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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Joint written statement* submitted by the International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Arab Organization for Human Rights, Indian Movement "Tupaj Amaru", International-Lawyers.Org, non-governmental organizations in special consultative status, International Educational Development, Inc., World Peace Council, non-governmental organizations on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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The Plight of the Rohingya in Myanmar (Burma)*

The Myanmar government is continuously condemned for systematic violations of human rights and lack of political freedoms. Despite the democratisation process and reconciliation efforts since March 2011, the widespread violations of international human rights and humanitarian laws in the country are very alarming. Particularly, the government's failure 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 to stop constant abuse for decades, ensure accountability and to prevent genocide of Rohingya ethnic group in Rakhine is outrageous.

The world's "longest running civil war" in Myanmar results in large numbers of civilian casualties, refugee crisis and mass human rights abuses. Since the end of British colonial rule in 1948, the fight between the ethnic minority groups and the government with the main fronts are in Kachin, Kayah, Kayin, Shan and Rakhine States. Numerous attempts of ceasefire failed, including the last effort of signing the Nationwide Ceasefire Agreement in October 2016. The intensifying hostilities involve serious violations of international humanitarian law by all parties: indiscriminate killings, enforced disappearances, rape and crimes of sexual violence, forced labour and trafficking in human beings, recruitment of child soldiers among state and non-state forces, widespread displacement and continuous denial of full and sustained access for humanitarian workers. The UN estimates that between 1996 and 2006, around 1 million people were displaced inside Myanmar.

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. The inadequate legal framework undermines corporate accountability and businesses contribute to human rights abuses, especially forced evictions as well as the lack of environmental safeguards on water, air or soil pollution caused by extractive and manufacturing industries. The general environment in Myanmar is worsened by rare investigations into human rights violations and total impunity of security forces; therefore, victims and their families are denied their rights to justice, truth and reparation.

The Case of Rohingya

Myanmar with a population of more than 60 million hosts 135 distinct ethnicities practicing religions 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. Minorities are targeted within the so-called "Burmanization" policy. The most shocking is the case of Rohingya. The Rohingya are a Muslim ethnic minority group in Burma of approximately one million members who mostly live in Rakhine State, which is near the border of Bangladesh. The Rohingya community has lived in Burma for centuries and has historical roots in the country 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. Between 300,000 and 500,000 Rohingya Muslims fled to Bangladesh over the last 20 years; the UN OHCHR estimates about 66,000 Rohingya(s) have crossed the border with Bangladesh since October 2016.

Within the general context of anti-Muslim rhetoric, the Burmese government and security forces have implemented the persecution policy for decades. Since 1982, the Citizenship Law severely violates the rights and freedoms of the Rohingya minority: restricts their right to freedom of movement, limits access to lifesaving health care and denies them rights to education and equal employment opportunities. Moreover, the revocation of all "white cards" (Temporary Registration Cards) in February 2016 upon 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.

2016 in Myanmar was marked with a frightening rise in religious intolerance, especially anti-Muslim sentiment. Incidents of hate speech, incitement to hatred and violence and religious intolerance is 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.

The waves of violence by Rakhine Buddhists against Muslims, especially Rohingya led to the curfew imposed in 2012 that remains in place these days and further widens the space for abuse by the authorities and security forces. Whilst the national state and local government authorities carry out discriminatory policies, the security forces implement so called “clearance operations”. The Myanmar armed forces (Tatmadaw) and the Border Guard Police Force of Myanmar have killed Rohingya civilians, including women and children, by grenades, random and targeted shootings, stabbings, beatings to death and burning houses. The most disturbing reports note the killing of children, in front of the eyes of their raped mothers.

Rohingya children, pregnant women, persons with disabilities and others are subject to widespread and systematic torture and ill-treatment in public and make-shift detention locations. It includes brutal physical assaults, death threats, forcing victims to sit in so called ‘stress positions’ for hours up to days, and psychological torture by watching the suffering of their relatives. It is reported that hundreds of Rohingya boys and men are randomly “rounded up” by the Myanmar security forces, women and girls separated from them and taken away; their whereabouts are unknown. Some are raped and sexually abused in front of their family members or in the places of displacement, where even cases of gang rapes may occur as punishment or with the aim to extract information about insurgents. Some Rakhine villagers joined the abuses against the Rohingya community members by looting and burning houses.

Despite the limited access to the victims, the UN Office of the High Commissioner on Human Rights and non-governmental organisations have documented the following horrendous crimes committed by the Burmese government, police, army and ordinary people against Rohingya based on their ethnic and religious belonging:

- widespread killings in an organised and systematic manner;
- rape and other forms of sexual violence;
- torture, cruel, inhuman or degrading treatment;
- 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 food sources;
- blockages of humanitarian assistance;
- segregation and retaliation;
- denial of citizenship;
- restrictions on freedom of movement, limited or lack of any access to education, to emergency and basic healthcare.

The persecution of this ethnic group since 1982 in combination with the widespread criminal acts committed against them since 2012 can be described as an act of genocide as defined by the Rome Statute of the International Criminal Court and the Genocide Convention. 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.

In response, 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, but proved to be useless. The Advisory Commission on Rakhine State composed of local and international experts and 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” is to present recommendations to the State Counsellor by the end of 2017.

RECOMMENDATIONS

- The Human Rights Council should urgently endorse an international independent investigation into alleged genocide in northern Rakhine State;

- the Burmese government should ensure that the Rohingya community members have access to basics as food, shelter, water and ability to return to their place of origin;
- the Government should grant full access for international humanitarian aid workers, observers and journalists to conflict areas, especially Rakhine State;
- the Government should 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(s) the Burmese nationality and promote equality, tolerance and peaceful coexistence;
- the Government should work with UN agencies and special-mandate procedures to coordinate strategies to address the current flagrant violations and prevent future mass atrocities.

*Geneva International Centre for Justice (GICJ), The Arab Lawyers Association- UK, The Brussels Tribunal, The Iraqi Commission for Human Rights (ICHR), Association of Humanitarian Lawyers (AHL), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), Organisation for Justice & Democracy in Iraq (OJDI), Women Will Association (WWA), Alliance to Renew Co-operation among Humankind, The Iraqi Centre for Human Rights, The Perdana Global Peace Foundation, The International League of Iraqi Academics (ILIA), Women Solidarity for an Independent and Unified Iraq, Organization for Widows and Orphans (OWO), International Anti-Occupation Network (IAON), Kuala Lumpur Foundation to Criminalise War, Spanish Campaign against the Occupation and for Iraq Sovereignty- CEOSI, Arab Cause Solidarity Committee, Iraq Solidarity Association in Stockholm, NGO without consultative status, also share the views expressed in this statement.