

Burma, Bangladesh and the Rohingya: a Failure to Protect?

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REBECCA DEVITT, SEP 6 2011

Forced migration and refugee flows in Burma are becoming increasingly difficult for the international community and the region to deal with.[1] The minority group of Rohingyas that have fled north of the Burmese border into Bangladesh have remained stateless for over 50 years and have been continuously persecuted in their homeland Burma whilst denied protection in Bangladesh from violence, corruption, abuse and poverty. [2]

The Rohingyas are accused of being fundamentalists in Bangladesh and are often labelled as illegal or economic immigrants rather than being recognized as refugees. To date the international community has done little to help protect over 100,000-250,000 people who have no homeland and are routinely discriminated against.[3] Whilst much has been written about refugees and forced migration on the Thai-Burmese border little academic work has focused on the plight of the Rohingyas and the inability of the region and the international community to deal with this issue.[4]

The challenge for Burma and Bangladesh to deal with refugee flows and forced migration reflects a wider issue in the region when it comes to displacement and human security. This reflects the failure of states and the region to provide adequate protection for the Rohingya and is an abuse of sovereignty and international law.[5]

Failure at state, regional and international level to deal with the problems facing the Rohingya reflects a wider need to re-evaluate international protection regimes when it comes to dealing with forced migration and minority groups in Southeast Asia. In order to understand this, the plight of the Rohingyas will be highlighted and international and regional protection norms will be explored.

The Rohingya in Burma and forced migration: A History of persecution

The Rohingya population has its origins in the Arakan or Rakhine state in the north of Burma and linguistically are derived from the Bengali language. In 1784 the mostly Muslim population of Arakan was incorporated into the larger Buddhist kingdom of Burma and a majority of Rohingyas fled to Cox's Bazaar, in the then British controlled colony of East Bengal.[6] Following British colonization of Burma in the 1800's, the British moved populations such as the Rohingya between East Bengal and Burma to fit their labour needs.[7]

At this time many Rohingyas took the opportunity to flee back to Burma and return to their homes. These movements were considered internal, however the current government in Burma views this as illegal and has refused citizenship to the majority of the Rohingyas who have remained in Burma.[8] After becoming independent in 1948, tensions between the government and the Rohingyas grew with the government attempting to move all Muslims living in Burma and integrate them into East Bengal which was now known as East Pakistan and continued to treat those who remained in Burma as illegal immigrants.

The Rohingya population in Burma faced daily persecution with properties and land seized, and people forcibly relocated as part of 'brutal discrimination policies' so that new villages could be built for those migrating from central and northern Burma.[9] In 1977-1978 over 200,000 Muslims fled across the border to Bangladesh to escape persecution from Burmese army harassment and intimidation. [10]The Burmese junta under operation '*Nagamin*'

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aimed to 'scrutinize every individual living in the state, designating citizens and foreigners in accordance with the law and taking actions against foreigners who have filtered into the country illegally.'[11] This in fact meant the targeting of civilians such as the Rohingya resulting in widespread killing, rape, destruction of mosques and religious persecution.

Following international pressure the majority of those who had fled were allowed to return to Burma, yet in 1988 following the military coup those who opposed these actions fled in fear of persecution and were stripped of their citizenship.[12] In 1992-93, 250,000 refugees again fled to Cox's Bazaar following widespread forced labour, executions, torture and rape. Often the Rohingya would work without pay on government based infrastructure and economic projects and human rights violations continued to occur.[13]

Abuse and prejudice against the Rohingya and Muslim population in Burma has continued since this time with lack of citizenship maintaining exclusion from employment opportunities. Under Burmese citizenship laws, the Rohingya are not considered to be a national ethnic group and are therefore ineligible for full citizenship whilst the laws make no provision in relation to stateless persons.[14]

Furthermore a permit is required for the Rohingya to get married and this has led to delays and backlogs in applications whilst movements of the Rohingya population have been greatly restricted in the Arakan with a pass now required for any movement between villages, even for day trips to health clinics. [15]

These widespread abuses and discriminations reflect Burma's failure as a sovereign state to protect its citizens and its responsibility to provide adequate 'life-supporting' assistance. Failure to protect its citizens reflects the need for regional and international involvement and whilst the United Nations High Commissioner on Human Rights has been heavily involved in repatriation of Rohingya refugees more must be done to protect their rights. Perhaps one of the reasons why international protection regimes are not implemented effectively is the fact that both Burma and Bangladesh are not signatories to the 1951 Refugee Convention.[16]

It is under these conditions that many Rohingya have fled to Bangladesh in search of protection and a new life, but have instead met with discrimination, suspicion and violence. As one refugee has stated: 'In Burma the military regime tells us we have no rights and no place. In Bangladesh the government tells us we have no rights and no place.'[17]

The borders of Burma have been for sometime unsecure and movement between Burma and Bangladesh has created regional issues of great importance to stability in the region and internationally.[18] Burma views this as an internal issue for its government alone, however this issue is becoming of great concern to Bangladesh whose ability to deal with the influx of refugees is becoming more problematic each day.

