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A Continuing Humanitarian Tragedy: Ongoing Abuses and Oppression against the Rohingya in Myanmar

This policy brief draws on many years of Refugees International (RI) reporting on the Rohingya, as well as a recent RI mission to Bangladesh, where RI Senior Advocate for Human Rights Daniel Sullivan interviewed recent Rohingya arrivals who fled Myanmar beginning in late 2016. This policy brief is being issued in advance of a separate report on the situation of the Rohingya refugees in Bangladesh, which will be issued on July 13, 2017.

RI is issuing this policy brief out of concern that Myanmar's political reforms have not benefitted the Rohingya. In fact, the Government of Myanmar, and the military in particular, has engaged in, supported or condoned widespread, egregious, and systematic human rights abuses that may constitute crimes against humanity. And while we note statements by the government expressing an intention to address the well-being of all communities in Rakhine State (home to the vast majority of Rohingya in Myanmar), governments and international organizations must not confuse talk with action.

Refugees International is also submitting this report to the Advisory Commission on Rakhine State, chaired by former UN Secretary General Kofi Annan and established as a collaboration between the Government of Myanmar and the Kofi Annan Foundation. The Commission, composed of six local and three international experts and charged with proposing measures to improve conditions in Rakhine State, is expected to issue its final report in the coming weeks.

Introduction: The Unique Case of the Rohingya

Over the past many decades, the country of Myanmar, also known as Burma, has confronted no shortage of compelling human rights and humanitarian issues that have merited the deep concern of the international community. Fleeing past oppression, more than 100,000 refugees from Myanmar continue to live in Thailand, and another 100,000 are displaced within Myanmar's Kachin and Shan states. A broad array of other pressing concerns remain within Myanmar, such as arrest and censoring of journalists, restrictions on religious freedom, and serious abuses, including war crimes, in the context of clashes in Kachin and Shan states, among other issues.¹

The focus of this policy brief, however, is the Myanmar government's treatment of the minority Muslim Rohingya population. In short, the Government of Myanmar has created one of the most protracted and brutal displacement crises in the world as well as one of the world's largest stateless populations. Over the past several decades, more than one million minority Muslim Rohingya have fled persecution in Myanmar, fleeing to Bangladesh, India, Malaysia, Pakistan, Saudi Arabia and other countries, while another million continue to live unrecognized as citizens and with heavily restricted rights in Myanmar, including 120,000 residing in squalid displacement camps.

The UN Refugee Agency (UNHCR) estimates that since 2012, more than 168,000 Rohingya have fled Myanmar, mostly seeking protection in Bangladesh and Malaysia. The full extent of the long suffering of the Rohingya people in Myanmar captured the world's attention – albeit only briefly – in early 2015, when thousands of Rohingya and Bangladeshi migrants and asylum-seekers crammed into rickety boats and were abandoned at sea by smugglers.² Mass graves of Rohingya refugees were subsequently discovered in Thailand and in Malaysia.³ And in late 2016, violence and persecution in Rakhine state caused large-scale flight of tens of thousands of Rohingya.

Ongoing restrictions of humanitarian aid have led to extreme food insecurity. Recent reports by the UN and independent human rights groups of arbitrary killings, mass rape, and wholesale destruction of villages prompted the UN Human Rights Council in

March 2017 to call for an “independent international fact-finding mission” to “establish the facts and circumstances” of human rights abuses surrounding the Rohingya, but the Government of Myanmar has refused to permit a visit by members of the team appointed by the President of the UN Human Rights Council.⁴

The humanitarian stakes are difficult to overestimate. As indicated in the February 2017 Office of the UN High Commissioner for Human Rights (OHCHR) Flash Report after a mission to Bangladesh to interview Rohingya, attacks against the Rohingya “have been widespread and systematic, indicating the very likely commission of crimes against humanity”.⁵ The U.S. Holocaust Memorial Museum’s Early Warning Project, citing treatment of the Rohingya, continues to place Myanmar among the countries at greatest risk of state-led mass killings.

Historical Background and Recent Events

Rakhine State (also known as Arakan) is home to the majority of over one million ethnic Rohingya in Myanmar. It is in western Myanmar, with most of the state bordering the Bay of Bengal to the west, and its northern portion bordering Bangladesh. There is much discussion and debate about the origin of the Rohingya population in Myanmar, but it is clear that Rohingya have lived in the country for several generations or more and that the vast majority know no other home than Myanmar. It is also clear that a succession of legislative actions, policy measures, and abusive practices over many decades have gradually deprived this population of its status and its rights in Myanmar.

