The politics of statelessness, refugeehood, and humanitarianism of the Rohingyas

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Undoubtedly, the Rohingya crisis has been one among the most discussed issue in the last few years. The political exclusion and persecution revolve around the fault lines of modern nation-states built along the ethno-religious lines, making them the most persecuted minority in the world. Especially, post-global denunciation of the military crackdown in August 2017 and the United Nations accusing the country of "ethnic cleansing and genocide" led to the massive exodus of people to the neighboring countries and beyond. Yet, the existing political and protection space for stateless Rohingya refugees is extremely volatile due to the absence of legal mechanisms, un-documentedness, and rising security concerns globally often criminalizing them as illegal migrants/immigrants or threats to national security. Forcing them to live under continuous threat of detention, deportation, and forced relocation further tarnishes their identity between the man and the citizen, dumping them into a socio-legal limbo. Based on the ethnographic inquiry conducted among stateless Rohingya refugees living in semi-urban ghettoes of India- Delhi, Mewat, Hyderabad and Jammu, the article looks into the historical and political trajectory of exclusion, resistance, and counter-resilience of stateless Rohingya refugees fleeing persecution in Myanmar along exploring their refracted and displaced realities and complexities of "life" in asylum and protracted refugees in India. And, the responses made by national and international agencies to the crisis. In doing so, it provides a grim insight into the inadequate, inconsistent and highly uncoordinated national and international response to care and protection and aid politics that have contributed to the collective failure in addressing the crisis. Thereby, the study attempts to bring forth the wider debate upon issues of state and statehood, rights and humanitarianism within the nation-state paradigm.

KEYWORDS

Rohingyas, statelessness, refugeeness, protection, humanitarian-aid and India

Introduction

> Leaving home and everything behind was not easy but we had no choice, who wants to leave their home?... But we would have been killed in Burma.... We had land and property but all was forcefully confiscated and given to the Buddhist people in the area....We were living in fear day and nigh ....Therefore, we decided to flee.... We first went to Bangladesh and lived there for a month but conditions were harsh, there was no work, and we were not even allowed to go out of camp ....Later, we decided to move to India, as people said it's better here... I paid Rs. 15,000 to a broker at Cox Bazaar to help us cross the border and reach India. We first traveled by car and later, by walking at night though the forest and river...After reaching Kolkata, I again paid Rs. 5,000 to reach Hyderabad, after which I wasn't left with enough money.... Unfortunately, in India too, the living conditions are harsh. There is a lack of proper toilets and drinking water facilities. It wasn't easy for our children to get admission in the nearby school. Getting work is a far more difficult task. As no one is willing, everyone asks for an Aadhaar card. Even the locals do not like us. They always make complaints. Surviving in India too is a challenge.... Also, now the government wants to deport us. I don't know where else to go? or what to do....
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> -An Rohingya interviewed in Hyderabad.[1]

These evocative lines from a stateless Rohingya refugee living in India narrate a life of discrimination, brutal violence, vulnerability, and helplessness people in a land they traditionally call home—Burma/Myanmar. Being arbitrarily stripped of citizenship and forced to escape, leaving behind all their possessions, belongings, and, in many cases, even family members, is humiliating at the very least. Unsure of their destinations yet, the desperation and determination to eke out a life of nothing, to gain protection, and hope for a better life forced the innocent Rohingyas, along with women and children to embark on perilous journeys across seas in unsafe boats amidst tempestuous waters and a long odyssey across lands, mountains, and paddy fields through the economy of human traffickers and smuggler (Yhome, 2015) without proper food, water, or medical support, which further adds to their risk and vulnerability. While the fear of being arrested and sent to jail by border security forces continues to haunt them, "no option" is a common expression that clearly depicts both desperation and uncertainty. Nevertheless, what most fail to acknowledge is that even after reaching newer shores, their miseries do not really end; rather, a new struggle for existence and survival awaits them. And words like non-citizens, aliens, foreigners, terrorists, Muslims, stateless, etc. are used as labels to describe them, making them not only

illegal but also undesirable, burdensome, the other, a threat, and a nuisance affecting their physiological and psychological welfare in their everyday life. This predicament could result in the continuance of discrimination, conflict, and violence that they experienced before their displacement (Grabska, 2011; Turner, 2017). It is the absence of refugee or asylum policies that strent the socio-political and economic spaces for such populations in the host countries. Thereby, no one cares or questions the life-struggle of such marginalized and excluded populations on the move with zero rights and protection. Rather, for most countries, the primary concerns are demographic change, national and border security, economic disruption, and, in some cases, the threat of political instability (Zolberg et al., 1989: 260; Loescher, 1993; Malkki, 1995: 505), making them the target of humiliating conditions such as poverty, discrimination, exclusion, abuse, violence, and arbitrary arrest or detention. This marks a significant impression on their collective imagination, leading to a constant sense of anxiety, panic, hopelessness, and insecurity. Thus, those whose lives are trapped in statelessness and protracted refugeehood have no control over their lives. It is these multiple layers of risk, vulnerability, and extreme marginality that render their lives worthless by pushing them to the extreme margins of nation-states, where they are often treated as if they are less than humans, as Hannah Arendt and Giorgio Agamben have described that a bare life or mere biological existence is the antithesis of a life of right, protection, and human dignity (Agamben, 1998; Arendt, 2004). Thus, without guaranteeing or establishing a universal right of nationality/citizenship for all, the notions and rights of human rights, security, protection, and dignity are meaningless. This taints their identity as men and citizens, putting them in a socio-legal limbo. That is why, today, statelessness across the globe is regarded as a human dilemma trapped in legal complexities as well as a condition of rightlessness that is both a product and a cause of other human rights violations (Kaveri, 2020).

Rising inter and intra-state conflicts, violence, wars, and human rights violations, including persecution, have resulted in the emergence of refugee camps globally, housing millions of displaced and outcast populations with nowhere to go, forcing them to live without the prospect of nationality/citizenship and its foreseen rights. Though the clear estimate of the world's stateless population is still unknown, it is estimated that there are 10 million stateless people worldwide (UNHCR Global Trends, Forced Displacement in 2018).[2] However, only 4.2 million stateless individuals, including those of unknown status, were caught in the data captured by UNHCR from 94 countries at the end of 2019.[3] Wherein, minority groups/communities account for more than 75% of the world's known stateless

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1   The interviews conducted are part of the researcher's PhD Project.

2   UNHCR, Figures at Glance, https://www.unhcr.org/figures-at-a-glance.html.

3   UNHCR Global trend, Forced Displacement in 2020 report.

population.[4] These figures did not appear out of anywhere. They were excluded and compelled to flee their homes to avoid the ongoing violence, which included persecution emanating largely from "state-centric conflicts" (Farzana, 2016) while the discriminatory national laws failed to protect them. Today, statelessness exists in every region, yet the lack of comprehensive data indicates that it remains an unmapped and largely "hidden" problem in most parts of the world. Even Antonio Guterres stated, "Statelessness is the most forgotten global human rights problem in the world today. Everyone knows what a refugee is, but not many know what it means to be stateless".[5] This lack of understanding and interest has created a rift in the modalities of the allocation of resources to prevent, control, and manage the stateless and refugee populations. Thus, it got converted into a major humanitarian crisis. And so, the struggle and quest for such populations to find a safe haven has become even more precarious. Against this background, using the case of stateless Rohingya Refugees, the article attempts to shed light on the historical and political trajectory of exclusion, resistance, and counter-resilience of stateless Rohingya fleeing persecution in Myanmar, while exploring their refracted and displaced realities and complexities of "life" in asylum and protracted refugees in India. Also, to understand the responses made by national and international agencies to the crisis. In doing so, it provides a grim insight into the inadequate, inconsistent, and highly uncoordinated national and international response on care and protection and aid politics that has contributed to the collective failure in addressing the crisis and degrading the Rohingyas as less than humans, wherein their lives don't matter in the eyes of the state. Therefore, the paper attempts to bring forth the wider debate on issues of state and statehood, rights and humanitarianism within the nation-state paradigm.

