

# ASEAN's role in the Rohingya refugee crisis

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**The Rohingya refugee crisis has become a regional crisis. Members of the Association of Southeast Asian States (ASEAN) must enhance regional cooperation in order to improve protection for the region's refugees.**

Myanmar's estimated one million Rohingya, a Muslim minority group from Rakhine State, are not recognised by the Government of Myanmar as one of the country's 135 ethnic groups, have no legal documentation and are therefore stateless. With large-scale violence against them in 2012 and 2015 by other groups in Rakhine State as well as by the government, many Rohingya have been forced into IDP camps or to neighbouring countries where they live in dire conditions. In 2016 UNHCR, the UN Refugee Agency, estimated that over 168,000 Rohingya had fled Myanmar since 2012,<sup>1</sup> and since violence erupted again in August 2017 further hundreds of thousands have crossed the border to Bangladesh.

Although international responses to the violence have previously been mixed, with governments focused on supporting Myanmar's fragile democratic reform, there has also been ample criticism from different quarters about the Government of Myanmar doing too little to protect the Rohingya population. A report by the United Nations High Commissioner for Human Rights stated in 2016 that violations of the human rights of the Rohingya Muslims may suggest "the possible commission of crimes against humanity, if established by a court

of law"<sup>2</sup>, and a very critical report by the International State Crime Initiative of the previous year concluded that "the Rohingya face the final stages of genocide"<sup>3</sup>. More recently, Myanmar's de facto leader, Aung San Suu Kyi, has been widely criticised by the international community for not sufficiently condemning the renewed violence.

## A regional crisis

The first responsibility to protect the rights of the Rohingya Muslim population lies with the Government of Myanmar. Avoidance of the issue or insistence that the term 'Rohingya' is not used because it is controversial is not tenable. Firstly, the government needs to resolve the protracted statelessness of the Rohingya population, since their lack of citizenship has left them vulnerable to discrimination and abuse. As a newly recognised democratic state, Myanmar must respect the different ethnicities and religions within the country, without systematically discriminating against any one group. Years of conflict and violence in Rakhine State, which has attracted press coverage despite tight governmental control of the region, have sapped international goodwill. As Rohingya Muslims have fled

to neighbouring countries, Myanmar can no longer insist that this is an internal issue and instead must work with Bangladesh and members of ASEAN to address the situation.

The Rohingya crisis has become, in five years, a full-blown humanitarian crisis that has regional consequences. It poses a critical test for the 10-member ASEAN<sup>4</sup> and its institutions, highlighting ASEAN's lack of a political and legal framework to deal with issues related to refugees. Among the ASEAN nations, only two (the Philippines and Cambodia) are parties to either the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. The 2007 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers only focuses on migrant workers and does not mention refugees or asylum seekers.

The plight of the Rohingya has been compounded by the response of several Southeast Asian nations who in 2015 turned away boats carrying thousands of desperate Rohingya. Intensified international pressure and media scrutiny over their refusal to help the boat refugees finally resulted in Indonesia and Malaysia permitting people to land on a temporary basis. It also led to several crackdowns on the human traffickers engaged in transporting Rohingya. In May 2015, both Thai and Malaysian authorities found

mass graves, believed to be of Rohingya, at abandoned human trafficking camps along their shared border. This led members of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime (which has 45 state members) to acknowledge the need for an urgent and collective response on such issues. They agreed to have a mechanism that would grant the co-chairs Indonesia and Australia the authority "to consult, and if necessary, convene future meetings to discuss urgent irregular migration issues with affected and interested countries in response to current regional issues or future emergency situations".<sup>5</sup>

A distinctive principle of the ASEAN Charter is that of "non-interference in the internal affairs of ASEAN Member States".<sup>6</sup> Despite this principle, due to increased tensions in the region following the 2015 Rohingya refugee crisis some Muslim-majority countries, such as Malaysia and Indonesia, began to take a stronger stance on the protection of the Rohingya Muslims. Although Indonesia had stated that the Rohingya crisis is a regional problem, it has followed the non-intervention principle, emphasising that it would pursue its policy of 'constructive engagement' rather than put pressure on Myanmar. Malaysia, on the other hand, was vocal in condemning Myanmar's



Rohingya refugees from Myanmar arriving in Cox's Bazar district, Bangladesh, September 2017.

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treatment of the Rohingya: its Prime Minister Najib Razak told a rally in Kuala Lumpur in 2016 that the “world cannot sit by and watch genocide taking place”.<sup>7</sup> The Organization of Islamic Cooperation also held an emergency ministerial meeting in Kuala Lumpur in January 2017 to discuss the situation, at the request of the Government of Malaysia. Malaysia has emphasised that the plight of the Rohingya Muslims is a regional concern and has called for ASEAN to coordinate humanitarian aid and to investigate alleged atrocities committed against them.

This increased regional and international criticism resulted in the Government of Myanmar taking some steps to try to ease concerns. At Malaysia’s request, Aung San Suu Kyi called a special informal meeting with ASEAN foreign ministers in Yangon in December 2016 to discuss international concerns over the situation. Suu Kyi said that Myanmar would provide regular updates on the crisis to fellow ASEAN members and possibly work with them to coordinate aid efforts. The Government of Myanmar also allowed several pre-approved media members to visit Maungdaw, one of the main sites of the conflict. Suu Kyi also established an Advisory Commission on Rakhine State, chaired by Kofi Annan and including six national and three international members. In its final report, published in August 2017, the Advisory Commission recommended several ways in which to improve accountability and find long-term solutions to the protracted statelessness of the Muslim community in Rakhine State. It also suggested that Myanmar could improve bilateral relations with Bangladesh and that both nations should facilitate the voluntary return of refugees from Bangladesh to Myanmar through joint verification. It also recommended Myanmar’s continued engagement with its ASEAN neighbours, briefing them regularly on the broader dimensions and regional implications of the situation in Rakhine State.<sup>9</sup>

## Conclusion

The continuing Rohingya crisis has shown how ill-prepared the region is to deal with such a movement of refugees from one

member state to others. The meetings that have taken place between ASEAN Member States to discuss the crisis are a good start but the situation needs close monitoring if better regional cooperation is to lead to improved protection for its refugees. Member States must develop a refugee and asylum policy that includes guidance for action to be taken when a Member State’s internal issues cause people to flee to neighbouring states. Such a policy – agreed by all ASEAN Member States – would furthermore help to ease both the escalation of opposition and any future ethnic or religious tensions between States. Any future conflicts can be addressed through the ASEAN Intergovernmental Commission on Human Rights but this body must be strengthened, lacking as it does the mandate to protect and investigate. ASEAN as yet lacks a Human Rights Court to interpret and enforce the ASEAN Human Rights Declaration, a further factor that must be remedied if the region’s refugees – including Rohingya – are to be protected.

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