional level. In Southeast Asia, Indonesia—to some extent—advocates for issues of human rights protection within the Association of Southeast Asian Nations (ASEAN). The country played a leading role in encouraging the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) in 2009. Still, its establishment must by no means be considered a full success since it can only promote human rights but not protect them effectively due to ASEAN's non-interference principle, which prevents member states from intervening in the domestic affairs of other members, including human rights matters.

Unlike Malaysia, Indonesia is not officially an Islamic country. It recognises Islam, Hinduism, Buddhism, Catholicism, Protestantism, and Confucianism as equal pillars of its state philosophy Pancasila. Still, as the self-declared 'largest democracy in the Muslim world' and the country with the largest Muslim population, Islam and Muslim solidarity play an integral role as major cultural and political identifiers (see, for example, Fealy and White 2008). This has impressively been demonstrated by the public perception of the Rohingya crisis in Indonesia that translated into mass rallies lobbying for the cause of the Rohingya on several occasions. Already in 2012, when sectarian violence erupted against the Rohingya in Rakhine State, an Indonesian activist group calling itself 'People's Care for Rohingya' staged a protest in front of the Myanmar embassy in Jakarta, rolling themselves around in fake blood to protest ongoing violence and discrimination against the Rohingya (Aljazeera 2012). After a renewed outbreak of open conflict between the Rohingya insurgent group 'Arakan Rohingya Salvation Army' and the Myanmar security

forces that forced more than 100,000 Rohingya to flee to neighbouring Bangladesh in August and September 2017, Islamist groups managed to mobilise several thousands of protestors into the streets of Jakarta, calling for the expulsion of the Myanmar ambassador and the diplomatic relations between the two countries to be severed (Reuters 2017). In the very same week, on 4 September 2017, Indonesian Foreign Minister Retno Marsudi met Myanmar leader Aung San Suu Kyi and military Commander-in-Chief General Min Aung Hlaing to express the Indonesian government's concern over the ongoing crisis and offer a helping hand (Auer 2017).

Like Malaysia, Indonesia has not signed the 1951 International Refugee Convention and has not developed a legal framework for refugee protection (Missbach 2017). According to official UNHCR numbers, in 2019, Indonesia hosted 13,657 refugees and asylum seekers (UNHCR 2020a). In principle, Indonesia allows refugees to enter the country and places them under the mandate of the UNHCR for registration purposes. With Presidential Regulation 125/2016, the Indonesian government took a more coordinated approach toward handling refugees arriving in the country as it started to delegate the responsibility for refugees to local governments. Although this has empowered local decision-making structures in dealing with refugees, it also poses several challenges, among others, budgeting issues (Prabandari et al. 2017, pp. 11–12; Missbach et al. 2018). However, refugees are only allowed to stay in the country temporarily until UNHCR has identified a durable solution. Since Indonesian authorities do not allow a long-term integration of refugees into Indonesian society (UNHCR 2020c), the only available and durable solutions are either repatriation or resettlement. Given the scarce resettlement places worldwide and the dangers associated with returning to conflict-ridden countries of origin, the majority of refugees in Indonesia are stuck in a transit limbo (Missbach 2015). In fact, it has been rather local hospitality initiatives by cities and civil society engagements that took on responsibility for refugees in distress than a general will of the Indonesian government to engage actively with and provide for humane refugee protection (Missbach et al. 2018). At the first glance, Indonesia has a rather positive record of being generally welcoming to Rohingya refugees who have been arriving on Indonesia's coasts. Yet, as compared to Malaysia, fewer Rohingya refugees have actually made it as far as Indonesia since the outbreak of the current crisis. Moreover, the fact that boat refugees repeatedly made it ashore alive owed less to the efforts of the Indonesian coastguard than the helping hands of Indonesian fishermen who have a long track record of rescuing refugee boats in distress (McNevin and Missbach 2018).

Still, especially during the current COVID-19 pandemic, Indonesia, as opposed to Malaysia and other countries in the region, has set an example in providing life-saving assistance to Rohingya boat people (Septiari 2020). Lobbying efforts and humanitarian assistance by Indonesian civil society organisations such as the Indonesian Civil Society Association for the Protection of Refugee Right (SUAKA), the Human Rights Working Group (HRWG), or the Indonesian branch of Amnesty International also contributed to this support (ibid.). Charitable work, especially by religious organisations, is a central feature of Indonesian civil society activism and thus can generate substantial political leverage, which, time and again, left few other options for the Indonesian government than speaking up in support of the Rohingya. This holds especially true when public protests are being framed around Muslim solidarity since no Indonesian government can afford to be perceived as 'un-Islamic'.

Rohingya refugees started arriving by boat to Indonesia in the late 2000s, fleeing from Myanmar following outbreaks of communal violence. Notably, in early 2009, almost 400 Rohingya refugees arrived at Aceh's coast through the Straits of Malacca. They were initially placed in camps set up by the Indonesian Navy (Susetyo and Chambers 2021). Since then, Indonesia has seen continuous arrivals of Rohingya and Bangladeshi boat people until very recently. In June 2020, Indonesian fishermen rescued nearly 100 Rohingya refugees in Aceh (Tahjuddin 2020). Later that year, in September 2020, a boat carrying 293 Rohingya refugees, the majority of them children, landed on the shores of Indonesia's

Aceh Province, having spent almost seven months at sea (UNHCR 2020e). As the current numbers of Rohingya refugees in Indonesia show, many of them do not stay in the country due to lack of opportunities to make a living. Many have left for Malaysia, as there they have better opportunities to find irregular three-D jobs, mainly in the construction industry, that are dangerous but at least much better paid than any employment opportunity they could find in Indonesia (Nungsari et al. 2020). In 2015, hundreds of Rohingya refugees 'vanished' from camps in Aceh, Indonesia. Officials of the UNHCR uttered serious concerns that they would, once again, turn to smuggler rings to reach Malaysia in the hope of finding 'better' livelihoods there (Vit 2015).

