



Addressing Allegation of Ethnic Cleansing of Native Muslim Populations in Myanmar

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Introduction

The ongoing human rights violations against the ethnic Rohingya presents a crisis of international concern. Rejected by the Buddhist majority of Myanmar, the Muslim Rohingya people have been subject to military attack, with innumerable reports of atrocities. Over 2 million ethnic Rohingya have been forced to flee Myanmar since 2013. Since the most recent exodus began on 25 August 2017, hundreds of thousands have been forced to flee, becoming international refugees. 742,000 have gone to neighboring Bangladesh since then, where now a total of 1.1 million, mostly from Myanmar's Rakhine state, now live in Bangladesh refugee camps. Other groups have been sent to camps in other countries along the Indian ocean, notably Pakistan and Saudi Arabia.¹

The humanitarian crisis which continues to spread in Myanmar and follows the refugees through the Indian Ocean region. The situation been widely condemned as a gross violation of human rights. The fact that the military and Buddhist vigilantes have ransacked villages, stabbed and shot people, and burned their homes is indicative of a mounting crisis, which if unabated, has the potential to escalate into a full-blown war.

The main challenge for the UN system, is that despite numerous attempts to intervene, the Myanmar government uses its sovereign rights to deny access to human rights investigators, rendering the current situation difficult to assess, and

blocking international action within Myanmar.²

While many UN Member States focus on the humanitarian crisis and the need to help the Rohingya, other member States are more concerned with supporting state sovereignty and the right of states to run their own domestic affairs without international interference. International law is tested by the situation, as humanitarian norms clash with sovereign principles.



Figure 1: Myanmar and Rakhine state, homeland of the Rohingya people

There have been alleged crackdowns by the Myanmar government not only on human rights defenders but also on journalists and critics of the Myanmar

¹ (Office of the High Commissioner for Human Rights 2020) Estimates dated September 2020; and 'Rohingya emergency', UN High Commissioner for

Refugees, 2019, <https://www.unhcr.org/en-us/rohingya-emergency.html>

² (Office of the High Commissioner for Human Rights 2017)

government and the army.³ For the population which remains in Rakhine State, living conditions are poor, worsened by segregation and discrimination.

The United Nations has been limited in its ability to respond. Individual UN agencies, led by the UN High Commissioner for Human Rights (UNHCR, the UN refugee agency), has led international responses. But the Security Council has been blocked from direct action against Myanmar, stopped by China, and to a lesser degree Russia, which threaten to use their great power vetoes to protect the Myanmar government.

As a result, the UN acts mostly in its capacity as mediator by advocating for the resolution of the crisis through ongoing talks between Myanmar and Bangladesh. Further, the UN actively runs the refugee camps in Bangladesh⁴ by providing food, healthcare and basic facilities like community toilets and drinking water. Most of the approximately one million Rohingya refugees live in five camps covering an area equivalent to one third of Manhattan.⁵

Figure 2 illustrates the distribution in the refugee camps in Bangladesh.

Background

At the 36th session of the Human Rights Council, former UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, in his opening statement, remarked that the situation in Myanmar appeared to be a 'textbook example of ethnic cleansing.' This came after a widespread pattern of gross violations of the human rights of the Rohingya was witnessed, implying systemic attacks against the community. In 2017 alone, over 270,000 people fled to Bangladesh in less than three weeks, escaping brutal security operation by Myanmar authorities in the Rakhine State. It was reported that this highly disproportional

operation, with no regard for basic principles of international law, was a retaliation to attacks by militants on August 25 against thirty police posts.

