

36th session of the UN Human Rights Council

# Human Rights in Myanmar: Ethnic Cleansing

Friday 15 September 2017

15h00 – 16h30

Room XXVII, Palais des Nations, Geneva



## Concept Note

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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 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 protection from abuse against ethnic minorities, particularly 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 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”.<sup>1</sup> 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 northern Rakhine State.<sup>2</sup> 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 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 organised abuse of 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 panellists will examine widespread and systematic violations and give an overview of the Myanmar government’s actions to ensure protection from and halt of mass atrocities taking place against this minority. Lastly, the panellists will brainstorm 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.

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

## Speakers:

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**Mr. Ahmed Al Quraishi**, policy analyst, researcher and writer. As a journalist, he has worked extensively in Iraq, Pakistan, Lebanon, Syria, and the Gulf region, has worked for Aljazeera and authored articles in Arabic and English over the past 24 years. He is currently associated with independent, Islamabad-based think tank [projectpakistan21.org](http://projectpakistan21.org)

**Ms Gulnoz Saydaminova**, Senior Human Rights Researcher at the Geneva International Center for Justice, previously served in the Office of the UN High Commissioner for Human Rights on legal protection of civilians within Humanitarian Response Team, contributed to human rights protection of ethnic minorities in the post-conflict Balkans during seconded assignments in the Missions of the Organisation for Security and Cooperation in Europe (OSCE).

## Moderator

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**Curtis F.J. Doebbler**, Co-founder and vice president of International-Lawyers.Org, he is an international human rights lawyer who since 1988 has been representing individuals before international human rights bodies in Africa, Europe, the Americas and before United Nations bodies

## Organizers

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International Organization for the Elimination of All Forms of Racial Discrimination (EAFORD), Geneva International Centre for Justice (GICJ), International-Lawyers.Org, Union of Arab Jurists, The Arab Lawyers Association- UK, The Iraqi Commission for Human Rights (ICHR), Association of Human Rights Defenders in Iraq (AHRD), General Federation of Iraqi Women (GFIW), The Brussels Tribunal,

## Panel Presentations



To begin with the moderator, Mr. Curtis F.J. Doebbler stated that the situation in Myanmar is alarmingly deteriorating and that mass atrocities against Rohingya Muslim minority persist. He noted that 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 power point presentation on the background of the crisis in Myanmar and the various activities that led up to the violence. He emphasised 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. It should be noted that there has been barely any mention of the Bengali especially in the mainstream media.



Mr. Quraishi then delved into the role of the Rohingya Militant Groups who play a role in the aggression of the Rohingya government. It should be well noted that Chinese and Indian support for Burma increases when there is offensive activity 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 that led to hundreds of thousands Rohingyas fleeing Rakhine State for Bangladesh. However, this recent crisis is by no means solely because of the attack on the police force and how now been ongoing for a number of decades. Religion and ethnicity have played a major role in the longevity of the crisis. He also noted that Myanmar's government does not acknowledge Rohingya people to grant them with 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 is an especially important aspect to bear in mind.

In light of this Bangladesh wants to cooperate with the Burmese arms and already offers aid to against the Rohingya militant groups. Furthermore, 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 a conspiracy it only adds to the many elements that makes the situation very confusing including the failed integration, Mr. Quraishi explained.



Additionally, the flimsy social media campaign 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 have arisen from a Burmese disinformation campaign as they are unverifiable in terms of the content provided and the social media accounts that have displayed the photos. Mr. Quraishi added that this 'Great game' around Myanmar if not resolved soon could dangerously reach to a broader international extent turning into a "proxy war" and he also noted that 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

(and at some point, Pakistan supported the Myanmar government) are backing the Nobel-prize winner, the State Counsellor Aung San Suu Kyi.

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 took 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 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 also mentioned 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 refused nationality and are not given passports.



Already approximately 350,000 Rohingyas fled Myanmar in the previous conflict and about 270,000 have fled in the most recent conflict. 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; but the most chilling that have surfaced were on 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 of peace and security in May 2016 with Kofi Annan and Aung San Suu Kyi – together the Annan Report was produced that came 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 of Rohingya but instead makes mention of minorities in general, does not identify the victims appropriately, and questions independency. 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 made mention of 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, Ms. Saydaminova noted that since 1948 the United Nations (UN) 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 of situation other UN actors such as the General Assembly are well informed but are not taking the necessary action required but rather they mainly produce reports; and despite the UN Human Rights Council (HRC) Special Rapporteur on Myanmar having an extended mandate since 1992 the resolutions are being neglected. She also noted that without further explanation, the President of the country will not attend the General Assembly and how that fact relates to lack of accountability.



