

ADDRESSING THE CHALLENGES OF ROHINGYA REFUGEES: REPATRIATION ISSUES

Prof. Maimul Ahsan Khan*
PhD in Jurisprudence

ABSTRACT

Fleeing away from Myanmar, more than a million Rohingya Refugees reside in the temporary shelters in Bangladesh, the most densely populated country of the Earth. It did not happen all of a sudden. Hundreds of thousands of Rohingya Refugees first were forced to leave Myanmar in 1978. In fact this has started to make an international humanitarian disaster since 1966, just after one year of Indo-Pak war of 1965. Initially Rohingya Refugees were denied their citizenship and then their religious, ethnic, civil, political and economic rights in their home land. Bangladesh was either busy with its own predicaments or just could not appreciate the gravity of the challenges faced by Rohingyas, who territorially the only foreign Muslim ethnicity adjacent to its territories. Rohingya people were made Refugees intentionally and systematically. Bangladesh has also become paranoid by the challenges of Rohingya Refugees, who were utterly ignored by all international communities, institutions and agencies for long time. Apparently sudden demise of the Cold War caught the world in surprise and political, economic and military balance maintained by the two super-powers had been destroyed completely. Bangladesh has ignored those international phenomena by taking them as a distant story to be dealt with full seriousness. Diplomacy with Myanmar alone did not bring any positive results for Rohingya Refugees, who are now at the mercy and good will of the people and government of Bangladesh. Omen of international communities are either too late or too little for Rohingya Refugees, who might have to stay in Bangladesh for an indefinite period of time as stateless people. Among all the challenges of addressing the Rohingya refugee issues, repatriation – related challenges are the most difficult and almost insurmountable because of dishonest, insincere and utter disregard to the protection of Rohingya Muslims.

Key Words: Rights of Refugees, Rohingya Muslims, Bangladesh-Myanmar Relations, Influence of China in the Region, Repatriation of Rohingya Muslims, Role on UNHCR and other International Agencies.

INTRODUCTION

Rohingya Muslims were declared as stateless by their governments backed by the military forces of that country.¹ That is already a history of half a century. Most of the Western powers, especially London and Washington, kept a blind eye on that development and took their vested interests in Myanmar either through military or the Aung San Suu Kyi² and her cronies. Western powers possibility could not

* Professor of Law, University of Dhaka; Distinguished Professor of Law & Academic Advisor, Green University of Bangladesh.

imagine that in the post-Cold War era they would not be able to keep Myanmar under their absolute control. As a result, rivalry between India and China over the territories of Myanmar has surfaced gradually with a significant resistance toward Western influence in the region. President Barak Obama tried his level best to manage the situation, but his failure was quite significant unnoticed by the Western media and observers.

“Tom Malinowski, the Obama-era Assistant Secretary of State for Democracy, Human Rights, and Labor, told me he had warned Suu Kyi that “extremist groups will eventually provoke a confrontation as a means of recruiting fighters for violent attacks” and, when they eventually do, “Burma has no defense against groups like al-Qaeda and ISIS.” He said he also told Suu Kyi the Burmese military “will willingly fall for that trap [of responding with force against civilian populations], because it can use the ensuing confrontation to rally Buddhists to its side, and thus preserve its authority.”³

Bangladesh cannot ignore Rohingya Refugees and their legitimate rights for many obvious reasons. But it is not necessarily a religious issue for the people and government of Bangladesh. We will be dealing with some of the questions mentioned below. Will the rights of the Rohingya Refugees prevail in the long run? Will they be able to return to their homeland? Will they be persecuted for just being Muslims? Why big and strongest Muslim countries are still too timid and miser in helping Rohingya Refugees? Why has the country like Pakistan practically betrayed the humanitarian causes of Rohingya Refugees? Why did Mr. Jinnah abandon Rohingya Muslims and did not allow Arakan to be a negotiated issue with the English colonizers? Why has Myanmar been declaring Rohingya Muslims as Bengalis? How could Suu Kyi be that brutal in supporting her military? Why does Myanmar military not care ICC at all? Is it a simple ethnic clinging or full-fledged genocide against Rohingya Muslims? Is our 1971 is Rohingya Refugees’ 2017? Is Arakan or Rakhaine another Palestine in making? Would IOs such as OIC and Arab League eventually become irrelevant to humanitarian crisis facing by Rohingya Refugees? How long and how far will Bangladeshi people and government be able to walk along with the Rohingya Refugees successfully?

Historical and Religious Dichotomies of Rohingya Muslims: Genocide was Looming for Long

The latest Burmese military excuse of genocide was the so-called Arakan Rohingya Salvation Army (ARSA), a militant group that resisted the indiscriminate burning of Muslim houses, killing innocent children and raping Muslim women.

This group has been characterized as Muslim militant group sponsored by Pindi and Riyadh. According to Myanmar government, ARSA had attached security outposts and killed some soldiers there on August 25, 2017. A military crackdown immediately (within a few weeks) made almost half a million displaced Rohingya Muslims in Myanmar refugees in Bangladesh. It was a continuous policy of ethnic cleansing on the part of Myanmar that has started during 1970s. At present all human rights agencies along with the UN human-rights chief has characterized the massacre as a “textbook example of ethnic cleansing.”⁴

The Aung San Suu Kyi government initially tried to claim that it had been driving out illegal Bengal immigrants from their country and then we found that even the Kofi Anan report also did not mention the word “Rohingy”. Suu Kyi also did not use the word “Rohingya” despite the fact that she mentioned other ethnic minorities in her country by name. She termed the Rohingyas as “those who are now in Bangladesh” and claimed that she does not know why these people fled away from Myanmar.

From August 25, 2017 to the mid of October, 2017 more than 6,00,000 Rohingya people have crossed into Bangladesh as recorded by the UN agencies. It was widely accepted fact that the Suu Kyi government killed 3,000 Rohingyas and burned 284 villages of the Muslim minority people in Rakhaine alone within a few days.⁵ A UN report has established: “The brutal attacks against the Rohingyas in northern Rakhine state have been well-organised, coordinated and systematic, with the intent of not only driving the population out of Myanmar but preventing them from returning to their homes.”⁶

In this background, Suu Kyi claimed that she invited UN agencies, financial institutions such as the World Bank, and others to provide economic help to Rakhaine, one of Myanmar's poorest Muslim areas, but again did not mention anything about Rohingya Muslims.

The Suu Kyi government has denigrated the persecuted Rohingya minority Muslims as the “foreign” entity and termed the Rohingya as “Bengalis” intruders from the then East Pakistan. The Rohingya have been referred as outsiders or illegal immigrants who were the victims of the systematic disenfranchisement as a minority long before Suu Kyi came to the power. Myanmar military under the leadership of Suu Kyi decided to root out Muslims from their homes and compelled them to become refugees in Bangladesh.⁷ Why could Dhaka not recognize them as refugees? Why still do we have to call them illegal immigrants to Bangladesh? We will discuss about that in another section below.

Suu Kyi's father was the main sponsor for a brutal military dictatorship in Myanmar. All military regimes in Myanmar have targeted Muslims in Myanmar to be oppressed and deported from their homeland. Due to the sheer brutal character of military regimes in Myanmar, outsiders hardly were aware of the atrocities carried out by the soldiers. Later on all kinds of Buddhists have joined military regime in mass murder of Muslims in Myanmar. Renata Lok-Dessallien, the UN Resident Coordinator from January 2014 to the October of 2017 has suppressed many important facts and information about the persecuted Rohingya people. The BBC investigative reports found that she had prioritized good relations with the Suu Kyi government and its military leaders to pursue close friendship over many big development projects and dismissed the underlying agenda of humanitarian access and the rights of the Rohingya Muslims. For both these leaders (Suu Kyi and Reneta Lok) the human rights of Rohingya Muslims were either trivial issues or a contentious subject for Myanmar military and civil authorities.⁸

The UN sources have confirmed that Lok-Dessallien was supposed to leave Myanmar in the very early days of 2017, but the Suu Kyi government had rejected her replacement with full diplomatic force. Why did the UN bowed down to such a pressure of military-backed government in Myanmar? Lok-Dessallien was believed to stop human rights activists travelling to Rohingya areas to see for themselves the human rights situation there. Lok even warned her co-workers at the UN agencies to shut down public advocacy activities for Rohingya Muslims who were murdered and raped systematically for long time.⁹ Rape was used as a military means to compel Rohingyas to flee from Myanmar.¹⁰

Aung San Suu Kyi's government not only committed genocide in Myanmar, but practically blocked all the ways and means to visit any crime sites in Rakhaine. No aid agencies were allowed to go there to distribute life-saving food and medicine. Hundreds of thousands of women, children and sick could not receive even minimum supply to survive physically. As a result, a large number of women, children, sick and old Rohingyas entered into Bangladesh with too many diseases and acute malnourished conditions. Moreover, anybody who wanted to help Rohingyas was named as sympathizers to "terrorists".¹¹ This is a very common technique Muslim and non-Muslim autocratic rulers use against Muslims so that no one forefully demand the implementation of human rights for the Muslim communities all over the world.

The Suu Kyi government has reiterated that the "tensions between the Bengali-speaking Muslims and Buddhists in Rakhine state" was not something new. And killing each other believed to have appeared on religious and ethnic grounds is a kind of common phenomenon in Arakan region for many centuries. In

reality, this region was called a region of perpetual peace between Hindus, Buddhists and Muslims for centuries. It has been established that the Muslim legacy in the region is more than a thousand years old.¹²

In 1982 when Burma's junta declared a law that deliberately excluded Rohingyas from the lists of citizenship, while all other eight minority ethnicities were allowed to register as citizens of Myanmar. At the time of Burmese independence in 1948 from the British rule, Rohingyas were praised for their participation in the liberation struggle against English colonizers and nobody has ever questioned their patriotism toward Burma. They remained equally citizens of Burma all with all other ethnic groups. In 1982 with the appearance of a new citizenship law, almost overnight Rohingya Muslims have become stateless in legal and technical terms. In 2014 Myanmar government decided to have a citizenship verification process by which Rangoon identified Rohingya Muslims as Bengalis. Rohingya Muslims were given a temporary resident card that made them either second class people or illegal immigrants.¹³

The temporary resident cards issued to Rohingya Muslims were also cancelled in 2015 and they were denied to vote for the first time in 2015. Unlike her father, Suu Kyi did not need any Muslim vote to return to the helm of political power of Myanmar. Under a new law in June 2015 Suu Kyi government made the Rohingya Muslims completely stateless under the so-called the Identity Cards of National Verification.¹⁴ All these utmost illegal and barbaric events and procedures have implicated with a coalition or collusion between Suu Kyi and Renata Lok-Desallien.

All governments and agencies have been criticizing Suu Kyi government for killing Rohingya Muslims, but they are not doing anything effective to stop the killings Muslim youths and raping of Muslim women on daily basis that has been going months after months and years after years. The Guardian newspaper on October 5, 2017, reported the UN-commissioned report that demonstrated horrible tragic death of thousands of innocent Muslims who still remained uncounted for.¹⁵

Yanghee Lee, a professor at Sungkyunwan University of South Korea, found that hate speech against the Rohingya Muslims was widespread and according to her: "It has been cultivated for decades in the minds of the Myanmar people that the Rohingya are not indigenous to the country and therefore have no rights whatsoever to which they can apparently claim".¹⁶

Under tremendous pressure from her Western allies, on November 2, 2017 Suu Kyi visited some selected burned and looted places of Rakhaine state and

surprisingly advised Muslims not to fight between themselves. How she could advise the worst victims of genocide and ethnic clinging not to quarrel with the perpetrators of war crimes? That caught the world with great surprise. Can it be a right process of reconciliation? Some Muslim leaders also take that kind of strategy. This is a glaring example how our leaders wish to start a reconciliation process between the worst victims and mass murderers in their respective countries? How, then, we can uphold democratic values, human rights and rule of law? This is now an open-ended question previously ignored by the colonialist of all kinds. Unfortunately now home-grown leaders have been following the suit of the former colonizers.

