

Ethno-Political and Legal Conflict: The Rohingya Vulnerability in Myanmar

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Abstract

This paper discuss about recent hot issue in Bangladesh, Rohingya of Myanmar deliberately persecuted by Government. The demands of the government and political leaders of Union of Myanmar that Rohingya are Illegal immigrants and have no way to prove that they are a part with a long history of Burma's. This group of population systemically alienated, oppressed, deprived and misused from basic rights. 1951 Convention of United Nation for the status of refugees and absent of legal framework in the most South East Asian countries make complex situation for this persecuted race. In spite of the political pressure, the international community and local staff groups asked to the government stop but there is no hope to end the violence. In the late 1970s, the Rohingya refugee crisis has made complex situation for mutual relations between Myanmar and Bangladesh. To help understand such a burning issue, this article explores the dynamics of Bangladesh-Myanmar relations that have been divided by the Rohingya Refugee Crisis. Paradoxically, the Rohingya problem derives from the widespread human rights violations of the Rohingya minority race, which was largely influenced by the Myanmar military regime in Bangladesh. The cruel action of the military government against the Rohingya in Arakan forced to trespass across Bangladeshi border. As a result, there is a conflict between Bangladesh and Myanmar and an untraditional security crisis arise on the border. A lion share of time, both, Bangladesh as well as Myanmar security forces doing their service with high alarming situation. The study argues that there is a broader perspective in intensive bilateral and multilateral negotiations through reliable interaction between Myanmar's democratization and other key figures interested in resolving Bangladesh, Myanmar and the Rohingya crisis. Recently, 25th of August 2017 we observe, a large amounting of Rohingya people flew across the Bangladesh border near to Myanmar. UNHCR has note that, there are more than 400,000 homeless as well as helpless people took shelter besides the border area in Bangladesh. Myanmar army has conducted a operation namely "Operation Clean" against the some militants group in Myanmar. I will try heart and soul to describe about this humanitarian crisis under the legal and political framework. However, Rohingya problem is not concerning with Bangladesh. Beside these Bangladesh has greatly affected by the Myanmar made crisis. The paper is divided into several sections. The second section will deal with the history of human rights abuses against Rohingya in Myanmar for a long time. The second and third sections will take up the question of homeless Rohingya becoming refugees, mainly the aspects donating to their flight to Bangladesh on anenormous scale.

Introduction

"Myanmar treatment of Rohingya looks like 'Textbook example of ethnic cleansing' says the high official of United Nations Human Rights Council in Geneva.¹An estimated one million Rohingya live in Rakhine State, primarily in the northern townships.² The Rohingya, a Muslim

¹ZeidRa'ad Al Hussein, High commissioner of Human Rights, The Guardian available at <<https://www.theguardian.com/world/2017/sep/11/un-myanmars-treatment-of-rohingya-textbook-example-of-ethnic-cleansing>> last visited 27 September 2017.

² Estimates vary and the most recent government census, conducted in 2014, excluded Rohingya from the count. Rakhine Inquiry Commission, The Republic of the Union of Myanmar, Final Report of Inquiry Commission on Sectarian Violence in Rakhine State, pp. 3, 78 (July 8, 2013) <Rakhine Commission Report>

minority group residing in the northwestern part of the Arakan (Rakhine) State³ in Burma. Since 1974, they have not been recognized a national minority. Burmese Military junta NE Win denied accepting them as an ethnic group in the Myanmar like other 135 ethnic group. To run promising border trade, the town Maungdaw and Technaf respectively Myanmar and Bangladesh territory identified by the both government.⁴ This plan has not been completed yet due to the border tension between both countries. The Myanmar army has been accused of wide scale human rights violation, including extra judicial killing, gang rape, burning, and infanticides claims, which the government dismisses as overstatements.⁵ Some other ethnic group are also agonize discrimination, abuse and mistreatment by the Myanmar Government. Tensions between Muslim and Buddhist societies have also led the violence. Rohingya are usually targeted by the nationalist Buddhist in Myanmar, especially in Rakhine province. ⁶ The Rohingya are a distinct ethnicity with their own language and culture with a long chronological relation in the Rakhine State of Myanmar. ⁷There is great amount of natural resource in Arakan(Rakhine State) in Myanmar. Therefore, the neighboring country like China and India has planned to make infrastructure for winning the geopolitics. Some of the Philanthropist and international jurist, international NGO and above all United Nation Organization has stated that Myanmar army with army backed government take wide plan to clean Rakhine province. No definition is appropriate here accept crime against humanity. The Yanghee Lee, Professor of Sungkyunkwan University, Republic of Korea is also United Nation Special Rapporteur has clearly defined that this kind of cruel and barbarian action of Myanmar Government as ‘Crime against humanity’ and ‘pre- planned ethnic cleansing’⁸ from the state of Rakhine. In 1948, The Genocide Convention⁹was adopted by the General Assembly of the United Nations. It was entered into force in 1951, declares that genocide is a punishable

(Citing 968,218 Muslims in Rakhine State).See also Jason Szep& Andrew Marshall, ‘Myanmar Minister Backs Two-Child Policy for Rohingya Minority,’ Reuters (June 11, 2013), <<http://www.reuters.com/article/2013/06/11/us-myanmar-rohingya-idUSBRE95A04B20130611>><quoting Myanmar’s Minister of Immigration and Population Khin Yi as stating 1.08 million Rohingya live in Rakhine State>.

³Arakan (Rakhine) is one of the states of the present Burma (the Union of Myanmar), having approximately 275 km-long border with Bangladesh. The name Arakan has been historically used calling this area, while the name Rakhine has been used by the Buddhist Arakanese as well as the present Burmese government.

⁴ This information is based on the presentation given by Dr. M. Rahmatullha titled ‘Economic and Political Relations between Bangladesh and the Neighboring Countries’ at the ‘Workshop on Sub-regional Relations in the Eastern South Asia: with Special Focus on Bangladesh and Bhutan’, which was held on 26th January 2004 at the Institute of Developing Economies, Tokyo.

⁵ Government dismisses claims of abuse against Rohingya, Aljazeera TV News available at <<http://www.aljazeera.com/news/2017/08/government-dismisses-claims-abuse-rohingya-17080609554888.html>> last visited 17-08-2017.

⁶ Myanmar seeking ethnic cleansing, says UN official as Rohingya flee persecution, The Guardian, 24 November 2016 available at <<https://www.theguardian.com/world/2016/nov/24/rohingya-flee-to-bangladesh-to-escape-myanmar-military-strikes>> last visited 01-09-2017.

⁷ United Nation High Commissioner for Human Rights report June 29 2016 available at <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/135/41/PDF/G1613541.pdf>>

⁸Ethnic cleansing is usually accompanied with the efforts to remove physical and cultural evidence of the targeted group in the territory through the destruction of homes, social centers, farms, and infrastructure, and by the desecration of monuments, cemeteries, and places of worship.

⁹Convention on the Prevention and Punishment of the Crime of Genocide, adopted Dec. 9, 1948, 78 U.N.T.S. 277 (1951) <Genocide Convention.>

crime under international law. It imposes positive legal responsibilities on states to prevent genocide from occurring and to punish perpetrators of genocide. The prohibition of the crime of genocide, as defined by the Convention, has become a clear part of customary international law.¹⁰ Further-more, it is a *jus cogens* norm,¹¹ a principle binding on all states even if they have not consented to the obligation by ratifying the Convention. Article II of the Genocide Convention defines genocide as: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- a. Killing member of the group
- b. Causing serious bodily or mental harm to members of the group;
- c. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in the whole or in part
- d. Imposing measures intended to prevent births within the group
- e. Forcibly transferring children of the group to another group¹²

Crimes against humanity can be committed during peace or war.¹³ The history of the term shows that the latter sense is intended.¹⁴ The British and United States plenipotentiaries stated in the Treaty of Ghent (1814) that the slave trade violated the 'principles of humanity and justice.'¹⁵ Unlike genocide and war crimes, which have been widely recognized and prohibited in international criminal law since the establishment of the Nuremberg principles¹⁶ there has never been a comprehensive convention on crimes against

¹⁰Prosecutor vs Goran Jelusic, Case No.<ICTY-IT-95-10-T, Judgment, para.60 (Dec. 14, 1999)> The Convention has become one of the most widely accepted international instruments relating to human rights. There can be absolutely no doubt that its provisions fall under customary international law as, moreover, noted by the International Court of Justice as early as 1951. The Court went even further and placed the crime on the level of *jus cogens* because of its extreme gravity. Customary international law is commonly defined as the law of the international community that 'results from a general and consistent practice of states followed by them from a sense of legal obligation.' The ICJ has explained that for a rule of customary international law to arise, 'not only must the acts concerned amount to a settled practice, but they must also be such, or be carried out in such a way, as to be evidence that this practice is rendered obligatory by the existence of a rule of law requiring it.' <North Sea Continental Shelf (Ger. v. Den., Ger. v. Neth.), 1969 I.C.J. 3, para. 44>

¹¹ The Vienna Convention on the Law of Treaties defines a *jus cogens* norm as one that is 'accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted.' Vienna Convention on the Law of Treaties, adopted May 23, 1969, 1155 U.N.T.S. 331, art. 53<Vienna Convention.>

¹² Convention on the Prevention and Punishment of the Crime of Genocide available at <<http://www.hrweb.org/legal/genocide.html>>

¹³ Margaret M. DeGuzman, Crime against Humanity' RESEARCH HANDBOOK ON INTERNATIONAL CRIMINAL LAW, Bartram S. Brown, ed., Edgar Elgar Publishing, 2011

¹⁴Luban, David (2004). "A Theory of Crimes against Humanity". The Yale Journal of International law 29 (1): 85–167.

¹⁵Martin, Francisco Forrest (2007). The Constitution as Treaty: The International Legal Constructionalist Approach to the U.S. Constitution.Cambridge University Press. P. 101 ISBN 978113946718

¹⁶'Convention on the Prevention and Punishment of the Crime of Genocide' Office of the United Nations High Commissioner for Human Rights. Available at <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CrimeOfGenocide.aspx>> last visited 21-03-2018.

'The Geneva Conventions of 1949 and their Additional Protocols' International Committee of the Red Cross available at <<https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions>> last visited 21-03-2018.

humanity,¹⁷ even though such crimes are continuously perpetrated worldwide in numerous conflicts and crises.¹⁸ If we examine the above-mentioned definition, the term of crime against humanity belongs to three important elements: the presence of a threatened group, the commission of one or more prohibited acts, and the necessary intent. Thus, to analyze whether genocide has been, or is being, committed, one must consider:

- a. Whether the victims constitute a group under the Convention;
- b. Whether the acts perpetrated are among those enumerated in the Convention's definition; and
- c. Whether these acts were carried out with intent to destroy the group, in completely or in part.

Let us find out, is Myanmar committing crime against humanity? We are going to discuss regarding this hot issue elaborately. Bangladesh is mostly suffered country for raising these types of human rights violation inside of Myanmar.

