

The Unknown Fate of the Stateless Rohingya

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Abstract

This article outlines the plight of the Rohingya people in Northwestern Burma. It presents recent events and analysis following violent clashes between the Muslim Rohingya in Burma, the Buddhist Rakhine population and government security forces. The Rohingya have historically been marginalised and persecuted by the previous military junta and live a dismal existence both in Burma and in refugee camps in Bangladesh. This article raises the question of whose responsibility it is to protect the Rohingya and puts forward recommendations for Burma, Bangladesh, UNHCR, ASEAN, and the international community to support and repatriate the existing refugees in Bangladesh.

Introduction

The Rohingya in northwestern Burma are described by Medecins Sans Frontiers (MSF) and the Office of the United Nations High Commissioner for Refugees (UNHCR) as one of the most persecuted people in the world. The generic term 'Rohingya' has been used to refer to Sunni Muslims living in the former Arakan State, designated the Rakhine State in 1989. According to the United Nations, there are approximately 800,000 Rohingya in Burma. They are officially stateless, disowned by Burma and shunned by Bangladesh, and their struggle has been one of the most under-reported humanitarian crises in the world. Even today, it is practically ignored by the international media and community (MSF 2010). In this paper, we will discuss the current situation of Rohingya in Burma and in Bangladesh with a view to addressing the issue of their citizenship and protection. We will provide recommendations for Bangladesh, Burma, UNHCR, the Association of Southeast Asian Nations (ASEAN), and the international community in order to protect the Rohingya.

In June 2012, the quasi-military government of Burma declared a state of emergency following clashes between Rakhine Buddhists and Rohingya Muslims in northwestern Rakhine state. The violence erupted after three Muslim Rohingya men were accused of the rape and killing of a Rakhine Buddhist woman. The conflict has been one of the deadliest communal clashes in years and further questions the fate of the Rohingya in Burma. Following the declaration, the military proceeded to commit acts 'of violence and other human rights abuses against the Rohingya including killings and mass scale arrests of Rohingya men and boys in North Rakhine State' (Refugees International 2012). Amnesty International has shown how both government security forces and the ethnic Rakhine have been implicated in the violence, which includes killings, rape, and physical abuse (Amnesty International 2012). Furthermore, security forces are turning a blind eye to the violence, arresting Rohingya without cause, and driving them from their homes. Thousands of homes and businesses have been burned on both sides. Both sides have engaged in violence against each other. Eighty people are reported dead and more than 100,000 Rohingya have been displaced and are in a 'desperate' situation (Hindstrom 2012). In July, Refugees International and the Equal Rights Trust formed a coalition of 58 organizations who condemned the targeted attacks launched by state authorities.

When Burma gained independence in 1947, the Rohingya were not formally recognized as one of the country's official ethnic groups. They were excluded from both full and associate citizenship and the 1982 Citizenship Law of Myanmar (Burma) legalised their statelessness. They

are subject to persecution, discrimination, extortion, restriction of movement, land confiscation, and lack residence rights. By law, they must pay for travel permits to visit neighbouring villages and are not permitted to travel beyond three townships. The Rohingya have limited access to secondary and tertiary education and other public services. In addition to discrimination and intense restrictions, they face extreme poverty and lack development initiatives (Raglan 1994).

Recently monks instrumental in advocating democracy released statements urging locals not to associate with the Rohingya. The monks have reportedly blocked humanitarian aid to several camps in Burma. This and the anti-Rohingya stance of some members of the democracy movement have drawn sharp criticism from observers. According to the Independent, ‘some monasteries in Maungdaw and Sittwe sheltering displaced Rakhine people have openly refused to accept international aid, alleging that it is “biased” in favour of the Rohingya’ (Hindstrom 2012).

Rohingya in Bangladesh

Recurring ethnic violence since 1991 has pushed upwards of 250,000 Rohingya into Bangladesh, where they live in squalid conditions with little to no access to health care or education. Despite being a signatory to a number of international treaties, including the Universal Declaration of Human Rights, the Convention Against Torture, and the International Covenant on Civil and Political Rights, Bangladesh has repeatedly ignored its associated obligations and the principle of *non-refoulement*. Asylum is critical for the high number of Rohingya refugees who have been forced to flee armed conflicts and widespread human rights abuses (Raglan 1994).

