



36th Session of the Human Rights Council

United Nations - 15 September 2017

Side-Event: Human Rights in Myanmar

Ethnic Cleansing!

A poster for a side-event at the 36th session of the UN Human Rights Council. The poster has a yellow top section with black text: "36th session of the UN Human Rights Council", "Human Rights in Myanmar:", and "Ethnic Cleansing!". Below this, it says "Friday 15 September 2017", "15h00 - 16h30", and "Room XXVII, Palais des Nations, Geneva". The middle section features a red border containing four photographs: a group of people, a woman holding a child, people washing clothes in a river, and a group of people smiling. The bottom section is red and contains logos for the UN Human Rights Council, INTLawyers, and the Geneva International Centre for Justice (GICJ).

On 15th September 2017, the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD) organized a side-event entitled “Human Rights: Ethnic Cleansing in Myanmar” with Geneva International Centre for Justice (GICJ) and International-Lawyers.Org at the Thirty-Sixth Session of the Human Rights Council (HRC).

The deteriorating situation in Myanmar has recently led to hundreds of thousands of Rohingya Muslims fleeing to Bangladesh from extreme atrocities and killings of men, women, and children. Furthermore, reports have told of homes and villages being burnt to the ground by forces aligned with the government. Sadly, these grave crimes have been on-going for at least six decades yet little to nothing has been done by the government of Myanmar and the international community to resolve the crisis. In an open letter on 8th September 2017, Archbishop Desmond Tutu condemned the violence and called on friend and fellow Nobel Laureate the incumbent State

Counsellor of Myanmar, Aung San Suu Kyi to condemn the violence, adding “My dear sister, if the political price of your ascension to the highest office in Myanmar is your silence, the price is surely too steep”.

The moderator of the discussion was Mr. Curtis F.J. Doebbler and the panelists were Mr. Ahmed Al Quraishi and Ms. Gulnoz Saydaminova. The panel discussed Myanmar government’s actions to halt the mass atrocities taking place against the Rohingya minority in Rakhine State. They examined the widespread violations against the Rohingya Muslim community that can amount to genocide. The panelists brainstormed suggestions for the UN Special Rapporteur on the human rights situation in Myanmar and possible UN actions based on Chapter VII of the UN Charter to restore peace and security, including referral of the situation to the International Criminal Court.



Concept Note:

The situation in Myanmar is alarmingly deteriorating. 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 continue to these days and seriously worsened within the last month. The government fails to ensure the halt of violence and abuse against ethnic minorities, particularly the longstanding persecution of the Rohingya religious minority.

Discrimination based on national, racial and religious hatred is widespread and systematic. Within the general context of anti-Muslim rhetoric, the security forces have implemented persecution policies for decades. Ethnic minorities are targeted within the so-called “Burmanization” policy and the most shocking is the case of Rohingya. For centuries the Rohingya community of approximately 1.3 million members mostly live in Rakhine State with historical roots in Myanmar dating back to ancient times. Nevertheless, the government refuses to give them the nationality and instead it uses the term “Bengali” to refer to Rohingya as foreigners.

Over 100,000 ethnic minority Rohingya have taken a perilous journey to leave the country by sea; the Rohingya are fleeing horrific Apartheid-like conditions where 140,000 are confined in what many describe as “concentration camps”.¹ It is estimated some 350,000 Rohingya have fled Myanmar in search of protection in Bangladesh, including an estimated 74,000 who arrived in late 2016 as a result of a security crackdown in

¹ “The Rohingya: Not Just a Name, A People at Risk of Genocide”, United to End Genocide at <http://endgenocide.org/conflict-areas/burma/>

northern Rakhine State.² According to the United Nations High Commissioner for Refugees (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 UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein, pointed out the situation as “textbook example of ethnic cleansing”. Therefore, the silence of Nobel-prize winner, the State Counsellor Aung San Suu Kyi, is outrageous. As Desmond Tutu rightly put it “silence is too high a price”. The widespread, systemic and organized abuse of the Rohingya minority in Myanmar with an obvious intent to destroy this group may amount to the international crime of genocide. The persecution of this ethnic group since 1982 in combination with the widespread 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 Genocide Convention.

During the side event, the panelists examined widespread and systematic violations and gave an overview of the Myanmar government’s actions, if any, to ensure protection from and halt of mass atrocities taking place against this minority. Lastly, the panelists brainstormed recommendations for the UN Special Rapporteur on the situation of human rights in Myanmar and possible UN actions based on Chapter VII of the Charter to restore peace and security, including referral of the situation to the International Criminal Court.

