

The Rohingyas: ASEAN's Image and Responsibility*

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ABSTRACT

Citizens enjoy protections and different kinds of rights in a country as its nationals. The stateless people, who are denied citizenships to any country, are deprived of such kinds of protections and rights, even the fundamental human rights. Among all the minority groups of the world, the United Nations considers the Rohingyas of the Arakan in Myanmar as one of the most persecuted one. They have been deprived of citizenship of their country for long. They see a bleak future for them when the people of the Association of Southeast Asian Nations (ASEAN) are eagerly waiting for a greater regional identity. The Rohingyas are deprived of fundamental human rights and are victims of state persecution policies. This fact contradicts with the regional value creation endeavors of the ASEAN. This paper is based on a review of the relevant literature on the issue. It looks into the origin of the so called 'statelessness' of the Rohingyas, examines the international legal framework for the protection of the stateless people in general, and the commitment of the individual ASEAN member countries to that legal framework as well as the ASEAN's role as a regional forum.

Keywords: Rohingya, Burma/Myanmar, ASEAN

INTRODUCTION

In April 2014, this author was waiting in a queue in the Thai immigration office in Bangkok for 90 days report. Two persons ahead in the queue were talking, and he heard one of them saying, "I have three passports." He looked at him and thought that he might be from the European Union. A person having three passports signifies that the person has three identities or is a national of three separate nation-state-like territories. In this modern world, it is possible for a person to be a national of more than one country. As we are nationals of at least one country in the world, we enjoy protection given to us by our country, and we also enjoy many civil and political rights. Even when we go abroad carrying our passports, we still enjoy the protection and some rights. However, there are people around the world estimated 12 million who are not considered as nationals of any country (Brouwer 2012). In our eyes, these people are stateless, but they may not consider themselves stateless as long as they claim the nationality of a country. The term 'stateless' refers to "a person who is not considered as a national by any State under the operation of its law" (UN 1954). We call them stateless because no country is ready to recognize

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these people as their citizens as if they have come from a different planet. However, they are born to a mother, to a father, and on the soil of the planet Earth. Still, they have no right to live in any place of the planet Earth as the soil of the planet Earth is exhaustively divided among the countries on it. According to the laws of the countries, a person's nationality is generally determined by his/her link to either the soil or the blood or both. Thereby, in granting nationality to the people, countries employ two systems: *jus soli* and *jus sanguinis*. In the first case, a country confers nationality considering the birthplace of a child, and, in the second case, the country confers nationality considering family origins, to children born to nationals of the country (Samore 1951). Many countries practice a hybrid of these two principles in granting nationality to people (Goris et al. 2009). However, in either case, the statelessness of a person can arise because of the nationality laws of a country. If a country does not confer nationality to people living within its territory, these people are considered stateless. This is considered as *de jure* stateless. However, there are also persons who are considered as *de facto* stateless persons. These people neither enjoy state protection nor any assistance from their countries when need, although they are not formally deprived of their nationality. A new meaning of the *de facto* stateless persons include those people who are outside of their own country and, for valid reasons, they are not willing or able to take diplomatic and consular protection and assistance of the country.

There had been large scale stateless persons in different parts of the world during the interwar period and after the Second World War (WWII). Therefore, the international community faced a problem of dealing with these thousands of stateless people, particularly in the Middle East and in Europe created by the two World Wars. After the First World War (WWI) many Russians, Armenians, Assyrian, and Assyro-Chaldeans became stateless. Statelessness of these nationals originated from the decrees and administrative orders issued in the Union of the Soviet Socialist Republics (USSR) and Turkey depriving some categories of people of their nationality because of their non-allegiance to their respective state authorities or their non-return to their respective countries (Carey 1946). In Italy and Spain, thousands also lost their nationality in the preceding years and during the years of WWII because of the violation of their duty of allegiance. Because of WWII, hundreds of thousands of people became stateless in the belligerent European countries, mainly in Germany, Rumania, and France. Most victims of losing nationality were from the Jewish people. Many of these stateless people were settled in the United States, Latin America, Great Britain, and in Palestine. Some countries in Europe and the USSR made legal provisions granting citizenship to the people who previously were denationalized through some decrees. In a different scenario, perhaps the protracted and wholesale statelessness happened to be with the Rohingya, a small minority ethnic group in the western Rakhine state of Myanmar. The objective of this paper is to look into the statelessness of the Rohingya and its linkage to the image of ASEAN and its responsibility. The paper is based on a review of literature and documents that include scholarly articles, news media including newspapers and electronic media, and personal experience of the author. The second section of the paper looks at the statelessness problem of the Rohingya people. The third section examines the legal framework for protecting stateless people, and the fourth section discusses the significance of the Rohingya problem for ASEAN and its role in mitigating it. The fifth and final section concludes the paper.

