Seminar Report

The Rohingya Refugee Crisis: Causes and Consequences: Search for a Durable Solution

11th May 2018, India International Centre, New Delhi

The Rohingya Refugee Crisis: Causes and Consequences: Search for a Durable Solution” was a daylong Consultation held on May 11, at the India International Centre, New Delhi. The conference was organised by the South Asia Forum for Human Rights in collaboration with Development and Justice Initiative, India International Centre and Euro-Burma office. It brought together around 80 leading activist voices from civil society in Myanmar, the Rohingya community in Bangladesh and India, exile groups in the UK, official representative from Bangladesh, diplomats, lawyers, academics, social justice and women’s groups activists, the media, international agencies, faith based organisations and students.

The Conference on the Rohingya crisis was organised with a view to encourage the emergence of an informed discourse on the Rohingya, a people rejected by the country they call home and unwanted by their neighbours. The conference aimed to shift the emphasis from a security centric approach to the Rohingya refugee crisis to a human security one. Over-determination of the national security threat risks producing improper policy responses, undermining the human security of the refugees and rendering them vulnerable to extremist influences.
Setting out the thematic terrain: the humanitarian and human rights crisis, it sought to situate the Rohingya crisis within the global challenge of global refugee/migrant flows and the limitations of the international protection regime. It brought into the discursive framing of the international response, the role of South Asian states– in particular India and global response. It identified the different perspectives and priorities of various stake holders on the Rohingya crisis, and the near impossibility of their return with security and dignity.

Within Myanmar, over the last few decades the Rohingya has been psychologically and socially dehumanized as the ‘other’, and as ‘migrant’, denying their claim to ancestral domain in the Arakan, renamed Rakhine. This ‘othering’ has got further overlaid by the ‘Islamic terrorist’ discourse and uncritically echoed by many governments, and obscuring the genocidal tragedy of the Rohingya. Meanwhile, in Myanmar as well as Sri Lanka and Bangladesh exclusionary extremist discourses find easy ideological echo in the social media exacerbating tension, legitimizing exclusion even within Myanmar’s democratic rights civil society.

The discussion was initiated by a mapping of the challenges facing Rohingya, not least being the inadequacy of the Indian and international community response, with Bangladesh with a most adverse land:man ratio sheltering more than a million. As the chair Rita Manchanda, scholar–activist reminded, the Rohingya are not even recognized as refugees and thus afforded the protection of international refugee law. Deliberately, they are called ‘migrants’, their protection and care the responsibility of the International Organisation of Migration.

Rohingyas are an impoverished and a stateless ethnic minority community settled predominantly in the Rakhine province representing the largest percentage of Muslims in Myanmar has co-existed peacefully alongside Buddhists for decades. The latest cycle of violence allegedly carried out by Myanmar security forces compelled more than a million of the Rohingya to flee extrajudicial killings, rape, abuses, communal violence, persecution and terror to neighboring Bangladesh for refuge and security. The UN human rights body has described the brutal military action that caused the mass exodus as “a textbook example of ethnic cleansing”.

Tapan Bose, Secretary General of South Asia Forum for Human Rights, located the Rohingya crisis within global movements of refugees and migrants, and in particular, Myanmar’s role in creating a crisis of statelessness and refugees fleeing persecution and ‘slow genocide’. Empasising the regional repercussions of the crisis, he pointed out that the refugees had crossed international borders largely into Bangladesh, but also spread into India, Pakistan, and Nepal in South Asia. They have travelled in leaky boats to Sri Lanka, to Thailand, Malaysia, Indonesia and Australia. Since the 1970s, military governments in Myanmar have been persecuting the Rohingyas, categorized as ‘illegal Bengali immigrants’, so as to obliterate the evidence of the Rohingyas long habitation in Arakan territory, hundreds of years prior to colonial rule and even before the Burmese conquest of the territory now renamed Rakhine. In fact the Rohingyas were living in Arakan long before the Burmese conquered the region.