Materials and methods

Methodology

The article foregrounds the refugee experiences by illustrating their "marginal lives." The themes and debates in the present study are presented to highlight and argue the fundamental rights of refugees to life, shelter and basic entitlements. The arguments are developed by utilizing both primary and secondary data sources. Using field immersion through both structured and semi-structured interview schedules with the Rohingya community members living in India's semi-urban ghettoes of Jammu, Delhi, Mewat, and Hyderabad to gather data on their journey, anxiety, dilemma, religion, cultural nuances, livelihood, and other struggles

faced in India (the host country). In fact, their everyday lives were largely impacted and regulated through structural restrictions, illegality, discrimination, marginalization, socio-cultural exclusion, lack of livelihood opportunities, and other primary services like health, education, etc., and also dominated their narratives. And, the observatory method aided in the development of a general understanding of the condition of statelessness and refugeehood. It facilitated an understanding of their views, behaviors, and attitudes, along with the socio-cultural interactions within the community.

While conducting the field interviews, the researcher was mindful of the language constraints and, thus, kept in close consideration, opted to interview only those who could communicate either in Hindi or Urdu so as to avoid the assistance of an interpreter. Apparently, the majority of the Rohingyas in India have now learned the local languages—Hindi and Urdu. Fewer have also learned some basic English. However, there are still some members of the community who have yet to learn the local language, especially women and the elderly. Thus, this did limit my sample size, but it is crucial to capture and convey the reality of the experience of the Rohingyas through their own voices (avoid third-person translation). This would also ensure no tampering with the meaning of the data, which had come through direct communication. In doing so, the researcher was ethically conscious of the precarious situation and traumatic life circumstances that forced them to flee. In addition, religious concerns and the sensitivity of conducting research with a politically sensitive group of stateless Rohingya refugees in India.

The privacy of the participants was paramount given the mounting vigilance around the community. Their identities were kept confidential; even the exact location of their residence was not revealed. Their ethnic, religious, and gender identities and beliefs, as well as the larger geographical locations, were only taken into account for analytical understanding. Therefore, the "Do No Harm" framework aided the researcher in selecting participants and fieldwork activities systematically and carefully. Also, to ensure that the data collection procedure does not put participants at any risk. Even the structuring of questions, communication style, dressing, bodily gestures, etc. was practiced and rehearsed, keeping the sensitive nature of the issue in mind. In particular, owing to the ongoing political and social tension surrounding illegality, detention and deportation threats and the consequent apprehension against signing any written documents, seeking consent through written forms was avoided. Rather, verbal informed consent was taken from the participants while informed of the research's purpose. Although many were skeptical, they wanted to share their stories and experiences, especially the Rohingya youth. It was also noted that the researchers' past experiences of working (MPhil and PhD research work) with the group did aid in gaining some confidence and similarity among the group members. Yet, they had the complete freedom

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to choose to participate or withdraw at any stage during the process. The researcher was mindful that the research work and interviews did do not coincide with participants' working hours and livelihood activities, or any other priorities. Additionally, the study also draws insights from my engagement with the various stakeholders and professionals working on the issue of forced migration, refugees, and statelessness, particularly among the Rohingyas in India. It helped to gain insights into the contrasting perspectives of various stakeholders in terms of their current experience of working with the community, administrative challenges, and refugee humanitarian aid transmission.

The secondary sources supplemented the field data, such as academic literature, fact-finding on statelessness, Rohingyas—their history, migration, UN conventions and other UNHCR documents and narratives in popular media and the Indian government.

Results

Statelessness and internationals legal protection regime

According to the 1951 Refugee Convention, a refugee is a person who is forced to flee his/her country due to a well-founded fear of persecution.[6] Herein, the refugee has citizenship and may return to the country of origin as soon as the "fear" is gone. Whereas a stateless person cannot, even if he/she wants because a stateless person "is not considered as a national by any state under the operation of its law"[7]. And so, they are unrecognized and unprotected by national laws and policies, leaving them in an arc of severe marginality and vulnerability. The causes of statelessness may range from discrimination (e.g., on the basis of gender, ethnicity, religion), conflicts between states and gaps in nationality laws, marriage, lack of birth registration, and state succession or the rise of modern nation-states, etc. (Muni and Baral, 1996; Chakarborty, 2001; Samaddar, 2003; UNHCR, 2020). In fact, the risk of statelessness can also occur in situations of frequent or prolonged displacement (UNHCR, 2020). The UN convention classifies statelessness as- *De jure* and *De facto* statelessness. *De facto* denotes that they are not legally denied nationality/citizenship but rather lack the ability to prove or, despite documentation, are deprived of certain rights and services that other citizens take for granted. Thus, these people are stateless in practice; if not in law. *De*

jure persons, on the other hand, are not recognized as citizens under any state laws, either because they were not assigned a nationality at birth or they lost their nationality and were unable to obtain a new one (Weis, 1979: 184; Ghosh, 2016). This jeopardizes their education, health-care, housing, employment, marriage, open bank accounts, travel, and documentation, as well as civil and political rights like the right to political participation.[8] The experiences of these two categories of statelessness are likely to be similar. However, the distinction is vital to emphasizes since the complexity of definition and categorization has an impact on how the stateless are identified and granted protection. It has a huge legal and humanitarian dimension. Under international law, each category of stateless person (*de jure* and *de facto)* has different protection standards.

To limit the occurrence of statelessness, the international community has taken various initiatives, such as the UNHCR's #IBLONG campaign that directly advances the UN's Sustainable Development Goal (SDG) 16.9: aiming to eradicate statelessness by 2024, this campaign highlights how the 1954 convention is crucial in today's times, as millions continue to become and remain stateless and, too few countries have signed these UN conventions. There are also a number of other international UN conventions that safeguard and prevent people from becoming stateless including- International Covenant on Civil and Political Rights (ICCPR) ensures "every child has the right to acquire a nationality" under article 24 (3).[9] The Convention on the Rights of the Child (CRC) (article 7) re-guarantees it.[10] Likewise, the Convention on the Elimination of All Forms of Racial Discrimination (CERD) entails nations to "prohibit and eliminate racial discrimination in all its forms" and "ensure the right of everyone, regardless of race, color, national or ethnic origin...to a nationality".[11] According to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) (article 29), "each child of a migrant worker shall have the right to a name, to the registration of birth and to a nationality".[12] The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), specifies, "states shall grant women equal rights with men to acquire, change, or retain their nationality," as well as "shall grant

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6   Someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. https://www.unhcr.org/en-us/what-is-a-refugee.html.

7   Article 1, the 1954 UN Convention relating the status of Stateless person.

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8   See, UNHCR, "Ending Statelessness", http://www.unhcr.org/stateless-people.html?query=Ending%20Statelessness (21st February, 2018).

9   https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf

10   https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child

11   https://www.mfa.gov.tr/international-convention-on-the_elimination-of-the-all-forms-of-racial-discrimination.en.mfa

12   https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-protection-rights-all-migrant-workers

women equal rights with men with respect to the nationality of their children" (article 9).[13] Lastly, article 18 of the UN Convention on the Rights of Persons with Disabilities (CRPD) protects a person with disabilities. But, not to forget, all of these conventions necessitate national collaboration. Moreover, signing and ratifying these conventions have two different meanings. Though signing a treaty imposes a responsibility to refrain from conduct that would negate the treaty's object and purpose in good faith, there are no real legal obligations imposed on member governments on infringement, resulting in operational gaps. Even with the raving commitment made through the *Global Compact on Refugees and the Global Compact for Safe, Orderly, and Regular Migration mandated* under *The New York Declaration for Refugees and Migrants 2016*, calls for global solidarity and commitment to refugee and migrant protection through a "more equitable sharing of the burden and responsibility" as well as increasing opportunities at home. It advocates for an inclusive approach at the policy level. However, the ambitious declaration seems to overlook the global concerns of statelessness. Additionally, it blurs the distinction between "forced" and "volition", employing both terms interchangeably, supporting the amalgamation of categories while resisting the one that already exists, further intensifying the challenges. It acknowledges not only their deep interconnectedness but also accentuates the limits and unwillingness on the part of states to bear primary responsibility for refugees and migrants. Thereby, it expands to include the "whole of society", which also means "whole of the globe, including various stakeholders- the business and commercial segments" (Samaddar and Chaudhury, 2016); this raises questions on corporate accountability, as to whom they are accountable to and how? Moreover, it ignores the recipient states' capacities and resources, raising further concerns about their commitment to equitable burden-sharing. As a result, the issue of responsibility vs. duties has become a bone of contention vis-à-vis refugee and statelessness management and protection.