THE ROHINGYA PROBLEM

The Rohingya people are an ethnic minority group who live in the present day Rakhine state of Myanmar bordering present day Bangladesh. Previously Rakhine was Arakan and Myanmar was Burma. Therefore, Arakan and Burma have been used here interchangeably with Rakhine and Myanmar, respectively. An estimated 800,000 Rohingyas live in the Rakhine state. In search of the origin of the Rohingyas, one theory suggests that they are the descendants of Moorish, Arab and Persian traders including Mughal, Turk, Pathan and Bengali soldiers who settled in the independent Mrauk-U (Mrohaung) kingdom of Arakan during the eighth century (HRW 2000; Ahmed 2010). However, Chan (2005) claims that the term 'Rohingya' was invented by some Bengali Muslim intellectuals of northern Arakan and they are the direct descendants of the immigrants from the Chittagong district of East Bengal (modern Bangladesh) when Arakan was ceded to British India. The colonial records termed these people as Chittagonians. However, the Bengal link of the Rohingyas is founded on the language spoken by the community. Pugh (2013) found that the Rohingya dialect also incorporates Burmese, Bihari, and Persian languages, which further conflate the Rohingya identity. The author argued that the ancient name of the territory of Arakan refers to the Rohingya as its original inhabitant. Until 1784 Arakan was an independent kingdom while Governors appointed by the Mughal Emperors ruled Bengal. Historically, there had been good political and cultural ties between the rulers of Arakan and Bengal which intensified in the 15th century. In the 1400s, the Burman kingdom at Ava invaded the Mrauk-U kingdom of Arakan. At that time King Narmeikhla of Arakan sought help from the Muslim rulers of Bengal, and with this help, he was able to drive the invaders out of Arakan. The Buddhist Mrauk-U king during this period started using court titles, along with the traditional ones, that resembled the Muslim ones (HRW 2000). When Mughal Emperor Aurangzeb overthrew his brother, Shah Shuja, the Governor of Bengal (1639 - 59), he, along with his family, took shelter in Arakan. However, later he was murdered by order of the king of Arakan. There are signs of Arakanese kings' patronization of Bengali literature. The Arakanese rulers would appoint Bengali poets as the court poets of the kingdom. Movements of people between the regions were frequent. During the agricultural season, Bengal workers would migrate to Arakan to meet the shortage of agricultural labours in that region. Arakan was annexed to Burma in 1784 by the Burmese King Badaw Paya, causing many refugees entering into Bengal. When the British colonized Burma in 1824 many people from the Indian sub-continent migrated to Burma. This migration was considered an internal movement of the people within the British colonized territory. Burma got independence in 1948. Arakanese history up to this time shows a peaceful coexistence of the Rakhines and Rohingyas (Ahmed 2010). However, after the independence of Burma, the country's military rulers started discrimination against the Rohingyas. The Burmese anger against the Rohingyas comes from the fact that the Rohingyas during WWII formed a Mujahid force and cooperated with the British force who promised them an independent state. The Rohingyas fought against the Maghs of Arakan for an independent state but could not succeed. After the WWII the Burmese Territorial Force (BTF) during the U Nu regime ran repression against the Rohingyas, but the vigour of resistance put by the Rohingyas earned them some rights including the right to Burmese nationality².

