

Rohingyas languishing behind the bar

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Section I

Myanmar¹ is a country, which was virtually under British colonial rule for more than one hundred years and very briefly came under Japanese occupation during World War II. The post colonial existence of Myanmar has largely been influenced by military rule and the problems of ethnic nationalities, insurgencies organized by the aggrieved minorities and tough counter-insurgency measures of the military junta. In that sense, Myanmar has a past that would find very few comparable counterparts elsewhere in the world.

As modern Myanmar is situated on the borderland of different cultures, Mongoloid and Indian, people belonging to competing cultures and civilizations have often fought each other on the soil of this not-so-big country. While Bangladesh and India lie southwest to Myanmar, China is in the north, and Laos and Thailand have borders with Myanmar in the east. A variety of large and small ethnic groups reside in Myanmar.²

While the international community warms up to democratic reforms, the contemporary phenomena of large scale displacement in Myanmar has continued unabated. The Rohingya in particular have suffered at the hands of the Burmese military, rendered stateless in their homeland Rakhine (Arakan)³ state of western Myanmar. The Far Eastern Himalaya region includes both Western Myanmar and eastern Bangladesh and is of particular importance to the Rohingya's history.

Rohingya is a Muslim ethnic group from the northern Rakhine state of western Myanmar, formerly known as Arakan state. They are an ethnic, linguistic, and religious minority both in Myanmar and in their province Rakhine. They are a group of stateless minority. The Rohingya people have been described as the "world's least wanted" and the "world's most persecuted minorities." The Rohingya claim their presence in the Arakan as far back as the 10th Century, asserting that the former Arakan empire was never an "exclusively Rakhine province". The first Muslims in the Arakan trace back their descent to the Arab traders who came to trade in the region as far back as the 8th Century. Following the Burmese conquest of Arakan in 1784-85, between 35,000 to 40,000 Arakanese fled to the neighbouring Chittagong region to avoid Burmese persecution and seek protection in British-controlled Bengal. After the occupation of Arakan State by the British in 1826 came a reverse flow of migrants—

from the Eastern Bengal districts like Chittagong to the Arakan with tacit British encouragement. The immigration continued until the 1930s. From 1936 onwards, mistrust grew between Muslims and Buddhists in British Burma.

On March 1942 a large scale riot between Muslim –Rohingyas and Buddhist- Rakhines⁴ in Arakan state took place. Nearly 5000 Rohingyas were slaughtered by Rakhine nationalists in the first such riots in Minbya and Mrohaung townships. In 1947, some Rohingyas formed the Mujahid party to “start a jihad” to create a separate state for the Muslims in northern Arakan. Though some Rohingya leaders responded positively to Bogyoke Aung Sang’s effort to bring together the different nationalities of Burma into a Union, the seeds of Rohingya separatism had been sown.⁵

Burma obtained its independence in 1948. The Muslim rebels numbered several thousands in 1948, and then quickly dwindled to “just a handful by 1950.” In 1962, a coup led by Gen. Ne Win marked the beginning of decades of oppressive military rule. Throughout military rule in Burma there were numerous Buddhist- Muslim clashes in Arakan State in which the military government led campaigns of violence against the Rohingya population. The government also adopted laws and policies that resulted in wide spread discrimination and other human rights violations against the Rohingya.⁶

In 1974, at the time of constituting Rakhaine State from the former Arakan Division, the Emergency Immigration Act downgraded Rohingya to possessing only foreign registration cards rather than national registration certificates.⁷ In 1978, the Myanmar military commenced the Nagamin operation with great severity, focusing on a fresh Census mainly aimed at nullifying Burmese citizenship of as many Rohingya as possible and was marked by extensive torture, rape forced labour and extra-judicial executions. Some 200,000 Rohingyas fled to Bangladesh. Operation Nagamin, or King Dragon was unleashed to crush the Mujahid groups in the Rohingya-dominated areas.⁸

In 1982, the revised Myanmar Citizenship Law excluded Rohingya from the list of 135 national ethnic groups and this caused Rohingya to become stateless and more vulnerable to arbitrary denial of rights.

Unlike the preceding 1948 Citizenship Act, the 1982 Law is essentially based on the principle of jus sanguinis and identifies three categories of citizens: full, associate and naturalized. Very few Rohingyas could fulfill the requirements that are demanded for being in one of these categories.

In 1989, colour-coded Citizens Scrutiny Cards (CRCs) were introduced: pink cards for full citizens, blue for associate citizens and green for naturalized citizens. The Rohingyas were not issued with any cards. In 1995, in response to UNHCR's intensive advocacy efforts to document the Rohingyas, the Burmese authorities started issuing them with a temporary Registration Card (TRC), a white card, pursuant to the 1949 Residents of Burma Registration act. The TRC does not mention the bearer's place of birth and cannot be used to claim citizenship.⁹

Then in **1991–1992**, after the disputed multi-party elections won by the National League for Democracy, the Myanmar military commenced another campaign called Pyi Thaya (or Prosperous Country), which began with a buildup of military forces and formation of a border task force, called Nay-Sat Kut-kwey Ye (or **Na Sa Ka**) which consisted of police, military intelligence and immigration/ customs and other officials. The intensified post-election clampdown led to a second exodus. Some 250,000 Rohingya crossed into Bangladesh while another 15,000 ultimately made their way to Malaysia.

Violence against Muslims in the state has continued over the years. The number of Rohingya refugees in Bangladesh has increased since violence in neighbouring Arakan State in Myanmar erupted between Muslim Rohingya and Rakhine Buddhists in June **2012** which caused some of the 140,000 internally displaced to attempt to flee across the border. A month after the June violence, on July 12, President Thein Sein called for **“illegal” Rohingya to be sent to “third countries.”** Despite the government's claim that it had taken the necessary measures to prevent the recurring violence, violent conflict broke out again on 21 October. The mass exodus of Rohingya from Myanmar after 2012 riots in Arakan state was the most recent episode of decades of persecution and forced evacuation.

Anyway Bangladesh has closed its door to one of the most “persecuted minorities” in the world, saying they are not Bangladeshi. According to Bangladesh policy, the prima facie recognition of Rohingya ended with a registration cut-off date in mid-1992. Who arrived or returned after the cut-off date (estimated 200,000) are not refugees and are not permitted in the camps. About 30,000 registered Rohingyas, supported by the U.N. High Commissioner for Refugees, are in Bangladesh. Informally, there are 200,000 unregistered Rohingya in Bangladesh.¹⁰

So caught between Buddhist dominated Myanmar and Muslim-dominated Bangladesh, the Rohingyas are entering **India** through the north east, say

officials. Thousands of Rohingya Muslims have taken refuge in India after fleeing deadly religious persecution and massacre in Burma, which has wiped out village after village in these last few years. Though the exact number of these "infiltrators" is not known, it is estimated to be in the range of 20,000-25,000. The Rohingyas have spread into places like Delhi, Jammu, Noida, Mewat (Haryana), Saharanpur, Muzaffarnagar, Aligarh, Hyderabad and Mumbai. In Delhi, they live in the slums of Kalindi Kunj, Khajuri, Nizamuddin and in neighbouring Noida. Their largest settlement is in Jammu, where around 2,300 Rohingyas live in subhuman conditions in makeshift tents.¹¹

