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Nationalism, Persecution and Repatriation of the Rohingya

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KAZI FAHMIDA FARZANA, APR 5 2018

The incidents that took place in the Rakhine state (previously Arakan) of Burma/Myanmar in August 25 (2017) and the Myanmar governments' actions and reactions on the Rohingya crisis, indicate the ugly face of Burmese nationalism. This behavior is the consequence of state centric policies that have generated refugees, created conflicts and produced a grave humanitarian situation. This version of extreme nationalism is carefully crafted by Myanmar's regime and is historically rooted. The practice of extreme nationalism in Myanmar so far has been to benefit "Us" at the expense of "Others". It has constructed and framed the Rohingya as the "Others", therefore justifying their actions to eliminate "the existential threat" to the Burmese way of life and to the Burmese population. The military maintains strict control over government institutions. The quasi-civilian government is still following the footsteps of the military government that precisely failed to bring unity while it was on power for fifty years.

Transformation from regular citizens to non-citizens

Since the independence of Burma, governments have been inconsistent in how they have dealt with the Rohingya Muslim Arakanese. The first constitution of the Union of Burma (September, 1947) had projected an all-inclusive policy. The declaration in the Constitution seems to unequivocally accept the people of the "Frontier Areas" as "The People of Burma". By definition, the Rohingya Muslim Arakanese living in the frontier areas at that time did acquire constitutional recognition as legal citizens. Moreover, the Constitution made the citizenship criteria simpler and more explicit by stating (in Chapter II, Section 11) that those who were alive at the commencement of the Constitution, or those who were born in any of the British ruled territories included in the Union and who intended to stay there permanently, shall be considered citizens. There were times when Rohingya Muslim Arakanese participated and contributed to the political community just like other citizens of Myanmar. They participated in national election(s), had representatives and members in the parliament, had radio programmers broadcast in their own language. However, the political context changed drastically as General Ne Win came to power in a coup in 1962. Since then, its ethnic policy has been to forcibly assimilate various groups into one unified Burmese identity. It utilized coercive practices to secure its borders, population, and political authority. The military government perceived the Rohingya to be collaborators with the British enemy, and since it was the British who brought large numbers of Indian labourers to Arakan, the Rohingya were not deemed compatible with the push to promote a sense of national solidarity. Moreover, because of their religion (Islam) and skin color that differed from the majority religion (Buddhism), it was easy for government officials to view and represent them as 'Others'. The military junta used the clause of the 1947 Constitution (Chapter II, Section 12) that stated that, if necessary, Parliament has the authority to make any changes with regard to citizenship laws. Subsequent transformation was done through official revocation (constitutional change). The new Constitution and the Burma Citizenship Law (1982) officially recognized 135 distinctive 'ethnic nationalities', but rejected the ethnic Rohingya. This denationalization process made them non-citizens of Myanmar, and slowly removed them from the rights, duties, and obligations of citizenship.

This practice and mentality remains in the current military backed quasi-civilian government. For instance, in the past, Rohingya were uprooted from their original lands, and fled from their home several times. This can be witnessed in 1978 during the Operation *Nagamin* (Dragon King) that made more than 200,000 Rohingya refugees and in 1991 during the *Pyi Thaya* (Prosperous Country) operation where approximately 270,000 Rohingya fled to

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Bangladesh. In the present, the brutality of the current government towards the Rohingya is unprecedented. This time around the quasi-civilian government appears to be very successful in systematic ethnic purification or “ethnic cleansing” in the Rakhine state, by making the state Rohingya free. Since August 2017, it produced approximately 700,000 new refugees in Bangladesh, leaving behind only less than 500,000 Rohingya in the Rakhine state. People are again fleeing to save their lives from torture, mass killing, gang rape, burning bodies alive, forceful detention and other grave human rights violations by the military and other security and non-security forces in Myanmar.

