

# Reining in the rogue state

## Rohingyas, Bangladesh and the international community



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It was a blatant charade of epic proportion. On September 29, the minister of the Office of the State Counsellor of Burma blamed The Arakan Rohingya Salvation Army (ARSA) and its supporters for “hampering the bilateral repatriation process” at the UN General Assembly session. He accused Bangladesh, now saddled with 1.1 million Burmese nationals, of allowing ARSA and Arakan Army elements to use Bangladeshi territory as a sanctuary. Audaciously, the Burmese minister urged the Government of Bangladesh to “show its genuine political will to cooperate, by strictly adhering to the terms of the agreement signed in 2017”. Reminding that his country “does not respond well to pressure”, he urged the UN audience to provide “time, space and respect for its domestic accountability processes”. The Burmese representative appealed others “to examine the negative narratives on Myanmar carefully and impartially, before drawing their independent conclusions.”

Rejecting such “concocted and misleading assertions”, the representative of Bangladesh persuasively dispelled the claim that the Rohingya issue was a bilateral concern. She reiterated that the Burmese state has created the protracted problem through “inhumane treatment” and by “unleashing a carnage” on the Rohingya. She further alleged that Naypyidaw is resorting to “distorting history and facts to justify its genocidal acts”. The Bangladesh representative noted that the prevailing reality of Rakhine of “isolation, discrimination and clearance operations... obliterating villages and changing maps” are clear indications that the rogue state has no intention to create enabling conditions for the repatriation of Rohingyas.

The timing of the Burmese tirade against Bangladesh is of little surprise. Several factors may have contributed to this.

Firstly, with the national elections scheduled on November 8, to garner the support of the ultra nationalists and religious zealots, the contending parties across the political spectrum of Burma are ratcheting up their anti-Rohingya (and by default, anti-Bangladesh) rhetoric with fresh vigour. They have even rolled out the fictitious claim that it is the (non-existent) Rohingya returnees from Bangladesh who have spread the Covid-19 virus in Rakhine.

Secondly, the scaling up of military operations of the Arakan Army (AA)—a rebel group seeking more autonomy for ethnic Arakanese Buddhists in Arakan and Chin states in recent times, and the increased incidences of clashes between AA and the Tatmadaw (the Burmese military), have thrown a major challenge to the Burmese politico-military establishment. Scores of civilians have been reported killed and tens of thousands displaced. Both parties have traded allegations

of abuse. Expressing its concerns over “reports of intense fighting”, the United Nations has called for “urgent measures to spare civilians”.

Furthermore, the recent confession of two Burmese soldiers about their participation in the Rohingya genocide has provided a major fillip to global accountability processes. The deserters have testified that they were instructed by their commanding officers “to shoot all that you see and that you hear” and “exterminate all *Kalars* (a derogatory term for Rohingya), including babies,” validating the widely held view that the massacres, rapes and other crimes

strategic initiative to collaborate with Rohingya Muslims in their quest for international justice” and presenting the two Burmese army deserters to international justice mechanisms—have been an important development with major ramifications for the political landscape of Arakan. The Arakan Army/UULA’s ultimate goal is “to establish political autonomy for the Arakan or Rakhine region as well as peace and reconciliation with all co-inhabitants of Rakhine, most specifically Rohingya, who also belong to Rakhine as their shared birthplace,” according to Maung

Bangladesh’s past policy of ignoring the reasons for the arrival of the Rohingya from Arakan—presumably viewing them as economic migrants, whose number subsequently rose to 200,000-300,000 prior to August 2017, and thereby failing to alert the international community of the slow-burning genocide that went unabated in Arakan—proved to be grave. Since 1991, its refusal to recognise the incoming Rohingyas as “refugees”, pandering to the Burmese decision to deny the Rohingya their right to self identify and bestowing on them the dubious label of “forcibly displaced persons” rather than refugees (despite fulfilling stiff conditions of the 1951 Refugee Convention), all stem from its efforts to cajole, if not placate, the Burmese. This was no less evident as Bangladesh appeared to be uncritically subscribing to the discourse of “border, law and order and human mobility” skillfully crafted by Naypyidaw on the Rohingya question.

