

The Rohingya Crisis: Past, Present, and Future



Summary Report of Findings from Fact-Finding Mission to Bangladesh 21-24 January 2018

ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS (APHR)

is a human rights intervention force of current and former parliamentarians from Southeast Asia, who use their unique positions and innovative means to prevent discrimination, uphold political freedom, and promote democracy and human rights throughout the region. APHR supports the work of civil society and human rights defenders and encourages sustainable solutions that increase pressure on governments and multilateral bodies to ensure accountability and uphold and enforce international human rights laws.



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Introduction

In January 2018, ASEAN Parliamentarians for Human Rights (APHR) undertook a fact-finding mission to Bangladesh aimed at examining the causes, impacts, and implications of the crisis that followed a 2017 crackdown by Myanmar security forces on Rohingya Muslims in northern Rakhine State. The delegation, which included current and former legislators from Indonesia, Malaysia, Singapore, and Thailand, traveled to Dhaka and Cox's Bazar from 21 to 24 January 2018 to visit the camps where hundreds of thousands of Rohingya had settled in the preceding five months and to speak with refugees, as well as government officials and representatives from humanitarian organizations.

APHR focused on gathering information on human rights violations that Rohingya experienced in Myanmar, as well as rights concerns affecting Rohingya refugees in Bangladesh. The delegation also sought to gain a clearer understanding of the proposed repatriation process, amid concerns about the potential for unsafe and involuntary returns to Myanmar. The findings of the mission, which are detailed in this report, build on APHR's previous work on the human rights situation in Myanmar and compliment a wide body of additional research and documentation being carried out by other groups.

The report is divided into four sections. The first three address human rights issues through a temporal framework – past, present, and future – designed to approach the issues in a holistic manner. They cover specific human rights concerns for Rohingya in both Myanmar and Bangladesh, beginning with atrocities committed in the context of the crackdown, moving onto protection concerns for refugees in Bangladesh and ongoing rights violations in Myanmar, and finally addressing potential future violations in the context of repatriation and medium– and long–term residency in Bangladesh. The final section discusses the role of ASEAN in working toward a resolution, which also formed a key component of APHR's investigation. The report concludes with recommendations for the Myanmar government, the Bangladeshi government, and ASEAN and member state governments.

Past

The disproportionate response by Myanmar security forces following attacks on police and military outposts by the Arakan Rohingya Salvation Army (ARSA) on 25 August 2017, resulted in grave human rights violations, including widespread killings, arbitrary arrests, mass arson, and sexual violence, all of which have been extensively documented by international human rights organizations. These actions, collectively described by UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein as "a textbook example of ethnic cleansing," have driven hundreds of thousands of Rohingya to flee northern Rakhine State into Bangladesh.

Meetings with refugees in Kutupalong and Balukhali makeshift settlements in Cox's Bazar district provided the APHR delegation with detailed accounts of grave rights violations against Rohingya in the context of operations by security forces since 25 August. APHR spoke with refugees from Maungdaw, Buthidaung, and Rathedaung townships, including both men and women from multiple villages. Refugees from different locations recounted similar stories of Myanmar security forces arriving in their villages in the days following 25 August and systematically attacking villagers and burning down houses.

Refugees that APHR spoke with described witnessing soldiers shoot villagers, including their own family members, and several showed the delegation scars from bullet wounds. Refugees also described witnessing relatives and neighbors being beaten and tortured before dying at the hands of security forces. Some recounted how family members had been burned alive inside their homes. The delegation was told by some of the refugees that mass graves were dug, filled with bodies, and later covered with mud. Refugees also reported the participation of local Rakhine Buddhists in carrying out abuses, in some instances.

APHR spoke with several refugees who recounted cases of rape and sexual violence, including both personal experiences and descriptions of abuses perpetrated against family members. Such stories conform with significant documentation of sexual violence by international human rights organizations.

From conversations with stakeholders in Bangladesh, as well as documentation undertaken by international rights groups, APHR understands that at least 360 villages were completely or partially burned down in northern Rakhine State, and conservative estimates place the death toll at a minimum of 6,700 in the crackdown since 25 August.