Stateless in Bangladesh: a State, Regional and International Problem

Rohingya refugees that have fled to Cox's Bengal in just north of Bangladesh are faced with a grim reality. Over 26,000 Rohingyas are recognized as refugees by the UNHCR in two camps controlled by the Bangladeshi government at Nyapara and Kuntapalong, whilst 7,000 live in a makeshift camp in Teknaf. Added to this number are over 200,000 unregistered refugees who live in the area outside the camps.

These Rohingya are not recognized as refugees and are often labeled economic or illegal migrants. The camps are rife with corruption, violence, sexual abuse, abductions, trafficking and death from malnutrition and untreated medical conditions happens far to often.

Eileen Pittaway described the situation in the camps as the worse she has seen stating that:

'I've never before been in an established camp where the fear was so palpable and pervasive....a systemized regime of terror has left a population of refugees in a state of trauma with little or no hope for the future.'[19]

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Sexual abuse and gender violence is endemic and this has had a major impact on women and girls in the camp as well as their families, whilst corruption which is rife on all levels of governance in the camps including government officials, police and military personnel prevent the refugees from living any sort of life in peace and security. Conditions are horrific in the camps and the Bangladeshi governments view is that the Rohingya are a heavy burden on Bangladesh economically, socially, environmentally and also in terms of law and order.

The government is of the view that the Rohingya should be repatriated to Burma, but under current circumstances the refugees are at risk of being persecuted, beaten and raped on return to Burma.[20] Continuing violence and persecution in the Arakan has seen nearly 2,000 more refugees arrive in Cox's Bazaar monthly since the beginning of 2010.[21]

Added to this is the fact that many in Bangladesh at a government and community level fear that Islamic fundamentalists will use the camps as breeding grounds for new recruits. Utpala Rahman in his article 'The Rohingya Refugee: A Security Dilemma for Bangladesh' has argued that the alienation that Rohingya refugees feel leaves the stateless refugees vulnerable and desperate which could lead to them becoming more militant in an order to protect their interests.[22]

Whilst groups such as the Rohingya Solidarity Organization and the Arakan Rohingya Islamic Front are extreme in their attempts to foster an independent homeland for the Rohingya and there have been reports that militants from Al-Qaeda are hiding out in the camps, the majority of refugees living there are being discriminated against on the basis that they are of the Muslim faith. [23] Bangladesh security concerns about militancy in the camps highlight the need for the regional and international community to deal with the plight of the Rohingyas to prevent conflict and ensure that citizen's rights are equally protected. The issue of forced migration must be resolved if stability in the region is to be achieved. As Hazel Lang has pointed out:

'Attention to the human security dimensions of internal conflict and displacement is vital for present and future efforts in resolving conflicts, building durable peace and achieving a sustainable repatriation of refugees and IDP's'[24]

The failure of Burma and Bangladesh to protect the rights of the Rohingya minority is an indictment of Southeast Asia's inability to deal effectively with forced migration and the international protection regimes failure to properly enforce international law and norms to protect refugee's rights. In order to understand this we must now turn to the regions application of international law and attempts of the international community to enforce such laws.

Burma, Bangladesh Southeast Asia and International Refugee Law: An uneasy relationship

International law referring to refugees was established under the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees. The majority of Asian states rejected the Convention and Protocol as Eurocentric and irrelevant to Asian refugee experiences.[25] Furthermore there has been no attempt at a regional level for states to respond uniformly to refugee crises. Claims that the international refugee laws are Eurocentric are thinly veiled excuses by corrupt and oppressive countries such as Burma to continue their systematic discrimination and persecution of populations such as the Rohingya. That said the application of the 1951 convention during the time its was developed was solely related to the legal protection and assistance of refugees in Europe and Asian understandings of Refugee problems were not included in the drafting of either statute. However the 1961 convention extended this protection to refugees outside Europe.[26]

Whilst Asian countries have rejected the international conventions on refugee laws a majority of Asian states including Burma and Bangladesh are party to the Bangkok Principles on the Status and Treatment of Refugees adopted in 1966 by the Asia African Legal Consultative Organization.[27]

The Bangkok Principles acknowledge the existence of refugees and insist that member states provide asylum, however these principles limit the exercise of the rights of refugees to cases where the security of the state is not threatened and the responsibility remains upon each state to decide whether or not the principles are applied.[28]

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Furthermore the Bangkok principles are neither enforced nor monitored, so there is no way to tell whether states are adhering to the provisions.

