

Securing Women Rights during Conflict and Emergencies: Rohingya Crisis in Perspective

Nazia Afroz Ananna

Student of LLB (Hons) 3rd year (7th semester), Department of Law, Daffodil International University

Mahmudul Hasan Araf

Student of LLB (Hons) 3rd year (7th semester), Department of Law, Daffodil International University

Introduction

The Rohingya, an ethnic minority group that traditionally have lived in the Rakhine State of Myanmar, has been facing severe structural discrimination from the Myanmar state over the years. Rohingya women and girls have also experienced horrific acts of gender-based violence from the Myanmar army in Rakhine. Burmese security forces have committed widespread rape against women and girls as a part of the campaign of ethnic cleansing against Rohingya Muslims. High level of sexual violence against Rohingya women and the alarming rates of unwanted pregnancy is the result of their Rohingya cleansing program.

As a result, they fled to southern Bangladesh in fear of persecution. Among the refugees there remains a lion's share of women and according to a recent report, among the newly arrived 655,000 Rohingya in Bangladesh, 60 percent are women.¹ From this statistics, it is easy to perceive the threats of any crisis situation poses to women. Structural inequalities put these Rohingya women, who have just escaped unspeakable horror in their native country, in a more vulnerable position to all forms of violence. State before they fled to Bangladesh and the refugee camps in Cox Bazar area. In these refugee camps, gender-based violence continues to be widespread, much like other refugee camps in other parts of the world. Rohingya women and girls are vulnerable because of their gender, refugee status and ethnic affiliation. The problem is now even acute amid the reality of scarcity of food, medicare and shelter since Bangladesh is already overburdened with its densely populated reality.

Since at least 400 people have been killed and thousands of homes and villages have been burned, there is no nearer possibility of repatriating them in their own homeland. The Myanmar government even does not recognize the roughly 1.1 million Rohingya as citizens, leaving them stateless. Among them, women and children have suffered the most.

Objectives

The main objectives of this paper are-

1. to portray the Rohingya crisis;
2. to figure out the gender-based violence against the Rohingya women in Myanmar cleansing program;
3. to assess the current human rights situation of Rohingya women in the refugee camp;
4. to identify the role of international agencies for the security of Rohingya women

Although these are the notable objectives of this research paper, it will also focus on the limitations, remedies and locate on the liable party of this oppression against Rohingya women.

¹Nahida Akter, 'The Uncertain Fate of Rohingya Women' *The Daily Star* (Dhaka, 15 January 2018) <www.thedailystar.net/%2Fopinion/%2Fhuman-rights/%2Fthe-uncertain-fate-rohingya-women> accessed 23 September 2018

The Tale of the Rohingya Crisis

The Rohingya are a largely Muslim ethnic minority in Myanmar, who are currently at the center of a humanitarian catastrophe. But the Myanmar government won't even use the word "Rohingya," let alone admit they're being persecuted. Instead, the government calls them Bengalis, foreigners, or worse, terrorists. This difference between these two terms; Rohingya and Bengali—is crucial to understanding the crisis unfolding in Myanmar, where more than 500,000 Rohingya have recently fled following a government crackdown and which has been called a "textbook example" of ethnic cleansing by the top United Nations human rights official.² Many of those ended up sheltering in makeshift camps in Bangladesh, telling tales of the killings, rape, and massacres. For centuries, Rohingya are oppressed by Myanmar military for the ethnic cleansing program and women have faced a high level of oppression in particular. Such extreme violation of human rights has pushed them to flee from Myanmar.

Gender-based Violence against the Rohingya Women

Myanmar Army has committed widespread and systematic sexual violence against women and girls as part of their ethnic cleansing project. Human Rights Watch report found that the actions of the Burmese military, border police and other militias amount are tantamount to be regarded as the heinous crimes against humanity under international law. If we look back on the past events of Rohingya crisis, it can be noticed that in the two weeks immediately preceding the crisis, the lead UN agency on sexual and gender-based violence (UNFPA), provided services to 3500 Rohingya refugee women who had been sexually assaulted. While it is particularly difficult to gather large-scale data on sexual violence in emergencies, we know that only 7% of women subjected to sexual violence during the conflict in East Timor and only 6% of rape victims during the Rwandan genocide sought medical treatment. Given that data, we can assume the women and girls in this current conflict who have been treated for sexual assault are not only the tip of the iceberg, but if they represent just 6% of victims then we can extrapolate that more than 58,000 women and girls have in fact become victims to this systematic form of assault. Around 90% of the survivors of sexual violence treated by MSF were attacked after 25 August. Data shows 50% of survivors are under the age of 18, including several under the age of 10.³

Current Situation of Rohingya Women in Refugee Camp

During the flight of Rohingya Women towards Bangladesh, they are often exposed to acts of violence and exploitation from armed gangs, boarder's guards, soldiers and warlords. This pattern of sexual violence often continues in refugee camps also. In some of these situations, it seems that the women took a conscious decision acting to ensure their own survival and, often, the survival of their families. The women themselves coined the term 'survival sex', and the use of words suggests that the women performed this under pressure to survive, rather than as a free choice. Regardless of motivation and benefits, women did not find this a desirable situation.⁴ Through this, Rohingya woman gets the victim of human trafficking and they become a victim of sexual harassment.

