

ABANDONED AND APARTHEID

(A Case Study of Myanmar's Rohingya Migrants)



By

Muhammad Nazir

Department of Social Sciences

Iqra University

Islamabad

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Abstract: -

State sponsored persecution and subsequent migration of Rohingya has emerged as a serious challenge to existing International system as the international community despite recognizing the fact that Rohingya are subjected to systemic persecution and genocide could only silently witness the burning villages and capsizing boats of Rohingya refugees effectively failing to respond to the crisis. Forced migration of Rohingya has therefore posed serious questions to the effectiveness of incumbent International security regime centered around UNSC; and international human rights regime particularly Genocide convention and International Refugee Convention of 1951. This essay presents to its readers a chronological record of the longstanding crisis surrounding Rohingya and response of the regional as well as international players at different stages of the conflict. Thus, An attempt has been made to understand the anatomy of Rohingya migration crisis with an aim to explore doable options to resolve this protracted humanitarian issue.

Key Words

Arakan; Boat people; Rohingya; Myanmar; Persecuted Community, Refugee; Rakhine; Stateless People; UNHCR

Introduction

This was their third week wandering in the sea, without sufficient food and potable water, the family, like thousands others, had been wandering in the international waters in the quest of a refuge. Asylum is repeatedly denied to them at the shores of Bangladesh, Malaysia and Indonesia. These are the Rohingya, a Muslim-majority community of Burma (now Myanmar). According to

United Nations 2013 estimates, Rohingya are the most persecuted minority in the world.¹ Now, the world knows them as Asia's 'Boat People.'² They have become 'stateless' after promulgation of Myanmar's 1982 Nationality law.³ As of 2016 UN report, 1 out of every 7 stateless persons is a Rohingya.⁴



Figure 1: Geographical Map of Rakhine State of Myanmar

Peeping through the history, one can effortlessly conclude that the crisis in Rakhine (former Arakan) state of Myanmar has since the country's inception been lingering on and has generated waves of Rohingya exoduses in 1970s, 1990s and more recently in 2012 and 2017. Over the period, the protracted conflict has further been exacerbated due to state repression and inability of International community to address the root causes of conflict. At one hand, pictures and footages of wretched Rohingya migrants pose serious questions on international humanitarian conscience; on the other, the protracted crisis requires serious investigation in order to ascertain what are the causes and dynamics of the conflict? What efforts have been undertaken to resolve the issue at national,

¹ Matt Broomfield, "UN calls on Burma's Augn San Suu Kyi to halt 'ethnic cleasnising' of Rohingya Muslims"; (Independent; UK; December 9, 2016); Can be accessed at <https://www.independent.co.uk/news/world/asia/burma-rohingya-myanmar-muslims-uk-united-nations-calls-on-suu-kyi-a7465036.html>

² Dipankan Bandopadhyay. "Reflections on the Rohingya Crisis"; (October 2, 2017); can be accessed at <http://politicsnow.in/rohingya-crisis/>

³ Yuichi Nitta, "Myanmar urged to grant Rohingya citizenship" published in 'Nikkei Asian Review' (25 August 2017)

⁴ Dr. Syed S. Mahmood et al., "The Rohingya people of Myanmar: health, human rights, and identity" published in "The Lancet" Vol. 389, Issue 10081; (December 1, 2016) pp1841-1850

regional and international level? Why has it not been resolved until now? How does it impact the neighboring countries? What efforts have been made so far to address the situation? And what measures can be taken to sustainably resolve the issue?

Employing case study method, an effort has been made to understand the dynamics of the crisis through using content and contextual analysis techniques to answer the above questions. As a result of the effort, following hypotheses have been put forth: -

- i. Rohingya refugee crisis is an outcome of protracted ethnic conflict between the Rohingya and Rakhine ethnicities of Burma. British sowed its seeds during Second World War while the conflict is continually infuriated due to [Myanmar] state's biased policies aimed at total extermination of Rohingya.
- ii. Internationally, it failed to attract international community's interest for the reason that it remained localized. It could gain global attention only after the advent of social/electronic media when footages of the stateless and apartheid Rohingya fleeing Myanmar got viral.

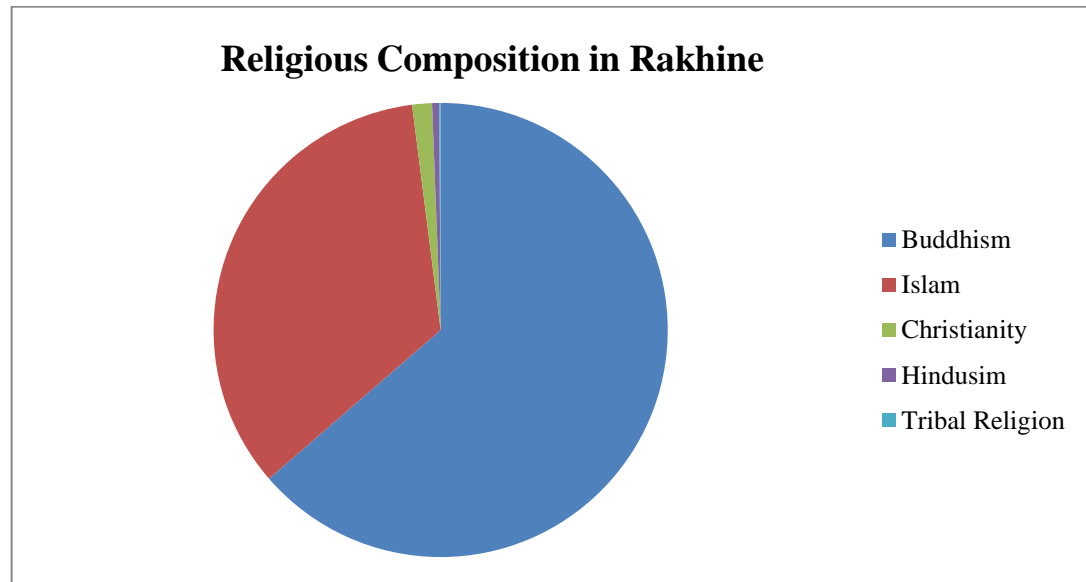
The essay proceeds in four sections. In the first section, demographic composition of Rakhine state has been described and a chronology of historical events that lead to today's crisis situation has been made. In addition, an overview of the impacts of the state actions and international response to ensuing crisis has also been provided. The second section deals with analysis of data and portrays results of the study. The third section puts forth available options to improve the refugees' conditions as well as to address the root causes of the conflict thus leading to sustainable solution to the refugee crisis. The fourth sections sums up the whole discussion in a concise concluding paragraph.

