

**FAILURE TO PROTECT:
THE DENIAL OF STATUS,
DETENTION AND REFOULEMENT
OF ROHINGYA REFUGEES IN INDIA**

BRIEFING PAPER

AUGUST 2021

ACKNOWLEDGEMENTS

This briefing paper has been authored by Maung Thein Shwe, Jessica Field and Natalie Brinham. It has been adapted from an earlier draft that was developed to support the provision of legal assistance for Rohingyas in India. It has been published and edited by the Institute on Statelessness and Inclusion (www.institutesei.org) as part of a series of briefing papers that aims to provide a principled and sustained human rights framing of the challenges faced by Rohingyas globally. All briefing papers in the series are rooted in the information, expertise and solutions put forward by Rohingya activists and community workers, with the aim of supporting Rohingya knowledge production to shaping international policy approaches.

Author Profiles

Maung Thein Shwe is a Rohingya youth in New Delhi. He is committed to improving the lives of Rohingyas and develops community-level education and rights-based projects. He is also a fellow with the Social Change Initiative.

Jessica Field is an academic researcher working on Rohingya protection and humanitarian assistance in India. Jessica lectures on humanitarian history at UCL (UK).

Natalie Brinham is a Senior Programme Officer at the Institute on Statelessness and Inclusion. She is also a PhD student at the International State Crime Initiative, Queen Mary University of London.

ACRONYMS/GLOSSARY

AADHAAR – National identification card
BJP – Bharatiya Janata Party
CAA – Citizenship (Amendment) Act, 2019
CDM – Civil Disobedience Movement
EAO – Ethnic Armed Organisation
FIR – First Information Report
FRRO – Foreigners Regional Registration Office
ICC – International Criminal Court
ICCPR – International Covenant on Civil and Political Rights
ICJ – International Court of Justice
IIFFM – International Independent Fact-Finding Mission
LTV – Long Term Visa
MHA – Ministry of Home Affairs (India)

NHRC – National Human Rights Commission (India)
OHCHR – Office of the United Nations High Commissioner for Human Rights
RSD – Refugee Status Determination
SAC-M – Special Advisory Council for Myanmar
UN – United Nations
UNHCR – United Nations High Commissioner for Refugees
UT – Union Territory

About the Institute on Statelessness and Inclusion and this initiative.

The Institute on Statelessness and Inclusion (ISI) is the first and the only human rights NGO dedicated to working on statelessness at the global level. Its mission is to promote inclusive societies by realising and protecting the right to a nationality.

The root causes of the deprivations and marginalisation endured by the Rohingya community over multiple decades, are based on racist, discriminatory and xenophobic ideologies, laws and policies. While Myanmar is the source of these deprivations, other countries have also failed to provide meaningful protection, status or rights to Rohingya, whether they fled to their country or were born there. In this context, a principled and sustained human rights framing of the challenges, which is rooted in the information, expertise and solutions put forward by Rohingya activists, and which challenges and shapes responses to the crisis by states, UN agencies, humanitarian actors and others, is much needed. This initiative aims to provide such a framing, through the production of briefing papers and other interventions on different human rights challenges.

This is the third paper to be produced under this initiative.

- *The [first paper](#) published in August 2020 looked at the impact of the COVID-19 pandemic on Rohingya communities*
- *The [second paper](#) published in November 2020 considered the impact of digital ID systems on Rohingya populations."*

INTRODUCTION

“

The situation for Rohingyas in India right now is like a tinderbox – ready to blow at any time. We face increasing harassment, arbitrary detention, and threats of deportation. The protection crisis has become so intense that we even feel unsafe to identify as Rohingya in public. It's dehumanising.”

A 26 year-old Rohingya living in India (name withheld)

Rohingyas have been arbitrarily deprived of their nationality and persecuted in Myanmar, while also being denied adequate protection as refugees and stateless persons in neighbouring countries. Since 2017, Rohingyas in India have faced a deteriorating protection situation. The legal status of Rohingyas in the country has become increasingly precarious, leaving them at risk of forced repatriation or *refoulement* to Myanmar as well as arbitrary arrest and indefinite detention. Further, the erosion of status and protections for Rohingyas in India has impacted living conditions and access to services, leading to increasing insecurities and vulnerabilities. This briefing paper has been developed as a resource for those advocating for stronger protection for Rohingyas in India. It provides an overview of the situation since 2017 and describes the impact of the deteriorating protection context on the Rohingya community.

ROHINGYA REFUGEE SITUATIONS IN A GLOBAL CONTEXT

The Rohingya are an ethnic community belonging to Rakhine or Arakan State in Myanmar.¹ Their histories in Rakhine, now on the borderlands of Myanmar, long pre-date modern nation-states and borders. Their arbitrary deprivation of nationality by Myanmar, which was initiated under military rule, is a key element in the decades-long persecution of Rohingya. The persecution of Rohingya in Myanmar and their lack of protection as refugees outside Myanmar are strongly linked to Myanmar's systematic denial of their right to citizenship. Myanmar's 1982 ethno-centric and exclusionary Citizenship Law, together with the arbitrary implementation of citizenship rules, provided a domestic framework that sanctioned discrimination, persecution and expulsion. The clear exclusion of Rohingya from access to citizenship by right - as opposed to a highly discriminatory, discretionary and arbitrary naturalisation procedure - was a deliberate next step towards the ratcheting up of abuses against the group. As such, Rohingyas have fled institutionalised discrimination and persecution in Myanmar over decades resulting in a

large and scattered refugee population world-wide. It is estimated that three quarters of the Rohingya population currently live outside Myanmar.²

There are now approximately one million Rohingya refugees in Bangladesh and hundreds of thousands of Rohingya in other countries, such as Saudi Arabia and elsewhere in the Middle East; India and other South Asian countries; Malaysia, Thailand, Indonesia and elsewhere in Southeast Asia. A smaller number of Rohingyas have settled in Australia and New Zealand, Europe and North America. Within the contexts of the Middle East, South and Southeast Asia, Rohingyas continue to be denied their right to nationality and have thus been subjected to inter-generational statelessness. They continue to live in situations of protracted displacement without access to legal status and other basic rights. This has prevented children and young people from accessing formal education and skills training and has driven men and women into precarious work in the informal sectors of the economy with few safety standards, often exposed to exploitation and with no access to social safety nets. In times of external shocks, including the COVID-19 pandemic, Rohingya families are at heightened risk of hunger, illness and violence.³ Family members in Myanmar and elsewhere who rely on remittances from those working overseas are also increasingly vulnerable to these impacts.⁴

