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**A. K. M. Ahsan Ullah<sup>1</sup>**

## **Abstract**

This article argues that Rohingyas in Myanmar have been deliberately excluded by its government. The claims of the government and political leaders that Rohingyas are illegal migrants could no way be justified due to the clear fact that they have been a part of long history of Burma. Due to the exclusionary policies, this population group has been systematically marginalized, persecuted, deprived of basic rights, and abused. Available protection space for Rohingya refugees in the region has become extremely volatile due to the reluctance to sign the 1951 Convention and a lack of national legal frameworks in most southeast Asian countries. Despite political pressure from the international community and local activists groups calling for the government to stop the violence, there is no sign to end the violence.

## **Keywords**

Rohingya, persecution, Myanmar, human rights

## **Historical Genesis of Rohingyas**

The number of people being forced to leave their homeland is growing exponentially, and by 2015, it has reached to 50 million worldwide (United Nations High Commissioner for Refugees [UNHCR], 2016). After Africa and the Middle East, Asia is leading in producing refugees. Southeast Asia (SEA) is one of the highest refugee-generating regions in Asia, and Myanmar is the largest contributor (Ragland, 1994; Ullah & Hossain, 2005, 2011). The Rohingyas are one of the most vulnerable populations in the world by any reckoning (Equal Rights Trust, 2014; Institute of

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Human Rights and Peace Studies, 2014; Pugh, 2013; Ullah, 2014; Ullah, Hossain, & Islam, 2015). An estimated 1 to 1.5 million Rohingyas in Rakhine State in Myanmar are concentrated in the three townships of North Rakhine State—Maungdaw, Buthidaung, and Rathedaung (Equal Rights Trust, 2014). Discrimination and unequal treatment are central to the human rights violations suffered by this population group (Lowenstein, 2015).

The word “Rohingya” is a historical name for the Muslim Arakanese. There is still a Muslim village in Akayab (Sittwe) city by the name of Rohingya para (Charney, 2005) (see figure 1). The old name for Rakhine State was Rohang from which the term *Rohingya* was derived.<sup>1</sup> Today, this terminology (Rohingya) has become politically charged. Two strong blocs in Myanmar have emerged: pro- and anti-Rohingya. The pro bloc takes the view that the Rohingyas settled in Burma in the ninth century, which, through the ages, have mixed with Bengalis, Persians, Moghuls, Turks, and Pathans, in line with the historically pluralistic population of Arakan State (Human Rights Watch, 1996; Zarni & Cowley, 2014). The latter takes the view that the Rohingyas are a modern construct, comprising, principally, of illegal Chittagonian Bengalis who arrived as a by-product of British colonial rule (Human Rights Watch, 1996; Zarni & Cowley, 2014). The term *Rohingya* however lost its salience since the late 1960s due to the fact that the government uses the term *Bengali*, which implies immigrant status. The Rohingyas—Muslims and ethnically different from the rest of the ethnic groups in Myanmar—are not recognized as “citizens” of Myanmar. They are considered as “resident foreigners.” The 1982 Burma Citizenship Law divided citizens by three different categories: citizens, associate citizens, and naturalized citizens. Citizenship status comes with three color coded citizenship scrutiny card (pink, blue, and green, respectively; Human Rights Watch, 2009; Ullah, 2011, 2014).

The previous parliamentary government (before 1962, the civilian government, headed by Prime Minister U. Nu, a social democratic politician) listed 144 ethnic groups in Burma. But General Ne Win put only 135 groups on a short list, and then was approved by his Burma Socialist Programme Party (BSPP) regime’s constitution of 1974 (Charney, 2005). In its census, Myanmar deliberately excluded Rohingyas from the list of the country’s 135 official ethnic groups.<sup>2</sup> One of the most important arguments Ne Win’s government put forth in favor of the exclusion is that the citizenship law recognizes as citizens those whose families had settled in the country before independence in 1948 (Tran, 2015). In addition, some other events rendered them stateless such as Operation Nagamin, which was launched in 1978 (Equal Rights Trust, 2014), when many Rohingyas had their official documentation taken away by inter-agency teams of inspectors. Subsequently, the military regime promulgated the 1982 Citizenship Law (Equal Rights Trust, 2014).

