

AFGHAN AND SYRIAN REFUGEES IN SOUTH ASIA

The countries of South Asia, particularly India, Pakistan and Bangladesh, are home to almost 3 million refugees—a population which has been residing in these nations for almost three decades, and one which steadily rises in the face of heightened instability in Afghanistan and Syria. Prior to the mass exodus into Turkey and Jordan owing to the Syrian refugee crisis, Pakistan was home to the highest number of refugees, with the majority coming from Afghanistan. With a staggering 1.6 million documented refugees, and approximately 1 million undocumented migrants, Pakistan currently stands as the nation with the second highest number of refugees (UNHCR, 2016).³

India, too, is home to millions of refugees who trace their path to seek asylum within its borders from Syria, Afghanistan, Sri Lanka and Myanmar. While India devised a framework to assist Sri Lankan refugees, vouching to offer them Indian Citizenship, the government has been largely indifferent towards the influx of Rohingya refugees in the eastern state of West Bengal. According to estimates, India is home to almost 200,00 asylum seekers, only 30,000 of which are registered under the United Nations High Commissioner for Refugees—depriving the unregistered refugees of basic aid in the form of food, healthcare and education (UNHCR, 2014). This, combined with a lack of national framework on refugee management, has led to major human right violations in these regions.

Role of SAARC

The South Asian Association for Regional Cooperation (SAARC) has been ineffective in aptly administering the refugee crisis over the past decades. Known to be a multilateral organisation with a majorly bilateral approach, the SAARC focuses primarily on ‘softer’ areas of co-operation such as those of poverty alleviation, healthcare and the environment. While these areas are intertwined with the crisis at hand, none of SAARC’s measures actively address it.

South Asian countries, throughout history, have preferred bilateralism to multilateralism, and consequently SAARC processes have largely been constrained by bilateral tensions among its members. SAARC members adhere to bilateral refugee policies between origin and host countries, with occasional aid from the UNHCR.

Additionally, in several cases, refugees are a source of bilateral tensions in the regions. A specific example being: the deteriorating relationship between Afghanistan and Pakistan, which stems from the influx of asylum seekers into Pakistan owing to the prevalent insecurity within Afghanistan’s borders. An extreme example is that of the Lhotsampa, whom the Bhutanese government does not recognise. For Lhotsampa refugees the issue is much more complex because they had initially fled to India from where they were forcibly moved to Nepal. This case is a trilateral matter among Bhutan, Nepal, and India, with no willingness from Bhutan and India to engage in discussions on the plight of the Lhotsampa.¹

In its defence, SAARC has brought ahead the disproportionality in the refugee population distribution and the acute lack of ‘burden sharing.’ According to the UNHCR reports, the last three decades have been witness to almost 86% of all global refugees residing in low or middle income

countries (UNHCR, 2016). Pakistan has often brought to light the lack of aid, which, though promised by countries across the globe, stands highly insufficient in the face of the growing Afghan population in the country. With over 500 million people living below the poverty line, South Asia still holds approximately 12% of the world's refugee population, and yet, in the light of the cries in the Middle East and Europe, funds and aid for Asia have been, for the most part, sidelined.²

Legal Frameworks

SAARC nations do not have individual national frameworks to address the refugee issue. The lack of national policies on the issue of refugees makes space for flexibility and autonomy. Pakistan, which has hosted Afghans since the early 1980s, only recently introduced its National Policy on Afghan Refugees (2013)—a policy which aims to grant citizenships and reduce the number of 'voluntary repatriations'⁴. In direct contradiction to this regulation, the Pakistani and Indian governments have been accused of forcing the refugees back into Afghanistan, thus making a refugee—who is fleeing his country of origin due to fear of persecution, civil wars, ethnic strife and lack of protection—return to the same sense of insecurity.

