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## **The Repatriation of the Rohingyas: A Flawed Bangladesh-Myanmar Agreement?**

*Bangladesh and Myanmar signed a new repatriation agreement on 15 January 2018. The agreement will see a total of 646,072 refugees sent back to Rakhine over a two-year period. The process of repatriating the first batch of Rohingya refugees was slated to start on 23 January but it has been delayed due to administrative issues. The Rohingya crisis has morphed into a vicious cycle of violence, displacement and repatriation. This paper argues that returning the refugees to the restive state at this given time undermines the principle of non-refoulement. Myanmar is nowhere near ready to take in the refugees. Furthermore, there are major flaws in the repatriation agreement. The parties to the contract may consider revising the agreement by incorporating recommendations by the Final Report of the Advisory Commission on Rakhine State to better cater to the needs of those displaced.*

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### **Introduction**

Bangladesh and Myanmar signed the agreement on 15 January 2018 to repatriate hundreds of thousands of refugees to the western state of Rakhine over a two-year period.<sup>2</sup> The voluntary

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repatriation deal was initially signed in November 2017.<sup>3</sup> The new contract is based on an earlier repatriation agreement in 1992/93.

As of December 2017, there were 858,590 Rohingyas in refugee camps in Bangladesh.<sup>4</sup> However, the contract is only applicable to those who fled Rakhine during the two bouts of violence in 2016 and 2017. The first outbreak of violence was triggered in October 2016 when militants from the Arakan Rohingya Salvation Army (ARSA) attacked soldiers who were patrolling along the border. The second exodus was sparked a year later in August/September 2017 after new attacks by the ARSA on police posts. Both rounds of violence led to a military crackdown which saw large numbers of civilians escaping across the border into Bangladesh.

The Rohingya crisis has spiraled into a cross-border issue that has affected the regional security architecture. Bangladesh and Myanmar have argued over the rightful citizenship of the Rohingya community where neither one is willing to take them. It has also put both countries under enormous pressure to find a long-term solution to the burgeoning crisis. Dhaka wants a rapid repatriation process to prevent straining its resources and denting its economy.<sup>5</sup>

Many recent high-level visits by world leaders to the refugee camps have highlighted the seriousness of the issue. Four teams of the Members of European Parliament (MEPs) visited a makeshift camp on 12 February 2018 to see the conditions firsthand.<sup>6</sup> Around the same time, the United Kingdom foreign secretary Boris Johnson paid a similar visit to the camps

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<sup>2</sup> “Repatriation of refugees to commence next Tuesday”, The Republic of the Union of Myanmar, President Office. <http://www.president-office.gov.mm/en/?q=issues/rakhine-state-affairs/id-8348>. Accessed on 10 February 2018.

<sup>3</sup> AP, “Bangladesh and Myanmar aim to finish Rohingya return in two years”, *Japan Times*, 16 January 2018 <https://www.japantimes.co.jp/news/2018/01/16/asia-pacific/bangladesh-myanmar-aim-finish-rohingya-return-two-years/#.Wnzsiq6nHIV>. Accessed on 9 February 2018.

<sup>4</sup> “Situation Update: Rohingya Refugee Crisis”, Inter Sector Coordination Group, 7 December 2017. [https://reliefweb.int/sites/reliefweb.int/files/resources/171207\\_iscg\\_sitrep\\_one\\_pager\\_final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/171207_iscg_sitrep_one_pager_final.pdf). Accessed on 9 February 2018.

<sup>5</sup> “The Rohingya Crisis: Potentials for Possible Changes in the Regional Security Architecture”, Iftekhah Ahmed Chowdhury, ISAS Brief No. 515, 23 October 2017, p 2. <https://www.isas.nus.edu.sg/ISAS%20Reports/ISAS%20Briefs%20No.%20515-%20The%20Rohingya%20Crisis-%20Potentials%20for%20Possible%20Changes%20in%20the%20Regional%20Security%20Architecture-1.pdf>. Accessed on 9 February 2018.