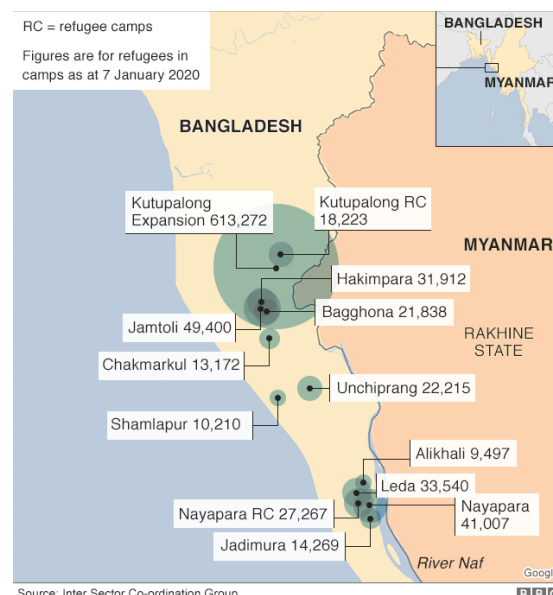


Figure 2: Rohingya refugee sites in Bangladesh

To further exacerbate the crisis, the Myanmar army reportedly has planted landmines along the border with Bangladesh and denied returnees access to the country unless they provided 'proof of nationality', a right which successive governments have stripped the Rohingya Muslims of, since 1962.⁶ This has led to a huge strain on camps in Bangladesh where they seek shelter. Available land in the Ukhiya and Teknaf areas has since become squatters' territory with makeshift shelters mushrooming along the road.⁷

The 2019 UN Joint Response Plan (JRP) for Rohingya Humanitarian Crisis was established to cover all humanitarian sectors and address key cross-cutting issues, particularly protection and gender mainstreaming.⁸ The JRP defines 'affected populations' as the entire population

³ (Office of the High Commissioner for Human Rights 2020)

⁴ (Reuters/McPherson/Paul/Naing 2020)

⁵ (Reuters 2020)

⁶ (Office of the High Commissioner for Human Rights 2017)

⁷ (The New York Times 2017)

⁸ (UNHCR 2019)

impacted by the crisis, including host communities, and *'target population'* as those people in need who are specifically targets of support interventions and assistance activities contained in the plan.⁹

Of the 1.2 million Rohingya people classified in need of humanitarian assistance 55 percent were children below 18 years of age, while 41 percent were adults aged between 18-59 years. Notably, the refugees comprise mostly women and children. Of the adult population, the number of women was 281,900. In the same year, an estimated \$ 920.5 million was required to maintain priority sector response efforts in Food Security (\$255M), WASH (\$136.7M), Shelter (\$128.8M), Site Management (\$98.7M), Health (\$88.7M), Protection (\$85.9M), Education (\$59.5M) and Nutrition (\$48.1M) among others.¹⁰

Much as the situation has gradually stabilized, the 1.1 million stateless

Rohingya residing in Bangladesh remain in a precarious situation. The causes of their plight in Myanmar remain unaddressed and their future prospects appear bleak. Their immediate humanitarian needs are further compounded by extreme post-displacement traumas as a result of the *'scale, brutality and systematic nature'* of physical, emotional and psychological gender-based assaults experienced in Rakhine State. The overcrowded refugee camps also lie in an area prone to natural disasters and severe weather events, necessitating a reinforcement of effective disaster response, mitigation and contingency planning mechanisms by the Bangladesh government.¹¹

One of the poorest countries in the world, Bangladesh is greatly taxed by the crisis, depending on international assistance, and hopeful a way can be found for the refugees to return to Myanmar.