The installation of a democratic government in Myanmar has only worsened the persecution of the Rohingyas. The ticking bomb of Rohingya statelessness exploded in August 2017. In less
than two months, about 700,000 Rohingya Muslims and Hindus, women, children and men fled from an attacking army and gangs of Burmese Buddhist. Thousand were raped, killed, tortured, children and the elderly if they survived were burnt alive in whole villages set alight. Bose recalled his two visits to the refugee camps in Cox’ Bazaar. According to the Bangladesh government’s Refugee Relief and Repatriation Commission’s Family Counting Exercise (supported by UNHCR), by March 18 there were 836,210 refugees in total in all the camps. Quoting Yanghee Lee, UN Special Rapporteur, he said, “No amount of videos, photographs or news footage can prepare you for witnessing in-person the immensity of the camps and gravity of the loss and suffering experienced by the Rohingya population.”

Myanmar and Bangladesh have concluded an Agreement in Nov 2017 on the return of ‘migrants’, but the impracticability of such failed status quo solution was already evident. More than a million desperate and dispossessed Rohingyas languishing in camps with no future is a certain recipe for destabilizing South and South East Asia which comprise the largest Muslim population in the world. If Rohingya women children and men were not to fall victim to self-fulfilling Islamophobia about radicalization and violent extremism, it was crucial to intervene now, and assert the Rohingya peoples’ right to life, citizenship and dignity.

Focusing on the crisis within India where the Rohingya face the threat of deportation, Bose mapped the spatial spread of the 40,000 Rohingya refugees - Hyderabad, Jammu, West Bengal, Northeast India and Delhi. Indian government classifies them as illegal immigrants and a threat to national security on the basis of unsubstantiated links with ‘terrorist’ organisations. The Supreme Court of India has provided a temporary reprieve. But there were reports of the Border Security Force using “rude and crude methods” to block new comers. A BSF officer recently said to the media that they had started using chilli sprays and stun grenades.

Sahana Basavapatna, lawyer researcher and human rights defender of the rights of refugees, sought to demystify the hyper security jingoism which was at the root of fostering an anti-refugee/migration sentiment. It was undermining India’s historical record of an accommodative ‘host’ country which has upheld the international principle of non-refuoulement. The country’s lack of recognition of the legal category of ‘refugee’ resulting in the clubbing of all as ‘illegal foreigners’ had resulted in arrests of several Rohingya (and other refugees) who had crossed over into Manipur, India. She expressed concern at the in/security pathology was giving popular legitimacy to the government’s decision to deport the 40,000 Rohingya Refugees. India has extended humanitarian assistance to Bangladesh, but it has been reluctant to use its considerable influence on Myanmar to end the violence and politically address the crisis of making people stateless, including hundreds of thousands of peoples of Indian origin, Hindus and Muslim.

Ravi Nair, South Asia Human Rights Documentation Centre, an expert in monitoring the effectiveness of international institutions and mechanisms, was openly critical of the inadequacy of the UN system’s response to the crisis which according to its own assessment bears the “hallmarks of genocide”. The warnings of a potential genocide were evident years ago when the Myanmar military began targeting Rohingya civilians and it made international headlines. A comprehensive arms embargo then, could have pressured Myanmar’s military into ending the assault. UN system “failed miserably to halt the crimes against humanity, or make the necessary
noises.” Myanmar has benefitted from the role of Russia and China. Singling out culpability of UNDP, he reminded that in 2012 when Rohingyas were being killed and forced out of their villages, the head of UN country team (UNDP Resident Representative) in Myanmar had tried to prevent human rights advocates from visiting sensitive Rohingya areas and isolated staff who tried to warn that ethnic cleansing might be happening. Despite ominous warnings of a genocidal threat and ethnic cleansing by its own officials, the UN and its member states have failed the Rohingya people in appalling ways.

Prof. Nasreen Chowdhary, opened up the discussion by drawing critical attention to India’s ad hoc and discriminatory policy toward refugees and called for the need to formalize a legal policy for refugees to bring in predictability of response and obligation, and not leave it to the discretion of the judiciary and issues of ‘ethics of admission’. Focusing on the threatened Rohingyas refugees in Jammu she contextualized it within the politicization of demography and the situation in the state of Jammu and Kashmir.

Session 2:
The session on “Looking Inside Myanmar and India’s role in restoring Human Rights and Peace” was a rare opportunity to join an exceptional Burmese civil rights thinker-activist (professional dentist) Khin Zaw, and Tun Khin, a leading voice of the Rohingya community in exile, advocating Rohingya rights, globally. Also on the panel was veteran diplomat and author on Myanmar Amb. Malik and Bangladesh Deputy High Commissioner, Rokebul Haque. Steering the session was Amb. Vijay Nambiar, former special adviser on Myanmar of UN Secretary General 2011-2016.