Moreover, besides Afghanistan, no SAARC nations are signatories to the 1951 Convention Relating to the Status of Refugees⁵. A causative factor could be the fact that these States do not view the convention to be appropriate or adequate for their region/country to handle refugee situations. The majority of critics of the 1951 Convention refer to the provisions of the convention as 'euro-centric' and 'not in consonance with their regional requirements of South Asia.' This is because the commitments listed in the Convention have not been written while taking into account the socio-economic landscape of South and South-East Asia. These nations also fear that their policy-making autonomy will be threatened if they accede to the 1951 Convention.⁶

Additionally, no domestic legislation in India been passed to protect refugees. The fate of individual refugees in India is essentially determined by protections that are made available under the Indian Constitution. The status of refugees is usually based on the goodwill and tolerance of the government in power. The ad hoc approach adopted by the government of India towards refugees is reflected in the fact that most refugees have not been granted uniform rights and privileges or legal status.

1. However, these states are still obliged to adhere to the principle of *non-refoulement*, which forms a crucial part of customary international law. It reduces the power of the government's goodwill and states that: No State Party shall expel, return (refouler) or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture.
2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.⁷

The Way Forward

- a) Regional Refugee Framework in South Asia:

The refugee framework needs to be modified according to requirements of South Asian states in order to overcome the pertinent bureaucratic hurdles in adopting a framework and also to lay down efficient ways of handling the refugee situation. The governments' response to the refugee crisis is politically motivated and unless there is a refugee framework for the region, the arbitrary decisions of the governments will remain unstoppable.

Consider the 1969 OAU Convention, in which the scope of the term 'refugee' was expanded to also include persons fleeing due to external aggression, foreign domination, occupation or any event which seriously disturbed public order. Unlike the 1951 Refugee Convention, the OAU Convention does not provide for an exception of "national security" to the principle of non-refoulement while explicitly expanding its applicability to the "frontiers", thereby establishing asylum as a right⁸. This regional convention was the first international instrument to formalize the concepts of responsibility sharing, temporary protection as well as voluntary repatriation. This is an example that a potential regional framework can follow in Asia.

b) Burden Sharing:

The poorer Asian countries have serious limitations to hosting refugees because of their domestic society's urgent needs. Indonesia's 13 detention centres—lacking funds and facing a five-fold increase in asylum seekers in recent years—are overcrowded and inadequately supplied. Over 25 percent of the Philippines population of 100 million live under the national poverty line.⁹

Responsibility-sharing is a core tenet of international responses to refugee crises. Too often, however, there are massive failures in responding collectively and cooperatively to large-scale movements of refugees and displaced persons. Responsibility-sharing is essential largely because the costs associated with protecting and assisting refugees and displaced persons are unequally placed. Where refugees go is often an accident of geography, with low- and middle-income states that are close to countries in conflict often called upon to host far larger numbers of refugees than wealthier, more distant states. The Global Compact on Refugees is expected to include a framework to enhance responsibility-sharing.¹⁰

An international policy regarding the same will have to discuss the various ways in which parties to the Refugee Convention should contribute toward sharing the responsibilities for refugees. These would include, at a minimum, striving collectively to: address the causes of refugee movements; protect and assist refugees in their own territories; accept refugees for resettlement when needed; provide financial resources to ensure necessary aid and protection of refugees in countries of first asylum and, where needed, countries of resettlement and repatriation; commit to ensuring that development agencies are engaged in finding intermediate and durable solutions for refugees

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10. KNOMAD WP 32

ROHINGYA REFUGEES IN BANGLADESH AND INDIA

Introduction

The Rohingyas are a group of people from the Rakhine state of Myanmar. The Muslim-majority Rohingyas have been denied citizenship (under the 1982 Citizenship Law) by Myanmar and have been facing persecution; this persecution has often been termed as “ethnic cleansing”.¹ The Burmese Security Forces and personnel have been accused of rape, torture, harassment and mass killing of Rohingya Muslims. During their life in Myanmar, the Rohingya refugees had been

forced to live in small concentration camps and their movement had been largely restricted. Due to the aforementioned reasons, the stateless Rohingyas have been fleeing the country to seek refuge in neighboring Bangladesh, India and other nations.