CONDITIONS IN MYANMAR

The most recent largescale waves of violence against Rohingyas in Rakhine occurred in 2012, 2016 and 2017, forcibly displacing whole communities internally and across Myanmar's borders. The UN International Independent Fact-Finding Mission (IIFFM) concluded that patterns of gross human rights violations and serious violations of international humanitarian law amounted to the “gravest crimes under international law”. These were principally committed by the military. As such, the IIFFM recommended criminal investigation and prosecution of the top Generals for genocide, crimes against humanity and war crimes.⁵ There are ongoing international court proceedings at the International Court of Justice (ICJ)⁶

and the International Criminal Court (ICC).⁷ According to UN experts, conditions for Rohingyas in Rakhine are not safe or conducive to return. In fact, the security context in Rakhine has deteriorated in the past two years. In 2019, fighting broke out between the Myanmar military and the Arakan Army, a Rakhine Ethnic Armed Organisation (EAO), resulting in the imposition of martial law, curfews and internet and media restrictions in the region.⁸ The increased militarisation of the region has resulted in further attacks on Rohingya communities. On 1 February 2021, a group of top Generals seized power in a *coup-d'état*, resulting in a nation-wide uprising and Civil Disobedience Movement (CDM). Violent crackdowns on civilians across the country have occurred. Further fighting has resumed across the country, intensifying civil wars. Myanmar has since been described as a failed state.⁹ Experts are clear that the human rights situation in Myanmar is dire. Attempts to deport persons from Myanmar seeking protection outside the country would thus be in serious violation of international law. The Special Advisory Council for Myanmar (SAC-M), made up of former UN-experts, stated:

The gravity of the current situation in Myanmar is such that all individuals from Myanmar seeking refuge anywhere outside the country must be granted protection, and none should be forced to return. To do so would be in violation of the international principle of non-refoulement. India's commitments under article 6 (right to life) and 7 (freedom from torture) of the International Covenant on Civil and Political Rights (ICCPR) also reinforce this principle and prohibit India from engaging in practices that result in refoulement of individuals to situations of torture or cruel, inhuman or degrading treatment.¹⁰

ROHINGYA REFUGEE STATUS IN INDIA: BACKGROUND

Rohingyas have sought refuge in India in small numbers for decades.¹¹ Most of the 18,000 Rohingyas currently registered with the United Nations High Commissioner for Refugees (UNHCR) in India entered the country after 2012, following a wave of extreme violence against the community in Myanmar.¹² From around 2012, Rohingyas in India have been able to access Refugee Status Determination (RSD) with UNHCR and receive UNHCR Refugee Cards. Rohingyas are not recognised by the Indian Government formally as “refugees” (the country does not have a domestic asylum law), though for several years they were a tolerated refugee group permitted to live freely and receive assistance from UNHCR and

non-governmental humanitarian organisations.¹³ Between 2012-2017, the Government of India also granted Long Term Visas (LTVs) to the Rohingyas who had been issued UNHCR Refugee Cards.¹⁴ These were renewable annually and, as with other refugee groups, the granting of LTVs provided Rohingyas with legal permission to be in the country, which protected them from detention and deportation as “illegal migrants”. LTVs are also key documents for accessing other important identification documents, such as *Aadhaar* (a unique number based on biometric data), and basic public and private services. For example, with LTVs and *Aadhaar* cards, refugees are able to access more opportunities for house rental, can purchase SIM cards, and open bank accounts. Since 2017, UNHCR-registered Rohingyas have not had their LTVs renewed or new ones issued. They have also been explicitly excluded from holding *Aadhaar* identification cards, though this biometric identification card does not denote citizenship and can be obtained by other non-refugee foreigners with relevant national identity documents.¹⁵

FROM REFUGEES TO “ILLEGAL MIGRANTS”

Protection for Rohingya refugees in India deteriorated further from August 2017. On 9 August 2017, the then-Minister of State in the Ministry of Home Affairs, Kiren Rijju, told Parliament that there were around 40,000 Rohingyas in India (a disputed figure that remains in circulation without clear source) and that “powers to identify, detain and deport illegally staying foreign nationals, including Rohingyas, have...been delegated to State Governments/UT [Union Territory] Administrations”.¹⁶ A day earlier, the Indian Government issued a notice to all state governments outlining the need to identify Rohingyas in anticipation of deportation to Myanmar¹⁷ – a country where they have experienced genocidal violence and where conditions remain unsafe.¹⁸ In this context, any removal of Rohingya to Myanmar would amount to *refoulement*, which is prohibited under international law. The deportation order received international condemnation, with Human Rights Watch stating that *refoulement* of Rohingyas to Myanmar would breach India’s international human rights obligations.¹⁹

The Government’s deportation order foreshadowed a new wave of genocidal violence in Myanmar, which began a few weeks later on 25 August 2017.²⁰ Despite Rohingyas facing an unprecedented humanitarian crisis over the borders in Myanmar and Bangladesh, the Indian Government has redoubled its efforts to exclude this refugee group from India, and protection gaps have since widened. Two Rohingyas petitioned the Supreme Court of India, challenging the deportation order on 30 August 2017, but a recent interim order from the Court (8 April 2021) upheld the deportation policy.²¹

RISKS OF ARBITRARY ARREST AND REFOULEMENT

As noted in section 4 above, since late 2017, UNHCR-registered Rohingyas' LTVs have not been renewed and new ones have not been granted. Under the 1946 Foreigners Act and the 1920 Passport (Entry into India) Act, any foreigner without a valid visa proving "legitimate" entry and stay in India is at risk of detention and deportation. After the Government's declaration of Rohingya entry into India as "illegal" in August 2017, the number of Rohingyas detained in India has steadily increased. Exact numbers are hard to verify as Rohingyas are frequently unaccounted for in the penal system, unknown to UNHCR and advocates. However, community support groups currently place the number of Rohingyas in India's jails at around 300, with the rate of detention reportedly escalating significantly since the end of 2020.²²

Between November 2020 and January 2021, dozens of Rohingyas were detained by the Police in the states of West Bengal and Assam.²³ Many of the detainees were families attempting to travel to Delhi to undergo RSD. UNHCR is not permitted to have a presence in the border areas and the Delhi UNHCR office is the primary RSD location in the country. Remote refugee registration through UNHCR's implementing partners, and online registration procedures that have been introduced during the COVID-19 pandemic, have not been made accessible to Rohingyas in the border areas. Multiple barriers remain for Rohingyas attempting to access registration outside of Delhi.

During November to January, Rohingya refugees in Delhi and Haryana also experienced increasing harassment by state authorities while in the vicinity of their homes and communities, as well as increasing incidents of arbitrary arrest and detention. On 6 March 2021, Indian authorities rounded up Rohingyas in Jammu for an identity "verification exercise". Around 170 were arrested. Despite the majority of these Rohingyas holding UNHCR Refugee Cards, they were arbitrarily detained in a sub-divisional level jail converted to a "holding centre" with the declared intention of deporting them back to Myanmar.²⁴ They are still detained at the time of writing. Meanwhile, in Myanmar, as a result of the military coup on 1 February 2021, state violence and civil war has escalated across the country, rendering the country completely unsafe.²⁵ Subsequent demonstrations against the Jammu arrests by Rohingyas outside UNHCR offices in Delhi resulted in a further 71 arrests and detentions of Rohingya refugees.²⁶

Between 24–31 March, 2021, eighteen more Rohingya refugees from Delhi's Shram Vihar and Madanpur Khadar settlements were taken away by the police and sent to the Foreigners Regional Registration Office (FRRO)

Delhi. According to community groups on the ground, no First Information Report (FIR) - an official document that begins the process of criminal investigation - has been lodged against them, yet six of the refugees are still being held by the authorities, at the time of writing.

