

MIGRATION

Repatriation Challenges faced by Developing First Asylum Countries & the International Response Mechanism: The Case of Myanmar Rohingyas in Bangladesh

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Abstract

The leaders of G20, the association of the 20 leading economies of the world, are in a unique position to formulate a support & monitoring platform to (i) provide international assistance to developing first asylum countries, (ii) exert collective diplomatic pressure on countries and governments forcibly removing inhabitants from their settlements on the basis of race, religion and ethnicity, (iii) conduct credible fact finding in conflict zones, (iv) monitor safe and ethical repatriation of refugees to their own countries of origin and (v) advocate and popularize the use of the latest technologies to provide legitimate identification to refugees without any credible IDs.

Challenge

The Rohingya Refugee Crisis is a result of the ethnic Muslim Rohingyas from Northern Rakhine State in Myanmar fleeing to neighboring Bangladesh to escape arson, murder, torture, rape and destruction of cropland and livestock by Myanmar military and local Buddhist majority. The Crisis has created a situation whereby Bangladesh, a low lying deltaic plain prone to frequent cyclones and flooding is now having to host 700,000 (Intersection Coordination Group, 2018) Rohingyas in makeshift camps in the coastal region of Cox's Bazar. As the cyclone and monsoon season arrives, more than half of the camp population remains at risk of landslides and floods straining the capacity of Bangladesh authorities in having to disburse their limited relief resources to support both climate vulnerable Rohingya and Bangladeshi population. The Joint Response Plan for the Rohingya launched by UNHCR to raise US\$ 951 million, to assist 1.3 million people (United Nations Office for the Coordination of Humanitarian Affairs (OCHA), 2018) remains underfunded.

While most forced migrations occur due to migrants fleeing violent invasion, civil war, climate change or clash between opposing factions, in the case of Myanmar, it is the country's own government and military launching violent attack on one particular Muslim ethnic group while the 135 Buddhist ethnic groups remain unharmed. While in the case of Syrian crisis, the whole of Syria remains in a state of unrest with all Syrians being affected by the ongoing Civil War, in the case of Myanmar, the Buddhist ethnic groups enjoy normal daily lives in the cities of Yangon, Mandalay and Naypidaw in a country with a GDP expected to grow by 6.8% in 2018 and 7.2% in 2019 (Asian Development Bank). A stark contrast can be observed between the Myanmar city of Yangon and village of Sittwe where in Yangon citizens enjoy the influx of foreign investment while in Sittwe, citizens on a daily basis flee rape, murder, arson and have very limited access to the most basic public services.



The crux of the problem lies in the deliberate attempt by the Burmese authority to disenfranchise the Rohingya population living there for centuries by refusing to acknowledge their legitimate right to be fully recognized as citizens of Myanmar. They are still seen as Muslim immigrants who arrived in Burma during British colonial period. Since 1970, Rohingyas have been handed over a complex array of registration documents which were changed and updated abruptly over the years. Today 90% of the Rohingyas in camps in Bangladesh have no identification document and thus remain stateless (Ullah, 2017). Bangladesh and Myanmar have reached a bilateral repatriation deal in November 2017 which still requires to be executed and till date not a single refugee has returned to Myanmar.

Lack of proper identification mechanism, inability of Myanmar to expedite the dignified repatriation process, lack of access of international media to conduct credible reporting and the continued discrimination of Myanmar against its own people without any international accountability are challenges that require to be addressed as Bangladesh with its dense population, limited resources, lack of resourceful manpower, and shortage of habitable land continues to struggle to host 1 million additional population in its most climate vulnerable and economically backward coastal area.

Proposals

Recommendation 1: Build a G20 Discussion and Negotiation Platform to:

- A. Facilitate dignified and safe repatriation and rehabilitation of Rohingyas into Myanmar**
- B. Exert diplomatic pressure on Myanmar to grant citizenship rights to Rohingyas**

A. Facilitate dignified and safe repatriation and rehabilitation of Rohingyas into Myanmar

The case for Repatriation over Resettlement: We acknowledge that it is more desired to encourage refugees to be incorporated into the the local economy instead of limiting them to camps where they wait to be repatriated to a homeland



still riddled in conflict. However here we have a situation whereby around 1 million refugees have moved to a country which is 5 times smaller than Myanmar and which has the highest population density in the world. Already lacking in farm and fishing land, since the arrival of the Rohingyas, matured trees and stretches of vegetation in Bangladesh are being cleared out to make room for building shelters. With availability in cheap labors, wage of local workers have registered a drop and price of essentials has increased. An extremely resource constrained nation with locals competing with the refugees every day over limited land, water and food resources, complete incorporation of the refugees in the Bangladesh economy and social structure does not offer a sustainable solution in the long run. Surrounding countries have also not made any solid commitments to house these refugees in their homeland leaving Bangladesh no choice but to push for safe and dignified repatriation to Myanmar.

