

Survey of the Socio-Economic Conditions of Rohingya Refugees taking
refuge in New Delhi, India

Report by

Indian Constitutional Aid Association & Act for Displaced

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DISCLAIMER

No Personally Identifiable Information (PII) was collected as we realize the sensitivity of the issues related to the community. The report does not disclose any personal information of any informant surveyed throughout the course of this research.

Background



“Refugees are mothers, fathers, sisters, brothers, children, with the same hopes and ambitions as us except that a twist of fate has bound their lives to a global refugee crisis on an unprecedented scale.”

- Khaled Hosseini

Indian Constitutional Aid Association (ICAA) collaborated with *Act for Displaced (AFD)* to study and analyze the situation of Rohingya Muslim refugees residing in New Delhi, India. The Indian Constitutional Aid Association is a group of people from various fields of expertise, ranging from law, policy sciences, and economic research, who are dedicated to bringing forth the much-needed change.

The *Indian Constitutional Aid Association* works to provide legislative assistance to Members of Parliament by drafting bills, letters, and amendments for them. ICAA also offers legal aid and submits RTIs to obtain answers to questions that have been left unaddressed.

Act For Displaced is a knowledge-driven international non-profit organization whose mission is to bring together young people from all over the world to research and discuss forced migration issues, analyze and publish their findings and opinions to raise public awareness about the struggles of forcibly displaced people, their stories, and advocate for their rights to reduce inequalities that they face in countries all over the world.

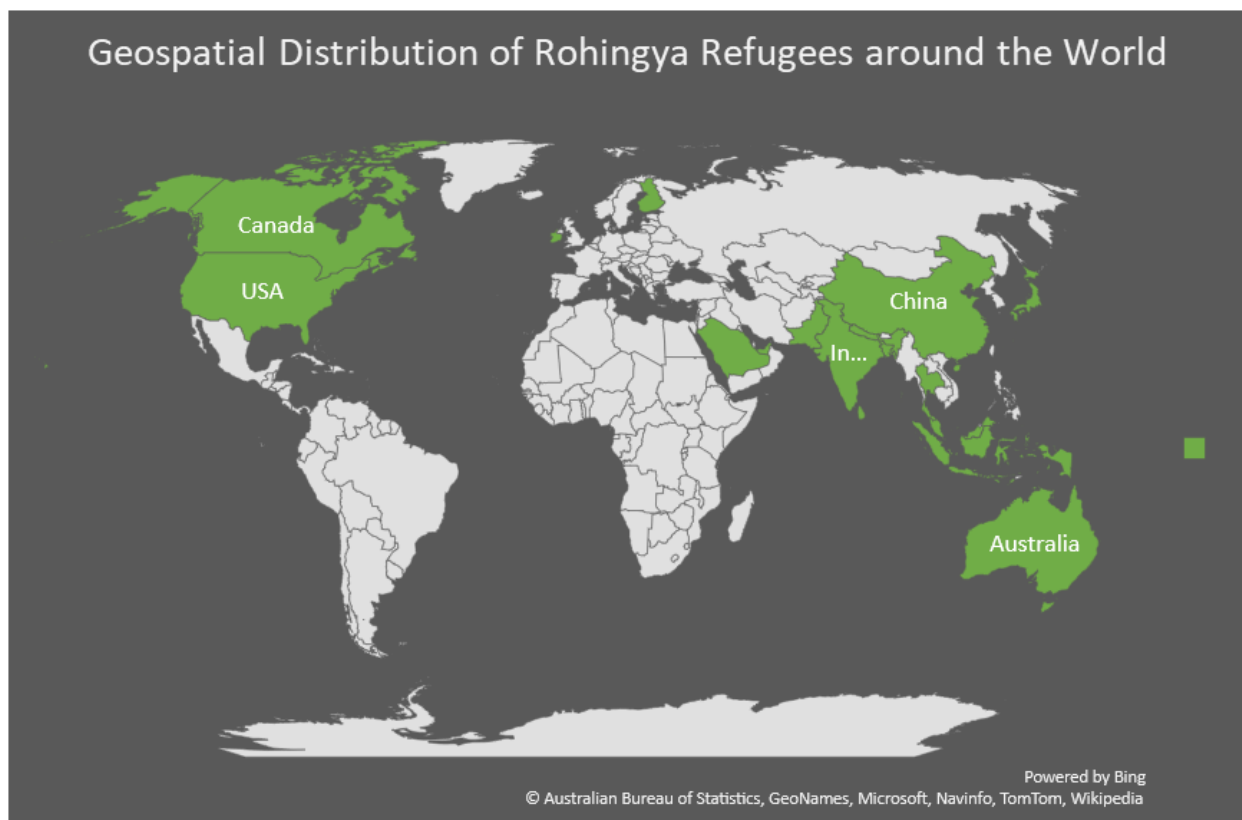
Through the empowerment of young voices, their strong and inclusive advocacy helps raise awareness of the rights of the displaced. Members of ICAA and AFD went to Rohingya Muslim Camps in the Okhla district of Delhi to interact with the refugees, understand their situation, and conduct a survey. For the research, the primary method of data collection was adopted. Primary data, also known as raw data, is information gathered directly from a first-hand source via experiments, surveys, or observations. For our research, we conducted surveys and Interviews.

