

Rohingya crisis: A Global Anomaly

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Abstract

This article contends that the government of Myanmar has discriminated against the Rohingya people on purpose. Despite claims to the contrary by government and political leaders, the Rohingya have always been a part of Burma's culture and society. These policies of exclusion have resulted in the systematic marginalisation, persecution, denial of basic rights, and abuse of a certain population. Due to reluctance to sign the 1951 Convention and the absence of national legal frameworks in the majority of Southeast Asian nations, the Rohingya refugee protection space in the region has become extremely unstable. The government has shown no signs of ending the violence, despite calls for them to do so from the international community and local activist groups.

Keywords

Rohingya, Refugee, Citizens, Muslims, Justice, Human rights

Historical Genesis of Rohingyas

More and more people are being forced to leave their homes, and by 2015, 50 million people around the world had to do so (United Nations High Commissioner for Refugees [UNHCR],

2016). Asia is the third largest source of refugees, after Africa and the Middle East. Southeast Asia (SEA) is one of the places in Asia with the most refugees, and Myanmar is the country that transmits the one most (Ragland, 1994; Ullah & Hossain, 2005, 2011). By any measure, the Rohingya constitute one of the most vulnerable groups in the world (Equal Rights Trust, 2014; Institute of Human Rights and Peace Studies, 2014; Pugh, 2013; Ullah, 2014; Ullah, Hossain, & Islam, 2015). There are between 1 and 1.5 million Rohingyas in Rakhine State, Myanmar. Most of them live in Maungdaw, Buthid Aung, and Rathedaung, which are all in North Rakhine State (Equal Rights Trust, 2014). Discrimination and unequal treatment are at the heart of the human rights violations that this population group faces (Lowenstein, 2015).

The term "Rohingya" refers to the Muslim Arakanese people. There is still a Muslim village called Rohingya para in Akayab (Sittwe) city (Charney, 2005). Rakhine State was previously known as Rohang, from which the term Rohingya was derived. ¹ This terminology (Rohingya) is now politically charged. In Myanmar, two powerful groups have emerged: pro- and anti-Rohingya. According to the pro bloc, the Rohingyas arrived in Burma in the ninth century and have since mixed with Bengalis, Persians, Moghuls, Turks, and Pathans, reflecting the historically pluralistic population of Arakan State (Human Rights Watch, 1996; Zarni & Cowley, 2014). The latter believes that the Rohingyas are a modern construct made up primarily of illegal Chittagonian Bengalis who arrived as a result of British colonial rule (Human Rights Watch 1996; Zarni & Cowley, 2014). However, the term Rohingya has lost currency since the late 1960s because the government uses the term Bengali, which implies immigrant status. The Rohingyas, who are Muslim and ethnically distinct from the rest of Myanmar's ethnic groups, are not recognised as "citizens" of Myanmar. They are referred to as "resident foreigners." The 1982 Burma Citizenship Law classified citizens into three groups: citizens, associate citizens, and naturalised citizens. Citizenship status is accompanied by three color-coded citizenship scrutiny cards (pink, blue, and green, respectively; Human Rights Watch, 2009; Ullah, 2011, 2014).

Prior to 1962, the civilian government was led by Prime Minister U. Nu, a social democratic politician, and listed 144 ethnic groups in Burma. However, General Ne Win put only 135 groups on a short list, which was then approved by the constitution of his Burma Socialist Programme Party (BSPP) regime in 1974. (Charney, 2005). Myanmar purposefully excluded Rohingyas from the list of the country's 135 official ethnic groups in its census. ² One of the most compelling arguments advanced by Ne Win's government in support of the exclusion is that the citizenship law recognises as citizens those whose families had settled in the country prior to the country's independence in 1948. (Tran, 2015). Furthermore, some events rendered

someone to stateless, such as Operation Nagamin, which began in 1978 (Equal Rights Trust, 2014), when inter-agency teams of inspectors took away many Rohingyas' official documentation. Following that, the military regime enacted the 1982 Citizenship Law (Equal Rights Trust, 2014).

Persons who were citizens at the time the law went into effect would retain their citizenship, according to Section 6 of the 1982 Law. The law also established "Associate" and "Naturalized" citizenship, the former for those whose citizenship applications were being processed at the time, and the latter for those who are not citizens but can demonstrate that they and their forefathers lived in the country prior to independence (Equal Rights Trust, 2014). As a result, all Rohingyas who lived in Myanmar should have been able to retain/acquire Myanmar nationality, either under Section 6 of the Act, or as naturalised or associate citizens.