Many of the refugees APHR spoke with had lost family members. These accounts were reflective of the wider data collected. According to Bangladeshi government figures, out of approximately 688,000 new arrivals since 25 August at the time of APHR's visit, over 36,000 children were reported to have lost at least one parent and over 7,700 were reported to have lost both parents, though protection actors that APHR spoke with explained that some unaccompanied children may simply be separated from their parents.

"I saw helicopters with military men shooting. My aunt was raped and my son was stabbed, killed by the military."

- Male refugee from Balukhali Makeshift Camp



APHR delegation walks through Kutupalong Makeshift Settlement and witnesses the conditions firsthand.

After fleeing their villages, Rohingya undertook lengthy journeys to reach Bangladesh. Refugees that APHR spoke with described traveling for between five and 17 days by foot and then by boat before reaching the camps. Refugees told the delegation that they felt safe and happy to be in Bangladesh after the horrors they experienced at the hands of security forces in Myanmar, and that they would rather die than be sent back to Rakhine State. Many appreciated the fact that they could freely practice their religion for the first time in the camps.

During meetings, refugees also discussed the impacts of discriminatory state policies and practices on their lives in Rakhine State before fleeing. Rohingya in Myanmar remain stateless without access to citizenship rights. Severe restrictions have been placed on their freedom of movement and access to basic services, such as education and healthcare. Refugees that APHR met with in the camps described the need to pay bribes and expensive fees to travel between villages and access livelihoods when they lived in Myanmar. The information gathered from stakeholders and refugees in Bangladesh further confirmed APHR's earlier assessments, including in the organization's October 2015 report, "Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis," which found that state-sponsored persecution, including lack of freedom of movement, lack of access to livelihoods, and disenfranchisement, made life impossible for Rohingya and drove increasing numbers of them to flee Myanmar.¹

In the context of the accounts collected by the delegation, APHR was particularly dismayed that the Myanmar government has chosen to block all access to international human rights investigators, including the Independent International Fact-Finding Mission on Myanmar and the UN Special Rapporteur on the situation of human rights in Myanmar, Ms. Yanghee Lee, from entering Myanmar to fulfill their mandates. The delegation's visit to Cox's Bazar coincided with a separate visit by Ms. Lee and MPs were able to meet and have a productive discussion with her.

"In all my 45 years, I have never slept properly until I arrived in the camps." $\,$

- Female refugee in Kutupalong Makeshift Settlement



Hon. Louis Ng (MP, Singapore) speaks to stakeholders in the camps.

Present

With the influx of nearly 700,000 refugees since August 2017, the Cox's Bazar district is now home to close to 1 million Rohingya, and the contiguous Kutupalong and Balukhali camps and makeshift settlements together constitute both the largest refugee camp in the world and the fourth-largest city in Bangladesh, according to officials. Visiting the camps, along with conversations with humanitarian actors in the area, provided the delegation with important insights into the challenges faced by Rohingya refugees in this environment.

Overcrowding is a serious concern, with nearly 1 million Rohingya refugees squeezed onto approximately 5,300 acres of land. The cramped conditions, combined with poor sanitation, have contributed to several disease outbreaks, including diphtheria, which was the most significant health concern at the time of APHR's visit. The delegation learned that this situation is compounded by the fact that many refugees from Myanmar had never been previously vaccinated against preventable diseases due to severe government restrictions on access to health services for Rohingya in northern Rakhine State.

Most Rohingya, including those who arrived in recent months, are not formally recognized as refugees by the Bangladeshi government. This lack of formal status creates barriers to obtaining some government services and limits their access to livelihoods. It also introduces a host of protection-related concerns since these individuals lack access to the justice system and legal recourse, in most cases.

"We are concerned about the operating environment and see a lot of anxiety among the refugees when they hear about repatriation."

- Stakeholder working in the field of refugee protection in Bangladesh

Restrictions on freedom of movement were also a concern in the camps in Bangladesh. Though Rohingya refugees enjoy a much greater degree of freedom of movement than they previously did in Myanmar, they are encouraged not to leave the camps for personal safety reasons and are not allowed out of their shelters beyond 5pm. Such limitations further affect access to services and livelihoods.