On the other hand a steady influx of Rohingya Muslims into West Bengal via Bangladesh is causing concern. A senior intelligence official told *The Hindu* that "more than one thousand" Rohingya refugees had been detained and sent to prisons in the State in the last six months. But the West Bengal government has no clear idea of the actual number of the undocumented immigrants who entered the State in the past few years.¹²

Notes:

1. Myanmar was formerly known as Burma. It was renamed by the then State Law and Order Restoration Council (SLORC) military government in 1989. In this paper both the names are used.
2. Basu Ray Chaudhuri, S. ,(2005), 'Burma: Escape to Ordeal' in Banerjee P, Basu Ray Chaudhury S and Das S.K. (ed) Internal Displacement in South Asia , New Delhi, Sage. pp 213-236.
3. In 1989 the SLORC military government changed the state name from Arakan to Rakhine. In this paper both the names are used.
4. Rakhine is one of the eight major ethnic groups of Myanmar recognized by the government and constitutes the majority of Rakhine state population.
5. See, Bhaumik Subir, 2013,"The East Bengali Muslims in Assam and Rohingyas of Myanmar: Comparative Perspectives of Migration, Exclusion, Statelessness', *Refugee Watch, Issue No 41, June 2013*
6. See,<http://www.hrw.org/sites/default/files/reports/burma0413webwcover0.pdf>
7. See, Cheung Samuel, 2011, 'Migration Control and the Solutions Impasse in south and Southeast Asia: Implications from the Rohingya Experience', *Journal of Refugee Studies*
8. See, Bhaumik Subir, 2013,"The East Bengali Muslims in Assam and Rohingyas of Myanmar: Comparative Perspectives of Migration, Exclusion, Statelessness', *Refugee Watch, Issue No 41, June 2013*
9. See, <http://www.fmreview.org/en/FMRpdfs/FMR32/11-13.pdf>
10. See,<http://www.aljazeera.com/indepth/features/2014/01/no-respite-rohingya-bangladesh-201411675944519957.html>
11. See,<http://www.sunday-guardian.com/news/burmese-muslim-refugees-in-delhi-search-for-haven-in-jak>
12. See,<http://www.thehindu.com/news/national/other-states/rohingya-influx-a-brewing-crisis/article5797314.ece>

Section II

In this backdrop the present study is conducted among the Rohingya people who are being detained in the Correctional Homes-----Berhampore Central Correctional Home, Jalpaiguri Central Correctional Home & Balurghat District Correctional Home of West Bengal (North Zone).

The data used in this study has been gathered in February 2015. The paper is based on 58 interviews with individuals who are Rohingya. 38 of them are men and 20 are women. The study has also covered 10 dispute cases regarding the identity of the people. There are 10 people (5 Men+5Women) who are claiming themselves as “**Bangladeshi**” but the Court is treating them as “**Rohingya**”. The total 68 cases are covered by the study.

A good deal of discussion with the Officers of Department of Correctional Administration and an interview with the Police Authority are conducted seeking some information about the subject under study.

A meeting with RCFI is also held regarding their awareness and services for Rohingya people in the Correctional Homes. Relief and Charitable Foundation of India (RCFI) signed MOU with Global Rohingya Centre (GRC) mutually to support and rehabilitate to uplift and do all the welfare activities for the Rohangya refugee in India. RCFI will be the only partner of GRC in India.¹

The study would analyze the following issues:

- The paper attempts to explore the life of these Rohingyas in Myanmar and causes of leaving the country of their origin.
- The study attempts to understand the factors that lead the Rohingya people to come in India. From when they are coming to West Bengal/ India and their views about India.
- The study tries to show the complicated situation of these Rohingyas at present.
- The paper seeks to understand the problem of those particular 10 cases where complexity arises regarding the identity (Rohingya / Bangladeshi) of individual.
- It aims to reflect the missing link between the Judiciary, Police Authority, Department of Correctional Administration, UNHCR and the Victims.

Notes:

1. <http://rcfi.in/events/event/rcfi-sign-mou-grc/>.

Arakan (Rakhine) State is a crescent-like coastal region of Western Burma covering a total land area of about 20,000 square miles (52,000 square kilometers). It stretches from the Naff River in the North that marks its borders with Bangladesh (193 km) and India (30 km) to Cape Nagris in the South, which touches the Andaman Sea. Arakan State lies directly in the path of the southwest monsoon and is covered with ever-green forests due to the substantial amount of rainfall it receives. Arakan is blessed with an abundance of natural resources. Its economy is mainly agriculture and resource-based. The main agricultural product is rice and paddy. The export of forest and timber products such as teak, hardwood, softwood, ply-wood, bamboo, cane, etc., and sea products like shrimp, turtles, crabs, dried fish, canned fish, and salt also contributes significantly to the economy of Arakan.¹ The region's principal rivers are the Naff, the Mayu, the Kaladan, and the Lemro rivers.²



Myanmar

Source: Downloaded from Web Page

The Rohingyas under this study have come from this soil. 57 Rohingyas out of 58 were born in Arakan. They are mainly from Akyab. A few are from Buthiadaung. The name of their villages are Bolibazar, Mongdu, Sahab Bazar, Silhali, Paschimpara, FakirBazar, Fokirabad, Acharvil, Fuimali, Fanzi, Hasarbil, etc. In Burma they were mainly living on agriculture (26 Rohingyas). Small percentage of them was engaged in fishing and trade & business. Besides there were Rohingyas daily labor and 2 were religious persons (“Quran e Hafiz”). Women were mainly involved in household work.

Maximum Rohingyas belong to the age group of 18 to 30. There are 6 individuals who are above 60. Except a few all can speak only their mother tongue. They know little Bengali. Some can speak Arabic and Burmese. Their educational background is very poor. Only four women can sign their name. The rest of women are illiterate. Among the men 6 have read in Madrasa up to primary level.

Table No.1

Marital Status of the Rohingyas

Marital Status ↓ Sex →	Male	Female	Total
Unmarried	13	4	17
Married	23	10	33
Widow/ Widower	1	4	5
Other	1	2	3
Total	38	20	58

Source: Data Collected from Field

As by definition Rohingyas are stateless they suffer from gross human rights violations. They are forced to perform unpaid labour, and are not free to practice their religion. The Rohingyas in Arakan / Burma are often denied basic freedoms like the right to marry. They have no freedom of movement. Finally often they have to hand over all their belongings including their land without any compensation. The future of Rohingyas in Arakan looks grim.

Violence against Rohingyas is mainly committed by the border police (Na Sa Ka) in recent times. The forms of violence as reported by respondents under the study are as follows:

- **Forced Labour:** There is none among the 38 Rohingyas (Men) who do not have the experience of forced labour. The women also inform that their husbands/ brothers are taken by the Na Sa Ka as unpaid labour. At least a week in a month Rohingyas have to work without wages for the military or the Na Sa Ka. In that time they are beaten

indiscriminately. Other types of physical torture are also common. They have to carry dry food from their home as almost no food is offered to them. Digging ponds, carrying loads upon the hill and some other types of work (as dictated) are imposed upon them.