These two methods were selected because Surveys enable us to collect data from a bigger population and are a more cost-effective way to study a large group. On the other hand, interviews helped us to get a deeper understanding of the crisis they are facing and are more flexible as compared to surveys.

However, interviews cannot cater to a large group which is why both these methods were adopted. We believed that this research had to be conducted to create awareness about the Rohingya Refugee Crisis because, even though it has been dubbed one of the world's fastest-growing refugee crises, not everyone is aware of what is happening to the Rohingya people. The Rohingya refugee crisis is a human rights and humanitarian calamity that has seen a rapid increase in numbers while decreasing access and resources in just one year. More than 1.3 million refugees and host community members have been affected by the violence in Myanmar's Rakhine State. Hence, this research was conducted.

Status of Rohingya Refugees and Distribution in the Global Context

The map displays the geospatial distribution of Rohingya refugees persecuted from Myanmar in varying periods. The significance of this representation denotes the volume of persecuted minorities taking refuge in these countries which translates into human rights protection and human development index. The index is used as a marker to signify the rank of countries in four tiers of human development based on their life expectancy, per capita income, education indicators. The geospatial distribution also displays the concentration of Rohingya refugees in regions with proximity to Myanmar (Rakhine State), especially, Bangladesh, Pakistan, and India per se.

