Return of the Rohingyaas
WHY UNDERDEVELOPMENT EFFECTIVELY HINDERS REFUGEES’ RETURN TO MYANMAR

The rape and murder of 75-year-old Aryan Buddhist woman, Thida Htwe in late May 2012, allegedly by three Muslim men, triggered multiple rounds of sectarian violence in Myanmar’s Rakhine state. Mass internal displacement prompted waves of Rohingya refugees to flee into neighboring Bangladesh. The continuing tension in the region brings up questions surrounding a “return” of the Rohingyas to Myanmar: Is it currently a viable option, given the volatile and complex situation in the country? More specifically, are conditions to protect Rohingyas’ rights in place, in order for “return” to be considered a meaningful and long-term solution? This piece argues that return is currently unviable and explores what could be done to ensure rights and self-determination for Rohingyas in Myanmar.ô

The Rohingyas have been enduring unacknowledged or systemic discrimination and abuse since the 1978 Sylhet Agreement, which granted them citizenship if they have no right to live in Myanmar. However, “There have been Muslim inhabitants in western Myanmar for centuries” with the term “Rohingya” used in research since as early as 1788. Regardless, the Myanmar government and many citizens do not acknowledge the term “Rohingya” and class them as “Bengalis.” This classification is almost entirely linked to the origins of what is now Myanmar. Rakhine, the state that was once predominantly Buddhist and made up of more than 335 “national races” (of which “Rohingya” is not legally classified as one under the 1982 Citizenship Law). Given the severity of the Rohingyas’ current situation (according to UNHCR, more than half a million Rohingya refugees have arrived in Bangladesh since Aug 2017 and an estimated 310,000 have been internally displaced in Myanmar’s many recommendations were made, such as granting the Rohingyas citizenship in Myanmar and bringing responsible individuals to justice for mass atrocities; however, a sustainable and meaningful solution remains elusive. Under the New York Declaration for Refugees and Migrants (UNGA Resolution 71/285), unanimously adopted by all 193 UN Member states, Comprehensive Refugee Solutions (also known as the Voluntary Repatriation Process) and the Global Compact on Refugees (GCPR) are the two global objectives to provide better support to refugees and displaced persons to “support conditions in countries of origin for return in safety and dignity.”

In November 2017, Phak and Naynaydaw signed a bilateral agreement to return the refugees to Myanmar, cemented by MOUs between Myanmar and several UN agencies. However, the endeavor was delayed multiple times and despite some low-numbers of voluntary returns, no Rohingyas have officially returned under the agreement. Still, according to Human Rights Watch (HRW), even though the Rohingyas have not followed repatriation attempts for fear of renewed persecution in Myanmar, they expressed an overwhelming desire to return “since it is safe, when they have citizenship and freedom of movement and when there is genuine accountability for atrocities” (ibid.) that to truly “address the root causes of the Rohingya crisis, the economic development issue must be considered in tandem with normative legal considerations. This entails urging the international community and stakeholders to consider the interlinkages of development and human rights. I am not saying Myanmar should reach a certain standard of development before the Rohingyas’ repatriation, effectively putting their rights “on-pause,” but I am advocating that such economic development mitigate the state’s volatility and reduce the propensity for conflict between Myanmar’s ethnic communities in the long run.

A common perception is that the conflict is singularly driven by ethnic and religious motivations. This explanation provides only a partial view of the reality: there is a close connection between political instability and economic growth. According to a recent study on the relationship between development and conflict, “[e]ven the most horrific conflicts, those that seem entirely motivated by religious or ethnic intolerance or hatred, have that underpinnings of economic gain or loss that flow along with the violence; it is not that they are ‘economic’ but necessarily absent’” (p. 265). Siegfried O. Wolf of the University of Heidelberg’s South Asia Institute stated that the Rohingyas crisis is more politically and economically driven. Indeed, Myanmar, after decades of economic and political isolation only transitioned from military rule to democracy in 2010 and still falls under the UN’s Least Developed Countries (LDC) list. UNHCR emphasizes that poverty, voter displacement and political instability to overcome many government decisions. As a primarily agrarian-based economy, an overwhelming majority of Myanmar’s population live in rural areas. According to the 2017 report by the Advisory Commission on Rakhine State, where the majority of Rohingyas reside, the state lags behind the national average in every sector. Communities find themselves in a situation of insecure land tenure and a lack of livelihood opportunities, for which state has also been unattractive to private sector investments, despite being rich in natural resources due to “sweeping violence and instability.” As a consequence, any development and growth generated are not significant enough to be of benefit for the local residents. UNDP’s 2015 Report’s assessment of Myanmar’s agricultural sector and investment strategies have “unfortunately did not benefit many people, but also exacerbated existing human rights issues” (para. 20) and urged the government “to protect all the people on its territory against human rights abuse, including by business enterprises” (ibid.).

