

CGS PEACE REPORT

an initiative of BPO



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**Crime and Violence in
Bangladesh:
An analysis from BPO**

**Global Overview on
the Rohingya Crisis**

**Rohingya Influx:
Response and Initiative
of Bangladesh**

**Understanding the
Rohingya Crisis:
Micronarratives from
Cox's Bazar**

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From the Editor's Desk

This issue is dedicated to the plight of the stateless Rohingyas, particularly those who had fled Myanmar and are now sheltered temporarily in Bangladesh. Indeed, one does not require too much intelligence to understand the following sequence of events and the reasons behind the unfolding of the current Rohingya crisis. Four dates are critical. On 23 August 2017, the Advisory Commission on the Rakhine State (also known as the Kofi Annan Commission) submitted its final report to the Myanmar national authorities. On 24 August 2017, the media, at home and abroad, published the report in detail. On 25 August 2017, the so-called Arakan Rohingya Salvation Army (ARSA) attacked the Myanmar military forces. The very next day, on 26 August 2017, the Myanmar military resorted to what came to be referred to as “a textbook case of ethnic cleansing,” which in next three months saw more than 750,000 Rohingya people, mostly women and children, flee Myanmar to take refuge in Bangladesh. The unfolding of the crisis otherwise makes it clear that the issue is no longer limited to Myanmar and Bangladesh. Rather, it is an issue that is simultaneously national, regional, and international. Any resolution of the crisis, therefore, would require facing several challenges. Five could easily be identified.

Firstly, how and when will Myanmar overcome the anti-Rohingya sentiment? This relates to what I would call confronting the archetype of singularity, which is found in the practice of Theravada Buddhism with the increasing confluence of state and religion. The latter has contributed to hyper-nationalism and consequently intolerance bordering on racism on the part of Myanmar's Buddhist majority population. Needless to say, such an archetype is a radical departure from the core messages of Lord Buddha.

Secondly, how can Bangladesh balance the humanitarian gesture with the burden of sheltering the refugees? Bangladesh is practically hosting a population larger than Bhutan, but more importantly the latter took thousands of years to emerge whereas the ‘Bhutan in Bangladesh’ came into being in just three months! No doubt, the Government of Bangladesh and hundreds of humanitarian workers now toiling restlessly in the Rohingya camps deserve credit for managing the refugees thus far, but Bangladesh, given its land-population ratio and economic condition, cannot sustain this extraordinary humanitarian gesture for long.

Thirdly, will protracted refugeehood create conditions of insecurity for Bangladesh and the region? The experience of the last two big Rohingya exoduses in the mid-1970s and 1990s shows no threat of radicalization. Yet, the alarmists keep telling the world the danger of Rohingya radicalism. Indeed, in the age of globalization and the ‘war on terrorism,’ alarmism sells well, but in this case the alarmists, naively if not purposefully,

end up giving credence to the Myanmar military's narratives. This is precisely the reason why alarmism at this stage is so counter-productive. Moreover, Bangladesh Peace Observatory (BPO) has been mapping violence in the refugee camps for over a month now, and one can see that the level of violence in the camps, if we were to compare, is much, much less than New York!

Fourthly, what role will the regional actors, particularly India and China, play to diffuse the crisis? Whatever may be the role of the regional actors, including China and India, this is the best time for Bangladesh to put into practice its well-known foreign policy doctrine: "Friends towards all, malice towards none." The success of diplomacy lies in dealing with the non-conformists and turning deficit into surplus. It is time that our Prime Minister makes a trip to Beijing and Delhi, and make an effort to materialise Vladimir Putin's trip to Dhaka as well! Perception matters in diplomacy, more so in getting constant attention of the international media. We are, after all, in the era of iWar or virtual war, where getting ignored virtually is as bad as giving free space to the adversary. Aung San Suu Kyi's 'lucrative Myanmar' diplomacy must be countered by honest, just, and humanitarian diplomacy.

Finally, will the international community, including the UN, continue to remain active and take up the issue of 'ethnic cleansing' in line with the international legal instruments? This mainly relates to the task of ensuring international responsibility. The exodus of the Rohingyas this time, as indicated earlier, is different from the mid-1970s and 1990s. The international community has already taken cognizance of the violence that took place in the Arakan, and called it either 'ethnic cleansing' or 'crime against humanity' or 'genocide.' Also, reference has been made to the Myanmar government failing in R2P (responsibility to protect). If nothing is done on this issue, it will create space for irresponsibility, not only in this region but also around the world.

China has already floated a three-point plan, which is, cease-fire; repatriation; and tackling the root causes of the conflict, albeit through development of the Arakan region. In fact, China's three point-point plan is not so different from the Kofi Annan Commission report and Prime Minister Sheikh Hasina's five-point plan outlined at the UN General Assembly in New York in September 2017. There is, therefore, a growing consensus as to how the crisis ought to be resolved. Since the Rohingyas have no territorial claims, what is required is Myanmar providing them equal rights and citizenship. To begin this process, Myanmar first needs to enact fresh laws or bills, either in the parliament or through presidential proclamation, which will create confidence amongst the Rohingyas to return and settle in Myanmar.

As indicated earlier, this is not simply a Bangladesh-Myanmar issue. Rather, it is an international issue, an issue of norms and values, rules and regulations, decency and civility, an issue of being civilized. Indeed, an issue of being human, how to ensure justice to a population in a dire situation, a population who have lost everything, even to dream and live a life with dignity!

Imtiaz Ahmed
Director, CGS

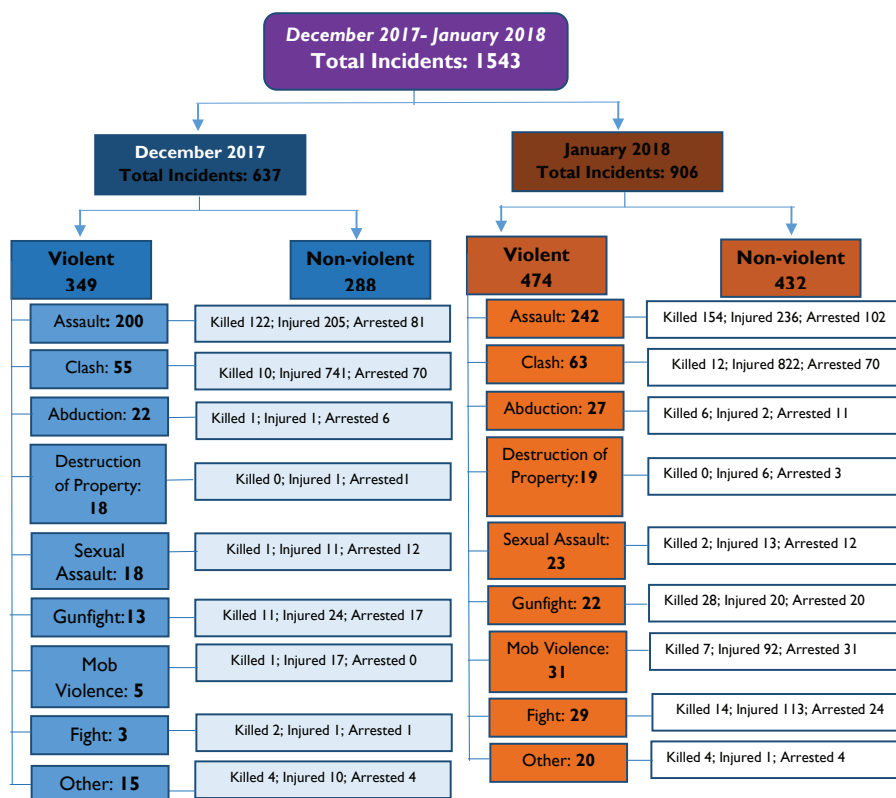
Crime and Violence in Bangladesh: An Analysis from BPO

Part A: Violence Update: (December 2017- January 2018)

The Bangladesh Peace Observatory (BPO) records a wide range of violence using news reports from prominent national dailies. From December 2017 to January 2018, BPO recorded 1543 violent¹ and

non-violent² incidents all over the country. Below the figure 1 segregates these incidents into certain general categories by type of violence.

Figure 1: An Overview of Incidents (December 2017- January 2018)



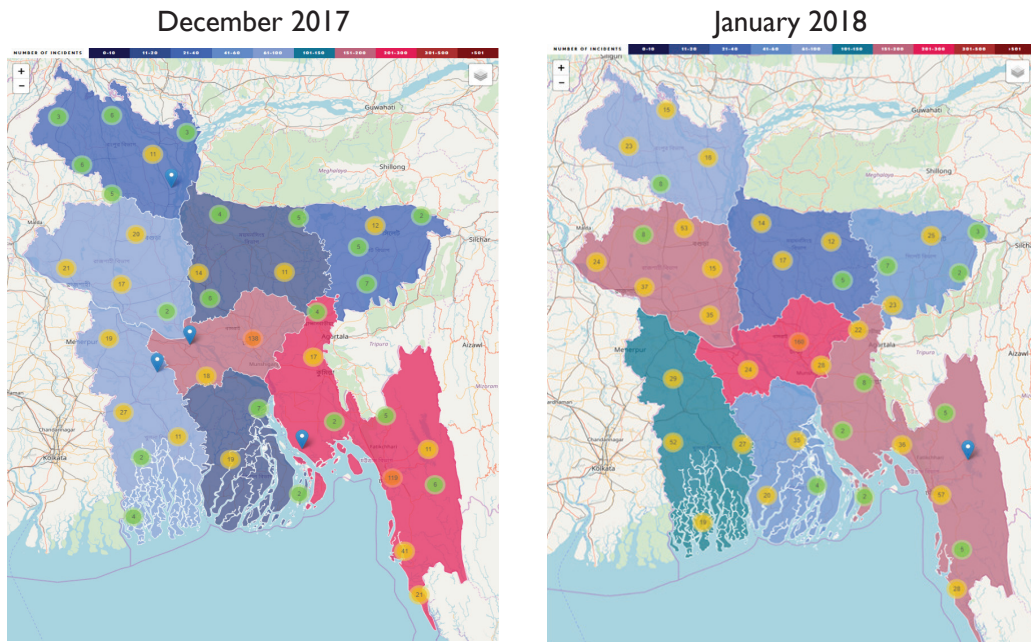
¹ Violent Incident: According to BPO Codebook: The reported incident involved the intentional use of physical force by an individual or group against another individual or group, in a way that resulted or could have resulted in death, injury or any other form of physical harm to persons or property.