II

History of human rights abuses against Rohingya in Myanmar

The 'Rohingya People' historically also term in 'Indian Arakanese'¹⁹ stateless people ²⁰ in the ancient Arakan State in Myanmar. Before the current crisis, there were an estimated around more than one million Rohingya people living in Rakhain, Myanmar. Among all Rakhine people majority are in Muslim faith and minority on the other hand are Hindu.²¹ Myanmar is one of the most ethnically diverse countries in Asia. In 1982, Government of Myanmar passed 'The Citizenship Law' distinguishes eight main "national ethnic groups": Bamar (about two thirds of the population), Chin, Mon, Rakhine Kachin, Kayah, Kayin and Shan. The Rohingya have been described as 'amongst the world's least wanted ²² and one of the world's most persecuted minorities²³ Conferring to lists available in many government papers and documents , the eight groups may be broken down further into 135 recognized "national

¹⁷Zgonec-Rožej, Miša (July 2013). International Criminals: Extradite or Prosecute? Briefing Papers. Chatham House. p. 16.

¹⁸ "Explained: Election Pledge on New Crimes Against Humanity Initiative" Archived 2015-09-04 at the Wayback Machine. AEGIS Available at: <<https://web.archive.org/web/20150904065236/http://www.aegistrust.org/index.php/Campaigns-Policy-and-Research/election-pledge-on-new-crimes-against-humanity-convention.html>>

'International Prosecutors Call for Convention on Crimes Against Humanity' The Jurist available at <<http://www.jurist.org/paperchase/2009/11/international-prosecutors-call-for.php>>

¹⁹ Colin Clarke; Ceri Peach; Steven Vertovec (26 October 1990) South Asian overseas Migration and Ethnicity, Cambridge University Press P. 46. ebook available at <https://books.google.co.kr/books?id=jet6JOYjZ4wC&pg=PA46&redir_esc=y#v=onepage&q&f=false>.

²⁰ Will anyone help the Rohingya People? BBC News 10 June 2015 available at <<http://www.bbc.co.uk/news/world-asia-33007536>> last visited 26 September 2017>.

²¹ Jacob Juda 'Thousands of Rohingya flee Myanmar amid tales of ethnic cleansing' The Guardian 2 September 2017 available at <<https://www.theguardian.com/world/2017/sep/02/rohingya-fleeing-myanmar-tales-ethnic-cleansing>> last visited 27 September 2017 'Hindus too fleeing persecution in Myanmar' The Daily Star (Popular English Daily in Bangladesh) published on 31 august 2017 available at <<http://www.thedailystar.net/world/southeast-asia/rohingya-crisis-hindu-people-too-fleeing-persecution-myanmar-violence-1456756>>.

²² Mark Dummett (18 February 2010). Bangladesh accused of crackdown on Rohingya Refugees BBC News. Retrieved 29 July 2012. <Available at <http://news.bbc.co.uk/2/hi/8521280.stm>> last visited 16-04-2017.

²³ Myanmar, Bangladeshi leaders to discuss Rohingya, Agence France-Presse. 25 June 2012. Retrieved 29 July 2012. Available at <<http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=52fc6fb d5&id=4fe952205>>.

ethnic groups”. An estimated 90 per cent of the population in Myanmar are Buddhists, 4 per cent Christians 4 per cent Muslims and under 2 per cent Hindus as well. Most Christians belong to ethnic minorities, including the Chin, the Kachin and the Kayin.

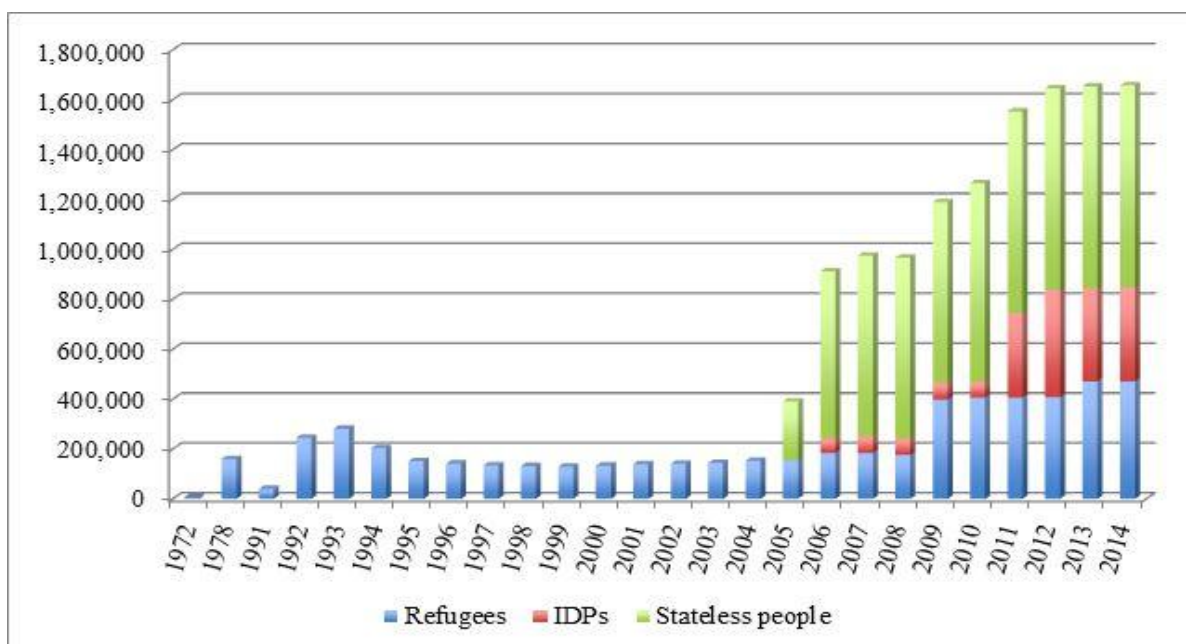


Image has taken from Middle East Institute ²⁴

The Rohingya are deprived of basic human rights like the right to free movement and of higher education.²⁵ Among the 4 percent Muslim population, the Kaman are a only community belonging to one of the 135 recognized ethnic groups, as are Bamar Muslims (Known to original Burmese inhabitants). Currently, the government of Myanmar recognise 3 kind of citizenship, namely citizen, Associate citizen and Naturalised citizen according to citizen law of 1982. ²⁶Rest of Muslim groups, like “Chinese Muslims” and “Indian Muslims”. Rohingya Muslims signify the biggest proportion of Muslims in Myanmar. A lion share of Muslim living in Rakhine State. The citizenship law does not recognise Rohingya as one of the 135 ethnic groups. ²⁷They self-identify as a distinct ethnic group with their own language and culture, and claim a long-standing connection to Rakhine State. Successive Governments have rejected these claims, and the Rohingya were not included in the list of recognized ethnic groups. Most Rohingya are stateless. Bangladesh is the home of some 32000 registered

²⁴ The Rohingya Refugees Crisis : Regional and International Issue <https://www.mei.edu/content/map/rohingyas-refugee-crisis-regional-and-international-issue>.

²⁵ ‘The world's most persecuted people’ Katja Dombrowski interviews Johannes Kaltenbach (Malteser International) available at <<https://www.dandc.eu/en/article/myanmar-does-not-recognise-rohingya-citizens-ngo-expert-elaborates-our-interview>> last visited 23-04-2017.

Tun Tun Aung march 2007 ‘An Introduction to Citizenship Card Under Myanmar Citizenship Law’ available at <https://web.archive.org/web/20140514020001/http://dspace.lib.niigatau.ac.jp:8080/dspace/bitstream/10191/6399/1/01_0053.pdf> last visited 27 September 2017.

²⁷ ‘Myanmar’s Rohingya’ The Economist 20 October 2012 available at <<https://www.economist.com/asia/2012/10/20/no-help-please-were-buddhists>> last visited 04-07-2018.

Rohingya stateless people sheltering in two camps besides of Myanmar border are namely coxs’bazar. ²⁸

In 2014, in the first census conducted by the Government of Myanmar prohibited Rohingya from identifying, as such, which led to their de facto exclusion from official figures.²⁹ There is complex and disputed history between the Ethnic and the spiritual minorities in Myanmar. Under the Panglong Conference in 1947,³⁰ create a federal union of Myanmar based on ‘Voluntary Association’ and Political ‘Equability’. After its independent 1948 from British Empire became bummer, ethnic group dominated quasi-Federal union. It has caused huge claim for self-determination among the ethnic minorities group inside the Myanmar. As a result, there were none international arm conflict with their counterpart. Ethnic minorities were gradually omitted from the position of authority and face of restrictions on education, ethnic language use and religious freedom after the military took power in 1962. Myanmar was undergoing noteworthy changes. After periods of monitoring by military, the government began wide-ranging reorganizations in 2011, including representative openness. The reorganization concluded with the historic elections of November 8, 2015, and the transfer of power to the civilian administration on March 31, 2016. However, the army has twenty percent seats in assembly and has virtually prohibited amendments to the constitution. In addition, the commander assigns ministers to the core portfolio of the Ministry of Interior, Border Management and Defence. Two parliamentarians have disqualified to contest the upcoming election in 2015. There is no elected parliamentarian in the national assembly in Myanmar from the Rohingya ethnic group. Currently, no parliamentarian from the Muslim community.



Image has taken from Middle East Institute ³¹

²⁸ Food cards for 32,000 Rohingya refugees available at <<http://www.thedailystar.net/food-cards-for-32-000-rohingya-refugees-41471>> published 3rd June 2015 last visited 15-10-2017.

²⁹ The 2014 Myanmar Population and Housing Census: The Union Report, Census Report Volume 2, May 2015, p. 8.

³⁰ ‘Stanley A. Weiss’ ‘Did Aung San Lead at Panglong or Follow?’ Available at <<https://thediplomat.com/2017/07/did-aung-san-lead-at-panglong-or-follow/>> last visited October 07, 2017.

³¹ ‘Antonietta Pagano’ ‘The Rohingya Refugee Crisis: A regional and International Issue’ <https://www.mei.edu/content/map/rohingyas-refugee-crisis-regional-and-international-issue>.

On 15 October 2015, the Government and eight of the more than 20 ethnic armed groups in Myanmar signed a nationwide ceasefire agreement. Nonetheless, armed conflict persists in Kachin and northern Shan States, while sporadic skirmishes have broken out in Chin, Kayin and Rakhine States. Eight of the more than twenty ethnic armed groups and Myanmar army backed government signed a national armistice agreement On October 15, 2015. No doubt, the poorest state in Myanmar is Rakhine with limited access to rudimentary facilities and livelihood opportunities for the total population. There are long-standing complaints between Rakhine Buddhists amounted around 2 million; Rohingya Muslims population amounted just over 1 million and the central Government on the other.³² After passing the citizenship act in 1982, Government of Myanmar completely deny the Rohingya people as their citizen. Most of their ethnic group have recognised like one hundred thirty five except the Rohingya People. Countless Rakhine researcher claims that Rohingya people belongs to separate ethnic legacy and historic relations to Rakhine State. The government of the Myanmar on the other hand, viewing the Rohingya people as 'illegal Bengali immigrants' with no cultural, spiritual or social bonds to Myanmar. During the Militaryruler, Rohingya Muslim was the most persecuted people in the world. Kaman Muslims in Rakhine State also face massive discrimination and other human rights violations since 2012, even though; they are formally documented as an ethnic group. The ultra-nationalist Buddhist has increased the violence and hatred across the country. In Myanmar Muslim and other Muslim majority community are often treated as 'threat to race and religion'. To full fill their ongoing desire they started to isolate the Rohingya people from the Rakhine state. More than one hundred twenty thousand Rohingya people are living now in the camp inside of Rakhine state without proper treatment, fooding, clothing as well as the badly needed basic demands. Other side of this background, tensions have infrequently blown up into violence. The most recent major exodus in august 25, 2017led to thousands of cases of wound, injury and death, the devastation of property and the displacement of 5, 00000Rohingya people across the Bangladesh border. More than 94,000 Rohingya and Bangladeshis are believed to have departed since early 2014, with a peak of 31,000 in the first half of 2015.³³ In May 2015, Indonesia, Thailand and Malaysia cracked down on global trafficking networks, which led to the leaving of 5,000 irregular migrants at sea.³⁴Thereafter, two countries like Malaysia and Indonesia eventually open short-term accommodation. After rescued at sea many of them keep on detained in shelters, camps or immigration detention facilities, and face an indefinite future. The discriminatory policy and practice of the Myanmar government has led to the Rohingya people's exodus as irregular migrant. In 2012 census the government of Myanmar, did not include the Rohingya people as their national citizen and classified as illegal Bengali immigrants.³⁵ It is not accessible for the victims to get justice whenever the other counterpart violates their rights. So Rohingya people do not trust about decision of the military administration and administration justice as well. Among many of the restrictions, Rohingya people also face limit of health care including language, geography and fear of comeback.