According to the UNHCR, the exodus of Rohingyas from Myanmar had driven more than 720,000 refugees to Bangladesh between August 2017 and August 2018 while around 40,000 Rohingyas are currently residing in India.^{2,3} Although the life of Rohingya refugees in congested refugee camps is hard, it is a significant improvement compared to their lives in Myanmar. Even in Bangladesh and India, the future of Rohingyas remains highly uncertain and the question of their repatriation or accommodation in either of the nations remains unanswered.

Background and Early Development

Rohingya Muslims have been dwelling in the Rakhine state of Myanmar for centuries however, their population significantly increased during the British colonial period. Post-independence, tensions existed between the pro-Buddhist Burmese government and the Rohingya groups which resisted the government's policies. After the Myanmar military (*Tatmadaw*) coup of 1962, the military leader of the new "Socialist" Burma, General Ne Win took a harsh stance against the Rohingyas, a decision that was met with protests. In the 1970s and 1980s, thousands of Rohingyas fled from Myanmar to neighboring nations, primarily Bangladesh to escape "atrocities by the Myanmar military."⁴ The Citizenship law enacted in 1982 recognized 135 ethnic groups as citizens of Myanmar; the Rohingyas had been excluded rendering them stateless.⁵

The next two decades witnessed Myanmar's democracy movement, Aung San Suu Kyi's emergence, economic and political protests- the "Saffron Revolution" and the return of 230,000 Rohingyas to Rakhine under a repatriation agreement.⁶ The pre-existing tensions between the Rohingyas and Buddhist-led mobs took an extremely violent turn in June 2012 following the rape and murder of a Rakhine woman by few Rohingya men. Consequently, a state of emergency was declared in Rakhine, allowing the military to interfere in the administration; situations have worsened ever since.⁷ A series of targeted violence and large exodus of Rohingyas followed; the Rohingyas reportedly faced persecution by the military in Myanmar, particularly forced labor, rapes, mass killings and restrictions on their movement thus triggering the Rohingya refugee crisis.

Rohingyas in India

An estimated 40,000 Rohingyas are currently residing in India, approximately 18,000 of which are registered as "Refugees" by the UNHCR.⁸ Majority of them reached India through the India-Myanmar border, India-Myanmar-Bangladesh tri-junction or from overcrowded and unhygienic Bangladeshi Rohingya camps by crossing the porous India-Bangladesh border in search of better living conditions. Due to the lack of identification documents, these journeys to India are illegal and usually arranged by smugglers. Many Rohingyas that were illegally crossing the border into India have been detained by the Indian authorities. Majority of the Rohingyas are residing in camps located in New Delhi, Hyderabad, and Jammu. The Indian Government does not recognize UNHCR-issued documents as legitimate identification proof which is why Rohingyas in India are denied admission to government schools and access to government facilities. Many Rohingyas have also reported harassment by local communities and police.⁹

Although India is neither a signatory to the 1951 Convention Relating to the Status of Refugees nor the 1967 Protocol Relating to the Status of Refugees, in the past, it has always adhered to the principle of nonrefoulement and has readily accepted Tibetan and Sri Lankan refugees and asylum seekers.¹⁰ However, in this case, the government seems rigid on its stance of deporting every “illegal Rohingya immigrant” back to Myanmar, regardless of their UNHCR “Refugee” status.¹¹ Many have found the religiously-divisive political environment of India and the anti-immigration sentiments prevalent in north-eastern states to be factors influencing this decision.

India has yet not directly criticized the Myanmar authorities or held them directly responsible for any persecution, plausibly due to geopolitical situations in the region and Myanmar’s support in tackling terrorism and insurgency in India’s northeastern states. A petition has been filed in India’s Supreme Court challenging the government’s decision to deport all 40,000 of Rohingyas residing in India.¹² Government officials have repeatedly termed the Rohingyas as “infiltrators”, “security threats” and the cause of various socio-economic problems and have claimed that constitutionally, the government’s first and foremost duty is towards its citizens.