Many of the challenges confronting both the Rohingya and other Muslim communities in Myanmar – fueled by Buddhist nationalist and anti-Muslim sentiments stoked by certain political leaders – are rooted in centuries-old prejudices, tension, and violent conflicts based on religious and ethnic identity, colonial rule, and differing historical narratives.⁶ But despite a long history of tension between ethnic Rakhine (who are predominantly Buddhist) and ethnic Rohingya (who are predominantly Muslim), there have been periods of peaceful coexistence in which

Rohingya successfully ran for parliament, were police officers and otherwise participated in the public and communal life of Myanmar.⁷

Much of the legal context for the effective removal and deprivation of rights for the Rohingya is reflected in Myanmar’s 1982 Citizenship Law, which effectively renders the Rohingya population as stateless persons.⁸ The then-military regime established three categories of citizenship: citizenship, associate citizenship and naturalized citizenship. Citizens are either individuals who belong to one of 135 recognized national races or who can demonstrate that they have ancestors that settled in the country before the British occupation of Arakan state in 1823. The requirements for associate and naturalized citizenship differ from the requirements of citizenship, but suffice it say that the effective removal of the Rohingya as a recognized group in the 1982 act – combined with the unrealistic requirement of documentation of historical presence and the general prejudice against this population – has made achieving citizenship of any kind an almost insurmountable obstacle.⁹

Tragically, political reforms in Myanmar over the past several years, while significant in many important

respects, have not benefitted the Rohingya population in Myanmar. In fact, many reforms in recent years have taken place during a period of officially tolerated expressions of suspicion and animosity against the Muslim community in general and the Rohingya in particular.

This suspicion and animosity created a very volatile and dangerous climate. Violence erupted in June 2012 around a rape and murder case involving a Buddhist woman and Muslim men that ultimately caused deaths and destruction in four townships, pitting Buddhists and Rohingya neighbors against each other. After the violence subsided, around 200 people, mostly Rohingya, were dead, and more than 2,000 buildings were destroyed, including homes, mosques and monasteries. Local police did not stop the violence, and General Thein Sein imposed a curfew and a state of emergency, putting the military in control of Rakhine state. Renewed violence broke out in October 2012, resulting in the deaths of hundreds of people, mostly Rohingya, and adding further to the numbers of internally displaced Rohingya, raising the estimated total to 140,000, and resulting in a significant increase in Rohingya refugee flight.¹⁰

These measures impacting the Rohingya took place in a general climate of hostility toward the Muslim community. For example, in 2013, there was violence against Muslims in central Myanmar, including in the town of Meiktila, where Buddhists spurred by the nationalist “969” movement killed more than 100 people, including school children, burned more than 1,500 Muslim homes and displaced thousands of people.¹¹

In 2014, the government expelled the humanitarian operations of Doctors without Borders (MSF) in Rakhine State, after it reported treating Rohingya for stab and gunshot wounds in a massacre the government denies took place. Hundreds of thousands of people in Rakhine state depended on MSF for primary medical care. While MSF has since been allowed back, it is at a much reduced and more

restricted level.¹² That same year, further anti-Muslim violence broke out in Mandalay, Myanmar’s second largest city, which was attributed to a network of ultra-nationalist Buddhist monks, the Committee to Protect Race and Religion – or Ma Ba Tha.¹³ And in 2015, enactment of four new race and religion laws only fueled concerns about anti-Muslim and anti-Rohingya animus in Myanmar.¹⁴ Those laws, which included restrictions on interfaith marriage and religious conversion, were widely seen as directed at the Muslim community.

More recently, the authorities have signaled impatience with the Ma Ba Tha, and the Sangha Maha Nayaka (Ma Ha Na), the official state Buddhist authority, has publicly denounced the Ma Ba Tha and its propagated hateful speech.¹⁵

Unfortunately, this welcome development has yet to have had a significant impact on the tragic conditions confronting Rohingya in Rakhine state. In particular, 2016 saw another explosion of widespread violence, after a large group of assailants reported to be Rohingya carried out a series of attacks in and around Maungdaw Township in Rakhine State, targeting Border Guard Police. Several dozen people, including police officers, were reportedly killed in this attack. The response by Myanmar’s security forces was disproportionate and brutal, affecting the entire population of northern Rakhine State, the vast majority of which has never engaged in violence of any sort.

In particular, a crackdown by Myanmar’s security forces in Myanmar’s northern Rakhine State since October 2016 has restricted life-saving aid, targeted an entire population with abuse, and caused more than 74,000 Rohingya to flee into neighboring Bangladesh. The World Food Program (WFP) warns of extreme food insecurity affecting more than 80,000 children under the age of five in the next year and the Office of the UN High Commissioner for Human Rights has reported disappearances, mass rapes, and wholesale destruction of villages.

