

NO SAFE PLACE FOR ROHINGYA IN BURMA

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When over 650,000 traumatised Rohingya fled into Bangladesh in just eight weeks to join another 200,000 Rohingya already living in camps in Bangladesh, the Government of Myanmar (GOM) denied all allegations of abuse and refused repeated requests by independent observers an entry to Rakhine State. Finally, the GOM in a carefully orchestrated show escorted 21 foreign diplomats, and representatives from UNRC, UNHCR, WFP, World Bank (Myanmar) and UNDOC to Northern Rakhine. The group urged the GOM to: “enable the voluntary, dignified and safe return to the hundreds of thousands of refugees to their places of origin; unimpeded humanitarian access to northern Rakhine; and resumption of life-saving services without discrimination throughout the state. As friends of Myanmar the group pledged to work with the Myanmar Government to help Rakhine reach its potential” (Diplomatic Group Statement, 3 October 2017). The United Nations High Commission for Refugees (UNHCR) claimed that its long-term presence in Northern Rakhine State offered “unique and veritable assets and advantages leveraging long-term solutions including particularly, voluntary repatriation” (UNHCR, 20 September, 2017).

But what can Rohingya return to? They have been subjected to prolonged, institutionalised and systematic denial of identity and their rights for decades. Rohingya have been returned since 1978 under UNHCR guidance and faced starvation, increased persecution including rape, starvation, forced labour, forced relocation, loss of land, homes, restricted freedoms on their political, social, and civil rights (AI, 1997, Asia Watch, 7 May 1992; HRW, 2000; HRW 1 May 2000; UNHCR, 2013).

After four years of deliberation from 1988 to 1991, the mandate of Special Representative of the Secretary-General of the United Nations was established in March 1992. The creation of this first UN special procedure was motivated by the need to respond to the seriousness of the situation of human rights in Myanmar, the imposition of oppressive measures directed at minority groups, especially to find out what was contributing to the exodus of Rohingya to Bangladesh (UNHR, 1992).

The reports of the Special Rapporteurs for the Situation of Human Rights include analysis of the legal framework of governing the exercise of human rights in the country and include abundance of testimonies gathered by the rapporteur as well as government responses. It is possible by reading these reports to follow patterns of violations, assess the degree to which they are systematic, widespread, and persistent over time. What positive or negative developments have emerged over the past 25 years?

The first Special Rapporteur, Mr Yozo Yokota, reported in 1992 based on well documented evidence that the forced relocations and forced portering of Rohingya led to a systematic pattern of torture, including rape, cruel, inhuman, and degrading treatment, enforced disappearance and arbitrary executions of Rohingya by Myanmar authorities. In 1992 Rohingya feared returning to Myanmar as past settlement policies left their families lives disrupted. They were forced to go to new areas, with inadequate land and no means to support

their families. Between 1990-1992, food supplies in Buthidaung and Maungdaw areas had been confiscated by military, women were systematically raped, men were forced to labour, and entire Rohingya populations were displaced. The entire Rohingya village of Ludengpara, Buthidaung was forcibly relocated February 1992. Over 120 women and many children were tied together and forced to walk. Women became exhausted. Children started crying. Crying babies and children were grabbed from their mothers and thrown over the roadside. Over 20 children were killed in one night. Rohingya men were routinely taken from villages for forced military portering. Many were killed when they attempted to escape. Refugees showed deep wounds from carrying heavy loads and from beatings by soldiers. Soldiers continually cursed and insulted the men with racial slurs. The men suffered from dysentery, infections in open wounds, malaria, and when too weak to continue walking died along the roadside.

General Khin Nyunt denied all these allegations. He claimed the military's Green Book covers all rules and regulations. No member of the armed forces would violate the human rights of ordinary people. The Minister for Foreign Affairs stated that there was no need for international monitoring by the UNHCR to facilitate the repatriation of refugees:

Those persons' claimed that we took their goods, lands, and houses are false. Subversive campaigns in Bangladesh kept persons from coming back, but most people realize they must. When the regular immigration process resumes, the Government will send back all those without immigration cards. However, it is rubbish that people left Myanmar. The people in refugee camps are from Dhaka, not a single person left Burma.

In the mid-1990s, the formation of NaTaLa, "model villages" was a new form of terror committed on the Rohingya. Their land, crops, stock, possession were confiscated and they were displaced. After occupation of the Rohingya land, the military gave their land to Rakhine Buddhists, convicts, retired military personnel, and poor Buddhist families from other parts of Burma. Rohingya mosques, historical monuments, schools, houses were replaced with pagodas, monasteries, and other Buddhist structures. By 2006, over 50 Model villages were built on Rohingya land. Rohingya were forced to supply materials and to construct houses under the Border Area Development Programme of the Maungdaw, Rathedaung and Buthidaung. Rohingya were forced to onto land which could not sustain them. Facing starvation, Rohingya fled to Bangladesh.