In response to the March detentions in Jammu, lawyers submitted an urgent appeal to the Indian Supreme Court. As mentioned in section 5 above, the Court issued an interim order on 8 April 2021, rejecting the Rohingyas' right to *non-refoulement* and concluding that the government is not bound by this fundamental principle of International Law because India is not party to the 1951 Refugee Convention. The Supreme Court also stated that it does not have the authority to comment on the 'internal affairs' of another country, and so cannot consider the imminent threat of genocidal violence against the Rohingya in their decision-making. However, the principle of *non-refoulement* is a part of customary International Law (and therefore applies regardless of the Refugee Convention). India has also signed and ratified the International Covenant on Civil and Political Rights (ICCPR) that enshrines the principle of *non-refoulement*. However, the Supreme Court did not address these points.²⁷ This decision has received widespread condemnation.

THE SUPREME COURT JUDGMENT AND INTERNATIONAL LAW

International law prohibits the forced return of individuals to situations where they "would be at risk of irreparable harm upon return on account of torture, ill-treatment or other serious breaches of human rights obligations."²⁸ The principle of non-refoulement is a peremptory international law norm and India is bound to uphold this principle despite not having ratified the Convention Against Torture (CAT) or the Refugee Convention (both of which prohibit refoulement). India's commitments under article 6 (right to life) and 7 (freedom from torture) of the International Covenant on Civil and Political Rights (ICCPR) also reinforce this principle and prohibit India from engaging in practices that result in refoulement of individuals to situations of torture or cruel, inhuman or degrading treatment.²⁹ As stated by the Office of the High Commissioner for Human Rights:



As an inherent element of the prohibition of torture and other forms of ill-treatment, the principle of non-refoulement is characterised by its absolute nature without any exception. In this respect, the scope of this principle under relevant human rights law treaties is broader than that contained in international refugee law.³⁰

The International Court of Justice (ICJ) has explained that the prohibition on refoulement has achieved peremptory norm status.³¹ Accordingly, States may never derogate from these commitments.³² The violation of non-refoulement represents a gross violation of human rights law, such that international criminal responsibility may result for any party who enables or participates in refoulement of an individual.³³

In this context, the Supreme Court judgment is deeply worrying, and marks the Court's sanctioning of a departure from India's treaty and customary international law obligations. During the hearing, the Chief Justice reportedly stated that "possibly that is the fear that if they go back to Myanmar they will be slaughtered. But we cannot control all that." It is precisely because states cannot control gross human rights violations perpetrated by other states, that the principle of non-refoulement prohibits removal where such a risk exists. It is within the competence and jurisdiction of the Court to ensure that this fundamental principle of international law is upheld.

to deport an unaccompanied 14-year-old Rohingya girl to Myanmar. The child had been sheltering in Assam for a year and her parents are refugees in Bangladesh. Myanmar authorities refused to accept her, and the Government of India received national and international criticism.³⁶ Community support groups fear that an additional five Rohingya girls reported to be in Assam and eight Rohingya girls reportedly in Mizoram face the same threat of deportation.

DEATHS AT SEA

In addition to their efforts to deport Rohingyas living in India, the Indian government is also refusing the entry of other vulnerable Rohingyas seeking refuge in the country. On 20 February 2021, Rohingya community members in India were made aware by relatives of 87 Rohingyas and 3 Bangladeshi nationals – mainly women and children – adrift in the Andaman Sea. The vessel's engine had failed, the refugees had run out of drinking water, and there were reports of severe dehydration and deaths on board. R4R/ROHRingya - a Rohingya community-based organisation in India - immediately released a statement demanding a rescue operation and wrote to UNHCR.³⁷ On 22 February, UNHCR issued a statement outlining the dire situation and called for their rescue.³⁸ The refugees were approached by the Indian Navy with food, water, medical assistance, and for vessel repair. However, they were not permitted to disembark in nearby India. Bangladesh also refused their re-entry. No clear information was shared about the vulnerable refugees' possible next steps. The vessel was finally permitted to land in Aceh, Indonesia, on 4 June 2021. Eight Rohingyas died onboard.³⁹

INDEFINITE DETENTION AND DETENTION CONDITIONS

Rohingyas face dire living and security conditions in India's prisons. A visit to a jail in West Bengal in November 2020 by a Rohingya community leader revealed that at least four Rohingya minors – three girls and one boy – were being detained in adult facilities without adequate access to basic necessities, including sanitation products and fresh clothing. They had no

Some Rohingya detainees have already been *refouled* to Myanmar by the Indian government. In October 2018, seven detained Rohingya men were handed over to the Myanmar authorities at the India/Myanmar border.³⁴ In January 2019, Indian authorities deported a family of five Rohingya refugees to Myanmar. The family – a husband, wife and three children – had been detained since 2013 for “illegal entry” to the country.³⁵ UNHCR India were refused access to the family to ascertain their wellbeing and willingness to return to Myanmar. On 1 April 2021, the Government of India also attempted

contact with their families. There is no systematic referral, screening or documentation process for refugees in detention. Detention cases most often come to the attention of support groups and agencies in an *ad hoc* manner, including through informal Rohingya networks.

The majority of Rohingyas in detention are initially arrested on immigration charges. Even after they have served out their sentences, it is often difficult to obtain release owing to their statelessness and precarious immigration status. In another case in West Bengal, four Rohingyas had served their full sentences for immigration charges, yet they remained indefinitely detained in prison. The court would not release them without residency rights. They were also not moved to an “open jail” with better facilities.⁴⁰ As such, Rohingyas remain in a situation of indefinite detention, some for many years, in contravention of international and national legal standards. In order to obtain release, detainees need to be registered by UNHCR and have the direct intervention of UNHCR in court proceedings. However, it is difficult for Rohingyas to access UNHCR from detention or to obtain legal representation. Additionally, some local lawyers and judges appear to be unfamiliar with refugee rights under international law, refugee protection norms in India, as well as other human rights conventions and compacts signed by India that collectively set out the international standards that apply to prohibit the detention of stateless refugees. As such, Rohingya refugees are repeatedly denied requests for bail and adequate legal representation, compounding the risks of arbitrary or indefinite detention.

There is a concern that there may be many hundreds of Rohingya refugees in detention in India who have yet to be identified and have no access to legal support. While Rohingyas are detained in many states throughout India, it is believed that the largest numbers are detained in Assam and West Bengal, some in remote border locations. UNHCR have no presence in these areas and accessing these individuals remains a significant challenge.

DETERIORATING CONDITIONS IN SETTLEMENTS ACROSS INDIA

Rohingyas in settlements across India are also experiencing chronic protection failures and deteriorating living conditions. Poverty is compounded by the community’s inability to find secure and sustainable livelihoods. UNHCR Refugee Cards are not accepted as valid forms of identification for work purposes, and without visas and *Aadhaar* cards, Rohingyas

struggle to find reliable and safe employment. The only option to make ends meet is to find work within the informal economy, which is often low skill, insecure, and highly exploitative. Refugees face unsafe working conditions, low pay, withholding of pay by employers, and limited opportunities beyond daily wage labour. Some have also experienced arbitrary dismissal without the opportunity to hold their employer to account and claim unpaid wages.⁴¹

Housing and living arrangements have also become increasingly insecure. In Delhi, Hyderabad, and other cities, Rohingyas live in the urban peripheries or in rural areas, often on land that is not commercially viable for other purposes. Rent is determined by the landlord or broker and refugees have experienced steep hikes in rental rates, particularly since their protection status in India began deteriorating around 2017. Some landlords and brokers are exploiting the situation, knowing that Rohingyas have few options. Others are reluctant to rent to a community that is publicly maligned by the government and media.