<sup>6</sup> UNB, “EU teams to visit Rohingya camp Monday”, *Dhaka Tribune*, 10 February 2018. <http://www.dhaka.tribune.com/bangladesh/foreign-affairs/2018/02/10/eu-teams-visit-rohingya-camp-monday/>. Accessed on 10 February 2018.

on the border.<sup>7</sup> He said during his visit that he is uncertain whether State Counsellor of Myanmar Aung San Suu Kyi “understands the full horror” of the refugee issue.<sup>8</sup>

Another high profiled visit was by Swiss President Alain Berset on 6 February 2018. During the visit he said, “I witnessed the tragedy of the people who fled their homes in Myanmar...families, children, elderly people...it has put Bangladesh and the international community under enormous pressure to provide shelter to the more than 650,000 people. The families that are arriving are seeking safety. Switzerland is always ready to provide technical and financial support according to Geneva Conventions.”<sup>9</sup> Indonesian President Joko Widodo paid a visit too on 28 January 2018 after having official talks with Bangladesh’s Prime Minister Sheikh Hasina.<sup>10</sup> Turkish Prime Minister Binali Yildirim also visited the camps to witness the situation on the ground and see what other support his government could provide to the Rohingyas.<sup>11</sup>

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<sup>7</sup> “Boris Johnson: Rohingya refugees need safe way back”, *BBC*, 10 February 2018. <http://www.bbc.com/news/uk-43014858>. Accessed on 10 February 2018.

<sup>8</sup> “Boris Johnson ‘doubts Aung San Suu Kyi grasps Rohingya suffering’”, *BBC*, 11 February 2018. <http://www.bbc.com/news/uk-politics-43022051>. Accessed on 12 February 2018.

<sup>9</sup> Mahmud, Tarek, “Swiss president calls for voluntary, safe return of Rohingyas”, *Dhaka Tribune*, 6 February 2018. <http://www.dhakatribune.com/bangladesh/nation/2018/02/06/swiss-president-coxs-bazar-visit-rohingya-a-camp/>. Accessed on 15 February 2018.

<sup>10</sup> UNB, “Indonesian president to visit Rohingya camp Sunday”, *Dhaka Tribune*, 27 January 2018, <http://www.dhakatribune.com/bangladesh/2018/01/27/indonesian-president-visit-rohingya-camp-sunday/>. Accessed on 15 February 2018.

<sup>11</sup> UNB, Dhaka, “Turkish PM in Cox’s Bazar to meet Rohingyas”, *Daily Star*, 20 December 2017, <http://www.thedailystar.net/rohingya-crisis/turkish-prime-minister-binali-yildirim-coxs-bazar-meet-rohingyas-1507735>. Accessed on 15 February 2018.

**Table 1: Rohingya refugees reported by location in 2017**

Location	Population prior to Aug Influx	Total Population as of 7 Dec (combined)
<b>Makeshift Settlement / Refugee Camps</b>		
Kutupalong- Balukhali Expansion Site <sup>1</sup>	99,705	546,531
Kutupalong RC	13,901	22,241
Leda MS	14,240	15,123
Nayapara RC	19,230	23,065
<b>Grand Total</b>	<b>147,076</b>	<b>606,960</b>
<b>New Spontaneous Settlements</b>		
Hakimpara	140	32,967
Thangkhali	100	43,331
Unchiprang	-	23,318
Jamtoli	72	48,786
Moynarghona	50	19,539
Chakmarkul	-	5,349
<b>Grand Total</b>	<b>362</b>	<b>173,290</b>
<b>Host Community</b>		
Cox's Bazar Sadar	12,485	9,185
Ramu	1,600	1,904
Teknaf	42,870	63,486
Ukhia	8,125	3,765
<b>Grand Total</b>	<b>65,080</b>	<b>78,340</b>
<b>TOTAL Rohingya</b>	<b>212,518</b>	<b>858,590</b>

<sup>1</sup> Kutupalong-Balukhali expansion settlement includes the estimated population residing in the existing Kutupalong and Balukhali makeshift settlements, and their surrounding expansion zones

Source: Inter Sector Coordination Group (2017). *Situation Update: Rohingya Refugee Crisis* file:///C:/Users/vkapur/Documents/ISAS/171207\_iscg\_sitrep\_one\_pager\_final.pdf

## Problematic Agreement

Although the agreement is voluntary in nature, it may be premature to send the externally displaced to Rakhine under the current state of affairs. The contract has also produced an impossible timeframe for the safe and smooth return of refugees. The agreement is problematic for four reasons.

