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Statelessness: The Persistence of a Wicked Problem

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Problem Area

While the definition of statelessness within the international legal frameworks is clear. The consequences and how to address these entail an in-betweenness in which human rights are difficult to uphold. The importance placed on legal documentation and the responsibility of a state to protect its citizens leaves the rights of stateless people unprotected, and their security uncertain. These issues have persisted throughout history, despite the introduction of the UN Convention on the status of Stateless persons, and the Convention on the Reduction of Statelessness in 1954 and 1961 respectively and have been painfully highlighted by the current situation of the Rohingya people of Myanmar. Having fled to Bangladesh, their situation remains vulnerable because a majority of Rohingyas are not recognised as refugees by the Bangladeshi government (International Rescue Committee (IRC), 2017: 2), highlighting the uncertainty regarding which stakeholder is responsible for the protection of their rights.

A broad range of stakeholders influences this issue, some of which can be considered part of the International Human Rights regime, including NGO's, the UN and UN-agencies along with nation states (Dunér 2002: 20). The way in which Rohingya statelessness is understood by these stakeholders appear to play a fundamental role, specifically in relation to the protection of their human rights.

The theory of Wicked Problems was first introduced and in relation to issues of social policy by Horst Rittel and Melvin Webber (1973) and has been applied to many different contexts since. It notes that the issues faced by stakeholders and governing bodies are complex. Thus, the notion of reaching a suitable solution is futile (Rittel and Weber, 1973: 160). Jeff Conklin (2006) furthers this theory by highlighting the way in which social complexity can further complicate the solving of such problems. It is acknowledged that this perspective has considerable significance in relation to the issue of statelessness. Specifically, in the way, it is dealt with within the global human rights regime.

"If governments, UN officials and diplomats simply hold meetings and make speeches as atrocities continue in Myanmar, they bear the risk of failing to use

every diplomatic tool at their disposal to stop the ethnic cleansing campaign and further crimes against humanity. In the face of mass destruction, killings and hundreds of thousands displaced, inaction should not be an option.”(HRW, 2017: para. 9).

This sentence above was included in a statement signed by a number of a number of civil society organisations and published by Human Rights Watch (HRW). It was published following the mass exodus of nearly 700.000 Rohingya following violent unrest and actions by the Myanmar military which have been categorised as ethnic cleansing by the United Nations (UN)(Factfinding mission, 2018)

The Rohingya are considered by a majority of the international community to be stateless, having their citizenship of Myanmar revoked with the introduction of the Burma Citizenship Law in 1982 (Minority Rights International, 2017). As such they are a relevant representation of statelessness as caused by intentional deprivation of citizenship.

This projects understanding is that the conceptualisation of Rohingya statelessness within the global human rights regime plays a significant part in explaining the current challenge of addressing their rights. It is our contention that statelessness should be understood and treated as a Wicked Problem. Thus, this project aims to understand the extent to which wicked problems can be used to understand statelessness, namely how it can aid in understanding the persistence of this issue. Despite having been recognised and problematised within the international human rights regime for the better part of a decade. These reflections have resulted in the following research question:

How can the theory of Wicked Problems aid in understanding the persistence of statelessness today?

Literature Review

To further inform our research and establish the field of knowledge this have examined key research within the area which this project will cover. Included in this is research on the main contextual and framing aspects of statelessness and human rights, along with an examination of the theory of wicked problems which will form the foundation for our analytical framework.

Statelessness and Human Rights

The UN High Commissioner for Refugees' (UNHCR) Convention relating to the Status of Stateless Persons (1954) defines a stateless person as someone "*who is not considered as a national by any State under operation of its law*" (UNHCR, 1954). Additionally, the definition in the Convention includes a number of rights that are to be provided to a stateless person, specifying, that they should be similar to those of a citizen. These include: "*freedom of religion*" (UNHCR, 1954), education of stateless youth, employment, housing, and association. It specified that a state should treat a stateless person as any other non-national within their borders (UNHCR, 1954). This UN document further highlights that a person is not entitled to these rights and protections if they have committed treason, war crimes, crimes against peace, and have been deemed guilty by UN principals (UNHCR, 1954). This UN definition is seen to correlate with the key literature of this project, specifically in the way statelessness is conceptualised in relations to the relationship to the state and their rights.

Definitions of statelessness are seen to revolve around the relationship a person has with the state. Guy Goodwin-Gill (2014:4) finds that in some cases a person becomes stateless due to actions taken by a state to deprive them of citizenship. Hannah Arendt (1998:88) notes that the creation of a state was aimed to protect the collective rights of persons. Goodwin-Gill formulates this in his claim that "*Citizenship is not a 'privilege', but a protected legal status*" (Goodwin-Gill, 2014: 1). The UNHCR however, formally defines a stateless person as someone "*who is not considered as a national by any State under operation of its law*" (UNHCR, 1954:3). Both the UNHCR (1954:1-32) and Goodwin-Gill (2014:2) highlight the

importance of the role of the state in the protection of any person, emphasising that these rights can be affected if deemed stateless. Goodwin-Gill (2014) and Kelly Staples (2012:3) note that statelessness directly affects a persons' social and political rights, which is also found to be true in terms of national laws. These, laws discriminate against minority groups.

Arendt (1998) identifies that the importance of citizenship is highlighted with the emergence of statelessness, emphasising that a loss of rights implies a loss of human rights. Adding, that once stateless, *"their right to live is threatened"* (Arendt, 1998:93). It can be interpreted that even the International Conventions on The Status of Stateless Persons (1948) and the Convention on the Reduction of Statelessness (1961) puts an emphasis on states to grant nationality to stateless persons, however it is also noted that the circumstances to allow for this are very specific (Foster & Lambert, 2016). Michelle Foster and Hélène Lambert (2016) further their research to understand the full extent a state provides its citizens, as seen in the 1961 Convention, it does not formally link the rights of an individual to a nationality, however, find that that is the case. Further quoting that *"if all States actively applied the provisions of the 1961 Convention, there would be a decrease in the number of cases arising in relation to the 1954 Convention"* (Foster & Lambert, 2016: para7). Setting into place the idea of the vitality of the relationship between individual states and an individual's rights.

A connecting theme on the subject of statelessness appears in the context of crisis and conflict between communities. The UNHCR notes that conflicts cause displacement and directly addresses this in its 1954 Convention. They directly address the Jewish Community that was displaced during the Second World War (UNHCR, 1954:9). Foster and Lambert (2016) note that there are several actions that can be taken in which a person can be deemed stateless, explaining that fundamentally the state will have to make an individual stateless. However, it is noticed that displacement in itself has been claimed to be an effect of statelessness, as well as a cause. A conflict between groups can result in statelessness and can be seen to have originated with a form of discrimination, wherein one community is seen to deem themselves more legitimate than another (Foster & Lambert, 2016).

Statelessness has been widely described as a situation where a person's rights have been lost (Goodwin-Gill, 2014; Staples, 2012:150; UNHCR, 1954:2-32). Arendt (1998) describes it as a condition where people are "*deprived of life, liberty, and the pursuit of happiness, or of equality before the law*" (Arendt, 1998:93), but most importantly she finds that "*they no longer belong to any community whatsoever*" (Arendt, 1998:93). Arendt (1998) uniquely brings up the issue that some fundamental rights of stateless persons are not codified in the United Nation's Universal Declaration of Human Rights (1948). Staples builds on this complexity in the recognition that human rights are dependent on culture exemplified by "*moral vocabulary*" (Staples, 2012:63), additionally adding that human rights are built upon a "*sustained feeling of love, friendship, trust, or social solidarity*" (Staples, 2012:63). Further recognising that in international legal frameworks and conventions, such as both the 1954 Convention on the Status of Statelessness, 1961 Convention on the Reduction of Statelessness, these aspects are not (Staples, 2012:111).

The codification of human rights appears to have different focuses on international, national and on individual levels. On an international and national level, codification appears to occur in international actors such as the UN, European Union, and African Union. Each upholding declarations and formalised bodies to codify, prosecute and uphold these rights which have originated in the "*barbarous acts*" (UN, 1948:1) which took place prior to their formation. In these rights they emphasise the ideals of a collective security for "*everyone*" (UN, 1948:6-60), claiming that the responsibility to protect these rights lies with the actors that make up the international community (UN, 1948). Hannah Arendt (1998) and Justine Lacroix (2015:79) note that statelessness sheds light on the notion of "*the right to have rights*" a concept that includes the right of belonging in communities and life. Noting, however, that once an individual loses these rights, they cannot regain them due to the current political order (Arendt, 1998:90). It can also be noted that the scholars understand human rights as bestowed upon an individual, and not a value that they inherently possess. However, Corinne Lewis (2015:74) notes that human rights have been restricted to focus on the legitimacy for international intervention, suggesting that actions and frameworks such as the Universal Declaration of Human Rights (1948), are politically motivated. Even in these international achievements, the responsibility to protect people lies with the state in which the person is a citizen of, and thus should not become a burden on any other state (Goodwin-Gill, 2014:17). In these claims, it should be noted that international approaches to the protection and codification of Human

Rights have been interpreted as the spread of western ideals and that differing understandings of these are a significant hole in the existing knowledge (Mutua, 2008:14).