President U HtinKyaw³⁶ defined four urgencies for the newly elected Government in April 2016:

- National reconciliation,
- Social harmony,

³² Central government usually controlled by Bamar-majority.

³³ See UNHCR, Mixed Maritime Movements in South-East Asia, 2015.

³⁴ The Government of Myanmar rescued two boats on 22 and 29 May 2015.

³⁵ Rohingya are not citizens: Myanmar Minister available at <<http://www.thehindu.com/news/international/rohingya-are-not-citizens-myanmar-minister/article 3703383.ece>>.

³⁶HtinKyaw is a Burmese politician and scholar who has been President of Myanmar since 2016. He is the first elected president to hold the office with no ties to the military.

- A Constitution leading to the founding of a democratic federal union, and
- Improve the quality of life.



Rakhine (Arakan) State in Myanmar

State Counsellor Daw Aung San Suu Kyi declared the about rule of laws and everybody should not be above of law. She announced and stablished Ministry of the Ethnic Affairs. According to the new government Rakhine situation had been the “one of the highest priorities on its agenda”, and called for “more time to find durable solutions”,³⁷ central committee will be looked after implementation of peace and stability. The main objective of the committee is to make peace, harmony among the various communities and remain stability and development in the Rakhine state.

It is binding obligations for the Myanmar government to exercise treaty and the customary international laws. Myanmar is a party to the Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, the Convention on the Elimination of All Forms of Discrimination against Women, child prostitution and child pornography, the Convention on the Rights of Persons with Disabilities and many other key international treaties.³⁸ It is a signatory to the International Covenant on Economic, Social and Cultural Rights. All rights are complemented under the customary international laws, which are described in the Universal Declaration of Human Rights. Non-discrimination is essential to the promotion and defence of the rights of minorities. What’s says article 2 in the UDHR?

³⁷ See <A/HRC/32/G/9>.

³⁸ Including the convention on the protection and Punishment of the Crime of Genocide, the Protocol to prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and the International Labour Organization (ILO) Forced Labour Convention, 1930 (No 29) and Worst Form of Child Labour Convention, 1999 (No 182)

According to the universal declaration of human rights article 2 “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.³⁹ Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it is independent, trust, non-self-governing or under any other limitation of sovereignty.” States are required to protect and respect all those rights with their citizens. ‘ State should take positive measure to protect the rights and identity of minorities’ Article 4 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. ‘In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.’⁴⁰

Myanmar also ratified the Geneva Convention⁴¹ to protect and prevail constant the human rights during the ongoing war and arms conflict. Every state have individual liable for the massive violation of human rights, it is a general norm of international criminal laws. Human rights crime and war crimes also included under the international laws. All signatory states are responsible for such crimes.⁴² It is the fundamental and extreme obligation for the states for such crimes. It is mandatory for the state party to investigate and prosecute the massive violation of international human rights and international humanitarian law.⁴³ In, 2008 Myanmar government has embraces some proposals and protection to distinguish ‘national races’ government should have assist their language, literature and culture; finally to encourage their socioeconomic expansion. Protection of the human rights like ‘rights to equality’, ‘non-discrimination’, ‘health care’, ‘education’, and ‘forbids involuntary labour’ and ‘arbitrary custody’. Many of the specific rights are fixed and reserved for its national citizen, so the state requires respecting and fulfilling the human rights in the jurisdiction area of country.⁴⁴ Mentionable here Myanmar belongs to three categories of citizen.⁴⁵ Furthermore, there is a provision in Myanmar constitution to executes boundaries on some fundamental human rights,⁴⁶ or permits their suspension on vague or impermissible grounds.⁴⁷ It is

³⁹ See also the Charter of the United Nations, Art. 1(3).

⁴⁰ Article 30 of the Convention on the Rights of the Child.

⁴¹ Myanmar ratified 1992.

⁴² For example, Rome Statute of the International Criminal Court, arts. 7-8.

⁴³ Convention on the Elimination of All Forms of Discrimination against Women, art.2; Convention on the Prevention and Punishment of the Crime of Genocide, art. 1.

⁴⁴ See Convention on the Rights of the Child, art. 2. See also OHCHR, The Rights of Non-citizens, Geneva <Sales No E.07.XIV.2, 2006, p. 15.>

⁴⁵ Full citizens are descendants of residents who lived in Burma prior to 1823 or were born to parents who were citizens at the time of birth.

Associate citizens are those who acquired citizenship through the 1948.

Union Citizenship Law. Naturalized citizens are those who lived in Burma before 4 January 1948 and applied for citizenship after 1982.

⁴⁶ For example, s. 353 states that “Nothing shall, except in accord with existing laws, be detrimental to the life and personal freedom of any person”.

⁴⁷ For example, the President may, in declaring a state of emergency, “restrict or suspend as required one or more fundamental rights of the citizens residing in the areas where the state of emergency is in operation”.

obvious, rights to nationality is fundamental rights.⁴⁸ The Citizenship Law of 1982 deals with the three categories of citizen will enjoy constitutional rights in accordance with their citizenship procedure.⁴⁹ 'Full' citizenship is reserved for 'residents such as the Kachin, Kayah, Karen (Kayin), Chin, Burman (Bamar), Mon, Arakan (Rakhine) or Shan and ethnic groups who settled in Myanmar before the occupation of British Empire 1823' ⁵⁰Around one hundred thirty five ethnic group was recognized as the national ethnic groups. Any of the group of national ethnic group can acquires the citizenship automatically. It was irony of the fact that Rohingya people were not included among the national ethnic groups. 'Associate' citizenship applies to those whose application for citizenship under the Citizenship Law of 1948 was pending when the law of 1982 came into force. 'Naturalized' citizenship may be granted to persons who provide 'conclusive evidence' of entry and residence in Myanmar before 1948, and their children born in Myanmar. It may also be granted under certain circumstances. In addition, applications for 'naturalized' citizenship must be at least 18 years of age, have a command of one of the national languages, and be of 'good character' and of 'sound mind'. 'Associate' and 'naturalized' citizens have fewer rights than 'full' citizens; for example, their citizenship may be revoked on broad-ranging grounds. In 2015, the Parliament adopted a package of laws seeking to 'protect race and religion'. The laws discriminate against ethnic and religious minorities and women, in violation of the State's international obligations. The Religious Conversion Law established a State-regulated system for changing religion, which contravenes the right to freedom of religion or belief.⁵¹ The Population Control Health-care Law adopts a selective and coercive approach to population control, including a potential requirement of 36 months between births, which would violate a woman's right to choose the number and spacing of her children.⁵² The law could be used to target areas with significant minority communities. The Buddhist Women's Special Marriage Law seeks to 'protect' Buddhist women marrying non-Buddhist men, in contravention of a woman's right to choose freely her spouse.⁵³

III

Violations and abuses against Rohingya in the Rakhine State

The fortified rights of the Rohingya ethnic minority have been leaked by the BBC world service. ⁵⁴ The government of Myanmar has taken hidden state policy about the persecution for the Rohingya ethnic people in the Rakhine state. After, spreading this policy all over the word by the media circulation no instant reply from the Burmese authorities. The Myanmar government, also known as Burma, has taken state decision that the people of Rohingya are not legal migrant, immigrated from the Bangladesh, India, Nepal, as well as some portion of the china. They are non-citizen illegal migrant. There is extensive public aggression to Rohingya in Myanmar. In the Buddhist dominated country, the Rohingya people have faith in that they are the inhabitants of Myanmar and continuously persecuted by the state. The United Nations described the Rohingya people are as one of the world's most persecuted ethnic minorities in the present world.

⁴⁸Universal Declaration of Human Rights, art.15; Convention on the Rights of the Child, Art. 7; Convention on the Elimination of All Forms of Discrimination against Women, art. 9.

⁴⁹Universal Declaration of Human Rights, art. 2.

⁵⁰Citizenship Law, sect. 3.

⁵¹Universal Declaration of Human Rights, art. 18.

⁵²Convention on the Elimination of All Forms of Discrimination against Women, art.16; Convention on the Rights of Persons with Disabilities, art. 23.

⁵³Convention on the Elimination of All Forms of Discrimination against Women art. 16.

⁵⁴ Document shows Myanmar Rohingya discrimination in policy available at <<http://www.bbc.co.uk/news/world-asia-26333580>>

Arbitrary deprivation of nationality

In modern world, every state is bound grant and rejects ones nationality under the international laws and regulations.⁵⁵A lion share of the Myanmar people are bummer. They are able to exercise and enjoy their constitutional rights as per the national and international laws. Excluding the Rohingya People, discriminatory Citizenship Law passed in 1982 and makes the prohibition of illogical scarcity of nationality. Although Myanmar has signed and ratified the convention of the child rights authority uninterruptedly violet the provision of this convention. By born a child has to rights to achieve the rights of nationality. ⁵⁶ This hidden provision is applicable only the Rakhine state in Myanmar. Rest of the provincial people are living with their nationality. The citizenship law of Myanmar also led the different categories of discrimination; revoke the citizenship without due procedure and protection. It has led and continues to lead to statelessness. The lack of proper citizenship facility, Myanmar is the one of most stateless peoples home in the world. Near about 1.1 million stateless people, most of them are Rohingya people in the Rakhine state. Myanmar authority was denied to identify them during the citizen verification process in 2014. They identified the Rakhine people as illegal 'Bengali' settler in Myanmar and excluded from the verification process in Myebon⁵⁷ Rakhine state. This citizenship verification was conducted under the 1982 citizenship law. The verification process ended in 2015 by granting the rights to vote of the Myebon citizen even their minimum access of daily basic rights and livelihoods were not improved.

Restrictions to freedom of movement

The government of Myanmar has imposed restriction on the freedom of movement of Rohingya people and Kaman Muslims in the Rakhine state. There has been restriction from the 2012, no one can move from the village to township without prior accord from the ruling authority. Although, the Rohingya inhabitants are suffering after the citizenship act 1982. By the name of ensure security, they are targeted the backward Muslim minority exclusively. The majority of Rakhine cannot move one village to another. They need to get authorization latter from the concern authority if someone wants to stay overnight in another village. This is completely violation under the universal declaration of human rights. If someone cannot meet the badly needed requirements can outcome in arrest and persecution, extortion, the harassment by the government official and law enforcing authority. In accordance with the Myanmar criminal code of procedure, the town administrators have imposed curfew in the northern territory of Rakhine state. It was regularly extended since 2012 based of section 144(1) on CRPC. At any time, the magistrate can extend the duration of curfew order.

