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## EXECUTIVE SUMMARY

The situation in Rakhine state of Myanmar is alarmingly deteriorating and resulting in the fastest growing refugee crisis. As of October 2017, an estimated 809,000 Rohingya refugees have fled violence and persecution in Myanmar to seek refuge in Bangladesh, including 603,000 who have arrived since 25 August. The Myanmar government is repeatedly condemned for grave breaches of international human rights law and international humanitarian law. However, mass atrocities against the Rohingya Muslim minority in Rakhine state seriously worsened throughout the past few years and continue to this day. The Myanmar government fails to ensure the end to violence and protection from abuse against ethnic minorities, particularly the Rohingya religious minority.

Firstly, the report provides a general background on the situation in Myanmar and introduces the humanitarian crisis in Rakhine state and the case of the Rohingya community. The world's "longest running civil war" between ethnic groups and the Myanmar government started in 1948, continues to this day and has resulted in a substantial number of civilian death and injuries, an unsurmountable refugee crisis, massive human rights abuses, and the destruction of infrastructure, towns and villages – despite the recent democratic transition process. Moreover, discrimination, persecution, violent repression, incitement to hatred and intolerance has compounded sporadic violence between Buddhists and Muslim Rohingya in Rakhine state with serious consequences, mostly for Rohingya minority.

The core of this report analyses the breaches of international law and suggests that there are reasonable grounds to believe that genocide of Rohingya is taking place in Myanmar. The widespread, systemic and organised abuse against the Rohingya minority in Myanmar entails an obvious intent to destroy, and thus amounts to the international crime of genocide. The persecution of this ethnic group since 1982 in combination with the widespread and systematic criminal acts committed against them since 2012 fulfil the elements of genocide as defined by the Rome Statute of the International Criminal Court and the Convention on the Prevention and Punishment of the Crime of Genocide. Namely, killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part and imposing measures intended to prevent births within the group.

The report also assesses the impact of actions undertaken by the Myanmar government and the United Nations to address and stop these violations and to ensure accountability of perpetrators. It is clear to us that the Myanmar government is unwilling to undertake impartial investigation into grave violations of international law which amount to genocide of Rohingya and to ensure accountability. We are doubtful that the Myanmar government will ensure the end to atrocities taking place against the Rohingya minority. It has failed to ensure an independent investigation and trial of the alleged perpetrators of large-scale crimes.

In addition, the report describes the political landscape surrounding the Rohingya crisis and the positions of some UN member states. Among the UN members, France and Turkey showed the strongest reaction to mass atrocities against Rohingya in Myanmar referring to it as genocide. The United States made vocal statements at the Security Council saying that the “Myanmar government refuses to acknowledge the seriousness of the situation” and referring to the situation in Rakhine state as “a brutal sustained campaign to cleanse the country of an ethnic minority”. Russia’s position on the Rohingya case is clearly focused on accusing “the terrorist group” - Arakhan Salvation Army - in conducting a provocative insurgency that allegedly aims to de-stabilise situation in Rakhine state, and cautioned against using definitions as ethnic cleansing and genocide. The United Kingdom expressed strong criticism of excessive use of force and cautioned against a spill-over of violence to central Rakhine. China expressed cautious opinions on the Rohingya crisis and proposed to facilitate talks between Myanmar and Bangladesh. Other countries bordering with Myanmar took a moderate stance.

The report also makes an impact assessment of the international community’s response to the plight of Rohingya through the United Nations. The report insists that the actions of the international community undertaken through UN decision-making mechanisms gives an impression of close to total neglect of the armed conflict in Myanmar that has continued for almost 60 years now. However, the political situation in Myanmar is under scrutiny for many decades due to the new process of transition to democracy. It is high time for the international community to take bold actions based on Chapter VII of the UN Charter to stop genocide and to ensure protection of civilians in the world's longest civil war running for almost 60 years since 1948.

Furthermore, the report provides an economic perspective on the situation in Myanmar through human rights lenses focusing on the activities of international transnational corporations. Human rights abuses with direct or indirect involvement of transnational companies continue to take place in a widespread and systematic manner in Myanmar. The Burmese military regime and several transnational corporations operating in Myanmar were seriously accused by the United Nations and human rights groups for gross violations of international humanitarian law and international human rights law. The alleged abuses related to the transnational corporate activity were murders and arbitrary executions, torture and other ill-treatment, rape, forced relocations and forced labour. As accusations are not investigated, the perpetrators enjoy impunity and the victims are not compensated.

Lastly, the report outlines the activities of Geneva International Centre for Justice (GICJ) and gives recommendations to relevant actors. GICJ calls upon the Human Rights Council (HRC) to take actions against widespread and systematic violations against the Rohingya Muslim community that amount to genocide and to ensure protection of civilians as well as corporate accountability of transnational corporations that operate in Myanmar for grave human rights violations in zones of armed hostilities.

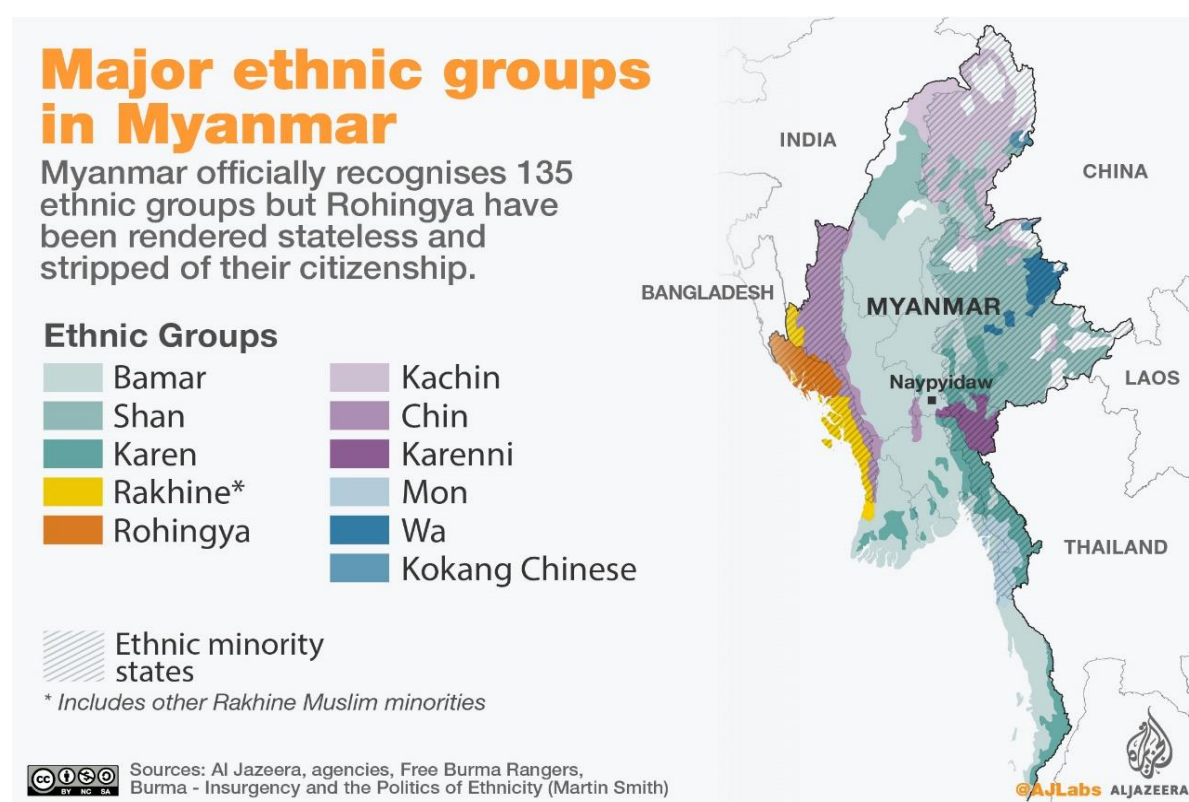
GICJ continues to address the situation of the Rohingya in Myanmar in its work. In cooperation with NGO partners, GICJ organised a side event on “Human rights in Myanmar: Ethnic Cleansing” during the 36<sup>th</sup> HRC session. Additionally, GICJ published several press releases. In conclusion, GICJ recommends the Myanmar government should grant full access to the UN fact-finding mission and international humanitarian aid workers, observers and journalists to conflict areas, especially Rakhine State, the UN Security Council to take action based on Chapter VII of the Charter to restore peace and security in Myanmar and to protect Rohingya from genocide and other relevant recommendations.