Figure 3: Rohingya refugees cross Naf River¹²

⁹ (Strategic Executive Group and Partners 2019) p. 4

¹⁰ Ibid. p. 9

¹¹ Ibid. pp. 10-14

¹² (UNHCR/Andrew McConnell 2017) Picture Credit

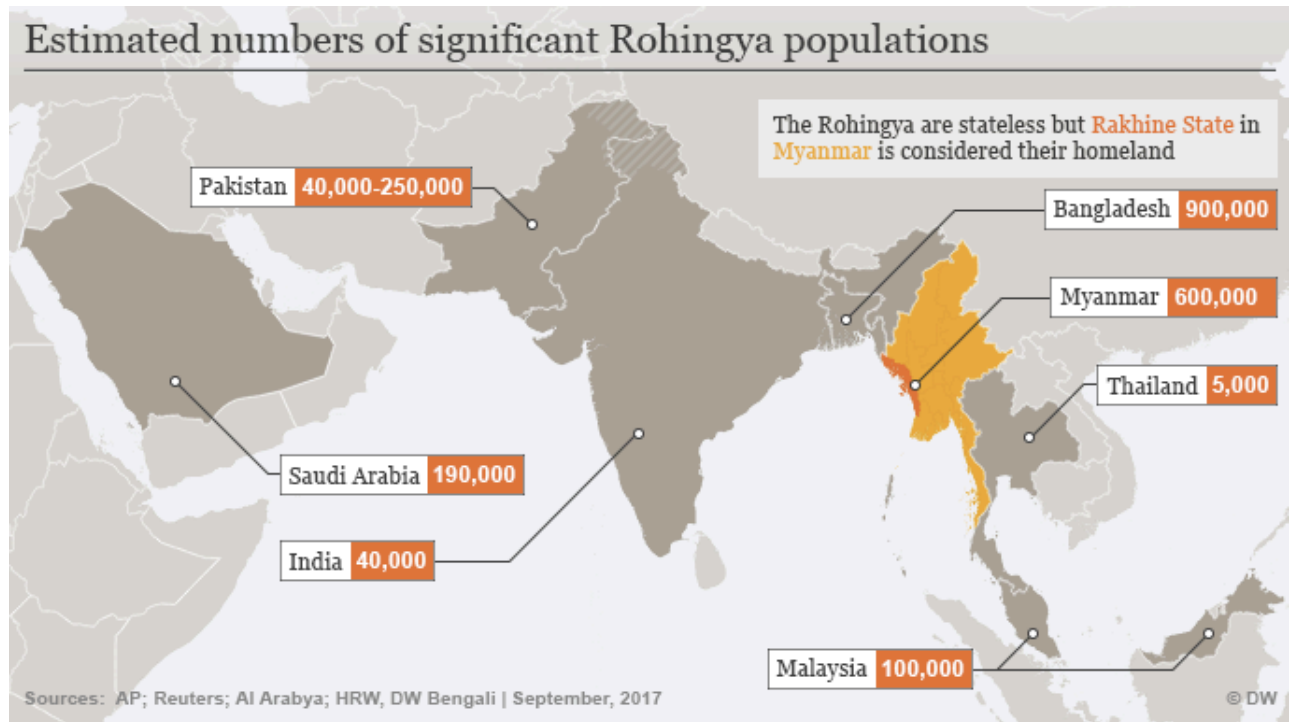
Current Situation

Myanmar’s official position, widely supported by the country’s Buddhist majority, is the Rohingya are Muslim migrants from the Indian sub-continent and not one of the country’s ethnic groups. This allows Myanmar to deny them citizenship. The implied expectation is that the refugees accept their fate, stay in their host countries, and drop demands for reinstatement of their citizenship rights. Therefore, much as Myanmar authorities have expressed intent to repatriate the refugees, the government has yet to put in place the conditions necessary to ensure their security, safety and wellbeing upon return. It follows then that the Rohingya refugees feel that the Myanmar authorities are unwilling to solve their problem.¹³

UN investigators have warned that for the hundreds of thousands of refugees who remain in Myanmar, *‘there is a serious risk that genocidal actions may occur or recur.’*¹⁴ Most are confined to camps and villages with no access to healthcare and education. They also are constantly caught up in recurring fresh fights between government troops and ethnic militants mostly of majority Rakhine Buddhists, hence very insecure living conditions.¹⁵

The leading actors include the host country Myanmar, neighboring countries Bangladesh and China, local human rights organizations such as the Organization of Islamic Cooperation and the Asia Pacific Refugee Rights Network (APRRN), and the United Nations.

