

Politics of Slaughter: A Critical Review of Constitutional Failure in Myanmar and India During Rohingya Crisis

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Politics of Slaughter: A Critical Review of Constitutional Failure in Myanmar and India During Rohingya Crisis

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Abstract

The Rohingya are a Muslim minority in Myanmar who have faced widespread discrimination and violence, forcing them to escape over the border into Bangladesh and India. Malnourished and stateless, they have to live in improvised camps. Recent ethnic confrontations in Myanmar's Rakhine (Arakan) State between Buddhist Rakhines and Muslim Rohingya have drawn international attention. It is as if a curtain has been pulled back to expose a horrible scar. The Rohingya Muslims were never included in the list of 137 ethnicities recognized by the Government of Myanmar, which has led to their lack of recognition as citizens of Myanmar and to their being subjected to torture and discrimination based on their ethnicity and religion. The Rohingya people have been persecuted for decades, and it is time for their cause to receive the attention it deserves. Without a deeper investigation into the origins of the Rohingya crisis, the future of this ethnic minority community seems bleak. There must be consequences for those who perpetrate, enable, aid, and abet such crimes. The international community must take action to protect the Rohingya, address charges of crimes against humanity, and ensure that atrocities and impunity do not go unchecked for another generation. In light of the political upheavals and constitutional breakdowns in Myanmar, this article attempts to shed light on the causes of such heinous abuses against the Rohingyas. The paper also attempts to examine the predicament of the Rohingya refugees by looking at the non-refoulement principles and other customary norms of international law in neighbouring countries such as India. The article then discusses the Indian government's position on defining the nationality of these refugees and offers recommendations for doing so.

Keywords: CAA (India), Citizenship, International Law, Rohingya, Statelessness, Nationality

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Políticas de masacre: una revisión crítica del fracaso constitucional en Myanmar e India durante la crisis de los Rohingya

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Resumen

Los Rohingya son una minoría musulmana en Myanmar que han sido objeto de discriminación y violencia generalizada y se han visto obligados a escapar por la frontera hacia Bangladesh y la India. Están desnutridos y apátridas; por lo tanto, tienen que vivir en campamentos improvisados. Los recientes enfrentamientos étnicos en el estado de Rakhine (Arakan) de Myanmar entre los Rakhines budistas y los Rohingya musulmanes han captado la atención internacional. Parece como si se hubiera corrido una cortina para exponer una cicatriz horrible. Los musulmanes de Rohingya nunca fueron incluidos en la lista de 137 etnias reconocidas por el Gobierno de Myanmar, lo que provocó su falta de reconocimiento como ciudadanos de Myanmar y la incidencia de tortura y discriminación contra ellos por motivos étnicos y religiosos. El pueblo Rohingya ha sido perseguido durante décadas y ya es hora de que su causa reciba la atención que merece. Sin una investigación más profunda sobre los orígenes de la crisis de los Rohingya, el futuro de esta comunidad de minoría étnica parece sombrío. Debe haber consecuencias para aquellos que perpetran, permiten, ayudan e instigan tales crímenes. La comunidad internacional debe tomar medidas para salvaguardar a los Rohingya, abordar los cargos de crímenes de lesa humanidad y garantizar que las atrocidades y la impunidad no queden sin control durante otra generación. A la luz de la agitación política y las rupturas constitucionales en Myanmar, este artículo intenta arrojar luz sobre las causas de estos atroces abusos contra los Rohingya. El documento también hace un esfuerzo por investigar la situación de los refugiados Rohingya al observar los principios de no devolución y otras normas consuetudinarias del derecho internacional en países vecinos como India. El artículo continúa discutiendo la posición adoptada por el gobierno indio sobre la definición de la nacionalidad de estos refugiados y ofrece recomendaciones para hacerlo.

Palabras clave: CAA (India), ciudadanía, derecho internacional, Rohingya, apátrida, nacionalidad.

Introduction

Since the late 1990s, the Muslim group of Rakhine Province (Myanmar), known as Rohingyas after the 2012 ethnic unrest, has been depicted in the media as victims of state repression due to a history of human rights abuses. The Rohingyas have lived in Rakhine (formerly Arakan) since the eighth century and speak their language. The Myanmar government sees Rohingyas as Bengali Muslims who came to Myanmar after 1823, 1948, or 1971, not as citizens. The Rohingyas have been attacked without consequence, denied the right to vote, and forced to flee their homes, making them one of the most oppressed people in the world, according to several UN studies. As such, the Rohingya issue has become a global concern.¹ International crimes against the Rohingyas and transnational security concerns have taken the issue beyond their region. This study examines the legal causes of the Rohingya crisis and analyses the situation of the Rohingyas in the light of statelessness and asylum and migration law. This study further examines the laws governing the rights of the Rohingyas in Myanmar and India to determine their legal status.² Although the etymology is debated, the most common belief is that Rohang comes from the word “Arakan” in the Rohingya dialect, where ‘ga’ or ‘gya’ means “from.”

While there is a wealth of information available on many aspects of the Rohingya situation, there is surprisingly little research on the Rohingyas's legal status and protection under international law. Many recent, in-depth publications dealing with regional or sub-regional legal efforts and discussions, let alone the global legal environment, do not even briefly touch on the Rohingya problem.³ The dearth of international legal research required to confront and resolve the Rohingya problem may account for the paucity of available resources. This paper seeks to conduct an in-depth analysis of international law with a clear assessment of the legal status, rights, and safeguards of the Rohingyas, not only in Myanmar but also in India, as most studies on the Rohingyas concentrate on the limited perspectives of illustrating it as an internal Myanmar complication or, quite often, a South East Asian security concern rather than a legal issue.⁴ Many authors, such as *Leitich* and

¹ ‘History of the Rohingya – Rohingya Culture Center’, accessed 24 February 2023 <https://rccchicago.org/history-of-the-rohingya/>.

² Liesl Schnabel and Cindy Huang, *Removing Barriers and Closing Gaps: Improving Sexual and Reproductive Health and Rights for Rohingya Refugees and Host Communities* (Center for Global Development, 2019), <http://www.jstor.org/stable/resrep29656>

³ Mohammad Islam, *Rohingya Refugees: Implications of the Right to Return and the Right to Remain*, SSRN Scholarly Paper (Rochester, NY, 14 October 2020), accessed 6 March 2023 doi:10.2139/ssrn.3711449.

⁴ Duncan Maru and Paul Farmer, “Human Rights and Health Systems Development: Confronting the Politics of Exclusion and the Economics of Inequality,” *Health and Human Rights* 14 (13 May 2013): 1-8.