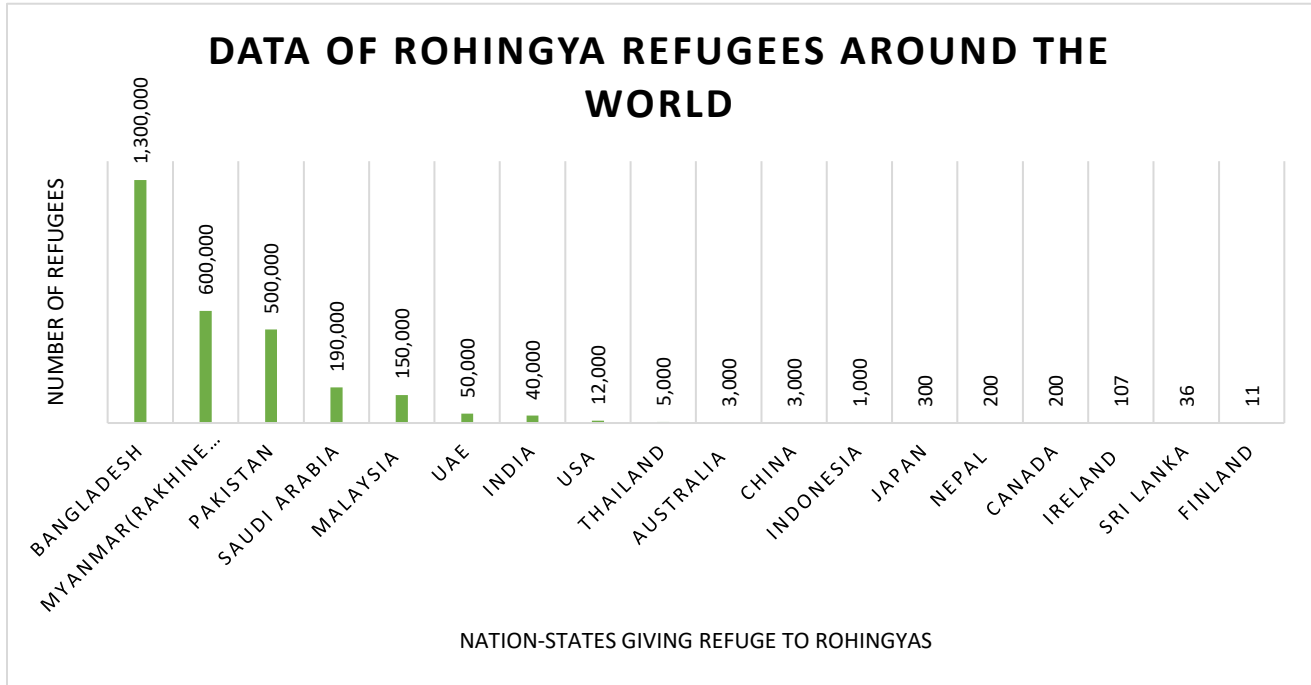


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Refugees and IDPs seeking refuge or asylum in foreign territories also face persecution based on their religion, ethnicity, race, etc. and fear refoulement leading to the breach of the principle of non-refoulement² and a plausible way to address this issue is by establishing sui generis institutions³ equipped in handling issues of religious and ethnic persecution. The complex case of Rohingya refugees requires case-by-case analysis through data analysis and application of international

refugee law which makes it imperative for the refugees to be beneficiaries of humanitarian aid and arbitration of sui generis institutions established by international organizations.

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The table represents data of Rohingya refugees present in various parts of the world by volume in a decreasing order to rank the highest to the lowest concentration of refugees taking refuge in the above-mentioned states. Bangladesh marks the highest concentration of refugees residing in the Cox's Bazar region with a United Nations project underway to relocate them in different areas that could lead to resizing of concentration in the country.

According to the Guiding Principles of Internal Displacement, **Principle 1(1)**, internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international domestic law as do other persons in their country.⁵ These guiding principles are well and truly established as customary practices through centuries of state practice and thus qualify to gain recognition in state responsibility vis-a-vis treatment and protection of internally displaced persons⁶. The international community must endorse these guiding principles in their practice with a reconciliation mechanism for effective peacemaking and peacebuilding initiatives in conflict and post-conflict societies respective⁷.

About UNHCR

The office of the United Nations High Commissioner for Refugees (UNHCR) was created in 1950, during the aftermath of the Second World War, to help millions of Europeans who had fled or lost their homes. India is not a party to the 1951 Refugee Convention or its 1967 Protocol and does not have a national refugee protection framework. However, it continues to grant asylum to many refugees from neighboring States and respects UNHCR's mandate for other nationals, from Afghanistan and Myanmar.

While the Government of India deals differently with various refugee groups, in general, it respects the principle of non-refoulement for holders of UNHCR documentation. In the absence of a national legal and administrative framework, UNHCR, based in New Delhi, conducts refugee status determination (RSD) for asylum-seekers from non-neighboring countries and Myanmar. UNHCR also has a presence in Chennai, Tamil Nadu in the south to support the voluntary repatriation of Sri Lankan refugees.

UNHCR aims to protect and assist all refugees and asylum-seekers in India, preserve protection space, and develop a partnership with the Government at the national and global levels. It works to make RSD more efficient and ensure that protection outreach services are available to all communities through the Women's Protection Centre in New Delhi and a regular UNHCR presence in centers run by partners.