Speakers:

Ms. Gulnoz Saydaminova – Ms. Saydaminova is the Senior Human Rights Researcher at Geneva International Centre for Justice (GICJ) and has been researching and writing on the situation in Myanmar focusing on the humanitarian crisis as well as the legal and political implications. She previously served in the Office of the High Commissioner for Human Rights on legal protection of civilians within the Humanitarian Response Team, contributed to human rights protection of ethnic minorities in the post-conflict Balkans during assignments in the Missions of the Organization for Security and Cooperation in Europe (OSCE).

Mr. Ahmed Al Quraishi – Mr. Quraishi is a policy analyst, researcher and writer. As a journalist, he has worked extensively in Iraq, Pakistan, Lebanon, Syria, and the Gulf region. He is the author of many articles in Arabic and English over the past 24 years including for Aljazeera. He is currently associated with an independent, Islamabad-based think tank projectpakistan21.org.

Moderator:

Mr. Curtis F.J. Doebbler – Mr. Doebbler is an international human rights lawyer and Co-Founder and Vice President of International-Lawyers.Org and practices international law on international human rights tribunals. He teaches at universities in Africa, Europe, and the Middle East and has published eight books and over two hundred academic and newspaper articles.



²“Give the Rohingya hope for a future” urges UNHCR chief, 11 July 2017 at <http://www.refworld.org/docid/5964c3a24.html>



Panel Presentations

Beginning with the moderator, Mr. Doebbler stated that the situation in Myanmar is alarmingly deteriorating and that mass atrocities against the Rohingya Muslim minority persist. He noted that members of the ethnic minority Rohingya have taken a perilous journey to leave the country in search of protection in Bangladesh.

Historical Context



Dr. Ahmed Quraishi began the discussion with a PowerPoint presentation on the background of the crisis in Myanmar (Burma) and the various activities that led up to the violence. He emphasized that to fully comprehend the situation it is crucial to understand the background of the Rohingya as well as the political and military history of Burma.

After World War II the British government promised the Rohingya a state, which resulted in Rakhine State. Mr. Quraishi then delved into the role of the Rohingya Militant Groups and noted that Chinese and Indian support for Burma increases when there is offensive activities by the Rohingya Militant Groups towards the Burmese government. The interests of both countries may overlap and both are supporting Burma but for their own different reasons. It should also be noted that the Mujahedeen are present in Rakhine State and that there has been a Muslim influence in the area for hundreds of years. When considering the role of the Rohingya Militant Groups, one has to acknowledge that they can either be perceived as terrorists by the opposers and freedom fighters by their supporters.





In late August, the Rohingya militants attacked the police force and the retaliation has been brutal leading to hundreds of thousands of Rohingyas fleeing Rakhine State for Bangladesh. However, this recent crisis is by no means solely because of the recent attack on the police force. In fact, it has been ongoing for several decades. Religion and ethnicity have played a major role in the longevity of the crisis. The speaker also noted that the government of Myanmar does not acknowledge the Rohingya people as citizens to grant them nationality, and that it uses the term “Bengali” (even by Burmese officials) to refer to Rohingya as foreigners who are not accepted as equals. Ethnicity and nationality, therefore, are especially important aspects to bear in mind.

In light of this, Bangladesh wants to cooperate with the Burmese army and already offers aid against Rohingya rebels. The Burmese army believes the Mujahedeen are vanguards portraying a future scenario similar to Afghanistan where Islamic groups were used for Western intervention. Even though this may be considered a conspiracy it only adds to the many elements that make the situation very confusing including the failed integration, Mr. Quraishi explained.



Additionally, the flimsy social media campaigns by Burmese authorities range from portrayals of pictures showing the Myanmar army medical corps treating Rohingya families to pictures of Rakhine Buddhist families attacked and displaced. It is quite clear, however, that these may have been orchestrated by a Burmese disinformation campaign as they are un-verifiable in terms of the content provided and the social media accounts that

have displayed the photos. Mr. Quraishi added that this ‘political game’ around the question of Myanmar’s human rights violations if not resolved soon could dangerously reach to a broader international extent turning into a “proxy war”. There is a global split over the Rohingya crisis bearing in mind that China and India are backing the Myanmar army whereas the Western countries were initially backing the Nobel-prize winner, State Counsellor Aung San Suu Kyi, but have accused her of not speaking out on behalf of the long-persecuted minority, and of defending the army’s sweep after recent attacks.