Struggles for Rights, Recognition, and Return

With the imposed identity of non-citizens, the Rohingya face existential threats in their country of origin (Myanmar) and they struggle a lot in the host country (Bangladesh) being refugees and undocumented. In Bangladesh, out of those 1 million Burmese refugees only 33,784 are previously registered refugees living in two UNHCR Nayapara and Kutupalong camps, while the rest are undocumented refugees living in scattered settlements in various sites as well as surrounding the registered camps. After the recent influx, Bangladesh government allocated about 2000 acre (8 sq. km.) of land for the settlements of the new refugees. The sites at Ghumdhum, Balukhali and Thingkhali occupied by the new refugees in the allocated land surrounding the registered Kutupalong camp became the world's mega refugee camps with a total population of about 600,000 people.[1]

The refugees in the new settlement sites are still very traumatized by the violence and atrocities they experienced in Myanmar. More than sixty percent of new arrivals are women and children. Apparently the recent violence created many single mother headed household and lots of orphans. During my recent fieldwork with them (February 2018), some refugees mentioned that although they have spent more than six months in Bangladesh now, in their subconscious mind the smoke of their burning villages, and the smell of those dead bodies still so fresh that they cannot not sleep or eat properly.

Bangladesh has minimal power to create pressure and negotiate with Myanmar. On November 23 2017, Bangladesh signed a Memorandum of Understanding (MOU) with Myanmar government over repatriation. To avoid responsibility, Bangladesh government identifies the Rohingya as “forcefully displaced people from Myanmar”, and not as “Rohingya” or “refugees”. Despite signing this agreement, Bangladesh government is not much bothered by the terms and conditions of the repatriation process, and/or by Rohingyas’ status in Myanmar. So long as Myanmar is taking its people back, Bangladesh government is fine with it. For Myanmar, this is the most it could do under international criticism and pressure to tell the world that it is working on the problem. But in reality, the terms and conditions of this new agreement of repatriation are the same as those of the 1990s repatriation deal – which was mostly a failed attempt – under which refugees need to prove through documentation that they are from the Rakhine state and they have to agree to repatriate on “temporary resident” status. Due to both countries’ lack of seriousness, it is not surprising that refugees continue to come to Bangladesh until today although in a lesser number. During the fieldwork, within one week (from 28 Jan to 03 February) a total of 453 refugees entered Bangladesh by sea.

In the meantime, an Amnesty International report suggests that Myanmar is further militarizing Rohingya villages and eradicating the evidence of their crimes against humanity by bulldozing Rohingya villages and replacing it by constructing military bases. Furthermore, there are about 5000 Rohingya who are currently trapped at the zero point (no man's land) borders between Bangladesh and Myanmar. Their lives are at risks and they are in urgent need for protection. A newspaper report, published on 01 March 2018, suggested that open gun fire sounds and announcements by the Myanmar military are at place to threaten the Rohingya to leave Myanmar. On the other hand, the Border Guard Bangladesh (BGB) is in alert position so that more refugees cannot enter into Bangladesh.

Voluntary Repatriation: Safety and Dignity

Within this complex situation, is it possible to have voluntary repatriation keeping the safety and dignity of the people? How can the Rohingya conceptualise dignity in the context of repatriation? In my recent fieldwork, I observed that Rohingya highlighted their demands clearly. On January 19 2018, Ms. Yanghee Lee, the UN special rapporteur on the human rights situation in Myanmar, visited refugee camps and settlements in Cox's Bazar. During her visit, the refugees from Balukhali camp submitted a letter to her listing their **13 demands** in the event of

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repatriation to Myanmar. These include **seven** important aspects under which the refugees agreed to return to their “own country” [Myanmar]. If:

1. “citizenship” and equal rights are given to the Rohingya;
2. the nationality card will be issued to them before repatriation;
3. the Myanmar government ensures improved law and order situation for all Rohingya;
4. the UN and ICC are involved in this repatriation process;
5. their original land in the Arakan (Rakhaine) state is returned to them;
6. ICC brings them justice against those gang-rape, killing, and destruction of properties; and
7. the UN fact finding missions and the investigation teams are allowed to investigate the details of August 2017 incidents.

