

# Kathmandu School of Law Review

ISSN 2091-2110

Volume 6

Issue 1

April 2018

## FOREWORD BY EDITOR-IN CHIEF

*Prof. (Dr.) Yubaraj Sangroula*

## FEATURE ARTICLE

Cultural Dimension of Rule of Law and Social Episteme

*Prof. (Dr.) Yubaraj Sangroula*

## ARTICLES

Belt and Road Initiative and Nepal's Economic Perspective: Regionality and Specificity

*Ashish Adhikari*

Unwholesome Tendencies in the Judicial Appointment - A Nepali Perspective

*Bishal Khanal*

Tax Regime in Nepal - Implications on Human Rights

*Dagan Omwesiga*

Assessing Social Impacts of Slum Displacement on Women's Lives: A Case Study of Three Resettlement Colonies in Delhi, India.

*Dr. Deeksha Bajpai and Dr. Upma Gautam*

Analyzing Hindu Women's Right to Property in Bangladesh: Absolute Interest versus Limited Interest

*Ferdousi Begum*

Making WTO Dispute Settlement System Useful for LDCs

*Prof. (Dr.) Kumar Ingnam*

Religion and State: Revisions Needed in Sri Lankan Constitutional Implications

*Nishandey Ratnam*

Personal Law and Property Rights of Hindu Woman in India - the Need for Codification

*Sindhu Thulaseedharan*

## LEGISLATIVE COMMENT

Assessing Impacts of Banks and Financial Institutions Act in the Development of Financial Sector

*Ram Sharan Pokharel*

## STUDENT ARTICLES

Sexual Orientation and Gender Identities: An Analysis of the Contemporary Laws and Literature

*Dhruba Yonzon*

Rohingya's Genocide: Human Rights and Politics

*Prachi Tomar and Aditya Pandey*

Comparative Study on Anumana and Inference of Hindu and Western Philosophy

*Nikhil Dongol*

## CASE COMMENT

An Analysis of Principle of Erga Omnes Partes with Special Reference to the Case of Belgium v. Senegal, 2012

*Prajwol Bickram Rana*



**Kathmandu School of Law (KSL)**

Suryabinayak-4, Bhaktapur, Nepal, Ph: 6634455, 6634663,

Email: [info@ksl.edu.np](mailto:info@ksl.edu.np), [www.ksl.edu.np](http://www.ksl.edu.np)

# Rohingya's Genocide: Human Rights and Politics

Prachi Tomar\* and Aditya Pandey\*\*

## Abstract

*The Rohingya's most persecuted ethnic minority, practicing Sunni Islam, traces their origin from Arakan kingdom. The present democratic government of Myanmar and previous military junta have practiced ethnic cleansing and denies to grant citizenship to Rohingya's making them stateless. There has been great violation against this ethnic group by the Myanmar government in one or the other way like restriction on freedom of movement religious choice, unemployment, education, marriage and family planning. On the contrary the present de facto leader of Myanmar has totally denied such ethnic cleansing and brushed away the criticism of her not handling the crisis. This paper tries to understand the dynamics and severity involved, the origin of the ethnic tension, the exclusionary policies of the government and also examines the abuse, discrimination and gross human rights violation of Rohingya Muslims which leads to the politicization of the issue and vice-versa i.e. how politicization of the issue leads to gross human rights violation. This paper further analyzes the pattern of violation, international politics and the political and economic interest vested which contributed to forced displacement in Myanmar not only of the Rohingya's but other minorities like the Shan, the Kachin, the Karen and how this crisis has fired up the political debate in the neighboring countries and has become a political contention and concludes with recommendation to be taken by the government and international organization to improve the situation of the minorities in Myanmar.*

## Introduction

Seventy percent of the world's population dwells in countries where there are state restrictions on religious freedom.<sup>1</sup> Despite commendable strides towards democratic reform, Myanmar is among those nations. In fact, it is among world's twenty-five most populous nations with the most government limitations on, and social conflict due to, religion. This religious intolerance in Rakhine state has been directed towards the Rohingya Muslim population.<sup>2</sup> “The United Nations has categorized the Rohingya Muslims as one of the world's most persecuted minorities. Anti-Rohingya and anti-

---

\* Prachi Tomar is fifth year B.A. L.L.B. (Hons.) student of Fairfield Institute of Management and Technology, New Delhi affiliated to Guru Gobind Singh Indraprastha University. She is a student editor at FIMT Law Journal and member of International Program Committee at FIMT, School of Law.