Topich, provide commentary on Myanmar's history and a contextual framework for further analysis of its complicated past. However, comprehensive politico-legal and historical research for a holistic analysis of the Rohingya problem is rarely done.⁵ Huxley laments that “Myanmar law has died of neglect” because of the long period of time during which legal specialists spent not paying attention to the country.⁶

The author has also done extensive research on the topic of how the non-refoulement concept is being implemented in India and nearby nations. In this context, *Saha* asks several pertinent follow-up questions in his paper, all of which have implications on the Rohingya problem.⁷ He wants to know how to prevent special interest organisations from using non-refoulement to delay repatriations. By using violence, some refugee organisations have hardened the stance of host nations, making them more likely to speed up the return of refugees' and deny them protection in the future.⁸ Since the 1951 Refugee Convention is silent on the subject of refugees' responsibilities in the country where they find themselves, the question arises as to whether a new set of rules governing their conduct in the host country should be developed.⁹ The case of *Mohammad Salimullah v. Union of India*¹⁰, which *Katrak* and *Kulkarni* explore in their paper, raises this difficulty by bringing up questions about India's responsibilities under the principle of non-refoulement in the context of its treatment of Rohingya refugees.¹¹

The Political Slaughter of Rohingyas: From Colonial Poison to the Rise of Nationalism in Myanmar

Plato defines democracy as a political system that grows by maximising individual freedoms. Satisfying every desire leads to depravity and social chaos in late stage democracies. The Rohingya are an ethnic minority in Burma. Rakhine State's tough policies and inter-ethnic unrest are driving the Rohingya into neighbouring countries. Myanmar's Rohingya minority's unrest and flight has multiple causes.

⁵ William J. Topich and Keith A. Leitich, *The History of Myanmar* (ABC-CLIO, Santa Barbara, CA, 2013).

⁶ Andrew Huxley, “California Refuses to Apply Myanmar Law,” *Australian Journal of Asian Law* 6, no. 1 (2004): 88-96.

⁷ Kshitij Chandra Saha, “Learning from Rohingya Refugee Repatriation to Myanmar *Canada's Periodical on Refugee Issues: Special Issue on Refugee Return* 19, no. 3 (2001): 38-41.

⁸ K.C. Saha, “Learning from Rohingya Refugee Repatriation to Myanmar.”

⁹ K.C. Saha, “Learning from Rohingya Refugee Repatriation to Myanmar.”

¹⁰ *Mohammad Salimullah v. Union of India*, Writ Petition (Civil) No. 793 of 2017 (Diary No. 27338-2017).

¹¹ Malcolm Katrak and Shardool Kulkarni, “Refouling Rohingyas: The Supreme Court of India's Uneasy Engagement with International Law,” *Journal of Liberty and International Affairs* 7, no. 2 (2021): 166-124.

Due to multiple factors, the Rohingya group has left Myanmar for neighbouring nations. Exile and relocation will continue as long as Burmese society threatens and does not protect minorities..

Discrimination on the Basis of Ethnicity and Color:

The Buddhist majority in Rakhine state distinguish themselves from the Rohingya by identifying as ethnic Rakhine. Rakhine State is the second least developed state in Myanmar, and its ethnic Rakhine population has long been marginalized by the government in Yangon. In such a backward and underdeveloped place, finding work is difficult.¹² Competition for available employment comes from Rohingya refugees. They often accuse the Rohingyas of trying to take their jobs. The Rakhine people's homeland has been invaded several times throughout history. During the Burmese and British invasions, they endured great hardship. As a result, the Rakhine people have developed a strong sense of identity. Some people still believe that members of other cultures are out to destroy their way of life. In particular, they fear becoming a minority as the Rohingya population grows.¹³ Roughly 600,000 Rohingya remain in Rakhine State, where they are persecuted and violently suppressed by the government, isolated in camps and communities without basic freedoms such as mobility or access to food, healthcare, education, and employment.¹⁴

The practice of persecuting people can be traced back to 1948, the year the nation gained its independence from British colonial rule. At present, this group of people is the largest “stateless” community in the world, second only to the Palestinians. Their “statelessness,” or lack of citizenship, makes them more vulnerable because they have no legal protection from the government.¹⁵ This makes them more likely to be exploited. Without citizenship, people are denied fundamental rights such as access to healthcare, education, and employment. The Rohingya people, for instance, have a shockingly high percentage of illiteracy—80 percent. So far, however, neither the EU nor ASEAN has come up with a unified response to the

¹² Syeda Naushin Parnini, Mohammad Redzuan Othman, and Amer Saifude Ghazali, “The Rohingya Refugee Crisis and Bangladesh-Myanmar Relations,” *Asian and Pacific Migration Journal* 22, no. 1 (2013): 133–146, <https://doi.org/10.1177/011719681302200107>.

¹³ Parnini et al., “The Rohingya Refugee Crisis.”

¹⁴ Bill Frelick, “Bangladesh Is Not My Country”, *Human Rights Watch*, 5 August 2018, accessed 1 January 2023, <https://www.hrw.org/report/2018/08/05/bangladesh-not-my-country/plight-rohingya-refugees-myanmar>

¹⁵ Nasir Uddin, “State of Stateless People: The Struggle for Existence and the Cry for Survival”, in *The Rohingya: An Ethnography of ‘Subhuman’ Life*, ed. Nasir Uddin (Oxford University Press, 2021), accessed 1 January 2023, doi:10.1093/oso/9780199489350.003.0004.

problem. This is the case for both organizations.¹⁶ As a direct consequence, the level of hostility and prejudice has continued to rise.¹⁷ Myanmar's discriminatory laws make the Rohingya illegal refugees from Bangladesh. Their fear of illegal attacks from Bangladeshi has led to massacres of Rohingyas. A vociferous Rakhine group claims that Rohingya Muslims have a higher birth rate and are actively expanding the Muslim community. Due to a "Rakhine identity crisis," they join radical groups that attack the Rohingya.¹⁸

The Rohingya have also been racially discriminated against and called "Bengali kalar" because of their darker skin. In fact, Burmese Buddhists with lighter skin are not the only ones who fear darker skin and believe that lighter skin makes one more desirable, respectable, and safe. Buddhists who help Muslims are vilified and persecuted. In October 2012, local Rakhine Buddhist men were singled out, humiliated, and disciplined before being paraded through public places while carrying homemade posters that read, "I am a traitor." What are their sins? Trying to make a sale to a Rohingya customer.¹⁹ Prejudice is inevitable when different races, religions, and social classes interact. Genocide requires a formal framework and planned control of forces, often by the state. Burma's public and political society should be influenced by global ideas of human rights and democracy that transcend historically closed Marxist polities, but it hasn't been.²⁰

Conflicting Views on the Origin of Rohingyas

The Rohingya population of Rakhine State sees itself as the original inhabitants of the region, whereas the ethnic Rakhine population of the state sees them as foreign invaders. Some Burmese authors have said that the British colonialist in Rakhine state allowed the Rohingyas to move in so that they could build a railroad connecting the cities of Buthidaung and Maungdaw. As a result, the British actively

¹⁶ 'Why ASEAN Can't Ignore the Rohingya Crisis – The Diplomat', accessed 1 January 2023 <https://thediplomat.com/2017/05/why-asean-cant-ignore-the-rohingya-crisis/>.