Tun Khin, President of Burmese Rohingya Organisation UK, personalized the Rohingya situation of forcible displacement and statelessness in his own experience ---growing up in Aarakan, the grandson of a former Member of Parliament from his father’s side, the grandson of a judge from his mother’s side, being rendered stateless by the 1982 nationality law. It excluded the Rohingya from the list of 135 ethnic groups considered indigenous and therefore eligible for Burmese nationality. “I grew up in the Arakan state, went to school but the oppressive restrictions imposed on the Rohingya, and choked the possibility of higher education. (Official approval was required for higher education, work permits, travel or marriage which took up to 3 years) I left. Travelling between villages was hard and to other districts was really hard, but I managed to bribe my way and reached Bangkok, seven years ago and got an education. Eventually, I went to the U.K and am currently doing post graduate studies”. From 1990 onwards the situation got worse - the military imposed restrictions on movement, education, religious practices, and marriage. Permission was necessary to get married, and there were at any point in time an estimated 10,000 pending applications. Emphatically, he denounced the systematic campaign of rape and killings of the Rohingya as ‘pre-planned, the alleged ‘terrorist’ attack of ARSA as a manufactured ruse to execute the operation of ‘preplanned expulsion’ (For more details please see - “Pre-planned Expulsion” Kaladan Press Network 2017).
“This is genocide”. He had been a supporter of the NLD and Aung San Suu Kyi, but was extremely critical of her silence against human rights violations and open complicity in the military’s genocidal campaign. He pointed out that Myanmar government was using divide and rule policy to systematically drive the Rohingyas out of Myanmar. The Rohingyas refugees want to go back to their own land, but without a “protected return to a protected homeland”, we will face mass atrocities. The international community must intervene to ensure protection, he hoped the recent visit of UNSC’s team to Bangladesh would yield action.

Dr. Khin Zaw Win, Director Tampadipa Institute, is one of the very few Burmese Human Rights and Democratic activists to speak up for the rights of the Rohingya, within a context where the very identity of the community, Rohingya has been obliterated, and are constructed as ‘Bengali’ migrants. History is being rewritten, but ironically, in recent memory, VOA used to broadcast in the Rohingya language. In 1961 July, Vice Chief of Army Staff, recognized Rohingya as an ethnic group. That changed with the 1982 Citizenship law resulting in the Rohingyas as well as some other ethnic groups were made stateless in Myanmar. He spoke about the ‘othering’ of the Rohingya by the government’s systematic administrative and military methods, rendering them stateless and finally categorizing them as illegal immigrants from Bangladesh. In mainstream Burmese- Buddhist discourses Rohingyas are demonized as evil people out to destroy Buddhism. To call it “nationalist” was too polite a term, as this nationalist-populist impulse came from inciting racist phobias and demonizing the ‘Other’.

Pointing to the paradox of the revival of the democratic system in Myanmar after half-a-century of military dictatorship opening up core contradictions and multiple ethnic challenges, he suggested that the quasi democratic- military regime was whipping up a racist, authoritarian populism targeting the Muslim minorities, notably the Rohingya, as a prop. This short sighted dangerous policy was threatening not only the economy and governance, but also social and ethnic cohesion. Looking within Myanmar, he stressed the importance of civil society action in opening up a dialogue involving other ethnic groups and pointed to existing initiatives such as inter-faith dialogues that need to be strengthened. Internationally, he expressed optimism in the recent development of the International Criminal Court taking cognizance of the criminal offence of the crime of forced deportation, being forced to cross into the territory of Bangladesh would be a part of that ‘conduct.