\*\* Aditya Pandey is fifth year B.A. L.L.B. (Hons.) student of Fairfield Institute of Management and Technology, New Delhi affiliated to Guru Gobind Singh Indraprastha University. He is a student editor at FIMT Law Journal.

<sup>1</sup> ‘Rising Tide of Restrictions on Religion’, 20 September 2012, *Pew Research Centre Official Website* available at <http://www.pewforum.org/2012/09/20/rising-tide-of-restrictions-on-religion-findings/>, accessed on 10 November 2018.

<sup>2</sup> Burma: UN Expert Visits Refugee Camps, 11 February 2013, Radio Free Asia <http://www.refworld.org/docid/511ce46723.html>, accessed on 10 October 2018.

Muslim sentiment has long infected the state's political and social spheres.”<sup>3</sup>

## Background on Rohingya

After attaining independence from England in 1948, Myanmar struggled with ethnic conflict and political instability during a long-standing period of political reformation.<sup>4</sup> During that time, the Burmese army committed several human rights abuses, such as, raping, killing and torturing<sup>5</sup> on the state's Rohingya Muslim residents.<sup>6</sup> The army of Myanmar subjected the “Rohingya Muslim to mass expulsions in 1977<sup>7</sup> and 1992,”<sup>8</sup> creating what has been extensively viewed as a persistent refugee crisis in neighbouring Bangladesh.<sup>9</sup> After two years, many of these Rohingya’s were forced to return to Myanmar;<sup>10</sup> Those who returned were granted limited rights of movement and employment.<sup>11</sup> Thousands of the Rohingya Muslim remain displaced even today, surviving on international humanitarian aid, continuing to tolerate brutal oppression by border guards of Myanmar.<sup>12</sup> Such oppression includes forced labour, arbitrary detention and beatings.<sup>13</sup> “The condition of the Rohingya is further exasperated by their official statelessness.”<sup>14</sup> The citizenship Act formally recognizes 135 "national races" that qualify for citizenship of Myanmar.<sup>15</sup> The Rohingya Muslims are not on

<sup>3</sup> Nicholas Kristoff, Muslims Vanish as Buddhist Attacks Approach Myanmar's Biggest City, 30 March 2013, *Voice of America Official Website* available at <http://www.voanews.com/content/muslims-vanish-as-buddhist-attacks-approach-Myanmar-biggest-city/1631625.html>, accessed on 10 October 2018.

<sup>4</sup> Human Rights Watch, ‘The government could have stopped this’, August 1 2012, *Human Rights Watch Official Website* available at <https://www.hrw.org/report/2012/07/31/government-could-have-stopped/sectarian-violence-and-ensuing-abuses-burmas-arakan>, accessed on 11 October 2018.

<sup>5</sup> Ibid.

<sup>6</sup> Kristoff (n 3). Myanmar is predominantly Buddhist, but about 5% of its 60 million people are Muslims.

<sup>7</sup> Human Rights Watch (n 4). In 1977, for instance, the Burmese government implemented a nationwide initiative scrutinizing illegal immigrants but which in effect, resulted in killings, mass arrests, torture, and other abuses against the Rohingya, forcing more than 200,000 Rohingya to flee to Bangladesh. Engaging in political spin, the Burmese government stated, "19,457 Bengalis fled to escape examination because they did not have proper registration papers," again refusing to identify the Rohingya as such while also underestimating the number of refugees. Once in Bangladesh, the refugees were deprived of food aid in the host country's bid to force them back to Myanmar; more than 12,000 starved to death and others were forcibly repatriated to Myanmar.

<sup>8</sup> Ibid. In 1992, for instance, more than a quarter million fled to Bangladesh, where they once again confronted a familiar hostility as well as beatings and the denial of food rations, after military personnel burned its way through villages, killing hundreds.

<sup>9</sup> Ibid.

<sup>10</sup> Ibid.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid.

<sup>13</sup> Ibid. Last year, for instance, the force detained approximately 2000 to 2500 Rohingya for violations like repairing one's home without permission.

<sup>14</sup> Jay Milbrandt, ‘Stateless’, vol. 20, *Cardozo Journal of International and Comparative Law* p. 75, 2011, p.80. "People are stateless because they did not acquire a nationality at birth, their state of origin no longer exists, or no state will accept them as citizens . . . ."