## **A. BACKGROUND**

The Republic of the Union of Myanmar (formerly Burma) is a South-East Asian state with a population of 51 million bordered by Bangladesh, Thailand, Laos, India and China. The former British colony

became independent in 1948. Myanmar was under military dictatorship after the coup d'état in 1962 until 2011, when the military junta was dissolved following the 2010 general election. Ms Aung San Suu Kyi, former political prisoner and Nobel Prize Winner is the State Counsellor since the 2015 election during which her party won a majority in the parliament.

The civil conflict in Myanmar started in 1948 and continues to this day despite the recent democratic transition process. The world's "longest running civil war" has resulted in a substantial number of civilian deaths and injuries, an unsurmountable refugee crisis, massive human rights abuses, and the destruction of infrastructure, towns and villages. Since the end of the British colonial rule in 1948, the armed hostilities have taken place between the ethnic minority groups and the government with the main fronts in Kachin, Kayah, Kayin, Shan and Rakhine states. It is well-known that the hostilities in Myanmar of more than half of a century have entailed serious violations of international humanitarian law by all parties: indiscriminate killings, enforced disappearances, rape and sexual violence, forced labour and trafficking in human beings, recruitment of child soldiers among state and non-state forces, use of human shields, forced displacement and conditional humanitarian access. Numerous attempts of ceasefire have failed, including the last effort of signing the Nationwide Ceasefire Agreement in October 2016.



The Myanmar government is continuously condemned for systematic violations of human rights and lack of political freedoms. Despite recent political reforms and ceasefire attempts, widespread violations of international human rights and humanitarian law in the country are very alarming. Myanmar hosts 135 distinct ethnicities practicing religions such as Buddhism, Christianity, Islam, Hinduism and other tribal religions. However, most of the ethnic and religious minority groups have endured gross systematic human rights violations by the government and security forces over the past several decades. The minorities are targeted under the so-called “Burmanization” policy. The most shocking is the case of Rohingya, the ethnic community known as “the world's most persecuted minority”. Particularly, the government fails to address incitement to discrimination and violence based on national, racial and religious hatred and protection of vulnerable groups in the areas of internal armed conflict. Moreover, the failure of the state to stop constant abuse having persisted throughout the decades, to ensure accountability, and to prevent genocide of the Rohingya ethnic group in Rakhine state is outrageous.

Besides, the Burmese authorities arbitrarily arrest and imprison protesters, political activists, media workers and human rights defenders for peacefully exercising their rights, including freedom of



expression, association and peaceful assembly. Moreover, the inadequate legal framework undermines corporate accountability. Businesses contribute to human rights abuses, with no protection against forced evictions and no environmental safeguards on water, air or soil pollution caused by extractive and manufacturing industries. The general environment in Myanmar consists of rare investigations into human rights violations and total impunity of security forces, victims and their families for being denied their rights to justice, truth and reparation. Moreover, this abusive and chaotic environment coupled with the inadequate legal framework falls short on protecting local communities and the environment from damaging activities of transnational corporations.

## B. HUMANITARIAN CRISIS: THE CASE OF ROHINGYA

The Rohingya community is a Muslim ethnic minority group of approximately 1 million members who mostly live in Rakhine State of Myanmar bordering with Bangladesh. Rohingya lived in Myanmar for centuries and their historical roots in the country date back to the ancient times. Nevertheless, the



Myanmar government refuses to give them nationality and uses the term “Bengali” to refer to Rohingya as foreigners. Discrimination, persecution, violent repression, incitement to hatred and a generally intolerant environment fuelled sporadic violence between Buddhists and Muslim Rohingya in Rakhine state with serious consequences, mostly for the Rohingya minority. Rohingya are fleeing horrific Apartheid-like conditions what many describe as "concentration camps".<sup>1</sup>

We observed violence and recurring tactics aiming to expel Rohingya in 2012, 2016 and 2017. The riots that took place in Rakhine after sectarian disputes resulted in waves of inter-communal violence in June and October 2012. The government imposed a state of emergency in Rakhine state and reported a total 88 casualties – 57 Muslims and 31 Buddhists.<sup>2</sup> In October 2016, the military response to the attacks on border posts in Northern Rakhine was seriously criticised as brutal and disproportionate. Hundreds of Rohingya were detained, killed, and raped. According to Human Rights Watch satellite images, 1,250 Rohingya houses in five villages were burned down. An estimated 74,000 persons fled Myanmar in search of protection in Bangladesh as a result of a security crackdown in northern Rakhine state in 2016.<sup>3</sup> Finally, the government’s excessive military reaction to insurgency by Rohingya forces - Arakan Rohingya Salvation Army – exacerbated the humanitarian situation even further. Entire areas have been depopulated as terrified civilians have been fleeing their homes en masse, with village after village being burned to the ground, making it more difficult for people to return: this follows a similar pattern of events in 2016, when armed attacks on police personnel led to a major security crackdown which resulted in people fleeing to Bangladesh.<sup>4</sup> The Myanmar Government reported that 176 Muslim villages became completely empty. According to UN figures, of the more than 501,000 people that are estimated to have crossed the border into Cox’s Bazar, around 60 per cent are children. By the end of October 2017, the number of Rohingya fleeing violence and persecution in Myanmar to seek refuge in Bangladesh since 25 August reached 809,000; humanitarian agencies are calling for \$434 million in the Rohingya humanitarian

<sup>1</sup> “The Rohingya: Not Just a Name, A People at Risk of Genocide”, United to End Genocide at

<http://endgenocide.org/conflict-areas/burma/>

<sup>2</sup> Press release by the Government of the Republic of the Union of Myanmar Ministry of Foreign Affairs, 21 August 2012 at

[https://www.webcitation.org/6Bj9aSWM5?url=http://www.mofa.gov.mm/pressrelease/Press\\_Release\\_Rakhine\\_State\\_Affairs\\_Webversion%2821-08-12%29.pdf](https://www.webcitation.org/6Bj9aSWM5?url=http://www.mofa.gov.mm/pressrelease/Press_Release_Rakhine_State_Affairs_Webversion%2821-08-12%29.pdf)