Abuses Reported by Newly Arrived Rohingya Refugees in Bangladesh

During a May 2017 mission to Bangladesh, RI Senior Advocate Daniel Sullivan interviewed dozens of newly arrived Rohingya refugees who had fled Myanmar either in late 2016 or early 2017. They described an array of abuses at the hands of Myanmar's security forces which caused them to flee. In particular, RI received consistent reports from the refugees of torture and other mistreatment, rape, the burning of homes, killings, and disappearances.

One 30-year-old woman interviewed in Kutupalong Makeshift Camp told RI that her village had been burned down in three hours, that her grandfather and brothers had been killed, and that her aunts and many other women had been raped. She added that her husband had been taken by the military and that two of her five children had been killed. "Two of my children were pushed into the fire," she told RI, "A soldier held a knife to my throat, but another said don't because she has small children." She estimated that 80 to 90 people in her village had been killed and that more than 60 had disappeared. She crossed the border by foot and had been living in Kutupalong for six months.

A teenage girl living in Kutupalong told RI that she was among many who had been taken by the military and raped. She was left unconscious and unable to walk. A man interviewed by RI in Balukhali Makeshift Settlement, who said he was 41, told RI that more than 40 homes in his village had been burned, and that he fled because the military was looking to arrest him.

A fourth interviewee, a 22-year-old man from the village of Ngar Sar Kyu, reported being arrested and tortured while being interrogated about militant

connections (about which he said he knew nothing). "They burned my leg with hot plastic and kept me ten days without food," he reported to RI. "I was left in a hole along with some others who died." He was carried by villagers into Bangladesh and reported he had fled because of military persecution, the raping of women, and the burning of homes.

Despite the announced end to the security crackdown, several interviewees cited continued recent abuses. One 30-year-old woman had arrived in Shamlapur just four days prior to talking with RI. She told RI that her house had been destroyed by the Myanmar military in November. She had stayed and rebuilt it, only to have it burned down again eight days prior to her interview with RI. Another woman from the village of Maung Hna Ma had arrived in Leda Camp just four days prior to being interviewed. She told RI that her husband had been shot and killed by the Myanmar military and her ten-year-old son had been taken in November. For several months, she moved around to different villages with other women. Ten days before RI interviewed her, the woman's brother had his leg smashed by a soldier's rifle. She told RI that she paid smugglers to take a boat with her brother across the Naf River into Bangladesh.

RI is not able to confirm with certainty the accuracy of these testimonies, but they are consistent with dozens RI obtained from other refugees interviewed during the mission to Bangladesh. Moreover, the Government of Myanmar's refusal to permit access for a UN fact-finding mission and its determination to avoid scrutiny undermines denials of ill-treatment it may offer.

Actions by the Government of Myanmar

During President Barack Obama's historic visit to Myanmar in November 2012, President Thein Sein made 11 public human rights-related commitments.¹⁶ When Thein Sein left office on March 30, 2016, most of these commitments were left unfulfilled, including the commitment to promote peace and reconciliation

in Rakhine State.¹⁷ Moreover, a controversial Rakhine State Action Plan introduced in 2014 had contained a pilot program relating to citizenship for the Rohingya, but that process came to an end amidst strong protests by Rakhine Buddhists.¹⁸ Further verification efforts by the government have been met with ongoing

Rakhine protests and have enjoyed little support from a Rohingya population deeply suspicious of an opaque process with few concrete benefits – not to mention one that restricts them from self-identifying as Rohingya.¹⁹

As all this was occurring, the government revoked temporary ID cards, known as “white cards,” and the majority of the 700,000-800,000 white card holders were Rohingya, most of whom had voting rights in prior elections. Additionally, Rakhine State officials and the Union Election Commission denied members of the Rohingya population the right to run for office in 2015.²⁰

Unfortunately, the historic election victory of Aung San Suu Kyi’s National League for Democracy (NLD) at the end of 2015 has not brought improvement in the conditions faced by the Rohingya.