<sup>15</sup> Amnesty International, *Amnesty International Report 2014/15: The State of the World's Human Rights*, February 25, 2015 *Amnesty International Official Website* <https://www.amnesty.org/en/documents/pol10/0001/2015/en/>, accessed on 11<sup>th</sup> October 2018.

that list and are denied the actual benefits of citizenship because the government of Myanmar has described them as "non-indigenous ancestry."<sup>16</sup> Such extensive societal intolerance against the group indicates the historical lack of political will to abolish the law.<sup>17</sup> The denial of Burmese citizenship has resulted in additional injustices and inequalities.<sup>18</sup> "For example Burmese law the "Emergency Immigration Act"-requires the possession of"<sup>19</sup> "National Registration Certificates" by all citizens. Rohingya being denied the citizenship can only possess "Foreign Registration Cards"<sup>20</sup>, which are not accepted by a number of schools and employers. "The government of Myanmar has also restricted their rights to marry, own property, and move freely-rights guaranteed to non-citizens as well as citizens under international law."<sup>21</sup> Violation of human rights continues till day in Myanmar.<sup>22</sup>

### Present Scenario in Myanmar

After 50 years of military rule, Myanmar has finally made the longed-for shift to elected government. It's brought by Aung San Suu Kyi, the head of the "National League for Democracy (NLD)" and the daughter of Aung San, the man who is well known and remembered for initiating "Myanmar's first liberation" from the British. The formation of a new government in Myanmar has not significantly improved the human rights situation. Instead the Rohingya minority is facing increased discrimination and violence. Anti-Muslim sentiment and religious intolerance have been intensified since then.

### Human Rights Violations

UNHCR staff based in Maungdaw reported that "the protection situation in NRS (northern Rakhine state) is terrible; severe restrictions on the 750,000 Rohingya Muslims, who represent 85 percent of the total NRS population, continue. Over 90 percent of the Rohingyas are landless and 80 percent are illiterate. Malnutrition and infant mortality are higher in NRS than in other parts of Burma. The Rohingyas face severe restrictions including the lack of legal status and denial of citizenship; no freedom of movement, even between villages; burdensome marriage permission requirements; social prohibitions; and strict enforcement of prohibitions against unauthorized construction/ repair of homes or religious buildings. Rohingyas who violate these restrictions face imprisonment and torture. Other human rights abuses

---

<sup>16</sup> Ibid.

<sup>17</sup> Human Rights Watch, 'World Report 2013', *Human Rights Watch Official Website* available at <http://www.hrw.org/world-report/2013/country-chapters/burma?page=3>, accessed on 11<sup>th</sup> October 2018.

<sup>18</sup> See Human Rights Watch (n 4).

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.

<sup>21</sup> See Human Rights Watch (n 4). See The Young and the Hopeless in Bangladesh's Camps, Un High Commissioner for Refugees, 23 January 2013 available at <http://www.refworld.org/docid/5100ecaf2.html>. accessed on 10 October 2018.

<sup>22</sup> See BBC News, Myanmar Profile, 16 July 2013, *BBC Official Website* available at <http://www.bbc.co.uk/news/world-asia-pacific-12992883>, accessed on 11 October 2018.

include forced labour and widespread extortion, which exacerbate the poverty.”<sup>23</sup>

With this human rights violation background, there are numerous significant human rights issues which arises in the case of the Rohingya Muslims: denial of citizenship rights, restrictions on religious freedom etc.

- **Arbitrary Deprivation of Nationality**

The “Citizenship Act of 1982” gives green signal to the Burmese government’s prejudice against the minorities, which preventing the Rohingya people to attain full citizenship. This policy of identity denial operates from the very highest echelons of government witnessed at a meeting in London, in July 2015, when President Thein Sein declared that ‘We do not have the term Rohingya’<sup>146</sup>.<sup>24</sup>

This law formed three tiers or types of citizenship and the irony is that the Rohingya were not listed as one of the country’s 135 “national races,” because of which they could not attain citizenship.

Citizenship Act (1982) made three levels of citizenship inside Burma:

1. Full Citizens: “Burman, members of indigenous ethnic/linguistic groups, those who could prove they were descendents of Burma from before 1823.”<sup>25</sup>
2. Associate Citizens: Those people who are born in the country after 1823
3. Naturalized Citizens: Those people who could provide any evidence as to prove that his or her parents entered and also resided in Burma prior to independence in 1948 or have a parent with any one of the three types of citizenship as mentioned above.

"How can it be ethnic cleansing? They are not an ethnic group." Mr. Win Myaing, the official spokesperson of the Rakhine State Government, May 15, 2013.