There is an unexplained inequity and imbalance in the global approach to refugee management and burden-sharing. The global north's response has not been encouraging. The majority of the major refugee-hosting countries are either low or middle-income countries of the global south that have not ratified any instruments protecting the rights of refugees and stateless people. Looking at the global scenario—56.6% of global income, the world's largest economies—the United Kingdom, Germany, France, the United States of America, China, and Japan—barely accommodate <9% of the world's refugees (Oxfam, 2016). Turkey, Colombia, Pakistan, Uganda, and Germany are the world's top refugee-hosting countries (UNHCR, 2020). Germany is the lone exception. The trend that has only worsened post-9/11, with

ongoing conflicts and political unrest in the Middle East, Africa, and other countries, has created an environment where most states are intolerant, reluctant and unwilling to share the cost of protecting people, as evidenced by the politicization and securitisation of refugees and stateless people in the name of "homeland security". They are either closing their borders, implementing pushback measures (Espenilla, 2010), and enacting stringent immigration policies, or mass revocation of citizenship. Recently, the UK Prime Minister Boris Johnson announced that Britain would outsource or relocate asylum seekers to Rwanda.[14] Thereby, threats, discrimination, deprivation, violence, exclusion, and persecution have become an everyday reality for people trapped between legality and illegality.

It is the anachronistic approach and lack of comprehensive data on statelessness that add to the numerous challenges, leading to situations where key decision-makers or influencers disengage from the issue as they are unconvinced by its urgency or lack confidence that they fully comprehend the situation. It also obstructs the monitoring and demonstration of progress or regression[15], as well as the dispensing of humanitarian relief work. Owning to enduring gaps in methodological and statistical reporting, since the United Nations compiles its data based on the information provided by the governments and other UN agencies[16], creating an operational gap. Since, due to the lack of laws and policies, most countries do not recognize them as stateless or refugees, rather classifying them as—"illegal migrants/immigrants". Moreover, the stateless determination procedure is usually carried out on a case-by-case basis, which is expensive and taxing (Due to the high cost of travel, refugees must go with their entire family each time they apply for a new refugee card or for renewal), especially for such an outcast and marginalized population, who are already short on resources. In the Indian scenario, it's voluntary i.e., a stateless person must appear in person before UNHCR and request protection. This puts the onus on individuals seeking refuge to prove "the fear of persecution" at the time of seeking asylum. Thus, it overlooks the probability that many people in need do not even reach out to UNHCR out of sheer lack of awareness or fear. This exemplifies that these UN conventions neglect the changing nature and need for forced mass-outflow of the population, also its diversity. Especially in Southeast Asia, the case of ethnic Rohingya Muslims is one such example of the most serious human-made humanitarian disaster and protracted statelessness stemming from Myanmar since the late 1970s. Being stateless and persecuted in Myanmar, illegal, and unwanted in most host countries, the Rohingya, as an ethnic, religious, and linguistic minority, is one of the most vulnerable refugee populations

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13 https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article9

14 d'Orsi, 2022.

15 The World's stateless, 2020.

16 The World's stateless, 2014.

in the world today. They are the victims of majoritarian and unilinear nationalism in Myanmar, a state of Buddhist-Bamar nationals (Uddin, 2020). Even the United Nations has described them as the most persecuted minority in the world by calling the situation in Myanmar a "textbook example of ethnic cleansing and genocide" (UN News, 2017). According to the UNHCR, 1.1 million stateless Rohingya refugees have escaped Myanmar's violence in successive waves since the 1970s, at various times and in varied volumes, the majority in 2017 (UNHCR global trend, 2020). In August 2017, more than 700,000 people fled a severe military crackdown (UNHCR global trend, 2020). Outcasted, exterminated and disseminated by their mobility across South and Southeast Asia and beyond as the "new boat people". So far, Bangladesh is the largest recipient of these stateless refugee (Taufiq, 2021), with approximately 900,000 stateless Rohingya refugees living in the overcrowded camps.[17] Many of them have also crossed over to India and Pakistan. And, on leaky boats to Sri Lanka, Malaysia, Indonesia, Thailand, and Australia. In Malaysia, there are around 150,000 Rohingya Muslims.[18] As of 2017, there were 1,000 in Indonesia and over 400,000 Rohingyas lived in Pakistan.[19] The government of India estimates 40,000 Rohingyas as of 2017. However, UNHCR records only 18,000 Rohingyas in India as of 2019. At first, the Indian government issued Long-Term Visas to around 500 Rohingyas, but none got extended after 2016. Most of the Rohingyas living in India came after the 2012 wave of violence and military-crackdown in Rakhine. Despite the meager numbers, their presence has sparked a "legal, diplomatic, and political slugfest"[20] in the country.

Making of stateless rohingya: An historical-political overview

Throughout the history of independence, Myanmar has been shrouded in military rule, ethnic conflict, civil war, isolation from the world, widespread discrimination, violence, and poverty, resulting in a hostile culture with ramifications for the entire socio-political and cultural scape of Burmese society. Thus, the case of "Ethnic Rohingya Muslims" and their citizenship crisis is far more discrete and revolves around the state's induced-violence based on ethno-religious lines since Myanmar's independence in 1948. The country that requires

ethnic recognition as the primordial constitutional legitimacy for citizenship demanded the Rohingyas to prove their ancestry in Myanmar before 1823. The majority failed, rendering them *de facto* stateless[21]. The historical records, on the other hand, did provide the community's legacy dating back to pre-colonial times, when it was an independent kingdom from Myanmar. Historians note that the Rohingyas describe themselves as descendants of 8th-century Arab or Persian traders (Lewa, 2004; Bhaumik, 2013; Farzana, 2016). Even the colonial records attest to the fact that the community embracing Islam has long been a component of Burmese society. Yet, the Burmese authorities and political leaders dismissed their claims as nationals, referring to them as illegal immigrants and often referring to them as "Kular" in Burmese (Zarni and Brinham, 2017), with no organic ties with the country.

Apart from a long history of contestation over community identity, the British policy of "divide-and-rule" exacerbated long-standing ethnic tensions amongst different ethnicities in Myanmar (Farzana, 2016), with undercurrents that may still be felt today. This division and distrust among the communities helped the British to exploit minorities aspirations for their own gain and abandon them when it was expedient for them (Farzana, 2016: 287). While Burma and East Bengal were controlled as British colonies, population mobility was managed between them to suit their labor needs (Lewa, 2004; Ullah, 2011). However, scholars such as Ibrahim (2017) and Smith (1993) have argued that the anxiety stems from the Japanese invasion of Burma in 1942. While the Rohingyas were loyal to the British, the Buddhist majority led by General Aung San backed the Japanese. This sparked the tension between the communities that also radicalized the independence movement against foreigners, including-Muslims and Indians, thus assuring enmity that continues to destabilize the relationship even after independence.

Even the Panglong conference[22] failed to unify the divided and traumatized Burma left by the British, as it invited only three major ethnicities- the Chins, Shans, and Kachins while neglecting other minorities like—Wa, Mon, Karen, Kerenni, Arakanese including Rohingyas (Walton, 2008). Thus, many felt betrayed. However, the exclusion and ethnicization resulted in segregation and the creation of new identities for ethnic

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17   Joint Response Plan 2020. Rohingya Humanitarian Crisis. https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/jrp_2020_summary_2-pager_280220.pdf.

18   https://thediplomat.com/2020/07/the-shifting-politics-of-rohingya-refugees-in-malaysia/

19   https://www.aa.com.tr/en/asia-pacific/rohingya-muslims-in-pakistan-decry-global-silence/1950892

20   Khandekar, 2017.

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21   According to the article 1 of 1954 Convention relating to the Status of Stateless Persons, de jure statelessness refers to "a person not considered as a national by any State under the operation of its law".