“Ms Suu Kyi, a Nobel Peace Prize winner, has faced withering global criticism for failing to condemn the security forces' so-called "clearance operations". Launched in August [2017] in response to attacks by Rohingya militants, the reprisal was so brutal and indiscriminate the United Nations labelled it "ethnic cleansing", while human rights campaigners said it bore the hallmarks of genocide. While Myanmar rejects the accusations, over 600,000 Rohingya Muslims have thus far fled across the border to Bangladesh, and more are still reportedly trying.”¹⁸

In her first visit to Rakhaine, Aung San Suu Kyi did not mention anything about the wide international condemnation she had been facing for keeping complete silence about the atrocities inflicting upon Rohingya Muslims by her governmental and military officials and local Buddhists, who already took full control of all burned villages after villages and rice fields, and all agricultural lands in the surrounding regions. Suu Kyi was accompanied by a gangster businessman Zaw Zaw, who is the most notorious commercial mafia-type entity in Myanmar.¹⁹

“She was joined yesterday by businessman Zaw Zaw, one of a host of military "cronies" who thrived under junta rule and are now taking prominent roles in rebuilding the battered region. There are fears a carve-up of contracts in Rakhine by big business will further divorce the Rohingya from their land. Suu Kyi says the Rohingya who have fled are now welcome back, if they meet contested "verification" criteria for re-entry to Myanmar. The Rohingya are loathed in Buddhist-majority Myanmar, where they are denied citizenship and denigrated as illegal "Bengali" immigrants. Their legal status is at the crux of communal tensions, with ethnic Rakhine Buddhists adamant that Rohingya are foreign interlopers. A Rohingya resident who has remained in Maungdaw town appealed to Suu Kyi to reconsider foisting a controversial national verification card (NVC) on the minority.”²⁰

For many years Myanmar government and military kept more than one million Rohingya Muslims in confinement up to a level that could be considered as

Gulag or German concentration camps. Some quarters are now giving an estimate of two million Muslims now in Myanmar.²¹ The Suu Kyi government by using their so-called democratic image has made the entire Rakhaine State as a prohibited zone for any foreign visitors and human rights activists, who could at least offer some condolence and humanitarian help to the countless victims. How could more than one million people 70% of which are women and children be considered as illegal immigrants? Are we again creating fuzz over the substance or content of the definition of refugees?

COUNTER-TERRORISM IS THE COVER OF GENOSIDE: THE CASE OF ROHINGYA MUSLIMS

After 9/11 a large number of Westerns were pushed to believe that the Muslims are the worst kind of people on Earth and most of the Muslims might be prone to the religious fundamentalism. The term “Islamic Fundamentalists” was coined seriously and media has started playing with the notions of Jihadist ideals and ideas of war. Hate crimes and speeches have become rather norm across the board. However, without wars inflicted by the Western powers in Afghanistan and Iraq, media might have lost in their propaganda war.

Since then, the total destruction of many Muslim countries and communities one after another did not stop anywhere. Many Muslim countries were looking for people’s uprising. Muslims were hopeful in their aspiration of democratic reforms. The waves of Arab Spring have started to keep the Muslims moving forward to have some kind of electoral process to bring down the autocratic and despotic regimes in the Muslim World, especially in many Arab countries. However, Muslims in general did not expect the horrible and bloody civil wars in countries of Maghreb (Northern regions of Africa). How Muslims could put all their leaders in the same box of terrorism, which must be driven by only religious fundamentalism. Saddam and Gaddafi could not be considered as same kind of terrorist-leaders. Bin Ladens and Ayatullahs are not comparable in any form or shape.

Initially Daes (IS) put everybody in wonder. Then it has been revealed that this possibly the worst kind of ‘Muslim’ terrorists created by a huge joint venture of Western and Arab hands. Turkish and Iranians got united in almost all fronts to fight in Iraq and Syria to defeat IS. What a shameful scenario for the entire mankind, particularly for Muslim nations! Now people in Pakistan and Turkey are the worst enemies of the Western hegemony in the Middle East and beyond. Iraq and Syria have joined hands in fighting the IS and physically eliminate the worst kind of Muslim terrorists in their respective countries. In this global context, genocide against Rohingya Muslims has surfaced to the astonishment of the whole world.

How come Muslim countries were also in deep sleep about refugee issues around the world? Rohingyas are just one of the worst cases around now we have been facing.

What are the difference between the Egyptian military Generals under Sisi and Burmese Generals under the leadership of Suu Kyi? General Sisi is not an elected leader. Suu kyi is an elected and popular de facto leader of Myanmar. Are the supporters of the Muslim Brotherhood (Ikhwan) and Rohingya Muslims are of same category? Can it be a comparison at all? Jamat-e-Islami of Pakistan and Ikhwan has believed to be the same kind of fundamentalist political parties or forces. Does it mean that Salvation Army of Rakhaine and Salvation Front of Algeria²² are of the same category?

At present we simply cannot deny the fact that the Westerners have disliked Muslims as much as Muslims hate their Western counterparts. It is the final outcome of colonial subjugation over Muslim Nations, which are now falling apart because of dictatorial and utterly oppressive regimes supported by the Western political, economic and military leaderships. Without expensive military machines of the Muslim and Third World countries, the economic engines of the First World countries will stop moving further. As financial contributors to that global economic process, Myanmar is not that different from any Muslim country. However, hatred towards the Buddhists found in the military and civil administration of the Suu Kyi government is a phenomenon of global distrust and mistrust in Muslim nations and ethnicities.²³

FROM BALFOUR TO CREATION OF ISRAEL AND PAKISTAN: WAS THE GENOCIDE INEVITABLE?

Balfour Declaration of 1917 has been considered as the fundamental document based on which the State of Israel was established in 1948. But that was also a beginning of the emergence of militarized Pakistan based on religious fanaticism in the line of Israel. In fact, Israel and Pakistan were given same importance by the big international players to keep the newly independent countries under the control of global capitalism. Moscow was too fearful to that united front of capitalism and joined hands with London and Washington to give formal recognition to the Zionist State of Israel, which at its core a fanatic and terrorist country. Now Pakistan and India have also earned similar type of negative image to all communities around the world, especially the secular and progressive ones.²⁴

Mahatma Gandhi along with his Muslim and Hindu associates tried his level best to resist the British plan for partition of India in 1947 at a time when Israel

was about to be surfaced as a Jewish State in the Land of Palestine. Until now many Muslim Nations do not appreciate that from the beginning Israel and Pakistan are in the same page of the middle of the twentieth century.²⁵ Of course, history does not repeat itself with its entirety. The tragic stories of the Rohingya Muslims are also a reminiscence of the same history of our or Palestinian struggle for self-determination and human liberty and dignity.

“The prestige of Islam demands rendition of Smyrna and Thrace to Turkey, and evacuation by the Allied Powers of Constantinople, but the existence of Islam demands the total abrogation of mandates taken by Britain and France. No influence, direct or indirect, over the Holy Places of Islam will ever be tolerated by Indian Mussulmans. It follows, therefore, that even Palestine must be under Mussulman control. So far as I am aware, there never has been any difficulty put in the way of Jews and Christians visiting Palestine and performing all their religious rites. No canon, however, of ethics or war can possibly justify the gift by the Allies of Palestine to Jews. It would be a breach of implied faith with Indian Mussulmans in particular and the whole of India in general. Not an Indian soldier would have gone, if Britain on the eve of war had declared even the possibility of any such usurpation, and it is becoming clearer every day that if India is to remain a free partner in a future British Commonwealth, as distinguished from the Empire, the terms of the Khilafat have to be settled more in consultation with the spiritual leaders of Mussulmans than with the political leaders of Turkey.”²⁶

Colonizers did not want to keep the influential spiritual leaders of any kind to thrive in the Muslim communities; they wanted to support leaders like Kemal, Jinnah, Nasser, Saddam and many others to use them against their own people. Homegrown Muslim political leaders have started to work against the interest and causes of masses, whose vocabulary, rhythm of works and ethos are quite different than that of their leaders. Muslim masses did not subscribe the thoughts and cultures that had been implanted by former colonial Masters. Anti-people legislation maintains a long term negative impact on the psyche and behaviors of concerned constituents.

Already for about a century, Muslims have been trying to become ‘citizens’ rather than ‘subjects’ under some draconian regimes or systems. Liberated Statehood working for the masses is yet to be flourished. The success of the Muslim nations in building that type of successful Statehood is either very insignificant or even in a kind of labyrinth that shows little light at the end of the tunnel. The stories and plight of Rohingya Muslims are the part and parcel of that complicated history of the liberation struggle of all Third World countries.

Over the period of last one hundred years, no real or substantial transformation did touch the life and liberty of Rakhaine that was happened to be the original habitat of Rohingya Muslims for many centuries.²⁷ It is almost a story of a millennium old. Once an Abode of Peace is now an Abode of Atrocities for the majority people lived there. Was it expected that Buddhists could commit such heinous and war crimes against women, children, old, and sick indiscriminately? Who imported the prevailing sense of impunity to the war criminals there in Myanmar?

The legacy of Lord Louis Mountbatten has grown along-side with the riot-culture imported to the South Asian regions, including Burma. From World War I to World War II, Burmese people as a whole were pushed to the bewilderment, ignorance and backwardness. Neither the industrial revolution nor any kind of intellectual enlightenment could touch the Burmese people. Military leaders and autocrats were in great services to their former colonial masters, who left the country in limbo.²⁸

Without any constitutional arrangement and power sharing system of their own, Burmese elite and ruling class wanted to copy foreign mechanism of governance. As a result, Buddhists people in Myanmar wanted to treat the Rohingya Muslims as their "subjects" or maybe the fourth lowest in rank in the line of caste system.²⁹ Muslims in Myanmar did not want to see them as low as they were pushed by their Buddhists counterparts. The same thesis is almost equally true in terms of Muslims and their relations with Western counterparts.

What most Muslims do not like to appreciate is that their religion, Islam, and cultural values of Muslim nations have already under the intensive microscopic scrutiny under all kinds of Western radar systems about which Muslim rules were completely in dark for long time. In the name of religious preaching, Muslims in general, have been doing a great disservice toward universal Islamic values because of their backwardness in science and technology. And because of poor preaching and dishonest practice of religious rites, Islam and Muslim umma get bad name.³⁰

Rohingya Muslims were also caught in that for last few decades, if not more. Indians are believed to be our good friends and China is the all time friend of Pakistan. But nobody wanted to help Rohingya Muslims and save them from the continuous brutal atrocities and widespread and prolonged subjugation under various kinds of regimes in Myanmar. The overall situation is getting almost similar to that of Palestinian scenario, which is equally a humanitarian tragedy for the entire human race.³¹

The British PM Teresa May instead of seeking apology to the uprooted

Palestinians people from their homeland, decided to celebrate one hundred years of Balfour Declaration with sitting Israeli PM, who should be rather indicted for committing war crimes against the Palestinian people.³² Gaza is no more can be considered as a suitable habitat for any human society or community.³³ Rakhaine State of Myanmar cannot be named as unsuitable area of human habitat, but Rohingya Muslims are not allowed to live there as normal human beings. All this devastation could be avoided, if the criminal gangs were identifies and caught in right time. Now we are looking for the perpetrators and but cannot bring the war criminals to the book.

Along with the Palestinians, Rohigyas are now regarded as the worst victims of man-made humanitarian crisis on our planet.³⁴ For a long time we were told that killing of Muslims should be justified in the name of counter-terrorism and practically any devout Muslim can be accused for hidden terrorist acts, which could not be defined by any credible international law. At last at the US congress we have heard that at least Rohingya Muslims should not be considered as terrorist for just being Muslims.