On an individual level however, Arendt indicates that the concept of human rights can be derived from an individual's conception and moral characteristics, giving "*Man*" (Arendt, 1998:94), the ability to gain power over his own "*essential quality as man, his human dignity*" (Arendt, 1998:94) bringing about that an individual's characteristics are equally as important as their freedoms. Further claiming that when an individual is deprived of such, they are distanced "*from humanity*" (Arendt, 1998:94). It can be noticed that despite the individuality of human rights, an ample majority of scholars appear to focus on rights from a collective standpoint.

Wicked problems

The theory of Wicked Problems was first introduced by Rittel and Webber (1973) in relation to governmental planning. Wicked Problems are seen as problematic due to their complexity and the lack of a "*perfect solution*" (Rittel and Webber, 1973: 160) As opposed to "*tame problems*" which can be reasonably solved and understood in a more objective manner (Rittel and Webber, 1973: 160).

Wicked Problems as a theory have since been used in relation to other social issues of planning and policy within complex circumstances. Marshall Kreuter et al. (2004) apply this theory to the context of environmental planning and describe the wickedness of problems as a continuum, in which a problem becomes more wicked as its complexity increases (Kreuter et. Al, 2004: 443). As such complexity seems to be a key component to the conceptualisation of Wicked Problems within the literature. Jeff Conklin (2006) further tackles this issue of complexity by establishing a connection between the complexity of wicked problems with the social complexity of the systems in which they are usually dealt with (Conklin, 2006: 4). He also introduces the interplay of these as a process which often leads to fragmentation within these systems, as different stakeholders have different understandings of the problem. This implies that the process of addressing these problems becomes a process of fragmentation in

itself (Conklin, 2006: 29). He understands, that one of the reasons why addressing wicked problems are unfruitful are because they are addressed wrongly. Specifically, that they are being handled as if they were Tame Problems (Conklin, 2006: 19), noting, the importance of wicked problems to be handled as such.

It is evident that statelessness, human rights, citizenship along with the multifaceted international community, all play a role in understanding how statelessness is grasped as a problem. Statelessness in itself can be considered a violation of Human Rights, as stated in the Universal Declaration of Human Rights (1948) however the rights of the persons, specifically stateless persons, range broader than that alone. Wicked Problems are understood to be problems defined by their complexity which require a certain approach in order to be resolved. While not directly applying the theory of wicked problems, Goodwin-Gill (1994) is cited to understand that the human rights issues of statelessness have long been tackled as a technical issue pertaining to human security, rather than human rights (Foster and Lambert, 2016). As such, his reflections on these issues have many similarities with the theory of wicked problems. They touch upon the issue of lack of data as being central to the human rights obstacles of stateless people (Foster and Lambert, 2016), thus speaking to one of the main challenges with wicked problems; the need for understanding all aspects and possible solutions of it to solve it (Rittel and Webber, 1973: 161)

Conceptual Framework

In the following section, the core concepts focused on in this project will be discussed. These concepts include ‘statelessness’, ‘human rights’, ‘international regimes’ and ‘wicked problems’. In this project, both statelessness and human rights will be understood as defined by the UN, which is identified to be a core stakeholder in both the Rohingya and boarder stateless issue.

The International Human Rights Regime

The concept of international regimes was established during the 1970s as a way of understanding frameworks of international collaboration which were not formally institutionalised (Krasner, 1986: vii). It was defined by Stephen D. Krasner as,

“... sets of implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations.” (Krasner, 1986: 2).

The international frameworks and procedures related to human rights have long been considered a clear example of such an international regime, even though it is technically missing the aspect of interdependence which is often associated with such regimes (Dunér, 2002: 15). While the usual conception of the international human rights regime mostly concerns itself with the institutional frameworks represented by the UN and their subsequent agencies this project has chosen to apply a broader conception (Dunér, 2002:20). This conception presented by Bertil Dunér (2002) considers an extended human rights regime, which also includes international non-governmental organisations (NGO) (Dunér, 2002: 94). This extended regime is an acknowledgement that human rights are dealt with by a variety of actors, academic institutions and international NGO’s. These are found to play an important role in providing the UN with input on ongoing issues relating to human rights. Due to their lack of legal authority, their primary role is producing and presenting analyses and perspectives on how to further human rights in various humanitarian and developmental contexts in which they are present (Dunér, 2002: 95). This project will refer to the specific parts of an international regime that have an influence in the Rohingya case, as stakeholders.

The key stakeholders

As set forth by Dunér the international human rights regime consists of a group of stakeholders which work together in establishing and upholding human rights within the international community. This project considers these stakeholders to be somewhat variant depending on the issue dealt with and will therefore establish the stakeholders particularly relevant to the case of the Rohingya: The United Nations as the governing body of the legal human rights framework is an inevitable actor, and with it we must consider the individual states which constitute it. Looking at the current state of the Rohingya crisis, and the massive involvement of NGO's these are also considered to be important stakeholders in the examination of this issue. Furthermore, the nation states of Myanmar and Bangladesh who are directly involved are considered to be key stakeholders. The relations between these will be touched upon briefly, but due to the sensitivity of the issue and our ambitions to avoid being partial, these will not play a prominent role in our examination of this issue.

Wicked Problems

The core theory guiding this project is that of Wicked Problems (Rittel & Webber, 1973). As described in the literature review this concept was first used in relation to municipal planning problems but have been used by several theorists since and applied to a variety of issues.

Jeff Conklin (2006), notes that the central issue in the way wicked problems are usually dealt with is that they are in fact not dealt with as Wicked, but attempted solved through the use of "tame solution" (Conklin, 2006: 19-20). This is, according to Conklin (2006), wrong, but nonetheless a natural instinct of any problem-solver. He further notes, that Wicked Problems can be made up of Tame Problems or vice versa, however, finds that to solve a Wicked Problem, one must properly recognise it as such (Conklin, 2006: 19). He further understands, that this confusion of the wickedness of a problem can often lead to attempts at taming it, by breaking it down into smaller, solvable parts, thus seemingly removing its wickedness (Conklin, 2006: 21). According to Conklin (2006) while this may seem to work initially will ultimately fail, making the problem resurface, sometimes having been exacerbated by the failed attempt at taming (Conklin, 2006: 23). Conklin (2006) highlights that the essential foundation

for dealing with a wicked problem is in “*creating a shared understanding about the problem and shared commitment to possible solutions*”(Conklin, 2006: 29).Furthermore, he deepens the theoretical perspective on the challenges of dealing with wicked problems by interconnecting these with two other concepts: *Social complexity* and *Fragmentation* (Conklin, 2006: 4).

Conklin establishes a dependent relationship between these claiming that the wickedness dealt with in a framework of high social complexity will inevitably lead to fragmentation (Conklin, 2006:4). The international human rights regime in the case is an obvious example of a system of high social complexity, as defined by Conklin (2006) himself:

“Social complexity is a function of the number and diversity of players who are involved in a project. The more parties are involved in a project, the more social complexity. The more diverse those parties are the more social complexity” (Conklin, 2006: 23).

This idea of wicked problems in relation to social complexity plays an important part in the further research of this problem. In the analysis of the different understandings of Rohingya statelessness within the international human rights regime aims to intend to establish to which degree it is in fact conceptualised as a wicked problem. Having established this, the relationships established by Conklin (2006) shed light on the challenges the socially complex international framework has had in addressing statelessness and whether this, in fact, may be a symptom of fragmentation as proposed by Conklin (2006).

Methodology

This project is designed to endeavor to understand the persistence of the issue of statelessness. The research questions will be answered with the use of empirical data derived from the review of recent legal and published documents addressing the Rohingya community. The approach is to work inductively to understand the issue of statelessness in-itself, which is visualised in Diagram 1.

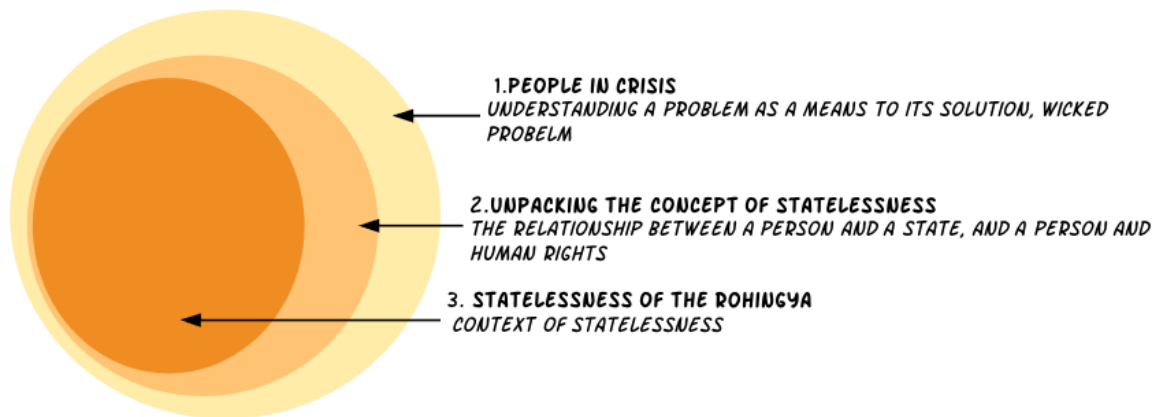


Diagram 1: Made by Authors to depict an inductive method of understanding.