Under Section 6 of the 1982 Law, persons who were already citizens at the time the law came into force would continue to be so. The law also provided for “Associate” and “Naturalised” citizenship, the former being for those whose citizenship applications were being processed at the time and the latter being those who are not citizens but can establish that they and their predecessors lived in the country prior to independence (Equal Rights Trust, 2014). Thus, all Rohingyas for whom Myanmar was home

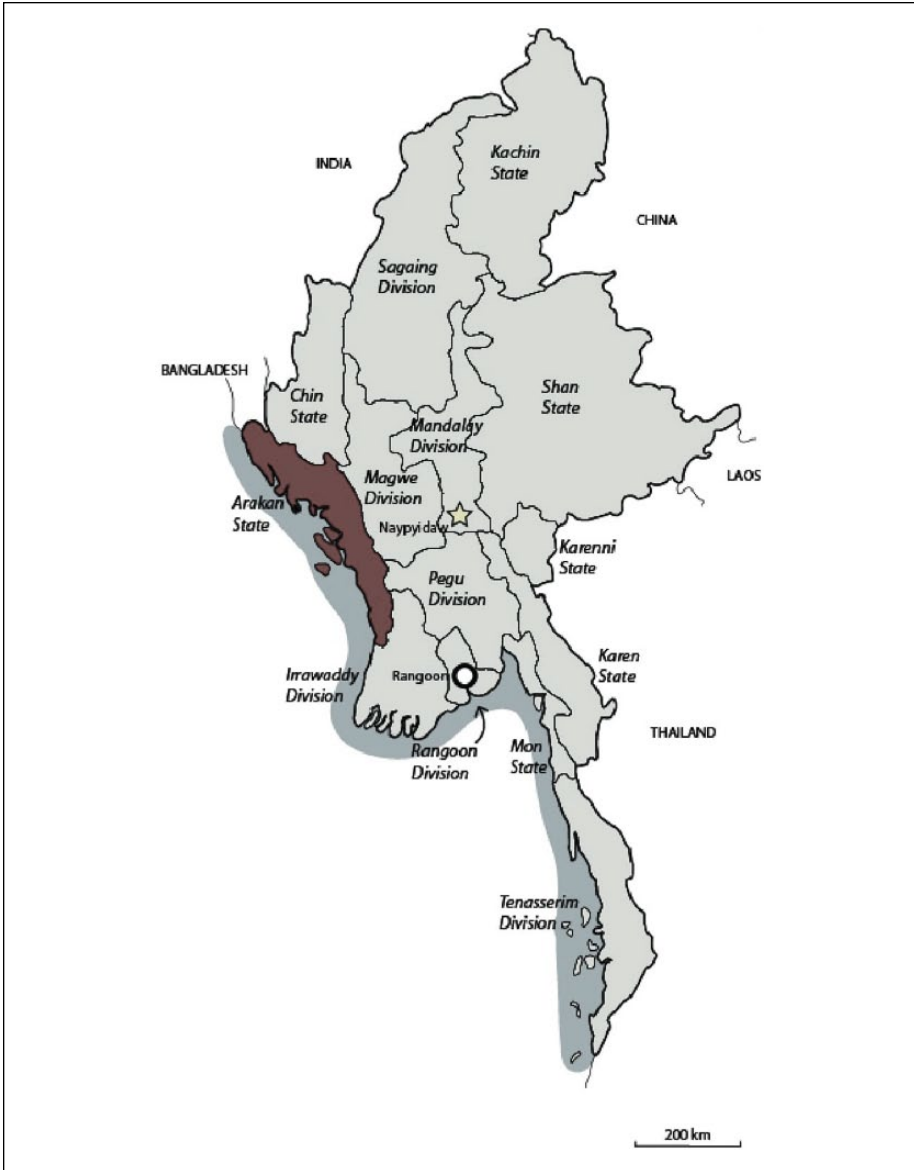
should have been able to continue to enjoy/acquire Myanmar nationality either under Section 6 of the Act, or as naturalized or associate citizens.

However, although most Rohingyas would be able to trace their ancestry, at least, to the colonial period, the lack of adequate documentation meant that the vast majority have not been recognized as citizens. Those who were qualified for citizenship under the 1948 law would no longer qualify under this new law. Therefore, they would be considered associate citizens if they had applied for citizenship in 1948 (Human Rights Watch, 2009). To become a naturalized citizen, one has to have evidence that he or she (applicant or their parents) entered and resided in Burma prior to independence in 1948. Rohingyas were not subjected to any laws (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) related to Registration of Foreigners before or after Burma's independence. Under national quota, Rohingya representatives were elected during colonial administration from North Arakan as Burmese nationals. In 1946, as an indigenous people, General Aung San assured full rights and privileges to Muslim Rohingyas saying that native people should not be divided (Zaw, 2009).