² Non-violent Incident: According to BPO Codebook: The reported incident did not involve the intentional use of physical force by an individual or group against another individual or group, in a way that resulted or could have resulted in death, injury or any other form of physical harm to persons or property, e.g. Arrest, Peaceful Protest, Rescue and Recovery.

Figure 2 shows the comparative prevalence of these incidents' distribution and concentration into clusters across Bangladesh. A total of 20 green spots³, 16 yellow spots⁴ and two red spots⁵ in December 2017 and 12 green spots, 25 yellow spots and one red spot in January 2018 are identifiable through these maps.

The prevalence distribution suggests that, even though in December 2017 two red spots were located, but the increased number of yellow spots in January 2018 surpasses December 2017 by incident count. Also, January 2018 shows denser clusters with higher number of incidents than December 2017.

Figure 2: BPO Cluster Maps



³ Spots with 2-10 incidents

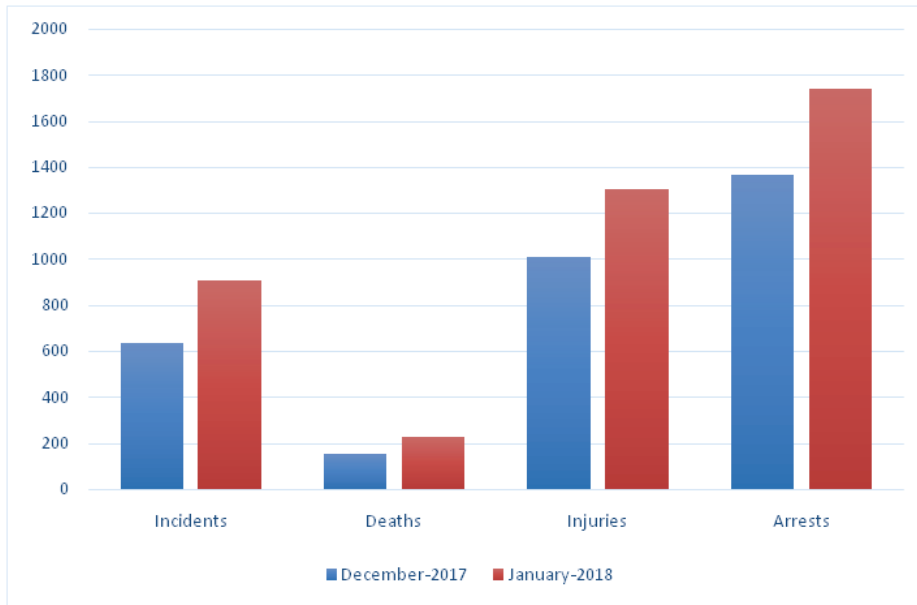
⁴ Spots with 10-99 incidents

⁵ Spots with 100+ incidents

A simpler analysis of figure 3 substantiates the cluster map data and makes clear distinction between December 2017 and January 2018. With a gap of 269 incidents,

the first month of the new year of 2018 ends with 75 more deaths, 294 more injuries and 374 more arrests than the previous month.

Figure 3: Comparative Analysis of Incidents (December 2017- January 2018)



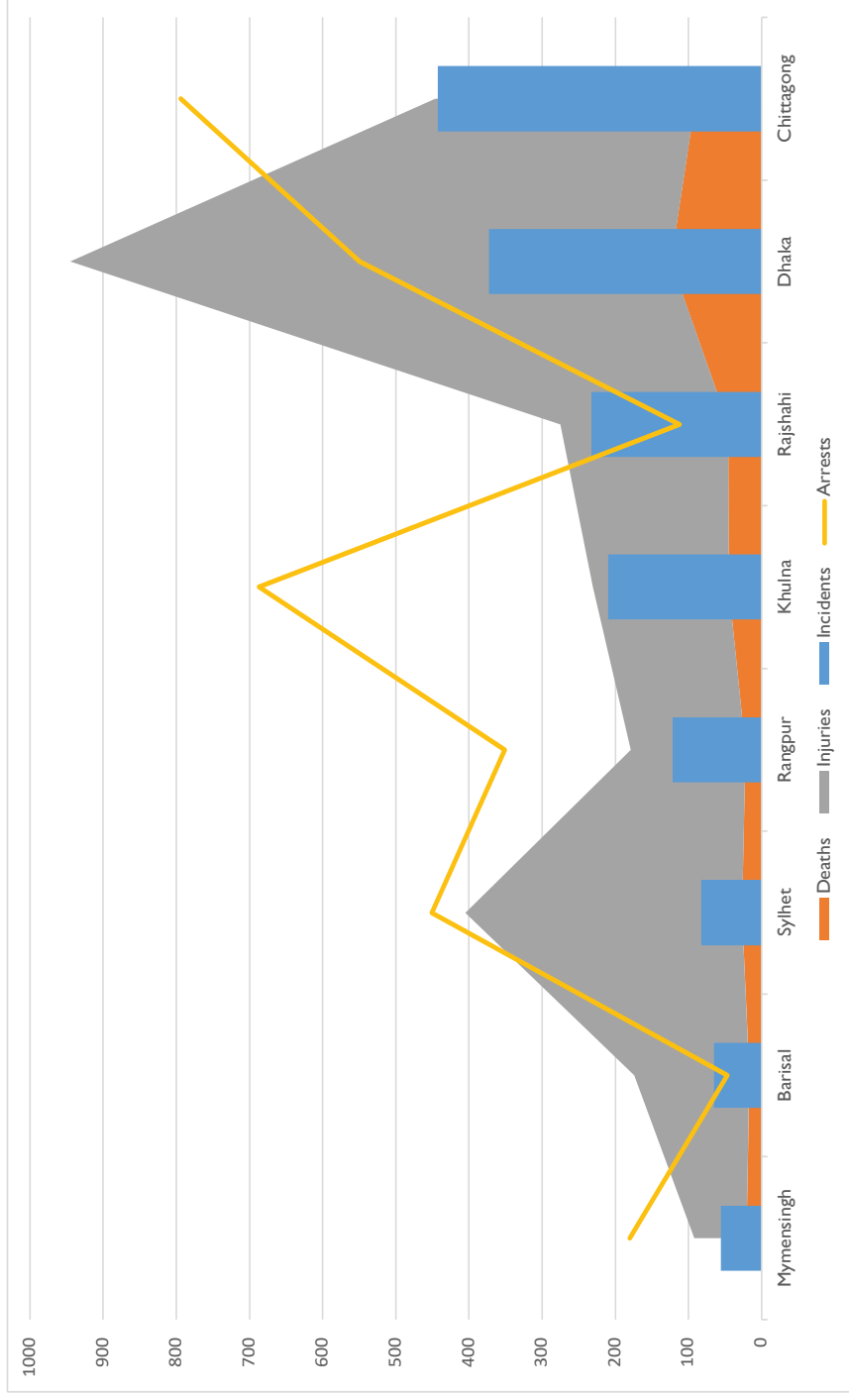
Again, a divisional distribution of these bi-monthly incidents as in figure 4 indicates Chittagong at the top in terms of incident and arrest. According to BPO data, 222 out of 443 recorded incidents in Chittagong were of arrests where 794 people were arrested. In case of Dhaka division, 132 out of 373 recorded incidents were of arrests where 550 people were arrested. Surprisingly, Khulna division which is placed fourth by incident prevalence has the second highest recorded number of arrests. 119 out of 210 of recorded incidents in Khulna were of arrests where 687 people were arrested. Special drives of law enforcement agencies against

drug peddling and anti-terrorism has contributed to this increase of arrests for these particular divisions. A comparative analysis of data of Dhaka division places it second in terms of incident prevalence and third in terms of arrest. But this division again tops in death and injury count which were mostly by assault over personal issues, political feuds and sexual assault. With 83 reported incidents, which is the fifth lowest number of incidents among all divisions, Sylhet appears second in injury count. While in the previous bi-monthly divisional data (October 2017- November 2017), Sylhet division had the second lowest number

of injuries (74). But this time, the same division was placed in the second highest due to injuries. A total of 378 people were injured in 30 violent incidents out of 55 reported incidents of violence. It is notable that due to only six land related clashes, the number of injured persons was 223 out of a total of 378 recorded injuries. Besides, seven incidents of

clash occurred due to political rivalry and social tensions in which 106 people were injured, which also contributed to the increased number of injuries. As a consequence of the above factors, as recorded by BPO, a shift of divisional prevalence of violence is noticeable here than the previous months.

Figure 4: Bi-monthly Divisional Distribution of Incidents (December 2017- January 2018)



Along with the divisional shifts of incident and consequences, over months, the numbers of incidents also change by their prevalence. Table I shows six most frequent types of incidents which took place in December 2017 and January 2018. The table below illustrates that, while the position of the first three categories remain constant; the number of occurrence have increased: 142 more incidents of arrests, 40 more assaults and eight more clashes during January 2018 than December 2017. A total of 1176 people were arrested in 288 recorded incidents in December 2017 while a total of 1465 people were arrested in

430 recorded incidents in January 2018. Apart from the top three, only abduction/ hostage/ missing is common as an incident of higher frequency. Interestingly, although sixth in position, still the number of incidents of abduction/ hostage/ missing are higher in January 2018 than December 2017. While in December 2017 only one incident of fishermen abduction by pirates were recorded, in January 2018 seven similar incidents were recorded where 38 fishermen were abducted by pirates in the Sundarbans. With these different episodes, BPO continues to explore dimensions of peace and violence in Bangladesh through data insights.

