Rajagiri Journal of Social Development
Vol. 14, No. 1, January-June 2022: 27-31
DOI: 10.5958/2583-7087.2022.00004.9

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Research Article

Statelessness and Protection: The Case of Rohingya

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Keywords
Rohingya refugees, stateless people, systematic discrimination, state protection, global action plan

The term Rohingya represents statelessness and human rights crisis. Since Myanmar's Citizenship Act of 1982 stripped them of their citizenship, they have suffered severe discrimination, brutal persecution, and prolonged statelessness, both inside and outside Myanmar. Rohingya fled military clearance operations in Myanmar and were turned away by the neighboring countries. Those who crossed the borders faced detention and persecution in host countries. This case study was conducted to examine the factors that led to the mass exile of Rohingya, the challenges they face in their country of arrival, and the possible ways to end the statelessness of Rohingya. The study analysed the problems of Rohingya refugees marked by severe insecurity, poverty, illiteracy, documentation requirements, endless discrimination, and detention. The results revealed that the Rohingya lack state protection because there are insufficient policies at the national and international levels to ensure their inclusion in the country of arrival. Furthermore, it discussed the need for an inclusive political process in Myanmar.

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INTRODUCTION

A process of exclusion defines stateless people like the Rohingya. They are seen as outsiders and are not allowed to hold civil, political, and social rights in and outside their country of origin. Many Rohingya live in Myanmar (formerly Burma, before 1989) with temporary identification documents. After they failed to meet the requirement to prove that their ancestors had settled in Burma before 1823, their citizenship was revoked in 1982 (Mahmood et al., 2017). Rohingya in Myanmar (RM) are stateless as the country does not recognise them as citizens or foreigners (Lewa, 2009). They are detained for security reasons and face severe restrictions and discriminatory laws. In addition to these human rights violations, the RM suffer ethnic cleansing and state-sponsored genocide (Alam, 2018). In 2015, Myanmar reaffirmed its refusal to participate in international discussions on the plight of the Rohingya if the word 'Rohingya' was used (Clark, 2015). However, "the term Rohingya is both recognised and used by the UN, US Congress, European Parliament, and humanitarian agencies including Physicians for Human Rights, Human Rights Watch, and Médecins Sans Frontières" (Mahmood *et al.,* 2017, p.1841).

Systematic discrimination against the RM led to multiple cycles of forced displacement between Myanmar and its neighbouring countries, contributing to the scale and protraction of the problem (Tay *et al.,* 2019). The label Rohingya refugees (RR) has taken on regional and international significance in the issue of rights and justice for the entire community in South Asia. However, efforts to secure international protection for the RR are challenging as none of these countries are party to the 1951 Refugee Convention or the 1967 Protocol concerning refugee status (Tay *et al.,* 2019). Furthermore, their poverty, gender vulnerabilities, illiteracy, unemployment, and violence compounded by a lingering state of statelessness complicated their registrations and documentation in their countries of arrival. It gave birth to new forms of exclusion marked by a sense of profound fear and anxiety due to inadequate social protection.

Additionally, these issues have led to their continued marginalization and denial of fundamental rights. However, without durable formal solutions for refugee protection, RRs created their own protection space and achieved social integration in the destination countries (Cheung, 2011). Considering all these factors, this study inquired into Rohingya's state of statelessness and social protection.

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METHOD

Concerning the plight of RR, this case study reviewed and collected data from journal articles, academic books, official reports, and newspaper reports seeking answers to the study questions, 1) What factors led to the mass exodus of RM? 2) What are the challenges RR face in their country of arrival? 3) What are the possible solutions to the statelessness of Rohingya? The data were analyzed thematically and reported.

RESULTS

Looking back

Rohingya have a centuries-long history in Myanmar. Table 1 shows the history of RM.

