

ASSESSMENT OF SOCIAL PROTECTION MECHANISMS FOR STATELESSNESS  
: A CASE STUDY OF ROHINGYA PEOPLE IN THAILAND

Miss Angkana Kaewkuekoonkit



บทคัดย่อและแฟ้มข้อมูลฉบับเต็มของวิทยานิพนธ์ตั้งแต่ปีการศึกษา 2554 ที่ให้บริการในคลังปัญญาจุฬาฯ (CUIR)  
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การประเมินการคุ้มครองทางสังคมต่อความไร้รัฐ: กรณีศึกษาชาวโรฮิงยาในประเทศไทย



วิทยานิพนธ์นี้เป็นส่วนหนึ่งของการศึกษาตามหลักสูตรปริญญาศิลปศาสตรมหาบัณฑิต

สาขาวิชาการพัฒนาระหว่างประเทศ

คณะรัฐศาสตร์ จุฬาลงกรณ์มหาวิทยาลัย

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อังกฤษา แก้วเกื้อกูลกิจ : การประเมินการคุ้มครองทางสังคมต่อความไร้รัฐ: กรณีศึกษาชาวโรฮิงยาในประเทศไทย (ASSESSMENT OF SOCIAL PROTECTION MECHANISMS FOR STATELESSNESS: A CASE STUDY OF ROHINGYA PEOPLE IN THAILAND) อ.ที่ปริกษาวิทยานิพนธ์หลัก: ศ. ดร.สุภางค์ จันทวานิช, 156 หน้า.

ชาวโรฮิงยาถูกจัดว่าเป็นกลุ่มคนที่มีความเปราะบางมากที่สุดกลุ่มหนึ่งในภูมิภาคนี้ ประเทศไทยซึ่งมีพรมแดนติดต่อกับประเทศพม่ากลายเป็นจุดยุทธศาสตร์สำคัญของชาวโรฮิงยาสำหรับการลงหลักปักฐานและเป็นฐานก่อนการเดินทางต่อไปยังประเทศมาเลเซีย ในทางกฎหมาย ชาวโรฮิงยาที่อพยพเข้ามาในประเทศไทยในเบื้องต้น ถูกพิจารณาว่าเป็น “ผู้หลบหนีเข้าเมืองอย่างผิดกฎหมาย” ในความเป็นจริงแล้ว มีชาวโรฮิงยาหลายกลุ่มที่อาศัยอยู่ในประเทศไทยซึ่งมีความต่างกันในด้านเงื่อนไขการใช้ชีวิต บริบทและสถานะทางสังคม ทั้งที่อยู่ภายใต้การควบคุมของทางการไทยและไม่ได้อยู่ภายใต้การควบคุมของทางการไทย ความแตกต่างหลากหลายเหล่านี้มีผลต่อการได้รับการคุ้มครองทางสังคมที่แตกต่างกันของชาวโรฮิงยาในประเทศไทย

จากการใช้วิธีการวิจัยเชิงคุณภาพ วิทยานิพนธ์ฉบับนี้ ใช้ การสัมภาษณ์เชิงลึกกับชาวโรฮิงยา, การสัมภาษณ์กลุ่มผู้ให้ข้อมูลหลัก, การสังเกตการณ์แบบไม่มีส่วนร่วม, การศึกษาจากกรณีศึกษา (Case study) และการศึกษาจากเอกสารที่เกี่ยวข้องกับชาวโรฮิงยาที่อยู่ในสี่บริบทที่ต่างกันในประเทศไทย การลงพื้นที่เก็บข้อมูลทำในกรุงเทพมหานคร, จังหวัดนนทบุรี, จังหวัดปทุมธานี และอำเภอแม่สอด จังหวัดตาก วิทยานิพนธ์ฉบับนี้ต้องการศึกษาว่าชาวโรฮิงยาในประเทศไทยได้รับการคุ้มครองจากความเปราะบางของการเป็นบุคคลไร้รัฐ โดยกลไกการคุ้มครองทางสังคมอย่างไร จุดประสงค์ของวิทยานิพนธ์ฉบับนี้คือเพื่อสำรวจและเปรียบเทียบกลไกการคุ้มครองทางสังคมที่มีต่อชาวโรฮิงยาในสี่บริบทที่แตกต่างกันในประเทศไทยประกอบไปด้วย ด้วย กลุ่มชาวโรฮิงยาเก่าและใหม่ ซึ่งเป็นผู้ย้ายถิ่นในเขตเมือง, ชาวโรฮิงยาที่อยู่ในขบวนการการค้ามนุษย์ และชาวโรฮิงยาผู้พลัดถิ่นที่อาศัยอยู่ในที่พักพิงชั่วคราว

วิทยานิพนธ์ฉบับนี้แสดงให้เห็นว่าชาวโรฮิงยาในประเทศไทยสามารถถูกจัดจำแนกออกได้เป็นสี่กลุ่มใหญ่ๆประกอบไปด้วย กลุ่มผู้ย้ายถิ่นชาวโรฮิงยาเก่า, กลุ่มผู้ย้ายถิ่นชาวโรฮิงยาใหม่, ชาวโรฮิงยาที่อยู่ในขบวนการการค้ามนุษย์ และชาวโรฮิงยาผู้พลัดถิ่นที่อาศัยอยู่ในที่พักพิงชั่วคราว กลุ่มโรฮิงยาเก่า หมายถึงชาวโรฮิงยาผู้ที่อพยพมายังประเทศไทย ก่อนปี 2006 โดยส่วนมากโรฮิงยาเหล่านี้สามารถพูดภาษาไทยได้อย่างคล่องแคล่ว กลุ่มโรฮิงยาใหม่หมายถึงชาวโรฮิงยาที่เพิ่งอพยพมายังประเทศไทยในช่วงปี 2013 ถึง 2015 โดยคนกลุ่มนี้ส่วนมากมาทางเรือและตกเป็นเหยื่อในขบวนการค้ามนุษย์ สำหรับกลุ่มโรฮิงยาผู้เป็นเหยื่อการค้ามนุษย์ที่ถูกให้สถานะโดยทางการไทย ส่วนใหญ่แล้วมีรูปแบบการเดินทางมายังประเทศไทยคล้ายกับกลุ่มชาวโรฮิงยาใหม่ สำหรับกลุ่มชาวโรฮิงยาผู้พลัดถิ่นที่อาศัยอยู่ในที่พักพิงชั่วคราว ส่วนใหญ่แล้วคนกลุ่มนี้คือกลุ่มโรฮิงยาเก่าที่สมัครใจเข้ามาอยู่ในที่พักพิงชั่วคราวเนื่องจากเชื่อว่าจะได้รับสถานะผู้ลี้ภัยเร็วขึ้น

เมื่อวิเคราะห์สถานะของชาวโรฮิงยาโดยใช้แนวคิดการคุ้มครองทางสังคม วิทยานิพนธ์ฉบับนี้พบว่าในด้านการส่งเสริม (Promotive measures) ชาวโรฮิงยาทุกกลุ่มสามารถเข้าถึงปัจจัยพื้นฐานในรูปแบบที่แตกต่างกัน กลุ่มโรฮิงยาที่อยู่ในขบวนการการค้ามนุษย์ ได้รับปัจจัยพื้นฐานจากทางการไทยอย่างสม่ำเสมอ ในขณะที่กลุ่มชาวโรฮิงยาผู้พลัดถิ่นที่อาศัยอยู่ในที่พักพิงชั่วคราวในฐานะผู้ไม่ได้รับสถานะผู้พลัดถิ่นอย่างเป็นทางการ จำเป็นที่จะต้องหาอาหารเพิ่มเติมด้วยตัวเอง สำหรับการวัดด้านการปรับตัว (Transformative measures) ชาวโรฮิงยาทั้งสี่กลุ่มในประเทศไทยมีความสามารถในการเรียกร้องเพื่อปกป้องสิทธิของตนเองรวมถึงต่อรองกับตัวแสดงที่เกี่ยวข้องอื่นๆ ได้ ในส่วนของการคุ้มครอง (Protective measures) กลุ่มชาวโรฮิงยาที่อยู่ในขบวนการการค้ามนุษย์ได้รับการบรรเทาความขาดแคลนอย่างสม่ำเสมอจากทางการไทย ในขณะที่กลุ่มชาวโรฮิงยาเก่า และกลุ่มชาวโรฮิงยาผู้พลัดถิ่นที่อาศัยอยู่ในที่พักพิงชั่วคราว ได้รับการบรรเทาความขาดแคลนด้วยแหล่งผู้ให้การคุ้มครองทั้งที่เป็นทางการและไม่เป็นทางการ และทางด้านการคุ้มครองเชิงป้องกัน (Preventive measures) วิทยานิพนธ์ฉบับนี้เสนอว่ากลุ่มโรฮิงยาเก่าในประเทศไทยได้รับการคุ้มครองทางการเงินและการประกันด้านการรักษาพยาบาลใกล้เคียงกับคนไทยมากกว่าโรฮิงยาคนอื่นๆ แต่ไม่สามารถมีเงินออมได้ โดยสรุปแล้ว กลุ่มโรฮิงยาใหม่กลายเป็นกลุ่มโรฮิงยาที่เปราะบางมากที่สุดในประเทศไทย

# # 5881218024 : MAJOR INTERNATIONAL DEVELOPMENT STUDIES

KEYWORDS: ROHINGYA / STATELESSNESS / SOCIAL PROTECTION / URBAN MIGRANTS / TRAFFICKED PERSONS / DISPLACED PERSONS

ANGKANA KAEWKUEKONKIT: ASSESSMENT OF SOCIAL PROTECTION MECHANISMS FOR STATELESSNESS: A CASE STUDY OF ROHINGYA PEOPLE IN THAILAND. ADVISOR: PROF. SUPANG CHANTAVANICH, Ph.D., 156 pp.

Rohingya people have been counted as the most vulnerable group of people in this region. Thailand as its border close to Myanmar becomes the strategic place of Rohingya for settling and also for waiting to go to Malaysia. In legal term, Rohingya immigrants in Thailand are recognized firstly as the 'illegal immigrants'. In fact, there are various groups of Rohingya living in Thailand who are different in living condition, social circumstances and status staying both under and without Thai authority control. These varieties have affected to the different social protection that each Rohingya group in Thailand can gain.

Based on qualitative method, this thesis uses in-depth interview to Rohingya respondents, key informants interview, non-participatory observation, case study and documentary research related to Rohingya in four different circumstances in Thailand. The fieldwork research was conducted in Bangkok, Nonthaburi, Pathumthani and Mae Sot district in Tak province. This thesis intends to examine how far Rohingya people in Thailand have been protected against the vulnerability of being stateless by social protection mechanisms. The purpose of this thesis is to explore and compare social protection of Rohingya in different circumstances in Thailand include Old and New Rohingya urban migrants, Rohingya trafficked persons and Rohingya displaced persons in temporary shelter.

This thesis illustrates that Rohingya in Thailand can be categorized in four main groups include 'Old Rohingya' urban migrants, 'New Rohingya' urban migrants, Rohingya trafficked persons and Rohingya displaced persons in temporary shelter. 'Old Rohingya' refer to Rohingya who arrive Thailand before 2006 and most of them can speak Thai fluently. 'New Rohingya' refer to Rohingya who have just arrived Thailand in 2013 to 2015. Mostly, they came by boat and struggled in human trafficking cycle. For Rohingya trafficked persons, most of them have arrived Thailand as the similar route as 'New Rohingya'. They have been justified as victims of human trafficking by Thai authority. For Rohingya displaced persons in temporary shelter, they mostly used to be 'Old Rohingya' urban migrants who voluntarily move to live in temporary shelter as they believe that they can gain quicker process of refugee status obtaining.

To analyze the status of Rohingya people by using social protection concept, it has been found that, in promotive measures, all Rohingya groups gain the basic needs in different way. Rohingya trafficked persons obtain the regular basic needs from Thai authority. On the other hand, Rohingya displaced persons in temporary shelter who mostly are the unregistered displaced persons need to fulfill especially food by themselves. For transformative measures, Rohingya in all four groups still have the ability to raise their voice to protect their rights and negotiate with other related actors. For protective measures, there is just Rohingya trafficked persons who have been relieved the deprivation regularly. On the other hand, Old Rohingya and Rohingya displaced persons in temporary shelter have been relieved their deprivation by the assistance of both formal and informal protection providers. For preventive measures, this thesis demonstrates that 'Old Rohingya' urban migrants in Thailand obtain financial protection and medical insurance as similar as Thai citizens more than others Rohingya groups, but they regularly lack of saving money. At the end, 'New Rohingya' urban migrants have become the most vulnerable Rohingya group in Thailand.

Field of Study: International Development Studies  
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Student's Signature .....

Advisor's Signature .....

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## LIST OF ABBREVIATIONS

ADRA	Adventist Development & Relief Agency Thailand
AMI	Aide médicale internationale
ASEAN	Association of Southeast Asian Nations
BRAT	Burmese Rohingya Association in Thailand
HRDF	The Human Rights and Development Foundation
IADB	Inter-American Development Bank
ICRC	The International Committee of the Red Cross
ID	Identification Card
IDC	the Immigration Center
ILO	International Labour Organization
IOM	International Organization for Migration
IRC	International Rescue Committee
MOI	Ministry of Interior
NGOs	non-governmental organizations
ODI	Overseas Development Institute
RSC	Resettlement Support Center
RTG	Royal Thai Government
SVA	Shanti Volunteer Association
TBC	The Border Consortium
TBBC	Thailand Burma Border Consortium
TCR	Thai Committee for Refugees Foundation
TOPS	Taipei Overseas Peace Service
UDHR	The Universal Declaration of Human Rights
UNHCR	United Nations High Commissioner for Refugees

WEAVE Women's Education for Advancement and Empowerment



## CHAPTER I INTRODUCTION

### 1.1 Introduction

*“We won’t use the term Rohingya because Rohingya are not recognized as among the 135 official ethnic groups,”*

(U Kyaw Zay Ya, a spoke man of Aung San Suu Kyi) (NEW YORK TIMES, 2016)

*“We are Rohingya. Please call us Rohingya.”*

(A Rohingya quest speaker on Rohingya conference at Bangkok, Thailand, June 23, 2016)

The Rohingya issue represents the real mixed-flow migration in Southeast Asia region that still exists to this day. This phenomenon is the combination of forced migration and voluntary migration shaped by both economic and social factors from the country of origin and also the country of transit. As the current well-known situation, the Rohingya people are affected by Statelessness which became the main factor in the twenty first century, which forced them to migrate. Some of them eventually become victims of human trafficking.. The migration of Rohingya people from Myanmar is not a new phenomenon as some group of Rohingya migrated in a similar way to other migrants in this region, but what makes Rohingya case more distinctive is that a few years ago the most sympathized picture of a struggling Rohingya boat people has been shown while shaming the evasion of neighboring State because some authorities alleged they are involved in a trafficking network as well. Although there is sympathy in their situation, there are still no sustainable solutions in the Rohingya issue to this day. The main obstacles for providing solutions are the lack of accepted status of Rohingya which push them to be a Stateless people following ‘the 1982 Burmese Citizenship Law,’ and also the lack of effective migration management of the countries in the region. As the legally unrecognized people, the Rohingya tends to migrate to other countries in the region to seek for better protection than where they come from. In this regard, they might seek for refugee status by obtaining asylum seeker status first, self-settled illegally, or become



the victims in a trafficking cycle. All of these situations derive from the lack of legal and social protection for the Rohingya as there is no State considering them as their citizen.

Geographically, Thailand has been considered as both destination and transit country for Rohingya which mostly want to resettle in Malaysia and Indonesia. It is also the country of destination for some groups of Rohingya that mostly migrate from Myanmar for a long time now which has been commonly referred to as 'Old Rohingya'<sup>1</sup>. As Muslim countries, Malaysia and Indonesia are expected to be the 'safe haven' for many of the Rohingya people with the hope that Muslim brotherhood will help them survive. In this regard, Thailand is not a signatory of 1951 Refugee Convention and its 1976 Protocol which means it has no basically legal protection framework to administrate to refugees and migrants issues and also refers to all kinds of refugee issues as 'temporary issue' including Rohingya which by policy, needs to be deported to their country of origin. Situations of Rohingya people living in Thailand vary -- some are asylum seekers or under refugee status, some have fallen victims of human trafficking, and Old Rohingya and New Rohingya<sup>2</sup>. New Rohingya are irregular urban migrants or undocumented migrants who can be arrested by authorities at any time. For these different contexts of Rohingya in Thailand, the reality of these statuses have been mixed and transformed back and forth depending in the situation and their way of survival in Thailand. However, some status of Rohingya resulted from the unfair legal implementation of the authorities. The Rohingya are still vulnerable on various levels depending in their status, even though they are under authority control. Thus, social protection mechanism as the agenda for reducing the vulnerability is needed for Rohingya who has the background as Stateless status, impeding them to access the basic needs like education, healthcare, employment for the alternative of protection when there is no any State recognizing them as legal

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<sup>1</sup> 'Old Rohingya' refers to Rohingya who lives in Thailand for more than 10 years. Normally, they can speak Thai and can adapt themselves with the situation in Thailand well. (Executive Director of Thai Committee for Refugees Foundation, Interview, May 4, 2016)

<sup>2</sup> 'New Rohingya' refer to Rohingya who come to Thailand recently by boat in two years ago in the period that people have just recognized the existence of Rohingya through the tragedy of boat people. (Executive Director of Thai Committee for Refugees Foundation, Interview, May 4, 2016)

group or citizens. However, despite the lack of legal protection framework from the government, some group of Rohingya still try to seek for their own protection mechanism by the assistance of informal source for being resilient in Thailand.

The implication for this research is most of existing studies on Rohingya issue in Thailand nowadays tend to blame on the weakness of legal implementation from the State and require the responsibility from the State as a one-side solution which is reluctant in providing the protection mechanism from the non-State actor specially social connection and community-based social protection providers which needs and very helpful for Rohingya people especially its majority of who have been counted as ‘illegal migrants’ in urban areas of Thailand. Importantly, this research intends to demonstrate the ‘bottom-up’ perspective on the protection of Rohingya people in Thailand with various case studies to see the dynamic of adaptation and the mixture of categories in reality. In this regard, this research aims to assess social protection mechanism being provided by formal and informal actors for enhancing the resilience of Rohingya people who live in four main circumstances in Thailand including displaced persons in ‘temporary shelters’<sup>3</sup>, victims of human trafficking and irregular urban migrants. This research also reflects on what can be the alternative to protect Rohingya from being more vulnerable due to their Stateless status, when legal and formal protection framework in Thailand did not include Rohingya people concretely by providing the comparative analysis in four areas of Rohingya in Thailand. In this regard, the research will employ qualitative methods include in-depth interview to Rohingya respondents and key informants and case study to pursue the research question and objectives. Following four main types of Rohingya in Thailand, the field research was conducted in four main area including Bangkok, Nonthaburi, National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province and Mae Sot, Tak Province to observe and evaluate the connection of Rohingya with social protection mechanism.

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<sup>3</sup> Thailand has not ratified the 1951 Refugees Convention and it is quite a sensitive issue involving with national security, so Thai authority decided not to use the word ‘refugee’, but called ‘displaced persons’ instead. Additionally, in term of the place for displaced person within Thai territory, Thai authority usually uses ‘temporary shelter’ instead of using ‘refugee camp’.

## 1.2 Research Question

How far have Rohingya people in Thailand been protected against the vulnerability of being Stateless by social protection mechanisms?

To pursue the main research questions, three sub questions will be asked;

1. What is the Statelessness background and situation of the Rohingya people?
2. How has social protection mechanism been interpreted in the context of the Rohingya people in Thailand?
3. How have social protection mechanisms been used for protecting the Rohingya people who live in different circumstances in Thailand: displaced persons in temporary shelter, victims of human trafficking, and irregular urban migrants? How did each group arrive at their respective forms?

## 1.3 Objectives of research

1. To examine the Statelessness background and situation of the Rohingya people.
2. To explore existing social protection mechanism for the Rohingya people in Thailand context.
3. To compare social protection mechanisms for enhancing the resilience of the Rohingya people in Thailand.

## 1.4 Conceptual Framework

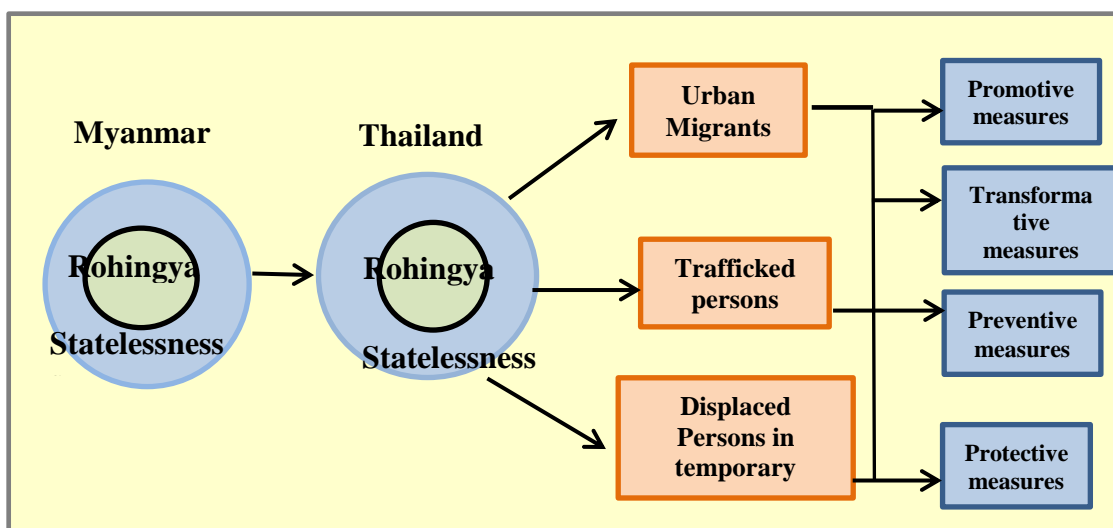


Figure 1: Conceptual Framework

Fundamentally, this research uses two main concepts which are Statelessness and social protection to analyze the situation of the Rohingya people in Thailand by showing the relationship between Statelessness, migration and social protection of the Rohingya in four different contexts in Thailand including refugees and displaced persons in temporary shelter, victims of human trafficking, and irregular urban migrants.

For Statelessness concept, it demonstrates the bond between State and individual which has been shaped by historical context, the transition of government and legal implementation with the dilemma on human rights norms. It has been found that Stateless people protractedly struggle to access basic needs and the protection which other citizens can obtain. For this, the research provides the Statelessness concept both in international norms and Thai context by addressing the consideration on *de jure* and *de facto* and link to the Rohingya issue to see how Stateless status affects to Rohingya's livelihood in the four different contexts of the Rohingya in Thailand. Additionally, I provided the gap between International and domestic law to point out that there is still no the clear Statement on the relationship between State and individual on the nationality issue and also the few other States which ratified the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness as the key international norms to address Stateless issue (UNHCR, 2016b). Moreover, the way State interprets the domestic law and the way they applied it is also one of the main concerns which makes Stateless people within the country and Stateless from the outside have been impeded to access the basic rights and protection of a human being (The International Observatory on Statelessness, 2015).

In terms of social protection concept, it mainly aims to reduce the vulnerability of people such as displaced person, excluded people, children, elderly people and so on. With the various definitions of social protection depending on each organization, this research concentrates to the social protection definition of ILO which States that "*The provision of benefits to households and individuals through public or collective arrangement to protect against low or declining living standards*" (Sabates-Wheeler & Waite, 2003, p. 5). In practical terms, social protection reflects the issues of social insurance and social assistance provided by

various actors. Additionally, in terms of analysis, social protection provides the useful elements of measures including *promotive, preventive, transformative and protective* measures to assess social protection in practice to vulnerable people.

For '*promotive measures*', it aims to mainly improve the economic and social capabilities of people such as the low income, inadequate education, lack of accessibility health care, and poverty reduction. The second one is '*Transformative measures*' which aims to negotiate with the power relation of an individual and group of people. The key of this kind of measure is the concern about "social equity" and "social rights" which tries to empower the people against all kind of discrimination. The third measure is called '*Preventative measures*' which mainly aims to prevent the deprivation in any case and this measure refers to social insurance provision of both State and non-State actors. The last measure of social protection is '*Protective measure*' which specifies to target the relief from deprivation and acts as the guarantor when promotive and preventive measures have failed on the implementation.

To use these two concepts together, the concept of Statelessness is relevant and useful to understand the root cause of the flight of Rohingya from Rakhine State in Myanmar to Thailand. A Stateless person has been defined as '*a person who is not considered as a national by any State under the operation of its law*' (The International Observatory on Statelessness, 2015). In this regard, Statelessness of Rohingya which was derived from the Burmese citizenship law becomes the beginning cause of the deprivation of Rohingya in Myanmar which eventually forces them to migrate and seek for protection in another place. This is the important background to analyze the vulnerability of Rohingya on how a Stateless status affects their livelihood. Additionally, the role of Burmese government to cope with a Stateless people like the Rohingya can be an important aspect of analysis for criticizing the tendency of Statelessness solutions in the country of origin. In this regard, the Stateless status and the implementation of government on Stateless people can link to the cause of migration to new country of Rohingya Stateless people. And for this, it will link to the Statelessness solution framework of the transit route and country of destination such as Thailand at the same time.

In the case of the Rohingya in Thailand, being Stateless people of Rohingya reflected on to the issue of the lack of legal documents especially passport and ID card. This issue also makes the Rohingya in Thailand struggle to survive and has been recognized by the State as ‘illegal migrants’ following Thai Immigration Act B.E. 2522. In fact, the Rohingya migrated to Thailand in various forms at different times and various purposes. The Rohingya in Thailand reflects the transformation of status and mixed-status to many kinds of migrants including displaced persons, refugees, victims of human trafficking, and irregular or undocumented migrants which Stateless background still exists. Being Stateless people as the background makes Rohingya exposed to lack of legal protection, access to basic needs, confronting with the discrimination and others type of exploitation in Thailand as well. In this regard, social protection is useful to assess what can be the alternative of Rohingya Stateless people in Thailand which will open the perspective to see the non-State actors as one of the social protection providers. With this, social protection concept offers the useful term of strategy and provider which categorizes the providers of social protection into two terms includes ‘*Formal provider*’ (refers to State and market) and ‘*Informal providers*’ (refers to non-State and non-market). The various dimensions of social protection providers and the elements of social protection can enhance the comprehensive assessment and explanation about the protection of Rohingya in different circumstances in Thailand in bottom-up perspective systematically.

### **1.5 Methodology**

This research has been conducted by qualitative methodology and fieldwork conducted in 3 places: Bangkok and Nonthaburi for Old and New urban Rohingya cases, National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province for Rohingya who are victims of human trafficking, and Mae Sot, Tak Province for Rohingya displaced persons in temporary shelter cases. In terms of qualitative methodology, I applied various methods on the research including documentary research, in-depth interviews to the key informants and Rohingya respondents, non-participant observation, and also case study research.

### **1.5.1 Documentary Research**

For documentary research, I reviewed the Thai Immigration Act, the 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness as primary documents. Moreover, I researched the document from Thai national Human Rights Committee for studying the policy recommendation on Rohingya issues in Thailand. I also examined journals, books, annual reports on Rohingya issue both International and Thailand report from the United Nations High Commissioner for Refugees (UNHCR), International Organization for Migration (IOM), The Border Consortium (TBC) and Fortify rights. Additionally, I studied secondary documents includes theses relating to the Rohingya and social protection, news, articles, as well as video interviews.

### **1.5.2 Interview**

#### **1.5.2.1 In-depth Interview to Rohingya Respondents**

I conducted individual in-depth interviews to 20 Rohingya respondents by using semi-structured questions. For the urban Rohingya which includes ‘Old Rohingya’ and ‘New Rohingya’, I conducted interviews with 17 people; 4 urban Rohingya living in Bangkok 4, 8 urban Rohingya in Nonthaburi, and 5 urban Rohingya in Mae Sot.

In the case of Rohingya who are victims of human trafficking in National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province, I was not allowed to directly interview the Rohingya in the center as their situation is currently sensitive because they just recently fled from the prison in Pang Nga in the southern province. While waiting for the approval from director of the center to interview, I interviewed the social worker of Rohingya’s house in the center instead as the secondary source of general information about the livelihood and the situation of 10 example cases of Rohingya trafficked persons in the center.

For the Rohingya who are displaced persons from temporary shelter, I did not obtain to the temporary camp to interview Rohingya directly. Instead, I interviewed two Rohingya who come out from the Umpiem temporary camp and occasionally live

in Mae Sot District and interviewed via phone another Rohingya from Nupo temporary shelter who occasionally live in Umpang District.

### **1.5.2.2 Key Informant Interview**

I accomplished interviews of 12 key informants from International Organization, Thai authority, community-based organization, religious-based organization and rights-based organization include International Organization for Migration (IOM), Burmese Rohingya Association in Thailand (BRAT), Sheikhul Islam Office, Thai Committee for Refugees Foundation (TCR), The National Human Rights Commission of Thailand, Office of the National Security Council, Prevention and Suppression of Human Trafficking division, Ministry of Social Development and Human Security, National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province and The Human Rights and Development Foundation (HRDF).

### **1.5.3 Non-Participant Observation**

I participated in the religious worship of Rohingya urban migrants at a mosque in Nonthaburi on a day to observe the integration of Rohingya and Thai Muslim in the community. Because of the participation, I unexpectedly met many Rohingya in the mosque and have a chance to interview them. Rohingya that I met at the mosque have various identities, gender and age, can mostly speak Thai fluently, and look like Thai Muslim people in that surrounding area.

### **1.5.4 Case Studies**

I researched on case studies of New and Old Rohingya for urban migrants group for four different cases and Rohingya displaced persons from temporary shelter for one case to observe the real situation of Rohingya people in different circumstances. For Rohingya trafficked person, I am not allowed to interview



Rohingya directly, so I did not provide the case study research for this group of Rohingya.

### **1.6 Research Scope**

This research mainly studies on the Rohingya in four various contexts in Thailand which includes both ‘Old Rohingya’ and ‘New Rohingya’ in Rohingya urban migrants group, Rohingya who are victims of human trafficking in the National Operation Center, and Rohingya who are displaced persons in temporary shelter along Thai-Burmese border. Additionally, this research mainly focuses on the social protection provided by State and non-State providers for the Rohingya living within the Thai territory. Besides researching on Rohingya in four different contexts directly, I also needed to complete the data collection as there is some limitation to access Rohingya in some areas by reviewing more documentary research, secondary sources, and collect data from more key informants to balance the degree of reliable evidence of Rohingya in four different contexts in Thailand as this research intends to provide the comparative analysis on social protection of Rohingya in four different contexts in Thailand. The fieldwork and the interview of key informants were conducted in the middle of April and ended in the beginning of June 2016.

For the unit of analysis, I planned to interview approximately 10 Rohingya people for each place of fieldwork following the four types of Rohingya which are;

1. Bangkok, Nonthaburi and Mae Sot area for observing ‘Old Rohingya’ and ‘New Rohingya’ urban migrants.
2. National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province for observing the situation of Rohingya who are the victim of human trafficking and were detained in Thailand from the social worker and Thai officials.
3. Rohingya who are in the status of displaced persons or refugees living in temporary shelter under Thai authority control in Tak province.

## 1.7 Significance of Research

Generally, most of existing researches on Rohingya issue in Thailand nowadays tend to focus on rights-based approach with the blaming on the weak legal implementation on both countries of origin and country of destination which have been interpreted just as top-down perspective or State-centered perspective. Significantly, there is still the lack of researches on Rohingya protection from bottom-up perspective or people-centered perspective on what is the way that Rohingya who have been always claimed as the victims or passive agents can enhance their resilience for themselves and become the active agents in their expected country of destination like Thailand. Recently, most of the researches or reports on Rohingya issue in Thailand tend to concentrate on the Rohingya in one particular area. Significantly, there is still lack of enough research on Rohingya issue which proposed the comparative perspective of Rohingya in different contexts in Thailand which can be beneficial for other researchers, academics and policy makers to see the broader and more comprehensive explanation on the situation. The comparative analysis perspective systematically allows us to consider the deeper view on the particular issue. Consequently, this research tried to make the various arguments to four various circumstances of Rohingya in Thailand based on the concepts of social protection and Statelessness which shape the livelihoods of Rohingya in various contexts in Thailand differently. The nexus between Rohingya issue and social protection concept is useful for Thailand context in terms of it providing the broader aspect of social protection providers of both State and non-State actors which is important to the context of Thailand which is not the signatory of the 1951 Refugees Convention and its 1976 Protocol and still lack of the sufficient protection framework on refugee and migration issue. Furthermore, this research tries to fill the gap of social protection between formal and informal social protection providers of Rohingya people in various contexts in Thailand by providing both top-down and bottom-up perspective into the form of comparative analysis. With two dimensions for social protection assessment, it will be beneficial to demonstrate significantly on what can be the alternative measures to protecting the Rohingyas in Thailand besides State responsibility as well

as what can be the choice for Rohingya in four different contexts in Thailand to be resilient on their vulnerability.

### **1.8 Limitation of Research**

During the fieldwork research and key informant interviews, I encountered various limitations which mainly involve with the issue of confidentiality of Rohingya information from the Thai authorities. Additionally, the current situation of the Thai military government also affects the positioning of the international organization to give the information on Rohingya issue to this research.

Firstly, as the working group on the issue of Rohingya of Thai government sector is quite unstable and change frequently, it affects the process of contacting the key informants on Rohingya issue from the Thai authorities. Also, I found that the information about Rohingya the Thai government is working on is quite confidential. Most of the Thai government sector that I contacted for interview cannot give information in the deep detail which affects the way I analyze the information after fieldwork process. For instance, they cannot reveal the number of Rohingya who live in the center and their background who are under their control by concerning about the restriction to protect the victims of human trafficking under the Anti-Trafficking in Persons Act B.E. 2551 (SIREN, 2010). In this regard, the National Operation Center on Prevention and Suppression of Human Trafficking, so called 'Baan Pathum shelter' under Ministry of Social Development and Human Security entirely concerns about the controversial information between Thai officers side and Rohingya side and also the recent situation of the Rohingya detained in Pang Nga detention center who fled and was shot by Thai authorities are the main reason that I am not allowed to interview them directly in Baan Pathum shelter. Instead, I was allowed to interview the social worker and other officers in the center and got limited information as the Rohingya is the most sensitive case of Baan Pathum shelter. Additionally, Baan Pathum shelter is the center specifically for male, so I got just the information about male Rohingya who are the victims of human trafficking and have no chance to interview female Rohingya in another center due to the limitation of time to conduct the fieldwork research.