I. Anatomy of Crisis

1.1 Demographic Facts

Rohingya are mostly concentrated (80-90%) in the northern townships of Arakan (now Rakhine) thus there has been a demographic polarity between the Buddhists and Muslims in the state. Population growth rate in Rohingya is 46% more than the Myanmar's national population growth rate. According to official census records of Myanmar, 1.3 million Rohingya lived in

Myanmar constituting 35% of Rakhine's total population while estimated 1 million Rohingya live overseas. All these included, Rohingya form 60% of Rakhine state's population.



Source: Department of Population, Myanmar⁵

1.2 Genesis of Conflict

Historically, Rohingya have been living in Arakan (now Rakhine) since times immemorial. Early traces of Muslims' presence is traced to 1430s when Bengali Muslims who accompanied 'Min Saw Mon'⁶ formed their settlements in the region.⁷ In British Colonial era between 1824 and 1948, labour migration from Bengal to Burma remained significant, which was considered an internal migration since British governed Burma as a province of British India. Historians usually trace the roots of Inter communal strife between Muslim and Buddhist communities in Arakan to **1942 Arakan Massacres** when Muslims in Northern Arakan were armed by the British to act as V-force to create a buffer zone between British and Japanese forces. The British had promised a 'Muslim National Area' for the Rohingya Muslims in exchange for support.⁸ After British retreat, communal violence erupted between Pro-Japanese Buddhist Rakhine and Pro-British Muslim

⁵ Department of Population, Ministry of Labour, Immigration and Population, Myanmar, *"The 2014 Myanmar Population and Housing Census Report Volume 2-C"*. (July 2016) pp. 12–15

⁶ Narameikhla Min Saw Mon, also known as Suleiman Shah (1380–1433) was the last king of Launggyet Dynasty and the founder of Mrauk-U Dynasty of Arakan.

⁷ Aye Chan, *"The Development of a Muslim Enclave in Arakan (Rakhine) State of Burma (Myanmar)"*; Published in *"SOAS Bulletin of Burma Research"*; (SOAS; 2005)

⁸ Moshe Yegar, *"The Muslims of Burma: The Study of a Minority Group"*; (Wiesbaden: Otto Harrossowitz; 1972) p 95

villagers. In the backdrop of Japanese advance, Muslims fled towards British-controlled Muslim-dominated Northern Arakan from Japanese-controlled Buddhist majority areas, which stirred a reverse ‘ethnic cleansing’ in British-controlled areas.⁹ With the retreat of British and subsequent approach of Japanese forces into Arakan, the Buddhists instigated cruel measures against the Muslims causing them to flee to Northern Arakan and Eastern Bengal while Buddhists concentrated into Southern Arakan. While both sides received heavy casualties.

After independence of Burma in 1948, a group of Arakanese Muslims pushed for the integration of Maungdaw and Buthidaung into East Pakistan. However, the proposal was rejected by Mr. Jinnah as well as the Burmese constituent Assembly. In this backdrop, the government started treating Rohingya as illegal immigrants.¹⁰ Yet, the Rohingya enjoyed representation in the Parliament and some Rohingya served at high-ranking government positions. While, five Rohingya including two female MPs were elected to the Parliament of Burma. Similarly, six MPs reached Burmese Parliament in the aftermath of 1956 general election and Sultan Mahmud¹¹ became Health Minister in the cabinet of premier ‘U Nu’.

After Jinnah’s refusal to accept northern Arakan into Pakistan, some Rohingya founded the Mujahid Party with an aim to establish an autonomous Islamic state in northern Arakan. In 1950, segments of Rohingya called Mujahids resorted to armed struggle and pushed out both non-Muslims and non-allied Muslim villagers from Maungdaw, Buthidaung and Rathedaung.¹² Over **13000** Rohingya fled to Pakistan and India and were not permitted to repatriate later.¹³ Initially, in 1950, Pakistani government issued a warning to Burmese government about the ill-treatment of Muslims in the hand of Burmese forces, however, after a negotiated settlement, Pakistani government agreed to avoid supporting these Mujahids and finally arrested Cassim (Qasim), the leader of Mujahids in 1954. The same year Burmese armies stepped up counterinsurgency operations in Arakan and successfully quenched the rebellion.¹⁴

⁹ Clive J. Christie, *“A Modern History of Southeast Asia: Decolonization, Nationalism and Separatism”*; (I.B. Tauris; 1998) pp 164, 165–167; ISBN 9781860643545

¹⁰ Hugh Tinker, *“The Union of Burma: A Study of the First Year of Independence”*, (London, New York, & Toronto: Oxford University Press; 1957) p 357

¹¹ Former Rohingya politician in British India; in 1960, he suggested that instead of a united Arakan province either Northern Arakan be made a separate province or should remain under central government.