¹⁷ Ahsan Akm, Akm Ahsan Ullah, and Diotima Chatteraj, "Roots of Discrimination Against Rohingya Minorities: Society, Ethnicity and International Relations," *Peace Review* 26 (1 January 2018): 541-565.

¹⁸ Bauer, Amie, "Reviews: The Hidden Genocide: Humanizing the Struggle of the Muslim Rohingya of Myanmar," *Children's Legal Rights Journal* 35, no. 1 (2015): 79.

¹⁹ 'How Institutionalized Racism Fuels the Rohingya Genocide', *Al Arabiya English*, 28 September 2017, accessed 1 January 2023 <https://english.alarabiya.net/perspective/features/2017/09/28/How-institutionalized-racism-fuels-the-Rohingya-genocide>.

²⁰ Thomas Carothers Press Benjamin, "Understanding and Responding to Global Democratic Backsliding," *Carnegie Endowment for International Peace*, accessed 1 January 2023, <https://carnegieendowment.org/2022/10/20/understanding-and-responding-to-global-democratic-backsliding-pub-88173>

encouraged Indian immigration to Arakan. The Muslim population in Arakan grew thanks to the influx of surplus Bengali laborers during British rule, making them the second largest ethnic group there. During this period, many individuals also travelled to Arakan to work in the rice fields on a seasonal basis, returning home after harvest. Burmese authors claim that the term “Rohingya” refers to people who have migrated from Arakan after its former name, Rohin. It should be noted, however, that the term “Rohingya” has different connotations depending on who you ask. The Rohingya claim to be descended from the diverse group of Muslims who landed in Arakan over a thousand years ago.²¹ Others arrived when Rakhine was a colony of British India in the 19th and early 20th centuries. Since Burma gained its independence in 1948 (it was renamed Myanmar in 1989), successive governments have consistently denied the Rohingya status as one of the country's 135 recognised ethnic groups and dismissed the group's historical claims. Despite their deep historical origins in Myanmar, the Rohingya are stigmatized as illegal immigrants from Bangladesh.²²

According to the Burmese government, Muslims fled East Pakistan in the 1960s and settled in Arakan. Myanmar's Rohingya group resembles India's vast population more than Myanmar's majority. Rohingya and Bangladeshis share language and physical features. Their language is different from Burmese and is spoken in southern Bangladesh. Most Burmese suspect the Rohingya of plotting against Myanmar with the help of Bangladesh. The Rohingya people of Arakan have a complex past that has allowed extreme Rakhine to falsely accuse them of being illegal immigrants from Bangladesh and incite hatred and violence against them. Extremists may claim the Rohingya are illegal Bangladeshi aliens because of their language and appearance.²³

Buddhism as a Core for the Foundation of Burmese National Identity and Nationalism

The practise of Buddhism in Myanmar dates back centuries. After the unification of Burma in 1044 AD, King Anawrahta declared Theravada Buddhism as the national religion. However, during the period of military rule in Burma, a strong sense of Buddhist nationalism emerged. The military leaders of Burma used Buddhist beliefs

²¹ Cheung, Samuel, “Migration Control and the Solutions Impasse in South and Southeast Asia: Implications from the Rohingya Experience,” *Journal of Refugee Studies* 25, no. 1 (2012): 50-70.

²² “What Forces Are Fueling Myanmar's Rohingya Crisis?”

²³ Parnini, Syeda Naushin, “Non-traditional Security and Problems of Rohingya across the Bangladesh – Myanmar Borders,” *British Journal of Arts and Social Sciences* 5, no. 2 (2012): 284.

to justify their rule and the genocide of the country's minorities. By making Bumar (the native language of the Burmese) the medium of teaching in elementary schools, Burma's dictator Ne Win ignored the country's diverse population. Buddhist beliefs bind the Rakhine ethnic minority to the central government of Myanmar, despite their many differences with the majority Burman population.²⁴

A global humanitarian catastrophe is unfolding as a result of the growing genocidal Buddhist bigotry against the Rohingya, a minority population of nearly one million people in western Burma's Rakhine region.²⁵ The administration of the country, now under military control, has been working tirelessly in an effort to eradicate the Rohingya people's unique ethnic identity, which was first formally recognized as such by the democratic government headed by Prime Minister U Nu in 1954.²⁶ In reality, throughout the previous several months of violent conflict, which began in June 2012, the Rohingya have borne the brunt of almost 90 percent of the total death toll²⁷ and property damage. This includes the complete destruction of entire villages and neighborhoods within towns. After the first outbreak of violence in western Burma, many waves of killings, arson, and rampage have been directed against the Rohingya with the support of Burma's security forces.²⁸ These atrocities have been committed by both individuals and groups.

Many ethnic Burmese see the Rohingya as a threat to Burmese identity, since practically all Rakhine ethnic group are Buddhists. The views of extreme Buddhist nationalists have also been discriminatory. Buddhist monks in Myanmar enjoy a high level of respect from both the general population and the armed forces due to the country's large Buddhist majority. Although Buddhist teachings emphasize non-violence, many Buddhists in Myanmar, including monks, are engaged in violent acts against the Rohingya. Anti-Muslim sentiment in Myanmar was exacerbated by the nationalism movement of 1969,²⁹ led by the revered Burmese Buddhist monk Wirathu.

²⁴ Sefriani, "The Efforts to Terminate the Situation with No-Citizenship and Human Rights Violation of Rohingya Ethnic," *Jurnal Dinamika Hukum* 15, no. 1 (2015): 66.

²⁵ Maung Zarni, 'Buddhist Nationalism in Burma', *Tricycle: The Buddhist Review*, accessed 1 January 2023 <https://tricycle.org/magazine/buddhist-nationalism-burma/>

²⁶ 'Timeline: Being Rohingya in Myanmar, from 1784 to Now', accessed 1 January 2023, <https://thewire.in/external-affairs/rohingya-myanmar-timeline>.

²⁷ Ibid.

²⁸ 'Rohingya Refugee Crisis', OCHA, 21 September 2017, accessed 1 January 2023, <https://www.unocha.org/rohingya-refugee-crisis>.

²⁹ The 969 Uprising is a Buddhist nationalist movement in Myanmar (Burma) that opposes the spread of Islam. The attributes of the Buddha, Buddhist practises, and the "Buddhist community" are represented by the numbers 96 and 9. Many news outlets have labelled the movement "Islamophobic" or "anti-Muslim."