In this regard, the Rohingya crisis has brought about lasting economic damages resulting in a decline in FDI since 2016. Further exacerbating the issue, the government has prompted “free economic zones,” from the once-lucrative textile industry. To the West, Rakhine equals Myanmar and Myanmareans equals Rakhine, and there does seem to be anything else. Moreover, the East has another lens, and that is Rakhine is a problem. But Rakhine is a small part of Myanmar, and there is still Myanmar left, and we should engage and not isolate. We should help and not punish,” said Barmar Suu, a local politician. With a tarnished image, investments and tourism from the west have also plummeted, further worsening Myanmar’s “brand capital and global trade relationship. Imposing economic and trading sanctions is often used as a policy for achieving human rights protection. However, it was found that sanctions play a major role in the determination of policy success or failure. In the... The economic and trading sanctions should always take full account of the provisions of (the ICSER).” (para. 1). Nevertheless, Myanmar retains several obligations vis-a-vis the Rohingya population, as does Bangladesh. As a rule of customary international law, and a cornerstone of the 1951 Refugee Convention (Art. 33) and Protocol (Art. 10), the principle of non-refoulement “prohibits the return of a refugee to a territory where his or her life or freedom is threatened.” Both Myanmar and Bangladesh have violated the principle with regard to their aforementioned repatriation agreements. Whereas Bangladesh has raised national security concerns as a reason to send the Rohingyas back to Myanmar, the latter has not followed through with its promises to create conditions for safe and dignified returns, which is a clear danger to the root causes of the crisis. All the same, the current (non-refoulement) efforts are also not in line with human rights law and there is no reason the Rohingyas should continue to suffer until a long-term solution to ensure stability. Consider the widely recognized Rimpelho Principles, which, although formally non-binding, provide the right to protection from displacement (Art. 8) and the right to voluntarily return in safety and dignity (Art. 10). To date, UN’s humanitarian and development partners have engaged with the Governments of Bangladesh and where possible, Myanmar to come up with short- and medium-term solutions. However, while immediate humanitarian efforts as outlined in the Joint Response Plan (JRP) and the Myanmar Humanitarian Response Plan (HRP) are undoubtedly needed, long-term sustainable solutions are rarely discussed. Even the UNHCR Handbook for Parliamentarians on international refugee protection, only briefly attempts to connect normative and economic conditions in a small section on donor countries to “encourage financial and technical assistance be provided to countries of return where refugees are repatriated” (p. 233).

Of course, a normative framework needs to be in place – Myanmar amending its 1982 Citizenship Law and granting the Rohingyas citizenship would be a first step in the direct line restoring their freedom of movement. However, a single focus on only normative aspects and accountability will not address the “deep roots of Bangladesh’s long-term improvements to the lives of the Rohingyas: conflict; inequality nurtures conflict; and most conflicts in developing countries are ethnic in nature” (Bauer, 2017, p. 288). With this view in mind, I urge the international community and relevant stakeholders to expand the normative discussion to include economic and development cooperation in the 1978 Sylhet Agreement, with the CRCER and with the General Assembly in the 2016 UNHCR Handbook for Parliamentarians on international refugee protection, only briefly attempts to connect normative and economic conditions in a small section on donor countries to “encourage financial and technical assistance be provided to countries of return where refugees are repatriated” (p. 233).

VERANTWORTUNG
Die BOFAXE werden vom Institut für Friedenssicherungsrecht und Humanitäre Völkerrecht der Ruhr-Universität Bochum herausgegeben: IFHV, Massenstrasse 9b, 44787 Bochum, Tel.: +49 (0)234/32-27866, Fax: +49 (0)234/32-14208, Web: http://www.ruhr-univ-bochum.de/ifhv/. Bei Interesse am Bezug der BOFAXE wenden Sie sich bitte an: ifhv-publications@rub.de.

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