¹² Hugh Tinker, p 56

¹³ International Crisis Group, “Myanmar, the politics of Rakhine State”; Asia Report No. 261; (Brussels: October 22, 2014)

¹⁴ U Nu, *“U Nu: Saturday’s Son”*; (New Haven and London: Yale University Press; 1975) p 272.

1.3 Military Takeover and Initiation of State Repression

Prior to 1960 elections, U Nu, the then Burmese PM had pledged to accord the status of an ethnic state to Rakhine under the 1947 constitution with an autonomous region in Northern Rakhine.¹⁵ However, history took a new stride when military perhaps fearing a disintegration of the country staged a coup d'état in 1962 ending Westminster style¹⁶ political system. These fears of disintegration had primarily stemmed from the regional geopolitical situation as well as claims of the two minority groups, Shan and Kayah, who were raising voice for their right to withdraw from the union.¹⁷ The socialist military rulers adopted racialist policies against Indian-origin communities. In pursuance of "Burmese way to Socialism", the government nationalized all property and forced **320,000 Burmese Indians** to leave the country between 1962 and 1964¹⁸ about 200,000 of whom were evacuated to India through ferries and aircraft¹⁹; remaining settled in East Pakistan while a few entered Karachi.²⁰ This resulted into considerable decline in Indian-Burmese relations. The military regime started to dissolve Rohingya social and political organisations considering them a threat to nationalist identity.²¹ This ensued into revival of the insurgency that had earlier been crushed in 1950s and 'Rohingya Independence Force (RIF) emerged. In 1973, RIF morphed into Rohingya Patriotic Front (RPF).²²

In 1977-78, in the backdrop of successful culmination of Mukti Bahini's liberation war in Bangladesh, the fears of foreign infiltrators paved way for Burmese military junta to plan "Operation Nagamin" (Dragon King) with the stated goal of registering citizens in Northern Arakan and expelling 'foreigners' prior to national census. Because of mass intimidation, **about 200,000 to 250,000 Rohingya Muslims** fled to Bangladesh.²³ To this, Myanmar's military regime proclaimed

¹⁵ International Crisis Group, "Myanmar, the politics of Rakhine State"; Asia Report No. 261; (Brussels: October 22, 2014)

¹⁶ Refers to the parliamentary model of democratic government

¹⁷ Robert H. Taylor, "*General Ne Win: A Political Biography*"; (Singapore: Institute of Southeast Asian Studies; 2015)

¹⁸ Melvin Ember; Carol R. Ember & Ian Skoggard, "*Encyclopedia of Diasporas: Immigrant and Refugee Cultures around the World. Volume I: Overviews and Topics; Volume II: Diaspora Communities*"; (Springer Science & Business Media; 30 November 2004) p 291; ISBN 978-0-306-48321-9

¹⁹ The Irrawaddy, "*India and Burma: working on their relationship*". VOLUME 7 NO.3 (Online; March 1999). Can be accessed at http://www2.irrawaddy.com/article.php?art_id=1170

²⁰ Derek Henry Flood, "*From South to South: Refugees as Migrants: The Rohingya in Pakistan*" (Huffington Post; May 12, 2008)

²¹ AFK Jilani, "*The Rohingyas of Arakan: Their Quest for Justice*"; (Dhaka; 1999)

²² ibid

²³ K. Maudood Elahi, "*The Rohingya Refugees in Bangladesh: Historical Perspectives and Consequences*," In John Rogge (ed.), "*Refugees: A Third World Dilemma*", (New Jersey: Rowman and Littlefield; 1987) p 231

that mass exodus signified that Rohingya were in fact ‘illegal immigrants’. Responding to the magnitude of crisis, ICRC and UNHCR provided relief to these refugees. Of these, 180,000 refugees were later repatriated to Myanmar.²⁴ This could be made possible due to UNO’s efforts on alluring the Burmese military regime of aid flows should it allow refugees’ to repatriate.²⁵ Because of diplomatic efforts, the joint statement made by Myanmar and Bangladesh governments acknowledged that Rohingya were lawful Burmese nationals.²⁶

1.4 1982 Nationality Law, Ensuing Statelessness and 1992 Military Operation

In 1982, military junta introduced a new nationality law that did not list Rohingya as one of the 135 national races of Myanmar thus turning Rohingya ‘stateless.’²⁷ This law required each of Rohingya people to prove that his ancestors had settled in Burma prior to 1823 which overwhelming majority could not. In 1990, after another military coup following Aung San Suu Kyi’s victory in elections, the military started operations targeting Muslim’s in Arakan. The Rohingya-led National Democracy and Human Rights Party (NDPHR), who favored the pro-democracy movement, was banned and its leaders jailed. In 1989, military Junta changed country’s name from Burma to Myanmar and later in 1990, changed the name of the province from ‘Arakan’ to ‘Rakhine’ that showed a bias towards the Rakhine community.²⁸

In 1991, The military operation nanmely “Pyi Tharyar Operation” resulted into second major wave of refugees and about **250,000 refugees** crossed into Bangladesh.²⁹ The same year, Bangladesh entered into a refoulement agreement with Myanmar under which it now abstains from according refugee status to Rohingya.³⁰ Amidst continued negotiations between Myanmar, Bangladesh and UNHCR, the repatriation of Rohingya continued at a dismally slow pace. In early

²⁴ Carl. Skutsch, “*Encyclopedia of the World's Minorities*”, (Routledge) p 128; ISBN 9781135193881

²⁵ Tony Reid, “*Repatriation of Arakanese Muslims from Bangladesh to Burma, 1978-79: Arranged Reversal of the Flow of an Ethnic Minority*” Paper presented to the 4th International Research and Advisory Panel Conference, (University of Oxford, January 1994) pp. 14-15