Office of the united nation High commissioner for human rights acknowledged trust worthy claims that the 144(1) was not properly followed by the authority. It was their discretionary power of the extreme nationalist Buddhist dominated government official. It prohibits any kind of assembly and movement between dusk and dawn. Nobody can gather more than five people even during the Muslim worship; Myanmar authority has strict observation over the community. Surprisingly more it is only enforced against the Rohingya people until 2016. After taking place of violence in 2012, highest portion of the displace people be located in the middle Rakhine. There are about thirty-nine of camps for the displaced people without freedom of movement in the camps. They execute diverse forms of restriction due to security measure like prohibits to access and exits certain location, have to access and exit through the security checkpoint. Under the international law many camp in the central Rakhine are

⁵⁵ See General Assembly resolution 50/152, Universal Declaration of Human Rights, art. 15(2); Convention on the Rights of the Child, arts.7, 8; Convention on the Elimination of All Forms of Discrimination against Women, art. 9; Convention on the Rights of Persons with Disabilities, art 18.

⁵⁶Convention on the Rights of the Child, art. 7.

⁵⁷Myebonis the principal town of Township of the Sittwe District in Rakhaine State, Myanmar.

considered as place deprivation.⁵⁸ It was clearly violation of human rights when only Rohingya Muslim was targeted to prohibit acquiring basic human rights.⁵⁹

Threats to life, liberty and security

United nation has concrete evidence that the serious and massive human rights violation by the law enforcement and state security authority. It was completely denied of right to life, right to liberty and above all human life security, enforced disappearance, arbitrary arrest and detention, forced labour, torture and ill treatment.⁶⁰ After the violence of 2012, Office of the united nation High commissioner for human rights acknowledged reliable reports dependable allegation that thousands of children including the women are being ill-treatment by the law enforcement authority. There are several types of ill-treatment like beating, burning by the cigarettes, force labour, degrading condition of detention, sexual humiliation, enforce to cut and burning beard, restriction of medical treatment and finally death of custody. United Nations has achieved the credible evidence of violence, confiscation of property, extortion, and violation of the arrest procedure. Law enforce authority can arrest someone without the proper charge and keep them in the custody until payment of bribe money from the victim. If someone cannot make payment of bribes, he must suffered dangerous situation. Any kind of arrest may create a cause of torture, extrajudicial killing, and death in custody; make complaint in the court to prove connection with the terrorist group. The scarcity of the proper monitoring on detention camp, human rights violation has spread out highest rate in chronological order.

Sexual and gender-based violence

Gender based sexual violation is very normal in the Rakhine state in Myanmar. The law enforcement authority usually targets women. On the other hand Rohingya people was detach and beyond of the access to justice, fair of punishment, humiliation, and cultural barriers. Domestic violence is the other from of offence in the Rohingya community. There are a lot of reason are working behind this types of domestic violence. Overcrowding camps and margins on all aspects of life helps to give oil in domestic violence. Deficiency of the available health care and other support services are also very much concern with this term. A Rohingya person has no rights to conventional education, freedom to form an association to raise their rights to the government. As a result, all day long they are staying in the camps surrounded by the Governments official. It is the prime obligation of a state to secure and protect all individual from all form of discrimination and violence including the sexual and gender based offence in every spare in the country.⁶¹

Denial of the right to health and right to education

The accessibility, availability, of the health care situation is very poor in the Rakhine state. Kaman and Rohingya are deprive from the health facilities, deficiency of proper healthcare, time spending treatment and delay to take initiative to provide sensible treatment. Restriction of freedom of movement has serve influence on the rights of health. Death caused by absence of entree to health services or of appropriate and suitable treatment, frequently besides oh township hospital. Rohingya and the Kaman are forbids entering the township hospitals. In emergency, the people of concentration camps referred to admit in nearest township hospital in 'Sittwe General Hospital' in Rakhine state. All are need to get travel authorization from the concern authority, pass through the checkpoint, and face the curfew. It may sometimes cause life threatening and serious delays in the emergency. During the delivery time of women delay and complex rules to provide travel authorization, cause many death of baby and the expected mother. This rule is not only obligatory for the Rohingya but also the other Muslim minority

⁵⁸ See Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2, annex), Principle 12: 1-2.

⁵⁹ Universal Declaration of Human Rights, arts.13 and 29(2).

⁶⁰ In violation of Universal Declaration of Human Rights, arts.3, 4, 5 and 9.

⁶¹ Convention on the Elimination of All Forms of Discrimination against Women, art. 2.

Kaman as well. This kind of restriction is completely human rights violation as per the international human rights law.⁶² Inside the Myanmar, Rakhine state is lowest develop and literacy rate affect the livelihood of its all inhabitants including mainly in Muslim community. The community has additional restriction owing the freedom of movement and discrimination.⁶³ All of the university in Myanmar require a student considered as a citizen of Myanmar. Rohingya people usually excluded from university admission procedure of Myanmar. After the 2012 outbreak of violence, due to security grounds Rohingya people prohibited to take admission in the Sittwe University. International humanitarian organization conduct some temporary learning center in Rakhine state though due to lack of qualified teachers, teaching materials and textbooks it was not effectively done. Making obstacle to the Rohingya people for acquiring proper education is completely violation of human rights. According to the Universal declaration of human Rights

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.⁶⁴

Other restrictions based on local orders

The government authorities and law enforcing bodies to discriminate a group of Rohingya people have often targeted it. Newly provisions and policies adopted for controlling movement of population growth as well to prevent illegal immigration. They have introduced couple of local order and procedure to get marriage permit for the Rohingya people to make restriction on the number of child growth. If someone violates the local order and gets more children. In accordance with the local order, the local authority must punish him and it is costly as well. OHCHR has received the trusty information regarding the punishment types. Up to 10 years imprisonment for the non-compliance offence. Sometimes they separate man and women to control over the infant birth rate. New-born baby never get their birth certificate after the 1990s. The local order and provision make obstacle to enjoy the freedom of movement, to marry and found family, rights of the child and the rights to privacy.⁶⁵

Limitation on political rights and forced labour

February 2015, the former administration proclaimed the termination of a 'Provisional Identity Card' what made about 700,000 stateless people nationwide, including Chinese, other majority group, including Rohingya people. In June 2015, a new identification card issued by the government of Myanmar.. Therefore, hundreds of thousands of homeless persons in Rakhine do not have valid documentation papers authorizing their legal residence.

In September 2014, the Parliament amended the Political Parties Registration Law, introducing a requirement for party leaders to be 'full' citizens, and for party members to be

⁶²Convention on the Rights of the Child, art.24; Convention on the Elimination of All Forms of Discrimination against Women, art. 12; Convention on the Rights of Persons with Disabilities, art. 25.

⁶³In violation of Convention on the Rights of the Child, arts.2 and 28.

⁶⁴Article 26 of the Universal declaration of human Rights.

⁶⁵ See the Convention on the Elimination of All Forms of Discrimination against Women, arts. 1 and 16, the Convention on the Rights of Persons with Disabilities, arts. 18, 22 and 23, and the Convention on the Rights of the Child, arts, 2, 7 and 16.

‘full’ or ‘naturalized’ citizens. In May 2015, the right of temporary identity certificate-holders to vote in the general election was revoked. Parliament amended the party registration law by introducing a requirement that the party leader be a full citizen and that the party be a complete or naturalized citizen in September 2014. In May 2015, the holder of a temporary identity card was revoked to vote in the general election. There are a lot of trust worthy report received that the Rohingya people is bound to engaged themselves into force labour in the different level of work field including sentencing obligations, maintenance work or preparing to make building. Due to the fear of violence, ripple effect, fine, arrest, detention including other form of detention and punishment the victim cannot refuse to do force labour.

Trafficking in persons and migrant smuggling

The Rohingya Refugee Disaster in 2015 raises to the gigantic migration of thousands of people from Myanmar to Bangladesh in the mass media covered this news as boat races⁶⁶ Most of the Rohingya people flew from the northern Rakhine towards the Malaysia, Indonesia, and Thailand like southwest Asian countries, the Strait of Malacca and the Andaman Sea by the boat. ⁶⁷Andaman Sea crisis 2015 opened a new door for the trafficking and smuggling networks and abuse immense human rights. . It has estimated that some 2,000 Rohingya and Bangladeshi died at sea between 2012 and 2015 during the fleeing time towards the others countries. About 25000 people has taken to boats within three month in 2015 by human traffickers was estimated by the UNHCR. ⁶⁸

Myanmar is a party to the ASEAN Convention against Trafficking in Persons, Particularly Women and Children of 2015 and signed the Bali Declaration on Individuals Trafficking, Trafficking in Persons and Related Transnational Crime of 2016. The signatories promised to take initiative to protect human trafficking and improving the circumstances that force people to flee, including ‘full respect for human rights’.

⁶⁶ The Rohingya boat crisis: why refugees are fleeing Burma, The Week Newspaper, available at <<http://www.theweek.co.uk/63745/the-rohingya-boat-crisis-why-refugees-are-fleeing-burma>> last visited 04-07-2018.

⁶⁷The Rohingya boat crisis: why refugees are fleeing Burma, The Week Newspaper, available at <<http://www.theweek.co.uk/63745/the-rohingya-boat-crisis-why-refugees-are-fleeing-burma>>.

Hookway James (22 May 2015) Rohingya refugee crisis likely to ease during monsoon, but only temporarily, The Wall Street Journal, available at <<https://www.wsj.com/articles/rohingya-refugee-crisis-likely-to-ease-during-monsoon-but-only-temporarily-1432283124>> last visited 15-10-2017.

South east Asia migrant crisis: Gambia offers to resettle all Rohingya Refugees available at <<https://www.theguardian.com/world/2015/may/21/south-east-asia-migrant-crisis-gambia-offers-to-resettle-all-rohingya-refugees>> last visited 15-10-2017.

Al-Zaquan Amer Hamzah; Aubrey Belford Pressure mounts on Myanmar over Asia ‘Boat people’ Crisis, Reuters , available at <<https://www.reuters.com/article/us-asia-migrants/pressure-mounts-on-myanmar-over-asia-boat-people-crisis-idUSKBN0O20JB20150517>> last visited 15-10-2017.

⁶⁸Malaysia tells thousands of Rohingya refugees to go back to your country, The Guardian, Published 23 may 2015, available at <<https://www.theguardian.com/world/2015/may/13/malaysia-tells-thousands-of-rohingya-refugees-to-go-back-to-your-country>> last visited 15 October 2017.

Bay of Bengal people-smuggling doubles in 2015: UNHCR, The Reuters, published 8th May 2015 see the link below <<https://www.reuters.com/article/us-thailand-rohingya-unhcr/bay-of-bengal-people-smuggling-doubles-in-2015-unhcr-idUSKBN0NT11D20150508>> last visited 15-10-2017.