Furthermore, it works to narrow the gap in services between refugees and asylum-seekers, so that the latter have equal access to all programs, except those involving direct cash benefits and some livelihood activities. UNHCR works in collaboration with the Government of India, particularly the Ministry of External Affairs and the Ministry of Home Affairs, including police authorities. Its civil society partners include the Mahanirban Calcutta Research Group, The Other Media, and academia.¹

Life of Rohingyas amidst extremist Buddhist monks and stringent old military rules in Myanmar

The term Rohingya is generically used to refer to the Muslims belonging to Rakhine (Arakan) state in Myanmar (Burma). Rohingya Muslims are a minority ethnic group who have lived in Myanmar for ages which are primarily Buddhist occupied. The Rohingya lineage can be traced down to the fifteenth century when hundreds and thousands of Muslims came to the Arakan Kingdom. Burma (now Myanmar) came under the rule of Britishers during the nineteenth and early twentieth century and later in 1948 when it gained independence, the Burmese government went on and changed its name to Myanmar around 1989. Myanmar officially has 135 ethnic groups but Rohingyas are not considered to be one because the government of Myanmar disproves of Rohingyas claim of belonging to the Arakan Kingdom⁸ because of which they are not considered to be “citizens by birth” as per 1982 citizenship law.

Rohingyas have long faced communal violence and brutality at the hands of security forces. Myanmar’s ethnic Rohingyas are the most prosecuted minority in the world. Extremist Buddhist organizations have been at the heart of intercommunal violence in Myanmar since the country’s return to relative democracy in 2011. Both the major political parties, the USDP and the opposition NLD, rely on these organizations for much of their electoral support, giving them significant influence over the political process. Burmese officials frequently propagate the idea that the Rohingyas are Bengali migrants who entered Burma during the British rule period to argue that the Rohingyas are not truly Burmese. Officials like Ye Myint Aung, the Burmese envoy in Hong Kong, who portrays the Rohingya as “ugly as ogres” and not sharing the “fair and soft” complexion of other Burmese ethnic groups, have quietly and purposefully reproduced this colonial age lie.⁹

Persecution of the Rohingyas was ongoing between 2008 and 2012, according to a US government study, and it had a particularly religious component. During this time, many mosques were demolished when it was claimed that they had been built without official authority, and Muslim-free zones were established in some parts of the state. Furthermore, Buddhist pagodas have been built in locations where there is no Buddhist population, with Rohingya slave labor, and there is a constant drive to encourage people to convert to Buddhism by offering to lift restrictions from traveling, jobs, and schooling

for those who agree. The RNDP’s (Rakhine Nationalities Development Party) resolve to expel the Rohingyas from Myanmar was reflected in the restrictions on family size.

Following the massacre in 2012, Buddhist monks distributed pamphlets demanding that ethnic Rakhine cut all links with the Rohingyas, including refusing to sell them things or associate with them. Persecution and isolation have become so common that hospitals and other facilities are not ready to treat Rohingya persons, particularly those who have been beaten up by the police or army.

Most of the Rohingya were taken to Thailand, Indonesia, or Malaysia, by the smugglers where they effectively served as slave laborers or vanished into the illegal and unregulated labor market which again did not aid them in any way.

In August 2017, the world saw what United Nations describes as the classic scene of “ethnic cleansing” of Rohingya people by the Myanmar army. The Rohingyas fleeing to Bangladesh said they had to flee after troops, backed by local Buddhist mobs, burnt their villages, and attacked the civilians.¹⁰

Pope Francis has described the prosecution of the Rohingya as a “form of war”.