It is difficult to reconcile the atrocities that are taking place in Burma in the name of Buddhist nationalism with the concept of metta because of these atrocities. Rakhine Buddhists often inflict horrific violence on the Rohingya, torching their houses and throwing young children into the flames. On June 3, in the Rakhine town of Taunggoke, about 320 kilometers west of the ancient capital of Rangoon, a crowd consisting of about one hundred Buddhist males took 10 Muslim pilgrims from other parts of the country off a bus, and beat them to death.³⁰ The crime was committed in broad daylight and in full view of members of the public and local law enforcement authorities.³¹

Myanmar's Muslim population is seen as a threat to national pride and racial harmony. The associating of Myanmar with Buddhism can be problematic for the country's many religious and ethnic minorities, as it obscures the country's true multi-ethnic makeup. Those who don't practise Buddhism in Myanmar are typically looked down upon as less than authentic Burmese citizens.³² Despite the UN's condemnation of the situation as a "classic example of ethnic cleansing," the attacks on government targets have given credence to the long-held belief of many Myanmarese that the Rohingya pose an existential danger to the country's Buddhist majority.³³

Consequences of the Second World War and Spread of Colonial Poison:

During the Japanese invasion of Burma, the largest ethnic group, the Burmans, backed the Japanese in perpetrating atrocities against other ethnic groups, thus increasing distrust among numerous ethnicities. The colonial authorities in Burma gave the Rohingya people some freedom to practice their own culture and religion. After the British retook Burma from the Japanese, they made a promise to the country's Rohingya Muslim population: they would establish a Muslim enclave within Rakhine state.³⁴

³⁰ 'Massacre in Myanmar: One Grave for 10 Rohingya Men', accessed 1 January 2023 <https://www.reuters.com/investigates/special-report/myanmar-rakhine-events/>.

³¹ 'Massacre in Myanmar: One Grave for 10 Rohingya Men'.

³² Syeda Naushin Parnini, "Non-traditional Security and Problems of Rohingya across the Bangladesh – Myanmar Borders," *British Journal of Arts and Social Sciences* 5, no. 2 (2012): 284.

³³ Kyaw Zeyar Win, "Securitization of the Rohingya in Myanmar," In *Securitization of the Rohingya in Myanmar*, 251-276. ISEAS Publishing, 2018, accessed 1 January 2023.

³⁴ Nehginpao Kipgen, "Addressing the Rohingya Problem," *Journal of Asian and African Studies* 49, no. 2 (2014): 242.

Although the British had assured the Rohingya that they would be granted autonomy in the northern portion of Arakan if they fought with them against the invading Japanese soldiers inside Burma, this promise was not honoured. The majority of Burmese saw the Rohingya's aspiration for autonomy as a betrayal. Supporting opposing sides during World War II meant that Burmese and Rohingya were virtually at war with each other. As an ethnic struggle, the persecution of the Rohingya may be traced back to World War II.³⁵ The British colonial period marks the beginning of the ethnic strife in Myanmar between different tribes by bringing an influx of labour into Burma, influencing and polluting ethnic dynamics, and creating divisions between different ethnic groupings.

Political Turmoil and Rohingya's Involvement in Military Uprisings

With Myanmar's transition to democracy came hopes that the Rohingya community's plight would improve. Suu Kyi, leader of the NLD (National League for Democracy, hereinafter, NLD) and winner of the Nobel Peace Prize, was widely hailed as a catalyst for reform in Myanmar, but she has maintained radio silence throughout the country's brutal struggle with the Rohingya.³⁶ Suu Kyi's reluctance to publicly support the Rohingya is likely due to the fact that, as a member of the NLD, doing so would be politically deadly for her given the tense relationship that exists between Buddhists and Muslims in Myanmar. Rather than oppose Buddhist leaders, she has often sided with the government. The electoral political system also plays a significant role in this respect. They are not allowed to vote in national elections since they do not have citizenship. Since the majority of Myanmar's citizens are Buddhist, political parties have no incentive to advocate for the Rohingya people, who are not allowed to vote.³⁷

On the other hand, Rohingya Muslims in Akaran started an insurgent campaign in the early 1940s in an effort to establish their own Muslim state. Some of the Rohingya Muslim population in Rakhine State rebelled and began fighting the Burmese authorities. In addition, many people believe that Rohingyas are aiding the Myanmar government in its terrorist activities. Some Islamic extremist groups support the Rohingya, and some Rohingya have even joined the conflict in Afghanistan. Several groups in Myanmar's Rohingya community, including the

³⁵ Ashraful Azad and Fareha Jasmin, "Durable solutions to the protracted refugee situation: the Case of Rohingyas in Bangladesh," *Journal of Indian Research* 1, no. 4 (2013): 25.

³⁶ Ronan Lee, "A Politician, Not an Icon: Aung San Suu Kyi's Silence on Myanmar's Muslim Rohingya," *Islam and Christian-Muslim Relations* 25, no. 3 (2014): 322.

³⁷ *Ibid.*

Rohingya Solidarity Organization (RSO) and the Arakan Rohingya Islamic Front (ARIF), have advocated for the establishment of an independent Islamic state for the Rohingya.³⁸

The Rohingya have been involved in armed insurgencies and a Mujahidin revolt, both of which the Myanmar government uses to justify its aggression against the Rohingya. The government has often accused the Rohingya of helping to hide anti-Myanmar, pro-independence activities. An assault on a border post, allegedly carried out by a gang of Rohingya terrorists, has also been blamed for the current bloodshed in 2016. The Rohingya have also been accused by neighbouring Thailand, of supporting a Muslim separatist insurgency there, concluding that the Rohingya pose a threat to the country's security.³⁹ The government of Myanmar assumes that all Rohingya are terrorists and a threat to national security because of the known ties between the Rohingya and Islamic extremist groups. It then rationalizes that the brutality and atrocities committed by Myanmar's security forces against the Rohingya are necessary steps in the struggle against terrorist groups.⁴⁰

Constitutional Constraints, Legislative Failure and the Security Dilemma for Rohingyas in Myanmar

There is ample evidence of the atrocities and deprivation suffered by the Rohingya Muslim minority in Myanmar. Less well known are the reasons why the *Tatmadaw*, Myanmar's military, has been able to continue ethnic cleansing in a supposedly democratizing Buddhist state. The *Tatmadaw* ability to continue with ethnic cleansing at home is best explained by the 2008 Constitution, which guarantees the generals' prolonged dominance of Burmese politics and undisputed control of the state.⁴¹ The "Defense Services must be entitled to participate in the national political leadership role of the State," as provided in Article 6(f) is a major setback. Twenty-five percent of parliament is constitutionally reserved for military candidates, that is 110 of the 440 seats in the House of Representatives (Pyithu Hluttaw) and 56 of the 224 seats in the House of Nationalities (Amyotha Hluttaw).⁴² No elections will be held for these positions.

³⁸ Utpala Rahman, "The Rohingya Refugee: A Security Dilemma for Bangladesh," *Journal of Immigrant & Refugee Studies* 8, no. 2 (2010): 235.

