

POLICY BRIEF

Myanmar, Rohingya Crisis: could the EU play an important role?

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The current Rohingya crisis is the outcome of decades of increasing discrimination. Rohingyas are a muslim minority living in Myanmar mainly in the state of Rakhine. According to the Arakan Rohingya National Organisation, Rohingyas have been living there from "time immemorial". Instead this minority has been considered as foreign to the country because they were part of an internal migration since Myanmar was part of the British Empire as a province named Burma. During the time of the British Empire, many Rohingya migrated from the then India and Bangladesh to contemporary Myanmar, a movement that was internal under the British rule.

The native population has never welcomed this migration: Rohingya were always recognised as illegal migrants and they have been facing discrimination throughout the 20th century. Refugee flows toward Bangladesh, Pakistan and other countries have been going on since World War II¹. The situation worsened in 1962 when General Ne Win and the BSSP² gained power: the

Burmese military authorities conducted 'Operation Nagamin' with the official purpose of determining the nationality of the Arakanese Muslims. This operation led to army brutality, rape, and murder and the exodus was 200.000 Rohingyas fleeing the country.³

A mass return was registered in 1978 thanks to an agreement signed by the governments of Bangladesh and Myanmar allowing refugees to return⁴, successively a citizenship law was promulgated in 1982: in the law Rohingya minority was not recognised, once again, as one of 135 official ethnicities in Myanmar. Moreover, citizenship could only be provided to those who could prove their family presence in the nation before 1823.

Even after the return of Rohingya the discrimination continued, and another massive wave of migration took place in 1991-1992: Rohingya escaped from forced labour, rape and religious persecutions instigated by the Burmese army.

¹ "Some 13,000 Rohingya still living in refugee camps in India and Pakistan whence they had fled during the war, were unable to return; as for those who did manage to return, they were considered illegal Pakistani immigrants. The properties and land of all these refugees have been confiscated." Human rights Watch
<https://www.hrw.org/reports/2000/burma/burm005-01.htm>

² Burma Socialist Programme Party

³ Memories of Burmese Rohingya Refugees: Contested Identity and Belonging, Kazi Fahmida Farzana p. 113

⁴ Report on the 1978-79 Bangladesh Refugee relief operation, Alan C. Lindquist, UNHCR
(http://www.ibiblio.org/obl/docs/LINDQUIST_REPORT.htm)

The situation has remained critical in the decades since, and in 2012 Myanmar declared a state of emergency after spread of violence in a Rakhine between Buddhist and Muslims Rohingya. Tomas Quintana, UN Special Rapporteur for human rights in Burma, reported systematic torture.⁵

Violence rapidly spread in the Rakhine state, and in 2016 the situation escalated when nine border police were reportedly murdered by “insurgent terrorists” of a Muslim group in Rakhine and from then on, violence sharply increased with troops pouring into villages. The government was accused by seven UN experts⁶ of extrajudicial killing and other human rights abuses. On November 2016, a UN official accused Myanmar representatives of carrying out “ethnic cleansing” of the Rohingya., Many people fled the country as we can see in the map underneath but many of them remain Internally Displaced Persons (IDP). The government of Myanmar has affirmed that “over 4.000 of the 27.000 ethnic-Rakhine and non-Muslim minorities had returned their homes by September 13th”⁷. The UN is not able to verify this data due to the lack of access.

