

**EXECUTIVE SUMMARY
INTERNATIONAL CONFERENCE
“ROHINGYA CRISIS IN BANGLADESH: CHALLENGES AND
SUSTAINABLE SOLUTIONS”
(27 JULY-28 JULY/2019)
NORTH SOUTH UNIVERSITY, DHAKA
(BANGLADESH)**

BY

SYED HAMID ALBAR (BARRISTER-LAW, PhD (IR))

INTRODUCTION

The plight of the Rohingya described as the “world’s most persecuted minority” by the UN (Al Jazeera, April 18, 2018) began to be highlighted by the international media in the 1990s. These persecutions were allegedly carried out with the support of the Myanmar government, military and civilian population including the monks. In 2012 the humanitarian tragedy escalated further with 120,000 people fleeing Myanmar due to sectarian violence. As of today, hundreds of thousands were placed in detention camps that can be described as open prisons with deplorable living conditions in various camps in the Rakhine State.

The Rohingya is a Muslim ethnic minority group (less than 5% of the total population) in an overwhelmingly Buddhist majority country, Myanmar. The discriminatory policies, systematic gross violations and abuses of human rights, persecutions adopted by the successive governments of Myanmar since the late 1960s including the 1982 Citizenship Law which rendered them stateless and compelled them to flee from their ancestral homeland for safety into Bangladesh, Pakistan, Saudi Arabia, Thailand, Malaysia and Indonesia. As of 2017, Bangladesh alone has become the recipient of 1,000,000 Rohingya, the highest number in the world (Al Jazeera, UNHCR, IOM, 2017).

The tragedy of the Rohingya shows the ugly face of modern politics ignoring humanity at the cost of economic gains and the nonsensical rhetoric of terrorism for the sake of shutting down any criticism directed to any political system that commits atrocities.

VIOLATIONS OF INTERNATIONAL LAW ON THE ROHINGYA

Myanmar has a serious human rights’ record of violating international humanitarian law, such as indiscriminate killings, enforced disappearances, rape and sexual violence. Mass killings of the Rohingya population, including women and children (genocide, ethnic cleansing and crimes against humanity); burning down houses and villages of the Rohingya; torture, rape of women; looting of assets and property of the Rohingya; expelling them from their land and houses causing the exodus in August 2017 of one million Rohingya into Bangladesh.

RESPONSE FROM ASEAN AND THE ORGANIZATION OF ISLAMIC COOPERATION ON THE ROHINGYA TRAGEDY

The UN, ASEAN and the OIC have received negative perceptions and results from different segments of the international community on their handling of the Rohingya humanitarian crisis in 2012, 2016 and 2017. There is a general sentiment that these international and regional multilateral bodies failed to act promptly to protect and prevent violence against the Rohingya community committed by Myanmar authorities. Is this fair or true?

The views and opinions given in this piece are based on my own experience and observations dealing with Myanmar’s officials and leaders as well as ASEAN, OIC,

UN and agencies under it as Foreign Minister of Malaysia (1999-2008) and subsequently as OIC Special Envoy for Myanmar (2014-2017).

Myanmar is a member of the South East Asian nations and a member of ASEAN, a regional grouping for maintaining political stability, peace and security. Three of its members namely Brunei, Indonesia and Malaysia are also members of the OIC. As members of ASEAN and OIC, they are sovereign states, hence they are members of the UN.

The humanitarian tragedy in Rakhine State Myanmar has been happening in the backyard of ASEAN. What has ASEAN done? ASEAN is aware of this humanitarian tragedy. Yet it seems to be in a state of denial or has ignored it. ASEAN is oblivious to the crises, problems and challenges.

The subject of the plight of the Rohingya is not included in the agenda of meetings of the ASEAN Foreign Ministers or Leaders Summits or in any declaration or statements subsequent to the meetings. This is a matter that is considered a taboo, one which is treated as an internal or domestic affair of Myanmar pursuant to the ASEAN policy and philosophy of non-interference and respect for the sovereignty of its member states. ASEAN's response to the tragedy has been dismal and disappointing. It was taboo to inquire about what was happening to the Rohingya population with the flow of refugees to other ASEAN countries. The situation was different when ASEAN member states were championing democratization of Myanmar and the status of Aung Ann Suu Kyi.