Demand of forced labour from the authorities places a large burden on the Rohingya population as it leaves them with not enough time to do their own work. The frequency of forced labour differs from place to place, from family to family. If anybody tries to protest against it he must have to die.

- **Restriction of Movement**: Rohingyas are virtually confined to their village tracts. They have to apply for permission to leave their village, even if it is just to go another nearby village. Sometimes they have to pay for this permit also. There is no permission for night staying. They have to return home within 10pm. If anyone is found to cross that time period he is immediately arrested by the Na Sa Ka.

“A Rohingya of my village was murdered by the Buddhists as he was travelling at night.”----- A Respondent. Rohingyas are not allowed to keep mobiles. But secretly some of them keep it to maintain contact with their family who are in the other country.

- **Restriction in Religious Activities**: Burning of mosques is very common to Arakan. In the “Ramjan Month” the Buddhists lock the Mosques. Rohingyas cannot celebrate ID. At the time of ID they are not allowed to sacrifice animals. The most brutal act is to lock the door of Mosque and to throw stones to the people inside at the time of “Namaz”. Many Rohingyas are killed in that way.

The brother of Md. Kalu, a respondent, was attacked with a sword on “Jumma Bar”, Friday, when he was returning from Mosque. His head was separated from the body.

“There is no place for the son of a Muslim. It is a curse to be a Muslim in Burma.”

A Respondent

One important thing that I want to mention here is that none of these respondents are forced for religious conversion in their home land.

- **Restriction on Marriage**: Since the creation of Na Sa Ka in 1992, the authorities in Northern Rakhaine State have forcefully introduced a regulation that the Rohingyas are required to ask for permission to get married. In recent years, imposition of restrictions on marriage of Rohingya couple has further intensified. A Rohingya family has to pay 50000 kyat for marriage (as informed by respondents). Parents of both the couples

have to deposit the fee. The amount of money is not same for all. It varies from one place to another. Parents of good looking daughters are demanded more money for marriage so that the girls can't get married. The marriage age is 18 for girls.

- **Restriction on Children:** It is informed by the respondents that from 2007 couples who are willing to marry have to sign a contract. According to the contract they cannot take more than two children. Non-compliance is resulted in heavy punishment (imprisonment). A Rohingya family has to pay 7000 to 8000 Kyat for birth registration (as informed by respondents).

They are forced to pay tax even if their cows give birth to calves.

- Land Confiscation and burning the houses of Rohingyas are very common in Arakan.

“We had our own paddy field, vegetable garden, and a house. Our house was set on fire. Our land was taken away. We have lost everything.”----A Respondent.

Table No.2

Rohingyas at the Times of Mass Exodus

	Male	Female	Total
2012 Riot	24	11	35
Operation Pyi Thaya	1	1	2
Both	1	2	3
Not applicable	12	6	18
Total	38	20	58

Source: Data Collected from Field

In this study there are 35 Rohingyas who are directly affected by the Riot of 2012. 2 Rohingyas have the experience of Operation Pyi Thaya and 3 Rohingyas have experience of both.

Victims of the riot of 2012 have experienced / seen the following violence:

- Burning of houses and villages.
- Forced eviction and destruction of houses.
- Murder of family members [Parents, Brother, Sister, Wife, Children & other relatives].

- 17 Rohingyas have to escape from their burning houses. Satara Bibi shows that a part of her body was burnt as she was trying to save her belongings.
- Hospitals refuse to provide treatment to those people who are burnt.
- Children are killed, burnt and thrown away from the hills.
- Rohingya men are taken by police and they do not return.
- Arbitrary arrest.
- Rohingyas are called and killed ruthlessly.

19 years old Abdul Kasim, was in Akyab, Arakan at the time of riot in 2012. The Madrasa where he read was burnt. He escaped seeing fire in his neighbour's house. For 7 days he wandered in Hills. Fruits of trees and vegetables of field kept him alive. Then he returned home. But there was nothing. Everything was burnt. He was searching his parents from one village to another through mountains. While he was roaming in hills he met a group of Rohingya people who were escaping. With them he came to India through Hilly border³. After crossing border he got arrested. He has none in this world at present.

Violence against Women

Women are victims of double discrimination. First for being a Rohingya. Second for being a woman. The following forms of violence against women are mentioned by the respondents.

- 👤 Rape of Rohingya women has become a natural phenomenon of Arakan.
- 👤 Men are often asked by Military/ Na Sa ka to get out of their home and then the women are raped. Rohingya people do not even have the power to murmur against it.
- 👤 Women are also forcibly taken away from home. After some days they are returned. Sometimes they do not return.
- 👤 Even the pregnant women are not spared from rape. Sometimes they are beaten also.
- 👤 As pregnant women are murdered in hospitals they cannot go there for delivery.
- 👤 Minor girls are also tortured sexually.
- 👤 Parents of good looking daughter are demanded more money at the time of marriage so that girls can't get married. Unmarried, beautiful girls are the main target of Na Sa Ka.
- 👤 Pregnant women, who are very near to delivery, are attacked by swords. Their baby is taken out from their womb and thrown away. This is the most extreme and brutal form of

violence, not only against women but also against humanity. At least 10 respondents (both men & women) tell about this violence. Some are the eye witness of this brutality.

Only 2/3 Rohingya men have disclosed how women of their family are tortured. The rest have said that women of their family are not raped or sexually exploited. The version of women remains the same. It may be understood that out of shame they are not willing to disclose such incidents. It is the most painful event of their life.

Table 3:

Cause of Leaving Burma

Sex → / Cause ↓	Male	Female	Total
Fear of death in 91-92	0	1	1
Fear of death in 2012 & after	21	19	40
Multiple*	16	0	16
Not applicable	1	0	1
Total	38	20	58

Source: Data Collected from Field

*Multiple = Forced Labour + Confinement in Home+ Fear of Rape of Women

After the riot of 2012 the life has become almost impossible in Arakan. They have become completely confined in their homes by Na Sa Ka. That affects their earning. Many people have to starve. Fear of death and rape along with no earning are the main reasons of their escape. Though 2012 and some other years are marked for extreme human right violation and mass exodus, violence against Rohingyas in the state has continued over the years. Destruction of houses, forced labour, confiscation of land, rape—all these lead Rohingyas to leave their land every day, before and after 2012. In Arakan every time is the riot time for the Rohingyas.

Being subjected to all sorts of maltreatment in a predominantly Buddhist nation, these Rohingyas had no option other than to leave the country with an empty hand.

Almost all of them (57) entered Bangladesh first. 31 Rohingyas don't know from where they have entered Bangladesh. In their language they have told "Naw Zani Bangladesh, Naw Zani Border" ("We don't know what is border and where is Bangladesh"). 16 people have crossed the Naff River in boats. 10 people say that they have entered Bangladesh through jungle and mountain. As they heard that Bangladesh army drowned the boats that came from Burma they did not take the risk to cross river.