First, Naypyidaw does not appear to have the political will to wholeheartedly accept returnees. Myanmar may have signed the new agreement under diplomatic pressure.<sup>12</sup> The country's leadership has shown a dismissal attitude towards situation. During an interview with *BBC* in April 2017, Suu Kyi denied allegations of ethnic cleansing and other forms of human right violations in Rakhine. "I don't think there is ethnic cleansing going on. I think ethnic cleansing is too strong an expression to use for what is happening", said Suu Kyi

<sup>12</sup> AFP, "Myanmar-Bangladesh deal aims to repatriate refugees 'within two years'", *Frontier Myanmar*, 18 January 2018. <https://frontiermyanmar.net/en/myanmar-bangladesh-deal-aims-to-repatriate-refugees-within-two-years>. Accessed on 10 February 2018

during the interview.<sup>13</sup> International criticism further increased when American diplomat Bill Richardson resigned from the government appointed panel in January 2018 for conducting a “whitewash” investigation of the crisis.<sup>14</sup> Richardson also accused Suu Kyi of lacking “moral leadership”.<sup>15</sup>

Furthermore, the government has not implemented a full-fledged plan to repatriate, resettle and reintegrate the returnees. Currently, it is building a temporary transition camp that will accommodate 30,000 refugees. Security preparations, healthcare services and relief will also be provided in these camps.<sup>16</sup> However, the arrangements are temporary in nature that will not accommodate and resettle the hundreds of thousands of refugees under the new arrangement. The government needs to work on a robust infrastructure programme for a smooth repatriation flow. It needs to rebuild houses, schools and hospitals that were destroyed during the various bouts of violence.

Second, the refugee community may not even be willing to return to Rakhine under the existing circumstances. There are allegations by the United Nations (UN) of ongoing ethnic cleansing. Andrew Gilmour, UN Assistant Secretary-General for human rights said on 6 March 2018 after speaking to refugees in the displacement camps in Bangladesh, “The ethnic cleansing of Rohingya from Myanmar continues. I don’t think we can draw any other conclusion from what I have seen and heard in Cox’s Bazar.”<sup>17</sup> Similar comments were made in 2017 by the UN human rights chief Zeid Ra’ad Al Hussein that the treatment of Rohingyas is a “textbook example of ethnic cleansing.” The UN has also said that it has received information and satellite imagery of the Myanmar military and local militia resorting to extrajudicial killings in Rakhine.<sup>18</sup>

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<sup>13</sup> “Aung San Suu Kyi: No ethnic cleansing of Myanmar Muslim minority”, *BBC*, 6 April 2017. <http://www.bbc.com/news/world-asia-39507350>. Accessed on 10 February 2018.

<sup>14</sup> “Bill Richardson quits Myanmar panel on Rohingya”, *Al Jazeera*, 25 January 2018. <http://www.aljazeera.com/news/2018/01/bill-richardson-quits-myanmar-panel-rohingya-180125071914676.html>. Accessed on 11 February 2018.

<sup>15</sup> *Ibid.*

<sup>16</sup> “Camps are ready for repatriation”, The Republic of the Union of Myanmar, President Office, 29 January 2018, <http://www.president-office.gov.mm/en/?q=issues/rakhine-state-affairs/id-8408>. Accessed on 11 February 2018.

<sup>17</sup> “Rohingya ‘ethnic cleansing in Myanmar continues’: UN”, *Al Jazeera*, 6 March 2018. <https://www.aljazeera.com/news/2018/03/rohingya-ethnic-cleansing-myanmar-continues-180306062135668.html>. Accessed on 7 March 2018.