Refugees also face restrictions on the right to education. From discussions with humanitarian actors, APHR learned that only 10 percent of refugee children in the camps have access to education, as the Bangladeshi government has not allowed humanitarian organizations to significantly

¹ APHR, "Disenfranchisement and Desperation in Myanmar's Rakhine State: Drivers of a Regional Crisis," October 2015, https://aseanmp.org/wp-content/uploads/2015/10/APHR_Rakhine-State-Report.pdf.

scale up long-term educational programming. Current government policies also forbid the use of Bangla as the language of instruction in an apparent effort to guard against the integration of Rohingya refugees into the local Bangladeshi community. This policy limits the ability of aid groups to find enough qualified teachers to meet existing needs. The lack of sufficient space in the already overcrowded camps also limits the ability of aid groups to expand educational opportunities.

The delegation spoke at length with refugees and other stakeholders to understand the unique challenges faced by women and girls in the camps. APHR found that existing conditions, including overcrowding, freedom of movement restrictions, and lack of formal refugee status for Rohingya in Bangladesh, have unique and disproportionate impacts on women and girls, contributing to limitations on necessary services crucial for them to feel safe and secure. The female refugees that APHR met with explained that women were often unable to move around the camps alone, particularly at night. This has driven a growing number of women and girls into isolation, and prevented them from accessing services, such as life-saving care, which are provided by humanitarian actors.

Female refugees also face abuse and other challenges at home. One woman relayed to the delegation that her unemployed husband abuses her, while another said that she does not practice family planning due to cultural and religious stigma. The delegation learned that women are unable to report cases of harassment, domestic violence, or sexual abuse to the police, as the lack of recognized legal status in Bangladesh prevents them from accessing the justice system. Protection actors also highlighted an increased number of child marriages in the camps, which in some cases stems from parents feeling pressure financially to marry off their daughters.

Stakeholders highlighted further concerns about human trafficking. While only 17 cases of trafficking had been officially documented at the time of the APHR's visit, that number likely understates the actual total given the propensity for underreporting. Moreover, APHR learned that fears of trafficking alone had the ability to impact quality of life inside the camps. The delegation was informed of a recent survey of child refugees conducted by humanitarian actors, which revealed that many are afraid to leave their shelters after dark for fear that they will be kidnapped. The delegation was reminded that due to poverty, trafficking was already rife among the local Bangladeshi population, and noted that refugees were likely at higher risk, especially women and children, given that fewer protections exist for them.

In meetings with Bangladeshi government officials and other stakeholders,

APHR discussed the impacts of the unprecedented refugee influx on the local population in the Cox's Bazar area. Among the issues raised were concerns about the spread of disease, reduced job opportunities, and large-scale deforestation. APHR also learned that, as a result of the influx, the demographics of the area have been transformed, with the local Bangladeshi population, which stands at around 450,000, now constituting a minority in the Cox's Bazar district.

APHR commended the generosity and efforts undertaken by the government of Bangladesh in opening its borders to hundreds of thousands of Rohingya refugees to date and responding to their needs, despite the aforementioned concerns. APHR noted that Bangladesh is one of the most densely populated countries in the world and despite the scarcity in resources, the government has continued to keep the borders open to new arrivals. APHR expressed hope that the government of Bangladesh will maintain this open-borders policy, particularly given that persecution against Rohingya in Myanmar is still ongoing, as further evidenced by the continued arrival of new refugees from Rakhine State.

"Previously, there was burning. Now, tight control remains and people are prevented from living their lives."

- Male refugee at the UNHCR Transit Centre

Discussions with protection actors at a UNHCR Transit Center, where refugees come initially after arriving at the camps in Bangladesh, revealed that refugees were still crossing the border on a daily basis at the time of APHR's visit, though in much smaller numbers than during the heat of the crisis in September and early October 2017. Officials reported that between 10 and 100 families per day had been arriving in the weeks immediately preceding APHR's visit.

Through conversations with newly arrived Rohingya refugees at the Transit Center, the delegation learned that the continued outflow is driven by sustained persecution and discriminatory policies, as Myanmar security forces have continued to employ various forms of harassment against Rohingya, including arbitrary arrest and confiscation of property. These violations appear designed to pressure the remaining Rohingya community to leave northern Rakhine State. Several refugees informed the delegation that tight control have remained and measures currently put in place aim to prevent Rohingya in Myanmar from enjoying basic livelihoods. The new arrivals explained that some of these measures include the confiscation of livestock and other goods, as well as beatings and torture, which, in some instances, involve the participation of local Rakhine Buddhists.