[On Wednesday April 11, 2018, ICC judge Antoine Kesia-Mbe Mindua issued a decision that Bensouka's request for a ruling on jurisdiction over the Rohingya deportation met existing criteria and assigned the request to a pre-trial chamber.] The prosecutor’s office on May 7, 2018 sent a 'reference' to the Bangladesh government to allow an investigation. Bangladesh is a signatory to the ICC, Myanmar is not. Characterising Myanmar’s response to the ICC judge’s decision as unsophisticated and defensive, Khin Zaw Win said Aung San Suu Kyi’s attempt to invoke the principle of national sovereignty and non-interference in the internal affairs of other states to block the ICC was another attempt to protect the military. He said Ms. Suu Kyi’s office statement that “that it has not deported any individuals” was completely untrue.
Amb. Preet Malik brought a historical overview, locating it in a colonial-post colonial continuum of frontier geographies and ethnicities and the challenge of integration and social cohesion which the Burmese-Myanmar state is grappling with. The situation is exacerbated by these areas being economically underdeveloped as ‘frontier’ territories. The autonomy envisaged by the Panglong Agreement, including the right to secede has been removed from Myanmar’s constitution. The 2008 Constitution was drafted in an undemocratic manner, without input from representatives elected by the people, and its clauses do not facilitate the establishment of a democratic union. He stressed that “you cannot isolate the peace process with ethnic grouping and rethinking the citizenship law. Despite the government’s structure of peace accords, ethnic conflicts persist. Economic backwardness, he believed, had led most ethnic groups of the frontier areas to form insurgent armies in rebellion against the Burmese government. Locating the Rohingya within the context of Myanmar’s multiple troubled ethnicities (many in armed struggle), he pointed to the anomaly of the construction of the Muslim Rohingya as a demographic ‘threat’ in a context where the population is: Buddhist 88%.Christian 6% and Muslim 4% (uncertain whether statistics include refugees). “Four percent of the population threatened 88 percent of the population!” Emphasising the role of economics in the reconciliation process, Amb Malik argued that India should coordinate with Myanmar and Bangladesh on a trilateral basis to develop the sub-region. The Chinese he believed are interested in a stable settlement.

Mr. Rokebul Haque, the Deputy High Commissioner of Bangladesh, the country that is sheltering 1.2 million Rohingya refugees, spoke of the country’s formidable responsibility for the ‘forcibly displaced Myanmar nationals’ as they are categorized. Discussions were ongoing with Myanmar for implementing the bilateral Agreement for their repatriation, but the response on return under present circumstances makes implementation look very difficult. Meanwhile Bangladesh is confronting a humanitarian crisis that will become even more challenging in the coming monsoon season of rain and mudslides. He defended the plan to shift 100,000 refugees to the island of Bashan Char which human rights activists have decried as there is fear that there will be absolute restriction of movement and communication.

The Bangladeshi government wants the Rohingyas to go back to the Rakhine state. If the crisis continued indefinitely, it would destabilise the entire region of South Asia. He acknowledged India’s support on providing relief, but urged that India play a more pro-active role in persuading the Myanmar government. Amb Nambiar, in pulling together the rich discussion, expressed his own perplexity and disappointment at the Lady (Su Kyi) drawing upon his own personal encounter and expectations.

**Session 3:**

“Voices of Rohingyas” brought to the centre of the discussions, the perspectives and lived experiences of the Rohingya in Bangladesh and India, and as the chair Rita Manchanda emphasised, it challenged the dominant policy framing of others ---UNHCR, IOM –speaking for the refugees. Arguing that ‘participation itself was protection’, she argued against the infantalisation of the refugee especially refugee women, and emphasised the importance of refugees (women and men) being involved in determining the decisions that directly affect their
lives. She regretted camp policies as evident in Cox’s Bazaar that desisted from involving the refugees in building basic infrastructure and thus reinforcing sense of disempowerment and agency.

Razia Sultana, assertively identifies herself as a Rohingya, and is a feminist, a lawyer, human rights defender. When the Burmese military junta nationalized businesses her father a prosperous businessman shifted his business and his family to Chittagong Bangladesh. Razia is a Bangladesh citizenship but deeply involved in campaigning for Rohingya rights, and rohingya women’s rights. She is the author of the devastating pamphlet, (Kaladan Press Network 2017 “Rape by Command’) which documents the widespread and systematic rape by the army of more than 300 women/girls as part of the military offense of ethnic cleansing and planned mass expulsion.

She asserted, “We are not asking for citizenship. We are reclaiming our rights”. She ridiculed the ‘official’ story of the coordinated ‘terrorist’ attack of hundreds by armed men of the Arakan Rohingya Solidarity Army on police –military posts in the Arakan. Where would they have trained in the hills, when in every corner of the highly militarized territory there are police posts and patrols. When people are not able to move from one house to another, forget about a coordinated attack with bombs. Attack pre-planned. Razia expressed sadness and anger at her fallen icon, Suu Kyi.