Citizenship is a necessary category condition for claiming full entitlements of rights in a sovereign state. The theoretical constructions of citizenship, according to Bosniak (2000) and Bloemraad, Korteweg, & Yurdakul (2008), encompass four primary dimensions of the concept: legal status, rights, (political) participation, and belonging. We will examine where Rohingyas figure in the category of citizenship. Establishing mono-religious nationalist ideology may be in the mind-set, and ethnic cleansing is the way of creating such nation (Pugh, 2013). Implications for the lack of full citizenship are far reaching. They become subject to abuses, including restrictions on their freedom of movement, discriminatory on access to education, forced labor, and arbitrary confiscation of property.

In 1942, Japan invaded Burma, and Britain retreated, forcing many Rohingyas to flee into East Bengal (Pittaway, 2008; Ullah, 2005, 2008). Tensions between the government and the Rohingyas escalated after Burma became independent and the Burma Socialist Party seized power and dismantled Rohingya social and political organizations in 1962. In 1977, the military registered all citizens prior to a national census, explained later to exclude them, and, as a result, more than 200,000 Rohingyas had to leave for Bangladesh in 1978 alone (Ullah, 2011). Rohingyas were forced to leave for Bangladesh in four main periods: the late 1700s and early 1800s, the 1940s, 1978, and the recent times, in 1991 and 1992 (about 300,000) and the most recent one was in 2012 (Human Rights Watch, 2000). These episodes of forced displacement in fact endorse the fact that they have been living in the country since hundreds of years, and it dispels the claim of the Myanmar government and some Buddhist monks that they are migrants from Bangladesh.

Although military repression has been the norm for so many decades, Buddhist monks have also wielded sufficient political power and have significantly contributed to shaping the religious landscape of Myanmar. During the pre-colonial period, the relationship between religion and the state had been the most dominant one in Burmese society. It however revived after independence in 1948. As time passed on, although the economic relationship has been more crucial, their political relationship



**Figure 1.** Map of Myanmar showing Arakan state.

Sources. Maps world. Downloaded on 28 May 2016. <http://www.mapsofworld.com/myanmar/>

increasingly assumed a larger role (Aung-Thwin, 2009). Their political presence became visible when they took part in the Saffron Revolution in 2007, took part in nation-wide protests against rising fuel and commodity prices in 2007, participated in

humanitarian activities in cyclone Nargis in 2008, and took to street in 1988 to call for democratic and economic reforms in the country. These participations eventually made them very powerful in the political landscape in Myanmar. Monks' engagement and active participation in social or political life, however, has become controversial because they are believed to be searching for spiritual liberation (Gil, 2008).

Anti-Muslim riots belong to a wider phenomenon of protests against foreigners, who are stigmatized. The riots of 1930 and 1938 were sectoral affairs directed against migrant Indian harbor workers by unemployed Burmese rural migrants to the city. They gave nationalist flavor to this with the slogan "Burma for the Burmans" while monks insistently repeating that "to be Burman is to be Buddhist" (Walton, 2013). In 1978, the military that now ruled Burma raised these incidental abuses to a new level of organized brutality when it launched a campaign of murder, rape, and torture targeted specifically at the Muslim population (Ragland, 1994). Recently, in 2012, two waves of violence between Rohingyas and majority Buddhists in Rakhine State sparked religious unrest across the country, leaving more than 200 people dead and around 140,000 homeless. In one incident of the violence against the Rohingyas that erupted in the same year, police in Rakhine fired on a crowd of Rohingyas who demanded the release of a Rohingya fisherman's body that was being held by the police (Grieboski, 2013). Currently, an estimated 500,000 refugees from Myanmar are in neighboring countries in the region (UNCHR, 2014).

Due to the deliberate isolation, they have been socially, financially, and politically cornered. This article argues that Rohingyas are deliberately excluded from being citizens of Myanmar to build a mono-religious nation, and as a result of depriving of citizenship, they are subjected to state-sponsored violence. The notion since 1962, when the socialist rule began, that Myanmar does things in its own way and relies on its own resources by undermining international relationship led the rulers to be extremely dependent for clinging to power on the military. They will continue to frame policies influenced by personal security. The military leaders fear that they will be in great trouble if the political order is overturned. This implies that the State's pro-Buddhist stance is a way of lending legitimacy to the military rule of Myanmar.

## Data Source

This piece demonstrates that international instruments failed miserably to protect the refugees and refugee rights in the event of their desperate need. This article explains the exclusionary policies of the Myanmar government, why Rohingya minorities found their ways to uncertain destination where there is no guarantee of a better environment in terms of protection, and what other dynamics of persecutions they experience in their destination.