In October 2018, India deported the first group of seven Rohingya men causing widespread panic amongst refugees across the nation, a decision in which the Supreme Court refused to interfere; more than 1300 have moved back to Bangladesh ever since in fear of being repatriated to Myanmar.¹³ Again, in January 2019, another group of five was deported. India at present seems to be firm on its stance to not accommodate any Rohingyas on its soil, however, given the judiciary’s role in the matter and India’s lauded past policies of following the principle of non refoulement, there is still some uncertainty in the future plans for accommodation or repatriation of Rohingyas in India.

Rohingyas in Bangladesh

According to statistics provided by Bangladesh’s Prime Minister Sheikh Hasina to the UNGA, there are about 1.1 million Rohingya refugees residing in Bangladesh; primarily hosted by two registered refugee camps in Bangladesh’s Cox’s Bazar district.¹⁴ The situation in Bangladesh, a nation which already had a lot of its own problems to tackle, has been worsening as the crisis escalated over the years. Although the government has been facing numerous problems, the magnitude of efforts made by the international community to solve this refugee crisis seems far lower than what is expected and required.

On 25 August 2017, the Arakan Rohingya Salvation Army (ARSA), an insurgent group that claims to defend the rights of the Rohingya community in Myanmar, attacked various police posts, killing members of the Burmese security forces. In retaliation, the *Tatmadaw* launched a brutal military campaign against the Rohingyas.¹⁵ Reportedly, without differentiating between insurgents and innocent civilians, the armed forces burnt down villages and were involved in mass killings and sexual violence. Consequently, a huge wave of exodus followed; hundreds of thousands of Rohingyas soon fled their homes to seek refuge in neighboring Bangladesh, a nation which, unlike many other southeastern Muslim countries, chose to accept this persecuted minority.

Ever since Bangladesh and Myanmar have signed multiple bilateral agreements and memorandum of understanding (MoU) to control the situation and allow repatriation of

Rohingyas, however, no actual progress has been made.¹⁶ Bangladesh did receive significant financial aid and assistance from the international bodies yet, accommodating a million people is proving to be an even more significant burden for the government.¹⁷ The refugee camps are heavily congested and pose security, sanitation, economic and even significant environmental threats to the country's progress. A wide number of waterborne diseases, foodborne diseases and malnutrition have affected the refugee population. On 1 March 2019, Bangladesh told the United Nations that it could not accept any more Rohingyas stating that they were "paying the price for being responsive and responsible in showing empathy to a persecuted minority population of a neighbouring country."¹⁸

Unwillingness to Return: The Psychological Barrier

Despite the aforesaid agreements that have been signed between Bangladesh and Myanmar, there has still not been any major repatriation schemes that could be successfully implemented. The main reason behind this is that the refugees refused to return to their homes in Rakhine, a problem which was initially unanticipated.¹⁹

Myanmar authorities did conduct programs to try and convince a few Rohingya refugees to return, however, the memories of their traumatic pasts were too fresh for them to believe that they could have a prosperous life ahead, in Rakhine.

Conclusion

The Rohingya refugee crisis has significantly escalated in the past few years and the international community requires immediate actions to resolve the same. Due to the geopolitics of the region, there is not adequate international pressure on Myanmar to implement new policies. Myanmar's leaders have at many instances, even denied any persecution of the Rohingya community while on the other hand, the accounts given by the refugees about their horrific experiences in Rakhine suggest a genocidal act. Myanmar, UNDP, and UNHCR have recently signed an MoU regarding preparations for the repatriation of Rohingyas.²⁰ While the UN suggests that the Myanmar Army generals must be prosecuted for genocide and is calling for an ICC (International Criminal Court) probe, it is upon the countries involved in the matter to decide how they shall tackle this "textbook example of ethnic cleansing."^{21,22}

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URBAN REFUGEES FROM LATIN AMERICA

Urban refugees are a problem that has been plaguing our world for a long time. According to the UNHCR, ‘A refugee is someone who has been forced to flee his or her country because of persecution, war or violence. A refugee has a well-founded fear of persecution for reasons of race, religion, nationality, political opinion or membership in a particular social group. Most likely, they cannot return home or are afraid to do so. War and ethnic, tribal and religious violence are leading causes of refugees fleeing their countries.’¹

In this context, urban refugees refer to people who have moved into urban areas with considerable development that allows that area to be differentiated to from a rural one. This update paper will be focusing on Urban Refugees in the USA that have been forced to flee their respective countries in South and Central America due to persecution and violence.