While statelessness affects several groups in the world, this project focuses on the case study of the Rohingya. Applying the method of a single case study, aimed to focus on statelessness in the context of the Rohingya Refugees as its primary research method. This allows for an investigation of how statelessness is understood internationally, within an empirical context. Alan Bryman (2016) explains that a case study method of investigation, “*entails an intensive and detailed analysis of a case*” (Bryman, 2016: 60). In approaching the research question, this project adopts this approach to look at the current situation for the Rohingya people as the core element in which the project is structured around (Bryman, 2016: 61). This allows us to make clear choices on what to include and not include based on its relevance to this particular case.

Diagram 1 shows that the core focus is on a specific issue at a range of relevant levels. This is implemented because of the acknowledgment of the multifaceted nature of the Rohingya to establish the nature of the problem. It is noted that a limitation of focusing on a single case such as the Rohingya limits the external validity of the result, as the conclusion might not be

easily applied to other cases. So, while the conclusions will be drawn from the specific situation of the Rohingya.

Theoretical framework

This project is aware of the importance of the way in which the chosen approach to a problem impacts the way in which data will be handled, analysed and discussed. These considerations were implemented in the formulation of the research questions and will be guiding the choices made in the examination of this issue.

This project has centered its focus on how the issue of statelessness is understood and subsequently dealt with. This allows for the epistemological approach of this issue to be a hermeneutic one. Central to this approach is that this project is trying to understand a phenomenon rather than explain it (Bryman, 2016: 26), and in this investigation, this is done by applying the theory of wicked problems as an analytical framework.

Wicked Problems itself is not focused on a hermeneutical approach to problem-solving. However, this project has chosen to approach the problem of statelessness to include Conklin's (2006) notions of the dynamics of social complexity and the complexity of the wicked problems themselves. This understanding lends itself to an examination of how the understanding of these complexities affects the social world; the situation of statelessness.

Furthermore, much of the existing theory and literature on statelessness and human rights including Arendt (1998) stem from this same school of thought, that focuses on interpreting and understanding how people structure and make sense of society (Bryman, 2016:26). Arendt (1998) focuses on the interpretation and understanding of human experience, and as such our employed framework of understanding must align itself with this line of thought.

A key component of hermeneutics as described by Hans Georg Gadamer in 1975 is the notion of prejudices (Andreas Holm, 2013: 91). Within the traditional philosophies of science, such as positivism and rationalism, prejudices have always been regarded as a thing to avoid (Holm, 2013:91). Gadamer opposes this, claiming that the prejudices and already formed understandings of a researcher play a fundamental part in achieving the understanding that

hermeneutics strive towards (Susan Hekman, 1983: 209). However, he further claims that it is vitally important to be aware of them (Holm, 2013: 92). This particular aspect of hermeneutics has played an important part in the approach as the situation of the Rohingya has existed for a long time, and thus allowing for us as interpreter to have an existing knowledge and understanding of this situation. Thus, we must approach this issue and the empirical material with the openness to new evidence and knowledge.

Another aspect of Gadamer's hermeneutics that is vital to this project's understanding and approach to statelessness and the Rohingya is that of effective-historical consciousness (Hekman, 1983: 210). This closely follows the notion of Gadamer's prejudices, and understand the historical consciousness of the interpreter is equal to that of the text itself. Thus, in interpreting the text, the interpreter must merge the two horizons of historical understanding to fully interpret the text (Hekman, 1983: 210; Holm, 2013: 93). This notion of "*understanding as reflexive*" (Hekman, 1983: 210), plays a key role in this examination of the Conventions on statelessness, as this project approach them with a combined understanding of contemporary international community and the historical context within which they originate. This is seen to provide a new understanding of their role within the international human rights regime of today.

Data

The data collected for this project will focus on the findings of investigations and statements on the Rohingya community and their statelessness. However, the evidence will be derived from a combination of primary and secondary data. primary data is understood to be in the form of international and national legal frameworks, such as Laws, Conventions, Resolutions, Reports, and Statements. This data is considered to be primary because this project is directly analysing the documents and deriving its own interpretations from them. This is combined with secondary data in the form of background material to inform our understanding of the situation of the Rohingya.

To follow the aim of this project, the background and historical understanding of the Rohingya people in Myanmar and Bangladesh will be collected from the relevant international actors such as the UN and International Rescue Committee (IRC). This decision was made to further understand the specific perspective of such actors, and how they understand the role of their frameworks to be employed.

This project will explore both academic reports and grey literature. The grey literature is employed to understand the extent to which national and international frameworks can address the wickedness of problem the stateless Rohingya face. On the national level, the two stakeholders are Bangladesh and Myanmar thus to remain impartial, both states citizenship laws will be looked at,

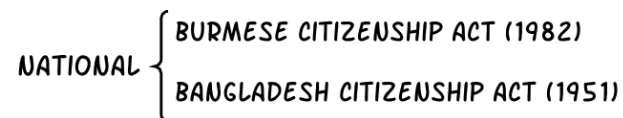


Diagram 2: Authors own diagram of the national frameworks employed in the investigation

It is noted that the Burmese Citizenship Act (1982) is translated, this can cause some inconsistencies in the interpretations of the project. To limit this implication, the findings will be compared with other scholars and investigations to ensure a more reliable conclusion can be developed.

On an international level, this project recognises a key stakeholder to be the UN where the focus will lie on, firstly in understanding the UN's ability to address stateless communities, specifically understanding international legal frameworks that have been codified. These documents are depicted in Diagram 3:

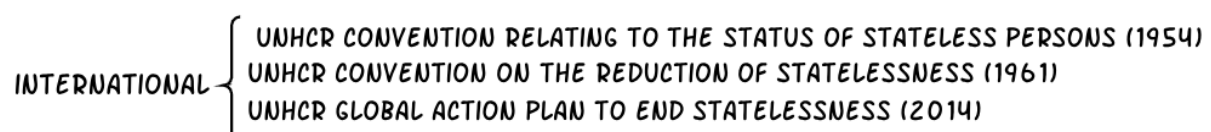


Diagram 3: Authors own diagram of the international frameworks employed in the investigation

To further understand the international discourse, content analysis will be undertaken on the most relevant documents, to directly understand the extent to which the international community is able to address this wicked problem. This project notes that there are more documents on national and regional levels, however, this project will only focus on documents that are public and in English.

The selection of documents for coding plays a key role in the subsequent analysis of the way statelessness and specifically the statelessness of the Rohingya is conceptualised within the international human rights regime. This means that this project does not just consider the concrete legal framework set up through resolutions and courts which is closely tied to the UN but as a broader framework of numerous stakeholders.

Date:	Format:	Document Title and UN Code:	Status:
Oct 2017	Resolution	UN: A/C.3/72/L.48: Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives	<i>Not Passed</i>
May 2018	Press Statement	UN: SC/13331: Security Council Press Statement on Security Council Visit to Bangladesh, Myanmar	<i>Published</i>
Sep 2018	Report	UN: A/HRC/39/64: Report of the independent international fact-finding mission on Myanmar	<i>Published</i>
Nov 2018	Statement	UN: S/PRST/2017/22: Statement by the President of the Security Council	<i>Published</i>
Dec 2018	Resolution	UN: A/HRC/S-27/3: Situation of human rights of Rohingya Muslims and other minorities in Myanmar	<i>Passed</i>

As this project employs a broad understanding of the international human rights regime it becomes highly relevant to include the perspectives of NGO's. Specifically, those that are working with displaced Rohingya communities and can, therefore, provide up to date information on the current state of their human rights and the impact of current attempts to address them. The documents included in this section were chosen in an attempt to include several perspectives of different stakeholders within the global human rights regime. Furthermore, limitation of sources to only statements and reports related to human rights in relation to Rohingya statelessness and published after august of 2017 (after exodus) as this is the focus of our case study.

