



Human Rights Now

Human Rights Now

7F Creative One Akihabara Bldg. 5-3-4 Ueno
Taito-ku, Tokyo, JAPAN 110-0005
<http://hrn.or.jp/eng/>
Phone: +81-3-3835-2110
Fax: +81-3-3834-1025
Email: info@hrn.or.jp

12 April 2018

Grave human rights violations against Myanmar's Rohingya People

Human Rights Now, a Tokyo-based international human rights NGO, expresses grave concern over the continued and systemic human rights violations perpetrated against the Rohingya people in Rakhine state, Myanmar.

HRN strongly urges the Myanmar government to end all human rights abuses against the Rohingya, a long-persecuted ethnic Muslim minority in the predominantly Buddhist country. In addition, the government should accommodate safe and dignified return for Rohingya refugees and allow unfettered access to Rakhine state for journalists, international NGOs and UN-experts.

1 Human rights violations against Rohingya

Following the attack on a military outpost by a Rohingya group calling themselves the Arakan Rohingya Salvation Army on 25 August 2017, Myanmar security forces have launched a large-scale "clearance" operation targeting the Rohingya population. There are numerous reports of disproportionate use of force by military personnel and non-state actors. Rohingya have recounted numerous severe human rights and humanitarian violations such as extra-judicial killings, rape, arson, ethnic cleansing, looting, and land-grabbing.¹ As a result of these atrocities, over 650,000 Rohingya have fled to Bangladesh since August 2017.² The governments of Myanmar and Bangladesh have concluded several agreements that outline the process by which the refugees could be returned; however, new refugees have still been arriving in Bangladesh since then.

2 Recent developments in Rakhine State

2.1 Five Rohingya mass graves uncovered

On 1 February 2018, Associated Press confirmed the existence of more than five previously unreported mass graves in the village of Gu Dar Pyin. The graves were uncovered through time-stamped cell-phone videos and interviews with survivors in the refugee camps across the Bangladeshi border.³ The shocking reports point to systematic and organized slaughter of Rohingya Muslim civilians by the Myanmar military, assisted by Buddhist neighbors. According to survivors, the 27 August 2017 attacks were carefully planned and then deliberately hidden from public eye. The soldiers were not only armed with rifles, knives, rocket launchers and grenades, but also with shovels to dig pits and acid to burn away body parts so that bodies could not be identified.⁴ Despite the lack of access to affected areas, community leaders in the refugee camps have compiled a list of 75 dead and estimate the toll could

¹ Al Jazeera, "HRW: Satellite Data Show Fires Burning in Rakhine State", 30 Aug 2017, <http://www.aljazeera.com/news/2017/08/hrw-satellite-data-show-fires-burning-rakhine-state-170829065457014.html>.

² UNHCR, "Rohingya Emergency", <http://www.unhcr.org/rohingya-emergency.html>.

³ Foster Klug, "AP finds evidence for graves, Rohingya massacre in Myanmar", Associated Press, 1 Feb 2018, <https://www.apnews.com/ef46719c5d1d4bf98cfefcc4031a5434>.

⁴ *Id.*

be as high as 400 based on survivors' testimony.⁵ Almost every villager interviewed by AP saw three large mass graves at Gu Dar Pain's northern entrance. A handful of witnesses also confirmed two other graves near a hillside cemetery.⁶ The government has denied all accusations and has cut off access to Rakhine State, including Gu Dar Pyin village.⁷

2.2 Myanmar government destroys evidence of human rights abuses by bulldozing Rohingya villages

New satellite imagery provided by an international NGO reveals the Myanmar government has been bulldozing depopulated Rohingya villages in northern Rakhine state. According to this data, government forces have demolished at least 55 villages.⁸ These villages were the reported scenes of the August 2017 ethnic cleansing campaign against the Rohingya and should be preserved and treated as crime scenes until the UN Fact-Finding mission is given access to the area.