It also gives enormous power to the Government of Myanmar to annul the citizenship of anyone without due notice and protection. This act had very devastating effect and has led and till date continues to lead to “statelessness”, outcome of this law is that Myanmar has one of the largest “stateless populations” in the world. Amid the resident confirmation process, government authorities gathered the proof of resident of Muslims in Rakhine state however never supplanted them. This left most Rohingya Muslims in Rakhine state with no sort of evident confirmation of residential status...<sup>26</sup>

<sup>23</sup> UNHCR and Burma: NRS Presence at Risk: High Commissioner May Visit Telegram from US embassy Yangon 12 December 2008 available at [https://wikileaks.org/plusd/cables/08RANGOON936\\_a.html](https://wikileaks.org/plusd/cables/08RANGOON936_a.html), accessed on 12<sup>th</sup> October 2018.

<sup>24</sup> Mark Inkey, ‘Thein Sein talks at Chatham House’, 17 July 2013, *New Mandala Official Website* available at <http://asiapacific.anu.edu.au/newmandala/2013/07/17/thein-sein-talks-at-chatham-house/>, accessed 15<sup>th</sup> October 2018.

<sup>25</sup> Silvia Di Gaetano, ‘How to Protect the Rights of the Stateless Rohingya People in Myanmar?’, 10 February 2013, The Asian Resource Foundation, *Academia Official Website* available at [http://www.academia.edu/4970444/How\\_to\\_protect\\_the\\_rights\\_of\\_the\\_stateless\\_Rohingya\\_people\\_in\\_Myanmar](http://www.academia.edu/4970444/How_to_protect_the_rights_of_the_stateless_Rohingya_people_in_Myanmar), accessed on 13 October 2018.

<sup>26</sup> The International Crisis Group, Myanmar: The Politics of Rakhine State, p. 11.

Behind this issue, the government systematically prepared and incited riots in places like Mandalay and Meiktila with monks who are their pawns and who have relationship with them, the events that started in Rakhine are suspicious. It has political instigations.<sup>27</sup> The denial of the citizenship to the Rohingya community increase their vulnerability to a range of human rights violations.<sup>28</sup>

- **Restrictions to Freedom of Movement**

The Rohingya Muslim, the Kaman and other minorities face ruthless restrictions on their freedom of movement. The majority of Rohingya Muslim living in northern Rakhine State requires authorization from some government institution to move between, and often within, townships (“in northern Rakhine State, for example, a village departure certificate is required to stay overnight in another village”<sup>29</sup>.) The procedures to get travel certificate or permissions are burdensome and time-consuming. Failure to act in accordance with requirements of the procedure can result in arrest and prosecution. These regular restrictions lead to harassment and extortion by law enforcement and public officials.<sup>30</sup>

The Myanmar State consistently denies that conditions in Rakhine state are forcing Rohingya to flee.<sup>31</sup> For example, Rakhine state’s then Chief Minister Maung Maung Ohn said in June 2015: “Even though we try to stop the smuggling and trafficking, they are still leaving of their free will through their own connections... It does not make sense that the boat people are fleeing from the camps because Myanmar is torturing them. We might have our weak points but that doesn't cause them to flee”.<sup>32</sup>

The truth is that the Rohingya have such wretched lives, stripped of all human dignity, that tens of thousands of them have felt they have no choice but to flee.

- **Threats to Life, Liberty and Security**

“As human beings... we have the right to food, health and other human rights, but when you claim yourself as a Rohingya, that's a different issue.”<sup>33</sup>

---

<sup>27</sup> Evan Osnos, ‘The Burmese Spring’, 6 August 2012, *The New Yorker Official Website* available at <http://www.newyorker.com/magazine/2012/08/06/the-burmese-spring>, accessed on 15 October 2018.

<sup>28</sup> Leah Libresco, ‘Myanmar’s Rohingya Refugees Are The World’s Largest Group of Stateless People’, 11 May 2015, *Five Thirty Eight Official Website* available at <http://fivethirtyeight.com/datalab/myanmars-rohingya-refugees-are-the-worlds-largest-group-of-stateless-people/>, accessed on 15 October 2018.

<sup>29</sup> Tan Audrey, ‘Burma’s Treatment of the Rohingya and International Law’, 1 April 2013, *Burma Campaign UK Official Website* available at [http://www.burmacampaign.org.uk/images/uploads/Burmas\\_Treatment\\_of\\_the\\_Rohingya\\_and\\_International\\_Law.pdf](http://www.burmacampaign.org.uk/images/uploads/Burmas_Treatment_of_the_Rohingya_and_International_Law.pdf). Accessed on 15 October 2018.

<sup>30</sup> Michael Peel, ‘Asia’s Boat People: Nowhere Is Home’, 3 June 2015, *Financial Times Official Website*, available at <http://www.ft.com/cms/s/0/8a13d968-0908-11e5-881f-00144feabd0.html#axzz3mfWmhe00>, accessed on 10 October 2018.