Despite the fact that most Rohingyas can trace their ancestors back to the colonial period, the vast majority have not been recognised as citizens due to a lack of adequate documentation. Those who qualified for citizenship under the 1948 law would no longer be eligible under the new legislation. As a result, if they applied for citizenship in 1948, they would be considered associate citizens (Human Rights Watch, 2009). To become a naturalised citizen, one must show proof that he or she (applicant or their parents) entered and lived in Burma prior to the country's independence in 1948. Before or after Burma's independence, Rohingyas were not subject to any laws relating to Foreigner Registration (such as the Foreigner Act [Indian Act III, 1846], the Registration of Foreigners Act [Burma Act VII, 1940], and the Registration of Foreigners Rules, 1948). During the colonial administration, Rohingya representatives from North Arakan were elected as Burmese nationals under national quotas. As an indigenous people, General Aung San promised Muslim Rohingyas full rights and privileges in 1946, stating that indigenous people should not be divided (Zaw, 2009).

Citizenship is a required category condition for claiming full rights entitlements in a sovereign state. According to Bosniak (2000) and Bloemraad, Korteweg, and Yurdakul (2008), theoretical constructions of citizenship include four primary dimensions of the concept: legal status, rights, (political) participation, and belonging. We will look at how Rohingyas fit into the category of citizenship. Establishing mono-religious nationalist ideology may be on the agenda, and ethnic cleansing is one method of achieving this goal (Pugh, 2013). The consequences of not having full citizenship are far-reaching. They are subjected to abuses such as restrictions on their freedom of movement, discriminatory access to education, forced labour, and arbitrary property confiscation.

Despite decades of military rule, Buddhist monks in Myanmar have held significant political sway and made important contributions to the country's religious landscape. Religion and the state had been the two most important institutions in pre-colonial Burmese society. But after gaining its independence in 1948, it saw a resurgence. The political relationship between the two countries has grown in importance as time has passed, even as the economic connection has been more vital.

Anti-Muslim riots are a subset of larger protests directed at foreigners more generally. The unemployed Burmese from the countryside who had migrated to the city were behind the riots in 1930 and 1938, which were sectoral in nature and targeted Indian harbour workers. As monks chanted "to be Burman is to be Buddhist," they added a touch of nationalism with the slogan "Burma for the Burmans" (Walton, 2013). Those random acts of violence against the Muslim population of Burma were taken to a new level in 1978 when the country's ruling military began a systematic campaign of killing, raping, and torturing Muslims (Ragland, 1994). Two waves of violence in 2012 between Shares the view and majority Buddha in Rakhine State sparked religious unrest across the country, ultimately killing over 200 people and forcing around 140,000 to flee their homes. As part of the violence that broke out that year, police in Rakhine opened fire on a mob of Rohingyas who were demanding the release of a Rohingya fisherman's body (Grieboski, 2013). There are currently around 500,000 Myanmar refugees living in neighbouring countries (UNCHR, 2014).

They have been backed into a social, financial, and political corner as a result of the deliberate isolation. This article argues that the Rohingya are denied citizenship in Myanmar in order to create a religiously homogeneous nation, and as a result, they are subjected to state-sponsored violence. Since the start of socialist rule in 1962, the idea has persisted that Myanmar is an independent country that gets by on its own resources by undermining its international relationships. This has made the country's rulers extremely reliant on the military to maintain their hold on power. They say they will keep using concerns about safety as a factor in policymaking. If the current political order is overthrown, the military brass is very worried about their own safety. By taking a pro-Buddhist stance, the State is presumably trying to legitimise its own military rule in Myanmar.

Dimensions of Injustices

The police, the military, and other authorities in the country of origin may abuse men, women, and children. When people are detained, their vulnerability to sexual violence and torture increases. Being stateless puts them at risk of sexual assault from a variety of sources, including

criminals, government officials, smugglers, and fellow refugees. Women and girls are often detained and abused by border patrol agents, while pirates kidnap women on boats and demand sexual favours in exchange for ensuring their safety and allowing them to continue their journey (Ullah, 2014; UNHCR, 2016). The female Rohingya refugees are no different. As women, refugees, and members of a cultural or religious minority, they are especially at risk for sexual and gender-based violence (Kojima, 2015). All people, regardless of their gender, sexual orientation, religious or political beliefs, age, race, creed, disability, geographic location, socioeconomic status, or any other distinguishing factor, should have access to and benefit from the community's resources (Brighouse, 2005) and human rights (Robinson, 2010). (Rawls, 1971; Stolte, 1987). Every account points to wrongdoing against the Rohingya people.