22   A meeting on the dawn of Independence in 1947 between General Aung San and representatives of ethnic minorities at Panglong to discuss their status and demand for autonomy in an independent Burma. Especially- it envisaged "full autonomy to the frontier regions" within the union of Burma. An agreement was signed which is known as "Panglong Agreement".

minorities (Farzana, 2016). In fact, the agreement was widely opposed, insisting on the building single of a "MahaBama," or greater Burman nationality. Therefore, with General Aung San's assassination, the agreement soon got dumped, intensifying the distrust, anger, and hostility that already existed amongst ethnic groups, which later resulted in civil unrest. Many Muslim Rohingya leaders advocated for the union of Arakan with what was then East Pakistan, now Bangladesh (Tinker, 1957: 34), and later for an independent Muslim state within the Union. However, both these demands fizzled without any political impact (Lintner, 1999; Bhaumik, 2013; Farzana, 2016), and the government of Myanmar declared these groups as secessionist and terrorist outfits (Lintner, 1999; Bhaumik, 2013; Farzana, 2016). And soon, various Rohingya socio-political organizations were also dismantled. Since then, the Rohingyas' circumstances have only deteriorated, especially after General Ne Win launched the "Burmese Way to Socialism (BWS)" with his Burma Socialist Programme Party (BSPP), which seized power in the country in 1962. In 1974, the country was sub-divided into ethnic-minority-dominated "states" and Burman-dominated "divisions". Moving with the "othering approach," the military registered all citizens, except Rohingyas, prior to the 1977 national census. This resulted in Rohingyas being denied basic rights as citizens, forcing approximately 200,000 Rohingyas to flee to Bangladesh in 1978 (Ullah, 2011; Lewa, 2012)- known as the first major wave.

It's the military's attitude toward the Rohingyas that have dismantled their socio-political status and relationship in society; using the narrative of Rohingyas being Bengalis or Bangladeshis, i.e., a demographic extension of Bangladesh—the Chittagong region, who migrated into Burma under British rule, has resulted in the construction of a collective identity of Rohingyas as "outsiders." As a result, they are regarded as a political and demographic threat to the nation and its nationals. Following the essentialist notion of nation-building, the state policies were programmed around the exclusiveness of Myanmar's language, religion, and culture of the majority—Buddhist Burman [ICG (International Crisis Group), 2003], i.e., the Burmanisation of the country (Quraishi, 2015). Subsequently, it led to the enactment of the 1974 emergency Immigration Act, the 1982 Citizenship Law, and its 1983 procedures that categorized citizen ns into three groups: citizens, associate citizens, and naturalized citizens, with pink, blue, and green scrutiny cards indicating their status, solidifying the Rohingyas' exclusion from the Burmese society and rendering them stateless in their homeland—Myanmar.

Over the years, Myanmar's government and military have created, pursued, and implemented various discriminatory policies to legally exclude the Rohingyas, which has resulted in targeted violence against the community, leading to their persecution and driving many to flee. Massive military campaigns in the name of "identifying and screening" foreigners were carried out like- "Operation Naga Min" (Dragon King)

in 1977 and, before the national census, "Operation Pyi Thaya" (Clean and Beautiful Nation) in 1991 to clean-up the Providence. Later, a renewed wave of violence, persecution, and expulsion in 2012, 2015, and 2016–2017[23] which included killing, imprisonment, torture, forced labor, burning down their homes and villages, mosque and females being subjugated to rape, sexually abused and forced into prostitution, etc. (Joint Response Plan For Rohingya Human Crisis, 2019, p. 10). However, speaking from the political-economic perspective, American sociologist Sassen (2017) contends that the ongoing Rohingya crisis is primarily due to the massive land acquisitions made in the name of economic growth, which have impacted millions of people over the years. In 2016, the Aung San Su Kyi administration designated 3 million acres of rural Rakhine land for economic development on the national list of land allocations. However, it's significant to emphasize that land grabs caused by development do result in movement and displacement, upsetting the region and hurting a variety of populations. But it does not call for ethnic cleansing, concentrating on a single community. Nor does it serve corporate interests because businesses need a steady supply of inexpensive labor to function. Thus, rather than reason its another layer of exploitation and violence committed against the Rohingyas.

While the Rohingya circumstances were not always the same, during the U Nu government in the 1950s, efforts were made to acknowledge the Rohingyas as an indigenous ethnic minority. In fact, they were active in the country's politics and governance. In Myanmar's Parliament, there were Rohingya MP's who held various other administrative positions (Ibrahim, 2017). Also, following an aggressive UNHCR campaign in 1995, the Temporary Registration Card (TRC) (known as the "white card") was issued to Rohingyas, but the card holds zero legal validity since it doesn't indicate nationality or place of birth, therefore, can't be used for claiming citizenship (Lewa, 2008; Ullah, 2015). The card, however, allowed Rohingyas to vote until 2010. And, as latest as, 2010–2012 the Rohingyas were allowed to participate in the local municipal elections. However, with the oppressive and authoritarian military regimes, the community has gradually lost its political and constitutional identity. And, by 2014 and 2015, they were largely excluded from the census and elections, respectively. Today, Rohingyas are denied the official status as citizens and calling themselves "Rohingyas" in Myanmar is now considered Taboo. Thus, they are forced to hide their origins in order to avoid public attention, discrimination, violence, etc. And now, with the return of the military to power, concerns have been raised regarding the future prospects of the Rohingyas who continue to live in Myanmar, together with the possibility of the return of hundreds of thousands of Rohingyas who live as stateless refugees in various neighboring countries and beyond.[24]

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23   Dhaka Tribute, 2017.

"Life" in asylum and protracted refugeeness in india

Historically, India has been a haven for refugees from all over the world. Especially, concern with its experience and history of colonialism, partition, independence, and re-drawing of national boundaries (Roy, 2010) which resulted in the largest displacement in history. Thus, India mostly adhered to the principle of non-refoulement, which is a customary international law. However, assuming that international conventions and treaties will impact a country's security and domestic legislation (Nair, 2007), India refrained from ratifying the UN Convention relating to statelessness[25] and refugees.[26] In India, refugees and stateless persons are legally governed under the jurisdiction of the Foreigners Act 1946, the foreigners order act 1948, the Passport (Entry into India) Act 1920, the Passport Act 1967 (Banerjee et al., 2015) and citizenship Act of 1955 and 2019. Thereby, it doesn't hold the state liable for ignoring or criminalizing any legitimate case of asylum on national security grounds or traveling without valid documents, putting them at risk of imprisonment, and deportation (Samaddar and Chaudhury, 2016, p. 61). This demonstrates that there is no mechanism to stop the states from taking atrocious action (Banerjee et al., 2015). It's India's haphazard, inconclusive, ambiguous, and ad-hoc approach that leads to the arbitrary and differential treatment of such populations. (Raj, 1999; Chimmi, 2000; Dhanvan, 2004; Bhattacharjee, 2008). As a result, these populations often become pawns of larger geopolitics, calculating the relationship between the host and country of origin (Chaudhury, 2003). The best example of this is the case of Tibetan refugees living in India. They not only receive massive aid and services from the government of India as well from countries across the world. But also administer a government in exile from within India. The Indian government recognizes and operates official refugee camps for Sri Lankan Tamil refugees. However, other asylum seekers, refugees, and stateless populations like the Iranians, Afghanis, Rohingyas, Sudanese, Iraqis, Chakmas, Syrians, Somalis and Lotshampas fail to receive the same level of support and assistance. Prof. Chimni describes this as a policy of "strategic ambiguity" which explains India's non-chalant approach and protracted silence on the Rohingya crisis, which largely stems from complex geopolitics and geo-strategic positioning based on political and economic opportunism.

With the "Act East policy", the country is focusing on strengthening economic and strategic ties with Myanmar through Trade and Border Haats, Railways and Shipping[27] as well as various connectivity projects such as—Kaladan multi-modal transit project at its northwestern frontier, Sittwe port, Shwe Natural Gas Extraction Project and other investments in the Tamu-Kalea and Moreh-Kalewa-Yargi corridors etc. Additionally, China's overwhelming presence in the country and region paints a bleak picture for the Rohingyas since India attempts to calculate India-Myanmar-China relations geopolitically (Bhatia, 2015). Hence, India wishes to preserve cordial relations with Myanmar. Thus, when the world community condemned Myanmar's military takeover of an elected civilian government by declaring a state of emergency in 2021. At first, India remained salient later, it only expressed "deep concerns".[28] However, India was one of the eight countries that attended a military parade to commemorate Tatmadaw Day on March 27, 2021[29]. In short, India's strategy is determined by a cold cost-benefit analysis of regional politics, bilateral trade connections, security, counter-insurgency cooperation in the northeast, and preserving leverage over China.