Where Rohingyas can settle, their homes are often built on undeveloped or disputed land on the urban outskirts of cities, which present a myriad of security, health, and hazard risks. For instance, Rohingya settlements in Shaheen Bagh in Delhi and Balapur in Hyderabad, are located near bodies of water that, like many water sources in India, are heavily polluted. These locations flood and/or create health risks. They may also be undesirable/unsafe for development by landowners for other reasons, and so are rented out to Rohingyas and migrant labourer groups. Heavy rains and river swelling caused severe flooding in Balapur, Hyderabad, in October 2020. Many Rohingya shelters were destroyed in the floods, and a number of Rohingyas have reported severe skin conditions since being exposed to the floodwaters.

As well as flooding, fire has caused persistent devastation to Rohingya homes. Kanchan Kunj settlement in Delhi, has been a temporary refuge for over 50 families who saw their homes in nearby Kalindi Kunj burn down in a devastating fire in April 2018.⁴² However, the Kanchan Kunj land is owned by the Uttar Pradesh government, and officials have been trying to get the Rohingyas to leave for many months, reportedly threatening the community with bulldozers.⁴³ Then, on 12 June 2021, Kanchan Kunj was completely razed to the ground by fire, once again destroying everything owned by the 53 families living there.⁴⁴ The cause of the fire is unclear, and the Uttar Pradesh government has since refused the Rohingyas resettlement in the area. At the time of writing, these families continue to live in baking hot temporary tents without a prospect of resettling elsewhere.

Unsafe wiring and poor-quality construction (and

sometimes arson) have resulted in several other serious fires that have destroyed Rohingya homes and belongings in Delhi, Haryana, and Jammu.⁴⁵ There have been at least ten incidents since late 2016 – the most recent being the devastating Kanchan Kunj fire in June 2021. In these fires, Rohingyas frequently lose savings, belongings, and important documents, such as UNHCR Refugee Cards and school transcripts. This places them in an even more precarious situation.

In addition to flooding and fire risks, Rohingya settlements across the country also suffer from poor sanitation, no regular water supply, and overcrowding. Inadequate toilet facilities and water supply have caused the spread of easily preventable illnesses such as diarrhoea.

Two Rohingyas petitioned the Supreme Court of India in 2013, challenging the abysmal living conditions in Delhi and Haryana.⁴⁶ After the Government announced plans to deport the Rohingya community in 2017,⁴⁷ other Rohingya refugees submitted further petitions to challenge the threat of *refoulement*. The 2013 petition relating to living conditions was then rolled into Court hearings related to the deportation case. In this context, in April 2018, the Supreme Court of India asked the government to file a report on the basic amenities provided in three settlements in Delhi and Haryana, as sanitary conditions had continued to deteriorate and were severely impacting health.⁴⁸ The Government commented a month later (May 2018), reiterating that basic amenities are available to the Rohingyas as per national standards and that Rohingyas should not expect more. However, dire living conditions in the settlements have remained the same.

Since March 2020, financial, employment and settlement insecurities for Rohingyas have been compounded by the COVID-19 pandemic, which has left marginalised groups increasingly vulnerable.⁴⁹ Rohingyas have faced a loss of income with lockdowns, exclusion from government relief packages, delayed/limited access to vaccines, and health service access challenges. At least 53 Rohingyas in the group detained in Jammu in March 2021 have reportedly tested positive for COVID-19, one of whom – a 55-year-old Rohingya woman called Noor Aisha – died of a heart attack as a result of post-COVID illness in June 2021.⁵⁰

INCIDENTS OF FIRE IN ROHINGYA SETTLEMENTS (2016-2021)

| | |
|------------------|--|
| JUNE 2021 | Fire in Kanchan Kunj, Delhi (temporary Madanpur Khadar settlement allotted following April 2018 fire), entire settlement gutted and 53 homes destroyed |
| APR. 2021 | Fire in Rohingya settlement, Jammu, at least sixteen homes destroyed |
| FEB. 2020 | Fire in Narwal settlement, Jammu, 5 homes destroyed |
| JUNE 2019 | Fire in Maratha Mohalla, Jammu, up to 200 homes destroyed (41 belonging to Rohingyas) |
| MAY 2018 | Fire in Chandeni camp 1, Haryana, damaged around 57 homes |
| APR. 2018 | Fire in Kalindi Kunj, Delhi, destroyed around 46 homes |
| APR. 2017 | Fire in Bhagwati Nagar, Jammu, (suspected arson) affecting 5 Rohingya homes and two other dwellings |
| APR. 2017 | Fire in Nangali, Haryana, 5 homes destroyed, one person severely burnt |
| NOV. 2016 | Fire in Narwal settlement, Jammu, more than 80 homes destroyed and 4 killed |
| 2016 | Fire in Rohingya settlement, Haryana [no news link – recollection of community] |

CLIMATE OF SURVEILLANCE, INSECURITY, AND FEAR

The increasing insecurities and protection failures relating to Rohingyas’ deteriorating legal status in India have occurred in tandem with increasing public hostility towards Rohingyas. This hostility has been stoked by influential politicians and media houses. In July 2017, Member of Parliament for the Bharatiya Janata Party (BJP), Swapan Dasgupta, falsely claimed in the Rajya Sabha that Rohingyas seeking refuge in Jammu and Ladakh presented a “national security” concern.⁵¹ In July 2018, Kiren Rijiju – BJP Minister of State, Ministry of Home Affairs – responded to a question in Parliament about Rohingyas in India, using negative emotive terms such as: “illegal infiltration”, “clandestine” and

“surreptitious” – assuring Parliament that the Government was continuing to implement their policy of identifying Rohingyas with the intention to deport on mass.⁵² That same month, Raja Singh, a BJP member of the Telangana Legislative Assembly, declared: “If these Rohingyas and Bangladeshi illegal immigrants do not leave India respectfully, then they should be shot and eliminated.”⁵³

Behind these political statements, the Government has ramped up biometric and biographic data collection of Rohingyas in the country – often using intimidating tactics. These identity data collection drives followed an internal letter by the Ministry of Home Affairs on 8 August 2017, addressed to Chief Secretaries of all state governments and union territories.⁵⁴ Paragraph four stated:

Detection and deportation of such illegal migrants from Rakhine state, also known as Rohingyas is a continuous process. Therefore, it is essential to identify such illegal migrants/persons and also keep a watch on their activities for preventing any untoward incident that can take place. All States/UT Administrations are, therefore, advised to sensitize all the law enforcement and intelligence agencies for taking prompt steps in identifying the illegal migrants and initiate the deportation processes expeditiously and without delay.