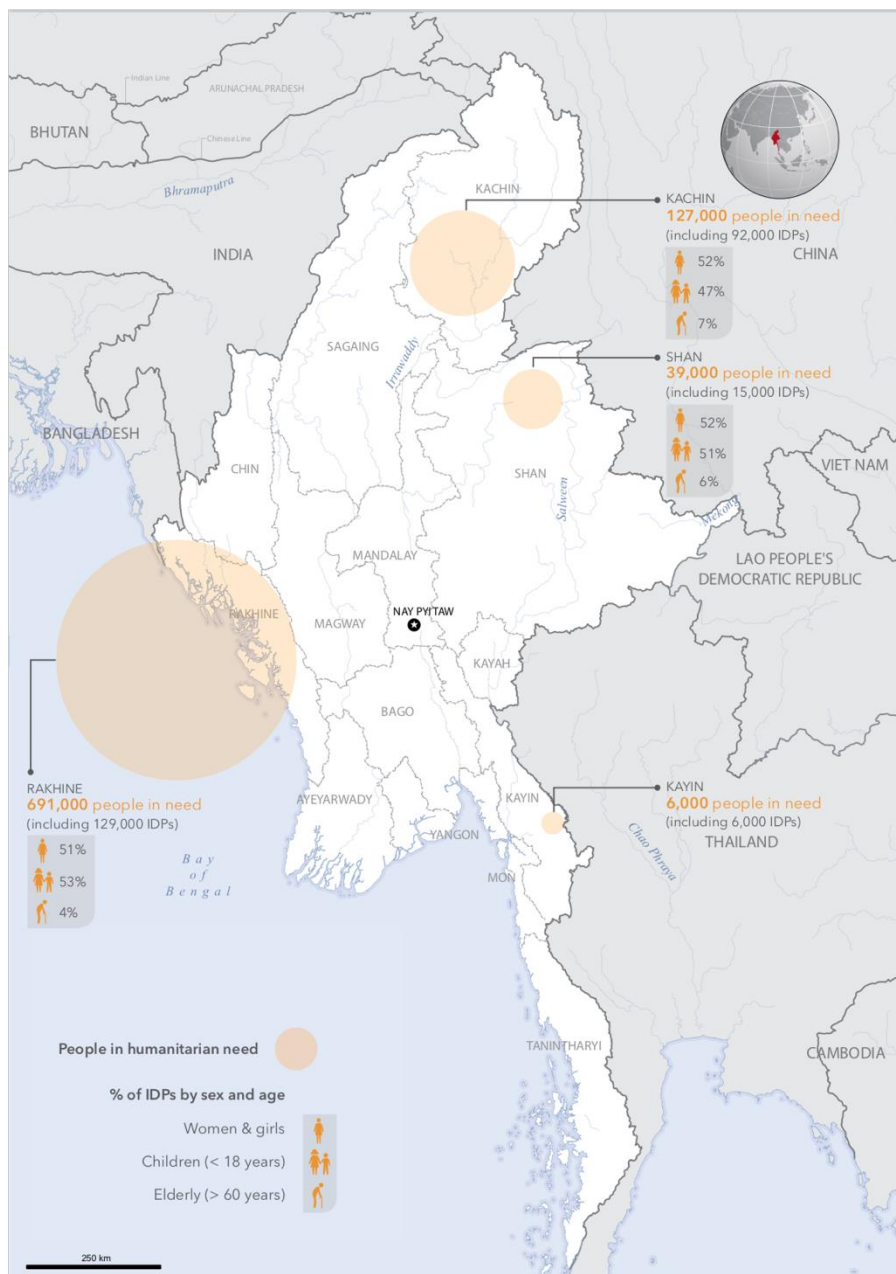


FIGURE 1: MYANMAR, HUMANITARIAN NEEDS OVERVIEW, UN 2018

⁵ Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar, UN Human Rights Council, 4 August 2012 <https://reliefweb.int/report/myanmar/statement-special-rapporteur-situation-human-rights-myanmar-1>

⁶ **The experts:** Ms. Yanghee Lee, Special Rapporteur on the situation of human rights in Myanmar; Ms. Agnes Callamard, Special Rapporteur on extrajudicial, summary or arbitrary executions; Mr. Fernand de Varennes, Special Rapporteur on minority issues; Ms. Leilani Farha, Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Ms.

Cecilia Jimenez-Damary, Special Rapporteur on the Human Rights of Internally Displaced Persons; Mr. Mutuma Ruteere, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; and Mr. Ahmed Shaheed, Special Rapporteur on freedom of religion or belief. (OHCHR, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22148>).

⁷ Myanmar, Weekly Regional Humanitarian Snapshot, OCHA (https://reliefweb.int/sites/reliefweb.int/files/resources/ROAP_Snapshot_17_0918_web.pdf)

Bangladesh has been hosting Rohingya refugees throughout the last century, and the number of camps has increased in the past year: according to the IOM (International Organization for Migration),⁸ since violence broke out last year more than 87,000 Rohingya escaped to Bangladesh from October 2016 to July 2017. The total number of Rohingya refugees in Bangladesh increased after August 2017: With 600 000 people crossing the border since August 2017, the total number now reaches 800000 refugees, according to the ISCG⁹.