Interviews were conducted with 29 Rohingya refugees. The sample was drawn from three main countries of destination of the Rohingyas: Bangladesh, six; Thailand, 14; and Malaysia, nine (see Table 1). Of them, four were women (three in Thailand and one in Malaysia). The interview captured the injustices they faced in their country of origin. Based on fieldwork from mid-2013 to end of 2016, the research for this piece

**Table 1.** Profile of the Respondents.

Age group	<i>F</i>	%
25-35	4	13.8
35-45	7	24.2
45-55	9	30
55-65	9	30
	29	100.00

Source. Field data 2015-2016.

is derived from ethnographic fieldwork with them in the form of conversations rather than formal interviews. They were conducted in social gatherings in public parks and at private parties, and in shelters homes. In-depth interviewing was selected as a research method due to its emphasis on process, depth, and complexity when explaining phenomena. The open structure of qualitative interviewing allows for unexpected issues to emerge. These relate to the research aims of attempting to gain insights into how refugees make decisions. Interviews with Rohingyas were conducted in English or with English interpretation (in case they declined to speak English or they could not speak English). All interviewees understood the purpose of the interview, its voluntary nature, and the ways that the information they shared might be used. Most of the respondents we met during the Migration Day conferences in 2015 and 2016 were held in Bangkok. As we were in an informal setting, they were enthusiastic in sharing their experiences. The interviews were scripted. Drafts of interview script were shown later on to the interviewees for validation.

## Dimensions of Injustices

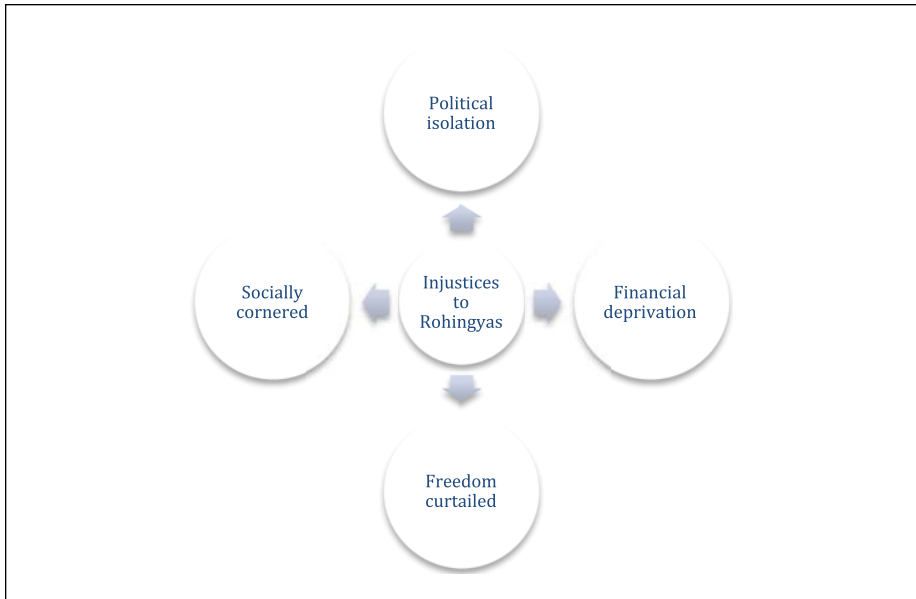
Men, women, and children may be targeted for abuse by the police, the military, or other officials in the country of origin. Individuals are detained, which heightens the risk of sexual violence and torture. The status of statelessness makes them vulnerable to sexual attack at different levels by pirates, bandits, members of the security forces, smugglers, or other refugees. Border guards detain and abuse women and girls, sometimes for extended periods; pirates capture women as they travel by boat and extort sex in exchange of their safety and onward passage (Ullah, 2014; UNHCR, 2016). Rohingya refugee women are no exception. Given their status as women, stateless and part of an ethno-religious minority, they are vulnerable to a wide range of sexual and gender-based violence (Kojima, 2015). Challenging injustice, valuing diversity (Robinson, 2010), sharing a common humanity, equitable treatment, and support for human rights, and a fair allocation of community resources (Brighouse, 2005) to all, irrespective of gender, sexuality, religion, political affiliations, age, race, belief, disability, location, social class, and socioeconomic circumstances are important variables of a just society (Rawls, 1971; Stolte, 1987). By all reckonings, Rohingyas have been subjected to injustices.