In all likelihood, the policymakers in Bangladesh under successive regimes were guided by the false optimism that through trade, investment and connectivity arrangements under the much fancied “look east” or “constructive engagement” policies, they would eventually be able to address the Rohingya problem. Time has proven that such myopic policies bereft of principles were grossly erroneous.

Addressing the Rohingya problem is the most important foreign policy challenge that Bangladesh has faced since its independence. Therefore, in the light of recent experiences, there is an urgent need for re-strategising Bangladesh’s Rohingya plan. Guiding principles of such a strategy should be the recognition that Burma has thrust upon Bangladesh more than a million Rohingyas through a deliberate policy of discrimination,

engagement with Burma. Its trade, commercial, communication and other forms of interactions should be reviewed. Downgrading the status of its diplomatic mission in Burma is likely to send a strong signal about Bangladesh’s stance on the Rohingya issue, not only to the concerned country but also to its ASEAN partners and other allies, who have doggedly supported the rogue state on pretexts of “state sovereignty” and “non-interference in internal affairs” in breach of international human rights and humanitarian principles.

Bangladeshi negotiators need to be mindful that strategic, trade and investment considerations of the major players are not necessarily a zero sum game favouring Burma. They need to work out and argue what tangible and intangible benefits partners gain from their relationship with Bangladesh, and that Bangladesh expects its core interests are not dispensed off when other states pursue their bilateral relations with Burma. The issue is particularly important in view of the unacceptable Indian response to concrete measures that Bangladesh had taken over more than a decade to allay the former’s crucial security concerns in the northeast, trade, transit, transshipment, communication and other matters. Also, there is a case in point to examine why our diplomatic efforts have thus had very limited success in garnering support, not only from the powerful states but also from neighbours in the region.

So far, Burma has enjoyed near complete impunity from world bodies. The UN Security Council’s inaction has been patent, despite a plethora of statements from the UN Special Rapporteurs and resolutions of the General Assembly and Council on Human Rights. With pressures mounting on Burma, this is perhaps an opportune time for Bangladesh to lead a campaign to urge the UN Secretary General to invoke Article 99 of the UN Charter “to bring the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security”. In all likelihood, such a move will not yield desired results; however, it will at least expose the hypocrisy of the mighty and powerful states, which over the decades have only prioritised their narrow national interests, failed to uphold the lofty human rights standards that they preach to others, but also contributed to a situation that has the potential to morph into a threat for “international peace and security”.

Burma is beginning to feel that its ride on deceit and propaganda is reaching its limits. Recent developments in Arakan, international accountability mechanisms and burgeoning dissatisfaction of western states have exposed the crevices in the foundation of international support that Burma once enjoyed. It’s time for Bangladesh to make a break from its past policy of appeasement and provide the rightful moral leadership to address the Rohingya problem. Let Bangladesh’s act at the General Assembly on September 29 be the beginning of that process.

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Rohingya refugees hold up placards during a visit by a UN Security Council team to Kutupalong refugee camp in Bangladesh on 29 April, 2018.

PHOTO: SAM JAHAN/AFP

were army directed. The deserters also claimed that his unit “wiped out” 20 villages and the killings were sanctioned by the battalion commander. They also admitted to looting at the prodding of their superiors. These revelations have become a major source of anxiety for the Burmese authorities as they have come under further international scrutiny.

In addition to that, The Gambia filed case of genocide in the International Court of Justice has also gained some traction. The decision of Canada and the Netherlands to formally join the legal bid to hold Myanmar accountable over allegations of genocide has been described by observers as “historic”. Calling the lawsuit “a concern of humanity”, the two countries have agreed to intervene in the case “to prevent the crime of genocide and hold those responsible to account”. Earlier, EU and the US had announced targeted sanctions against key functionaries in phases. Daw Suu Kyi’s magic wand, which has so far worked in charming the world, appears to be losing its shine.