Table I: Top Six Incidents (December 2017- January 2018)

Top 6 Incidents in December 2017		Top 6 Incidents in January 2018	
Types of Violence	Total Number of Incidents	Types of Violence	Total Number of Incidents
Arrest	288	Arrest	430
Assault	200	Assault	240
Clash	55	Clash	63
Abduction/ hostage/ missing	22	Mob violence (large group assault)	31
Sexual assault	18	Fight	29
Destruction of property	18	Abduction/ hostage/ missing	27

Part B: Incidents Recorded by BPO on the Rohingya Refugees in Bangladesh

BPO recorded a total of 39 incidents related to Rohingya refugees in Bangladesh from January 2017 to January 2018. Among these recorded incidents, ten were violent and 29 were non-violent. The table below (table 2) indicates the violent incidents where Rohingyas were subject to violence like abduction/ assault or for reasons where drug peddling, internal feuds and mob violence were prominent. As a consequence of these, both the Rohingyas and the Bangladeshi nationals became victims of violence. The highest death and injury count was recorded in assault incidents but only two were arrested in connection with one of these targeted attacks. For example, a Rohingya Muazzin⁶ was killed in Balukhali Camp by unidentified miscreants in January 2018. According to the report, locals alleged that this was the third murder in a row

of people who were openly in favor of repatriation. A case was filed by his family and police arrested two persons in this connection.⁷ In one incident, a Rohingya man hacked a Bangladeshi man for having an extramarital affair with his female relative. Based on an allegation that a camp had been attacked by robbers, the Rohingya inmates of the camp in an act of mob violence attacked and critically injured five Bangladeshi workers.⁸ Social unrest, uncertainty, and tensions prevailing due to the refugee influx may be attributed as factors for the above cases of violence. On the other hand, in the same month, local Forest Department chased a number of Rohingyas away in which ten Rohingyas injured. Their Sheds numbering about 200 were brought down as those were built in the reserved forest areas in Kutupalang, Ukha.⁹

Table 2: Violent Incidents related to the Rohingya refugees in Bangladesh (January 2017-January 2018)

Violent Types	Number of Incident	Death	Injury	Arrest	Abducted	Reason
Abduction/ Missing	2	0	0	0	3	a)Alleged abduction by Detective Branch of Police impersonators b) Missing due to unknown reason
Assault	6	4	15	2	0	a)Internal tension among Rohingyas inside the camps b) Host government's eviction drive c) Other social issues
Clash	1	1	5	1	0	a)Position and influence inside camp
Gunfight	1	1	4	4	0	a)Gunfight between BGB and Rohingya drug peddlers.
Total	10	6	24	7	3	

⁶ The Muslim official of a mosque who summons the faithful to prayer from a minaret five times a day.

⁷ The Daily Purbakone (Epaper) (2018). Accessed: 5 March 2018. Available at: http://www.edainikpurbokone.net/content/2018/2018-01-23/zoom_view/12i.jpg, http://www.edainikpurbokone.net/content/2018/2018-01-23/zoom_view/9e.jpg

⁸ The Daily Ittefaq (Epaper) (2017). Accessed: 5 March 2018. Available at: http://epaper.ittefaq.com.bd/2017/10/29/images/23_105.jpg

⁹ The Daily New Age (Epaper) (2017). Accessed: 5 March 2018. Available at: <http://epaper.newagebd.net/detail/22111/6741>

There were two cases of abduction where Rohingyas were targeted. In November 2017, a Rohingya leader¹⁰ was allegedly picked up while travelling in a bus and he had been missing since then. The bus staffs alleged that, a group of people forcibly took him away.¹¹ In December 2017, two Rohingya brothers were picked up from their camp by the Detective Branch of Police (DB) impersonators.¹² Two major violent incidents were also recorded by BPO. A major clash took place at Kutu Palong camp between two groups of Rohingyas in January, 2018. A leader (majhi)¹³ was killed in this clash. This incident occurred due to contests over power and influence. This also left five others injured, including the brother of the victim.¹⁴ Much before that, in April 2017, a gunfight between Border Guard Bangladesh (BGB) and a group of Rohingya drug peddlers left one Rohingya woman dead and four Rohingyas injured.¹⁵ They were captured with large Yaba consignment and prosecuted in Bangladesh.

Apart from the violent incidents, 29 non-violent incidents were recorded by BPO which involved the Rohingya refugees. These incidents consisted of trespassing of Rohingyas outside their camps, trespassing by other nationals into Rohingya camps, drugs and arms possession by Rohingyas, rescue of Rohingyas from human traffickers by law enforcement agencies and other factors, as mentioned in table 3. A number of Bangladeshi people have also been arrested for their involvement in incidents which included Rohingya trafficking and aiding drug peddling. Among the arrestees, the mastermind behind the Ansar camp attack¹⁶ in May 2016 was caught in Kutu Palong Rohingya camp with looted arms in February 2017. He was a Rohingya living in Teknaf Rohingya camp.¹⁷ Also, two Bangladesh Nationalist Party (BNP) leaders were arrested for organizing a rally to preserve the rights of the Rohingya population. Also, a personnel of Border Security Force (BSF) of India was detained while trying to push Rohingyas into Bangladesh via Meherpur

¹⁰ Known as Mohamed Kalim, according to the Asian Human Rights Commission, he headed the Bangladesh chapter of London-based Arakan Rohingya National Organization.

¹¹ The Daily New Age (Epaper) (2017). Accessed: 5 March 2018. Available at: <http://epaper.newagebd.net/22-11-2017/4>

¹² The Daily Ittefaq (Epaper) (2018). Accessed: 5 March 2018. Available at: http://epaper.ittefaq.com.bd/2018/01/11/images/06_102.jpg

¹³ Rohingya Camp Leader

¹⁴ The Daily Ittefaq (Epaper) (2018). Accessed: 5 March 2018. Available at: http://epaper.ittefaq.com.bd/2018/01/14/images/27_110.jpg, http://epaper.ittefaq.com.bd/2018/01/14/images/02_103.jpg

¹⁵ The Daily New Age (Epaper) (2017). Accessed: 5 March 2018. Available at: http://epaper.newagebd.net/images/14_04_2017/regular_250_07_news_1492106022.jpg, http://epaper.newagebd.net/images/14_04_2017/regular_250_08_news_1492106254.jpg

¹⁶ On 13 May 2016, a group of robbers attacked an Ansar camp, looted arms, and shot an Ansar man to death at a Rohingya refugee camp in Teknaf upazila of Cox's Bazar district. Looting the firearms, they escaped in the jungle of the hilly area.

¹⁷ The Daily Ittefaq (Epaper) (2017). Accessed: 5 March 2018. Available at: http://epaper.ittefaq.com.bd/2017/03/02/images/19_109.jpg

border in November 2017.^{18, 19} Apart from arrests, in two different incidents, Rapid Action Battalion (RAB) rescued three Rohingya women along with a child

from being trafficked. They also arrested four Bangladeshi for their involvement into these trafficking.²⁰

Table 3: Involvement of the Rohingya and the Non-Rohingya People in Non-violent Incidents Related to the Rohingya Refugees (January 2017-January 2018)

Reason	Incident	Arrested: Rohingya	Arrested: Non-Rohingya
Trespassing	14	46	86
Arrest for Drug Peddling	6	17	4
Arrest for Arms Possession	2	4	0
Arrest for Drug Peddling and Arms Possession	1	3	0
Accused Criminal Arrest (Robbery/ Hijacking etc)	3	4	0
Human Trafficking (Rescue)	2	4	4
Protest	1	0	2
Grand total	29	78	96

Trespassing tops in terms of incident prevalence and arrest of both Rohingya and non-Rohingya people. In 14 incidents, a total of 132 people were arrested for trespassing. In one incident, police arrested 51 suspects who were roaming around the Rohingya camp at night in Ukhia, Cox's Bazar though later they were released.²¹ Similarly, four Turkish nationals were detained with drone

from the Ukhia Rohingya camp and were later released.²² A number of Rohingyas were arrested from different parts of Bangladesh allegedly for trespassing. The following table (table 4) shows the spatial distribution and the map (map 1) indicates the geographical location of all the incidents including prevalence of trespassing.

¹⁸ The Daily Ittefaq (Epaper) (2017). Accessed: 5 March 2018. Available at: http://epaper.ittefaq.com.bd/2017/09/09/images/13_104.jpg

¹⁹ The Daily Ittefaq (Epaper) (2017). Accessed: 5 March 2018. Available at: http://epaper.ittefaq.com.bd/2017/11/11/images/02_110.jpg

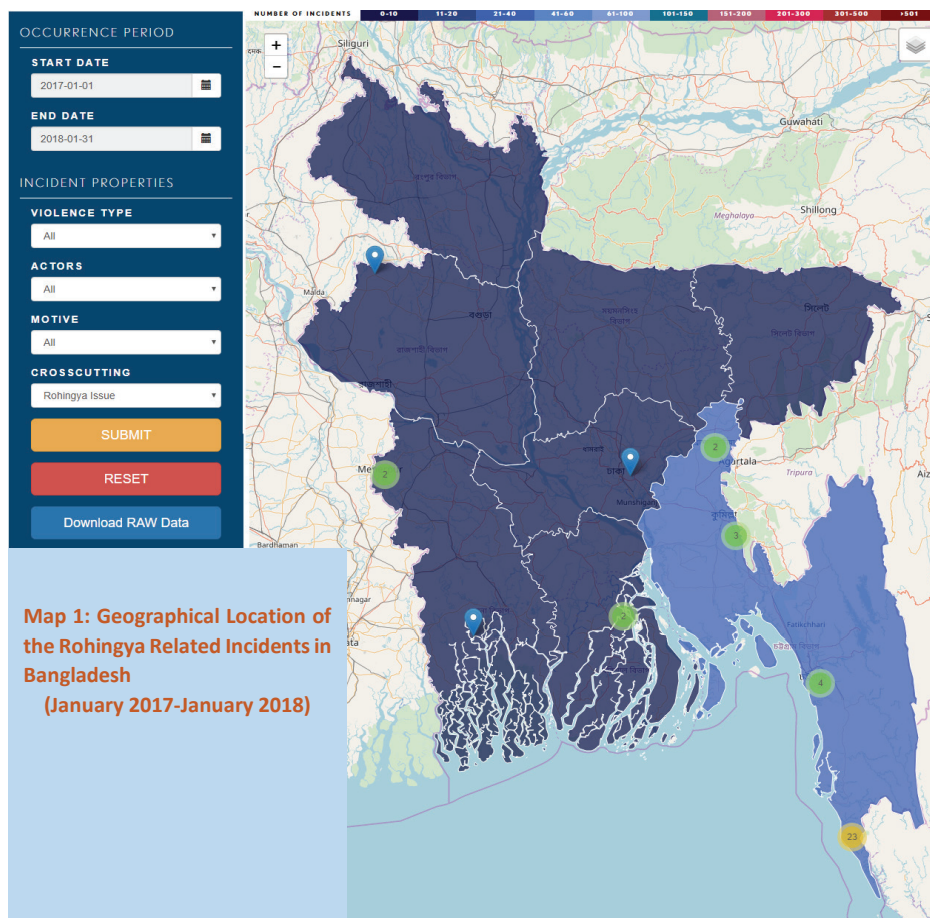
²⁰ The Daily Purbakone (Epaper) (2017). Accessed: 5 March 2018. Available at: http://www.edainikpurbokone.net/content/2017/2017-12-02/zoom_view/12j.jpg, http://www.edainikpurbokone.net/content/2017/2017-12-02/zoom_view/9e.jpg