Future

APHR's mission coincided with an important moment in the discussion over the future of Rohingya refugees in Bangladesh. According to an agreement between the governments of Bangladesh and Myanmar, Bangladesh was scheduled to begin repatriating refugees to Myanmar on 23 January 2018, the third day of APHR's visit. The timing provided a particularly useful opportunity for the delegation to obtain further insights into the proposed repatriation process.

On 22 January, however, the Bangladeshi government announced that the repatriation timeline had been delayed and that the first batch of refugees would not be sent back to Myanmar as scheduled on 23 January. Bangladeshi government stakeholders told APHR that this was, at least in part, due to concerns about conditions for return in Myanmar and a belief that safe, voluntary repatriation would not be possible at that point in time.

Government officials in Bangladesh surmised that the Myanmar government's willingness to agree to repatriation in the first place was largely the result of international pressure. They noted their concerns about Myanmar's willingness to provide a conducive environment for returnees, particularly as discriminatory laws and policies that caused Rohingya to flee remain intact. The delegation was heartened to hear from stakeholders within the Bangladeshi government and Parliament that they remain committed to ensuring that repatriation will be safe and voluntary, and APHR expressed hope that this commitment will continue.

"We lost everything. We came to Bangladesh because of this and we will not go back unless we are given citizenship."

- Female refugee from Balukhali Makeshift Camp

Nevertheless, APHR remains concerned about Myanmar's commitment to carry out the repatriation process in a safe and voluntary manner. Doing so must include ending discriminatory state policies that lie at the root of the crisis. From discussions with humanitarian actors, APHR learned that, at the time of the delegation's visit, the Myanmar government had yet to lift a block on most aid organizations from operating in northern Rakhine State. In addition, upon reviewing the key documents governing the bilateral repatriation agreement and its implementation, APHR has a number of concerns about the specifics.

APHR was provided with copies of three documents that set out the repatriation framework and processes:

- The first document, the "Arrangement on Return of Displaced Persons from Rakhine State," was signed by the governments of Bangladesh and Myanmar 23 November 2017 and outlines the criteria for refugees who wish to return, as well as general commitments from each country, including Myanmar's commitment to implement the recommendations of the Advisory Commission on Rakhine State, led by former UN Secretary-General Kofi Annan.
- The second document, the "Terms of Reference for the Joint Working Group on the Repatriation of Displaced Myanmar Residents from Bangladesh," was signed by the two governments on 19 December 2017 and details the formation and responsibilities of the joint working group tasked with overseeing the specifics of the repatriation process.
- The third document, the "Physical Arrangement for Repatriation of Displaced Myanmar Residents from Bangladesh," was signed on 16 January 2018 and contains additional details of the repatriation plan, including the transfer and verification processes, as well as commitments from the Myanmar government to not place returnees in internally displaced persons camps.



APHR delegation receives a briefing at the UNHCR Transit Center.

Based on APHR's assessment, key wording contained in these documents is vague and includes problematic language that weakens the commitments

made in the overall agreement. For example, Myanmar's commitment to grant freedom of movement for returnees, included in the 23 November 2017 "Arrangement," is limited by a clause specifying that such freedom must be "in conformity with existing laws and regulations" in Myanmar. Such language is particularly problematic, given that existing policies are discriminatory and arbitrarily restrict freedom of movement for Rohingya. Another example is Myanmar's commitment in the same document to take measures to "halt the outflow of Myanmar residents to Bangladesh" and to restore "normalcy" to northern Rakhine State. Such wording leaves an opening for Myanmar to sidestep the need to address serious ongoing persecution faced by Rohingya prior to August 2017, which lies at the root of the crisis.

Furthermore, according to the "Arrangement," refugees' right to return to their place of original residence or to a safe and secure place nearby will only be "encouraged" by Myanmar, rather than guaranteed. Meanwhile, though the original "Arrangement" and the 16 January 2018 "Physical Arrangement" both state that UNHCR and other interested international partners would be invited to take part in various stages of the repatriation process, they do not guarantee the participation of UNHCR or other relevant organizations in the supervision of this process.