"This slaughter must end, and our resolution ought to send a strong message to Burmese leaders that their commitment to restoring democracy will be judged by their respect for the individual rights and freedoms of all people living within Burma's borders, no matter their faith or ethnicity," House Democratic Whip Steny H Hoyer said in a statement. Introduced by Congressmen Joe Crowley and Eliot Engel, the resolution condemns the "horrific actions" of the military and security forces and calls for an immediate cessation of violence. The resolution also urges the restoration of humanitarian access to the restive Rakhine state where unrest has forced hundreds of thousands of Rohingya Muslims to flee to Bangladesh.We reject the Army's claims that what's taking place in Burma is a so-called counterterrorism measure -- that's nonsense. It's a textbook ethnic cleansing, that's what it is," Engel said."³⁵

GLOBAL REFUGEE SCENARIO AND MYANMAR MUSLIM ISSUES

The number of refugees world-wide reached to about 70 million. Internally displaced people in the world are about 100 (one hundred million). More than one million Rohingya Muslim refugees in Bangladesh might be a forgotten issue soon for many quarters around the world. However, Bangladesh soon may face an unbearable economic and environmental crisis in the Cox's Bazar area which is practically one of the poorest regions of the country.

Most of the Rohingya Muslims have taken shelter in the Cox's Bazar area

and they are already outnumbered two or three times than the local Bangladeshi people living there. Too many challenges and difficulties for local Bangladeshi have been making their lives miserable in their own birthplace. But how can we forget so quickly that the Rohingya were uprooted from their natural habitat in Myanmar so mercilessly that we as human societies cannot ignore them so easily. Rohingyas are refugees in our homeland and they are internally displaced people in their homeland. Nobody in the world even knows their exact number in their homeland or even in Bangladesh.

We as a neighboring country cannot ignore or forget Rohingyas in Myanmar or in our motherland Bangladesh. But this as an idealist position may get sour with too many challenges and difficulties we have been facing now. Religious or ethnic consideration is now a secondary issue. Being a moderate and very progressive Muslim country, Bangladesh might have been slow in responding to the Rohingya crisis, but it was forthcoming with full determination and public support without which Dhaka might have in difficult fix with Rohingyas there and here.

Bangladesh as a typical Muslim moderate country maintains a very little national consensus on many important national, regional and international issues. In our national liberation war in 1971 we had a solid national consensus that we must fight to death or to win an independent state, which was denied to us by the Pakistani military, the US and the Chinese government at the time. After that we had consensus to oust General Ershad from the power for the sake of giving a new life to our democratic values and socio-cultural traditions of openness and personal freedom and dignity. However, we could not keep those promises for long that could be extended to Rohingya People as well. Nevertheless, at present entire Bengali nation is united to help the Rohingya refugees, who had no option, but to flee for life from Myanmar to Bangladesh.

Bangladesh is not a Germany that it can host more than one million refugees for long. But because of national consensus and good will of our people and government we can take this huge challenge head on to try our utmost to tell and show the world that as Bengali people we can discharge our humanitarian responsibility with courage and dignity. Our national pride should be unwavering in this regard. It is obvious that Rohingyas are not Bengalis, but as co-worshippers we don't have any problem with them either. Divisiveness and partisan politics should not create any obstacle to discharge our duties towards refugees at home. But economic reality cannot be ignored at all.

It is not only a matter of feeding, but providing medical service and education to such a huge number of refugees is a big challenge. Moreover, Cox's Bazar

area of the Bay of Bengal is our most important and largest tourist zone, where all the refugee camps are located. Germany or any other European country does not have such problem with their refugees, who should be treated more humanely and with all kinds of generosity that could be a model for us as well. So far we don't appreciate the challenges and problems related to migration in our homeland, while the many American and European establishments find Muslims as the most unwanted refugees on earth. European civilization is in cross road now. It is fighting against American aggressive policies related to militarism and protectionism on the one hand and Asian values and customs of protecting family and societal values on the other.

Militarism and protectionism cannot save the American or European interests in the African or Latin American continents. Moreover, destruction of a number of African countries and economic devastation by the colonial rule have been creating too many refugees and internally displaced people that can be hosted alone by any African State. Too many African refugees have already died in the Mediterranean Sea.³⁶ Many Rohingya refugees lost their lives in the Naf River flowing between Myanmar and Bangladesh. Both the scenarios are of similar pattern and need similar type of remedy. Pushing back refugees under guns cannot be a policy or answer to any refugee crisis in any part of the world.

Most of the European countries are now with negative population growth. The European countries could easily accommodate and assimilate millions of non-Europeans in their countries. As civilization builders, Europeans cannot be so hesitant to accept a few million refugees or internally displaced people from around the world. Countries like Turkey and Iran have successfully accommodated about 8 (eight) million refugees from Syria and Afghanistan respectively. For the revitalization of human resources of those two Muslim countries, their refugee-friendly strategies, policies and laws have played tremendous positive role. These two countries have a common advantage in this regard. None of these two important Muslim countries have ever been colonized directly by any European powers or nations.

American civilization is a kind of extension of the European enlightenment. European nations together have given birth to the so-called American nation, which is a very complicated breed of new nation putting bloodstream from all important nations of three or even all continents of the world. Americans as a hybrid people were very inclusive people that have made the US, the most vibrant federal State on Earth. Americans used to call themselves as "Migrant Nation", the most active melting spot of the recent human history. On the other hand, Europeans used to give the Americans bad names such as "Cow Boy" "Ugly American" and "Hollywood Character" and so forth. Despite all that because of the civil rights movements of 1960s,

a progressive multiculturalism has taken roots in the American psyche, but not in American soil. Many believe that President Trump has brought back the Cow Boy mentality again in the all echelons of American governance system. On the other hand, trump of Hindu fundamentalism in India made these two Western-style democracies a stronger ally against the Chinese rise as global power at all international levels.

In this backdrop, we have to analyze the exodus of more than one million Rohingya Muslims from Myanmar to Bangladesh. The whole world has witnessed this ongoing genocide against Rohingya Muslims, who are one of the most backward Muslim communities of the world. The substance or content of the crime of genocide is not that complicated. Genocide involves the systematic commission of certain acts such killing, massacre, violent attack and rape for the purpose of destruction of a community of people, or significant part of it because of their racial, ethnic, religious, national or any other identity common amongst the victim of ethnic cleaning or any other form of crime against humanity.³⁷

A team of legal experts and professional at Yale,³⁸ led by Professor James Silk, studied the history of massacre of Rohingya Muslims and their deportation to Bangladesh and came to a conclusion that despite all horrible mass murders and destruction of villages after villages in Rakhaine State of Myanmar those crimes should not be considered as genocide or crime against humanity.³⁹ With all due respect to the Yale University team and their members, one has to come to a conclusion that either their findings were ill-fated or evidence was not ripening enough at that time.⁴⁰

If the crimes inflicted upon Bengalis, Bosnians and Rohingyas perpetrated by the Serbs, Pakistanis and Buddhists of Myanmar in the years of 1971, 1996 and twenty century were not the war crimes against humanity or genocide, no destruction of human societies and communities cannot be considered as holocaust. In fact the Palestinians and Rohingyas have been going through must be considered as holocaust against Muslims, who as a one-fourth of human race. Muslims are under the indiscriminate attack from every side, including their own tyrannical and dictatorial regimes supported by the big Western military corporate circles and their governmental machinery.⁴¹

GEO-POLITICAL POSITION OF BANGLADESH VIS-À-VIS MAYNMAR: ROHINGYA MUSLIMS ARE IN CROSSFIRE

Since its emergence as an independent Bangladesh, it is a progressive country with a positive secular outlook. Constitutional tradition of ours is much older

here in Bangladesh than any other nation or people in South Asia. Bangladesh championship in this regard cannot be challenged by any SAARC country, including India.⁴² However, in the past, many of its founding fathers and architects could not foresee the rising geo-political importance of the Bengal Delta.⁴³ Moreover, we have overlooked a universal truth that for any Statehood, no other foreign State authorities can serve as a naïve friend of foe, if that concerned State does not want to become a satellite force for the foreign powers or entities.

Possibly being a smaller state, practically in the womb of India, policymakers in Dhaka might have thought that an independent foreign policy of Bangladesh would be too illusive or luxuries for a tiny country like ours. However, with very unique or special Bengali ethos and culture, in terms of its geo-political importance, Bangladesh always deserves a set of independent foreign policies similar to that of Switzerland.⁴⁴

By rejecting the Muslims of Myanmar as its own citizen, Ms. Suu Kyi has argued that they should not be recognized as Rohingyas, the original people of the land. Despite the fact that the Rohingya Muslims live there in Arakan or Rakhine State for many generations, Myanmar governments have officially decided to strip off their citizenship and allowed the infliction of war crimes on them. To justify the ethnic cleansing and genocide against Rohingya Muslims, Ms. Suu Kyo claims that the illegal migrants from Bangladesh have created this problem in her country.⁴⁵

“The Rohingya speak Rohingya or Ruaingga, a dialect that is distinct to others spoken in Rakhine State and throughout Myanmar. They are not considered one of the country's 135 official ethnic groups and have been denied citizenship in Myanmar since 1982, which has effectively rendered them stateless...Muslims have lived in the area now known as Myanmar since as early as the 12th century, according to many historians and Rohingya groups....During the more than 100 years of British rule (1824-1948), there was a significant amount of migration of labourers to what is now known as Myanmar from today's India and Bangladesh. Because the British administered Myanmar as a province of India, such migration was considered internal, according to Human Rights Watch (HRW).”⁴⁶

Since 1982, military regime in Yangon has made it clear to the neighboring countries that it would eliminate the Muslims from Arakan and beyond if the regional and international climate will be favorable to implement its decisions. None of the neighboring countries gave much thought about that by taking Myanmar as one of the most backward and ignorant countries of the world. In 1978 for the first time Yangon has tested the water by pushing about two hundred thousands of Rohingya Muslims to Bangladesh and did not recognize them as refugees.⁴⁷

It was evident that Dhaka alone could not or would not be able to handle such a refugee exodus to its territories. Myanmar was determined to escalate the situation and making the refugee crisis more complicated for Dhaka, which cannot handle such a regional and international issue unilaterally. The ongoing crisis of Rohingya refugees created by Myanmar is not only a heavy economic burden for us, it is also a big embarrassment for our country and government. Realizing those complexities of an international and regional crisis, Bangladesh has attempted to address the issue in the spirit of SAARC and ASEAN. That could save Dhaka from a regional political vacuum and make the ideas of SAARC louder and effective.⁴⁸ The proposed regional mechanism to make the South Asian region less prone to violent armed conflicts the role of SAARC and Bangladesh make a huge difference, if the political good will of neighboring countries could be prevailed. Success toward the creation of an effective regional political and diplomatic arrangement to look after the conflicting issues has hardly been achieved as accepted by Dhaka. Rivalry between India and Pakistan has pushed the SAARC in limbo, while Dhaka did not learn much how to capitalize this historical and religious conflicts between two arch rivals in the region.

The dynamics of the Cold War yet to become obsolete and the conflicts between the West and Muslim World yet to be transformed to violent ramifications for many Muslim countries leading to partial and complete destruction either by Western military attacks or by internal armed struggles with all kinds of ferocity of continuous civil war. Pakistan with its nuclear arsenals had been suffering from an illusion of competent rival of India, which had started to prepare itself as a rival of the Communist China with capitalist mode of productivity in the line of Hong Kong.⁴⁹ The magic of "One Country Two Systems" is yet to be revealed with full force not known to the world before.

With the dawn of the twenty-first century, China has challenged the West as a formidable economic force for any nation to be complete with. Making itself a full member of WTO in 2015, China has emerged as the second largest economy of the world and has demonstrated its ability to compete with any nation in any areas of trade, science, and technology. Unfortunately at the same time India was caught by the religious fanatics at the helm of powerhouse of Indian economy in New Delhi. Pakistan got infamous with its "rouge statehood", while India completely abandoned Gandhism as an Indian World View of peaceful co-existence between different nations, religions and ethnicities. Fanatic Hinduism has taken up by BJP leaders as the most suitable state-ideology to fight Pakistan and China.