² See *Banglapedia* at http://www.banglapedia.org/HT/R_0276.htm, visited 7 April 2014

In 1978 the military regime in Burma started an operation called Operation Dragon King to screen out foreigners which provoked at least 300,000 Rohingyas to take refuge in neighbouring Bangladesh. However, most of these refugees went back to Burma the next year following an agreement made between Burma and Bangladesh. After a few years, the military rulers in 1982 introduced a new citizenship law which stripped the Rohingyas of their citizenship status. This law is based on the *jus sanguinis* principle, which identified three categories of colour-coded citizens consisting of full citizenship, associate citizenship, and naturalized citizenship (Lewa 2009). Full citizens are those who belong to one of the 135 official ethnic groups settled in Burma before the start of British rule in 1824. These citizens have pink cards. Associate citizens are those who had applied for citizenships on the date when the 1948 Union Citizenship Act came into force, but decisions were pending. They hold blue cards. The naturalized citizenships are granted to those who have "conclusive evidence" of entering into Burma before 4 January 1948, the date when the country got independence. They are given green cards. The Rohingyas are denied any of these cards because the government believes them migrants from the Indian sub-continent and calls them Bengalis. The Rakhine majority also possesses hostility towards the Rohingyas. They are denied of fundamental human rights and have been subject to systematic and endemic discrimination, persecution, forced labour, marriage restriction, birth control, land confiscation, forced deportation, and confinement within their villages. The state policies to the Rohingyas are so harsh and inhumane that they are compelled to leave the country (Fortify Rights 2014). The United Nations (UN) recognizes the Rohingyas as one of the most persecuted minorities in the world. In pursuance of the repressive policy, the State Law and Order Restoration Council (SLORC) of Myanmar increased its military presence in Arakan during 1991 and 1992 that resulted in a massive influx of refugees into Bangladesh. Following persuasion efforts from the Government of Bangladesh and the UN, the Burmese government allowed repatriation of the Rohingya refugees. From 1992 to 1998, a total of 236,599 Rohingya refugees were repatriated under a Memorandum of Understanding (MOU) signed between Myanmar and Bangladesh (Ahmed 2010). Communal violence erupted in the Rakhine state again in June 2012, which caused massive internal displacement of the Rohingyas and their outflows to Bangladesh and other neighbouring countries including Malaysia and Thailand. In recent years, under a democratic regime³, the Rohingyas were driven out of Myanmar to Bangladesh en masse. A military crackdown in Rakhine in 2017, which followed the submission of the Kofi Annan Commission report, resulted in 624,000 more Rohingyas taking refuge in Bangladesh until November that year (Chan et al. 2018). It shows the helplessness of the political government and supremacy of the Burmese military (Barany 2018).

The policy of the Myanmar government towards the Rohingyas has remained hostile even after the start of the new democratic era. The policy is modeled on possible security threat that the military sees may come from the granting of nationality to the Rohingyas. The military elites do not pay heed to the call of the international community. The threat perception is reflected in the recent efforts of the Myanmar government to list the Rohingyas as Bengalis. In the long waited census conducted in April 2014, the Myanmar government categorically excluded the Rohingyas from the enumeration. The enumerators were asked by the authority to enlist the

³ In the election held in November 2015, the Nobel Peace Prize laureate Aung San Suu Kyi's political party—National League for Democracy—won and formed the government in Myanmar.

Rohingyas as Bengalis. The Rohingyas were beaten by the police force to abandon their Rohingya identity and forced them to identify themselves as Bengalis. In the concentration camps of the displaced Rohingyas, the government authority registered them as Bengalis (Ferrie 2013). When the Rohingya people identified themselves as Rohingyas, the enumerators did not register them (The Bangkok Post 2 April 2014). The reaction of a Rohingya man, Hla Myint, 58, to the AFP was "We do not want any problems. I was born here, and my parents were also born here. I was born a Myanmar national. For me, I will not register as 'Bengali'; I will register as 'Rohingya', (Al Jazeera 30 March 2014). The government's efforts to identify the Rohingyas as Bengalis can be explained as its inclination towards a policy for rehabilitating them in third countries⁴. The Burmese state machinery has been using performatives for altering and constructing political realities, which is now being used by the Burmese people themselves in the context of the Rohingya (Prasse-Freeman 2012). The Buddhist monks led local Rakhine people to organize aggressive protests against the "alien" Rohingyas. These protests are, in fact, an extended version of, and are inspired by the government policy. The Southeast Asia based humanitarian organization Fortify Rights (2014) published a report showing leaked government documents that show a state-sponsored policy of persecution against the Rohingyas. The government has manifested its policy on many occasions. For example, immediately after the sectarian violence that occurred in June 2012, the Myanmar President Thein Sein told a senior UN official that his country considered the Rohingyas as a threat to its national security and they should be kept in refugee camps until they are deported to third countries (Holliday 2013). Earlier in 1998, the then Prime Minister of Myanmar General Khin Nyunt wrote to the United Nations High Commissioner for Refugees (UNHCR): "These people are not originally from Myanmar but have illegally migrated to Myanmar because of population pressures in their own country" (Lewa 2009: 12). Therefore, in the polity of Myanmar, the Rohingyas had been and still are the "Others". The political rhetoric that "they are not like us" or "they look different" is not at least useful for the construction of a unitary Myanmar. Therefore, Prasse-Freeman (2012) argues that, instead of the creation of division, the "Burmese leaders and citizens need to create reasons why they should live together." Despite the repeated performatives of the Myanmar government of calling the Rohingyas as "Bengalis", it is not possible to alter the Rohingya identity that they have migrated from neighboring Bangladesh. That is why the government of Myanmar took the refugees back from Bangladesh every time after their expulsion. The Rohingyas are nationals of Myanmar both by *jus soli* and *jus sanguinis* principles.