Secondly, the issue of neutral positioning of international organization working on Stateless people, refugee and Rohingya issue in Thailand includes UNHCR affects the process of asking for permission to interview the officers of UNHCR as the key informants. As the recent situation of Thai military government and also Rohingya issue has been recognized as the sensitive case, UNHCR officers concern on their positioning for interview. Consequently, I decided to research on UNHCR reports instead of interviewing UNHCR officers directly to save time and mitigate the concern about the organization's positioning on Rohingya issue.

Lastly, as I cannot get the approval to interview Rohingya who are displaced persons living in Mae La temporary shelter in Mae Sot, Tak province, so I contacted Rohingya who temporarily came out of the temporary shelter and are working in Mae Sot area following the advice from a rights-based NGO in Mae Sot office. However, the problem about lacking of trust happened when one Rohingya from Nupo temporary shelter initially denied the interview at the first time as he was afraid of his security. Eventually, his Rohingya friends from Umpiem temporary shelter tried to convince him, so at last I had a chance to interview the man from Nupo temporary shelter via phone.

As there are various limitations to access the information of Rohingya in Thailand from the Thai authorities, International organizations and Rohingya people in some place, consequently, I was able to fulfill this gap by researching more on secondary data, secondary respondents who know the situation of Rohingya and also interview more key informants who work closely in Rohingya issue in Thailand.

## **1.9 Ethnical Issues**

Through all process of fieldwork research and key informants interview, I encountered various ethnical issues which come from both Rohingya in all four areas of fieldwork and also the Thai authorities.

From fieldwork conducted to Rohingya in four different areas, before the research interview, the consent is always obtained to all Rohingya interviewees. In the case of Rohingya in urban migrant context, all Rohingya in Bangkok and Nonthaburi are willing and allowed me to reveal their name and document their personal information in the published thesis. However, for five Rohingya urban migrants in

Mae Sot, they did not allow me to know their real name since the in-depth interview was conducted. Consequently, this research intends to use a pseudonym to all Rohingya respondents to avoid confidentiality issues in the future. Also, the name of all key informants especially Thai officials and other officers in Baan Pathum shelter have been kept confidentially.

## 1.10 Terminology Use

1.10.1 **Displaced persons** (DPs) are the terminology used by the Royal Thai Government (RTG) referring to displaced persons who fled from Myanmar and live within nine temporary shelters along the Thai-Burmese border. DPs have substituted the word ‘refugees’ as Thailand is not the signatory of the 1951 Refugees Convention (Vungsiriphisal, Bennett, Poomkacha, Jitpong, & Reungsamran, 2011, p. 2).

1.10.2 **Asylum seekers** are people who seek for the protection in international level, individually or in a group and have not yet been finally decided by the country in which he or she has applied and submitted for the protection. In this regard, not every asylum seeker will be recognized as a refugee, but every refugee is initially an asylum-seeker (UNHCR, 2005, p. 13).

1.10.3 **Refugees** are “any person who is outside his or her country of origin or habitual residence and is unable or unwilling to return there as a well-founded fear of persecution for one of the reasons set out in the 1951 Convention with the serious and indiscriminate threats to life, physical integrity or freedom resulting from generalized violence or events seriously disturbing public order” (UNHCR, 2005, p. 13).

1.10.4 **Stateless persons** refer to persons who are not considered as a national by any State under the operation of its law (The International Observatory on Statelessness, 2015).

1.10.5 **Person of Concern (POC)** has been defined as “refugees under the Statute annexed to General Assembly Resolution 428 (V) of 14 December 1950, returnees who are former refugees and have recently returned from exile to their home countries, as well as displaced persons whom UNHCR is called upon to assist pursuant to resolutions of the General Assembly or at the request of the Secretary-General” (UN-NGLS, 2016).

1.10.6 **Old Rohingya** refers to a Rohingya who lives in Thailand for more than 10 years or who has been staying in Thailand since 2006. Normally, these ‘Old Rohingya’ people can speak Thai and can adapt themselves well with the situation in Thailand. (Executive Director of TCR, Interview, May 4, 2016).

1.10.7 **New Rohingya** refers to Rohingya people who come to Thailand recently by boat around two years ago or in 2013-2015 in the period that people have just recognized the existence of Rohingya through the tragedy of boat people (Executive Director of TCR, Interview, May 4, 2016).

1.10.8 **Rohingya urban migrants** refer to Rohingya people who live freely without any control from Thailand authorities. All of them generally have been recognized as ‘illegal immigrants’ under Thai Immigration Act B.E. 2522. In this regard, Rohingya urban migrants include the groups of ‘Old Rohingya’ and ‘New Rohingya’. However, some of them might apply for refugee status with UNHCR and can also be asylum seekers who live outside shelter while waiting for refugee status.

1.10.9 **Rohingya victims of human trafficking** refer to Rohingya people who have been screened and identified as the victims of human trafficking already from the investigation process done jointly by the Ministry of Social Development and Human Security, Thai police and the Immigration Bureau, and live within the shelter where some of them become witnesses in court justice process.

1.10.10 **Rohingya displaced persons in temporary shelter** are Rohingya who normally live within temporary shelter in Thailand under the Ministry of Interior (MOI) administration. Generally, Rohingya displaced persons in temporary shelter stay in the house within the temporary shelter and obtain basic needs from TBC and also get the documents to show their status in the temporary shelter which will include household information, ration book, UNHCR registration slip and verification card.



## **CHAPTER II**

### **LITERATURE REVIEW**

#### **2.1 The Root Cause of Statelessness**

The Rohingya people are considered as Muslim minority group of people in Rakhine State which was formerly known as Arakan in the western part of Myanmar. The border of Rakhine is near Bangladesh and the Bay of Bengal. Myanmar is composed of a number of diverse ethnic groups. 'Burmans' are the dominant and majority group, and the number of ethnic minority is around 40 per cent of all the population (Lowenstein, 2015). For the religious dimension, the majority of Myanmar is Buddhist which is an important part of Burmese nationalism. As of 2015, it has been estimated that about one million Rohingya are living in Rakhine State. The great debate on Rohingya is the history for claiming where the Rohingyas came from and whether they are eligible to live in Myanmar as the Muslim minority group. Many assumptions about the origin of Rohingyas have been criticized. Some said that they are indigenous Burmese as the first Muslim group in Rakhine region. At the same time, some claimed that they migrated to Rakhine State in 1826 when Myanmar was under British colony (Ostrand, 2014).

Lowenstein (2015) argues that the denial of citizenship of Rohingya in Myanmar has the root cause from the long history in Citizenship law. It begins with 'The 1948 Union Citizenship Act' which defined the citizenship for 'Burmans' and also identified the minorities group and allowed some of them to grant citizenship. Unfortunately, the list of minority groups which gained citizenship did not include the Rohingyas. This law has the provision to allow people whose families have lived in Myanmar's territory for two generations to gain the identity card. Some of the Rohingyas gained this kind of identification cards at that time. However, after the military coup in 1962, Burmese government limited the number of people to gain the identification document, including the Rohingya people. In 1974, Burmese government required all citizens to gain 'National Registration Cards', but gave the Rohingyas the 'Foreign Registration Cards' instead. Lastly, the absolute exclusion on Rohingya citizenship is the result of 'the 1982 New Citizenship Law'. For 'the 1982



New Citizenship Law', Burmese government excluded the Rohingya to obtain the equal rights to Burmese citizenship. Consequently, this made the Rohingya in Myanmar to become fully Stateless persons. In this regard, the Rohingya cannot prove themselves due to the lack of family record and also when Burmese government set Burmese language as the national language. The Rohingya cannot nationalize themselves because they speak 'Rohingya dialect' and have been excluded to access education which was taught in Burmese language. As the result of the 1982 Citizenship Law, it also deprived Rohingya in judicial system, property ownership, job opportunity, and basic needs in Myanmar. Additionally, the Rohingyas have been controlled in private life such as birth control and marriage restriction by the Burmese government. After that, the Burmese government officially denied the existence of the Rohingya minority in Myanmar and recognized them as the 'illegal immigrants' to this day.

Consistently, after the Rohingya were recognized as illegal immigrants, the Burmese military began the operation called 'Dragon King' (*Naga Min*) against the minority who were not considered as Burmese citizens or accepted minority group in 1978. As the result of this operation, the Rohingya, treated as foreigners or illegal immigrants were murdered, raped, and abused by the Burmese military. This forced approximately 200,000 Rohingya to flee across the border to Bangladesh. However, the Bangladeshi government was reluctant to give humanitarian aid to them, resulting to the death of more than 12,000 Rohingya in the refugee camps because of starvation (Lowenstein, 2015). Moreover, the unrest in Rakhine State in 2012 was the severe breakdown between Rohingya and Rakhine people as the result of the murder and the rape of a woman, of which Muslim men were accused of. This also worsened the hatred between Muslim Rohingya and Rakhine Buddhist and the police taking side of the majority. Consequently, a lot of Rohingya people migrated to neighboring countries such as Bangladesh, Thailand, and Malaysia. In this regard, the countries which have Muslim identity will be the destination of the majority of Rohingya, for instance Malaysia and Indonesia. And some groups of Rohingya decided to choose the transit route such as Thailand. The Rohingya chose to migrate mostly by sea route nowadays and some still move by land route. Additionally, most of them use smugglers to help in migration and often be confronted by the exploitative human

traffickers. However, many of Rohingya people can migrate from Rakhine State where they faced brutal persecution, but the 'Stateless stigma' is still the biggest obstacle for them to survive in the new country. Without legal status and documents, most of Rohingya people cannot access the basic needs and legal jobs for them to survive. Consequently, they have to work in informal jobs and faced with discrimination and trafficking issues without any protection until now. Having Statelessness as the background, some Rohingya people considered applying for refugee status to resettle in the third country, while some of them spend years before being granted the status and still be asylum seekers. Some of them live illegally in the urban areas and were considered as irregular or undocumented migrants. Importantly, it should be considered that most of the migrants practically are a kind of mixed-flow migrants and difficult to make a clear status of living for them. Some migrants might begin with forced migration in one place seeking for refugee status, but then they can transfer to be voluntary migration when they consider to work in another place and become the irregular and undocumented migrants in the end. Every step of the process reflected the different social protection which might be provided by the receiving country in formal and informal terms. Politically, A. Betts (2009, p. 53) argues that the way States respond to the force migration case can be reflected and repeated how sovereignty of State is constituted in practice within territory. Particularly, it can be considered in the policy framework on migration of States which always include or exclude the migrants in some way. Interestingly, it can also assess how States put the external people within the national political community. In this regard, the gap which should be considered is what is the security implication of the way states categorized people. This also brings out another question on how national security affect to the way the State give protection to Rohingya people.

## **2.2 Rohingya and Stateless Status**

In International norms, UNHCR and The National Human Rights Commission of Thailand (2010) argues that Statelessness is a 'global phenomenon' which affected almost every region including Southeast Asia region. From the 1954 Convention relating to the Status of Stateless Persons, Stateless person has been defined as 'a

*person who is not considered as a national by any State under the operation of its law*'. The origin for Statelessness recognition began after the Second World War when people were separated from the country of origin and lose their legal status. The 1954 Convention at that time until now is the only international treaty to provide the regulation on how to treat a Stateless person. Afterwards, the 1961 convention on the reduction of Statelessness was launched. To recognize a Stateless person, in practice it is not only nationality law, but also the way that State interprets them. Additionally, in reality, a Stateless person might have another status such as asylum seekers, refugees, undocumented person depending on the context of each State which ratified the international law related to those people differently. The number of Stateless people around the world is estimated to around 11 to 15 million (Goris, Harrington, & Sebastian, 2009). Importantly, the complexity to identify Stateless person is that there are two terms which are *de jure* (legally) and *de facto* (practically) Stateless. For the person who is not recognized nationality from any State under its law is '*de jure* Stateless'. In contrast, there are still many persons in the world who were denied nationality or cannot prove their nationality or were denied to access the human rights due to the conflict with the government called '*de facto* Stateless'. This includes the Rohingya from Rakhine State of Myanmar who were confronted with ethnic discrimination and also the great emerging of Stateless person from USSR after its break down. In International context, there is a complicated process in the issue of Statelessness to recognize and decide who are stateless. For instance, the unclear birth registration, nationality legislation, history background, domestic law and international law which State is committing. In terms of related organization, UNHCR has the main role in addressing the people who are assumed as Stateless person and fill the gap between legislative and administrative process. However, UNHCR cannot substitute for the State in general term.

In Thailand context, the real number of Stateless person is unknown, even though Manly and Persaud (2009) from UNHCR which roughly estimates that there might be officially around 506,200 persons. However, due to the lack of effective census system, the number might be as high as 2 to 3.5 million, some of them are still not recognized by UNHCR. In Thailand, the issue of Statelessness includes the hill tribe people in the northern area who are Akna, Lanu, Lisu, Yao, Hmong and Karen

(The International Observation on Statelessness, 2014). They lack of Thai citizenship without the rights to vote or property owner. Many of them were considered as Stateless or irregular migrants. Another type of Stateless person in Thailand is Burmese people who have fled the persecution from ethnic minority conflict and economic deprivation to Thailand. Some of them are allowed to live in temporary shelters along the border, but a large number of them are scattered outside the temporary shelter illegally. Additionally, there are a lot of children born in the temporary shelters and are still unclear about citizenship eligibility. In terms of government on Stateless issue after 2001, the Thai Cabinet provided the temporary residency rights for one year for some of the hill tribe people who are in the government's survey. Also, in 2006, the Thai government announced that they will approve Thai citizenship for two million of various group Stateless people including the people who have lived in Thailand for more than ten years. However, this policy was abolished after the government of the former Prime Minister Thaksin Shinatra was overthrown (The International Observation on Statelessness, 2014). For more than ten years until now, the Thai government still doesn't have a concrete legal framework to cope with Stateless persons, and some group of Stateless persons still struggle to require the just recognition on citizenship. The new challenge on Statelessness for the Thai government is Rohingya people who can be considered as one of the largest Stateless group and the most vulnerable group of people nowadays.

The Rohingya people is an ethno-religious minority group who originate from Rakhine State in Myanmar which now has the population is approximately 1.4 million and all of them were recognized as 'Stateless people' from the result of 1982 Burmese Citizenship Law (ERT & IHRP, 2014). Also, there are more than 1 million Rohingya living outside Myanmar as migrants or refugees and this group of people has been recognized as undocumented, irregular or unauthorized migrants who are vulnerable without any legal protection for a long time. Being the Stateless people made the Rohingya face discrimination, abuse, exclusion, malnutrition, illiteracy and cannot access to healthcare service both in Myanmar and in the transit route. However, the Rohingya people still need to migrate to seek security and protection in the new place which should be better than their country of origin. Bangladesh, India, Pakistan, Malaysia, Saudi Arabia, and Thailand are recognized as the countries a large number

of Rohingya people have fled to. Some of these places can be recognized as country of destination and also the transit route to country of destination of Rohingya people. The livelihood in the new place of Rohingya is still a serious concern and was documented. Many of them live in chronic poverty and were excluded from local community, pushing most of them to work in informal sector and some work without work permit from the government. This makes the Rohingya people vulnerable to arrest and be detained by the authorities. Moreover, most countries that the Rohingya people have fled to are not signatory to the 1951 Refugee Convention. This can be implied that these countries do not have concrete legal protection framework to handle the refugees or migrants, and this creates greater trouble for undocumented migrants like Rohingya people to this day. Also, the States have failed to recognize Stateless status for Rohingya people and that leads to the inefficient protection. Moreover, most receiving country are unwilling to provide the protection action due to fear that it will be a 'pull factor' and bring more Rohingya people to enter to the country. For these reasons, the Statelessness of Rohingya has been protracted and impede the enjoyment of rights which all human being should have (ERT & IHRP, 2014). When legal framework does not allow them to migrate, the Rohingya people mostly get help from smugglers to migrate and become the victims of trafficking easily.

For Thailand, the country has a long history as a receiving country for refugees who fled from the political conflict and persecution since 1975 Indo-Chinese war includes the migrants from Laos, Cambodia and Vietnam and Myanmar from minority conflict. Still, there are nine temporary shelters along the Thailand-Myanmar border. (UNHCR, 2015a) reports as of June 2015, the number of total population of concern are approximately 625,256 people including refugees 110,372 people, asylum seekers 8,166 people and Stateless person around 506,197 people. For the Stateless persons in Thailand which include Rohingya in different area still pending without clear assistance from UNHCR in 2015 (Figure 2).

UNHCR 2015 planning figures for Thailand					
Type of population	Origin	January 2015		December 2015	
		Total in country	Of whom assisted by UNHCR	Total in country	Of whom assisted by UNHCR
Refugees	Sri Lanka	300	300	500	500
	Myanmar	72,900	72,900	53,600	53,600
	Pakistan	400	400	700	700
	Various	1,800	1,800	2,600	2,600
People in refugee-like situations	Myanmar	51,500	-	32,600	32,600
	Various	1,000	1,000	1,000	1,000
Asylum-seekers	Palestinian	900	900	1,300	1,300
	Pakistan	7,600	7,600	11,500	11,500
	Various	2,800	2,800	4,100	4,100
Stateless	Stateless	506,200	-	506,200	-
<b>Total</b>		<b>645,400</b>	<b>87,700</b>	<b>614,100</b>	<b>107,900</b>

**Figure 2: UNHCR 2015 planning figures for Thailand (UNHCR, 2015a)**

In Thailand's perception, they recognized refugees or displaced person in country as temporary issue. The Rohingya people who have the background as Stateless people can require other status such as asylum seekers and refugees and also can be considered as undocumented migrants or irregular migrants, depending on the context of both the country of origin and the destination. For decades, the Rohingya people continue to reach Thai coast and some has resettled with Thai local community for a long time. However, after the great crackdown on Rohingya trafficking process in 2015, the number of Rohingya people entering Thailand is lesser compared to the previous year. Most arrested Rohingya victims were sent to detention center for men, mostly in Southern province including Ranong and Songkhla and social community center for women and children will have to wait for further durable solutions (ERT & IHRP, 2014, p. 10).

After the Thai military coup in May 2014, the policy implementation on immigration has been stricter which affected the movement of undocumented, Stateless people, and refugees in the border area. In this regard, the Thai government still take the responsibility on primarily addressing the Stateless people and UNHCR provides the in-depth implementation on nationality legislation for categorizing people who do not have clear legal status including Stateless people. Additionally, Thailand, as the middle-income country in the region, attracts hundreds of thousands of irregular migrants seeking for better economic opportunity. Consequently, Thailand has a great task to control the influx of people from outside and faces with

many challenges as the result of economic development. This includes a number of Stateless people who also want to seek for better life and security. ERT and IHRP (2014) provides the assumption that Thailand and many countries in the region tend to concentrate more on border control but less recognition on protection framework for the refugees and migrants. Consequently, refugees, undocumented and Stateless people including Rohingya are not always identified and ignored in human rights and are limited to access basic needs. The number of Rohingya people in Thailand currently is approximately 3,000 who live illegally. The majority of Rohingyas in Thailand live in Bangkok, others are scattered around Mae Sot and the southern provinces such as Ranong (ERT & IHRP, 2014).

Critically, the problem of refugees in each State is the result of the unstable of citizen-State relationship (Haddad, 2008). The Statelessness is the obvious evidence which is repeated in this assumption. In the case of Stateless people who enter the new country to seek the protection is concretely reflected that not only the State sovereignty issue which receiving country have to recognize in terms of providing refugees protection but also the constructive relationship on how the State complies with global human rights norms (A. Betts, 2009, pp. 53-54). In this regard, A. Betts (2009) also argues that in terms of refugees protection, the State which is often considered to the sovereignty of State primarily might have some exception. There is the possibility for the State to selectively violate its sovereignty if it can enhance the interests of power. For instance, the State might give priority to economic migrants who contribute economic growth to the country more than the other type of migrants such as refugees. In this regard, Stateless people including Rohingya in Thailand might be difficult to be considered as economic contributor due to the lack of legal status which makes them susceptible to arrests<sup>4</sup>. Thus, both 'soft law'<sup>4</sup>, and 'hard law'<sup>5</sup>, are still ineffective for Stateless people protection in the case of Thailand. This gap can be the principle of the State like Thailand in the handling of the Rohingya

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<sup>4</sup> 'Soft law' means the forms of '*non-binding normative framework*' which mostly has been drawn by the experts or the agreement of inter-state cooperation in particular area (Alexander Betts, 2010).

<sup>5</sup> 'Hard law' represents the '*legally binding obligation*' which is interpreted by the authority for law implementation in the particular issue (Abbott & Snidal, 2000).

Stateless people if there is no interest for them, State except for the humanitarian issue of protecting them.

### 2.3 Migration and Social Protection

Social Protection is the concept which tends to relate to policy framework which leads to the action at the end. Social protection has the main goal of reducing the vulnerabilities (Sabates-Wheeler & Waite, 2003). That means the concept of social protection is to directly concentrate to the vulnerable people or poor group including displaced persons from natural disaster or man-made conflict, migrants, marginalized or excluded people, young children, pregnant women and elderly people. In this regard, migration is one of the issues that people mostly become vulnerable due to the mobility and dislocation always bringing unstable livelihood including basic consumption and service which related directly to what development always mentions. Nowadays, the story of migration has emerged and prompted people to recognize it as a transnational issue more than in the past. One of the main reasons can be the trend of free-flow movement and technology which allow people to move from one place to another place in finding the ‘better life’ following the concept of ‘World System Theory’<sup>6</sup>. To adapt the concept of social protection to migration is quite useful in terms of social protection in providing the comprehensive analysis on the risk and risk management in almost every process of migration which are migrant at origin, migrant in transit, migrant at the destination and migrant’s family at source. However, it is necessary to define ‘social protection’ clearly before going further in detail. The definition of social protection varies depending on an issue and the organization’s point of view. Currently, there are the definitions of social protection from ILO, World Bank, IADB and ODI which are very different from each other because it is following each organization’s aim. In this regard, the definition of social protection from ILO is most suitable to link to migration term. Based on the definition from ILO, social protection is *“The provision of benefits to households and*

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<sup>6</sup> World System Theory is the macro-sociological viewpoint to explain how ‘capitalist world economy’ dynamics affects to the uneven opportunity for each state divided into periphery and semi-periphery states which need to be dependent the center state (A. Mart ínez-Vela, 2001).



*individuals through public or collective arrangement to protect against low or declining living standards”* (Sabates-Wheeler & Waite, 2003) which has the implication in human rights term and livelihoods. In this regard, the linkage between social protection and migration can be understood in two directions: migration as a social protection for the migrants and the process of migration which require social protection to prevent the vulnerabilities (Sabates-Wheeler & Waite, 2003).

Sabates-Wheeler and Waite (2003) suggested that for social protection, there are four basic elements which provide the different measure of social protection to cope comprehensively with the vulnerability. The first one calls *‘Promotive measures’* which aims to mainly improve the economic and social capabilities of people such as the low income, inadequate education, lack of accessibility health care, and poverty reduction. The second one is *‘Transformative measures’* which aims to negotiate with the power relation of the individual and the group of people. One key of this kind of measure is the concern about “social equity” and “social rights” which tries to empower the people against all kind of discrimination. The third measure calls *‘Preventative measures’* which mainly aims to prevent the deprivation in any case and this kind of measures refers to social insurance provision of both State and non-State actors. The last measure of social protection is *‘Protective measure’* which specifies to target the relief from deprivation and acts as the guarantor when promotive and preventive measures have failed on the implementation.

In the present, there is still a few work on migration which apply the concept of social protection to understand the risk and uneven situation of the migrants especially the ‘irregular migrants’ or so-called ‘illegal migrants’. It is the important time to recognize them because in reality, these groups of people spread worldwide rapidly through the informal channel in the first place and protract their insecurity in their life in transit route and destination. In this regards, irregular migration needs a strong and effective framework like social protection which is quite comprehensive in term of the framework to conceptualize and design the implementing policies depending on the unit of analysis for the irregular migrant. Within social protection concept, there is also the distinguished term which is useful as a tool of analysis in migration issue: formal and informal social protection. ‘Formal social protection’ means the policy solution which came from State and market mainly. In contrast,

‘informal social protection’ means the policy solution which came from non-State and non-market. These two different ways to recognize social protection are crucial for policy assessment which distinguishes between State-centric and people-centric approach. To apply both elements and the formal and informal terms of social protection for analysis, it allows us to see the possibility of more alternative to protect the migrants in migration route especially the irregular migrants or Stateless people who are lack of legal protection and are vulnerable in society.

In the process of migration, vulnerability of migrants should be recognized in many ways by focusing on determinants of vulnerabilities includes spatial environment, socio-political and socio-cultural terms (Sabates-Wheeler & Waite, 2003). Each type of determinants will allow us to understand the root cause of vulnerability systematically. For instance, in the case of undocumented migrants, they are mostly vulnerable on socio-political and socio-cultural terms which are sometimes very difficult for the government in the country of destination to provide social protection for them due to the complicated way of identifying the case problem. So this group of people often uses a kind of informal social protection mechanism to handle with the vulnerability or risk in their daily livelihood. The informal social protection mechanism in this case can be the community-based network and the aid from non-governmental organization.

In terms of migration as social protection, it means that migration itself can be understood as the social protection for the migrants who flee from the persecution in the case of refugee and asylum seekers and for economic migrants who flee from the low minimum daily wages and poverty area to the higher minimum daily wages and more economic opportunity in others countries through migration.

Social protection is the significant concept for assessing on how vulnerable people have been protected. With the systematic elements with formal and informal term of social protection allows us see the relationship and the role of various actors both State and non-State actors to provide protection mechanism to migrants and vulnerable people interestingly. Also, social protection is useful to analyze the root cause of vulnerability and then find out the solutions systematically. In the case of the Rohingya, we have already known that they lack legal protection due them being considered as Stateless and because of the context of receiving country which was not

tied to the 1951 refugees Convention. In this regard, social protection can provide the framework of informal social protection which is possible for the Rohingyas to use as the alternative way to protect themselves.

In this regard, social protection as the key concept should have weak and strong point in the case of the Rohingya people in Thailand context. The interesting questions at this point are: what can be the challenge of both formal and informal social protection measures the Rohingyas in different circumstances in Thailand nowadays and how can they adapt themselves with those challenges?

## **2.4 The Various Groups of Rohingya**

### **2.4.1 The Gap of Rohingya Protection from Bangladesh Camp-Based Perspective**

The situation of the Rohingya who fled from Rakhine State in Myanmar and seek for the protection in Bangladesh has the long history. There are around twenty camps in the Cox's Bazaar district for the Rohingya people. Some of them were considered by the government of Bangladesh as refugees housing about 26,317 people. Also, there are approximately 100,000- 200,000 Rohingya who lived outside the camp and were considered as 'illegal migrants' (UNHCR, 2007). As the refugee status, the Rohingya in Cox's Bazaar camp were limited on movement, education and opportunity to work. Also, government of Bangladesh is reluctant to give the protection to the refugees due to the context of country which is also a developing country with more than 147 million people. Bangladesh is faced with many challenges of poverty, high level of illiteracy and the lack of access to public services of its citizens are still the big problems to this day.

In the context of Rohingya in camp-based community in Bangladesh, there is still the gap of protection, even though the government of Bangladesh has shown a good sign to cooperate with international organizations in terms of handling the most protracted refugee situation like Rohingya. UNHCR (2007) explains that the key gap of Protection of Rohingya in the camp in Bangladesh includes legal and administrative framework, the relationship between host community and refugees, the safe access to the territory of refugees, refugees registration, the restriction on

movement and employment, arbitrary arrest and detention, sexual and gender harassment, documentation, security and justice administration, food accessibility, basic needs and accommodation, Health care, education, property ownership and durable solutions. For a durable solution, there are a few important points to recognize about the Rohingya refugees in Bangladesh. Firstly, UNHCR cannot encourage the Rohingya refugees take voluntary repatriation to Myanmar, even though this is the solution which the government of Bangladesh would prefer. Secondly, although there is the possibility to resettle in the third country, the number is quite small. Thirdly, it is also less possible for the local integration of the Rohingya refugees (UNHCR, 2007). Importantly, the partnership on refugee protection of Bangladesh is UNHCR which mainly provides the assistance to the refugee camps through the Memorandum of Understanding (MoU) with the State.

In term of International Protection instrument, the government of Bangladesh is the signatory of many international laws except the International law which related to refugees like the 1951 Convention Relating to the Status of refugees and 1967 Protocol. In the national level, Bangladesh still lacks national legislation for refugees administration in formal term. The only law which can be applied theoretically to refugees issues is some article in the constitution is including the obligation to *'support oppresses people throughout the world waging a just struggle against imperialism, colonialism and racism'* (UNHCR, 2007). However, although there is no formal protection mechanism for refugees and migration issues, many refugees and self-settled Rohingya still search for the protection on their own by migrating from Bangladesh to other countries in the region includes India, Australia Malaysia, Pakistan, Thailand and Saudi Arabia. In this regard, many countries are reluctant to receive the Rohingya people due to the fear of becoming the pull factors in the future and some countries decided to send them back or *refoulement* to the sea route. The fact is that a large number of this Rohingya group who irregularly flee from Bangladesh is not camp-based Rohingya. Additionally, they mostly obtained the assistance from the local criminal group of people for the movement, even though this channel will make the Rohingya become vulnerable from exploitation. Additionally, in some way, the Bangladesh government's efforts to send a large number of

Rohingya back to Myanmar when there is the conflict along the border between Bangladesh and Myanmar (Blitz, 2010).

In legal framework dimension, Bangladesh and Thailand are not signatories on the 1951 Convention Relating to the Status of Refugees or 1967 Protocol like many countries in the region. Consequently, it lacks legal protection and the opportunities of durable solutions which make Rohingya unable to access the basics needs and become vulnerable in social and economic term, exploitation and discrimination. The gap of protection for Rohingya both are in camp-based and non-camp-based in Bangladesh contributes the general tendency of the Rohingya protection of the many countries in the region which recognize refugees and migrants issue as temporary issue without International law related to refugees issue binding. In this regard, formal protection from the State is still weak because the non-binding on the International Refugees Convention and other related conditions includes its domestic immigration law. Consequently, the Rohingyas have to find their own protection by informal channels which can make them vulnerable to exploitation, even though it will be the only way to enter the protection. Due to the recurring cases of Rohingya people migrating to other countries, this has somehow served as a protection for Stateless people like them who lack of legal protection from the State. In this regard, the question which can be added accordingly is: what are the informal channels that can be considered in order to provide protection for the Rohingya people in refugee camps and what is the role of community-based network or civil society groups in this issue?

#### **2.4.2 Rohingya and Human Trafficking Issue**

Human trafficking is one of the fastest growing transnational criminal activities in the world (Torres & Swanstrom, 2014). Regionally, Southeast Asia has registered the highest incidences of human trafficking. Generally, the governments in this region are still reluctant due to the lack of reliable data to combat the trafficking network effectively. It is also a huge challenge for governments to do this as there is no precise number of victims of human trafficking including their definite whereabouts considering the complicated web of connections of human trafficking practices the very nature of their operations – being underground and informal. The

lack of this basic data exacerbates the process of protection the victims of trafficking in many ways. The victims of trafficking of this region mostly come from Myanmar, Cambodia and Vietnam where women, children, girls and boys are faced with different circumstance of risks. The vulnerabilities that these victims face are various manifestations for of poverty, illiteracy, inhuman forced labour, sexual harassment and inequality. The main challenge of human trafficking in this region is the involvement of the authorities in trafficking chain as it happened in the case of Rohingya in Thailand. Another challenge is that due to human trafficking which involves with regional migration, countries in the region still lack intra-regional cooperation which is essential to combat the trafficking network in the long-term. Additionally, the role of NGOs, media, and private sectors to investigate the issue are still excluded by many governments (Torres & Swanstrom, 2014, pp. 4-7). Consequently, from the press release on the boat people crisis in 2015, the public began to consider the issue of human trafficking more in particular the case of the Rohingya people who were pushed back to the sea by the Thai authorities. This was the shameful image that brought international condemnation to the action of the Thai authorities. At that time, many Rohingya people who are victims of trafficking were detained at the Immigration Detention Center (IDC) in Songkhla. From the survey of International NGOs on Human Rights issue, the environment of detention center is very overcrowded lacks the provision to basic needs, healthcare, mental health services which are considered necessary services for the Rohingya. Additionally, the Thai authorities have the arbitrary means to control them within detention center for many months, some many years without durable solutions and good practice for the victims. From the interview to one Rohingya in Ranong, Sidasathian (2014) he expressed that a Rohingya man wanted to send the message to other Rohingya that there is no safe haven in Thailand and that any Rohingya who decide to come here can be stuck in a Thai cell indefinitely.

The Rohingya who are detained in IDC and other social center were categorized from the Thai authorities as ‘undocumented migrants’ and the big condition for them is they cannot easily repatriate to Myanmar due to the background of serious persecution. However, the Thai authorities cannot proceed to give full assistance due to Thailand having not ratified the 1951 Refugees Convention and its

1967 Protocol, but they allow UNHCR and other resettlement program proceed and interview some refugees who require resettlement in the third country. Additionally, the Thai government generally views to Rohingya as ‘threat’ to national security from the way Thai authorities tries to use preventive action to boat people in 2015 and also the perception to Rohingya as the ‘illegal migrants’ who have no rights to live legally within the Thai territory. This is the perception of the threat from the International migration to national identity (Castles & Miller, 2009, p. 212). In this sense, Rohingya can affect the autonomy of the State. Also, Thai media often expresses the image of Rohingya as a theme of chaos, rebel and a problem to the public (Rajaram & Grundy-Warr, 2004). This kind of attitude is one of the obstacles for the protection, even though nowadays there is more sympathy from the people on Rohingya people.

The lack of durable solutions and legal protection framework for the Rohingya who are detained in the detention center for a long time can imply to the vulnerability in the authority controlled area. The exploitation can occur to the vulnerable people even though they are under the control of authority. The gap for this is what should be the principle for Thai authorities to handle the victims of trafficking and what is the ‘equity’ for them to give the protection to Rohingya who were detained in controlled environment. The fulfillment for this gap might be not the hierarchy but power relation perspective which allows us to deeply understand the protection and compare this with other cases.