²¹ The Daily Purbakone (Epaper) (2017). Accessed: 5 March 2018. Available at: http://www.edainikpurbokone.net/content/2017/2017-12-06/zoom_view/5b.jpg

²² The Daily Purbakone (Epaper) (2017). Accessed: 5 March 2018. Available at: http://www.edainikpurbokone.net/content/2017/2017-12-08/zoom_view/5i.jpg

Table 4: Spatial Distribution of the Rohingya Related Incidents in Bangladesh (January 2017-January 2018)

Division	District	Incidents	Total
Chittagong	Brahmanbaria	2	32
	Comilla	3	
	Chittagong	4	
	Cox's Bazar	23	
Khulna	Khulna	1	3
	Meherpur	2	
Barisal	Barisal	2	2
Dhaka	Dhaka	1	1
Rajshahi	Naogaon	1	1
			Total 39



From January 2017 to January 2018, a total of 32 out of 39 reported incidents took place in the Chittagong division, and 23 out of those incidents had taken place in the Cox's Bazar district. Since the Rohingyas entered into Bangladesh through the Cox's Bazar district of the Chittagong division, Therefore it is no surprise that major incidents have been reported from there. However the table and map also suggests that incidents have now spread into other divisions like Khulna, Barisal, Dhaka and Rajshahi. In one incident, six members of a Rohingya family were arrested in Khulna when they were entering into Bangladesh from India

to go to the Rohingya camps. In another incident, police arrested two Rohingyas from Barisal. Similarly, the BGB detained ten Rohingyas from a bus in Naogaon, Rajshahi. Two reported rescue incidents of trafficked Rohingyas took place in Demra, Dhaka and Ukhia, Cox's Bazar. In both cases the Mobile Court sentenced the traffickers; and the rescued Rohingyas were sent back to camp in Cox's Bazar. The above suggests that the Rohingya influx has created a tense situation but what is notable is that despite the big influx the conflict levels have been kept at a low and manageable level.

Global Overview on the Rohingya Crisis

According to the United Nations (UN), the plight of hundreds of thousands of Rohingya refugees is the world's fastest-growing refugee crisis. Since the 1970s, Rohingyas have migrated across the region in significant numbers. Estimates of their numbers are often much higher than official figures. The UN described the military offensive in Rakhine, which provoked the exodus, as a "textbook example of ethnic cleansing". Rohingyas arriving in Cox's Bazar say they fled after troops, backed by local Buddhist mobs, responded by burning their villages and attacking and killing civilians.²³ According to the International Organization of

Migration (IOM), since 25 August 2017 when the violence broke out over 500,000 Rohingyas crossed border into Cox's Bazar joining some 300,000 Rohingya refugees who had fled in earlier waves of displacement.²⁴ The total number of Rohingya refugees now stands at 1.2 million, more than the population of Bhutan! Moreover, it is no longer a bilateral issue between Bangladesh and Myanmar, but a global issue. A global view of the issue, therefore, is not only critical but also necessary to understand the phenomenon in order to draw a conclusive resolution of the crisis.

Global Spread of the Rohingya Refugees

Since the 1970s, Rohingyas were making perilous journeys out of Myanmar to escape communal violence and alleged abuses by the security forces. It is estimated that more than two million Rohingyas have crossed border and took refuge in Bangladesh, Saudi Arabia, Pakistan, India, Thailand, Malaysia and Indonesia.

Till 2 February 2018, a total of 822,700 Rohingya refugees got registered in two

refugee camps and eight expansion sites in Cox's Bazar.²⁵ Apart from Bangladesh, Saudi Arabia hosted half a million Rohingya refugees. According to The Guardian, the recent Rohingya refugees in Saudi Arabia are kept in prisons in Mecca and Jeddah and awaiting deportation.²⁶ On the other hand, around 350,000 Rohingyas fled to Pakistan. The Rohingya Muslims in Karachi have now obtained Pakistani citizenship. A report on human trafficking stated that Burmese people

²³ BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

²⁴ International Organization for Migration (n.d.). Country Profile: Bangladesh. Accessed: 10 March 2018. Available at: <https://www.iom.int/countries/bangladesh>

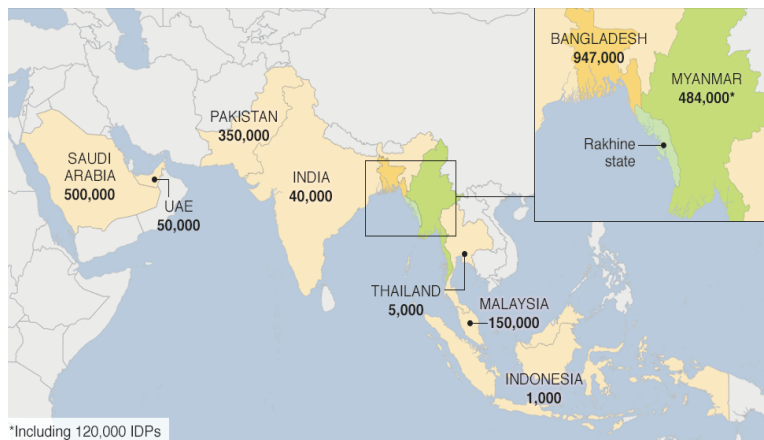
²⁵ ibid

²⁶ The Guardian (2009). Burma's exiled Muslims: Syed Neaz Ahmad. Accessed: 10 March 2018. Available at: <https://www.theguardian.com/commentisfree/2009/oct/12/burma-muslims-rohingya-saudi-prisons>

make up fourteen percent of Karachi's undocumented immigrants.^{27, 28} UNHCR registered 60,000 Rohingya refugees in Malaysia.²⁹ And, it is estimated that there are around 90,000³⁰ unregistered Rohingya refugees in Malaysia. In September 2017, Zulkifli Abu Bakar, the Director- General of the Malaysian Maritime Enforcement Agency said that those fleeing violence in Myanmar would not be turned away, and that they would be provided temporary shelter.³¹

According to the data from the Arakan project, (Figure 5) by October 2017, around 40,000 Rohingyas sought refuge in India. They are residing in different cities, and, according to the Indian government they are awaiting deportation. Thailand and Indonesia also hosted around 6,000 Rohingya refugees. Besides, more than 500 Rohingyas took asylum in Canada, Nepal, Sri Lanka and Ireland. Moreover, about half a million Rohingyas got internally displaced in Myanmar.^{32, 33}

Figure 5: Spread of the Rohingyas Inside and Outside Myanmar



Source: The Arakan Project (October 2017) (BBC)

²⁷ Burmalibrary.org (2003). SRI On-Site Action Alert: Rohingya Refugees of Burma and UNHCR's Repatriation Program. Accessed: 10 March 2018. Available at: <http://www.burmalibrary.org/docs/SRI-rohingya.htm>

²⁸ The Dawn (2015). Identity Issue Haunts Karachi's Rohingya Population: Zia Ur Rehman. Accessed: 10 March 2018. Available at: <https://www.dawn.com/news/1165299>

²⁹ CNN (2018). Rohingya refugees find uneasy solace in Malaysia: Kok Xing Hui. Accessed: 10 March 2018. Available at: <https://edition.cnn.com/2018/02/24/asia/malaysia-rohingyarefugee-school-intl/index.html>

³⁰ BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

³¹ Dailymail (2017). Malaysia Ready to Provide Temporary Shelter for Rohingya Fleeing Violence. Accessed: 10

March 2018. Available at: <http://www.dailymail.co.uk/wires/reuters/article-4864382/Malaysia-ready-provide-temporary-shelter-Rohingya-fleeing-violence.html>

³² BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

³³ According to another source (Al Jazeera), since the late 1970s, nearly one million Rohingyas have fled Myanmar due to widespread persecution. Estimating from own sources along with data from aid agencies till September 2017, the number of Al Jazeera varies in case of Saudi Arabia (200,000), UAE (10,000), Bangladesh (625,000), Myanmar (1,000,000) and IDP (140,000). Accessed: 10 March 2018. Available at: <https://pbs.twimg.com/media/DJYnLitXUAY6O7I.jpg>

Rohingyas: A Life in Statelessness

"Citizenship is man's basic right, for it is nothing less than the right to have rights. Remove this priceless possession and there remains a stateless person, disgraced and degraded in the eyes of his countrymen."

– Earl Warren, 14th Chief Justice of the United States (1953-1969)

The Rohingyas are often described as “the world’s most persecuted minority”. To know about the statelessness of Rohingyas, a historical overview is necessary. There is a culture of denial among the Myanmar authorities on the citizenship of the Rohingya people living in the Rakhine state. The ruling authority recognized only eight major communities as their nationals along with 135 ethnic communities. They are Burman, Shan, Kachin, Karen, Kayah, Mon, Chin, and Rakhaing.³⁴ Ethnic Rohingyas have lived in Rakhine (former Arakan) for centuries, even before Islam arrived in the region at the end of the 8th Century.³⁵ Though the majority of the Rohingyas are Muslims but one finds a few Hindus also among them. They are mainly Muslim by religion but there are a few Hindus also among the Rohingyas. Between 9th - 14th century they came into contact with Islam through Arab traders.³⁶ In 1784 the Burman King

Bodawpaya conquered Arakan and hundreds of thousands of refugees fled to Bengal.³⁷ Between 1824-1942, Britain occupied Burma (now known as Myanmar) and made it a province of British India. Workers were taken to Burma from other parts of British India for infrastructure works. This started a process of Rohingyas returning to their own land in Rakhine.³⁸

However, the major problem arose shortly after the independence of Burma from the British in 1948. Then the 1948 Union Citizenship Act was passed in which the Rohingya people were not included as citizens. The Act, however, did allow those whose families had lived in Myanmar for at least two generations to apply for identity cards. Rohingyas were initially given such identification or even citizenship under the generational provision.³⁹ During this time, few Rohingyas

³⁴ Dr Mohammad Yunus (1994). A History of Arakan, Past and Present. Accessed: 8 March 2018. Available at: <http://www.netipr.org/policy/downloads/19940101-Dr-Yunus-History-Of-Arakan.pdf>

³⁵ Kei Nemoto (1991). The Rohingya Issue: A Thorny Obstacle between Burma (Myanmar) and Bangladesh.” Accessed: 10 March 2018. Available at: http://www.burmalibrary.org/docs14/Kei_Nemoto-Rohingya.pdf.

