

Rohingyas, a Non-Existing Nation

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Lately, the global political environment regarding migration and statelessness is clearly in the need for change. A change in the way of considering human rights protection for those who are so vulnerable that they do not have any chance to step up for their rights. Statelessness is a major problem for the international agenda itself, although its real seriousness still remains hidden. In fact, that is the case with the stateless Rohingya Muslims of Myanmar, who live in actual exile in their own country, without having any possibilities of integration into the society.

Keywords: Statelessness, Rohingya, Myanmar, human rights, fundamental rights, citizenship, international law, UNHCR, minorities

1. Introduction

Living as minority within a state's population may look obviously natural for Europeans sharing a relative small continent with different nations and religions of their own. Cultural and ethnic diversity made us think equal – at least the EU's politics presume that – but it has come as a result of a better late than never journey, which also included world wars and colonization along the way. Under the rules of the Council of Europe and partly European Union law, minorities – especially those who possess citizenship of a Member State, face no distinction when it comes to their (human) rights. However, globally this is hardly the case. According to the United Nations Office of the High Commissioner for Human Rights, 10 to 20 percent of the world's population live as minorities apart from their homeland, which means special measures are in demand for up to 1.2 billion people.¹

The protection of minority rights could not be feasible without the declaration of basic human rights, which had been and still is an aim of the United Nations (UN) since its founding in 1945. Besides fundamental rights protection, in 1992 the UN's General Assembly agreed on the Declaration on the Rights of Persons Belonging to National, Ethnic, Religious and Linguistic Minorities². The document has no binding force by its nature, but still has to be considered as a milestone in granting rights to minorities, as it is a crucial UN document among several international provisions³ on the topic. However, protection at international level is not effective enough to achieve major changes in the states' legal system. Lack of enforcement procedures also emphasizes the need for proper national measures to be taken, but unless those regulatory bodies are controlled by sanctions, it is unlikely to happen. Minority

¹ *United Nations Guide for Minorities*

<http://www.ohchr.org/EN/Issues/Minorities/Pages/MinoritiesGuide.aspx> (1 March 2017)

² General Assembly resolution 47/135 of 18 December 1992 on the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

³ For example Article 27 of the International Covenant on Civil and Political Rights also contains the right for minorities to enjoy their own culture and religion, and the right to use their own language.

rights in a broader perspective cover different aspects of fundamental right protection as well, such as provisions on statelessness, asylum law, and basic human rights. Even with international measures in force, infringements still occur in domestic laws. There are even some cases⁴ due to the greater number of affected population, where the international community has completely failed to eliminate the collective infringement of human rights.

There is a Muslim ethnic minority group living in Western Myanmar⁵'s (formerly Burma) Rakhin State whose ancestry remains unclear and who have always suffered oppression in past centuries. The Rohingya people had originally settled along the Naf River, and later along the border region of Bangladesh and Myanmar. Their great ancestors have a long history since the 1400's and shared the area with Buddhist ethnic groups. Their exact number is still unknown since no census has been taken, but considering the number of people living outside of Myanmar as refugees, the Rohingya population is estimated to include nearly 2 million people.⁶

This ethnic group is now divided by two countries which could be an explanation for their current legal status. Besides their geographical division and ethnic origin, religious confrontations are present as well between the Rohingyas and the mostly Buddhist population of Myanmar.

The name Rohingya cannot be explained precisely – the expression came up only in the 1940's and was only a fiction for political propaganda⁷ – and its real origin cannot be found anywhere. Today the term is associated with Muslims living in a particular area of Myanmar, however both the Muslim and Buddhist communities of Rakhine state reject this naming. Their refusal confirms the fact that Rohingya refers more to a legal status, rather than an ethnic group.⁸ Controversies around the naming and ancestry could be the main reasons for discrimination and for the lack of citizenship since Burma regained its independence after the British occupation in 1948. The Rohingyas were never given citizenship by the state of Myanmar as they are considered illegal migrants, who settled down during the British era.⁹

This study aims to locate the causes of denial of citizenship and its effects on the Rohingya people. Not only to these people live outside of any state's protection, they had suffered genocide under the rule of each government in Myanmar, and the 2015 election neither brought justice for them, yet. To find proper legal actions against this inhuman treatment is essential in global human right protection, but also in the effort for decreasing organized crime in the region, not to mention the possible evolution in hundreds of thousands of people's lives. The occasional media reports on the Rohingya refugees escaping to Bangladesh and to different South-East Asian countries, or on armed attacks taken against them, but these cannot show the Rohingyas' real struggle in everyday life. Dealing with refugees and to end statelessness should be a goal for each state – either if they do not want to face it – according to the latest global trends. Understanding and researching such humanitarian disasters may bring the conclusions for an improved international legal environment that can positively affect national laws.