The Repatriation MOU: Bangladesh and Myanmar signed a repatriation deal on November 23, 2017 which was updated on January 15, 2018 whereby Myanmar agreed to accept 1,500 Rohingyas each week and complete the repatriation process by 2020. In addition to Myanmar's unwillingness to take back all Rohingyas as several statements in the repatriation deal mention the following demands by Myanmar which violate international law. In the repatriation MOU:

- I. Rohingyas were identified as 'displaced Myanmar residents' as opposed to legitimate citizens of Myanmar.
- II. The Myanmar government decided to accept only those who fled Myanmar after October 2016 excluding the 200, 000 who have been in Bangladesh before October 2016.
- III. The Repatriated will be settled in temporary locations and their movement is to be restricted.
- IV. Repatriation will require Myanmar issued proof of residence which includes citizenship identity cards, national registration cards, temporary registration cards, business ownership documents, school attendance, etc.

Myanmar is also expected to respect the commitments as part of their endorsement of the New York Declaration for Refugees and Migrants which stipulates - *'... we fully respect their human rights and fundamental freedoms, and we stress their need to live their lives in safety and dignity and actively promote durable solutions, particularly in protracted refugee situations, with a focus on sustainable and timely return in safety and dignity...*



In spite of signing the MOU, Myanmar is yet to repatriate a single refugee from Bangladesh back to Rakhine. According to UN High Commissioner for Refugees (UNHCR) conditions in Myanmar have not yet been made conducive for the safe, dignified and sustainable return of refugees and that the responsibility remains with the government to create such conditions. (Reuters, 2018). Although Aung San Suu Kyi has stated that her government was making “every effort to restore peace and stability,” repatriation process has yet to begin. Myanmar government has been unable to guarantee the safety of those to be repatriated. Refugees still fear that they will face the same degree of violence and discrimination if they are made to repatriate – a fear the Myanmar government has failed to allay.

Lack of International Condemnation on the Repatriation Process: Myanmar has received immense diplomatic condemnation, scrutiny and sanction on its treatment of the Rohingyas but less on its unwillingness to repatriate. While condemnation and criticisms has built some pressure, countries that regularly trade with Myanmar and with whom Myanmar has good diplomatic ties are in positions to put the highest pressure on the national government and military.

The G20 Solution: The ability of G20 to enforce diplomatic pressure on Myanmar to demonstrate genuine commitment towards safe and ethical repatriation and rehabilitation is immense. All G20 members are signatories to the New York Declaration which states *.....We are determined to address the root causes of large movements of refugees and migrants, including through increased efforts aimed at early prevention of crisis situations based on preventive diplomacy..... we will address movements caused by poverty, instability, **marginalization** and **exclusion**.....*

G20 houses all Security Council members, the EU and most high income countries and most importantly it includes multiple G20 countries that have robust trade relations and substantial investment in Myanmar putting them into a position of leverage. To facilitate safe, orderly, dignified and humane repatriation of Rohingyas back to Myanmar, the G20 can utilize their platform, forums and clout to:

- I. Issue a formal statement urging Myanmar to immediately commence with safe, dignified and voluntary repatriation of Rohingyas without putting any limitation to their freedom to move, assemble, or search for livelihood.
- II. Collectively flag Myanmar’s inability to conduct speedy implementation of the repatriation MOU with Bangladesh and their inability to provide credible evidence to ensure the safety of those to be repatriated.
- III. Facilitate a tripartite meeting between UNHCR/, Bangladesh government and Myanmar (both the civilian government and military army



which has more say in repatriation procedure) to provide repatriation framework and timeline.

IV. Communicate, collaborate and support the Bangladesh government, Myanmar government UNHCR and other related agencies in their repatriation efforts.