The 1951 Refugee Convention provides that refugees who were unlawfully deprived of their homes or properties have the right to return to their homes, and those unable or unwilling to return have the rights to compensation from the government.⁹ Satellite imagery suggests that village demolitions are ongoing, threatening to erase the legal claims of the Rohingya who lived there.¹⁰ These demolitions completely destroy homes, livelihoods, communities, infrastructure and other elements which are fundamental to Rohingya people's way of life and deprive them of their land and property rights. Such actions clearly violate the rights to land, housing and property of Rohingya people.

2.3 Dramatic increase in security infrastructure since January 2018

Other evidence provided by an international NGO has emerged pointing to widespread land grabs, accompanied by rapidly expanding infrastructure and military bases across Northern Rakhine State. Satellite imagery from January 2018 has confirmed three new security bases are being constructed in Maungdaw Township and Buthidaung Township.¹¹ The images also show high security fences surrounding the recently constructed refugee reception centers. Rohingya returning from Bangladesh will be relocated to these centers, all constructed in areas with increased military presence.¹² This raises serious concerns about freedom of movement and arbitrary detention of returnees.¹³

3 Violations of International Criminal Law

The ongoing reports of the situation in Myanmar support findings of the Myanmar government's involvement in crimes against humanity, ethnic cleansing, and possibly genocide. UN officials, including the UN Secretary-General, UN Assistant Secretary-General, and UN High Commissioner for Human Rights, have all characterized the recent operation against Rohingya as ethnic cleansing.¹⁴ Further-

⁵ Associated Press, "Myanmar government denies AP report Rohingya mass graves", 3 Feb 2018, <https://www.apnews.com/42d730b269fd4ab08ce80958901c077b>.

⁶ Foster Klug, "AP finds evidence for graves, Rohingya massacre in Myanmar", Associated Press, 1 Feb 2018, <https://www.apnews.com/ef46719c5d1d4bf98cfefcc4031a5434>.

⁷ Associated Press, "Myanmar government denies AP report Rohingya mass graves", 3 Feb 2018, <https://www.apnews.com/42d730b269fd4ab08ce80958901c077b>.

⁸ Human Rights Watch, "Burma: Scores of Rohingya Villages Bulldozed" 23 Feb 2018, <https://www.hrw.org/news/2018/02/23/burma-scores-rohingya-villages-bulldozed>.

⁹ The right to return has a solid foundation in international law and is enshrined in the 1951 Refugee Convention, 1(c), as well the ICCPR (Article 12) and the UDHR (Article 13(2))

¹⁰ Human Rights Watch, "Burma: Scores of Rohingya Villages Bulldozed" 23 Feb 2018, <https://www.hrw.org/news/2018/02/23/burma-scores-rohingya-villages-bulldozed>.

¹¹ Amnesty International, "Myanmar: Military Land Grab as Security Forces build Bases on Torched Rohingya Villages", 12 Mar 2018, <https://www.amnesty.org/en/latest/news/2018/03/myanmar-military-land-grab-as-security-forces-build-bases-on-torched-rohingya-villages/>.

¹² *Id.*

¹³ Freedom of movement is enshrined in UDHR Art. 13, and freedom from arbitrary detention in UDHR Art. 9.

¹⁴ OHCHR, "Darker and more dangerous: High Commissioner updates the Human Rights Council on human rights issues in 40 countries", 11 Sept 2017,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22041&LangID=E>; OHCHR, "Myan-

more, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, expressed "strong suspicions that acts of genocide may have taken place in Rakhine State since August."¹⁵

Human Rights Now's recent report "Rohingya Refugees Enduring Human Rights Violations in Myanmar and in Refugee Camps: Human Rights Now Visits Refugee Camps in Bangladesh"¹⁶ reports on interviews by HRN with Rohingya in Bangladesh refugee camps. The report describes actions by Myanmar security forces or persons acting under their direction that may fall under the scope of crimes against humanity,¹⁷ including widespread and systematic targeted shootings, killings, sexual violence, beatings, and the demolition of villages.

