



THE ROHINGYA IN MYANMAR: A HISTORY OF PERSECUTION

Amnesty International USA Testimony for
The Tom Lantos Human Rights Commission Hearing:
Human Rights of the Rohingya People
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Amnesty International is pleased to submit this testimony on the Rohingya in Myanmar for the record.

Amnesty International has been published reports on the Rohingya for several years, and documented large scale attacks on the Rohingya in 2012.

The Rohingya are a Muslim ethnic minority residing primarily in Rakhine State, western Myanmar. Northern Rakhine State, the name commonly used to refer to Maungdaw and Buthidaung Townships, is home to the vast majority of Myanmar's estimated one million Rohingyas.

The Rohingya have been subjected to decades of state-sponsored discrimination and persecution. The Rohingya have been stripped of citizenship rights as a result of the country's discriminatory 1982 Citizenship Law and its application, and more broadly, their civil, political, economic and social rights have been violated.

The situation of the Rohingya, and other Muslims in Rakhine State, deteriorated significantly after waves of violence erupted between Rakhine Buddhists, Rohingya and other Muslim groups in 2012. State security forces were accused of perpetrating human rights abuses against the Rohingya during the unrest. Scores were killed and thousands of homes were destroyed, resulting in massive displacement. More than four years later, about 120,000 people – mainly Rohingya – continue to live in squalid internally displaced person (IDP) camps and unofficial settlements, where they do not have reliable access to adequate food, medical care or sanitation facilities.(1) The dire conditions are due, in part, to government-imposed restrictions that prohibit displaced people from leaving the camps and also create barriers for humanitarian organizations to access and provide services to the affected communities.

Rohingyas and other Muslims living outside displacement camps also face severe restrictions on their freedom of movement, limiting their access to livelihoods, healthcare, food and education. In Central Rakhine State, Rohingyas are not allowed in the main towns and, in most cases, are able to travel to other Muslim villages often only by waterway. In northern Rakhine State, prior to the October 2012 attacks, Rohingya movement was subject to a complex system of travel authorizations and restrictions that were strictly enforced by state security forces, including the military and the Border Guard Police (BGP).

Amnesty International and other organizations have documented arbitrary arrest, extortion, torture, and other ill-treatment of the Rohingya community by the BGP. These abuses are perpetrated with almost total impunity.

Discrimination against the Rohingya also takes place in the context of growing religious intolerance in Myanmar that has worsened in recent years. Advocacy of hatred against Muslims by Buddhist extremist groups has largely gone unaddressed and unchallenged by Myanmar authorities. Over the last few years attacks on Muslim communities in many parts of Myanmar have resulted in deaths, injuries and destruction of property but with no credible action being taken by the authorities.

Amnesty International has found that security forces have been guilty of deliberately killing civilians, firing at random in villages, arbitrarily arresting Rohingya men, raping Rohingya women and girls, and destroying homes and property. The authorities also suspended humanitarian access to the area, imperiling the lives of a population that was heavily reliant on such assistance prior to the attacks.

The ruling National League for Democracy (NLD), headed by Aung San Suu Kyi, took power in March 2016 after winning a historic general election in November 2015. Aung San Suu Kyi, who remains constitutionally barred from the Presidency, was appointed State Counsellor - a role which made her the de facto leader of the civilian government. She has not lived up to the expectations among the Rohingya and the international community that she would prioritize addressing the human rights situation in Rakhine State. She has instead sought to downplay the situation, casting doubt on reports of abuses against the Rohingya and asking for "space" to address the issue.

Rohingya Militancy?

Until recently, very little was known about the perpetrators of the October attacks on border police posts in Rakhine State. A group called *Harakat Al-Yaqin* (Faith Movement) claimed responsibility in a series of online videos released shortly after the attacks. In the videos, men carrying guns, swords, machetes and batons call for other Rohingyas to join in their fight against the Myanmar government. In some videos the group has called for jihad, although analysts suggest there are no indications that they are calling for acts of "terrorism".