#### **2.4.3 Urban Rohingya Issue in Southeast Asia**

Besides Rohingya living in the refugee camp and detention center, there are still many Rohingya people living illegally in urban areas who are considered as the group comprising the majority of Rohingya in Thailand (ERT & IHRP, 2014, p. 5). Even though Thailand is concerned as a transit country of most Rohingya to go to Malaysia, however, the fact from some International press show that there are some of Rohingya settled in Thailand’s urban such as Bangkok, and Chiang Mai in the northern of Thailand for twenty years. Presently, there is still no precise number of urban Rohingya in Thailand because they live illegally and hide themselves from the Thai authorities. However, ERT and IHRP (2014) proposes that there might be around

3,000 Rohingya who settled in Thailand for more than twenty years and the majority live in Bangkok. Consequently, there are a few research studies about the Rohingya in urban areas of Thailand, most data come from the non-academic source such as news report and individual website. Generally, urban Rohingya especially in Bangkok area can survive by doing jobs in the informal sector without work permit. Most of them are recognized as illegal immigrants which are vulnerable to be arrested and detained by Thai authorities at any time. It is a fact that one of the way urban Rohingya can survive in Thailand is they have to pay monthly bribes to the police for avoiding arrest. This actually occurs in Bangkok and Chiang Mai, the main cities of economic growth of Thailand. However, UNHCR (2015c) reports that Rohingya in urban areas needs the protection from Thai government rapidly. The vulnerability of Rohingya in urban areas mostly are the arrest from Thai authorities and indefinite detention and possibly deport (Refoulement) to Myanmar. Additionally, there is some observation that most of urban Rohingya live in or nearby Muslim communities and possibly integrate to the local community by marriage and building trust within the community. In this term, Muslim identity can be considered as one of protection to Rohingya. Unfortunately, it is not all Muslim community will sincerely accept the Rohingya people to their community, even though they have the same Muslim identity.

The complicated issue about Rohingya in urban area is researched a lot in the case of Malaysia. Azis (2014) argued in the research about urban Rohingya in Klang Valley of Malaysia that the Muslim community in Malaysia still considered the Rohingya in their community as the 'outsiders' due to their appearance and the perception that they do not contribute economically in this area. Additionally, although the Rohingya in the urban areas of Malaysia gained some work permit from Malaysian government to work temporarily, they still suffer from the uneven regulation in taxation and authority intervention. To compare the case of Malaysia and Thailand, the similarity term on refugee protection includes Rohingya issue is both countries are not the signatory of the 1951 Refugees Convention and its 1976 Protocol. Also, both countries still lack legal protection framework which is inclusive and provide long term protection. Generally, the formal protection provided by the State is *ad hoc* and inadequate. Also, this kind of protection always relate to other law



which mostly enforce for the foreigners such as the Immigration Act of 1979 of Thailand under the control of the Ministry of Interior. Without the specific legal protection for Rohingya in sustainably way, most Rohingya in urban areas still suffer and are vulnerable to arrest, detention, deportation and discrimination, even from the authorities. Cheung (2011) argues that in terms of Rohingya protection, the solution strategies should fill the gap between migration management and refugee protection. Additionally, while States are reluctant to own the responsibility to protect Rohingya, there is still the intermediate solution by the the Rohingya to seek for their own protection. Surprisingly, without the legal framework and benefits from the 1951 Refugee Convention, some group of Rohingya can achieve ‘*de facto* integration’ even though they still face the immigration enforcement. Notably, self- protection strategy of the Rohingya can be beneficial beyond the formal international refugee framework in some way.

The protection for the urban Rohingya is quite interesting and challenged the formal legal framework about migration management and refugee protection. We can see the form of self-protection or so-called informal protection mechanism from the vulnerable group like Rohingya which can be regarded as the self-resistance or self-resilience to the legal framework, but it is surprisingly effective. For this, it shows the possibility of durable solutions for Rohingya which does not need to come from just only formal protection but the informal protection mechanism and can be counted as the resilient strategy encounters the vulnerability causing by the background of Statelessness. In this regard, it might have several terms of informal protection for Rohingya in urban areas where they are not be physically under the control of the authorities. Particularly, the research for this can contribute to the knowledge on what possible alternatives that the urban Rohingya can have and how it is effective to be resilient in Thailand.

## **2.5 Summary**

The Rohingya, in different circumstances, reflects the different form of protection which can be provided by the State as ‘formal protection mechanism’ such as the Rohingya in refugee camps and the detention center and the protection which

are created by Rohingya themselves in the independent circumstance as ‘informal protection mechanism’ like in the case of Rohingya in urban area. For this phenomenon, the social protection concept is one of the useful and comprehensive concepts to apply for exploring the complicated and difficult terms of Rohingya protection. Additionally, it is also beneficial when the research provides the comparative analysis on the social protection in different context but the same vulnerable group. From all literatures, the main problem of Rohingya now should not be the Burmese government as the root cause of fleeing persecution of Rohingya from Rakhine State. Rather, it should be considered that the lack of legal framework protection for the Rohingya in many States in this region is of the most concerned, whether these States are the signatory on the 1951 Refugee Convention and its 1976 Protocol or not. Practically, the signatory on International law on refugee issue should not be the only thing to handle with the Rohingya issue, but the collective responsibility of the States in the region by embracing migration management and refugee protection can be a possible sustainable solution (Cheung, 2011).

## CHAPTER III

### STATELESSNESS OF ROHINGYA

#### 3.1 Introduction

*“Being Stateless is because government took off our documents. Statelessness is not our acceptance at all.”*

(The Director of BRAT, Interview, 24 April 2016)

Statelessness is a universal phenomenon, but different in various contexts binding with nation-States notion which mostly give priority to the citizenship and impedes or even see the foreigner or non-citizen as a ‘threat’ in some way. By international norms, from the 1954 Convention relating to the Status of Stateless Persons, Stateless people have been defined as ‘*someone who is not considered as a national by any State under the operation of its law*’ (The International Observatory on Statelessness, 2015). Its definition reflects significantly on the relationship between State and people representing in the form of nationality and citizenship through documents. However, for Stateless people, they are impeded of the rights as the citizens of the State as the result of the unrecognized criteria by the State under its law or so called ‘*de jure* Stateless’ or they might have some conflict with the government and cannot prove themselves as citizens who belong to live in the State territory or so called ‘*de facto* Stateless’. In this sense, we can interpret that Stateless status is constructed by the condition of the State, not the willingness of people to become ‘Stateless people’. The consequences of being Stateless people are quite various. Some Stateless people insist to live within the State territory even though they struggle to access all rights in the State and try hard to prove themselves to acquire citizenship from State for instance, the case of the hill tribe in the northern of Thailand. However, some Stateless people were not tolerated to live in that State as the result of brutal discrimination from government and also the hatred of citizens of the country and forced them to migrate to another country where they expect to meet better opportunities in life or their new ‘safe haven,’ in the case of the Rohingya, a Muslim minority group from Rakhine State of Myanmar where the issue of country of

origins and the historical background is still a debate. The problem on the ambiguous country of origin and the unacceptable identity from any State of Rohingya directly affected to the troublesome situation in the country of destination to seek for the protection from the State in long term. Being Stateless people of Rohingya case allows us to see the tightly nexus between people and States of origin and also States of destination through migration process. Recently, one of the big challenges of Rohingya issue is how State or country of destination of some Rohingya such as Thailand will handle with Rohingya who lives in various contexts in the country. This urgently needs to be observe and categorized Rohingya in different contexts in the State to see the overview of actual situation comprehensively. For this, the study on the nexus between Rohingya in different contexts and Thai State as the country of destination and transit route of some Rohingya is important to understand the recent Stateless situation of Rohingya which affects to the solutions further.

This chapter is divided into four main parts. For the first part, I drew upon the nexus between State and people in Statelessness issue which intends to point out the general view on the binding between State and people in international norms of Statelessness and then deeply propose the fieldwork finding about Stateless persons. This is to see the international trend which is useful to compare and analyze to the specific case of Rohingya. However, the gap between international norms and certain cases on the issue of State and people is fundamental to move further to the analysis on a certain country. Secondly, I provide more specific Stateless issue concentrating on the background of Stateless Rohingya in the country of origins. This part allows us to see a deeper perspective of case study on Statelessness issue and the root of being Stateless people of Rohingya which is the cause of migration. In the third part, a discussion on the fieldwork findings about the situation of Stateless Rohingya in Thailand context is presented by pointing out the nexus between Rohingya in various contexts in Thailand includes Old and New Rohingya urban migrants, Rohingya victims of human trafficking and Rohingya displaced persons in temporary shelter and Thai State in term of status and the law involvement.

### 3.2 Statelessness: The Nexus between State and People

By general claim, Statelessness is the State-centric norm. Historically, Statelessness has been included in the post-war period and was added in The 1951 Refugee Convention (Goris et al., 2009, p. 5) and this also binds in Universal Declaration of Human Rights or UDHR in section 15 about the rights to nationality. However, there is some gap of international law on Statelessness issue that there is still the lack of the process or criteria of bond between State and individual to gain in the issue of nationality. Additionally, the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness have been ratified by a few number of countries around the world contrasting with the large number of Stateless persons around the world which is around 10 million persons (UNHCR, 2014, p. 6). This implies that among the large number of Stateless people around the world, the solutions Stateless persons tend to depend on 'State discretion' under its State law. In this sense, State as authorized agent to ratify this law can imply as the one who impedes the people in the country both citizen and non-citizen to access the international norm established following the context of the world.

To recognize the basic term of gaining nationality, 'Birth' is the key issue to obtain nationality (Goris et al., 2009, p. 6). In term of law, the law of the soil (*jus soli*) which refers to when those born within the territory can obtain the citizenship from that State and the law of the blood (*jus sanguinis*) which refers to those who obtain citizenships follows parents' citizenship become the basic criteria to justify the nationality of individual. However, this is fundamental to recognize nationality obtaining has not been applied equally to every State. What has been done in reality is the way to obtain nationality depends on domestic law and State discretion which sometimes intends to discriminate some group of people who might be born in the marginalized area such as border or mountainous areas within State territory and cannot prove that they belong to this State as some of them drop off the census observation and force them to become 'Stateless person' who have no rights to access the protection including right to property, right to education, right to vote and so on from State.

The situation on Stateless people in many times also reflects the gap of the law within the State which sometimes impedes some group of people who cannot prove themselves or cannot gain the important documents to prove themselves such as birth certificate. Also, the law and government of State sometimes have been changed or modified back and forth. The unstable of law and government affects directly to the Stateless people which their life have been decided by the law. It also repeats on the tight nexus between State and people. The acceptance from the State to the citizens who gained nationality of a certain State representing through the documents such as identification card, passport or household census is illegal the people who are in opposite position, who are non-citizens but born in State territory.

Non-citizenship is a big trouble for Stateless people who feel that they are embedded in a particular community in the State where their identity has not existed. This can be repeated in my fieldwork finding in Mae Sot, Tak Province. I interviewed a Stateless person who is 'Mon' and was born along the border in Mae Sot without a birth certificate and their parents live in Mae Sot for a long time. This interviewee reveals that as he is a well-known person in the community and has embedded in Thai society since he was born so he would like to obtain Thai citizenship from the government. At last, he successfully obtained Thai nationality by gathering people in community including the Thai village headman, director of the Thai school, neighbors and the help of district officer as the guarantor and prove that he belongs to obtain Thai citizenship by the law of the soil (*jus soli*). The interviewee also described that before obtaining Thai citizenship, he was afraid to go outside of the community where he lives. He cannot go to another province in Thailand including Bangkok because they have no documents. However, as he can speak Thai fluently and the appearance looks alike Thai people, so sometimes the police did not notice him as the illegal migrant. After obtaining Thai identification card, he explained that he feels like 'a new born' and he noticed the importance of having citizenship and it is quite really troublesome when he was not recognized by the State.

The bond between State and person have been bound with 'rights' and 'duties'(The International Observatory on Statelessness, 2015). The International Observatory on Statelessness (2015) proposes the significant questions to the law implementation of State on how the State authority interprets the law and also how

State applies the nationality law in practice. Besides, the State and individual bind in written law, the way State implement the law became another issue which is complicated and sometimes unfair. So in this sense, the autonomous legal non-government organization is needed and inevitable to be existed for proving and balancing the nexus between State and individual to be fair. Nevertheless, some country in the world has no autonomous legal non-government organization or other non-State organizations which protect the marginalized people in the State. Those marginalized people including Stateless person who cannot be tolerant with the ethnical discrimination in the State tends to migrate to another place or new State which they might hope to gain more acceptance in some status or without status but at least be ensured of a better life. In this regard, the case of Rohingya has shown the situation when State and also the some people in the country denies this existing group without any autonomous legal non-government organization in the State to protect them from the vulnerability for being Stateless person causing a large number of them flee to another country as one of the possible solutions. In this sense, Burmese government as State actor denied the bond between them and Rohingya people which means as the State there has no responsibility to protect them and at the same time there is no rights or duty of the Rohingya to remain in this country. From fieldwork findings, many Rohingya Stated that they were brutally treated by Burmese military who always harm them mentally and physically. Another form of discrimination from Burmese military includes the slavery employment to Rohingya group and limitation to access the facility of State and also limitation to travel in 1992 (Panyangnoi, 2016, p. 33). Also, some Rohingya revealed that in the period of U Nu, Rohingya in Rakhine had the rights to travel quite freely, but after U Nu period, Rohingya continuously had impeded with the law which intend to discriminate and expel Rohingya ethnicity. This information corresponds to the contemporary evidence. Panyangnoi (2016) argued that Rohingya is in the real trouble under the 'Burmese Way to Socialism' of General Newin who overthrew U Nu government and at last forced Rohingya to be Stateless persons as the result of Nationality Law 1982. Through this kind of situation, the nexus between State and individual is quite fluid and unstable which repeated that in the strong nationalism atmosphere, people who have been forced to be Stateless can encounter radical law implementation In this

sense, it is very hard to compromise between State and Rohingya group will happen as one of the root cause of Stateless came from the hatred and the sense of nationalism in Myanmar which represent the thing called ‘the dilemma of nationalism in the country of diversity’ (Boon, 2015, p. 1)

To conclude, for the Stateless issue, individuals are involved significantly to the decision of State on citizenship and nationality obtaining. This reflects that the State is still the main actor to nationalize people. In recent situation, the international law about Stateless and UDHR are still weak to protect people who are Stateless people in various circumstances around the world. This is the result of there is a few State ratified these law and the international law still have the gap on the Statement and uncover the key problems of being Stateless person in contemporary includes the way that State binding with the individual. Consequently, the nexus between State and individual in Stateless issue contemporarily represents the imbalance of power within State. The negotiation of Stateless people to the State can be successful when the law allows Stateless people to prove themselves. However, in some cases like the Rohingya issue, the nationality law of the State has been intensively built to specifically impede this group of people. For later cases, the nexus between (one) State and individual can be transformed to be the nexus between (many) State and individual when Rohingya Stateless people choose to migrate to the new State. For this, the new nexus between State and individual at the country of destination can be built up again and Rohingya tends to negotiate with another State in identity and status issue further.

### **3.3 The Background of Stateless Rohingya and the Country of Origins**

*“If I go back to Myanmar, there is nothing but I will be shot and died. I cannot even see my mother when she died there.”*

(Fattah (alias), ‘Old Rohingya’ urban migrant, Interview, 26 April 2016)

As Stateless persons, Rohingya who migrated out of Rakhine State of Myanmar to another country mostly never go back to Rakhine State or Arakan. Fieldwork findings show most of Rohingya said that they cannot go back and cannot regularly contact their family and parents at Arakan. The saddest thing is that they



have no chance to see their parents when they died. One Rohingya in urban area revealed that their parents used to be teachers who are respectful. They used to have identification cards but after 1982 as the result of new nationality law, they have nothing and still insisted to live at their home. From this, it conforms to the historical evidence of the cause of ethnic conflict which forced Rohingya to become Stateless persons to this day. Recognizing to the background of the Rohingya suffering, there are many factors get involved. In this regard, I propose the linkage between historical influence, the transition of government, legal implementation and the current situation to build up the background of Stateless Rohingya in the country of origin.

Firstly, to define the future, history context is what we need to understand first. From most of existing Rohingya historical evidence, there is still the debate in history about the origin of the people which cannot give the clear answer on where Rohingya belongs. Panyangnoi (2016) proposes that there are three theories about the root of Rohingya from the historian perspectives. Firstly, some Burmese historian argued that Rohingya have no root from Rakhine State but they migrated from some part of India in colonial period which now is the area of Bangladesh. Secondly, from the perspective of local historian, the Rohingya is an indigenous group of people in Rakhine State which have been influenced by Islam and integrate with Indian ethnicity since the Buddha era. For the last theory, some historian broadly proposed that Rohingya have some linkage with the indigenous people in Rakhine with their identity developed by Islam and various ethnicities. However, in area of Rakhine State or Arakan in the past is the overlapping area in the border of India and Bangladesh and was transformed to be the State under Burmese when Burma or Myanmar in the present has been independent from British colony. However, all these theories and the debate on the originality of Rohingya people still exist until now. Panyangnoi (2016) also argues that the real conflict between Rohingya, Rakhine people and Buddhist Burmans begins with the economic conditions before expanding to political conditions which involved the intention of the Burmese government to use the issue of religious identity and ethnicity for the political and economic advantage of the government as same as Rohingya people who once used to used their religious identity and ethnicity to seek for the legitimacy. Additionally, Burma under the rule of British period has the significant evidence which built up the sense of conflict and

hatred between Muslim and Buddhists. It is the Rohingya support to British troops to fight Japanese troops which at that time Buddhist Burmese supported and when at last the British troops defeated the Japanese, they awarded the Rohingya the power over the northern of Rakhine State (Panyangnoi, 2016, p. 16). In this regard, the British colony was directly involved with the root of conflict which protracts until now.

After the Burmese independence from the United Kingdom in 1948, the situation of Rohingya was influenced more from the transition of Burmese government. In the period of U Nu, the first Prime Minister of Myanmar, Rohingya in Rakhine State still have the rights as citizens in Myanmar. From fieldwork findings, one Rohingya interviewee said that he felt free to live in Rakhine in U Nu period that U Nu is quite neutral that he allows Rohingya to travel 50 percent of all Rohingya. However, after the overthrow of Newin, the law in the Myanmar was changed and gradually impeded Rohingya from being citizens of the State. The 1982 nationality law absolutely denied Rohingya identity and it was the beginning of the migration of Rohingya to other State (Panyangnoi, 2016, pp. 29-30).

Furthermore, the violence between Rohingya and majority Buddhists in Rakhine State in 2012 was the significant conflict in the modern Myanmar which ignited the radical racism within Myanmar (Preecharush, 2015, p. 62). This incident began with the rape, robbery and murder of young women by three Muslim men in Yanbe township (Tran, 2015). Consequently, the angry rioters of both the Rohingya and the Buddhists began destroying and burning houses, schools, and mosques in the community. From this incident, 77 people from both sides were killed and around 109 were injured. However, the number of Rohingya who were killed are still significantly higher than the side (Kipgen, 2013, pp. 301-302) (please see figure 3). However, the number of the casualties and injuries from the incidents in 2012 from the Burmese government's side reflected the terminology use the word Rohingya as 'Bengali'. Therefore, after the crackdown in 2012, it forced thousands of Rohingya from Rakhine State to flee from Myanmar to the southern part of Thailand by boat with hope to go further to Malaysia (Tran, 2015). The Thais can be counted as the significant beginning of Rohingya issue in regional level. Also, it is the originality of the Rohingya group called 'New Rohingya' who have suffered in detention centers in many States in the region including Thailand.

Township	Casualty			Injury		
	Rakhine	Bengali	Total	Rakhine	Bengali	Total
Sittway	11	23	34	35	22	57
Ponnagyun	–	–	–	–	–	–
Myauk U	–	–	–	–	–	–
Kyauktaw	–	4	4	–	3	3
Pauktaw	–	3	3	6	10	16
Rathedaung	10	4	14	3	26	29
Buthidaung	–	1	1	–	–	–
Maungdaw	10	10	20	6	–	6
Yanbye	–	1	1	–	–	–
Minpyar	–	–	–	–	1	–
<b>Total</b>	<b>31</b>	<b>46</b>	<b>77</b>	<b>50</b>	<b>62</b>	<b>112</b>

Source: Ministry of Foreign Affairs, Government of the Union of Myanmar report titled "Consequent Events of Mob and Violence in Sittwe and other Places", July 2012.

**Figure 3: The list of the casualties and injuries from the violence in Rakhine State in 2012 (Kipgen, 2013, p. 302)**

As the complicated and various assumptions on historical background of Rohingya, it affects relatively to solutions of Rohingya and protracts them to be vulnerable especially after the big crackdown in 2012 in almost every moment in country of origins, transit route and country of destination until now. For the country which involves with the issue of Rohingya such as Malaysia, Bangladesh and Thailand are encountering with the big challenges on how to balance between State's sovereignty and humanitarian action in Rohingya issue which even though the situation of Myanmar is better in the sense that Myanmar is more transparent with the civilian government, but there is still no guarantors and positive sign on the solutions of Rohingya issue from the new civilian government. Moreover, recently the situation of Rohingya seems to be more hopeless when Aung San Suu Kyi, the new leader of Myanmar urged The U.S. ambassador not to use the term of 'Rohingya' as they are not included in the counted 135 ethnicities of Myanmar under the nationality law (Paddock, 2016).

### **3.4 The Nexus between Rohingya and Thai State**

Some may say when Stateless persons obtained some documents from the new State which they emigrated, they might not be Stateless anymore as they have been partly recognized by (other) State already. However, without a legal status

representing through the documents, Stateless persons like Rohingya still struggle with a certain law of State like Thailand which might not be built for handling with the Stateless migrants beyond the State's territory.

For Thai immigration law, the Rohingya have been considered as illegal migrants following the Immigration Act, B.E. 2522. The solution for illegal migrants of Thai State is either deportation or resettlement to a third country. That means these illegal migrants include Rohingya have no legal rights to stay in Thailand anymore. However, since the Rohingya cannot go back to their country of origins (Bangladesh or Myanmar) and it is quite hard and long process of resettlement, some of them continue to stay in Thailand in various forms indefinitely. Being Stateless people forced the Rohingya to adapt their identity for survival in Thailand. This assumption is clear enough for the cases of Rohingya in Thailand who are urban illegal migrants and the Rohingya who are refugees allowed going outside the temporary shelters to seek for job. These can imply that the livelihood of Rohingya without authority control has made it more flexible to stay in Thailand or at least they have the choice in their life comparing to Rohingya who are under full State authority control, including the case of Rohingya in detention center. This chapter proposes the fieldwork finding about the way that fluid identity of Rohingya who live in different circumstances in Thailand to work in different circumstances and what is the perception about Statelessness of Rohingya in different circumstances in Thailand: urban illegal migrants, victims of human trafficking and refugees as the result of Stateless status., Thai authority and related organizations working on Stateless Rohingya issue in Thailand which will open the various aspect on Stateless issue of Rohingya in Thailand further. Also, the interesting aspects of Rohingya in Thailand are the 'Old Rohingya' and the 'New Rohingya' who have the different background and adaptation. Consequently, in term of Thai authority in nowadays, they tends to react with just the 'New Rohingya' especially Rohingya who are the victims of human trafficking which become a big rumor in 2009 with the 'push-back' action of the Thai authorities.

Finally, this chapter concludes that the Rohingya perceive themselves as victims of the Burmese military. Also, they did not perceive or accept themselves as Stateless person as the Burmese government deprived all rights as they used to have

brutally. On the other hand, Thai authorities and NGOs related in Rohingya issue in Thailand perceive the term of Statelessness of Rohingya in Thailand as ‘the lacking of documents, especially ID card and passport’ and cannot send them back to Myanmar. In this regard, there are many ways of allowing the Rohingya to adapt while surviving in Thailand as the result of the lack of legal documents. However, as Stateless persons, a certain status recognized by State and international norms is still needed for Rohingya in every circumstance in Thailand.

### 3.4.1 ‘Old Rohingya’ Urban Migrants and Thai State

*‘If someone asks me, I will tell that I am Rohingya. If there is no one ask, I will not’*

(Aazim (alias), ‘Old Rohingya’ urban migrant, Interview, 29 April 2016)

As doing the fieldwork and interview urban Rohingya in Bangkok and Nonthaburi area, it was found that there are many types of Rohingya in urban area includes ‘Old Rohingya’ (who lives in Thailand for more than 10 years), ‘New Rohingya’ (Rohingya who come to Thailand by boat in two years ago), Young Rohingya who was born in Thailand, young Rohingya who was born in Myanmar and migrated to Thailand and the Rohingya who are waiting to go to Malaysia. These Rohingya people have different documents, situation and the target of life interestingly. Some Rohingya do not reveal their identity as Rohingya as they are afraid to be arrested as the result of the lack of documents or Stateless status. However, some Rohingya dare to tell other people that they are Rohingya especially ‘Old Rohingya’ who live in Thailand and feel familiar with the Thai community for a long time. From the perception of the representatives of National Human Rights Commission of Thailand, The word ‘Rohingya’ in Thailand was considered widely after the situation of the boat people and pushing back action of Thai authority in 2009. Before that, Thai people have no idea about the issue of Rohingya (National Human Rights Commission, Interview, May 11, 2016), rather, Rohingya in the cities have been assimilated with other Muslim people. Even the Thai authorities, before 2009 they know the situation of Rohingya, but the issue is quite small and not affect the national security widely, so they keep silence on it as Thai authority did not want to get involved in this issue (Director of Baan Pathum shelter, Interview, May 9,

2016). For this, the identity of Rohingya in Thailand has emerged since the press broadcast about Rohingya boat people crisis. The sympathy and question arose rapidly both domestically and internationally. The Rohingya people who never proclaimed themselves as Rohingya in the past began to claim that they are Rohingya for the hope that their voice will begin to be heard.

Importantly, we have to recognize that the situation of Rohingya boat people who become the victims of human trafficking later is radically different from Rohingya who stays in Thailand for a long time. Consequently, there are the emerging of the word 'Old Rohingya' and 'New Rohingya' (The Director of TCR, Interview, May 4, 2016). This segregation is important as the background for migration of these two groups is quite different and it affects the different solutions for these Rohingya group. Broadly speaking, 'Old Rohingya' has been defined as Rohingya people who live in Thailand for more than 10 years. The outstanding characteristics of this group of Rohingya are they speak Thai fluently and have the legal cards such as 'Ten Years Card', '30 Medical Card,' and 'UN card.' Moreover, 'Old Rohingya' can integrate themselves in Thai communities well, and know how to solve problems when they get arrested by Thai authorities. In general, 'Old Rohingya' is familiar with how to survive in Thailand. Even though most of them might be in debt as the exploitation from the outsider but they still adapt and find their way.

#### **3.4.1.1 Appearance**

For the Thai people, perception on the foreigner who is quite different from their appearance, the reaction will be two ways: very afraid or looked down upon. Some of the Rohingya who came from Bangladesh, besides Muslim identity, their appearance are also dark and easy to tell that they are the foreigners. However, some of the Rohingya who came from Myanmar might look like Asians or Muslim Burmese. In this sense, they might be generalized to be Burmese. As Rohingya normatively have been considered as Stateless people who have no legal documents as citizens of any State, they tend to be investigated and arrested by Thai authorities easily if their appearance is distinguishable. For nine of the twelve urban Rohingya who were interviewed mostly came from Rakhine State of Myanmar, they are similar

to other Burmese Muslims. Moreover, some Rohingya who are elderly man and can speak Thai fluently, their appearance look like Thai Muslim. In this sense, even they have Stateless status which derived from State action, their appearance of looking like the people in the country of destination or other ethnicity legally living in Thailand can be the one protection from the Stateless status as well.

### 3.4.1.2 Documents Holding

*“When Thai authority wants to arrest me, I show my long-life Ten years card to him and say that I am too old to be arrested. Finally he did not arrest me for a long time.”*

(Arzim (alias), ‘Old Rohingya’ urban migrant, Interview, 29 April 2016)

From interviewing urban Rohingya people, it can be said that the ‘Old Rohingya’ and young Rohingya who were born in Thailand are a more secure group in terms of legal documents holding. In reality, Stateless people who migrate from another State can get some legal documents from the country of destination in many tricky ways. However, the way to get the documents of migrants including the Rohingya is fluid and significantly depends on each government’s policy of the country of destination. One elderly Rohingya who has stayed in Thailand for almost 30 years said that he got a ‘Labour Card’ in the period of Prime Minister Thaksin Shinawatra when his policy allowed Burmese, Cambodians and Laos migrant workers gain ‘Labour Card’. Then, his ‘Labor Card’ was cancelled and then he got ‘Ten Year Card’ instead. For the ‘Ten Years Card’, each Rohingya have to get the consent and the signature of 7-10 Thai people from their community. As the Old Rohingya group who are already familiar with Thai community and can speak Thai very well, they can get this card easier than the New Rohingya who did not know much about some strategy, including earning the trust of the Thai community. In fact, there is also some ‘Old Rohingya’ who cannot get any cards. Some Rohingya replied for this that it is because *“some Rohingya was not clever enough to get it”*.

As observing the documents of urban Rohingya, I found that most of 'Old Rohingya' basically gain 'Ten Years Card', '30 baht card', UNHCR registration slip. Most of them still keep their own ID card from Myanmar (Green Card). For 'Ten Years Card' which the Thai authorities gave to Stateless people in the country who registered legally with Thai authority in particular area in Thailand, it basically allows Rohingya to stay within the particular area where this card was given. However, 'Ten Years Card' did not allow them to work independently. That means, they should find the employer for their job. Some urban Rohingya explained that with some restriction of 'Ten Years Card', their business job like Ro-Ti seller is not a legal job, so when they sell Ro-Ti, it is quite risky to be arrested by the Thai Police. However, most of urban Rohingya interviewees expressed their concern that they are unsure if they can renew 'Ten Years Card' after ten years or not. Therefore, one Old Rohingya who is 63 years old now revealed that he gets an extended 'Ten Years Card', which means he no longer needs to renew it and this has secured him very much.

Consequently, when the Rohingya get 'Ten Years Card', they can get '30 baht card' for accessing medical treatment in Thai Public hospitals. As the medical cost is quite high sometimes, some urban Rohingya said that they are quite happy for using '30 baht card' in Thai public hospitals. However, some urban Rohingya are afraid to go to Thai hospitals even though they gained '30 baht card' because they are still afraid to be arrested for being a Stateless person. They prefer to just go to clinics or pharmacy close to their house for their security instead.

Another group of urban Rohingya who are quite secure in documents holding is Rohingya who were born in Thailand, and in this case most of them are still young today. One of the young Rohingya who was born in Thailand explained that she has a birth certificate from a Thai hospital. Her appearance and gesture looks like a Thai Muslim girl in general. Also, she can speak Thai fluently and she speaks Thai to her Rohingya parents and has a lot of Thai friends in school. She also said that when she is 18 years, she will get a Thai ID card. Goris et al. (2009) proposed that birth is the key to obtain citizenship. In this sense, a Rohingya born in Thailand is quite beneficial when they gain a birth certificate even if his or her parents are still Stateless persons without any legal documents. A Thai Birth certificate can enhance a Rohingya who was born in the country to gain many opportunities in the future especially education



as Thailand allows everyone in Thai territory to access Thai education even if they are migrants or Stateless persons. For this, Thai education can assimilate Rohingya to become Thai people than Rohingya. This is quite an interesting case of Rohingya in Thailand.

### 3.4.2 'New Rohingya' Urban Migrants and Thai State

*“I cannot sell Ro-Ti everyday as I have no documents and I am so afraid that Thai police will arrest me. I am also in debt and cannot return money to the one I borrowed until now.”*

(Kareem (alias), 'New Rohingya' urban migrant, Interview, 29 April 2016)

In contrast, the 'New Rohingya' can be defined as Rohingya people who come in to Thailand and stayed here not more than 10 years. This Rohingya group includes Rohingya in boat people crisis in 2009. Some of them become the victims of human trafficking and some are illegal immigrants who have been detained in the Immigration Center (IDC) as the illegal migrants or the shelter of Ministry of Social Development and Human Security as they were proved as the victims of human trafficking already. However, there is still some 'New Rohingya' who were released from the detention center and live illegally in urban areas. These New Rohingya are quite vulnerable to be arrested again as they have no any cards or documents. Also, they cannot speak and communicate Thai language and have not adapted to the Thai society. In term of policy implementation, Thai authorities are recently handling the 'New Rohingya' not 'Old Rohingya'. In fact, Rohingya issue in Thailand is not the new issue but has occurred since more than 30 years ago. Recently, Thai authorities are trying to treat this issue as the new issue to the group of 'New Rohingya' and never mentioned 'Old Rohingya' who are staying in Thailand for a long time.

Analytically, as Statelessness issue, the Thai State is providing the policy and solutions to some group of Rohingya in Thailand, mostly Rohingya who are the victims of human trafficking and neglecting other Rohingya who might get some legal documents from Thai State. As the different situation of Old and New Rohingya, it needs some mechanism to handle this issue in different terms following the different level of 'self-resilience' of Rohingya in Thailand.

From the interview with urban Rohingya, most of them recognized they are not Stateless. Broadly speaking, they feel that Burmese military deprived them of their documents includes Identification Card (ID card) and this makes them cannot access the basic needs, no job, no hope in their hometown. Statelessness in this sense, from the perspective of urban Rohingya, has been interpreted that 'Stateless' is the State-centric perspective or the status from the State's action. Rohingya become 'Stateless' people as the result of the State depriving them or impeded their rights and documents, not the willingness of Rohingya people at all. By international norm, Statelessness normatively means that there is no right as citizenship recognition by any State on the Rohingya people. Based on fieldwork findings, one Rohingya explained that the Rohingya people, especially who live in Rakhine State before 1962 has the full rights as Burmese citizenship. They have the ID card and can travel freely as Burmese. Unfortunately, Burmese military suddenly unfairly impeded them from everything that they used to have. However, from the perspective Sheikhul Islam Office of Thailand, the Stateless situation is not important than these Rohingya cannot access to the basic protection from government as human being.