The 11 Rohingya people who live in Bangladesh for some days / for years leave that country for a variety of reasons.

- They cannot manage any work in Bangladesh. So maintaining livelihood became impossible. Aspiring for a better life they come to India.
- Relatives of these people are in India. Some of them also have refugee cards.
- Police frequently arrests Rohingyas in Bangladesh.
- Fear of push back.

After crossing the border of Burma, Faruk was in Bangladesh for one month. Then he was pushed back to Burma by Bangladesh police from Chittagong .After wandering some days in mountains he again entered Bangladesh with the other 16 Rohingyas who were also forced back to Burma. At that time he took no risk to stay in Bangladesh and came to India.

- Non availability of refugee card in Bangladesh.

Nur Sahatu, a woman of 70 lived in Bangladesh for last 20 years. In 1991 her husband was murdered in Burma. With 5 children she came to Bangladesh. She was in the Nayapara camp. She possessed the refugee card in Bangladesh. But none of her children became able to avail it. One of her daughter lives in Delhi.

So the whole family was coming from Bangladesh. They were arrested from English Bazaar, Malda.

Cause of Coming to India: Among these 58 Rohingyas, 9 do not know why they have come to India. 6 are female among them. They are mainly the riot driven people who want nothing but to save their lives. Others have their own cause for seeking refuge in India. It is important to mention that 47 Rohingyas declare that they have no intention to stay in Bangladesh. The causes cited by these people for their coming in India are as follow:

- ✚ Most of these people have relatives in India. They are mainly in Jammu and Delhi. Moreover they tell that many of their relatives have refugee cards. So there is a prevailing concept among these people that in India it is very easy to have the refugee card.
- ✚ Good opportunity of work.
- ✚ There is no restriction of movement.
- ✚ They heard that India is full of opportunity.
- ✚ India is a secure place. It is a peaceful country.
- ✚ Indian Government helps foreigners.
- ✚ For better living.
- ✚ They know that some Rohingya people already live in Delhi.

There is a good image of India as a secure country with opportunities to live a peaceful life. All these concepts are developed either by their relatives or by their neighbours / other known people. There is a tendency among Rohingyas to come in India, somehow manage to stay here and then bring the whole family. Many people have come with this intention leaving their family behind in Burma. One Rohingya man has left his children and wife in Bangladesh. Some have their family members in all these three countries. But their number is few. Mainly family members of these people are divided in two countries -----Burma and India. Many have to leave their old parents in Burma. Some have lost their family while escaping. Some Rohingyas (6) tell that their families are in India for two or three years and they are the remaining who have come last. It is quite clear from their interviews that there is a continuous flow of Rohingyas in India. Favourable image of India and the relatives of these people have become the pull factor where as continuous persecution in Burma and an already developed negative image of Bangladesh serves as the push factor.

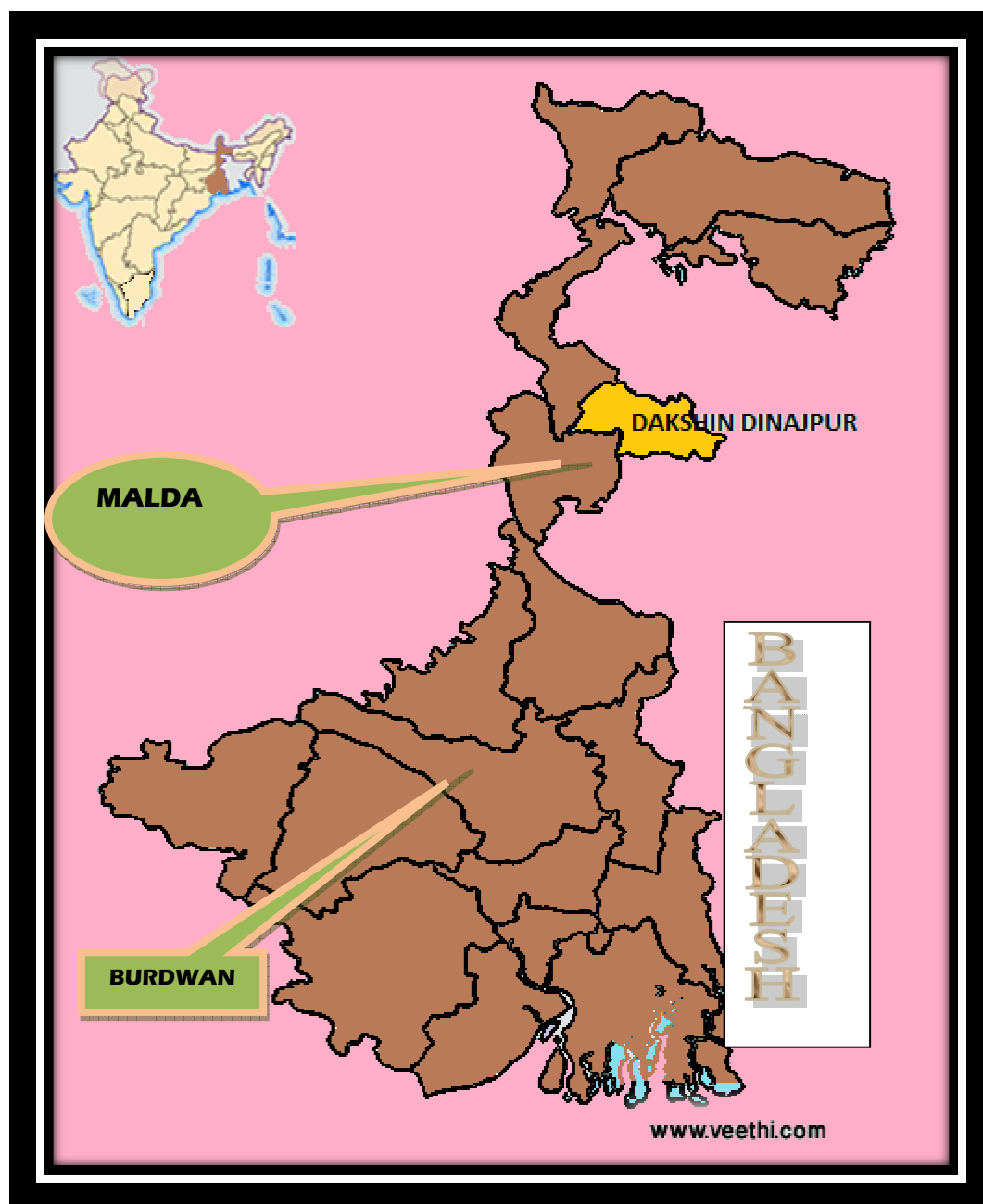
Notes:

1. <http://www.aasyc.org/arakan/geography-and-location-of-arakan>
2. <http://www.britannica.com/EBchecked/topic/31957/Arakan>
3. Hilly Border, between India and Bangladesh, is in South Dinajpur, West Bengal.