What New Delhi under the PM Modi got it wrong is that the age of religious

fanaticism to dominate the world is bound to end sooner than later. The revitalization of religious fanaticism in some South Asian countries particularly in Pakistan, Afghanistan, Myanmar, and India is the beginning of the end of religious fundamentalist governance that has no space in any civilized region of the world. An emergence of united Kashmir could make Pakistan defeated for good by establishing the fact that the age of fanaticism has gone forever in the subcontinent as well. However, India did not allow Pakistan getting there, where their animosity could end and Pakistan could feel more inclined toward greater Central Asia, particularly with Afghanistan. Inclusion of Pakistan to the greater central Asian region could make Muslim countries in the region free from religious fanaticism very quickly. Normalizing its relation with Dhaka, New Delhi could abandon its homegrown Hindu fanatic ideals, which have no future ideologically, politically, culturally and economically.

“NEW DELHI: Bangladesh, the "so-called friend" of India, also poses a security threat to the country besides China and Pakistan, Union minister Hansraj Ahir said today [November 16, 2017]. Addressing a conference on homeland security, organised by business chamber ASSOCHAM, he said, "Bangladesh was only a so-called friend because evidently it had caused India the most harm through illegal intrusion." "It is not only China or Pakistan but Bangladesh poses an equally bigger challenge to our national security, I know it because I get to see that closely," Ahir was quoted as saying in a press release issued by the ASSOCHAM.”⁵⁰

This cynical attitude of Indian establishment is neither new nor random. It is a continuation of religious fanaticism that surfaces time to time to instigate or orchestrate ratios between Muslims and Hindus who used to live peacefully for many centuries prior to English colonization of the Indian subcontinent. After the emergence of Bangladesh in 1971 and its prominence as a secular state in the subcontinent, India had to adopt secularism as a state-ideology in 1976. But that did not touch the hearts and minds of a huge section of Indian politicians, who could create an EU-like situation in this subcontinent and plight of Rohingya Muslims could be stopped long ago. On the contrary, in 1992 the demolition of Babri mosque in India by Hindu fundamentalists had encouraged Myanmar military and fundamentalist Mugh Buddhists to go forward with their genocide and war crimes against Rohingya Muslims. More inclusive policies of South Asian countries could make Myanmar a moderate Buddhist country that might not dare to go for their systematic commission of so many heinous crimes, including crimes against humanity and all other kinds of war crimes tantamount to genocidal acts for last more than forty years.

Both Pakistan and India wanted to see Bangladesh as a failed state instead

of its prosperity as a modern Muslim state. Bangladesh has inherited Muslim religiosity and its cultural nuances in a very unique way that is very conducive for building multi-cultural, multi-ethnic and multi-religious society. Both India and China could be our development partners without intervening into our domestic or internal affairs. The Cold War period was an opportunity for Bangladesh to cultivate good neighborly relation with India and China. Who failed to capitalize that opportunity? China was very careful up to very recent time not to antagonize India and Bangladesh further as Beijing took us (India and Bangladesh) as development partners and neighbors.

Leaving other South Asian countries alone, China embarked upon a very ambitious mission in African continent and made itself the biggest investor and foreign employer in almost all important African countries. By destroying many Muslim countries, Western powers especially London and Washington have lost their capabilities to resist Chinese capitalism in any region of the world. However, along with some Western powers, India has been trying to be a strong competitor of China in economic and military fronts stretching from Kenya to Myanmar. In Kenya Indian economic stake has already constitutes one-third of Chinese.⁵¹

Indian aggressive policies in the areas foreign trade and commerce in some African countries such as in South Africa and Kenya made Beijing too concerned about Indian investment in Bangladesh and Myanmar. Indian success in Bangladesh made China alarmed and that led Chinese governmental and private investment in Myanmar mounting in the face of American economic embargo against the military governments of Myanmar.⁵²

Why Myanmar governments and its leaders, both military and civil, are so confident that they would remain unaccounted for all crimes against humanity? Is it simply because of the fact that all the victims are of Muslim identity or origin? Is it that Muslim countries themselves are quite disarray? Is it that Bangladesh is a weak country militarily? Is it that China and India would remain very trusted allies of Myanmar under all circumstances? In the following segments of this article we would try to find some answers to these very relevant questions in the light of the Chinese determination to have an overwhelming influence on and around Myanmar. We need to remember here that Chinese commercial and business stake in and around Myanmar would exceed 6 trillion USD yearly.⁵³

HOW TO MAKE INTERNATIONAL OUTCRY FOR ROHINGYAS EFFECTIVE?

For Myanmar military and even for Ms. Suu Kyo Rohingya Muslims are non-entities. In Myanmar they have a consensus about the atrocities against Muslim

communities that those are not crimes at all. The situation is exactly the same as it was in 1971 when Pakistani military and civil government of the then Pakistan used to think that war crimes or genocide against Bengalis in the then East Pakistan were not crimes. With the help of Indian government, Pakistan got away with all war crimes committed by its military against Bengalis.⁵⁴

During the early years of 1990s war crimes were committed by the Serb General against Bosnian Muslims, who were even supported by the American government, which is quite supportive to Rohingya Muslims as well. "US Secretary of State Rex Tillerson says [Nov. 23, 2017] Myanmar's military action against the minority Muslim Rohingya population constitutes ethnic cleansing. He said the Rohingya had suffered "horrendous atrocities" and as a result the US was considering targeted sanctions against those responsible."⁵⁵

What the US government possibly overlooking is that at the face of Western sanctions, Myanmar has developed a closer tie with China and India. In fact, New Delhi and Beijing have been fighting for their economic interests over Myanmar so ferociously that Western capitals are not that relevant for Yangon. Moreover, for China, the territories of the entire Myanmar are too important. Like Bangladesh, Myanmar is too precious for Indian economy as well. As a result, Beijing has already secured its economic interests up to all gas fields in Rakhaine State, which can easily be used as connected points up to the oil and gas fields of all Middle Eastern countries. Along with gas pipe-lines from Rakhaine to Chinese territories, Chinese oil pipe lines would be able to bring Middle Eastern oil for its thriving economy. China knows very well that for next half a century its economy would depend on "Muslim Energy" that will not require any more petro dollars.⁵⁶

At the time when Australia has been detained asylum seekers and closing refugee camps for helpless people who arrive by boat in camps on Manus Island and Nauru, a small Pacific nation, we have kept open our arms wide open for about two million Muslims many of whom are already in our territories. More than one million refugees we have in Bangladesh have indeed created a huge health and environmental hazard for the entire costal area of Cox's bazaar.⁵⁷ What Myanmar government and people ignoring is that they have created instability both in their country and our country, which is situated at the end of the biggest Delta in the world.

Serbian military General Ratko Mladic was arrested in 2012 while he was picking up strawberry. This is the man under whose leadership many thousands of innocent Bosnian Muslim Men and boys, during the early years of 1990s, were

persecuted in the football fields so that no future generation of Bosnian Muslims could stay in the former Yugoslavia.

“Former Bosnian Serbian commander Ratko Mladic has been sentenced to life in prison, for genocide and war crimes during the Balkan conflict more than two decades ago. The presiding judge of the International Criminal Tribunal for the former Yugoslavia (ICTY) on Wednesday [November 22, 2017] found that the 74-year-old general “significantly contributed” to genocide committed at Srebrenica. Previous judgments of the tribunal in the Netherlands already ruled that the massacre of about 8,000 Muslim men and boys in Srebrenica was genocide. Judge Alphons Orié ruled that the perpetrators of the crimes committed in Srebrenica intended to destroy the Muslims living there.... The crimes committed rank among the most heinous known to humankind," he said.”⁵⁸

Thus we see that it takes more than a quarter of a century to bring a war criminal like Ratko Mladic to bring the book of international tribunal for war crimes. In the case of Bosnia, the Serbs and Russians were by the side of war criminals. Once Moscow has realized that its adamant support to Serbs committing war crimes against Muslims may not serve well its future global interests it started to distant itself from the Serbs. Moscow is now much friendlier than any other political and military global powerhouses to Muslim people in general and Iranians, Turks and Arabs in particular. Even Saudi king visited Moscow for the first time in 2017. Despite all that, Moscow did not support the UNGA resolution on Rohingya Muslim initiated by the OIC. However, like India, the Russian Federation did not vote against the UNGA resolution on Rohingya Muslims.⁵⁹

“Myanmar is refusing entry to a U.N. panel that was tasked with investigating allegations of abuses after a smaller military counteroffensive launched in October 2016. The 15-member U.N. Security Council last week urged the Myanmar government to "ensure no further excessive use of military force in Rakhine state." ... Human Rights Watch has accused Myanmar security forces on Thursday [November 16, 2017] of committing widespread rape against women and girls, echoing an allegation by Pramila Patten, the U.N. special envoy on sexual violence in conflict, earlier this week. Patten said sexual violence was "being commanded, orchestrated and perpetrated by the Armed Forces of Myanmar." In the recently concluded ASEAN Summit in Manila, Southeast Asian leaders kept silent over accusations of ethnic cleansing carried out by Myanmar's army, instead expressing support for the country's efforts to bring peace and harmony to northern Rakhine state.”⁶⁰

The global scenario is now very clear. If the Member-States of ASEAN⁶¹ can take genocide and war crimes against Myanmar Muslims as usual, then why SAARC or for that matter the UN should be that alarmed by those crimes committed against Muslims. Organizations like OIC or Arab League has no credential to stop any war in anywhere in the world. Muslim countries and their leaders have lost to demonstrate any strong gesture with any "political good will" rather their evil wills are no less dangerous than the leaders at the helm of political and military powers of Myanmar. Thus apparently war criminals of Myanmar have nothing to worry about their committed crimes which might remain under the shadow of geo-political importance of the region.

We live at a time when absolute moral standing making no sense with our development partners and investors coming from other countries, not talking about our own "wild capitalists" But realities on the ground cannot make us completely indifferent about our moral and ethical commitments, which might demonstrate their own in-built strength in making our civilizational design moving forward. Political correctness matters, but being morally or ethically right is more important. In this global age, we neither can ignore our global concern now can put blind eyes on our national interests. Like environmental issues, the rights of refugees are also our oneness as human dignity and as human race. We simply cannot ignore our integrated whole as health and well being of our planet.

"In keeping with the Kantian perspective, we expand our analysis beyond the democratic peace, incorporating the influence of economically important trade and joint memberships in international organizations. The classical liberals of the eighteenth and nineteenth centuries expected interdependence as well as popular control of government to have important pacific benefits. Commercial relations draw states into a web of mutual self-interest that constrains them from using force against one another. Thus interdependence and democracy contribute to what we have called the "liberal peace." Kant emphasized, in addition, the benefits of international law and organization. ...Although the liberal and realist perspectives are often considered antithetical, in keeping with Kant's philosophical analysis we conduct our tests of the Kantian peace while taking into account important realist influence. We believe, as Kant did, that both perspectives matter, as both consider conflict and the threat of violence to be inherent in an anarchic world of sovereign states."⁶²

If the Nazi and fascist forces in Europe and racist forces in South Africa and America could realize their fault lines of political and philosophical thought, they might be corrected themselves long before. However, we live in an imperfect and unjust world where right of philosophical thoughts or ideology automatically

cannot fix our legal, political or economic problems. We need to sacrifice a lot so that ultimately truth, justice and decency prevail. Chinese people have learned that in a very hard way over many centuries. During eightieth and nineteenth centuries Chinese overall condition was no better than the Afghan or Somaliland syndrome. The English people wanted to keep China an opium addicted country by ignoring that fact along with Indus Valley civilization, it was the sources of too many humanistic ideals the entire mankind was familiar with about five millennium ago.

