

## 73RD UN GENERAL ASSEMBLY

# How Bangladesh should approach the Rohingya issue

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It is quite evident that Bangladesh will be playing a prominent role at the 73rd Session of the United Nations General Assembly (UNGA) this year since the Rohingya crisis will be one of the dominating agendas for not only Bangladesh but also many other countries.

Bangladesh has drafted proposals which aim to end the Rohingya crisis. It intends to put forward these proposals and press for their adoption by the international community during the forthcoming meetings and debates. The proposals centre on the issue of Rohingya repatriation focusing on the creation of a conducive environment in Rakhine for the voluntary repatriation of the Rohingya refugees from Bangladesh to Myanmar. It is obvious that the creation of a safe environment in Rakhine necessary for the voluntary repatriation of the Rohingyas requires ensuring their safety and security, and civil and political rights. The measures needed to achieve these objectives have been enumerated in detail in the Final Report of the Advisory Commission on Rakhine State (Annan Commission Report).

It is quite justified from Bangladesh's point of view to vie for the solitary objective of Rohingya repatriation considering the fact that sheltering the Rohingya refugees entails significant socioeconomic costs to the national exchequer and local communities. Even though international agencies and NGOs have been actively providing monetary and humanitarian assistance, there continues to be a significant shortfall which is being met by Bangladesh in addition to the non-transferable costs. One gets a clearer picture of the magnitude of the challenges Bangladesh is

facing as a result of the Rohingya crisis when one is informed that Bangladesh has the world's 8th largest population occupying the 92nd largest sovereign territory by land area thus making it the 12th most densely populated sovereign territory.

Acknowledging the need to prioritise repatriation, Bangladesh should nonetheless also staunchly pursue the agenda of international criminal justice by pressing for the referral of the situation in Myanmar to the International Criminal Court (ICC) by the United Nations Security Council (UNSC). There are at least four reasons why Bangladesh should pursue this objective.

Firstly, the investigation and subsequent prosecution of the perpetrators of genocide and crimes against humanity by the ICC would go a long way in assuring the Rohingyas of their safety and security and ensuring the rule of law in Rakhine thus increasing the likelihood of their voluntary repatriation.

Secondly, the release of the Report of the Independent International Fact-Finding Mission on Myanmar by the UN Human Rights Council on August 27, 2018 has bolstered the call for an ICC referral. The report concluded that gross human rights violations and abuses committed in Rakhine “undoubtedly amount to the gravest crimes under international law” and that “Myanmar's top military generals, including Commander-in-Chief Senior-General Min Aung Hlaing, must be investigated and prosecuted for genocide in the north of Rakhine State, as well as for crimes against humanity and war crimes in Rakhine...” Canada, the United Kingdom, Asean, and the United States have all come out strongly in favour of a UNSC referral of Myanmar to the ICC.

Thirdly, the ruling of the Pre-Trial Chamber I of the ICC in favour of jurisdiction over the alleged crime of deportation of the Rohingya people from Myanmar to Bangladesh and the initiation of the preliminary investigation by the Office of the Prosecutor mean that regardless of a UNSC referral, the ICC may try the perpetrators but not to the fullest extent. This makes the UNSC referral slightly less consequential. It also makes it marginally easier for Bangladesh and its allies to convince China and Russia to not veto the UNSC resolution on referral to the ICC, bearing in mind that the tide is now overwhelmingly in favour of justice.

Fourth and lastly, for years, many countries have defined their foreign policies in accordance with certain cornerstones derived from their history and collective imagination. It is high time that Bangladesh does the same. It is argued that the three cornerstones of Bangladesh's foreign policy would be: (i) the right of all peoples to self-determination; (ii) international criminal

justice; and (iii) asylum and the rights of refugees. Each of the aforementioned cornerstones is intricately linked to Bangladesh's history and the collective imagination of its people. Hence, Bangladesh should uphold each of them at all times so as to remain true to its own history and founding principles. The people of Bangladesh know all too well the meaning of being a refugee, the agony of being denied justice and having to bargain it away.

Therefore, Bangladesh should not only pursue the cause of repatriation of the Rohingyas but it should also ardently press for justice for the atrocities perpetrated in Rakhine through UNSC referral of Myanmar to the ICC.