³⁶ Moshe Yegar (1972). The Muslims of Burma, A study of a Minority Group, p. 25. Accessed: 10 March 2018. Available at: <http://www.netipr.org/policy/downloads/19720101-Muslims-Of-Burma-by-Moshe-Yegar.pdf>

³⁷ The Daily Dhaka Tribune (Online) (2017). Timeline: Who are the Rohingya? Accessed: 10 March 2018. Available at: <http://www.dhakatribune.com/world/southasia/2017/08/28/timeline-who-are-the-rohingya/>

³⁸ Dr Mohammad Yunus (1994). A History of Arakan, Past and Present. Accessed: 8 March 2018. Available at: <http://www.netipr.org/policy/downloads/19940101-Dr-Yunus-History-Of-Arakan.pdf>

³⁹ Human Rights Watch (2012). The Government Could Have Stopped This: Sectarian Violence and Ensuing Abuses in Burma’s Arakan State. Accessed: 8 March 2018. Available at: <http://www.hrw.org/reports/2012/08/01/government-couldhave-stopped>

also served in parliament. But after the 1962 military coup in Myanmar, things changed dramatically for the Rohingyas. All citizens were required to obtain national registration cards. The Rohingyas, however, were only given foreign identity cards, which limited the jobs and educational opportunities they could pursue.⁴⁰

The 1982 Citizenship Law of Burma redefined people who migrated during the British rule as illegal immigrants. The government applied this to all Rohingyas. Under the 1982 Citizenship Law, Rohingyas were declared “non-national” or “foreign residents.” This law designated three categories of citizens: (1) full citizens, (2) associate citizens, and (3) naturalized citizens.⁴¹

None of the categories applies to the Rohingyas. To obtain basic level of citizenship they have to prove that their family lived in Myanmar before 1948. Besides they have to be fluent in one of the national languages. Many Rohingyas lack such paperwork because it was either unavailable or denied to them.

As a result of the law, their rights to study, work, travel, marry, practice their religion and access health services have been and continue to be restricted. The Rohingyas cannot vote, and even if they navigate the citizenship test, they must identify as “naturalized” as opposed to Rohingya. Consequently, a number of crackdowns on the Rohingyas in Rakhine State have forced hundreds of thousands to flee to neighboring Bangladesh, Malaysia, Thailand and other countries over time. During such crackdowns, Rohingya refugees have often reported rape, torture, arson and murder by Myanmar security forces.

⁴⁰ Al Jazeera (2017). UN: Rohingya in Bangladesh Need ‘Massive’ Assistance. Accessed: 8 March 2018. Available at: <https://www.aljazeera.com/news/2017/09/rohingya-bangladesh-massive-assistance-170924110654841.html>

⁴¹ The Wall Street Journal (2016). Timeline: A Short History of Myanmar’s Rohingya Minority: Syed Zain Al-Mahmood. Accessed: 8 March 2018. Available at: <https://blogs.wsj.com/indiarealtime/2016/12/23/time-line-ashort-history-of-myanmars-rohingya-minority/>

Types of Violence Faced by the Rohingyas in Myanmar

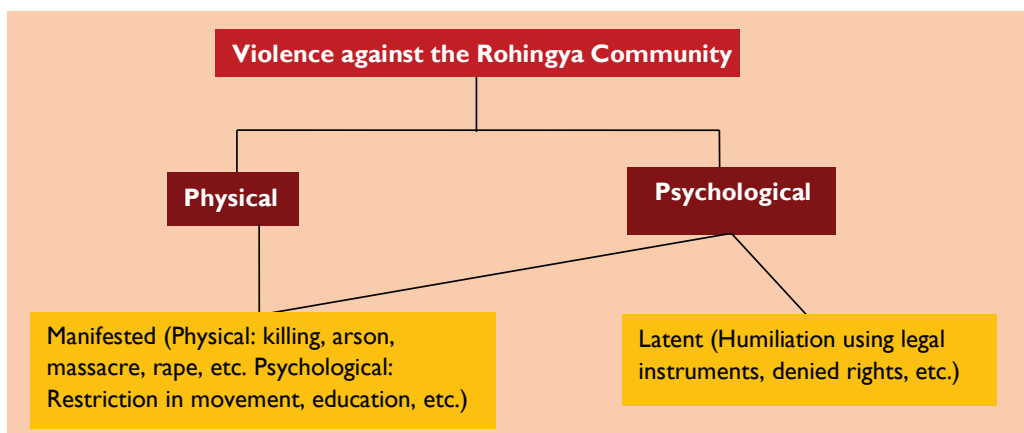
The Rohingya community has been subjected to state-sponsored violence by Myanmar authority from the time of its independence in 1948 but more systematically following the military takeover of the country in 1962. The 1982 Burma Citizenship Law denied the group citizenship rights in Myanmar, which resulted in the creation of the single largest stateless community - 'the Rohingyas' - in the world. They also got labelled as the most unwanted people in the world.

The Rohingyas in Myanmar faced both physical and psychological violence. Physical violence that Myanmar authority inflict upon the Rohingyas include judicial killing, arbitrary arrest and extortion,

confiscation of properties, raping of women, burning houses and shops, killing by arson attack and forced labor⁴². For example, Rohingya refugees in Bangladesh narrated to the Human Rights Watch that Myanmar security forces had carried out armed attacks, and burned down their homes.⁴³ In addition, they beheaded men, raped women and murdered children.⁴⁴ Psychological violence against the Rohingyas include restriction on movement, restriction on marriage, restriction on education, restriction on religious activities, and denial of citizenship along with intentional humiliation.

The violence situation in Myanmar against the Rohingyas can be explained through the diagram below (figure 6):

Figure 6: Violence against the Rohingyas in Myanmar



⁴² Rohingya Society in Malaysia (n.d.). Safe Rohingya From Brutality & Genocide. Accessed: 5 March 2018. Available at: <http://rohingyasocietyinmalaysia.org/>

⁴³ Human Rights Watch (2017). Burma: Rohingya Describe Military Atrocities. Accessed: 5 March 2018. Available at: <https://www.hrw.org/news/2017/09/08/burma-rohingyade-scribe-military-atrocities>

⁴⁴ The Wire (n.d.). Available at: <https://thewire.in/186489/rohingya-refugee-women-storiesunspeakable-violence/>

Professor William Schabas of Middlesex University (UK) said he has “no doubt” what is occurring to the Rohingyas constitutes a crime against humanity.⁴⁵ UN Special Rapporteur on Myanmar has already recommended the establishment

of “special documentation structure to collect, map and preserve evidence of serious crimes.” Such a task is urgent following the recent discovery of mass grave of ten Rohingyas in the Arakan.

Global Responses to the Rohingya Crisis

There has been widespread condemnation of the Myanmar government’s actions but talks of sanctions have been more muted.⁴⁶ The global responses on Rohingya crisis are as follows:

The United Nations formed an advisory commission on western Myanmar’s divided Rakhine state led by former United Nations chief Kofi Annan. The commission called for reviews of the country’s Citizenship Law and an end to restrictions on its Rohingya Muslim minority to prevent further violence in the beleaguered region.⁴⁷ The UN Security Council (UNSC) appealed to Myanmar to stop the violence but no sanctions have been imposed. The UN’s Human Rights chief Zeid Ra’ad al-Husseini has said an act

of genocide against Rohingya Muslims by state forces in Myanmar cannot be ruled out.⁴⁸ Besides that, the UN continues to face challenges such as refusal of entry for the UN Special Rapporteur, facing opposition in the UNGA from Russia, China, Cambodia, Laos, the Philippines, Belarus, Syria, Zimbabwe and Vietnam while adopting resolution on the government of Myanmar to allow access for aid workers, ensure the return of all refugees and grant full citizenship rights to the Rohingyas and funding crisis.⁴⁹ For ten months starting from March 2018, the UN has globally appealed for an emergency monetary aid of USD 951 million.⁵⁰

⁴⁵ The Newsweek (2017). Is Genocide Occurring Against the Rohingya in Myanmar?: John Haltiwanger. Accessed: 5 March 2018. Available at: <http://www.newsweek.com/genocideoccurring-against-rohingya-myanmar-experts-weigh-659841>

⁴⁶ Eurasia Review (2017). Burma Crimes Against Rohingya: USA Withdraws Military Assistance. Accessed: 5 March 2018. Available at: <http://www.eurasiareview.com/28102017-burma-crimes-against-rohingya-usa-withdraws-militaryassistance-oped/>

⁴⁷ Radio Free Asia (2017). Annan Commission Calls on Myanmar to Resolve Rohingya Crisis in Rakhine. Accessed: 5 March 2018. Available at: <https://www.rfa.org/english/news/myanmar/annancommission-calls-on-myanmar-to-resolve-rohingya-crisis-inrakhine-08242017154540.html>

⁴⁸ BBC (2017). Rohingya Crisis: UN Rights Chief ‘Cannot Rule Out Genocide’. Accessed: 5 March 2018. Available at: <http://www.bbc.com/news/world-asia-42234469>

⁴⁹ The Guardian (2017). China and Russia Oppose UN Resolution on Rohingya. Accessed: 5 March 2018. Available at: <https://www.theguardian.com/world/2017/dec/24/chinarussia-oppose-un-resolution-myanmar-rohingya-muslims>

⁵⁰ Voice of America. UN Approves \$ 951 Million Assistance to Address Rohingya Crisis. Accessed: 25 March 2018. Available at: <https://www.voabangla.com/a/4314670.html>

The United States urged Myanmar's troops to "respect the rule of law, stop the violence and end the displacement of civilians from all communities".⁵¹

China called for patience at a UNSC meeting in September 2017 while Britain, France and the United States demanded an end to what they called ethnic cleansing.⁵² The country also says the international community "should support the efforts of Myanmar in safeguarding the stability of its national development".⁵³ At a joint press conference with the Myanmar leader, Chinese Foreign Minister Wang Yi outlined a three-phase solution to resolve the Rohingya refugee crisis:

"The first phase is to achieve a ceasefire so that local residents can

no longer be displaced.... Second, the international community should encourage Myanmar and Bangladesh to keep communication in a bid to find a feasible solution to the issue.... The third phase is to find a longterm solution. Stressing that poverty is the root cause of turbulence and conflict, the Chinese foreign minister called on the international community to support poverty alleviation efforts in Rakhine state."⁵⁴

China's concern is understandable as it has largescale infrastructure investments in the Arakan, including a deep-sea port, and oil and gas pipelines.⁵⁵

Myanmar urged displaced people to find refuge in temporary camps set up in Rakhine state.⁵⁶ In November 2017 Bangladesh signed a Memorandum of Arrangement with Myanmar. Under the

⁵¹ BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

⁵² The Independent (2017). China Refuses to Condemn Burma over Rohingya Crisis and Says Foreign Intervention Does Not Work: Will Worley. Accessed: 5 March 2018. Available at: <https://www.independent.co.uk/news/world/asia/rohingyaburma-refugees-myanmar-china-refuses-to-condemnpersecution-genocide-burning-foreign-a8012961.html>

⁵³ Australian Institute of International Affairs (2017). The International Community's Response to the Rohingya Crisis: Aisha Ismail & Elliot Dolan-Evans. Accessed: 5 March 2018. Available at: <http://www.internationalaffairs.org.au/australianoutlook/international-community-response-rohingya/>

⁵⁴ Available at: <http://www.firstpost.com/world/chinaproposes-three-phase-solution-to-rohingya-crisis-urgesmyanmar-bangladesh-to-solve-issue-bilaterally-4218317.html>. Accessed: 27 March 2018.

⁵⁵ The United States Institute of Peace (2018). Understanding China's Response to the Rakhine Crisis: Adrienne Joy. Accessed: 5 March 2018. Available at: <https://www.usip.org/publications/2018/02/understandingchinas-response-rakhine-crisis>

⁵⁶ BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

agreement the two countries would work together to solve the refugee crisis and repatriate Rohingyas. According to the Bangladesh Ministry of Foreign Affairs, Myanmar agreed that there would be no restrictions on the number of Rohingya allowed to return which contradicts previous public statements by the head of the Myanmar's military. Also there would be no legal consequences for refugees who have no involvement with terrorist activities. Both countries also agreed that there would be no forcible repatriation.⁵⁷

The United Kingdom (UK) has pledged £59m in aid to support those fleeing to Bangladesh. UK Prime Minister Theresa May also said the military action in Rakhine had to stop. The UK has suspended training courses for the Myanmar military.⁵⁸

India is deepening military engagement with Myanmar and has announced it will deport 40,000 Rohingya who have fled to India for asylum.⁵⁹

The Organization of Islamic Cooperation (OIC) has issued standard condemnations.⁶⁰ The OIC initiated the move to put forward a resolution to the United Nations General Assembly (UNGA) to end a military campaign against Muslim Rohingya.⁶¹

However, condemnation while having its own merit is not enough. The global community needs to take effective measure to resolve the problem.

⁵⁷ CNN (2017). Bangladesh-Myanmar Agreement on Rohingya Refugees Revealed. Accessed: 5 March 2018. Available at: <https://edition.cnn.com/2017/11/27/asia/rohingya-myanmarbangladesh-agreement/index.html>

⁵⁸ BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

⁵⁹ Australian Institute of International Affairs (2017). The International Community's Response to the Rohingya Crisis: Aisha Ismail & Elliot Dolan-Evans. Accessed: 5 March 2018. Available at: <http://www.internationalaffairs.org.au/australianoutlook/international-community-response-rohingya/>

⁶⁰ *ibid*

⁶¹ The Guardian (2017). China and Russia Oppose UN Resolution on Rohingya. Accessed: 5 March 2018. Available at: <https://www.theguardian.com/world/2017/dec/24/chinarussia-oppose-un-resolution-myanmar-rohingya-muslims>

Rohingya Influx: Response and Initiative of Bangladesh

Bangladesh being the host country is deeply concerned and vocal regarding the recent and past Rohingya influxes. Both governmental and nongovernmental sectors are active to address the issue.

the border to prevent the Rohingyas from returning to Myanmar. This people must be able to return to their homeland with safety, security and dignity.”⁶²

Bangladesh has raised the issue at the global forum. In her speech at the 72nd UNGA Assembly of 2017, the Prime Minister of Bangladesh, Sheikh Hasina Wazed stated,

“I've come here just after seeing the hungry, distressed and hopeless Rohingyas from Myanmar who have taken shelter in Cox's Bazar, Bangladesh. This forcibly-displaced people of Myanmar are fleeing an 'ethnic cleansing' in their own country where they've been living for centuries..... The ongoing atrocities and human rights violations in the Rakhine State of Myanmar once again aggravated the situation at the Bangladesh-Myanmar border. Hundreds of thousands of Rohingyas from the Rakhine State are entering Bangladesh to flee violence... We're horrified to see that the Myanmar authorities are laying landmines along their stretch of

In order to solve the problem, she made a fivepoint proposal at the Assembly:

- 1) Myanmar must unconditionally stop the violence and the practice of ethnic cleansing in the Rakhine State immediately and forever.
- 2) Secretary-General of the United Nations should immediately send a Fact-Finding Mission to Myanmar.
- 3) All civilians irrespective of religion and ethnicity must be protected in Myanmar. For that “safe zones” could be created inside Myanmar under UN supervision.
- 4) Ensure sustainable return of all forcibly displaced Rohingyas in Bangladesh to their homes in Myanmar.
- 5) The recommendations of Kofi Annan Commission Report must be immediately implemented unconditionally and in its entirety.

⁶² United News of Bangladesh (2017). PM Seeks Urgent Steps to End Rohingya Crisis; Places 5-Point Proposal to UN. Accessed: 5 March 2018. Available at: <http://www.unb.com.bd/bangladesh-news/PM-seeks-urgentsteps-to-end-Rohingya-crisis-places-5-point-proposal-to-UN-%C2%A0%C2%A0/51550>

Ever since then, Bangladesh is continuously trying to bring Myanmar to the discussion table through bilateral negotiation and aid the Rohingyas by creating shelters, engaging Bangladesh Army in relief operations, collaborating with local and international NGOs and professional groups and organizing rounds of dialogues/ conferences both internally and internationally. The government and civil society is working in tandem to work out a sustainable resolution of the problem in the most humanitarian way possible. But at the same time the government also recognizes that the Rohingyas are creating a massive socioeconomic, environmental and demographic pressure on Bangladesh.⁶³ Therefore, the government is also restricting their travel to allocated areas.⁶⁴ Undoubtedly, the Government

of Bangladesh, together with national and international partners, has proactively responded to this crisis with a massive humanitarian response, allocating 2,000 acres of land and coordinating and providing critical assistance such as food, nutrition, shelter, water, health & hygiene, and psycho-social and basic education services to the camps, and settlements. But the needs and gaps continue to rise alarmingly. According to ActionAid Bangladesh, as of January 2018, the UN coordinated inter-agency response plan estimates the humanitarian need for 1.2 million people to be USD 434 million, of which 70 percent has been funded so far.⁶⁵ However, Bangladesh is still seeking support from countries around the world to address the Rohingya issue. A number of world leaders have responded in affirmative and also visited Bangladesh in solidarity.

⁶³ The Daily Dhaka Tribune (Online) (2018). PM Hasina: Rohingya Presence Creating Enormous Socioeconomic Pressure. Accessed: 5 March 2018. Available at: <http://www.dhakatribune.com/bangladesh/2018/01/29/pmhasina-rohingya-socioeconomic-pressure/>

⁶⁴ BBC (2018). Myanmar Rohingya: What You Need to Know About the Crisis. Accessed: 10 March 2018. Available at: <http://www.bbc.com/news/world-asia-41566561>

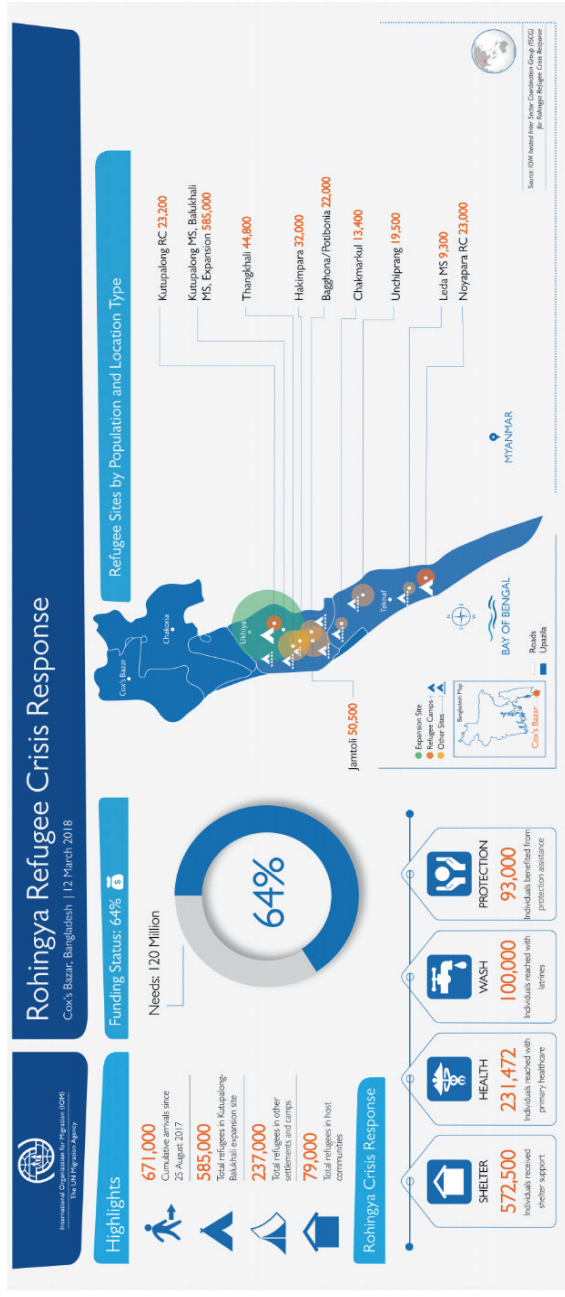
⁶⁵ Information collected from the conference announcement of ActionAid Bangladesh "Rohingya Refugee Crisis: Towards Sustainable Solutions" (2-3 April, 2018)

NGOs and INGOs Humanitarian Response in Bangladesh

According to the NGO Affairs Bureau of the Prime Minister's Office, about 2604 NGOs and INGOs are working in Bangladesh.⁶⁶ They provide humanitarian assistance to the national crisis whether natural or manmade disaster. In the recent Rohingya influx, a large number of NGOs/INGOs are working actively to assist the people in distress. Such names include Save the Children, Oxfam, Red Crescent

Society, Christian Aid, ActionAid, Practical Action, Danish Refugee Council, Habitat for Humanity, Action Against Hunger, Plan, CARE, Concern Worldwide, Relief International, World Vision, UK aid, CAFOD, WaterAid, US Aid, Medecins sans Frontieres, BRAC, Mukti Cox, Protyashi, Gonoshastho Foundation and so on.