Asia as a continent is the bedrock of many universal civilizational values, ideological and religious postulates. China is not unchallenged leader of Asia either. Economically Japan and India have been challenging the Chinese dominance in Asia as well. Historically the animosity between India and China is too deep to be resolved so quickly. Disputes over Tibet and Arunachal between these two countries would not be ended any time soon. Both the countries are too sensitive about their territorial claims. But they would not fight militarily anymore because that would be devastating for both of them. Their battles would continue economically and neither Bangladesh nor Myanmar would be able to stand against Chinese or Indian aggressive or expansionist policies alone. That is why both these biggest giants in Asian would continue to demonstrate their antagonism over every national and regional issues in the whole of Asia, if not in every vital fighting spot around the planet.

“China on Monday [November 20, 2017]⁶³ objected to Indian President Ram Nath Kovind’s visit to Arunachal Pradesh over the weekend, saying India should refrain from “complicating” their border dispute when bilateral ties were poised at a “crucial moment.” Beijing’s objections to Kovind’s visit follows its criticism earlier this month of a weekend visit by Indian defence minister Nirmala Sitharaman to Arunachal Pradesh. China has routinely slammed visits by Indian leaders to the state that it claims is Southern Tibet. The Chinese criticism comes at a time when the Asian giants are slowly trying to stabilise ties rocked by a 73-day military standoff on the Doklam plateau in Bhutan that ended on 28 August [2017]”

The issues of Rakhaine or Arakan region are now much important international and regional diplomatic matter than the territorial disputes between India and China over Tibet or Arunachal State. There is no way that these two most populous countries of the world with more than 1.3 billion population of each can wage a military war between them. They can fight a foxy war only. Was there any possibility of war between Bangladesh and Myanmar? Could Dhaka take a military stand as India did in 1971 for us? That possibility could be more feasible a few decades ago when Myanmar was very weak and fragile country. Now it is no more possible due

to many underlying political, economic and military reasons. Here we can remember of PM Sheikh Hasina warning to us all.

“Our nearest neighbour, at one point, showed such an attitude that there'll be a war with us. I alerted our army, border guards and police so that they must not get confused with any provocation as long as I don't order them.”⁶⁴

In the recent past, military warfare or even preemptive wars were very profitable business for the perpetrators. That scenario has been changing very fast. Making the developing countries dependent on foreign investments, powerful and industrialized can make more profit by exploiting cheaper land and labor from Third World countries. Still former imperialist powers are slow in learning this lesson, while countries like China and India have been taking this lesson seriously. Some of the leading EU countries also have been taking this advantage of peace-time dividends from the colonized world.⁶⁵

Along with many world renowned economists, authors like, Justin O'hagan, Thucydides, Clausewitz, Martin McGuinness, Trovor Killen have been emphasizing on the new dynamics of intrinsic unpredictability of warfare and its impact on many communities involved. It is now more than evident that not warfare but the direct foreign investment can give more financial benefits to the powerful States and MTCs presented by them. Erik Garzke, Gerald Schneider and many others who have been talking about “American Exceptionalism” are already been discredited by many global facts including humanitarian crisis in Myanmar, which is backed by China. Washington under President Trump has lost all its creditable and effective avenues to exercise its influence on Asian and for that matter many global issues. In this back drop, China make Rohingya Muslim humanitarian crisis as a bilateral issue, which is not definitely a regional and global crisis to be addressed by all international organizations and agencies.

Since NATO-led was against Libya in 1911 and unsuccessful trump of Arabs to reform political and economic system of the Middle Eastern countries there is now a sea change in global issues. There is a very little difference between General Sisi of Egypt and military Generals of Myanmar chaired by Suu Kyi government with all kinds of war crimes.

“As Myanmar's Rohingya ethnic minority enter a new and terrifying phase of persecution, Aung San Suu Kyi's government reacts with crude denials, the censoring of its independent press, and the barring of human rights activists entering the country. What will it take for Aung San Suu Kyi and the international community to confront the genocide under her watch? A year ago the International

State Crime Initiative (ISCI) published the results of our 12-month study investigating the nature of persecution against the Rohingya. We concluded that the Myanmar state's policies of persecution constitute genocidal practice. Our research, and that of others, confirmed systematic, widespread, and ongoing violations, including: institutional discrimination, torture, sexual violence, arbitrary detention, destruction of communities, apartheid structures of segregation, targeted population control, mass killings, land confiscation, forced labour, denial of citizenship and identity, severe restrictions on freedom of movement and access to healthcare, food, education, and livelihood opportunities; and state-sanctioned campaigns of religious hatred. Our research revealed a long history of institutional and organized persecution precisely paralleling the trajectory of other acknowledged genocides."⁶⁶

Chinese unconditional backing to Myanmar military government is very clear to all concerned parties. Like Pakistan, Myanmar is also becoming a Chinese friend of all seasons about which Westerners yet to learn a lot. Chinese argument is very loud in this regard. If Western powers could destroy so many Muslim countries militarily, economically and politically and still support the despotic leaders, who are engage in committing crimes against their own people, so Myanmar can also get a pass in killing so many countless Muslims there in Myanmar. It is not justified in terms of moral commitment of any decent nation and government, but from the points of political correctness and diplomatic pragmatism there is nothing "immoral" to stand by Myanmar government that was elected by its voters. China is following this logic and strategy in formulating its foreign policies toward South and South-East Asian counties. Even India with Japan collectively can stand in the ways of Chinese foreign policies in Asia. Thus Myanmar has nothing to be worried about its records of war crimes and genocide as Pakistan got away with similar kinds of crimes against humanity in 1971.

WHY WAS THERE 2017, OUR 1971? REGIONAL ARRANGEMENTS AND GLOBAL HUMANITARIAN CRISES

The 1970s had witnessed the trump of socialist world that could dominate the planet, if there were no rift between Asian and European socialism (including Russia and Cuba). The Muslim and Arab world were divided in the lines of Cold War rivalries. Washington was rather very sacred of its leadership of the so-called Free World. Not the Free World was ready to accept us as a liberated and independent sovereign country. The Communist bloc could not agree either on this as a matter of principle. The liberation struggle of our nation made it loud and clear that there was no united communist bloc. China and Soviet Union took their separate ways to deal with Washington, which adopted a very shroud divisive policies in the lines of London.

In 1971 Kissinger secretly visited China and tried to formulate uniform policies toward Vietnam and other countries in Asia. Bangladesh might had been a serious agenda in their discussion of making Soviet influence in Asia and Muslim World minimum. This rapprochement of Washington policies toward China made our liberation struggle very difficult. With India (especially West Bengal's) help the USSR might not be so helpful to your liberation war.

"[B] opening relations with China we would catch Russia's attention and get more leverage on them through playing this obvious, China card. The idea would be to improve relations with Moscow, hoping to stir a little bit of its paranoia by dealing with China, never getting so engaged with China that we would turn Russia into a hostile enemy but enough to get the attention of the Russians. This effort, in fact, worked dramatically after Kissinger's secret trip to China....By dealing with Russia and with China we hoped to put pressure on Hanoi to negotiate seriously. At a maximum, we tried to get Russia and China to slow down the provision of aid to North Vietnam somewhat. More realistically and at a minimum, we sought to persuade Russia and China to encourage Hanoi to make a deal with the United States and give Hanoi a sense of isolation because their two, big patrons were dealing with us. Indeed, by their willingness to engage in summit meetings with us, with Nixon going to China in February, 1972, and to Moscow in May, 1972, the Russians and Chinese were beginning to place a higher priority on their bilateral relations with us than on their dealings with their friends in Hanoi."⁶⁷

There is strong evidence that Pakistan as an ally of both the US and China had been helping a direct role in implementing their rapprochement policies to each other.⁶⁸ No diplomacy could change anything in this regard. For it was important to sacrifice more in our warfronts with Pakistani army and made both the USSR and India hopeful for a successful outcome of the creation of Bangladesh as an independent state. As a result of our immense sacrifice in the armed battles against Pakistani army we had achieved our independent state, which is situated in the borders of neighboring Rakhaine State (Arakan).

Some Muslim countries and their leaders have been blaming us why we could not offer more help to Myanmar Muslims, who might have started to fight for the liberation of Arakan at least 40 years ago when China was not that active in the region. Possibly they don't appreciate the vulnerability of Bangladesh, which had been fighting secessionist movements in our Hill Tracts region (one-tenth of the country with the most important places of tourist attraction and longest beach of the world). Moreover, under the autocratic rule of General Ershad situation in Bangladesh was very similar to that of Myanmar during 1980s.

At present it is very clear that Beijing is standing by Myanmar at a time when whole world has been righting accusing Suu Kyi government for all kinds of heinous crimes, including war crimes, crimes against humanity, perpetrated against its Muslim citizens.

On November 23, 2017 Bangladesh has signed an “arrangement or instrument” with Myanmar in dealing with the issues of repatriation of more than one million Rohingya refugees from Bangladesh to their homeland. The papers signed on both the sides are neither agreement nor MoU; these are just papers to talk about their future repatriation that has neither any time frame nor number of refugees Yangon would be accepting. Myanmar could do that simply because it had the backing of Beijing.

On November 24, 2017 Senior General Min Aung Hlaing met President Xi Jinping in Beijing and immediately posted on his Facebook page that China has been standing by the side of Myanmar, which was under the pressure of all international communities, including the UNSC. Now it has been heard by all in louder and clear voices that Beijing’s support to Myanmar has prevented United Nations Security Council to adopt any binding resolution on the refugee crisis that could only be solved by the goodwill of China.

Without the goodwill of Chinese government we had achieved our independence and Pakistani army was defeated at the height of the Cold War, which made the Soviet Union and the Muslim World ultimate losers. But it the Muslim World that made the Soviet army crumbled in the soils of Afghanistan and made the US the sole winner of the Cold War. In all those events China was just a spectator and had been taking preparation for becoming global leader of every kind.

“For twenty years (1949-1969), the United States tried to disrupt, destabilize, and weaken China’s communist government. Washington believed that China was an aggressive, expansionist power that threatened the security of its noncommunist neighbors. The United States constructed an off-shore line of military alliances along China's eastern and southern borders. These included the U.S. alliances with Japan, South Korea, and the Nationalist government on Taiwan.....Washington encouraged its allies to refrain entering into diplomatic relations with Beijing. The United States prohibited Americans from visiting China. The United States cut off trade and orchestrated an international embargo of China.”⁶⁹

With that so-called "wedge strategy",⁷⁰ the US has achieved nothing in anywhere in the world. But making the USSR an enemy of China reaped the benefits of uncertainties and instabilities around the world. That Rapprochement of 1970s

between the US and China overshadowed us and Myanmar about which we were in dark for long time. Despite all international favorable conditions we as a nation could not gain the trust and confidence of the Chinese governments in our diplomatic activities. Even Maulana Bhashani could not obtain Chinese recognition to us as a State.⁷¹

Understanding the Chinese backing, Suu Kyi tends to forget her speech delivered in May 2011 at the Nobel Women's Initiative Conference. In her words: "Rape is used in my country as a weapon against those who only want to live in peace, who only want to assert their basic human rights, especially in the areas of the ethnic nationalities. Rape is rife. It is used as a weapon by the armed forces to intimidate the ethnic nationalities to divide our country". It appears that she already forgot her responsibility to protect her own people especially the women who are the victim of systematic rape that has been used as a weapon for driving out the entire Rohingya population from Myanmar.