According to the International Crisis Group (ICG), the *Harakat Al-Yaqin* was formed in the aftermath of the 2012 Rakhine State violence, and recruited leaders and trained hundreds of villagers in 2013 and 2014. ICG reports that the group is well organized and well-funded, and is led by a group of Rohingyas in Saudi Arabia. Amnesty International's interviews and information from other credible sources indicate that the group is active in Maungdaw Township, and has been involved in several other attacks and clashes with security forces since 9 October. According to state media, since 9 October at least 20 security force personnel have been killed.

There is a history of Rohingya and Muslim insurgency in Rakhine State, and over the decades several Rohingya armed groups have been active in the area. Prominent among these is the Rohingya Solidarity Organization (RSO), which was established in the early 1980s and had small bases in Bangladesh, close to the border with Myanmar. In recent years the RSO was largely believed to be defunct. Despite this, security forces in Rakhine State have regularly used alleged links with the RSO and other militant groups as a pretext for arbitrarily arresting Rohingyas.

The prospect of a new Rohingya armed group operating in Rakhine State has stoked fears and increased tensions in the region, in particular among the ethnic Rakhine community. It is critical that these concerns are not dismissed. For the security of all people living in Rakhine State it is essential that the attacks are investigated and those responsible are brought to justice. Such investigations should be conducted in a fair and transparent manner, in accordance with international human rights law.

Key Amnesty International Concerns

Collective punishment and possible crimes against humanity

The response of the army to attacks on security forces went far beyond what is necessary and proportional. Instead of investigating and arresting specific suspects, the army carried out operations which amount to collective punishment, targeting individuals -- whole families and whole villages -- clearly not involved in such attacks. These operations appear to target Rohingyas collectively on the basis of their ethnicity and religion.

Evidence collected by Amnesty International also gives rise to a serious concern that human rights violations by Myanmar security forces described in this report are part of a widespread and systematic attack against the Rohingya population in northern Rakhine State and may therefore constitute crimes against humanity. At the very least, the concerns substantiated in Amnesty's reporting that crimes against humanity may have been committed in Rakhine State warrant a prompt, impartial, independent and effective investigation.

Random attacks and killings

According to eyewitnesses, military personnel attacked Rohingya villagers at random, leading to deaths and injuries. People described how soldiers would enter villages during security sweeps and fire indiscriminately at women, men and children, often as they were fleeing in fear. On one occasion, soldiers dragged three people out of their homes and shot them dead, including a 13-year-old boy.

Through interviews with multiple eyewitnesses, the report also documents specific incidents in detail. On 12 November, for example, the Myanmar military deployed two helicopter gunships to a group of villages, where soldiers had engaged in a skirmish with suspected militants. The helicopters fired indiscriminately on, and killed, people as they fled in panic, although the exact death toll is difficult to determine.

One 30-year-old man said: *“We got scared when we heard the noise from the helicopter... The soldiers were shooting randomly. If they saw someone, the helicopter shot. They were shooting for a long time... We could not sleep that night. The next morning the military came and started shooting again.”*

Arbitrary arrest and detention

Myanmar authorities have also carried out mass arrests of hundreds of mainly Rohingya men over the past two months, according to state media, which has confirmed that at least six people detained since 9 October have died in custody, raising serious concern about the use of torture in custody.

Amnesty International has documented the cases of 23 men who were taken away by security forces, without any information about their whereabouts or charges against them. Authorities have apparently targeted prominent community members for arrest, including village leaders and religious leaders. These arbitrary arrests could amount to enforced disappearances under international law. Multiple eyewitnesses also described brutal tactics, including physical violence, used by security forces during arrests.

Rape and other sexual violence

Myanmar security forces have raped and sexually assaulted Rohingya women and girls during security operations in northern Rakhine State. Evidence collected by Amnesty International suggests that Rohingya women and girls were mostly raped during security raids on their villages after the men had fled. Amnesty International spoke to six women and their relatives who told the organization they had been raped or sexually assaulted by soldiers. Fatimah, a 32-year-old Rohingya woman who has fled to Bangladesh, said that military entered her village and dragged her out to a paddy field where they raped her:

“Three military officers raped me... I don’t remember what happened next because I fell unconscious... I woke up early the next morning. I could not get up so I crawled across the paddy field.”