<sup>18</sup> “Darker and more dangerous: High Commissioner updates the Human Rights Council on human rights issues in 40 countries”, United Nations Human Rights Office of the High Commissioner, 11 September 2017. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E>. Accessed on 11 February 2018.

The new agreement also undermines the principle of non-refoulement that protects refugees and asylum seekers from returning to a country where they fear persecution. Under Article 33(1) of the 1951 UN Convention relating to the status of refugees, no country can repatriate a refugee in a manner that would endanger their life.<sup>19</sup> The principle, often referred to as the foundation of international protection, could be applied if a refugee fears persecution or extreme harm in his home country. Although the Myanmar army has denied targeting civilians, it confessed to killing 10 civilians who were in their custody in January 2018.<sup>20</sup> The civilians were mistaken to be members of the ARSA group. This was a rare occasion when the military acknowledged that it committed an atrocity against unarmed civilians.<sup>21</sup> Safety and security may be a fundamental concern for returnees who may be afraid of reprisals by the military, the ARSA and the local community.<sup>22</sup>

Third, the UN High Commissioner for Refugees (UNHCR) is not fully involved in the repatriation process.<sup>23</sup> Bangladesh Foreign Minister Abul Hassan Mahmood Ali said in November 2017 that the refugee agency will have a role to play in the refugee repatriation.<sup>24</sup> However, no steps have been undertaken so far. Human Rights Watch wrote a letter to the Foreign Minister of Bangladesh and Union Minister of Myanmar on 11 December 2017, urging them to get the UNHCR involved in ongoing discussions.<sup>25</sup>

The refugee arm has been a proactive part of previous repatriation processes. The UNHCR signed memoranda of understanding with both countries in 1993 on its participation to safely

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<sup>19</sup> “The Refugee Convention, 1951”, United Nations High Commissioner for Refugees, p 233. <http://www.unhcr.org/4ca34be29.pdf>. Accessed on 11 February 2018.

<sup>20</sup> AFP, “Myanmar-Bangladesh deal aims to repatriate refugees ‘within two years’”, *Frontier Myanmar*, 18 January 2018. <https://frontiermyanmar.net/en/myanmar-bangladesh-deal-aims-to-repatriate-refugees-within-two-years>. Accessed on 10 February 2018.

<sup>21</sup> “Rohingya crisis: Myanmar army admits killings”, *BBC*, 10 January 2018. <http://www.bbc.com/news/world-asia-42639418>. Accessed on 11 February 2018.

<sup>22</sup> Oh, Su-Ann, “Bangladesh is Right to Delay the Repatriation of Rohingya Refugees”, ISEAS Yusof Ishak Institute, 24 January 2018. <https://www.iseas.edu.sg/medias/commentaries/item/6924-bangladesh-is-right-to-delay-the-repatriation-of-rohingya-refugees-by-suann-oh>. Accessed on 17 February 2018.

<sup>23</sup> “Burma: Rohingya Return Deal Bad for Refugees”, Human Rights Watch, 11 December 2017, <https://www.hrw.org/news/2017/12/11/burma-rohingya-return-deal-bad-refugees>. Accessed on 11 February 2018.

<sup>24</sup> UNB, “Foreign minister: UNHCR will be involved in Rohingya repatriation”, *Dhaka Tribune*, 25 November 2017, <http://www.dhakatribune.com/bangladesh/foreign-affairs/2017/11/25/foreign-minister-unhcr-will-involved-rohingya-repatriation/>. Accessed on 10 February 2018.

<sup>25</sup> “Re: Myanmar-Bangladesh “Arrangement” on Rohingya Refugees”, Human Rights Watch, 11 December 2017, p 3. [https://www.hrw.org/sites/default/files/supporting\\_resources/201712letter\\_myanmar\\_bangladesh.pdf](https://www.hrw.org/sites/default/files/supporting_resources/201712letter_myanmar_bangladesh.pdf). Accessed on 10 February 2018.

repatriate refugees to Myanmar.<sup>26</sup> International monitors are a necessary component of any repatriation process that supervises the safe return of those displaced to their home country. It will be pragmatic to include the UNHCR in the entire repatriation process to facilitate both the safety aspect and support any national efforts on resettlement, reconstruction, reconstruction, rehabilitation and development assistance.