During the staying periods in the camp, they are restricted to freedom of movement, make obstacle before them to achieve higher education, developed their daily livelihood and attainable standard of health.⁶⁹

Repatriation

RSA attack on 25 August, and after the humanitarian disaster, Abul Hasan Mahmud Ali foreign minister of Bangladesh met with Myanmar officials on October 2, 2017, and later spoke in their meeting that both countries were a 'joint working group' for the Rohingya refugees who fled to Bangladesh.⁷⁰ Government of Bangladesh and Myanmar signed a memorandum of understanding to repatriation the Rohingya people from Bangladesh.⁷¹ According to the deal, Myanmar also agreed to make and provide identity cards.⁷² The Ministry of Foreign Affairs of Bangladesh announced on January 15, 2018, that the government of Bangladesh and the Myanmar government agreed under the memorandum of understanding that the goal will complete the repatriation process within two years.⁷³ From 23 of January, Social Welfare Minister of Myanmar also announced that the repatriation process would be start.⁷⁴ It is very irony of Bangladesh that the government of the Myanmar did not keep their word. They only return 374 Rohingya people among the 8000 what was listed by the Bangladeshi authority.⁷⁵ Later on 18 May 2018 they declared to ready to repatriation near about 1100 from the legal Rohingya in Bangladesh.⁷⁶

⁶⁹Universal Declaration of Human Rights, arts.25 and 26; International Covenant on Economic, Social and Cultural Rights, arts. 11-13.

⁷⁰ Bangladesh, Myanmar agrees on 'working group' for refugee plan: minister, Reuters. 2 October 2017 see the <<https://www.reuters.com/article/us-myanmar-rohingya-bangladesh/bangladesh-myanmar-agree-on-working-group-for-refugee-plan-minister-idUSKCN1C70XA>> last visited 28-06-2018.

⁷¹ Bangladesh Myanmar sign Rohingya deal News.com.au see the <<http://www.news.com.au/world/breaking-news/myanmar-bangladesh-sign-rohingya-deal/news-story/b0989c37a2348826393b42c7521522c5>> last visited 28-06-2018.

⁷² Rohingya repatriation will start in two months, says Bangladesh see <<https://news.sky.com/story/rohingya-repatriation-will-start-in-two-months-says-bangladesh-11142654>> last visited 28-06-2018.

⁷³ 'Rohingya crisis: Bangladesh and Myanmar agree repatriation timeframe' BBC news retrieve on 17 January available at <<https://www.bbc.com/news/world-asia-42699602>> last visited on 28-06-2018 'Bangladesh, Myanmar aim to return Rohingya within two years' CBC news published on 17 January 2018 available at <<http://www.cbc.ca/news/world/rohingya-bangladesh-myanmar-return-1.4489847>> last visited 28-06-2018.

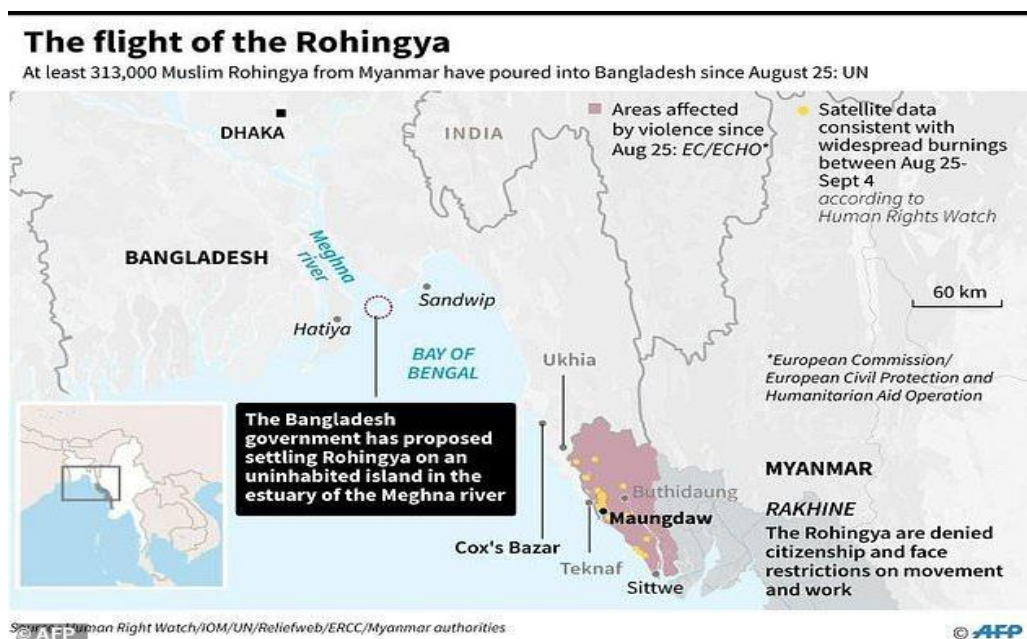
⁷⁴'Bangladesh, Myanmar aim to finish Rohingya return in two years' Washington Post. 16 January 2018. Retrieved 17 January 2018 available at <https://www.washingtonpost.com/world/asia_pacific/myanmar-says-1st-camp-for-rohingya-will-be-ready-next-week/2018/01/15/7415cea2-fa58-11e7-9b5d-bbf0da31214d_story.html?noredirect=on&utm_term=.77c8ca059eee> last visited 28-06-2018 'Myanmar says camps for Rohingya will be ready next week' ABC News. Published on 17 January 2018 available at <<https://abcnews.go.com/International>> last visited 28-06-2018.

⁷⁵Ellis-Petersen, Hannah (15 March 2018) the Guardian. published 19 March 2018 available at <<https://www.theguardian.com/world/2018/mar/15/myanmar-willing-to-take-back-fewer-than-400-rohingya-refugees-bangladesh>> last visited 28-06-2018 'Aung, Thu Thu; Naing, Shoon (14 March 2018) Myanmar says it has verified fewer than 400 Rohingya for Repatriation' available at <<https://www.reuters.com/article/us-myanmar-rohingya-repatriation/myanmar-says-it-has-verified-fewer-than-400-rohingya-for-repatriation-idUSKCN1GQ1RX>> last visited 28-06-2018.

⁷⁶ 'Myanmar want repatriation of 1101 verified Rohingya' The Daily Star (Bangladesh). 18 May 2018. Published 19 May 2018. Available at <<https://www.thedailystar.net/rohingya-crisis/bangladesh-myanmar-wants-repatriation-only-1101-verified-rohingyas-1578172>> last visited 28-06-2018.

Discriminatory Laws and Government Policies against Rohingya People

Senior national government officials have used discriminatory language regarding the Rohingya ‘threat’ that echoes the incendiary language of Buddhist monks and local Rakhine. In October 2013, the former Speaker of the House, ThuraShwe Mann, sent to President Thein Sein a body of documents ‘for the consideration of the development of Rakhine State.’ In the documents, obtained by Fortify Rights, local officials testified that Rohingya had ‘sneaked’ over the border from Bangladesh into Rakhine State, with armed and connected to international terrorist organizations, and planning to occupy Rakhine State.⁷⁷ The submission also declared that ‘Bengalis whose population are increasing due to the marriage and having the children unsystematic ways which are not suitable with the cultural norms of human beings. The submission asserted a view of Rohingya as intruders and of Rakhine as the people who will protect the country’s sovereignty all the time by sacrificing their lives. Senior government spokespersons of Myanmar have delivered discriminative language about Rohingya as ‘threat’ for the social security and national development. ‘This report insisted that the intruders and Lapin's view of the Rohingya always protect people's sovereignty by sacrificing their lives’.



In 2014, a year and a half after the government’s Rakhine Investigative Committee issued its recommendations, a draft of the government’s response leaked to the media.⁷⁸ The draft did not discuss returning Rohingya in IDP camps to their homes. Instead, it outlined a plan to relocate the Rohingya from IDP camps to permanent resettlement zones at unspecified locations around the state. The draft also outlined plans for a citizenship assessment of Rohingya based on the discriminatory 1982 Citizenship Law that stripped Rohingya of their citizenship. The new ‘nationality’ verification process” would register ‘Bengalis’ and allow those who accepted the label to go through the assessment process. Rohingya who refused the label Bengali would be denied any consideration for citizenship and placed in “temporary camps” for an indefinite period. Human Rights Watch called the plan “a blueprint for permanent

⁷⁷ Director General KyawSoe, Submission on the Development of Rakhine State (Oct. 15, 2013) (on file with Al Jazeera Investigative Unit).

⁷⁸Human Rights Watch, Burma: Government Plan Would Segregate Rohingya (Oct. 3, 2014), <<http://www.hrw.org/news/2014/10/03/burma-government-plan-would-segregate-rohingya>>

segregation and statelessness that appears designed to... force them to flee the country.”⁷⁹In a January 2015 statement, Chief Minister U MaungMaungOhnsaying, “Their claim for a name that the state does not accept has stopped the verification citizen-ship process. As a result, we can see there is no progress. Previously we planned to finish the verification and then move on to resettlement.”⁸⁰The Myanmar national government has begun enshrining discriminatory local policies into national law. For instance, many Rohingya-populated areas throughout Rakhine State have two-child limits they apply exclusively to Rohingya families that have been re-affirmed in recent years.⁸¹ In 2015, the Myanmar national parliament extended these laws to the country as a whole. The national parliament passed, and President Thein Sein signed, a series of “Race and Religion Protection Laws.” One of the laws authorizes local authorities to force women to have a gap of 36 months between births. The law does not explicitly mention the Rohingya but states that local authorities can enforce the law selectively, taking into account “a high number of migrants in the area, a high population growth rate and a high birth rate” all descriptions that politicians and activists have applied to the Rohingya.⁸² Buddhist monk Ashin Wirathu explained that the bill “could stop the Bengalis that call themselves Rohingya, who are trying to seize control.”⁸³The laws also regulate the religious practice and conversion of Muslims in the country. The legislation places restrictions on people planning to change religions. Conversions are over-seen by local boards, which have the power to reject an application to convert. The legislation also places restrictions on interfaith marriages that apply only to Myanmar Buddhist women eighteen years old or older who seek to marry non-Buddhist men. The law permits town-ship officials to publicly display an interfaith couple’s application for marriage for two weeks and permits objections to the marriage to be taken to local court. The legislation package also includes a Monogamy Bill that imposes sanctions on those who cohabit with more than one person or practice polygamy. Because polygamy was already outlawed in Myanmar, this bill, taken together with the other “Race and Religion Protection Laws,” was clearly directed towards Muslims, some of whom practice polygamy.⁸⁴

⁷⁹Human Rights Watch, Burma: Government Plan Would Segregate Rohingya (Oct. 3, 2014), <<http://www.hrw.org/news/2014/10/03/burma-government-plan-would-segregate-rohingya>>

⁸⁰ Lisa Min Mang, ‘Action Plan Being Reviewed: Government’ Myanmar Times (Jan. 9, 2015), <<http://www.mmmtimes.com/index.php/national-news/12754-rakhine-action-plan-in-line-for-amendments.html>>

⁸¹ For example, on May 20, 2013, government authorities in the Maungdaw District imposed a two-child limit exclusively on Rohingya families the policy, however, had been in place for years prior in Rohingya-pop-ulated areas throughout Rakhine State. On May 26, the Rakhine State spokesperson, Mr. Win Myaing, confirmed that local authorities had reaffirmed the 2005 regulation limiting the number of children for Rohingya Muslims in Buthidaung and Maungdaw Townships in Northern Rakhine State. Jason Szep& Andrew Marshall, “Myanmar Minister Backs Two-Child Policy for Rohingya Minority.

⁸² Sara Perria, ‘Burma’s Birth Control Law Exposes Buddhist Fear of Muslim Minority’ The Guardian (May 24, 2015), <<http://www.theguardian.com/world/2015/may/25/burmas-birth-control-law-exposes-buddhist-fear-of-muslim-minority>>

⁸³ Sara Perria, ‘Burma’s Birth Control Law Exposes Buddhist Fear of Muslim Minority’ The Guardian (May 24, 2015), <<http://www.theguardian.com/world/2015/may/25/burmas-birth-control-law-exposes-buddhist-fear-of-muslim-minority>>

⁸⁴ Amnesty International and International Commission of Jurists, Myanmar:

Parliament Must Reject Discriminatory ‘Race and Religion’ Laws (March 3, 2015),

<<https://www.amnesty.org/download/Documents/ASA1611072015ENGLISH.pdf>>.