Social, economic, and political freedom is a cornerstone of justice (Rawls, 1971). Freedom and equality, as well as cooperative arrangements that help the less fortunate, are potent components of Rawls' theoretical framework. There are three main components that make up an acceptable political conception of justice (please see Figure 2). It is first figured out for society as a whole, including the interplay between social, economic, and political institutions. Second, the political outlook is portrayed as an independent perspective. Third, it expresses certain fundamental ideas that are thought to be inherent in the public political culture of a democratic society (Cohen, 1986). History of Rohingya deprivation is a history of injustice by any standard. The Rohingya have been persecuted by the Myanmar government, which has limited their rights to freedom of movement, assembly, and association, appropriated their land, demanded that they perform forced labour, and arbitrarily arrested and detained them (Human Rights Watch, 2013; Mathew & Harley, 2014; Ullah, 2011). The Rohingyas were effectively rendered stateless by the Myanmar government in 1982 thanks to the country's Citizenship Act (Ullah, 2013). While many people around the world have been forced to flee their homes, the vast majority of refugees have not been stripped of their citizenship. They are understandably worried about facing persecution if they try to return home. The Rohingya, on the other hand, are the ones who are stateless and without citizenship. Recent maritime movements pose significant challenges to governments of both sending and receiving countries in meeting their international obligations to ensure that those in need have safe and legal access to protection and asylum. The Rohingya have no rights because they do not have a legally recognised status.

Rohingya "white card" holders in Myanmar have lost the right to vote. If you haven't yet been confirmed as a citizen, associate citizen, naturalised citizen, or foreign national, you may be eligible for a "white card," a special form of identification. That person could be a native-born citizen or a foreign national.

In the beginning, only people who had a white card could cast a ballot. When parliament finally passed the bill in 2014, however, the controversial provision was struck (Myint, 2015).

A recently passed law exemplifies the State's systematic discrimination against women and people of colour. There are four laws in this package that limit personal freedoms related to making reproductive, religious, and marital decisions (the state regulates marriage of Buddhist women to non-Buddhist men while polygamy practised by non-Buddhist persons is criminalized; Kojima, 2015).

The persecution of the Rohingya people is not a passing trend; rather, it has evolved into a systemic policy. Legislative measures that unfairly target and silence the Rohingya community have supplemented the state's violent crackdown. The government's decision to cut off financial aid to the Rohingya minority was supported by some Buddhist clergy members leading anti-Muslim campaigns. This has made it very challenging for them to make a living.

Rohingyas were forced to leave their homeland in search of safety and security after being subjected to persecution and deliberate isolation on political, economic, and social fronts. They tend to travel to neighbouring countries, particularly Thailand and Malaysia. Getting to those nations is also a major challenge for them. Tragic abuses befell them on the road. Human traffickers preyed on them because they were helpless. In addition, the Rohingyas had to travel through far southern Thailand, an area where the Thai military has been fighting a Malay-Muslim insurgency. As a result of the insurgency, many Thai security officials' attitudes toward southern Thailand's Muslim population have become increasingly negative (Sathian & Derin, 2006). The Thai military's suspicion that some Rohingyas might join the uprising was easy to extrapolate to that group.

Each Rohingya woman is only allowed to have two children, and men are not allowed to marry Buddhist women. When compared to men, women are easier targets for violent acts. Nay-Sat Kut-kwey ye (NaSaKa), a Myanmar border security force made up of police, military, intelligence, customs officers, and riot police, targets them for sexual violence in their home country. Smugglers and the local population in the destination country also become targets. Human traffickers kidnap Rohingya women, hold them in slave camps in Thailand and Malaysia, and sexually assault them in groups (Iaccino, 2015).

Responses from the International Community

Let's shift our attention to how Rohingyas fit into the definition of "refugee" as established by the United Nations Convention of 1951. In order to better organise refugees' rights on a global

scale, the 1951 Convention consolidated and codified earlier international instruments dealing with refugees.