<sup>31</sup> Johan Kharabi, ‘Beaten and starving, some Rohingya flee boats, return to camps’, 21 May 2015, *The Straits Times Official Website* available at <http://www.straitstimes.com/news/asia/south-east-asia/story/beaten-and-starving-some-Rohingya-flee-boats-return-camps-20150521>, accessed 10 October 2018.

<sup>32</sup> ‘Hundreds of Migrants Waiting Repatriation’, 18 June 2015, *Mizzima Official Website* available at <http://www.mizzima.com/news-domestic/hundreds-migrants-waiting-repatriation>, accessed 12 October 2018.

<sup>33</sup> Paluch, G, ‘As Myanmar rights official, an Elvis impersonator sings different tune’, 1 July 2015, *LA Times Official Website* available at <http://www.latimes.com/world/asia/la-fg-ff-myanmar-elvis-20150701->

Many Special Rapporteurs in a row have confirmed the patterns of serious human rights violations of the “rights to life, liberty and security” of the stateless Rohingya by State army, security forces and other officials. These human rights violations include arbitrary executions, arrest and detention, enforced disappearance, torture, ill-treatment, and forced labour.<sup>34</sup>

In 1994 the government stopped issuing birth certificate to Rohingya babies. Many Rohingya parents have been prevented from complying with other registration procedures for their children because of restrictions on movement and lack of awareness and resources.<sup>35</sup> Punishment for the violation of child-birth restrictions can result in imprisonment of up to 10 years. Children whose birth is considered to have violated these restrictions are ‘blacklisted’ and thus denied many basic services.

- **Denial of the Right to Health**

The “availability, accessibility, affordability and quality of health facilities” and services are exceptionally poor across whole of the Rakhine State. The consequences of this inadequate access to health facilities which also includes delay in treatment has led to a devastating impact on the health of the people in Rakhine state. According to various reports, doctors and trained medical staff have recognized cases of “skin infections, worms, chronic coughing, and diarrhea” in the camps, ghettos and other shelter homes for Rohingya’s, the team of doctors encountered “alarming numbers of severely malnourished children.”<sup>36</sup> Apart from health issues obtaining clean drinking water is also a major concern due to the continued threat of violence.<sup>37</sup> Restrictions on freedom of movement have a severe impact on the right to health particularly with regard to “access to emergency and life-saving care.”<sup>38</sup>

- **Restricting Religious Freedom**

Many human rights scholars exemplify religious freedom as a fundamental element of political and civil freedoms.<sup>39</sup> The official Burmese disregard for religious freedom for the Rohingya Muslim population can be easily seen

---

story.html#page=1, accessed 15 October 2018.

<sup>34</sup> In violation of Universal Declaration of Human Rights, arts 3, 4, 5 & 9.

<sup>35</sup> Yadana Htun, The Arakan Project, ‘Issues to be Raised Concerning the Situation of Stateless Rohingya Women in Myanmar (Burma)’, Submission to the Committee on the Elimination of Discrimination Against Women (CEDAW), October 2008, p. 3. available at [http://www.burmalibrary.org/docs6/CEDAW\\_Myanmar\\_AP\\_Submission-Final-Web.pdf](http://www.burmalibrary.org/docs6/CEDAW_Myanmar_AP_Submission-Final-Web.pdf), accessed on 10 October 2018.

<sup>36</sup> Human Rights Watch (n 24); See Burma: Medical Crisis Looms in Rakhine, Radio Free Asia, 7 February 2013, available at <http://www.refworld.org/docid/511ce462c.html>, accessed on 10 October 2018.

<sup>37</sup> Ibid.

<sup>38</sup> Lalit K. Jha, ‘Briefing: Myanmar’s Ethnic Problems’, 29 March 2012, *IRINnews Official Website*, available at <http://www.irinnews.org/report/95195/briefing-myanmar-s-ethnic-problems>, accessed on 16 October 2018.