²⁶ Cynthia Lardner, “Burma: Where Hypocrisy Clashes with Morality” published in ‘International Policy Digest’; (February 6, 2017); can be accessed at: <https://intpolicydigest.org/2017/02/06/burma-hypocrisy-clashes-morality/>

²⁷ Yuichi Nitta (2017)

²⁸ Encyclopedia Britannica

²⁹ UNHCR, “*UNHCR Report, 2000*”; can be accessed at: https://www.hrw.org/reports/2000/burma/burm005-01.htm#P115_26812

³⁰ Syed S Mahmood, Emily Wroe, Arlan Fuller & Jennifer Leaning, “The Rohingya people of Myanmar: health, human rights, and identity”; (Lancet; December 1, 2016); Can be accessed at [http://dx.doi.org/10.1016/S0140-6736\(16\)00646-2](http://dx.doi.org/10.1016/S0140-6736(16)00646-2)

2000s, all but 20,000 refugees were repatriated to Rakhine against their will.³¹ However, this did not resolve the ethnic conflict and more than **100,000 Rohingya** were compelled to live in **IDP camps**.

1.5 The New Tide of State-sponsored Genocide

Pledges made by the USDP-regime prior to the 2010 multiparty elections, to grant Rohingya citizenship raised inter-communal tensions.³² In 2012, violence erupted following Buddhists' fears of a negative demographic shift due to greater population growth rate in Rohingya, weeks' long sectarian disputes, a gang rape and murder of a Rakhine woman allegedly by Rohingyas and killings of ten Burmese Muslims by Rakhines. There is evidence that the government itself incited violence asking the Rakhine men to defend their "race" and 'religion'.³³ The violence left 78 dead, 87 injured and about **140,000 Rohingya people displaced**³⁴ confined to IDP camps. UN estimates that about **100,000** Rohingya fled Myanmar via sea. In July 2012, the Myanmar government excluded Rohingya from national census classifying them as stateless Bengali Muslims from Bangladesh.³⁵ Out of these 8000 were reported to be stranded at sea. This episode of state repression and violence against Rohingya Muslims caught attention of the world community. Secretary General OIC in his repeated statements condemned the violence and formed a contact group on Rohingya Muslim minority. The contact group in its 14th April 2013 ministerial level meeting demanded an end to Buddhist atrocities against Muslims. UNO sent in a special Rapporteur to observe human rights violations in Myanmar. Besides, UNO called for impartial investigation into the violence in Rakhine. UN General Assembly repeatedly passed resolutions called on Myanmar to address the outbreak of violence while UNGA's 3rd Committee in its resolution dated 3rd November 2103 demanded of Myanmar to address root-causes of the conflict and to grant citizenship to Rohingya. On regional level, ASEAN supported OIC and UN efforts and offered to open tripartite talks between between ASEAN, UN and Myanmar aimed at quelling violence. Though, the proposal was rejected by Myanmar. ASEAN through its parliamentary caucus on Myanmar continually supported UN efforts to resolve the issue. It also pressed upon Thailand for its

³¹ Larry Thompson, *"Bangladesh: Burmese Rohingya refugees virtual hostages"*, Published on "reliefweb.int. (2005)

³² International Crisis Group, "Myanmar, the politics of Rakhine State"; Asia Report No. 261; (Brussels: October 22, 2014)

³³ Moshahida Sultana Ritu, "Ethnic Cleansing of Myanmar's Rohingyas" published in "The New York Times" ((July 12, 2012).

³⁴ Hanna Hindstorm, *"Burmese authorities targeting Rohingyas, UK parliament told"*; (Democratic Voice of Burma; 28 June 2012)

³⁵ Thein Htay, Immigration Minister of Myanmar; as reported by "*The Hindu*" in their news item, "*Rohingyas are not citizens: Myanmar minister*" (Yangon; July 30, 2012); can be accessed at: <https://www.thehindu.com/news/international/rohingyas-are-not-citizens-myanmar-minister/article3703383.ece>

refoulement of Rohingya refugees reaching its waters. However, despite this, Thailand continued with its policy and in February 2014 announced that it had deported 1300 Rohingya during previous four months. Malaysia demanded of Myanmar to take stronger action to curb persecution of Muslims. Indonesia called for grant of citizenship status to Rohingya Muslims to address the root-cause of the conflict and ensuing refugee crisis.³⁶

Following 2012 violence and state atrocities, a violent resistance group namely “*Harakah al-Yaqin*”, later named as “*Arakan Rohingya Salvation Army*” (ARSA), was formed led by Ataullah abu Ammar Jununi in 2013.³⁷ The group has allegedly trained Rohingya villagers in self-defence and has claimed responsibilities for 2016 and August 2017 attacks on Myanmar border posts.

In 2014-15, fearing persecution and genocide in Myanmar as well as to get rid of catastrophic life in Bangladesh’s refugee camps, thousands of Rohingya migrated from Myanmar and Bangladesh via Strait of Malacca and Andaman Sea to seek refuge in South East Asian countries including Malaysia, Indonesia and Thailand.³⁸ These fleeing refugees were victims of ransom, rapes and inhuman torture in the hands of human traffickers. On the other hand, the governments in destination countries resorted not to allowing them to enter their waters citing the presence of economic migrants as an excuse. UN through its different organs continued pressing upon Myanmar to curb incitement of violence and address issue of citizenship to Rohingya. In November 2014, UNGA adopted another resolution demanding an end to discrimination and granting citizenship to Rohingya.³⁹ UN made continued pledges requesting these countries to respect ‘International Law’ but to no avail. USA pledged help to resettle Rohingya boat people. On 13th November 2014, US President Barrack Obama called upon Myanmar to allow citizenship to Rohingya without the requirement of self-identification.⁴⁰ On 7th July 2016, EU in a resolution