Even though there were strong criticisms against OIC, even by member states, their population, and the Rohingya community, the reality is that the OIC has been consistent and done better in raising the Rohingya issues through statements issued in the media by bringing up and highlighting the tragedy to UN and its Agencies, in other international fora, regional organizations such as the EU and the Security Council (SC), Permanent Five Members of the SC, including to ASEAN. Additionally, OIC sent fact finding missions and provided humanitarian assistance to the Rohingya individually or through the UN Agency such as the UNHCR. ASEAN being true to its ASEAN Way has been mute and silence for a long time. In this respect, the OIC has done better than ASEAN or the UN. However, it has no power to enforce its decisions and is inundated with image problems due the conflicts in the Middle East.

My own experience and interactions with the UN, or its agencies (other than the Human Rights Commission), is that the Rohingya tragedy is not at the top of their priority list. There was no serious focus or direction, even among the UN Agency and they do not share a common position or stand on how to manage the situation in Rakhine. Myanmar seems to have the upper hand in its engagement with the UN. It would not be wrong to say they were more interested to see Aung Ann Suu Kyi succeed as a democratic leader of Myanmar and their conception of democracy at the expense of the minorities. Unfortunately, as at present, her acts and statements are inconsistent with the best practices of democracy, such as justifying all the atrocities committed by the military, not condemning the use of force against the Rohingya and not acknowledging the rights of Rohingya in Myanmar. The latest report by Gert Rosenthal (2010-2018), suggests the UN system's failure to tackle the Rohingya crisis, which supported the view that the UN has failed in its responsibilities to the Rohingya.

Yangon seems to be more powerful, and thus the government does not see any incentive to change its political and legal position in the resolution of the tragedy or the ethnic or religious conflict.

As a regional organization of countries of South East Asia, ASEAN should play a leading role in finding a lasting and durable resolution for the Rohingya crisis. ASEAN can be said to have a moral and legal obligation to take necessary actions and measures over and above the purely humanitarian concern and assistance at the bilateral level with Myanmar or relying on its NGOs to do its work in order not to offend Myanmar. ASEAN has to translate its vision of an ASEAN community or people-centered community which is integrated and caring. Malaysia is one of the few ASEAN countries that have been vocal in speaking on the Rohingya issue. Without being too overbearing, I had contributed to this stance of the government. The non-interference policy and respect for sovereignty is the best under normal circumstances. The ASEAN WAY demonstrates its inability to handle crises that spread outside the borders of the state affected by the crisis

On the other hand, what's happening in Myanmar attracted OIC's attention. Immediately upon getting the news of the violence in Rakhine, and to a smaller extent in other parts of Myanmar (OIC 2012; OIC(b), the Secretary General of OIC released statements of his concerns and condemned the violence against the Rohingya Muslims. Unfortunately, in October 2015 it reoccurred and the OIC expressed the same concern and called the Myanmar government to take action to stop the violence and protect the Rohingya. In fact, the OIC has sent several delegations and called on Myanmar to ensure the protection and security of the people without discrimination.

I was appointed as Special Envoy of the OIC to engage the Myanmar sides to act in accordance with International Law. The OIC requested ASEAN countries and its human rights institutions to take bold actions for Myanmar to comply with human rights rules and norms.

The OIC from the beginning of the crisis in 2012 had acted more effectively and promptly than ASEAN in all respects. In other words, the OIC has in fact taken bilateral and multilateral approaches to stop the violence and provide humanitarian assistance by various means.