For the different cases of urban Rohingya living in Bangkok area, I have found that the 'Old Rohingya' who mostly have stayed in Thailand for more than 10 years can adapt to Thai community well. They mostly can speak and understand Thai language very well. Also, the perception and understanding about the Thai society are very close to Thai people, for instance, they know the Thai political issue widely. Some of the interviewees said that they always speak Thai to Thai authorities when they were about to be arrested or ask for help from Thai people who are familiar with them well. The Thai language at least can build trust between his family and Thai community very well and Thai language also makes him have more self-resilience to live in Thailand for a long time. For this, we can interpret that the Rohingya identity was sometimes concealed and also changed to be closer with Thai identity for survival. The similarity of transformed identity can be demonstrated in the case of a young Rohingya who was born in Thailand. One young Rohingya girl revealed that she got a birth certificate from Thai hospital and that is the only legal document that she has until now. This young Rohingya girl can speak Thai and understand Thai very well. In fact, she looks generally like a Thai Muslim girl with hijabs who went to a

Thai school normally. As the researcher observed, she speak Thai to her Rohingya father naturally. For this her Rohingya identity has assimilated to Thai identity and she hopes that this makes her have more credit to get Thai ID card in the future as well.

In contrast, in 'New Rohingya' case, I interviewed two young Rohingya man who has just came to Thailand around two years ago and who came to Thailand for a few day for waiting to go to Malaysia. As these two kinds of Rohingya cannot speak and understand Thai, also they have no any legal document in Thailand make them vulnerable to be arrested anytime. For a young 'New Rohingya' man who came by boat people a few year ago, as he cannot speak Thai and have no document, he cannot work publicly and regularly. However, as he married with Burmese Muslim who has Burmese passport, he can survive because sometimes his wife can sell Ro-Ti instead of him. In this sense, as Stateless people, the marriage with other nationality like Karen, Muslim Burmese or Thai people can make their Stateless status more secured. Also, sometimes the marriage can transform Rohingya identity to other one as well.

Another group of Rohingya urban migrants is Rohingya urban migrants in Mae Sot who are never live in temporary shelter before which I unexpectedly met when conducted the fieldwork research on Rohingya displaced persons in temporary shelter. As the border area, Mae Sot is the main official check point to deport illegal migrants to Myanmar side of Thai authority. From the fieldwork finding, most Rohingya who were arrested in Bangkok or others area in Thailand will be deported to Myanmar at Mae Sot border as it is close to travel to Yangoon. However, most of Rohingya who were deported to Myanmar at Mae sot always return to Thailand by living in the Mae Sot area for a while and some of them continue to move to another place further. From the interview to five Rohingya urban migrants in Mae Sot, it has been found that they have not any documents here as they have to pay at a high cost for documents obtaining includes 'Ten Years Card'. Some of them never applied for refugee status as it was not what they want. At the same time, some of them used to apply refugee status with UNHCR in Malaysia but he was arrested and was sent to Mae Sot for deportation to Myanmar. However, I found that there are many channels for Rohingya to survive here as Mae Sot is quite a dynamic place to integration. The variety of ethnicity in border area, Mae Sot represents the harmonizing area where

people could assimilate with other ethnicity easily. For urban Rohingya in Mae Sot who lives in Mae Sot more than 10 years, as the Stateless people, they can integrate with other with others ethnicity well through family chain. This means some Rohingya here married with other ethnicity includes Karen, Mon and also Burmese Muslim. As non-participatory observation, Burmese Muslim and Buddhist can live together smoothly in the case of family members. This can be one guarantor that the assimilation among Burmese ethnicity includes Rohingya is still possible. And the marriage across ethnicity sometimes can protect them from Stateless stigma and allow this Rohingya live in Mae Sot quite secure. Moreover, the located area of Rohingya matters to the protection and conceal their Stateless stigma well. I found that Rohingya in Mae Sot area mostly live in Muslim community together with other Muslim ethnicity. However, they separated themselves to a different zone of Muslim community. For urban Rohingya in Mae Sot who might not live in the area for a long time, still struggles and unable to find the job to earn money. Some of them live in mosque of Muslim community to secure themselves. For this, it is quite clear that Muslim identity and Muslim faith can always be the source of trust for Rohingya who might be vulnerable to go outside Muslim community as they are afraid of the arresting of Thai authority because of Stateless stigma. One of the importance of urban Rohingya in Mae Sot is that they mostly have the Rohingya connection in close area who might always help them arresting as they have no legal documents.

Living freely without any protection, urban Rohingya in Thailand mostly encounters with the vulnerability to be arrested by Thai police which recognized these group of Rohingya as ‘illegal migrants’ or undocumented migrants. In this sense, their appearance is very risky to be noticed by Thai police. Also, some documents of Rohingya especially ‘Old Rohingya’ includes ‘Ten Years Card’ and ‘UNHCR registration slip’ sometimes can be the guarantor to live in urban area.

### **3.4.3 Rohingya Victims of Human Trafficking and Thai State**

*“At the beginning, they did not know why they were forced to live here. They have no target in life, so they try to flee from the center.”*

(The social worker in Baan Pathum shelter, Interview, 26 May 2016)

Torres and Swanstrom (2014) Stated that human trafficking is one of the fastest growing transnational criminal activities and become a very serious issue especially in Southeast Asia countries. To define the term of human trafficking, there are three main components includes act, means and purpose of trafficking in persons (Haraldsen, 2014, p. 14). The act refers to the recruitment, transportation, transferring and receipt a persons by the means of threat, coercion, use of force and abuse of power which all of these action conforms to the purpose of exploitation (Haraldsen, 2014, p. 14). A few year ago, Thailand became a source of human trafficking rumor of Rohingya trafficked persons with the involvement of Thai authority and also the scandal about the push-back policy on the boat people. These force Rohingya people to still face the cycle of human trafficking. Even later when Thai authorities tried to arrest the smugglers and began to detain Rohingya before proving themselves as the victims of human trafficking in the detention center which is quite crowded, unsanitary and protracted (Haraldsen, 2014, pp. 43-44). However, what makes the situation of human trafficking, especially in Rohingya issue, become serious challenged without the effective solutions is because the lack of reliable data and also the reluctance of each government to address the problem (Torres & Swanstrom, 2014, p. 1). From interview to the National Human Rights Commission, most of Rohingya who came via the human trafficking cycle have been arrested mostly in the southern of Thailand especially Songkhla, Satun, Pang Nga, and Ranong before they were transferred to others centers under the responsibility of Ministry of Social Development and Human Security with the trafficked persons status to be proved by the investigation sector.

However, As the recent unrest situation of Rohingya in Pang Nga in May 2016 which some Rohingya try to flee from the detention center and one of them was shot by Thai authority (Chuenniran, 2016), the restriction on Rohingya issue in Thailand become more strict. This directly affects to the fieldwork research of this thesis, such as I was denied to directly interview Rohingya in the National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province, so called 'Baan Pathum shelter'. Instead, I interviewed a Thai social worker and medical officer in Rohingya house as the secondary resource and director of the center as the key informants.

Based on fieldwork findings, all Rohingya who are sent to National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province, have been proved and categorized as the ‘victims of human trafficking’ already from the investigation sector including various Thai authorities get involved for instance, Ministry of Social Development and Human Security, the police and Immigration Bureau. Also, they are all proved nationality by UNHCR and related organization includes IOM. The main nationality which has been found in Rohingya group consists of Rohingya, Bengali and Jumma<sup>7</sup>. However, some Rohingya might switch their identity by telling that they are Bengali to gain a quicker process to get released from the center. In contrast, some people in Rohingya group also identified themselves as Rohingya, although in reality they are Bengali. This reflects the identity adaptation to seek for more secure life and the hope to be free as fast as possible of Rohingya. Under full Thai authority control, all Rohingya in Baan Pathum shelter have been identified of the clear identity which closely helps with the faster process of durable solutions which includes resettlement to the third country.

As per the interview with the social worker of Rohingya house, before every Rohingya came here, they lived in other centers including Songkhla province. Moreover, the case processing of the Rohingya has already started in other places before they were sent to Baan Pathum shelter. From a secondary data source, all of the Rohingya here have no documents such as ID cards and passports. Most of them migrated with their family or friends or even migrated alone. Additionally, they have been found of unclear country of origin when the officer asked in the nationality proof process. Furthermore, all Rohingya case in Baan Pathum shelter recently is overwhelmingly male cases who intend to go to Malaysia and for them, Thailand is not their country of destination. However, when they were arrested by Thai authorities, they have to be proved and detained in detention centers and never known what is going on, so some of them at the beginning to arrive at Baan Pathum shelter, tried to flee from the center several times as they did not know the purpose of being detaining here.

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<sup>7</sup> Jumma refers to the indigenous peoples of the Chittagong Hill Tracts region, this area is in Bangladesh territory in present day (CWIS, 2008).

As Stateless people who have no documents and were required to prove the nationality from UNHCR, Rohingya were arranged to stay with Bengali people as they have quite similar appearance, culture and language. As mentioned above, both of these ethnicities always switch their identity back and forth in the nationality investigation process for the durable solutions depending on the situation. However, UNHCR as the main organization know this situation well and they process the nationality investigation following their set criteria. The social worker revealed that there is one case of Rohingya here who have to spend almost two years to proceed the resettlement process as he kept switching his identity as Rohingya and Bengali back and forth because he wanted to choose the quicker way to go to the third country. However, Stateless Rohingya in Baan Pathum shelter has been categorized as the most vulnerable case as they were discriminated brutally and have no legal protection from their country of origins without national recognition by any State and also vulnerable from the context of the victims of human trafficking in severe case. As the most sensitive case due to Stateless status and the victims of human trafficking, the officers in the center have to strictly treat them with more limitation than other nationality.

As under Thai law, Rohingya have been recognized as illegal migrants and need to be either deport to their country of origins or help them to resettle to a third country. In Rohingya case, as they cannot go back to their country of origins, so the last solution that Thai authorities will do is to help them resettle to a third country. From the information of social worker and the director of Baan Pathum shelter, all Rohingya in Baan Pathum shelter desire to apply for a refugee status with UNHCR and prefer to resettle to a third country. As per the interview with the social worker, it does not need a long time for refugee status requirement process for Rohingya in Baan Pathum shelter, earliest case spent time around 3 months, and the longest case spent around two years depending on how the Rohingya who are victims of trafficking go along with the process includes nationality identification process. In terms of document holding, Rohingya in Baan Pathum shelter can obtain 'Refugee card' only from UNHCR as the legal document binding with international norms of refugees. And this can make Rohingya Stateless people be treated as equal as other people who have citizenship. In this regard, the Rohingya, as victims of human

trafficking, even if they are not considered as a national by any State but at least they are recognized due to their status by international norms, will be still allowed them to keep their certain identity on hand. From the perspective of the director of Baan Pathum shelter which operates the assistance for the victims of human trafficking under the policy of Ministry of Social Development and Human Security, the main task for Rohingya at Baan Pathum shelter is the shelter for trafficked person treatment. So Rohingya who have been proved as the victims of human trafficking here are treated equally with other nationalities even they are Stateless people. From the perspective on Thai authority in Statelessness issue of Rohingya who live in the status of the victims of human of trafficking is that the circumstance that Rohingya cannot go back to their own country as there is a conflict with Burmese government. This affects to their operation to find the suitable solution for Rohingya in Baan Pathum shelter that they cannot send them back to country. For this, the last choice that is possible for Rohingya is to help them to resettle to a third country by cooperating mainly with UNHCR, IOM, RSC and the embassies to proceed the resettlement process. However, the gap of this fieldwork finding is that I have no chance to gain the information directly from Rohingya in Baan Pathum shelter. So I cannot conclude whether they have volunteered to resettle to a third country or not. Substantially, Rohingya who are the victims of human trafficking in full Thai authority control as Stateless have been proved nationality for the next process of resettlement which forced them to have a certain status and this conforms to the aims of Thai authorities which generally see them as illegal migrants who have no legal rights to live in Thailand. For Rohingya in this case, their identity as victims of human trafficking and solutions are treated by Thai authorities under the Anti-Trafficking in Persons Act B.E. 2551.

#### **3.4.4 Rohingya Displaced Persons in Temporary Shelter and Thai State**

*“As we examined the documents of migrants in Mae Sot-Myanmar border, there is no Rohingya, or they have been already harmonious”*

(The fourth Infantry Regiment Task Force, Mae Sot, Interview, 17 May 2016)



*“Life in the camp is very desperate. There is no hope there. Some of displaced persons there become mad.”*

(Badee (alias), Rohingya displaced person from Umpiem temporary shelter,  
Interview, 3 June 2016)

The dynamics of ethnical mixture and traditional crossing border in Mae Sot allows identity of people merge both physical appearance and social value representing ethnicity, religious, nationality from one identity to another identity. Mae Sot, as one of cities in Thailand with the most variety of ethnicities, does not only represent the various cultural terms, but also represent the various kind of people's status at the same time. Mae Sot, as the dynamic border area, consists of refugees, asylum seekers, regular migrants and migrant workers. In legal terms, the documents representing their status are important for them to stay in this area and also to travel to another place. Inevitably, I found that Stateless people who have no legal documents or have documents but still lack the specific nationality still face a big challenge here. However, there is still the channel for survival in Mae Sot area for this group of people.

As a border area, Mae Sot has allowed people from the opposite area who might have various kinds of ethnicity to enter and assimilate with other ethnicities in Mae Sot including host community easily. However, at the same time, the restriction of border control of Thai authority is also overwhelming at the border area more than other area of the State. Consequently, Mae Sot can be the haven of migrants who came both legally and illegally to assimilate and find greater opportunities in economic and social terms. On the other hand, it might be also more risky for illegal migrants including Stateless people who across border without legal documents especially Identification Card (ID card) and passport.

For Stateless people, the mix-cultured area allows them to hide and seek their 'safe haven' in some other way. In this regard, the variety of identity is available for Stateless people to negotiate their identity, as some Rohingya people can claim that they are Burmese Muslim. There are many different Muslim ethnicities in Mae Sot including Thai Muslim, Burmese Muslim, Bengali, Pakistan and the Rohingya, with the same Muslim identity, mostly feel familiar and will easily build trust compared to

other ethnicity who are in different religion. However, for the Rohingya, even if all of them are Muslim from some part of Myanmar, the discrimination in same Muslim identity in Mae Sot area has been found to be the same as the situation of the Rohingya in Malaysia (Fortify Rights & BROUK, 2016, pp. 12-13).

Rohingya people in Mae Sot are quite various and complicated to identify as some of them still conceal their Rohingya identity. Also, some of them generalize themselves as ‘Burmese Muslim’ or ‘Bengali’ instead of telling that they are Rohingya. This is the issue of security and self-protection of them who mostly did not have legal documents because of the Stateless stigma. This is to repeat, that without legal document and national recognition, Stateless people like Rohingya still struggle in Mae Sot especially those who have just arrived or lived in Mae Sot for a short period of time. Based on a direct interview with right-based organization in Mae Sot, there are two main types of Rohingya living in Mae Sot which includes urban Rohingya and the Rohingya who live in temporary shelters along the border who might get or might not get refugee status which sometimes go out from temporary shelter and live in Mae Sot area to see for job like the situation of others displaced persons in the temporary shelter. Also, there are both kinds of ‘Old Rohingya’ and ‘New Rohingya’ in Mae Sot in both urban Rohingya and the Rohingya who live in temporary shelter which sometimes adapt themselves as ‘urban migrant’ in the said area.

From the International Observatory on Statelessness (2015), Stateless persons can gain refugee status if the criteria would be suitable following the 1951 Refugee Convention that *“a refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. Most likely, they cannot return home or are afraid to do so”* (UNrefugees, 2016). This would be the possible solution that Stateless people can be treated as equal as other who gains nationality. In this regards, Rohingya people who are not considered as national by any State and migrate outside country of origin can apply for refugee status and can resettle to a third country. As secondary data source, most of Rohingya who flee from country of origin wants to go to Malaysia as it is *‘the trend of Bengali’* (Sheikhul Islam Office, Interview, 27 April 2016). However, some of them might be arrested in Thailand or make a decision to live in Thailand as illegal

migrants before reaching to Malaysia. For the legal protection requirement, some of them would like to apply for refugee status and some might want to resettle to a third country for more secure life with a certain status and identity. Some of them after UNHCR registration, they might voluntarily go to stay in temporary shelters and gain the humanitarian assistance under semi-authority control which still allows them to live freely within the area and go outside sometimes when needed.

For the Rohingya who live in temporary shelters along the border, they reflect the fluid and transformed identity interestingly. As I cannot interview Rohingya in the temporary shelter in Mae Sot area directly, instead, I decided to interview Rohingya who stay in Umpiem temporary shelter and go out from the shelter to seek for the job in Mae Sot area temporarily. From fieldwork findings, there are two main types of Rohingya who go out from temporary shelter along the border includes Rohingya who temporary go out and go back to temporary shelter and the Rohingya who permanently go out and decides to abandon the life and also the refugee status process as it is hopeless to live in such a shelter.

Recently, for the Rohingya who live in the temporary shelter in Tak Provinces, most of them are recognized as 'displaced persons' as Thailand is not the signatory of the 1951 Refugee Convention. Additionally, Rohingya displaced persons have been ruled by Royal Thai Government (RTG) policy which concern about the national security, sovereignty, local resistance, negative public attitude and the relationship with Myanmar (Vungsiriphisal et al., 2011). These displaced persons can be also counted as asylum seekers in terms of international norms and they remain in this status until his or her application has been successful and he or she will get 'refugee status' (Mitchell, 2006). Furthermore, most of the Rohingya in temporary shelters live here for a long time. Some of them could resettle to a third country faster if they have their relatives in the third country and then the process of 'family reunification' will proceed. For the Rohingya who temporarily go out and go back to the shelter, they mostly want to seek for job and earn money for their family. At the same time, a refugee status is still important for them and this is one of the main reasons besides the securing feeling that Rohingya tolerant to live in temporary shelter even though the life outside might be better for them (Vungsiriphisal, Bennett, Poomkacha, Jitpong, & Reungsamran, 2014, p. 54). For this, the Rohingya in temporary shelters

need to do the process of monthly checking and interview within the camp to maintain their status in the temporary shelter. One of the Rohingya from Umpiem camp who sometimes lived in Mae Sot revealed that he applied for refugee status since 2005 before living in the Umpiem temporary shelter. But up to this day, he has not gained the refugee status and is still waiting for it. At the same time, as he still be an displaced persons who get inadequate basics needs from NGOs in the shelter with the uncomfortable circumstance to live and without hope, so he decides to relieve his shortage by seeking for the opportunity from outside. In this regard, this Rohingya displaced persons switch his identity from displaced persons in the temporary shelter to become an urban migrants and shift to displaced persons in temporary shelter again when he has to go back to the Umpiem temporary shelter for the monthly checking process at least once a month. This is also because of the flexibility of Thai authorities and camp commanders in allowing more displaced persons and refugees to seek for jobs outside as they also understand the situation that the basic needs and humanitarian assistance within the temporary shelter is insufficient. So it might be more beneficial for the displaced persons and refugees to find their own stability. However, there is some gap for allowing them to go outside. Per the interview of the Rohingya in Mae Sot, many displaced persons include those who decide to go out and come back to the shelter, they tend to live outside the shelter more than in the camp as some displaced persons can negotiate with the section leader and Thai authorities such as the Deputy District Chief or 'Pa-Lat'. Broadly speaking, this group of people tends to keep both refugees and urban migrants which both benefit them in positive way. This also reflects that this situation of Rohingya and other displaced persons in temporary shelter can interpret that they are a passive agents and also an active agents well at the same times (Pobsuk, 2014, p. 30). The identity of Stateless people like Rohingya who used to live in temporary shelter under semi-authority control in Thailand can reflect to policy about refugee management, border control and humanitarian assistance of both State and non-State actors which seems to be more flexible comparing to the past. This argued that it was the attempt of the Thai government to minimize the issue of displaced persons along the Thai-Burmese border. However, some said that it was because the insufficient funding from International donors to process the full humanitarian action that forced Thai

government to allow displaced persons both registered and unregistered to seek for jobs outside. Consequently, the situation like this allows displaced persons to include Rohingyas to have many statuses and identities which can be switched and transformed back and forth. Rohingya in temporary shelter cases show how different that Thai authorities implement on the Rohingya issue in Thailand compared to other two Rohingya groups.

In this sense, as Rohingya displaced persons live with other ethnicities who also might gain asylum seeker status or refugee status, they are treated and adapted themselves in the same situation of other displaced persons. In this case, being a Rohingya Stateless person in temporary shelters might not be more important than displaced persons' status as this group of Rohingyas have been treated equally as other displaced persons.

### **3.5 Case study of Rohingya in Thailand**

#### **3.5.1 'Old Rohingya' Urban Migrant Case**

Aazim (alias) is an elderly 'Old Rohingya' urban migrant who is living in Nonthaburi for almost 40 years now. In terms of the background, he is now 64 years old and fled from Rakhine State of Myanmar to Thailand by land route alone. His parents passed away in Rakhine State. Before crossing the border to Thailand, he used to work in Rakhine State as the carpenter. When he first had arrived in Bangkok, he worked as the construction workers and then he began to sell Ro-Ti around the community he was living in. He also teaches how to make 'Ro-Ti' to other Rohingyas in many generations. He married a Thai woman who came from the northeastern part of Thailand and has a son. Today, he is divorced from his wife and he takes care and lives with his son who is now 30 years old. In terms of Stateless situation, this 'Old Rohingya' man revealed that when he came to Thailand, he had no any documents as Burmese government seized his documents in Rakhine State.

In terms of livelihoods, Aazim is very afraid to be arrested by the Thai police as he has to take care of his son who has a heart disease. However, he has been arrested several times, but he survived with the help from his Rohingya friends. In the past, he

regularly sold Ro-Ti and earned money around 400 to 500 per day. However, the real profit that he got is around 200 baht as he has to buy the ingredients for making Ro-Ti every day. He obtained 'Ten years card' and now his card is in the status of 'long-life' card which means he no longer need to extend the card as he is now 60 years old. As he obtained 'Ten years card', he obtained '30 baht medical card' to access medical healthcare in Thai public hospital. Now, he is living in rental house with his son. His son attended a Thai school in the temple since he was young. Now, his son regularly works as the security guard for one company and has Thai ID card as his mother is Thai. When his father was arrested by the Thai police, he usually shows the name card to the General Thai official and other Thai officials in the high-position and then the police always released his father. This 'Old Rohingya' man revealed that as he can speak Thai fluently and being at the age of 60, sometimes Thai police will not arrest him.

In terms of the relationship with Thai community, this 'Old Rohingya' man always goes to one of the mosque in Nonthaburi to pray in every Fridays. He is also a member of the mosque and is obtaining the pension for elderly people of around 500 baht per month from the foundation of the mosque. Also, he got monthly money from Islam Bank around 700 baht per month as an elderly person. However, his family situation is still vulnerable as his son often goes to the hospital and needs a lot of money for medical treatment for heart disease. Consequently, Aazim has to borrow some money from other Rohingya friends as now he cannot sell Ro-Ti to earn money regularly as he is older. His son asked me that about the way to help his father from being arrested by Thai police. He felt very concerned about the status of his father even he as a son who has Thai ID card and has a Thai citizenship, but it cannot guarantee the security of his father. Lastly, Aazim revealed that as he did not plan to apply for refugee status and resettle to a third country, his life with his son in Thailand is enough for him and he does not want anything more.

This case study reflected the interesting of the way to survive and Aazim's adaptation. Also, it is possible that the assimilation into Thai community through marriage which can be one source of protection for Rohingya as he has been accepted by Thai people with close relationship. However, even though Aazim is an elderly man living in Thailand for more than 40 years, the risk to be arrested still exists. This

reflects that without any legal documents and State recognition on citizenship, Rohingya people is still vulnerable indefinitely. However, Aazim case shows that they can survive on their own with good adaptation into Thai society and does not need the protection from State. It is quite possible that he will not be more vulnerable than what he was now as he knows the source of help well and the way to survive. ‘Old Rohingya’ group is the least vulnerable Rohingya group in Thailand and also ensured of the long-term resilience even though they cannot meet the durable solutions at last except *de facto* integration.

### 3.5.2 ‘New Rohingya’ Urban Migrant Case

While observing the Muslim ceremony at the mosque in Nonthaburi, I met Kareem (alias) who had been just released from IDC. He is 18 years old, a young Rohingya man from Rakhine State who came to Thailand with boat people in 2012. I talked to him with the help of one ‘Old Rohingya’ as a translator. Kareem came with the boat people and stayed in the boat for four months with other 700 people there. He also revealed that his parents still have ID cards, but they cannot use it in Rakhine State. Before coming with the boat people, he used to work as a gardener in his hometown. However, as there are many hardships to face in Rakhine State, he fled from his hometown and wish to go wherever to ensure his security. However, he was arrested by Thai police along with other boat people and was detained in IDC for a while before some Rohingya met him in the IDC and helped him to go out by paying bail to Thai officer. Kareem revealed that the cost of bailing a Rohingya from the detention center is much higher than other nationalities. For instance, for Burmese illegal migrants the cost is around 2,000 baht, but for Rohingya illegal migrants the cost is around 50,000 baht. The ‘Old Rohingya’ who bailed out him had to borrow money from the informal source of money lending with the high profit as the ‘Old Rohingya’ pitied him.

In terms of family, Kareem has a wife who is a Burmese Muslim and has a passport to live in Thailand legally. In terms of Statelessness, he did not have any documents. However, he and his wife earn money to pay for the house rent by selling Ro-Ti, a traditional bread, in Nonthaburi. He and his wife learned how to make Ro-Ti

from one of the 'Old Rohingya' in the same community who has been living in Nonthaburi for a long time. However, he cannot regularly sell Ro-Ti as he is still afraid to being arrested by Thai police, so his wife sometimes has to sell Ro-Ti replacing him and this is the main source of money for his family. They both have no children, so they have nothing to worry much except the daily survival in the community. To avoid getting arrested by the Thai police, sometimes he has to pay some money monthly to the mafia who always knows when the police will come to check the documents of the illegal migrants in this area. This is one of his survival strategies. However, it tends to be one reason that traps him in a cycle of indebtedness along with other Rohingyas in the same community.

In terms of livelihoods, normally, he and his wife earn money from selling Ro-Ti around 200 baht per day. Sometimes, he and his wife cannot pay for rental house cost for many months, but the rental house owner still allows him and his wife to live. Both of them did not access to Thai education. When Kareem needs medical treatment, he and his wife usually go to the clinic or pharmacy shop instead of hospital as they are still afraid to be arrested. Kareem revealed that he would like to obtain 'Ten years card' like other 'Old Rohingya' as he wants to travel and live legally. However, the process of 'Ten year cards' is quite complicated and he has to pay a lot of money for it, so he still has to live with the fear to be arrested without any documents until now with the help of 'Old Rohingya' who helped him from detention center.

For this case study, I propose that 'New Rohingya' group become the most vulnerable group of Rohingya in Thailand as they have no documents, cannot adapt into Thai community and still suffer from trafficking cycle brutally. Additionally, I found that Rohingya network is the most important source of help for 'New Rohingya' who has been launched from the detention center. In this regards, 'New Rohingya' still need to take time for learn and adapt themselves to Thailand community as same as what 'Old Rohingya' used to be and also seek for their durable solutions further.



### 3.5.3 Rohingya Urban Migrant who was born in Thailand Case

Aara (Alias) is a young Rohingya girl who is a child of one of 'Old Rohingya' man that I interviewed in Nonthaburi. She is now around 12 years old. She was born in Thailand and has the birth certificate from Thai public hospital. Now, she studies in Thai school and wish to be a teacher in the future. She can speak, write and read Thai fluently. She told that when she is 18 years, she might get Thai ID card as same as her brother who also was born in Thailand. Her father is an 'Old Rohingya' man who stayed in Thailand for more than 30 years who also has 'Ten years card'. Her father knows the way to survive by paying some money to the mafia around 4,000 baht per month to avoiding the arresting. Also, her father also used to apply for refugee status and has UNHCR registration slip as the evidence. However, UNHCR never responds him for many years. Aara has another three siblings who also attend to Thai school. She also revealed that now her mother who is Burmese Muslim is the main one who earns money for family as she has to spend money for tuition fees every semester since she has shifted to other secondary school. However, she said that now her mother cannot gain much money from selling Ro-Ti. Normally, her parents usually give her some money around 50 baht per day when she goes to school. At the school, she has many Thai Muslim friends as she is quite a friendly girl. Her appearance is look like other Thai Muslim girl as I noticed. Also, she said that she always speaks Thai to her parents, but her parents always force her to speak Burmese.

About the future, her father told that he and his family love Thai people so much especially Thai Buddhists who always help his family to survive in this community. Recently, her father told that he and his family plan to live in Thailand like what they are being now as he recognized that this is the best way as he knows well how to adapt themselves to survive and also he and his family feel harmonizing with Thailand than others place.

This case study reflected the significant finding about the assimilation into Thai community of young Rohingya who was born in Thailand. As she received the birth certificate and has begun her life in Thailand, she might be possible to gain Thai citizenship in the future and easier for *de facto* integration than her parents who are Rohingya and Burmese Muslim. This is also the challenge for Thai State on the issue

of nationality requirement and the new issue which most of policy maker and international norms seldom recognize in Rohingya issue on how to handle with Rohingya who was born in the country of destination and whether they should be recognized as citizens of that State or not.

#### **3.5.4 Rohingya Urban Migrants who has Passport Case**

From the fieldwork research on Rohingya urban migrants in Bangkok, I found Aleeza (alias) a Rohingya girl who migrates from Myanmar to come and live with the parents who are 'Old Rohingya' urban migrants in Thailand. Now, Aleeza is 20 years old. She migrated from Myanmar in 2011 with her younger brother by land route. The main reason for migrating is that she wants to live with her parents. She has Burmese passport and work permit as the main documents with her now. She described that she was born in Yangon and never go to Rakhine State which is her parent's hometown. Now, she is seeking for a job in Bangkok. However, as she can speak Thai and English quite well, many employers interested to employ her as the translator. Recently, she tried to apply for a job at 7-11 shop near her rental house. However, as she has no ID card because she is under 18 years, the shop owner seems to hesitate to employ her even she has passport. Now, she studies in Burmese school in Bangkok and also seeks for job. Her younger brother who is now 10 years old also attends to Thai school nearby the house.

In term of family profile, her father lives in Thailand for 18 years and her mother who came to Thailand after her father lives in Thailand for 10 years now. Her father sells Ro-Ti in Bang Rak area in Bangkok, but now her father can earn money less than in the previous time. Other source of earning came from her mother who works as housekeeper. Her mother is half-blood between Thai and Burmese. She revealed that her family can earn money around 9,000 baht per month and have to pay for rental house for 3,000 baht per month. She also revealed that she has the bank account in Thailand as she has passport and the work permit. However, she told that her family is quite poor, as there is less saving money that they earn per month. Mostly, the money in every month has been expended. At least, her family has the secure house to live as the rental house owner is very close to her father, so he allows

her family to stay here for a long time. Furthermore, this rental house owner always help her family when her father need money to pay for bribe as her father used to be arrested by Thai police several times. Also, the house owner never requires the interest besides the exact cost, so her family feel trustful the house owner and happy to live here.

In term of general security, as her mother has some Thai relatives, so her family always travel to visit the relatives in others province. She also revealed that she is never afraid to be arrested by Thai police. She always tells other people that she is Rohingya and feels free to travel. Additionally, she told that she has never been checked by Thai police. Generally, even she is a Muslim person, but she never goes to mosque in Bangkok because she believes that Burmese Muslim women seldom participates the religious ceremony even in Myanmar.

This case study reflects the significant finding that Rohingya might come to Thailand as the reason of economic and family reunification. Also, the channel for gaining passport as the identification documents recognized by Burmese government is possible, even though this important documents might derived from the informal way. In this case, this young Rohingya girl cannot be recognized as Stateless people anymore. Instead, she is one of the 'legal migrants' who seeks for job in Bangkok.

### **3.5.5 Rohingya Displaced Person in Temporary Shelter Case who Occasionally Become Irregular Migrant Worker**

This is a case of Kalil (alias) a Rohingya man from Nupo temporary shelter who I interviewed via phone. He can be counted as 'Old Rohingya' urban migrant before moving to stay in Nupo temporary shelter. He is now 41 years old migrated to Thailand since 1997 by walking through Mae Sot border. Firstly, he stayed in Mae Sot for two years before moving to Bangkok and married there. His wife is Burmese Muslim. They have only one daughter, however, now he divorced from his wife and he takes care of his daughter who is now seven years old and was born in Nupo temporary shelter. After several years in Bangkok, he decides to move to Nupo camp in 2008 following the advice from UNHCR which he used to apply for refugee status.

However, he told that as the livelihoods in temporary shelter is quite bad, so his wife cannot tolerate to live there and they divorce later.

Kalil's daughter attends to school in temporary shelter. However, as the conditions within the temporary shelter did not allow him to earn money, so he decides to seek for job outside and spend money to buy meat and vegetable for his daughter. When he has to go put side the temporary shelter, his daughter always live with his Rohingya friends who is the neighbor. Mostly, he works in Um Pang district which is nearer to Nupo temporary shelter than Mae Sot. Normally, he is employed in irregular work such as picking the corn, construction work depending on the employers which approximately earn around 200 to 250 baht per day. He told that as most of people in temporary shelter usually go out and seek for job in Um Pang area, so he follows others displaced person in term of job source. Sometimes, his Rohingya friend who has resettled in U.S. already sends some money to him, but it is not regular.

The life in temporary shelter is desperate from Kalil's perspective. He said that rice, oil, charcoal and others thing from TBC is insufficient for him to feed his daughter. However, he still wants to stay in temporary shelter as he live here for a long time and his daughter was born here. At least, temporary shelter has the school for his daughter for free. Additionally, living in temporary shelter and seek for job outside is better than living in Bangkok which is quite hard to find some job now. For the way to seek for job outside, he said that sometimes he left his daughter with the neighbor for two week for working at Um Pang area. He revealed that he is not afraid to be arrested at Um Pang as there is no checking point from Thai authority and he always brings the household information and UNHCR registration slip as the main documents represents that he has the rights to live in Nupo temporary shelter as the Persons of Concern (POC). Mostly, he is safe when living in Um Pang and no need to go to Mae Sot which is more risky to be arrested. In term of travel approval, he usually goes out from the temporary shelter without asking for the permission from Thai authority and he no need to go back to temporary for household checking in every month. His neighbor sometimes checking instead of him or sometimes he is checked once in three-four months and that's fine. In this regards, the situation of Rohingya in Nupo temporary shelter is various. Some of Rohingya there is in the

process for family reunification and plan to go to U.S. in next four months. However, some of Rohingya who have no any relatives in abroad still waiting for refugee status like him. Some Rohingya in Nupo temporary shelter no need to seek for job outside as their relatives from abroad usually sends the remittances to them.