³⁹ Bertil Lintner, "Championing Islamist Extremism," *South Asia Intelligence Review* 1, no. 9 (2002).

⁴⁰ Lintner, "Championing Islamist Extremism."

⁴¹ Zoltan Barany, "Elections and Constitutional Constraints: How the Generals Have Stayed in Power in Myanmar," *SAIS Review of International Affairs* 38, no. 1 (2018): 105-117.

⁴² "Constitution of the Republic of the Union of Myanmar 2008, as Amended to 2018," accessed 6 March 2023 <https://constitutions.unwomen.org/en/countries/asia/myanmar>.

In addition, constitutional amendments require the support of slightly more than 75% of parliamentarians. The goal of the generals was to build a constitutional fortress around the new military government. The opposition could not amend the Constitution without the approval of the armed forces, even if it won every single seat it could run for. The fundamental legislation further confirms the military's supremacy by giving the role of Commander-in-Chief to a serving general who is not subject to civilian control. The military has a monopoly on control of three crucial ministries (Defense, Home Affairs, and Border Affairs). The Ministry of Home Affairs, controlled by the military, appoints and supervises the vast bureaucracy known as the General Administration Department, which is responsible for the administration of every village, town, and region.

To further protect the army's interests, Chapter V of the the Constitution grants the Army's commander-in-chief the authority to select six of the 11 members of the National Defense and Security Council, the highest administrative body responsible for security and defense affairs.⁴³ Finally, Article 59(f). states that anybody having a foreign spouse or children is not eligible for the presidency As both her late husband and her two boys are British, this clause was specifically drafted with Suu Kyi in mind.⁴⁴ The Burmese military and government have caused or aided vast human misery with impunity. Can they be held accountable, or will the world continue to suffer? The military is unchecked, and most people want the Rohingya exterminated. Thus, the generals' racial genocide will go unpunished.

Since Burma's 1982 Citizenship Law, the Rohingya have struggled to gain citizenship. Commander U Nu's democratic government quickly recognised ethnic minority groups' unique identities after Burma's freedom (1948-1962). After the 1962 military coup, State restrictions have brutality worsened. The 1982 Burmese Citizenship Law formalized the Rohingya's statelessness. Muslim Rohingya from Arakan, are denied citizenship. The Burmese believe that the Rohingya are Bengali and should live in Bangladesh regardless of their past.⁴⁵ Their Islamic faith and Indo-Aryan heritage disqualify them from Burmese citizenship. Burma/Myanmar's citizenship laws are weak. The new law was passed to hide Rohingya origin, according to Rohingya lineage documents. Military rule followed freedom. It does not want to

⁴³ "Constitution of the Republic of the Union of Myanmar 2008, as Amended to 2018."

⁴⁴ Matthew J. Walton, "Buddhism, Politics, and Political Thought in Myanmar," Cambridge University Press, 2017, 167-174.

⁴⁵ Md. Mahbulul Haque, "Rohingya Ethnic Muslim Minority and the 1982 Citizenship Law in Burma," *Journal of Muslim Minority Affairs* 41, no. 2 (2017): 21-36.

share power with lawmakers. The current law prohibits the federal government's autonomy and influence in military and security matters.⁴⁶

Most of Myanmar's ethnic tribes have pushed for legal status since gaining freedom. The Rohingya, a religious and racial group, face a more complex situation. The military and political powers have taken away all their freedoms. Rohingyas are now an unwelcome minority in Rakhine State, their homeland. Multiculturalism can help integrate different countries and backgrounds into general society. The unrest in Rakhine State and the government's inaction show that the Rohingya are back to where they were before freedom. The NLD has failed to protect Myanmar's Muslim Rohingya group after a year in power. Instead of being handled by politicians and civil society, Myanmar's ethnocentric politics have integrated the community issue.⁴⁷

India's Response to Rohingya: Using the Defense of National Security and Unfulfilled Constitutional Obligations

For centuries, India has been a safe haven for people fleeing persecution in their own countries. Thousands of Tamils from Sri Lanka, who left their country because of the civil war between the government and the Tamil Tigers, have found refuge there. India has also welcomed Tibetans, Afghans, and people from other countries as migrants. In the case of Rohingya Muslims, however, India has deviated from its policy of offering a safe haven for asylum seekers. Due to the ambiguity surrounding India's responsibilities under the principle of non-refoulement, the case of *Mohammad Salimullah v. Union of India*,⁴⁸ which concerns the expulsion of Rohingya refugees from India, offers a difficulty in this respect. The article analyses India's participation in international law through the lens of the Supreme Court's recent interim ruling in the aforementioned case. It claims that the ruling "refouls" Rohingyas by returning them to a state where they fear imminent persecution because it fails to properly assess the significance of international law in constitutional interpretation.⁴⁹

Exploring the Salimulla Judgement by Indian Judiciary

Recent government action has chosen to deport between 150 and 160 Rohingya currently being detained in Jammu. The recent case *Mohammed Salimullah v. Union*

⁴⁶ Haque, "Rohingya Ethnic Muslim Minority and the 1982."

⁴⁷ Haque, "Rohingya Ethnic Muslim Minority and the 1982."

⁴⁸ *Mohammad Salimullah v. Union of India*, Writ Petition (Civil) No. 793 of 2017 (Diary No. 27338-2017).

⁴⁹ Bertil Lintner, "Championing Islamist Extremism," *South Asia Intelligence Review* 1, no. 9 (2002).

of *India and Ors.*⁵⁰ disputed this. The government justified its actions against the Rohingya on the grounds that they were foreigners who had come from another country seeking asylum and that the Indian government was authorised to regulate their entry under Section 3 of the Foreigners Act, 1946 (India) due to national security concerns and the fact that the principle of non-refoulement does not apply to India because it is not a signatory to the Refugee Conventions.⁵¹ The Supreme Court upheld the government's right to expel the Rohingya, provided it followed proper legal channels. However, there were several issues with the verdict.