The start of the democratic era in Myanmar has seen no change in policy towards the Rohingyas. The military influence is there, and in the present constitutional arrangement, it is hardly possible to avoid military influence in policy-making in Myanmar. The current law keeps Suu Kyi out of the presidential race by putting restrictions against having foreigners in the family (her two sons are British) of a potential candidate and the requirement of being well versed in military affairs (Than 2014). So, the political government in Myanmar cannot escape military influence in policy making. The constitutional arrangements give the military a strong hold in policy matters. Under this arrangement, the commander-in-chief of the army will always be

⁴ In fact, a resettlement initiative was initiated in 2006 to rehabilitate the Rohingya refugees living in Bangladesh in the third countries. Under this initiative, 926 Rohingyas were settled in Australia, Canada, Ireland, New Zealand, Norway, Sweden, UK, and the USA. The UNHCR, the International Organization for Migration (IOM), and the Government of Bangladesh (GOB), facilitated the process. However, this resettlement initiative acted as a 'pull factor' for more Rohingyas to enter into Bangladesh. Therefore, the GOB stopped the resettlement initiative (DIS, 2011).

crucial to any political outcome that will unfold even under seemingly civilian rule (Jagan 2014). This military influence has invented security threat in the word 'Rohingya' itself, and the policy has been to deprive the minority group of their right to a nationality. Deprivation of the right to nationality has automatically caused deprivation of other human rights of the Rohingyas. Some fundamental human rights like the right to employment, education, and health are denied. Even the foreign aid workers providing little help to the deprived people have come under increasing well coordinated attacks several times by Buddhist mobs. They accuse the aid workers of being biased to the Rohingyas. In February 2014, medical aid group Doctors Without Borders (MSF) was forced to close its activities in the region because of local protests. In March the same year, at least a dozen foreign aid workers left the region for security reasons (Bangkok Post 29 March 2014). These local protests are an extended version of the state policy. The government does not have the morale to control these protests and hatred towards the Rohingyas while it pursues such policies.

INTERNATIONAL LEGAL FRAMEWORK

Efforts to eliminate or at least reduce the number of stateless persons, which was seen as a significant problem in international relations, began in the interwar period. The Hague Diplomatic Conference of 1930 proposed that the nationality of a person should not be lost without acquiring another nationality (Kuhn 1936). After WWII, the United Nations (UN) adopted the *Universal Declaration on Human Rights* in 1948. The most relevant article about a right to nationality is article 15 of the Declaration. This article confers the right to nationality to everyone and further declares that "no one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality" (UN 1949). The UN in 1951 adopted the *Convention relating to the Status of Refugees*. The international community at that time had a desire to add a Protocol to this Convention about the norms to prevent statelessness. However, their eagerness to deal with a large number of refugees at that time left them concentrated on the refugee issue only (Goris et al. 2009). They later adopted a separate *Convention relating to the Status of Stateless Persons* in 1954. The 1954 convention confers some rights to the stateless persons and calls for a minimum level of protection of them wherever they are. It encourages naturalization of them in the country where they reside. However, it does not require the country to grant its nationality to them. However, it prohibits expulsion of them "save on the grounds of national security and public order" (UN 1954). As of 23 April 2019 only 23 States have been signatories and 91 States have been parties to this Convention⁵. All countries in ASEAN except the Philippines and major countries like the US, Canada, Japan, China have not ratified the convention.