Determining the Human Rights violation

At the individual level when we are entitled to our human rights, we should also respect the human rights of others despite being their sex, race, caste or religion. Since the Universal Declaration of Human Rights (UDHR) was adopted in 1948, human rights have become codified in international, regional and national legal systems. Human rights law obliges States to do certain

²AamnaMohsin, 'A brief history of the word "Rohingya" at the heart of a humanitarian crisis' (The Quartz 3 October 2017) <<https://qz.com/1092313/a-brief-history-of-the-word-rohingya-at-the-heart-of-a-humanitarian-crisis>> (Last accessed 24 September 2017)

³Susan Hutchinson, 'An unconscionable truth: how Rohingya women are being used as weapons of war' (Broad Agenda Blog, 22 January 2018) <<http://www.broadagenda.com.au/home/rohingya-crisis-the-hidden-truth-about-women-as-weapons-of-war/>> accessed 22 September 2018

⁴Linda Nordby, 'Gender-based violence in the refugee camps in Cox Bazar -A case study of Rohingya women's and girls' exposure to gender-based violence' Uppsala Universitet Research Paper <<http://www.diva-portal.org/smash/get/diva2:1219686/FULLTEXT01.pdf>> accessed 24 September 2018

things and to refrain from doing others⁵. For example, States have an obligation to provide every individual with the right to life, the prohibition of torture, Right to liberty and. Security, Prohibition on discrimination. However, in practice, these rights are violated against Rohingya women by oppressing them in multiple ways, especially by sexual torture including rape.

International recognition for securing Women's Right

Gender equality and women's rights are key elements in the UDHR. Yet it was later recognized that certain rights are specific to women, or need to be emphasized in the case of women. These rights are outlined in subsequent international and regional instruments, the most important of which is the Convention on the Elimination of All Forms of Discrimination against Women. For this, CEDAW was adopted in 1979 and entered into force two years later. It defines the right of women to be free from all forms of discrimination and sets out core principles to protect this right. It also establishes an agenda for national action to end discrimination and provides the basis for achieving equality between men and women. It does so by affirming women's equal access to – and equal opportunities in – political and public life as well as education, health, and employment. CEDAW is the only human rights treaty that affirms the reproductive rights of women. By February 2010, CEDAW had been ratified by 186 States – more than most other international treaties. The Optional Protocol to CEDAW, which entered into force in December 2000, lays out procedures for individual complaints on alleged violations of the Convention by States parties. It also establishes a procedure that allows the Committee that monitors implementation of the Convention to conduct inquiries into serious and systematic abuses of women's human rights in countries. By February 2010, the Protocol had been ratified by 99 States. It needs to mention that Myanmar is also a party of CEDAW. But they are violating their oath under this convention.

Discrimination against women is thus detrimental not only to women themselves but also to the next generation. Protecting women's rights is important in itself. But it also tends to reap benefits for their children. Advocating for women's rights has been essential to advancing the situation of women worldwide. The same holds true for the promotion of children's rights and improvements in their ability to survive and thrive. However, if the rights of women and children are considered together, they can reinforce each other and make mutually supportive demands on society.

According to Human Rights Watch', The UN and member countries should tackle problems that women in armed conflict endure around the world and enable political participation, improve services for the rape victim. "The Security Council and governments are better informed than ever about the horrors inflicted on women and girls in armed conflict, but they still drag their feet on the most basic actions to help," said Sarah Taylor, women, peace, and security advocate at Human Rights Watch. The UN is 15 years late making good on commitments to condemn these abuses, include women at negotiating tables, protect victims of violence, and punish those responsible.

In armed conflicts, women and girls face multiple cases of abuse, including conflict-related sexual violence. Despite commitments from governments and the UN, prevention efforts and access to services remain extremely weak, and in some cases, non-existent.

The trauma that rape survivors face gets compounded during the armed conflict when they don't have access to medical care, counseling, emergency contraception, and safe shelter, The UN and governments should move past wringing their hands at violence against women and girls, and make their protection and access to services a priority in their responses to conflict.

Women and girls, who suffer rights abuses in armed conflicts, including sexual violence, face tremendous barriers in obtaining redress. The UN and governments should ensure comprehensive,

⁵ Universal Declaration of Human Rights 1948

credible, and impartial investigations into sexual and gender-based violence and fairly prosecute those responsible.⁶

Again, in The Geneva Convention 1949, the common article 3 states that- In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, few provisions. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria. To this end, the following acts are and shall remain prohibited, inter alia, violence to life and person, in particular, murder of all kinds, mutilation, cruel treatment and torture, outrages upon personal dignity, in particular, humiliating and degrading treatment. Despite there are so many laws, Myanmar Government keeps continuing the violation of human rights of the Rohingya people. So, it is essential to defend the human rights of these people.