The EU and many IOs have been denouncing the critical situation: Andrej Mahelic¹⁰ from UNHCR affirmed that half million people crossed the border to reach Bangladesh. Many Rohingya have left the country since the crisis broke out: they have been crossing the land border with Bangladesh and now shifted their path by trying to reach the neighbouring country by sea, usually during the night and with simple watercraft to avoid being intercepted by border guards.

The State Chancellor Aung San Suu Kyi, who is de facto the leader of the country, has not taken any measures to stop atrocities and denied accusations toward the activities conducted. The military crackdowns were justified as countermeasures to stop terrorist activities: even though the Nobel Peace Prize winner has limited control over the military, the absence of condemnation is seen as a failure from the international community.

Another report of the UN in February 2017 denounced the crimes committed by the government troops: the government, which re-affirmed the right of the troops to take measures on increasing terrorist activities, denied this accusation. In June 2017, Kyaw Tin, deputy minister of foreign affairs, declared that "We will order Myanmar

embassies not to grant any visa to UN fact-finding mission members".¹¹ It is crucial that the international community and especially the EU can monitor this minority's rights lest further atrocity crimes are committed.

Myanmar-EU relations

In October 1996, the EU Common Position on Myanmar was adopted confirming EU sanctions imposed: an embargo on arms from 1990, the suspension of defence cooperation in 1991 and the suspension of all bilateral aid other than humanitarian assistance¹². Further sanctions were introduced on equipment that could be used for internal repression or terrorism but also many limitations on visa access, especially for military and government personnel.

After the democratisation process of the country began, all sanctions were suspended beside the arms embargo, and an EU delegation was opened in 2013. The EU has been directly involved with the democratic transition of Myanmar: An EU-Myanmar Task Force was also launched in Yangon and Nay Pyi Taw.

The EU has been providing humanitarian assistance especially in neighbour refugee camps where the EU is one of many donors together with other states and other IOs such as UNHCR.

Since last year, the EP has been denouncing the situation in Myanmar, a report followed by a resolution was pronounced "on Myanmar, in particular, the situation of Rohingyas" in September 2017. The resolution not only condemned all violence put in place in Rakhine state but it also expressed the EP's concern on the "increasing gravity and scale of human rights violations, including killings,

⁸ "IOM works to help ensure the orderly and humane management of migration, to promote international cooperation on migration issues, to assist in the search for practical solutions to migration problems and to provide humanitarian assistance to migrants in need, including refugees and internally displaced people". (<https://www.iom.int/about-iom>)

⁹ Situation update: The Rohingya Refugee Crisis, Cox's Bazar, 28th November 2017

¹⁰ As new arrivals top half a million in Bangladesh, UNHCR getting ever more refugees into shelter, UNHCR, 29/09/2017 <http://www.unhcr.org/en-us/news/briefing/2017/9/59ce0cde4/new-arrivals-top-half-million-bangladesh-unhcr-refugees-shelter.html>

¹¹ Q&A: United Nations Fact-Finding Mission on Myanmar, Human Right Watch <https://www.hrw.org/news/2017/08/02/qa-united-nations-fact-finding-mission-myanmar>

¹² The EU's relations with Burma / Myanmar, DG RELEX, European Commission http://www.europarl.europa.eu/meetdocs/2004_2009/documents/fd/dase2_0050419_003/dase20050419_003en.pdf

violent clashes, destruction of civilian property and the displacement of hundreds of thousands of civilians”.

In the text, the EP urges to immediately cease brutalities by the military and security forces, recalls the government of their duty to protect from abuses without discrimination and calls on the government of Myanmar to remove landmines on the border with Bangladesh.

MEPs also encouraged Bangladesh to keep the borders opened after relevant comments made by Pier Antonio Panzeri, Chair of the HR Subcommittee, which has been denouncing the dramatic situation of Rohingya.