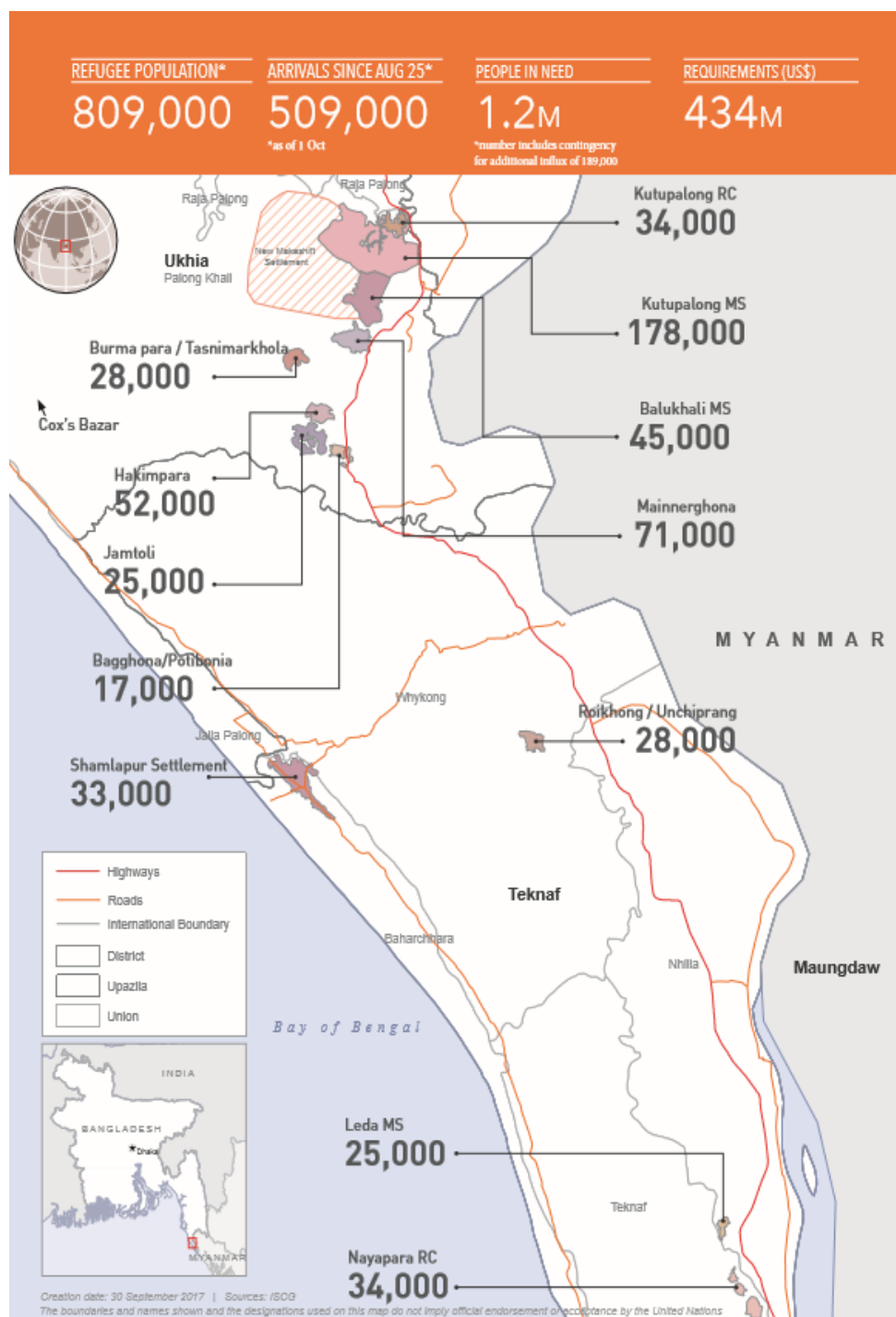
<sup>3</sup> “Give the Rohingya hope for a future” urges UNHCR chief, 11 July 2017 at

<http://www.refworld.org/docid/5964c3a24.html>

<sup>4</sup> UN OCHA Humanitarian Bulletin Myanmar, Issue 2/2017, June – 22 September 2017.

response plan to assist 1.2 million people - mainly Rohingya refugees but also host communities in Bangladesh – with emergency relief and protection; priorities are clean water and sanitation, shelter, food, and counselling services to help heal deeply traumatized children, women and men.<sup>5</sup> As the Chair of the fact-finding mission stated during the 36<sup>th</sup> session of the UN Human Rights Council: “Their suffering is deep and pain is acute”.

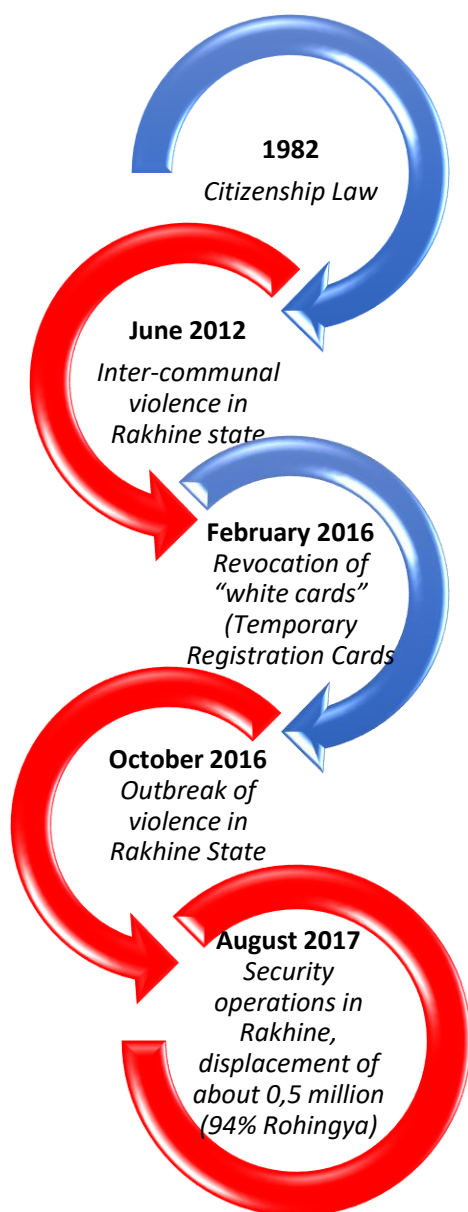
*Draft Myanmar Humanitarian Response Plan: September 2017 – February 2018, UN OCHA*



## C. GRAVE VIOLATIONS OF INTERNATIONAL LAW

<sup>5</sup> The Rohingya Crisis in Numbers, 23 October 2017, UN OCHA

The Myanmar government fails to ensure the halt of violence and gross human rights abuse against minorities, particularly the Rohingya religious minority. The incitement to discrimination and violence based on national, racial and religious hatred is widespread and systematic. Within the general context of anti-Muslim rhetoric, the Burmese government and security forces have been implementing the persecution policy for decades now. Since 1982, the Citizenship Law severely violates the rights and freedoms of the Rohingya minority: it restricts their right to freedom of movement, limits access to lifesaving health care and denies them rights to education and equal employment opportunities.



The year of 2016 in Myanmar was marked with a frightening rise in religious intolerance, especially anti-Muslim sentiment. The incidents of hate speech and incitement to hatred and violence are very alarming. The growing influence of nationalist Buddhist groups and the adoption of discriminatory laws by the Parliament between May and August further aggravated the situation of minority groups. The new laws with the objective of "protecting race and religion" - Religious Conversion Law, the Buddhist Women's Special Marriage Law, the Population Control Healthcare Law and the Monogamy Law - were enacted despite provisions violating human rights, including discrimination based on religious and gender grounds. Moreover, the revocation of "white cards" (Temporary Registration Cards) in February 2016 upon the President's decree was an effective impediment to the participation of Rohingya community members in the November elections simply due to lack of any form of identity document.

The curfew imposed back in 2012 due to violence between Rakhine Buddhists and Muslims, especially Rohingya, remains in place these days and further widens space for abuse by the authorities, security forces and Rakhine civilians. While the national state and local government authorities carry out discriminatory policies, the security forces implement so-called "clearance operations". In 2016-2017, the Myanmar armed forces (Tatmadaw) and the Border Guard Police Force of Myanmar

implementing these operations have deliberately killed Rohingya civilians, including women and children, by grenades, random and targeted shootings, stabbings and throat slits, by beating them to death and burning them in houses. The most disturbing reports note cruelty as gruesome as killing babies and small children, in many cases in front of the eyes of their raped mothers.

Rohingya children, pregnant women, persons with disabilities and others are subject of widespread and systematic torture and ill-treatment in public, in their houses and make-shift detention locations. It includes brutal physical assaults, death threats, forcing to sit in so called 'stress positions' for hours up to 3 days, and psychological torture by forcing victims, even children, to watch the suffering of their relatives.