Intimidating, unannounced checks have occurred with frequency in Delhi, Haryana, Hyderabad and Jammu. In October 2018, police authorities in Delhi issued identity verification forms entitled “Personal Data Forms”, which required Rohingyas to record their names, dates of birth, physical descriptions of themselves, criminal convictions, family members and close relatives in India and Myanmar. These forms were in Burmese and English, causing Rohingyas to fear the data would be shared with Myanmar for deportation purposes. Sharing refugee data can also place family members at risk in Myanmar.⁵⁵ While governments have a right to register and document all persons within a state’s territory, they also have obligations to protect those seeking asylum. These data drives that specifically target Rohingyas have lacked transparency and information regarding the end-use of the data. This extraction of data comes with no discernible protections or access to services for refugees. It is also framed as a tool for deportation and is couched in surveillance language.⁵⁶

Politicians and the national media have also exacerbated Rohingya marginalisation in the country

by erroneously entangling citizenship politics with the Rohingya’s urgent humanitarian need for protection. In December 2019, the Indian government passed the Citizenship (Amendment) Act (CAA), which offered expedited pathways to citizenship for religiously persecuted minorities from neighbouring countries. These provisions overtly excluded Muslim refugees from Afghanistan, Myanmar and Bangladesh. They further excluded all other refugees from Myanmar. Shortly afterwards, in January 2020, Dr Jitendra Singh – Minister of State in the Prime Minister’s Office –stated that Rohingyas “are not part of the six religious minorities (Hindu, Sikh, Buddhist, Jain, Parsi and Christian) in three neighbouring states (Pakistan, Bangladesh and Afghanistan). They are from Myanmar and hence have to go as they are not eligible for Indian citizenship under the CAA.”⁵⁷ Rohingyas have never called for Indian citizenship, and the question of Indian citizenship for Rohingyas is in not connected to their status as stateless refugees with protection needs and basic rights. However, these two issues have been conflated in a manner which has undermined the legitimacy of their refuge in India. This rhetoric has been used to justify the denial of protection and increased hostility towards the Rohingya refugees. Elements of the national media and voices on social media have also ramped up negative coverage of Rohingyas and shared fake news stories designed to stoke fear about the community and further feed general Islamophobic narratives.⁵⁸ This has, in turn, exacerbated Rohingya experiences of marginalisation, discrimination and contributed to a sharp decrease in protection.

STOKING FEAR AND HATE

In February 2017, a group called the Jammu and Kashmir National Panthers Party put up billboards across Jammu calling on Rohingya refugees and Bangladeshi migrants to “quit India”. At a press conference on 7 April 2017, Rakesh Gupta – President of the Jammu Chamber of Commerce and Industry – threatened to launch an “identify and kill movement” if the government did not deport Rohingya refugees.⁵⁹ In 2019, West Bengal erupted into protests and violence, some of which was directed against the Rohingya community. Many Rohingya in West Bengal went into hiding or dispersed to other areas. That year, around the elections, viral Facebook posts falsely accused Rohingyas of cannibalism, and were accompanied by posts that threatened to burn their homes if they did not leave India.⁶⁰

Since the onset of the COVID-19 global pandemic in early 2020, Rohingya refugees have become a target for other fake news conspiracy theories. Some media outlets reported fabricated stories that Rohingya refugees were deliberately “infected” with COVID-19 and ordered to spread it across the rest of the country.⁶¹ Legitimising these narratives, the Indian Home Ministry told states that tracking and screening “Rohingya Muslims” for COVID-19 must be a priority.⁶² These fabricated stories have compounded the social marginalisation of a community already excluded from basic welfare and education opportunities. As noted above, Rohingya refugees, like other refugee groups, have not been entitled to receive COVID-19 relief assistance from the government. Moreover, in the fallout from the pandemic crisis, charities and humanitarian organisations have seen their donations plummet and/or resources have been redirected, as the country fights to alleviate suffering among citizens.⁶³ This has contributed to an acute protection crisis for Rohingyas across the country, which appears to be worsening year on year.

CONCLUSION

Since 2017, Rohingya refugees in India have faced deteriorating protections that amount to a humanitarian and human rights crisis. The degradation of their legal status, systematic exclusion from documentation and basic services, coupled with increasing harassment and detentions by the authorities, have placed the refugee community in highly precarious positions. Rohingyas continue to be at acute risk of being *refouled* to Myanmar by the Indian authorities, where their lives are in immediate danger. Within India, the erosion of their status and hate-campaigns fuelled by public figures and the national media have negatively impacted living conditions and access to services, leading to increasing insecurities and vulnerabilities. This human rights

crisis has been further compounded by the health and economic impacts of the COVID-19 pandemic.

Rohingya activists, Indian civil society, lawyers, UN actors and international non-government actors have continued to challenge ongoing discrimination and marginalisation in the country. For instance: Rohingya activists and Indian advocates have filed cases in the Indian Supreme Court seeking to prevent deportation and improve living conditions; prominent lawyers continue to speak publicly against ongoing discrimination; and community support groups and UNHCR continue to bridge relief gaps with emergency humanitarian assistance. In 2017, the National Human Rights Commission of India issued a press release reminding the Indian government of Rohingya human rights as enshrined in Article 21 of the Indian Constitution (right to life and personal liberty).⁶⁴ At the international level, the United Nations Special Rapporteur on Contemporary forms of Racism, E. Tendayi Achiume, recently reported on the digital discrimination faced by Rohingya refugees in India and has intervened in an attempt to prevent deportations, including the 170 detained in Jammu.⁶⁵ Rohingya, Indian and international civil society organisations also regularly report on protection gaps and discrimination, providing important sources of information for advocacy.⁶⁶

Nonetheless, the protection situation Rohingyas face in India continues to deteriorate. It is a human rights crisis exacerbated by the hostile political climate. Official statements, policies, and the practices of state authorities target Rohingya and enable harassment. Without meaningful efforts by the Indian Government to provide Rohingyas with a refugee status, decent living conditions, and protection against harassment, detention and *refoulement*, this vulnerable refugee group has limited prospects of realising their fundamental human right to safe and dignified refuge.

TIMELINE OF KEY EVENTS NOTED IN THE BRIEF

2012

- Rohingyas able to undergo Refugee Status Determination with UNHCR and receive Long Term Visas.

2013

- 3 September 2013. Petition filed in the Indian Supreme Court: Jaffar Ullah & ANR. V. Union of India & Ors. WP (C) 859/2013.

2016

- 26 November 2016, fire in Narwal settlement, Jammu, kills four Rohingya refugees and destroys over 80 Rohingya homes.

2017

- 8 August 2017, Ministry of Home Affairs advisory directs states to identify Rohingya and plan for deportation.
- 9 August 2017, Minister of State in the Ministry of Home Affairs, Kiren Rijju, declares in Parliament, the government's intention and powers to deport Rohingya.
- 18 August 2017, National Human Rights Commission issues notice (press release) to the Union Home Ministry over reported move to deport illegal Rohingya immigrants to Myanmar.
- 25 August 2017, beginning of large-scale exodus of Rohingya refugees from Myanmar following persecution and acts of genocide.
- 30 August 2017, Petition filed in the Indian Supreme Court: Mohammad Salimullah v . Union of India, WP (C) 793/2017.
- LTVs not granted or renewed for UNHCR-registered Rohingyas.
- Police authority drives to collect Rohingya personal data increase in frequency.

2018

- 9 April 2018, Supreme Court requires the government to file a report on the basic amenities provided in three settlements in Delhi and Haryana.
- 15 April 2018, fire completely destroys Kalindi Kunj Rohingya settlement in Delhi, gutting around 47 homes.
- 11 May 2018, Government comment on basic amenities case – Rohingyas “not discriminated against.”
- 4 October 2018, India deports 7 Rohingya men to Myanmar.