The court backed the government's claim that Rohingyas were a threat to national security. The government's claim was not substantiated. The government says migrants cannot enter India because it is not a signatory to the 1951 Refugee Convention. Therefore, non-refoulement is not required. Thus, Article 51(c) of the Indian Constitution, which requires respect for foreign laws and treaties, is meaningless. The court agreed with this logic, but ignored the rule of non-refoulement as part of international common law. The UN High Commissioner for Refugees has repeatedly declared this to be customary international law. This judgement affirms the government's baseless claims and disregards international law and previous court decisions.⁵²

Indian Legal Framework and Non-Refoulement: Legislative Trends and Judicial Interventions

In India, the concept of Non-Refoulement is not explicitly recognised by the legal system. India's constitutional concept, however, has a few provisions meant to aid everybody, regardless of their nationality. Therefore, it should also be applicable to refugees. To protect the rights of those who are not indigenous to India, this route has been drawn into the Indian Constitution. Both the Convention against Torture and the International Covenant on Civil and Political Rights of 1987, include India as a signatory country. India is also a signatory of the Bangkok Principles on Status and Treatment of Refugees, 2001. Article III of the Bangkok Principles states that *“the person cannot be expelled if there is a possibility that he might be exposed to some*

⁵⁰ Supra note 53

⁵¹ Section 3 of the Foreigners Act, 1946 (India) states that *“Power to make order- The Central Government may by order make provision, either generally or with respect to all foreigners or with respect to any particular foreigner or any prescribed class or description of foreigner, for prohibiting, regulating or restricting the entry of foreigners into [India] or their departure therefrom or their presence or continued presence therein.”*

⁵² Dabiru Sridhar Patnaik y Nizamuddin Ahmad Siddiqui, *“Problems of Refugee Protection in International Law: An Assessment through the Rohingya Crisis in India,” Socio-Legal Review 14 (2018): 1-29.*

danger on account of race, religion, nationality, ethnic origin, membership of a particular social group or political opinion.”⁵³

The Foreigners Act of 1946 and the Citizenship Act of 1955 are the two laws currently in force in India that address the plight of refugees. Although the Foreigners Act of 1946 is stated to apply to everyone regardless of citizenship or nationality, it does not include the principle of non-refoulement. The Indian legal system, which is often seen as the 'defender of the rights of the people,' has made a number of decisions to allow the refugees' freedom, which have been articulated in various judgements of the High Courts and the Supreme Court. The courts have tried to change the privileges of balance and right to life and individual freedom by expressing Article 14 and Article 21 of the Indian Constitution, 1950, which apply to residents and non-residents. In the case of *Ktaer Abbas Habib Al Qutaifi vs. Union of India & Ors.*,⁵⁴, the Gujarat High Court ruled on the basis on Article 21 of the Indian Constitution, that the principle of non-refoulement applies in this country.

In addition to these provisions, Article 22 covers refugee rights and protects them against arbitrary detention. According to Article 25 of India's constitution, people of all faiths are guaranteed the right to freely exercise their religions. In addition, the State of India is obliged to work towards strengthening international law and treaties as stated in Article 51 (c) of the Indian Constitution, entitled “*Promotion of International Peace and Security.*” As a result of the theory of non-centrality of refoulement's in international law, it is widely believed that India would adopt it. Article 253 of the Constitution makes it clear that Parliament may pass laws incorporating foreign treaties and agreements if it deems it ethical to do so. This power is to be used in conjunction with Entry 14 of List I, which details the administrative powers of the Union legislature to implement international agreements and conventions.

In the case of *Ktaer Abbas Habib Al Qutaifi vs. Union of India & Ors.*,⁵⁵ parties who were originally from Iraq, two refugees have spoken out against the non-refoulement policy. Candidates who feel wronged because they were born in Iraq and had to leave their own country should probably avoid participating in military operations in that country, according to the actual reality. To emphasize its privilege under

⁵³ United Nations High Commissioner for Refugees, 'Refworld | Bangkok Principles on the Status and Treatment of Refugees (“Bangkok Principles”)', *Refworld*, accessed 6 March 2023, <https://www.refworld.org/docid/3de5f2d52.html>.

⁵⁴ *Ktaer Abbas Habib Al Qutaifi vs. Union of India & Ors.* (1999) Cri.L.J. 919.

⁵⁵ *Ktaer Abbas Habib Al Qutaifi vs. Union of India & Ors.* (1999) Cri.L.J. 919.

non-refoulement, the Gujarat High Court wildly interpreted the Indian Constitution and international law. The High Court cited Article 33 of the 1951 Convention Relating to the Status of Refugees, Article 3 of the Universal Declaration of Human Rights, and Article 3 of the Convention Against Torture to support its conclusion that the practice of forcibly returning, deporting, or torturing individuals is clearly prohibited by international law. In its judgement, the court emphasized the protection and dignified life guaranteed to social outcasts under the Indian Constitution. The court applied the non-refoulement test because these refugees posed no threat to India's security and had documented evidence of the mistreatment they feared.

The Indian judicial system has consistently applied this principle in its decisions. In the case of *Khudiram Chakma vs. State of Arunachal Pradesh*,⁵⁶ Article 14 of the 1948 UDHR was highlighted by the Supreme Court. The court went on to say that anybody seeking refuge in a country shouldn't be sent back to their home country if there's a clear risk of persecution there. It was also pronounced in case of an unreported judgement named *Dr. Malvika Karlekar vs. Union of India*,⁵⁷ the Supreme Court by mentioning the refoulement of the Andaman Island Burmese refugees claimed for their status confirmation.⁵⁸ It reveals that persons seeking alternative refuge cannot be deported to their place of origin while their legal status in the country of residence is still being investigated.⁵⁹ A similar case was decided by the Madras High Court in the conflict of *P.Nedumaran vs. Union of India*,⁶⁰ when a judge ruled that the Sri Lankan asylum-seekers could remain in India pending a decision by the UNHCR.

In the case of *NHRC vs. State of Arunachal Pradesh*,⁶¹ the Supreme Court, in preserving constitutional practise in India, has once again placed emphasis on protecting the rights of refugees. The Indian judicial system has been asked to prioritise the rule of law. Whether you're a citizen or a foreigner, you have the right to live a free and dignified life under the Indian Constitution. Under the law of non-refoulement, the Supreme Court ruled that the Chakma refugees, who were citizens of Bangladesh, should not be returned there.

⁵⁶ *Khudiram Chakma vs. State of Arunachal Pradesh*, (1994) Supp 1 SCC 615.

⁵⁷ *Dr. Malvika Karlekar vs. Union of India* Criminal Writ Petition No. 583 of 1992 dated 25.09.1992.

⁵⁸ *Zonthansangpuii vs. State of Manipur* (Civil Rule No. 1981 of 1989 and No. 515 of 1990): In this case, the High Court of Guwahati contemplated the commiserative approach for the protection of rights of refugees.

⁵⁹ It has been agreed upon by the UNHCR's ExCom Conclusion No. 8.

⁶⁰ *P.Nedumaran vs. Union of India*, (1993) 2 ALT 291.

⁶¹ *NHRC vs. State of Arunachal Pradesh*, (1996) SCC (1) 742.

Reinventing the locus of non-refoulement, the Bombay High Court, in its decision of *Syed Ata Mohammadi vs. Union of India*,⁶² emphasised that anyone fleeing persecution in Iran should not be returned there. The Supreme Court's decision was similar in the matter of *N.D. Pancholi vs. State of Punjab*.⁶³ In the case of *A.C. Mohd. Siddique vs. Government of India and others*,⁶⁴ the Madras High Court has, once again, adopted a voluminous and vibrant stance: "The court refused to deport the Sri Lankan refugees from India against their consent."⁶⁵ These judicial pronouncements clearly demonstrate the dynamic attitude adopted by the Indian courts in asserting the 'non-refoulement' concept under Article 21 of the Constitution of India, taking into account universal laws, in response to the independent development of the refugees' human rights.