Published	Format	Title	Reference	Author/Signatories
Aug 2018	Joint Statement/Appeal	International-NGOs in Myanmar call for UN Security Council action on Rohingya crisis	ICJ, 2018	Published by ICJ, signed by 17 International NGO's including World Vision, Save the Children, Oxfam and Plan International
Sep 2017	Joint Statement/Appeal	Global Appeal for UN action – “UN member states should act to pressure Myanmar to end crimes against humanity”	HRW, 2017	Published by HRW signed by 96 civil society organisations including Amnesty International, Genocide Watch, Institute on Statelessness and Inclusion and Refugees International
May 2018	Report	The Long Haul Ahead for Myanmar's Rohingya Refugee Crisis	ICG, 2018	International Crisis Group
Aug 2018	Report	“Bangladesh Is Not My Country” -	HRW, 2018	Human Rights Watch

In the selection of the NGO documents, this project considered other sources, however, these were not analysed. The first was a report from Amnesty International outlining the crimes and abuses committed against the Rohingya leading up to their flight to Bangladesh. While this represented the perspective of an important human rights actor, this was mostly focused on providing evidence of the crimes committed and as such did not provide a very clear perspective on how the issue is approached and dealt with. Also considered was a report published by the Advisory Commission on Rakhine state which is widely referenced in the NGO reports. This was excluded firstly as it was published before the mass exodus in August of 2017, and secondly for ethical reasons. The commission itself was requested and established by the office of state counsellor of Myanmar, Aung Sang Suu Kyi. In an attempt to avoid including sources partial to and as such closely linked to either of the two states heavily involved in this issue the choice to exclude this from the analysis portion of this project.

These international and national documents will then be analysed with respect to their correlating effect on the case study subject - the Rohingya.

Analytical framework

This project has broken the analysis into two distinct stages. The first stage is focused on data analysis in which current national and international frameworks will be reviewed. It is noted that these frameworks were formulated around the protection and realization of universal human rights for stateless persons. Thus, this project will be analysing the legal documents which constitute this framework and relating these to the case of the Rohingya. Tim May (2011:198) indicates that this will provide us with insight into the ways in which these frameworks do and do not fulfil their original objectives. The aim of this stage is to understand the legal foundation of the frameworks set up to protect stateless communities and specifically the stateless Rohingya community.

The second stage focuses on the process of coding. As noted in the literature review statelessness and Wicked Problems have not previously been linked within academic literature. Thus, to create an analytical framework this project will combine both the understandings from Rittel and Webber (1973) with the approach of the more recent studies of Brinkerhoff (2014). This model was prominent in the first part of the coding procedure of manually coding the documents:

It is found that Rittel and Webber (1973) characterise a tame problem as:

- A. Exhaustive exploration, the possibility of discovering all information about an issue, which in turn aids in the development of possible solutions.** (Rittel & Webber, 1973:160)
- B. A direct translation from the nature of a problem, to its solution** (Rittel & Webber, 1973:161)
- C. A clear end in sight: a clear indication of when the problem is solved** (Rittel & Webber, 1973:162)

Rittel and Webber (1973) assert that a wicked problem is the opposite, this understanding will be aided and specified by Brinkerhoff (2014) in the three criteria:

- A. **Exhaustive exploration is not a guarantee for the development of a suitable solution;** wicked problems are dependent on a complex array of interdependencies and causalities and as such can create conflict between different stakeholders as the conceptualisation of a wicked problem is heavily influenced by the stakeholders active in addressing it (Brinkerhoff, 2014: 334).
- B. **No direct translation from the nature of a problem, to its solution:** As they call for context-specific and tailored solutions despite similarities with previous problems by the same or other stakeholders (Brinkerhoff, 2014: 335)
- C. **No clear end in sight: it is unclear when the problem is solved:** They have no clear solution, and therefore other constraints such as lack of resources or political will, results in a “good-enough” solution (Brinkerhoff, 2014: 334).

These criteria were used to manually code, to closer identify patterns and repetitions of these themes as presented by the stakeholders. The second round of coding included the coding software NVivo 12, which was able to create word clouds, allowing the core themes that were repeated within the document to be observed visually. This information was used alongside manual coding using this model to understand and contextualise this information (see Annex 2).

UN and NGO documents were chosen as they represent key actors in addressing both human rights violations and statelessness. As such this project is going to critically assess the assumptions made in the existing human rights framework and how these influences the situation of the Rohingya combined with the way in which their statelessness is conceptualised as a wicked problem by these actors.

As mentioned in the problem area it is the main part of our investigation that addressing the statelessness of the Rohingya poses significant challenges, and it is our contention that the conceptualisation of statelessness as a wicked problem provide important, unexplored perspective on these challenges. Therefore, our analysis will aim to explore to what extent statelessness is addressed as according to the theory of wicked problems, as presented in the analytical framework above. These properties are centred around two main aspects of wicked problems; their *definition* and their *resolution*. In order to explore this in relation to statelessness and the Rohingya, we will, therefore, be looking at the *conceptualisation* of statelessness and the attempted *resolution* of statelessness as an issue.

Methodological and ethical challenges

Due to the sensitive nature of the issues described in this project, extensive methodological and ethical considerations have been made to respond to issues of partiality and the methodological challenges in examining such an issue.

This project takes note of the process of Silencing the Rohingya community. The issues touched upon in this project are ones of an emotional nature and which have been dealt with differently by different authors and writers. There is high sensitivity relating to the issues of identity, nationality, and citizenship and we will do our best to deal with this while acknowledging that this project is unable to capture all perspectives and voices. Specifically, we recognise the ethical implications of not having been able to speak to the people affected themselves meaning that perspectives on their situation will be either second hand or those of outsiders. Given that the issue of Rohingya citizenship is an extremely sensitive subject due to disputes between the governments of Myanmar and Bangladesh, we will aim to not draw conclusions on this particular issue but simply deal with the fact that they are stateless, and how the systems set up internationally deal with this issue.

We also note that this project recognises the implications of labelling, as the titles of stateless and refugee have their own implications. This also relates to the issue of the words with which we choose to describe Myanmar, its inhabitants and the Rohingya themselves. The Republic of the Union of Myanmar, or simply, Myanmar, is the name currently recognised by most countries and institutions, including the UN (Selth, 2018:5). We note however that the country was previously known as Burma, derived from it being a British Colony. This name was changed to Myanmar by the military government when it came into power, following their perception that this name only refers to the biggest ethnic group in Myanmar, known as the “Burma” (Selth, Gallagher, 2018). Most of the world nowadays refer to the country as Myanmar, but few states, including the United States and the United Kingdom, refuse to recognise the name change since it was not democratically implemented. In this project, we have chosen to go with the name Myanmar as this is what is most broadly recognised by international institutions, namely the UN, who are a key stakeholder in the issues discussed.

Following on this, we will refer to its inhabitants as “the people of Myanmar” for sakes of simplicity.

The name of the Rohingya themselves is similarly disputed and has ties back to the dispute between Myanmar and Bangladesh on the origin of the Rohingya people. The group refer to themselves as Rohingya, derived from the language they speak and are widely recognised by this name (Minority Rights Group International, 2017). This is disputed by the government of Myanmar who refer to them as Bengali due to their perception of them being immigrants from Bangladesh (Minority Rights Group International, 2017). However, we have chosen to refer to them as Rohingya, as that is what they are generally recognised as, but will emphasise that it is not the aim of this project to determine their origin nor take a stance on their claim to citizenship in either of these states.

This project also recognises the role of the interpreter in our understanding. Our use of hermeneutics as a theoretical framework for this project require considerations relating to our prejudices in our role as “*interpreters*” (Hekman, 1983). Therefore, we must consider that our own prejudices play a role in our understandings of the issue of statelessness. Being students of social sciences and following the news we have preconceived ideas of issues relating to the statelessness of the Rohingya, ideas that have been shaped by the picture which has been presented to us by the media. One of us have previously visited Myanmar and have had conversations and discussions surrounding the significance of religion within the Myanmar society with young people living there. Furthermore, as one of us is an employee of an international NGO involved in the humanitarian response taking place in Cox’s Bazar, meaning that knowledge and pre-informed understandings may have affected the ways in which we approach and understand this issue. One of us having lived in many different countries and having a mixed international background may also have affected understandings of the idea of belonging to one specific state. This project does not aim to come to an objective conclusion and notes that all actors both studied, and interpreting influence the direction and understandings of the problem.

Background on the Rohingya

Most Myanmar citizens are Buddhists, with the majority ethnic being 'Burma'. However, Myanmar is recorded to include other ethnic groups, that include Christians and Muslims, the Rohingya belonging to the latter, according to the UN Fact-finding Mission (2018:4).

The state recently became a democracy, as UN (Fact-finding Mission, 2018) notes that Myanmar was ruled by a military regime from 1962 until 2010, constituting of a government formed of military and civilians. The state focused on issues of Defence, Border Affairs and Home Affairs (ibid). In 2010 the country was reformed both politically and economically to be more liberal, however, no constitutional amendments were made during this shift (ibid). It is noted that before Myanmar was considered a state, they were colonised by both the British Empire and the Japanese before finally gaining independence in 1948 (Human Rights Watch, 2000).

The Rohingya became stateless following the Citizenship act of 1982, which does not list them as one of the 135 ethnicities automatically included and specifies the number of requirements for them requiring citizenship (Minority Rights Group International, 2017). Given that very few Rohingya can provide documented proof of their families residing in Myanmar and the Rakhine prior to 1823, as requested by the government, they are thus inherently stateless (Minority Rights Group International, 2017). Human Rights Watch (2018) (HRW) find that over the years violence within Rakhine state has displaced around 200,000 Rohingya individuals to the Cox's Bazar region in Bangladesh.