The study reveals the different aspects of the lack of citizenship, such as migration, genocide, lack of human security, human trafficking and other human rights violations in order to draw the possible

⁴ Like the Rwanda genocide or the Srebrenica massacre, also known as the Bosnian genocide.

⁵ Republic of the Union of Myanmar.

⁶ Kei Nemoto: *The Rohingya Issue: A Thorny Obstacle between Burma (Myanmar) and Bangladesh*, 2013 pp. 2-3 http://www.burmalibrary.org/docs14/Kei_Nemoto-Rohingya.pdf (1 March 2017)

⁷ Trevor Gibson, Helen James, Lindsay Falvey: *Rohingyas: Insecurity and Citizenship in Myanmar* TSU Press 2016. p. 49.

⁸ Jacques P Leider: *Rohingya: The name, the movement, the quest for identity*. Yangon, 2013. p. 210. http://www.academia.edu/7994939/Rohingya_The_name_the_movement_the_quest_for_identity_Yangon_2013. (10 March 2017)

⁹ Nemoto, 2013 p. 4.

conclusions for the future legislation of the Republic of Myanmar. Also, the study aims to support the limited number of research that has been taken on the Rohingya topic, and aims to draw public attention, in order to promote the importance of international human right protection.

2. The Status of Rohingyas

The members of the Rohingya nation were not granted Burmese citizenship since the newly formed state of Myanmar had its first constitution in 1948. According to Article 11 of the Constitution of the Union of Burma, those whose ancestors belonged to any of the indigenous races of Burma can be considered as citizens.¹⁰ Although the first Citizenship Act (1948) did not name Rohingyas among the indigenous races, under the provisions of Article 3 citizenship can be given to other racial group that has settled in any of the territories included within Myanmar as permanent home from a period anterior to 1823¹¹ – the Act intentionally excluded the Muslims living in Rakhine state from access to citizenship.¹² This constrictive regulation – based on the principle of *ius sanguinis* – continued in the 1982 Citizenship Law¹³, which granted citizenship to 135 official ethnic groups or to those who acquired citizenship before. The act set up new criteria as well, when stating that those who had not been granted a citizenship prior to 1982 could only apply for citizenship if their parents and grandparents were nationals.¹⁴ Basically the new law directly disqualified the Rohingyas again from becoming citizens – since their ancestors were excluded from citizenship based on their ethnicity according to the 1948 Act. After 1982, three categories of citizens existed, Rohingyas were not among them. They were still considered foreigners, and were not given any national identification documents^{15, 16}

To end statelessness is a primary goal for the UN's Refugee Agency¹⁷, its new global action plan aims to resolve existing situations of statelessness; prevent new cases from emerging; and better identify and protect stateless persons.¹⁸ For this the UNHCR needs to promote accession to UN Statelessness Conventions¹⁹, especially in countries that lack any protection of human rights. In Myanmar's case, the accession would be very urgent regarding the Rohingya situation. The Union of Myanmar joined only few of the major UN Conventions, but ratification of international treaties such as the conventions on statelessness, conventions on the status of refugees²⁰ or the 1966 International Covenant on Civil and Political Rights (ICCPR) still awaits.²¹ Without being a party to those treaties, law enforcement is limited for those whose human rights were infringed by a state. These states are not subject to the jurisdiction

¹⁰ The Constitution Of The Union Of Burma Art. 11.

¹¹ The Union Citizenship Act, 1948. Art. 3 (1)

¹² The Union of Myanmar considers the Rohingyas to have been settled down in its territory only after the first Anglo-Burmese War (1824-26), although by others they are originated to have been living the area since the 15th century.

¹³ Burma Citizenship Law

<http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/87413/99608/F111836952/MMR87413.pdf> (4 May 2017)

¹⁴ Trevor Gibson, Helen James, Lindsay Falvey, 2016, pp. 82-83.

¹⁵ They were given a so called Foreign Registration Certificates (FRC)

¹⁶ Nemoto, 2013, p. 4.