The focus of this definition is on safeguarding people from persecution, whether that be at the hands of the state or of other groups. Despite the 1951 Convention, most countries that have taken in Rohingya refugees have not ratified it. The only two Southeast Asian countries that are signatories to the 1951 Refugee Convention are Cambodia and the Philippines. Ironically, these countries have a lower chance of receiving them due to their location. This suggests that these nations are not legally obligated to help refugees and lack the administrative structures in place to do so. The principle of non-refoulement established by customary international law states that states may not return asylum seekers to their country of origin.

Despite occasional public attention, Myanmar's mistreatment of Rohingyas has persisted as a hidden sideshow, fueling a brutal system of human trafficking and preventing the Rohingyas, the most brutalised ethnic minority in Asia, from seeking political asylum abroad (Ramendran 2015; Ullah 2011; UNHCR 2015). As a signatory to the Genocide Convention of 1948, Myanmar is bound to take similar measures to deter and punish those responsible for genocide (United Nations, 2016). Because of this, the Rohingyas have no choice but to seek refuge in other nearby countries.

Human Rights Watch and the International Criminal Court are just two of many international organisations that have ratified treaties meant to safeguard basic human liberties around the world. Genocide, war crimes, and crimes against humanity have all been committed historically and in many parts of the world. Extreme brutality against humanity can be seen in the Nanjing Massacre of 1937, the Rwandan Genocide of 1994, and the violence against East Timorese in the 1990s. There was still no explanation for why those responsible for the genocide against the Rohingyas were not brought to justice.

As a result of Southeast Asian countries' hesitance to sign the 1951 Convention and the absence of national legal frameworks, the amount of safe haven available to Rohingya refugees has shrunk to dangerously low levels. As a result of concerns that an increase in the number of refugees arriving on their territory would place an undue financial burden on their government, these nations have refrained from signing the 1951 Refugee Convention and its 1967 Protocol (Ullah, 2008, 2013). The Rome Statute that established the ICC ensures that those responsible for crimes against humanity are brought to justice no matter how high up in society they may be.

Myanmar needs a stronger separation of executive and judicial powers if it is to improve its human rights record. The fact that Myanmar is not a Rome Statute signatory does not mean that those responsible for human rights violations there are immune to prosecution. With certain restrictions, the Rome Statute's Articles 13(b) and (c) allow the International Criminal Court to exercise jurisdiction over states that are not Parties to it (Davies, 2009; Prevent Genocide International, 2000). In accordance with Article 13(c), the ICC Prosecutor may launch an independent investigation if relevant information from parties to the proceedings, such as the UNHCR, is made available.

Similar to what happened in Darfur in Sudan and Libya, both of which are not parties to the Rome Statute, the UNSC may refer the situation in Myanmar to the ICC under Article 13(b) of the Rome Statute (Prevent Genocide International, 2000; Ullah, 2014). The effort to seek justice for the Rohingyas through the ICC, however, must not be vetoed by any of the "big five" members of the UN Security Council (China, the United States, Russia, France, and the United Kingdom) in the United Nations Security Council. This is a legally viable long-term solution that the international community can consider to alleviate the Rohingyas' suffering.

Conclusion

The problems experienced by the Rohingya in Burma can be traced back to the time period when the country was under British colonial rule. The Rohingya have likely been in Burma for many years, as their history there spans many generations. In spite of the fact that many Rohingyas the researcher interviewed had left Myanmar for other countries (such as Thailand, Bangladesh, and Malaysia), their minds and hearts remained in Myanmar. No one could ever consider abandoning Earth. Several hundred Indians and Muslims were killed in Burma during the anti-Indian (and anti-Muslim) riots in 1930–1931 and 1938. In the name of the "Burma for Burmese only" campaign, Buddhist extremists systematically burned down mosques and other Islamic institutions. About one hundred thousand unarmed Muslims were slaughtered by armed Rakhine in collusion with Burmese nationalists in April 1942 (Shi, 1961). Politicians, it is argued, actively pursue racist and xenophobic strategies to eliminate or otherwise oppress minorities. In 1982, the former generals of Burma used Muslim prejudice to pass the oppressive Citizenship Law (Smith, 1995).

This population segment may pose a security risk to the surrounding area because they lack a valid nationality. From what we can tell, their current predicament violates even the most basic human rights. Neighbouring countries, the Association of Southeast Asian Nations (ASEAN), and the international community all need to back any political solution. Although their aid to

Rohingya refugees has been controversial, Thailand and Malaysia have been providing it. The Rohingya crisis was largely caused by Myanmar, but the appalling treatment of refugees in host countries must end immediately.

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