On August 25, 2017, a mass exodus of Rohingya started taking place as violence in Rakhine state erupted. At this time the violence was addressed by local armed forces and the Military of Myanmar, known as the Tatmadaw (HRW, 2018). Following this conflict, which according to several UN-agencies and other actors have been described as ethnic cleansing (HRW, 2018; Security Council President, 2017:1; Fact-finding mission, 2018) more than 700,000 Rohingya fled Myanmar into Bangladesh joining the population already displaced forming a displaced community of over a million people (UNHCR, 2018).

The International Relief Committee (IRC) and Relief International (IR) carried out research in Cox Bazar and note that the continued violence towards the Rohingya since 2012 have escalated the number of displaced persons. Bangladesh has provided around 33,000 displaced persons with refugee status (IRC, 2017:2).

Bangladesh is unable to accommodate the increasing influx of displaced persons and has requested help from the UN and other states (IRC, 2017:2). The Bangladesh government highlighting that the Rohingya are people of Myanmar. Within these refugee camps, the IRC (2017:10) take note of acts of violence such as gender-based violence, which is claimed to come under threat by sexual violence and conditions in which they can be rejected by their families (IRC, 2017:10).

Background on the Rohingya's Statelessness

In order to better understand the situation, it is required to understand what legal frameworks address the issue. Thus, this section breaks down the framework and provisions in accordance with international and national levels. On national levels, citizenship laws have been used to understand if they are protected by either Myanmar or Bangladesh, understanding that if the State cannot satisfy the protection of these basic rights, international provisions will be investigated primarily provisions presented by the UN (UN Secretary-General, 2009).

The 1982 Burma Citizenship Law

It can be noted that first and foremost, the responsibility of a state is to protect its own citizens (OHCHR, n.d.) The Burma Citizenship Law 1982 (1982:2) starts by explaining the historical and geographical requirements that justify citizenship,

Nationals such as the Kachin Kayah, Karen, Chin, Burman, Mon, Rakine or Shan and ethnic groups that have settled in any of the territories included within the State as their permanent home from period prior to 1185 B.E. 1823 A.D. are Burma citizens (1982:2)

This entails, that the Rohingya fulfill neither of these requirements as they have been claimed to have arrived after the period of 1185 B.E. 1823 A.D (Fact-finding mission,2018).

The law explicitly recognises three types of citizens, “*naturalised citizens*”, “*associate citizens*” and “*namely citizens*” (1982:2) which all require that a person belongs to an indigenous ethnicity of Myanmar, though this can be seen superficially in regard to the citizenship of an offspring, depicted in Diagram 4, which shows the specific combinations of citizenship status, to provide the offspring with the same status. If this combination were to include a non-citizen, the offspring’s status would be threatened.

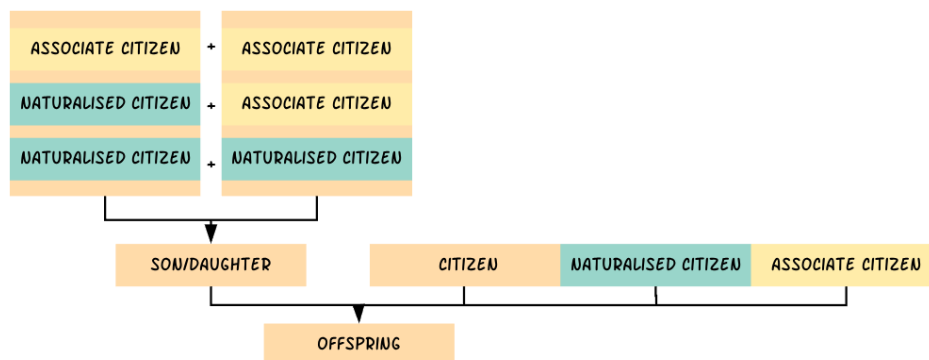


Diagram 4 Made by authors (2018), based on diagrams in Burma Citizenship Law. (1982) on pages 2-3.

The law emphasises that the offspring born of Diagram 4 would be granted citizenship, noting that an associate citizen status can be granted before the Ministry of Home Affairs (1982:2), which allows pathways for former foreigners to obtain citizenship. This, however, raises questions the existence of the stateless issue of the Rohingya community, this context suggests that this is not the case; Goodwin-Gill (2014) emphasises that one of the causes of statelessness, is a state's action to withdraw a citizen's citizenship. In regard to that the law further states that any citizen except a “*citizen by birth*” (1982:2) can have their citizenship revoked by the Council of the state if it is in the interest of the State (1982:2). The law does not imply what these interests may include, however, can be seen to further empower the State and threaten and excluded minorities such as the Rohingya.

The 1951 Bangladesh Citizenship Act

If the claims of the Myanmar government, in which they suggest that the Rohingya are descendants of Bangladesh (Minority Rights International, 2017), are considered true then the Citizenship Law of Bangladesh becomes relevant in understanding if their rights are protected.

The (1951) Act, however, does not enclose any articles or clauses that would consider the Rohingya community as their citizens, this again is evident in the discourse and reaction by the Bangladeshi Government to the displaced population in Cox's Bazar. Bangladesh Prime Minister Sheikh Hasina declared at the UN General Assembly that the "*forcibly displaced people of Myanmar*" (Hasina, 2017) are proof of the escalating crimes and ethnic cleansing in Myanmar. The Bangladeshi Prime Minister Sheikh Hasina at the UN General Assembly, where she encourages the international communities aid in protecting the community (Hasina, 2017).

UN Conventions addressing statelessness

In terms of international conventions, statelessness is addressed directly in the *Convention relating to the Status of Stateless Persons* (1954) and *Convention on the Reduction of Statelessness* (1961). However alike, on a national level, the 1954 Convention includes specific requirements for what constitutes a stateless person. The excluded individuals are described as individuals already protected by UN agencies or UNHCR, individuals recognised as nationals by a state, individuals that have committed crimes against humanity, crimes against peace, war crimes or any crimes that undermine the aims of the UN (UNHCR, 1954:6).

It can be observed that the 1954 Convention notes that the obligation to protect the rights of stateless persons lies with the host state in which they reside, where the state must not discriminate based on the race, religion or origin country of the stateless person. Thus, a state is obligated to treat a stateless person with the same rights as other "aliens" (UNHCR, 1954:8) within their borders, however, their status is governed by the host state (UNHCR, 1954:10).

The rights which are specified by this convention include, the “*right of association*” (UNHCR, 1954:11), the right to the free access of law courts (UNHCR, 1954:11), “*right to industrial property*” (UNHCR, 1954:10), the right to “*self-employment*” (UNHCR, 1954:12) and employment as described by the states aliens circumstances (UNHCR, 1954:12). Other basic rights described include education, housing, freedom of movement, social security at the same level as citizens (UNHCR, 1954:14).

With regards to the Rohingya community, both the 1954 and 1961 Conventions appear to be irrelevant for two reasons, firstly because both Bangladesh and Myanmar are not signees of either of the Conventions, as well as the recognition of the Rohingya as “*refugee*” (UNHCR Rohingya emergency, undated). The recognition as a “*refugee*” once again limits the protected rights of this community as the UNHCR has set a target for zero statelessness by the year 2024, however in this Global Action Plan (2014) they explain that this goal is to resolve “*all major non-refugee stateless situations*” (UNHCR, 2014) which in turn, questions the relevance of this goal to the Rohingya community.

The UN and the #IBelongCampaign

The UN employs the conventions in their 2014 plan to end statelessness in 2024. In this document the UNHCR lists 10 steps in which to end statelessness, the 10 Actions to end statelessness are:

- *Action 1: Resolve existing major situations of statelessness.*
- *Action 2: Ensure that no child is born stateless.*
- *Action 3: Remove gender discrimination from nationality laws.*
- *Action 4: Prevent denial, loss or deprivation of nationality on discriminatory grounds.*
- *Action 5: Prevent statelessness in cases of State succession.*
- *Action 6: Grant protection status to stateless migrants and facilitate their naturalization.*
- *Action 7: Ensure birth registration for the prevention of statelessness.*
- *Action 8: Issue nationality documentation to those with entitlement to it.*
- *Action 9: Accede to the UN Statelessness Conventions.*
- *Action 10: Improve quantitative and qualitative data on stateless populations.*

(UNHCR, 2014:2)

However, it is apparent that despite being aimed to end all statelessness, the document carries some limitations, specifically in its specification that only a handful of states need to abide by the goal, as well as the specification that people labelled as “*Refugees*”, are not included in this goal (UNHCR, 2014). The UNHCR also notes that the most effective way to achieve this goal is to reform national laws (UNHCR, 2014:7) such as citizenship laws. In 2018, the UN has not made any statements on whether or not the sub-goals listed in the document have been met, or if the 2024 goal is still a possible target

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Analysis

It can be understood that the UN identifies the issue of the Rohingya people as a wicked one, this is seen in its findings of the Fact-finding mission (2018), specifically in its identification of the different actors, and multifaceted nature of the issue. However, it is also implied that the UN actively addresses the issue as a tame one, by proposing tame solutions, and breaking the greater issue into smaller components. These Tame Problem solutions are evident in most of the documents, however, specifically the Resolution that was passed in the UN 3rd Committee (2018) shows an insight in the direct measures of how the UN is addressing the issue, whilst the fact-finding, statements, press-releases aids in highlighting how the organisation understands the issues. The NGO actors are also seen to have approached the Rohingya problem in a similar way. Thus, this analysis will first investigate how the examined documents align with the framework of tame problems and then secondly look at them in relation to the criteria for wicked problems.