Thus at present there is no way that we can regain the goodwill gesture of Beijing so easily in regard to Rohingya people. There is no way that we can compel Myanmar government to come to a sense that it is duty-bound to make Rakhaine State a safe place for living. That is why many think that our goodwill might remain the last resort to safe Rohingya Muslims and Rakhaine State, which was supposed to be a part of ours or remained an independent State. From moral and ethical points of views, China was supposed to be forthcoming to address these issues from humanitarian grounds. But Chinese financial and diplomatic stakes are too big for hoping for any compromise with the Western powers, which are still ready to combat the Chinese rise at all regional and global stages. Afghanistan was the deathbed for the Soviets to maintain its hegemony around the socialist world and its neighborhoods. Pakistan, Iran and Turkey were the main players to keep the American hegemony going around the globe. Washington has lost its grip in all these countries and General Sisi ruled Egypt and Saudi Kingdom are still in the American bloc, which is increasing becoming weak in the face of Chinese bloc that has been successfully playing with Asian, African, Russian and Muslim cards.

REPATRIATION OF ROHINGYAS TO MYANMAR: IS ONE WAY OF THEIR REHABILITATION ACHIEVABLE?

We as a nation and State has been strongly denouncing Israeli occupation of Palestinian territory and demanding the two-state solution for solving the underlying conflicting issues between Palestinians and their occupants, the Israelites. But since Balfore Declaration of 1917 it was clear that Palestinians would not be able to live or survive in their homeland. All Muslim countries were very supportive to

Palestinians, who could neither return nor live in their homeland with peace even for a day since 1948. Why Muslim countries and their leaders have been failing their people so miserably. How can we expect that things would be different in relation to Myanmar Muslims?

Bangladesh appreciates its humble position in global politics and its government has been trying to chalk out some realistic policies in regard to their repatriation as well as their well being for their long compulsive stay here in Bangladesh. Even with a conservative assessment we have been finding the recent humanitarian crisis of Rohingyas appalling, while Pope Frasis were not allowed to pronounce the word Rohingya.⁷²

“Rohingya Muslims are not officially recognized as a minority in Burma – also known as Myanmar – even though many have lived there for generations. Burmese officials, and many among the predominantly Buddhist population, reject the label “Rohingya” and instead use “Bengalis,” in an effort to bolster their claim that the Rohingya migrated illegally to the country from Bangladesh. To the relief of some and the dismay of others, the pope refrained from using the term during an interfaith meeting and in a subsequent speech Tuesday [November 28, 2017], which he gave following a meeting with Burma's de facto leader, Aung San Suu Kyi. The civilian leader is accused of ignoring human rights violations in the country.”⁷³

We can accuse Suu Kyi and her government for all their criminal records, but we would remain helpful less in bring them to the book as it had happened with Israeli crimes against Palestinians. In the case of Israel the US would remain an ardent supporter of only Jewish State, which was established by London almost a century ago. Myanmar can hope to establish a relation with China based on the principle of friendship of all-seasons that never dies. Bangladesh does not have that that luxury in its foreign policies that are predominantly based on emergency predicaments rather than long standing strategies or policies to be pursued for some ideological reasons.

By understanding that difficult problem, Dhaka has decided to build areas where the Rohingya refugees would be living until they can leave our country. I think it is a kind of very good option out of many very bad options at hand. We have now a history of more than four decades to deal with hundreds of thousands of refugees from Myanmar, which was a very timid and docile country for many centuries. It could not even think about any civilization building methods with the assistance of Muslims or others in the region.

“Like the Bangladesh government the people of the affected regions,

Teknaf, Ramu and Cox's Bazar, had been very sympathetic to the refugees when they first came. But gradually increased pressure of the refugees on the local society, economy and environment eroded that sympathy and increase the dissatisfaction against the refugees became more and more pronounced. A major factor contributing to the changed perception of the refugees had been the violence in camps. Such violence mainly took place when refugees protested their forceful repatriation. In July 1992, there were public meetings in Ukhia demanding a stoppage on work intended to set up new camps (Jummarapara camp). The local people's opposition to the refugees resulted in the forming of two committees, the Refugee Repatriation Action Committee and the Refugee Repatriation Coordination Council, which voiced concern over the continued presence of the refugees and accused international NGOs and UNHCR of a 'hidden agenda' for prolonging the repatriation process. In order to assuage growing dissatisfaction of local people UNHCR organised the Affected Villages Rehabilitation Programme where infrastructure projects were taken up to soothe the people's sentiments. The involvement of the local people in designing and prioritising, and most important, in implementing these projects, yielded effective results for UNHCR. The criticisms gradually waned."⁷⁴

This is a bit of a simplistic analysis of the conflicts of interests between host communities with Rohingyas, who have started arriving here since 1978. During 1970s and 80s Muslims around the world did not face so much of hostilities. In the 21st century Muslims are not even welcome anywhere in the West, which is very hostile against all kinds of Muslims.⁷⁵ The notions of Islamophobia is no more a conspiracy theory; those are well articulated misconception about the issues related to Islam and Muslim culture. Anti-sharia propaganda all over is a part of Islamophobia and overblown hatred against Islam and Muslims. All religions have some good and bad dogmas to keep people in the line of mainstream people's behaviors. Islam is less dogmatic than any other religion we have around on Earth. Moreover, from legalist points of views, there are too many equally justified jurisprudential schools of thought within Abrahamic traditions, based on which Islamic Laws (sharia as source of public and private rules) have developed. Monotheistic traditions are of universal views of human existence, dignity, and prosperity that go far beyond any set of ritualistic behaviors prescribed any madhhab.⁷⁶

Bengali Muslims are also the victims of persecution for about two centuries under the rule of the British colonial domination. Taking that as a reminiscence of colonial persecution, Bengali Muslims in general are still very sympathetic to Rohingya refugees, who are now regarded as the most persecuted refugees on Earth.⁷⁷ Do really one or two million Rohingya Muslims pose any real threat to the survival of Bangladesh or its economy? This might be a text case of debate that may not find any credible answer at all. However, using our widespread goodwill we

need to send many more educated Bengalis to the rest of the world who could create a vibrant Diaspora of catalysts for human societies. Then Rohingyas might not be a big deal for our safety and economy or culture.

“Economic liberals view national frontiers as irrational obstacles to the global integration of markets. Many political liberals regard nation-states and the loyalties they inspire as obstacles to the wider political integration of humanity. Both appeal to moral obligations that stretch far beyond nations’ cultural and physical boundaries. At issue is the oldest debate in the social sciences. Can communities be created by politics and markets, or do they presuppose a prior sense of belonging?”⁷⁹

Why Buddhists in Myanmar are so cruel and mindless about their own Muslim citizens? Why Muslims are so ill articulated and unprepared about their adversaries around the world? How China could overcome so many challenges and making their friendship with other nations so predictable and convenient for their national interests? In fact, in international relations and diplomacy there exists no doctrine of friendship for all-seasons. This is also a Chinese invention, much deeper than innovative ideas of foreign relations. Pakistan being any ungovernable State have to follow the dictates of the Chinese government up to a level that even the spiritual leader of Tibetan Buddhism and the Tibetan people (14th Dalai Lama) has abandoned his resistance against China and asking for mutual forgiveness. The 14th Dalai Lama has reiterated that crimes against Muslims by the Buddhists perpetrators would hurt Buddhism in a very big way, if Myanmar fails to accommodate Muslim in that country. He said these atrocities have been hurting Buddhism at its core values.⁸⁰

Andrew Gilmour, UN Assistant Secretary-General for Human Rights, who spoke to many news agencies including, Euronews , have explain that a "campaign of terror and forced starvation" continues against the Rohingya in Myanmar and that is the reason why number of newly-arrived Rohingya refugees can be found in Bangladesh on regular basis. Still no international agencies, including UNHCR, were not allowed to visit the concentration camps Myanmar government established for Muslims trapped inside Myanmar. Keeping that reality in mind, we need to analysis the repatriation issues.

IS THERE ANY REAL POSSIBILITY OF REPATRIATION OF ROHINGYA REFUGEES?

The real possibility of repatriation of Rohingya refugees seems to be a far cry from different point of views. Ironically, the main responsible organ of the

United Nations, the UNHCR or any other agency of the UN has utterly failed to persuade Myanmar to come to a table of negotiation to agree with some specific terms and conditions of the repatriation of more than one million Rohingya refugees from Bangladesh to their own birth-places, which were burned or destroyed beyond any recognition of their real owners and dwellers. Unilaterally Bangladesh could not achieve anything from Myanmar in this core issue of repatriation. There is no agreement between UNHCR, Myanmar and Bangladesh. UNHCR has continued to engage with both governments in negotiations on two separate Memoranda of Understanding (MoUs), meant to ensure that any future returns are conducted in line with the international standards of voluntariness, safety and dignity. According to the UNHCR the conditions in Myanmar are not yet conducive for returns to be safe, dignified, and sustainable. The responsibility for creating such conditions remains with the Myanmar authorities, and these must go beyond the preparation of physical infrastructure to facilitate logistical arrangements.

At present Myanmar has been referring to those conditions, which can more create a minimum conducive atmosphere for the repatriation of more than 1 million Rohingya Refugees standard in a tiny land of Cox's Bazar, in only hilly district of Bangladesh. Without appreciating the pros and cons of Rohingya Muslims' issues and their legitimate concerns we might be putting our heads into the poly of the wicked designs created by the Yangon during last 4 to 5 decades.

The purported arrangement deals between Bangladesh and Myanmar on November 23, 2017 and January 16, 2018 could not be considered as realistic or implementable. They were morally supported by many international communities, which did not have any comprehensive idea about the facts and figures of atrocities and the underlying motives behind genocidal crimes committed against the Muslims in Myanmar. How those bilateral deals could fix the date of January 23, 2018 as deadline for the repatriation? Such a condition make those deals unsustainable and put the lives of Rohingya Muslims in both sides of borders at stake.

The so-called joint working group (JWG) consisted of the representatives of both the countries were very flawed ideas in the first place because Rohingya Muslims' issues are no more a bilateral nature. These issues of great humanitarian concern are of international character since the early days of 1990s. For the last few years, these grave matters of humanitarian causes remains just below the surface because of the rise of fundamentalist political movements in the South Asian regions. China has been observing these issues closely and designing its policy of containment of India as a bullying power in the region. The Modi government declared that it would push back many millions of Muslims from India to Bangla

desh. China did try to cultivate good relations with Bangladesh and other neighbors of India and succeeded in Nepal, Sri Lanka and Mal Dev. Chinese friendship with Bangladesh still suffers from shallowness in terms of cultural and spiritual matters. During last few years Assam has adopted similar kinds of strategies and laws to make Muslims in that Indian proves as foreigners as Myanmar did with it with Muslim population. In fact with some serious encouragement from the central authorizes the provincial government of Assam did finalize some kind of process to declare more than five million Muslims stateless in that province. In that political scenario, Bangladesh had to receive about a million Rohingya Muslims as refugees.

The JWG were doomed to fail to address any of the Rohingya issues in Myanmar and Bangladesh. For an eyewash in the middle of 2018 Myanmar picked up a Rohingya family of five from the no men's land and declared that the repatriation agreed upon has already began. Of course, Bangladesh remained powerless to change the minds of Myanmar government to take back their people from Bangladesh.

In fact, out of frustration on April 9, 2018 the International Criminal Court (ICC) made an application "seeking a ruling under article 19(3) of the Rome Statute on whether the Court may exercise jurisdiction under article 12(2)(a) of the Statute over the alleged deportation of the Rohingya people from Myanmar to Bangladesh."

Interestingly, the International Criminal Court ("ICC") made headlines in April upon Prosecutor Fatou Bensouda's filing of an Article 19(3) request for a ruling on whether the Court may exercise jurisdiction over the alleged deportation of the Rohingya from Myanmar to Bangladesh. This is a big deal, but not for the reason one may think. As grave crimes appear to have been committed in Myanmar's Rakhine State, the prospect of the ICC side-stepping a deadlocked UN Security Council to bring some modicum of justice to the Rohingya has excited many. Yet it is imperative that all remain sober because there is a thorny issue that was previously, and nearly universally, thought to bar ICC intervention – the lack of personal and territorial jurisdiction.

