

**The Network
for
International Protection of Refugees**



**Burma and Bangladesh:
A Strategy to Combat Statelessness**

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Summary:

Burma presently has an estimated 800,000 stateless people, commonly referred to by international community as Rohingyas. Out of these 800,000 stateless people, about 300,000 are displaced in neighbouring state of Bangladesh. A policy proposal has been made to both governments to tackle the problem of statelessness in a comprehensive manner.

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BURMA AND BANGLADESH **A STRATEGY TO COMBAT STATELESSNESS**

by

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01. Burma presently has an estimated total of 800,000 stateless persons, to whom commonly referred by international community as Rohingyas. The Rohingyas are mainly the descendants of Bengali/Chittagonian labour migrants from neighbouring Bangladesh who had settled in Arakan after the 1824 British annexation of that province. After Burma gained her independence from Britain in 1948, an unknown number of settlers from the Chittagong area continued to enter as migrants. Such undocumented entry appears to continued until 1961 when the local Mujahid rebellion was suppressed.

The current stateless population consists of the descendants of Bengali migrants who settled under British colonial rules as well as those who had entered after Burma independence in 1948. In 1982, the Burmese government enacted the Citizenship Law of which it specifically deny citizenship to those who had entered after Burma's independence and all their descendants. The letter and spirit of Burma Citizenship Law allow certain forms of citizenship to be granted to migrants who settled prior to 1948. In practice, however, the successive Burmese governments have make no real attempts to grant Burmese citizenship to all those who may be eligible.

02. Reports indicate that, out of those 800,000 stateless persons, some 300,000 are currently being displaced in Bangladesh. Burmese government, on the one hand, has been making efforts to confer citizenship to the stateless Bengali/Rohingyas who might be eligible. However, the government's unilateral attempt to confer citizenships to those 500,000 stateless who remained in Arakan State will not comprehensively solve Burma's stateless problem. Such unilateral action would have left a burden of 300,000 displaced stateless people for the Government of Bangladesh. Therefore, a bilateral approach which over-sighted and supported by the United Nations and international community will be the only way to tackle Burma's stateless problem. In particular, both Burmese and Bangladesh Governments must create a condition that is conducive to confer citizenships to those who are displaced as well as those who have remained in Arakan State.

03. Indications are that Burma now has the political will to address the stateless Rohingya/Bengali problem. Positive notes need to be taken that, this is for the first time since independence, the Burmese military and political leadership are making efforts to grant citizenships to the stateless Rohingya/Bengali. When such positive political will exists, steps are needed to be taken in realizing this objective.

First and foremost, the Governments of Burma and Bangladesh, under the guidance of United Nations, should promote a realistic policy to address this stateless problem. It is important that such policy is formulated on people oriented approach. In particular, both governments must not pressure or threaten the vulnerable stateless community within the context of implementing such policy.

Because of heightened support by the world's leaders in this regards, the expectations are high from the stateless Rohingya community as well as from the human rights quarters. However, our expectations must be tempered by the practicality of implementing the task, along with an understanding about feasible outcomes. Both Governments of Burma and Bangladesh must also exercise a forward thinking and make mutual cooperation on solving this stateless Rohingya/Bengali problem.

04. Whilst it is primarily the Burmese government's task to confer citizenships to these stateless people, care must be taken that targeted population is able to participate in the process without the fear of being incriminated. In particular, those Rohingya/Bengali families which may have some of their members displaced will be reluctant to participate in the process because of the fear of being persecuted. On the one hand, the descendants of those who entered after 1948 will have the fear of adverse outcomes from participating in the process.

Those Rohingya/Bengali who are displaced in Bangladesh also have the fear of being persecuted by the Bangladeshi authorities. Both Burmese and Bangladeshi Governments must, first and foremost, grant the general amnesty to the Rohingya/Bengalis who will be participating in the citizenship scrutinising process. Burmese government must make a special provision for those Rohingya/Bengali who would fall outside scope of the 1982 Burma Citizenship Law (see section **10**/).

05. The Burmese Government and Rohingya/Bengali community have different stands on the issue of using the word "Rohingya". When conducting the national census this year, we have seen the Burmese government insisting the use of word "Bengali" while the Rohingya/Bengali community wish to use "Rohingya". Both sides must make compromises to solve this issue.

Actually, the word 'Rohingya' is derived from 'Rohang (ရခိုင်)', which is the description of Arakan in Bengali/Chittagonian dialects. As such, the word 'Rohingya' would simply means 'person who resides in Rohang' or 'Arakanese (ရခိုင် သား)' in Rohingya/Bengali dialects. The word 'Rohingya', therefore, is more of a geographical reference and certainly not a description for a race or an ethnicity. However, there have been campaigns conducted by Rohingya exile groups, re-interpreting and re-inventing this word as a description for a distinctive race which is indigenous to the Arakan State. This could be primary reason the Burmese government does not accept the use of word 'Rohingya'.

