

[Politics of Statelessness and Citizenship: Rohingya Lives in the Shadows](#)

By **Kaveri**

Citizenship is vital for human rights, security and protection of individuals and communities. It provides a sense of identity and belongingness without which people are vulnerable to exploitation and countless injustice. The global adherence to Universal Declaration of Human Rights (Article 15) ensures (1) “everyone has the right to a nationality” and that (2) “no one should be arbitrarily deprived of nationality”. Yet people in all parts of the world face the prospects of living without nationality/citizenship and its foreseen rights, finding it difficult or impossible to engage in a wide range of activities and access to facilities that usually citizens take for granted. This absence of legal identity gives birth to a highly complex legal and often a socio-political condition of statelessness, i.e. having no nationality/citizenship right. It is estimated that more than twelve million people are stateless worldwide (United Nations High Commission for Refugee’s report, the state of the world’s refugees, 2015). However, the official data captured by governments and the United Nations High Commission for Refugees limits to 3.2 million stateless individuals (UNHCR Global Trends, Forced Displacement in 2016), pushed into a web of poverty, isolation, abysmal disenfranchisement and deprivation for generations. This tarnishes their identity between the man and the citizen, dumping them into a socio-legal limbo. Thus, statelessness still remains a significant humanitarian issue in the 21st century and it has garnered the concern and attention of the global actors and humanitarian agencies. The situation of statelessness arises in different contexts across the continents which may range from state succession, decolonization, redrawing of state boundaries, intra and inter-state or inter-group conflicts based on majoritarian politics or ethno-religious discrimination and also may result from technical gaps in the legal apparatus of a country (Muni, 1996; Samaddar, 2003; Chakraborty, 1998; Ghosh, 1997). However, the most problematic aspect is the state-centric idea of citizenship which is based on the notion of ethno-religion that sits uneasily alongside citizenship/state identity, thereby violating the rights and freedom by excluding the minorities, leading to conflict, forced migration, and displacement. Basically, it comprehends that it is the state which has the complete control over the citizenship and integration policy to regulate every aspect of the public and private life of its citizens. As Gil Loescher states, forced emigration “stem(s) from officially instigated or organised state actions.” This is particularly true in the case of ethnic Rohingya Muslims, who have been discriminated against and persecuted for decades.

The United Nations has described the Rohingyas as the most persecuted minority in the world. For over the last five decades, they have faced continuous waves of communal violence, extrajudicial killings and discrimination. Especially after the global denunciation of the military crackdown that began in August 2017 and the United Nations accusing the country of ‘ethnic cleansing and genocide’, it is currently estimated that approximately 1.9 million ethnic Rohingyas are refused nationality/citizenship and its foreseen rights, while more than 1,25,000 Rohingyas have fled Myanmar. The ethnic Rohingya Muslims have been designated stateless by law since Myanmar’s independence in 1948. Consequently, the 1974 Constitution and enactment of 1982 Citizenship Act

barred them as a 'national race,' or citizenship/nationality under conservative nationalist ideology based on the exclusivity of Myanmar language, culture and the religion of the majority – Buddhism – unless they prove their ancestors lived in Myanmar before 1823. Most failed, rendering the Rohingyas as stateless in the world of nation-states. However, the historical records show that Muslims have lived in Myanmar for centuries in the Arakan state (now Rakhine). Because of their religion, Islam, it became easy for the state to undermine their community identity as 'others', tagged as 'illegal Bengali immigrant' from Bangladesh (Gade & Gecker, 2015). Thus, they are subjected to grave human rights violations with severe systematic and institutionalized socio-political exclusion. Xenophobia and the draconian policies of the Myanmar government have only fuelled the tension, forcing the Rohingyas [to live in abhorrent conditions without access to health care, education, livelihood opportunities, restriction on movement, facing an uncertain future](#). This legal impunity has escalated the proliferation of forced migration and displacement in search of asylum or refugee status in neighbouring countries, adding to the regional refugee crisis. The search for asylum often compels them to make perilous sea voyages with the aid of traffickers, leading to tragic consequences.