¹⁷ United Nations High Commissioner for Refugees (UNHCR)

¹⁸ *Global Action Plan to End Statelessness* <http://www.unhcr.org/ibelong/global-action-plan-2014-2024/> (10. March 2017)

¹⁹ 1954 New York Convention relating to the Status of Stateless Persons; 1961 New York Convention on the Reduction of Statelessness.

²⁰ 1951 Geneva Convention relating to the Status of Refugees; 1967 New York Protocol relating to the Status of Refugees.

²¹ Myanmar is already a Party of treaties like the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination Against Women and the International Covenant on Economic, Social and Cultural Rights. Multilateral Treaties Deposited with the Secretary-General - <https://treaties.un.org/Pages/ParticipationStatus.aspx?clang=en> (10. March 2017)

of the treaty-bodies, whose complaint mechanisms are only available for signatories of the treaties. The UN Human Rights Council's complaint procedure still would be available, but efforts were never really taken against the violation of the human rights of Rohingyas.²² The UN bodies frequently report on the human rights situation in Myanmar, but the international community is still incapable of preventing further infringements, despite the increase of military attacks against Rohingya people.

In 2008 things seemed to change with Myanmar's new constitution coming into force. The Constitution of the Republic of the Union of Myanmar dedicates Chapter VIII to fundamental rights and freedoms, in which provisions on citizenship can be found as well. Alarming, the Constitution dedicates fundamental freedoms only to citizens, meaning that provisions on non-discrimination and other basic human rights are not applicable to stateless Rohingya. The constitution allows neutralization as prescribed by the 1982 Citizenship Law, although it is still not available for them.²³

Myanmar has neither joined the conventions on statelessness, nor the ICCPR, but it is a Member of the UN since 1948. Thus the state has to take into account guidelines and principles set up by such United Nations bodies, like the General Assembly's Universal Declaration of Human Rights (1948). The document – despite having no binding force²⁴ – states: a person's individual rights must be protected, regardless of citizenship.²⁵ In accordance with its preamble all UN Member States must keep the Declaration constantly in mind and have to secure the effective recognition and observance of its standards in their national legislation. Myanmar failed to fulfil those measures when excluding all minorities from being subject to any of the human rights as enshrined in its 2008 Constitution.

In my opinion, further examination of the enforcement of minority rights is unnecessary, considering the insufficient measures on basic human right protection of the country. The UN and its agencies are aware of the serious violations of fundamental rights, but no intervention has ever been taken to protect and restore the rule of law in Myanmar. Besides the treaty bodies²⁶ and the Human Rights Council's complaint procedure – the tools available for the UN are limited to interact with the national legislations, though agencies like the UNHCR work effortlessly on keeping media attention and also on providing aid to Rohingya refugees.

The denial of citizenship has a great impact on the Rohingyas human security, since their status has inter-related social and legal aspects.²⁷ They are not acknowledged nationals of the country and thereby are unable to access or benefit from the services offered by the state.²⁸ The United Nations Development Programme (UNDP) developed a new approach of human security in 1994, when defining its major

²² The Human Rights Council complaint procedure was established to address consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances, if it meets further criteria set up in 5/1. Institution-building of the United Nations Human Rights Council Art. 85-88.

²³ The Constitution of the Republic of the Union of Myanmar 2008, Chapt. VIII. Fundamental Rights and Duties of the Citizens.

²⁴ It is only a resolution of the UN General Assembly.

²⁵ Universal Declaration of Human Rights, Art. 2.: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

²⁶ There are three main procedures for bringing complaints of violations of human rights treaties before the human rights treaty bodies: Individual communications, state-to-state complaints and inquiries. There are also procedures, which fall outside of the treaty body system. *Special Procedures of the Human Rights Council and the Human Rights Council Complaint Procedure* <http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HRTBPetitions.aspx> (10. March 2017)

²⁷ Trevor Gibson, Helen James, Lindsay Falvey, 2016 p. 24.