Section IV

Losing everything Rohingyas have entered India in search of a secure life. Most of them (57) have to cross two international borders and make their way to India through Bangladesh. 55 of them have come through Hilly Border, South Dinajpur. South Dinajpur/ Dakshin Dinajpur, a district of West Bengal, is surrounded by Bangladesh to the north, east and south and to the west and south west lies North Dinajpur and Malda. The district is situated towards the north east of the state and is a smaller district. 2 Rohingyas have crossed the Changra Bandha border of Cooch Behar and only 1 man has made his entrance directly from Burma to India through Manipur.

WEST BENGAL



Among these 55 Rohingyas who have come through Hilli Border 7 become able to reach Delhi first. They have followed the route mentioned below.

Hilly → Balurghat → Malda → Delhi

The rest 48 though cannot reach Delhi because of their arrest, have planned to follow the same route. Crossing Hilli they come in Balurghat and sometimes they also move to other places of South dinajpur (Kushmumdi, Buniadpur). From the secondary sources it is known that to escape arrest people often chose to come to Burdwan and from there pick the train towards Delhi. It is found that the Delhi and Jammu are the desired destination of Rohingyas. As it is known to them that Jammu can be reached from Delhi and because of the office of UNHCR in Delhi, their primary target is to reach the capital of India.



The sordid tales of **12 Rohingyas** (among 58) who are able to avoid immediate arrest after coming to India vary from one to another. Jahid Hossain, with his wife and 6 children, is among the 4 who made their way to Jammu. The wife (Bangladeshi) and five children of that man were arrested by the police in Hilli while crossing border but Jahid could escape to Jammu. Jallal Ahammad and Satara reached Jammu with their five children leaving behind their one child and other group members who were arrested from Balurghat. Md Alam had become successful to reach his destination with the whole family. All the four persons have refugee cards.

Md. Karim and his family reached Delhi safely. But Noor Islam, 26 years old young man lost his brother who became mentally misbalanced at the time of riot, 2012. Their eldest brother was murdered by Na Sa Ka in front of them. Their cousin went to Burma to take them in India. They came through Hilly border. Any way after reaching Delhi Noor applied for refugee card and then began to wander in Aligarh, Jammu, Merut, Kanpur in search of his brother. At last he again came to Bengal thinking that his brother might be in the border area from where they entered. He was arrested from “Hilly More”, Hilly.

Jahid was in the Balapur camp of Hyderabad for some days. After coming India he was wandering in different places --- Delhi, Jammu, Rajasthan, and Hyderabad. However he was ultimately arrested from Balurghat (South Dinajpur, West Bengal), the place from where he started his journey.

A 70 years old woman was hiding with her family members in a village near Hilly border. They intended to go to Delhi for refugee card. But after 15 days they were arrested on the way to Malda station (Malda, West Bengal).

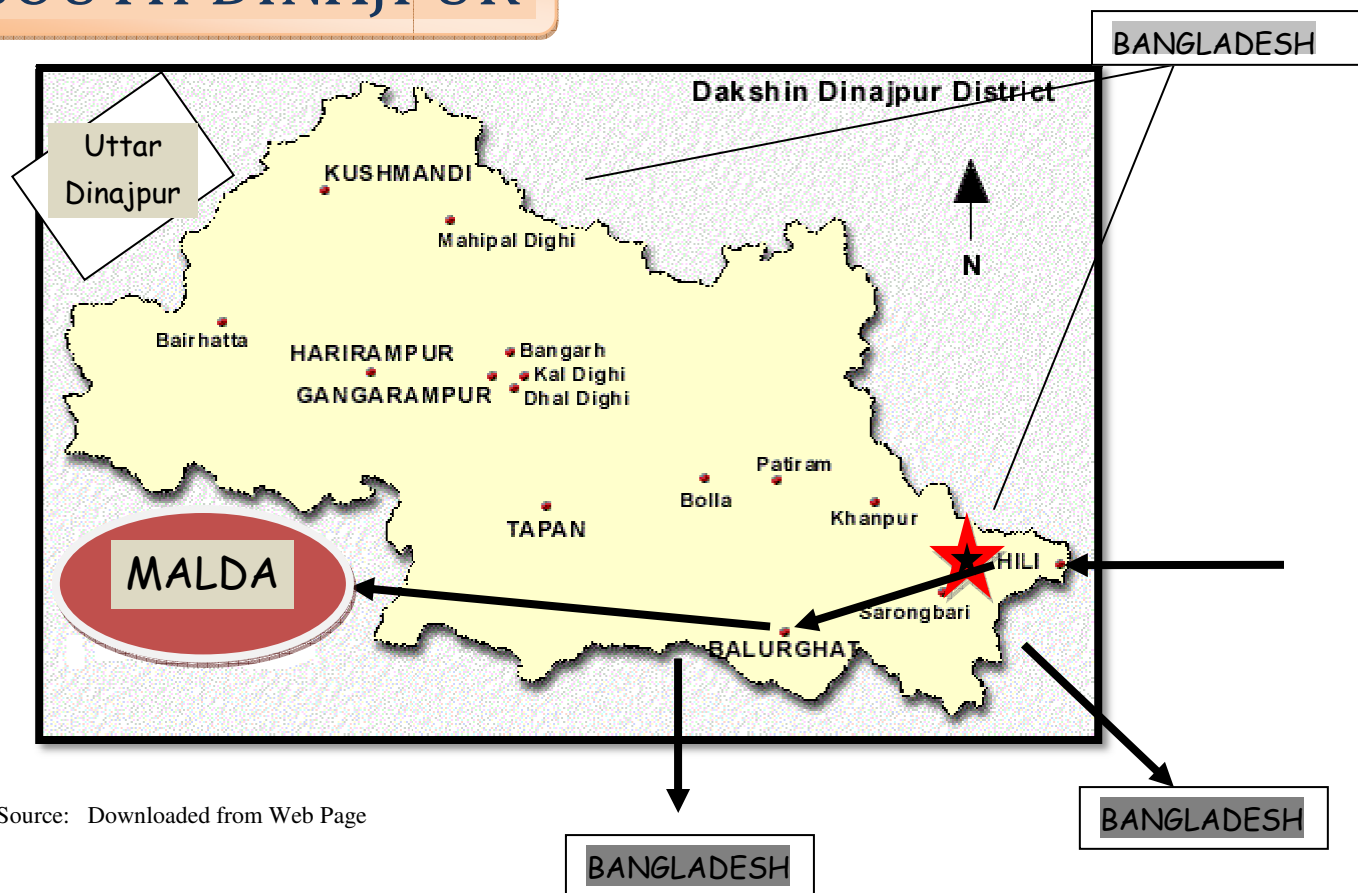
Md. Islam, Md. Amin and Jallal took shelter in Buniadpur (South Dinajpur) of West Bengal. They were with the family and were engaged with jute cultivation mainly as daily labour. After 4-5 month while going to Malda station (to pick up train for Delhi) they were noticed by the police. All the people of the car were arrested.

Harun Rasid was also involved in the work of jute cultivation in Buniadpur. Police arrested him from there. He is an UT for 21 month. His wife and children live in Jammu in a rented house. All of them came to India in 2008 and they have refugee cards. In this study he is the only man who made his entrance in India through Manipur. He repeatedly said that for something he was waiting near the border of Hilli. From other Rohingyas of the Correctional Home it is known that the man now helps people to reach Jammu and Delhi after crossing the border.