In 1961 another *Convention on the Reduction of Statelessness* was adopted. This convention provides for an international agency to assist stateless persons. Later this function was delegated to the UNHCR. The 1961 convention aims to reduce future statelessness by setting international standards for national laws and the acquisition and loss of nationality. It requires the Contracting States to confer nationality to persons who were born on the territory of the Contracting States if

⁵ United Nations Treaty Website:

https://treaties.un.org/pages/ViewDetailsII.aspx?&src=TREATY&mtdsg_no=V~3&chapter=5&Temp=mtdsg2&lang=en, Accessed 23 April 2019.

the persons otherwise become stateless. It also provides provisions for deciding the nationality of persons born in wedlock, keeping into consideration the national laws of the Contracting States. This Convention mainly addresses the statelessness of individual persons originating from different issues like wedlock, foundling, etc. However, Article 5 of it makes the loss of nationality of a person resulting from any change in the personal status of him or her by the law of the Contracting State "conditional upon possession or acquisition of another nationality." Furthermore, in Article 8 of the Convention, it is provisioned that "a Contracting State shall not deprive a person of its nationality if such deprivation would render him stateless." In Article 9 it says, "a Contracting State may not deprive any person or a group of persons of their nationality on racial, ethnic, religious, or political grounds" (UN 1961). As of 23 April 2019 only 5 States have been signatories and 73 States have been parties to this Convention⁶. All countries in ASEAN and significant countries like the US, Russia, Canada, Japan, China have not ratified this convention as well.

An inherent weakness in implementing the provisions of the 1954 and 1961 conventions, concerning the Rohingya issue, in particular, is that some major powers and the countries in ASEAN have not ratified them. However, the international community is pressing the Myanmar government to show respect to the human rights of the Rohingyas. Lawmakers in some Muslim countries refer to the situation in Rakhine as ethnic cleansing (Zawacki 2013). An OIC team headed by its Secretary-General visited the Rakhine state in November 2013 and took the issue in the agenda of the Ministers of Foreign Affairs meeting in December 2013. The meeting called upon Myanmar "to abide by its obligations under the international law and human rights covenants and to take all necessary measures to stop immediately the displacement of and discriminating practices against Rohingya" and called "to restore the citizenship of the Rohingya" (OIC 2013). Earlier, the UN General Assembly adopted a resolution regarding Myanmar, which urged the country to take measures to address the Rohingya problem (Zawacki 2013). Many governments and non-governmental organizations (NGOs) working on the human rights issue have expressed concerns over the Rohingya problem, which can be considered as pressure on the government of Myanmar. However, all the calls of the international community seem to fall in the deaf ears of the Myanmar government. There has been virtually no change in the government policy towards the Rohingyas. ASEAN countries are also discussing ways to solve the Rohingya problem. Former Prime Minister of Malaysia Mahathir Mohammad emphasized on conferring citizenships to the Rohingyas. He noted that no other countries in ASEAN except Myanmar had denied citizenships to the people who have been living in the ASEAN countries for centuries⁷.

⁶ United Nations Treaty Website:

https://treaties.un.org/pages/ViewDetailsII.aspx?&src=TREATY&mtdsg_no=V~3&chapter=5&Temp=mtdsg2&lang=en, Accessed 23 April 2019.

⁷ Malaysia-based Perdana Global Peace Foundation (PGPF) organized an international conference titled "Plight of the Rohingya: Solution?" on 17 September 2012, where the keynote speaker Dr. Mahathir Mohammad, Prime Minister of Malaysia said, "Myanmar now wants to join the world community of nations. It is already a member of the group of states called ASEAN, the Association of Southeast Asian Nations. It is a full member of ASEAN, and in ASEAN, we do not have instances where people are not recognized as citizens. Some of these people are tribal people. Others are the people who came later to settle in these ASEAN countries, and they are accorded the right to citizenships of these ASEAN countries. It would be very odd if Myanmar is the only country where people who have been living there for such a long time, for more than a thousand years, are denied citizenship. ... The solution must be the right of the Rohingyas (residing as refugees and undocumented outside Myanmar) to go back and live in the state (Myanmar) where they have been living all these years, to join their compatriots who are there and for the whole population of Rohingyas to be recognized as the citizens of Myanmar" (Mohammad 2012).