One of the most important principles of justice is the social, economic, and political liberty (Rawls, 1971). Rawls's theoretical framework provides powerful components: freedom and equality, and cooperative arrangements that benefit the less advantaged members of society. A political conception of justice is constituted by three basic features (please see Figure 2). First, it is worked out for society's basic structure—social, economic, and political institutions, and how they fit together into one system of social cooperation from one generation to the next. Second, the political conception is presented as a freestanding view. Third, its content is expressed in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society (Cohen, 1986). By any measure, histories of Rohingya deprivation are tantamount to injustices. The Myanmar government has been persecuting the Rohingyas by restricting their freedom of movement, assembly and association, appropriating their land, making demands for forced labor, and arbitrarily arresting and detaining them (Human Rights Watch, 2013; Mathew & Harley, 2014; Ullah, 2011). Under the 1982 Citizenship Act, the Myanmar government effectively rendered the Rohingyas stateless (Ullah, 2013). Most refugees in the world may have lost or left their home, but they have not been stripped off their citizenship. Of course, for them, there is fear of persecution if they go back. However, for Rohingyas, they are the people with no home or citizenship. The recent maritime movements present serious challenges to governments of receiving and sending countries' international obligations to provide fair access to protection and asylum to those in need. In the absence of a legally recognized status, the Rohingyas have been rendered stateless or right-less. Myanmar has revoked Rohingya "white-card" holder voting rights. A white card is a kind of identity card issued to those who have not yet been verified as a citizen, associate citizen, naturalized citizen, or foreigner. It means they may be either a citizen or foreigner. Originally, white-card holders were able to vote. However, parliament removed this clause when it approved the bill in 2014 (Myint, 2015).

The plight of Rohingyas should be understood in the context of the country's political and religious climate, which exacerbates the vulnerability of women and girls to abuse and discrimination in Myanmar. In addition, the apparent lack of action taken against disturbing public statements from religious leaders and members of political parties led to incitement of hatred against minorities (Kojima, 2015). A newly enacted bill in fact shows how the State systematically implements discrimination against ethnic and religious minorities and against women. This bill is composed of four laws that restrict individual rights in regard to choices in the area of family planning, religious conversion, and marriage (the state regulates marriage of Buddhist women to non-Buddhist men while polygamy practiced by non-Buddhist persons is criminalized; Kojima, 2015).

Persecution of Rohingyas is a phenomenon today that has become an institutionalized practice over time. State-sponsored violence has been supplemented by legislative measures that negatively single out the Rohingya community and inhibit from being heard. Financial isolation has been the government's deliberate decision and endorsed by a few Buddhist monks who were campaigning against Rohingyas. As a result, earning livelihood has become extremely difficult for them. Maruf recalls how difficult their life in Myanmar was.





**Figure 2.** Dimensions of injustice to Rohingyas.

... we used to boil taro leaves for food for days. We could not afford to buy salt to add to taro leaves. We used to collect it from roadside but even often police and army people would drive us away. My uncle died a few days before we left. He died of hunger and lack of treatment. We failed to make some food available to him. He died . . .

As a result of deliberate isolation (political, economic, and social) and persecution, Rohingyas had to find their own way out to seek safety and security. Neighboring countries (especially Thailand and Malaysia) are their destinations. It is also not easy for them to get to those countries. En route they experienced nightmarish exploitations. Human traffickers took advantages of their vulnerable situation. In addition, Thailand's military has been waging a heightened war against a Malay-Muslim insurgency in far southern Thailand, the very area Rohingyas needed to transit to reach Malaysia. Given the insurgency, the mind-set of many Thai security officials has been hostile toward southern Thai Muslims (Sathian & Derin, 2006). It was not difficult to extend that paranoia to the Rohingyas, who Thai soldiers feared might join the revolt. Thus, Thai army and navy patrols routinely detained Rohingyas and either deported them back to Myanmar or—though less frequently—helped their boats on to Malaysia.

I met Mr. Kalam in Thailand whose family left Myanmar 10 years ago and asked him the following:

Interviewer: Would you please enlighten me in general about how were you treated when you were in Myanmar?

Mr. Kalam: . . . you know dogs without owner or even worse. We were born on this soil but we are called illegal migrants. . . . my family is from Maungdaw, but we left a few days later the NaSaKa people raped my sister in front of my family members. My brother in-law tried to resist them but he was taken away by them and he never returned. They told us if we didn't leave Myanmar they would kill us all brutally.

As a follow-up question, I asked him the following:

Interviewer: How did you get to Thailand?

This question brought tears to his eyes. He was told by researchers that he does not have to answer if he does not want. He wiped his eyes telling he needs to tell his story to lighten his painful heart. He paid all the money he had to a smuggler to travel to Thailand. He spent 13 days at sea on a small boat crammed with about 90 other people so tight they were all forced to huddle into balls, holding their knees to their chest.