Fourth, the agreement requires the externally displaced to show tangible evidence of their residency.<sup>27</sup> The Myanmar Permanent Secretary at the Ministry of Labour, Immigration and Population, Myint Kyaing, said that the government will accept refugees who have identification documents that were issued by past governments. These documents include the national verification cards and the so-called “white cards”.<sup>28</sup>

Many Rohingya refugees may fall short of the criterion since those who fled were unable to take the necessary documents with them. Furthermore, many Rohingyas have been disenfranchised in the last few decades. The 1982 Burma Citizenship Law revoked the citizenship of thousands of Rohingyas, leaving them stateless.<sup>29</sup> It may be difficult for many of the externally displaced to verify their residence and get rightfully repatriated.

## **Regional and International Actors**

Bangladesh, Myanmar, India, China and the United States (US) have become a part of the wider geopolitical dynamics of the issue. Bangladesh has accommodated hundreds of thousands of Rohingya refugees since the late 1970s.<sup>30</sup> The country has now faced the brunt of accommodating those displaced during the two bouts of violence. Prime Minister Hasina proposed a five-point action plan in at the 72<sup>nd</sup> UN General Assembly (UNGA) session

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<sup>26</sup> “Back to where you once belong, A historical review of UNHCR policy and practice on refugee repatriation”, United Nations High Commissioner for Refugees, September 2013, p 12. <http://www.refworld.org/pdfid/5226d8f44.pdf>. Accessed on 11 February 2018.

<sup>27</sup> AP, “Bangladesh and Myanmar aim to finish Rohingya return in two years”, *Japan Times*, 16 January 2018. <https://www.japantimes.co.jp/news/2018/01/16/asia-pacific/bangladesh-myanmar-aim-finish-rohingya-return-two-years/#.Wnzsiq6nHIV>. Accessed on 10 February 2018.

<sup>28</sup> Thu Aung, Thu, Lee, Yimou, “Myanmar Reaches Deal To Bring Rohingya Muslims Home”, *HuffPost*, 11 December 2017. [https://www.huffingtonpost.com/entry/rohingya-muslims-deal-home\\_us\\_5a16b817e4b0d4906cad83be](https://www.huffingtonpost.com/entry/rohingya-muslims-deal-home_us_5a16b817e4b0d4906cad83be). Accessed on 12 February 2018.

<sup>29</sup> “Burma Citizenship Law” <http://un-act.org/publication/view/myanmars-citizenship-law-1982/>. Accessed on 12 February 2018.

<sup>30</sup> “The Rohingya in Bangladesh: Another Round in the Cycle of Exodus and Repatriation?”, Su-Ann Oh. ISEAS Yusof Ishak, ISSUE: 2017 No. 90, 6 December 2017, p 4.

pertaining to the issue. The five points presented were to stop the practice of ethnic cleansing and violence; a fact-finding mission to be deployed immediately; ensure a sustainable repatriation of Rohingya refugees; creation of “safe zones” under UN monitoring; and implementing the recommendations of the Final Report of the Advisory Commission on Rakhine in its entirety.<sup>31</sup>

The country’s parliament has also adopted a unanimous resolution to place diplomatic pressure on Myanmar in order to repatriate all of the refugees.<sup>32</sup> Bangladesh wants all of the 646,072 refugees to be repatriated as soon as possible due to national security threats and strains on its own economy. Dhaka essentially wants the influx of refugees to stop permanently. It is also concerned with this year’s general elections to elect new members of the *Jatiyo Sangshad* (Supreme Legislative Body). The country experienced political unrest before the general elections in 2014. There is anxiety that a similar upheaval may take place prior to this year’s elections.