Figure 3: although dated (2017), this map provides a helpful picture of countries that have accepted large number of Rohingya refugees



¹³ (Reuters/McPherson/Paul/Naing 2020)

¹⁴ (BBC News 2020)

¹⁵ (Reuters/McPherson/Paul/Naing 2020)



Role of the United Nations

The United Nations has been present in Myanmar since the 1950s, providing humanitarian assistance and working directly with affected communities and individuals. However, after the events of August 2017, through consecutive mediators, the UN's main goal has been to assist in bringing an end to the long-festering civil war and to promote democratization.¹⁶

Other arms of the United Nations invested in Myanmar and neighboring Bangladesh include the Security Council, the Office of the High Commissioner of Human Rights, Human Rights Council, the UN Office of the Coordinator for Humanitarian Affairs, Special Representatives of the Secretary General and multiple programmes and agencies comprising the country team.¹⁷

The UN Security Council

The 2019 UN-commissioned report on the involvement of the UN in Myanmar from 2010-2018 by Rosenthal noted the absence of the support of the Security Council, which is mostly held back due to its composition and system of governance. Whereas members of the Security Council visited Bangladesh and Myanmar in April 2018 to gather first-hand information on ground, much resistance was experienced by the Presidents of the Council to issuing a Presidential Statement or even a resolution reflecting the outcomes of the Council's visit.¹⁸ The implication is that there is more that can be done by the Security Council that has yet to be done and the silence is conspicuously deafening.

Office of the High Commissioner of Human Rights/Human Rights Council

Annual Resolutions by the Human Rights Council and the General Assembly have conveyed grave concerns for the human rights situation and have also provided recommendations for Myanmar to adhere to its international obligations. In desiring that more be done to mitigate the crisis, the Human Rights Watch proposes that the Human Rights Council be more explicit in pressing the Security Council to be more active on the Myanmar file.¹⁹

Special Representatives of the Secretary General

The involvement of Special Representatives of the Secretary General on sexual violence and armed conflict, on children and armed conflict and on Genocide²⁰ provided a more robust position to address and mitigate and put an end to the violation of basic human rights in Myanmar.²¹

Limitations of the United Nations

The United Nations is currently limited in what it can achieve in Myanmar due to lack of more strategic, cohesive and sustained action by UN bodies in New York and Geneva. The Rosenthal-led report cited five elements that contribute to the systemic and structural shortcomings of the United Nations' presence in Myanmar, four of which are highlighted in this brief. The first element is insufficient inter-governmental support. The stark divisions between different parts of the UN system and among the five permanent members of the Security Council regarding Myanmar, point to a lack of required collective political support by UN membership necessary to pursue a more robust plan of action to address the events in Rakhine State.²²

Secondly, there's absence of a clear and unifying strategy at the very highest levels of management of the United Nations. For

¹⁶ (Rosenthal 2019) p. 9

¹⁷ Ibid. p. 10

¹⁸ Ibid. p. 18

¹⁹ (Human Rights Watch/Param-Preet Singh 2020)

²⁰ Ibid. p. 10

²¹ Ibid. p. 15

²² (Rosenthal 2019) p. 17



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instance, in 2016, competing strategies between the Deputy Secretary General who favored a more vigorous posture in addressing the Rohingya crisis, and the Special Adviser on Myanmar who pushed for quiet diplomacy to exert pressure on the host government proved difficult to reconcile.²³

The lack of a nodal for coordination was cited as the third element limiting the UN's role in the crisis. This is attributed to the weakness of the organizational architecture which is deficient in its capacity for coordinated policy. Further, was the dysfunctional actions of the UN's country team, which was previously appointed to take over developmental roles in the host country. When the humanitarian crisis against the Rohingya, with strong political overtones struck, the country team was ill-equipped for this leadership role at the time.²⁴

Landmark UN Resolutions

Myanmar has been on the agendas of the General Assembly and of the Council of Human Rights since 1992 and 1993 respectively. There have also been periodic reports from a succession of special rapporteurs on the situation of human rights in the country and, until 2016, annual reports from the Secretary General on the implementation of each of the resolutions adopted.²⁵