²⁸ Trevor Gibson, Helen James, Lindsay Falvey, 2016 p. 12.

components as freedom from fear and freedom from want.²⁹ The main aspect of human security is that people are able to live in a society that honours their citizenship rights.³⁰ Thus the lack of citizenship and human rights protection – which also includes minority rights protection – has prompted the Rohingyas to occasionally flee Myanmar. The first known mass exodus happened in 1978, after a campaign was launched by the government to investigate the population in the state, in order to designate citizens and foreigners, and also to take actions against foreigners who have stayed illegally in the country. The Rohingyas in fear of deportation and aggression escaped the country and mostly sought refuge in neighbouring Bangladesh.³¹

In 2011, the number of refugees in Bangladesh were thought be around 29 000 and the arising numbers clearly highlight the lack of change in the government's human rights practices. Bangladesh has experienced few major influxes of refugees, like in 1978 as mentioned before, later in 1991-92, and in 2012.³² The UNHCR is constantly present in the area to provide aid and also to cooperate in the repatriation of refugees back to Myanmar. Unfortunately, the repatriated Rohingyas subsequently fled again to Bangladesh.

Bangladesh is a country that is hardly able to face its own difficulties like poverty, high rates of population growth, natural disasters and climate change, so public opinion is generally not well disposed towards the refugees. Rohingyas often seek shelter in the less developed, rural areas of Bangladesh making it difficult for humanitarian groups to supply them. Despite the persistent work of the UNHCR, it has not been able to develop an effective protection for them, and although it has sponsored projects that were intended to bring benefits to the host country as well, still they have failed to gain additional protection for Rohingya.³³ They were acknowledged as persons of concern, a legal status for those who fall outside the scope of the 1951 Convention Relating to the Status of Refugees, so at least they are provided a minimum content of temporary protection, such as the right to leave one's country, the right to access to a country where safety may be sought; respect for basic human rights in the country of refuge, and respect for the right not to be returned forcibly to danger.³⁴ Providing such basic rights for those living in refugee camps is crucial, as Myanmar is not party to the 1951 Convention on Refugee Rights, and Rohingya refugees face not only poverty and distress, but they often fall victim to child labour, rape, human trafficking and detention.³⁵

Since 2015, Myanmar is led by the Nobel Peace Prize awarded Aung San Suu Kyi. After a nearly six decade long military rule, the country seems to be in the process of strengthening democracy, though the reform began already seven years ago, when improvements in fields such as freedom of expression

²⁹ *Human Development Report 1994* p. 24.

http://hdr.undp.org/sites/default/files/reports/255/hdr_1994_en_complete_nostats.pdf (10. March 2017)

³⁰ Trevor Gibson, Helen James, Lindsay Falvey, 2016 p. 21.

³¹ C.R. Abrar: *Repatriation of Rohingya refugees*, section 1. 10.

<http://www.burmalibrary.org/docs/Abrar-repatriation.htm> (10. March 2017)

³² In 2012 after an inter-communal conflict in Rakhine State the Rohingya situation finally reached the international attention, when 140 000 of them fled to Bangladesh.

Thaksin University - Trevor Gibson, 2016 p. 5.

³³ UNHCR: *States of denial- A review of UNHCR's response to the protracted situation of stateless Rohingya refugees in Bangladesh*, 2011, pp. 1-2.

<http://www.unhcr.org/research/evalreports/4ee754c19/states-denial-review-unhcrs-response-protracted-situation-stateless-rohingya.html> (10. March 2017)

³⁴ Protection of persons of concern to UNHCR who fall outside the 1951 Convention: a discussion note Protection of persons of concern to UNHCR who fall outside the 1951 Convention: a discussion note EC/1992/SCP/CRP.5 III/B

<http://www.unhcr.org/excom/scip/3ae68cc518/protection-persons-concern-unhcr-fall-outside-1951-convention-discussion.html> (12. March 2017)

³⁵ UNHCR: *States of denial*, 2011 p. 13.

and association were made, and the current State Counsellor, Suu Kyi was released from years of house confinement.³⁶ The results of the latest election were highly awaited and observed by the UN, since it was the first openly contested election since 1990³⁷, and because improvements in some areas, like the status of Rohingyas were still not satisfying. Not long since then, but Amay Suu (Mother Suu³⁸) has not yet proven to be adequate for the expectations. The latest report of the UN High Commissioner for Human Rights (OHCHR) revealed devastating cruelty against Rohingya children, women and men by Myanmar's security forces in a sealed-off area in Northern Rakhine State. The organization reports on mass gang-rape, killings (*inter alia* of babies and youngsters), brutal beatings, disappearances and other serious human rights violations.³⁹ The document states that the recent level of violence is unprecedented, attacks against Rohingya villages and the associated violations seriously affecting the right to life and physical integrity. By destroying houses and food stocks the security forces and other armed elements – including civilians⁴⁰ – make it impossible for Rohingyas to live in their villages, thereby creating a coercive environment aiming displacement. The report claims the situation not to be an isolated event, rather a „calculated policy of terror“ as the attacks against the Rohingya population seems to have become widespread systematically.⁴¹