B. Grant all citizenship rights to Rohingyas

Inability to recognize Rohingya as citizens of Myanmar: The crux of the the Rohingya Crisis lies at the refusal of the Myanmar civil government and military authorities to recognize Rohingyas as full and permanent citizens of Myanmar. In spite of the Rohingyas being born in Myanmar and coming from a line of descendants who have been living in Myanmar for 3 generations, many having come during the fifteenth, nineteenth and early twentieth centuries, they are not considered to fully belong to Myanmar and are seen as illegal immigrants from Bangladesh (Albert, 2018). The term Rohingya itself is not recognized by the government, local Buddhists or the Burmese leadership which include Aung San Suu Kyi, the State Counsellor of Myanmar. The military government which came to power in 1962 excluded the Rohingyas from having full citizenship and instead provided them white cards that gave them limited rights of residence. According to government figures approximately 4,000 Muslims have been recognized as citizens or naturalized citizens – out of a population of around one million stateless Muslims in the state. Around 10,000 Muslims have also received National Verification Cards (NVC), considered a preparatory step for applying for citizenship. (Advisory Commission on Rakhine State, 2017). During the 2014 UN backed national census, the Rohingyas were allowed to be registered only if they identified as Bengalis (Albert, 2018) putting them into a Catch 22 situation whereby if they desired registration cards they had to strip their ethnic identity of being a Rohingya and instead identify as a Bengali which could be later utilized by authorities to force them out of Myanmar in lieu of being a Bengali. In 2016 NLD government started the process of issuing National Verification Cards which no longer required Rohingyas to register as Bengalis but the Kofi Annan Commission report says the sporadic implementation of the process – as well as the general lack of communication, consultation and outreach from the Government – has undermined public trust in the exercise within both communities. Also many are worried that this procedure follows a familiar pattern of successive Myanmar governments issuing documents with a promise that citizenship will follow, with the latter repeatedly failing to materialize. Many are also reluctant to hand in their existing documents for fear of being left undocumented (Advisory Commission on Rakhine State, 2017).



Violation of Key Intertional Documents and Declarations: As evinced from above, Myanmar openly discriminates against its own people based on religion and ethnicity which is a clear violation of Article 15 of UN Universal Declaration of Human Rights which states (1) Everyone has the right to a nationality. (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. (United Nations General Assembly, 1948)

The discrimination also violates the New York Declaration which states *...We strongly condemn acts and manifestations of racism, racial discrimination, xenophobia and related intolerance against refugees and migrants, and the stereotypes often applied to them, including on the basis of religion or belief...*

Report of the Advisory Commission on Rakhine State: At the behest of the Ministry of the Office of the State Counsellor of Myanmar and in collaboration with the Kofi Annan Foundation, the Advisory Commission on Rakhine State was founded in September 2016 as a neutral and impartial body which aimed to propose concrete measures for improving the welfare of all people in Rakhine state. The Commission was composed of six local and three international experts, and is chaired by Kofi Annan. (Rakhine Commission). In August 2017, it presented its final report “Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine”. The Report explicitly states that the Rakhine crisis is a human rights crisis where ‘profound discrimination’ has been made against the Muslim Rohingya community and that the community has been denied political representation.

Below are some recommendations from the Report:

- **Reccomendation 12** - The Government should establish a clear strategy and timeline for the citizenship verification process. This strategy should be transparent, efficient, and with a solid basis in existing legislation. The strategy should be discussed with members of the Rakhine and Muslim communities, and communicated through a broad outreach campaign. The strategy should include a clear timeline for the different stages of the process. The process should also be made simpler, and enable individuals to apply for citizenship at the same time as they apply for NVC. To increase the accessibility of the process, the use of an uncle or aunt’s documents (or other family members) should be permitted when the parent’s documents are missing. The Government should ensure that the verification process is adequately resourced. (Advisory Commission on Rakhine State, 2017).
- **Reccomendation 13** - The Government should clarify the status of those whose citizenship application is not accepted.



- **Reccomendation 16** - Complaints related to the on-going verification processes should be addressed swiftly by a Government authority independent of the institutions responsible for the implementation of the verification processes.

The reccomendations from the Commission was not followed through and before the reccomendations could be implemented, the army crackdown on Rakhine villages began as part of their clearance operation against the attack on Myanmar police outpost by alleged Rohingya terrorists on August 25, 2017, triggering a mass exodus of Rohingyas into Bangladesh

Less Global Discourse on Citizenship Rights: Till now, most Rohingya refugee coverage, advocacy and discussions has been centered around violence by Myanmar authorities, the precarious conditions of those fleeing and those in camps and the inability of UN humanitarian agencies to manage the crisis while the discourse on their rights to be reinstated as citizens of Myanmar have garnered less global discourse.