Criterion A of the tame problem analytical framework indicates that an exhaustive exploration will aid in the development of possible solutions. Both the UN and the NGO's understand the problem as such. Within the UN it can be seen in the employment of UN Fact-finding missions (2018) and their claim that the situation requires more investigation (Human Rights Council, 2018:3). Further, the UN Fact-finding mission includes a conclusive segment in which they suggest possible solutions. This is further seen in the NGO's documents, where they apply known and tested solutions. Such as seen where they find a known solution to be; applying pressure through the UN and using the existing legal frameworks around statelessness to determine the ways forward and the responsibilities in relieving the current crisis faced by the Rohingya (Annex 8 - HRW, 2017: ref 5) as well as applying pressure on the Myanmar government. "(Annex 8 - ICJ, 2018: ref. 2). The NGO's uniquely take note however that there are several failed attempts at solving similar situations of Rohingya refugee presence in Bangladesh, this is specifically seen in the ICG document where they say: *"A major fear remains the possibility of forced repatriation, which occurred following the 1978 and 1991-1992 exoduses, exacerbated by the diplomatic manoeuvring between Bangladesh and Myanmar described above"* (Annex 8 – ICG, 2018: ref 2). Overall, the NGO's rhetoric indicates the need for more exploration of the issue, indicating that more research is needed in

order to properly inform several aspects of the issue (Annex 6 - ICJ, 2018: ref. 1 & 2). The main challenge in gathering this information is highlighted in the HRW report which points out that investigating the Rohingya themselves and the atrocities against them is sensitive due to their current situation; *“but they were not able or willing to provide details of specific events they experienced or witnessed personally”* (Annex 7 – HRW, 2018: ref 1). As such the aspect of exhaustive exploration is somewhat present in the documents, but not a prevalent theme, and the general sense is that the issue of the Rohingya is one which is complex to explore due to the complexity and the ethical challenges of exploring sensitive subjects within an already vulnerable population.

The first criterion in the Wicked Problems Framework A, indicates that exhaustive exploration of a problem does not aid in the possible formulation of solutions. This is seen in the UN’s actions to tame the issue and break it down into its fundamental issues, such as the variation of human rights violations, different types of violence, and the displacement. The wickedness of the issue is seen in the variety of different actors and their obligations in addressing the Rohingya crisis, along with the interplay of different issues. These findings can be visually seen in the Word Clouds represented in figures 5.1 to 5.5 in Annex 2. The UN tames the problem by addressing core issues separately, with its aim to find solutions for each of the smaller problems. However, breaking down the Rohingya problem has highlighted the complexity of the core issues, specifically in the variation of Human Rights violations. All the UN documents explicitly highlight the UN’s focus on the protection of human rights. The UN Fact-finding mission (2018) lists the different violations as codified in the Universal Declaration of Human Rights (1948); Article 13’s freedom of movement (Fact-finding mission, 2018:7), Article 16’s freedom of religion (ibid:7), Article 19 and 20’s *“freedom of expression, association and peaceful assembly”* (ibid:15) and Article 25’s access to food, health care, education and livelihoods (ibid:8). The report also explicitly introduces extreme human rights violations such as crimes against humanity, war crimes and acts of genocide, which the report confirms took place in Myanmar and the Rakhine state. The addressing of these individual issues does not appear to aid in the solution of the stateless problem.

Criterion B of the tame problem analytical framework indicates that a solution can be directly translated from the nature of the problem itself to solutions used in similar cases. This criterion appears to be more evident in the UN documentation, specifically seen in the Fact-finding mission’s recommendations, and the Resolutions operative clauses. It can be seen that the UN

identifies the *direct translation from the nature of a problem to the solution to solve it* where they note that the country's transition to a democracy is aiding the discriminatory acts towards the Rohingya and thus promoting their statelessness (Fact-finding mission,2018; President of Security Council,2017). As such the UN sees the end to the problem in the completion of the state of this transition and the return of the Rohingya that has been misplaced. Other component problems that the UN is seen to address include safety, shelter and humanitarian assistance (President of Security Council,2017). However, the imagined solution only embodies segments of the issue itself, and does not fully allow the problem of the statelessness to be solved, and appear to settle for impermanent solutions, such as more investigations (ibid), humanitarian assistance (ibid) and the return of the Rohingya to Myanmar (ibid), logistical aid to Bangladesh (ibid) increased dialogue between stakeholders (ibid) and the restoration of law and order (Human Rights Council,2018)

Criterion B in the wicked problem framework indicates that there is no direct translation from the nature of a problem to its solution, specifically indicating that wicked problems need custom solutions. This criterion includes many factors noticed by both the UN and the NGO's who bring up the need for context-specific and tailored solutions, the variations of violence, variations of actors and the extent of the refugee issue. The UN specifically takes note of the variations of violence. The Word Clouds 1-5 in appendix 2 highlight the repetition of the terms 'violence' and 'security'. Alike the variety of human rights violations, the types of violence reported by the UN are diverse, ranging from hate speech and hateful rhetoric, murders, property destruction, physical and sexual violence (Fact-finding mission,2018:15). The UN identifies that the violence is planned, motive-driven and systematic (ibid:6). As well as forming an understanding that the violence towards ethnic minorities and the Rohingya are rooted in the government, and the national military. This is further seen in The Rakhine Nationalities Development Party (RNDP) rhetoric that describe these actions were necessary to "*maintain a race*" (ibid:8). This brings about the importance of the role identity plays in this particular case, The Fact-finding (2018) document explains that the actions appear to be othering and distancing the Rohingya community from the Myanmar identity, specifically in calling the Rohingya "*illegal immigrants*" and "*terrorists*" (ibid:8). The UN confirms the presence of more extreme acts of violence including; crimes against humanity (ibid:16), war crimes (ibid:15) and acts of genocide. As such, there is a general sense in the NGO sources that the application of some known methods of addressing issues similar to this has largely failed, which is a key aspect of wicked problems.

This inherent uniqueness is widely addressed by the NGO's highlighting the special circumstances surrounding both the current situation of the displacement to Bangladesh, but also the general uniqueness of the prolonged statelessness of the Rohingya. As referenced in the ICG report: *"While there is no disagreement in political and policy circles about the intractability of the crisis, there is widespread reluctance to acknowledge it, as it would reflect badly on the Bangladeshi government's ability to protect its sovereignty and could be interpreted as tacit acceptance of ethnic cleansing."* (Annex 10 - ICG, 2018: ref. 1)

Another aspect of recognising the uniqueness of this problem is ensuring that all perspectives are taken into account. This includes ensuring that whatever happens to the Rohingya is voluntary (Annex 11 - HRW, 2018: ref 5)) and that the voices of all ethnicities in Rakhine are taken into account when choosing how to approach the issue of possible repatriation (Annex 10 - ICJ, 2018: ref 2).

Alike Criterion B, Criterion C in the tame problem framework appears most prevalent in the UN documents, outlining that the UN sees a clear end in sight. This end solution is evident in their rhetoric to *"resolve the crisis and create the conditions allowing the safe, voluntary, and dignified repatriation of refugees to their homes in Rakhine State."* (Press Statement, 2018). The documents do not explicitly indicate if the stateless nature of the Rohingya will be addressed in the return to Myanmar, however, the organisation takes note of the stateless nature they are in. However, it indicates that for this solution to be enabled, that issue will have to be addressed.

The last criterion C in the wicked problem framework indicates that there is no clear end in sight, with the specific reference that it will be unclear when the problem is solved. The UN documents claim that it is a necessity to address the *"root of the problem"* (Press Release, 2018) however, they reference this regarding the root reasoning behind the displacement and human rights violations. The embodiment of the whole issue of statelessness of the Rohingya has not been a key issue addressed by these documents, only two of the documents mention the terms *"stateless"* and *"statelessness"* (Fact-finding mission, 2018:6; Human Rights Council, 2017:3) once or twice. The documents refer to statelessness in the context of listing human rights violations, acts of violence and discrimination (3rd Committee, 2018:2-3). However, the clause only serves as the UN's recognition of these events taking place, and not towards the UN's

action towards solving it. The UN also takes note of how the Rohingya were deemed stateless by the 1987 Citizenship Law (3rd Committee, 2018:2-3; Fact-finding mission, 2018) as well as taking note of Myanmar's actions to distance the Rohingya from the state's identity by confiscating the Rohingyas citizenship papers, however this is the extent to which this issue is addressed. Further, the UN appears to take note of a fundamental aspect of the core of the wickedness, The Fact-finding mission takes note of the longevity of the issue (named as "*clearance operation*") itself, specifically referencing that the issues of statelessness, human rights, and security are a cause of a larger problem, originating from long before. This is seen in the reference of a Tatmadaw Commander-and-Chief, who claims it is a "Bengali Problem" (uniqueness of issue, as stated in the framework) and that it is the "*solution of a 'long standing'*" problem. (Fact-finding mission, 2018).