For the future plan, recently Kalil is still waiting for refugee status and the opportunity to resettle to a third country with his daughter. However, if he cannot be accepted by UNHCR in two years in the future, he might plan to go out from Nupo temporary shelter and live in Mae Sot with his daughter because his daughter will have the opportunity to study in Mae Sot and he will seek for job in Mae Sot.

This case study reflected on the adaptation of displaced persons in temporary shelter to the insufficient and unpredictable future. It reflected that Rohingya who live in Thailand for a long time at least can survive with the possible channel for earning. This can ensure that if at last these group of Rohingya have been rejected from refugee status officially, they still have another channel to survive with the possibility of de facto integration as same as 'Old Rohingya' urban migrants.

### **3.6 The Patterns of Stateless Rohingya and Thailand**

From the explanation from National Human Rights Commission, Thailand as the middle country between Myanmar and Bangladesh to Malaysia and Australia and connect to Burmese border is quite a good strategic country for Rohingya for temporary staying and long-term staying in Thailand. In this regards, Thailand can be considered as both transit route and also country of destination (ERT & IHRP, 2014, p. 5). From interview an urban Rohingya in Bangkok who migrated to Thailand more than 30 year ago narrates that he migrates from Arakan by flying to Yangon before across border to Thailand through Mae Sot broader. Also, another Rohingya revealed that he travel by walking and go into Thailand at Mae Sot for ten days. These two cases told in the same situation that the Burmese militants at the border Thai-Burmese seized all of their documents before let them go through Thailand and also Mae Sot is the popular place for border crossing not even Rohingya but also other Burmese migrants. These two cases are categorized as a group of 'Old Rohingya'. In fact, the form and situation of migration of 'Old Rohingya' is very similar to others Burmese

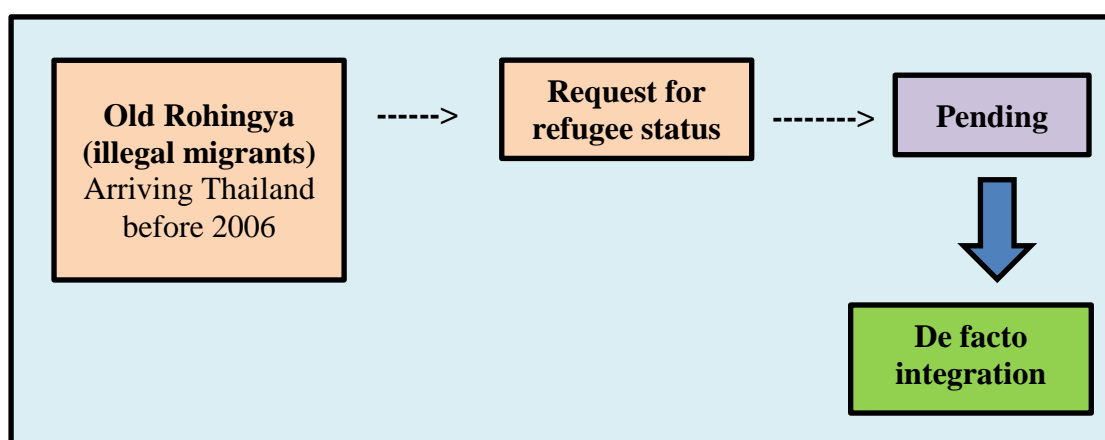
migrants who cross the border to Thailand to seek for job and pleasant life. However, in in term of documents carrying, Rohingya have been cancelled and for some people the documents were took away before life will begin again in Thailand. On the other hands, after 2012 crackdown, Rohingya who have just migrate to Thailand a few years ago mostly came by boat and have the actual destination in Malaysia. This group of Rohingya is called as 'New Rohingya'. From the perspective of TCR, the information has been revealed that Rohingya migrating into Thailand has happened for a long time ago, but it is not the urgent situation that Thai authority must strictly keep an eye on in the past as the general situation this group of Rohingya was generalized as same as others illegal migrants. However, recently, Thai authority is handling with just 'New Rohingya' group who came with the brutal scene of boat people who struggled with the inadequate supply and severe treatment broadcasting through the media extensively and also generalizes that Rohingya are all the same.

It is vital to note that the situation of Rohingya in Thailand various and there is many groups of Rohingya living in Thailand. The variety of Rohingya can be described in term of the difference of period of time to migrate, the route to migrate, the purpose to migrate, the status of Rohingya while living in Thailand, the place of circumstance they living and the different target of life. Importantly, I categorized Rohingya in Thailand broadly following the place of living includes Rohingya living under Thai authority control and Rohingya living without Thai authority control.

#### **Pattern One: Statelessness Situation of 'Old Rohingya' Urban Migrants**

In the case of Rohingya who live without Thai authority control, they also present the unstable life which is the vulnerability to be arrested by Thai police. 'Old Rohingya' urban migrants are Rohingya who came to Thailand for more than ten years by land route through Mae Sot border before moving to Bangkok or other provinces in Thailand. The situation of 'Old Rohingya' is quite similar to other Burmese migrants as they came in Thailand in the same route and similar purpose. Most of 'Old Rohingya' can speak and communicate in Thai language and can adapt themselves to Thailand community quite well. However, they are still recognized as 'illegal migrants' and can be arrested by Thai police all the time even though most of

them obtain ‘Ten years card’. In this regards, some of ‘Old Rohingya’ urban migrant might apply for refugee status and plan to resettle to a third country. Nevertheless, most of them are still pending in this process for many years with no hope. However, even though as last they can obtain refugee status or not, but there is the possibility that ‘Old Rohingya’ urban migrants can ‘*de facto integration*’ into Thai community as they can adapt themselves for survival with the Rohingya network in the same community. (Please see figure 4).

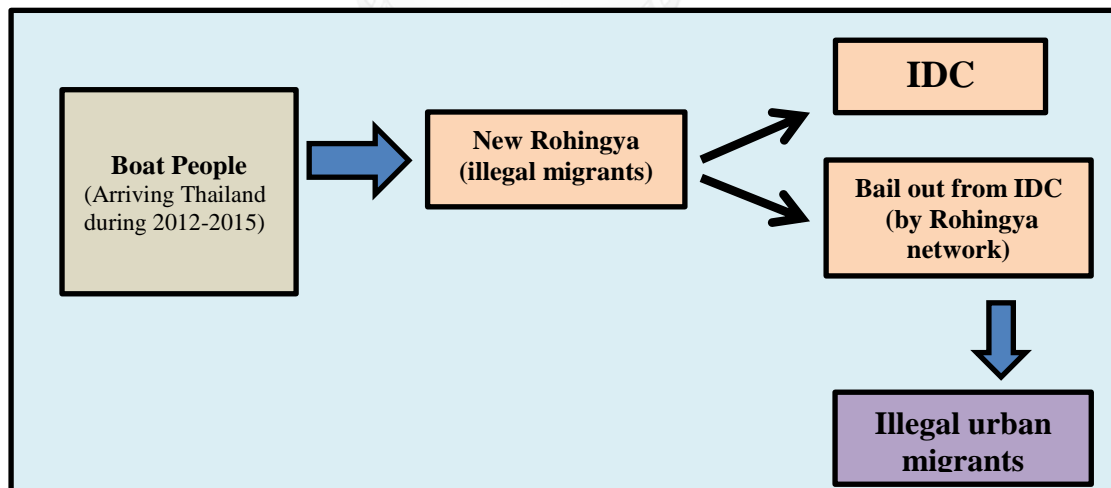


**Figure 4: Pattern of ‘Old Rohingya’ urban migrants**

#### **Pattern Two: Statelessness Situation of ‘New Rohingya’ Urban Migrants**

Statelessness situation of ‘New Rohingya’ urban migrants is quite different from ‘Old Rohingya’. Generally, this group of Rohingya came into Thailand by boat after the conflict in Rakhine state in Myanmar in particular the big crackdown in 2012. ‘New Rohingya’ might pass to Thailand by boat and most of them intend to go to Malaysia as the country of destination. After ‘New Rohingya’ has been arrested by Thai authority, some of them has been detained in IDC before proving as victims of human trafficking. However, some of ‘New Rohingya’ has been detained in IDC for a long time without the solutions. From the fieldwork finding on Rohingya urban migrants group, I found that some of ‘New Rohingya’ can be launched from detention center by several ways including paying for bailing out to Thai authority from the

help of other Rohingya. So when there is a person who can be responsible for these ‘New Rohingya’, Thai authority launched them to be free. In this regard, the ‘New Rohingya’ become illegal urban migrants living freely as same as ‘Old Rohingya’ urban migrants. However, what make ‘New Rohingya’ different from ‘Old Rohingya’ is that most of them have no any documents and cannot adapt themselves to Thai community like ‘Old Rohingya’ do and particularly they cannot speak Thai. Additionally, they are still risky to be arrested by Thai authority all the time. Without the help of ‘Old Rohingya’ or other Rohingya network in the same community, ‘New Rohingya’ is very vulnerable as they have no skill to survive include inability to seek for job, inability to communicate with Thai people and have no any documents. As of fieldwork finding, ‘New Rohingya’ who have just stayed in Thailand for one to two years still have no idea to apply for refugee status and resettle to a third country. They mostly still live in urban area near their other Rohingya friends and seek for a job. However, some of ‘New Rohingya’ revealed that they want to have ‘ten years card’ like other ‘Old Rohingya’ for at least it can ensure that they can stay in Thailand legally. Also, some of them revealed that in the future that might apply for refugee status and plan to resettle to a third country (Please see figure 5).



**Figure 5: Pattern of ‘New Rohingya’ urban migrants**



### Pattern Three: Statelessness Situation of Rohingya Victims of Human Trafficking

For, the victims of human trafficking case (under National Operation Center on Prevention and Suppression of Human Trafficking, Ministry of Social Development and Human Security), most of Rohingya in this case came to Thailand by boat as the illegal migrants first before they were arrested by Thai police and were proved as the victims of human trafficking by the investigation sector which need to be detained within Thai authority control. At the same time, following Thai law, they were generally illegal migrants who Thai authority might either deport them to their country of origins or force them to resettle to a third country. But in the case of Rohingya as the conflict in Myanmar still endless, so their choice might be just only resettlement to a third country. Then, in principle, Rohingya under Thai authority control such as victims of human trafficking can apply for refugee status with UNHCR and become asylum seekers and refugee respectively (Please see figure 6). However, some of them is still pending for this process which depending on the process of nationalities proof as well. Additionally, some of Rohingya victims of human trafficking who might or might not apply for refugee status also become the witness in court justice process about their trafficking in persons lawsuit.

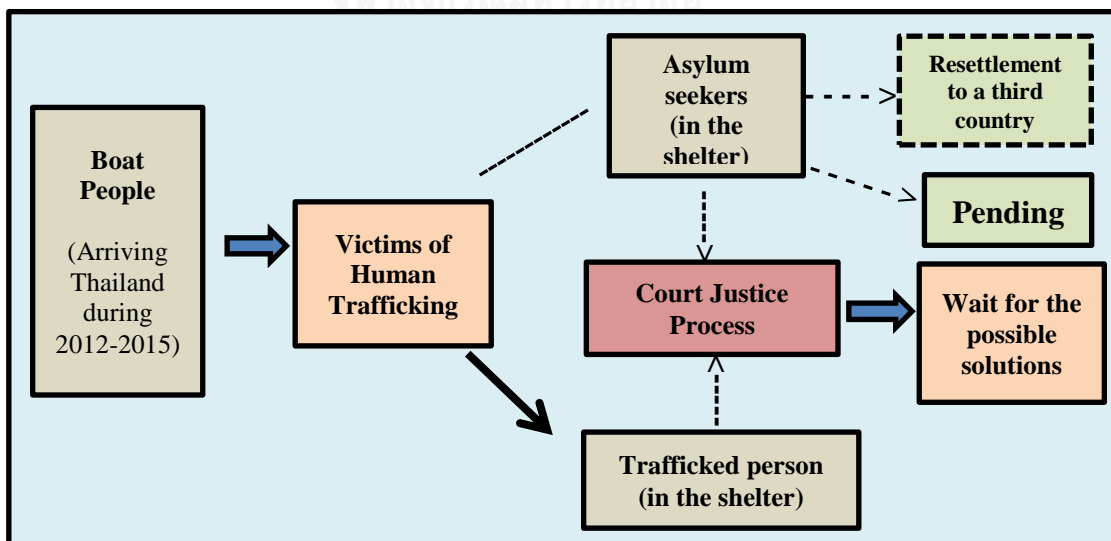


Figure 6: Pattern of Rohingya victims of human trafficking case

#### **Pattern Four: Statelessness Situation of Rohingya Displaced Persons in Temporary Shelter**

The last form of Rohingya under authority control is the displaced persons in temporary shelter along Thai-Burmese border. As the fieldwork finding from interview three Rohingya displaced persons who live in temporary shelter and be able to go out and live in urban area as well. At the beginning, most of them entry to Thailand for more than ten years ago, and they live in the big city such as Bangkok and Mae Sot like other Rohingya illegal migrants to seek for job. Later, they all applied for refugee status from UNHCR in Bangkok office and were suggested go to live in refugee camp and they can get quicker process from refugee status obtaining. So all of them voluntarily decided to move to temporary shelter and live under Thai authority control includes Nupo temporary shelter and Umpiem temporary shelter in Tak province with hope to obtain quicker refugee status and they can resettle to a third country at the end. However, after transferring from urban illegal migrants to displaced persons in refugee camp, they are able to go out from the camp temporarily to seek for job outside and become urban migrants again and still pending for refugee status (Please see figure 7). However, some of Rohingya can resettle to a third country if they have the relatives in abroad and can be operated the family reunification process. Rohingya under the context of Thailand in this case represent the semi-authority control that allows Rohingya to switch status back and forth because Thai authority understands the situation within the temporary shelter that the supply is insufficient for most of displaced persons.

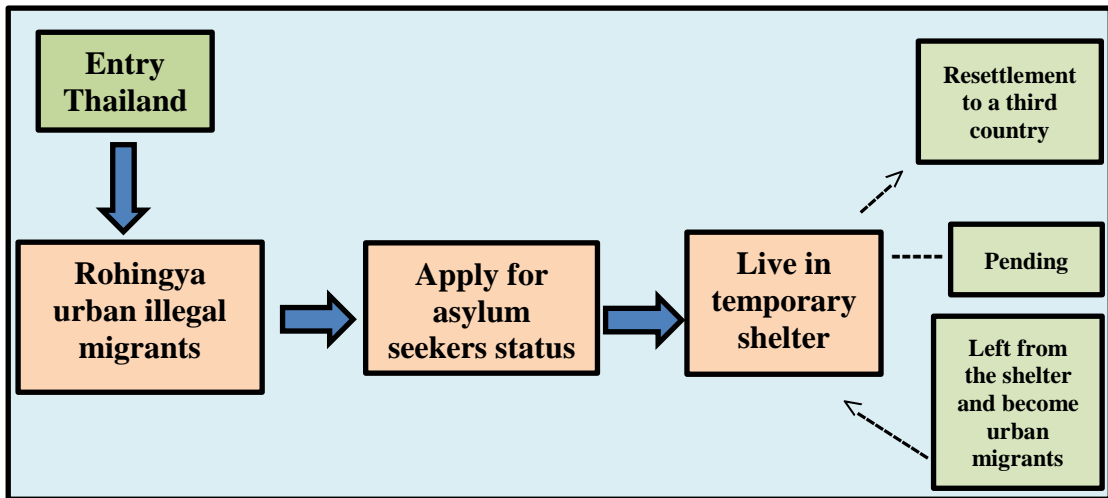


Figure 7: Pattern of Rohingya displaced persons in temporary shelter

### 3.7 Conclusion

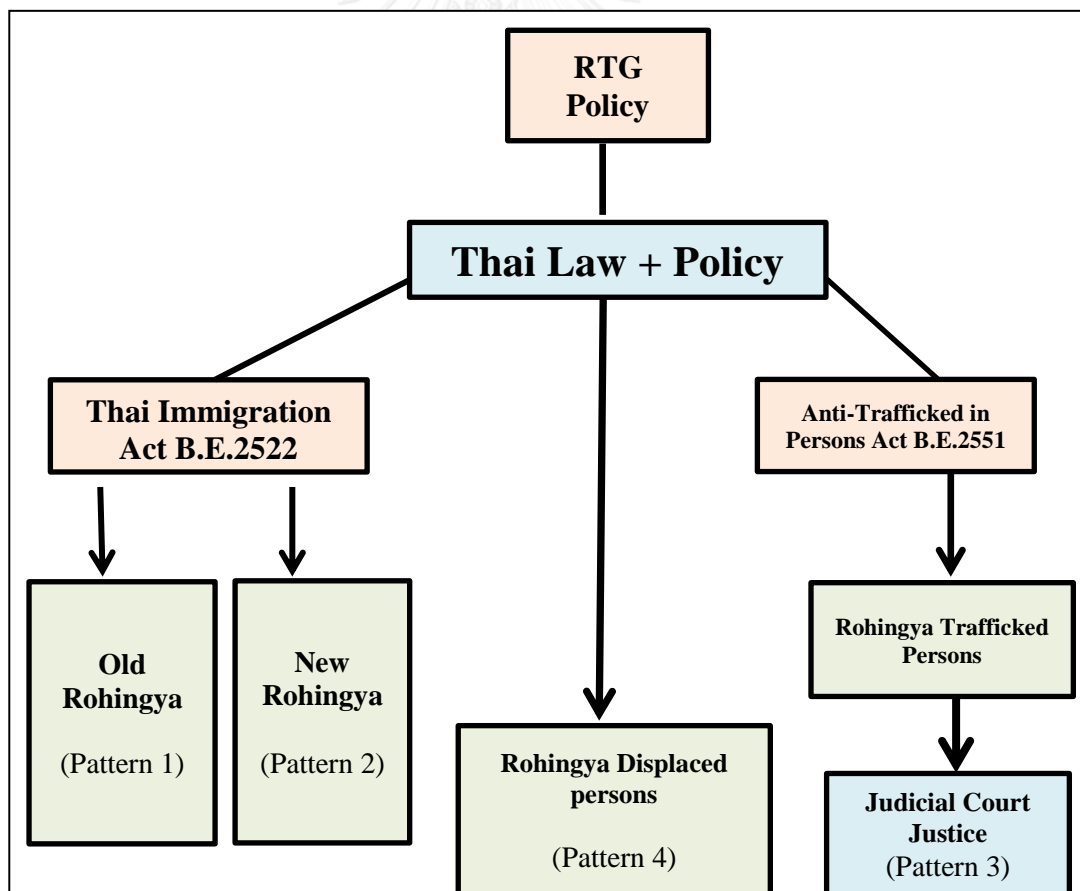


Figure 8: The conclusion chart on the involvement between Thai law and Rohingya in different situations in Thailand

Statelessness situation of Rohingya has the root cause from the unclear historical background in the originality of Rohingya which involves with the issue in British colony period, the transition of Burmese government, hatred provoking among Buddhist and Muslim in Myanmar and law implementation which intends to impede and expel Rohingya out of Myanmar (Panyangnoi, 2016). As the results of the brutal discrimination, Rohingya in Rakhine State or Arakan have been impede to access all rights in Myanmar and all documents have been cancelled. Not only the unrecognized by the State that forced a large number of Rohingya flee to another country, but also the deprivation and poverty as the result of the severely limited life conditions as the result from the discrimination in Rakhine State that made these Rohingya cannot tolerant to live in Myanmar especially after the big crackdown in 2012 which caused thousands of Rohingya emigrated out of Myanmar. This is the significant linkage between the issue of Rohingya and the country of destination or the country in transit route. Thailand as the middle country of Myanmar and Bangladesh to Malaysia as the destination of most Rohingya, still represents the solutions on Rohingya issue in indirect and ad hoc way depending on the legal implementation and the perception on the Rohingya situation of various actors. The various kinds of Rohingya in Thailand includes 'Old Rohingya', 'New Rohingya', 'Rohingya victims of human trafficking' and 'Rohingya displaced persons in temporary shelter' represent the different status and identity adaptation on Statelessness issue which at last I proposes that from, the bottom-up perspective, these status always mixed and fluid depending on the situation of Rohingya themselves.

For Rohingya who live under full Thai authority control (victims of human trafficking case) who are under Anti-Trafficked in Persons Act B.E. 2551 and semi-Thai authority control (displaced persons in temporary shelter case) who are under RTG Policy, their Stateless stigma have been covered by a certain status recognized by Thai authority under a certain purpose to protect them (Please see figure 8). This means when Rohingya are in Thai State control, they are in the new certain status which Thai authority needs to find the solution for them under the existing Thai law. In this sense, Rohingya who live under Thai authority control might not recognized as Stateless persons anymore because they have been already recognized by Thai State in a certain status which bring to the durable solutions at the end. On the other hand,

for Rohingya who live without Thai authority control representing in 'Old Rohingya' and 'New Rohingya' urban migrants case who have been recognized as 'illegal migrants' under Thai Immigration Act B.E. 2522, their Stateless stigma still affects to their daily life which reflects through the lack of legal documents, however, there is still some channel for them to adapt themselves for survival. In this sense, the perception on Stateless issue of Rohingya in Thailand of Thai authority has been shaped by the regulation under Thai law such as Thai Immigration law B.E. 2522 which there is a gap and the unclear Statement about refugee or asylum seekers who should not be recognized as 'illegal migrants' (Tianchainan, 2014, pp. 32-33) and also the Anti-Trafficking in Persons Act B.E. 2551 which Thai authority to treat Rohingya equally to other victims of human trafficking in the center. However, for Rohingya themselves, most of them still perceive themselves in Thailand as 'the victims' who need the protection of others and also needs a certain status to ensure long-term security.

However, the durable solutions includes local integration, resettlement to a third county and voluntary repatriation for Rohingya have limited and narrower. Basically, as Rohingya cannot repatriate to Myanmar, so their durable solutions are either resettlement to a third county or local integration. However, Rohingya in various circumstances both under and without Thai authority control mostly require for refugee status and hope to resettle to a third country. From the model of the Rohingya transformed status in four different circumstances in Thailand, it reflected that the solutions and the life in the future of Rohingya in Thailand are very concerned and hopeless in term of the durable solutions and legal recognition. In long-term, Rohingya in Thailand still have been protracted to be Stateless persons even though some group of Rohingya in particular 'Old Rohingya' can integrate to Thai community in *de facto* term.

## CHAPTER IV

### SOCIAL PROTECTION OF ROHINGYA IN THAILAND

*“Statelessness is not important than the issue of ‘human being’ that Rohingya cannot access to all basic needs. There are many stateless persons in the world who are still gained the protection from the state.”*

(Sheikhul Islam Office, Interview, 27 April 2016)

#### 4.1 Introduction

This chapter points out the social protection practices in the context of Thailand to see the way the policy framework is implemented in reality. It is also important to analyse whether which closely related to the social protection providers as the important actor in practice which has been shaped by the various perception on social protection of various kinds of social protection providers. Then, I provides the fieldwork finding about social protection of Rohingya Stateless people in various contexts in Thailand includes ‘Old Rohingya’ and ‘New Rohingya’ urban migrants, Rohingya victims of human trafficking and Rohingya displaced persons in temporary shelter by using the elements of social protection concept including ‘*promotive measures*’, ‘*transformative measures*’, ‘*preventive measures*’ and ‘*protective measures*’ to assess what Rohingya in different circumstances gain the social protection in various aspect to reduce their vulnerability and what sector are the social protection providers for each aspect. This chapter concludes by pointing out the relationship between law, social protection providers and Rohingya people in four different circumstances that the social protection that provides to Rohingya in different circumstances are various depending on the providers and law. These reflect further to the limitation and the gap of social protection providers and related law. However, the perspectives of social protection providers on the protection issue is also various and affects to the social protection that Rohingya in different circumstances can obtain. However, Rohingya in four different circumstances are still resilient even without social protection from the formal sector like Thai State. That means, they lastly can gain the assistance and social protection from informal

providers especially social network includes Rohingya friends and employers in particular ‘Old Rohingya’ urban migrants group.

#### 4.2 Social Protection in Thailand

Theoretically, social protection is an agenda to reduce the vulnerability (Sabates-Wheeler & Waite, 2003, p. 4). In general, referring to the definition of social protection from ILO, social protection is defined as “*The provision of benefits to households and individuals through public or collective arrangement to protect against low or declining living standards*”. In this regards, when the definition go to policy actions, it broadly refers to social insurance and social assistance as a public program (Sabates-Wheeler & Waite, 2003, pp. 5-6). For this, social insurance and social assistance become main elements of social protection in practice with a wide range of perspective from traditional forms which refers to social welfare for the disable people, elderly people, widows and orphans provided by just State actor to the forms of social protection in contemporary which tends to be broader about the social protection receivers includes various group of people and social protection gradually involves with development issues and the improvement on livelihoods (Sabates-Wheeler & Waite, 2003, p. 6). However, the way social protection mechanisms has been implemented in each State are different depending in the nature of each State on the way to treat both citizens and non-citizens within the State, political regime and the livelihoods of people in each State.

For this research, as I focus on social protection of Rohingya living within Thailand context, social protection in practical definition for this research tries to see the way that various protection ‘*provider*’ both formal and informal actors provide social protection in broader perspectives of social insurance and social assistance to non-citizens like Rohingya as a ‘*receiver*’ within Thai State by using the measurements of four social protection elements includes ‘promotive measures’, ‘transformative measures’, ‘preventive measures’ and ‘protective measures’ as the main guidelines to assess social protection in practice. In term of practical social protection Rohingya in Thailand, I propose that it relates closely to the issue of the

law implementation and the scope of responsibility of various actors as social protection providers.

#### **4.2.1 Elements of Social Protection for Measurement**

Sabates-Wheeler and Waite (2003) suggested that for social protection, there are four basic elements which provide the different measure on social protection to cope with the vulnerability comprehensively includes ‘promotive measures’, ‘transformative measures’, ‘preventive measures’ and ‘protective measures’ (Please see figure 9).

‘Promotive measures’ aims to mainly improve the economic and social capabilities of people such as the low income, inadequate education, lack of accessibility health care and poverty reduction. The promotive measures is for instances providing education to all children, facilitating the people to access healthcare and sanitation.

‘Preventative measures’ mainly aims to prevent the deprivation in any case and this kind of measures refers to social insurance provision of both state and non-state actors, for instance health insurance and pensions for retirees or elderly people.

‘Transformative measures’ aims to negotiate with power relation of individual and group of people. One key of this kind of measure is the concern about “social equity” and “social rights” which tries to empower the people against all kind of discrimination.

‘Protective measure’ specifies to target the relief from deprivation and acts as the guarantor when promotive and preventive measures have failed on the implementation. For instance, government provides the funding and assistance to the people who are vulnerable after the flooding.



Provider Strategy	Formal (state and market)	Informal (non-state/non-market)
<b>Promotive</b>	<ul style="list-style-type: none"> <li>- Labor market policies</li> <li>- Social services for migrants</li> <li>- Housing benefits, travel benefits</li> <li>- Local development schemes in migration source areas seeking to reduce distress out-migration</li> </ul>	<ul style="list-style-type: none"> <li>- Migration</li> <li>- gifts from friends</li> <li>- development programmes funded by religious organizations.</li> </ul>
<b>Transformative</b>	<ul style="list-style-type: none"> <li>- Legislation for migrants</li> <li>- Public awareness campaigns</li> <li>- Union action</li> <li>- International conventions protecting migrants abroad</li> <li>- Bi-lateral agreements between labour sending and labour receiving countries</li> <li>- Regulatory framework on employment established by source country government for their nationals abroad</li> <li>- Sensitization of migrants on hazards associated with migration, such as HIV/AIDS, trafficking and illegal migration</li> <li>- Capacity-building for returnee migrants and areas prone to distress migration</li> </ul>	<ul style="list-style-type: none"> <li>- Cooperative/group action</li> <li>- Campaigning and sensitization by migrant associations in destination areas</li> </ul>
<b>Preventive</b>	<ul style="list-style-type: none"> <li>- Government inducements for legal migration in destination location</li> <li>- Insurance for international migrants in destination countries provided by sending country states</li> <li>- Insurance initiatives for international returnee migrants in countries of origin</li> </ul>	<ul style="list-style-type: none"> <li>- Migration</li> <li>- Diversify household strategy by only sending one or two migrants</li> <li>- Keep land and property in origin as fall-back position</li> <li>- Migration only to locations with existing networks</li> <li>- Community-based organizations helping migrants by providing funds for organizing marriages and scholarships for instance</li> <li>- Friend and families of migrants provide loans to finance migration and medical expenses in destination areas</li> <li>- Employers/recruiters of migrant labour provide loans for medical care and cash advances on wages for food</li> </ul>
<b>Protective</b>	<ul style="list-style-type: none"> <li>- Subsidies</li> <li>- Housing benefits</li> <li>- Handouts</li> <li>- Legal aid</li> <li>- Counseling for international migrants in destination areas as well as for returnee migrants</li> <li>- Shelter for vulnerable international migrants</li> </ul>	<ul style="list-style-type: none"> <li>- Migration</li> <li>- Help from friends and migrant networks</li> <li>- Family, friends and members of the same community help migrants in destination areas in finding housing and work</li> <li>- Employers/recruiters of migrant labour offer patronage in the form of housing, food, work security</li> <li>- Friends and family in source areas help migrants by providing financial assistance</li> <li>- Support of community based organizations and migrant associations in destination areas</li> </ul>

**Figure 9: Social Protection Sources categorizing by the providers and four elements of social protection (Sabates-Wheeler & Waite, 2003, pp. 16-17)**

#### 4.2.2 Social Protection Providers

There are the various groups of social protection providers in Thailand on Rohingya issue both state and non-state actors (Refer to table 1). As this research tries to assess and observe Rohingya on Thai different circumstances in Thailand

includes 'Old Rohingya' and 'New Rohingya' urban migrants, Rohingya victims of human trafficking and Rohingya displaced persons in temporary shelter, I has been found that state protection provider has involves with all four circumstances with different kinds of responsibility. Social protection to Rohingya in practice from state provider always has been implemented under the policy and law of each ministry which significantly affects to the way Rohingya have been provided social protection differently following the status and definition from state's view. On the other sides, non-state social protection providers on Rohingya issue is quite also various than state side, especially for the case of Rohingya urban migrants group, the social protection providers mostly came from social connection community-based organization and individuals. Additionally, another important non-state social protection providers for Rohingya issue includes International organization, NGOs both Thai and non-Thai organization which mostly works closely with Thai government in the case of Rohingya living under authority control. Vungsiriphisal et al. (2014) argues on the role of International organizations working particularly for displaced persons in Thailand that they gradually changed from humanitarian action for assisting people in need to a kind of assistance which tends to be more in developmental model. Furthermore, the scope of work of these International organizations and NGOs have been still restricted under the Thai government policy such as RTG policy and also the limitation of funding from the donors. However, the way that social protection providers distributes the assistance to Rohingya is quite challenging and sometimes it becomes the gap of assistance which there are the unmet needs for social protection or inadequate needs for the vulnerable people include Rohingya (Sabates-Wheeler & Waite, 2003, p. 15). Additionally, sometimes the social protection providers themselves has been viewed as the 'threat' or 'Risk' for Rohingya in some way as in the case of Rohingya urban migrants. From the interview both 'Old Rohingya' and 'New Rohingya' urban migrants, they perceived Thai authority as their main risk for living in the urban area even some of them have 'Ten year card' and UNHCR registration slip, but these documents cannot absolutely protect Rohingya to be arrested.

Rohingya in different area in Thailand	State protection provider	Non-state protection provider
Old and New Rohingya urban migrants	Ministry of Interior	<ul style="list-style-type: none"> <li>- Rental house owners</li> <li>- Employers</li> <li>- Rohingya friends</li> <li>- Shark loaners</li> <li>- Mosque</li> </ul>
Rohingya victims of human trafficking	Ministry of Social Development and Human Security	<ul style="list-style-type: none"> <li>- UNHCR</li> <li>- IOM</li> <li>- Resettlement Support Center (RSC)</li> <li>- Partners NGOs</li> <li>- Embassies</li> </ul>
Rohingya asylum seekers in temporary shelter	Ministry of Interior	<ul style="list-style-type: none"> <li>- UNHCR</li> <li>- IOM</li> <li>- Resettlement Support Center (RSC)</li> <li>- The Border Consortium (TBC)</li> <li>- Aid Medical International (AMI)</li> <li>- Legal Assistance Center (LAC)</li> <li>- Relatives in abroad</li> <li>- Rohingya friends outside the camp and employers</li> </ul>

**Table 1: The list of state and non-state social protection providers for Rohingya in three different circumstances in Thailand**

Another form of social protection in practice came from non-formal providers such as Rohingya friends, community-based organization and religious-based organization. From the non-participatory observation Rohingya in mosque at Nonthaburi, I found that Rohingya who came to the mosque regularly will be provided food for lunch. Some of 'Old Rohingya' who usually came to mosque will get some pension around 500 baht per month and can ask for help in some emergency from the office of mosque which also act as Muslim foundation of the community. Most of Rohingya here reveals that the mosque is the center of their faith and their supporter, even the assistance is not much but these Rohingya group feel secure every time that they come to the mosque. For community-based organization as one of informal-social protection providers, I found that mostly they help Rohingya people in the form of human rights claim to the public and have the main role as all Rohingya representatives to claim and to publicize the story of Rohingya for policy action and further solutions. Additionally, for Rohingya friends, rental house owner and employers as another informal social protection providers, I found that they are most

important source of assistance of both ‘Old Rohingya’ and ‘New Rohingya’ urban migrants and also asylum seekers who live freely. When these groups of Rohingya need some help especially in poverty and money issue, these informal social providers will always respond to assist Rohingya immediately.