Figure 7: The Rohingya Refugee Crisis Response Data, March 2018



Source: https://iom.org.bd/wp-content/uploads/2018/03/Infographic_2480x1100_MAR.-12-18.png

⁶⁶ NGO Affairs Bureau, The Prime Minister's Office (2018). List of All NGOs.

Accessed: 10 March 2018. Available at: http://ngoab.portal.gov.bd/sites/default/files/files/ngoab.portal.gov.bd/page/a86a0782_47b2_4756_

These organizations mostly serve the areas of Shelter, WASH (water, sanitation & hygiene), Nutrition, FSL (food, security & livestock), Education and psychological counseling. With violence erupting across the border in Myanmar and the number of new Rohingya asylum seekers in Bangladesh crossing six lakhs in number. About 671,000 Rohingyas entered into Bangladesh since 25th August 2017.⁶⁷ To help and support this large number of people, these NGOs and INGOs are working together with the government of Bangladesh. A very recent study of IOM shows the number of those Rohingyas

who received assistance from the consortium of NGOs. The funding status shows the percentage of funds already provided (64%) and draws the attention to the need for an additional \$120 Million US Dollars (Figure 7). These NGOs and INGOs often receive funds from different countries to carry out designated operations. For example, very recently, Canada announced to provide \$8.15 million for humanitarian assistance to conflict-affected Rohingya refugees. A breakdown of the non-governmental organizations and UN agencies receiving funding is as follows:

• International Committee of the Red Cross -	\$1.5 million
• United Nations (International Organization for Migration, World Food Programme and United Nations High Commissioner for Refugees [UNHCR], for site maintenance and improvement) -	\$1.5 million
• World Food Programme -	\$1.5 million
• United Nations Population Fund -	\$1.1 million
• Adventist Development and Relief Agency -	\$1 million
• UNHCR -	\$950,000
• Action Against Hunger -	\$600,000

This funding aims to address the humanitarian needs of Rohingya refugees and host communities and to help improve monsoon preparedness and mitigation, with a focus on addressing the unique needs of Rohingya women and girls.⁶⁸ However, recently government-imposed

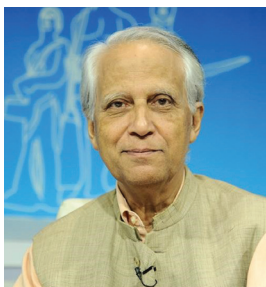
ban on three NGOs from carrying out relief operations in refugee camps for their alleged involvement in misleading Rohingyas during their work. They are Islamic Relief, Muslim Aid and Fazlullah Foundation.⁶⁹

⁶⁷ International Organization for Migration (IOM) (2018). Rohingya Refugee Crisis Response: Cox's Bazar, Bangladesh. Accessed: 20 March 2018. Available at: https://iom.org.bd/wpcontent/uploads/2018/03/Infographic_2480x1100_MAR-12-18.png

⁶⁸ Official Website of the Government of Canada (2018). Canada commits \$8.15 million to aid Rohingya refugees in Bangladesh and people in Myanmar. Accessed: 20 March

2018. Available at: <https://www.canada.ca/en/globalaffairs/news/2018/03/canada-commits-815-million-to-aid-rohingya-refugees-in-bangladesh-and-people-in-myanmar.html>

⁶⁹ The Daily Star (Online) (2017). 3 NGOs Barred from Relief Works for Rohingyas. Accessed: 10 March 2018. Available at: <http://www.thedailystar.net/myanmar-rohingyacrisis/three-ngo-barred-relief-works-rohingyas-cox-bazar-bangladesh-1475002>



Commentary: **Re-Visiting the International Criminal Court Process⁷⁰**

Muhammad Zamir⁷¹

The world is watching with dismay the crime of “ethnic cleansing” and “genocide” being committed in Myanmar on members of the Rohingya Muslim community in the western Rakhine Province. The end result of this violence has been the entry into Bangladesh of more than 730,000 Rohingyas. The large majority of them are women, children and elderly persons. This latest intrusion has taken the total number of Rohingyas who have entered Bangladesh over the last three decades to over one million.

This is a massive burden under any definition. It is true that some token relief has arrived in Bangladesh from several countries but it can address only the tip of the iceberg of the evolving crisis.

In the meantime, the UN Special Adviser on the Prevention of Genocide Adama Dieng and the Special Adviser on the Responsibility to Protect Citizens Ivan

Simonovich have called on the government of Myanmar to take immediate action to address the commission of atrocity crimes that are taking place in the Northern Rakhine State. It is this scenario that has persuaded some representatives from different quarters to suggest as to whether this ethnic cleansing can be the subject matter of reference to the International Criminal Court (ICC).

It would be useful at this point to trace some details about the Rome Statute.

After years of deliberation, both in New York and in Geneva, the UN General Assembly finally convened a conference in Rome in June 1998, with the aim of finalizing the treaty to serve as the Court's statute. On 17 July 1998, the Rome Statute of the International Criminal Court was adopted by a vote of 120 to 7, with 21 countries abstaining.

⁷⁰ This is an updated version of a paper published in The Financial Express (Dhaka) on 15 November 2017.

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The seven countries that voted against the treaty were China, Iraq, Israel, Libya, Qatar, the United States and Yemen. Following 60 ratifications, the Rome Statute entered into force on 1 July 2002 and the International Criminal Court was formally established. The first bench of 18 judges was elected by the Assembly of States Parties in February 2003. They were sworn in at the inaugural session of the Court on 11 March 2003. The Court issued its first judgment in 2012 when it found Congolese rebel leader Thomas Dvilo guilty of war crimes related to using child soldiers.

As it stands today, only 124 States have ratified or acceded to the Rome Statute. Bangladesh signed on 16 September, 1999 and ratified and acceded to it on 23 March 2010. Israel, Russia, Sudan, Iran and the United States have signed but not ratified the Statute. Non-Party members among others include India, Myanmar, China, Pakistan and Saudi Arabia. On 19 October, 2016 South Africa notified that they wanted to withdraw from the obligations of the Statute but later on in March, 2017 rescinded the withdrawal notice. Burundi, this October has informed the relevant authorities that they have decided to quit the International Criminal Court Statute paradigm, alleging that it is biased against Africans.

There are three jurisdictional requirements in the Rome Statute that must be met before a case may begin against an individual or a Party. The requirements are (1) subject-matter jurisdiction (what

acts constitute crimes), (2) territorial or personal jurisdiction (where the crimes took place or who committed them), and (3) temporal jurisdiction (when the crimes were committed).

The Court's subject-matter jurisdiction refers to the crimes for which individuals can be prosecuted as listed in the Statute. The primary crimes are mentioned in Article 5 of the Statute and defined in later articles-Genocide (defined in Article 6), Crimes against humanity (defined in Article 7), War crimes (defined in Article 8), and Crimes of Aggression (defined in Article 8 bis) which is not yet within the jurisdiction of the Court. In addition, Article 70 defines offences against the administration of justice, which are also crimes for which individuals can be prosecuted.

Article 6 defines the crime of Genocide as "acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group". There are five such acts which constitute crimes of genocide under article 6: (a) Killing members of a 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; (d) Imposing measures intended to prevent births within the group and (e) Forcibly transferring children of the group to another group.

The definition of these crimes is identical to those contained within the Convention

on the Prevention and Punishment of the Crime of Genocide of 1948.

Article 7 defines Crimes against humanity as acts “committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack”. Article 8 defines War crimes depending on whether an armed conflict is either international (which generally means it is fought between states) or non-international (which generally means that it is fought between non-state actors, such as rebel groups, or between a state and such non-state actors). In total there are 74 war crimes listed in Article 8. The most serious crimes, however, are those that constitute grave breaches of the Geneva Conventions of 1949.

There are 11 crimes which constitute grave breaches of the Geneva Conventions and which are applicable only to international armed conflicts: willful killing, torture, inhumane treatment, biological experiments, destruction and appropriation of property, denying a fair trial, unlawful deportation and transfer and unlawful confinement.

One needs to also refer here to the seven crimes which are generally agreed as constituting serious violations of Article 3 common to the Geneva Conventions and which are applicable particularly to non-international armed conflicts: murder, mutilation, cruel treatment, torture, taking hostages and sentencing or execution without due process.

Additionally, there are 56 other crimes defined by article 8: of them 35 apply to international armed conflicts and 21 that apply to non-international armed conflicts. Such crimes include pillaging, rape and other forms of sexual violence.

In situations that are referred to the Court by the United Nations Security Council, the territorial jurisdiction is defined by the Security Council, which may be more expansive than the Court’s normal territorial jurisdiction. For example, if the Security Council refers a situation that took place in the territory of a state that has both not become party to the Rome Statute and not lodged a declaration with the Court, the Court will still be able to prosecute crimes that occurred within that state.

The personal jurisdiction of the Court extends to all natural persons who commit crimes, regardless of where they are located or where the crimes were committed, as long as those individuals are nationals of either (1) states that are party to the Rome Statute or (2) states that have accepted the Court’s jurisdiction by filing a declaration with the Court. As with territorial jurisdiction, the personal jurisdiction can be expanded by the Security Council if it refers a situation to the Court.

No statute of limitations applies to any of the crimes defined in the Statute. However, the Court’s jurisdiction is not completely retroactive. Individuals can

only be prosecuted for crimes that took place on or after 1 July 2002, which is the date that the Rome Statute entered into force. However, if a state became party to the Statute, and therefore a member of the Court, after 1 July 2002, then the Court cannot exercise jurisdiction prior to that date.