An affirmative ruling on the Prosecutor's request would be a Grotian moment of jurisdictional expansion for the ICC with consequences that will reach far beyond crimes in Myanmar. When the Rome Statute was drafted, States could never have imagined the Court extending the long arm of justice to capture crimes committed by the nationals of States not party to the Rome Statute in their own territory. That is why human rights advocates have called for universal ratification of the Rome Statute and why there is so much concern about African States, and

recently also the Philippines, threatening to withdraw. But if the Pre-Trial Chamber finds there to be jurisdiction over deportation from a non-State Party (Myanmar) to a State Party (Bangladesh) as a result of conduct that solely occurred in the non-State Party, the Court would be taking a step toward establishing universal jurisdiction over international crimes. This would, in effect, be a re-writing of the Rome Statute to grant itself power over non-States Parties.

The Prosecutor's request draws on some clever lawyering in arguing that a re-writing of the Rome Statute is merely a matter of interpretation, but it is ultimately too clever by half. Upon a closer look, its arguments are found to rest on a flimsy legal foundation and are thus likely to be rejected by the Pre-Trial Chamber.

The Prosecutor's brief rests on a single legal premise: that Article 7(1)(d) of the Rome Statute prohibiting "[d]eportation or forcible transfer of population" ought to be read as two, distinct crimes. Once that is established, the brief may argue that an "essential legal element" of the crime against humanity of deportation is the "crossing of an international border." Since the Prosecutor has taken the position that at least one element of a crime must occur on the territory of a State Party for territorial jurisdiction to attach, the brief concludes that the ICC has jurisdiction in Bangladesh because the border crossing element occurred there. Whatever the case may be as a matter of customary international law, neither the texts of the Rome Statute and the Elements of Crimes nor ICC jurisprudence permit such an interpretation.

Let us begin with the text of the Rome Statute. The first problem with the claim that "deportation or forcible transfer of population" reflects two, distinct crimes is that they are structured under a single provision in the treaty, Article 7(1)(d). The brief seeks to brush this issue aside by noting that there are other provisions of the Rome Statute that "likewise encompass several legally distinct crimes." In a footnote, however, it acknowledges that half of the provisions it cites in support of this claim are expressly divided into distinct crimes by the Elements of Crimes, e.g. the crimes against humanity of rape and other forms of sexual violence found in Article 7(1)(g)-1 to 7(1)(g)-6, while Article 7(1)(d) is not so divided. Meanwhile, the other provisions cited – Article 8(2)(b)(iv) and 8(2)(b)(viii) – have not been litigated before the ICC and thus have not been held to encompass multiple, distinct crimes. It is notable that the corresponding war crimes prohibition of "[u]nlawful deportation or transfer or unlawful confinement" in Article 8(2)(a)(vii) was split by the Elements of Crimes into the crimes of "unlawful confinement" and "deportation and transfer" – keeping deportation and transfer intact.

The only available precedent for a single provision of the Rome Statute

being divided without explicit distinction in the Elements of Crimes is Article 8(2)(e)(vii) prohibiting “conscripting or enlisting” child soldiers “or using them to participate actively in hostilities,” which the Lubanga Trial Chamber held to encompass “separate offenses.” However, even this precedent falls short because the Chamber’s citation to two Judgments and a Dissenting Opinion before the Special Court for Sierra Leone makes clear that by “separate offenses” it did not mean that these were three, distinct crimes but merely that different conduct could constitute a single crime (i.e. an “open-conduct crime”).

The text of the elements for Article 7(1)(d) is even more revealing. The “crime against humanity of deportation or forcible transfer of population” is presented in the singular form with a single set of elements. This is reinforced by footnote 13, which provides that “[d]eported or forcibly transferred” is interchangeable with “forcibly displaced” such that the disjunctive formulation becomes immaterial. Again, the brief sweeps this text under the rug by arguing that it cannot be taken to mean that “deportation” and “forcible transfer” are “the same as one another” as that would contradict the first element which provides that a person be displaced to “another State or location.”

This point is worth dwelling on because this argument is relied upon throughout the brief—deportation and forcible transfer are different. But different what? The brief conflates deportation and forcible transfer being different “things” with them also being different “crimes.” This is a false equivalence. Of course, the drafting history of the Rome Statute and Elements of Crimes makes clear that deportation and forcible transfer are different “things”; deportation refers to the displacement of persons to the territory of another State while “forcible transfer” is the displacement of persons to another location within the same State.

But footnote 13 clarifies that Article 7(1)(d) is a single crime—forcible displacement. Since only deportation across State borders was codified prior to the Rome Statute, its drafters described this crime in the disjunctive formulation (“deported or forcibly transferred”) to ensure that it receives a broad interpretation that encapsulates displacements within a State’s territory. The same drafting technique was used in Article 7(1)(e) with respect to the crime of “[i]mprisonment or other severe deprivation of physical liberty.” So while deportation and forcible transfer are different things, they remain one and the same crime. Therefore, the “crossing of an international border” is not an element of the crime, let alone an “essential” one.

This is why the brief’s analogy to a cross-border shooting is mistaken. In a cross-border shooting, an element of the war crime of attacking civilians, for instance, is that the object of the attack (presumably across the border) must be civilian in

character. The war crime is only completed once the element involving the object of the attack is established on the other side of the border. The present case is distinct from a cross-border shooting because, as the crime is completed upon the forcible displacement of the Rohingya in Myanmar, their travel across the border to Bangladesh is not legally required. The same crime, involving the same conduct performed by the same perpetrators, was committed against displaced Rohingya who did not manage to escape across the border and remain trapped in Myanmar to this day.

This conclusion has been cemented by the Pre-Trial Chamber's confirmation of charges decision in Ruto. In that decision, the Chamber was faced with a challenge by the Defense that the disjunctive formulation in the Prosecutor's charges ("deportation or forcible transfer of population") was prejudicial to the accused because it compelled a defense against two crimes in the alternative. The Chamber rejected this argument in finding that the evidence presented provided substantial grounds to believe that the victims were "forcibly displaced." It held that Article 7(1)(d) is a "unique crime" (read: singular) with "two labels" that depend on whether the "effect" of the displacement results in relocation within or outside the State. The Chamber was satisfied that these "labels" would be resolved by the Trial Chamber after charges are confirmed.

The brief takes issue with this holding in questioning the "legal significance" of the different "labels." But that is precisely the point. The legal significance of the two "labels" exists to ensure a broad interpretation of the crime by articulating its two forms. After all, if the brief is correct that the crossing of an international border is an essential element of the crime, how could the Chamber have confirmed the charge of deportation while holding that "the evidence presented before the Chamber does not and should not indicate with any sort of certainty where the victims ultimately relocated"? It couldn't, and therefore didn't. In fact, Ruto stands for precisely the opposite proposition. Under the Rome Statute, Article 7(1)(d) is a single crime and, therefore, the destination of the victims is not an element of the crime but merely an "effect" used to "label" it after the charge is confirmed.

Upon refuting the Prosecutor's claim that deportation and forcible transfer are really two, distinct crimes, the rest of the argument cannot stand. If this is a single crime with two forms, the crossing of an international border is not an element of the crime but merely a collateral effect. Therefore, according to the Prosecutor's own standard for establishing territorial jurisdiction, there is no basis for jurisdiction in Bangladesh because "the conduct in question," within the meaning of Article 12(2)(a), did not occur there. As such, the Pre-Trial Chamber is likely to hold that the Rome Statute does not provide jurisdiction over the deportation of the Rohingya.

Admittedly, it is disheartening that the ICC is unlikely to have jurisdiction over atrocity crimes committed against the Rohingya absent a UN Security Council referral. Yet that is all the more reason to place pressure on the P5 to permit referral and, critically, broader Security Council reform. To seek to bypass this reform by asking ICC judges to re-write the Rome Statute would be self-defeating, for it would have devastating consequences for the legitimacy of the Court. Like it or not, international law is still created by States and, if the Court strays from this fundamental principle, then States will surely reject the Court. States rightly expect the Court to apply *lex lata* (the law as it exists), rather than *lex ferenda* (the law as it should be).

As a reminder, the ICC is currently operating in a relatively hostile, nationalist environment. It is staring down the barrel of confrontations with powerful non-State Parties to the Rome Statute—including the United States, Russia, and Israel among others—which may not appreciate an illegitimate expansion of the Court's jurisdiction. The Court is also deeply concerned about a wave of withdrawals akin to those pursued by Burundi, South Africa, and the Philippines. Judicial overreach would most likely accelerate these withdrawals.

The ineffective foreign policy of Bangladesh has made this repatriation possibilities fairly uncertain. Near about a quarter of a million Rohingyas Muslims were driven out from their homeland in 1978 and they had to take shelter in Bangladesh. It was China that convinced Myanmar that the then Bangladeshi authorities were desperate to see that Yangon took back their citizens. Failure to listen the diplomatic call of Beijing might be too bad about which Myanmar was quite aware all along. The success of China's mediation with its own formulated "special counter-measure" led to an agreement that was signed quickly by both the countries. (Bangladesh and Myanmar) on the July 9, 1978. Myanmar had to take back all Rohingya Muslim refugees from Bangladesh, which succeeded to get the recognition of Rohingyas as citizens of Myanmar. General Ershad making himself 'colorless' friend of foreign countries kept that status quo going. But since 1982 Myanmar government changed the citizenship law and made the Rohingya Muslims as foreign people in their birthplace, Rakhine State of Myanmar.

Since the introduction of newly devised wicked citizenship law, Yangon had started to call Rohingya Muslims as foreign citizens with Bengali heritage coming from Bangladesh. General Ershad again helped that going keeping everybody happy, but Rakhine Rohingyas lost their citizenship. They were told to prove that their forefathers were the citizens from the year of 1823. In 1990 autocratic government of General Ershad collapsed in the face of popular uprising and general elections were held peacefully.

In that changed political landscape of Bangladesh, during the early years of 1990s, again hundreds of thousands of Rohingya Muslims were driven out from their ancestral homeland for their lack of apparent proof of citizenship and discrimination against all Muslims in Myanmar were orchestrated generations. The draconian citizenship law was in action as a heinous scheme to drive out more Rohingya Muslims and push them to Bangladesh with a fragile democracy.

After the exodus of about half of million Rohingya Muslims in Bangladesh during 1991-92, Bangladesh with its weaker positions in the face of Myanmar aggressive policies, Dhaka found itself helpless to make Myanmar again on similar type of bilateral agreement as we had witnessed in 1978. This time Yangon was very reluctant to seat with Bangladesh for any bilateral resolution of problems of repatriation. Myanmar had been reiterating that Rohingya Muslims were not their citizens, who could be taken back as stateless people happened to catch up in no men's land between its territories and Bangladesh. A bilateral meeting held in April, 1992, as a result of tremendous effort of Dhaka, which had to agree with all conditions with Myanmar to repatriate a bulk of Rohingya Muslims to Myanmar, where they lost all of their fundamental rights. A joint statement has agreed no Rohingya Muslims could be forced to return back to Myanmar. Bangladesh has not only failed diplomatically, but it has also failed gravely to gather mass support from the people all over the world. When the Rohingyas started fleeing Myanmar last August, the international community, particularly the Western press, mobilised quickly around the Rohingya cause. From September to December 2107, newspapers, magazines, online media, and social media ran countless features on the humanitarian dimensions, the harsh treatment meted out by Myanmar, the immediate needs of the refugees, and their right to return. However, more than seven months have passed and there has been very little or no progress on their repatriation. How is the international media processing the unresolved crisis as we enter its new months?