Human Rights Watch, Burma: Discriminatory Laws Could Stoke Communal Tensions (Aug. 23, 2015), <<https://www.hrw.org/news/2015/08/23/burma-discriminatory-laws-could-stoke-communal-tensions>>.

Number of Rohingya refugees tops those of other crises

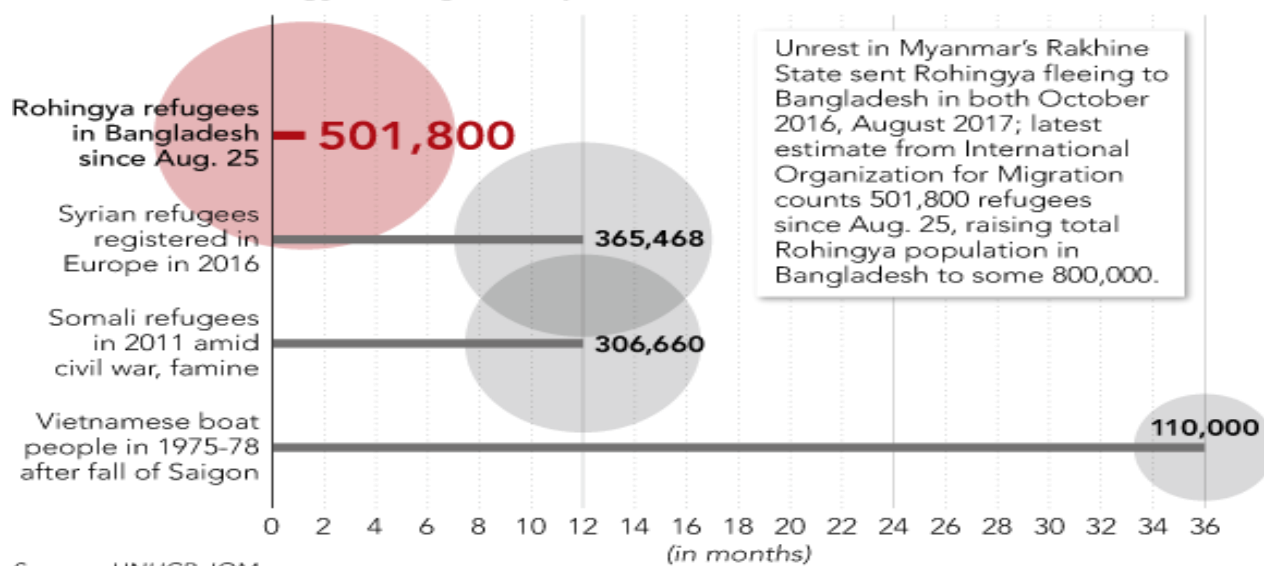


Image taken from UNHCR, IOM ⁸⁵

Recommendation and Conclusion

Our Prime (Bangladesh) Minister Shaikh Hasina proposed 6 points in the general assembly of United Nations Organization. Among them she proposed to make a safe zone for the Rohingya people inside the Myanmar. I would like to discuss here, will safe zone make complete safe life for the refugees? Creating safe areas and safe corridors in conflict situations: Do you offer protection at home or deny asylum? Review significant lawful and practical questions related to the formation of safety zones: What are the reasons to safeguard that safety zones are enough safe for the refugees? What laws apply? Did you actually have a safe zone as a way to prevent refugees from escaping to other countries? There is so many of 'safe zone' is classified into various names such as 'safe haven', 'neutral zone', 'open city' and 'escalation zone' in Syria, but there are insufficient terms defined in the law. Within the first three months of last year around 664 people crossing the Mediterranean Sea to arrive in Europe.⁸⁶ Sessions between Turkey and Germany;⁸⁷ declarations by the United States regarding forming safe

⁸⁵ <[⁸⁶ International Organization for Migration, 'Mediterranean Migrant Arrivals Reach 31,993, Deaths: 664' \(Press Release, 11 April 2017\) <<https://www.iom.int/news/mediterranean-migrant-arrivals-reach-31993-deaths-664>>. See also UNICEF, 'A deadly Journey for Children: The Central Mediterranean Migration Route', February 2017 <\[https://www.unicef.org/publications/files/EN_UNICEF_Central_Mediterranean_Migration.pdf\]\(https://www.unicef.org/publications/files/EN_UNICEF_Central_Mediterranean_Migration.pdf\)>.](https://www.google.co.kr/search?q=recent+rohingya+crisis+after+25+august&source=lnms&tbm=isch&sa=X&ved=0ahUKEwiSpbzCoPTWAhWDLhoKHRAXCT8Q_AUIDCgD&biw=1366&bih=647#imgrc=7mzBaHSbXLYGKM:>.</p>
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⁸⁷ See Constanze Letsch, 'Human rights groups sound alarm over safe zones for Syrian refugees', The Guardian (online), 12 April 2016 <<https://www.theguardian.com/world/2016/apr/12/human-rights-groups-sound-alarm-over-safe-zones-for-syrian-refugees>>, regarding Turkey and the EU; Ercan Gurses and Andreas Rinke, 'Germany seeking 'safe zones' in Syria to shelter refugees' Reuters World News (online), 23 April 2016 <<http://www.reuters.com/article/us-europe-migrants-turkey-germany-idUSKCN0XK0BS>>

cf Hamish de Bretton-Gordon, 'Safe zones give Europe a chance to rebuild Syria', on Europe's World (15 March 2017) <<http://europesworld.org/2017/03/15/safe-zones-give-europe-a-chance-to-rebuild-syria/#.WPCVVVI-LDQ>>.

zones and 'interim zones of stability';⁸⁸ and according to the suggestion given by Russia, Turkey and Iran agreed to make 'de-escalation zones' inside Syria. Russian military officials assume that this decision will inspire them to coming back their homeland.⁸⁹ The United Nations High Commissioner for Refugees, Filippo Grandi, said he could not see how such safe zones would work.⁹⁰ It is certainly positive to find a way to avoid having to travel dangerously to find safety.⁹¹ In addition, create a safe areas can reduce the number of asylum seekers traveling to Europe and elsewhere, so that people can stay closer to home.⁹²

No settled terms as well as fixed definitions for the 'safe zone'. 'Safe Zone', 'Safe Haven', 'Neutral Zone', or 'Open City' all are used at different times. The most modern word is 'de-escalation zones'.⁹³

A "safe zone" is a part inside a republic that has fallen into armed conflict or violent violence that has become safe from military bouts. The notion is that people in the area can be safely protected from the effects of impacts. Refugee Convention outlines refugee status for people who cannot be protected by their own people. ⁹⁴Above all, this means that people should be

⁸⁸ 'Trump seeks plan for refugee safe zones' Australian Associated Press (online), 26 January 2017 <<http://www.news.com.au/world/breaking-news/trump-seeks-plan-for-refugee-safe-zones/news-story/b8b33807373dfc4b9fc0bec847261f04>>;

'Rex Tillerson says US will set up safe zones for refugees from Isis', The Guardian (online), 22 March 2017 <<https://www.theguardian.com/us-news/2017/mar/22/rex-tillerson-us-safe-zones-refugees-isis>>;

Draft Executive Order, 'Protecting the Nation from Terrorist Attacks by Foreign Nationals' <<http://apps.washingtonpost.com/g/documents/world/read-the-draft-of-the-executive-order-on-immigration-and-refugees/2289/>>, s 6, which required the US Secretaries of State and Defense to draw up a plan for safe zones in Syria however, that provision was not included in the Order as published on 27 January 2017.

⁸⁹ See 'Russia: Syrian safe zones plan comes into effect', Al Jazeera News (online), 6 May 2017 <<http://www.aljazeera.com/news/2017/05/russia-syrian-safe-zones-plan-takes-effect-midnight-170505185444598.html#>>. The details of the de-escalation zones remained unconfirmed at the time of writing.

⁹⁰ See 'UNHCR chief says safe zones would not work in Syria', Reuters World News (online), 3 February 2017 <<http://www.reuters.com/article/us-mideast-crisis-syria-unhcr-idUSKBN15I2CO>>. For an overview and a critique of the various proposals, see News Deeply, 'Safe Zones' <<http://safezones.newsdeeply.com/>>.

⁹¹ International Organization for Migration, 'IOM Learns of 'Slave Market' Conditions Endangering Migrants in North Africa' Press Release, 11 April 2017 <<https://www.iom.int/news/iom-learns-slave-market-conditions-endangering-migrants-north-africa>>.

⁹² The border fences built in Europe and across the southern United States are testimony to a desire to keep refugees out and safe zones can be seen as another 'string' in that bow.

⁹³ These are not equivalent to traditional safe zones, especially since Russia, Turkey and Iran have said they will continue tackling 'terrorism' 'wherever it exists' 'Russia: Syrian safe zones plan comes into effect' above n 5.

⁹⁴ Convention relating to the Status of Refugees, opened for signature 28 July 1951, 189 UNTS 137 entered into force 22 April 1954 art 1A(2) Refugee Convention, read in conjunction with the Protocol Relating to the Status of Refugees, opened for signature 31 January 1967, 606 UNTS 267 entered into force 4 October 1967.

able to live a comparatively usual life deprived of suffering too much.⁹⁵With regard to safe corridors, there is very little that international refugee law directly mentions. However, the right to get asylum in Article 14 of the Universal Declaration of Human Rights (UDHR) inevitably requires the state to refrain from closing the border to those seeking refugee protection.⁹⁶ In this situation, it is also imperative to discuss the principle of internal Displacement.⁹⁷It is non-binding but imitates international human rights law and international humanitarian law.⁹⁸The responsibility regarding the displacement for not only the states taken action but also the non-government organization, authorities, groups, as well as intergovernmental organization as well. ⁹⁹Armed conflict laws have the highest influence on safe zones and safe corridors.¹⁰⁰ Before World War II, there was an example of safe haven for civilians, although it was not conducted within legal framework for regulating them.¹⁰¹

Additional Protocol 1 (AP1) of 1977 enacted the law by providing general protection to the civilians in Geneva Convention, in order to protect civilian from armed conflicts, all civilians enjoy general protection in contradiction of the dangers ascending from the military action.¹⁰² This is obviously suitable to safe zones. Non-international armed conflicts are not applicable to the additional protocol 2 (AP2) but the International Committee of the Red Cross International Committee (ICRC) mentions that principle component AP1 and Geneva Convention IV is recognized as the customary international law and so this law is applicable,

⁹⁵Januzi v Secretary of State for the Home Department 2006 UKHL 5 (20) Lord Bingham, citing UNHCR, ‘Guidelines on International Protection: Internal Flight or Relocation Alternative within the Context of Article 1A(2) of the 1951 Convention and 1967 Protocol Relating to the Status of Refugees’ HCR/GIP/03/04 (23 July 2003) <<http://www.refworld.org/docid/3f2791a44.html>>.

⁹⁶Universal Declaration on Human Rights, GA Res 217A (III), UN GAOR, 3rd sess, 183rd plenmtg, UN Doc A/810 (10 December 1948) UDHR.