The UN has made a lot of rhetoric statements but no effective actions were taken against Myanmar to stop the crisis from escalating further. Ultimately in 2017 this caused the worst movement of the Rohingya population across the border into Bangladesh. It is observed that the UN history in dealing with crises involving the Muslim world was never good. The UN has the tendency to downplay criticisms of Myanmar and was more concerned with how China and Russia would react to any of the UN's firm stance on the crisis. However, as more debates and discussions on ethnic cleansing, genocide and crimes against humanity are highlighted and raised at the domestic and international level by various nations and parties, the UN is currently seen to be making the right statements and endeavoring to take effective measures.

RESPONSE FROM THE MYANMAR GOVERNMENT

The narratives of the Myanmar government and leaders in respect to the persecution and abuse against the Rohingya are difficult to understand. Myanmar's position on all the crises is complete denial of wrongdoings, persecution and human rights violation, although on the ground there was sufficient evidence through visual and oral statements on the atrocities committed by the military and civilian population led by the monks. Instead, the whole deterioration of the situation in Arakan is blamed on the so-called Muslim terrorist groups called ARSA (Arakan Rohingya Salvation Army). The clean-up operation justified on the basis of combating terrorism is not convincing or acceptable with regards to the type of military response they have taken. The justification to be soft on Myanmar – because democracy is still at its infancy, and that their acts were targeted against terrorism, are not borne out by their disproportionate force against civilians. The Anan report (Anan Advisory Commission Report, year?) is not totally satisfactory, mainly on issues of denial of persecution and genocide of Rohingya and failure to include specifically the crisis faced by the Muslim Rohingya, but it could be used as a starting point.

CHALLENGES IN FINDING A VIABLE SOLUTION

CHALLENGES

It should begin from the government appointed Advisory Commission on the Rakhine State – or the Anan Commission Report (though it is not acceptable by all groups to the conflict – both the Rohingya and the Rakhine Buddhist). According to this report released on 24 August 2017, a viable solution to the problems in the Rakhine state must include:

- i. Acceptance and respect of the rule of law;
- ii. Equal protection;
- iii. Border security;
- iv. Economic development;
- v. Humanitarian access and trust building;
- vi. Burmese Citizenship.

Aung Sun Suu Kyi should be asked to be true to her words when she said: “great and admirable report”. Myanmar authorities and leaders must translate their positive statements to satisfy the international community with actual actions as a PR exercise with the international community which must then be translated into actions on the ground, to stop violence and persecution against the Rohingya. The resolution of the conflict requires political will, commitment and sincerity of the Myanmar authorities. These words must be translated into something real, tangible and believable to create confidence that Myanmar is serious and committed. The situation is worsening. UN, OIC and ASEAN have not succeeded in bringing Myanmar to be accountable for the humanitarian tragedy perpetrated by Myanmar and its military.

FINDINGS ON THE PLIGHT OF ROHINGYA

Failure in implementation of the Anan Commission Report, the UN Special Investigation Report, the UNHRC Report, the Special Rapporteur Report and the latest by Gert Rosenthal Report (2010-2018) on the systematic failure of the UN. In all the reports, ASEAN and UN seemed to tolerate and become subservient to Yangon's interest and hence not to the interest of the Rohingya.

Myanmar still fails to comply with international calls or persuasion to stop violence and reinstate the Rohingya to their rightful status. They have used the excuse of non-interference and sovereignty for not allowing regional and international bodies to be partners in finding a solution to the crisis. Myanmar has not cooperated with the diplomatic community in Yangon, International Financial Institutions or the UN to develop a joint plan and action.