Many in Rohingya/Bengali community, on the one hand, despite of being Bengali in racial origin, are not wishing to identify themselves as of Bengali. This is because, since the community has been living in Arakan for generations, the word 'Bengali' would feel totally foreign and it implied that they're not belong to Arakan. Has this been the case, both Government and the community must seek compromise on this word. For example, the Burmese Government can use (ရခိုင်-ဘင်္ဂါလီ) in the stead of Bengali (ဘင်္ဂါလီ). The community should also be content with word such as "Rohang-Bengali" instead of controversial "Rohingya".

06. Those 800,000 stateless Rohingya/Bengali are often referred to as Temporary Registration Card (TRC) or White Card holders. This group of stateless people were recorded in the 1983 Burma Census as foreigners. There are indications that the 1973 Burmese Census has registered this same group as foreigners. It would appear that the

Burmese immigration began issuing Temporary Registration Cards (TRC) to this group of foreigners since 1950s. After 1995, with the returning of 230,000 Rohingya refugees from Bangladesh and at the requests of UNHCR, the Government uniformly issued the TRCs to all those 800,000 stateless people within Arakan State.

To keep track of this foreigner population, the Burmese Immigration over the decades appeared to maintain records of the family-member lists. However, the Burmese Government, up until 1995, seemed to have discourage issuing any forms of individual identification cards to those foreigners. To check against the stateless population, the Burmese Government therefore have two types of records, i.e. the family-member lists and TRCs. The use of such records will become particularly important in identifying those 300,000 Rohingya/Bengalis now displaced in Bangladesh.

07. Burmese Government has recently announced the resumption of its citizenship verification process in Arakan State and scheduled to complete the operation by first half of the year in 2015. The United Nations and international community's assistance is needed for those 300,000 stateless Rohingya/Bengalis who are displaced in Bangladesh to be able to participate in the verification process. With the cooperation of Government of Bangladesh, the United Nations Agencies, along with international organisations such as IOM should facilitate those displaced stateless Rohingya to participate in Burma's citizenship verification process. The Government of Bangladesh should be requested, first and foremost, to grant a special amnesty to those stateless Rohingyas who may be participating in Burma's citizenship verification process.

08. The issues of stateless people have been a recurring source of friction between the Governments of Burma and Bangladesh. Such border tension has been persisting since Bangladesh War of Liberation in 1971. Recent reports are indicating that some Rohingyas who claimed to be from Arakan have been displaced in Bangladesh for two generations. The UN and international community should look into the possibility of stateless persons existing in Bangladesh who may not belong to Burma. One case in point has been the unresolved case-load of 22,000 Rohingya refugees in Narapara and Kutupalong camps. Both Burmese and Bangladeshi Governments should view the reduction of statelessness as a confidence building process. The Burmese Government screening and granting of Burmese citizenships to those displaced 300,000 will certainly reduce tensions at the Burma-Bangladesh border.

On completion of Burma's citizenship verification process, both Governments should think about opening and regulating cross-border trade and commerce activities. One good model for allowing such cross-border activities is that of Mae-Sai/Tachilek at Thailand-Burma border. Royal Thai Government, for example, have allowed the Burmese immigrant-permit holders to work within certain border districts within the Kingdom of Thailand. The Government of Bangladesh should consider adopting similar model for the Rohingyas.

09. Recent international supports at their highest levels have given much optimism towards resolving the issues of statelessness in Burma. However, granting any form of Burma citizenship to the stateless people as national protection will not necessarily solve overall problem of displacements. The underlying reasons for displacement of Rohingya/Bengali are not only of their lack of national protection, but also that of social and economic deprivations. Therefore, Burma's neighbouring countries, especially Bangladesh, should give time and patience in dealing with these displaced people.

10. There have been requests from human rights quarters that the 1982 Burma Citizenship Law (the Law, referred here after) to be amended or be rescinded. Taking into account of prevailing situation at the Burma-Bangladesh border in 1982, this Law was aiming to discourage population movement into Burma. The Law was also designed to curb an alien population interfering in Burmese national politics. Whilst the Law has provisions for legal residency for certain section of Rohingya/Bengali population, those who considered to be trouble-makers were kept in a state of insecurity. No doubt the measures reflected in this Law are draconian. But the Law also seemed to have drafted with some fore-sightedness and its overall purpose and application are to be found multi-faceted. Therefore, re-writing of this law is impossible in current political environment.

One draconian impact of the Law is the application of 'three generations policy', for which any legitimate foreigner-resident may never acquire full Burmese citizenship. Only the third generation descendants of such foreigner-resident may become enjoying full Burmese citizenship. None the less, more than 30 years has already elapsed since enactment of the Law and, therefore, the draconian effects of three generation policy would now be wearing off. Therefore, it is prudent to apply this Law without amending or altering.

As for those stateless persons who fall outside the scope of the Law, namely those Rohingya/Bengalis who had entered after 1948, we are to entrust upon the foresightedness of the Law's drafters. In fact, an exemption clause may be found for those who fall outside the Law as:

"Para. 8.(a) The Council of State may, in the interest of the State confer on any person citizenship or associate citizenship or naturalised citizenship."