2019

- 3 January 2019, India deports family of 5 Rohingyas to Myanmar.
- 11 September 2019, United Nations Human Rights Chief criticises India for planned deportation of all Rohingyas to Myanmar.
- Increasing hate campaign on social media against Rohingyas. Fake news stories and threats in West Bengal cause many to leave the state.

2020

- Continuing hate campaign on social media against Rohingyas. In March 2020 this included fabricated reports that Rohingya refugees were deliberately infected with COVID-19 to spread it.
- 10 January 2020, UN Special Rapporteur on Contemporary Forms of Racism, E. Tendayi Achiume [files an application](#) in the Indian Supreme Court to intervene in the Rohingya deportation case
- 10 November 2020, UN Special Rapporteur on Contemporary Forms of Racism E. Tendayi Achiume releases report to the 75th General Assembly. Report includes criticism of India's discrimination against Rohingyas.
- Late 2020, detentions of Rohingyas increase. Particularly in West Bengal and northeast states.

2021

- 1 February 2021, Military coup d'état in Myanmar and nationwide uprising.
- 6 March 2021, Indian authorities detain around 170 Rohingyas in Jammu. This is followed by the arrest of 71 Rohingyas outside UNHCR in Delhi.
- 11 March 2021, interim application filed by Mohammed Salimullah seeking the release of 170 Rohingya detainees Jammu & Kashmir State.
- 26 March 2021, Supreme Court of India reserves its verdict on pleas to prevent Rohingya deportation cases. The Supreme Court also refuses permission for UN Special Rapporteur E. Tendayi Achiume to assist in the case.
- 1 April 2021, the Government of India unsuccessfully attempts to deport a 14-year-old Rohingya girl to Myanmar.
- 12 June 2021, fire completely destroys Kanchan Kunj temporary settlement in Delhi, gutting over 50 homes and once again displacing families who had survived the April 2018 fire.

NOTES

¹ Rakhine State is also known as Arakan State. The name was changed by the central government in the 1990s. Some of those in opposition to the military state continued to use the term Arakan.

² UNHCR, 'Rohingya Crisis needs lasting solutions', 21 August 2020, available at: <https://www.unhcr.org/uk/news/briefing/2020/8/5f3e60124/unhcr-rohingya-crisis-needs-lasting-solutions.html>

³ CESF Consortium, 'Together We Can: The Covid-19 Impact on Stateless People & A Roadmap for Change', June 2021, available at: https://files.institutetsi.org/together_we_can_report_2021.pdf pp59-61 (accessed 05/08/2021)

⁴ See also: Institute on Statelessness and Inclusion et al, 'Human Rights and Covid-19: What next for Rohingya?', 2020, available at: https://files.institutetsi.org/Covid19_The_Rohingya_Briefing_Paper.pdf (accessed 14/06/2021) and 'Locked in and locked out: The impact of digital ID systems on Rohingya populations, 2020, available at: https://files.institutetsi.org/Locked_In_Locked_Out_The_Rohingya_Briefing_Paper.pdf (accessed 14/06/2021)

⁵ OHCHR, 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', 17th Sept 2018, A/HRC/39/CRP.2 available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E> (accessed 14/06/2021)

⁶ For updates see International Court of Justice (ICJ), Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), <https://www.icj-cij.org/en/case/178> (accessed 14/06/2021)

⁷ For updates see: International Criminal Court (ICC), Bangladesh/Myanmar ICC-01/19, <https://www.icc-cpi.int/bangladesh-myanmar> (accessed 14/06/2021)

⁸ See OHCHR, 'Report of the Special Rapporteur on the situation of human rights in Myanmar', 4th March 2020, A/HRC/43/59, available at: https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session43/Documents/A_HRC_43_59_AdvanceUneditedVersion.docx (accessed 14/06/2021)

⁹ Washington Post, 'Myanmar teeters towards state collapse and civil war', 07/04/2021, <https://www.washingtonpost.com/world/2021/04/07/myanmar-protests-coup-analysis/> (accessed 14/06/2021); Associated Press, 'UN Envoy: Myanmar faces possibility of major civil war', 01/04/2021, <https://apnews.com/article/civil-wars-us-news-myanmar-united-nations-82e1a21c357d3bbc1e55d266d324d1ed> (accessed 14/06/2021)

¹⁰ Special Advisory Council for Myanmar (SAC-M), 'India Must Not Deport Rohingya refugees to Myanmar', 19th April 2021, available at: <https://specialadvisorycouncil.org/wp-content/uploads/2021/04/SAC-M-PR-India-Must-Not-Deport-Rohingya-ENGLISH.pdf> (accessed 14/06/2021)

¹¹ Where numbers of Rohingyas are given in this Brief – e.g. total population, or numbers of families in a settlement, or detainee figures – they are generally-accepted approximations based on news sources or reports from community groups on the ground. Exact figures are very difficult to verify, as the population is insecure and mobile as a result of their precarious legal status, frequent persecution, and employment insecurities.

¹² There are also some Rohingya refugees who are not registered with UNHCR India, although exact numbers are impossible to verify. Refugees may face barriers to registration or may choose to remain anonymous within a host country's towns and cities – especially where humanitarian assistance is limited and/or where authorities are known to target refugee groups for harassment, persecution and refoulement.

¹³ Mary Beth Morand & Jeff Crisp, 'Destination Delhi: A review of the implementation of UNHCR's urban refugee policy in India's capital city' (Jul 2013) UNHCR 9.

¹⁴ Ibid.

¹⁵ Tibetan refugees residing in India have reportedly also been issued these biometric IDs. Press Trust of India, 'Haryana to give govt benefits to children of Tibetan refugees', 06 February 2021, Outlook India, News Scroll, available at: <https://www.outlookindia.com/newscroll/haryana-to-give-govt-benefits-to-children-of-tibetan-refugees/1728027> (accessed 04 August 2021).

¹⁶ Kiren Rijju, 9 August 2017, Written Answer to Unstarred Question, Rajya Sabha, https://rsdebate.nic.in/bitstream/123456789/677607/1/IQ_243_09082017_U2615_p206_p207.pdf (accessed 05/08/2021)

¹⁷ Ministry of Home Affairs, 'Identification of illegal migrants and monitoring thereof – regarding', MHA Doc No. 24013/29/Misc./2017. CSR.III (i), 8 August 2017

¹⁸ Special Advisory Council for Myanmar (SAC-M), 'India Must Not Deport Rohingya refugees to Myanmar', 19th April 2021, available at: <https://specialadvisorycouncil.org/wp-content/uploads/2021/04/SAC-M-PR-India-Must-Not-Deport-Rohingya-ENGLISH.pdf> (accessed 14/06/2021)

¹⁹ Human Rights Watch, 'India don't forcibly return Rohingya refugees', 17 August 2017, <https://www.hrw.org/news/2017/08/17/india-dont-forcibly-return-rohingya-refugees>

²⁰ OHCHR, 'Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar', 17th Sept 2018, A/HRC/39/CRP.2 available at: <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=23575&LangID=E> (accessed 14/06/2021)