Mr. Kalam: Our food and drink ran out. We were about to die. Smugglers started to beat us mercilessly so that we get weaker and cannot shout anymore. Some of the people jumped off the boat to commit suicide, they thought it is better to die like this.

I requested bit of an explanation about his current occupation in Thailand. I asked him the following:

Interviewer: Would you please tell me a bit about your current occupation in Thailand. I mean how are you earning your livelihood here?

Mr. Kalam: . . . I live in Lopburi with my wife and two children. We had three children. Eldest one was killed. Currently I have no job. I had stroke late last year (2015). After that I could not go back to work. I used to work in a restaurant. I tried many times to get a job in Bangkok however without a UNHCR card it is hard to get one . . . .

Rohingya women are only permitted to have two children, and men are prohibited from marrying Buddhist women. Women are more vulnerable to atrocities than male. In home country, they become the target of Nay-Sat Kut-kwey ye (NaSaKa)—a Myanmar border security force consisting of police, military, intelligence, customs officers, and riot police for sexual violence, and beyond their home en route, they become the target of smugglers and at the destination, they become target of the local people. Rohingya women are taken hostage at human-trafficking camps in Thailand and Malaysia and gang raped by kidnappers (Iaccino, 2015). Some survivors of such terrible ordeal mentioned during our interview that

young women were dragged away at night from the jungle camp, which lies near Padang Besar in Thailand to gang rape. We heard the shrieks and cries of the women because the

place they raped them was very close to our pens, but as the incidents were at night, we could not see what was happening.

In May 2015, gruesome mass graves were unearthed in southern Thailand, revealing scores of bodies belonging to mostly Rohingya refugees. The discovery placed Thailand under a global spotlight exactly at the time when the country was seeking to be upgraded by the United States in terms of its handling of human trafficking.

The NaSaKa, who forced Rohingyas either to pay a weekly fee to avoid work—a fee that many Rohingyas cannot afford—or to perform manual labor such as construction work, agricultural work, portering, or serving as guards (Andrew, 2012). The Myanmar Army and local police as well routinely force Rohingyas into labor, and they are killed for refusal to perform forced labor (Lowenstein, 2015). One respondent in Malaysia said that forced labor had another objective, which is explained in the below narrative.

... forced labour usually last for 2 weeks to months. NaSaKa targets those people who have wives and young daughters or sisters. As they were taken away for forced labour, their wives, sisters and daughters are left without any security. This is the time NaSaKa people jump on them like crazy dogs to rape them without any resistance . . .

I met a Rohingya refugee who fled Myanmar 20 years ago. Kawsar runs a small kiosk in Nong Khae, Thailand, selling beetle leaves and children toys. He earns about US\$8 per day. He has four members in the family. Kawsar left Myanmar because soldiers were repeatedly threatening his family to leave the country. One day, they started beating his father before they took him to prison.

... I never saw my father again after he got released from prison. We fled. We did not know where to flee. We knew we have to flee if we wanted to be alive. We ended up in Thailand . . .

Mohammd Habib (49) from western Rakhine State got to Thailand about 20 years back. He escaped forced labor. Almost every month, he used to provide forced labor. In one event, he declined to go due to his high fever. He was beaten while hanging him from a tree. He regrets his decision of fleeing two decades ago:

... I fled but my other family members got trapped. I heard my father died. One of my brothers was missing. He never came back. My mother managed to leave for Bangladesh. I tried to contact her. I failed . . . I got no clue how is she . . .

In an interview with another member of the Rohingyas, Vanessa Thevathasan (2014) was told about how Myanmar has declassified and revoked their citizenship rights? "Many people who have studied the Rohingya know that the Rohingya were an ethnic group and citizens of Burma, something that is still strongly anchored in the heart of every Rohingya" (Thevathasan, 2014, p. 2). Boon (2015) typified three periods of history of Burma. The first one is the period up to Burma's independence, in which Burma was colonized by the British (1824-1948). Under the leadership of Aung

San (who was assassinated just before the independence), Burma's struggle for independence ended in an inclusive form of nation building, in keeping with its multi-ethnic population. The second phase of history is marked by the rule of U. Nu, who changed the plans of Aung San and adopted an exclusive, Burman-based view of Burma's national identity (1948-1962; Boon, 2015). His polarization move instigated all ethnic groups to take up arms, which led a six-decade period of continuous violence, and in 1962, U. Nu's regime ended by the taking over by Ne Win.