³⁶ Global Center for Responsibility to Protect, “*Timeline of International Response to the Situation of the Rohingya and Anti-Muslim Violence in Burma/Myanmar*”; can be accessed at www.globalr2p.org/media/files/burma-international-response-timeline-1.pdf

³⁷ Mike Winchester, “*Birth of an ethnic insurgency in Myanmar*”; (August 28, 2017); can be accessed at <http://www.atimes.com/article/birth-ethnic-insurgency-myanmar/>

³⁸ UNHCR, as reported by Tom Miles in news item “Bay of Bengal people-smuggling doubles in 2015: UNHCR” published in “*The Reuters*” on May 8, 2015; Can be accessed at: <https://www.reuters.com/article/us-thailand-rohingya-unhcr/bay-of-bengal-people-smuggling-doubles-in-2015-unhcr-idUSKBN0NT11D20150508>

³⁹ Global Center for Responsibility to Protect, “*Timeline of International Response to the Situation of the Rohingya and Anti-Muslim Violence in Burma/Myanmar*”; can be accessed at www.globalr2p.org/media/files/burma-international-response-timeline-25.pdf

⁴⁰ *ibid*

demanding of Myanmar to abolish discriminatory policies and restore Rohingya's citizenship.⁴¹ Similarly, Gambia offered to resettle all the Rohingya to resettle in refugee camps.⁴²

In October 2016, following alleged terrorist attacks by unidentified insurgents on border posts, the Myanmar's military forces aided by Buddhist extremists started a major crackdown in Rohingya populated Northern Rakhine. The military committed mass human rights violations including extrajudicial killings, arsons, gang rapes and other brutalities. Later, Arakan Rohingya Salvation Army (ARSA) led by Ataullah abu Ammar Jununi, an overseas Rohingya, claimed responsibility for the terrorist attacks. According to UN estimates, the violence tolled more than 1000 killings of Rohingya while about **70,000**, mostly women and children, fled to Bangladesh to escape persecution.⁴³ The military crackdown and indiscriminate persecution attracted condemnation from USA, Malaysia, Amnesty International and UNO that declared these atrocities as **crimes against humanity**.⁴⁴

On 23rd August 2016, an advisory commission headed by Kofi Anan and constituted of majority of Myanmar citizens was formed to ensure the well-being of both Rohingya and Rakhine communities. The commission legally was an institution of Myanmar's government. It published its report on August 24, 2017 wherein it recommended several measures including review of Myanmar's 1982 nationality law as well as to remove restrictions from Rohingya people's human rights. However, it failed to satisfy the parties to the conflict and contextualizing multiple coordinated attacks by ARSA on 30 police outposts and border guards, the Myanmar's military initiated anti-terrorist "clearing operations." Amidst fierce media restrictions and ban on entry, the **military killed over 6700** men, women and children in the first month of attacks by gunshots (69%), burning (9%), and beaten to death (5%).⁴⁵ To add insult to injury, numerous villages were burnt to ashes. UN investigators later determine that these operations had started earlier. While, the

⁴¹ *ibid*

⁴² News Week, "*The Rohingya Boat Crisis: Why Refugees are fleeing Burma*"; (May 21, 2015); can be accessed at: <https://www.theweek.co.uk/63745/the-rohingya-boat-crisis-why-refugees-are-fleeing-burma>

⁴³ Antoni Slodkowski, "Exclusive: More than 1,000 feared killed in Myanmar army crackdown on Rohingya – UN officials"; (Reuters; February 8, 2017); Can be accessed at: <https://www.reuters.com/article/us-myanmar-rohingya/exclusive-more-than-1000-feared-killed-in-myanmar-army-crackdown-on-rohingya-u-n-officials-idUSKBN15N1TJ>

⁴⁴ Zeid Raad al-Husseini, UN Human Rights Chief, as reported by BBC in news item, "UN condemns Myanmar over plight of Rohingya"; (December 16, 2016); Can be accessed at: <https://www.bbc.com/news/world-asia-38345006>

⁴⁵ Médecins Sans Frontières (MSF) International, "Myanmar/Bangladesh: MSF surveys estimate that at least 6,700 Rohingya were killed during the attacks in Myanmar," (December 12, 2017); can be accessed at <https://www.msf.org/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks-myanmar>

refugees reported that they were subjected to indiscriminate beating, torture, rape, hacked to death, gunshot and burning alive. About **400,000** Rohingya fled in the first month of the clearing operations in order to escape violence. The situation created international tensions in the region.

Kofi Annan presented Commission's report in UNSC, however despite support of UN Secretary General Antonio Guterres, China and Russia vetoed any effort at significant UN intervention. Yet, European Union countries called on UN to forthwith send a fact-finding mission to Myanmar in order to investigate the charges of the crimes against humanity.⁴⁶ Submitting to International pressure, Aung San Su Kyi led government of Myanmar announced acceptance of the recommendations of Annan Commission report and formed a committee namely "Advisory Board for the Committee for Implementation of the Recommendations on Rakhine State" with a stated purpose to implement the recommendations of Annan Commission report. However, after a lapse of more than one year, no progress has so far been visible and two of the committee members Surakiart Sathirathai (the committee Secretary and former foreign minister of Thailand), and, Bill Richardson (former U.S. ambassador to the United Nations) resigned, relating uselessness of the committee.