²¹ Mohammad Salimullah v. Union of India, WP (C) 793/2017

²² See also Institute on Statelessness and Inclusion et al, Human Rights and Covid-19: What next for Rohingya?, 14/06/2021, available at: https://files.institutetsi.org/Covid19_The_Rohingya_Briefing_Paper.pdf (accessed 14/06/2021)

²³ Kapil Kajla, '88 Rohingyas detained by Delhi Police' 15 March 2021, The Federal, <https://thefederal.com/news/88-rohingyas-detained-by-delhi-police-even-as-168-in-jk-to-be-deported/> (accessed 17/06/2021)

²⁴ Hannah Ellis-Petersen and Aakash Hassan, 'India detains refugees and threatens to deport them to Myanmar', 8 March 2021, The Guardian, <https://www.theguardian.com/world/2021/mar/08/india-detains-rohingya-refugees-and-threatens-to-deport-them-to-myanmar> (accessed 17/06/2021)

²⁵ Washington Post, 07/04/2021, 'Myanmar teeters towards state collapse and civil war', <https://www.washingtonpost.com/world/2021/04/07/myanmar-protests-coup-analysis/> (accessed 14/06/2021); Associated Press, 'UN Envoy: Myanmar faces possibility of major civil war', 01/04/2021, <https://apnews.com/article/civil-wars-us-news-myanmar-united-nations-82e1a21c357d3bbc1e55d266d324d1ed> (accessed 14/06/2021)

²⁶ Ismat Ara, 'After Jammu, 71 Rohingyas detained in Delhi for protest at UNHCR Office', 16 March 2021, The Wire, <https://thewire.in/rights/rohingyas-detained-delhi-unhcr-protest> (accessed 14/06/2021)

- ²⁷ Priya Pillai, 19 April 2021, OpinioJuris, <https://opiniojuris.org/2021/04/19/international-law-omissions-rohingya-deportation-or-der-of-the-supreme-court-of-india/> (accessed 14/06/2021)
- ²⁸ OHCHR, 'Global Compact for Migration' Technical note: The principle of non-refoulement under international human rights law'; (2018), available at: <https://www.ohchr.org/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNonRefoulementUnderInternationalHumanRightsLaw.pdf>, p 1.
- ²⁹ For further information on the India's international legal obligations relating to the principle of non-refoulement, see Amicus Brief, "Legal Opinion on India's obligations under International Law to not deport Rohingyas", UN Special Rapporteur on contemporary forms of racism, 2019, available: <https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/Activities.aspx> (accessed 17/06/2021)
- ³⁰ For further information on the India's international legal obligations relating to the principle of non-refoulement, see Amicus Brief, "Legal Opinion on India's obligations under International Law to not deport Rohingyas", UN Special Rapporteur on contemporary forms of racism, 2019, available: <https://www.ohchr.org/EN/Issues/Racism/SRRacism/Pages/Activities.aspx> (accessed 17/06/2021)
- ³¹ Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), Judgment of 20 July 2012, I.C.J. Reports 2012, para. 99.
- ³² See Human Rights Committee, general comment No. 29, U.N. Doc. CCPR/C/21/Rev.1/Add.11, para. 7; U.N. Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, U.N. Doc. A/HRC/37/50, paras. 11-16.
- ³³ U.N. Special Rapporteur on Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, U.N. Doc. A/HRC/37/50, paras. 60-63.
- ³⁴ Human Rights Watch, October 2018, <https://www.hrw.org/news/2018/10/04/india-7-rohingya-deported-myanmar>
- ³⁵ Kirsty Siegfried, 'The Refugee Brief', 4 Jan 2019, UNHCR, <https://www.unhcr.org/refugeebrief/the-refugee-brief-4-january-2019/> (accessed 17/04/2021)
- ³⁶ Devjyot Ghoshal, Zarir Hussain, 'India moves to deport Rohingya girl to Myanmar, draw criticism' 1 April 2021, Reuters, <https://www.reuters.com/article/bangladesh-rohingya-india-myanmar/india-moves-to-deport-rohingya-girl-to-myanmar-draws-criticism-idUSKBN2BO5Q2> (accessed 17/06/2021)
- ³⁷ R4R/ROHRingya, (23 February 2021), Rescue Appeal for Stranded Rohingya Refugees on Andaman Sea <https://www.rohingya.org/news-details.php?NewsID=659> (accessed 05/08/2021)
- ³⁸ UNHCR Thailand, 22 February 2021, UNHCR Appeals for Immediate Rescue of Rohingya Refugees in Distress on the Andaman Sea, <https://www.unhcr.org/asia/news/press/2021/2/603339354/unhcr-appeals-for-immediate-rescue-of-rohingya-refugees-in-distress-on.html> (accessed 05/08/2021)
- ³⁹ Ruma Paul, 7 June 2021, Rohingya Refugee Boat lands in Indonesia after 113 day voyage, Reuters, <https://www.reuters.com/world/asia-pacific/rohingya-refugee-boat-lands-indonesia-after-113-day-voyage-2021-06-04/> (accessed 05/08/2021)
- ⁴⁰ Subrata Chatteraj, 'Go to UNHCR for 4 Rohingyas: HC to Bengal, Centre', 13 January 2021, Times of India, <https://timesofindia.india-times.com/city/kolkata/go-to-unhcr-over-four-rohingyas-hc-to-bengal-centre/articleshow/80241312.cms> (accessed 17/06/2021)
- ⁴¹ Jessica Field, Anubhav Dutt Tiwari, and Yamini Mookherjee (2017). Urban Refugees in Delhi: Identity, Entitlements and Well-Being. International Institute of Environment and Development. Urban Humanitarian Crises Working Paper Series. (October 2017).
- ⁴² Ali Johar and Jessica Field, 'Fire reduces Rohingya camp to ashes', 18 April 2018, Refugees Deeply, <https://deeply.thenewhumanitarian.org/refugees/community/2018/04/30/fire-reduces-rohingya-camp-to-ashes-exposing-indias-refugee-policies> (accessed 17/06/2021)
- ⁴³ W. Hasan, 13 April 2021, 'Rohingya Huts Demolished, Damaged at Delhi's Kanchan Kunj Refugee Camp', <https://clarionindia.net/rohingya-huts-demolished-damaged-at-delhis-kanchan-kunj-refugee-camp/> (accessed 05/08/2021)
- ⁴⁴ Zafar Aarfaq, 13 June 2021, 'India: Fire rips through Rohingya camp, leaving hundreds homeless', <https://www.aljazeera.com/news/2021/6/13/lost-everything-fire-engulfs-rohingya-camp-in-delhi> (accessed 05/08/2021)
- ⁴⁵ Johar and Field, 'Fire reduces Rohingya camp to ashes', 18 April 2018, Refugees Deeply, <https://deeply.thenewhumanitarian.org/refugees/community/2018/04/30/fire-reduces-rohingya-camp-to-ashes-exposing-indias-refugee-policies> (accessed 17/06/2021)
- ⁴⁶ Jaffar Ullah & ANR. V. Union of India & Ors. WP (C) 859/2013. Subsequently, counter-affidavits by the respondents (Union of India and Governments of Delhi), fact-finding missions by Rohingya support groups, and a rejoinder affidavit by the petitioners ensue between 2013-2015.
- ⁴⁷ Mohammed Salimullah & ANR. V. Union of India & Ors. WP (C) 793/2017
- ⁴⁸ Indian Express, 'Supreme Court asks centre to file comprehensive report on amenities to Rohingya refugees', 9 April 2018, <https://indian-express.com/article/india/supreme-court-asks-centre-to-file-comprehensive-report-on-amenities-to-rohingya-refugees-5130317/> (accessed 17/06/2021)
- ⁴⁹ Institute on Statelessness and inclusion et al, 'Human Rights and Covid-19: What next for Rohingya?', 14/06/2021, available at: https://files.institutesi.org/Covid19_The_Rohingya_Briefing_Paper.pdf (accessed 14/06/2021); Rohingya Human Rights Initiative, January 2021, 'Covid-19 Protection Monitoring Mechanism', available at: https://www.rohingya.org/report_pdf/b6f94ad56efe34f8f62a12eb28c315d6.pdf (accessed 07/07/2021); CESF Consortium, 'Together We Can: The Covid-19 Impact on Stateless People & A Roadmap for Change', June 2021, available at: https://files.institutesi.org/together_we_can_report_2021.pdf pp59-61 (accessed 05/08/2021)
- ⁵⁰ Kanika Gupta, 18 June 2021, 'Rohingya refugees struggle for vaccine in COVID-hit India', Aljazeera, <https://www.aljazeera.com/news/2021/6/18/rohingya-refugees-struggle-for-vaccine-in-covid-hit-india> (accessed 05/08/2021)
- ⁵¹ Swapan Dasgupta, Rajya Sabha: 'matters raised with permission', 24 July 2017, <https://rsdebate.nic.in/handle/123456789/680318> (accessed 05/08/2021)
- ⁵² Kiren Rijju, Rajya Sabha: Written answers to unstarred questions, 25 July 2018, <https://rsdebate.nic.in/handle/123456789/687004> (accessed 05/08/2021)
- ⁵³ H. Cockburn, 31 July 2018, 'Shoot Bangladeshi and Rohingya migrants who won't leave', says Indian politician' The Independent, <https://www.independent.co.uk/news/world/asia/bangladesh-rohingya-immigrants-india-shot-dead-killed-bjp-rajya-singh-a8472036.html> (accessed 17/06/2021)
- ⁵⁴ MHA, 8 August 2017, Doc No. 24013/29/Misc./2017.CSR.III (i), https://mha.gov.in/sites/default/files/advisoryonillegalmigrant_10092017_2.PDF accessed 17/06/2021)
- ⁵⁵ Chayyanika Nigam, Himanshu Mishra, and Puneet Kumar Sharma, 23 September 2019, 'Delhi Police to create digital database of Ro-