And finally, the recent overtures of the Arakan Army, the armed resistance group of younger generation Rakhine Buddhists and its political wing, the United League of Arakan (ULA)—“to embark on a new

Zarni, writing in the Andalou Agency last month. This is a refreshing development in an otherwise vitiated, protracted stalemate dominated by the Burmese state meting out brute force, aided and abetted by their international patrons of all hues.

Thus, while pressure mounts on Burma on different fronts and the political reality in Arakan undergoes a subtle transformation (albeit at a slow pace), the wheels of justice and accountability mechanisms gain traction and shimmers of hope appear on the horizon for the Rohingya. Bangladesh, a country that has provided sanctuary to 1.1 million refugees, has to shore up its efforts to continue to exert more pressure on Burma.

The policymakers in Dhaka need to come to terms with the hard truth that a business-as-usual approach based on “good neighbourliness”—expecting “reconciliation of the communities in Rakhine through dialogue” and hoping that “congenial conditions for repatriation”, with the Burmese honouring the conditions of the lopsided repatriation arrangement that freed Burma from any time-bound and international monitoring mechanism and retained their final say on verification—will never succeed, nor was ever meant to.

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exclusion and genocide, pursued over decades and thus far, not accounted for. Therefore, by taking a cue from the past, an all out diplomatic offensive should be launched. This may include giving the Rohingya issue its due priority in all foreign policy decisions, including bilateral and multilateral engagements. The perceived friends of Bangladesh should be communicated to in no uncertain terms that along with the humanitarian support that Bangladesh welcomes, it expects their active support in all regional and international forums in solving the Rohingya problem.

There must be a major shift in Bangladesh’s

# Death penalty minus political will to stop rape is just good optics



OF MAGIC & MADNESS

BADIUZZAMAN BAY

FROM harsh legal penalties to severe moral reprimands, from street protests and sit-ins to virtual seminars and teach-ins, from increasing mobilisation and visibilisation of pro-choice activists to critical interventions by state and non-state

actors—nothing, and no one, seems to be able to deter the rapists or protect women and children.

Are we missing something?

Before we dig into that, we must acknowledge that few causes in recent times have united society in the way the fight to end violence against women did, especially after the Noakhali and Sylhet gang rapes. People are naturally outraged. Protestors are refusing to leave the streets even after the government hurriedly approved the death penalty as the maximum punishment for single perpetrator rape. On Friday, hundreds of demonstrators led by some left-leaning parties embarked on a two-day march from Dhaka’s Shabbagh area to Noakhali’s Begumganj upazila to protest against the growing incidents of rape. Earlier, the Rape Law Reform Coalition, a platform comprising 17 organisations, proposed a 10-point to-do list that includes changing the definition of rape to include all victims, regardless of their gender identity or marital status, prohibiting the use of character evidence in rape trials, enacting a Victim and Witness Protection Act, training police and court officials on sexual and gender-based violence, and providing consent classes to all children.

These legal and institutional reforms are long overdue and may prove vital in preventing rape and substantially increasing Bangladesh’s appallingly low rape conviction rate. Will the government accede to the demands of the activists? Will it move away from the ill-advised adoption of death penalty (which, experts say, may exacerbate the problem for the victims rather than solving it)? In the unlikely event that it does, we will still have to contend with the fact that a law in Bangladesh, however well-made, is

only as effective as the law enforcement. We have a history of having wonderful pieces of legislation rendered ineffective by lack of accountability within the institutions responsible for carrying out laws. So unless the reforms being sought are also accompanied by a strong political commitment to enact them, we may never be able to end our pervasive rape culture.

What causes rape? The answer is obvious. But what causes rape to keep happening with such morbid regularity? I would like to argue that it is the result of a climate where the world circles around political beings, granting them and those in their orbit near-immunity to any fallout of their action. Acknowledging this will require a painful reckoning for the ruling party of Bangladesh, and by extension all other parties.