<sup>39</sup> See Peter Henne et.al. ‘Religious Freedom and Violent Religious Extremism’, 2012, available at [RFPReligiousFreedomViolentReligiousExtremismSourcebookModernCasesAnalysislow %20res.pdf](http://www.rfp.org/ReligiousFreedomViolentReligiousExtremismSourcebookModernCasesAnalysislow%20res.pdf), accessed on 16 October 2018.

with naked eyes.<sup>40</sup> “The group does not enjoy the protection of the state's anti-discrimination laws because they are noncitizens”.<sup>41</sup>

A newly enacted Bill in Myanmar clearly shows how the State is systematically implementing discriminatory laws against ethnic and religious minorities. This bill composed of four laws that “restrict individual rights in regards to choices in the area of family planning, religious conversion and marriage”<sup>42</sup> For instance, Rohingya couples in the towns of “Maungdaw” and “Buthidaung” are allowed to have only two children. Rohingya are bound to take permission from the govt to marry, which ends up in bribing the authorities and they ask to “provide photographs of the bride without a headscarf and the groom with a clean-shaven face”, such practices and biased laws are in divergence with Muslim customs. “Indeed, even to move to another home or just to go outside their townships, Rohingya and Kaman must have government endorsement.”<sup>43</sup>

“Muslims have a lot of money and no one knows where that money mountain is. They show that money to attract our young women...That money will be used to get a Buddhist-Burmese woman, and she will very soon be coerced or even forced to convert to Islam...and the children born of her will become Bengali Muslims and the ultimate danger to our Buddhist nation, as they will eventually destroy our race and religion. Once they become overly populous, they will overwhelm us and take over our country and make it an evil Islamic nation.”<sup>44</sup> This shows the level religious intolerance in the mind of people.

## Response of Neighbouring Countries and ther International Organisation

The deliberate isolation (political, economic and social) and persecution policies of the Myanmar government, “Rohingyas had to find their own way out in order to seek safety and security”<sup>45</sup>, neighbouring countries (especially Bangladesh, Thailand

<sup>40</sup> See U.S. Department of State, ‘International Religious Freedom Report for 2011: Burma’, *U.S. Department of State Official Website*, available at <http://www.state.gov/documents/organization/192827.pdf>, accessed on 16 October 2018.

<sup>41</sup> *Ibid.* ‘Muslims across the country, often were required to obtain permission from township authorities to leave their home towns. Authorities often denied Rohingya and other Muslims living in Rakhine State permission to travel for any purpose; however, permission was sometimes obtained through bribery. Muslims in other regions were granted more freedom to travel, but still faced restrictions. For example, Rohingyas living in Rangoon needed permission from immigration authorities to travel into and out of Rakhine State.

<sup>42</sup> Eleanor Albert, ‘The Rohingya Migrant Crisis’, 17 June 2015, *Council on Foreign Relations Official Website* available at <http://www.cfr.org/burmayanmar/Rohingya-migrant-crisis/p36651>., accessed on 8 November 2017.

<sup>43</sup> Lalit K. Jha, ‘Rohingya Muslim Crisis in Myanmar: The Warning Sign of a Possible Genocide’, *Indian Express Official Website* available at <http://indianexpress.com/article/research/Rohingya-muslim-crisis-in-myanmar-the-warning-signs-of-a-possible-genocide-4460254/>., accessed on 16 October 2018.

<sup>44</sup> Hla Oo, ‘Boycott Muslim Businesses: Nationalist-Monk Shin Wirathu’, Hla Oo’s Blog, 8 March 2013, available at <http://hlaoo1980.blogspot.ca/2013/03/boycott-muslim-businesses-nationalist.html>., accessed on 12 October 2018.

<sup>45</sup> Robin McDowell, ‘Myanmar Leader Seeks to Capitalize on Anti-Muslim Sentiment’, 17 September 2015, *Yahoo! News Official Website*, available at <http://news.yahoo.com/myanmar-leader-seeks-capitalize-anti-muslim-sentiment-094811480.html>., accessed on 12 October 2018.



and Malaysia) are their destinations. It is also not easy for them to get to those countries. Protesters have at times gathered in cities in Pakistan, India, Thailand, Indonesia, and Bangladesh to condemn the killing and persecution of Rohingya. "In September 2017, Bangladesh's foreign minister condemned the violence in Rakhine as "genocide" and Indonesia has called on the Myanmar authorities to halt their campaign and bring an end to the violence." Yet governments in Southeast Asia lack established legal frameworks to protect refugees' rights, and the ten members of the "Association of Southeast Asian Nations (ASEAN)" have not coordinated a response to the deepening crisis.

### ➤ Bangladesh

Most of the Rohingya have sought refuge in nearby Bangladesh, which till date have given shelter to 10 thousands of registered refugees. "Conditions in most of the country's refugee camps are dire, driving many Rohingya there to risk a perilous voyage across the Bay of Bengal to Southeast Asia." In January 2017, "Myanmar agreed to begin talks with Bangladesh on refugees, yet border posts in Bangladesh have at times forcibly returned Rohingya"<sup>46</sup>. Amid the refugee influx in September, "In the midst of the flood of the displaced person September, "Bangladesh declared that it would make identity cards for Rohingya to encourage convey request to the surging wandering stream of people and grow the current camps for refugees."