From a reliable secondary source it is known that whenever people from Bangladesh come in the villages of border area in search of work they are always paid half of the normal wages. After a few days of their living they understand the fact or acquire a voice to protest this discrimination and demand more. At that time their employers inform the police about the living of these people and facilitate their arrest.

The other 44 Rohingyas are noticed by the BSF or Police as soon as they cross the border (Hilli). Because of their language it is very easy to identify them as aliens. They are arrested from the places near border area, either on the day of their coming or 2/3 days after their entrance. The 12 people, who enjoy a free life in India maximum for a period of 1 and ½ year, ultimately come behind the bars. Places from where all these people are arrested are “Hilly-More” Hilly, Balurghat Bus stand, Buniadpur, Kushmundi ----South Dinajpur, Malda Station and Malda English Bazar-----Malda.

SOUTH DINAJPUR



Source: Downloaded from Web Page

There are 2 men who have entered West Bengal through the Changra Bandha border of Cooch Behar. But they do not stay in India. One is 48 years old Nur Alam, and the other one named Md. Faruk is a teenager (18/ 19). Somehow they are relatives. They left Burma in 2011 in search of work and better living that was not possible in Burma. Nur Alam sold his land in Rakhine and paid the money to the Tout on an agreement that he would help both of them to come in India and made an arrangement of work for them. First they entered Bangladesh, stayed there for 10-15days. Then through the open border of Changra Bandha in Cooch Behar District they came in West Bengal, India. Instead of giving work in India the tout brought them to **Jaigaon** and then **Phuentsholing** in Bhutan. There they worked for 3 months with almost no wages. They were offered food only once in a day. So finding no other option they had to leave the job. With an intention to return Burma they again came to the same border and approached the BSF to allow them to go to Bangladesh. From there they were handed over to police.



Table No.4: Places of Arrest of the Respondents

Place of arrest \ Sex →	Male	Female	Total
Border Area	23	7	30
Balurghat Bus Stand	2	2	4
Kushmundi	2	0	2
Buniadpur	2	0	2
Malda Station	5	0	5
Malda English Bazar	0	1	1
Near correctional Home	4	1	5
Don't know	0	9	9
Total	38	20	58

Source: Data Collected from Field

Five Rohingyas are arrested near the Berhampore Correctional Homes when they come to meet their family (Wife/ children/ others). Even having refugee cards they are detained by the West Bengal Police near the Correctional Homes. They have shown the card but it is of no use. Police tells them that this card is valid only in Delhi not in Bengal.

Table No: 5

Possession of Refugee Card at the time of Arrest

Sex → \ Refugee Card	Male	Female	Total
With the Card	5	1	6
Without the Card	33	19	52
Total	38	20	58

Source: Data Collected from Field

Jallal Ahammad and his wife Satara along with their 6 children left Burma at the time of 2012 Riot. They entered India through Hilly Border with a group of people. Among the 6 children one was with another woman of that group. After crossing border that woman was arrested with the child of Satara. Jallal and Satara escaped to Jammu with the remaining 5 children. In fear of arrest they did not come to meet the child for last 2 years. They managed to possess refugee card there. Before 19/20days they came to Correctional Home to meet their lost child as they were told that this card is the permit of free movement in India. While returning police arrested them and seized their cards. Now they are in the Correctional Home and their five children are in Jammu. They don't know what is happening to their children.

There are some cases where families get separated after coming in India. The cause is simple. While crossing border some can escape and others cannot. More over all member of a family do not come at a time. They come in groups one after another. There are 8 Rohingya people who have their spouse in some other place of India. On the other hand sometimes they are arrested together. It is found in the study that there is total 9 set of Rohingya couple in the Correctional Homes with / without children.

Table No.6

Separated Rohingya Couple

	Location of Husband	Location of wife	Total
Delhi	0	2	2
Jammu	1	4	5
Hyderabad	0	1	1
Total	1	7	8

Source: Data Collected from Field

The matter getting worst for those who have to leave their child in some other places. Children above seven years are not allowed to stay with their mother. They are sent to children's homes. There are families where husband is in one place wife in another and their children are with none of them. Moreover those who are in the correctional home can meet once in a week.

Table No.7

Category → ↓ Period	U.T		convicted		Jaan Khalash		Total
	M	F	M	F	M	F	
Up to 12 Month	15	5	0	0	0	0	20
13- to 24 Month	8	10	3	0	0	0	21
25- to 36 Month	2	3	1	0	3	1	10
Above 3 yr to 5 yr	0	0	0	0	6	1	7
Above 5yr	0	0	0	0	0	0	0
Total	25	18	4	0	9	2	58
	43		4		11		

← Detention Pattern & Period of the Rohingyas

Source: Data Collected from Field

One remarkable problem of the under trial people is that most of them are in the correctional homes for more than 20/21 month and soon they will complete 2 yrs of their life as under trial . If they are punished they will be known as convicted. All the Rohingyas are detained under 14 Foreigners' Act. Their period of punishment (convicted) as found here is 2-3 years. At last they will be Jaan – Khalash¹ like those 11 who are seen here and among whom 7 people are waiting more than 4 yrs to become free. So it seems an endless waiting with no future

The visible Rohingya population in the correctional homes (North Zone) of west Bengal in February 2015 is altogether 58. They are distributed in three correctional homes. One is Balurghat District Correctional Home and the other two are Berhampore Central Correctional Home and Jalpaiguri Central Correctional Home. The present study has covered all the Rohingyas enlisted in correctional homes.

Table No: 8

Distribution of Rohingyas in the Correctional Homes (North Zone), W.B

Category	<i>Correctional Homes</i>						Total
	Balurghat District correctional Home		Berhampore Central correctional Home		Jalpaiguri Central correctional Home		
	Male	Female	Male	Female	Male	Female	
U.T	21	17	4	1	0	0	43
Convicted	0	0	4	0	0	0	4
Jaan-Khalash	0	0	7	2	2	0	11
Total	21	17	15	3	2	0	58
	38		18		2		

Source: *Information provided by Correctional Home Authority & Data Collected from Field*

In addition with that there are also 10 people who are known as Rohingya in their court order. But they are not in the table because in reality they are Bangladeshi. All the Jaan Khalash Rohingyas are detained in the Central Correctional Homes that is either in Jalpaiguri or in Berhampore whereas maximum under trials (38) are in Balurghat.

People without refugee card are now expecting nothing but this card. They think that this card is the only solution of their problem. Being ‘no body’s people in no man’s land’ they want to secure the life of themselves as well as of their children as “REFUGEE”. It reminds us the words of Hannah **Arendt**, the Political theorist that Stateless others are those who “unprotected by any specific law or political convention, are nothing but human beings.”

Identity Problem

In this study there are 10 controversial cases where the identity given by the subjects differs from their identity given by the Court. 5 Men & 5 Women are introducing themselves as Bangladeshi but they are identified as people from Myanmar according to the verdict of the Court.