ASEAN'S IMAGE

ASEAN has become an example, perhaps second to the EU, in its endeavour to construct a regional identity. Europe is trying to construct a new form of identity for long. Divisions among the Europeans had earned them two devastating World Wars. Therefore, they are trying to create a sense of belonging to a common identity which has now earned them peace, security and prosperity. People in the EU now nurture a common European identity along with their national one. This common identity is a creation of the common practice of political, economic, and social values. These values include the practice of democracy, respect for fundamental human rights, and welfare of people. These practices lead them to the development of a feeling of sameness and belongingness to a common culture, a common nation. Many citizens in the member states of the European Union now hold more than one passport. The 1997 European Convention on Nationality accepted dual nationality. The understanding of citizenship has changed there from national citizenship to European citizenship. This signifies more protection of the citizens of the EU: national protection and EU protection. The EU is collectively upholding the concept of nation-states as moral entities, a framework provided by the Treaty of Westphalia of 1648, for the protection and welfare of the citizens by laws. Any citizens who are out of the state-system are then out of protection by state laws, causing the creation of stateless citizens to float in an immoral world. Therefore, citizenship is described as "the right to have rights" (Brower 2012). However, the regional identity project in Europe has raised questions about the creation of values because of the EU's denial of Turkey's membership to it. It mars the values and identity creation endeavors. Is common religion a building block in the forming of European identity that bars the different religion of Turkey from being a part of it? Perhaps ASEAN can answer this question in the future. Here in the case of ASEAN, we see the efforts for creation of an ASEAN identity where the Buddhist and the Muslim worlds intermingle.

The value creation efforts in ASEAN will have to go a long way. Its leaders have understood that successful regional integration needs the construction of shared political and cultural values as are seen in the case of the EU. Thus, they thoughtfully included this as an endeavour in article 35 of the ASEAN Charter which reads "ASEAN shall promote its common ASEAN identity and a sense of belonging among its peoples in order to achieve its shared destiny, goals and values" (ASEAN Charter 2007). The association granted membership to Myanmar in 1997 when the country was under military rule. However, granting of ASEAN membership to a military-ruled country where human rights violation has been a great concern of the international community raises concerns for the creation of common values for the association. There is evidence that criminal acts against the Rohingyas have risen to the "threshold of crimes against humanity" (Fortify Rights, 2014: 12). Referring to the eleven acts stated in the Rome Statute of the International Criminal Court that makes a crime against humanity, Zawacki (2013) found that

nine are of varying relevance to the Rohingya in Myanmar. These are: murder; forcible deportation or transfer of a population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, enforced sterilization, or any other form of sexual violence of comparable gravity; persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, or religious grounds; enforced disappearance of persons; the crime of

apartheid; and other inhumane acts of a similar character intentionally causing great suffering or serious injury (p. 21).

In this brute violation of human rights in Rakhine state, does ASEAN has any policy towards Myanmar to bring its human rights practices on a par with the standards of other member countries? The question comes because the association is guided by its longstanding principle of non-interference in the internal affairs of a member country. Seemingly there is no ASEAN policy towards Myanmar. ASEAN has viewed it better to integrate Myanmar into South-East Asia than to leave it isolated on its own. Taking the country, isolated for long from the international community, on board and familiarizing it with the evolving norms in the region, has been the ASEAN policy towards Myanmar. Thus, the association has defended Myanmar against perceived discrimination in external relations with dialogue partners (Haacke 2010). The very purposes of ASEAN include promotion and protection of human rights and fundamental freedoms (ASEAN Charter 2007). It has been more than twenty years now since Myanmar entered into ASEAN. Burmese repression upon the Rohingyas has increased manifold rather than any improvement in their human rights. Evidence have surfaced that the long practice of discrimination against the Rohingyas is a government policy (Atkinson 2014). The association cannot ignore the human rights violation and denial of fundamental freedoms to an ethnic minority group within its geography for eternity. Myanmar assumed the role of chair of ASEAN in 2014 and banned the humanitarian organization MSF from assisting the Rohingyas. It raises concerns for the safety and upholding of the principles of ASEAN Charter in the hands of Myanmar's leadership (Fan 2014). Incentives for ASEAN to integrate lie in the maintenance of regional peace, security and stability; and strengthening of peace-oriented values in the region. These values are needed not only for common identity creation but also for economic growth and prosperity of the region as a whole. Any issue that may pose a challenge to the peace and stability needs collective efforts to defuse it. The Rohingya refugees may emerge as a destabilizing force in the region⁸.