Justifications on the Argument of National Security by India against Rohingya's

In the recent case of *Mohammad Salimullah v. Union of India*,⁶⁶ the Indian government adopted a similar position, arguing that the Rohingya posed a threat to India's national security. Despite the fact that threats to national security are an exception to the norm of non-refoulement, this argument fails. In the Samiullah case, the government claimed that the Rohingyas posed a threat to India's national security, although it failed to provide any evidence to support this claim. There is also room to question any claims of national security need for granting exceptions to this rule. To avoid determining whether or not a particular person poses a security threat, the exception is used as a universal rule to deny entry to anyone who falls into that category. Officials in India were prepared to deport a Rohingya teenager to a coup-torn Myanmar because of this pervasive limitation. Authorities in Myanmar refused to let the girl enter the country, so the deportation attempt was unsuccessful. The minor's life would have been in jeopardy if the authorities had given their blessing. The United Nations has criticised India's actions, saying they were an attempt to put the child in danger. What conceivable threat could a 14-year-old represent to national security for the government to place her in an unhealthy environment? This exposes the absurdity of the "national security" argument. In addition, under *jus cogens*, or customary international law, India must uphold the

⁶² *Syed Ata Mohammadi vs. Union of India*, Criminal writ petition no.7504/1994 at the Bombay High Court.

⁶³ *N.D. Pancholi vs. State of Punjab*, WP No. (Cri.) 243 of 1988.

⁶⁴ *A.C. Mohd. Siddique vs. Government of India and others* 1998(47) DRJ (DB) 74.

⁶⁵ *Ibid.*

⁶⁶ *Mohammad Salimullah v. Union of India*, Writ Petition (Civil) No. 793 of 2017 (Diary No. 27338-2017).

norm of non-refoulement. The concept of non-refoulement is inviolable under customary law.⁶⁷

One might well argue that it would be inhumane and counterproductive to expel Rohingyas at this time. Instead of assessing individuals for security risks, the excuse of “threat to national security” is used to deny refuge to the whole community.⁶⁸ India's commitment to non-refoulement of refugees takes on more significance, as Articles 14 and 21 apply equally to all individuals present on Indian soil, regardless of their citizenship. This is necessary not only to protect them, but also to uphold the values enshrined in our Constitution. Therefore, deportation is unjustified and violates both international agreements and our Constitution.

The Unheard Cry: The Neglected Plight of Rohingyas in India on Religious Grounds

To understand India's response to the Rohingyas, let us take a look at the timeline of events and conducts of the Indian Government, its officers and judiciary (Table 1).

Table 1. Timeline of India's response to the Rohingyas crisis

Date	Event	Contentions
August 8 th , 2017	Centre orders States to identify and deport foreign nationals staying illegally. ⁶⁹	<p>According to the Home Ministry's recommendation No. 24013/29/Misc./2017-CSR.III(i), the responsibility for identifying and deporting illegal aliens has been transferred to the individual state governments. There was also a directive to “sensitize all law enforcement and intelligence organisations” in the various states. It also noted that security issues were being exacerbated by “infiltration” from Myanmar.</p> <p>Asylum seekers have the right to have their individual and collective cases taken into consideration before a state may deport them. The non-refoulement principle is violated by such deportations.</p>

⁶⁷ Malcolm Katrak and Shardool Kulkarni, “Refouling Rohingyas: The Supreme Court of India's Uneasy Engagement with International Law” 7(2) *Journal of Liberty and International Affairs* 166-124 (2021).

⁶⁸ *Ibid.*

⁶⁹ Suhasini Haidar and Vijaita Singh, “Government firms up plan to deport Rohingyas,” *The Hindu*, 18 de agosto de 2017.

Date	Event	Contentions
September 6 th , 2017	PM Modi's "concern" on "extremist violence" in Rakhine State. ⁷⁰	On his trip to Nay Pyi Taw, Prime Minister Modi made the following statement, "We are partners in your concerns over the loss of lives of security forces and innocent people due to the extremist violence in Rakhine State." Despite the widespread human rights violations and humanitarian catastrophe faced by the Rohingyas in Myanmar, Prime Minister Modi's speech reaffirmed the Myanmar government's position on the minority group in his speech.
September 8 th , 2017	India refuses to sign Bali Declaration. ⁷¹	A joint statement by the World Parliamentary Forum was vetoed by India. The statement expressed alarm at the murders and displacement of Rohingya Muslims. In rejecting it, India said that the session's focus should be on the SDGs rather than on the legal requirements of individual countries.
September 9 th , 2017	Indian Ministry of External Affairs issued a Statement during Myanmar Visit. ⁷²	India strongly condemned the "terrorist attacks on Myanmar security personnel in Rakhine State" were fiercely denounced by India. The statement underlined the Prime Minister's commitment to the Rakhine State Development Programme during his visit on September 6, 2017. A condemnation of the persecution of Rohingya Muslims by the Myanmar state or any mention of Indian aid to the Rohingyas are missing from the statement.
September 14 th , 2017	Initiation of Operation "Insaniyat" by the Indian Government. ⁷³	Bangladesh has taken in a significant number of Rohingya refugees, and India has helped. With the intention of capitalising on Bangladesh's status as a host country, it has distributed food kits and other necessities. The Indian government has not provided any basic supplies to the Rohingya refugees who have fled to the country.

⁷⁰ The Wire, "In Suu Kyi Meeting, Modi Shares 'Concern' Over Extremist Violence by Rohingya Outfit," *The Wire*, September 6, 2017.

⁷¹ Suhasini Haidar, "Bali action puts India on other side of the Rohingya debate," *The Hindu*, September 9, 2017.

⁷² Government of India (2017, September 9). "Situation in Rakhine State of Myanmar," Ministry of External Affairs. Available at- <https://mea.gov.in/pressreleases.htm?dtl/28931/Situation+in+Rakhine+State+of+Myanmar>

⁷³ Government of India, "Situation in Rakhine State of Myanmar," Ministry of External Affairs, September 9, 2017, t <https://mea.gov.in/pressreleases.htm?dtl/28931/Situation+in+Rakhine+State+of+Myanmar>.