The panelist also mentioned that the current refugee crisis is part of an international conflict of interests. Furthermore, the country of India may be situated in the middle of the international “political game” being played. 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 this context, there is no resolution in sight even though the persecution of this ethnic group has taken place ever since 1982 in combination with the widespread criminal acts committed against them since 2012.

The moderator, Mr. Doebbler, highlighted the importance to understand the political context when it comes to understanding the refugee crisis and persecution of the Rohingya population.

Humanitarian Situation



The second speaker, **Ms. Gulnoz Saydaminova**, gave her presentation on the dire humanitarian situation that has resulted from an abundance of atrocities and violations of international humanitarian law. The violations are not adequately investigated, impunity persists, and the right to remedy and reparations have not been respected or exercised. Ms. Saydaminova explained how complex the situation is reminding also that the current government is in a transition phase. However, this can in no way justify the denial of human rights protection. The “Burmanization policy” is one such example that denies the Rohingyas human rights protection and liberties as

they are denied nationality and are not given passports.

Already approximately 350,000 Rohingyas fled Myanmar in the previous conflict (since October 2016) and about 270,000 have fled in the most recent conflict (August - September 2017). The very fact that hundreds of thousands of people are fleeing a particular area indicates that there is something very serious occurring in that area and people are escaping for a reason. Furthermore, there has been anti-Muslim rhetoric in the country especially in the context of the violations committed. The speaker went on to say that reports reveal that men and boys are rounded up, makeshift detentions have been set up and they also tell of all kinds of excessive violence including burning people inside their houses. The most chilling of crimes were reports that have surfaced about the killing of children and babies in front of their raped mothers. Ms. Saydaminova remarked that these atrocities and violations are similar to those during the Bosnian War.



What is the Myanmar Government doing?

In response to the fighting that occurred in previous years, Ms. Saydaminova mentioned that the government of Myanmar formed a community for peace and security in May 2016 with Kofi Annan and Aung San Suu Kyi – together the Annan Report was produced with eight recommendations. However, the findings of this Commission on the situation in Myanmar failed to reflect the gravity of the crisis and further, the 65-page report barely even mentions Rohingya but instead makes mention of minorities in general and does not identify the victims appropriately. Whilst the latest attack that began at the end of August was ongoing the president was attending other matters. Even Archbishop Desmond Tutu wrote to fellow Laureate Aung San Suu Kyi and questioned her silence in this serious matter.

What is the UN doing?

The reported atrocities and violations that have occurred and that continue to occur in Myanmar can amount to genocide as defined in international law. However, the speaker noted that since 1948 the United Nations Security Council had adopted only one resolution recommending Myanmar (Burma) for the UN membership and only two presidential statements with vague language that only mentioned prisoners. As the UN Security Council fails to capture the breadth and depth of the longstanding persecution of this minority, other UN actors such as the UN General Assembly are well informed but are not taking the necessary required action. Instead of intervening they mainly produce reports. Despite the UN Human Rights Council's Special Rapporteur on Myanmar having an extended mandate since 1992 the resolutions are being neglected and the lack of accountability continues.



Although the High Commissioner for Human Rights, Mr. Zeid Ra'ad Al-Husseini, has issued various strong statements denouncing widespread and recurrent crimes against humanity and condemning the atrocities against the Rohingya minority, informing is just one part of the action urgently needed. The UN Special Rapporteur on Myanmar hands reports and provides information as well, but positive actions have yet to be taken. Likewise, in his opening statement at the 36th session of the Human Rights Council, the UN High Commissioner for Human Rights pointed out the situation of Rohingyas in Rakhine State is a text-book example of ethnic cleansing. On this note the UN should take action on the basis of Chapter VII of the UN Charter that calls for "Action with

Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression”. The restoration of peace and security is the responsibility of the international community. So abiding by its own principles, the UN Security Council should act faster and acknowledge that the government of Myanmar’s acts of ‘Ethnic Cleansing’ can amount to the international crime of genocide.



This side event’s recommendation to the Special Rapporteur on Myanmar is to analyze genocidal intent – especially the intent to destroy a group through ethnic cleansing because there should not be a second Rwanda. Additionally, all relevant parties should comply with international humanitarian law and Myanmar should grant full access to humanitarian aid and to UN Fact Finding Missions dispatched by the Human Rights Council. Also, the government of Myanmar should end military operations against the Rohingya minority and enhance cooperation with the relevant UN bodies.