General Assembly Resolution 74/246

The adoption of Resolution 74/246 by the General Assembly on 27 December 2019 reaffirmed UN's commitment to the situation of human rights of Rohingya Muslims and other minorities in Myanmar. The resolution was adopted by a vote of 134 in favor, 9 against and 28 abstentions. The preambular and the operative paragraphs reflected collaborative efforts of UN bodies in fact-finding and humanitarian assistance despite

Myanmar's decision to discontinue cooperation with the Special Rapporteur, denying her access to the country since January 2018.²⁶

Security Council Resolution 2467 (2019)

The adoption of the landmark UN Security Council Resolution 2467 (2019) in April 2019 was critical in protecting women's rights in war torn countries and in paving way for the rise to leadership roles of women in post-war situations, such as the Rohingya crisis.

Paragraph 20 particularly '*Encourages concerned Member States and relevant United Nations entities to support capacity building for women-led and survivor-led organizations and build the capacity of civil society groups to enhance informal community-level protection mechanisms against sexual violence in conflict and post-conflict situations, to increase their support of women's active and meaningful engagement in peace processes to strengthen gender equality, women's empowerment and protection as a means of conflict prevention...*

With a total voting membership of 15, the resolution was adopted by a vote of 13 in favor, 0 against and 2 abstentions.²⁷

Security Council Resolution 2532 (2020)

Putting aside its differences, on 1 July 2020, the Security Council unanimously adopted Resolution 2532 demanding '*general and immediate cessation of hostilities in all situations on its agenda for at least 90 days, to enable safe, unhindered and sustained delivery of humanitarian assistance by impartial humanitarian actors, in accordance with humanitarian principles of humanity, neutrality, impartiality and independence.*'

The resolution was adopted unanimously, 15 in favor. This was possible because the

²³ Ibid. p. 19-20

²⁴ Ibid. p. 21

²⁵ (Rosenthal 2019) p. 9

²⁶ (United Nations General Assembly 2020)

²⁷ (United Nations 2019)



resolution did not demand action involving Myanmar, except to end any fighting. Myanmar was not asked to help and international investigation, to take back the refugees or offer them restitution.

Country and Bloc Positions

Asia Pacific: An urgent statement to end pushbacks of Rohingya refugees was issued in April 2020 by the Asia Pacific Refugee Rights Network (APRRN), condemning Malaysian and Thai authorities for allegedly disallowing the disembarkation of a fishing trawler with almost 200 Rohingya aboard, after at least 28 individuals reportedly died over the course of the journey. The statement further added that both Malaysia and Thailand are obligated under customary international law to adhere to the principle of non-refoulement which protects from return any individual seeking asylum at risk of persecution. The APRRN commended Bangladesh for eventually rescuing the boat and reiterated that *‘Bangladesh must not be left alone to host and provide protection to Rohingya refugees.’*²⁸

China: At the UN General Assembly on November 02 2017, Counsellor of the Chinese Mission to the UN, in representing a shift from China’s previous low-key approach, stated that, *‘China advocates the establishment of a new type of international relations based on mutual respect, fairness, justice and win-win cooperation, and the building of a community of shared future for mankind. This concept serves as an important guide to the improvement of the global effort to address the refugee problem.’* Further, China has formed partnerships with various international organizations to channel Chinese aid. This aid includes China’s humanitarian

assistance to Rohingya refugees, as well as emergency material aid and construction of facilities in Bangladesh.²⁹ China usually defends its clients, the government of Myanmar. It will permit some criticism, but not action against the government of Myanmar.

In October 2020, The United States, the United Kingdom, the European Union, and the United Nations High Commissioner for Refugees brought the international community together at a virtual conference to address the Rohingya crisis, three years since its occurrence. The position statements made by their chief representatives at the conference are outlined hereunder.³⁰

European Union: Janez Lenarčič, European Commissioner for Crisis Management, said: *“The Rohingya refugees have the continued full support from the EU at this critical time. Humanitarian partner organisations on the ground and host communities have responded with true solidarity to the plight of the Rohingya refugees. We are committed to step up our support to pledge further humanitarian, development and stabilisation assistance. The international community must strengthen its shared efforts towards reaching a sustainable solution – one that cultivates conditions for voluntary, safe and dignified return of Rohingya refugees.”*