It is reported that hundreds of Rohingya boys and men are randomly “rounded up” by the Myanmar security forces, fertile women and girls separated from them and taken away; their whereabouts are unknown. Women and girls, including pregnant, are raped and sexually abused either at home in front of their family members or in the places of displacement, in many cases through gang rapes as punishment or with the aim to extract information about insurgents or simply as domestic service. Moreover, the Rakhine villagers dressed either in military uniform or in civilian clothing joined the abuses against the Rohingya community members by looting houses, beating, raping and other sexual abuse. There are recounts of cases when fire brigades poured petrol to fire spread on burning houses of Rohingya.

Despite limited access to the victims, the accounts of horrendous crimes committed by the Burmese government, police, army and ordinary people against Rohingya based on their ethnic and religious belonging are documented. Brutal attacks against Rohingya in northern Rakhine State have been well-organised, coordinated and systematic, with the intent of not only driving the population out of Myanmar but preventing them from returning to their homes, a new UN report based on interviews conducted in Bangladesh has found.<sup>6</sup> The latest OHCHR report indicated that a targeted strategy was pursued prior to security operations of August 2017, namely: 1) Arrest and arbitrarily detain male Rohingyas between the ages of 15-40 years; 2) Arrest and arbitrarily detain Rohingya opinion-makers, leaders and cultural and religious personalities; 3) Initiate acts to deprive Rohingya villagers of access to food, livelihoods and other means of conducting daily activities and life; 4) Commit repeated acts of humiliation and violence prior to, during and after 25 August, to drive out Rohingya villagers en masse through incitement to hatred, violence and killings, including by declaring the Rohingyas as Bengalis and illegal settlers in Myanmar; 5) Instil deep and widespread fear and trauma – physical, emotional and psychological, in the Rohingya victims via acts of brutality, namely killings, disappearances, torture, and rape and other forms of sexual violence.<sup>7</sup>



Widespread, systemic and organised abuse of the Rohingya minority in Myanmar with an obvious intent to destroy amounts to the international crime of **genocide**. The persecution of this ethnic group since 1982 in combination with the widespread and systematic criminal acts committed against them since 2012 fulfil the elements of genocide as defined by the Rome Statute of the International Criminal Court and the Convention on the Prevention and Punishment of the Crime of Genocide. Namely, killing

members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part and imposing measures intended to prevent births within the group.

<sup>6</sup> “Brutal attacks on Rohingya meant to make their return almost impossible – UN human rights report, 11 October 2017, Geneva at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22221&LangID=E>

<sup>7</sup> Mission report of OHCHR rapid response mission to Cox’s Bazar, Bangladesh 13-24 September 2017 at: <http://www.ohchr.org/Documents/Countries/MM/CXBMissionSummaryFindingsOctober2017.pdf>

**WIDESPREAD KILLINGS IN SYSTEMATIC AND ORGANISED MANNER,  
EXTRAJUDICIAL AND SUMMARY EXECUTIONS**

**FORCED DISPLACEMENT**

**RAPE AND OTHER FORMS OF SEXUAL VIOLENCE**

**TORTURE, CRUEL, INHUMAN OR DEGRADING TREATMENT AND  
PUNISHMENT**

**EXTRAJUDICIAL AND SUMMARY EXECUTIONS**

**EXCESSIVE USE OF FORCE, ARBITRARY ARRESTS AND DETENTION,  
INHUMANE CONDITIONS AND ILL-TREATMENT IN DETENTION FACILITIES**

**ENFORCED DISAPPEARANCE**

**OCCUPATION, LOOTING AND DELIBERATE DESTRUCTION OF HOUSING  
AND LIVELIHOODS**

**BLOCKAGES OF HUMANITARIAN ASSISTANCE, USE OF LANDMINES**

**SEGREGATION AND RETALIATION**

**DENIAL OF CITIZENSHIP**

**ATTACKS ON PLACES OF WORSHIP AND RELIGIOUS LEADERS**

**RESTRICTIONS ON FREEDOM OF MOVEMENT, LIMITED OR LACK OF ANY  
ACCESS TO EDUCATION AND BASIC HEALTHCARE**

#### **D. MYANMAR GOVERNMENTAL RESPONSE**

The Myanmar authorities are in a state of denial on the issue of persecution and abuse against the Rohingya community. Humanitarian deterioration is explained by the Myanmar authorities as a result of combatting terrorist groups in Rakhine state, notably the Rohingya insurgency called Arakan Rohingya Salvation Army. The excuses given by the government such as the young democracy in Myanmar, the complexity of the situation, and combatting terrorists are unacceptable. Myanmar is repeatedly condemned for mass human rights violations against Rohingya Muslim minority in Rakhine state. However, these violations are not adequately investigated, perpetrators enjoy impunity, and victims are denied the right to effective remedy and reparation. At the UN chambers, the Myanmar government denies that ethnic cleansing is taking place on its soil. At the UN HRC sessions, the Myanmar delegation reiterates the objection to country-specific mandates of special procedures as selective and disproportionate attention paid to its human rights situation. Several times, the Myanmar delegate justified refusals given to the Special Rapporteur during her visits to Myanmar on the basis of security constraints; moreover, her findings and allegations were accused of being one-sided. Myanmar fails to grant access to the independent international investigation – the fact-finding mission dispatched by the UN Human Rights Council. It seems only too clear that Myanmar has every reason to hide from the outside world.

Nevertheless, Myanmar authorities undertook a few sham and ineffective steps in response to the situation in Rakhine State. The government formed the Central Committee on Implementation of Peace, Stability and Development of Rakhine State in May 2016, chaired by the State Counsellor Aung San Suu Kyi (leader of the National League for Democracy, Nobel Peace Prize winner), to work on the issues of security and citizenship. This, however, proved to be useless. In September 2016, the Advisory Commission on Rakhine State was established to be chaired by the former UN Secretary General Kofi Annan with the aim “to propose concrete measures for improving the welfare of all people in Rakhine State” and to present recommendations to the State Counsellor. On 24 August, the Chair Annan presented a report concluding the 1-year mandate of the Commission composed of nine members, including three international and six local experts. The 63-page report named “Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine” (Annan Report) focuses on economic development, humanitarian access, freedom of movement, citizenship law and makes 88 recommendations to Myanmar government.



With due respect to Mr. Annan and the work of the commission, Geneva International Centre for Justice (GICJ) affirms that their findings failed to fully reflect the gravity of the situation in Rakhine state. GICJ doubts the Commission's independence and impartiality in relation to conclusions drawn on the mass atrocities taking place against Rohingya. We welcome the highlights of the commission's report and its calls "to ensure equitable treatment of all citizens", freedom of movement for all people in Rakhine and to review the controversial 1982 Citizenship Law. Indeed, these are relevant and important measures to be undertaken. Additionally, the commission's recommendations for an "independent and impartial investigation" into the facts on the ground and to hold perpetrators accountable is praiseworthy. However, the vague reference of the report to minority Muslim groups without specifying Rohingya is surprising to say the least.

It is clear to us that the Myanmar government is unwilling to undertake impartial investigations into grave violations of international law, which amount to genocide of Rohingya, and to ensure accountability. We are doubtful that Myanmar government will ensure the end to atrocities taking place against the Rohingya minority. It has failed to ensure an independent investigation and trial of the alleged perpetrators of large-scale crimes. We have witnessed sham investigation conducted by the Myanmar government and the Commission on Maungdaw that in January 2017 denied persecution of Rohingya and justified the actions of security forces. The National Commission was established by the Myanmar government following the international pressure on State Counsellor Aung San Suu Kyi to investigate the army's military response to border clashes in 2016. However, the Commission's interim report released in January 2017 denied the persecution and genocide of Rohingya in Myanmar.<sup>8</sup> Moreover, the Commission justified the response of security forces as legal and adequate.<sup>9</sup>

## E. POSITION OF STATES ON ROHINGYA CRISIS

Among the UN members, **France** and **Turkey** showed the strongest reaction to mass atrocities against Rohingya in Myanmar. French President Emmanuel Macron stated that attacks on Myanmar's Rohingya minority amounted to "genocide" and that France will work with other members of the UN Security Council towards a condemnation of "this genocide which is unfolding, this ethnic cleansing," Macron said in an interview with the French TV channel TMC.<sup>10</sup> During the interactive dialogue with the Chair of the fact-finding mission on the situation of human rights in Myanmar at the Human Rights Council session in September 2017, the French delegate expressed the need for the international community's vigilance and called for Myanmar security forces to end violence against civilians. As one of the UN member states that called for public briefing of the Security Council by UN Secretary-General Guterres, France gave a strong message on the crisis in Myanmar and called to suspend all military operations, ensure unhindered humanitarian access to the affected population and to address the root cause of violence. In addition, "there is a genocide there," said President of Turkey Erdoğan in a speech during the Islamic Eid al-Adha feast.<sup>11</sup> The Turkish delegations at the Security Council (SC) in New York and Human Rights Council (HRC) in Geneva has echoed the president's position stating that violence is not a proper response to problems and that international community should mobilise in their response to Rohingya crisis.