Aid workers in Bangladesh also confirmed that survivors of sexual violence had crossed the border and sought treatment. These accounts, taken together with interviews by other independent human rights groups and journalists, indicate an alarming pattern of rape and other sexual violence against Rohingya women during security operations.

Scorched earth Tactics

Amnesty International has confirmed that the military has torched over 1,200 Rohingya homes and other buildings, including schools and mosques. Sometimes, whole villages have been burned down. Several eye witnesses also described how soldiers used weapons which resembled rocket launchers to destroy houses. The Myanmar government has insisted that Rohingya militants were burning the homes and buildings in an attempt to garner international aid and support, but all eyewitnesses Amnesty International spoke to said security forces had burned down the houses. Analysis of satellite imagery shows patterns of burning consistent with targeted and systematic attacks by the military rather than ad hoc burning by militants.

During security sweeps, the military also frequently looted Rohingya homes for valuables, including gold and cash. Soldiers sometimes confiscated important documents, including temporary identity documents, which can have long-lasting impacts as it restricts the ability to travel or to restore citizenship rights.

Humanitarian catastrophe

The Myanmar authorities have imposed severe restrictions on humanitarian access in the “operations zone” since 9 October, which has placed tens of thousands of people’s lives at risk. According to the UN, some 150,000 people in the region were dependent on food aid before the current crisis. Pregnant women and new mothers, many of whom now have no way to access medical care, are thought to be facing particular health risks.

Failure to acknowledge and address human rights violations

Since security operations were launched on 9 October, the Myanmar government and military have issued a series of blanket denials of human rights violations committed by state security forces. For example, on 7 December, Commander-in-Chief Senior General Min Aung Hlaing said that *“Burmese security forces have not committed any human rights violations including extrajudicial killings, rapes, or arson.”* At the same time, the authorities placed northern Rakhine State under effective lockdown, imposing severe restrictions on the ability of journalists and independent human rights monitors to travel there.

There is a growing body of evidence that the Myanmar security forces are committing widespread human rights violations in northern Rakhine State. While the military bears

ultimate responsibility for the violations, State Counsellor Aung San Suu Kyi – the de facto head of Myanmar’s civilian government – has failed in her political and moral responsibility to speak out.

Desperation across the Bangladeshi border

Rohingya fleeing violence at home have also suffered further human rights violations as they crossed the border into Bangladesh. Bangladeshi authorities have refused to treat the fleeing population as asylum seekers and refugees and have denied considerable numbers of recent arrivals access to humanitarian assistance.

Fearful of creating conditions that would encourage more refugees to enter the country, the Bangladeshi government has strengthened its long-standing policy of sealing the border with Myanmar and has pushed back thousands who have crossed into Bangladesh. Such pushbacks are illegal under international law as they violate the principle of *non-refoulement* – which absolutely prohibits forcibly returning people to a country or place where they would be at real risk of serious human rights violations. The border closure has also forced people to take dangerous, irregular routes to enter Bangladesh.

Still, at least 27,000 refugees are believed to have entered Bangladesh since 9 October. Due to the fear of arrest and deportation, these desperate people have been forced into hiding in villages, refugee camps and even forests. They are by and large living without adequate access to food, clothing, shelter and medical care.

The Bangladeshi authorities have imposed severe restrictions on the ability of aid agencies to access and provide services to the newly arrived refugees, despite the obvious humanitarian needs. Instead, many of the new arrivals have been dependent on longer-term refugees or the local population for food and other necessities, straining their already meagre resources even further. As one long-term Rohingya refugee in Bangladesh told us:

“I am the only breadwinner in my family. We are seven people, but some family members arrived from Myanmar last week so now we are 15 people living in the same small hut. We did not have any food this morning.”

National efforts to investigate violations in Rakhine State are inadequate

National efforts to investigate human rights violations and possible crimes against humanity committed by Myanmar security forces in northern Rakhine State are not independent or credible and are unlikely to deliver justice, truth and reparations for victims and their families. The inability – or unwillingness – of the Myanmar authorities to independently and effectively investigate allegations of serious crimes under international law requires the international community to step in to ensure accountability and prevent further deterioration of the human rights situation.