Myanmar finally responded to the international criticism over its handling of the refugee crisis when Suu Kyi delivered a national speech in September 2017. She dismissed the allegations of clearance operations amid the military crackdown. She also said that Myanmar is not “afraid of international scrutiny.”<sup>33</sup> Myanmar does not recognise the Rohingyas as one of the country’s 135 official ethnic groups. Both the outgoing and the incumbent government have labelled them as “Bengalis”.<sup>34</sup> Even during President U Htin Kyaw’s speech at the 43<sup>rd</sup> Anniversary Rakhine State Day, he referred to the community as “esteemed ethnic brothers and sisters living in Rakhine State”.<sup>35</sup> The lack of political recognition has stripped the Rohingyas of their ethnic identity. Moreover, the government is concerned with accepting

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<sup>31</sup> BSS, “5-point proposal could resolve Rohingya crisis: PM”, *Daily Star*, 16 October 2017. [http://www.thedaily\\_star.net/rohingya-crisis/5-point-proposal-could-resolve-myanmar-rohingya-crisis-says-bangladesh-prime-minister-sheikh-hasina-1477306](http://www.thedaily_star.net/rohingya-crisis/5-point-proposal-could-resolve-myanmar-rohingya-crisis-says-bangladesh-prime-minister-sheikh-hasina-1477306). Accessed on 15 February 2018.

<sup>32</sup> “The Rohingya Crisis – A Challenge for India and Bangladesh”, Amit Ranjan, ISAS Working Paper No. 271, 25 September 2017, p 10. <https://www.isas.nus.edu.sg/ISAS%20Reports/ISAS%20Working%20Papers%20No.%20271%20-%20The%20Rohingya%20Crisis.pdf>. Accessed on 15 February 2018.

<sup>33</sup> Wright, Rebecca et al, “Aung San Suu Kyi breaks silence on Rohingya, sparks storm of criticism”, *CNN*, 19 September 2017. <https://edition.cnn.com/2017/09/18/asia/aung-san-suu-kyi-speech-rohingya/index.html>. Accessed on 22 February 2018.

<sup>34</sup> Bashar, Reazul, “Stop calling Rohingyas ‘Bengalis’ and return them safely to Myanmar, says Hasina”, *Bdnews24*, 20 September 2017, <https://bdnews24.com/bangladesh/2017/09/20/stop-calling-rohingyas-bengalis-and-return-them-safely-to-myanmar-says-hasina>. Accessed on 15 February 2018.

<sup>35</sup> “The Republic of the Union of Myanmar, President Office”, The Republic of the Union of Myanmar, President Office, 15 December 2017, <http://www.president-office.gov.mm/en/?q=briefing-room/news/2017/12/15/id-8148>. Accessed on 15 February 2018.



only those who were externally displaced during the two bouts of violence in 2016 and 2017. It wants to keep out other migrants and refugees who fled prior to this period.

Like Bangladesh, India is fearful of Rohingya refugees becoming radicalised and threatening its national security. For strategic reasons, India also cannot jeopardise its bilateral relations with Myanmar.<sup>36</sup> Approximately 40,000 Rohingya refugees are staying in India.<sup>37</sup> The government has taken a strong stand against the community and wants to deport them at all cost. Indian Union Minister Kiren Rijiju made a bold statement in 2017 when he said, “I want to tell the international organisations whether the Rohingyas are registered under the United Nations Human Rights Commission or not. They are illegal immigrants in India.”<sup>38</sup> The Indian Supreme Court has also heard a petition filed on behalf of the Rohingyas against the government’s deportation plan.<sup>39</sup> Although India is not a signatory to the 1951 Refugee Convention, it has provided asylum to refugees on a number of occasions. The deportation case may have casted a negative light on India’s reputation as a haven for refugees.