Similarly, the NGO's recognise the uniqueness of this problem is ensuring that all perspectives are considered. This includes ensuring that whatever happens to the Rohingya is voluntary (Annex 11 - HRW, 2018: ref 5) and that the voices of all ethnicities in Rakhine are considered when choosing how to approach the issue of possible repatriation (Annex 10 - ICJ, 2018: ref 2). However, it can also be seen that the NGO documents are divided into the recognition of UN action, specifically the Security Council, as a means to a solution. They note that despite not having been effective previously. At the same time, they argue for ensuring that an array of different perspectives are taken into account in order to ensure that an eventual solution is sustainable. However, on the notion of their is a simple and clear ending to the plight of the Rohingya there are several references which pose that repatriation and the prosecution of those responsible will be the logic and preferable solution (Annex 12 – HRW, 2018: ref 2; HRW, 2017: ref 1; ICG, 2018: ref 1). On top of this, the notion of their citizenship being recognised and their rights being protected going forward is also touched on by several of the sources (Annex 12 - HRW, 2018: ref 3, HRW, 2017: ref 1; ICJ, 2018: ref 1). As such they consider a solution to be achievable. The NGO's further note that a solution is not necessarily achievable in any kind of near future. The previously mentioned examples of inaction of the main human rights for a are examples of this, but as mentioned in the ICJ, there is a very prevalent need to address the root causes of this problem, so the current situation will not just repeat itself as it has for several decades (Annex 12 – ICJ, 2018: ref 1). According to these sources addressing these root causes has not yet happened and will be a long and difficult (Annex 13 – HRW, 2018: ref 9) (Annex 13 – ICG, 2018: ref 10).

The additional codes indicate that The NGO's noted that in the absence of a final solution to the issue, and while waiting for repatriation, another key point highlighted by the sources are the contested issue of the legal status of the refugees. As mentioned in the background, the Bangladesh Government has been reluctant to grant the Rohingya refugee status, resulting in the majority of them being registered with the government as "*Forcibly Displaced Myanmar Nationals*" (Annex 14 - HRW, 2018: ref 1). As demonstrated in annex 14 (HRW, 2018 ref. 1) this issue is also closely related to their security as their lack of refugee protection makes them significantly more vulnerable to exploitation. Additionally, the main issue in the security of the Rohingya refugees is their current living situation, described by several of the sources as very vulnerable (Annex 15 – HRW, 2018: ref 7; ICG, 2018: ref 1). This poses a significant threat to the Rohingya, one which is unlikely to change since Bangladesh does not want to encourage more permanent residency (Annex 16 - ICG, 2018: ref 2). Lastly, an issue highlighted by multiple NGO sources is that Bangladesh and Myanmar have both been reluctant to allow full access for humanitarian actors to access and assist in the refugee camps and Rakhine respectively (Annex 17 – HRW, 2018: ref 8&9; ICJ, 2018: ref 4&5). The restrictions within Myanmar especially pose an obstacle to eventual repatriation and resolving of the problem as free movement of humanitarian and human rights actors will be imperative to ensuring a successful reintegration (Annex 17 – HRW, 2018: ref 7; ICJ, 2018: ref. 5).

Discussion

This analysis considered the sources in order to assess the ways in which Rohingya statelessness is currently addressed against the theoretical understanding of problem wickedness. In order to gain a full understanding of the conceptualisation of statelessness as a human rights problem within the international human rights regime, we included both UN-documents and documents from several international NGO's who have addressed the issue of Rohingya statelessness. Given that the UN is the core of the international human rights regime, their understanding of this issue is of course immensely important and there is a certain power-structure inherent in this system. Since the UN is the only legal authority on human rights, the role of NGO's thus become one of feeding into the UN-system through research, assistance and the provision of information and perspectives (Dunér, 2002: 93).

This point is prevalent in the NGO-documents especially, as can be seen in Annex 9, the UN is mentioned by all NGO sources, several times as the authority with the agency to act on this issue. This action has yet to be seen though, as pointed out by several of the sources, and what more is that the UN itself references the responsibility of several other actors in addressing this issue. Understandably this issue cannot be solved by one singular entity but must be addressed by the broader international community. This speaks to a key aspect of this projects understanding of the issue of wicked problems, namely the significance of the complex systems which deal with them. The issue of who is to be responsible for resolving the issue of Rohingya statelessness as such is a complex matter, further complicating how the issue is addressed. Furthermore, this complexity highlights another aspect – *the need for a tailored solution*, a specific wording used by the UN itself, and referenced indirectly in NGO sources as well

All the sources included display significant attempts at providing the *exhaustive exploration* highlighted by Rittel and Webber (1973). Still, there is an evident understanding of this issue as being of significant complexity and thus, that exploration is both ethically and practically challenging. Another issue which speaks to the challenges in this regard is the fact that especially the NGO sources all have a certain focus on the immediate security issues of the current situation of the displaced Rohingya. As such the issue of root causes falls to the background in favour of ensuring the survival and basic security of the displaced population. These root causes are recognised by both the UN and NGO's as the key to eventually reaching a solution to this issue but take second priority to the current situation. This is an issue highlighted by theorists such as Goodwin-Gill as a general challenge of the issue of statelessness, as the security consequences of the status of statelessness push the actual addressing of the issue to the background (Foster and Lambert, 2016:565).

On the subject of the resolution, there is a general understanding and consensus on what this solution would look like. The issue, in this case, is that most of the sources also recognise that it is uncertain when and how this would be achieved. As such, there is a general idea of what a solution would be – no discrimination or abuse and the recognition of the Rohingya as Myanmar citizens, but no complete plan of how this would eventually come about, and what would be required of the states and international actors. As such, they acknowledge the relevance of diverting a certain amount of focus towards bettering the current situation rather than focusing on the currently improbable prospect of repatriation.

Throughout this project, complexity has shown itself to be an overarching aspect of this issue and how it is dealt with. The issue of statelessness and specifically that of Rohingya statelessness is complex, including many different actors and legal frameworks. The use of hermeneutics (Hekman, 1983), enabled this project to grasp the different interpretations of the different stakeholders, to understand their specific point of view of the problem. Ensuring that we were focused on understanding the significance of these understandings and relations.

Complexity was found in the literature review to be central to the theory of wicked problems as presented by Rittel and Weber (1973), as specifically referenced by Kreuter et. Al, who posed that a problems wickedness is proportional to its complexity (Kreuter et. Al, 2004: 443).

These complexities have been further informed in this project by the consideration and analysis of the international human rights regime and how the actors within this understand and deal with this issue through legal and diplomatic appeals. This data will no work to inform a discussion in which we look at how the theory of wicked problems can explain the persistence of the issue of statelessness.

Social Complexity, was component interpreted from the data. The initial idea was set forth by Jeff Conklin (2006) a key component to the understanding of problem wickedness is the social complexity of the systems in which they are dealt with (Conklin, 2006: 4). The actors involved in the Rohingya crisis including both the legal authority of the UN and diverse actors such NGO's, academic institutions and others with a vested interest can only considered to be a system of high social complexity. An attempt at depicting this complexity has been made in Diagram 5 below:

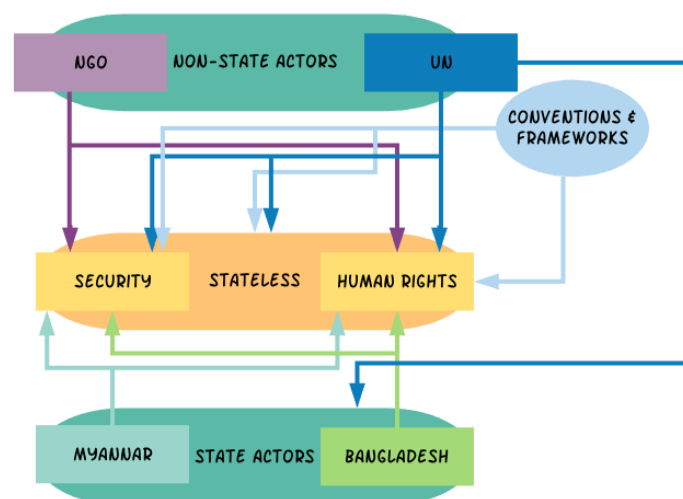


Diagram 5: Depiction of the complexity of the Rohingyas statelessness problem

The issue of social complexity leads back to points also posed by Rittel and Weber in relation to wicked problems; “[...*plurality of objectives held by pluralities of politics makes it impossible to pursue unitary aims;[...]*” (Rittel and Weber, 1973: 169. It is Conklin's contention that this social complexity often leads to fragmentation based on basic fact that stakeholders have different understandings of what the problem itself is based on their individual objectives and interests (Conklin, 2006: 29). As such *a common understanding* becomes the key component in solving any problem, but especially wicked ones (Conklin, 2006: 29).