Furthermore, compared to other refugee groups in India, the Rohingyas are the most marginalized ones, continuing to experience discrimination and neglect from the government, with no initiatives being taken. The community's religious identity is troublesome for the current dispensation, which has profound divisive and communal intentions, attempting to construct a "Hindu-Rashtra" by pushing out all others, with a particular focus on Muslims, which is quite obvious with the Citizenship Amendment Act 2019, which violates the secular spirit of the Indian Constitution by awarding citizenship based on religion. This sparked a wave of religious intolerance in the country, with many religious right-wing Hindutva trolls accusing Rohingyas of being agents of Islamic terrorism. This seems to have escalated the refugee quandary in the country. As Arjun Appadurai puts it, it's "the anxiety of incompleteness". In times of increased forced migration, the host nation is tormented with uncertainty over the presence of outsider within its territorial domain.[30] It

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24   Horwood and Frouws, 2021.

25   Till now only 70 countries are party to 1961 Convention on the Reduction of Statelessness and 89 countries to the 1954 convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

26   1951 UN Convention on Refugees and 1967 Protocol Relating to the Status of Refugees.

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27   MEA, Press release (2018) https://mea.gov.in/Portal/ForeignRelation/India_Myanmar_Bilateral_Brief_Website_jan_2019.pdf.

28   Ministry of External Affairs, Government of India, "Press statement on developments in Myanmar," February 1, 2021 at https://www.mea.gov.in/press-releases.htm?dtl%2F33434%2FPress$+$Statement$+$on$+$developments$+$in$+$Myanmar (accessed on February 15, 2021).

29   On the Bloodiest Day for Myanmar civilian, India Attend the Military Parade by the Coup Leaders", *The Wire,* March 28, 2021 at https://thewire.in/diplomacy/india-china-russia-pakistan-attend-myanmar-armed-forces-day-parade (accessed March 28, 2021).

30   Appadurai, 2006.

creates a sense of incompleteness among the ruling elites, who desire to homogenize the population through a unitary nationalistic ideology.

Apparently, the Rohingya live trapped in the misery of statelessness and exclusion, leading to violence and persecution, which has only worsened after fleeing to India due to further victimization on the grounds of illegality and religion. The rising anti-Rohingya sentiment, as well as the threat of deportation and arbitrary detention, has fostered dread and anxiety about the unknown, prompting many Rohingyas to flee from India in a hurry. Especially since the government began collecting the Rohingyas' biometric information, surveillance and vigilance on their activities and movement through the presence of intelligence agencies like CBI and police and vigilante groups of local communities (right-wing organizations). And, UNHCR's refugee certificate is no longer enough to protect them from non-refoulement in India. In fact, instead of bringing a unified solution to end the Rohingya problem, the UNHCR's silence and passivity have benefitted persecutors and intensified their discriminatory treatment in the host country. *"They now want to force us to go back; you know the situation there; we would be slaughtered there,"* an elderly Rohingya woman said frustratedly during an interview in Delhi. She continued, "... *It'd be better if they dumped us in the creek and buried us; our lives have become a punishment, and we have nowhere to go...."* Her statement clearly explains how years of helplessness, fear, and vulnerability have contributed to their aggravation. The Rohingya's condition in the country can be rightly understood through what Mbembe (2019) explained, how biometrics, surveillance, labeling as terrorist and racism are a unique conflation of politics and war to the point of rending them indistinguishable from one another. With the perception that the existence of the "other" becomes a "mortal threat" to life thus, their biophysical elimination would strengthen my potential and security of the nation and nationals. Mbembe describes this as the imaginary dimensions characteristic of sovereignty in both early and late modernity (p. 72). It became evident when Kiren Rijiju, the Union Minister of State for Home Affairs, in a statement said, Rohingyas living in India are "illegal immigrants" and are involved in a variety of unlawful activities.[31] However, there is no evidence to support this claim. This represents the state language of the theoretical notion of "non-traditional security". It explains how the state and its actors are in designing and devising policies and strategies that dictate the future of any community in need. Thereby, disregarding

the principle of non-refoulement[32] as well as their fundamental rights guaranteed under Articles 14, 21 and 51 (C) of the Indian Constitution, India deported seven Rohingyas from an Assam detention center to Myanmar.[33] Later, a family of five in 2019,[34] brought condemnation, globally. In fact, there were allegations that Rohingyas were denied entry into India at the borders. Between 2015 and 2018, India's Border Security Force detained 478 Rohingyas attempting to enter India on the India-Bangladesh border[35]. And, around 300 Rohingyas were arrested again in 2021. In Jammu, some 160 people have been held held (see text 24). Along with the harsh bureaucratic measures, Rohingyas also encounter animosity from local communities, with regular reports of camps being set on fire, incidents of violence, theft, mobile snatching, eve-teasing, etc. The Kalindi Kunj camp was destroyed by fire in April 2018. It was the fourth fire in the space of 6 years. The refugees practically lost all of their valuables, including their identification papers. "*Yes, we did and we do again,*" a Twitter user declared shortly after the Delhi fire incident. On social media, the hashtag "# rohingyaquitindia" became popular. These suspicious fire incidents are not restricted to Delhi rather it is a similar scenario for Rohingyas living in various parts of the country. In Jammu in 2017, multiple billboards with messages like "Wake up Jammu, Rohingyas and Bangladeshis quit Jammu" and "Threats of Rohingyas looms large over the heads of peace loving Jammuites, let's all unite to save Jammu" were erected throughout the city. Also, the Jammu Chamber of Commerce advocated for the expulsion of the Rohingyas by calling them "illegal and terrorist" (Nair, 2022). In a personal interview, Anuradha Basin stated that since 2005, most Rohingyas had peacefully resided in Jammu until 2008. It was during the Amarnath land agitation that anti-Rohingya campaigns began, fueling the xenophobic discourse. She added that it truly triggers the "sabotage theory" when speaking about inexplicable fires and escalating propaganda.[36] Following the escalation of tensions and attacks in late 2017, UNHCR and its implementing partners NGOs (DAJI and Save the Children, Jammu) attempted to relocate Rohingyas to safer areas in Hyderabad. Around 300 families had been relocated. However, by April 2018, the process was largely phased out, and the majority of the safe zones had been inhabited. Rena Senyal (DAJI Jammu), during a personal interview, she stated that intolerance and attacks on minorities have spread all over

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31 "Rohingyas to be deported, don't preach India on refugees", says Kiren Rijiju. (2017, September). The Indian Express. Retrieved from https://indianexpress.com/article/india/rohingyas-to-be-deported-dont-preach-india-on-refugees-says-kiren-rijiju-4830199/.

32 The right to seek and enjoy asylum is a customary principle in international law, under UDHR, Article 14.

33 Human rights Watch (2018). https://www.hrw.org/news/2018/10/04/india-7-rohingya-deported-myanmar.

34 Reuters (2019). https://www.reuters.com/article/us-myanmar-rohingya-india-idUSKCN1OX0FE.

35 Lok Sabha, Unstarred Question 3243, 1 January 2019.

36 Through personal interview with Anuradha Bhasin, executive editor of Kashmir Times, February 2019.

India.[37] This illustrates the gravity of the danger they face on a daily basis.

Nature of refuge

Apparently, the Rohingyas have been migrating to India since the late 1970s, although their presence mostly went unrecognized until 2012. This community caught attention after their protests outside the UNHCR office in New Delhi, seeking lawful protection and aid, made the headlines (Kaveri, 2017). The community is quite mobile and scattered. The majority of its members continue to live in deplorable conditions in makeshift camps in semi-urban ghettos spread across various states, including Delhi, Uttar Pradesh, West Bengal, Haryana, Andhra Pradesh, Telangana, Rajasthan, Maharashtra, Jammu and Kashmir, Tamil Nadu, Madhya Pradesh and the Andaman and Nicobar Islands. The route they usually follow is by taking advantage of the porous borders at Bangladesh–West Bengal or Manipur–Myanmar[38] in the north-east. Before coming to India, the majority of the stateless Rohingya refugees interviewed had lived in Bangladesh either for a short or long duration. During the interviews, most highlighted that the poor conditions in the camps—overcrowded and unsanitary makeshift housing, restricted movement, limited employment opportunities, and animosity from the local community—were the major reasons they fled Bangladesh for India. Many people agree that among the most serious issues are gender-based violence, forced prostitution, and human trafficking for women under the guise of work and marriage.[39] Also, the favorable description of India provided by their fellow Rohingyas helped in making the decision to move to India. It was observed that mobile phones and other informal communication channels kept the vast majority of the Rohingyas connected. While few also mentioned that they believed migrating from India to other countries would be much easier. A young Rohingya man interviewed at Kanchan Kunj, New Delhi, described one of his experiences, he said;

> "It was very difficult to survive there...locals hated us. They called us Burmese people and kept saying we should go back...I didn't like it. Who wanted to be there, it was due to our helplessness (*mazbori*)...We couldn't even go out of the camp to work and earn..."