#### **4.2.3 The Perception on Social Protection in Thailand**

From interview to many key informants both state and non-state actors on social protection perception, the various perspectives have been found interestingly. From the perspectives of Thai authority, they see the issue of social protection especially for non-citizens within the country as ‘multi-lateral cooperation’ of various kinds of actors in transnational circumstance. Some Thai authority key informants proposed that Thai authority should not be the only one actor who treats Rohingya and Thai authority has never been like that. In this sense, the involvement of another actors including international organization on the issue of social protection reflected that this issue is sometimes beyond the scope of Thai authority especially Thai law to protect this group of people. Also, from the perspectives of Thai authority, Rohingya issue is not the full responsibility of Thai authority. Thai authority treats and protected Rohingya under the existing law of Thai state. For instance, Rohingya in victims of human trafficking case they can be protected equally with other victims of human trafficking in other nationalities in the center under The Anti-Trafficking in Persons Act B.E 2551 (2008) which states in Article 33 that *the people who have been proved as Trafficked person both Thai and non-Thai citizen who have difference in sex, age, nationality, race, and are protected and provided the basic needs includes food for three meals, shelter, medical treatment, physical and mental rehabilitation, occupation training, education, legal aid includes legal proceeding to claim compensation and the process to return to the country of origins* (Thailand Law Forum, 2011).

In term of the law which involve with Rohingya displaced persons in temporary shelter and Rohingya urban migrants, I found that as both circumstances of Rohingya are very similar in term of law involvement and also law implementation. As Thailand is not a signatory of The 1951 Refugees Convention, Rohingya urban

migrants and even Rohingya asylum seekers who live freely in urban area have been treated under Thai Immigration Act Immigration Act, B.E. 2522 which defined these Rohingya group as 'illegal migrants' who can be arrested, detained and deported anytime (ERT & IHRP, 2014, p. 7). The gap of domestic law here is even these group of Rohingya are in asylum seekers status who has 'UNHCR registration slip', but it cannot guarantee that they will not be arrested by Thai police. From the interview of Rohingya urban migrants who are also gain asylum seekers status and waiting for refugee status with the 'UNHCR registration slip' , some of them revealed that sometimes Thai police tries to arrest him even he show 'UNHCR registration slip' and 'Ten years card'. However, as some Rohingya can speak Thai fluently in particular 'Old Rohingya', so he tries to negotiate with Thai police which sometimes it was successful even he has to pay bribe for this. For Rohingya displaced persons in temporary shelter, they have been officially ruled by Thai law which in general term is quite similar to what Thai law has treated Thai-citizens. Also, there is the camp committee including section leader who closely governed all displaced persons and displaced persons within the section. Under national security notions as the main concern to treat and protect asylum seekers and displaced persons in temporary shelter, even displaced persons can be allowed to go outside the camp and live freely in the camp with regulation, social protection in practices is not enough and did not respond to the exact need of displaced persons include Rohingya. This forces more displaced persons include Rohingya people seek for the protection by themselves in various way outside temporary shelter.

On the other hand, the perspectives on social protection concept from some rights-based organization both Thai and international organization tends to specifically concentrate to state as the main social protection provider. In this perspectives, even state can be counted as the main actors responsible to provide the protection to the vulnerable group like Rohingya issue, but state still have limitation in law, funding and capacity to handle with the issue and need another actors to distribute some responsibility. Interestingly, from key informant data on the issue of social protection, I found that there is the imbalance about the boundary between the humanitarian assistance on Rohingya issue in Thailand between Thai authority and

international organization in four different circumstances of Rohingya in Thailand. Also, both sides still criticize each other in the issue of the limitation of humanitarian assistance to Rohingya in Thailand. There is some argument on the limitation from Thai authority for international organization to provide the basics need to Rohingya people who have been detained in the shelter of Thai authority. On the other hand, there is some critique from Thai authority side to International organization on the limited funding for assisting Rohingya in Thailand as well.

To conclude, social protection in practice in Thailand context on Rohingya issue involves closely with the way the law has been implemented especially from formal social protection like Thai authority which ensure the regular social protection to Rohingya. However, the ambiguous on the scope of responsibility between various actors as the protection providers between state and non-state provides still exists with the gap of existing Thai Immigration Act. On the other hand, for social protection in practice from informal social provider especially social connection of Rohingya people, it demonstrates the most prompt protection even though it has been irregular one. In this term, social protection in practices involves with law, social protection providers and the receivers which are Rohingya in Thailand closely. For this, a wide range of social protection providers can provide the various form of social protection in different situation to Rohingya in different circumstances.

#### **4.3 Social Protection for ‘Old Rohingya’ Urban Migrants**

*“My wife works here as housekeeper, so they allow us to live for free, if we have to pay for rental house, we will have nothing.”*

(Hakim (alias), ‘Old Rohingya’ urban migrant, Interview, 26 April 2016)

Mostly, Rohingya urban migrants who can survive in urban area for a long time is ‘Old Rohingya’ who are well-known Thai language and can integrate to Thai community well. Mostly, ‘Old Rohingya’ or who live in Thailand for more than ten years gain ‘Ten years card’ to ensure that they can stay temporarily in specific area following the place of issue. Also, ‘Ten years card’ allows Rohingya people as Stateless people can work by gaining the approval from Thai authority. In legal term,

Rohingya who gain 'Ten years card' cannot do their own business such as selling Ro-Ti. However, in reality, most of Rohingya in urban area are Ro-Ti seller and hold this own business as the main source of earning and feeding family. In term of medical treatment, most of Rohingya who gain 'Ten years card', they also gain '30 baht medical card' to access medical health care in Thai public hospital for free. However, some Rohingya in urban area prefers to go to the clinic or pharmacy shop to get some medicine as it is cheaper and less risky to be arrested by Thai authority as Stateless people. On the other hand, some of Rohingya who was born in Thailand and their parents have 'Ten years card', they can gain birth certificate from the hospital. In term of education, all children who are migrants or even stateless people like Rohingya can access the education in Thai school. For most of Rohingya children, they go to Islamic school or the school in the Thai temple as they are mostly as free education. In term of the property, as Stateless people, Rohingya cannot own property in Thai State, however, most of them can rent the house to live with good relation with the rental house owners. From the fieldwork finding, most of 'Old Rohingya' live in rental house which the house owner feel quite trustful them and also these house owners become the main source of help when these Rohingya in urban area need some help such as borrowing the money for bail from arresting and for the bribe to some despot who exploited them. In term of general security, the risk that most of Rohingya in urban area perceive is they are very afraid to be arrested by the police. Refer to the interview, when Rohingya was arrested it brings to a lot of deprivation as they cannot earn money, most of them includes 'Old Rohingya' are in debt as their family members have to borrow some money from informal source for paying the bail and also this can become the trap that some despots try to exploit Rohingya to pay bribe monthly for them to ensure that these Rohingya will not be arrested. For 'Old Rohingya', this kind of exploitation is well-recognized for them. Still, most of them choose to pay money to the despots monthly as it was cheaper than the money that they have to pay for bail when they were arrested. Besides, paying money to the despots to avoid the risky vulnerability, Rohingya urban migrants also know well about the source of help which mostly it was informal source or social connection, even these sources of help might be not regular and long-term source, but at least it can help them to survive temporary.

To assess social protection in 'Old Rohingya' urban migrants case by using social protection lens (Refer to Table 2), in general, Rohingya who gain 'Ten years card' are partly protected by the State. Following the promotion measures, which aim to mainly improve the economic and social capabilities of people, 'Ten years card' holder can live temporarily in Thai State in a certain area with the limitation to travel outside. For this, they can rent the house while in Thailand. Also, in terms of medical healthcare, Thai State allows Rohingya people who have a 'Ten years card' to access medical treatment for free in the same way as the Thai citizens. Moreover, in education issue, the Thai government still allows migrants or stateless people to access education in Thai language. For this, Rohingya children who are studying in Thai schools since they were young can have more opportunities to be familiar with Thai language and Thai society. By virtue of having a birth certificate under the condition that the children are born in Thailand, this will be easier for them to become Thai citizen. They are also able to assimilate into the Thai society easier than their parents. However, for Rohingyas in some area, they live in the mosque as a permanent house as they have no money to rent the house and no job to earn which is apparent with Rohingya urban migrants in Mae Sot. For preventive measures, which mainly aim to prevent the deprivation, as stateless people in urban area, most of Rohingya here did not gain social insurance or medical insurance officially from formal social protection providers as they cannot apply for it simply because they do not have a passport or an identification card. However, some interviewed Rohingya people can obtain a bank account from some Thai bank as they have the passport from Myanmar. For transformative measures some were able to negotiate within the current power relations of individual and groups of people, especially that 'Old Rohingya' people can communicate in Thai language. The use of Thai language is also considered as a self-protection to express the opinion and participate in Muslim ceremony with other Thai Muslims as well. However, most of Rohingyas in Bangkok join the events that are not related to any political issue or Rohingya issue related which includes religious ceremony. On the other hand, there are many Rohingya community-based organizations in Thailand established by 'Old Rohingya'. One of the outstanding organizations is the Burmese Rohingya Association in Thailand or BRAT which the members of the group often participate in the seminar or conference



related to Rohingya issue in Thailand. This shows that Rohingya people in Thailand have a representative to negotiate with others actor in society, even though it tends to be more of a symbolic action. For protective measures, which specifies to target the relief from deprivation, Rohingya in urban area represents many informal sources as the guarantor after deprivation. Most of deprivation that I perceived from the interview is the lack of money as most of Rohingya are in debt as the result of arresting, irregular work and paying bribe to the despots. The sources of help in this issue mostly came from social connection which includes Rohingya friends, house owner and the Muslim foundation of mosque in the community.

Elements of measurement	Social protection
<b>Promotive measures</b>	<ul style="list-style-type: none"> <li>- 10 Years Card (for legal living)</li> <li>- 30 Baht Card (for access healthcare)</li> <li>- Can rent a house</li> <li>- Access Thai education (for their children)</li> </ul>
<b>Preventive measures</b>	<ul style="list-style-type: none"> <li>- Have bank account (for who has passport)</li> <li>- Pensions for elderly persons from mosque and Islam Bank</li> </ul>
<b>Transformative measures</b>	<ul style="list-style-type: none"> <li>- Build trust in community by Thai language</li> <li>- Establish community-based organization such as BRAT</li> </ul>
<b>Protective measures</b>	<ul style="list-style-type: none"> <li>- Help from rental house owners</li> <li>- Help from Rohingya friends</li> <li>- Access to informal loaning source</li> <li>- Help from mosque/ Islam foundation</li> </ul>

**Table 2: Social Protection Assessment of ‘Old Rohingya’ urban migrants**

#### **4.4 Social Protection for ‘New Rohingya’ Urban Migrants**

*“I was beaten by the police. This Rohingya man helped me. I was released from IDC because of him.”*

(Kareem (alias), ‘New Rohingya’ urban migrant, Interview, 29 April 2016)

In contrast, for ‘New Rohingya’ who might come with the boat people which became the scandal around two years ago are still in severe problematic to live in urban area as they cannot adapt themselves to Thai community like the way ‘Old Rohingya’ usually do. Basically, they mostly cannot communicate in Thai language and their appearance is distinct and well-noticed for Thai authority to check the document and arrest them. Most of ‘New Rohingya’ has no any documents as it is hard to gain ‘Ten years card’ in nowadays, so they are very risky and cannot do the job regularly as they afraid to be arrested. These vulnerability forces them to be indebt again as they have to borrow money from other people. Also, they have to rent the house for living. So, without any help from Rohingya connection in nearby area, ‘New Rohingya’ is quite hard to survive in urban area.

To assess social protection of ‘New Rohingya’ urban migrants, as they mostly have no document, so they did not gain any protection provided directly by Thai State in term of temporary staying and medical healthcare. However, they still can access education but sometimes it is still too risky to live in the public area. Also, in practice, they can also rent the house to live and earn money by their own business such as Ro-Ti selling. However, they are more risky to be arrested than ‘Old Rohingya’ who can adapt themselves and can speak Thai. However, following protective measures, ‘New Rohingya’ still can find some sources for help after deprivation which are mostly from Rohingya friend who live in Thailand longer as they are the only one that ‘New Rohingya’ feel trustful (Refer to Table 3).

Elements of measurement	Social protection
<b>Promotive measures</b>	- Can rent a house
<b>Preventive measures</b>	-
<b>Transformative measures</b>	-
<b>Protective measures</b>	- Help from rental house owners - Help from Rohingya friends who pay the bail for New Rohingya to came out from IDC - Access to informal loaning source

**Table 3: Social Protection Assessment of ‘New Rohingya’ urban migrants**

#### 4.5 Social Protection for Rohingya Victims of Human Trafficking

*“Some of them are quite stubborn. After we teach them how to live here, some of them become more obedient and become a better man.”*

(Social worker at Baan Pathum shelter, Interview, 26 May 2016)

National Operation Center on Prevention and Suppression of Human Trafficking is under Ministry of Social Development and Human Security which is directly responsible to the case human trafficking for both Thai citizen and non-Thai citizens under Thai territory. For Rohingya cases, they have been recognized as one of the ‘high-risk nationalities’ with a unique range of risk factors which Thai government tends to improve the identification process to be suitable for the case for the most accurate identification (MFA, 2015, p. 77). In fact, Rohingya in the center are sent from other place and the cases has been process before came in to the center in Pathumthani province. In general, all Rohingya here have been already proved as the ‘victims of human trafficking’ and are treated as same as others victims of human trafficking in different nationality and they can be counted as ‘New Rohingya’ as most of them came with boat people or smuggling network which has just been recognized by the public a few year ago. However, National Operation Center on Prevention and Suppression of Human Trafficking, Pathumthani Province or ‘Baan Pathum shelter’ has just received Rohingya as victims of human trafficking for two to three years ago. From the perspectives of the officers of the center, Rohingya case is quite a new case at Baan Pathum shelter. In term of the process, the officer of the center revealed that all Rohingya here applied for refugee status and wait for resettle to a third country as they cannot repatriate to their country of origins and still hard for local integration with Thai community as they have just arrived in Thailand and their distinct appearance might also too risky to be arrested if they still did not get any document or accepted status.

Generally, Baan Pathum shelter provides the house for Rohingya group to live with Bengali as their appearance and culture are quite similar. In daily life, the center provides food for three meals, primary medical treatment and will contact to the close hospital in the severe case, occupation training, and plan to establish the school to

teach Thai language to the victims of human trafficking of the center. However, Rohingya here are not allowed to work outside the center as they need to be treated in special case while others victims of human trafficking here includes Burmese and Laos are allowed to work outside with the cooperation between Baan Pathum shelter and Ministry of Labor. For this, the officer from Baan Pathum shelter revealed that besides the reason that Rohingya cases are considered as very sensitive cases, most of them have low-skilled to work comparing to others nationalities. In term of freedom to move, for Rohingya cases, they can go outside if the reason for going out is acceptable. However, the place to go should be nearby the center area such as going to buy some food in the shop besides with the security officer control. Also, all victims of human trafficking includes Rohingya can raise their voice if there is something wrong or they need something to the officers of the center. However, the officer will consider the possibility to provide what they want by the approval of the director of the center. However, the big concern on Rohingya case in the center is the language to communicate. As the center have no permanent Rohingya interpreter, so sometimes the officer faces with the misunderstanding with Rohingya people and bring to the unmet needs and the hardship to the conflict which sometimes occurs with Rohingya group. Moreover, Rohingya have been assisted by the center in the lawsuit and justice process issue about trafficking case.

In term of the cooperation, Baan Pathum shelter closely works with International organizations like UNHCR and IOM, NGOs like RSC and the embassies which mostly proceed on resettlement process and refugee status. In term of regular activities to treat the victims of human trafficking within the center, the center will set the daily schedule within the center to run the activity for victims of human trafficking includes Rohingya such as morning meeting for morning exercise, occupation training in the afternoon and also free time for victims of human trafficking in the evening. The social worker of each house is responsible to generally take care and teach some of victims of human trafficking when they have some problem or violate some regulation in the center. However, the form of the social worker and other officer in the center to treat victims of human trafficking here is not too soft or too hard to handle with the victims of human trafficking, but they treats

and proceed under the regulation which all people here should accept and follow until they can resettle to a third country.

As interview the social worker of Rohingya house, many case of Rohingya here is quite quick to resettle to a third country. The reason for this can be mostly of the cases have been proceed from other place before coming here. And as they are counted as most vulnerable people from human trafficking, so this might move the process of refugee status obtaining and resettlement process faster. However, it was found that some case of Rohingya stay in this center for a long time as the process of resettlement is complicated and troublesome as some of Rohingya switch their identity back and forth as they want to be sent to a third country as fast as possible. This case happens to one Rohingya who identify himself as Bengali for the opportunity to go back to Bangladesh, then after that he switched their identity to Rohingya again as he noticed that the process of Rohingya at that time is faster than Bengali case.

To assess the social protection by using four elements, as Rohingya in Baan Pathum shelter are the victims of human trafficking (Refer to Table 4), so they are treated under full Thai authority control with a certain status and clear identity. The officers here have the responsible to protect all victims of human trafficking includes Rohingya due to some them are the witness in justice process. Also, the center is fully responsible to give the basic needs and support to the resettlement process as the only one durable solution for Rohingya by cooperating closely with UNHCR, IOM and RSC. In term of promotive measure, which aims to mainly improve the economic and social capabilities of people, all Rohingya here gain basic needs includes food, house, medical treatment, occupation training and clothes. I recognized that Rohingya in this center have been treated quite well in term of basic needs following the information from the director of the center. For preventive measure, which mainly aims to prevent the deprivation, Rohingya as victims of human trafficking here gain the pension three times per years from Thai government as social insurance around not over than 3,000 baht per each, but there is no medical insurance for Rohingya case. As interview from social worker as secondary data, in everyday morning Rohingya and other victims of human trafficking is allowed to express their opinion about what they need more and

what they concern such as illness, medical treatment requirement, favorite food they want to eat or other claims. This reflects that Rohingya as victims of human trafficking still have rights to expression to negotiate with the officers for their benefits during they live here and meets transformative measure of social protection concept which aims to negotiate with power relation of individual and group of people. For protective measures, it relates closely to transformative measure element that when Rohingya can raise their voice to express something mostly those of thing are about what they are lacking and if it is rational enough under the regulation and discretion of the director of the center, then, the officers can provide what Rohingya require to them. In this sense, the transformative measure has been responded by protection measure which is the officer of Baan Pathum shelter.

Elements of measurement	Social protection
<b>Promotive measures</b>	<ul style="list-style-type: none"> <li>- Obtain food for three meals</li> <li>- Have a house for living</li> <li>- Obtain clothes</li> <li>- Access healthcare</li> <li>- Access occupation training</li> </ul>
<b>Preventive measures</b>	<ul style="list-style-type: none"> <li>- Obtain the annual pensions from government</li> </ul>
<b>Transformative measures</b>	<ul style="list-style-type: none"> <li>- Have full rights to require something from the officers of the center</li> </ul>
<b>Protective measures</b>	<ul style="list-style-type: none"> <li>- Officer of the center can provide what Rohingya require depending on director permission</li> </ul>

**Table 4: Social Protection Assessment of Rohingya victims of human trafficking**

However, as Rohingya the victims of human trafficking stay in Baan Pathum shelter temporarily. Some of them live here shortest around three months and some of Rohingya live longest around 2 years depending on how long the process of resettlement, nationality proof and lawsuit for those who are the witness were proceeded. At last, these Rohingya are required to apply to resettle to a third country as the only durable solutions that most suitable for them. As victims of human

trafficking status, these Rohingya are counted as ‘expedite case’ that means the case when they get refugee status the resettlement program should be proceeded as fast as possible. For this, Rohingya can stay here as long as all process will be ready for them to resettle to a third country. During living in the center to wait for all completed process, they are still provided the full protection from Thai state with the restriction.

#### **4.6 Social Protection for Rohingya Displaced Persons in Temporary Shelter**

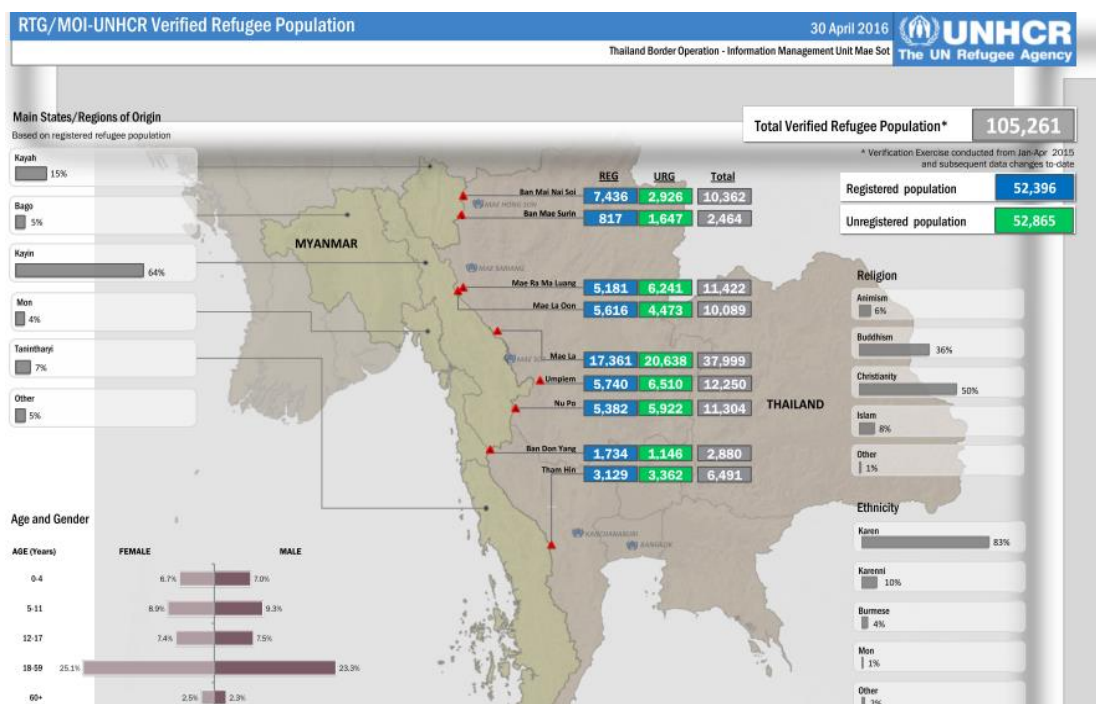
*“Rice and oil are not enough for me to live in the camp. When it was raining, in the camp is too cold for me to live. Mae Sot is warmer and better. I contact my friend in Mae Sot, he finds job for me and he allows me to live in the rental house for free in Mae Sot. I have just paid for electricity cost around 500 baht per month. I mostly live in Mae Sot for earn money and will go back to Umpiem Mai camp just two days per month for household checking.”*

*‘There is no hope in refugee camp. I need Refugee status. I would like to live in either Australia or Canada. The people there are very kind and I will have to study. I like to study’*

(Abbudin (alias), Rohingya displaced person from Umpiem temporary shelter,  
Interview, 3 June 2016)

In this regards, Thailand has become the first asylum country for Indochinese refugees (Institute of Asian Studies Chulalongkorn University, 1988). Descriptively, one of the most dynamic areas of the Burmese displaced persons in Thailand is at Tak Province especially Mae Sot area. There are three temporary shelter in Tak province includes Mae La temporary shelter, Nupo temporary shelter and Umpiem temporary shelter. Temporary shelter in Tak province mostly consists of 3 main zones includes zone A, B and C to reserve the displaced person with different ethnicity such as Karen, Kachin, Mon, Karenni, Chan, Rakhine, Shin, Naga, Somi, Lee Su and Po O. In term of the population, there are two main groups for displaced persons who are the ‘registered displaced person’ who gains the refugee status from UNHCR and ‘unregistered displaced persons’ who still waits from UNHCR.

Recently, UNHCR (2016a) announces the recent population number of displaced person in 9 camps of Thailand. For Mae La temporary shelter, the recent population number is approximately 37,999 divided into 17,361 for registered person and 20,638 for unregistered person. For Umpiem temporary shelter, the recent population number is approximately 12,250 divided into 5,740 for registered person and 6,510 for unregistered person. For Nupo temporary shelter, the recent population number is approximately 11,304 divided into 5,382 for registered person and 5,922 for unregistered person (Please see figure 10).



**Figure 10: RTG/MOI-UNHCR Verified Refugee Population**

Source: UNHCR (2016). RTG/MOI-UNHCR Verified Refugee Population

Practically, the operation within the temporary shelter involved with two main parts of organization consists of Thai authority and non-governmental organization which mostly are refugee-based organization such as UNHCR, ICRC (The International Committee of the Red Cross), ADRA (Adventist Development & Relief Agency Thailand), Save the children, Handicap International, Solidarities



International, IRC (International Rescue Committee) and TBC (The Border Consortium).

The operation on displaced person issue within temporary shelter has divided into two main parts. For Thai authority, the main responsibility is the legal protection and external protection involving with the security of the displaced persons. On the other hand, as Thailand was not the signatory of the 1951 Refugees Convention due to the static obligation, UNHCR as the main international organization operating specifically in refugee issue fulfilled the gap of operation on what Thai authority cannot proceed due to the lack of international refugees law binding such as identification, registration and also durable solutions includes resettlement to the third country (UNHCR, 2015b). UNHCR and other NGOs will operate in internal welfare and social protection for displaced persons such as providing food, education, health care, occupation training and also preparation for the resettlement program to a third country as one of the durable solutions for refugees which UNHCR, IOM and IRC are the main organizations operating in this issue. For this, the scope of working between Thai authority and refugee-based organizations is quite systematic and inclusively covers the basic needs for the displaced person living within temporary shelter.

At the first time, the relationship between Thai authority and international organization especially UNHCR looks like 'tolerance' and 'controversial' in term of the scope of work, but later Thai authority seems to be more flexible and become 'acceptance' to work with UNHCR more inclusively (Lang, 2002). Even though there is a separated role of both Thai authority and International organization and NGOs, sometimes they have to cooperate to each other in particular issue such as allowing the unregistered displaced person to work outside the camp for fulfilling what NGOs cannot provide to them includes money, fresh food and job. In term of the practice to registered and unregistered displaced person within the temporary shelter, both Thai authority and refugees-based organization tends to operate in the different ways. That is the full protection including basic needs such as food, water, education, occupation training, healthcare and also resettlement program will normally provide to the registered displaced persons who hold UN card as the identification document. In contrast, the unregistered displaced persons basically will lack of legal protection,

inadequate basic needs, and the opportunity to resettle in a third country. For this, the unregistered displaced persons sometimes have to find out their own basic needs by seeking for a job nearby the temporary shelter in formal and informal way. The difference on treatment to these two main groups in temporary shelter sometimes ignites the conflict between the ethnic groups and threaten the security within the shelter which both Thai authority and refugees-based organization have to cooperate together to solve the problem together with the 'camp committee' consisting of the elected members from various ethnicities within the shelter.

In the present term, the situation along the border has been relieved as the result of the situation from country of origin of the displaced persons and also period of humanitarian assistance in this area is quite long and nearly saturated. Consequently, many displaced persons tends to voluntarily repatriate to their homeland and some people decides to resettle to third country if they have the relatives there as the family reunification process. TBC (2015) argues that one of the important operations of NGOs within Temporary camp is to prepare displaced persons for new life in new country and also their homeland. In this regards, the displaced persons can raise their voice to the authority anytime for repatriating with the legal assistance from NGOs. Also, the number of material assistance to the displaced persons has been decreased continuously as the result of the decreasing number of displaced person within the temporary shelter and also the new arrival which has been limited by UNHCR in term of registration process. This is assumedly as the result of Thai authority determination that wants to reduce the number of displaced person and minimize the issue along the border. To criticize the situation and the attitude of both operating organizations, it can be implied into three main terms as follows. Firstly, both Thai authority and International organizations and NGOs seem to have the same goal for minimizing the issue of displaced persons as they try to reduce the number of the new arrival and also the attitude of the third country like the US which closed the program for the new arrival to resettle except the family reunification. As Thai authority has a plan to maximize the number of displaced person in the camp and there is more possible for displaced person to repatriate to their homeland, the preparation of the durable solutions of the displaced

person has recently been planned by Thai authority and refugees-based organization such as transportation and funding to ensure the social and economic security for the people who voluntarily repatriation. However, the exact implementation on the voluntary repatriation support has been still in preparing process of both Thai authority and related organization. This can repeat the fact about the attitude of Thai policy which has changed from humanitarian aid to find out the durable solutions since 2005 (Pobsuk, 2014). Secondly, the situation of displaced persons in Mae La temporary shelter is saturated and the situation in the country of origin of most displaced person especially Myanmar has been relieved by the coming of new civilian government recently. However, from the interview with the head of Karen Affairs Committee, even though the new civilian government is more transparent, but the situation in Myanmar is still unstable to make sure that all displaced persons who voluntarily repatriate will have the secure life and there is still no guarantee that they will not come back to the temporary shelter again. Lastly, both Thai authority and refugees-based organization tends to be more flexible in term of the restriction of displaced person movement. It can notice from the situation that Thai authority allows both registered and unregistered to work outside the camp for earning the money due to the decreasing of basic needs assistance from the operating organization.

However, for Rohingya case, as they cannot go back to country of origins, the solutions for them are just resettlement to a third country or continuously stay in the camp as displaced person under state control. From fieldwork finding, one Rohingya from Umpiem temporary shelter reveals that most of Rohingya inside the shelter is unregistered person who still wait for 'refugee status' and hope to resettle to a third country as soon as possible. However, there is some Rohingya who has the relatives in the third country and it was easier than the unregistered to resettle as they can do the process of family reunification. Sometimes, the relatives of Rohingya send some remittances to Rohingya insides the shelter. And for some Rohingya within the shelter even they did not have relatives who resettle to a third country before, but they still have friends who sometimes also send some money to them in the shelter.

Living within temporary shelter, Rohingya are officially counted as 'Burmese Muslim' and are included in Muslim group which are approximately 5,227 at Mae La

temporary shelter, 2,563 at Umpiem Temporary shelter and 941 at Nupo Temporary shelter (TBC, 2015b). However, in actual term, Rohingya did not lose their identity as Rohingya in the temporary shelter and are treated as same as other ethnicity within the camp. However, sometimes the discrimination about ethnicity issue might occur especially with the Karen as the majority group of people within the temporary shelter. As of the data from one Rohingya from Umpiem temporary shelter, most of Rohingya are still waiting for refugee status and want to resettle to a third country. However, now most of them are counted as 'unregistered' displaced person and some of them apply for refugee status with UNHCR outside the Umpiem temporary shelter or they are in P1 case as individual referral (Migration Policy Institute, 2003). Most of Rohingya respondents revealed that they were advised from UNHCR that if they live in the temporary shelter, the process for obtaining refugee status will be faster than living in put side the temporary shelter. Consequently, some Rohingya group who registered for requiring refugee status with UNHCR in Bangkok, two to three years later, They moved to live in temporary shelter for instance in Tak Province. However, at the time of conducting the interview Rohingya from temporary shelter, most Rohingya reveals that they begin to feel hopeless for the indefinite waiting for refugee status and some of them plan to go to Malaysia for re-registered refugee status there as they considered that the process of UNHCR in Malaysia might be faster than in Thailand.

To assess social protection of Rohingya insides the temporary shelter by using four elements of social protection (Refer to Table 5), Thai authority as state sector provided the land for setting refugee camp as the beginning for all humanitarian assistance. Moreover, as state control area, Thai authority has responsibility to maintain general security within the camp and examine people who came in and out of the camp for national security together with security of displaced persons within the camp. For other protection, International organizations include UNHCR, IOM provides the registration process to ensure all displaced person within the shelter are counted and further process on the durable solution includes resettlement to a third country and also voluntary repatriation. In term of promotive measure which aims to mainly improve the economic and social capabilities of people, displaced persons

includes Rohingya in official term they are all protected by comprehensive basic needs. TBBC is the main basic needs providers in Thailand with the funding from various government donors includes Canada, Australia, the European Union, Great Britain, Denmark and so on (Vungsiriphisal et al., 2014, p. 59). Normally, displaced person in temporary shelter is provided the supply following the vulnerability criteria of TBC. In general, Food item which displaced person both registered and unregistered case will gain includes rice, yellow split peas, vegetable oil, AsiaREMix, Iodized salt and charcoal which the amount per family depending on the vulnerability criteria (Please see figure 11). For medical healthcare, there are many NGOs such as IRC, ADRA, AMI and International organization like UNHCR and so on provide medicine and general medical treatment for all displaced persons. In term of education, there are many NGOs includes Shanti Volunteer Association (SVA), Taipei Overseas Peace Service (TOPS) and Save the Children provided schools from kindergarten to secondary school. Also, there are NGOs such as Adventist Development and Relief Agency or ADRA Thailand and Women's Education for Advancement and Empowerment (WEAVE) provides the occupation training for displaced persons. Also, temporary shelter includes water and sanitary system is provided by related NGOs (Fungtrakulchai, 2016).