Myanmar has benefited from the non-interference principle in the internal affairs of member states as leaders continue to uphold the conventional respect for it by not discussing or including the subject of Rohingya in its agenda and Chairman's statement after the meeting, despite gross violation of human rights and international humanitarian law by Myanmar. This non-interference principle of ASEAN was incorporated into the Bangkok Declaration 1967 since its inception, reasserted in the Treaty of Amity & Corporation (TAC) enforced in 1976 as well as in the ASEAN Charter adopted in 2007. Hence, it provides full comfort to the ASEAN member states to collaborate with each other without worrying about the possibility of foreign intervention relating to the internal affairs of the individual ASEAN country. However, ASEAN is not the same as it was when first conceived. It has expanded and faces new challenges, which require new approaches in dealing with regional conflict. There is a call then for exercising flexibility or constructive engagement when interpreting the non-interference methodology. With new dynamics and challenges faced by ASEAN in a globalized and interconnected world, the effectiveness of the non-interference policy has been questioned and criticized when managing regional conflicts and human rights violation issues. Due to the non-interference policy or principle, ASEAN as the regional organization has not shown its willingness to play an effective role and is divided on what it can do. As stated by the Al Jazeera, ASEAN must not turn a blind eye to the Rohingya crisis.

Rakhine and Naypyidaw have different perspectives on the future of Rakhine. There are deep-rooted differences and trust gaps between the Central Government and Rakhine state which are very sensitive and volatile. Unless a cooperative spirit and plan can be worked out, the domestic resistance in Rakhine will continue to be a serious threat to finding a meaningful resolution. In reality the whole plan will be a non-starter.

Myanmar and its allies in ASEAN are not committed to finding a long-term resolution to the conflict due to external influences and narrow gains that will not last for long. Myanmar is unwilling to make even a basic commitment to a foundation for any partnership, as they are confident that no implication or consequence will result from their non-action.

RECOMMENDATIONS

There must be basic commitments from Myanmar, bearing in mind that the crisis is worsening in Rakhine as well as in Bangladesh. Also, the influential countries in UN and ASEAN should show a clear commitment to protecting humans as a main priority, otherwise this will encourage many nations to go astray when they see that the economic and political gains are above any humanitarian cause in the international community, and this will spill over and create chaos the consequences of which no one will be able to predict in a volatile political stage.

Among others, the recommendations, in my view, should consist of the following:

- i. There must be immediate action on the settlement of the Rohingya refugee crisis in Bangladesh, which should include the UN, Bangladesh, Myanmar and the refugees themselves;
- ii. The process for facilitating the timely, safe and voluntary return of Rohingya refugees to their homes and villages from Bangladesh must be credible;
- iii. There must be evidence of an immediate end of any indiscriminate violence and abuses against the Rohingya;
- iv. There must be common security protection for all communities to enable freedom of movement and access to livelihood;
- v. Access of international aid agencies based on the needs of the communities concerned;
- vi. Transparency and accountability for human rights abuses of all sides;
- vii. It is clear that the international communities through the UN must play a significant role in finding a durable and lasting peace for the humanitarian crisis in Myanmar (Rakhine). Namely, China, Russia, US, India, OIC and ASEAN must make greater contributions to humanitarian aid and assistance to Bangladesh and the Rakhine state.
- viii. OIC needs to go beyond its internal conflicts to show its commitment to its cause which includes protecting Muslim minorities all over the world, otherwise OIC might soon face a gradual decline and disintegration.

CONCLUSION

There must be accountability for genocide and crimes against humanity. Crimes against humanity – genocide and persecution of the Rohingya perpetrated by Myanmar and its military must be exposed. The Rohingya in Bangladesh also face multiple risks of safety and crimes and hence they must be protected.

In the process of repatriation of the Rohingya, it must be done with their consent, assured safety, protection and carried out in a dignified manner. Most importantly, it must be guaranteed that they are not going to detention camps but to their homes and villages and are given their rights to Burmese citizenship. In sum, it is essential that this solution is sustainable.

The international community should send a strong message to Myanmar that genocide and crimes against humanity are totally stopped. Hence, there should be a call to the Myanmar government to take effective actions to stop widespread and systematic violations of international laws against the Rohingya community and all hate campaigns against them must stop immediately. It is Myanmar's responsibility to respect, protect and fulfill all their international obligations to human rights in accordance with international law.

The resolution of the crisis depends very much on the UN, ASEAN and the OIC working together, be it in providing humanitarian aid or bringing development to the affected areas without any obstacles or impediments from Myanmar. Finally, the international community must make their voices heard at the regional and international fora.