During the September HRC session, the **United States** demanded Myanmar government to respond to violence "in a manner that respects human rights of all and to investigate abuses by impartial courts and fair trial guarantees and give humanitarian and media access". Furthermore, joining the states that requested the SC public briefing, the US delegate made vocal statements saying that the "Myanmar government refuses to acknowledge seriousness of the situation", referred to "disproportionate

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<sup>8</sup> Interim Report of the Investigation Commission on Maungdaw, Republic of the Union of Myanmar, Ministry of Information, 3 January 2017 at: <http://www.moi.gov.mm/moi:eng/?q=news/4/01/2017/id-9542>

<sup>9</sup> "Myanmar government 'following the law' in Rakhine, probe panel says", Reuters, Yangon, 14 December 2016 at: <http://www.reuters.com/article/us-myanmar-rohingya-idUSKBN1430SU>

<sup>10</sup> *Macron says Rohingya crisis in Myanmar is 'genocide'*, AFP | Published — Wednesday 20 September 2017 at <http://www.arabnews.com/node/1164606/world>

<sup>11</sup> *Erdoğan accuses Myanmar of 'genocide' as thousands of Rohingya flee to Bangladesh*, The Guardian, 2 September 2017 at <https://www.theguardian.com/world/2017/sep/02/erdogan-accuses-myanmar-of-genocide-against-rohingya>



indiscriminate violence” and “a brutal sustained campaign to cleanse the country of an ethnic minority” and called the Security Council to “consider actions against Burmese security forces who were implicated in abuses and stoking hatred” as “the time of well-meaning diplomatic words in the Council has passed”.

**Russia’s** position on the Rohingya case is clearly focused on accusing “the terrorist group” - Arakhan Salvation Army - in conducting provocative insurgency that allegedly aims to de-stabilise situation in Rakhine state. During the HRC sessions, the Russian delegate reflected this position and called for a constructive dialogue to prevent the escalation of the situation and refugee crisis. At the UN Security Council, the Russian delegate implied possible “leadership and sponsorship with the goal to expand humanitarian crisis and blame the Myanmar government” and cautioned against using definitions as ethnic cleansing and genocide.

The **United Kingdom** joined HRC colleagues in condemning the disproportionate response of the Myanmar military in Rakhine state and called on the government to stop it and abide by international law. Joining the request of group of states that called for the SC public briefing, the UK expressed strong criticism of excessive use of force and cautioned against a spill-over of violence to central Rakhine.

Within the UN framework, **China** generally supports non-interference with national borders and sovereignty of member states; it expressed cautious opinions on Rohingya crisis. At the HRC session, the Chinese delegate noted that the resolution of the crisis needs time due to the complexity and sensitivity of the situation. At the SC meeting, the Chinese delegate expressed “support and understanding of Myanmar’s efforts to protect its security in Rakhine” and proposed to facilitate talks between Myanmar and Bangladesh.

Other countries bordering Myanmar expressed a moderate stance. During the September session of the Human Rights Council in 2017, **Thailand** shared the concern about the growing population affected by the humanitarian crisis in Rakhine, particularly civilians, welcomed the cooperation of the Myanmar government with the Red Cross, and focused on the need for humanitarian assistance. **India** was deeply concerned by the outflow of people as “result of terroristic attacks” and urged Myanmar government to handle the situation in Rakhine with restraint. At the HRC session, the Indian delegate expressed readiness to provide financial and technical support for social-economic and infrastructure projects in Rakhine state and offered support to Bangladesh in its humanitarian relief. The **Lao** representative commended the constructive cooperation of the Myanmar government with the UN mechanisms and urged the initiatives of the international community to consult with the government of Myanmar to address the issues on the ground, i.e. referring to Rakhine state. **Bangladesh** condemned the violence against the Rohingya minority and expressed support for the independent investigation by the fact-finding mission dispatched by the Human Rights Council.

## F. RESPONSE OF INTERNATIONAL COMMUNITY THROUGH UNITED NATIONS

The humanitarian deterioration in Myanmar, particularly mass abuse of the Rohingya minority in Rakhine state, remains within the discussion halls of the international community. Myanmar is repeatedly condemned for grave breaches of international human rights law and international humanitarian law, called to end persecution and armed hostilities, and persecute perpetrators of crimes and address root causes of violations. However, these violations are not adequately investigated, perpetrators enjoy impunity, and victims are denied the right to effective remedy and reparation. It is high time for the international community to take bold actions based on Chapter VII of the UN Charter to stop genocide and to ensure protection of civilians in the world's longest civil war running for almost 60 years since 1948. The actions of the international community through the United Nations decision-making mechanisms gives an impression of close to total neglect of the armed conflict in Myanmar that continues for almost 60 years now until recently. However, the political situation in Myanmar has been under scrutiny for many decades due to the new process of transition to democracy.

Since 1948, the United Nations **Security Council** has adopted only one resolution recommending Myanmar (Burma) for the UN membership. In 2007 and 2008, the SC issued two presidential statements



*“strongly deploring the use of violence against demonstrations and emphasising the importance of early release of prisoners” and “noting the commitment of the Myanmar government that the referendum would be free and fair and underlining the need for the government of Myanmar to establish the conditions and create an atmosphere conducive to an inclusive and credible process”.*<sup>12</sup> In addition, the SC has issued several press releases in 2007-2008 on the release of all political prisoners and expressing serious concern at the conviction and sentencing of Aung San Suu Kyi. In 2007, the draft resolution presented by the UK, USA and the Northern Ireland *“expressing deep concern at the slow pace of tangible progress in the process towards national reconciliation in Myanmar and at the continuing detention of political prisoners, including the prolonged house arrest of Daw Aung San Suu Kyi, and emphasizing that an inclusive National Convention offers an opportunity for effective dialogue”* was vetoed by China and Russia.<sup>13</sup> Since 2005, the Security Council members receive briefing by the Secretary-General’s Special Adviser on Myanmar, Vijay Nambiar, on the situation in Myanmar under “any other business”.

On 28 September 2017, public briefing by UN Secretary-General António Guterres on the crisis in Myanmar was organised at the request of Egypt, France, Kazakhstan, Senegal, Sweden, the United Kingdom and the United States. The Secretary-General urged Myanmar’s authorities to immediately end military operations that resulted in 500,000 Rohingya fleeing to Bangladesh and called the crisis “the world’s fastest developing refugee emergency and a humanitarian and human rights nightmare”. The Ambassadors of the 15-member council gave a strong message to Myanmar and called for the suspension of all military operations in Rakhine state and for the provision of unhindered access to the affected population. However, no formal action was taken by the UN organ mandated by the Charter to maintain international peace and security.