The analysis, which included some of the stakeholders presented in the figure above, there were some signs of a common understanding of the Rohingya issue. The sources agreed that they were forcibly displaced from their homes and that they had been victims of human rights violations and atrocities. They are also considered by all these stakeholders to be stateless. It is important to note though, that the actors presented in this case are arguably not very likely to have a fragmented understanding of this issue as they are relatively impartial. When considering the UN as not just a stakeholder but the only legal authority and framework within which to deal with problems such as this it is thus also important to note that it ultimately consists of 193 different state actors and as such is inherently socially complex on its own accord.

The issue of a fragmented understanding is, in this case, most prevalent in relation to the state actors; Myanmar and Bangladesh. Myanmar effectively revoked the citizenship of the Rohingya through the Burma Citizenship law of 1982, as they are not included in the ethnicities offered automatic citizenship, and most of them are unable to provide the necessary evidence for applying for citizenship (Minority Rights Group International, 2017). Furthermore, they have repeatedly referred to them as “Bengali’s”, indicating that they consider them to be illegal immigrants from Bangladesh (Minority Rights Group, 2017). Bangladesh, on the other hand, has been on the receiving end of the enormous displacement following violence in Rakhine state, allowing almost a million Rohingya to cross the border into Bangladesh throughout the period since 1982. Despite recognising them as being “*displaced Myanmar nationals*”,

Bangladesh has been unwilling to recognise them as refugees, possibly due to the responsibilities which this places on them as the host-nation (HRW, 2018: 4).

This fragmentation will affect the overall addressing of the issue, especially since allies of the two countries will likely align themselves with their respective views, thus complicating and fragmenting the addressing of the issue in global forums such as the UN.

In relation to the general issue of statelessness, the role of the UN is especially significant. Being the only actor with any concrete authority to address the root causes of statelessness while also, undeniably, socially complex poses a significant challenge to addressing this issue on a larger scale as attempted with the Campaign to end statelessness by 2024. This campaign has yet to see any publicised action, which according to Conklin's (2006) understanding of social complexity could easily be attributed to the fact that the general support and ratification of the conventions on statelessness is limited (UNHCR, 2014: 4).

In using the wicked problems as a tool, it was realised that this project needed to ensure that it did not over-simplify or break down the issue of statelessness (taming the problem) thus tried to grasp it as it was, this was an issue, as it aimed to understand the individual roles of the stakeholders. Thus, it was found to be vital, that all the findings together before coming to any understandings of the nature of the problem. This understanding was visualised this understanding in Diagram 5, which highlights the core interests of the different stakeholders in the issue of Rohingya statelessness. Thus, in the understandings that other issues not touched upon in the NGO and UN documents, included issues relating to the bilateral relations between Myanmar and Bangladesh, that were discovered in the preliminary research phase. These relationships are said to include territorial disputes between the two states (Parnini, 2013). This project now takes note that these relations and other relations may have an influence on the persistence of the Rohingya's continued statelessness.

In analysing the chosen documents an important issue in relation to addressing Rohingya statelessness arose: an evident tendency to focus on the immediate issues relating to security and violence rather than the root causes. While understandable and necessary, this may also be a contributing factor to the persistence of statelessness despite concerted efforts and several official UN documents fighting for its eradication. According to Goodwin-Gill, a central challenge to the addressing of the issue of statelessness is that it has long been tackled mainly

as a technical issue of security, rather than the underlying human rights issue of lacking citizenship (Foster and Lambert, 2016: 565).

Within the realm of wicked problems, Conklin poses the similar point that a way in which wicked problems are many times dealt with is by attempting to “tame” them, by applying tame solutions to them (Conklin, 2006: 20). This, he argues may make them seem manageable in the short term, but will not be sustainable and will fail in the long run, having the problems return sometimes even exacerbated by the failed attempts at resolving (Conklin, 2006: 22-23). We acknowledge the focus on security as valid, and see the focusing on security aspects as an inadvertent taming, which happens at the realisation that solving the issue of statelessness if the people affected are not safe and secure while doing so is inept.

One aspect of this which also came up during our analysis is the taming strategy action to “*Cast the problem as ‘just like’ a previous problem that has been solved*” (Conklin, 2006: 22). This was represented in our analytical framework as the application of a known solution to a unique problem and was found to be something used quite extensively. As found in the analysis, the referenced solutions in the examined documents were known political tools such as economic and diplomatic pressures, condemnation by the general assembly and UN organs and the upholding of existing UN conventions on statelessness and human rights. These are tools which have been used in a variety of cases, to varying degrees of success, but the reliance on this is an obvious attempt at taming the problem, and if this project were to follow the thoughts of Conklin, applying these to statelessness will not be effective, nor create any sustainable solution.

It can be argued that this is in fact already evident, as statelessness, and Rohingya statelessness, in particular, has been an acknowledged issue for the better part of a decade, and that the conventions, having existed for almost as long have failed to significantly improve the situation. Within this understanding, the UN’s ambition to end statelessness could be seen as an attempt at trying to apply a more tailored, appropriate, solution. Though according to Conklin, for this to be effective the ambition would have to be backed up by actions which do not just follow the usual guidelines of UN condemnation and pressures. Furthermore, when considering the social complexity of the UN, significant strides would have to be made in ensuring that the whole of the UN along with the broader Human Rights Regime has a common understanding of the issue of statelessness and more importantly, how it is to be solved.

As shown by the failed attempts at taming the issue of statelessness, the root causes are at the center of the complexity of the issue. This could, in fact, be the core wickedness of the issue, as the root causes are the aspects most heavily disputed and which responds the least positively to attempts of taming. These root causes are referenced in the documents analysed in this project as a key aspect of its solution, but fully grasping these seem an overwhelming challenge, which no organisation or UN organ can reasonably tackle alone. When considering the importance which both Rittel and Weber (1973) and Conklin (2006) place on acknowledging the unique aspects of each wicked problem it is impossible to ignore that despite efforts to collectively understand and solve issues of statelessness, a key aspect will remain unique to each case: the perspective of the people affected. Especially considering the inherent human rights violation held within the deprivation of citizenship and Hanna Arendt thoughts that individual rights are central to human dignity (Arendt, 1998: 94). In the case of the Rohingya, their sense of belonging is quite clear, as presented in many of the sources examined: They consider Myanmar to be their home and want to move back there, provided that their right to citizenship is acknowledged by the state of Myanmar (HRW, 2018)

This is not necessarily the case for all people affected by statelessness since both the causes and consequences of statelessness are many and varying. This highlights the most important perspective highlighted by the use of Rohingya statelessness as a case, that statelessness is not an issue which does well with cookie-cutter solutions but must be understood and addressed with respect for the complex issues at play in each individual case.

Conclusion

Initially, this project was grounded on the aim to understand the problem of statelessness and question the continued persistence of statelessness today. It was noted that the UN aims to end all statelessness by 2024, and so this project aimed to understand how this could be possible.

In the context of the Rohingya, it can be understood that they initially became stateless due to the Citizenship Act of 1982 however found it particularly interesting how this problem could have persisted for so long, developing into what is described as “*ethnic cleansing*” (ICG, 2018: 1; HRW, 2018: 59; HRW, 2017). In tackling the background understanding of the Rohingya

issue it was found that there was a multidimensional aspect to the problem, where many issues, actors and perspectives all played a key role in both the persistence and the escalations of this issue. Thus, to find a way to understand, and grasp this issue we found the theory of Rittle and Webbers' (1973) Wicked Problem. In both this depiction of the theory, along with Conklin (2006), Brinkerhoff (2014) the understanding of both the Rohingya issue and the greater problem of statelessness itself. The project understood statelessness to be a problem, due to an individual's citizenship entitling them to a level of security of their rights. Leading to the implementation of this theory to understand this critical question. Additionally finding, that in modern politics, states are not the only key actors, thus looked to them to understand this problem. The UN has the power to employ the Responsibility to Protect doctrine, in cases of extreme human rights violations, like what the UN Fact-Finding Mission (2018) is to have found in Myanmar.

Thus, the understanding of wicked problems as presented by Rittle and Webber (1973) aided in the understanding of statelessness's persistence by acknowledging the multifaceted nature of statelessness, and the requirement of wicked methods and solutions to solve it. It can be noted that the continued persistence of this issue can be seen in the implementation of tame problem solutions and the fragmentation of the greater issue. Thus, to halt this persistence, it is necessary to adopt and understand the problem in its entirety.

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