The European Council has also encouraged the government of Myanmar to denounce the situation and asked to give access to humanitarian organizations to intervene, including the UN, the ICRC and other NGOs. For instance, the EU has expressed its will to fully cooperate with the Fact-Finding mission of the HRC. HR/VC Federica Mogherini visited a refugee camp in Cox’s Bazar: she affirmed that the EU would continue to support Rohingya refugees as well as Bangladesh’s effort to host Rohingyas.

Recently, the Czech Republic has made several steps to move itself closer to the EU core driven by the Franco-German axis, which was demonstrated, for instance, by its announcement of August 2017 that it would seek to gain observer status at Eurozone meetings. Also specifically in the highly sensitive CFSP/CSDP area, it has been trying to develop a higher level of cooperation with Germany and France, with these relationships having become a key element of its post-Brexit CSDP policy orientation. For instance, it announced in February 2017 that it will integrate parts of its armed forces (more concretely, the 4th Rapid Deployment Brigade which is considered the Czech army’s spearhead force) into the German army within the scope of NATO’s Framework Nations Concept.

Could the EU play a key role in the Rohingya crisis?

One of the scenario to solve the crisis could be to progressively impose restrictive measures against Myanmar as it has been done in other occasions by the EU in violations of human rights. However, this is less likely to happen because until now no one has expressed the will to impose sanctions, and even if applied these sanctions would not contribute to a major shift in constructing a durable solution. Firstly, the main problem would be to whom impose sanctions: even if it is true that the government is not ensuring respect of human rights, principal actor of violations is the army. The scenario is complex also because the role, in violations carried by the army, of the Buddhist population is unclear especially because they have always been reluctant toward Rohingya minority above all in Rakhine¹³. This clearly shows how complex could be to address guilty party with sanctions. Moreover, the country is now part of a democratization process and sanctions could only worsen the condition of the population spreading more abhor among minorities.

A central role to cease violence could be played by other relevant actors involved in the region for instance by China, India, Russia and also ASEAN¹⁴. China is the player that could most likely be able and willing to mitigate the current Rohingya crisis. Myanmar and especially the State of Rakhine is rich of natural resources and it also an important geostrategic corridor: this is particularly relevant to China since it allows China to avoid the Malacca Dilemma,¹⁵ easing trade activities and energy supplies. Notably, China is closely related to the government of Myanmar in the implementation of its project, a 2,400-km long pipeline¹⁶ crossing the Rakhine and Shan States.

¹³ How Myanmar’s Buddhists actually feel about the Rohingya, CNN, September 20th, 2017 (<http://edition.cnn.com/2017/09/19/asia/myanmar-yangon-rohingya-buddhists/index.html>).

¹⁴ Association of Southeast Asian Nations (ASEAN).

¹⁵ Malacca Dilemma: this definition was given by Hu Jintao in 2013 to express the dependence of China, at the time, on the Straits of Malacca. China is using this corridor for most of its maritime trade and for energy supplies. This area, located between Kuala Lumpur and Indonesia, is known

for piracy but also as a contended area. The strait is crucial for China and this encouraged its government to find alternative solutions to avoid the straits. The pipeline, under construction, will go from China to Myanmar passing through Gwadar, Pakistan.

¹⁶ With Oil And Gas Pipelines, China Takes A Shortcut Through Myanmar, Eric Meyer, FORBES, 2015 <https://www.forbes.com/sites/ericmeyer/2015/02/09/oil-and-gas-china-takes-a-shortcut/#10659be47aff>.

The Security Council has come out with a “presidential statement that calls to end excessive military Force, Intercommunal Violence in Rakhine State¹⁷”. The presence of China in the SC as a permanent member could be the reason why they used a presidential statement to denounce the situation instead of a resolution.

The EU should counterbalance the role that China could have in solving the crisis by monitoring closely the situation to avoid further deterioration of human rights conditions and to ensure regional stability.

After the 31st ASEAN Summit, which took place this November 2017, the EU and ASEAN concluded the Policy Dialogue on Human Rights. In the ASEAN Summit, nothing relevant was said on Rohingya crisis recalling the principle of non-interference¹⁸ in international affairs. Some members of ASEAN had already denounced the situation but within the association, the final decision was to remain silent on the situation.