On working in the camps, Razia spoke of the accommodative welcome of the local people but recognized the growing strain resulting from competition for resources and livelihood. The refugees are obliged to work for one fourth the minimum wage rate. And there is resentment that the refugees get free rations, health care etc. Ironically there are considered ‘rich’ because of access to these resources. It has the girls vulnerable to ‘marriages that are nothing more than pieces of paper’. The camps have become a magnet for traffickers and ‘yava industry’ drug dealers who prey upon the ignorance and innocence of the refugees. For as little as a ‘mobile’, promise of an escape to India, a job they are sucked in. “Rohingya girls have become ‘cheap’. I used to be so proud of saying, I was Rohingya…” Rohingya girls were being brainwashed into “normalizing” prostitution in the refugee camps of Bangladesh. She was critical of women activists focusing on humanitarian and welfare needs and ignoring the need for awareness on gender equality and empowerment.

In India, the 40,000 plus Rohingya refugees have been facing increasing challenges after the government’s policy directive (stayed by Supreme Court) on deportation. Allegations of involvement with terrorist groups and rumors spread by media reports have made more difficult an already difficult their daily life struggles of shelter, health care schooling for children, livelihood and the hazards of being a non-citizen. The four Rohingya asylum seekers came from Jammu, Haryana and Delhi. Many made their way from Bangladesh to India hearing that there was possibility of schooling of finding some job. Sultan (not his name), “After making our way to Delhi we applied for asylum seeker status to UNHCR. We got a card categorizing as a refugee. No other assistance. For 41 days we protested in front of UNHCR office. The police dispersed us and forced us to stay at a railway station for two days. Eventually we were ‘settled’
on government land property, “no construction area”, a makeshift camp constructed out of scraps of recycled wood and plastic, which we bought ourselves. That is home.

Seema (not her name) spoke of the difficulties girls face. Female sanitation and hygiene is a daily struggle. Till 6 months ago there were no toilets installed. UNHCR is providing sanitary napkins for 6 months a year. But in a camp there is nowhere the women can dispose of them.

Sultan (name changed), spoke of how he felt when he saw his father, once a senior government official, carrying loads at a construction site or he an educated young man, loading sacks, tears streaking his face. A benefactor rescued him. He had skills, he was lucky. Refugee children have the right to go to school, but there are just not enough entitlements of books, uniforms or the most important –mid day deal provisions. “We are called dirty”, made to sit apart. A small number of NGOs have been engaged in supporting the residents in camps. The children have received 47 scholarships for free education in primary school. UNICEF also provides facilities for education, but the schools are too far for the children to reach, and public transport is unaffordable.

Sakina (not her name), one of a family of three women/girls, with middle school education, demonstrates the resilience of her family to learn and build a new life for themselves. In Jammu, the refugees have monopolised the digging works required by the city and the railways, the women are busy shelling walnuts but at Rs 100 –it is bare subsistence. Even that could be jeopardized by the xenophobic jingoism stoked by allegations of the ‘Muslim’ Rohingya being a security threat. So far there has been no tension in their day to day interaction with the immediate local community, she said. All of the refugees were emphatic, they wanted to return, but in safety and dignity.

**Session 4:**

‘Establishing accountability- Should the Myanmar government’s acts be considered as genocide?” was introduced by Prof. R. Sudharsan, of Jindal University who referred to the “right to protect” which qualifies the fundamental principle of the UN charter, respect for the sovereignty of member states, overriding it in order to extend protection to vulnerable people. It is the role of the UN to uphold the principles of the UN Charter and to ensure implementation of International Conventions and Protocols.

Nitya Ramakrishnan, Supreme Court of advocate, unpacked the Genocide Convention elaborating on whether the scope and nature of the violations against the Rohingya fitted the International law on Genocide and India’s position. Why did it matter whether the plight and flight of the Rohingya across the borders of the Rakhine state as genocide within the meaning of Article II of the Convention of 1950 and Article 6 of the Rome Statute? If covered the International Community will be duty bound to intervene in terms of Article VIII and failure of Member states to do so may amount to complicity within the meaning of Article III.

Critiquing the Genocide Convention she said, “Intent” as a governing principle was limiting. Knowledge of ensuing consequences should be added, as is the case in even normal criminal
statutes like the definition of culpable homicide. She stressed that the nature of some acts must ipso facto be deemed genocide prone - such as enforced statelessness. In addition, complicity in genocide should be incorporated as an inclusive definition. There should be a presumption of ‘genocidal intent’, ‘genocidal conspiracy’ and ‘actual genocide’ predicated upon an incremental threshold of objective facts. This would be in keeping with the purport of the Convention - of prevention, retribution and reparation.