In addition to the problematic content and wording, APHR is concerned about the process by which the agreements were drafted. Based on discussions with refugees in Bangladesh, it was clear that Rohingya in the camps had not been consulted in the process. The delegation learned that while refugees do want to return to Myanmar eventually, they were willing to do so only if a specific set of demands were met. These demands appeared consistent throughout all of the delegation's meetings with the refugees, and included demands for citizenship, compensation for property destroyed, right of return to their original homes and villages, freedom to practice their religion, and justice for family members killed. The majority of these conditions are not included within the repatriation framework agreed to between the two governments.

APHR also discussed further concerns about the future for refugees in Bangladesh with various stakeholders during the mission. The delegation learned that even if repatriation were to begin immediately, the entire process would still take years to complete. Given this situation, there exists a clear need to ensure continuing humanitarian support for refugees in the long term.

Humanitarian actors that APHR met with also stressed the need to address

short- and medium-term challenges, especially regarding safety in the camps when the rainy season arrives in March. The delegation learned that poor conditions, largely due to overcrowding and the terrain where the camps are located, exposed the refugee population to serious risks from adverse weather conditions. Existing temporary shelters are basic and do not provide the necessary protection needed. The delegation was told that, unless alternative land is identified and sustainable medium-term measures established, at least 100,000 refugees could be directly affected by landslides and floods from the impending monsoons, and the imminent rains could further exacerbate water contamination and other health concerns. Humanitarian actors added that the cramped conditions in the camps would make it particularly difficult for them to effectively respond to flood-related emergencies on the ground.

Bangladeshi officials said that they would need to study the progress of the repatriation process before deciding to build more permanent structures in the camps, but the officials were confident that they had plans that could address the acute concerns raised. They informed the delegation that the government plans to strengthen or replace shelters found in bad condition and aims to relocate those in high risk areas before the rains. Despite these assurances, based on discussions with humanitarian actors and the delegation's observations from the visit to the camps, APHR remains concerned about the adequacy of preparations and reiterates the need for more effective medium- and long-term planning.



APHR MPs meet with Speaker Hon. Shirin Sharmin Chaudhury and other members of the Parliament of Bangladesh.

10

The Role of ASEAN

To date, ASEAN as a regional bloc has remained largely silent on the Rohingya crisis and has failed to take any serious action aimed at addressing the issue. The principle of non-interference, which is often invoked by ASEAN member states to avoid discussing sensitive human rights issues, remains a stumbling block for the regional grouping to effectively work with Myanmar to address the root causes of the crisis.

Discussions with stakeholders provided useful information, which helped the delegation draw out a larger picture of the ways in which the crisis affects the ASEAN region as a whole. Stakeholders the delegation spoke to stressed the spillover effects and long-term regional implications this issue would have on other ASEAN member states. Several ASEAN countries, including Indonesia, Malaysia, and Thailand, are already experiencing clear impacts, having played host to Rohingya refugees following previous outflows driven by similar state-sponsored abuses in Myanmar. Concerns about radicalization regionally were also raised by Bangladeshi government officials.

While stakeholders were appreciative of the humanitarian relief provided bilaterally by some ASEAN member states, the delegation was told that more substantial regional action and a stronger voice from ASEAN itself are needed. Malaysia was recognized for Foreign Minister Anifah Aman's 24 September decision to "disassociate" himself from an ASEAN Chairman's Statement, which focused on the humanitarian situation in Rakhine State, based on what he deemed to be its inadequacies in addressing the root causes of the crisis, including the Myanmar military's crackdown.

A number of stakeholders agreed that similar action from individual ASEAN member states was a prerequisite for a genuine regional effort to resolve the crisis, and that a need exists for ASEAN to review the application of the non-interference principle in cases of alleged mass atrocities and other grave human rights violations. Several stakeholders also suggested that ASEAN or individual member governments push for accountability for the violations committed against Rohingya, including through targeted sanctions on Myanmar military leaders.

Stakeholders emphasized that it will be critical for ASEAN to embrace a multifaceted approach and focus on the full range of human rights and humanitarian concerns associated with the crisis, including issues related to refugee rights, statelessness, religious freedom, impunity, and mass atrocities.