⁹⁷ ‘Report of the Representative of the Secretary-General, Mr. Francis M. Deng, submitted pursuant to Commission resolution 1997/39, Addendum, Guiding Principles on Internal Displacement’, UN Doc E/CN.4/1998/53/Add.2 11 February 1998 annex ‘Guiding Principles on Internal Displacement’.

⁹⁸ These are not equivalent to traditional safe zones, especially since Russia, Turkey and Iran have said they will continue tackling ‘terrorism’ wherever it exists, ‘Russia: Syrian safe zones plan comes into effect’, above n 5.

⁹⁹ Ibid, annex [3(c)–(d)].

¹⁰⁰ See generally, Dieter Fleck (ed), *The Handbook on International Humanitarian Law* (Oxford University Press, 3rd ed, 2013).

¹⁰¹ See Karin Landgren, ‘Safety Zones and International Protection: A Dark Grey Area’ (1995) 7 *International Journal of Refugee Law* 436, 438–9, referring to safe zones in Madrid during the Spanish Civil War and Shanghai in the Sino-Japanese War.

¹⁰² Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of international armed conflicts Protocol I, adopted 8 June 1977, 1125 UNTS 3 (entered into force 7 December 1978) art 51 (‘AP1’). Civilian objects shall not be the object of attack (art 52) and ‘starvation of civilians as a method of warfare is prohibited’ (art 54). Article 59 prohibits attacks on non-defended localities and art 60 provides for demilitarized zones. Article 70 AP1 establishes a framework for safe corridors, at least with respect to the delivery of relief consignments. A similar provision is made for non-international armed conflicts: see Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II), adopted 8 June 1977, 1125 UNTS 609 (entered into force 7 December 1978) art 18(2) (‘AP2’).

in most part, non-international armed conflict As well.¹⁰³The ICRC's customary international humanitarian law rules set out how well the safe zone and secure aisle can be established in the context of the best refugee protection. Nonetheless, ICCPR included in some rights, if states were declared public, "could be threatening the country's life in the public emergency". Such measures are mismatched with their other responsibilities under international law and are not only related to discrimination based on race, color, gender, language, religion or social origin'.¹⁰⁴There is no derogation clause in the national emergency under International Covenant of economic, social and cultural rights and almost universally approved convention of the rights of child.¹⁰⁵A special human rights that apply to displacement, safe zones and safe aisle, it is the right to freedom of movement.¹⁰⁶For example, in the beginning of operation desert fox in Iraq 1991, the UN Security Council approved the immediate access to international humanitarian organizations in Iraq and urged the UN Secretary General to use all its resources with the United Nations Organization concerned, which urgently needed refugees and the displaced Iraqi population.¹⁰⁷On the other hand, In Bosnia and Herzegovina, the UN safe zone, 7000 people were killed in Srebrenica despite the mandate to attack through force enforcement.¹⁰⁸There was a comparable experience with 'safe human area' in Rwanda.¹⁰⁹The protection of civilians in South Sudan, UN mission has created appropriate conditions for humanitarian assistance and they permitted to take 'all the necessary means' to protect citizens and regularly monitor and investigate violations of international human rights and humanitarian law, are frequently attacked. ¹¹⁰Safe areas and safe corridors are only safe, because the parties of conflict allow them. Security cannot be guaranteed, for various reasons, but they may be best available alternative to get little bit peace and security.

¹⁰³ See Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law <Cambridge University Press, 2005>, vol 1, Rules 35–7, 53–6 and 129–33.

¹⁰⁴International Covenant on Civil and Political Rights, opened for signature 16 December 1966, 999 UNTS 171 (entered into force 23 March 1976) art 4 ('ICCPR'). Relevant non-derogable rights are: right to life; freedom from torture, cruel, inhuman or degrading treatment or punishment; freedom from slavery or servitude; non-retroactivity of criminal law; right to recognition before the law; and freedom of thought, conscience and religion.

¹⁰⁵International Covenant on Economic, Social and Cultural Rights, opened for signature 16 December 1966, 993 UNTS 3 (entered into force 3 January 1976) and Convention on the Rights of the Child, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990).

¹⁰⁶ICCPR art 12.

¹⁰⁷SC Res 688, UN SCOR, 46th sess, 2982nd mtg (5 April 1991).

¹⁰⁸ SC Res 819, UN SCOR, 48th sess, 3199th mtg, UN Doc S/RES/819 (16 April 1993); SC Res 824, UN SCOR, 48th sess, 3208th mtg, UN Doc S/RES/824 (6 May 1993); and especially SC Res 836, UN SCOR, 48th sess, 3228th mtg, UN Doc S/RES/836 (4 June 1993), paras 5, 9 and 10. See, Erin D Mooney, 'Presence, ergo protection? UNPROFOR, UNHCR and the ICRC in Croatia and Bosnia and Herzegovina' (1995) 7International Journal of Refugee Law 407. The reference to Srebrenica would indicate that international criminal law might also be a relevant sub-branch of international law e.g. Prosecutor v Krstić (Judgement) (International Criminal Tribunal for the Former Yugoslavia, Appeals Chamber, Case No IT-98-33-A, 19 April 2004). Nevertheless, the threat of prosecution for violating safe zones or safe corridors is too remote to provide protection.

¹⁰⁹ SC Res 912, UN SCOR 49th sess, 3368th mtg, UN Doc S/RES/912 (21 April 1994); SC Res 918, UN SCOR 49th sess, 3377th mtg, UN Doc S/RES/918 (17 May 1994); and SC Res 929, SCOR 49th sess, 3392nd mtg, UN Doc S/RES/929 (22 June 1994) dealing specifically with refugees and internally displaced persons (IDPs).

¹¹⁰ See SC Res 2327, UN Doc S/RES/2327 (16 December 2016), para 7. See also, Daniel van Oudenaren, 'Politicised humanitarian aid is fuelling South Sudan's civil war', IRIN (online), 27 February 2017 <<https://www.irinnews.org/opinion/2017/02/27/politicised-humanitarian-aid-fuelling-south-sudans-civil-war>>.

Stating an area as a 'safe zone' by the United Nations Security Council, does not decrease the safeguard owed to peoples positioned outside it. Laws relating to civilians in armed conflict or general violence are ubiquitous: Safe areas and safe corridors are areas where high levels of security are expected similarly what one might expect in peace time.¹¹¹In addition, such neutrality, human character and demilitarization may arise from international policy of refugee law and internal displacement. Certainly, at one point, safe areas are comparable to refugee camps. UNHCR's Executive Committee (ExCom), formed specific standards for the safety of refugees in refugee camps.¹¹²On the other hand, refugee camps and settlements have a civil and human character and depending on the principle of peaceful and humanitarian act. It is not considered biased towards another state; as well as guaranteeing the safety and security for refugees and shelters, their rights, obligations and responsibilities and the expectations from international organizations to support the relevant laws and regulations. The rights and responsibilities of a state continue to pursue according to the principles of the relevant laws and international laws, including the United Nations Charter and the International Human Rights law.¹¹³After achieving vast experience of UNHCR in the Great Lakes region of former Yugoslavia and Africa, it provides, 'that all actors, including refugees themselves, have the obligation to cooperate in ensuring the peaceful and humanitarian character of refugee camps and settlements'.¹¹⁴During the arms conflict, it can be too much difficult to sustain peace and these important precondition inside the safe zones.¹¹⁵ Most recently, States emphasized in the New York Declaration for Refugees and Migrants of 2016 that: 'Host States have the primary responsibility to ensure the civilian and humanitarian character of refugee camps and settlements. We will work to ensure that this character is not compromised by the presence or activities of armed elements and to ensure that camps are not used for purposes that are incompatible with their civilian character. We will work to strengthen security in refugee camps and surrounding local communities, at the request and with the consent of the host country.'¹¹⁶In order to neutralize zones, non-defended localities and demilitarized zones, these concept and obligations required from the parties.¹¹⁷

Civilians cannot contribute in war or military work in neutral territories. This occupied area must be free of all warriors and no conflict will occur by its individual.¹¹⁸Normally, in accordance with the International Committee of Red Cross, there is customary international

¹¹¹ See Landgren, above n 17, and Kristy Siegfried, 'Look back and learn: Safe zones in Iraq and Bosnia', IRIN (online), 15 March 2016 <<http://www.irinnews.org/analysis/2016/03/15/look-back-and-learn-safe-zones-iraq-and-bosnia>>.

¹¹² ExCom currently consists of 101 States, not only parties to the 1951 Convention but also those most affected by refugee movements. Amongst other things, ExCom adopts by consensus Conclusions proposed by UNHCR on refugee protection, which means that the Conclusions carry a great deal of authority. UNHCR's 'entirely non-political and humanitarian' character (see UNHCR Statute para 2) is an asset that will support its credibility and legitimacy with the parties to the conflict.

¹¹³ ExCom, 'Military or Armed Attacks on Refugee Camps and Settlements' No 48 (XXXVIII) (12 October 1987) <<http://www.refworld.org/type,EXCONC,UNHCR,,,0.html>>. See also, SC Res 1208, 62nd sess, 3945th mtg, UN Doc S/RES/1208 (19 November 1998) para 3.

¹¹⁴ ExCom, 'Conclusion on the civilian and humanitarian character of asylum' No 94 (LIII) (8 October 2002) Preamble.

¹¹⁵ See the need for the UN to establish in 1982 the UN Border Relief Organization on the Thai-Cambodian border because the camps there were being used by the Khmer Rouge to continue the armed conflict with the government in Phnom Penh. For UNBRO's principles, see Thai-Cambodia Border Refugee Camps 1975–1999 Information and Documentation Website, UNBRO: The United National Border Relief Operation (2 August 1989) <<http://www.websitesrcg.com/border/UNBRO.html>>.

¹¹⁶ New York Declaration, UN Doc A/RES/71/1, para 73.

¹¹⁷ Geneva Convention relative to the Protection of Civilian Persons in Time of War, opened for signature 12 August 1949, 75 UNTS 287 (entered into force 21 October 1950) art 15; AP1 arts 59–60.

¹¹⁸ AP1 arts 59(2)(c) and 60(3)(c).

law that forbids parties to a conflict ‘directing an attack against a zone established to shelter civilians from the effects of hostilities’.¹¹⁹This obligation not only the zones but also the any civilian even they live outside of the zone.¹²⁰It is quite easy to monitor the save zone by using mobile technology and internet and ensure their humanitarian character.¹²¹There is no guarantee under the international law that ensure a right to the delivery of food medical and other necessary basic essential. According to AP1 and AP2 together, allow imperfect rules in relation to charitable support¹²²Additional protocol Under AP1, relief works are ‘subject to the agreement of the Parties concerned’.¹²³ Under AP2, relief works are ‘subject to the consent of the High Contracting Party concerned’.¹²⁴ ‘The parties to the conflict must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without any adverse distinction, subject to their right of control.’¹²⁵Human agencies may also need to combine non-state actors in order to provide humanitarian assistance to non-international armed conflict¹²⁶In order to confirm that humanitarian relief supplies only with a secure corridor.¹²⁷ ‘All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.’¹²⁸It should not be considered safe areas as normal other part of the conflicted country since there is a clear scarcity of protection guarantee in the temporary nature of this region.¹²⁹None of the

¹¹⁹Henckaerts and Doswald-Beck, above n 19, Rule 35; see also Rules 36 and 37.

¹²⁰AP1 art 51. ..

¹²¹ See ‘Phones are now indispensable for refugees’, The Economist (online), 11 February 2017 <<http://www.economist.com/node/21716637/print>>. see the University of Essex Economic and Social Research Council funded ‘Human Rights, Big Data and Technology’ project and its work in this area: <<http://www.essex.ac.uk/hrc/research/bigdata.aspx>>.