Human Rights groups pledged International Court of Justice (ICJ) to investigate the alleged abuses of human rights and the crimes against humanity committed by the military in Rakhine state. Myanmar's government rejected to participate in ICJ proceedings on the plea that Myanmar is not a member of ICJ and established another independent commission to investigate human rights violations in Rakhine. Terms of Reference for working of the commission are heavily influenced and human rights activists have pointed fingers on its efficacy.⁴⁷ As of November 2018, about 923,033 Rohingya refugees are stranded in Bangladesh alone.⁴⁸

II. Analyses & Results

2.1 Persecution and Migration of Rohingya Muslims is a protracted humanitarian issue that has historical roots: -

⁴⁶ Michelle Nichols, "China, Russia block U.N. council concern about Myanmar violence"; (Reuters; March 17, 2017); Can be accessed at <https://www.reuters.com/article/us-myanmar-rohingya-un/china-russia-block-u-n-council-concern-about-myanmar-violence-idUSKBN16O2J6>

⁴⁷ Min Kyi Thein and Victoria Milko, "Myanmar Panel Probing Rohingya Crisis pledges independence" (Fox News; August 16, 2018); Can be accessed at <https://www.foxnews.com/world/myanmar-panel-probing-rohingya-crisis-pledges-independence>

⁴⁸ Inter Sector Coordination group, "Situation Report Rohingya Refugee Crisis"; (Cox Bazar, Bangladesh; November 1, 2018)

“The UNHCR defines refugee situations as protracted when the strength of refugees of a certain origin within a particular country of asylum has been in exile for at least five consecutive years.”⁴⁹

Since, Myanmar is a closed country for independent observers and journalists, very little reliable data on the scale of atrocities committed by the military and Buddhists is available. However, the Rohingya that had fled their lands in 2012 have since not been repatriated. This qualifies to term the crisis as protracted. We summarize major waves of Rohingya migration in order to ascertain whether the persecution of Rohingya follows a systematic pattern.

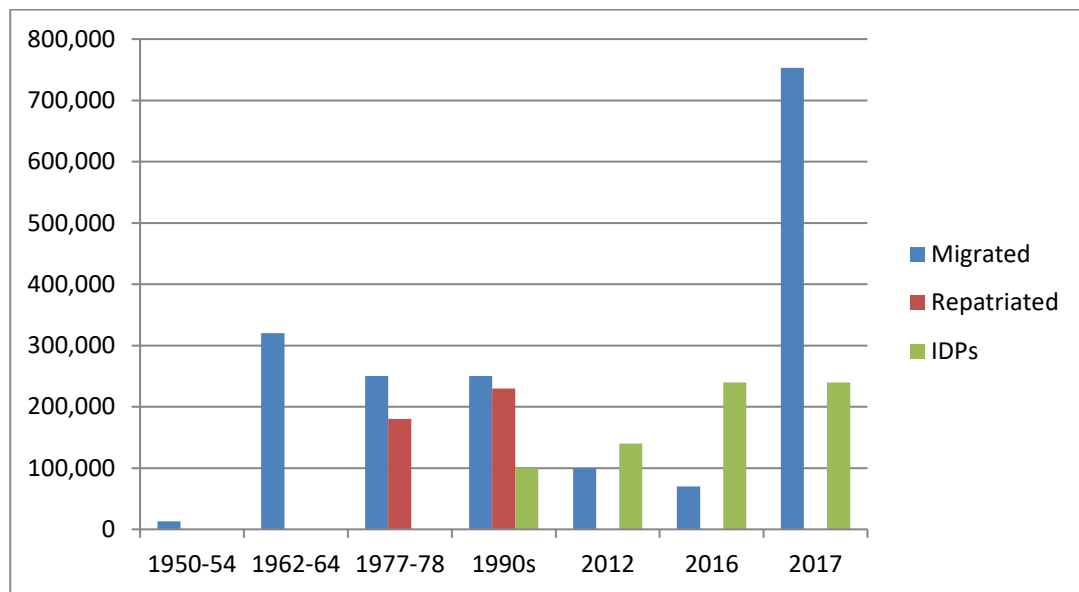


Figure 2: Data on Waves of Migrants, IDPs and their Repatriation

The trend is indicative of an increased level of persecution that has now reached its zenith. The trend is indicative of the sectarian and ethnic wedge ever widening within Myanmar’s society. The data also indicates that the crisis is not a new one but it finds its genesis to the British colonial era and first exodus of Rohingya occurred in 1948-50 when Pakistan came into being.

2.2 Myanmar’s position on Rohingya, 1982 Nationality Law and Ensuing Statelessness has added to the miseries of Rohingya Migrants

Bangladesh bears much of the brunt. Being the nearest neighbor and ethnic assimilation, Bangladesh remains the preferred place of refuge for Rohingya Muslims. However, being a poor

⁴⁹ G. Loescher, *“Human Rights and Forced Migration”*; (Oxford; 2012) p222

country, it cannot sustain the economic burden of migrants. The matter further complicates due to Myanmar's official declaration of Rohingya as Bengali Muslims. This has compelled Bangladesh not to allow Rohingya to mingle with its native population and repeatedly press upon Myanmar for early repatriation of Rohingya after each phase of violence and forced exodus of Rohingya. Bangladesh's attempts at forced repatriation of Rohingya have pushed majority of Rohingya to live outside of Refugee camps thus depriving them of protection under Refugee Regime. Economic miseries have forced significant numbers to further migrate to other countries of region in search of a better future.

Other countries of the region including India, Thailand, and countries of South East Asia consider Rohingya refugees as security threats and therefore do not allow Rohingya to enter their territories. The situation has exposed Rohingya migrants to persecution, rape, torture, blackmailing for extortion, ransom and other violations of human rights in the hands of human traffickers.

2.3 Response of International Community is proportional to the scale of violence and Information available through media: -

Response of International community to the Rohingya crisis is also in line with the intensity of conflict. A comparison of Regional and International response has been drawn in [Annexure-I](#). Following is a simplified depiction of International response to the Crisis.