hingya', India Today, <https://www.indiatoday.in/mail-today/story/delhi-police-to-create-digital-database-of-rohingya-1602072-2019-09-23> (accessed 07/07/2021).

⁵⁶ Institute on Statelessness and Inclusion, Locked in and locked out: The impact of digital identity systems on Rohingya populations, Briefing Paper November 2020, https://files.institutesi.org/Locked_In_Locked_Out_The_Rohingya_Briefing_Paper.pdf (accessed 17/06/2021); A. D. Tiwari and J. Field, 'Bureaucratic Gaps and Exclusion: The limits of documentary 'protection' for Rohingyas in India', 3 December 2020, Kaldor Centre UNSW Sydney, <https://www.kaldorcentre.unsw.edu.au/publication/bureaucratic-gaps-and-exclusion-limits-documentary-%E2%80%98protection%E2%80%99-rohingyas-india> (accessed 17/06/2021)

⁵⁷ Divya Trivedi, 23 April 2021, 'Rohingya refugees in India face deportation threat amid return of military rule in Myanmar', Frontline, <https://frontline.thehindu.com/the-nation/rohingya-refugees-in-india-face-deportation-threat-amid-return-of-military-rule-in-myanmar/article34232490.ece> (accessed 17/06/2021)

⁵⁸ Shakuntala Banaji and Ram Bhat, 'Disinformation against Indian Muslims during the COVID-19 pandemic', 24 September 2020, LSE Blogs, available at: <https://blogs.lse.ac.uk/mediase/2020/09/24/disinformation-against-indian-muslims-during-the-covid-19-pandemic/> (accessed 04/08/2021).

⁵⁹ Rayan Naqash, 'Rohingya refugees are the unwitting victims of Jammu and Kashmir's regional and demographic politics', 8 May 2017, Scroll.in, <https://scroll.in/article/836556/rohingya-refugees-are-the-unwitting-victims-of-jammu-and-kashmir-s-regional-and-demographic-politics> (accessed 17/06/2021)

⁶⁰ Goel, V. and S. A. Rahman, 'When Rohingya refugees fled to India, hate speech followed', 14 June 2019, The New York Times, <https://www.nytimes.com/2019/06/14/technology/facebook-hate-speech-rohingya-india.html> (accessed 17/06/2021)

⁶¹ Tapan Kumar Bose, 'Covid-19: Rohingya refugees are battling Islamophobia and starvation', 1 May 2020, The Wire, <https://thewire.in/rights/india-rohingya-refugees-starvation-covid-19> (accessed 17/06/2021)

⁶² Neeraj Chauhan, 'MHA wants Rohingya screened for Covid-19 after Tablighi-Jamaat link emerges', 17 April 2020, Hindustan Times, <https://www.hindustantimes.com/india-news/mha-wants-rohingya-screened-for-covid-19-after-tablighi-jamaat-link-emerges/story-af1tHOV-qd9Cf8p3QdQcJwO.html> (accessed 17/06/2021)

⁶³ Roshni Shanker and Prabhat Raghavan, 'The invisible crisis: Refugees and Covid-19 in India', 19 May 2020, Kaldor Centre UNSW Sydney, <https://www.kaldorcentre.unsw.edu.au/publication/invisible-crisis-refugees-and-covid-19-india> (accessed 17/06/2021)

⁶⁴ National Human Rights Commission (India), 18 August 2017, <https://nhrc.nic.in/press-release/nhrc-notice-union-home-ministry-over-reported-move-deport-illegal-rohingya-immigrants> (accessed 07/07/2021).

⁶⁵ E. Tendayi Achiume, Special Rapporteur on Contemporary Forms of Racism, November 2020, 'Racial and xenophobic discrimination, emerging digital technologies in border and immigration enforcement', Report to the 75th UN General Assembly, UNOHCHR, A/75/590. See also: The Wire, 26 March 2021, SC Reserves Order on Plea Against Deportation of Rohingya Refugees in Jammu, <https://thewire.in/law/sc-reserves-order-on-plea-against-deportation-of-rohingya-refugees-in-jammu> (accessed 07/07/2021).

⁶⁶ See: Rohingya Human Rights Initiative (<https://www.rohingya.org/> and Twitter @rohingya); Development and Justice Initiative (<https://www.daji.org.in/> and Twitter: @Dajirefugee); Institute on Statelessness and Inclusion (<https://www.institutesi.org/> and Twitter: @institute_si); Free Rohingya Coalition (<https://freerohingyacoalition.org/en/> and Twitter: @FreeRoCoalition).