The Convention on the Prevention and Punishment of the Crime of Genocide defines genocide as acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group such by killing members of the group; causing serious harm to members of the group; inflicting on the group conditions of life calculated to bring physical destruction.⁴² Attacks on Rohingyas ran rife in the past few decades, and the latest actions can be considered as committed genocide according to the 1948 Convention. Since Myanmar is Party to the Convention, committing such international crime should be punished, but no sanctions were ever taken against the state and with Suu Kyi in charge, the number and intensity of attacks have constantly arisen. The Organization of Islamic Cooperation even compared the situation to be similar to the genocide happened in Rwanda and urged the UN's intervention to avoid genocide and to stop the escalation of violence against the Rohingya Muslims.⁴³

Lately the intervention of the International Criminal Court (ICC) is on agenda, mostly urged by human rights watchers, like the ASEAN Parliamentarians for Human Rights (APHR). The ICC has jurisdiction only for State Parties and since Myanmar is not a signatory of the Rome Statute⁴⁴, special measures would have to be taken before any legal action could commence against state officials. According to Article 12 of the Rome Statute in case of a non-signatory state, the ICC needs the state's acceptance to exercise jurisdiction and it is also necessary for such a state to be referred to the Court by the UN Security Council. Even if Myanmar was a party to the ICC, any case should be investigated first in the country

³⁶ Myanmar's National Election of 2015 <https://www.asiapacific.ca/canada-asia-agenda/myanmars-national-election-2015> (12. March 2017)

³⁷ Burma elections 2015 <https://www.hrw.org/blog-feed/burma-elections-2015> (12. March 2017)

³⁸ How Suu Kyi was called by tens of thousands that gathered to support her during the election campaign in Rangoon in 2015. Meenakshi Ganguly: *Burma Elections: The Red Sea of Support for Amay Suu* <https://www.hrw.org/blog-feed/burma-elections-2015> (12. March 2017)

³⁹ *Devastating cruelty against Rohingya children, women and men detailed in UN human rights report* <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21142&LangID=E> (10. March 2017)

⁴⁰ OHCHR: *Report of OHCHR: Mission to Bangladesh Interviews with Rohingyas fleeing from Myanmar since 9 October 2016*, 2017 p. 11.

<http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf> (12. March 2017)

⁴¹ OHCHR, 2017 p.42.

⁴² 1948 Convention on the Prevention and Punishment of the Crime of Genocide Art. II.

⁴³ *OIC envoy calls for U.N. intervention to avoid genocide of Rohingya Muslims* <http://www.reuters.com/article/us-myanmar-rohingya-oic-idUSKBN1520CB> (12. March 2017)

⁴⁴ 1998 The Rome Statute of the International Criminal Court

which has national jurisdiction over the issue. Since Myanmar's Investigation Commission on Maungdaw found no evidence of genocidal acts in its Interim Report and denied any alleged crimes, even if being a Party, the ICC would be unable to interact.⁴⁵

3. Conclusions

Rohingyas have never been treated equal, as they were never given citizenship during the history of modern Myanmar. They are excluded from the legal and social benefits of being a national, moreover they have been suffering genocidal attacks lately.

Why the Rohingyas became a target for the government, for the military and also for the extremist groups of Myanmar is not easy to decide, since the controversial theories about Rohingya origin. Although, these groups agree on one thing, all human rights should be deprived from this ethnic group. The Rohingyas has never been a threat to the state of Myanmar, but still over forty years of propaganda made most Burmese to regard them as foreigners, who are threat to Buddhist culture. Tensions between the Muslim Rohingyas and the Buddhists of Rakhine are often, but in other parts of the country the level of bias is very low among the civil population.