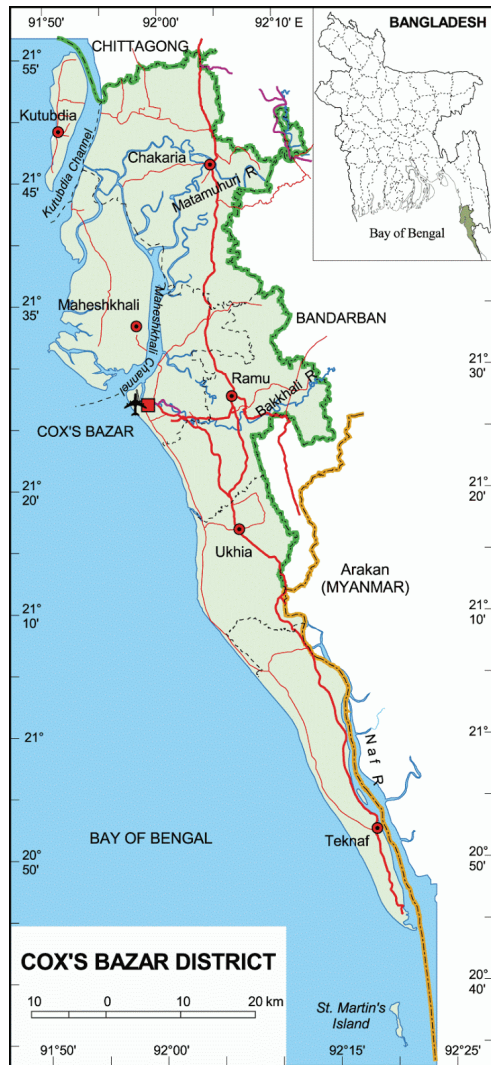
Victims before the International Criminal Court can also claim reparations under Article 75 of the Rome Statute. Reparations can only be claimed when a defendant is convicted and at the discretion of the Court's judges. Reparations can include compensation, restitution and rehabilitation, or other forms of reparations that may be appropriate for individual, collective or community victims.

The Srebrenica debacle in Bosnia during the 1990s has also underlined that it would be incorrect of non- Party States to think that cooperation on their part with the International Criminal Court can only be of a voluntary nature. It was

clearly decided at that time that even states that have not acceded to the Rome Statute are obliged to co-operate with ICC if a case is referred to the ICC by the UN Security Council. In such a situation all UN member states are obliged to cooperate, not only because its decisions are binding for all of them but also because there is the international obligation to abide by and ensure respect for international humanitarian law as contained in the Geneva Conventions and Additional Protocol I.

I have tried to present the criminal ramifications of the current Rohingya situation so that the responsible authorities can make up their own mind.

Understanding the Rohingya crisis: Micronarratives from Cox's Bazar



Map 2: District Map of Cox's Bazar

Source: <http://www.coxsbazar.gov.bd/site/page/96ac02bb-2144-11e7-8f57-286ed488c766>

Often regarded as the daughter of the sea, Cox's Bazar is the biggest national tourist destination of Bangladesh. This district has a booming economy in tourism. Formerly known as Palongkee and Panowa (yellow flower), It borders with Chittagong district on North, Bandarban district, Myanmar's Rakhine Province and Naf river on East and the Bay of Bengal on West and South.

Cox's Bazar has a rich historical background. However in recent days, Cox's Bazar has become a hub of Rohingya asylum seeker making it a hotspot of crisis. This influx poses a threat to the socio-economic and political stability of the district and to some extent, Bangladesh as well. Still, at the local level, the direct impact is measurable through different apparatus such as accommodation, employment, utilities, environmental damage, price of goods and services etc. Local people are aware of these and also very much vocal. Similarly, Rohingyas also seek a space where their miseries and atrocities faced by them in Myanmar could be heard.

To address this issue, ActionAid Bangladesh (AAB) under the guidance of Professor Imtiaz Ahmed has collected life stories of Rohingyas to delineate the pictures or sufferings they had faced in Myanmar and also host community

who has been experiencing tremendous changes in their social lives from their own voice. These life stories were collected by the two staff of ActionAid Bangladesh (AAB) working in the Humanitarian Response and Communications unit (Ms. Sharmin Akther Shilpi and Ms. Asha

Alamgir). These stories were collected in the Women-Friendly Space (WFS) and J-16 block of TT Zone of Balukhali 2/2 camp which is one of the working areas of AAB. The following section brings up some of the stories in the form of micronarratives.

“In Burma (Myanmar), we get married as soon as we reach our puberty, otherwise if Mogh people notice us and like us, they come to our house and rape us..... It is a story of ten to twelve years ago.....One day my sister-in-law went to take a bath and collect water from the nearby pond. Myanmar “Mogh” saw her there. He followed my sister-in-law and found out our house. Later then this Mogh with other armies came to our house with guns. My brother was at home that time. They took him out and pointed the gun at him and the Mogh went to the room, locked it and raped my sister-in-law.....His seven years daughter was also with his father. She was crying and they slapped on her face and she could not speak for many days.....After the incident, we took our sister-in-law to the hospital. She was bleeding heavily. We admitted her to the hospital but the irony of fate is the doctors are also Mogh people. There is no Muslim doctor, you know. They took a lot of money from us for her medical care.

One (another sister apart from the previous case) of my sisters got raped and cut into pieces by the Mogh. After seeing her body, we decided that we will not live there anymore. On our way here we saw a ten-year-old boy, tied up with a rope and the Burmese militaries were saying to us, “this is not your country, go back to your country otherwise we will kill you all.” Then they just decapitated him. They killed many infants by throwing them in the fire.”

After coming to Bangladesh, we feel safe. We live peacefully. We can sleep peacefully. Bangladeshi people are so generous. They have provided us shelter. We can say our prayers five times. We don’t want anything. We feel good when we come to the center (Women friendly space) and talk with other women, girls and I forget everything. Whenever I go back to my shelter, all the bad memories come back to my head. We don’t want Auung Saan Suu kyi. We don’t want to go back without our Card (Myanmar Nationality). We want our daughters to be like you. We want them to get educated and get a job. Without proper security and peace, we will not go back. It will be better if you kill us here rather than sending us back in this situation.”

Nasima

Originally Hailed from: Tombajar, Kuttupara, Myanmar
Current Location: Balukhali camp 2/2, Cox’s Bazar

“We ran away before the violence started in our village area. We left the village after hearing the news that law enforcers attacked our neighboring village. Since our house was situated on the side of the road, it was vulnerable to these attacks. Keeping this in mind, we ran away, the fact that our house was on the side of the road made it relatively easy for us to run away. Later we found out that many of our neighbors were killed so we tried to go back to bury them but we couldn’t as the fear of being killed by the army was too overwhelming.”

Noor Bahar

Originally Hailed from: Mondu Village, Goduchara, Rakhine State, Myanmar
Current Location: Balukhali camp 2/2, Cox’s Bazar

“The most nearby hospital in my area was about 6 kilometers away from my home. We had to receive local chairmen’s consent paper to go to the hospital even.....We were yet to make our move as the Myanmar Army reached our village. Earlier we received news that the army was conducting massacres in all our neighboring villages. After we got the news that the army convoy was heading towards our village, we started fleeing from Myanmar. As Bangladesh is about only 2 miles away, we started walking and passed the Naaf River by boat, paying 7 lakh Burmese Kyat to the boatman. The moment I stepped onto the Bangladeshi land, I felt we were reborn here..... Bangladesh Government has sheltered us and provided the best support they can. But, for how long?

We want to get back to our land and property but we won’t unless our rights are ensured....I have a feeling that, we Rohingyas were always neglected by the government of Myanmar because of our religion. Because, majorities belong to the Buddhist religion and we the Muslims are the minority. There are 135 casts in Myanmar and all of them are treated as a citizen with due respect. But, it’s only us struggling to get recognition of nationality. From the day we called forward to get our Rohingya nationality, we became rivals to others. And that has dragged us into this present situation.”

Rahim Ullah

Originally Hailed from: Mondu Village, Goduchara, Rakhine State, Myanmar
Current Location: Balukhali camp 2/2, Cox’s Bazar

“My ancestors lived here and now we are living here with our families.....There were only two or three thousand people living in this (his residential) union and each ward consisted of only 150 to 200 people.....Suddenly in 1991, some Rohingya people came to our place and settled down. We accepted that and moved on with our lives but now the number of Rohingyas is substantial. After their arrival, what I first noticed was that our local labors were not getting work due to the cheap labor they were providing. Financially deprived local people who had work before and could merely meet their basic needs cannot do that now. There is a price hike in the market because of this situation. Now, on 29th August, this huge Rohingya influx occurred.

Since they are one million in number now and we are only fifty thousand, we are the minority. Our Local labors used to work for 500 BDT per day and Rohingya people work for 200 BDT so people are hiring them to be more cost-effective. You can see, we have the Naaf River here which makes plenty of fish available in the local market but even after that the price has doubled. Different organizations and rich people are providing food support to the Rohingya people but local people haven't received any support yet. Poor people are the prime sufferers.

Some local people have got this Diphtheria disease. Government and other foreign organizations provide vaccination to the Rohingya children and workers but what will happen to us and our children? Nobody is thinking about us. In 1991, when they first came here, they committed robbery, pick pocketing and other forms of occurrences with the local people. Now we feel terrified that suddenly one million of those people have come here and are living amongst us. What if they do some sort of misconduct here? We are seeing these changes already but these incidents are not being reported, that's why nobody is paying any attention to us.

Registration process is going on for the Rohingya people and almost all the schools and college buildings are taken by the armies. So, we don't have sufficient room for teaching and students also don't want to attend classes.....Before this incident, local people used to send their children to school alone but now-a-days parents accompany them due to fears about their security. Literacy rate has been affected severely.

We understand that they have faced a lot of violence back in their own country and for the sake of humanity; we have provided them with a place to live. I have given them place to live even beside my home.....We have been trying our level best but now even we are staring to suffer.”

There are a few advantages, for example, because of them (Rohingya), local youths who had no jobs before are now working in camps with handsome salaries.

So, in a nutshell, you can say that, we are in a life-threatening situation right now. We don't know what the future holds for us. I urge the government to do something for us, for our livelihood and our security.”

Fouzol kader Bhuttu (Bhuttu Mia)

Local Resident of Balukhali Paan Bazar, Balukhali, Cox's Bazar

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