In 1962, General Ne Win came to power and set up plans to declassify and revoke the rights of the Rohingya. He cancelled Rohingya language programs in 1965, which had up until that point been broadcast on the Burmese Broadcasting Service as an ethnic language program. In 1974, he changed Arakan state to Rakhine, an ethnically motivated name. He then introduced the 1982 Citizenship Law that stripped Rohingya of their fundamental rights as citizens of Burma. The law was internationally condemned, but sadly it still remains in the current constitution that makes Rohingyas vulnerable to discrimination and persecution. (Thevathasan, 2014, p. 3)

Making someone stateless is the best way to prevent someone from accessing basic services.

Abdul Hamid left Myanmar 13 years ago. He has been living in Selangor, Malaysia. He had a small shop in his own village. He was married. His wife was gang raped a number of times by the Burmese army. I asked to kindly explain the reason why he left Myanmar. The answer was as below:

I attempted to commit suicide many times because I could not help her. She looked at me helplessly. I could not commit suicide when I thought about my daughter. One day I woke up early after I heard sound from outside and looked from the window, then I saw dark smoke from my shop. They set fire on my shop. The same day many shops and homes of Rohingyas were burnt down. I felt my last resort for our livelihood was gone. I decided to move out of the country. No more here.

## Responses From the International Community

Now, let us turn the focus to how the term *refugee* has been recognized in accordance to the 1951 UN Convention to examine where Rohingyas figure. The 1951 Convention consolidates previous international instruments relating to refugees and provides the most comprehensive organization of the rights of refugees at the international level. The emphasis of this definition is on the protection of persons from political or other forms of persecution. Most countries hosting Rohingya refugees have not signed the 1951 Convention. In SEA, only two countries (Cambodia and the Philippines) are party to the 1951 refugee Convention. Ironically, these countries by geographical position have less chance to receive them. This implies that these countries lack international obligation, and a legislative and administrative framework to address refugee matters. Under the customary international law principle of non-refoulement, countries cannot send those seeking asylum back to the country of origin. Thailand,

Indonesia, and Malaysia have adopted a new “help-along policy” whereby those arriving by boat are provided with supplies and sent to a third party country. This has resulted in a “ping-pong” between the countries. These actions violate the principle of non-refoulement (Peace & Justice Centre, 2015).

Myanmar’s mistreatment of Rohingyas, though occasionally surfacing in public—have persisted as a secret sideshow, which has perpetuated a brutal system of human trafficking and prevented the Rohingyas—currently the most brutalized ethnic minority in Asia—from reaching political asylum abroad (Ramendran, 2015, Ullah, 2011, 2014; UNHCR, 2015). Myanmar is a party to the Genocide Convention 1948, which requires similar obligation from Myanmar to prevent and punish individuals responsible for the crime of genocide (United Nations, 2016). Thus, it leaves no other choice to the Rohingyas but to flee to other neighboring countries.

The international community such as Human Rights Watch, International Criminal Court (ICC), subscribed to a number of international treaties, which provide protection for human rights. The crimes of genocide, war crimes, and crimes against humanity were committed in the past in many parts of the world. The Nanjing Massacre in 1937 and the Rwanda Genocide of 1994 and the violence against East Timorese in the 1990s are clear examples of extreme brutality against humanity. The question remained unanswered why the perpetrators of the crimes of genocide against Rohingyas could not be brought to justice?

Available protection space for Rohingya refugees in the region has become extremely volatile due to the reluctance to sign the 1951 Convention and a lack of national legal frameworks in most southeast Asian countries. These countries abstain themselves from becoming party to the 1951 Refugee Convention and the 1967 Protocol under the pretext that signing the Convention may lead to an increase in the number of refugees arriving in their territory, which may claim heavy financial burden (Ullah, 2008, 2013). The ICC, which was established through the Rome Statute, prosecutes and punishes individuals responsible for the crimes against humanity, regardless of the position or status of the perpetrators.

To improve the human rights situation in the country, Myanmar must provide for a better separation of executive and judicial powers. Although Myanmar is not a State Party to the Rome Statute, this does not necessarily mean that the perpetrators can walk freely unpunished. Articles 13(b) and (c) of the Rome Statute permit the ICC to exercise its jurisdiction over States that are non-Parties, with conditions (Davies, 2009; Prevent Genocide International, 2000). With regard to Article 13(c), the ICC Prosecutor can initiate their own investigation provided that, information from individuals or organizations involved such as the UNHCR could be supplied. The United Nations Security Council (UNSC) may refer the situation in Myanmar to the ICC under Article 13(b) of the Rome Statute, which is similar to what took place in Darfur in Sudan, and Libya, where these two countries are also non-parties to the Rome Statute (Prevent Genocide International, 2000; Ullah, 2014). However, not only does it require political involvement from other UNSC Members, but this effort to seek justice for the Rohingyas through the ICC must not be vetoed by any of the “big five” (China, the United States, Russia, France, and the United Kingdom)

in the UNSC. This is a long-term legal option that the world community could consider to end the plight of the Rohingyas.