By this paragraph of the Law, current Burmese Parliament, which is equivalent to The Council of State, has the power to grant any form of citizenship to above group of stateless persons.

11. On the perspectives of Rakhine State politics, the elected representatives for 2010 are divided along the ethnic lines. The Rakhine majority had voted for the Rakhine Nationalities Development Party (RNDP). The Rohingya/Bengali had voted for the Governments' party. The RNDP, since elected to power, has exhibited a narrow, populist and intolerant policy agenda to marginalise and eliminate the Rohingyas. This is politically dangerous trend which, instead of practising a liberal democracy, the tyranny of majority is to rule over the racial and religious minorities. Left unchecked, such trend can derail Burma's entire political transition and can also lead to the so-called Balkanisation. Therefore, with the guidance of UN Commission on Human Rights, the Burmese Parliament should promulgate laws which, reflecting the spirit of UN Declaration on Minority Rights and Convention Against Genocide, that protect Burma's diverse racial and religious minorities.

12. Understandably, the Rohingya/Bengali community is preferable to obtain full Burmese citizenship for all those stateless people. However, for the purpose of community's social well-beings and political stability, other forms of citizenship, i.e. Associate and Naturalised, can equally contribute substantially. For Rohingya/Bengali population, the lack of any formal residency status is perpetuating them in the state of landless labourers.

Lack of residency status also hinder participation in the trade and commerce activities. On the one hand, such a lack of legal residency may contribute the ethnic Rakhines deliberately destabilising the Rohingya/Bengali community.

One may visualise, as a result of three generation policy, many Rohingya/Bengali households can now have a mix of full citizenship for the young and other forms of citizenships for the old. Therefore, for the stateless Rohingya/Bengali, a stable and functioning community is entirely achievable with the citizenship status that have provided for by the 1982 Burmese Citizenship Law.

END OF REPORT.

Obama to press Myanmar on Rohingya citizenship

[Http://www.afp.com/en/node/3050995](http://www.afp.com/en/node/3050995)

AFP, 13 Nov 2014: The United States called Thursday for Myanmar to allow stateless Rohingya Muslims to become citizens, after President Barack Obama said he was "deeply concerned" about the marginalised group. Obama, who is in Myanmar's capital to attend the East Asia Summit, would push to ensure the "fundamental universal rights" of all those in the nation, a White House official said.

The situation in Rakhine state, where 140,000 people remain confined in squalid displacement camps after violence erupted between Buddhists and Muslims in 2012, "presents a challenge to the reform efforts" across the country, said deputy national security advisor Ben Rhodes.

A draft of a controversial government-backed Rakhine Action Plan seen by AFP would force Rohingya to identify themselves as Bengali -- a term seen as disparaging -- in order to apply for citizenship. Those who refused would be forced to live in camps. Many in Myanmar's government and local Buddhists view Rohingya as illegal immigrants from neighbouring Bangladesh, while many from the community say they can trace their ancestry in the country back for generations.

Rhodes said Obama would encourage all Myanmar figureheads, including opposition leader Aung San Suu Kyi, to support an alternative plan for the Rohingya that "allows them to become citizens of this country without having to self-identify as something they do not believe they are". The plan should also provide more humanitarian access and ensure they are not "settled indefinitely in camps".

In an interview with The Irrawaddy news website ahead of his arrival in Myanmar, Obama said he was "deeply concerned about the humanitarian situation in Rakhine", adding the Rohingya and other Muslims "continue to endure discrimination and abuse". Some 200 people were killed during two waves of violence in Rakhine in 2012, which saw knife and stick-wielding gangs raze whole villages.

Unrest in Rakhine sparked again in March this year when mobs of Buddhist nationalists ransacked UN and aid group offices in state capital Sittwe, as tensions boiled over amid fears the Rohingya could state their identity in a controversial census.

Hundreds of thousands of Rohingya have now suffered for months with almost no access to healthcare in the state after medical aid group Doctors Without Borders (MSF) was expelled by the government. Some 100,000 people have taken to boats, many barely sea-worthy, to escape the dire conditions in Rakhine, where both Buddhist and Muslim communities have long suffered Myanmar's worst poverty levels.

Obama's use of the term "Rohingya" in the interview is laden with political meaning. Rakhine authorities on Thursday issued a rebuke to UN Secretary-General Ban Ki-moon for his insistence that the United Nations would use the term as part of its principle to "recognise the rights of minorities" at a press conference in Naypyidaw on Wednesday. Rakhine State Chief Minister Maung Maung Ohn said Ban's comments "could further inflame local sentiment and undo previous gains we have achieved", in a document released by the ministry of information. Rakhine politicians also balked at Ban's use of the term. "His speech could lead to another conflict," Aye Maung, chairman of Rakhine's biggest party, Arakan National Party, told AFP. *mba-klm/kma/as*