Round of Questions and Debate

Commentator 1

After the presentations, the moderator Mr. Curtis Doebbler opened the floor for questions and comments. The first person to take the floor considered this crisis in the context of decolonization and asked how the ethnic cleansing is being legitimized. He mentioned the 1982 Burma Citizenship Law and that everything under Article 3 is null and void under international law. Moreover, there is systematic torture by the government but the 2008 Constitution protects impunity. The concept of commander responsibility should be enacted given the high status of the military, an international arrest warrant of high officers of the military should be demanded, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment should be put into force.

Commentator 2

The second person to take the floor spoke about the political and security issue re-emphasizing that this is a very serious situation. In light of the previous and current circumstances the commentator speculated that the Myanmar army is in control of the country and asked if it is the case that they have the final word; what the role of the president is; and the position and decision of the regional organization South Asian Association for Regional Cooperation (SAARC).

Response

In response Mr. Quraishi again accentuated the very complex nature of the crisis and that in his research he had to consider a geopolitical context in view of the China-US competition, in which Myanmar played a part and the state itself was in some manner a result of this competition where China has supported the army very strongly and the US supported the democracy movement. This demonstrates a clear division between friends and foe and that China and countries with close ties to China have been very cautious, quiet, and soft in criticizing Myanmar. Pakistan is a strong ally of China but people in the streets protest against the persecution of Muslims with little mention of the ethnic Rohingyas. Many other Muslim countries that have a good relationship with China were late in mentioning anything about the crisis. Thus, it is highly likely that Myanmar is part of the China-US competition. Mr. Doebbler added that the Organization of Islamic Cooperation (OIC) has had this issue on their agenda for quite some time and have actually played the leading role in raising this in the agenda.

Commentator 3

The third person who took the floor hoped that there could be an international response to the crisis in Myanmar and then asked what the UN can do? The High Commissioner for Human Rights (Mr. Zeid Ra'ad Al-Hussein) stated that thousands of refugees have fled into Bangladesh and there has been very little response whereas pressure should have been put on the Myanmar government.

Response

Ms. Saydaminova reaffirmed that the UN Charters says that the international community was indeed formed to provide peace and security but in this instant they are extremely slow to react and that even the wording by the High Commissioner in his statements were very diplomatic as he failed to explicitly mention genocide, which is a legal term that calls on states to take action to protect people from this crime under the UN Charter whereas ethnic cleansing (even though a crime against humanity that can be prosecuted) is not explicitly defined under international law. However, neither the High Commissioner nor the Special Rapporteur are pronouncing the word genocide because it is indeed a strong and serious word that prompts action. The relevant UN actors would like to further investigate the situation but the Myanmar government is not cooperating.





It is not allowing any investigators to enter the country and verify that the situation, particularly in Rakhine State, is indeed deteriorating. If anything, the UN could send in troops as they did during the crisis in former Yugoslavia, and this is what civil society is calling for. Myanmar should be taken to the Criminal Court and the co-organizers of this side-event urge the UN Special Rapporteur to make a stronger statement as she is the focal point. In addition, Mr. Doebbler recalled a book on genocide, whereby the author said no one will be prosecuted for genocide because it is very difficult to verify as one would have to prove intent.

Mr. Quraishi further inquired why the US is now silent on the recent attacks noting that in the past former President Barack Obama was very vocal. One must bear in mind that there are many transnational companies as well as huge American, Canadian, French, and British oil companies that have been operational in Myanmar since World War II and that sometimes war is about money. If the said countries wanted slave and cheap labor for oil profit then it would be plausible in regions where no one cares about the people residing there and veto can be used in the interest of keeping others silent. Therefore, it would not be surprising that many countries are linked together in this aspect as many countries are currently doing business with Myanmar by also selling and supplying ammunition, small arms, etc., as it is very lucrative.

Mr. Doebbler continued the discussion by inquiring how Chapter VII of the UN Charter can be used, to which, Ms. Saydaminova responded that the core should be the protection of civilians and further saying that a diplomatic dialogue may come first but after seeing the numbers of civilians that have already fled she feels there is hardly any hope for diplomacy. Civilians in Myanmar have been suffering for decades yet there is very little attention paid to them whereas Syria has been in conflict for few years and have received considerable attention as compared to the 69-year conflict in Myanmar. To this, Mr. Quraishi questioned why after 69 years there has been a break in the silence especially in mainstream media and Ms. Saydaminova pointed out that the numbers this time are too large to be ignored, especially the hundreds of thousands fleeing to Bangladesh, resulting in a refugee crisis.

Watch the full side-event online in [Arabic](#) or [English](#)