Not being a signatory to the 1951 Refugee Convention and its 1967 protocol, Bangladesh can officially proceed with the repatriation process. However, any repatriation under current situation is bound to be a violation of the principle of *non-refoulement* policy of those relevant conventions that says that refugees should not be forced to return to their home country.

Solutions to Their Plights

The proposition of an “autonomous region” in the Rakhine state of Myanmar as a solution to Rohingya’s suffering is problematic for a number of reasons. We must understand that the Rohingya are not officially recognized within the list of 135 ethnic minorities. The government *first* needs to recognize the existence of the people within the boundaries of the state. Only then can this recognition be manifested in a range of national minority rights such as regional autonomy, official language status, land claims and so on. *Secondly*, unlike other ethnic minorities’ struggles around Myanmar’s borders, Rohingyas’ struggles have never been about an independent state or autonomous space. Their struggles for rights, recognition, and to return to their original land, are fundamentally struggles over political subjectivity, therefore, about equal citizenship. *Thirdly*, the terms and conditions of current repatriation agreement suggest that Myanmar’s government is not accepting the Rohingya with any valid status other than “temporary resident”. Therefore, once they return to Myanmar they would still be non-citizens. And for non-citizens to live in an autonomous space it will again function just like those ‘model villages’ from where the Rohingya were previously forcefully displaced. *Finally*, the conflict in the Rakhine state is not simply a communal violence between Buddhist and Muslims that might be addressed by making spaces and creating segregations to resolve it.

No permanent solution to the refugee crisis can be found until we go back to the root causes, and reflect on the circumstances that created this problem. Until we address the practices in Myanmar that transform citizens into non-citizens or create second-class citizens, the country will continue to create internally displaced population and forced migrants and refugees to other countries. Moreover, given the apparent failure of the UN Security Council to stop the bloodshed and the changing political trend in which the two regional big powers – China and India – support Myanmar because of their geo-strategic and other economic interests, an alternative solution to the Rohingya crisis perhaps could be the burden sharing proposal, promoted by the UNHCR. Distributing the total refugee population among various countries who would agree to take them and grant them permanent settlement could be an option. But, Rohingya’s third country resettlement is not an issue of negotiation between Bangladesh and Myanmar, because they have refused to accept the refugees as their own nationals and citizens. They cannot officially compel a third country to accept them. Yet, this is a tradition in practice, dependent only on the willingness of a third country. That is why the number of accepted Rohingya refugees in third countries so far has been very small. Yet, the government of Bangladesh should work with UNHCR to facilitate this option to lessen the current burden.

It is imperative at this stage to rethink whether “rewards and incentives” are good for a country like Myanmar which is recovering from the experience of nearly 50 years of military rule or “sanctions” are more effective and punitive to change behavior. International human rights organizations are requesting for fresh sanctions and arms embargo on Myanmar to stop immediate violence and persecution. The UN Security Council has an important role to play in it.

Note

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[1] The former Kutupalong camp is only 300 hectares (3 sq. km) of land. The rest are all new spontaneous sites (at Ghumdhum, Balukhali and Thingkhali) occupied by the new refugees, which is about 2000 acre (8 sq. km.) of land that is allocated by the Bangladesh government for new settlements. There is a proposed 25 kilometers two-lane road that runs through the middle of this mega refugee camp connecting the old and the new makeshift settlements. As of February 2018, the total population in this collective settlement site is about 600,000 people. The CIC of Kutupalong mentioned that RRRC, UNHCR and WFP jointly completed family counting by registering the refugees, but the number continues to change as more refugees are coming from Myanmar and some are from other hilly areas to these new settlements.

About the author:

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