Food Item	SELF-RELIANT HOUSEHOLD	STANDARD HOUSEHOLD	VULNERABLE HOUSEHOLD	MOST VULNERABLE HOUSEHOLD
<b>Rice</b>	0kg 18+ adults 11kg 5-17 6kg 6 mos-<5	9kg 18+ adults 11kg 5-17 6kg 6 mos-<5	12kg 18+ adults 11kg 5-17 6kg 6 mos-<5	13.5kg 18+ adults 13.5kg 5-17 7kg 6 mos-<5
<b>Yellow Split Peas</b>	0kg 18+ adults 1.2kg 5-17 0.6kg 6 mos-<5	1.2kg 18+ adults 1.2kg 5-17 0.6kg 6 mos-<5	1.2kg 18+ adults 1.2kg 5-17 0.6kg 6 mos-<5	1.2kg 18+ adults 1.2kg 5-17 0.6kg 6 mos-<5
<b>Vegetable Oil</b>	0L 18+ adults 0.5L 5-17 0.5L 6 mos-<5	0.5L 18+ adults 0.5L 5-17 0.5L 6 mos-<5	0.5L 18+ adults 0.5L 5-17 0.5L 6 mos-<5	1L 18+ adults 1L 5-17 0.5L 6 mos-<5
<b>AsiaREMix</b>	0kg 18+ adults 1kg 5-17 1kg 6 mos-<5	0kg 18+ adults 1kg 5-17 1kg 6 mos-<5	0kg 18+ adults 1kg 5-17 1kg 6 mos-<5	0kg 18+ adults 1kg 5-17 1kg 6 mos-<5
<b>Iodized Salt</b>	0kg 18+ adults 167g 5-17 167g 6 mos-<5	167g 18+ adults 167g 5-17 167g 6 mos-<5	167g 18+ adults 167g 5-17 167g 6 mos-<5	167g 18+ adults 167g 5-17 167g 6 mos-<5
<b>Charcoal</b>	15kg 1person/ +5 kg per person	15kg 1person/ +5 kg per person	15kg 1person/ +5 kg per person	15kg 1person/ +5 kg per person )

**Figure 11: The Food Item Distribution to Household by the Level of Vulnerability** (Source: TBC (2015). Annual Report January-December 2015, The Border Consortium: 17) (TBC, 2015a) (TBC, 2015a)

Elements of measurement	Social protection
<b>Promotive measures</b>	<ul style="list-style-type: none"> <li>- Obtain oil, rice, charcoal, bean, salt, chili, AsiaREMIX from TBC</li> <li>- Have a house to live</li> <li>- Access school in the temporary shelter</li> <li>- Access medical center from NGO in the camp</li> </ul>
<b>Preventive measures</b>	-
<b>Transformative measures</b>	<ul style="list-style-type: none"> <li>- Have the rights to ask for permission to go outside temporary shelter</li> <li>- Have rights to claim about the discrimination within the temporary shelter to legal consultancy</li> <li>- Can have own leader + administration in the shelter</li> </ul>
<b>Protective measures</b>	<ul style="list-style-type: none"> <li>- Employers from job outside temporary shelter</li> <li>- Rohingya friends</li> <li>- Receive the remittance from relatives or friends from abroad</li> </ul>

**Table 5: Social Protection Assessment of Rohingya Displaced Persons in Temporary Shelter**

However, the gap of these humanitarian actions still exists in critical term. Firstly, the food supplies and basic needs are insufficient for most of displaced person includes Rohingya. From the interview, some Rohingya review that as they have the children, so they needs to eat meat and vegetable and need to use money. In fact, the basic needs from TBC and others NGOs still make them vulnerable to survive in temporary shelter. The rice sometimes is not good enough for eating and they sometimes have to sell them to get the money to buy the better one by themselves. In term of education, most of Rohingya respondents feel satisfied with the education insides the temporary shelter, but still criticizes on language that they have to study in Karen as the language of the majority. In term of health service, normally, it is still in equivalent to international standards and for the emergency case which needs to go to hospital, the process of hospital admittance is quite satisfied. However, the lack of medical or health staffs within the temporary shelter has still existed (Vungsiriphisal et al., 2014, pp. 60-61). For general livelihood of displaced persons, Vungsiriphisal et

al. (2014) found that increasing education opportunity is the first thing that displaced person want to see the change. Later, it has been the obligation of movement and the opportunity to access the employment respectively. As considered from the data of Rohingya people, their situation within the temporary shelter is quite similar with other displaced person in different nationalities which need to access more basic needs and ability to move and travel freely. Consequently, even though from RTG policy which concern more on the security tends to restrict on the movement of displaced person, however, in the current situation, Thai government, related NGOs and camp committee seems to be more flexible and see that it has been the opportunity for displaced persons to relieve their deprivation by themselves, so they allow the displaced person includes Rohingya to have a chance to seek for job outside. Most of Rohingya finds that there is more hope outside than inside the camp, so they try to go out and seek for economic opportunity outside as same as other ethnicity displaced person. When the flexibility to gain freedom in the rights to work opens up, it allows the displaced person includes Rohingya make a decision in their life and plan how to live if at last they will not obtain refugee status and cannot resettle to a third country as they expect. In term of transformative measure as social rights which aim to negotiate with power relation of individual and group of people, Rohingya asylum seekers are still allowed to live freely within the territory control and can also ask for permission when they need to go outside the shelter. Some displaced person who can go out and seek for job outside might come back to the house within temporary shelter on time as allowed period of time when they asked for permission to the Thai authority and camp committee, some of them go out and went back just when they have to be checked by TBC twice a month for maintaining their status in the temporary shelter and gain some food supply from TBC. At the same time, some of displaced persons go out and decides to abandon the life in temporary shelter and their status to become the permanent urban migrants in the city. This phenomenon happens to Rohingya who used to permanently stay in the temporary shelter. For the latter case that some displaced person includes Rohingya decides to permanently become urban migrants will occur to the young people who still have motivation to find their own survival.

Critically, in term of preventive measure as social insurance which mainly aims to prevent the deprivation, from the case of this Rohingya, it reflects that the social insurance for Rohingya people is still inadequate and there is no hope for Rohingya to be confident that the life in temporary shelter will be secure enough in long-term. Consequently, this make them want to go out from the Umpiem and Nupo temporary shelter to seek for better opportunity in Mae Sot. This also conforms to the perspective of Thai authority and related NGOs that even there is full protection provided from various NGOs but the amount of displaced persons and funding are decreased gradually as the result of the situation in country of origins, accomplished durable solutions and also the less new arrival. So, as Thai authority and camp committee allow displaced persons to seek for job outside, this might represent the opened way for displaced person includes Rohingya to seek for their own life stability. In this regards, it links closely to protective measure, as the relief from deprivation in the sense that when the food supply within the camp is inadequate and Thai authority with related NGOs cannot relieve these deprivation as the limited supply and funding, so they allows displaced person to seek for job outside to gain more economic opportunity and to relieve their own deprivation which can be the employment from the employer outside the shelter that can relieve their deprivation. As interview one Rohingya from Nupo camp, he reveals that mostly job outside the shelter is not permanent job. It means most of displaced persons who go out to seek for job outside always rotate the job following the requirement of the employers. Most of work is picking up the corn, construction work and others work depending on the employers. Mostly, he can earn around 200 to 300 baht per day and this is enough to spend money in the shelter with his daughter who live with the Rohingya neighbor in the shelter when her father have to work outside the shelter.

For the case of Rohingya who still came back to the temporary shelter for maintaining their status after go out to seek for job outside, it reflects that they gain more than one status and gain more self-resilience or self-protection comparing to when they just stay in the camp. As social protection perspectives, the protection providers include state and non-state sectors are the main source of social protection especially for protective and preventive measures when Rohingya need some source



to relieve their deprivation and to ensure their long-term insurance. Consequently, Rohingya who still came back to the temporary shelter for maintaining their status and also still go out to seek for job outside have more resilience as they gain both social protections from the social protection providers within the temporary shelter and also from the social protection providers outside the shelter. This situation also reflects that Rohingya displaced persons in temporary shelter have self-resilience to plan and relieve their life.

#### **4.7 Conclusion**

Social Protection of Rohingya people in different circumstances Thailand has been interpreted as social assistance and social insurance from social protection providers which are being implemented through various actors or social protection providers from informal and formal means. On the other hand, social protection from formal providers like State and non-State providers include international organizations, NGOs are mostly distributed under the regulation of Thai law which still have a gap on implementation for Rohingyas. In this sense, Social protection for Rohingya in Thailand context pointing out the relationship between law, social protection providers and Rohingya people in four different circumstances: Old and New Rohingya urban migrants, Rohingya victims of human trafficking and Rohingya displaced persons in temporary shelter. However, as Thailand is not a signatory of the 1951 Refugee conventions and the only law which used for Rohingya people are Thai Immigration Act B.E. 2522 and the Anti-trafficking in Persons Act B.E. 2551 which the gap and limitation of these laws still exist to implement to Rohingya people as Thailand still recognized asylum seekers as the illegal migrants which can be arrested all the time if Rohingya did not stay under Thai authority control. The existing gap and limitation as the result of the law affects to the social protection provided by state and non-state actor to Rohingya which is sometimes inadequate and unmet needs for Rohingya in reality. However, it has been found that sometimes the social protection providers are perceived as a ‘threat’ or ‘main risk’ of Rohingya especially Rohingya urban migrants. Consequently, it forces Rohingya to seek for social protection from informal actor especially their social connection by their own to fulfill these gaps of social protection. Furthermore, the vulnerability of Rohingya is well-perceived

especially victims of human trafficking case, but for Rohingya urban migrants, they are still left behind to gain social protection especially from state providers. At last the social protection both from state and non-state providers is the protection during the time that most Rohingya waiting for the durable solutions which mostly tends to be the resettlement to a third country.



## **CHAPTER V**

### **COMPARATIVE ANALYSIS ON SOCIAL PROTECTION MECHANISM OF STATELESS ROHINGYA IN VARIOUS CONTEXTS IN THAILAND**

#### **5.1 Introduction**

This chapter intends to compare the social protection provision for Rohingya people in four different circumstances. This analyzes the similarity, differences and also compare to all elements of measurement of social protection of Rohingya in four different circumstances in Thailand (Old and New Rohingya urban migrants, Rohingya trafficked persons and Rohingya displaced persons in temporary shelter). Then, I draw upon the challenge of social protection for Rohingya in Thailand. For similarity, I argue that Thai authority involves with all Rohingya in four different circumstances many different way depending on the ministry and law. Thai authority treats Rohingya following their recognized status under the Thai law. Also, Rohingya in four different circumstances in Thailand still need a certain status and documents recognized by State for ensure long-term protection which is ‘refugee status’ and the opportunity to resettle to a third country. For difference, I argue that Old Rohingya urban migrants and Rohingya displaced persons in temporary shelter have the way to be resilience and find their own social protection which mostly came from informal providers includes social connection, even though these kinds of social protection is irregular. In contrast, Rohingya living under full Thai authority control have been restricted under the regulation by Thai authority and this impedes the channel of self-resilience for Rohingya. However, with the regulating treatment, this group of Rohingya has been provided the regular social protection which is quite comprehensive and adequate. Also, the durable solutions have been ensured firmly as the vulnerable status recognized by Thai authority. In term of each elements of social protection, I propose that for ‘Promotive measures’, Rohingya under Thai authority control tends to gain the regular basics need includes food, house, healthcare, education for Rohingya. In contrast, Rohingya urban migrants mostly they have to

find their own basic needs by themselves except education. For 'Transformative measures', Rohingya in four different circumstances in Thailand still have the rights to claims and negotiate with power in limited term. For 'Preventive measures', Rohingya in four different circumstances tends to gain less social protection in terms of the way to protect deprivation such as saving money and medical insurance. However, as Rohingya the victims of human trafficking gain the full social protection under Thai authority control, so their preventive measures might be less concerned comparing to another two Rohingya groups. Lastly, for 'Protective measures', for Rohingya urban migrants and Rohingya displaced persons in temporary shelter demonstrate the adaptation to find the source to relieve the deprivation freely. In contrast, Rohingya victims of human trafficking, all requirements to relieve deprivation have to be approved by Thai authority following the regulation of the center strictly. In terms of the challenge for the social protection of Rohingya in Thailand, I argue that the main challenge of social protection of Rohingya includes the gap between international and domestic law, the lack of legal structure in Thailand and the limited channel for durable solutions for Rohingya. At last, I conclude that from the comparative analysis it allows to see the gap and problem of social protection providing to Rohingya in four different circumstances in Thailand. At last, the social protection from both state and non-state providers as the humanitarian assistance is inadequate for Rohingya in general and this forces them to struggle and find their own resilience which brought them to meet informal social protection especially social connection. And as Stateless persons, all Rohingya still needs the certain status with documents recognized by state or accepted international norms which can ensure their long-term protection. For this, Rohingya who are the victims of human trafficking seems to be most secure from the protection with a certain durable solutions. In contrast, Rohingya urban migrants especially 'New Rohingya' tends to be the most vulnerable Rohingya in Thailand.

## **5.2 Comparative Analysis on Social Protection Mechanism of Rohingya in Various Contexts in Thailand**

Anderson (2016) argues that the comparison is a discursive strategy that allows us to see the broad perspectives of the explanation. The Rohingya issue

recently has been perceived as just the victims of human trafficking, the boat people and the unwanted ethnicity from any State. After conducting the fieldwork research to the primary sources which are Rohingya in various personalities living in different circumstances, it was found out that Rohingya people in Thailand employ varying strategies to survive. As a human being, every Rohingya wants to be treated equally as any other human being. Within the Thailand context, Rohingya issue has existed for a long time. However, we cannot reject the role of the media in popularizing the issue of the Rohingya people through the images of the scandal and tragedy of boat people in Thai territorial waters and therefore substantially influencing the public discourse on migration issues. This also affects the humanitarian assistance and protection from Thai authority and international organization to Rohingya in Thailand which, as a response to public uproar, have emerged rapidly and sensitive for a few years ago until now and mostly concentrated to Rohingya from boat people and the case of human trafficking. However, in reality, Rohingya in another circumstances in Thailand includes Rohingya in urban migrants and Rohingya displaced persons in temporary shelter also still struggle and quite vulnerable in different way and need to be assisted as well. Social protection, as the agenda to reduce the vulnerability of vulnerable group of people like Rohingya, has been implemented to assess Rohingya in four different circumstances in Thailand. At last, the social protection assessment revealed the systematic comparative assessment to see the dynamics for survival of Rohingya people, exhibiting resilience on different circumstances in Thailand (Refer to Table 6). In this regard, I intend to analyze the social protection of Rohingya in four different circumstances in Thailand by providing the comparison in three forms which include comparison on similarity, difference and the elements of social protection.

Social Protection Elements	'Old Rohingya' urban migrants	'New Rohingya' urban migrants	Rohingya victims of human trafficking	Rohingya asylum seekers in temporary shelter
<b>Promotive measure</b>	<ul style="list-style-type: none"> <li>- 10 Years Card (for legal living)</li> <li>- 30 Baht Card (for access healthcare)</li> <li>- Can Rent a house</li> <li>- Access Thai education</li> </ul>	<ul style="list-style-type: none"> <li>- Can rent a house</li> </ul>	<ul style="list-style-type: none"> <li>- Obtain food for three meals</li> <li>- Have a house for living</li> <li>- Obtain clothes</li> <li>- Access healthcare</li> <li>- Access occupation training</li> </ul>	<ul style="list-style-type: none"> <li>- Obtain oil, rice, charcoal, bean, salt, chili. AsiaREMIX</li> <li>- Have a house to live</li> <li>- Access school in the camp</li> <li>- Access medical center from NGO in the camp</li> </ul>
<b>Preventive measure</b>	<ul style="list-style-type: none"> <li>- Have bank account (for who has passport)</li> <li>- Pensions for elderly persons from mosque and Islam Bank</li> </ul>	-	<ul style="list-style-type: none"> <li>- Obtain the annual pensions from government</li> </ul>	-
<b>Transformative measure</b>	<ul style="list-style-type: none"> <li>- Build trust in community by Thai language</li> <li>- Establish community-based organization such as BRAT</li> </ul>	-	<ul style="list-style-type: none"> <li>- Have full rights to required something from the officers of the center</li> </ul>	<ul style="list-style-type: none"> <li>- Have rights to ask for permission to go outside the camp</li> <li>- Have rights to claim about the discrimination in the camp to legal consultancy</li> </ul>
<b>Protective measure</b>	<ul style="list-style-type: none"> <li>- Help from Rental house owners</li> <li>- Help from Rohingya friends</li> <li>- Access to informal loaning source</li> <li>- Help from mosque/ Islam foundation</li> </ul>	<ul style="list-style-type: none"> <li>- Help from Rental house owners</li> <li>- Help from Rohingya friends</li> <li>- Access to informal loaning source</li> </ul>	<ul style="list-style-type: none"> <li>- Officer of the center can provide what they require depending on director permission</li> </ul>	<ul style="list-style-type: none"> <li>- Employers from job outside temporary shelter</li> <li>- Rohingya friends</li> <li>- Receive the remittance from relatives or friends from abroad</li> </ul>

**Table 6: Social Protection Assessment on all Rohingya group in Thailand**

### 5.2.1 Comparison on Similarities

There are two main implications of social protection to Rohingya in four circumstances. These include the involvement of Thai authority in four circumstances and the need of certain status of Rohingya in all circumstances.

#### 5.2.1.1 The Involvement of Thai Authority

The involvement of Thai authority exists in all four circumstances of Rohingya in Thailand in different ministry and under different law which affects to the different social protection to provide to Rohingya in different circumstances. I argue that Thai authority provides the social protection to Rohingya who has been claimed a certain status following the law includes illegal migrants, victims of human

trafficking and displaced person. The status implied to the sense of 'passive agents' and 'active agents'. Mostly, the passive agent like Rohingya victims of human trafficking have been treated well following the Anti-Trafficking in Persons Act B.E. 2551. In contrast, Rohingya urban migrants as the 'illegal migrants' by the definition of Thai state mostly see Thai authority as 'the threat' more than 'social protection providers'. The gap here is Thailand has no refugee protection framework or legal implementation and in the existing law there is no the way to categorize people as asylum seekers or refugees. There is only the RTG policy that rules displaced persons within temporary shelter. This forces Rohingya who did not live under Thai authority which is the majority of Rohingya in Thailand become the 'illegal migrants' which can be arrested any time (ERT & IHRP, 2014, p. 5). On the other hand, Rohingya displaced persons in temporary shelter in reality can be counted as both 'passive agents' which still gain some social protection regularly from Thai authority, and also 'active agents' as they are allowed to live freely within the territory of temporary shelter and also can negotiate with Thai authority to go outside the shelter to seek for job. In this regards, there are both advantage and disadvantage under Thai authority protection.

For this, the key condition here is the involvement of Thai authorities in Rohingya issue. Since the scandal about push-back action on boat people and the involvement in human trafficking cycle of Thai authorities makes the image of Thai government seems to be more pessimistic which in turn brought many critiques from regional and international organizations. From the findings and the comparative analysis, I found out that Thai authority has actually done the hard work on Rohingya issue in particular Rohingya victims of human trafficking who mostly were arrested with the boat people. On the other hand, Thai authority still generalized Rohingya people in Thailand as the same as the people who struggled and are difficult to handle with. This is the single perspective on Rohingya issue in Thailand of Thai authorities and ignores that there are various groups of Rohingya includes Rohingya who can survive by themselves. However, even though Thai authorities will generally involve with the Rohingya in every circumstance, but Thai authorities tend to ignore on Rohingya urban migrants includes both 'Old Rohingya' and 'New Rohingya' in terms

of the fair arresting. This becomes the gap of legal implementation which allows the mafia or despots to exploit Rohingya urban migrants in order to pay money to avoid getting arrested by the Thai government.

### **5.2.1.2 The Durable Solution Requirement of Rohingya in Thailand**

Rohingya in four circumstances needs a certain status recognized by state and international norms. Most of Rohingya applied for refugee status with UNHCR for a long time. And now most of them are still waiting for the status hopelessly. As now UNHCR Bangkok closed for the new arrival and the appeal on 2005 (Otter, 2007, p. 50). It is uncertain that UNHCR can continue the process of asylum seekers who are waiting for refugee status for many years in Thailand. In fact, as Rohingya people require refugee status to begin the new life with dignity in a third country, some of Rohingya recently feel hopeless to wait for refugee status in Thailand tends to go to Malaysia and apply for refugee status there as they believe that the process might be faster than in Thailand.

The key condition here is Rohingya who might or might not intend to come to Thailand in every circumstances need a certain status which is most possible for them and make them receives back a full rights as close as possible to other citizens in the state. This finding and comparative analysis reveal that the context of the state which Rohingya apply for refugee status and the trend of refugee situation in global level affect to the way they can obtain refugee status and be able to resettle to a third country. As UNHCR Bangkok closed the official registration since 2005 and allows just asylum seekers who can be proceeded in family reunification and expedite cases have an opportunity to resettle, many of Rohingya who wait for the refugee status and resettlement process for more than eight years and are not in the recent criteria of UNHCR tends to be *de facto* rejected. This situation might not affect to 'Old Rohingya' much as they can continue surviving as the illegal migrants in Thailand which become the most possible and the best way for them now.



## **5.2.2 Comparison on Differences**

From the social protection assessment, I propose three different aspects on social protection provided by both state and non-state actors to Rohingya in four different circumstances in Thailand.

### **5.2.2.1 The Ability to be Resilient of Rohingya in Thailand**

Rohingya urban migrants who live physically without Thai authority control and Rohingya displaced persons in temporary shelter under semi-Thai authority control have the way to be resilient and be active to seek for the social protection which mostly came from informal providers includes social connection, even though these kinds of social protection is irregular one. This situation might totally be a need or partial need of Rohingya who might gain the inadequate social protection from Thai authority for displaced persons in temporary shelter, and who need to survive by themselves as Rohingya urban migrant. The self –resilience might represent both advantage and disadvantage way for Rohingya. The capacity to be resilient of Rohingya might be helpful if one day these Rohingya cannot gain the certain status as refugee status and they must find their own solutions with the struggled life as illegal migrants further and protracted their stateless status. On the other hands, self-resilience might reflect that they can encounter to the risk and vulnerability all the time without regular protection includes arresting from Thai authority. In contrast, Rohingya living under full Thai authority control like in the case of Rohingya victims of human trafficking, they have been provided full protection but restricted under the regulation by Thai authority in term of freedom to choose. Even Rohingya trafficked persons can require the need from Thai authority but the restriction still exists under Thai authority control and this impedes the channel of self-resilience for Rohingya victims of human trafficking at the same time

The key condition here is the limited and insufficient social protection especially from formal provider like state and informal provider which works closely and under state regulation includes international organization and NGOs especially

for Rohingya urban migrants and Rohingya displaced persons in temporary shelter groups. This situation forces these groups of Rohingya struggle by themselves to fulfill the stability of their livelihoods. However, the implication here is that the informal providers like Rohingya network remains the stable source of help for the majority of Rohingya in Thailand. It also repeats that as stateless persons from outside Thai state, there is still no hope and sufficient protection in long-term for this ethnical group and also no good sign for their actual solution to legalize Rohingya people recently. This protracts the illegal migrants and stateless status of them indefinitely.

#### **5.2.2.2 The Implication on Informal Social Protection Providers for Rohingya in Thailand**

Rohingya in three different circumstances have the non-state social protection in different terms especially international organizations which work closely with Thai authority like UNHCR and IOM and non-related to Thai authority like the social connection of Rohingya. In this regards, I argues that even Old and New Rohingya urban migrants mostly gain social protection from non-state providers includes social connection like Rohingya friends, rental house owner, mosque and paying bribe to the despot, these source of protection can relieve them immediately and easier than waiting for the social protection from state provider or international organization like UNHCR, IOM and so on. However, Rohingya urban migrants might still encounter with indefinite vulnerability especially the arresting by Thai authority if they still have not a certain status and legal document recognized by state or international norms. In this regards, the evidence that Rohingya applied for refugee status with UNHCR did not protect them from arresting by Thai authority. On the other hands, Rohingya who are trafficker persons under Thai authority control and Rohingya displaced persons in temporary shelter still gain the social protection from non-state actors like UNHCR, IOM, RSC and so on which works closely with formal social protection providers like Thai state under Thai law.

The key condition for this is a different kind of informal social protection providers are more flexible than formal social protection providers like state even

though the international organization like UNHCR and IOM still works closely with Thai state in the issue of Rohingya. The flexibility of informal protection providers can be interpreted as the condition that Rohingya people are able raise their voice on the social protection that they need. Also, others flexibility include the various term of social protection that really meets the need of Rohingya people such as legal consultant, long-term education and also the possibility to work freely more than the strict regulation with limited protection from formal provider of state. In this regards, for the informal protection providers like Rohingya connection, the house owner and religious organization as the main source of social protection for 'Old Rohingya' and 'New Rohingya' urban migrants represents the social protection which is close to the real livelihoods of Rohingya and meet their actual need in real situation. This is why 'Old Rohingya' can survive for a long time in Thailand and this source of protection seems to be the most stable solutions of the majority Rohingya in Thailand.

### **5.2.2.3 The Limited Opportunity for Refugee Status Obtaining and Resettlement of Rohingya in Thailand**

Rohingya asylum seekers who are permanently live in urban area includes 'Old Rohingya' and 'New Rohingya' urban migrants and Rohingya displaced persons who live in temporary shelter have the different situation for gaining social protection. As Rohingya displaced persons who believe that living in the temporary shelter might be beneficial for them in term of they can gain refugee status quicker than living outside the temporary shelter, the research finding has been found that living in the temporary shelter did not help them to gain refugee status quicker especially for Rohingya those who did not have the relatives who resettle to a third country before. Furthermore, the current situation in temporary shelter proves that besides there are a few hopes for Rohingya displaced persons to resettle to a third country, the livelihoods within temporary shelter is worsening-depressed. This situation forces Rohingya displaced persons in temporary shelter who are also counted as asylum seekers seek for job outside and still go back to temporary shelter for at least they still have the house to live without the fear to be arrested and they also gain some basic needs that distributes to them monthly. In this sense, the switch status of Rohingya displaced persons allows them to meet the channel of resilience by themselves which

the situation is similar to ‘Old Rohingya’ and ‘New Rohingya’ asylum seekers in urban area that mostly they gain social protection from informal provider includes Rohingya friends, the employers and so on. The situation of asylum seekers in two different circumstances repeated that without the refugee status or a certain status recognized by state and international norms with the certain durable solutions, the social protection for Rohingya asylum seekers are still inadequate. In this term, Rohingya asylum seekers are still vulnerable even living within temporary shelter under Thai authority control.

The key condition for this issue is the possibility for Rohingya urban migrants and Rohingya displaced persons in temporary shelter to obtain refugee status and be able to resettle to a third country is the same. This means Rohingya in both circumstances have been gradually decreased the possibility to have refugee status and resettle to a third country. This also repeats on the more flexible regulation of Thai authority that allows many displaced persons from temporary shelter can seek for job outside which is very contrast to the attitude in the previous time of Thai authority and RTG policy that seeking for job outside is prohibited for displaced persons. However, the less ability to meet the durable solution includes resettlement to a third country of Rohingya means that Rohingya who are quite freely from Thai authority control will gradually become illegal urban migrants at the end. For this, the capacity to adapt themselves is the necessary skills to ensure their resilience in the real situation of the future in Thailand.

### **5.2.3 Comparison on the Four Elements of Social Protection**

The assessment from the elements of social protection perspective includes ‘Promotive measures’, ‘Transformative measures’, ‘Preventative measures’ and ‘Protective measure’ allows us to see the comprehensive social protection in practice covering almost every aspect of the protection of vulnerable people in systematic way when assessment has observed the various circumstances of the social protection receivers. By using the four elements of social protection to assess Rohingya in various circumstances in Thailand, the assessment reveals the gap of using each element for applying in Rohingya case in Thailand differently as follow.

### 5.2.3.1 Promotive Measures

Promotive measures which aims to mainly improve the economic and social capabilities of people such as the low income, inadequate education, lack of accessibility health care and poverty reduction for vulnerable people, in Rohingya context in Thailand, it refers to the way that formal social protection providers such as Thai state and informal social protection providers includes NGOs provides the basic needs or the ability to access the basic needs for Rohingya in different circumstances in Thailand. Refer to the formal protection providers like Thai state, the promotive measures for Rohingya have been distributed following two main domestic laws includes Thai Immigration Act B.E. 2522 and Anti-Trafficking in Persons Act B.E. 2551. For Thai Immigration Act B.E. 2522 which especially covers the case of Rohingya urban migrants, actually this law has not stated on what exact protection the 'illegal migrants' like Rohingya will gain. Rather, this law tends to process to deport or send the illegal migrants to a third country as they have no legal right to live in Thailand in official term. For this, 'Old Rohingya' and 'New Rohingya' urban migrants have not obtained the protection on basic needs from Thai authority which forces them to seek for the basic needs by their own. On the other hand, for Rohingya trafficked persons who are under Anti-Trafficking in Persons Act B.E. 2551 in section 33, following the law they should gain the full basics need from Thai authority within the detention center includes shelter, food, medical treatment, physical and mental rehabilitation, education, training, legal aid, the return to the country of origin or domicile, the legal proceedings to claim compensation (Thailand Law Forum, 2011). For Rohingya displaced persons in temporary shelter who have been officially ruled by the RTG policy under MOI which mainly concentrate in the sovereignty, security and benefit of all stakeholder in displaced persons issue, most of basic needs came from NGOs especially TBC and other NGOs. In policy term, the promotive measures for Rohingya displaced persons from these protection providers are quite comprehensive and adequate for them to live within the temporary shelter. Even though in reality, these basic needs might be unmet with the need of Rohingya displaced persons.

On the other hand, from the comparison Rohingya in four different circumstances, I argue that Rohingya under full Thai authority control (Rohingya trafficked case) tends to gain the regular basics need includes food, house, healthcare, education from state social protection provider than Rohingya in others circumstances which still struggle to access some basic needs. In contrast, Rohingya urban migrants mostly they have to find their own basics needs by themselves. On the other hand, the case of Rohingya displaced persons in temporary shelter, they still gain basic needs includes food, medical treatment, education from NGOs within the shelter but these basic needs especially foods is not good enough and insufficient for them especially who has children. However, in term of education, I argue that for Rohingya urban migrants and Rohingya displaced persons in temporary shelter, they can access the long-term education from Thai authority and NGOs. In contrast, for Rohingya trafficked persons, the education mostly tends to be in the form of occupation training to prepare for resettlement to a third country and Thai language learning for the smooth communication between Rohingya and the officers in the center. This still lacks of formal and long-term curriculum especially for Rohingya trafficked persons.

#### **5.2.3.2 Preventive Measures**

Preventive measures which mainly aims to prevent the deprivation in any case and this kind of measures refers to social insurance provision of both state and non-state actors, in Rohingya context in Thailand, it refers to the way that formal social protection providers such as Thai state and informal social protection providers includes NGOs provides social insurance includes pension, funding or medical insurance to ensure that when Rohingya meet vulnerability they still have a source of guarantors on their resilience. Refer to the law covering Rohingya in four different circumstances in Thailand, normally, there is no clear on the preventive measures for protection includes medical insurance, pensions or regular money for Rohingya people except the case of Rohingya victims of human trafficking who gain annual pension from Thai authority. In term of informal protection providers includes NGOs, most of their protection providing are not for ensuring the long-term protection and

have no insurance for Rohingya in general for instance in the case of Rohingya displaced persons in temporary shelter.

From the comparison on Rohingya in four different circumstances, I argue that Rohingya in four different circumstances in Thailand tends to gain less social protection in term of the way to protect deprivation such as benefit as vulnerable people, saving money and medical insurance. For Rohingya urban migrants, mostly they have no any saving money to prevent the poverty as most of Rohingya are in debt and also they lack of the health insurance. However, it has been found that some Rohingya who have passport can have the bank accounts as one source of saving money to prevent the deprivation. Additionally, some Rohingya get the support from mosque as religious foundation when they are 60 years. However, the support is quite in specific criteria of the receivers. For Rohingya victims of human trafficking, as they gain regularly gain the pension from Thai authority three times per year, however, it has been found that Rohingya still require more pension from Thai authority. For Rohingya displaced persons in temporary shelter, there is no money giving to displaced persons regularly, so there are a number of displaced persons include Rohingya seek for job outside the camp for preventing the poverty by themselves.

### **5.2.3.3 Transformative Measures**

Transformative measure which aims to negotiate with power relation of individual and group of people, in Rohingya context in Thailand, it refers to how formal social protection providers such as Thai state and informal social protection providers includes NGOs allow Rohingya people in different circumstances in Thailand have a right to require or negotiate with others actor to protect their rights as human being. From existing Thai law covering Rohingya protection, normally, there is no the clear on the capacity of Rohingya to require or raise their voice for protecting their rights while living in Thailand. Rather, this form of protection might depend on the attitude of the director in the center in the case of Rohingya trafficking

case which is quite informal and flexible in practice. For Rohingya displaced persons in temporary shelter, there is the legal consultant for all displaced persons and the ability to ask for permission case by case. On the other hand, for Rohingya urban migrants, their protection in term of transformative measures is not what others provides to them, but what they can make to negotiate with others. This can be the example of the establishment of several community-based organizations by Rohingya people in Thailand.

From the comparison Rohingya in four different circumstances, I argue that the rights to claim for Rohingya in four different circumstances still exists but in the limited context. For Rohingya urban migrants, especially 'Old Rohingya' who can speak Thai fluently, they can use Thai language to build trust with the neighbors and Thai community. They also join in religious ceremony with equal treatment but they do not claim in political issue or the issue about their rights as they are still afraid to be arrested. This is except the people from Rohingya organizations which mostly join the conference or seminar as the representatives of Rohingya to talk about human rights or political issue to the public. For Rohingya victims of human trafficking, I argue that even they have the rights to claims or require something from the Thai officers within the center, but they cannot gain anything that they want. All things that they require have to be approved by the director and it must be under the regulation of the center and the Anti-trafficking in persons Act B.E. 2551. So in this term, the transformative measure is quite restrictive and has less freedom. For Rohingya displaced persons in temporary shelter, in formal term, they are allowed to go outside the camp which includes seeking for job outside by asking for approval from Thai authority and the section leader. However, in reality, they are quite free and can go out in informal way by paying some money to the officials with the careless security system. Additionally, they can claim the unfair event to legal consultant of NGOs within the temporary shelter all the times, however, in ethnical term, Rohingya are still counted as the minority within the temporary shelter and sometimes the discrimination can occur with the unfair treatment from the leader. For displaced persons who went outside temporary shelter, the situation in transformative measures is similar to Rohingya urban migrants that if they can communicate in Thai, it can



enhance their capacity to negotiate with Thai people in community. The negotiation mostly involves with the daily life issue more than the claims on human rights or political issue.

#### **5.2.3.4 Protective Measures**

Protective measures which specifies to target the relief from deprivation, in Rohingya context in Thailand, it refers to how formal social protection providers such as Thai state and informal social protection providers includes NGOs relieve the deprivation of Rohingya people in different circumstances in Thailand include poverty, discrimination, lacking of job and so on. Under Thai immigration Act B.E.2522 which covers Rohingya urban migrants and RTG policy covering Rohingya displaced persons in temporary shelter, there is the unclear on the relieve after the deprivation of general illegal migrants and displaced persons includes Rohingya people. On the other hand, for Rohingya victims of human trafficking under Anti-trafficking in Persons Act B.E. 2551 regulation, there is also unclear on the relief in policy term of general victims of human trafficking includes Rohingya. However, in practice, all victims of human trafficking will receive some money as the annual pension in specific amount from Thai authority, although there is still no medical insurance for Rohingya like other nationalities in the center.