The mass graves are the newest piece of evidence to support a finding of the Myanmar government's involvement in crimes against humanity. The discovery of the graves filled with Rohingya people, combined with HRN's recent interviews and the consistent reports from independent press and human rights organizations documenting violence against the Rohingya, strongly support a finding that there is a pattern of widespread and systematic attacks against the Rohingya, including acts of murder, forcible transfer, torture, rape, persecution, and inhumane acts causing great suffering.¹⁸

In the latest Human Rights Council session, the Council adopted a resolution on Myanmar¹⁹ calling for a full and independent investigation of the reported human rights violations and the need to hold those responsible to account through a credible and independent criminal justice mechanism. In this context the Council referenced the authority of the Security Council to refer the situation in Myanmar to the International Criminal Court in addressing the need to take practical steps towards this goal.²⁰

4 Recommendations—The government of Myanmar must immediately end the refugee crisis and persecution of Rohingya

HRN is gravely concerned by the refugee crisis and persecution of Rohingya in Myanmar and urges the Myanmar military and civilian authorities to:

- Immediately cease all military operations and human rights abuses in Rakhine State.
- Release journalists Wa Lone and Kyaw Soe Oo for reporting on the massacre of Rohingya Muslims.
- Conduct independent investigations of alleged crimes and hold accountable any official or non-state actor responsible for criminal acts in an independent and credible criminal justice process, including acts related to the mass graves in Gu Dar Pyin village.
- Allow unfettered access to all relevant international officers and organizations in affected areas of Myanmar and work alongside international actors to ensure the safe and voluntary return of refugees to Myanmar and their access to humanitarian aid.

mar: Senior UN human rights official decries continued ethnic cleansing in Rakhine State," 6 Mar. 2018, <http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22761&LangID=E>; UN Secretary-General Statements, "Secretary-General's press conference prior to the opening of the 72nd Session of the General Assembly", 13 Sept. 2018, <https://www.un.org/sg/en/content/sg/press-encounter/2017-09-13/secretary-generals-press-conference-prior-opening-72nd-session>.

¹⁵ Zeid Ra'ad Al Hussein, "High Commissioner's global update of human rights concerns", OHCHR, 37th Session of the Human Rights Council, 7 Mar 2018,

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22772&LangID=E>.

¹⁶ Human Rights Now, "Rohingya Refugees Enduring Human Rights Violations in Myanmar and in Refugee Camps: Human Rights Now Visits Refugee Camps in Bangladesh," 12 April 2018, <http://hrn.or.jp/eng/news/2018/04/12/rohingya-camps-report>.

¹⁷ Relevant crimes against humanity are listed in the Rome Statute of the International Criminal Court (ICC), 17 July 1998, http://legal.un.org/icc/statute/99_corr/cstatute.htm, Article 7.

¹⁸ These crimes and their elements are in accordance with the list and definition of crimes against humanity outlined in the Rome Statute of the ICC, *id.*, Article 7.

¹⁹ Human Rights Council Resolution L.43, "Agenda item 4 Human rights situations that require the Council's attention", A/HRC/37/L.43, 20 Mar. 2017, para. 8.

²⁰ *Id.*

- Restore or provide full compensation for stolen or destroyed property of Rohingya.
- Allow the fact-finding mission set in place by the Human Rights Council in March 2017 to enter Myanmar and investigate the alleged abuses.²¹
- Implement the Governmental Advisory Commission's recommendations released in August 2017 in order to solve the structural issues in Myanmar.
- Reexamine the 1982 Nationality Law to give proper citizenship to the Rohingya population and respect their civil liberties.

HRN also requests the UN Security Council to:

- Refer the Rohingya situation in Myanmar to the International Criminal Court to ensure an independent and credible criminal justice process to hold violating parties accountable.
- Impose a comprehensive arms embargo on Myanmar that covers direct and indirect supply, sale or transfer of all weapons and other military security equipment.
- Impose targeted financial sanctions against senior officials responsible for serious violations of international human rights and international criminal law.
- Demand the Myanmar government should immediately halt the demolition of Rohingya villages, which should be treated as crime scenes that should be preserved until the UN Fact-Finding Mission is given access to the area to carry out investigations.
- Demand the Myanmar government immediately ceases its land-grabbing practice and accommodate the return of Rohingya refugees in line with the standards of refugee and human rights law.

²¹ OHCHR, "Independent international fact-finding mission on Myanmar", 24 Mar 2017, <http://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/Index.aspx>.