Under international law, all victims of human rights violations have the right to an effective remedy. This right extends to immediate family members and includes an obligation on States to investigate allegations of human rights violations promptly, thoroughly and effectively through independent and impartial bodies. Such investigations are needed to clarify what happened, to establish facts and responsibility, to identify measures needed to prevent the reoccurrence of human rights violations, and to facilitate prosecution. Where investigations reveal sufficient and admissible evidence of offences involving human rights violations, States must also ensure that those responsible are brought to justice. The failure to adequately investigate allegations of human rights violations or to bring those responsible to justice could itself constitute a human rights violation.

Inadequate National Investigation Commissions

To date, three national commissions have been established to investigate the 9 October 2016 attacks on border police posts by armed groups and the subsequent “clearance operations” conducted by the Myanmar security forces. The security forces have been accused of committing a wide range of human rights violations against the Rohingya population during these operations. However, none of the commissions established by the authorities are independent, impartial, effective or credible.

On 1 December, President Htin Kyaw established the “Investigation Commission” with the mandate to “probe into the background situations that led to violent attacks” that occurred on 9 October and on 12 and 13 November, as well as “the truth about the incidents, and ... whether existing laws, rules and regulations were observed.” The Commission does not have further terms of reference or rules of procedure, and there is no transparency regarding its budgetary or technical resources.

The Investigation Commission’s composition also raises serious concerns. Persons who carry out investigations into human rights violations should be chosen for their demonstrable impartiality and should be independent of the individuals, institutions and agencies implicated in the events being investigated. The Investigation Commission clearly fails in this regard: it is headed by the Vice-President, a former military general who was the military’s nominee for the Presidency, and its members include the current Chief of Police and serving government officials.

In addition there are also serious concerns about the Commission’s competency. Amnesty International is not aware of the presence of any experienced human rights investigators, forensic specialists, medical experts or staff trained to work with survivors of sexual and other gender based violence or child victims. This lack of experience and skills undermines the work of the Commission and places survivors, witnesses and their families at risk of re-traumatization.

The conduct of the Commission during its field visits has also raised serious security, confidentiality and human rights concerns. For an investigation to be impartial and

effective, complainants and witnesses must be protected from violence, threats of violence, public exposure (unless with their informed consent) or any form of intimidation. However, Amnesty International is not aware of any mechanisms adopted or practice by the Commission to protect survivors, witnesses or their families. The organization has instead received credible reports of villagers in northern Rakhine State being intimidated and harassed prior to and following Commission field trips.

Disturbingly, the Investigation Commission has allowed details about some survivors and eyewitnesses they interviewed – including their names and pictures – to be published by the media. These breaches of confidentiality have exposed individuals to reprisals and the risk of re-traumatization. Amnesty International is aware of two rape survivors whose personal details were published in state media after speaking to the Commission. Video footage of Commission members interviewing one of the women through a translator was later broadcast on state media, and shows an aggressive and inappropriate style of questioning. Both women, who spoke to media in December, later fled to Bangladesh fearing for their safety.

On 3 February, the UN Office of the High Commissioner on Human Rights (OHCHR) published a damning “flash report” concerning human rights violations against Rohingya since the October attacks.¹ The report concluded that abuses likely amounted to crimes against humanity. Amid increased international attention in the wake of the publication of the report, two internal commissions – one military and one police – were established to investigate possible wrongdoing. According to state media, both commissions were established at the request of the Investigation Commission. Both commissions have the mandate to establish whether the military or the police have committed illegal actions “including violations of human rights” during the “clearance operations”. The army commission is composed solely of members of the military, and the police commission will be conducted by an internal departmental enquiry composed solely of police personnel. In Myanmar, the police remain under the direct control of the military. These commissions – which would essentially have suspected perpetrating institutions investigate themselves – are clearly neither independent nor capable of being impartial. Even where there is clear evidence of human rights violations, security forces have failed to take effective action to hold perpetrators to account. According to media reports, three police officers were sentenced to two months in police detention after video footage of police officers beating Rohingya detainees during a security sweep was posted online in December. An internal investigation found they had violated police procedures. At least three other senior police officers were also demoted. No criminal proceedings are known to have been initiated against these individuals.