¹²² See AP1 art 70 and AP2 art 18.2. Similarly, the International Law Commission’s Draft articles on the protection of persons in the event of disasters (2016) <http://legal.un.org/docs/?path=../ilc/texts/instruments/english/draft_articles/6_3_2016.pdf&lang=EF>, again provide for State consent: arts 8–15; but see also, Christy Shucksmith, ‘Methods to Incorporate Human Rights Law into Disaster Prevention and Reduction Strategies’, on EJIL: Talk! (28 February 2017) <<https://www.ejiltalk.org/methods-to-incorporate-human-rights-law-into-disaster-prevention-and-reduction-strategies/>>.

¹²³AP1 art 70(1).

¹²⁴AP2 art 18(2).

¹²⁵Henckaerts and Doswald-Beck, above n 19, Rule 55 (emphasis added).

¹²⁶ See ‘Syria conflict: Russia proposes safe corridors for Aleppo’, BBC News (online), 1 December 2016 <<http://www.bbc.co.uk/news/world-middle-east-38172477>>.

¹²⁷ See generally, Henckaerts and Doswald-Beck, above n 19, 193–200. The only case in which there might be an absolute obligation on parties to the conflict to provide humanitarian access would be if there were a siege and a civilian population were starving.

¹²⁸Guiding Principles on Internal Displacement, UN Doc E/CN.4/1998/53/Add.2, annex, Principle 25.3. It may be that by reading the Additional Protocols with obligations under international human rights law, to the extent that that is binding not only on States parties but also rebel groups in non-international armed conflicts, such a duty can be derived.

¹²⁹ See *Sufi and Elmi v United Kingdom* (European Court of Human Rights, Fourth Section, Application Nos 8319/07 and 11449/07, 28 June 2011).

conflicted parties can expect normal life without undue hardship.¹³⁰General norms proposes that if there is a United Nations-controlled region where safe areas are included then it can be enough, especially if only the lower level intensity war. ¹³¹This rules also implied in the 2011 EU Qualification Directive (recast), where Article 7(1) (b) offers for non-State actors of protection.¹³²Since 1999, Protection of Civilian (POC) order has been issued by the Security Council during peace keeping operations.¹³³Safe areas must provide actual protection between conflicted parties.¹³⁴According to International refugee law and international human rights law, the principle of non-refoulement¹³⁵(which protects people from being returned to a real risk of persecution or other serious harm) must be appreciated for those who search for protection overseas countries.¹³⁶

This connection is considered attractive that in relation to refugees, the law and policies related to the camp emphasize that those who maintain a constant right to find refugees. Surprisingly more, that in the refugee context, law and policy dealing with camps emphasizes that people retain a ongoing right to search for asylum.¹³⁷The Comprehensive Refugee Response Framework and the Guiding Principles on Internal Displacement contained in annex I of the New York Declaration of 2016.¹³⁸International human rights treaties repeat rights to be found in The Guiding Principles on Internal Displacement like moving freely inside the region.¹³⁹Furthermore, Principles on Internal Displacement have the right 'to leave their

¹³⁰ UNHCR, 'Guidelines On International Protection: 'Internal Flight or Relocation Alternative' within the Context of Article 1A(2) of the 1951 Convention and 1967 Protocol relating to the Status of Refugees above n 11. It may be that if the safe zone were an UN-administered territory, akin to that established in Kosovo in 1999, one could envisage it as a place for internal relocation, but it would require that high degree of externally provided security.

¹³¹ *Dyli v Secretary of State for the Home Department* [2000] UKIAT 00001 (30 August 2000).

¹³² Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast) [2011] OJ L 337/9.

¹³³ See SC Res 1270, 44th sess, 4054th mtg, UN Doc S/RES/1270 (22 October 1999) para 14.

¹³⁴ See van Oudenaren, above n 26: 'Humanitarian assistance is political action. For Western countries providing the vast majority of funding for relief aid, humanitarian intervention is a stand-in for other forms of political action'.

¹³⁵ Non-refoulement is a fundamental principle of international law that forbids a country receiving asylum seekers from returning them to a country in which they would be in likely danger of persecution based on "race, religion, nationality, membership of a particular social group or political opinion.

¹³⁶ See also, UNHCR, 'Guidelines on International Protection No. 12: Claims for refugee status related to situations of armed conflict and violence under Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees and the regional refugee definitions', HCR/GIP/16/12 (2 December 2016) <<http://www.refworld.org/docid/583595ff4.html>>.

¹³⁷ See, eg, the right to seek asylum (UDHR art 14) and the right to leave any country (ICCPR art 12). ExCom, 'Conclusion on the civilian and humanitarian character of asylum' No 94 (LIII) (8 October 2002), makes this clear: '(c) Recommends that action taken by States to ensure respect for the civilian and humanitarian character of asylum be guided, inter alia, by the following principles; i. Respect for the right to seek asylum, and for the fundamental principle of non-refoulement, should be maintained at all times'.

¹³⁸ Comprehensive refugee response framework, UN Doc A/RES/71/1, annex I. While this is intended for those who have crossed an international border, it can be used by way of analogy here.

¹³⁹ Guiding Principles on Internal Displacement, UN Doc E/CN.4/1998/53/Add.2, annex Principles 12.2, 14.2.

country’ and ‘seek asylum in another country’.¹⁴⁰All individual in safe zones should be enjoyed ‘sanitation, food, diet, housing, **access** to satisfactory safe drinking water, psychosocial support and health care, including sexual and reproductive health’,¹⁴¹it also able to ‘make the best use of their skills and capacities’.¹⁴²Without contributing and supported by the troops and financial assistance with the help of international community, it is quite impossible to protect human rights in the safer region.¹⁴³Safe areas do not offer comprehensive resolutions for displacement. They are allowing here in safe area for a temporary time and rarest circumstances and willing to go back their own country.¹⁴⁴There were bad Experiences gathered in Bosnia and Herzegovina and South Sudan where safe zone not fully succeeded.¹⁴⁵The proposed countries are also in trouble, in Syrian De-escalation Region, a group of the Jurist thinks, this idea cannot be encouraged them to return their native land.¹⁴⁶Safe zone never assure and provide the true protection and substitute the exiles of the other countries under the international refugee law. ¹⁴⁷If the refugees are safe in safe zone, how a large number killed in the ongoing conflict in Syria? Why they didn’t take shelter in safe zone area? Around half a million individuals murdered in the on-going battle and millions more absconding across the borders.¹⁴⁸“Safe zones are, at best, the least worst alternative.”¹⁴⁹To abandon the risks of preventing refugees from the conflict situation, the government should begin a appropriate route and establish peace in the areas. ¹⁵⁰The law on safe areas and the practice of its notion is extremely underdeveloped. ¹⁵¹ ‘Safe zones are only ever as secure as the parties to the conflict permit. Experience in Rwanda and the former Yugoslavia, and more recently in South Sudan, is that even where the UN Security Council calls for a safe zone, the safety of those who go there is not guaranteed. Srebrenica casts a very long shadow.’ Scientia Professor Jane McAdam of The Director of the Kaldor Centre says: ‘This Policy Brief shows why caution is needed in assuming that ‘safe zones’ provide the answer. The reality of conflict today means that in all but the most extreme circumstances – where flight is impossible – safe zones cannot be a substitute for asylum in another country.’ The Policy Brief outlines the minimum human rights standards that must apply in any safe zones:

¹⁴⁰Ibid Principle 15.

¹⁴¹ Comprehensive refugee response framework, UN Doc A/RES/71/1, annex I para 5(c).

¹⁴²Ibid para 13(c).

¹⁴³Ibid, paras 6–8 and 12–14.

¹⁴⁴ See Kosovo example, above n 47.

¹⁴⁵ The final version of President Trump’s first Executive Order failed to include a previously envisaged plan for safe zones in Syria, probably because they were seen as being an unattainable goal: see ‘Executive Order: Protecting the Nation from Foreign Terrorist Entry into the United States’ (27 January 2017) <<https://www.whitehouse.gov/the-press-office/2017/01/27/executive-order-protecting-nation-foreign-terrorist-entry-united-states>>. The subsequent attempt of 6 March 2017 also failed to include any reference to safe zones: ‘Executive Order Protecting The Nation From Foreign Terrorist Entry Into The United States’ (6 March 2017) <<https://www.whitehouse.gov/the-press-office/2017/03/06/executive-order-protecting-nation-foreign-terrorist-entry-united-states>>.

¹⁴⁶ Although humanitarian access is to be guaranteed, movement is highly restricted, the signatories have agreed they can tackle ‘terrorism’ wherever it exists’, and the largest rebel group has rejected the plan outright (see above n 5).

¹⁴⁷ A new Policy Brief issued by UNSW’s Kaldor Centre for International Refugee Law warns.

¹⁴⁸ Turkey, Russia and Iran are the member states of this project

¹⁴⁹ According to the Policy Brief of Creating safe zones and safe corridors in conflict situations: Providing protection at home or preventing the search for asylum? Available at <<http://news.trust.org/item/20170606093433-0ahvu/>>

¹⁵⁰ The Kaldor Centre Policy Brief demonstration on the refugee matters

¹⁵¹ Policy Brief co-author Professor Geoff Gilbert address on this hot issue

The right to life (through the principle of distinction);

The right to be free from torture and cruel, inhuman or degrading treatment or punishment;

Freedom from arbitrary recruitment (to participate in the conflict);

Personal security, particularly in relation to sexual- and gender-based violence;

The right to the highest attainable standard of living and health;

Access to humanitarian relief and assistance, and access by humanitarian organizations; and

Freedom of movement, including the right to leave the country and seek asylum (with full respect for the principle of non refoulement). A safe corridor should be established so that people can access necessary services like market, healthcare, employment and education. However, to be effective, all parties must support them for the conflict. Safe corridors should be established to enable people to access essential services, such as markets, health care, employment and education. However, to be effective, all parties to the conflict must uphold them.

In the concluding remarks, the Rohingya Muslims in Myanmar's Rakhine State have suffered serious and persistent human rights abuses. Myanmar authorities, security forces, police, and local Rakhine actors have engaged in widespread violence, acts of torture, arbitrary detention, rape, and other crimes causing serious physical and mental harm.

In light of this conclusion, the United Nations should accept a determination to create a commission of inquiry on the human rights situation in Rakhine State, Myanmar. Previous commissions of inquiry have been established by various U.N. bodies and actors.¹⁵² However, Myanmar should except and abide the Kofi Annan commission report in the current circumstances. The Human Rights Council would be a perfect figure for founding a commission. The directive of the Human Rights Council includes make a speech 'situations of violations of human rights, including gross and systematic violations" and "making recommendations thereon."¹⁵³

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¹⁵² Commissions of inquiry have been established by the Security Council, the General Assembly, the Human Rights Council, its predecessor, the Commission on Human Rights, the Secretary-General, and the High Commissioner for Human Rights. U.N. Office of the High Commissioner for Human Rights, Commissions of Inquiry and Fact-Finding Missions on International Human Rights and Humanitarian Law, p. 2 (2015), http://www.ohchr.org/Documents/Publications/CoI_Guidance_and_Practice.pdf.

¹⁵³ U.N. General Assembly, Resolution Establishing U.N. Human Rights Council, U.N. Doc. A/RES/60/251 (Mar. 15, 2006), para. 3.

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