The UN Secretary-General on Children and Armed Conflict in Myanmar submitted several reports on children and conflict in Myanmar (in 2007, 2009, 2013). In 2006, 2010 and 2017, the UN **General Assembly** reviewed reports of the Special Rapporteur on the situation of human rights in Myanmar. During the past several sessions of the **Human Rights Council** (HRC), states and civil society actors acknowledged the challenges faced by the Myanmar government and criticised it for violations of international humanitarian and human rights law. The HRC members expressed concerns about the escalation of hostilities in Kachin and Chan and condemned violence against Rohingya minorities in the Northern Rakhine State. Upon calls of the UN High Commissioner for Human Rights, during the

<sup>12</sup> SC Presidential Statements S/PRST/2007/37 (11 October 2007) and S/PRST/2008/13 (2 May 2008).

<sup>13</sup> SC draft resolution, S/2007/14 (12 January 2007).

March session of 2017, the HRC decided to urgently dispatch an independent international fact-finding mission (FFM) “to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State, including but not limited to arbitrary detention, torture and inhuman treatment, rape and other forms of sexual violence, extrajudicial, summary or arbitrary killings, enforced disappearances, forced displacement and unlawful destruction of property, with a view to ensuring full accountability for perpetrators and justice for victims.” In September, the Chair of the newly established FFM requested the extension of the mandate due to insufficient time allocated to the collection and analysis of information; and the HRC extended the mandate of the FFM for another year till September 2018.

The **UN High Commissioner for Human Rights** Zeid Ra'ad Al Hussein was very vocal on widespread and systematic violations, especially on the Rohingya Muslim minority. In February 2017, the OHCHR issued the Flash Report on the alarming scale and severity of operations by the Myanmar security forces against Rohingya men, women and children in Rakhine State during October 2016. The Flash Report was a result of interviewing refugees in Bangladesh and documented evidence and corroborated eyewitness accounts of mass killings, including babies, children and elderly people unable to flee, and the burning of entire villages; shooting; massive detention; systematic rape and sexual violence; and deliberate destruction of food and sources of food. Through numerous press releases, the High Commissioner highlighted the severity of human rights violations and longstanding persecution of Rohingya community that could amount to crimes against humanity, which warrants the attention of the International Criminal Court.



Moreover, in his opening statement at the 36<sup>th</sup> regular session of the Human Rights Council, the High Commissioner Zeid Ra'ad Al Hussein informed the member states about another security operation in Rakhine State of Myanmar and pointed out the situation as “textbook example of ethnic cleansing”. He stated that this operation is of greater scale than last year: according to UNHCR, in less than three weeks over 270,000 people have fled to Bangladesh, three times more than the 87,000 who fled the previous operation. The Commissioner expressed his shock about the reports that the Myanmar authorities have now begun to lay landmines along the border with Bangladesh, and to learn of official statements that refugees who have fled the violence will only be allowed back if they can provide “proof of nationality”. Moreover, the High Commissioner Zeid reminded the Council that last year he has warned that “the pattern of gross violations of the human rights of the Rohingya suggested a widespread or systematic attack against the community, possibly amounting to crimes against humanity, if so established by a court of law.” Finally, he has strongly urged the Myanmar government to end its current cruel military operation and to allow access of his Office to the country. However, the United Nations

has yet to determine whether violence against Rohingya Muslims in Myanmar meets the legal definition of genocide, said Jyoti Sanghera, Chief of Asia Pacific Department in the Office of the High Commissioner for Human Rights.<sup>14</sup>

The mandate of the **UN Special Rapporteur on human rights situation in Myanmar** was established in 1992 and is regularly extended. The Special Rapporteur on Myanmar has conducted few field missions to Myanmar, submitted numerous reports to HRC, and issued press releases. The Special Rapporteur (SR), Ms. Yanghee Lee presented progress reports and briefed the Human Rights Council on her visits to Myanmar (June 2016, January and July 2017). Ms Lee often questioned the nature of cooperation by the Myanmar government and strongly emphasised her impartiality and commitment solely to the promotion, protection and realisation of human rights in Myanmar. During the Council sessions, she referred to limitations of the freedom of speech and persecution of activists and those dissenting the government, environmental abuse as well as discrimination against the Rohingya community. The Special Rapporteur expressed concerns about the armed hostilities in Kachin and Chan states and the impact on civilians, and recommended the opening of the OHCHR office in Myanmar with a full mandate.

On 21 July 2017, the UN Special Rapporteur on the human rights situation in Myanmar issued an end-of-mission statement on her latest 12-day visit to Rakhine, Shan and Kachin states of Myanmar. As the UN press release emphasised on 24 July: the “Special Rapporteur has issued a strongly worded statement accusing the Government of Myanmar of policies reminiscent of the previous military government, and of presiding over a worsening security and human rights situation”.<sup>15</sup> Indeed, the Special Rapporteur noted “killings, torture, the use of human shields by security forces, deaths in custody” and that “the situation of the Rohingya people from Rakhine State, many of whom have been forced from their homes amid reports of grave human rights violations, had hardly improved since her last visit in January (2017)”.<sup>16</sup>

Geneva International Centre for Justice (GICJ) affirms that the wording of the Special Rapporteur in her end-of-mission statement of July is not strong enough and her actions are not effective enough given the situation in Myanmar. The focus of the statement is the conditional access and the lack of genuine cooperation of the Myanmar government with her mandate and other UN actors, including the refusal of visas for UN fact-finding mission members. In addition, the Special Rapporteur reminded of her previous field visits to Myanmar as well as her recommendations for a special session of the Human Rights Council on the situation in the north of the country, specifically Kachin and Shan States; and for a Commission of Inquiry on the situation in Rakhine State. However, GICJ considers that the Special Rapporteur should ring all the bells of “Never again!” as there are reasonable grounds to hold that the international crime of genocide is being committed in Rakhine state.

## G. TRANSNATIONAL CORPORATIONS

The violations of international human rights law by state agents in Myanmar is systematic and systemic: suppression of dissent and freedoms of expression, association and peaceful assembly, arbitrary arrests and imprisonment, raising religious intolerance and incitement to discrimination and violence against Muslims, persecution of minority groups, excessive use of force by law-enforcement agents, corruption, malfunctioning rule of law system and impunity. Multinational companies contribute to and become complicit in human rights abuses in Myanmar. Especially the activities of transnational corporations in extractive and manufacturing industries result in widespread human rights violations and environmental hazard.

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<sup>14</sup> “U.N. says still determining if Myanmar crisis is genocide”, Reuters, Geneva, 18 October 2017 at: <https://www.reuters.com/article/us-myanmar-rohingya-genocide/u-n-says-still-determining-if-myanmar-crisis-is-genocide-idUSKBN1CN2OP>

<sup>15</sup> “Myanmar: UN expert lists catalogue of concerns as human rights slide in worsening conflict”, Geneva, 24 July 2017 at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21901&LangID=E>

<sup>16</sup> End of mission statement by the Special Rapporteur on human rights situation in Myanmar, Yangon, 21 July 2017 at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21900&LangID=E>



### ***International legal framework***

During the past decades, the international community progressed in undertaking initiatives of enhancing the international mechanisms to ensure human rights protection in operations of transnational corporations (TNCs). According to international law, TNCs have a legal duty to respect human rights and they are not permitted to profit from human rights abuse. The Bill of Rights provides for universal human rights and restricts their infringement both by individuals and corporations. Moreover, the Guidelines for Multinational Enterprises of the Organisation for Economic Co-operation and Development (OECD), the UN Global Compact's Ten Principles and "Protect, Respect and Remedy: Framework for Business and Human Rights" provide with considerable platform for transnational corporations to conduct their business with due diligence and in respect of internationally recognised human rights standards.

Transnational corporations often violate human rights and are directly complicit in human rights abuses, especially in the areas of armed conflict. The operations of multinational corporations, especially in the extractive industry, have high potential and capacity to harm human life and dignity. Human rights abuse includes infringement on the rights to life, liberty, security of person, freedoms of assembly and association, freedom of movement, freedom from torture, cruel and inhuman treatment and punishment, sexual and gender-based violence, arbitrary arrest and detention, unjust labour practices, piracy, slavery and slave trading, as well as war crimes. Therefore, international law places responsibility and complicity based duties on TNCs to avoid operating in situations that could or leads to abuse.