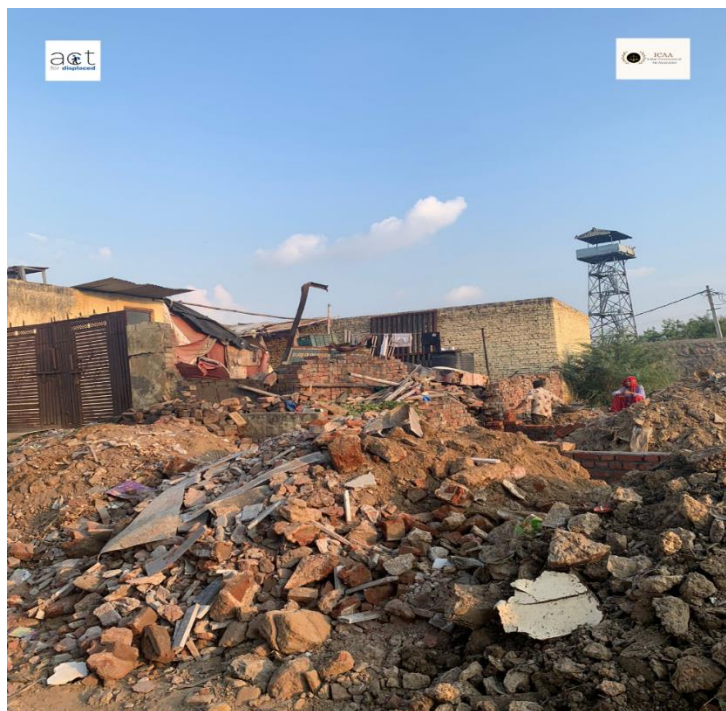
“Let’s think of those brothers of ours of the Rohingya, they were chased from one country and another and from another, when they arrived at a port or a beach, they gave them a bit of water or bit to eat and were there chased out of the sea. That this is a conflict that has not been resolved, and this is war, this is called violence, this is called killing”.¹¹

Current Situation of Rohingya Muslims in refugee camps and the problems that they face.

We surveyed 27 Rohingya Muslims including both men and women regarding the problems that they face in the camp to get a better understanding of their living struggles. Upon asking them basic questions, we realized that the men were more educated than women and the majority of the male population spoke Hindi whereas women were not comfortable with the language. We even asked them about their employment status. None of them have permanent or fixed jobs and work as daily wage workers in nearby factories. Women were majorly unemployed and told us that they used to work in factories that do stitching work and can stitch burkhas. The majority of the females were willing to work if offered and would even take up a job as a domestic helper. All the Refugees residing in the camp were registered with UNHCR and had a valid refugee card and some had even opened bank accounts with the help of their refugee cards. Most of them did not have any other document except their refugee card but some of them even have a long-term visa that was given to them before 2014 which makes living in India slightly easier for them as compared to others. One positive thing that we realized while interacting with Rohingya Muslims is that they are not being troubled or harassed by the locals in the area, instead, they had feelings of gratitude towards the locals. They even felt thankful towards the DM and other officials in the area. After a fire broke out in the camp in March 2021, the officials helped them rebuild their shelters.

The biggest problem faced by them is not the shortage of electricity or violence inflicted upon them, but their living conditions. Their camp is 750 sq. yards and is home to approximately 250 families. Each family consists of 3-4 members. They are living in very crowded and cramped spaces. The lack of space forces young girls and boys to sleep together which puts them in an uncomfortable position but due to the lack of space, they cannot do anything about it.

The makeshift tents fail to protect them from rains as the water gets filled in their space making it difficult to even sit. This year, Delhi received heavy rainfall which was nothing short of a nightmare for them. The makeshift tents will



even fail to provide warmth in winter. As it is already the onset of winter, one can only imagine the deterioration in their living conditions.



Since their camp is in an industrial area where there is a lot of open areas, they are more vulnerable to attacks by snakes and many of them have even told us this.

Another major problem faced by them is a water crisis. Water is a basic right of every human as without water nobody can survive, especially clean water. There is an extreme shortage of water as there is no proper system of water supply. They survive on water tankers that are provided to them by the officials for which they were thankful, however, they want a proper water supply system that would end their problem of water once and for all.

Apart from the aforementioned, their biggest concern right now is the lack of proper sanitation facilities. There is not a single toilet in the camp. There is a toilet built at a distance. It is very inconvenient for them because there is only a single toilet for men and a single toilet for women. Approximately 250 families are residing there that have access to only one toilet and that too, they

have to walk a distance to reach it. Since they are currently residing in an industrial area, women feel very unsafe to go to toilets alone, so they generally go in groups and never late at night. Having access to toilets is a basic human right that has not been given to them.