China has also, for geopolitical reasons, supported the Myanmar government. Chinese Foreign Minister Wang Yi also illustrated a three-point solution on ceasefire, refugee repatriation and discussions on a long-term solution in November 2017.<sup>40</sup> Beijing has plans to invest US\$7.3 billion (\$9.6 billion) in a deep sea project in Rakhine. It also intends to build an industrial park in the state.<sup>41</sup> It is in China’s economic interest to see long-term stability and sustainable peace to return to Rakhine. However, China has not explicitly condemned Myanmar’s handling of the Rohingya issue. Its investment endeavours seem to take a higher precedence than the ongoing humanitarian crisis.

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<sup>36</sup> “The Rohingya Crisis – A Challenge for India and Bangladesh”, Amit Ranjan, op. cit.

<sup>37</sup> Wu, Huizhong, “India’s Rohingya refugee community fights deportation threat”, *CNN*, 3 October 2017, <https://edition.cnn.com/2017/10/03/asia/india-delhi-rohingya-refugee/index.html>. Accessed on 20 February 2018.

<sup>38</sup> “‘Rohingyas to be deported, don’t preach India on refugees’, says Kiren Rijiju”, *Indian Express*, PTI, 5 September 2017. <http://indianexpress.com/article/india/rohingyas-to-be-deported-dont-preach-india-on-refugees-says-kiren-rijiju-4830199/>. Accessed on 20 February 2018.

<sup>39</sup> Mohanty, Suchitra, Das, Krishna N., “Seeking to deport Rohingya, India tells court has evidence of militant links”, *Reuters*, 18 September 2017, <https://www.reuters.com/article/us-myanmar-rohingya-india/seeking-to-deport-rohingya-india-tells-court-has-evidence-of-militant-links-idUSKCN1BT176>. Accessed on 15 February 2018.

<sup>40</sup> Shi, Ting, Marlow, Iain, “China offers solution for Rohingya refugee crisis in Myanmar”, *Bloomberg*, 19 November 2017, <https://www.bloomberg.com/news/articles/2017-11-20/china-proposes-solution-for-rohingya-refugee-crisis-in-myanmar>. Accessed on 17 February 2018.

<sup>41</sup> Dasguptal, Saibal, “China’s huge Rakhine investment behind its tacit backing of Myanmar on Rohingyas”, *Times of India*, 26 September 2017, <https://timesofindia.indiatimes.com/world/china/china-will-back-myanmar-on-rohingya-crisis-because-it-is-investing-in-rakhine/articleshow/60845089.cms>. Accessed on 17 February 2018.

The US started the dialogue on holding Myanmar's top military personnel accountable for ethnic cleansing in 2017. It proposed sanctions and travel constraints on military officials. For instance, it rescinded invitations for the officials to attend American events.<sup>42</sup> The US also withdrew its military assistance from Myanmar officers and units who were involved in the civilian crackdown.<sup>43</sup> Heather Nauert from the US State Department said, "We express our gravest concern with recent events in Rakhine state and the violent, traumatic abuses Rohingya and other communities have endured. It is imperative that any individuals or entities responsible for atrocities, including non-state actors and vigilantes, be held accountable."<sup>44</sup>

However, the government has made it a point to draw a distinction between the military and the civilian-led government. The US may not want to jeopardise its cordial relations with Suu Kyi. Furthermore, Washington has not stated on who should take legal action against the country's military leaders. It might leave it to the International Court of Justice to start an inquiry.

## **A Possible Solution**

Bangladesh and Myanmar may want to consider revising the contract by implementing the recommendations of the Final Report of the Advisory Commission on Rakhine State. The Advisory Commission on Rakhine State, led by former UN Secretary General Kofi Annan, was formed in September 2016 after a request from Suu Kyi. The Commission submitted a comprehensive and highly-detailed report in August 2017 after a year of discussions and consultations.

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<sup>42</sup> "Myanmar: US says situation in Rakhine state 'constitutes ethnic cleansing' against Rohingya", *ABC News*, 22 November 2017, <http://www.abc.net.au/news/2017-11-23/us-calls-myanmar-operation-against-rohingya-ethnic-cleansing/9182686>. Accessed on 17 February 2018.