After crossing border when some Bangladeshi of Cox Bazar is arrested they say that they are Rohingya. Later some of them change their statement and say that they are Bangladeshi. But ultimately Court treats them as resident of Myanmar and they are lodged in CHs (Correctional Homes) as “Jaan Khalash” at present. In warrant some people are referred as ‘Bangladeshi’ but in the Court order they are ‘Rohingyas’. However the situation is critical. They are saying that the Touts (Dalal) who helped them to cross the border advised them to give their identity as Rohingya. The logic is that the Rohingyas are relieved from jails soon. But the reality is different.

Though they do not disclose but it can be guessed that may these Bangladeshis people want refugee cards and that’s why they are introducing themselves as Rohingya. Some are also the case partners of Rohingya people. It may be another factor behind this problem. Repeated changes of statement by these people is creating confusion and making the situation really very critical. The solution of their problem is not known at present.

Problem of Women: Marriage of Bangladeshi women with Rohingya men is another cause of this problem. After crossing border when they are arrested with their Rohingya husband and in laws they are labelled as Rohingya. Two case studies are given here to clear the situation:

Margina Begum, 35 is from the Cox Bazar, Bangladesh. She is married to Jahid Hossain who is a Rohingya. She is married for 22 years. Her husband has no refugee card in Bangladesh. Jahid has an idea that “Poor people can live a peaceful life in India.” They made their way towards India in the middle of 2012. While crossing border Margina was arrested from Hilly border with five children. She is in jail for last 2 years. Among her five children 2 sons are in Berhampore Home, 2 daughters are in Malda Home and the youngest one is with her. After the completion of the detention period what will happen to the woman is not known. She may remain as a Jaan Khalash like Nur Sahatu.

Nur Sahatu is another woman from Cox Bazar, Bangladesh, passing the period of 4 years behind the bars. Her detention period was for 2 years and now for two years she is “Jaan khalash”. Her husband and in laws are Rohingya. They are also

in the same condition. She got married in the Nayapara camp of Bangladesh. She was arrested from English Bazar of Malda. A 22 years young woman with her 70 yrs old mother in law is living a prison life without any definite future.

What is the main problem with this people is that as they are not Bangladeshi they can't be deported to Bangladesh. They are living as "Jaan Khalash".

Table No.9

Category wise Distribution of the Deputed Cases

Sex → / Category ↓	Male	Female	Total
U.T	0	0	0
Convicted	1	1	2
Jaan Khalash	4	4	8
Total	5	5	10

Source: Data Collected from Field

Discussion with Department of Correctional Administration

A discussion is conducted with the Officials of Correctional Services. The information gathered from this discussion is as follows:

- The Rohingya people are coming to Correctional Homes for last 3 /4years.
- These people are detained under the 14 Foreigners' Act.
- None of these people, who are of Myanmar National according to the Court order, are released till now.
- Generally post cards are given to inmates in Correctional Homes so that people can contact their family. Many Bangladeshi send letters. But none from Myanmar are seen to take advantage of this opportunity.
- Mainly they are coming with family.
- Acute depression is common to all of them. Suicidal tendency is also found among some Rohingyas. In such cases medicine is provided with proper treatment.

- Language problem is not very acute in making communication because there are some Bangladeshis who understand the language of Rohingya people. Moreover Rohingyas also learn Bengali from the teacher (in Correctional Home) in a short time.
- To facilitate the process of acquiring refugee card for these people the Authority forwarded the cases to the Inspector General of Correctional Services, West Bengal. These cases can be forwarded to UNHCR from the office of IG. As per the knowledge of the officials near about 10cases are forwarded to the IG. But what has happened in the next step is unknown to them. A Human Rights Commission has also approached UNHCR for some Rohingyas who seeks refugee card. But no response is received still now.
- They also inform that even after having refugee card people are coming there. They find that some have cards with them. But what can they do with these cards. So it is of no use.
- Rohingyas do not report any torture in their police custody.
- There has developed a racket of touts based on the Rohingya issue. These touts convince some Bangladeshi to introduce themselves as Myanmaries. But once they confess that “We are from Myanmar” the situation becomes quite difficult.

They everyday laments before the officials and request them to do something so that they can get relief from this situation. They are young. Some have family in Bangladesh. But when they can get relief is not known to anybody.

- Officials don't have any idea what the Government is thinking with this Rohingya population who are in Correctional Homes.

Discussion with Police Authority:

1. In response to the question regarding arrest of Rohingyas with refugee card the Police replied that Refugee Card is not the permit to move throughout India. It is a permission to stay in a particular place in India. “Why people having card from Delhi again come to West Bengal?”
2. Some Rohingyas are allowed to keep the card with them but others are not. Two Rohingyas show their cards during the interview. But Police completely deny that fact. They plainly say that nobody is allowed to keep anything with them after arrest. Police seized everything. “Why should we let them go with the card?”
3. Language of Rohingya is another problem to them. “We become irritated with their language”.

Police is completely unaware about the fact that people with refugee card sometimes come to meet with their relatives who are in Correctional Homes of West Bengal. Their ignorance about the fact looms large in these poor people's lives.

Problem of Longer Trial

The problem of some Rohingyas who are Under Trial in the Balurghat District Correctional Home for 20-24 month and above two years is created by a group of people. Centering the problem of these helpless Rohingyas an opportunistic group, made of some lawyers and touts, has emerged in some places of South Dinajpur. They have printed pads under the name of some vague organizations pretending that they are working for the welfare of these foreigners. They inform the Court that these people are refugees as they hold the refugee card. But in reality except 2/3 none of them possesses the card. The Hon'ble Magistrate asked the Authority of Correctional Services to verify the statement. But as the department does not have the authority of verification they inform the Court about their inability to do the work. Now the Court is investigating the matter in its own way. The interest of these opportunistic people most probably is to snatch money from the relatives of this poor people². In the total process the loser are only those who are habituated with losing everything.

Involvement of NGO

Though RCFI has provided some help to the Rohingyas in Delhi they are completely unaware about the problem of Rohingyas who are in the Correctional Homes of West Bengal. They don't have any information about this problem.

Information provided by the Officials that some Human Rights Organization (Gour Bangla Human rights Awareness Centre) comes occasionally regarding the issue of Rohingyas but no regular intervention by any NGO is running there. Moreover the involvement of some opportunistic middle man is making the situation worst.

Rohingyas are "illegal" in their native land. Bangladesh has closed its door to them saying that they are not Bangladeshi. Now they have become the cause of irritation for their language. So what should they do and where should they go? The law of their own country, where they have been living for centuries has made them illegal. They are punished and exploited for their illegal entry in foreign countries. It seems that their existence has become illegal. For years they are the victims of genocide and ethnic cleansing³. Is it legal? The

distinction between legality and illegality becomes blurred at this point and a question haunts the mind that isn't legality a game of power?