Food insecurity affects Rohingya who are denied the right to fish, farm, seek employment. They depend on the World Food Programme (WFP) in Rakhine State since 1978. The WFP makes regular notifications of the levels of malnutrition (general acute, severe acute, global chronic, severe chronic) in Northern Rakhine State. In 2015, global chronic malnutrition (stunting) levels were reported to be well above the WHO emergency threshold levels. In April the *Food Security Assessment in the Northern Part of Rakhine State March-April 2017* report was released. I read this six-page report, before it was taken off the site, with the following message, "this report is not to be cited formally or in any other way. The GOM is collaborating on a revised version of the report to be released in 2018". The report stated "extreme levels of malnutrition" in Northern Rakhine State. How many Rohingya will be alive in 2018?

Each year reports by the UN Special Rapporteurs detailing serious human rights violations by the Government of Myanmar (GOM) are denied by the GOM. Each year the GOM is urged to protect and respect the human rights of civilians. Each year the GOM denies all allegations and denies Rohingya their rights. How despite years of documentations of the continued persecution of Rohingya, now to the point of extermination has there been no international

response to protect? At the 2005 UN World Summit, all member states endorsed the Responsibility to Protect (R2P) “aimed at preventing and halting genocide, War Crimes, Ethnic Cleansing, and Crimes Against Humanity”. The Global Centre for R2P repeatedly warns that “mass atrocity crimes are occurring and urgent action is needed. On 6 September 2017, the Myanmar representative to the UN responded to a question concerning allegations of atrocity crimes that the GOM perpetrated on the Rohingya, during a UN Global R2P discussion (6 September 2017).

Myanmar understands the noble principles of prevention of atrocity crimes and the three pillars of the R2P, yet these principles are used sometimes for political ends and need to be adopted through consensus. Since there have been a few mentions of the name linked to the situation of Rakhine, I am compelled to take the floor. You must know we had no plans to commit genocide or ethnic cleansing against any group of people. This is obvious as the number of people which we are accused of being subjected to genocide is growing and is expanding instead of disappearing. In fact it is the Rakhine ethnic nationals and other minorities in that area who have been driven out by extremist elements; sometimes assisted by foreign entities and sometimes discrimination is created by those who are there to provide assistance and necessarily do more harm. On 25 August, the extreme terrorist group, the Arakan Rohingya Salvation Army (ARSA) attacked 30 police posts and an army base in the township of the Rakhine State which claimed responsibility for these attacks. The UN Security Council members condemned these attacks (UNGlobalR2P6Sept2017-iid-myanmar.pdf).

No state explicitly claims the right to commit genocide, but the sovereign territorial state claims the right to commit crimes against a group of people which the state has been forcibly expelling declaring them no longer citizens of Burma. Genocide is being exercised under a more acceptable rubric now, the current protection of Rakhine State integrity from attacks by “an armed terrorist group”. The UN observes the sovereign right of the Myanmar State, shows concern for humanitarian relief for refugees, while the GOM continues genocidal actions.

The road to genocide has been constructed openly, piece by piece, met with international silence, and a betrayal of humanity. The memory of brief democratic rule has almost been completely obliterated. International organisations, the various organs of the UN, foreign governments, have been involved in an organised forgetting of the long reign of terror successive GOMs have unleashed against Rohingya. The international community supported a Myanmar census which denied Rohingya the right to register as Rohingya. The elections were held with no Rohingya permitted to participate.

The Kofi Anna-led Rakhine Advisory Commission was established by Aung San Suu Kyi to find solutions to the “complex and delicate issues in Rakhine State”. No Rohingya were members of the group. The name Rohingya was not to be used. Dr Aye Chan of Kanda University of International Studies in Japan was invited to speak to the committee as an expert on Arakan history. Dr. Aye Chan of Kanda University of International Studies in Japan is the main proponent of anti-Rohingya movement. He co-authored a publication entitled “[Influx Viruses: The Illegal Muslims In Arakan](#)” in which Rohingya are referred to as “Influx Viruses”.

The Commission met in Sittwe. Respected 78 year-old Rohingya lawyer and former MP, Kyaw Hla Aung has been detained in Sittwe Ghetto since 2012. In 2012 he represented Rohingya in the IDP camp who refused to register as “Bengali” during the 2013 census. He has been

imprisoned several times as a political prisoner, for representing Rohingya farmers whose land was arbitrarily confiscated by the regime in 1986. He and his colleagues formed the National Democratic Party in 1989 to ensure equal rights for Rohingya. He stood for parliament in the 1990 elections, but during the campaign he was arrested and spent years in prison. "I have National Registration Cards that were issued in 1959 and 1963. My wife has them and my parents did to. My father was a government administrator working in the Arakan State Court as head clerk for 40 years". Now Kyaw Hla Aung cannot move outside the ghetto. No person can visit him. He depends for his families' survival on monthly WFP food delivery. He is silenced, denied the right to contribute to the future of Rohingya and Myanmar. The Rohingya have been deprived of their history, their right to speak, their very existence inside their homeland.

The fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective. The plight of Rohingya is not that they are not equal before the law but that no law exists for them. They are denied legal status. They have no judicial rights within Burma and in exile. Something much more fundamental than freedom and justice is at stake when belonging to a community into which one is born is no longer a matter of course, and not belonging no matter a choice, or when one is placed in a situation where, unless s/he commits a crime, her treatment by others does not depend on what she does or does not do.

The Rohingya are denied a voice, a place in higher education, in professional positions, a vote in elections, the opportunity to run as elected members of parliament, the freedom to move freely within the country or even outside their village. Their land, crops, stock, fishing boats, labour are seized at any time. They are restricted in social practices of marriage, birth, worship. The Rohingya are deprived of legal status to question or challenge the authorities' decisions. They have no judicial, no legal status. Over 120,000 Rohingya are cut off from the world, forced into multiple internment camps since 2012. Surrounded by gun totting Rakhine guards, Rohingya have no freedom to move, no engagement with people outside. A collective memory that denies full humanity to those 'others' placed outside the group allows for varying degrees of getting rid of, from land confiscation, from forced relocation, to forced labour, to destruction of schools, places of worship, to removal from public work places, schools, businesses, health care, from community markets, fishing, farming, to forcible segregation in camps, to killing, burning people, homes, to genocide.

The military, local security, police, border patrol, and local Rakhine act with impunity targeting Rohingya, committing crimes of rape and murder. The violence has been authorised by the State. The perpetrators are co-operative. Bystanders are quietly complicit after decades of living in a world in which the Rohingya presence is barely recognised. It is assumed the Rohingya get what they deserve, not because of what they did or do, but because of who they are. The extremity and nothing else is the situation of Rohingya deprived of human rights. They are not deprived of the right to freedom, but of the right to action, not of the right to think whatever they please, but of the right to opinion. Privileges in some cases, injustices in most, blessings and dooms are meted out to them according to accident and without any relation to what they do or did, or may do. The human being who has lost her place in the community, her political status in the struggle of time, and her legal personality which makes her actions and part of her destiny a consistent whole, is left with the qualities that usually only appear in public life and remain unqualified, a mere existence in all matters of public concern (Hannah Arendt, 2000: 31-45).

The great danger arising from the existence of people forced to live outside their common world is that they are thrown back on their natural life. They lack the tremendous “equalizing difference which comes from being citizens of some commonwealth”. When a person loses political status, she should according to the Universal Inalienable Declaration of Human Rights, come under the exact situation for which the declaration of rights provided. But Arendt makes the distinction between the “right to” and the “right to be recognised as having the right to”....in effect the right to be recognised as human to be included. While Arendt was writing on the plight of stateless refugees, this clearly applies to genocide. Her idea presupposes a distinction between life and existence. The antithesis of existence is an empty void, an undefinable space. Genocide is an atrocity directed at denying a people a given existence. The GOM has deprived Rohingya of all legal status and cut them off from the world they used to occupy. The GOM denies the Rohingya their given existence in Myanmar. Still there are plans to repatriate Rohingya. The GOM members need to be charged and held accountable for committing the crime of genocide. There is no safe place for Rohingya in Myanmar.

There is no safe place for 150 Rohingya who sought asylum in Australia. In his open letter Prime Minister Malcolm Turnbull (5 September 2017), Imran Mohammad stated:

My name is Imran Mohammad and I am 23 years old. I was born in Myanmar, where I didn't receive any of my human rights. I have been locked up in Manus Island offshore prison, behind tall wire fences, for over 4 years. My future plans are to set up work for refugees. It will build shelters in places where nothing exists to protect women from being raped, save older people and children from dying. For now, I have a passion to write and this will keep me strong

No person who arrives by boat seeking asylum and determined to be a refugee is allowed to enter Australia. All people are detained in offshore prisons. Five submissions in the last three years have been made to the International Criminal Court (ICC) charging successive Australia governments, individual and corporate actors with Crimes against Humanity under Article 7 (1) of the Rome Statute (d) deportation or forcible transfer of population; (e) imprisonment and deprivation of physical liberty; (f) torture; (h) persecution; (k) other inhuman acts) imprison and severely deprive refugees and asylum seekers of their liberty through detention offshore, torture these individuals, and commit other criminal acts all arising to the level of crimes against humanity.

Australia must dismantle its offshore asylum seeker policy, recognise the rights of Rohingya and all people seeking asylum, and ensure safety and protection in Australia. Australia must increase pressure on the GOM to dismantle state-led persecution of Rohingya and refer the situation to the International Criminal Court. It is imperative that Australia with other nations take concrete steps to end genocide, promote justice and accountability for those committing these crimes. Australia should use their voice on the UN Human Rights Council to call for the GOM to be charged with committing Rohingya genocide. Australia should speak out in support of Rohingya. If not, Australia does not deserve a seat on the UN Human Rights Council.

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