

The International Court of Justice hearings evidence of need for international action to ensure accountability in Myanmar

(Bangkok, 12 December 2019) - The Asian Forum for Human Rights and Development (FORUM-ASIA) welcomes efforts of The Gambia to hold Myanmar accountable for genocide at the International Court of Justice (ICJ), and condemns the continuous denials by Myanmar's leaders of these human rights violations. As the world is watching, these denials should be taken as evidence of the Government of Myanmar denying responsibility and liability for the grave violations that have been committed against the Rohingya. The denials are also emphasise the urgency of international action to put an end to the violence and ensure accountability.

In November this year, The Gambia, supported by the Organisation of Islamic Cooperation (OIC), filed a case against Myanmar for violating the Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention). The case argues that the October 2016 attacks, spearheaded by the Tatmadaw, the Myanmar military, in Rakhine State were intended to 'destroy the Rohingya as a group, in whole or in part,' including through murder, sexual violence, and the burning of homes with inhabitants still inside, and therefore constituted genocide.¹ The case identified the systematic denial of rights to the Rohingya, including restrictions to bear children, and state-orchestrated hate campaigns, as evidence of genocidal intent.

The Myanmar's leaders have continuously downplayed the gravity of the violations, and their own compliance in the events. Representing Myanmar at the ICJ, State Counsellor Aung San Suu Kyi denied the occurrence of genocide or genocidal content, and reframed the events as a response of security forces to attacks initiated by the Arakan Rohingya Salvation Army, an armed group. Across Myanmar, leaders continue to question accusations of ethnic cleaning and genocide.² These repeated denials are deliberate attempts to shield the Myanmar Army and senior government officials from accountability for genocide and other grave international crimes.

The Gambia's case, however, is validated and supported by international findings. The 2018 UN Fact-Finding Mission Report concluded that there were well-documented indicators of genocidal intent, and evidence of systematic targeting of civilians, including sexual violence against women and children.³ The 2019 report further noted the failure of Myanmar to prevent genocide, a breach of its obligation as State party to the Genocide Convention. It also showed the involvement of businesses in financing the military and its operations.⁴

¹ <https://www.theguardian.com/world/2019/nov/11/gambia-rohingya-genocide-myanmar-un-court>

² <https://www.nytimes.com/2017/10/24/world/asia/myanmar-rohingya-ethnic-cleansing.html>

³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=23575>

⁴ <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/ReportHRC42thSession.aspx>

Myanmar's continuous refusal to acknowledge the violations has also endangered human rights defenders and activists actively pushing for greater scrutiny. FORUM-ASIA reiterates concerns raised by the UN Special Rapporteur the situation of human rights in Myanmar, Yanghee Lee, about increases in abusive rhetoric since the proceedings started, and the reprisals faced by those calling for accountability.⁵ Rohingya human rights defenders continue to receive threats for their efforts to push for justice in Myanmar.⁶

FORUM-ASIA welcomes and supports measures to hold Myanmar accountable for genocide, crimes against humanity and war crimes. FORUM-ASIA reminds the international community of its responsibility to hold perpetrators of genocide and other grave crimes to account, including by referring Myanmar to the International Criminal Court or creating an international tribunal and exercising universal jurisdiction. Myanmar's consistent refusal to punish individual perpetrators, including high ranking military officials, makes this a necessary next step.

About FORUM-ASIA:

FORUM-ASIA is a regional human rights group with 81 member organisations in 21 countries across Asia. FORUM-ASIA has offices in Bangkok, Jakarta, Geneva and Kathmandu. FORUM-ASIA addresses key areas of human rights violations in the region, including freedoms of expression, assembly and association, human rights defenders, and democratisation.

For further information, please contact:

- East Asia and ASEAN Programme, FORUM-ASIA, ea-asean@forum-asia.org

⁵ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25411&LangID=E>

⁶ <https://www.aljazeera.com/news/2019/12/rohingya-campaigners-won-silenced-online-threats-191203054234360.html>