Western Myanmar's long-simmering hostility between Rohingya Muslims and Rakhine Buddhists reached a deadly clash in 2012 (Kipgen, 2013). Although Myanmar's political scenario was marked by a historical change from military rule to a nascent, quasi-civilian government in 2011, the legislature was reluctant to tackle the sectarian conflicts (Kyaw, 2015; Win and Kean, 2017). Clashes that broke out in 2016 marked a significant surge on 27 August 2017 with the attack by Rohingya militants on army and police outposts. Supported by armed Rakhine Buddhists and Border Police, the military launched sweeping attacks against the Rohingya. Over two months, over 600,000 Rohingya fled military clearance operations to Bangladesh (Xchange, 2017). As the sea was the accessible way to exile, they evolved as *boat people* and became vulnerable to trafficking (Chaudhury and Samaddar, 2018). The progressive erasure of Rohingya homes in Myanmar created Asia's largest cross-border humanitarian crisis (MacLean, 2019).

Imminent Risks to Life in Limbo

Rohingya were ousted from the Rakhine state, their ancestral homeland. Statelessness as a problem for the Rohingyas has a regional dimension as well. They have fled to Bangladesh, India, Thailand, and Malaysia, and some have tried to reach Australia. Moreover, the discrimination against them in host countries continued unabated due to boundary-making processes and discourses of exclusion built into the social structure, which fuelled a never- ending cycle of repression and conflicts. Countries in South Asia faced challenges concerning the humanitarian protection of stateless Rohingya regarding resources and the policies needed to deal with them. Furthermore, the security

Table 1. History of Rohingya in Myanmar

Year	Event
1799	Francis Buchanan, a Scottish physician who spent 15 yearsin the area, reported that Mohammedans were long settled in Arakan (present- day Rakhine State) and called themselves Rooinga or natives of Arakan.
1931	Census of Burma excluded Rohingya
1974	The military prohibited Rohingya from voting in elections.
1978	Operation King Dragon (Operation Nagamin). To escape military operations,more than 200 000 Rohingya fled to Bangladesh.
1982	The Citizenship Act stripped the Rohingya of their citizenship.
1991-1992	Operation Clean and Beautiful Nation (Operation Pyi Thaya) was a military operation conducted by the Tatmadaw (Myanmar Armed Forces). 260,000 Rohingya fled Myanmar.
1992	Bangladesh stopped granting the Rohingya the status of refugees.Forced repatriation after Bangladesh and Burma agreed to return the refugee.
2012	Sectarian conflict. Rohingya started fleeing to neighbouring countries by boat.
2014	Myanmar held its first nationwide census; Rohingya were omitted. More than 1000 Rohingya were known to drown while fleeing by sea.
2015	The number of Rohingya fleeing by sea has increased fourfold. Myanmar refused to attend the UN conference on refugees if The term *Rohingya* was used.
2016	Broke out sectarian conflicts
2017	600,000 Rohingya Muslims fled military clearance operations in the Rakhine state and sought refuge in Bangladesh. Almost 10,000 Rohingya were killed, and around 40 percent of Rohingya villages were destructed.

Data sources: Mahmood *et al.* (2017); Xchange (2017); ENS & ISI (2019)

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concerns of sovereign nations over the management of the territory and people have put the Rohingya at risk, and their fundamental rights have been violated.

According to Chaudhury and Samaddar (2018), the host countries do not take individual responsibility for the resettlement of refugees in the region, and the wealthy ones push the refugees to the poorer ones, abdicating their duty to care for the Rohingya and other groups of people or minorities who are fleeing. A country position report by the European Network on Statelessness (ENS), and the Institute on Statelessness and Inclusion (ISI) (2019), stated that

"Myanmar's stateless populations living overseas face further protection issues and continue to experience inter-generational forms of social exclusion. In particular, they are at risk of trafficking, indefinite detention, and *refoulement*" (p.3).

The ongoing influx of RR over a century further strained poverty-stricken Bangladesh, creating friction in the local community (Milton *et al.,* 2017). Their practices, such as child marriage, led to tension among the host community (Melnikas, 2020). Moreover, overcrowding, poor living standards, and lack of health services made RR settlements in Bangladesh vulnerable to epidemics (Karo *et al.,* 2018). White (2017) wrote from Kutupalong, a makeshift RR settlement in the Cox's Bazar district of Bangladesh, that the high morbidities were due to poor hygiene, water, and sanitation conditions. RRs registered with the UN High Commissioner for Refugees (UNHCR) live in two camps at Kutupalong and Nayapara near Teknaf in Bangladesh; however, around 850,000 unregistered refugees live in hazardous conditions outside formal camp areas (Chaudhury and Samaddar, 2018).