In August 2015, the Ministry of the State Counsellor of Myanmar and the Kofi Annan Foundation signed a memorandum of understanding that established an “Advisory Commission on Rakhine State” of six Myanmar and three international commissioners. Chaired by former UN Secretary General Kofi Annan, the Commission was tasked with proposing solutions to the Rakhine State situation. The Commission released interim findings on March 16, 2017, recommending “full and unimpeded

humanitarian access” and “adequate assistance to all communities affected by the violence” in Rakhine state, accountability for perpetrators of serious human rights violations through “independent and impartial investigation”, and a more transparent citizenship verification process with tangible benefits and freedoms. Among other recommendations, the Commission also called for freedom of movement and a strategy for closing of camps housing internally displaced persons with “plans for provision of security and livelihood opportunities at the site of return/relocation”.²¹

The government has indicated a willingness to implement the Commission’s recommendations, but beyond limited and questionable relocation of displaced persons, progress has not been apparent.²² Moreover, and as mentioned, the Myanmar Government has refused access to a fact-finding mission authorized by the UN Human Rights Council.

In a recent visit to Rakhine State, UN High Commissioner for Refugees Filippo Grandi addressed substantial and significant humanitarian issues. Grandi, who raised concerns relating to poverty, exclusion, and citizenship, among other issues, urged Buddhist and Muslim communities to work together, stating, “By learning to live together in peace, you can lay the groundwork for prosperity and development”.²³

U.S. Policy toward Myanmar

Under the administrations of Presidents Bill Clinton and George W. Bush, U.S. policy toward Myanmar was largely characterized by the imposition of a robust sanctions regime, most notably the Burma Freedom and Democracy Act and the Tom Lantos Block Burmese Jade (Junta’s Anti-Democratic Efforts) Act of 2008. Since 1997, new U.S. investments in Myanmar had already been prohibited on human rights grounds.²⁴

After coming into office in 2009, the Obama administration sought to increase engagement with the Myanmar government, which accelerated during the gradual opening under President Thein Sein. And in an historic visit to Myanmar in 2012, President Obama praised the progress of reforms in that

country, but also expressed his concerns regarding the human rights situation in Rakhine State in the wake of the violence there.²⁵

Further reforms took place in the following years in Myanmar, including the release of political prisoners and easing of restrictions on the media and on public gatherings, and, of course, parliamentary and presidential elections in 2015 that resulted in victories for the opposition NLD. These changes led to the lifting of most sanctions, increased investment and the appointment of a U.S. ambassador, and Aung San Suu Kyi was welcomed to the White House in September 2016 as President Obama announced the lifting of most remaining sanctions.

Unfortunately, neither these political reforms nor the relaxation of U.S. sanctions has led to any recognized improvement for the situation of the Rohingya.

The Trump administration has yet to articulate an approach toward Myanmar, though its recent decision to remove Myanmar from the list of countries known to use or support the use of child soldiers was a troubling signal that human rights and humanitarian concerns may not play a major role in the administration's deliberations on Myanmar. That omission took place in the context of implementation

of the Child Soldiers Prevention Act, which requires the Secretary of State to issue a list of such countries for possible sanctions in the annual Trafficking in Persons Report issued by the State Department.²⁶ The omission was clearly unwarranted in light of continuing concerns about the use of child soldiers in Myanmar.²⁷ On the other hand, as this report was being prepared, U.S. Ambassador to the United Nations Nikki Haley urged that the authorities in Myanmar permit access to the fact-finding mission of the UN Human Right Council.²⁸

Recommendations

Refugees International offers the following recommendations to improve the status and rights of Rohingya within Myanmar and those now living as refugees outside the country.

To the Government of Myanmar:

- Allow full and unfettered access to Rakhine State to international humanitarian and human rights organizations, to members of the UN Human Rights Council fact-finding mission, and to members of the local and international media.
- Amend the 1982 citizenship law to provide meaningful opportunities for citizenship for the Rohingya population.
- Fully implement the interim findings of the Advisory Commission on Rakhine State, including but not limited to the development of a comprehensive and inclusive strategy for the safe return and livelihood of internally displaced individuals based on a consultative process with affected communities.
- Commit to a process in which members of the Rohingya population can obtain meaningful redress for the deprivations they have suffered.

To the U.S. Government:

- Stress to the Myanmar government the importance of a path to citizenship and legal status for the Rohingya in high level engagements with State Counsellor Aung San Suu Kyi and other senior leaders, including at the UN General Assembly later this year and the November meeting of Association of Southeast Asian Nations (ASEAN). Such consultations must include frank discussions of the root causes that trigger Rohingya displacement, and mechanisms for safe and voluntary returns.
- Press for unfettered access and greater international humanitarian support for Rakhine State.
- Make clear that any further enhancements in the U.S.-Myanmar relationship, including enhanced military to military engagement, will not take place without substantial progress on issues surrounding the Rohingya population.
- Sustain and augment U.S. humanitarian assistance to international humanitarian organizations aiding the Rohingya.

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