Notes:

1. Jail/Correctional Home has some special words of their own. The word "Jaan Khalash" is like that. The term is used in the jails of West Bengal, Bangladesh and Assam. Literally this word means to those prisoners whose jail term is over and his ration is taken on but he/she still has to live inside the prison depending on the charity of others. It mainly happens under Foreigners' Act. The word is applied to Bangladeshi as well as to other prisoners in the same condition.
2. Information provided by the Officials, Government of West Bengal.
3. See : <http://www.hrw.org/reports/2013/04/22/all-you-can-do-pray-0>

Section V

“We will never go to Burma. They will kill us”. This is the reaction of the Rohingyas when they are asked “Do you wish to return Burma?” They are quite sure that Burma can never be peaceful.

Moreover once outside Burma Rohingyas are systematically denied the right to return to their country. Twice in a year their photographs are taken by the local authority of Myanmar. Their family books contain with the names and pictures of all the members of family. If one is absent at the time of taking picture a cross “X” is given upon his picture and name. It means his name is deleted from the family book and he is prevented from returning to his village. If the man is found by Na Sa Ka or other local authority he would be killed on spot. [Information provided by the Respondents].

Even people who have their wife/husband, parents, and children in Rakhine do not want to go back. They think none of them is alive. In this situation they want to live in India. They do not have any plan to shift to some other country from here. Somehow they are sure that they can live in India. Mainly they want to go to Jammu or Delhi where they have some relative or the people of their own community. Obviously it is not the hope of a greatly improved standard of living. What must be underlined is the fact that these people are certain that their lives will not be in danger in India.

“If we die here we can be graved peacefully following our “JANAJA” [Burial rituals] but in Burma we are just put in digs like animals.”----A Respondent.

The experiences of Rohingyas are traumatic illustrations of social change. They are uprooted from one social setting and thrown into another. In that process they undergo untold sufferings and irreparable tragedies. They spend years in refugee camps; where births, marriages and deaths take place within the confines of this unnatural setting. Their family life is destroyed. Their houses are burnt, their women are raped, their children are murdered, and their parents are lost. Many Rohingyas don't have the information whether his/her near and dear one is in this world or not. Most of them experience a void in their lives. These people are traumatized. All of them are very much depressed. Suicidal tendency is also found among some of them. The Clinical Psychologist of the Correctional Home has mentioned that counseling is going on. But it is of no use.

The US sees the “real solution” to the Rohingya refugee issue lies in their going back to Myanmar when the situation changes in the Rakhine state. **Assistant Secretary** of State of the Department of Population, Refugees and Migration, Anne Richard said

“International pressure could play a part in changing that situation.” “The real solution for most Rohingya is that we should strive for this that they go home.”¹

Myanmar has halted a national pilot project to verify the citizenship status of Muslim minorities in western Rakhine State. “The Rakhine situation is too complicated. The verification process is difficult since applicants are applying with an identity which does not exist in the country,” said Maung Maung, Rakhine Chief Minister in February 2015. Most Muslims in the state refer to themselves as Rohingya, a term rejected by the government, which sees the Rohingyas as illegal migrants from Bangladesh and refers to them as "Bengalis." Officials have said the verification process was being conducted under a 1982 law that bars citizenship registration using the term Rohingya instead of Bengali. Shwe Maung, a Muslim member of parliament from the western part of Rakhine, said there may be a way around the problem.

“I want to point out we should look at the generation of those who hold temporary citizenship cards,” he said. “The problem will be solved in short term if those who hold [temporary] citizenship cards and whose parents hold [temporary] citizenship cards are allowed to apply for citizenship [using] normal procedures, instead of a specific project.”² Whether Myanmar change their policy towards Rohingyas, whether it would be possible to return to Rakhine/Arakan for all the Rohingyas who are displaced at present-----these are the questions which have no answer at present.²

Irrespective of the root cause of their problem and their future position in Myanmar it is utmost important to reduce the vulnerability of Rohingyas and stop their victimization.

At present there is no policy on the part of the Government of India regarding the Rohingyas who are presently lodged at the Correctional Homes for days, months and years. They are detained under the 14 Foreigners’ Act for illegal entry in the Country. Despite its prolonged history of receiving refugees, India does not have any particular legislation that protects or assists refugees. In case of the Tibetans and the Tamils from Sri Lanka, the Government of India accepted their presence and designated them as refugees in need of immediate assistance. Not only the Tamils but also thousands of refugees from neighboring countries have been accommodated by India ever since it became free³. Following the long tradition of hospitality and the plight of Rohingyas it is urgent to frame a policy for these unfortunate people.

- Some decisions on part of the Government are needed so that people who are living as “Jaan- khalash” and who are already with refugee card can be released. Otherwise the number of Jaan Khalash will be going on to increase. Because the same thing is waiting for those convicts who are near to complete their detention term.

In a Court order regarding the cases of some Rohingyas it is said that because of the unwillingness of the persons to go back to Myanmar and because of humanitarian reason, the Court refrains from passing any order for their immediate release and deportation to the country. These petitioners have already approached the United Nations Commission for their Refugee card through the Gour Bangla Human Rights Awareness Centre.

- Coordination between Judiciary, Police Authority, Department of Correctional Administration, UNHCR and the Victims is needed most. The longer legal process along with the interference of some opportunistic groups results in long term trial of these helpless people. The absence of protection regime contributes increasing vulnerability of a group of people who are already the victims of several discrimination and exploitation.
- The Rohingyas cannot tell more about their cases. Either they do not understand the process or they are advised for not sharing these matters. Communication gap because of language is a problem for themselves as well as for others. The frequent and intense involvement of some NGO / Human rights Commission, who can really understand the plight of Rohingyas, along with Government support, may bring some desirable result. What is important is an intermediate person/organization between the Rohingya and the legal process and who can provide advocacy to these people.
- The process of availability and verification of refugee cards needs to be fast.
- Lack of sensitization among the police about the problem of Rohingyas is making the situation more difficult. At present the family members/ relatives of these people come to meet once in a blue moon. If people are arrested even after having refugee card they will not take the risk to meet relatives in near future.
- Some welfare activity is also needed in case of separated families particularly where the children are far away from parents. Rohingya children are brought up without the love and care of their parents.
- It is important to have a total picture of the Rohingya families in India and West Bengal especially of the broken families and their conditions. At present the picture is very

unclear. They have to lose a lot and what is remaining with them is about to go because of this complicated legal procedure.

North Arakan was an open prison⁴ for the Rohingyas till their birth. They left Bangladesh / did not intend to stay there to escape imprisonment that was waiting for them in India. It seems that they are entitled to confinement for the entire life. They are waiting for days, months and years after years looking forward to have a life with freedom. And in course of waiting they have become old, their children are now young men and they are the fathers of some children. These Rohingyas are at a loss in their present condition.

After completing the work when I was coming out from Balurghat District Correctional Home a group of 10 to 15 Rohingyas came to me. They asked **“when are we getting our refugee card?”** I looked at them. Their question made me blank as I had no answer. A group of drowning young people is trying to catch at a straw so that they can live as a refugee at least!

Notes:

1. See:<http://www.rohingyablogger.com/2015/01/us-pitches-for-myanmar-citizenship-for.html#sthash.WfWW9cQt.dpuf>.
2. See:<http://www.rohingyablogger.com/2015/02/myanmar-halts-citizenship-verification.html#sthash.pf5R8fjs.dpuf>.
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