United Kingdom: The UK’s Foreign Secretary Dominic Raab said: *“The Rohingya people have faced horrific brutality and were forced to flee their homes in the worst circumstances imaginable. We have taken action against the architects of this systemic violence, including through sanctions and we will continue to hold those responsible to account. The UK has also been a leading donor since 2017 to alleviate humanitarian suffering of the Rohingya. The world must*

²⁸ (Asia Pacific Refugee Rights Network/Rachel Tan 2020)

²⁹ (Song 2018) pp. 687-688

³⁰ (U.S Department of State 2020) Office of the Spokesperson



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wake up to the severity of their plight and come together now to save lives.”

United States: Under President Trump, the United States did not seek aggressive action on behalf of the Rohingya. It sought humanitarian assistance only. Stephen E. Biegun, U.S. Deputy Secretary of State, said: “The United States is proud to stand with the UK, the EU, and the UN High Commissioner for Refugees as partners in leading this call to sustain the international crisis response to assist Rohingya refugees and other displaced people, as well as strengthen investment in affected host communities. As the world’s most generous donor, we are a catalyst for the international humanitarian response and call on others to contribute to this cause – both longstanding partners as well as new and aspiring donors.”

US policy can be expected to become more assertive on these issues under the Biden Administration. Whether this will include aggressive action to try to force Myanmar to return its Rohingya refugees, offer them reinstatement and security guarantees, is hard to say.

Proposals for Action

Calls for accountability: The Human Rights Council, the UN General Assembly and the international community have on several occasions called for the Government of Myanmar to be held accountable for human rights violations. There have been ongoing efforts to record and preserve evidence of violence and war crimes by perpetrators since the genocide of the Rohingya in 2017. Human rights organizations in Myanmar are also calling on the international community to refer Myanmar to the International Criminal Court (ICC) or to establish an ad-hoc tribunal, with the aim of securing justice

for the affected Rohingya Muslims and other ethnic minorities.³¹

Sustained Humanitarian Assistance: The UN encourages the international community to assist Bangladesh in continued provision of humanitarian assistance to Rohingya refugees until such time as they are safely repatriated to Myanmar in dignity. The UN also calls for similar continued assistance for Myanmar’s internally displaced, including those in camps for internally displaced persons within Rakhine State.³² The UN has appealed for more than \$1 billion in aid to meet the humanitarian needs of Rohingya refugees in Bangladesh this year, but so far less than half has been contributed. The COVID-19 pandemic has brought with it widening of the funding gap, with 2020 budgetary targets not being met.³³ There is need to raise funds urgently to meet the needs of the Rohingya refugees. As usual in international action, finding necessary funding will not be easy.

Effective participation of the Rohingya refugee community: Calls for support for inclusion of the refugee community in decisions that affect their lives are part of the main agenda of humanitarian actors. Empowerment of affected women to roles of leadership will amplify their presence and minimize disproportional allocation of necessary resources.³⁴ This is supported by [UNSCR 2467\(2019\)](#) and the more recent and unanimous [UNSCR 2532\(2020\)](#).

Usually, calls of political inclusion are directed at the government of Myanmar. In addition, should the refugees gain political rights in their new countries of residence? They may be there a very long time, and some or complete political rights might be in order. The latter might not be politically popular in their host countries.

Delay and inaction: For many UN Member States, led by China, the most appealing action often is no action. They fear any

³¹ (Office of the High Commissioner for Human Rights 2020)

³² (United Nations General Assembly 2020)

³³ (U.S Department of State 2020)

³⁴ (UNHCR 2019)



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action will set a precedent for intervening in the domestic affairs of states, a precedent which might someday be used against them. Some have minorities they struggle with, like China with its Uighur minority, a Muslim ethnicity in its far west. Others just want to strengthen national sovereignty, to ensure international humanitarian norms and principles cannot be used to reduce their freedom. For these states, the best action often is no action. Alternatively, they might support additional help for refugees and the countries that host them.



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