Often, what emboldens a rapist in the first place is their belief that they can get away with it owing to their connection with some political leader or local *boro bhai*. They think either their victims will never dare to report them, or police will never accept charges against them, or investigators will never find incriminating evidence, or their case will fall through the cracks in the long, winding road to justice—all because they’re “well-connected”. Everyone is bound or beholden to someone in this giant orbit of power and money. How do you cure this with just legal reforms or even a “social resistance” (as one minister vaguely proposed)? Criminals know, as we should too, that beyond the carefully constructed facade of rules and laws and lofty ideals seemingly governing this country, what really runs it is a criminally motivated system of patronage, and politicians sit at the top of the heap.

There are ample cases to prove this thesis. Let me cite the two that triggered the ongoing national protests.

Exhibit 1: Delwar Hossain, the prime accused in the Noakhali gang rape case, committed various crimes under the protection of local politicians from both the ruling Awami League and the BNP. After the 2014 elections, Delwar reportedly joined Jubo League’s politics and formed his now-infamous “Delwar Bahini”. Prior to that, he was a follower of a BNP-leaning criminal. Despite being wanted in three other cases, two for murder and one for possessing illegal

arms, he was never arrested before.

Exhibit 2: All the men behind the gang rape at Sylhet’s MC College were involved with Bangladesh Chhatra League.

It suits some politicians to claim that rapists don’t belong to any political party. This is partly true and partly false—the first because no political parties encourage their members and activists to commit rapes; the second because such claims are orchestrated to shield them from any blowback for their action and to dodge scrutiny of the inner workings of their organisations. The truth is, all such rapes



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PHOTO: ANISUR RAHMAN

are “political”. Most of the rapists in recent times were reported to have been involved, directly or indirectly, with the ruling party’s student or youth or other wings. This can’t be explained away as coincidental. Serial rapists like Delwar and other political operatives who committed rape drew their courage from their party affiliations. Their “marriage” is one of convenience. It ends—does it always?—the moment it ceases to be beneficial for their party.

same strategy of expelling the accused and restructuring the party hierarchy, instead of restructuring how it functions. Chhatra League’s strategy was more of the same when allegations of various criminal activities were raised against its then president and general secretary, who were subsequently removed from their posts. But the system that empowered them survived. It always does. We get an idea of how the system works from the confessional statement of Anik Sarker, a

key accused in the Abrar Fahad murder case, given to the court last year. Anik, who too was expelled from his secretarial position at BUET’s BCL wing, said, quite candidly, “We would beat students, regardless of whether they were senior or junior. Abrar’s death was an accident. The Chhatra League high command would laud us if we beat someone whose view didn’t match with ours. It’s the system that made us merciless.” The system gave them immunity until immunity was no longer in the interest of the system.

If we really want to end the culture of immunity emboldening the criminals, we need to investigate the interaction between crime and politics and how one pivots around the other. Rape is but the most socially distasteful manifestation of what comes out of this union, a tipping point reached through the building blocks of various other crimes. Rapists, murderers, arsonists, thugs, vandals, corrupt policemen or investigators or public officials... all draw water from the same well today. Rape cannot be seen in isolation from this interplay of crimes and politics. Yes, our rape conviction rate is very low, but in what areas of crimes is the rate not so? Unless we rob all criminals of their source of power, they will go on to commit crimes or be replaced by new players who will, regardless of how harsh the punishment is or what legal reforms we bring in.

Political parties may not encourage their operatives to rape, but they stand guilty of not doing enough to discourage them. This in turn encourages the non-political rapists. So unless political parties and their affiliated organisations are also held accountable for the crimes committed by their operatives, past or present, they will always find a way to deflect blame and not do what’s really needed. A principle of zero tolerance against all crimes, not just rape, must be firmly embedded in how political organisations function in Bangladesh. Otherwise, we can’t expect other public institutions and authorities including police, local governments and even courts to be free from its corrupting influences.

Rape culture is as much a political problem as a social one. We need a strong political commitment to end it.

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