Finally, Amnesty International notes the establishment of the Rakhine State Advisory Commission led by Mr. Kofi Annan, but stresses that it is not mandated to investigate human rights violations, and is limited to making recommendations to secure “peace and prosperity” in Rakhine State.

¹ UN Office for the Coordination of Humanitarian Affairs (OCHA), Myanmar: IDP Sites in Rakhine State (Sep 2016), 30 September 2016, available at: <http://www.refworld.org/docid/58343f474.html>

Need For and Independent International Investigation

The primary responsibility for investigating and remedying human rights violations lies with the State, under whose jurisdiction the violations reportedly occurred. It is manifestly clear that Myanmar has failed to uphold this responsibility. The various commissions established by the authorities lack the expertise, independence and impartiality necessary to conduct a credible investigation into alleged abuses. This position is supported by the UN Special Adviser on the Prevention of Genocide, who has stated that the Investigation Commission “is not a credible option to undertake the new investigation.”

Amnesty International considers that the gravity of the reported violations in Rakhine State and the government’s ongoing failure to independently and effectively investigate them justifies the establishment of a UN-mandated independent international investigation into human rights violations committed in Rakhine State since 9 October. Investigators should be tasked with establishing the facts concerning alleged human rights violations, determining whether they constitute crimes against humanity, identifying the causes and alleged perpetrators, and making recommendations on the next steps needed to prevent impunity and ensure justice for victims. Failure to adequately investigate credible reports of grave human rights violations would send a message that security forces can commit crimes with impunity, contribute to further deterioration of the human rights situation in Rakhine State, and undermine efforts to tackle the root causes of violence and instability in the region.

Amnesty International Recommendations:

Amnesty International urges the government of Myanmar to:

The unlawful killings, random attacks, destruction of property and restriction on aid and services in Myanmar are part of a long-standing pattern of persecution of the Rohingya community that has been entrenched for decades. To resolve the current crisis will take more than the establishment of government commissions and investigations.

It is essential that State Counsellor Daw Aung San Suu Kyi, as Myanmar’s de facto leader, shows strong moral and political leadership by condemning human rights violations and committing to a genuinely impartial and independent investigation into the events of the last two months. Ending the absolute impunity of the Myanmar security forces is an essential step if Myanmar is to continue on the path of reform. Equally essential is that Rohingyas, ethnic Rakhines and other minorities in Myanmar are able to live their lives in dignity, free from violence and discrimination.

Amnesty International strongly urges the Myanmar authorities to take immediate steps to address the unfolding situation in Rakhine state. These must include:

Ordering members of all state security forces to halt all conduct which violates international law and refrain from any further violations;

Publicly condemning human rights violations against the Rohingya in Rakhine State;

Granting humanitarian organizations, as well as independent journalists and local and international human rights monitors, unimpeded access to northern Rakhine State; and

Initiating an independent, impartial and, effective investigation, with the assistance of the UN, into alleged violations of international law. Where there is sufficient, admissible evidence, all individuals suspected of involvement in crimes under international law – including those with command responsibility – must be brought to justice in trials which meet international standards of fairness and without resorting to the death penalty.

Amnesty International also urges the government to take effective steps to address and dismantle longstanding, systematic discrimination against the Rohingya, ethnic Rakhine and other minorities in Rakhine State.

Amnesty International urges the government of Bangladesh to:

Allow all persons fleeing violence and persecution in Myanmar to enter Bangladesh without delay or restriction;

Strictly apply the principle of *non-refoulement*.

Amnesty International urges the government of the United States to:

Help establish a UN-mandated international Commission of Inquiry or a similar international mechanism.

Stop any Security Assistance or training until the Secretary of State certifies that the Myanmar Government have taken appropriate steps including

Holding the members of the security forces responsible for abusers committed against Rohingyas and allowing humanitarian and human rights groups access to Rohingya areas in Rakhine State.