Period of Crisis	Effected Neighbor		Regional Countries	USA & EU	UNHCR & Other NGOs	UNO	Other IGOs (OIC etc)
	Country	Response					
1948-56	Pakistan	√	x	x	x	x	x
1960s	India	√	x	x	x	x	x
1970s	Bangladesh	√	x	x	√	x	x
1992-2000s	--	√	x	x	√	x	x
2012-2016	--	√	√	√	√	√	√
2017-18	--	√	√	√	√	√	√

Table 1: Responses of different International Players to Rohingya Crisis

As is evident, the effected neighbor, the country where bulk of refugees migrated, responded positively to the refugee crisis while UNHCR initially responded to Bangladesh's pledges in 1978. Interestingly, regional and international players responded significantly only when the capsizing boats started making headlines and social, electronic and print media flooded with catastrophic news stories about the extermination of Rohingya in Myanmar. This leads us to a

very interesting conclusion i.e. wider the propaganda of the persecution, greater the international response.

III. Way Forward

3.1 Improving Refugees' Plight

UNHCR's statute provide for three possible solutions i.e. voluntary repatriation to the country of origin; local integration into host population and resettlement to a third country. Until 1980s, third option i.e. resettlement remained principal durable solution. However, since 1980s repatriation has been the preferred durable solution. However, in 1980s, UNHCRs efforts to prematurely repatriate Rohingya proved dangerous for refugees and unsustainable as the repatriation followed even greater refugee crisis. Since early 2000s UNHCR has tried to create conditions conducive to sustainable repatriation of refugees to their countries of origin. In this approach, UNHCR and World Bank collaborated with countries of origin of refugees to create the conditions suitable for return of refugees. With the similar approach, the world community should collaborate with Myanmar government. However, offering any financial or economic incentives should be linked with Myanmar's addressing of the root cause of the conflict i.e. restoring citizenship to Rohingya.

Besides, UN should take measures to force the transit and destination countries to follow the principle of *refoulement* as outlined in International Refugee Convention, 1951. As an additional measure, funding to UNHCR should be increased. UNHCR should itself administer the refugee camps instead of leaving the camp management to host governments.

3.2 Addressing the Root-Cause

UN fact-finding mission has recently concluded in its report that Myanmar's state machinery is involved in genocide of Rohingya which is the gravest crime against humanity.⁵⁰ Although, Myanmar is a signatory of Genocide Convention; yet, it is not a party to "*Rome statute of International Criminal Court.*" The Rome statute establishes the International Criminal Court to prosecute the heinous crime of Genocide. In such a situation, citizens of a country can only by

⁵⁰ Marzuki Darusman, Radhika Coomaraswamy and Christopher Sidoti (UN Observers), "*Myanmar military leaders must face genocide charges – UN Report*"; (Geneva; August 27, 2018); Can be accessed at <https://news.un.org/en/story/2018/08/1017802>

prosecuted if UNSC votes to refer the case to International Criminal Court. UNSC has previously made this move in the cases of Sudan and Libya. However, barrier exists to its applicability in present circumstances, as Russia has repeatedly vetoes such efforts in case of Syria. China, in order to keep its influence on Myanmar, along with Russia has historically vetoed initiatives at UNSC for even discussing the issue what to say of resolutions requiring meaningful UN mandated humanitarian intervention in Rakhine state of Myanmar.

As an alternative option, UN may resort to formation of UN-backed ad hoc ‘International Criminal Tribunal’ similar to the ones conducted in former Yugoslavia and Rwanda. This would not require UNSC’s approval. Albeit, given Myanmar’s stubbornness towards any international initiative vis-à-vis given the logistical, financial and diplomatic challenges involved, formation of special tribunals also seems unlikely.

Myanmar has historically submitted to International pressures. UN may therefore engage with Myanmar government urging the government to restore citizenship of Rohingya which is the main cause of conflict. As a second measure, Rohingya may gradually be incorporated into political system as well.

IV. Conclusion

Rohingya are an ethnic minority of Myanmar. Rohingya trace their historical roots prior to 1430s. Predominantly Muslim with a small fraction of Hindus, Rohingya are about 2% of total population of Myanmar. In Rakhine, they are 34% of the state’s population. During Second World War, Rohingya aligned with British on the promise that they would be given an autonomous status. However, the British did not keep their promise. After partition of Sub-continent, Rohingya expressed their desire to integrate with Pakistan. However, it could not be materialized due to Jinnah’s rejection of the idea as well as turning down of the same by Burma’s constituent parliament. Till 1962, Rohingya actively participated in parliamentary politics and enjoyed considerable representation in the parliament. However, 1962 military coup changed the course of history. Initially, the military regime nationalized properties and businesses of Indian origin Burmese who were evacuated by India. In 1977 the military initiated systemic persecution of Rohingya. Resultantly, more than 200,000 Rohingya fled their country and sought refuge in Bangladesh. The military regime proclaimed that exodus of Rohingya to such large numbers

testified their claims that Rohingya were Bengali Muslims. However, after UNHCR intervention, the Burmese regime agreed to repatriation of Rohingya. The 1982 nationality law does not recognize Rohingya as legitimate citizens of Myanmar. Myanmar's official stance declaring Rohingya Bengali Muslims and the 1982 nationality law are now the core of the issue. Myanmar's state apparatus are continually involved in systematic persecution and slow genocide of Rohingya population that has resulted in mass refugee flows in 1990, 2012 and 2017. At present more than 900,000 Rohingya live in Bangladesh while considerable numbers have reached Malaysia, Indonesia and other regional and Muslim countries. At international forums, Russia and China vehemently defend Myanmar courting the sovereignty argument and stating that Myanmar government was busy in stabilizing peace within the country. Russian and Chinese support to Myanmar has effectively crippled UNSC's role in deciding on meaningful humanitarian intervention. However, UN General Assembly has actively pursued the issue and passed resolutions demanding of Myanmar to restore nationality to Rohingya as well as create conditions for repatriation of Rohingya population. In this regard, Myanmar has signed separate pacts with Bangladesh and UN agencies i.e. UNHCR and UNDP to allow safe repatriation of Rohingya, however, the repatriation has not been initiated yet. This calls for sustainable solution to the problem, which is possible only if the root cause of the problem is addressed.