Most ethnic groups were given nationality and in accordance with the Convention, they are subject to the country's measures on human rights. In contrary, the lack of citizenship inflicted the Rohingyas to live outside of the entire legal system, lacking any human right protection.⁴⁶

As the Rohingyas differ from the average Burmese in terms of ethnicity and religion, equal acknowledgement would be essential for them. Their human security is hindered, thus they are regarded as an „out-group“, which has led the Rohingyas into economic, food, health, environmental, personal, community and political insecurity.⁴⁷

The Rohingya people were promised an independent state out of Rakhine by the British, although this never materialized.⁴⁸ On the contrary, the current governments certainly intended to liquidate them from the country during the past seven decades. The Rohingyas do have the right to citizenship, but without being party in the major human right treaties, the contradictory international provisions on citizenship⁴⁹, and the political and economic instability in the region – no progress in the expansion of citizenship is expected until external intervention is made.⁵⁰ The international community raised concerns about the reoccurring violent attacks against the Rohingyas, but the available legal actions are very limited for the UN.

In the Rohingya case, the most effective tool would be the deployment of a peacekeeping operation.

According to the UN Charter, the Security Council has primary responsibility for the maintenance of international peace and security, however human right protection has been considered as an internal issue of each state for decades. After the consequences of the Cold War and the widespread acceptance

⁴⁵ *Justice in Myanmar: What can the international community do*
<http://www.coalitionfortheicc.org/news/20170127/justice-myanmar-what-can-international-community-do> (4 May 2017)

⁴⁶ Azeem Ibrahim: *The Rohingyas: Inside Myanmar's Hidden Genocide*, 2016 pp. 9-10.

⁴⁷ Trevor Gibson, Helen James, Lindsay Falvey, 2016, p. 25.

⁴⁸ Nemoto, 2013, p. 5.

⁴⁹ According to Article 1 of the Hague Convention, it is the state's sovereign right to decide who can be regarded as its national – basically it also means the right to exclude individuals, in contrary the UN countries are also obliged to consider such principles as every person's right to citizenship in their lawmaking.

⁵⁰ Irene Langran, Tammy Birk: *Globalization and Global Citizenship: Interdisciplinary Approaches*, Routledge, 2016 p. 244.

of the relevance of human rights, the Council realized in order to achieve lasting peace, human rights should be addressed, at least on a rhetorical level.⁵¹

Although the Security Council decides whether a peacekeeping operation should be deployed, it also needs the consent of the affected parties.⁵² Taking into account that the commission – set up by the government of Myanmar to examine the alleged genocide – claims it has found insufficient evidence of such crimes⁵³, the consent from the Burmese government is very unlikely to happen in the near future. Personally, I see no other way that could be a viable solution to the systematic infringement of human rights – not to mention the lack of special measures on minority rights and the numerous stateless Rohingyas living in the country. The international community should not let incidents like the Rwanda genocide happen again.

Regarding the nationality issues of the Rohingyas, it has to be stated that ending statelessness is a major goal for the UN, although results are not really satisfying. With the current international instruments in force, some important issues⁵⁴ still remain out of the reach of the regulations.⁵⁵ The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness are key legal documents, but a comprehensive regulation, that could be enforced effectively and is detailed sufficiently, still awaits to be agreed on, not only in this field of human right protection.

As regards UN treaties, it has always been difficult to adapt them to the always changing political and legal environment, so in most cases international law-making is limited only to accepting general principles which are easy to be put away by national legislations. But with countries staying entirely out of these common regulations, the scenario is even worse, since there is no law at international level that could be applied against them.

Myanmar is not even a party to those treaties on statelessness, so the UN – through its agencies – shall urge the country's accession, otherwise the aim of ending statelessness by 2020 would be unreachable. According to UNHCR a child is born stateless every 10 minutes⁵⁶, meaning that the number of stateless people shows an increasing trend, so preventing statelessness should be considered as important as dealing with existing cases. In terms of Myanmar, this means giving citizenship to all Rohingyas is inevitable if acceding the treaties, in the other hand if the country wants to stay out – since it is not obligatory for states to join UN treaties – the life of millions would remain hopeless, witnessed by the incapable international community. And if we compare the number of 10 million stateless people⁵⁷ to the 1-2 million Rohingyas – who do not have citizenship at all - it becomes clear that resolving their status is crucial not only for them, but for the UN to fulfil its goal of ending statelessness.

Settlement regarding the status of Rohingya refugees is needed as well. Those who flee Myanmar often head to one of the Muslim majority countries in the region, mostly Bangladesh, but Malaysia or Indonesia are popular due to better economic endowments. Other neighbouring countries like Thailand, China or Laos are often target destinations too, but the refusing behaviour toward refugees mostly keeps

⁵¹ Joanna Weschler: *Human Rights In: David Malone: The UN Security Council: From the Cold War to the 21st Century*, 2004, p. 55.