Due to rising conflicts within national boundaries post 9/11, ultranationalist and anti-immigration sentiments have spread across the globe, along with the proliferation of a discourse on 'Islamic terrorism'. Such sentiments echoed uncritically by many governments have further convoluted the situation for such individuals and communities. Considering stateless and refugee population as a socio-political and economic burden as well as a threat to the state's demography and security has been obscuring the genocidal tragedy of the Rohingyas. Xenophobic and racist discourses have been normalized in most countries of the world. As posited by Hanna Arendt, movement of refugees is often restricted in the name of national interests or security, contrary to ideas of human rights.

The situation in South and South East Asia is no different. Ever since the partition, independence and redrawing of national boundaries, religion has always been a very sensitive and volatile issue. Moreover, with its unique socio-cultural heritage and turbulent and porous borders that never really detached itself through the shared history, cultures and traditions have entangled the life of the people into messy knots. This simultaneous process of rigid borders on religious lines on one hand and continuation of common cultural and ethnic linkages on the other have led to incongruity between politics and culture as the newly formed nation-states on the Westphalian model could not accommodate these cultural and ethnic diversities. This has resulted in protracted conflicts leading to statelessness. Furthermore, no South Asian country has acceded to international instruments like the 1951 UN Convention, 1967 Protocol on Refugees, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness nor have there been any national or regional legal policy, making the issue even more complex and the management distinctly ad hoc.

The stigma of statelessness has no boundaries: Rohingyas in India

We would have been killed in Burma; therefore, we decided to flee. We first sneaked into Bangladesh... later, entered India, in the hope to have a better life. I paid Rs. 15000 to a broker at Cox Bazaar to cross the Bangladesh-India border by a car, and later reached Kolkata ... and, I again

paid Rs. 4000 to reach Delhi via train. But unfortunately, living conditions here are bad. There are no proper toilets or drinking water facilities. No one is willing to give a job. Surviving has become a challenge. We don't know where to go? Do we even have any right to live? I feel being born as a Rohingya Muslim in Burma is like a punishment... and has left us to belong to 'nowhere'. – Rushaal (name changed) during an interview in New Delhi

As narrated by a Rohingya on his current state of socio-spatial despair, the desperation to gain protection, security and hope for a better life has forced the innocent Rohingyas with children to undertake dangerous voyages with the dubious help of human traffickers and smugglers. Although many international and national authorities are allegedly aware of these smuggling rackets, nothing much has been done so far owing to the fear of assuming responsibility for the unwanted burden. The plight of the Rohingyas seems irreconcilable and interminable due to inadequacy, inconsistency and incongruity between the international, regional and national law/policies on protection, asylum, and hospitality towards migration and refugee flows, leading to the gross inability of the global humanitarian care and protection regime to respond to the crisis. The attrition is now telling on them. Following the recent deportation of seven Rohingya men to Myanmar on grounds of national security and public disorder, the survival of the Rohingya community has become a nightmare. Refugees cross borders with no prior planning and documentation. The Supreme Court's decision seems highly problematic and stands against India's long-term commitment towards the principle of non-refoulement (the right to seek and enjoy asylum is a customary principle in international law, under UDHR, Article 14) and against fundamental rights guaranteed under article 14 and 21. In addition, it is inconsistent with the spirit of 51(C) of the Indian Constitution. This has not just besmirched the country's reputation globally for risking the lives of Rohingyas by deporting them to Myanmar which doesn't recognize them as their citizens; it also raises questions on the ethic and values of Indian foreign policy.

There's also a realpolitik angle to India's consistent silence on the issue. The 'Look East Policy of India' focuses on cultivating extensive economic and strategic relations with the nations of Southeast Asia including Myanmar. With Kaladan-multi-modal transit project at its northwestern frontier with Myanmar and Shwe Natural Gas Extraction Project, besides other investments in Tamu-Kalea and Kalewa-Yargi corridor, India is trying to bolster its standing as a regional power and a counterweight to the strategic influence of China. India's stance towards the Rohingyas presents a depressing picture as India considers the crisis an internal matter of Myanmar. Due to the geopolitical importance, India wants to build goodwill with Myanmar, further providing a good reason to stay away from the Rohingya issue. Additionally, the anti-Muslim sentiments and agenda of the current ruling dispensation is clearly visible in the Citizenship (Amendment) Bill, 2016, which allows Hindu, Sikh, Buddhist refugees from Afghanistan, Bangladesh or Pakistan eligible for citizenship, while omitting Muslims. As the majority of Rohingyas are Muslims, they face the brunt.