### ➤ Malaysia

"We have treated [migrants] humanely but they cannot be flooding our shores like this... They are not welcome here."<sup>47</sup> Malaysian Deputy Home Minister Wan Junaidi Jafaar

In 2015, it was declared publicly by Malaysia's Deputy Home Affairs Minister that "boats will be turned back to where it came from, and deport those who enter Malaysia."<sup>48</sup> He also added that tough measures will be used by his country in order to send the right message, even if it means turning back asylum-seekers boats and deporting them, should they even get the chance to land on Malaysian territory.<sup>49</sup>Indonesia is on the same footing as Malaysia.

<sup>46</sup> Leah Libresco, 'Asia's Boat People: Nowhere Is Home', *Financial Times Official Website* available at <http://www.ft.com/cms/s/0/8a13d968-0908-11e5-881f-00144feabdc0.html#axzz3mfWmhe00>., accessed on 16<sup>th</sup> October 2018.

<sup>47</sup> Jack Picone, 'Life and Death along the Thai-Myanmar Border', 31 July 2015, *Al Jazeera English Official Website*, available at <http://www.aljazeera.com/indepth/features/2015/07/magazine-life-death-thai-myanmar-border-150729082944988.html>., accessed on 16 October 2018.

<sup>48</sup> H. Lee, 'Help Rohingya and Bangladeshi migrants and asylum seekers: HRW. Retrieved from The Online Citizen' May 2015, *Online Citizen Official Website*, available at <https://www.theonlinecitizen.com/2015/05/14/help-Rohingya-and-bangladeshi-migrants-and-asylum-seekers-hrw/>., accessed on 16 October 2018.

<sup>49</sup> B. L Yi, 'Malaysia tells thousands of Rohingya refugees to 'go back to your country'', May 2015, *The Guardian Official Website*, available at <https://www.theguardian.com/world/2015/may/13/malaysia-tells-thousands-of-Rohingya-refugees-to-go-back-to-your-country>., accessed on 17 October 2018.

➤ **United Nations Stand on the Issue**

The UN Special Rapporteur on the situation of human rights in Myanmar reported ongoing scrutiny and harassment of the Rohingya Muslims. Indeed, the majority of researchers and journalists are denied access to northern Rakhine state and IDP camps outside of Sittwe. In August 2016 Yanghee Lee was denied access to Rakhine state in her capacity as Special Rapporteur on Myanmar. Rakhine state officials stated that she was not able to visit the region due to extreme weather conditions, however, she reported that her request for a stopover was denied well before her visit had begun.<sup>50</sup>

In March, the UN Human Rights Council adopted the outcome of the UN Universal Periodic Review (UPR) process on Myanmar. Although Myanmar accepted over half of the recommendations, it rejected key recommendations on the rights to freedom of expression, of association and of peaceful assembly, and the situation of the Rohingya.<sup>51</sup> In July, the UN Committee on the Elimination of Discrimination against Women raised concerns about discriminatory laws, barriers to justice for women and girls, and their under-representation in the peace process.<sup>52</sup> There was still no agreement and hope from either side to establish an Office of the UN High Commissioner for Human Rights in Myanmar.

The claim by the UN on 25 May 2015 of ‘recent improvements in the conditions in Rakhine, including efforts to improve the situation of the IDPs<sup>53</sup> is gravely misleading. ISCI’s research reveals continued persecution designed to bring about the destruction of the Rohingya. The UN is in a position to know this and in making such statements, diminishes the profound suffering experienced by the Rohingya, which is highlighted by the systematic weakening of the community.

Advocacy groups including Human Rights Watch, the Arakan Project, and Fortify Rights continue to appeal to major international players to exert pressure on Myanmar’s government. Others, such as Priscilla Clapp, a former U.S. diplomat in Myanmar, say “that placing sole blame on Myanmar oversimplifies and misrepresents the complexities of the country’s historical ethnic diversity”<sup>54</sup>.

---

<sup>50</sup> F. Solomon, ‘Burma Govt “Hampers” Mandate of UN Rights Envoy’, *The Irrawaddy*, 7 August 2015 available at <http://www.irrawaddy.org/burma/govt-hampers-mandate-of-yanghee-lee.html>, accessed on 17 October 2018.

<sup>51</sup> Myanmar: Amnesty International calls on Myanmar to protect the rights of Rohingya and to release all prisoners of conscience (ASA 16/3670/2016).

<sup>52</sup> Myanmar: Briefing to the UN Committee on the Elimination of Discrimination against Women (ASA 16/4240/2016).