Recommendations

To the Government of Myanmar:

- End all forms of human rights violations and abuses, including torture, extrajudicial killings, arbitrary arrests, confiscation of property, and restrictions, which prevent Rohingya from carrying out their lives in Rakhine State and continue to drive them to flee from Myanmar;
- Implement the recommendations of the Advisory Commission on Rakhine State, including those related to citizenship, freedom of movement, and assurance of basic human rights, with a view toward addressing the root causes of the crisis;
- Allow immediate and unhindered access to international organizations, including UN agencies and their partners, to provide humanitarian assistance in northern Rakhine State and full supervision of the repatriation process critical for the safe and secure return of Rohingya refugees;
- Allow access to international human rights investigators, including the Independent International Fact-Finding Mission on Myanmar and the UN Special Rapporteur on the situation of human rights in Myanmar, as well as local and international journalists, to investigate and report on abuses:
- Conduct impartial and independent investigations where rights violations are alleged to have occurred, prosecute perpetrators in fair trials in civilian courts, and provide victims of human rights violations and abuses effective remedies and reparation; and
- Establish a conducive environment that is safe and secure for the voluntary return of Rohingya refugees, including by abolishing discriminatory state policies and practices, and by guaranteeing the right to freedom of movement and that returnees will not be settled in internally displaced persons camps.

To the Government of Bangladesh:

- Ensure that the border with Myanmar remains open to Rohingya fleeing and grant all those who cross access to humanitarian assistance;
- Continue to allow outside actors, including investigators from the UN
 and international human rights organizations, as well as journalists,
 free access to the refugee camps in Cox's Bazar district to speak with
 refugees and document rights abuses against them;
- Strengthen collaboration with UNHCR and other protection actors and develop strategies to effectively address concerns affecting the refugee population, including by improving access to education, combatting

- human trafficking and exploitation, and increasing the number of safe spaces for women and girls;
- Accede to the 1951 Refugee Convention and its 1967 Protocol and enhance protection for refugees, including by granting them access to the justice system in Bangladesh;
- Ensure that any repatriation of Rohingya refugees is safe and voluntary and will not violate the principle of non-refoulement; and
- Enhance collaboration with humanitarian actors and develop sustainable medium-and long-term measures, including measures to deal with overcrowding and the likely impacts of monsoon rains and other adverse weather conditions.

To ASEAN and Member Governments:

- Increase diplomatic pressure to encourage the Myanmar government to adopt and implement the abovementioned recommendations;
- Raise the question of Rohingya refugees, as well as the root causes that led them to flee from Myanmar, at regional meetings, including future ASEAN Summits;
- Open up meaningful dialogue with the Myanmar government and military to push for the abolishment of discriminatory policies and practices that inhibit a resolution of the crisis, and to ensure that the Myanmar government and military work to resolve the root causes of the crisis in a genuine and timely manner;
- Take unified action to support the Myanmar government to implement the recommendations of the Advisory Commission on Rakhine State, including those related to citizenship, freedom of movement, and assurance of basic human rights; and
- For those member states that have not yet done so, ratify the 1951 Refugee Convention and its 1967 Protocol.

Annex 1 - Participants

- Hon. Charles Santiago, Member of the Parliament of Malaysia
- Hon. Louis Ng, Member of the Parliament of Singapore
- Hon. Rachada Dhnadirek, former Member of the Parliament of Thailand
- **Hon. Lena Maryana Mukti**, former Member of the Parliament of Indonesia

Annex 2 - Stakeholder Meetings

- Refugee Relief and Repatriation Commissioner, Mohammad Abul Kalam, Additional Secretary
- Inter Sector Coordination Group, Sumbul Rizvi, Senior Coordinator
- International organizations working on the protection of the refugees in the camps in Cox's Bazar, including: UN High Commissioner for Refugees (UNHCR), Save the Children, Danish Refugee Council (DRC), International Committee of the Red Cross (ICRC), and UN Children's Fund (UNICEF)
- Refugees at the Kutupalong and Bahukhali camps in Cox's Bazar
- UN Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee
- Ministry of Disaster Management and Relief, Mr. Mohammed Habidul Kabir Chowdhury, Joint Secretary
- Speaker of the Bangladesh Parliament, Hon. Shirin Sharmin Chaudhury
- Members of the Bangladeshi Parliament, including Dr. Muhammad Abdur Razzaque and Dr. Dipu Moni