Being the national capital and the seat of UNHCR's country's headquarter makes New Delhi an obvious destination. However, in 2009, many Rohingya families followed the path of Bangladeshi economic immigrants and moved to Jammu to seek livelihood opportunities, where they began working as contractual labor for Reliance Communication Ltd. Reliance contractors told the community that additional physical labor was needed to develop the optic fiber network in Jammu.[40] The initial settlement of Rohingya in Jammu was prompted by the peaceful and harmonious environment, including greater livelihood options. They believe that residing near Muslim neighborhoods will be much safer, which has also proved to be welcoming and supportive. However, both Indian Muslims and Rohingya Muslims are conscious and practice self-segregation. The Muslim Brotherhood is said to have helped them out of compassion, but they clearly distinguish themselves on the basis of culture and religious practices. Because Indian Muslims object to Rohingyas using the same cemetery, they have extended a separate plot of land. And even the Rohingyas feel the same.

The nature and conditions in Delhi, Mewat, Jammu, and Hyderabad's Rohingya colonies are very similar. Because neither the Indian government nor the UNHCR has designated any of these settlements as refugee camps, but rather "self-settled temporary camps" with some assistance from NGOs. They are considered unauthorized and illegal colonies with unhygienic conditions and spaces in congested slums of semi-urban localities, comprising temporary shanty-like constructions supported by bamboo, plywood, and tarp sheets with no proper access to sunlight. Such structures are insufficiently resistant to adverse climatic conditions. Moreover, issues of sanitation, particularly lavatories (many still practice open defecation due to lack of proper toilets), as well as clean drinking water accessibility, sewage, electricity, etc., exist. In fact, most of these settlements are built around sewers and open water which pose immense health risks. Thus, overall, the atmosphere is extremely unhealthy and disease-ridden. The Kanchan Kunj settlement in Delhi is situated near trash manure. The electricity connections in these settlements are mostly illegal or paid along with the rent of the house. Similarly, water accessibility is through water delivery tankers. They store the water in jointly purchased water tanks for the community. In Hyderabad, mobile toilets and hand pumps for water supply have been installed. Additionally, incidences of scorpion and snake bites have been reported often in Delhi, Hyderabad, and Mewat.

In Hyderabad and Jammu, the settlements are mostly built on private land, and rent is paid individually based on the size of the land or hut acquired. The monthly rent is normally between Rs. 800 and Rs. 1,800, with Rs. 200–500 for electricity, additionally.[41] In Delhi, they live with other migrant workers from Bihar, Uttar Pradesh, and Nepal. Except in Khajuri Khas, where they live in rented rooms, many of which are shared. However, there are also a few Rohingya families in

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[37] Through personal interview with Ms. Rena Senyal, senior project coordinator, DAJI, Jammu, February 2019.

[38] Rajagopal, 2017.

[39] As shared by Rohingyas in Delhi, Mewat and Hyderabad.

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[40] As shared by Rohingya community leader in Bhiwandi, Jammu.

[41] Through personal interview- Mhd. Shafi, and Mhd. Rushaal February and March 2019 respectively.

Delhi, Hyderabad, and Jammu who are financially better off and can afford to live in separate rented houses, they are an exception. This, on the other hand, is becoming increasingly problematic. According to a Rohingya community official in Hyderabad, "*the police refuse to do verification for us to get rental accommodation.*" As a result, they are forced to live in slums.

A Rohingya woman interviewed in Jammu narrated her experience and pain of her everyday encounters with bureaucratic and administrative challenges that obstruct their daily functioning, such as obtaining their livelihood.

> "Most employers ask for Aadhaar card but how can my husband show that we don't have one! In fact, when my husband shows his UNHCR's Refugee card, they would laugh and ask what was it? We can't even buy mobile sim card with it…No one acknowledges it. Now, you only tell me? How will we survive without job and money, how will we buy food? Thankfully, nowadays my husband has got some work as daily wage laborer at the metro construction site but still, we don't know whether tomorrow he will get work or not…we do not know anything!"

The above statement clearly explains the vulnerabilities of not having an identity continue to afflict daily functioning. It has become much more difficult, especially since the introduction of Aadhaar identification as a requirement to avail any basic services or facilities in India, such as hospitalization, housing, schooling, employment, banking, renting a house, and so on. As not having one raises suspicion among employers. Moreover, being tagged as an illegal migrant/immigrant or outsider adds another layer of difficulties in earning a livelihood. Thus, regular stigmatization and desperation to break free are so extreme and urgent that it forces many Rohingyas, who can afford to pay a hefty fee, to obtain fake Indian IDs proofs like Aadhaar cards, Voter ID card, Pan Card, and even Passports[42] surfaced in the media. However, given their current circumstances, this is no surprise. A citizen's liberties are unlawfully taken away, and he/she is likely to resist adhering to the nation-states. However, the Supreme Court of India, in a landmark judgement in May 2018 on the writ petition filed by two Rohingyas in 2013, stated that Rohingyas in India are eligible for basic human rights and services.[43] But the ground reality is different. For most Rohingyas access to basic facilities is still a dream. Due to a lack of awareness, suspicion, and undocumentedness, their well-being and living standards have suffered significantly, and they are frequently forced to run on low rations. While, owing

to illiteracy, low skills, and restricted opportunities, Rohingyas are usually forced to work in the informal sector as daily wage earners- cleaners, butchers in meat shops, warehouses, construction or factory workers, rickshaw pullers, auto-rivers, rag pickers, or fewer have opened small grocery shops or tea stalls in their neighborhood.

For many, not understanding the local language complicates the quest for earning basic necessities. It also becomes a determinant for identification or suspicion, as it distinguishes them from the locals, potentially resulting in detention or arrest. The Rohingya language is very distinct and is quite similar to Arabic and Bengali, with a Chittagong dialect that often leads them to get falsely identified as Bangladeshi migrants, resulting in their victimization and even criminalization. A Rohingya man was interviewed in Delhi, who was unjustly detained and later also fired from his job as a college security guard after a police officer patrolling at night got suspicious of him upon accidentally overhearing his conversing (in his own language) over the phone. Upon confrontation, he was asked to show his ID proof, but his UNHCR refugee card proved futile in front of the officer. Thus, got detained by an officer for further inquiry. It was only after the involvement of Ngo workers he was released. "… *What was my crime; I was only doing my duty…. don't I also have the right to live peacefully?*" he spoke.

Interestingly, it was noticed that though the older generation generally remains passive and lives a life of "invisibility," the desperate desire among the younger generation (mostly Rohingya male youths) to work for their community and to make a small yet significant difference in their lives has motivated many, and now they are more up-front, assertive, vocal, and conscious of their rights as stateless refugees. Thus, owing to international support and activism, many Rohingyas, particularly the youths, without hiding or concealing their identity, have come forward to assert their agency by sharing their voices and concerns through various media platforms such as social media platforms, lectures at seminars/conferences, and media interviews, etc. Many have established committees and organizations like the Rohingya Human Rights Initiative (ROHRInga) in Delhi and the Rohingya Refugee Committee in Hyderabad and Jammu. Despite such efforts, the experiences of discrimination and exclusion, as well as memories of horrors and the pain of displacement, continue to haunt many Rohingyas. While none of them likes residing in these overcrowded makeshift settlements amidst such dreadful circumstances. They wish to return if given assurances of citizenship and security in Myanmar. However, given the current situation in Myanmar, the greatest fear for these refugees in India has been that if they are deported back to Myanmar, they will face a new wave of violence.

Over the years, many humanitarian and non-governmental organizations have stepped forward to work with the Rohingyas such as the Zakkat foundation, Jamaat-e-Islami Hind, an Islamic charitable organization that offers free treatment to the Rohingyas at the Al Shifa hospital near Jamia Nagar in

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42 "Hyderabad: 3 Rohingya Muslims with Aadhaar, ID Cards Held", Times of India (online, 5 July 2018). Hyderabad: 3 Rohingya Muslims with Aadhaar, ID cards held | Hyderabad News - Times of India (indiatimes.com).