She listed the reasons why Myanmar’s actions against the Rohingya constituted Genocide - 1. Its refusal to acknowledge Rohingyas as citizens is of long standing - (Article II (b), ((c); 2. Killing by State agents like the military as well failure to act against the killing of Rohingyas by the majority forces (Article II (a); 3. Imposing the conditionality that they deny their identity for bare habitation (Article II (b), (C) (d); 4. sexual assaults and trafficking (b); (c) (f); 5. Impossibility of survival (Article II (a) (b) (c) (d); 6. And the sheer number of deaths, rapes and killing of children argues for intended extermination. Intent is inferable from objective and acknowledged data. Instigation and complicity, so consistent that intent is apparent is in addition to actual genocide. The offences are thus under articles II and III; Buddhist and other groups are jointly and severally guilty.

On what was the scope of India’s responsibility in terms of International Law in relation to the treatment of Rohingyas within its territory, Nitya Ramakrishnan explained that Article 51 of Indian Constitution was a Directive Principle obligating “respect for international law and treaty obligations in the dealing of organized peoples with one another”. The Directive Principles are not justiciable- in the sense that the legislature cannot be mandated to pass a law or the executive to act by a judicial writ, she pointed out that these were to be followed in interpreting existing law or in assessing policy. However, the state is obliged to follow these principles in governance. International Law has been incorporated in the Indian legal system in two ways- by reading it into the content of Fundamental Rights and in interpreting the Indian State’s duties. Non refoulement and aspects of the Refugee Convention have commonly been read into judicial relief, as also covenants on custodial justice.

Referring to India’s obligations in terms of Article VIII of the Genocide Convention, She said that while it might not be amenable to a direct writ- but could be referred to in preventing acts that go against the spirit of the Convention. There are many such acts. Endorsing Burmese anti Rohingya acts as “anti-terrorist” would constitute as direct violation of its constitutional obligations. In her opinion, India’s silence and failure to act in favour of Rohingya rehabilitation and positive approval of Myanmar action - was indicative of complicity- in creating the conditions of genocide- and covered by the Convention. She felt that Indian Courts could be moved to challenge India’s stance in the international arena not so much as inviting a writ to act in a certain way but a direction not to act in a contrary way.

Saumya Uma, Asst. Professor of Law, Ambedkar University emphasized the need to create a legal framework in order to deal with refugee crisis. A campaign lobbyist on the ICC, she took up Khin Zaw Win’s earlier reference of ICC Prosecutor Fatou Bensouda’s request to The Netherlands-based international tribunal’s judges to rule on whether the ICC “can exercise jurisdiction over the alleged deportation of the Rohingya people from Myanmar to Bangladesh.”
The Prosecutor has raised the jurisdiction issue because Bangladesh was a member of the ICC, while Myanmar was not. This is the first request of its kind filed at the ICC. It is an attempt to assert jurisdiction over “deportation” of the Rohingya by Myanmar army soldiers during the crackdown. It is based on the ICC’s ability to assert jurisdiction if the ‘conduct in question’ for a deportation was committed on the territory of a member state. Ms. Fatou Bensouda in her reference has pointed out since crossing a border was a legally required element of the crime of deportation, victims

The real challenge, Saumya said would be to overcome Myanmar’s non-member status. That challenge could be overcome by the involvement of the UNSC which has the power to refer the Myanmar situation to the ICC under Articles 13(b) and 87(7) of the ICC statute. Clearly, the Myanmar Situation presented an opportunity for the UNSC and ICC to stand above geopolitical rivalry and be active in ending impunity for heinous international crimes. Unfortunately, neither the UNSC nor the ICC has yet addressed the perennial problem of their competence and jurisdiction.

In the past, the UNSC was very quick to refer cases of Sudanese President and Libyan leader to the ICC Prosecutor, which launched these cases at a record speed. However, the UNSC has made no such referral as yet regarding the unabated commission of crimes which are covered by the ICC Charter in Syria and Yemen – clearly to protect the permanent members of UNSC. She spoke of a crisis of confidence and rise of popular skepticism about the exercise of the ICC referral jurisdiction. The Rohingya crisis presents another opportunity for the UNSC to refer the situation to the ICC Prosecution, which must act expeditiously as both organs did in case of Sudan and Libya. A failure would mean a support for impunity to prevail over justice and the rule of the jungle over the rule of law and further erode public confidence in the two important international institutions.