Same scenario during the EU-ASEAN Policy Dialogue: in the conclusions, they reaffirmed their wills to cooperate on specific areas such as trafficking in persons, business and human rights et al. In the press release, there were no references to the Human rights violation in Myanmar, but they agreed to deepen area of cooperation in the next dialogue in 2018.

Here, the EU should pressure partners of within the ASEAN to reinforce regional mechanism among members to ensure the respect of human rights: establishing an intergovernmental Human Rights Commission¹⁹ for Southeast Asia is an example of hereof. This has to be particularly implemented where Rohingyas are located and where they will be returned to in the future. The EU should

also work with the UN to ensure that their work could be done in the region specially to monitor the situation and the conditions of the vulnerable minority.

The EU should increase humanitarian assistance in refugee camps in Bangladesh and other neighbouring countries hosting Rohingyas. The current crisis is increasingly putting pressure on local authorities and communities: Bangladesh, for instance, is facing extreme poverty²⁰ and due to lack of resources cannot ensure decent life conditions to refugees.

ECHO has published a factsheet²¹ on the current crisis: the EU has been providing more than €76.5 million in humanitarian aid in Rakhine since 2010. Additional €14 million were provided to Bangladesh for basic needs in refugee’s camps. A regional humanitarian response is needed since refugees have reached other countries mainly Thailand, Malaysia and Indonesia.

The solution should be found, according to High Representative of the Union for Foreign Affairs and Security Policy / Vice-President of the Commission, Federica Mogherini, in the Report of the Advisory Commission²² chaired by Kofi Annan, 7th Secretary-General of the United Nations. This could help in the construction of a bilateral Memorandum of Understanding for the repatriation of refugees. Returns have to be implemented in parallel with local and regional projects to ease the process of reintegration of Rohingyas.

The military in Burma is conducting a campaign against²³ Rohingya inciting hate among civilians: the process of reintegration would not be possible until they

¹⁷ Security Council Presidential statement calls on Myanmar to End excessive military Force, Intercommunal Violence in Rakhine State, UN SC/13055, 6 November 2017.

¹⁸ Southeast Asia summit draft statement skips over Rohingya crisis, Reuters 13th November 2017 <https://www.reuters.com/article/us-asean-summit-myanmar/southeast-asia-summit-draft-statement-skips-over-rohingya-crisis-idUSKBN1DD0CP>.

¹⁹ Working group for an ASEAN Human Rights Mechanism, <http://www.aseanhrmech.org>.

²⁰ Poverty in Bangladesh, Asian Development Bank, Basic Statistic 2017 <https://www.adb.org/countries/bangladesh/poverty>

²¹ The Rohingya Crisis, European Commission http://ec.europa.eu/echo/files/aid/countries/factsheets/rohingya_en.pdf

²² Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine, Kofi A Annan Chair Advisory Commission on Rakhine State, August 2017

http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Enq.pdf

²³ 'A lot of fake news': Burmese back Aung San Suu Kyi on Rohingya crisis, The Guardian, <https://www.theguardian.com/world/2017/sep/20/fake-news-burmese-back-aung-san-suu-kyi-myanmar-rohingya-crisis>

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would be recognised as citizens and integrated in the society in the spirit of united in diversity.

The EU and OSCE have been working together in the monitoring the situation in Ukraine and the same could be done in Myanmar. The EU delegation in Myanmar could play an important role together with the UN in building a sustainable solution.

While imagining possible scenarios for the end of the crisis, two main aspects have to be taken into account: even if the government of Aun Sun Kyi is de facto in charge, the military forces have still much autonomy even after the

Constitution of 2008 which allocated a quarter of the seats in the Myanmar Parliament to the military. Secondly, as mentioned before, other actors, namely China and India, could be more interested and eased by their relations with Myanmar into putting an end to the Rohingya Crisis for the stability of the Region, which allows development and trade.

This does not exclude the EU role in the solution of the crisis: Federica Mogherini and the EU delegation in Myanmar should put in place a strategic plan for a sustainable and durable solution together with the involved governments and with the help of the UN.



Co-funded by the
Europe for Citizens Programme
of the European Union