Solution: The collective voice of the G20 can be help bring the issue of racial discrimination in this day and age into the mainstream international discourse. The G20 platform can aid the cause through :

- I. Hosting meetings by bringing together civil society representatives, right bodies, advocacy outfits, think tankers, policymakers and opinion shapers from each G20 country to discuss the issue of open discrimination of governments against their population referencing the Myanmar case in hand. Discussions should raise topics like Myanmar government's discrimination against the Rohingyas through restrictions on citizenship, voting in national elections, free movement across Myanmar, accesing the full the range of offered public services, employment, family planning, religious practice and marriage. A summary of discussion and suggestions should be forwarded to G20 Leaders.
- II. The issue of discrimination by Myanmar can be raised during the meeting of Civil 20 Engagement Group.
- III. Public letter signed by all G20 leaders can be issued to Myanmar government to flag the discrimination being committed against the Rohingyas.
- IV. Leaders of G20 members states can reassess their existing economic and diplomatic ties with Myanmar.
- V. The G20 can communicate on Myanmar's discriminatory policies with other regional bodies like the ASEAN who are in G20's permanent invitee list and with whom G20 maintains engagement.



VI. G20 can mobilize funds for the creation of digital biometric smart IDs to gather comprehensive information on Rohingyas in Bangladesh and other countries of asylum which include Thailand, Malaysia, Indonesia, Australia and help create a Rohingya Population Census and Repository until they are provided identification by Myanmar.

Recommendation 2: Establish G20 Monitoring Cell to monitor, document, collect, and consolidate information on the Rohingya Crisis

Reporting on the crisis from Myanmar has been extremely difficult. There has been dismissal of reports and evidence of ethnic cleansing and violence by authorities. (Al Jazeera, 2017). It is difficult to acquire credible information from Myanmar as authorities restrict access of both local and foreign reporters to Rakhine villages and conflict zones. State officials have threatened to sue Associated Press for covering the Crisis and exposing mass graves. Two Reuters reporters have also been put to jail for attempting to independently cover the crisis. A complete media blackout exists with the authorities barring both journalists and independent investigators from reporting the situation in the Rakhine State. (Barron, 2018).

The UN Special Rapporteur, Ms. Yanghee Lee has also been denied access into the country who has then called for the establishment of a UN structure, based in Cox's Bazar in Bangladesh, to investigate, document, collect, consolidate, map, and analyze evidence of human rights violations and abuses. (United Nations Human Rights Office of the High Commissioner, 2018). While the Myanmar authorities have organized heavily monitored and guided trips for foreign delegates, there is no permanent monitoring cell to provide regular followup from the conflict zones and to carry the voice of Rohingyas who have remained behind in villages in Myanmar. A monitoring cell and reporting cell comprising of representatives from UNHCR, IOM and G20 nations can be established to:

- I.** Follow-up on Myanmar's repatriation activities.
- II.** Visit Rohingya villages in the Rakhine state to assess their condition.
- III.** To follow up on Rohingyas in Rakhine State if they are repatriated.
- IV.** To ensure that repatriated Rohingyas are treated ethically and humanely.
- V.** To oversee and report if authorities are undertaking adequate steps to enable Rohingyas to live as full citizens.



VI. To monitor if Rohingyas are given the adequate legal, social and economic services and opportunities.

VIII. To seek update from the Myanmar government on the condition of Rohingyas in Myanmar.

VIII. To request information from the Myanmar government on their plans and provisions for Rohingyas they have announced to be repatriated.

Recommendation 3: Enhanced engagement between G20 and notable international refugee agencies

Although the G20 engages with International Organizations like the World Bank, International Monetary Fund (IMF), World Trade Organization (WTO), International Labor Organization (ILO), Financial Stability Board and the Organization for Economic Cooperation and Development (OECD) and the heads of these institutions are invited to attend the Annual Leader's Summit, there is very little regular G20 engagement with the two frontal IO's working with refugees- UNHRC and IOM. The IO's advice, guide, identify policy gaps, recommend suggestions and take active participation at G20 Agenda formation. Invited IO's are also involved in drafting summit decisions.

There has been an increase in engagement between G20 and UNHCR and ILO. At the Hamburg Leader's Declaration, the leader's stated*We seek to address the root causes of displacement. We call for concerted global efforts and coordinated and shared actions, in particular with respect to countries and communities that are under high social, political and financial pressure, and for combining both an emergency approach and a long-term one. To this end, we acknowledge the importance of establishing partnerships with countries of origin and transit....*

Solution: Now that Migration has become a discussion point for G20 Leaders since the Antalya Summit, It is recommended that the UNCHR be invited as a permanent guest invitee at the Buenos Aires and all succeeding Leader's Summit.



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