From the comparison on Rohingya in four different circumstances, I argue that even Old and New Rohingya urban migrants and Rohingya displaced persons in temporary shelter lacks of the guarantor to prevent the deprivation such as social insurance includes funding or pension or medical insurance, however, as they live quite freely from Thai authority control. For Rohingya urban migrants and Rohingya displaced persons in temporary shelter, they demonstrate the adaptation to find the source to relieve the deprivation more flexible than Rohingya victims of human trafficking who live under the strict regulation with certain the relief for deprivation. However, as Rohingya victims of human trafficking have been provided more secured on social protection includes the basic needs regularly and adequately, so this case might has lesser concern on the relief of deprivation comparing to others Rohingya groups.

### **5.3 The Challenge of Social Protection for Rohingya in Thailand**

The situation of Rohingya in Thailand recently is quite concerned. As there is still the bad sign from the country of origin to solve or accept this group of people back to the country with dignity. Rohingya in Thailand still struggles and wait for the durable solutions with the legal status and legal documents as others nationality. However, there is still the grey area about what should be the best solutions of Rohingya people who nowadays encounter with many challenges and depressive emotion as the durable solutions for them is hopeless in Thailand. However, social protection is needed for Rohingya inevitably. In this regards, I propose that there are two main challenges of social protection for Rohingya in Thailand includes the gap between domestic and international law and the limited channel for durable solutions for Rohingya especially resettlement to a third country.

Firstly, the lack of fair legal implementation on refugees or asylum seekers of Thai law directly affects to the way Rohingya gaining social protection within Thai territory. As Thailand have no refugee protection framework and Thailand is not the signatory in The 1951 Refugee convention, normally, the way Thai authority perceives asylum seekers or people who flee from the persecution from the country of origin as 'illegal immigrants' which can be arrested and deported in any time (UNHCR, 2006, p. 4). However, even though Thai authority launch the special regulation to treat Rohingya people as the urgent and sensitive case, but in reality, most of them are still arrested with the severe exploitation than other nationality who are also the 'illegal migrants'. In this regards, national security is still the main claim from Thai authority to set the legal implementation to Rohingya issue in Thailand. Moreover, the concern about 'pull factors' still makes Thai authority are unwilling to take responsibility to give the protection fully. This affects to the legal implementation in Thailand on Rohingya issue is quite limited, restrictive and quite hard to be changed (ERT & IHRP, 2014, p. 4). Consequently, this makes Rohingya in Thailand have been treated unfairly. However, this kind of situation will be continued until Rohingya will decide to seek for protection to another country or resettle to a third country even though the percentage for obtaining refugees status is quite few in

nowadays as the result of UNHCR in Bangkok closed the new arrival application and the appeal since 2005 (Otter, 2007, p. 50).

Secondly, besides Thai law which impedes Rohingya and push them to be the 'illegal immigrants', the durable solutions of Rohingya have been limited especially the resettlement to a third country. As Rohingya cannot repatriate to Myanmar as the issue of ethnical conflict between Buddhist and Muslim is gradually severe, so the most possible durable solution for Rohingya in Thailand can be just resettlement to a third country as refugees. However, since 2005, the number of people who can resettle to a third country had been decreased with more restriction from both Royal Thai Government and UNHCR as they allow just the people who are in medical needs and family reunification to resettle to a third country (UNHCR, 2006, p. 40). Otter (2007) argues that some refugees-based organization in Thailand concerned that if Thai authority and UNHCR follow the restriction of the limited number of refugees who can resettle to a third country, that can be the model for others country further. In this regards, the channel of durable solutions for Rohingya in Thailand is quite narrow and restrictive. It becomes the significant challenge of Rohingya which lastly it might force them meet more vulnerable circumstances indefinitely.

Lastly, these challenges are not only for just Rohingya themselves but also related states, international organization and also ASEAN as the regional organization includes the country which involved with the issue of Rohingya. Additionally, the attitude from Myanmar is also important especially under the new civilian Burmese government. In this sense, the challenges on social protection for Rohingya mostly tends to be the problem of norms both domestic and international level. It reflects that under the sense of free flow movement in term of economic term, the nation-state notion becomes more strengthen especially in non-economic issue include refugees and Rohingya issue.

#### **5.4 Conclusion**

From the comparative analysis on social protection for Rohingya in four different circumstances in Thailand, it reveals about the gap of the law about the protection from Thai authority as the social protection provider and the problem on

the insufficient social protection in some aspect providing to Rohingya from both state and non-state providers in four different circumstances in Thailand. At last, the social protection from both state and non-state providers as the humanitarian assistance for Rohingya forces them to be resilient by themselves at the end. It reflects that the social protection from Thai authority and also international organization is the protection in temporary term for Rohingya in the context of Thailand. And as stateless persons, all Rohingya still needs the certain status with documents recognized by state or accepted international norms which can ensure their long-term protection. In this sense, I argue that Rohingya who are the victims of human trafficking seems to be most secure from the protection under Thai authority as all elements measurements are quite complete with a certain durable solutions. In this sense, the social protection from Thai authority to Rohingya victims of human trafficking cover all aspect of livelihood and the protection has been provided regular during the period that Rohingya still living in the center. Also, as the victims of human trafficking which is the recognized status by Thai state affects to the durable solutions which has more chance to be accepted and ensure the faster process more than another two Rohingya circumstances because victims of human trafficking is the sensitive case. In contrast, Rohingya urban migrants who lives without Thai authority control seems to be the most vulnerable to gain social protection as the illegal status recognized by the state that impedes them cannot access the protection from formal provider like Thai authority. Also, without the legal document for long-term resilience make Rohingya urban migrants especially 'New Rohingya' tends to be the most risky to be arrested, deported and detained indefinitely in Thailand. In this sense, I argue that Thai authority as state social protection is still the main social protection source to ensure the long-term and regular protection with the certain status especially the status of 'passive agents' to Rohingya people in Thailand. On the other hand, as refer to the real situation of Rohingya in Thailand that the way to get the durable solutions like resettlement to a third country is quite hard and seem to be hopeless, then, the adaptation of Rohingya as self-resilience become the most important thing especially for Rohingya urban migrants which is the majority of Rohingya in Thailand (ERT & IHRP, 2014, p. 5). If we recognized on the real situation of Rohingya in long-term in this sense, Rohingya urban migrants seem to be the most resilience group of Rohingya

when the durable solutions cannot happen with them at the end in particular the ‘Old Rohingya’ group who are possible to ‘*de facto* in integration’ with Thai community and use Thai language and flexible adaptation to be resilience in Thailand with the protection from informal social protection providers especially social connection which sometimes ensure the long-term connection and more flexible than the social protection from state provider.



## **CHAPTER VI**

### **CONCLUSION, DISCUSSION, RECOMMENDATIONS, AND DIRECTION FOR FUTURE RESEARCH**

#### **6.1 Conclusions**

The Stateless situation of Rohingya in Thailand significantly reveals the need to obtain legal documents to protect them, as humanitarian action, from any forms of exploitation due to their various vulnerable situations. They are the severe vulnerable asylum seekers as they are also the stateless persons (Slezak, Singer, & Ramadurai, 2015, p. 59). In fact, Rohingya people in Thailand especially those who live in areas without the Thai authority's physical control have demonstrated more ease with their fluid identity status to survive and adapt better in the Thai community of Rohingya, especially for people categorized as 'Old Rohingya'. This status is seen useful in the situation that at the end Rohingya have to continue to live in Thailand as urban migrants as the durable solutions seem to be hopeless even though they tend to be treading in risky waters by being faced with constant threats of getting arrested and being detained indefinitely by Thai authorities. However, a certain status recognized by State especially the status in terms of 'the passive agents' tends to make Rohingya be secure under the well treatment of Thai authority control with a certain durable solutions and this can ensure the regular social protection of Rohingya during the waiting period. However, the ambiguity of the Thai law covering Rohingya especially urban migrants and displaced persons in temporary shelters still make Rohingya become vulnerable and they themselves sometimes perceive by Thai authority as the 'main threat' in their life.

The social protection practices for Rohingya in Thailand context reflect the uncertain perspectives of the social protection providers which significantly affect the way social protection has been provided to Rohingya in different circumstances. This situation has been a product of the barrier of national security notion and the fear about the 'pull factor' of Thai authority which reflects on the law implementation on Rohingya issue in Thailand. However, even though the social protection given by state providers and non-state providers, these social protection practices are

distributed to Rohingya people in different circumstances in temporary terms as Rohingya living under Thai authority have been forced to the durable solutions at the end. The assessment on social protection mechanism of Rohingya in different circumstances in Thailand reveals the main two aspects include the policy term and the actual situation term which benefit and also harm Rohingya at the same time. In terms of policy, the certain status recognized by Thai State as the 'passive agents' can ensure the regular social protection at the temporary term before they meet the durable solutions includes the resettlement to a third country. However, the number of 'passive agents' include Rohingya victims of human trafficking are quite less than Rohingya urban migrants who also hold asylum seekers status. This implies that the majority of Rohingya in Thailand still struggle as 'illegal migrants' with the insufficient social protection and the uncertain durable solutions for them. Additionally, it has been the urgent need for this immigrant group to understand and adapt themselves to the 'already existing social structure' for survival (Borrie, 1959, p. 52). In actual situational term, this refers to international norms of durable solutions which include local integration, resettlement to a third country and voluntary repatriation - considered as the durable solution most suitable for most Rohingya people in Thailand. However, as the recent situation calls that there is less possibility for Rohingya asylum seekers who did not have any relatives for the possible family reunification to meet this durable solution, the adaptation and the self-resilience skills to live freely from Thai authority's control with the social connection as the main informal social protection are very important for them to ensure the flexible survival in their current situation even their Stateless status and the risk to be arrested as 'illegal migrants' still have been protracted indefinitely.

This research opens the various perspectives on the social protection of Rohingya issue by pointing out the situation of lacking the citizens' recognition and the legal status which affects to the interesting adaptation of Rohingya people themselves. This also reveals the gap of law implementation of the State especially those of the countries of destination. This thesis builds on the findings from various actors and Rohingya people themselves to see the contrast of perception on the protection that repeats the needs the policy cooperation between refugee protection and migration management in Thailand and others countries in the regions in flexible

and sufficient terms. This thesis argues that the state and non-state actors involving in Rohingya issue need to recognize the urgent situation of irregular migration which becomes more complicated and quite hard to handle by the single or static perspectives of the State. It requires a careful and deep understanding of various perspectives of the issue by beginning to look closely the fluid and dynamic situation of Rohingya and other irregular migrants. The uncertain circumstances and the main barrier for recognizing the status of Rohingya in Thailand is based on the norm of national security which not only impede the irregular migrants to enter the country but also exposes them to informal channels which breeds various forms of exploitation to groups of vulnerable people like Rohingya people in Thailand.

## **6.2 Discussion**

The additional finding from this research can be proposed in four main points. Firstly, Thai State tends to force all Rohingya to be resilient by themselves with informal social protection providers more than dependent on State protection in the long term. This also repeats the idea of the Thai State that migrants and Rohingya is only a temporary and an isolated issue and it is not for the Thai State to take responsibility following the perception of Thai authorities.

Secondly, Rohingya in Thailand represent the fluid identity and fluid status which might be considered as both an advantage and a disadvantage. For the advantage, the mix and fluid identity and status allow Rohingya to adapt by themselves to the situation and they can gain more alternative means of survival beyond durable solutions from the State. However, without State recognition and certain status, Stateless people like Rohingya will remain vulnerable.

Thirdly, the State is still an important actor to ensure the long-term resilience and long-term protection of Rohingya through a State-sanctioned policy for migrants. In the Thailand context, refugee status for Rohingya seems to be the most possible status for them to ensure the long term protection that they need and to be accorded as with the same rights and entitlements as any other citizens as recognized by international laws and instruments. From all literatures, the main problem of Rohingya now should not be the Burmese government as the root cause for fleeing from persecution of Rohingya from Rakhine State. Rather, it should be considered



that the lack of legal framework for protection for Rohingya in many States in this region should be the most concerned whether these States are the signatory of the 1951 Refugee Convention and its 1976 Protocol or not. Practically, the signatory on International law on refugees issue should not be the only thing to handle with the Rohingya issue, but the collective responsibility of the State in the region by embracing migration management and refugee protection measures which can be considered as possible sustainable solutions to this case (Cheung, 2011).

Lastly, the issue of the Rohingya people in Thailand should not be generalized as one form. In fact, there are various groups of Rohingya people who live and survive in quite various conditions in terms of their precarious situation, status, purpose and the self-adaptation which all require special needs for protection and solutions in different terms. In this regard, when Thai State and other social protection providers generalize all Rohingya people as the same, the protection and solutions might not fit for all. While there are efforts to provide protection for Rohingyas, these instead tend to make them fall in a gradual worsening condition.

### **6.2.1 The Future of Rohingya in Thailand**

From research finding and the analysis, recently, every Rohingya group in Thailand still struggle with the limited protection in general. However, with the concerned situation on durable solutions, the possibility to close temporary shelters at the border and the changed situation on human trafficking cycle, all of these situations stimulate each group of Rohingya people in Thailand adapt themselves to the current situation and try to seek for the most stable choice of life in the future differently (Refer to table 7).

Firstly, 'Old Rohingya' group tends to be the most well-adapted Rohingya in Thailand. Most of them are satisfied and saturated with the life as 'illegal immigrants' in Thai community even sometimes they have to pay bribe to ensure security in life and the arresting of Thai police still exists indefinitely. In this regards, paying bribe to the mafias who claimed themselves as the frontier of Thai police tends to be more regular activity for 'Old Rohingya' which can be both social protection and threat at

the same time. On the other hand, as most of them are living in the stable rental house with the good relations with the rental house owner, this circumstance can ensure their stable live life in Thailand in long term. For the future of ‘Old Rohingya’ in Thailand, as most of ‘Old Rohingya’ is in between 40 to 65 years, so they tends to prolong their life as what they are being in Thailand because most of them also have recognized that resettlement to a third country tends to be impossible for them. However, the risk to be arrested by Thai police still exist, but ‘Old Rohingya’ are well-known on how to handle with this situation with the source of help that they always ask for help.

<b>The group of Rohingya</b>	<b>Present</b>	<b>Future</b>
<b>Old Rohingya Urban Migrants</b>	<ul style="list-style-type: none"> <li>- Paying bribe to the mafias</li> <li>- Ro-Ti selling as the well-found job</li> <li>- Maintaining Rohingya network</li> <li>- Rental house owner as the stable source of protection</li> </ul>	<ul style="list-style-type: none"> <li>- Prolongs this kind of life in Thailand</li> <li>- Indefinite possibility to be arrested but they can survive by self-adaptation and informal protection providers</li> </ul>
<b>New Rohingya Urban Migrants</b>	<ul style="list-style-type: none"> <li>- Begin to learn the adaptation in Thai society</li> <li>- Begin to be in paying bribe cycle</li> <li>- Maintain Rohingya network</li> </ul>	<ul style="list-style-type: none"> <li>- Have motivation to seek for better opportunity as young people</li> <li>- Possibility to apply for refugees status within and outside Thailand and hope to resettle to a third country</li> <li>- Continue to be urban migrants and be in the same cycle as ‘Old Rohingya’</li> </ul>
<b>Rohingya Trafficked Persons</b>	<ul style="list-style-type: none"> <li>- Living under Thai authority full protection with strict regulation</li> <li>- Ensuring regular social protection</li> <li>- Applying for refugees status and be able to resettle to a third country</li> </ul>	<ul style="list-style-type: none"> <li>- Rohingya in this group will decreased as the changed situation of human trafficking cycle in this region</li> </ul>
<b>Rohingya Displaced Persons</b>	<ul style="list-style-type: none"> <li>- Prolonging on insufficient basic needs especially food and money</li> <li>- Continuing to go out from temporary shelter to be urban migrants occasionally</li> </ul>	<ul style="list-style-type: none"> <li>- Those who are unregistered and cannot be in family reunification tend to be forced to be urban migrants with the possibility to close temporary shelter of Thai authority</li> <li>- Possibility to indefinitely live in temporary shelter</li> </ul>

**Table 7: The Comparative Tendency of the Future of all Rohingya Groups in Thailand**

For 'New Rohingya' group, as most of them are still young people who have just arrived Thailand, they still struggle on life in Thailand and can be considered as the most vulnerable group of Rohingya in Thailand. Therefore, they are in the process of self-adaptation learning with the help from Rohingya network especially 'Old Rohingya'. Within the adaptation learning, they begin to join in the cycle of paying bribe to avoid the arresting from the police. The future of 'New Rohingya' tends to be more various and challenging than 'Old Rohingya'. As most of 'New Rohingya' are still young, so they still have the motivation to seek for the new opportunity in life includes applying for refugee status in abroad (where the opportunity is more possible than Thailand) and also continue to seek for job as the urban migrants in Thailand follow the step of what 'Old Rohingya' used to be.

For Rohingya trafficked persons, they are the group of Rohingya that Thai authority mostly recognized since the situation of boat people crisis in 2013 to 2015. On the other hand, Rohingya trafficked persons can also be recognized as 'New Rohingya' in some way, but they are regularly stay under Thai authority control with the proved status as the 'victims'. In this regards, Rohingya trafficked persons case is the new and most sensitive case for Thai authority. Consequently, they are detained and provided the regular basic needs with the restriction under Thai authority control. However, most of them have applied for refugee status and tends to resettle to a third country as this is the only durable solutions for them in the perspective of Thai authority. For the future of Rohingya trafficked persons, Rohingya who will be arrested by boat people will decrease as now the situation of human trafficking of Rohingya has been changed. The trafficker tends to change the route of boat to avoid going ashore at Thailand (National Human Rights Commission, Interview, 11 May 2016).

Rohingya displaced persons in temporary shelter as the last Rohingya group has the similar adaptation as 'Old Rohingya'. As most of Rohingya displaced persons used to live outside the temporary shelter as the urban migrants before voluntarily move to stay in temporary shelter along the border. Recently, there is a few Rohingya living in temporary shelter especially in Tak province as some of them can resettle to a third country by family reunification process and also some of them left from

temporary shelter to become permanent urban migrants in urban area. However, Rohingya who are still living in temporary shelter have prolonged on insufficient basic needs especially food and the lack of money and feel desperate to wait for the opportunity to resettle to a third country. Consequently, most of them still seek for job outside and plan for the life in the future in case of they will be officially rejected for refugee status. The future of Rohingya displaced persons is quite hopeless. The two ways for them is either forced to be urban migrants as some of them cannot meet the durable solution or prolong to live in temporary shelter with more desperate feeling. The current situation that Thai and Myanmar government try to discuss on the voluntary repatriate of Myanmar displaced persons and the possibility to close nine temporary shelters along Thai border affected directly to the rest of displaced persons who cannot repatriate and also cannot resettle to a third country easily like Rohingya.

Lastly, the future of all Rohingya groups in Thailand tends to be away from state responsibility in physical term. However, as the people who are not recognized by any state and without legal status, Rohingya people still struggles indefinitely in the future. Therefore, some of them tends to have the new strategy for adapting themselves to Thai community especially for 'New Rohingya' and also Rohingya who was born in Thailand as the new generation of Rohingya in Thailand who will challenge the existing legal implementation and also the norm of 'illegal migrants' in Thailand in the future.

### **6.3 Policy Recommendations**

From the general point of view, even though Thailand is not the signatory of the 1951 Refugee Convention and other Conventions regarding statelessness issue, Thai authorities still do not totally ignore the situation of Rohingya people who are within the Thai territory. Based on humanitarian actions, Thai authority shows the attempt to mitigate the Rohingya issue by providing the urgent action cooperating with NGOs and other international organizations. However, the limitation about legal implementation on Rohingya issue is still a big debate and a big concern especially that Thai Immigration Act B.E. 2522 section 22 states that 'illegal migrants' are not allowed to stay in Thailand (Thailand Law Forum, 2009). Thai Immigration Act B.E.

2522 should be reviewed and modified to the current situation not only for Rohingya people but all illegal migrants who enter Thailand to recognize other international laws regarding issues of persecution and conflict in the country of origins.

Another concerned issue about Rohingya is the possible durable solutions. For local integration, the situation of displaced persons in Thailand is quite impossible to integrate to Thai community (UNHCR, 2006, p. 39). As most of them are unable to meet the requirements for example even though there are a number of displaced person who are married to Thai people, but they cannot register their marriage certificate. This kind of situation also happens to Rohingya people especially among Rohingya urban migrants and displaced persons in temporary shelters. However, there is the possibility of *de facto* integration which might not secure in legal term, but at least these groups of Rohingya can survive.

Later, for the durable solutions of resettlement to a third country, as RTG and UNHCR prohibited the resettlement for Burmese displaced persons with the exception of two main cases includes urgent medical concern and family reunification in 2005, the possibility for displaced persons within nine temporary shelters in Thailand and also asylum seekers in urban area to resettle is gradually less (UNHCR, 2006, p. 40).

For the voluntary repatriation as the last durable solution, for Rohingya case, this alternative solution should not happen in the current situation as the civilian Burmese government still has not demonstrated a good sign on Rohingya issue in Rakhine State and more intensive Buddhist nationality still exists. Furthermore, Thai authority recently has not intended to force these Rohingya people back to their country of origins as they might be blamed by international community. However, recently, Burmese government shows some good sign for voluntary repatriation preparation of Myanmar refugees in Thailand back to their homeland through its cooperation with UNHCR by means of providing education, healthcare services, clean water, infrastructure and vocational training for the irregular migrants. However, there is still not the clear solution for Rohingya issue from the new Burmese government (BETA, 2016).

As a review to the possible durable solutions for the Rohingya people in Thailand, I argue that their possible durable solutions are quite limited. One of the

critical observation is the perception on Rohingya has been shaped in negative way from the conflict within Myanmar which can affect to the willingness of assistance provider or the state that Rohingya immigrate in. There is the fact that some of state recognized them as the 'problem' more than the 'desperate people' who state need to urgently take responsibility to relieve the deprivation. This also influence in the resolution on Rohingya issue in related states in this region includes Thailand that becomes reluctant and limited. However, apart from resettlement to a third country as one of the most desirable solutions of the Rohingya, *de facto* integration seems to be the next possible durable solution for them. However, this solution is especially applicable to 'Old Rohingya' people. On the other hand, as most of Rohingya urban migrants comprise the majority of Rohingya in Thailand, they still have the capacity to work as same as other migrants, so Thai authorities should reconsider to treat and count these Rohingya people as same as other Burmese, Laos and Cambodian migrants who can also contribute to the economic sector. This might be the win-win situation for both Thai government and Rohingya people in the end.

#### **6.4 Direction for Future Research**

As this Rohingya research was conducted in the short period of time, the limitations articulated in this thesis affect the manner by which the fieldwork findings came about. As the research might not be comprehensive enough to cover the insights that could have been gained from the perspectives of various generations and gender classifications of Rohingya living in Thailand, a continuing research under this topic should be further pursued. The future research on Rohingya issue in Thailand should balance the Rohingya people in various ages and gender to see the dynamics of the adaptation measures which significantly affect to the possibility of arriving to durable solutions to their issues. Additionally, the perspectives of Thai people or the people in the community where Rohingya people are living should also be captured as these would be interesting sources of information to provide more data for a much deeper analysis. Furthermore, the longer period of research conduct might allow the researcher to build trust with Rohingya people more intensively. This is very necessary and helps a lot in gaining deeper understanding of their situation which is not just only the fact about their profiles, but also the feeling and more open-minded

dialogue which also enhance the level of analysis of the research, thus making this thesis more interesting and insightful.







## APPENDIX A

### List of Interviewees in In-depth Interview to Rohingya Respondents

No	Name (Alias)	Sex	Age	Group	Place	Date of Interview	Remark
1	Aleeza	F	20	Urban migrants	Bangkok	8 May 2016	
2	Batin	M	30	Urban migrants	Bangkok	26 April 2016	
3	Fattah	M	49	Urban migrants	Bangkok	26 April 2016	
4	Hakim	M	50	Urban migrants	Bangkok	26 April 2016	
5	Aara	F	12	Urban migrants	Nonthaburi	29 April 2016	
6	Kareem	M	18	Urban migrants	Nonthaburi	30 April 2016	
7	Jabaar	M	30	Urban migrants	Nonthaburi	30 April 2016	
8	Altaf	F	48	Urban migrants	Nonthaburi	1 May 2016	
9	Kabir	M	51	Urban migrants	Nonthaburi	1 May 2016	
10	Lateef	M	55	Urban migrants	Nonthaburi	2 May 2016	
11	Hadi	M	62	Urban migrants	Nonthaburi	2 May 2016	
12	Aazim	M	64	Urban migrants	Nonthaburi	10 May 2016	
13	Maajid	M	40	Urban migrants	Mae Sot, Tak	17 May 2016	
14	Rafi	M	43	Urban migrants	Mae Sot, Tak	17 May 2016	
15	Samad	M	55	Urban migrants	Mae Sot, Tak	17 May 2016	
16	Afzal	M	52	Urban migrants	Mae Sot, Tak	17 May 2016	
17	Haleem	M	70	Urban migrants	Mae Sot, Tak	17 May 2016	
18	Kalil	M	41	Displaced persons	Mae Sot, Tak (from Nupo temporary shelter)	25 May 2016	By phone
19	Abbudin	M	40	Displaced persons	Mae Sot, Tak (from Umpiem temporary shelter)	3 June 2016	
20	Badee	M	50	Displaced persons	Mae Sot, Tak (from Umpiem temporary shelter)	3 June 2016	

## APPENDIX B

### List of Interviewees of Key Informants Interview

No	Position	Organization	Date of Interview	Remark
1	Program Assistant	IOM	22 April 2016	
2	Director	BRAT	24 April 2016	
3	Working group	Sheikhul Islam Office	27 April 2016	Interviewed by phone
4	Director	TCR	4 May 2016	
5	National Human Rights Officer	The National Human Rights Commission of Thailand	11 May 2016	
6	Former Deputy Secretary	Office of the National Security Council	12 May 2016	Interviewed by phone
7	Head of cooperation sector, Prevention and Suppression of Human Trafficking division	Prevention and Suppression of Human Trafficking division, Ministry of Social Development and Human Security	13 May 2016	
8	Director	National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province	16 May 2016	
9	Social worker	National Operation Center on Prevention and Suppression of Human Trafficking at Pathumthani province	26 May 2016	*Secondary source respondent for victims of human trafficking group
10	Officer 1	HRDF	17 May 2016	
11	Officer 2	HRDF	17 May 2016	
12	Officer 3	HRDF	19 May 2016	
13	Infantry Company Commander	The fourth Infantry Regiment Task Force, Mae Sot, Tak Province	17 May 2016	

### APPENDIX C

#### Sample Questions for Semi-Structured Question in In-Depth Interview to Rohingya Respondents in Four Different Circumstances in Thailand

Name .....Age.....

Gender..... Place of birth .....

#### Background

##### Interviewee

1. Where were you born?
2. When did you come to Thailand?
3. How did you come to Thailand? (Land route / Sea route)
4. Did you come to Thailand alone or with whom?
5. How long you have been in Thailand?
6. What was your occupation before moving to Thailand?
7. What is your occupation now?
8. Before living here, where do you live in Thailand?

##### Parents

1. Where are your parents now?
2. Where were your parents born?

##### Spouse

1. Are you single or married?
2. What is your spouse's nationality?
3. Where were your spouse born?

##### Children

1. Do you have children?
2. How many children do you have?
3. Where were they born?

## Statelessness

### Interviewees

#### Before entering to Thailand

1. Before entering to Thailand, do you used to have your ID card?
2. What is the nationality indicating in your ID card?
3. Does it can be used now?

#### After entering to Thailand

1. What legal document do you have now? (Ten years cards/ 30 baht cards/ UN cards/ Labor cards)
2. Which legal document that you still use it in Thailand now?

### Parents

1. Do your parents have ID card?
2. What is the nationality indicating in their ID card?
3. Does it can be used now?

### Spouse

1. Is your spouse living with you now?
2. Does your spouse have ID card?
3. What is the nationality indicating in your spouse's ID card?
4. Does it can be used now?
5. What legal document does your spouse has besides ID cards?  
(Ten years cards/ 30 baht cards/ UN cards/ Labor cards)

### Children

1. Are your children living with you now?
1. Did your children have birth certificate?
2. What legal document does your children has besides birth certificate?

## **Social Protection**

1. When you living in Thailand, What are the risks in your life? (Basic needs deprivation / safety)
2. How do you manage these risks?

### **1. Promotive measures (Social service)**

#### **1.1 Poverty**

- 1.1.1 Do you mind if I would like ask about your monthly income?
- 1.1.2 Is it enough for you and your family?
  - Yes / No
  - How do you do if it is not enough to live?

#### **1.2 Education**

- 1.2.1 Do your children attend to the school in Thailand?
- 1.2.2 What's kind of schooling?
- 1.2.3 Do you have to pay for your children's education fee?

#### **1.3 Medical health**

- 1.3.1 When you and your family are sick, do you go to the healthcare or hospital?
- 1.3.2 Have you pay medical cost by yourself?

#### **1.4 Property**

- 1.4.1 Where do you live now?
- 1.4.2 Is it your own house or rental house?

#### **1.5 General Security**

- 1.5.1 Do you feel free and safe when to go outside your house or go to others place in Thailand?

### **2. Preventive measures (Social insurance averts deprivation)**

- 2.1 Do you have any health insurance in Thailand?
- 2.2 Do you have any group fund in Thailand?

2.3 Do you have bank account in Thailand?

2.4 How often do you deposit your money into bank account?

**3. Transformative measures (equity, empowerment, social rights)**

3.1 Do you speak Thai fluently?

3.2 Do you have a good relationship to Thai people in your community?

3.3 Have you been treated in Thailand well?

3.4 Have you ever joined the activities in your community in Thailand?  
(festival, ceremony, religious activity, protest)

3.5 Are you Muslim? Yes / No

3.6 How often do you go to the mosque?

3.7 Do you feel free and safe when you go to the mosque?

3.8 Do the people in mosque be nice to you?

**4. Protective measures (Social assistance for guaranteeing the relief after deprivation)**

4.1 When in need, have you ever borrowed money?

4.2 Mostly, who or what sources do you borrow money?

4.3 If you have other problem such as health, property or security, who help you for this?

4.4 Do these sources of help regularly help you?

APPENDIX: D

The Documents of Rohingya 'Old Rohingya' Urban Migrants



APPENDIX: E

The Documents of Rohingya Displaced Persons in Temporary Shelter

**BEAN ONLY**

**UNHCR**  
United Nations High Commissioner for Refugees  
Haut Commissariat des Nations Unies pour les réfugiés

NI [redacted]  
Date: 27 JUL 2015

**REGISTRATION SLIP**

Bearer of this registration slip: (name) [redacted] Nationality: Myanmar is a person who has registered with UNHCR for admission as a refugee and admission to a camp on the Thai-Myanmar border under a system still determined by the Royal Thai Government. The bearer of this registration slip is expected to comply with Thai laws, rules and regulations.

Please refer any inquiries regarding this case to the Office of the UNHCR in Bangkok at the following telephone numbers.  
During office hours: 02-288-1204 or 01-914-7495 After office hours: 01-899-7617 (Emergencies only)

**บัตรลงทะเบียน**

ผู้ถือบัตรลงทะเบียนนี้ ชื่อ [redacted] วันเดือนปีเกิด 27 07 2015 สัญชาติ พม่า เป็นบุคคลที่ได้ลงทะเบียนกับสำนักงานข้าหลวงใหญ่ผู้ลี้ภัยระหว่างประเทศ (UNHCR) เพื่อการพิจารณาสถานะการพำนักถาวรและเข้าพักพิงในศูนย์ผู้ลี้ภัยข้ามชายแดนไทยพม่า ตามระบบที่รัฐบาลไทยจะพิจารณาต่อไป ผู้ถือบัตรลงทะเบียนนี้ต้องปฏิบัติตามกฎหมาย กฎระเบียบ และข้อบังคับของประเทศไทย หากมีข้อสงสัยประการใดเกี่ยวกับบุคคลผู้นี้ โปรดติดต่อสำนักงานข้าหลวงใหญ่ผู้ลี้ภัยระหว่างประเทศ กรุงเทพมหานคร ที่หมายเลขโทรศัพท์ดังต่อไปนี้

ในเวลาทำการ: 02-288-1204 หรือ 01-914-7495 นอกเวลาทำการ: 01-899-7617 (กรณีฉุกเฉินเท่านั้น)

**BEAN ONLY**

**RATION BOOK 2013**  
တာရီဒါလီတာအိန်ဒါလိကွေးနီဒ်  
ရိက္ခာခွဲတမ်းစာအုပ်

Camp	ခဲကစီး	စခန်း	UMPIEM MAI
Section	ကဝီဒု	ရပ်ကွက်	6
TBBC House Number	ဟံဒ်နီဒ်ဂ်	အိမ်နံပါတ်	58
Head of Household	ဟံဒ်နီဒ်ဂ်	အိမ်ထောင် ခေါင်းစဉ်	[redacted]
Ration Book Number	တာအိန်ဒါလိကွေးနီဒ်ဂ်	စာအုပ်နံပါတ်	RB/UMP/ 6-58

Household Information

Household Number: [redacted] Name: [redacted] Date of Birth: [redacted] Age: 40 Gender: M

Camp Address: [redacted]

#	CA#	Sex	Age	DOB	Marital Status	EDU	Ethnicity	Religion	Registration Date	Country of Birth
1	[redacted]	M	40	[redacted]	[redacted]	[redacted]	Rohingya	MUS	2014-01-01	MYS

**Verification Card**

[Chip]

**UNHCR**  
The UN  
Refugee Agency

**Signature or Sign of Holder**

[redacted]

**Serial Number**

[redacted]

[Barcode]



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## VITA

Angkana Kaewkuekoonkit was born in Chiang Mai Province and later on moved and grew up in Trang Province. She earned her Bachelor Degree in Political Science Program, International Affairs, at Thammasat University in 2014. After graduating, she began to work temporarily for the British Embassy in Bangkok. Before taking up her masters, she used to work with The International Rescue Committee Bangkok for one year, assisting mainly in refugees case processing. She got the scholarship from the PolSci-ASEAN-MAIDS program to study the post-graduate degree Master of Arts in International Development Studies in Chulalongkorn University for one year. Her research interest focuses on the issue of migration, Statelessness, refugee's protection and the Rohingya issue.