Bringing a more political and moral perspective to the discussion on holding the state to account on protection, Assoc. Profesor Centre for Policy Research, Dr Nimmi Kurian provocatively asked “Why the ‘Good’ refugee is a bad idea?

Session 5:

The concluding session brought focus on ‘Bangladesh- Facing the Rohingya Exodus’. Mayanmar in effect has forcibly displaced what it believes is its Rohingya ‘problem’ and made it Bangladesh’s. Journalist-scholar Sukumar Muralidharan, chaired a session that unpacked the material reality of the camp situation and the geo political contextual reality of the regional response to finding a durable solution. Based on his visit to the camps in Cox’s Bazaar, Bharat Bhushan, senior editor and policy analyst mapped the condition of the ‘forcibly displaced Myanmar nationals’ spread across 58,000 acres of land sheltering more than 40,000 orphans, 17,000 pregnant women, 3000 new born infants, etc. He alluded to a recent article in Foreign Policy Magazine that referred to them as the ‘New Palestinians’.

Bharat pointed out that Bangladesh in addition to confronting a major financial crisis because of the massive influx of Rohingya refugees, was also staring at serious environmental damage due to the refugee settlements that have sprung in the hilly regions near Kutupalong and Balukhali.
that have denuded considerable areas of forests. He also highlighted the rampant problem of prostitution and trafficking taking place inside the camps. Bharat was critical of the of the resettlement of Rohingya refugees in Bhashan Char Island was not a durable solution. Relations between the host community and the refugees had been supportive. Indeed Bangladesh government, initially had blocked entry of the refugees, it was civil society pressure that had obliged Sheikh Hasina’s government to allow them in. But with the competition for resources becoming more intense and donor support dwindling, the burden is beginning to strain relations.

He said while by hosting such a large number of refugees, Prime Minister Hasina has got more space internationally for herself and more importantly, for her government’s domestic policies which her critics claim are verging towards intolerance and authoritarianism. However, this international approval unless it is backed by financial support for the refugees was not going to help much.

Speaking about the fear of Islamic radicalization, Bharat Bhusan said, most Bangladeshis, including government officials, felt that Islamic radicalisation of Rohingya refugee youth in the camps was a real possibility and there were enough radicalizing elements within Bangladesh. The prospect was of a desperate excluded generation of young people growing up with virtually no access to education. It was a ripe constituency for extremist recruitment. Rohingya youngsters who have seen their family members shot dead, tortured or raped can easily be prompted to fight back. A lot of Islamic NGOs have emerged suddenly and they are working in the camps. Many have names which people have never heard of earlier. Bharat pointed out that if radicalisation of Rohingya youngsters took place, then it was not going to be a threat only for Bangladesh. It would be a regional problem with the internal security of Myanmar as well as India being directly affected.

Ravi Hemadri, Director of Development and Justice Initiative reiterated the need for humanitarian aid and assistance from the international community. He talked about the response of South Asian states to Bangladesh’s call for international intervention in Myanmar. He reflected on whether the region’s sole mechanism for regional cooperation, SAARC could serve as enabling a regional response. Given the current impasse in SAARC an initiative looks unlikely. In the recent past, the South Asian countries have not been able to forge a collective regional response to the Afghan or Bhutanese refugee crisis. However, more successful has been sub-regional cooperation as in the case of the Bhutanese refugees which involved trilateral – Bhutan-Nepal-India cooperation. Bangladesh seems more interested in appealing to the western countries and the UN than SAARC, though it is working closely with neighbours India and China.

The seminar concluded reiterating the demand for urgent international intervention to ensure “protected return to protected homeland”. It reminded the international community of its obligation under the 2005 UN resolution on Responsibility to Protect (R2P), and recommended that no Rohingya should be forced to return till their citizenship was restored and their safety was guaranteed by an international force. At the South Asian level, it called on the governments of India and Bangladesh to actively engage the Chinese government to put pressure on Myanmar, to change its citizenship laws and to create a safe environment for the Rohingya to actively participate in the democratic life of Myanmar.