Date	Event	Contentions
March 15th, 2018	In response to claims that its Border Security Forces are forcibly returning Rohingya Muslims, India has categorically refuted the allegations. ⁷⁴	The Supreme Court of India is currently considering Writ Petition (Civil) No. 793 of 2017, which was submitted by Mohammad Salimullah, a Rohingya Muslim, seeking recognition and protection in India. Affidavit produced on behalf of the Union of India argues that the Border Security Forces is “fulfilling its duty” to increase India's security by preventing Rohingyas from entering the country without proper documentation. The petition was turned down on the grounds that it relied only on news articles. The growing number of Rohingya refugees is also cited in the affidavit as a “fundamental cause of the spread of terrorism” ⁷⁵
October 4th, 2018	Seven Rohingya Muslims had their appeal to avoid their deportation dismissed by the Supreme Court. ⁷⁶	The Supreme Court said that it was “not inclined to interfere” with the central government's decision to deport Rohingyas in the first such incident. The highest court's decision ignored international law's requirement to protect its citizens.
December 12th, 2019	Enactment of the Citizenship Amendment Act (hereinafter, CAA), 2019 in India.	Those of the Hindu, Sikh, Buddhist, Jain, Parsi, or Christian faith who immigrated to India from Afghanistan, Bangladesh, or Pakistan before December 31, 2014, are eligible for fast-track citizenship under the new Citizenship Act (CAA). The Indian Home Minister has promoted the Act as a refugee policy, although it does not apply to Muslims and hence does not help Rohingya refugees. A claim has been made that Article 14 of the Indian Constitution's guarantee of equality is being violated by this Act.

⁷⁴ Mohammad Salimullah v. Union of India, Writ Petition (Civil) No. 793 of 2017 (Diary No. 27338-2017).

⁷⁵ *Ibid.*

⁷⁶ The Indian Express, “SC rejects plea, 7 Rohingya to be handed over to Myanmar in first deportation today,” *The Indian Express*, October 4, 2018.

Date	Event	Contentions
January 3 rd , 2020	Strategies to deport Rohingya Muslims from India. ⁷⁷	The Union Minister of State in the Prime Minister's Office, Dr. Jitendra Singh, said that the Central Government was "considering options" to deport the Rohingya Muslims in a statement delivered after the passage of the CAA. According to him, the CAA does not allow Muslim asylum applicants to become citizens. This would lead to the Rohingya Muslims being sent back to Myanmar. He went on to say that the Union Territory of Jammu and Kashmir, which is home to a substantial Rohingya community, is also subject to the CAA.
March 17 th , 2020	India uses the terms such as, "Rohingya", "Ethnic" and "Persecution" ⁷⁸	In its reply affidavit filed in the case of <i>Indian Union Muslim League v. Union of India</i> , ⁷⁹ India has admitted for the first time that Rohingya Muslims have been subjected to ethnic persecution. However, it claimed that the refugees didn't go to Bangladesh for work but rather to India.

India's treatment of Buddhist refugees in Tibet and Byllakuppe stands in stark contrast to its treatment of Rohingya Muslim asylum seekers. Refugees from Tibet (Buddhists) were granted sanctuary in India in 1951. In India, Tibetans can apply for and receive a "Refugee Certificate," which gives them all the rights of an Indian citizen except the ability to vote and the right to work for the government.⁸⁰ As a result of the Soviet invasion and subsequent conflict in Afghanistan in the 1980s, India took in an estimated 60,000 Afghan refugees, the vast majority of whom were Sikhs and Hindus. In coordination with the UNHCR and the National Human Rights Commission, the Indian government has provided them with ongoing assistance, despite the fact that they have not been granted Indian citizenship.⁸¹ In the 1980s, when civil strife erupted in Sri Lanka, many Tamils fled to India because they were Hindus and had nowhere else to go. According to the CAA, the Indian Finance Minister has promised Indian citizenship to the approximately 95,000 Sri

⁷⁷ The Indian Express, "Centre's next step is to deport Rohingyas from the country: MoS Jitendra Singh," *The Indian Express*, January 3, 2020.

⁷⁸ Indian Union Muslim League v. Union of India, Writ Petition (Civil) No. 1470 of 2019.

⁷⁹ *Ibid.*

⁸⁰ Sanishka Singh, "Here is how various refugee communities have fared in India," *The Indian Express*, September 14, 2017.

⁸¹ *Ibid.*

Lankan refugees now living in camps in the southern state of Tamil Nadu.⁸² The Indian government's response to the immigration of the Rohingya people, who are mostly Muslims but also face persecution, stands in sharp contrast to its treatment of other minority groups.

Conclusion

In the aftermath of their neighbours' withdrawal from South and Southeast Asia, the Rohingya have been engaged in protracted political negotiations to gain recognition of their ethnic identity and citizenship. It is clear that India's security can only be guaranteed by a peaceful neighbourhood. India, as a global citizen, has a responsibility to work towards a solution that protects the Rohingya people's rights and ends the violence that has led to this disaster. But as we read through this journal, we can't help but think of malnourished refugee children with swollen tummies and flies buzzing around their mouths and lips. It's hard to deny that this situation presents a clear example of moral dilemma when we consider the plight of Indian children under five who are starving. Who would our government give priority to feed? If you try to catch two hares at once, you'll end up with none. If we could all afford to take in a few Rohingya families and provide housing and food, we would certainly be in a position to advocate on their behalf.

A review of the state's significant actions over time reveals that it has ignored its international legal obligation to protect Rohingya refugees and instead erected both social and legal impediments to their entry and integration into Indian society. To prevent Muslims from entering India without passports or seeking refuge, the BJP-led government amended the Passport Act of 1967 and the Foreigners Act, 1946 in 2015. The Citizenship Amendment Act (CAA) of 2019 reaffirms the stance taken by the Indian government in 2015. Many Muslims in India, including Rohingya Muslims, feel unsafe because of anti-Muslim policies such as the Criminal Alien Act (CAA). The mainstream narrative of Rohingya as terrorists, termites, and unwelcome criminal elements with connections to Islamic terrorism has combined with the fear caused by state persecution of minorities to form a larger narrative aimed to criminalising and demeaning Rohingyas in India. Addressing this problem will require the involvement of many different parties. As the primary entity charged with protecting the Rohingya, the government of Myanmar must stop to the bloodshed.

⁸² Gireesh Babu, "There will be process to give citizenship to Sri Lankan Tamil refugees: FM," *Business Standard*, January 19, 2020, https://www.businessstandard.com/article/current-affairs/there-will-be-process-to-give-citizenship-to-srilankan-tamil-refugees-fm-120011900335_1.html

It's also important that they work with other international organisations to help those in need. To prevent further bloodshed, the Myanmar government must also protect the rights of the Rohingya people. To allow the Rohingya to live in dignity and return to Rakhine state, it should restore their citizenship rights, remove all discriminatory laws and exclusionary practises, and end segregation between the Rohingya and Rakhine people. Additionally, the government should launch an impartial investigation into the violence, identify and punish those responsible, and provide reparation to victims, all while allowing international development and human rights organisations to monitor and document the situation and provide humanitarian assistance to the communities most affected by the violence.

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