### ***Transnational Corporations in Myanmar***

The intensive exploitation of Myanmar's natural resources started by the military regime to finance and equip the military machine fighting battles against its own people in the 1990s. In 1988, the Burma Action Group stated that the regime "began to sell Burma's natural resources like fast food".<sup>17</sup> The Burmese government's budget was bankrupt waging a decades-long war. Foreign investments were considered as a way out. Burma started selling oil and gas, later expanded to selling rights on mining of mineral reserves of timber, tin, tungsten, copper, lead and zinc, as well as deposits of precious stones such as jade, rubies and sapphire and clear-cutting teak forests. The Burma Rights Movement for Action, an opposition group based in Bangkok, Thailand, estimates oil exploration contracts have accounted for 65 percent of the foreign investment in Burma since 1988.<sup>18</sup> By 2014, the extractive sector is the second largest source of foreign direct investment and represents close to 40% of exports, with gas and gems being the two-main revenue generating commodities.<sup>19</sup>

In 1988, the military regime that called itself the State Law and Order Restoration Council (SLORC), later renamed as the State Peace and Development Council (SPDC), abolished a 26-year policy that banned foreign participation in onshore oil exploration and development and signed contracts with multinational corporations. Since then the transnational oil companies such as Amoco, Unocal, Texaco, Royal Dutch Shell, Petro-Canada, Total and Idemitsu, Premier Oil, Nippon Oil Exploration, ELF, Petronas, International Petroleum Corp, Apache Oil, Tyndall International, Texaco and others rolled out their operations in Myanmar. Multinational oil companies based in the United States, Canada, England, France, Japan, Malaysia and Australia invested millions and millions in Myanmar.

### ***Transnational Corporate Activity and Human Rights***

At this challenging moment, Myanmar's government undertakes measures and actions to achieve peace as well as political, economic and social development. It is well-known that "in economies heavily dependent on extractive industries, multinational enterprises operating in this sector typically provide large revenues to governments in the form of taxes, royalties and other payments. In countries with severe public governance and fiscal control problems, these payments can contribute to both the means for violence - by providing funding for the organisational and material requirements of conflict - and

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<sup>17</sup> Transnationals at Work: Fuelling Oppression (in Burma), Dara O'Rourke, Multinational Monitor, 1992 at: [http://www.multinationalmonitor.org/hyper/issues/1992/10/mm1092\\_06.html](http://www.multinationalmonitor.org/hyper/issues/1992/10/mm1092_06.html)

<sup>18</sup> *Ibid*

<sup>19</sup> Myanmar overview, Extractive Industries Transparency Initiative, at <https://eiti.org/myanmar>

the motive - by providing financial stakes for conflict.”<sup>20</sup> However, the exploration, extraction and distribution of natural resources in violation of human rights and endangering environment to achieve peace and development goals is not acceptable.

The Burmese military regime and several transnational corporations operating in Myanmar were seriously accused by the United Nations and human rights groups for gross violations of international humanitarian law and international human rights law. The alleged abuses related to the transnational corporate activity were murders and arbitrary executions, torture and other ill-treatment, rape, forced relocations, and forced labour. There accusations are not investigated, the perpetrators enjoy impunity, and the victims are not compensated.



The abuse and human rights violations are the most intensive in the areas of armed conflict. “The Burmese military government has forced entire villages to work on the railroad [for Unocal’s pipeline] without pay... People in the region have named the railroad the ‘New Death Railway’. The government has burned villages in the pipeline path.”<sup>21</sup> Moreover, the oil development in Burma had a direct impact on armed offensive and indigenous people. Green November 32 statement noted: “Genocidal offensives are being carried out as part of the junta’s efforts to clear potential oil bearing areas of their indigenous inhabitants. Tens of thousands of Burmese people are being forced to labour on roads for less than subsistence wages for the benefit of the oil multinationals and the junta. SLORC troops have been particularly active in oil concession areas, and have launched heavy offensives in areas where concessions have been offered but not sold, such as the Kachin and Arakan States”.<sup>22</sup> These are serious violations of 1949 Geneva Conventions that Myanmar has ratified in 1992. These heinous crimes should be investigated, the perpetrators face justice and victims provided with retribution as it is clearly prescribed by the provisions of international law and well described in “Protect, Respect and Remedy: Framework for Business and Human Rights”.

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<sup>20</sup> OECD (2002), “Multinational Enterprises in Situations of Violent Conflict and Widespread Human Rights Abuses”, OECD Working Papers on International Investment, 2002/01, OECD Publishing at <http://dx.doi.org/10.1787/410036718701>

<sup>21</sup> Unocal Sued over Burma Pipeline Job, S.F. EXAINMqER, Sept. 4, 1996, at A16, available in 1996 WL 3716951 (quoting the Center for Human Rights and Constitutional Law).

<sup>22</sup> *Ibid* 1



Myanmar has ratified the Convention on Forced Labour in 1955. However, the International Labour Organisation (ILO) found that forced labour was practised in its various forms in areas affected by military presence and especially in border areas where fighting may still be ongoing; ILO expressed “profound concern” regarding the very limited impact of this new legislation to date and, in particular, the persistent impunity with regard to criminal prosecution of persons who have committed violations, despite the provisions of this legislation.<sup>23</sup>

Even if the military regime was replaced by a democratically elected government in Myanmar, human rights abuses with direct or indirect involvement of transnational companies continue to take place in a widespread and systematic manner. Firstly, abuses are related to the armed violence in the areas rich with oil, gas and other minerals and in the immediate vicinity of TNCs’ operations. Secondly, the conditions of labour in the TNCs are in serious violation of international standards. Thirdly, funding provided to the government by the TNCs directly impacts the inadequate decisions and illegal actions by state agents and armed forces. Finally, the lack of government accountability, poor governance and malfunctioning rule of law system contribute to challenging environment for corporate responsibility.

## **H. ACTIVITIES OF GENEVA INTERNATIONAL CENTRE FOR JUSTICE**

Due to the serious deterioration of the situation in Myanmar, Geneva International Centre for Justice (GICJ) undertook various actions and interventions. Specifically, GICJ submitted written and oral statements to the 34<sup>th</sup>, 35<sup>th</sup>, 36<sup>th</sup> sessions of the UN Human Rights Council. Moreover, during the 36<sup>th</sup> session of the Human Rights Council, GICJ in cooperation with the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), International-Lawyers.Org and several other NGOs organised a side event on “[Human rights in Myanmar: Ethnic Cleansing](#)”. Additionally, GICJ published several press releases.

GICJ’s joint written submissions and oral statements to the Human Rights Council on the current situation in Myanmar had various emphases. Namely, the [submission](#) to the HRC 34<sup>th</sup> session outlined the general human rights situation in the country and particularly focused on widespread and systematic violations against the Rohingya Muslim community that amount to genocide.<sup>24</sup> The written statement submitted to the HRC 35<sup>th</sup> session expressed alarm about the lack of corporate accountability of transnational corporations that have operated and currently operate in Myanmar for grave human rights violations in zones of armed hostilities.