We even asked them questions regarding Violence. Their response slightly relieving as they told us that they have not experienced cases of violence at the hands of locals in that area. We asked women if they have faced any sort of violence or sexual harassment to which most of them denied. One lady did tell us that there was one incident of sexual harassment in the camp but it was done by a male member of the camp and not an outsider. However, upon further questioning about the incident, she refused to answer it stating that it is not right on her part to share this as it is someone else's life. We even asked them if they can go to the police to report a crime that has been committed to them to which some replied positively that yes they can go to the police whereas some were hesitant to answer or denied saying that they do not feel that they can go to the police for help.

Another problem faced by most of the children in these camps is a lack of education. Since the refugees do not hold documents for their identity except refugee cards, schools deny admission to these children. These children belong to the age where they should be receiving formal education but instead, they are at camps with no hopes of a brighter future. The situation has worsened after COVID-19 as everything has gone online, children there lack resources to pursue studies especially after schools started operating online.



INTERVIEW OF A ROHINGYA REFUGEE AT DELHI CAMP

Rohingya Refugee (Male) - (Non-disclosure of name due to safety reasons)

“My sister was married to a man from our community who resides in Hyderabad. He came here to marry her and lived with us for 3 months and then around 15th March 2021, without informing my sister he left. Around 31st March 2021, some officers from FRRO (Foreigners Regional Registration Office) RK Puram visited us and took away 6 members of our community with them to question them among which one was my sister even though she has a valid Refugee card as provided by UNHCR. Ever since then I have tried asking the FRRO officers and UNHCR members who visit us about the reason and on what ground my sister was taken, but I haven’t received any answers. UNHCR members keep saying they are trying but it’s been around six months and my sister has still not been released. I am afraid that they might take me as well and I am the sole bread earner of my family. If something were to happen to me, who will look after my family?”

Legal Scenario

The law relating to refugees in India is almost non-existent. Although India has been allowing and inviting refugees to take asylum, India is neither a signatory to the 1951 Refugee Convention or its 1967 Protocol. India also does not have a national refugee program/policy being implemented. Since the partition and independence, there were several displaced persons in the country, however, there is no distinction between a refugee and a foreigner under Indian law. The refugees in India are therefore at the mercy of the Government. Since they are not citizens of the country, they are not entitled to the fundamental rights that are otherwise guaranteed to all the citizens of India. The Foreigners Act of 1946, Passport Act of 1967, Extradition Act of 1962, Citizenship Act of 1955 (amended in 2019), and the Illegal Migrant (Determination by Tribunals) Act of 1983 are some of the laws that apply to refugees and foreigners and according to these laws, foreigners can be detained and forcibly deported, even if they are refugees escaping their countries of origin in fear of death¹².

The Foreigners Act, 1946 was established to confer upon the Central Government certain powers in respect of foreigners in India. The act vests the Central Government with absolute and unfettered discretion and, as there is no provision fettering this discretion in the Constitution, an unrestricted right to expel remains, according to the Supreme Court in 1955 in the matter of Hans Muller of Nuremberg v. Superintendent, Presidency Jail, Calcutta and Ors^{13.2} The Supreme Court further observed that “Article 19 of the Constitution confers certain fundamental rights of freedom on the citizens of India, among them, the right *"to move freely throughout the territory of India"* and *"to reside and settle in any part of India"*, subject only to laws that impose reasonable restrictions on

the exercise of those rights in the interests of the general public or for the protection of the interests of any Scheduled Tribe. No corresponding rights are given to foreigners. All that is guaranteed to them is protection to life and liberty following the laws of the land. This is conferred by article 21 which is in the following terms: '*No person shall be deprived of his life or personal liberty except according to procedure established by law*'. Entries 9, 10) 17, 18, and 19 in the Union List confer wide powers on the Centre to make laws about among other things, admission into and expulsion from India, extradition and aliens, and preventive detention connected with foreign affairs. Therefore, the right to make laws about the extradition of aliens and their expulsion from the land is expressly conferred; also, it is to be observed that extradition and expulsion are contained in separate entries indicating that though they may overlap in certain aspects, they are different and distinct subjects."