<sup>53</sup> Made by a delegation led by Vijay Nambiar, Special Advisor to the Secretary-General on Myanmar, available at <http://reliefweb.int/report/myanmar/un-secretary-general-s-special-advisor-myanmar-and-senior-un-representatives-visit>, accessed on 17 October 2018.

<sup>54</sup> L. Kuper, ‘Genocide: Its Political Use in the Twentieth Century’, New Haven: Yale University Press, 1981, p.85. available at <http://www.voanews.com/content/muslims-vanish-as-buddhist-attacks-approach-myanmar-biggest-city/1631625.html>, accessed on 17 October 2018.

## International Politics on The Issue

“The Rohingya’s conflict in Myanmar, which got fired up for the second time in August 2017, appears to be a multidimensional crisis with major geopolitical players involved, Dmitry Mosyakov, chief of the "Middle for Southeast Asia, Australia and Oceania at the Institute of Oriental Studies of the Russian Academy of Sciences", told RT., that there are many factors both internal and external behind the recent rise in violence in the country.”

As indicated by Mosyakov, "the century-long clash is utilized by outer players to undermine Southeast Asian stability", particularly when immense stores of hydrocarbons found seaward of the Rakhine state are in question.

After there was revelation of huge vitality holds in Rakhine, it pulled in China's consideration. China finished the development of "oil and petroleum gas pipelines" which interface "Myanmar's port of Kyaukphyu with the Chinese city of Kunming in Yunnan region".<sup>55</sup>

## Conclusion

The evidence acknowledged uncovers that these genocidal forms have been arranged at the utmost levels of State and neighbourhood Rakhine government. They have been driven by State authorities, Rakhine government officials, Buddhist priests and Rakhine common society activists. The Rohingya have been subjected to a destructive nation strategy and promulgation crusade which has incrementally barred them from the State's circle of function. The State's constant and heightened 'othering' of the Rohingya as out-siders, unlawful Bengali migrants and potential fear based oppressors has given a green light to Rakhine patriots and Islamophobic priests to organize harmful battles of race and religious.

Some of the recommendation brought by the analysis of the issue which could be beneficial for attaining peace and stability in Myanmar are as follows:

## Recommendations

1. Nullify all unfair local orders in Rakhine State, including those confining the rights to marriage and family life; instantly evacuate discretionary prerequisites for travel; encourage development inside and between townships; immediately and obviously impart these choices to every significant expert;
2. Establish a roadmap and timeframe “for lifting all freedom of movement restrictions in Rakhine State;
3. Ensure replacement or issuance of identity documentation for all individuals residing in Myanmar, notwithstanding their citizenship status. Ensure that

<sup>55</sup> Z. Mandalay, ‘Rakhine Buddhists protest against helping Rohingya migrants’, 15 June 2015, *UCA News Official Website*, available at <http://www.ucanews.com/news/Rakhine-buddhists-protest-against-helping-Rohingya-migrants/73779>, accessed on 17 October 2018.

all children are registered at birth, without discrimination, and promptly implement a process to register all unregistered children, including all Rohingya children;

4. Ensure national laws on arrest and detention and their application are consistent with international human rights standards.
5. Ensure investigations into allegations of forced labor, and the prosecution of those responsible.
6. Issue clear instructions on the prohibition of forced labor to police, border guard police and the general administration department;
7. Ensure that measures aimed at addressing irregular migration and combating transnational organized crime do not adversely affect the human rights and dignity of migrants and refugees.
8. Ensure broad consultations with and the full participation of all local and affected communities in the peace process, including ethnic minorities, civil society and women;
9. Improve access to justice before independent and impartial courts through fair procedures;
10. Strengthen the mandate of the Myanmar National Human Rights Commission so that it performs its functions independently and in full compliance with the Paris Principles, including monitoring of all places of detention

These measures are expected to break the cycle of exemption and elevate responsibility in order to serve equity, accomplish reconciliation, and secure the human rights and other privileges to all people in Myanmar. In accordance with its commitments under universal standards and measures, the specialists ought to guarantee that all past and continuous claims of human rights infringement and misuse are researched immediately, altogether, fairly and autonomously. This will guarantee accountability and give access to effective solution for victims, including satisfactory reparation and regard for their entitlement to know reality about infringement. Such endeavors ought to be embraced in close coordinated effort with civil society, and with the help of the international community. These endeavors will be fundamental to lay strong and sustainable establishments for the rule of law, in light of full and equivalent regard for human rights, including the privileges of people belonging to minorities and to solidify Myanmar's democratic transformation.