However, the High Commissioner for Human Rights, Mr. Zeid Ra'ad Al-Hussein, has issued various strong statements denouncing widespread and recurrent crimes against humanity and condemning the atrocities. However, she noted that informing is just one part of the action needed, as the HRC the Special Rapporteur on Myanmar hands reports and gives information, but that there exist many actions yet to be taken. Likewise, in his opening statement at the 36th session of the council, the UN High Commissioner for Human Rights, Zeid Ra'ad Al Hussein pointed out the situation in Rakhine State is a text-book example of ethnic cleansing but Ms. Saydaminova assured that what is happening in Myanmar, if inquiry is undertaken, can amount to the international crime of genocide. 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" and acknowledges the restoration of Peace and Security so abiding by its own principles, the security council should act faster and acknowledge that these acts are not just 'Ethnic Cleansing'.

Geneva International centre for Justice (GICJ) recommends the Special Rapporteur on Myanmar to analyse genocidal intent – especially on the notion of intent to destroy a group as this is more than ethnic cleansing and there should not be a second Rwanda. Additionally, all relevant parties should comply with international humanitarian law and Myanmar should grant full access to UN Fact Finding Missions endorsed by the Security Council and deploy aid workers to distribute humanitarian aid to the refugee crisis and ensure that the government of Myanmar stops targeting minorities. Lastly, the government should enhance cooperation with the relevant UN bodies.





## Round of Questions and Comments

### *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; in response, the concept of commander responsibility should be enacted given the high status of the military, an international arrest warrant from 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 on the political and security issue re-emphasising 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, to which Myanmar played a part and the state itself was in some manner a result of this competition where China supports 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 to the ethnic Rohingyas. Many other Muslim countries that have a good relationship with China were late in mentioning the anything about the crisis. Thus, it is highly likely that Myanmar is part of the China-US competition. Mr. Doebbler added that the Organisation 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 the 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 mentioned 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 as speaking with and interviewing refugees is not enough to verify the situation but the Myanmar government is not granting them with a Visa.

Moreover, the government of Myanmar is not allowing any investigators to enter the country and verify that the situation, particularly in Rakhine State, is indeed taking place. 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 GICJ urges the Special Rapporteur to make a stronger statement as she is the focal point. In addition, Mr. Doebller recalled a book on genocide, whereby the author said no one will be prosecuted for genocide<sup>3</sup> 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 war is about money. If the said countries wanted slave and cheap labor or kill people for oil and 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. Doebller continued the discussion by inquiring how Chapter VII on the UN Charter can be used to implement protection in Myanmar, to which, Ms. Saydaminova responded that the core should be the

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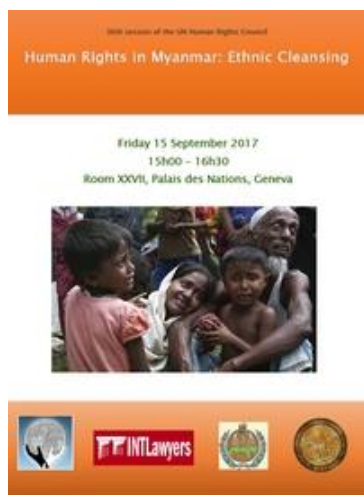
<sup>3</sup> It should be noted that soon after Rwanda officials were proved guilty of the crime of genocide.

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 no time left. Civilians in Myanmar have been suffering for decades yet there is very little attention paid to them whereas Syria has been in conflict for three years and have received considerable attention as compared to the 69-year conflict in Myanmar. Thus, we should jump chapter VI and move directly to chapter VII of the UN Charter. To this, Mr. Quraishi questioned why after 69 years there has been a break in the silence especially in influential media and Ms. Saydaminova answered by saying the numbers this time are too large to be ignored, especially the hundreds of thousands fleeing to Bangladesh that has resulted in a refugee crisis.



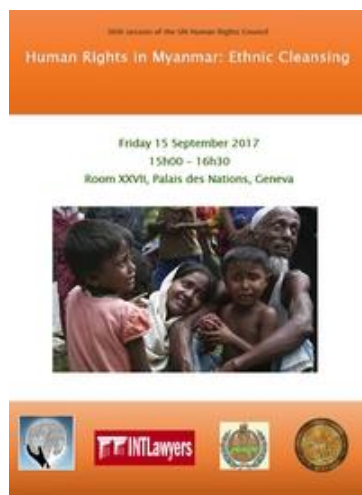
## Reports of the Side-event:

### Arabic



قراءة على الانترنت أو تحميل  
التقرير الكامل.

### French



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## **Mission**

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.

## **Work**

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 in order to gain justice for all victims.