Over the years, India has had refugees come into the country from Sri Lanka, Tibet, Myanmar, and Afghanistan come for asylum and the government has recognized Tibetan and Sri Lankan refugees. The refugees who are recognized by the government are given shelter and are allowed access to local schools, hospitals and are allowed to work and earn a livelihood in the country. In December 2019, the Citizenship (Amendment) Act, 2019 was introduced by the Government, which sought to make "illegal migrants" from Afghanistan, Bangladesh, and Pakistan who are Hindu, Sikh, Buddhist, Jain, Parsi, or Christian eligible for citizenship. Subsequently, in May 2021, the Union Ministry of Home Affairs began inviting applications for Indian citizenship from non-Muslims from Afghanistan, Bangladesh, and Pakistan residing in 13 districts of Gujarat, Rajasthan, Chhattisgarh, Haryana, and Punjab. In a recent decision, the Supreme Court in the case of *Mohammad Salimullah & Anr. v/s Union of India* stated that "It is also true that the rights guaranteed under Articles 14 and 21 are available to all persons who may or may not be citizens. But the right not to be deported is ancillary or concomitant to the right to reside or settle in any part of the territory of India guaranteed under Article 19(1)(e)" and ordered the deportation of Rohingya Muslim according to the procedure prescribed for such deportation.

It is evident, therefore, that India does not have a steady stance when it comes to laws relating to refugees. Even though India has international obligations under the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, Convention Against Torture, and others, refugees in India are at the mercy of the government. There are various loopholes in the refugee law in India and this has been the case since the beginning. The refugees in India are treated on a case-to-case basis, while some are welcome others might not be. There have been cases where refugees become citizens and cases where refugees are deprived of basic human needs like shelter and water. This is an issue of grave concern because the people who are coming to a country with the hope of a better life should know what they are signing up for. Specific, national codified laws will help in this process because there is a large and regular influx of refugees and they should be informed about the conditions and laws that govern them if they choose to come to India. Their situation is such, that they are being forced to flee their country of origin and it is not

fair to offer them uncertainty when they look to us with hope. It need not be a positive offer, but it should be certain.

Remedial measures for Rohingya Refugees in New Delhi

1. Creation of Awareness:

More than 700,000 Rohingya refugees have left Myanmar to Bangladesh and neighboring countries since August 25, 2017. This Rohingya refugee crisis is one of the largest and most rapid mass migrations in modern history. The Rohingya, a largely Muslim minority ethnic group in predominantly Buddhist Myanmar, are fleeing genocidal violence that has followed decades of persecution and human rights violations, according to the United Nations. It has been named one of the fastest-growing refugee crises in the world and yet not everyone is aware of what, exactly, is happening to the Rohingya people which is why creating awareness about their situation is very important to sensitize people towards their community and to ensure that Rohingya Muslims get the help that they need.

2. Revamping shelter conditions:

The refugees from the Rohingya Muslim community are residing in makeshift tents that do not protect them from severe heat, rains, and cold. These tents also make them more vulnerable to crimes like dacoity and theft and make them more prone to attacks by snakes. Another problem faced by them is that approximately 250 families are residing in the 750 sq. yards camp which forces them to live in very small and cramped spaces. Building a proper shelter on a bigger and safer land could help them combat all the problems.

3. Ensuring a proper water supply:

Water is the most basic need of all individuals. Without water, nobody can survive, not even plants. It is sad to see that something so necessary for survival is not even being adequately provided. Every person has a right to clean water and easy access to it, yet this right is being denied to Rohingya Refugees. They do not have easy access to water as there is no proper water supply system. They are surviving on 1 water tanker that comes to their area on daily basis.

However, 1 water tanker for 250 families is just not sufficient. By building a proper water supply system would not only make their lives easier but would also ensure their right to water is not being violated.