Moreover, the statement to the 36<sup>th</sup> session underlined that the Myanmar government failed to provide adequate response to the situation, to address the violations, and to ensure investigation and accountability of perpetrators. Furthermore, it gave an overview of international response through United Nations, stated its inefficiency and called for UN action on the basis of Chapter VII of the Charter to restore peace and security in Myanmar and to protect Rohingya from genocide, for the UN Special Rapporteur on the human rights situation in Myanmar to analyse the genocidal intent and urge the GA members and the government of Myanmar to grant full access to the UN fact-finding mission and international humanitarian aid workers, observers and journalists to conflict areas, especially in Rakhine State. Additionally, GICJ monitors and reports on discussions on Myanmar at the Human Rights Council.<sup>25</sup>

Moreover, GICJ in cooperation with the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), International-Lawyers.Org and several other NGOs organised a side event during the 36<sup>th</sup> session of the Human Rights Council.<sup>26</sup> At the side event, the panellists gave an overview of the Myanmar government’s actions to ensure protection from and halt mass atrocities taking place against the Rohingya minority in Rakhine state. Also, the panel examined widespread and

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<sup>23</sup> *Ibid* 4

<sup>24</sup> For more details see full written submission at [http://www.gicj.org/images/2016/34Session\\_HRC\\_Report/HRC34\\_Myanmar.pdf](http://www.gicj.org/images/2016/34Session_HRC_Report/HRC34_Myanmar.pdf)

<sup>25</sup> For example, see “UN Human Rights Council, 34th Session - Overview Discussion on Myanmar”, 13 March 2017 at <http://www.gicj.org/conferences-meetings/human-rights-council-sessions/1009-overview-discussion-on-myanmar-at-the-human-rights-council-34th-session>

<sup>26</sup> For more information visit: <http://www.gicj.org/conferences-meetings/human-rights-council-sessions/side-events/1201-side-event-human-rights-council-human-rights-myanmar-ethnic-cleansing>

systematic violations against the Rohingya Muslim community that may amount to genocide. The participants brainstormed suggestions for the UN Special Rapporteur on the human rights situation in Myanmar and possible UN actions based on Chapter VII of the Charter to restore peace and security in Myanmar, including referral of the situation to the International Criminal Court.



Mr. Ahmed Al Quraishi, Policy Analyst, Research and Writer, noted that Myanmar's government does not acknowledge Rohingya people to grant them with nationality, and that it uses the term "Bengali" to refer to Rohingya as foreigners. He explained that if the conflict around the country of Myanmar does not resolve soon, it will dangerously reach a broader international extent turning into a "proxy war", especially if other governments start backing up the Myanmar Army. On the one hand,

China supports the Myanmar Army. On the other hand, the Nobel-prize winner, the State Counsellor Aung San Suu Kyi, is backed by western countries. Additionally, the Myanmar government at some point was supported by Pakistan. He also mentioned that the current refugee crisis is part of an international conflict of interests and that a political game is being played. Furthermore, he noted that the country of India may be situated in the middle of the international political interests. The panellist stated that some countries support one political side; whereas other countries support the other. He hoped that the conflict will not become like the one in Syria, with so many parties involved. In the political context, he mentioned the persecution of this ethnic group has taken place ever since 1982 in combination with the widespread criminal acts committed against them since 2012.

Ms. Gulnoz Saydaminova, Senior Human Rights Researcher at Geneva International Centre for Justice, briefed on grave violations of international law in Myanmar with particular emphasis on mass atrocities against Rohingya minority. She affirmed that widespread, systemic and organised abuse of the Rohingya minority in Myanmar with an obvious intent to destroy this group amounts to the international crime of genocide as defined by the Rome Statute of the International Criminal Court and the Genocide Convention. Moreover, Ms Saydaminova underlined that the Myanmar government failed to provide adequate response to the situation, to address the violations and to ensure investigation and accountability of perpetrators. Furthermore, she criticised the inefficiency of UN action, noting that being regularly informed is just one part of the action needed; however, there is an urgent need for bold response by the UN members. In her closing remarks, Ms Saydaminova reiterated calls for all parties to the conflict to ensure compliance with international humanitarian law, for UN action on the basis of Chapter VII of the Charter to restore peace and security in Myanmar and to protect Rohingya from genocide, for the UN Special Rapporteur on the human rights situation in Myanmar to analyse the genocidal intent and urge the GA members and the government of Myanmar to grant full access to the UN fact-finding mission and international humanitarian aid workers, observers and journalists to conflict areas, especially in the Rakhine State.

## CONCLUSION

Geneva International Centre for Justice affirms that there are reasonable grounds to believe that the international crime of genocide is being committed in Rakhine state of Myanmar. The international community should ring all the bells of “Never again!”. We are calling for the Myanmar government and international community to take efficient actions and to undertake measures to halt widespread and systematic violations against the Rohingya Muslim community that may amount to genocide and to respect, protect and fulfil human rights in accordance with international law.

**Recommendations:**

- All parties to the internal armed conflict should comply with the provisions of Geneva Conventions ratified by Myanmar;

The Myanmar Government should:

- Remove persons implicated in atrocities from command responsibility with the immediate effect;
- Grant full access to the UN fact-finding mission and international humanitarian aid workers, observers and journalists to conflict areas, especially Rakhine State;
- Ensure that the Rohingya community members have access to basics as food, shelter, water and ability to return to their place of origin;
- Ensure investigations into violations of international humanitarian law and set forth mechanisms of truth, compensation and reconciliation;
- Ensure voluntary, safe and dignified return of refugees;
- Address root-causes of violence in Rakhine state and repeal discriminatory legislative and policy measures targeting religious and ethnic minorities, lift restrictions on movement that impede access to health and education services, intensify its efforts to address discrimination, to counter incitement to hatred and hate speech leading to violence and should enact legislation and implement policies to grant Rohingya the Burmese nationality and promote equality, tolerance and peaceful coexistence;
- Adopt a comprehensive international law compliant legal and policy framework that would prevent the ability of multinationals to profit from human rights abuses and ensure that corporate activity on its territory, especially in extractive industry, follows national and international norms;
- Work with the UN agencies and special-mandate procedures to coordinate strategies to address the current and prevent future mass atrocities;
- The UN Security Council should take action based on Chapter VII of the Charter to restore peace and security in Myanmar and to protect Rohingya from genocide;
- The UN Special Rapporteur on the human rights situation in Myanmar should analyse the genocidal intent and alarm the Human Rights Council and General Assembly.
- The Office of the High Commissioner for Human Rights should open full mandated office on the territory of Myanmar;
- The home states of transnational corporations should issue instructions to businesses prohibiting any activity in a foreign country that would contribute to existing or bring to human rights abuse;
- The international community increase pledges and contributions to humanitarian response.
- The international community should intensify efforts to de-escalate the situation in Rakhine state, to end their desperate exodus, to support host communities;
- The international community increase pledges and contributions to humanitarian response.

GICJ is an independent, non-profit, non-governmental organization dedicated to the promotion and reinforcement of commitments to the principles and norms of human rights. GICJ is based in Geneva, Switzerland and is governed by the Swiss Civil Code and its statutes. Basing its work on the rules and principles of International Law, International Humanitarian Law and International Human Rights Law, GICJ observes and documents human rights violations and seeks justice for their victims through all legal means available.



GICJ's mission is to improve lives by tackling violations and all forms of violence and degrading or inhumane treatment through the strengthening of respect for human rights; reinforcing the independence of lawyers and judiciaries; consolidating the principles of equity and non-discrimination; ensuring rule of law is upheld; promoting a culture of awareness on human rights; and combating impunity.


GICJ has been tackling issues of justice and accountability since it was established. GICJ maintains a partnership with various NGOs, lawyers and a vast civil society network around the world. Through these channels, GICJ is able to receive documentation and evidences of human rights violations and abuses as they occur in several countries. GICJ continues to bring this information to the attention of relevant UN bodies and Special Procedures in order to gain justice for all victims. In particular, GICJ engages extensively with UN human rights mechanisms through active participation in Human Rights Council (HRC) sessions and through the submission of reports, statements and urgent appeals.



Through its internship programme, GICJ provides interns with opportunities to deepen their knowledge and acquire professional experience in the field of International Law (IL), International Human Rights Law (IHRL), and International Humanitarian Law (IHL) as well as multilateral diplomacy. Interns obtain a unique understanding of the workings of both international organizations and non-governmental organizations. Tasks and responsibilities of GICJ interns include participation in UN human rights meetings and activities, especially the HRC; research and analytical work on human rights violations and applicable international law; and the writing of reports, letters, statements, and urgent appeals to UN mechanisms.



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