During the lifecycle of a crisis, media coverage evolves through different phases. As the Rohingya crisis reaches a mature phase, the media has kept the spotlight shining on the plight of the Rohingyas huddled up in their tiny "enclaves" month after month, and any casual reader will not miss the point. However, the frequency of these stories has somewhat declined, even though the situation on the ground has not gotten any better. Most reports note that notwithstanding the best efforts of the government of Bangladesh and the aid groups, the refugee camps are "bursting at the seams". While the world media has occasionally returned to this theme, it has failed to recognize the burden of the crisis and give enough credit to Bangladesh and its administration for managing one of the biggest mass exoduses from one country to another with fortitude and compassion. It is high time for the

world media to use its influence to raise global awareness once again, and awaken the world community from its stupor on this issue. It would not be an exaggeration to assert that the international media plays a big role in this respect. "Out of sight and out of mind" goes the old saying, and if the Rohingya crisis slides into the anteroom of the global stage and world media forgets about it, the crisis is likely to linger longer and this failure will definitely hurt the Rohingyas and Bangladesh at the same time.

Very recently, the United Nations Secretary-General Antonio Guterres said, Myanmar's minority Muslim Rohingyas are victims of ethnic violence. The international community has failed to protect them from this destruction.

The horrific experiences of the Rohingyas defy comprehension, yet they are the reality for nearly 1 million Rohingya refugees.

The Rohingyas have suffered a pattern of persecution – lacking even the most basic human rights, starting with citizenship – by their own country, Myanmar.

Systematic human rights abuses by the security forces in Myanmar over the past year were designed to instill terror in the Rohingya population, leaving them with a dreadful choice: stay on in fear of death or leave everything simply to survive.

After a harrowing journey to safety, these refugees are now trying to cope with the harsh conditions in the Bangladesh district of Cox's Bazar that have naturally resulted from the world's fastest-growing refugee crisis.

Bangladesh is a developing country with resources stretched to the limits. Yet, while larger and wealthier countries around the world are closing doors to outsiders, the government and people of Bangladesh have opened their borders and hearts to the Rohingyas.

The compassion and generosity of the Bangladeshi people show the best of humanity and have saved many thousands of lives.

But the response to this crisis must be a global one.

A Global Compact on Refugees is being finalized by member states of the United Nations so front-line countries such as Bangladesh are not alone in responding to a fleeing wave of humanity.

For now, however, the United Nations and humanitarian agencies are working flat-out alongside the refugees themselves and host communities to improve conditions. But far more resources are desperately needed to avert disaster and to give fuller expression to the principle that a refugee crisis calls for a global sharing of responsibility.

An international humanitarian appeal for almost \$1 billion is funded at only 26 percent. This shortfall means that malnutrition prevails in the camp. It means that access to water and sanitation is far from ideal. It means that we cannot provide basic education for refugee children. Not least, it means inadequate measures to alleviate the immediate monsoon risk.

Makeshift homes hastily built by the refugees on arrival are now threatened by mudslides, requiring urgent action to find alternative sites and build stronger shelters.

Much has been done to address the challenge, but there are still grave risks because of the sheer dimensions of the crisis. The crisis will not be solved overnight. At the same time, the situation cannot be allowed to continue indefinitely.

Myanmar must create the conditions for the return of the refugees with full rights and the promise of living in safety and dignity. This requires a massive investment – not only in reconstruction and development for all communities in one of Myanmar’s poorest regions, but also in reconciliation and respect for human rights.

Unless the root causes of the violence in Rakhine state are addressed comprehensively, misery and hatred will continue to fuel conflict. The Rohingya people cannot become forgotten victims. We must answer their clear appeals for help with action.

CONCLUSION

We like it or not, Rohingya Muslims in Rakhaine State knows a history more than a millennium. The territory was known as Arakan and the early Muslim communities were divided into: the Rohingya proper and the Heins.⁸¹ Such kind of division can be found in Athens or Bengal as well. Aristotle was not an Athenian and Siraj Dullah was not a Bengali. From this perspective prior to Gamal Nasser,

there was no Egyptian proper in the African continent. The most celebrated Egyptian ruler Mohammad Ali was a European from Albania. This is a very bad example that rulers in Myanmar are so aggressive against Rohingya Muslims that even the foreigners are barred to use the word Rohingya.⁸²

Historically it is an absurd argument that Rohingyas are not indigenous people in Arakan and they were brought by the British as the Chinese were brought to Malaysia. All credible documents would tell us that Rohingyas were local people and live there for many centuries. The British colonial administration only exploited them for the benefits of London. That is way they wanted to be a part of East Pakistan rather than Burma. In 1785 Arakan became part of Burma and Muslims in Arakan fought shoulder to shoulders with the Burmese Buddhists to liberate the communities from the British colonial rule.

The issues of the partition between Burma and Arakan were almost of similar pattern as that of the British India. Along with some prominent Muslim leaders of the time, Mahatma Gandhi was right to propagate the arguments to keep the Bengal undivided within an undivided India. Indian partition of 1947 was the worst episode of mental and psychological divisiveness of human mind and soul in the entire South Asia and beyond. From that perspective division between Burma and Arakan was an imperative as was the complete separation of Bangladesh from Pakistan. But that kind of absolute correctness of moral position did not prevail in any part of our subcontinent.

After the emergence of Bangladesh as a complete State in the region our neighboring countries have become fearful of secessionist movements within their countries. Many observers had speculated a united Punjab or Kashmir, other were telling that local people of every provincial government might wage liberation war against the central or federal governments. Nothing of this sort had happened actually, but three most prominent leaders of Bangladesh, Pakistan and India became the victims of tragic assassinations.

These tradition of brutal killings have many things to do with the atrocities inflicted upon the Rohingya Muslims by the Buddhists in Myanmar. Moreover political instability in Bangladesh sent wrong signals to the rulers in Yangon who were very undemocratic and inhuman in nature. During the first and second waves of influx of Rohingya Muslim to Bangladesh in 1978 and 1992 were almost unaddressed for future settlements of the underlying issues of refugees.

The exodus of Rohingya Muslims has become a pattern rather than exception. Muslims were not allowed to live in Arakan peacefully. The citizenship rights

to the Rohingyas were striped in 1982 followed by the horrendous religious persecution and violations of all kinds human rights jointly by the civil and military authorities of Myanmar in Arakan. Then continuous orchestrations of heinous crimes were committed to deport them to other countries. This did not accidental or occasional; they were periodical and systematic.

The UNHCR or any other international agencies could do little to mitigate the situation; they proved themselves helpless in the face of determination of making all Muslims of Myanmar either internally uprooted or refugees in real international terms. Fearing local discontentment of Buddhists, in fact, international agencies decided to be shy away to do anything substantial to address this huge man-made humanitarian crisis in making.

Some observers may think that “Burmanisation” is a similar type of problem like Sovetization, Europeanization or Americanization. But that would be a too simple an equation to be applied to the Burmese Muslims, who are continuous attacks of fanatic Buddhists people and their government since 1950s. It is not the inability of Burmese Muslims to be assimilated with the Buddhists, majority of whom were peaceful and friendly people until they were indoctrinated by an idea that Burmese Muslim are alien in the State of Arakan. Even sharing the country’s natural resources between Buddhists majority and more than one hundred ethnic minorities were not a big deal until 1980s. In fact among 135 Ethnic groups, Muslims in Arakan maintained a very peaceful life style and behavioral patters until 1990s. The main reason of the conflict between the Myanmar government and Muslims living there for many centuries is the direct legal attempts making Muslims second or third class citizens of the country. It is true that in many countries Muslims are not equal citizens with non-Muslim people in practical terms. But until recent that was the reality on the ground and wan not done through legal terms. In 1982 Yangon has adopted this illegal, immoral and anti-humanity strategy and approach with full vigor against its Muslim citizens legally, directly and aggressively in front of the world and international communities.

The Land Acquisition Act (1894) was not openly directed against Muslims in Myanmar. But since 1982 the entire legislation of Myanmar was designed to deprive Muslims from all of their legitimate rights. In fact that process had started in 1962, when military government declared that it had absolute power to confiscate any property for governmental use or for the purpose of development and industrialization.⁸³ With the arrival of the so-called democratization process in Myanmar, one after another laws had been enacted to make Muslims completely stateless. Directly or indirectly the followed major laws and legislation were enacted for that purpose. A deeper understanding of The Constitution of the Republic of the Union

of Myanmar(2008), The Vacant, Fallow and Virgin Land Act(2012), Economic Zone Law(2011), Farm Act(2012 and The Foreign Investment (2012) would reveal that how deep and systematic is the discrimination against Muslims. Legally retaining their citizenship in Myanmar has become impossibility.

In 1991 influx of the hundreds of thousands of refugees from Myanmar to Bangladesh had been tackled on an ad hoc basis. This partial success of repatriation had created an illusion that Myanmar did not have any whole scale plan to drive out all its Muslim citizens from Arakan and beyond. In 1992 Bangladeshi government succeeded to send back some of the refugees. That had been taken as false signal and unfounded hope that the Rohingya crisis could be resolved through negotiations and peaceful means. It was not until June 1994 that UNHCR was given proper access to the camps in Bangladesh. The section also focused on the evolution of UNHCR's role from pure material assistance to promotional activities with all its implications. The discussion was rounded up with a brief exploration into the change of circumstance in the country of origin which facilitates the ground.

Why Rohingya Muslims have no legal standing anywhere on earth? They are stateless people in Myanmar and "illegal" refugees in Bangladesh. Being fearful about their future Bangladesh has named them as illegally forced migrated people into our soil. We cannot even bear the burden of more than one million Rohingya Muslims as refugees as they are rightful citizens of Myanmar. One the one hand, Suu Kyi has been promising to take Rohiyas back to their homeland, and on the other hand her military Generals and Ministers claim that Rohingya have to place in Myanmar as the majority people there apparently drove them out from their as aliens to Myanmar. Even if it is the case we need to ask a very pertinent question: Do the majority of any State can deprive the minority from their birth right to remain citizens of their homeland? Can that be a constitutional principle or rule for any State or country in the 21st century? These are not simple ethical or moral issues. These are universal legal norms and rules, which made us a bit better civilized human beings since the time of Socrates and Buddha.⁸⁴

"For Socrates and Buddha, philosophy - awakening - is a raja yoga: a "royal way." Philosophy is the journey from the love of wisdom to the wisdom of love. This journey transforms the conventional meaning of duty into a calling to live an examined or "awakened" life. For a bodhisattva, the meaning of life is learning and service.....The Buddhist use of the term maya does not, however, mean that the world is illusion. It means that one who thinks what appears is all there is is in a state of illusion. Just as Plato calls into question the firm division between cave and outside world in other dialogues and parts of the Republic, so too does Buddhist

thought break down the firm division between illusion and reality, samsara and nirvana. As Nagarjuna said: "One who thinks the world is real is dumb as a cow. One who thinks the world is not real is even dumber." Or, in the words of a postmodern poet: "All the world's a stage; but the bullets are real."⁸⁵

Endnotes

1. Literally Rohingya Muslims have been stateless for more than three decades, but practically more than five decades.
2. Aung San Suu Kyi, the Nobel laureate and de-facto Burmese leader, has never taken the side of persecuted people at home or abroad. Moreover she has been supporting the brutal ethnic clinging of Rohingya Muslims and ongoing genocide against them. Now it has been established that the Rohingya, the world's most persecuted minority under the subjugation of the government of Burma (also known as Myanmar). And the country have been governed by Suu Kyi and military generals together.
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71. China and Bangladesh established diplomatic relations in January 1976.
72. Since August 25, 2017 about three-quarter of a million Rohingya refugees have fled to Bangladesh within three month. The Kutupalong Extension site alone hosted about half a million. Currently 13 out of 20 blocks in the Kutupalong Extension area are now more densely populated than parts of Dhaka. An area known as Block CC shelters more than 95,000 people per square kilometre (according to UN Habitat data Dhaka's population density is 44,500 people per square kilometre). See for details at: <https://reliefweb.int/report/bangladesh/home-made-rafts-arriving-myanmar-refugee-population-density-soaring>.

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