More than 14,000 Rohingya in India have registered with UNHCR, according to Home Ministry data; However, 40,000 Rohingya are considered to be staying illegally in India, according to security services (Tripathi, 2018). Aside from the states of Haryana, UP, and Rajasthan, there are concentrations of Rohingya people in Jammu, Hyderabad, and Delhi. They are under the threat of being detained because they do not have documents. Indo-Asian News Service (IANS) (2019) reported that 68 Rohingya Muslims, mostly children, were arrested in two weeks in Tripura and the Assam-Tripura border in early 2019. The lack of policies in dealing with the stranded RRs on the India-Bangladesh border used to create a standoff between the Border Security Force (BSF) and Border Guard Bangladesh (BGB), and in January 2019, 31 RRs were handed over to Tripura Police ending the impasse, and they faced prosecution in India (Sandhu, 2019). Owing to the extensive detention on borders, RRs found India an unsafe place, and due to the fear of deportation, RRs in India started moving to Bangladesh (Hindustan Times, 2019).

In Malaysia, as of October 2016, there were 54,856 RRs, many of whom were held in appalling conditions (Yeoh, 2016). By turning them away, Malaysia made its position clear that RRs stranded at sea are not welcome in the country (Yeoh, 2016). Thailand also claimed that the country lacked the resources to host RRs (Chaudhury and Samaddar, 2018).

Insufficient state protection over the years has marginalized RRs. In refugee contexts, it has been recognised that populations may have particular concerns about 'privacy' in refugee registration. Yet security concerns provide justification for countries to violate the privacy of Rohingya through biometric registration. From a human rights perspective, on the other hand, securitization creates restrictions on mobility, freedom, and the right to life. As Rohingya have been deprived of education for a few decades in Myanmar and have spent all their money to escape into exile, most Rohingyas have become highly impoverished.

As the Rohingya were denied education for several decades in Myanmar and spent all their money to escape into exile, most Rohingya became extremely poor. They cannot rent a house or be allowed to work legally. They are not allowed to build houses or latrines with bricks and cement. They have make-shift settlements because they can afford them. They have limited legal rights and experience restrictions on mobility, work, marriage, and refugee integration wherever they find asylum.

Way Forward

In 2014, the UNHCR launched the 'I Belong' campaign to end statelessness by 2024 (UNHCR, n.d.), and it published an action plan with ten actions (Figure 1) to end statelessness in ten years (UNHCR, 2014).

More than one in seven stateless persons worldwide are Rohingya (Mahmood *et al.,* 2017). Therefore, the efforts of UNHCR must address the Rohingya crisis. However, the Advisory Commission on Rakhine State (2017) proposed a review of the 1982 Citizenship Law of Myanmar since