4. Building toilets to improve their sanitation and hygiene:

Cleanliness is next to godliness, something that we have been taught our entire life. To be clean and hygienic, one needs to have access to toilets. The government of India has been actively working towards making toilets across the country to improve the overall sanitation and hygiene of the country as they realize the importance of toilets. However, the 250 (approx.) Rohingya Muslims families residing in the refugee camps have access to only one toilet. The toilet that they have access to is located at a far distance in the industrial area which makes going to the toilet is unsafe for them, especially for women and children. Access to toilets is a human right that should be provided to Rohingya Muslim refugees because one toilet for 250 families is just not sufficient and to maintain the hygiene of both the refugees and locals in that area, more toilets should be built, especially closer to the camp or in the camp

5. Providing free of cost basic education:

The children belonging to the Rohingya Refugee community do not have access to even basic education due to lack of resources, be it documents or money. Education is very important for each one. Even India believes so, which is why the Right to Education is a fundamental right. It is necessary to provide these children with the basic education needed for their day-to-day survival. NGOs and Volunteers can teach these children free of cost. Their situation can be changed for the better if the children belonging to the Rohingya Muslim community start being educated as education leads to a brighter future. People can even sponsor or help these children with their admissions and education. Certain practices in the education sector have been adopted, as per the local survey, to provide education to the children of Rohingya refugees. However, graduation certificates are not provided to them since they are enrolled in schools with any proof of documentation. The remedial measures should focus on providing the bare minimum of giving them a graduation certificate of middle school or high school education for proof of graduation.

References & Notes

¹ Data Source: Relief Web (2018); Strait Times (2019); New York Times (2017); Al Arabiya (2017); Reuters (2017); Al Jazeera (2017); BBC News (2017); ABC News (2018); Chen, Chun-yan (2016). [Research on Survival Strategy of Myanmar's Rohingya in Ruili]. *Journal of Guangxi University for Nationalities (Philosophy and Social Science Edition)* (in Chinese). **38** (2): 98–104.; "Report on International religious freedom". *United States Department of State. 20 November 2018.*; *Republica (2016)*; *Canadian Broadcasting Corporation; The Stateless Rohingya (2018)*; Valtioneuvosto.

*Data Authentication and Verification has been conducted through Open-Source Intelligence (OSINT)

² Asylum & Rights of Refugees, International Justice Resource Centre: Non-Refoulement

³ Sui Generis: Latin for of its own kind and used to describe a form of legal protection that exists outside typical legal protections-that is, something that is unique or different. [Legal Information Institute, Cornell Law School]

⁴ Supra, Note 1

⁵ Guiding Principles of Internal Displacement

⁶ Jha, A., Marwah, N., Mangal, P. (2021). Rights, Conditions and treatment of Internally Displaced Persons of Palestine: A review of the US' Vision for Peace and Prosperity for the brighter future of the people of Israel and Palestine Plan 2020. *Novus Politika: Changing dynamics in international politics*. P. 241-263.

⁷ Supra, Note 6

⁸ Albert And Maizland, E. L. (2020, January 23). The Rohingya Crisis. Council on Foreign Relation. Retrieved October 16, 2021, from <https://www.cfr.org/backgrounder/rohingya-crisis>

⁹ Ibrahim, A. (2021). The Rohingyas: Inside Myanmar's Hidden Genocide. *Speaking Tiger*.

¹⁰ BBC News. (2020, January 23). Myanmar Rohingya: What you need to know about the crisis. Retrieved October 21, 2021, from <https://www.bbc.com/news/world-asia-41566561>

¹¹ McElwee, J. J. (2017, August 3). Francis: Burmese treatment of Rohingya minority a form of 'war.' *National Catholic Reporter*. Retrieved October 27, 2021, from <https://www.ncronline.org/news/vatican/francis-burmese-treatment-rohingya-minority-form-war>

¹² UNHCR Global Appeal 2011 Update. See: <https://www.unhcr.org/4cd96e919.pdf>

¹³ [1955] 1 SCR 1284