⁵² What is peacekeeping? <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml> (15. March 2017)

⁵³ Myanmar says 'no evidence' of Rohingya genocide <http://www.bbc.com/news/world-asia-38505228> (15. March 2017)

⁵⁴ Like statelessness in relation to state succession.

⁵⁵ Council of Europe: Convention on the Avoidance of Statelessness in relation to State Succession, Preamble <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680083747> (24. April 2017)

⁵⁶ <http://www.unhcr.org/ibelong/#section-openletter> (24. April 2017)

⁵⁷ <http://www.unhcr.org/ibelong/#section-openletter> (24. April 2017)

them away. The countries in the area has been fighting human trafficking⁵⁸, and many face poverty as well, so refugees – who are sometimes treated better than an average citizen, in compliance with international standards – are not welcomed, or suffer inhuman treatment. Even the different UN organizations in the area could not change this attitude until now. To avoid the increase in organized crime committed in the region, cooperation in such matters should be strengthened between the countries and the UN should continue to assist in the adoption of fundamental principles of human rights protection and asylum management.

Since 1971, the UNHCR has had a great role in the protection of Rohingya refugees in Bangladesh, a country that is mostly affected by them. Key developments have been taken first after the second Rohingya influx in 1991, as results of the protracted refugee situation in Bangladesh. In the following years, the UNHCR committed itself to the repatriation of Rohingya refugees, stating it was safe for them to return to Myanmar and urged the integration of those remaining in Bangladesh. Relations with the government also improved, and that allowed the UNHCR to promote self-reliance, refugee education and resettlement programmes in the camps, to renew shelters and latrines, and to advocate on behalf of unregistered Rohingyas. With the help of the government UNHCR was able to issue individual identification documents to registered refugees, and started discussions with other UN agencies in relation of a UN Joint Initiative (UNJI) in 2006. The cooperation aimed to provide services to both unregistered refugees and the host country, but the government of Bangladesh accused the UN of “mala fide intentions,” and claimed that the initiative was an attempt to rehabilitate refugees under the pretext of poverty reduction for locals until it formally declined any help through the UNJI in 2011.⁵⁹

Without question, the UNHCR takes major part in the protection of Rohingyas, not only with providing aid in Bangladesh, but through promoting good practices and observing refugee rights in the neighbouring countries. Sadly, the lack of governmental cooperation prevents major progress in the status of Rohingya refugees. As the Rohingyas are subject to extreme poverty, destitution and even genocide back in Myanmar explains why so many of them decide to leave despite being aware of poor the conditions of refugee camps or the problems of repatriation. Many of them die on the sea or fall victims to human traffickers, but still take the risk in hope of resettling. The situation, we could say, is a “Catch-22”: no change is expected in the cooperation of Bangladesh until a decrease in the number of refugees, but for that, their status should be secured in Myanmar first. The seriousness of lacking citizenship could not be stressed enough, as stateless persons are not able to benefit from any of the state services, even basic human rights protection.

Even other surrounding countries - like Thailand, Malaysia, Indonesia or India - disrespect the Rohingyas' right to asylum and they hardly respect the principle of non-refoulement either. The 1951 Convention Relating to the Status of Refugees in its Article 33 prohibits any kind of expulsion or return, since refugees are considered as refugees because of such fear that led them to flee the country of origin. It is irrelevant that those countries are not signatories of the Refugee Convention, as the prohibition of “refoulement” applies to all states of the international community regardless of the state's treaty status and it is a matter of customary international law and the countries mentioned before should consider these obligations before violating such human rights.⁶⁰

⁵⁸ Being desperate, the Rohingyas are often victim to organized crimes, such as human trafficking, prostitution, forced and child labour in search of better living conditions.

⁵⁹ UNHCR: States of denial, 2011, pp. 10-11.

⁶⁰ Benjamin Zawacki: *Defining Myanmar's "Rohingya Problem"* in Human Rights Brief, Issue 3- Fall 2012 p. 20.

Although the Rohingyas are said to be a minority in Myanmar, but in fact by having no homeland they should be considered as a nation that non-exists and has so little chance to become fully acknowledged by any state.