

UN to Resolve the Rohingya Humanitarian Crisis

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The Rohingya refugees have, for decades now, been fleeing their homeland, the Rakhine province in Myanmar. Mostly through Yangon's inaction, elements of the military and members of the majority Buddhist population were left to run rampage amongst this helpless Muslim minority. Made stateless by Yangon in 1982, left totally vulnerable to the frightful violence of rape, mass killings — some burnt alive in their own homes — they fled, in 2017, to Bangladesh, some 700,000 of them. There have been waves of genocidal killings of Rohingyas in Myanmar beginning in 1978.

In September 2019 a UN-appointed independent International Fact-Finding Mission in a report insists that “hundreds of thousands of ethnic Rohingya who remain in Myanmar may face greater threat of genocide than ever, amid Government attempts to erase their identity and remove them from the country”. However, Myanmar has rejected the findings of the report saying that the mission was never approved by Yangon and they have, in turn, begun their own investigations.

In 2017, when boatloads of starving Rohingyas drifted to the shores of Malaysia and Indonesia dying of hunger with many lost at sea, Turkey protested the exodus. Malaysia and Indonesia, too, protested but Myanmar is a fellow ASEAN member. ASEAN holds dear its principle of non-interference and, therefore, they were silenced. Instead both Indonesia and Malaysia took in the refugees. In a recent speech at the UN the Malaysian prime minister, Dr Mahathir Mohammad, remarked on the world's silence with regard the Rohingya tragedy.

Despite the media silence, the UN has assured itself enough to announce in November, for the International Criminal Court (ICC) based in The Hague to begin preliminary investigations. The investigation began in Bangladesh, a signatory to the ICC, where most of the Rohingya refugees are living in overcrowded conditions in Cox Bazaar, reputedly the world's largest refugee settlement. It is assumed, here, that under the UN's auspices the investigation will be even more thorough.

And too, on 11 November, Gambia, Africa's smallest country, has filed a lawsuit, at the UN's top court, the International Court of Justice (ICJ), accusing Myanmar of genocide against Rohingya Muslims, on the principle of “universal jurisdiction”, a legal concept enshrined in many countries. The principle is built on the premise that war crimes and crimes against humanity are too horrific to ignore and can, therefore, be tried in any country. This is an expensive endeavour which can cost millions, if not billions of dollars and Gambia is poor. But Gambia is a majority Muslim nation and a member of the Organisation of Islamic Cooperation (OIC). It is this grouping that is behind Gambia. While the outcome is uncertain — although the facts as established by the UN's “Independent International Fact-Finding Mission on Myanmar” would favour Gambia's position — Myanmar has made it known that it will appear before the court, its team headed by Aung San Suu Kyi herself, leader of the

civilian government. This seeming defiance suggests that Yangon may have something up its sleeve.

Closely, on the heels of this legal action, comes another lawsuit, this time naming names, including the Nobel Peace Laureate, Aung San Suu Kyi, for crimes against Rohingya Muslims. The case is filed in Argentina, again under the principle of “universal jurisdiction”.

The action is led by an Argentinian lawyer Tomas Ojea, once a UN Special Rapporteur on Human Rights in Myanmar between 2008 and 2014. Ojea is a first-hand witness to the suffering of the Rohingyas. Two Argentine human rights groups are supporting the lawsuit.

Do these imminent cases suggest that the Rohingyas can now hope to return to their homes? An agreement reached between Bangladesh and Myanmar to allow a return of the refugees to their homeland could not be implemented because there have been few to no takers. The victims remain untrusting of their tormentors. The Rohingyas seek, instead, for guarantees for a pathway to citizenship, land entitlement and compensation, and want their safety secured. In short, they seek justice in Myanmar. Can the trust between the government and the people be re-established after such a heinous betrayal?

Observers are agreed that while Yangon is willing to negotiate and sign agreements, on the ground no promises made are fulfilled. For example, the agreement which allows the Rohingyas to return from Bangladesh is hollow given the official policy towards the Rohingyas still in the country. They are kept in internment camps deprived of their basic human rights. According to a UN Report, those fleeing are shot to death, including children. Children have no access to education and health-care in these camps and worse, their restricted movement means food is not liberally available and access to clean water limited. They are at the mercy of the Myanmar authorities.

Can the UN end this humanitarian crisis now that the tragedy is squarely on the lap of this supranational organisation intended to prevent genocides and other crimes against humanity? The example of Palestine tells us to temper our optimism. Proof of Israeli war crimes and crimes against humanity, ethnic cleansing, if not genocide, is everywhere even as I write Gaza is being bombed mercilessly. US vetoes in the UN Security Council in support of Israeli aggression have only demonstrated the UN's impotence. Geopolitics has become a massive obstacle to justice in the contemporary world. And, the ICJ can only issue advisory opinions. Will geopolitics again foil the ham-fisted, if not arm-twisted, attempts of the UN?

In September 2017, the Faculty of Law of Malaysia's University of Malaya, together with a couple of non-government organisations (NGO) including JUST, hosted a 5-day session of the Rome based Permanent People's Tribunal on “State Crimes Allegedly Committed in Myanmar against the Rohingyas, Kachins and Other Groups”. Evidence presented shows thousands of Rohingyas have lost their lives and hundreds of thousands displaced. Again evidence is aplenty but if in seven decades the genocide of the Palestinians has been allowed to play out in public, can we expect any better for the Rohingyas?

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