CONCLUSION

Statelessness of the Rohingyas is a product of the non-inclusive nation-building process in Myanmar. The name *Myanmar* was chosen to be encompassing of all the people living within the border of the country. However, the state policy towards the Rohingyas runs against this philosophy. The Rohingyas are not illegal migrants but have been living in Arakan since the eighth century, before the concept of citizenship was invented. The concept of systematized citizenship initially emerged as it provides a pool of citizens to be taxed and to be conscripted

⁸ Hundreds of thousands of Rohingya refugees live in Bangladesh, Malaysia, Thailand, and Indonesia. There are newspapers reports of radicalizing the Rohingya refugees by vested interest groups. For details see The Daily *Samakal* of 3 March 2014 at <http://www.samakal.net/2014/03/03/43511>, and the Daily Star of 20 March 2014 at <http://www.thedailystar.net/in-silence-the-trouble-spreads-16386>. The Bangkok Post on 2 March 2014 reported that the Rohingyas had killed at least eight Myanmar Buddhists in Indonesia in April 2013 and at least four in Malaysia by the middle of 2013. They also attempted to assassinate two visiting Myanmar Buddhist politicians in February 2014. Just a day before another Myanmar pro-democracy activist was reportedly killed by the Rohingyas in Malaysia. For details see <http://www.bangkokpost.com/news/asia/397778/malaysia-killings-put-myanmar-buddhists-on-edge>.

(Kerber 2007). The military rulers in Burma have used the citizenship status of the Rohingyas as a tool for subjugating an ethnic group and depriving them of political power. Thus, the Rohingyas have remained out of state protection and, on the contrary, the state machinery has exploited and persecuted them in a systematized way. While countries in the South and Southeast Asia have granted citizenships to migrated people from different other nationalities, Myanmar's military rulers have deprived its people of nationality because of their perceived security threat which has no basis⁹.

Myanmar has resisted the inclusion of the Rohingya issue in any discussion forum of ASEAN. However, the country invites friendly advice from other ASEAN member countries in solving the problem. The country was out of contact with the world community for long. The association included Myanmar in the club, believing that more integration with the outer world will lead to an outlook of inclusive policy making in the country. The group is itself committed to becoming an Economic Community, wherein it wants to strengthen its existing cooperation for developing the small and medium-sized firms, promote equitable economic development in the region, and develop a regional framework for public-private partnership. This sense of greater community is hoped to impinge on Myanmar in its internal policy making. ASEAN is trying to create social and political norms helpful for constructing a regional identity. The adoption of the ASEAN Human Rights Declaration (AHRD) and the formation of the ASEAN Intergovernmental Commission on Human Rights (AICHR) are a few steps towards the ASEAN values creation. However, the challenges lie ahead in dragging Myanmar at par with human rights practices in other member countries of ASEAN and making her comply with the principles such as the general principle 18 of the AHRD that reads, "Every person has the right to a nationality as prescribed by law. No person shall be arbitrarily deprived of such nationality or denied the right to change that nationality"¹⁰. Therefore, ASEAN has to look for ways as to how to go ahead with the creation and to nurture of values as building blocks and this effort has to be pursued by all the members together in a similar pace. The association needs to create a space in the forum for discussion of national issues that affect the interests of the other member states and of the association itself.

REFERENCE

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⁹ There are examples of naturalization in Southeast Asia and South Asia. Thailand, for example, extended citizenships to the *Viet Kieu*, the Vietnamese who live outside the territory of Vietnam. The *Viet Kieu* in Thailand came before, during, and after WWII. The author interviewed some *Viet Kieu* in January 2005 as part of research work while studying an MA in Southeast Asian Studies at Chulalongkorn University. Bangladesh, on the other hand, extended citizenships to the *Biharis* in 2008 who were minors at the time of the country's liberation war in 1971 or were born after. The *Biharis* migrated to East Pakistan (now Bangladesh) from India when the subcontinent was divided into India and Pakistan in 1947. These people became stateless in Bangladesh because they supported Pakistani occupation forces during Bangladesh's liberation war and chose to retain Pakistani citizenship even after the independence of the country. However, Pakistan never took them back.

¹⁰ ASEAN adopted its version of human rights declaration (AHRD) on 18 November 2012. For details, see (AHRD, 2012).

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