Summary of Responses of Regional and International Actors to Ethnic Cleansing and Migration of Rohingya

Year	Event	Response	
		Regional	International
1948	Rohingya pushed for integration into East Pakistan	Pakistan government rejected the drive.	Not Reported
1954-56	Rohingya Mujahideen uprising; As a result some 13000 Rohingya fled to Pakistan and India. These were never allowed to repatriate.	Pakistan initially issued warning. Later, negotiated settlement was made and Pakistan arrested Cassim (Qasim), the leader of Mujahids in 1954.	Not Reported
1962-63	Burmese government nationalized all properties of Indian origin Burmese and forced 320,000 to flee.	India evacuated Indians. Indian Burmese relations deteriorated considerably.	Not Reported
1977-78	Launch of “Operation Nagamin” (Dragon King) by Burmese Military; Resultantly, 250,000 Rohingya fled to Bangladesh	Bangladesh government entered into negotiations with Burmese government on repatriation of Refugees proclaiming that there will be no local integration.	On Bangladesh’s Call, ICRC and UNHCR provided relief to the refugees. UN pressured Myanmar to repatriate the refugees.
1992	Clearing operations conducted by military resulted into exodus of 250,000 Rohingya into Bangladesh.	Bangladesh hosted fleeing Rohingya without according them formal refugee status; entered into negotiations with Burmese regime to repatriate.	UNHCR provided relief to the refugees; also brokered negotiations between Myanmar and Bangladesh to repatriate refugees.
2012-13	Following alleged gang-rape of a Rakhine women by three Rohingya men and ensuing ethnic violence; State-sponsored ethnic cleansing resulted into 140,000 Rohingya to migrate.	ASEAN offered to open tripartite talks between ASEAN, UN and Myanmar Government aimed at quelling the violence in Arakan/Rakhine state. Myanmar rejected. Thereafter, ASEAN through its parliamentary caucus on Myanmar continually supported UN efforts and also pressed upon Myanmar to address the situation. ASEA also condemned Thailand for its ill-treatment and refolement of Rohingya.	OIC condemned repression and violation of human rights of Rohingya. OIC formed a contact group on Rohingya Muslim minority that demanded an end to Buddhist atrocities in its inter-ministerial meeting in Jeddah on 14 th April 2013. UN called for impartial investigation into the violence in Rakhine. On 26 th November and 24 th December, 2012, UNGA passed resolutions calling upon the Myanmar Government to address the outbreak of violence in Rakhine. UNGA 3 rd committee in its resolution dated 3 rd November 2013 demanded of Myanmar to address route cause of the conflict by granting citizenship status to Rohingya. UNHCR urged upon Myanmar government to review the 1982 Citizenship Law. On

		Malaysia demanded of Myanmar to take stronger action to prevent persecution of Muslims. Indonesia demanded of Myanmar to address citizenship status of Rohingya Muslims.	19 th March 2013, UN Human Rights Council passed a resolution demanding accountability of those involved in violence against Rohingya.
2014-16	Continued state persecution following 2012 violence	Thailand continued with its policy of refoulement of Rohingya and deported 13000 Rohingya during November, 2013 till January, 2014. In October 2015, ASEAN Parliamentary forum on Human Rights (APHR) in its report warned that the region risked another refugee crisis due to persecution of Rohingya and demanded of the ASEAN states to address the situation.	UNHRC unanimously adopted a resolution extending tenure of UN Special Rapporteur for another year and demanding for an independent investigation into all incidents of violence and abuses. UN through its different organs continued pressing upon Myanmar to curb incitement of violence and address issue of citizenship to Rohingya. In November, UNGA adopted another resolution demanding an end to discrimination and granting citizenship to Rohingya. On 13 th November 2014, US President Barrack Obama called upon Myanmar to allow citizenship to Rohingya without the requirement of self-identification. On 7 th July 2016, EU in a resolution demanded of Myanmar to abolish discriminatory policies and restore Rohingya's citizenship.
2017-18	Military action and ethnic cleansing that ensued following a terrorist attack on 30 border police posts in Rakhine, Myanmar.	In December 2017, Bangladesh and Myanmar sign a pact wherein Myanmar agrees on repatriation of Rohingya at a steady rate of 300 refugees per day subject to their verification.	In September 2017, USA declared Myanmar's actions as ethnic cleansing. In March 2017, UN Human Rights Council decides to set up an investigation into abuses against Rohingya. In August 2018, UN in its report accused the Myanmar's military leaders for carrying out genocide, war crimes and crimes against humanity against Rohingya Muslims and calls for six generals to face trials in International Criminal Court. UN High Commissioner for Human Rights declares the Myanmar's military operation against Rohingya as a " <i>Textbook Example of Ethnic Cleansing</i> ." UNSC urged Myanmar to end its military campaign against Rohingya. Imbued with condemnation, Myanmar submitted to International Pressure and in June 2018 signed a MoU with UNHCR and UNDP allowing access to humanitarian organisations to Rakhine state in order to ensure conditions for safe repatriation of 700,000 Rohingya refugees. UNSC amidst bulging international pressure urges Myanmar to end violence against Rohingya. In December 2017, on a move by OIC, UNGA adopts a resolution whereby it appointed a special envoy to Myanmar. Russia and China continually block efforts at UNSC to pass a resolution demanding Myanmar to resolve the longstanding issue or authorizing international humanitarian intervention.