Bangladesh and Burma whilst signatories to the Bangkok Principles are not signatories to the 1951 convention and there are many explanations for why states such as Burma and Bangladesh refuse to grant refugees citizenship and rights. One explanation is that there is a fear that migrants endanger the already fragile social cohesion of developing countries, but yet again this feels like a weak attempt at pushing the issue aside.[29] The consequences of the failure of states on a regional or international level to deal with the issue of refugee law means that the majority of asylum seekers and internally displaced do not and cannot seek permanent legal status or assistance as refugees.

Whilst the United Nations High Commission for Refugees has attempted to repatriate a number of Rohingyas from the camps in Bangladesh, often other Asian states are unwilling to take them, as they fear that they will fuel fundamentalism. Whilst the Thai government has agreed to resettle Rohingya and various other minority groups such as the Karen that have streamed across their borders, the Bangladeshi government is fearful that a resettlement program would lead to more refugees flooding in.[30] Furthermore many states in the region do not want to become involved in the debate on the Rohingya's situation and attempts by refugees to flee to Malaysia have been met with the same restrictions faced in Bangladesh.[31]

The plight of the Rohingya's is not new or uncommon for the Burmese state as it has major refugee and forced migration issues on its border with Thailand.[32] The eastern border of Burma and Thailand is estimated to have about 500,00 internally displaced people in camps and in January 2009, 400 Rohingya refugees were prevented from entering Thai waters and forced to return to Burma by the Thai Navy. [33]

This highlights the wider issue of the Burmese government's failure to protect its citizens and the larger problem of how to deal with internal displacement and forced migration in the region.[34] Whilst resettlement to a third country is an option, many Rohingya wish to stay in Bangladesh due to the close linguistic and cultural links between the two. The fact remains that the Bangladeshi government must accept these refugees into their population and adhere to international human rights and refugee law by granting them the rights of citizens. To allow the Rohingya to remain stateless and in squalor in the camps is to risk larger regional fights between Burma and Bangladesh and could fuel further unrest and violence.

Burma has failed in its obligation to protect its citizens and as such it is up to the international community to attempt to deal with situation. Whilst Burma claims absolute sovereignty its inability to protect its citizens negates this sovereignty, as it has not met its responsibilities under the international norm of the responsibility to protect.

The Responsibility to Protect, IDP's and human security

The international norm of the responsibility to protect was first developed by Roberta Cohen and Francis Deng.[35] In 1993 Deng was the United Nations Special Representative on Internally Displaced People and was faced with the problem that the fate of internally displaced people was determined by the policies of domestic governments, as there were no international laws providing protection for those displaced. Deng and Cohen focused on the principle of 'sovereignty as responsibility', meaning that it was the state's primary role in offering protection and that if it failed to do so the state was accountable to the United Nations.[36]

Whilst this norm has now been adapted to apply to humanitarian intervention, it is still relevant to the debate over internal displacement and challenges the notion that sovereignty is sacrosanct. State centric conceptions of security have overtaken the importance that human security plays in stabilizing a region such as Asia, if we place the plight of the Rohingya and the internally displaced within the concept of the responsibility to protect norm we challenge assumptions about security issues and place the onus back on the state, region and international community to come up with a viable solution.

While states are responsible for the protection of their own citizens 'the people may not be secure from the state.'[37] The international norm of the responsibility to protect can be placed within the context of the Rohingya's plight and

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reflects the need for greater international involvement in the issue.

Conclusion

The Rohingya minorities of Burma and Bangladesh have suffered persecution and discrimination at the hands of governments that do not recognize their rights as refugees and human beings. They remain stateless and without hope, yet attempts by the UNHCR and the Bangladeshi government to repatriate some of the refugees suggests that some progress is occurring. That said more can be done on a state, regional and international level. The Bangladeshi government must integrate and allow the Rohingya refugees that are living in camps to gain citizenship and protection as they risk being sent back to Burma to face further trauma. The international community under the responsibility to protect norm must place pressure on the Bangladesh to accept these refugees as legitimate and place pressure on Burma to lift its restrictions and discriminations against its citizens. The plight of the Rohingyas highlights a major problem in Southeast Asia when dealing with forced migration and internal displacement, it is only when we start to discuss these issues outside the parameters of state sovereignty and national interest will we be able to deal effectively with refugee flows and provide adequate protection for minorities.

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