Although it is difficult to enumerate the Rohingyas living in India, given the presence of a large number of unregistered refugees and stateless persons. However, as of August 2017, a Reuters [report](#) puts the number of registered Rohingyas in India at 16,500. While the Government of India has estimated 40,000 Rohingyas living on Indian soil, the majority continues to live under deplorable

conditions in makeshift camps of unauthorized colonies or slums spread over different parts of the country – Delhi, Uttar Pradesh, West Bengal, Haryana, Andhra Pradesh, Rajasthan, Maharashtra, Jammu & Kashmir, Andaman and Nicobar Islands and Tamil Nadu. Due to the absence of legal documents and illiteracy, the Rohingyas are usually employed in the informal sector as daily wage earners, rag pickers, construction or factory workers, rickshaw pullers, and small shop-owners. The Rohingya women are not encouraged to work; they are confined in their veil or 'pardah'. Most of the women are neither much educated nor able to adopt the local language. Moreover, the struggle for stateless Rohingya refugee gets further complicated with the introduction of Aadhar cards as an identity proof. This cumbers their daily functioning, the right to seek employment opportunities, and brings a significant decline in the living standards. They have no access to health care in times of emergency, sanitation, food and education. Noorjahan (name changed), a Rohingya woman, came to India with her family (husband and 4 children) in 2012 from Bangladesh and presently lives in Kanchan Kunj near Madanpur Khadar, South Delhi. She says,

Most employers asked for Aadhar card. But how could my husband show it as we didn't have one? In fact, when my husband showed his UNHCR Refugee card, they would laugh and ask, 'What is it?'... Now, you tell me how will we survive without job and money? How will we buy food?... Thankfully, my husband has got work now as a daily wage labourer at the metro construction site but still we don't know whether tomorrow he will get work or not....

These testimonies encapsulate the human stories that lie behind the phenomenon of denial of citizenship, migration and asylum seeking. It draws attention to their world of despair and optimism as the stateless persons living in India. Their continuous struggle for existence has been inevitably nebulous and shrouded in uncertainty which acutely affects their daily struggle to earn their livelihood.

When I asked the Rohingyas living in Delhi about their return, most said that Burma (Myanmar) was their homeland and they wanted to return but only if the Myanmar government and military was willing to accept them as nationals with their Rohingya identity. They further added that the security and right to their land and property should be ensured as it was the case with other Myanmar citizens. Perhaps this seems difficult under the present circumstances as, despite the global denunciation, Aung San Suu Kyi and her government along with the military continue to deny the violence and mass persecution committed against the Rohingyas. After relentless international pressure, Myanmar was forced to buckle and allow the Rohingyas to return under the repatriation agreement signed with Bangladesh and the United Nations in January and June 2018 respectively. The agreement is problematic as it lacks the plan to repatriate, resettle and reintegrate the returnees, while ensuring their rights, safety and security. The agreement neither guarantees any citizenship nor nationality rights to the Rohingyas; they are slated to be placed and confined within authorised displaced camps. Thus, the problem remains intact. They remain stateless and homeless even after their return to their 'homeland'.

It is evident that the discrimination, denigration, and isolation of the Rohingyas have become a part of their everyday life irrespective of the place of habitat (i.e., whether living in the country of origin or at the host country). This has a profound impact on their collective imagination through a constant

sense of fear and uncertainty. It necessitates for a careful rethinking and scrutiny of the concepts like citizenship, rights, security and protection within the paradigm of the nation-state. Given the fact, the state is the basic unit for conferring nationality and citizenship, Myanmar and the United Nations should work to implement the robust recommendations of Kofi Annan's report. The report focuses on four major points: 1) Investment and development of Rakhine; 2) Lifting all restriction on Rohingyas; 3) Reviewing Citizenship Act 1982 and; 4) Instigating a calibrated approach to security along with holding perpetrators of human rights violations accountable. Once these recommendations are implemented, a way forward seems possible.

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