43 Writ Petition (Civil) No 859/2013- Jaffar Ullah and Anr versus Union of India &Ors.

Delhi,[44] Sakhawat Center in Jammu, and UNHCR partner Ngo's like-Development and Justice Initiative (DAJI), Don Bosco in Delhi, Save the Children in Hyderabad and Jammu, and Action-Aid in Mewat. Many are now able to access healthcare and educational facilities. The Association for Social Media Professionals (ASMP) is a non-profit organization, which is working on digital livelihood opportunities for Rohingyas living in New Delhi's Saran Vihar settlement. Human Rights Law Network (HRLN) is a legal partner of UNHCR and the South Asian Human Rights Documentation Center (SAHRDC). They both provide free legal assistance to refugees and asylum seekers as well as liaison with local authorities. While the Commonwealth Human Rights Initiative (CHRI) is working on the issue of Rohingya detention. However, increasing bureaucratic measures, including border control, extensive surveillance, inquiries, monitoring, surveillance, policing, and restrictions by the government authorities, have exacerbated the prevailing fear and anxiety not just among the community but also among NGOs and other humanitarian organizations, making it difficult to operate. On condition of complete anonymity, one of these organization's representative shared,

> "Our organization was working with Rohingyas in Delhi and Mewat in partnership with UNHCR. However, we were receiving regular enquiry phone calls from Home Ministry and local authorities to know about our involvement with the Rohingyas…It was taxing to explain them again and again… In fact, they even suggested we opt-out of the project since the case of Rohingya deportation is already in the court". He further added, "We didn't want to get into any unnecessary trouble with the government authorities, hence were forced to drop our work with the Rohingyas…"

Such testimonies serve as a grim reminder of the serious humanitarian crisis in the legal apparatus of the country. Also, how the government uses state apparatus in order to perpetuate their condition of statelessness by subjecting them to differential treatment and "othering" (by pushing them to the margins, where they have zero access to rights, services, or any support) and thereby committing acts of injustice and violations of human rights, resulting in the re-production of extreme marginality and vulnerability, effectively turning them into a disposable population. This exemplifies how the state continues to shape, regulate, and control their "everyday life". The statement also illustrates the lack of commitment on the part of humanitarian agencies to get into any conflict with the authorities; they just want to do easy work rather than challenge an abusive state. This calls their credibility and commitment to humanitarianism and the people into question. The Rohingya

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44   Through the personal interview with Mohammad Nayyar, production manager, MMI Publishers.

state of being in India resonates with what Mbembe described as "necropolitical power" that proceeds by a sort of inversion between life and death. The sovereign becomes indifferent to the cruelty. This is why it multiplies "infinitely" in different forms and doses or by "spasmodic surges" (Mbembe, p. 38). And, since the sovereign can define who matters and who does not, who is disposable and who is not, it can dispose of all the unwanted without any remorse or responsibility (Mbembe, p. 80). This helps in the reformulation of the "state of exception" beyond the camp into the everyday spaces and lives of the stateless Rohingya refugees. As a result, neither humanitarian organizations nor the host states are concerned about them.

During epidemics, the stigma of disease, exclusion, and marginalization had a significant impact on the Rohingyas. When the world was facing a public health emergency, it was noticed that in India, the government had targeted the Rohingyas, singling them out for COVID-19 screening and disinformation. The Rohingyas, who live in squalid urban slums, are also highly vulnerable to viruses. Furthermore, the state-wide lockdown has impacted their survival, risking starvation as their struggle over access to food and water became reality. This exclusion of Rohingya and other refugees from accessing government COVID-19 relief measures has made survival even more difficult. Moreover, they continue to be threatened with eviction and deportation. It exemplifies the precarity of life by denying people access to basic health care facilities, living conditions, and legal processes. However, this can also be interpreted as a strategy by the government to force them to leave India voluntarily. As described by Davies et al. (2017, p. 14), "agnopolitical expression of power"—intentionally maintaining ignorance of a situation for political ends—results in a life condition of "making live/letting die."

Politics of humanitarianisms and aid

Globally, humanitarian intervention and assistance have increasingly become the paramount means of designing and delivering protection, aid, and democratization for communities and countries in distress. It is believed that humanitarian aid keeps people stuck in conflict alive and hopeful for a better future. However, in today's globalized era of the market economy, there is a sudden surge of humanitarian organizations/groups and aid workers/actors, all concerned with war, armed conflict, and wanton violent extremism and expanding disparities (Kaveri, 2020); maintaining impartiality and equity in operations has thus become a far more complex, risky, and difficult task. In particular, since forcibly displaced people, asylum seekers, refugees, and stateless populations are mere objects of assistance and, in the very process of aid disbursement, are deliberately pushed to the margins (Indra, 1999). In fact, aid recipients have virtually no influence on global aid design strategies. Most international humanitarian aid and

assistance frameworks on human rights, security, protection, and needs provision rooted toward western development philosophy and priorities rather than local needs and values. This creates disparities not just in demand and supply but also in the entire approach of humanitarian aid, care, and protection. As a result, concerns have been voiced that engaging in rights-based humanitarianism is increasingly becoming an economic enterprise and a political weapon for directing and controlling territories as well as governing international relations (Lauri, 2016, ed.).

Funding is the major concern for most humanitarian aid organizations, actors, and peacekeepers who profess to be autonomous, impartial, and neutral. Also, the obligation to obtain consent from governments and other authorities in order to operate in a certain conflict zone/region or community in need raises questions about autonomy, which often gets conflated with protection regimes. Because primarily these funds are raised through voluntary contributions from supranational organizations (such as the European Commission and other major states), public and private enterprises, including corporate houses, concerned or driven by increasing human rights violations that may impact their businesses and people's protection. As a result, questions about accountability have come to the fore. For example, to whom are they accountable— the funding agencies or the general public? And, what about decision-making? Who has the authority to decide? Also, how will you ensure that the commitment of these donors does not wane with time or issue? Furthermore, it has been observed that on numerous occasions, international humanitarian organizations, actors, and peacekeepers have abandoned or cut-short programmes in situations of conflict, war, or communities in need owing to a lack of funds, security, or political reasons, particularly when a funding agency or a country itself is a part of conflicting parties. Trying to explain why certain groups/communities receive international/national protection while others equally in need do not? (Kaveri, 2020). It is the humanitarian protection regime that is highly inconsistent, inadequate, and not timely, as well as driven by strategic and political interests. Thus, it's not surprising that the UN conventions are often criticized for being eurocentric, as that explains why it usually wakes up to a crisis only when it hits European borders. It was quite clear when images of a 3-year-old boy, Alyan Kurdi, washed up on a Turkish shoreline surfaced in the media, alerting the world to Europe's migrant, asylum-seeker, and refugee crisis. The Rohingyas, on the other hand, have been denationalized and persecuted since the early 1970s, but it was only in 2012 and 2017 that it became a noteworthy catastrophe. This disparity in their operations is not new; in fact, when British India was partitioned in 1947, the UN offered no assistance to the millions displaced, while a separate UN agency, UNRWA, stepped forward to assist 700,000 Palestinians displaced by the newly established state of Israel in 1948.

Channeling aid and assistance by humanitarian agencies and countries in situations and zones of conflict or war or states in an emergency has become a de-incentivizing approach or strategy utilized by most developed nations to control and restrict the populations at risk from migrating and entering their borders. As a result, aid disbursement has become a critical aspect of many countries' foreign policies, allowing them to fulfill their role in global politics and maintain international ties while avoiding the real issue or burden. In fact, when strong resentment in Bangladesh flared over the Indian Prime Minister's Myanmar visit and avoided the Rohingya issue, which threatened to disrupt bilateral ties between these two nations (Mitra, 2017),[45] India used a similar strategy. To balance its approach and reduce tensions, India announced "*operation Insaniyat,*" which provided humanitarian aid and relief items to refugees in Bangladesh. However, it is important to note that India continues to remain silent on the issue of Rohingya persecution and extermination. Thus, this initiative can be interpreted as a deterrent to Rohingyas entering India. India's juxtaposing stand was exposed when the Ministry of External Affairs omitted the word Rohingya in the first news release on "*Operation Insaniyat*", instead referred to them as refugees in Bangladesh[46]; meanwhile, in India, the same community is deemed illegal immigrants and a threat, and thus receives no aid or assistance. In fact, the country adopted a highly securitised response that included extreme measures like biometric data collection, detention, deportation, etc. Furthermore, India's decision to abstain from voting on the "UN Human Rights Council Draft resolution on the Situation of Human Rights in Myanmar" demonstrates the country's stand is guided by cold cost-benefit strategic interests and realpolitik and not humanitarianism.