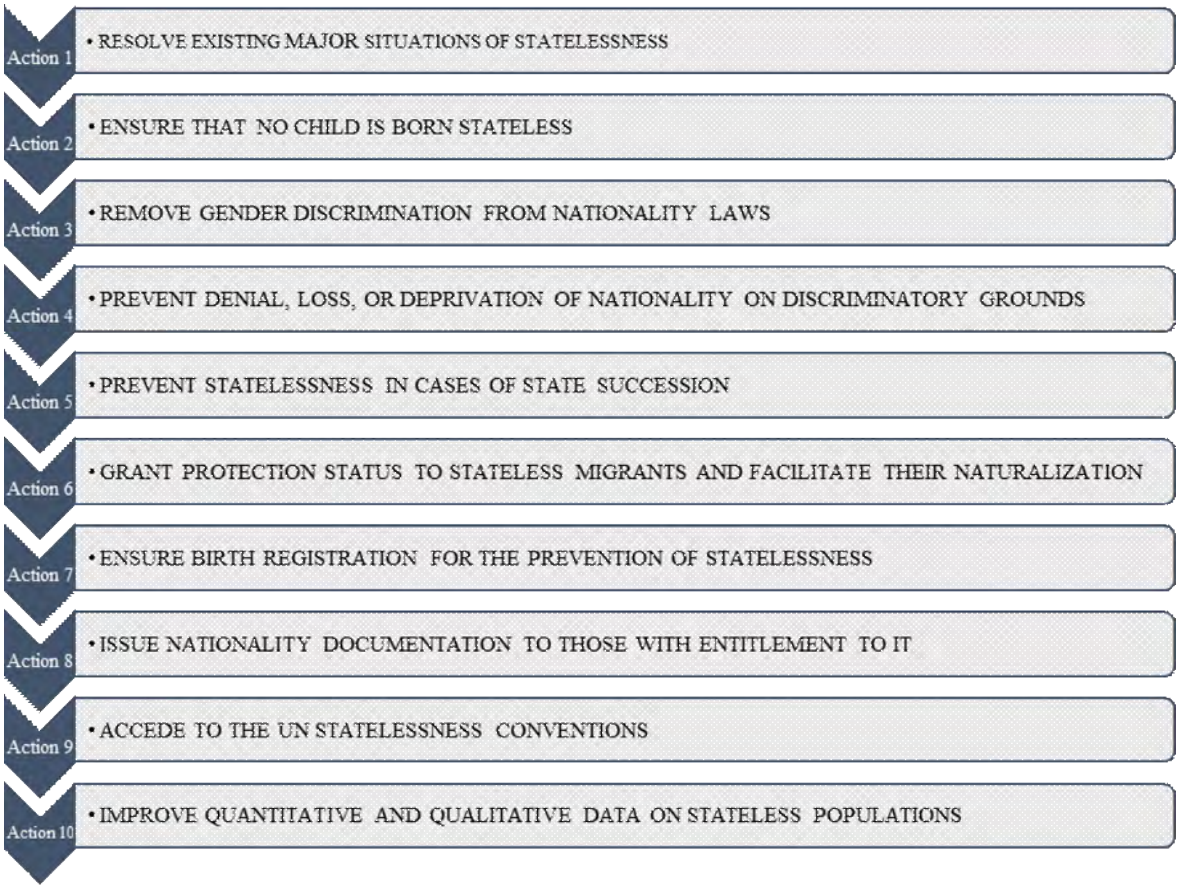


Figure 1. Global Action Plan to End Statelessness

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it is "not in compliance with international standards and norms – such as the principle of non-discrimination under international law – as well as international treaties signed by Myanmar" (p.29). The report outlines efforts to establish a legal identity for the Rohingya to end their statelessness, emphasizing the need to simplify the national verification process. Creating a legal identity for the Rohingya is key to peace-making arrangements between the various ethnic groups in the area. Kipgen (2013) suggested a 'consociational' democracy in which elites form a stable government to address the crisis. There is no chance for long-term peace in Myanmar without a political process that involves all ethnic groups, tackles fundamental constitutional issues, and guarantees meaningful political representation and self- determination for the country's minority population (Nilsen, 2013).

CONCLUSION

The Rohingya are the most persecuted stateless people globally. Since Myanmar's Citizenship Act, 1982 stripped them of their citizenship, Rohingya faced severe human rights violations and persecution in home and host countries. The fact that Rohingya children born abroad remain stateless is emblematic of RRs' lack of protection and pathways to citizenship (de Chikera, 2018). Stateless refugees are legally entitled to the protections of the 1951 Refugee Convention as they fall under the UNHCR's refugee mandate; however, countries like India exclude them labeling them 'illegal migrants' (Malischewski, 2018). The refugee crisis demands Rohingyas to return to Myanmar, though conditions have worsened over time. An efficient nationality verification process, the rule of law, and peace between communities are singularly absent in Myanmar. Humanitarian protection is a challenge for South Asian countries since becoming stateless for the Rohingyas is an accentuated condition of poverty, persecution, restrictions, lack of education, unemployment, and deprivation of basic needs. In the current impasse, their statelessness is destined to make their lives precarious in all places and at all times.

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