The Role of International Agencies for the Security of Rohingya Women

Gender equality and women's rights are key elements in the Universal Declaration of Human Rights. Also, CEDAW has established an agenda for national action to end discrimination and provides the basis for achieving equality between men and women.

International Agencies are trying to pursue Development Goals. Those cannot be ensured without active gender parity. Strengthening gender equality and women's empowerment in fragile situations is critical for achieving sustainable peace and the Sustainable Development Goals (SDGs). Gender inequality, conflict, and fragility are key challenges to sustainable development and they are inextricably linked: women's active participation in conflict resolution contributes to peace and resilience, while unequal gender relations can drive conflict and violence.⁷

The OECD-DAC Network on Gender Equality (GENDERNET) and the International Network on Conflict and Fragility (INCAF), assesses that donors can improve the quality of their programming in fragile situations by directed toward addressing underlying social norms and gender relations in fragile situations, and supporting women's role as active agents in peace building and state building.⁸

Thus the donor agencies should focus on women and girl and their vulnerability in particular to ensure a safer protection regime. Since the women are central to human rights activities, a right based approach should work here to ameliorate the situation.

Who shall be held liable?

Under international law, an individual can be held criminally responsible for when a state or military commits genocide, war crimes or crimes against humanity. Rights groups have called for an independent investigation of abuses by all parties, including ARSA. Many believe the government and the military should be held responsible.

⁶ Human Rights Watch, 'UN: Act to Empower Women in Conflicts Enable Political Participation, Improve Services for Rape Victims' (New York 31 July 2015) <<https://www.hrw.org/news/2015/07/31/un-act-empower-women-conflicts>> (Last accessed on 23 September 2018)

⁷ OECD, *Gender Equality and Women's Empowerment in Fragile and Conflict Affected Situations: A Review of Donor Support*, OECD Development Policy Papers, October 2017 No.8 <https://www.oecd.org/dac/conflict-fragility-resilience/docs/Gender_equality_in_fragile_situations_2017.pdf> (Last accessed on 25 September 2018)

⁸ OECD, *Gender Equality and Women's Empowerment in Fragile and Conflict Affected Situations: A Review of Donor Support*, OECD Development Policy Papers, October 2017 No.8 <https://www.oecd.org/dac/conflict-fragility-resilience/docs/Gender_equality_in_fragile_situations_2017.pdf> (Last accessed on 25 September 2018)

What should be done in this fragile situation?

These stateless people are facing a vulnerable situation for food, aid, shelter and etc. The need for aid is overwhelming. With the monsoon season approaching, work has begun to relocate some refugees from the camps most at risk of flooding or landslides and in other sites, work has been taking place to improve drainage channels and strengthen shelters.⁹

The basic human rights of refugees depend upon six factors: (a) Right to protection against refoulement, (b) Right to seek asylum, (c) Right to equality and non-discrimination, (d) Right to life and personal security, (e) Right to return, (f) Right to remain. On the face of this situation, Bangladesh should provide them these rights until the situation gets normal. Although, Bangladesh has no obligation to provide it to them but still being a part of the human race, we should save the other human beings. In this regard, some measures can be taken for these poor women. For instance-

1. Sexual and reproductive health care for women and girls is much needed and a chance to heal is transformative under this situation.
2. To administer psychosocial and mental health services to survivors.
3. Providing them a forum to talk about their suffering on this journey.
4. Providing safe spaces and mobile reproductive health clinics.
5. Distributing clean delivery kits, which contain the supplies necessary for women to safely manage childbirth and provide postnatal care.
6. Trusted volunteers are needed who can serve them and who know the language and the culture of these Rohingya women. Because, these women face a lot of violence, so we can't expect them to always come to seek help. Sometimes the volunteers have to go to them.
7. Offering them counseling and a place to rebuild a sense of community again. The kind of support the women need, only a doctor can't provide it. Because the wound is inside.
8. Providing to the women and girls dignity kits, which contain clothing, soap, sanitary napkins and torches.
9. Most importantly, creating international pressure on the Myanmar Government to take them back and give them their right back.

Conclusion

Rohingya women and girls are the biggest examples of human rights violation in recent time. The humanitarian crisis has been embedded in the absence of their citizenship, statelessness and as a migrant refugee. With the absence of citizenship, the Rohingya women and girls are not only denied to have access to human rights but also oftentimes vulnerable to a wide range of sexual and gender-based violence. As a refugee, they are living inhumanly in the human world. Burmese security forces have committed "mass rape," which can be considered as ethnically and religiously motivated rape. The soldiers gathered Rohingya women and girls into groups and then gang-raped or raped them. The most alarming thing is that the Myanmar government denies several reports of human rights abuses. The world community needs to put pressure on Myanmar military Junta and demands that Myanmar military junta has to take back their own people.

⁹Asia migrant crisis, BBC news, (2018, 24 April), Myanmar Rohingya: What you need to know about the crisis. <https://www.bbc.com/news/world-asia-41566561>