Apparently, the role of the United Nations High Commissioner for Refugees has been called into question since it has "failed to develop new, more innovative means of unlocking political solutions"[47], particularly, in the case of the Rohingyas. Especially after two senior members of the Kofi Annan Advisory Implementation Group quit, calling the committee the government's "cheerleading squad" and "white-wash operation," respectively.[48] In fact, when a UN agency, the United Nations Population Fund (UNFPA),

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45 Mitra, 2017.

46 Government of India, Minister of External Affairs, Press Release September 14, 2017. https://mea.gov.in/press-releases.htm?dtl/28944/Operation_Insaniyat__Humanitarian_assistance_to_Bangladesh_on_account_of_influx_of_refugees.

47 Alexander Betts, professor in Refugee and Forced Migration Studies at Oxford University in an interview to tells Tom Miles of Reuters. See here, Miles, T. 2015. "As refugee crisis grows, U.N. agency faces questions", *Reuters*, September 16. [https://www.reuters.com/article/us-europe-migrants-unhcr-insight/asrefugee-crisis-grows-u-n-agency-faces-questions-idUSKCN0RG13E20150916].

48 New York Times (2018). https://www.nytimes.com/2018/01/24/world/asia/bill-richardson-myanmar-rohingya.html.

assisted the Burmese government in conducting a biased census, excluding Rohingyas, in early 2014, UNHCR remained deafeningly silent. And, in its India operation, they began to work with the stateless Rohingya only in 2012, following the community's outcry, even though they were already assisting other Burmese refugees of varied ethnic, religious, and linguistic origins. This accentuates the asymmetry and inconsistency in its humanitarian approach and attitude. They even failed to negotiate with the Indian government on the subject of Rohingya detention and deportation, drawing widespread condemnation. However, it is important to note that UNHCR in India operates under the UNDP mandate; thus, does not have any legal autonomy. However, the country allowed UNHCR to operate with a "laissez-faire approach unless and until it is necessary to intervene" (Raj, 1999). It is for this reason that the UNHRC is often seen as a toothless tiger that fails to protect such outcasted and oppressed communities.

Recently, the United Nations and the government of Bangladesh have agreed to cooperate in assisting stateless Rohingya refugees on Bhasan Char, an island in the Bay of Bengal[49] where thousands will be relocated from crammed camps near the Myanmar border[50]. However, the question remains whether this relocation will solve the problem. Instead, it is more likely to result in a slew of multi-layered administrative and humanitarian challenges, such as how and who will ensure these people's security, protection, and access to aid and services, and for how long? In particular, Bhasan Char Island is vulnerable, unstable and unsuitable for human habitation, both geographically and environmentally. And, is it feasible in the world of nation-states for people to live outside the state and have an equal and respected life with rights?

In this context of selective and declining humanitarianism, what's even more problematic is that the doctrines of humanitarianism often fail to take into account the long-term solution and the changing needs and demands of people amid a humanitarian crisis. Also, since most human emergencies now are not just limited to natural disasters, thus, in the given context, the preventive approach is still lacking due to political passivity. Even the idea of neutrality[51] is believed to allow the creation of a humanitarian safe space for humanitarian actors and peacekeepers to be able to work and provide assistance/aid without getting into any conflict with either

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49 The uninhabited island is located around 30 kilometers east of Hatiya island in South-East Bangladesh. The Bhashan Char falls in an ecologically fragile area prone to floods, erosion and cyclone.

50 https://www.npr.org/2021/10/11/1044977066/un-and-bangladesh-sign-deal-to-aid-rohingya-relocated-to-island-in-the-bay-of-be#:$\sim$:text=Bangladesh%20has%20been%20sheltering%201.1,not%20force%20them%20to%20return

51 The concept of neutrality is traditionally considered as one of the core principles defining humanitarian actions that says not to take sides in hostilies or engaging in controversies of a political, religious, racial, or ideological nature.

warring party. However, the principle is not just anachronistic but also calls for a debate. How can justice and peace be separated from human rights, humanism, and humanitarian activities or approaches? Since, there will be regular encounters or confrontations of humanitarian organizations and actors with states, governments, or armed actors asserting people's rights during the conflict, particularly because the "state" itself is the greatest perpetrator of mass violence and discrimination. In this given scenario, keeping one's distance or remaining impartial and neutral casts doubt on the credibility of such humanitarian organizations and actors. As a result, an oppressive state remains unchallenged. As the phrase goes, failure to object/oppose a crime or criminal encourages the crime and criminal. The targeted approach to relief work ensures a sheer balance between crime/violence and relief/aid that goes hand in hand as parallels, i.e., band-aid humanitarianism. Such an approach is limited to immediate relief actions with recurring costs rather than looking into long-term solutions by focusing on preventive measures to end the generation of refugees and stateless people. As illustrated by Thomas G. Weiss in Chandler (2001), "the strongest critique of needs-based humanitarian action is from the human rights movement itself, which argues that responding to crises by sending humanitarian relief is merely an excuse to avoid more vigorous responses". Therefore, they become predators of democracy and humanity because the pillars of democracy stand on dissent against exploitation, violence, and inequality. Hence, humanitarian aid organizations, actors, and countries must take action to end injustice, discrimination and violence.

Conclusion

The study thus establishes that the Rohingyas are subjected to various forms of discrimination, abuse, and violence as a result of their statelessness or citizenship crisis, which is essentially structural, centering around the faulty lines of the modern nation-state—built on ethno-religious lines. Subsequently, pushing them to the extreme margins of the state or the "neglected spaces" where they are ordained to endure injustice, humiliation, and violence as part of "socially sanctioned dehumanization" efforts (Castro, 2015, p. 248). Moreover, the rising security concerns, intolerance, ultra-nationalist sentiments, extremism, as well as a highly limited and uneven humanitarian protection regime both in geographical and political spheres, makes it even more precarious and protracted. This entraps such populations into a cycle of poverty, discrimination, exclusion, abuse, violence, arbitrary arrest, or detention, in which their human lives become insignificant to both their country of origin and host. This calls for an urgent need for global humanitarian actors and communities to go beyond the immediate offers of temporary shelters and charity, i.e., the relief approach rather acknowledges it as a significant issue and ranks it along with disarmament and trade. This

can only be achieved by building a "protection infrastructure" with a preventive approach, nationally, regionally, and globally. Additionally, the need for the egalitarian language of rights is part of their larger debate in liberal democratic politics to stop an abomination that haunts and is pernicious to human rights. For this, humanitarian actors and communities must openly discuss the fundamental issues causing conflict and war in the region to work toward mitigation or cessation, rather than maintaining the traditional respect for the principle of non-interference in the domestic affairs of the states, or due to the notion of derogation under international law, or maintaining neutrality. Since it results in creating gaps in legal mechanisms, wherein the state continues to be lawful while tormenting the rights-seeking communities, subject to extra-judicial state violence. Indeed, this has the potential to transform democracies into totalitarian states where the scope for normative concepts like rights, democracy, humanitarianism, and citizenship becomes redundant.

Data availability statement

The original contributions presented in the study are included in the article/supplementary material, further inquiries can be directed to the corresponding author/s.

Ethics statement

The article is part of the PhD study of the corresponding author. The studies involving human participants were reviewed and approved by the ethics committee at Tata Institute of Social Sciences, Mumbai, India. Written informed consent to participate in this study was not required from the participants in accordance with the national legislation and the institutional requirements.

Author contributions

K performed material preparation that includes designing questionnaire, data collection, analysis, and wrote the first draft of the manuscript. SR supported critical feedback and manuscript revision. All authors contributed to the article conception and design, read, and approved the final manuscript submitted.

Conflict of interest

The authors declare that the research was conducted in the absence of any commercial or financial relationships that could be construed as a potential conflict of interest.

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