## Conclusion

Rohingya issues began in Burma from British colonial period onwards. The long history suggests that the Rohingya people have been living in Burma for generations. The interviews of Rohingyas with the researcher revealed that they were physically in distant destinations (such as Thailand, Bangladesh, and Malaysia), but their heart is in Myanmar. Leaving the soil could never be the option for anyone. During the anti-Indian (including anti-Muslim) riots in 1930 to 1931 and in 1938, several hundred Indians and Muslims were killed in Burma. Properties of Muslims were destroyed and burned under the campaign of “Burma for Burmese only.” In April 1942, armed Rakhine in connivance with Burmese nationalists massacred about 100,000 unarmed Muslims (Shi, 1961). There are arguments that politicians deliberately engage in racist and xenophobic plans to marginalize and exterminate them. The former generals used “Muslim phobia” to promulgate an oppressive Burma Citizenship law in 1982 (Smith, 1995).

The blatant persecution of Rohingyas by the State is now an established fact. Despite political pressure from the international community and local activists groups calling for the government to stop the violence, there is no sign to end the violence. The brutal violence—organized, incited, and committed by local political party operatives, the Buddhist monkhood, and ordinary Arakanese, directly supported by state security forces—that took place in 2012 had been one sided and systematic (Human Rights Watch, 2013; Turner, 2014). Policy people in both sending and host countries and refugee regime appear to not have any intention to settle down this long-standing issue related to injustices toward Rohingya people. This has become crystalized in a recent interview with Mishal Husain of the BBC of Aung San Suu Kyi, Nobel Laureate for Peace, from the fact that this leader was reportedly angered by questions about anti-Islamic attitudes. She says, do not exaggerate Rohingya plight. Her statements clearly show her taking Buddhists’ side and overlooking the plight of the Rohingya people. After the interview, she angrily muttered off-air: “No one told me I was going to be interviewed by a Muslim” (“Anti-Muslim Spat: Myanmar’s Leader Suu Kyi Loses Cool With BBC’s Mishal Husain,” 2016). The persecution has escalated leading thousands to make the long journey across the South East Asian Sea and many are seeking alternate routes via Thailand to Malaysia with the aid of smugglers. Rather than condemn the main perpetrators of the violence, President Thein Sein blamed the “Bengali” (Caryl, 2012). Thein Sein in a statement to the United Nations claims that the deportation of Rohingyas is the only solution. Such a statement from the highest authority of the government may deepen the division between Rohingyas and others and among Rohingyas. Misunderstanding among themselves may develop as a result. This may fuel the anti-Rohingya rhetoric and instigate inter- and intra-Rohingya violence.

The strategies for creating division have been used to ditch ethnicities against each other, thus keeping the people from rising up against the perpetrators. Politicized ethnicity has always been detrimental to national unity.

Also, distribution of resources has been skewed to favor a particular group, pushing marginalized groups to use their ethnicity to mobilize for equality. This might be the beginning of any conflict (Monty & Ted, 2003). The Rohingya situation could not be explained by Tilly's (2002) theory (convention politics theory), which contends that outbreaks of ethnic or religious violence could be traced directly to prejudices within society. This is to argue that Rohingyas' effort to counter the violence from the governments has often been projected by the governments as religious violence. Often Rohingyas were made known as Muslim terrorists to divert international attention from their plight. Pride in one's religion was thought to burst out spontaneously into violence against those of a different persuasion. Demilitarization of ethnic areas, investment in development and infrastructure, legal reforms to ensure an end to discrimination on grounds of ethnicity and religion are immediate steps that need to be taken. They should be given concrete guarantees of security on return, of a restoration of identity documentation and citizenship status, and of practical support to ensure future livelihoods.

Statelessness of this population group could be a reason for the regional security threat. Research bears out that the situation they have been in has gone beyond human rights standard. A political solution has to be made with the support of the neighboring countries and Association of Southeast Asian Nations (ASEAN) and the international community. Thailand and Malaysia have been offering humanitarian assistance, though controversial, to Rohingya refugees. Although Myanmar bears primary responsibility for the Rohingya crisis, deplorable treatment of the Rohingyas in host countries must immediately come to an end.

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### Notes

1. For analysis of the origins of the term *Rohingya*, see Charney (2005).
2. The three Muslim groups of Rohingyas (Muslim Arakanese), Panthay (Chinese Muslims), Bashu (Malay Muslims), and six other ethnic groups were deleted (Charney, 2005).

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