<sup>43</sup> "US withdraws assistance from Myanmar military amid Rohingya crisis", *Guardian*, 24 October 2017, <https://www.theguardian.com/world/2017/oct/24/us-withdraws-assistance-from-myanmar-military-amid-rohingya-crisis>. Accessed on 17 February 2018.

<sup>44</sup> *Ibid.*

Some of the key recommendations of the report are on citizenship verification, freedom of movement, humanitarian access, education and media access.<sup>45</sup> The recommendations on the citizenship verification process call the government to “clarify the status of those whose citizenship application is not accepted.”<sup>46</sup> This recommendation may help to address the issue of returning refugees who are unable to provide identification documents. Another recommendation is on the 12,000 refugees who are confined to the internally displaced persons (IDPs) in Rakhine. There has been little progress to facilitate the return of these refugees. Hence, the report has recommended the government to close all IDP camps.<sup>47</sup>

Using the report’s recommendations may help to better meet the needs of the externally displaced refugees. Bangladesh has asked Myanmar to incorporate the report’s recommendations. In response, Suu Kyi agreed to the recommendations (since it was her idea to form the Commission). However, she may face difficulty in getting the military’s approval that controls three key ministries in the country (defense, home affairs and border affairs).<sup>48</sup>

The two parties may also consider getting the UN Secretary-General António Guterres to oversee the whole process. The Secretary-General plays the role of a “world moderator”.<sup>49</sup> Article 100 of the UN Charter has stated that the Secretary-General should play an impartial role.<sup>50</sup> Guterres has been credited for his work when he served as the 10<sup>th</sup> High Commissioner of UNHCR from 2005 to 2015. During his tenure, he administered some key structural reforms and built the organisation’s capacity to respond to major displacement issues.<sup>51</sup> His expertise on the issue may help to navigate the repatriation process.

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<sup>45</sup> “Towards a peaceful, fair and prosperous future for the people of Rakhine”, Final Report of the Advisory Commission on Rakhine State, Advisory Commission on Rakhine State, August 2017, [http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport\\_Eng.pdf](http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf). Accessed on 18 February 2018.

<sup>46</sup> Ibid, p 28.

<sup>47</sup> Ibid, p 35.

<sup>48</sup> Oh, Su-Ann, “The Rohingya in Bangladesh: Another Round in the Cycle of Exodus and Repatriation?”, op. cit.

<sup>49</sup> Panda, Ankit, “The Role of the UN Secretary-General”, Council on Foreign Relations, 26 February 2017, <https://www.cfr.org/backgrounder/role-un-secretary-general>. Accessed on 18 February 2018.

<sup>50</sup> “Chapter XV: The Secretariat”, Charter of the United Nations, United Nations, <http://www.un.org/en/sections/un-charter/chapter-xv/index.html>. Accessed on 18 February 2018.

<sup>51</sup> “António Guterres (Portugal): 2005- 2015”, UNHCR- The UN Refugee Agency, <http://www.unhcr.org/antonio-guterres-portugal-2005-2015.html>. Accessed on 18 February 2018.

## Conclusion

The Rohingya conundrum has indeed placed both Bangladesh and Myanmar in a difficult position. Bangladesh cannot accommodate the refugees for too long without substantial damages to its own economy. It is also concerned with the forthcoming General Elections. On the other hand, Myanmar has not displayed the willingness to permanently resettle refugees. Fundamental safety will remain a topmost concern for returning refugees.

Besides Bangladesh and Myanmar, India, China and the US have become a part of the geopolitical dynamics due to their varying interests. Repatriation is not simply about returning refugees to their country of origin; it also encompasses resettlement and reintegration. The repatriation agreement may not be the most feasible course of action at the given time since the long-term issues have not been addressed. The two sides may also want to consider amending the contract by implementing the recommendations by the Final Report of the Advisory Commission on Rakhine State. The recommendations extensively cover citizenship verification, freedom of movement, humanitarian access, IDPs, education and media access. Additionally, the two sides might also consider getting Guterres to manage the entire process.

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