At the regional stage, Indonesia has portrayed itself as an advocate of the Rohingya, at least vocally, but has undertaken only very limited steps to change their fate for the better. Indonesia, alongside Malaysia, has repeatedly demanded an end to the violence against the Rohingya but always with the ultimate goal to repatriate them to Myanmar. For instance, during the 32nd ASEAN Summit in April 2018, Indonesian President Joko Widodo met Myanmar's President Win Myint. During the meeting, Widodo told him, 'Indonesia only has one interest, namely to see a stable and peaceful Rakhine, where people, including the Muslims, can live in peace' (Sapri 2018). Except for entrusting the UNHCR and the International Organization for Migration (IOM) to 'deal' with and find solutions for Rohingya (and other) refugees, some half-hearted political statements, and limited humanitarian assistance to Rohingya refugees in Bangladesh, the Indonesian government has undertaken little to live up to its self-assumed role of a regional and even global conflict mediator and defender of humanitarianism. Given the evidence that exists for gross human rights violations committed against the Rohingya in Myanmar, even described as 'genocide' by the United Nations, there is no compelling argument whatsoever for any responsible international actor to deem repatriation as a viable and even survivable solution for the Rohingya in the current crisis. This holds even more true against the backdrop of the recent coup d'état in Myanmar in which those forces responsible for the 'ethnic cleansing' in Rakhine State have taken over ultimate control of the country by any imaginable and unimaginable means.

However, the 'ASEAN Way' cannot totally explain the reluctance of Indonesia to take on regional humanitarian responsibility. For example, when Indonesia actively became a ceasefire mediator in the conflict between Cambodia and Thailand over the Preah Vihear temple in 2010 and 2011, it showed that the principle of non-intervention is all but carved into stone (Nishikawa 2020; Sokha 2013). The same holds true for Indonesia's reactions after the recent coup d'état in Myanmar. It was Indonesian Foreign Minister Retno Marsudi who led the initiative for a joint virtual meeting of all ASEAN Foreign Ministers on 2 March 2021, and who urged a halt to the ongoing deadly violence against protestors in Myanmar. After the meeting, she said, 'It is worrisome because an increasing number of civilians have lost their lives and are injured, it's worrisome because there are still arrests of civilians' (Karmini 2021). She continued by saying, 'the wish and goodwill of ASEAN to help will be unable to be carried out if Myanmar does not open its doors to ASEAN' (Strangio 2021). These are powerful words against the backdrop of the non-intervention paradigm since they clearly point the finger at Myanmar's new old junta, holding it responsible for the currently ongoing gross human rights violations in Myanmar.

## 7. Conclusions

Beyond its political and security implications, the Rohingya issue has dealt a reputational blow to the credibility of the ASEAN Community launched in 2015. The notion of a caring and sharing community rings hollow in the absence of a meaningful response to this latest humanitarian challenge. There has been growing external criticism and internal frustration over ASEAN's inability to deal with the problem. The way the governments in Indonesia and Malaysia have been handling the Rohingya refugees demonstrates the limitations of its global Muslim solidarity agenda, with ethnonationalism and local interests taking precedence. Despite the omnipresent rhetoric of Muslim solidarity, the permanent

resettlement of Rohingya refugees was never seriously discussed in Malaysia nor in Indonesia. Public appeals to Muslim solidarity can generate acts of charity and donations, as well as mass protests, but they do not necessarily translate into a high-profile policy of vocal support for the plights of persecuted Muslims in their home countries since the cherished principle of non-interference continues to trump Muslim solidarity. Nonetheless, a good guide to what ASEAN could undertake is found in the recommendations of the report of ASEAN Parliamentarians for Human Rights (ASEAN 2020). These include expanding the mandate of the AIHCR to include country visits, inquiries, complaints, and emergency protection mechanisms, and ensuring adequate independence and staffing support.

The limits of Indonesia's Muslim solidarity with the Rohingya are evident in its policy of defending Myanmar against a range of new international pressures on the Rohingya issue, some of it coming from other Muslim majority countries. Consistent with Indonesia's longstanding opposition to sanctions and outside pressure, Indonesia has rejected policies that it believes would isolate Myanmar, jeopardise humanitarian relief, push it closer to China, and strain Jakarta's relations with the Suu Kyi government. Malaysia, on the other hand, has accepted Rohingya refugees, but mainly as cheap labour without serious attempts to establish at least a minimum of protection standards or engaging itself as part of a durable solution to the plight of the Rohingya. How far Malaysia's Muslim solidarity actually stretches has been shamefully illustrated by the inhumane pushbacks of refugee boats during the COVID-19 pandemic.

As has been shown in the cases of Indonesia and Malaysia's responses to the Rohingya crisis, Muslim solidarity does not necessarily translate into a high-profile policy of vocal support for the plights of Muslim minorities abroad. As with most forms of humanitarian care arrangements, Muslim solidarity is structured around racial and class preferences that determine the overall 'hierarchy of deservingness' (Hoffstaedter 2017) of refugees. Thus far, the Rohingya have not received much.

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