Bangladesh has repeatedly refused to recognise these Rohingya as refugees and will not grant them citizenship. An unprecedented humanitarian crisis has existed in the unofficial camps for years. Refugees in these camps are forced to live as undocumented migrants, vulnerable to ill health, exploitation and abuse. MSF reports that malnutrition and mortality rates are past emergency thresholds and the required minimum access to safe drinking water, sanitation, and medical care is lacking. However the Bangladeshi government prevents the international community from assisting what it calls ‘illegal’ refugees in and around Cox’s Bazar (Kiragu *et. al.* 2011). According to the government of Bangladesh, Rohingya have been living in Burma for centuries and should be considered Burmese citizens.

Who Bears Responsibility to Protect the Rohingya?

In 2008, after cyclone Nargis devastated the country and put millions of lives in jeopardy, Burma’s military junta prevented the delivery of critical aid to desperate civilians. Meanwhile, the international community struggled with the applicability of the Responsibility to Protect Doctrine (R2P). With this new crisis and lack of ownership, we need to revisit the question: whose responsibility is it to protect the Rohingya?

Sparked by the atrocities of the Rwandan genocide, the Responsibility to Protect doctrine was adopted by UN member states at the 2005 UN World Summit. Its three guiding principles are:

1. The State carries the primary responsibility for the protection of populations from genocide, war crimes, crimes against humanity and ethnic cleansing;
2. The international community has a responsibility to assist States in fulfilling this responsibility;
3. The international community should use appropriate diplomatic, humanitarian

and other peaceful means to protect populations from these crimes. If a State fails to protect its populations or is in fact the perpetrator of crimes, the international community must be prepared to take stronger measures, including the collective use of force through the UN Security Council (International Coalition for the Responsibility to Protect, undated).

Despite R2P doctrine being adopted by ASEAN member states, it has not been welcomed in Asia, nor has its application been seriously considered. Particularly in the case of the situation in Burma, ASEAN member states' interest in their own regional and international standing conflict with protection concerns. Further, the principle of non-interference in the internal affairs of other ASEAN member states enshrined in the ASEAN charter restricts room to act. Despite these roadblocks, ASEAN 'has existing mechanisms, namely the ASEAN Regional Forum (ARF) and the ASEAN Intergovernmental Commission on Human Rights (AICHR), which deal with, and can be used as mechanisms, to implement the R2P principle' (Karim 2012). The predominately Muslim states of Indonesia and Malaysia could take the lead within ASEAN and advocate on behalf of the Rohingya.

Generally speaking, R2P has been highly controversial due to its third pillar, which advocates for use of force as a last resort. Organisations such as the International Coalition for the Responsibility to Protect stand strongly against military intervention, arguing that military intervention will not improve the humanitarian situation inside Burma. Other advocates point out that the R2P doctrine does not necessarily require military intervention through the UN Security Council. Indeed, a military intervention in Burma would be counterproductive. The International Community must use all diplomatic, humanitarian and peaceful means to pressure the Burmese Government to grant the Rohingya full citizenship and develop a comprehensive plan to engage ethnic minorities in an inclusive reconciliation process.

Recommendations and Conclusion

A long-term peaceful resolution of the crisis can still be achieved with the combined actions of Burma, Bangladesh, ASEAN, UNHCR, and western trading partners.

There is little reliable information available from Rakhine state; blatant misinformation is being reported from each ethnic group as well as security forces. In order to acquire an accurate representation, UNHCR must pressure Burma to allow independent international humanitarian access for fact finding.

In addition, UNHCR must pressure the government of Bangladesh to sign and ratify the 1951 Refugee Convention, observe its international obligation to provide a minimum standard of care to the documented Rohingya in Bangladesh, humanitarian aid for undocumented refugees, and safe passage for new refugees fleeing the conflict.

Despite the Rohingya's historical persecution in Burma, permanent Burmese citizenship is the only practical long-term solution. Burma must amend or repeal its 1982 constitution to enable that process. The wave of recent reforms in Burma has been motivated by international sanctions. With the West in the process of easing those sanctions, their removal should be made conditional to the provision of Rohingya citizenship.

ASEAN, potentially led by Indonesia and Malaysia, should take a leading role in advocating on behalf of the Rohingya and formulate a community relations' strategy in the Rakhine State to protect all parties concerned.

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