It is important to differentiate between those who are migrants and those who are refugees. According to the UNESCO, “The term ‘migrant’ should be understood as covering all cases where the decision to migrate is taken freely by the individual concerned, for reasons of ‘personal convenience’ and without intervention of an external compelling factor.”² Hence, it is imperative to differentiate those who are moving into the US for better economic prospects or are actually fleeing their country due to war or conflict.

Venezuela is a country that has been ravaged in political turmoil for quite a bit of time. The incumbent government led by Nicolas Maduro has seen the country divided on who is the actual leader causing the country to be in deep crises. There is hyperinflation, food shortages and an exodus of people turning towards the US as asylum seekers. This has led to around 5.3 million people leaving Venezuela as refugees and move further up north or to other countries such as Brazil. This has put immense pressure on the local governments for food and shelter. With the US president's stand towards urban refugees and asylum seekers from Venezuela becoming increasingly hostile due to his stiff opposition to Nicolas Maduro, only 72,000 refugees from Venezuela have been admitted in the USA. This has caused immense pressure in the urban areas of Mexico and Brazil. Urban areas near the US border with Mexico has seen an increase in crime along with food shortages. There have also been reports of systematic discrimination and racial segregation in those towns due to immense competition to cross that dangerous border. President Trump has spoken against refugee seekers, saying that many are taking part in a "fabrication" and a "major, fat con work." Many Central American refugee searchers, who are Trump's essential objective, fall into an unexpected class in comparison to the Venezuelans. But since the international policy is centered around Venezuela's anti-Maduro policy, the refugee searchers from that nation represent a more straightforward test to the government's anti-immigration plan. Furthermore, 50% of Venezuelans are denied entry raising fears of deportation and increased pressure on the refugee camps and towns in Mexico and Brazil. This has led to those governments adopting an ever increasing hostile stance against the refugees raising fears of human right violations and persecution if forced back into their country.

The problem in South and Central America doesn't end here. Central American countries such as Guatemala, Nicaragua, Honduras and El Salvador have been facing internal conflict and turmoil since many decades. With Foreign reserves declining, high unemployment and decreasing value of exports (eg coffee), many impoverished people under the poverty line who do not tend to support their respective governments as well as politically persecuted people such as the leftists in Honduras, conservative and right-leaning activists in El Salvador to name a few have been fleeing their respective home countries for asylum in the United States. Though the US has accepted a considerable number of refugees under the Obama regime and has been cutting down significantly recently, the effects of these refugees who have settled in urban areas have already started to be felt. Towns such as Laredo and El Paso are grappling with the consequences of such immigration. First of all, racial tensions have flared since the refugees are willing to work for the already limited jobs that are available in these areas. This has led to a spike in crime and communal violence also. Moreover, the price of housing and real estate has sky-rocketed considerably leading to a steep rise in homelessness. According to the US government, Texas has seen an increase in homelessness by about 7% between 2017 and 2018 which is one of the highest in the continent. This indicates that the administration needs to do more to accommodate urban refugees in Texas as well as the whole country.

The international community as well as the government of US needs to take many more comprehensive steps to address this burning issue. The USA can learn from the Scandinavian countries who have tackled the Syrian refugees extremely efficiently which has led to the refugees to assimilate and integrate in the local urban Scandinavian culture and most importantly, people's minds and hearts. This is because the political turmoil in these South and Central

American countries is not going to end anytime soon and may continue to increase given the current trends. Only if they act decisively keeping the interests of both the refugees and ethnic population in mind will this problem of urban refugees be solved. It is the time that we take more steps to address this burning yet ignored issue by much of the world today. The attention which this dilemma receives is not even a quarter of the attention which the Syrian or Rohingya crises receives. It is our collective responsibility to focus more of our attention and resources to tackle this pressing issue.

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