

More Must Be Done to Support the International Accountability Proceedings Against Myanmar and End the Military's Ongoing Crimes

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The Karen Human Rights Group (KHRG), along with the wider Karen community and other ethnic and civil society organisations, welcomes and expresses support for the three ongoing proceedings against perpetrators of genocide and mass atrocities against the Rohingya people: the genocide case brought before the International Court of Justice (ICJ), the forced deportation investigation before the International Criminal Court (ICC), and the more recent universal jurisdiction case in Argentina. The Karen people have long suffered the types of atrocities that Rohingya people have faced at the hands of the Burma/Myanmar military. We hope these cases will bring justice and accountability, and put an end to the Burma/Myanmar military's long-standing impunity for systematic and widespread human rights abuses.

These three proceedings offer the possibility for perpetrators of crimes against humanity and gross human rights violations in Burma/Myanmar to finally be exposed and brought to justice. Bringing such cases to justice at the national level is nearly impossible. There have already been eight ineffective inquiries into the situation in Rakhine State alone since 2012. Investigators for the UN Independent International Fact-Finding Mission on Myanmar have previously stated that “any hope that Myanmar's national justice system will provide justice and truth for human rights violations committed by the military would be unfounded. The provisions of Burma/Myanmar law, the structure of the legal system and the judiciary's lack of independence and legal competence make that impossible. Far from uncovering the truth, Myanmar's domestic justice system will, on the contrary, punish those who seek it.”¹ As such, ethnic minorities in Burma/Myanmar hold hope in international tribunals to take notice of their calls for human rights abuses to be investigated, and count on these international actions to help bring justice to victims and survivors, and an end to ongoing crimes.²

Ethnic minorities have however waited for decades for the recommendations of international bodies to be implemented effectively so that the Burma/Myanmar military's gross human rights violations and atrocity crimes finally come to an end. Since 1992, successive UN Special Rapporteurs on Myanmar have reported consistent and systematic patterns of violations and abuses against minority communities throughout Burma/Myanmar. In some cases, the High Commissioner for Human Rights and the Special Rapporteur have suggested that these violations amount to crimes against humanity and war crimes, thus warranting investigation by the ICC. For decades, ethnic civil society, community-based and human rights organisations, like KHRG, have documented the atrocities committed by the Burma/Myanmar military, providing credible evidence of serious violations of international human rights and humanitarian law including extrajudicial killings, enforced disappearances, destruction of property, torture and inhumane treatment, rape and other forms of sexual and gender-based violence, forced labour, recruitment of children into armed forces, and indiscriminate or disproportionate attacks on civilians, including targeting of places of worship, hospitals, schools, and using civilians as human shields. And yet international justice and accountability mechanisms have yet to hold the Burma/Myanmar military accountable, or bring justice to the people who have endured these atrocities.

¹ Human Rights Council, “[Statement by Mr. Marzuki DARUSMAN, Chairperson of the Independent International Fact-Finding Mission on Myanmar, at the 39th session of the Human Rights Council](#),” 18 September 2018.

² Karen Grassroots Women's Network, [The Karen Grassroots Women's Network Welcomes Cases Against Burma for Genocide](#), 8 December 2019.

The proceedings currently under way provide hope, but further reveal the difficulty of seeking justice on the international level. After The Gambia filed a case against the Burma/Myanmar military before the ICJ in 2019 alleging that the atrocities committed against the Rohingya people in Rakhine State constituted a violation of the Genocide Convention, State Counsellor Aung San Suu Kyi publicly denied these allegations. The Republic of the Union of Myanmar later submitted objections questioning the ICJ's jurisdiction and The Gambia's eligibility to file the case, which has resulted in further delays in the proceedings. Despite the legally-binding provisional measures issued by the ICJ to protect the Rohingya people from further acts of genocide until a final decision can be rendered, the Burma/Myanmar military has continued to perpetrate acts of genocide against the Rohingya, and to commit a multitude of atrocities against other ethnic and religious minorities in Burma/Myanmar, both before and since the 2021 coup.³

Later in 2019, the ICC authorised the opening of an investigation into alleged international crimes related to the 2016 and 2017 waves of violence against the Rohingya people in Rakhine State. The investigation is currently limited to crimes, including future crimes, committed at least in part in Bangladesh, or any other State Party to the Rome Statute, from the date such State Party ratified the Rome Statute (June 2010 in the case of Bangladesh). As such, the majority of crimes committed by the Burma/Myanmar military would be left out. If accepted by the ICC, the National Unity Government's recent declaration (in July 2021) accepting ICC jurisdiction to investigate and prosecute all international crimes committed in Burma/Myanmar would, however, allow expansion of the investigation to include those committed within Burma/Myanmar, and to crimes dating back to July 2002, the earliest date permitted by the Rome Statute.⁴

In November 2021, an Argentine appeals court ruled that a case to investigate and hear testimony on alleged war crimes committed in Burma/Myanmar against the Rohingya under the principle of universal jurisdiction could proceed. As the first universal jurisdiction case on the situation of the Rohingya, this investigation is a landmark. The possibility of accountability and wider international impact is strong, not only because the case will cover the full range of crimes committed against the Rohingya in Burma/Myanmar, but also because it will hear victim testimonials, thus honoring the rights of victims to be heard and tell their stories in a court of law.

Multiple opportunities therefore currently exist to deliver justice and end impunity. Because accountability proceedings to investigate the Burma/Myanmar military's atrocities against other ethnic minorities have yet to be undertaken, the possibility for justice and ending ongoing violence for other ethnic minority groups in Burma/Myanmar hinges heavily on the outcome of the Rohingya proceedings. Since the February 2021 coup, the Burma/Myanmar military has intensified its perpetration of atrocities against ethnic minorities, making these proceedings even more urgent, essential and long overdue. Its attacks on the entire civilian population as people voice their opposition to the coup has further demonstrated the military's disregard for human life and human rights. The failure of the international community to adequately respond to the atrocities committed against ethnic minorities since the 1990s has led to this point. The continued impunity and lack of international accountability has only emboldened the Burma/Myanmar military to continue perpetrating atrocity crimes. Now is the time for concrete action to address problems of accountability and impunity in Burma/Myanmar.

³ Fortify Rights, [U.N. Security Council: Take Urgent Action Against Myanmar Military Junta](#), 7 December 2021.

⁴ NUG Ministry of Foreign Affairs, [Statement of the National Unity Government of Myanmar on the 4th Anniversary of the Atrocity Crimes Against the Rohingya People in 2017](#), 24 August 2021.

For justice to be delivered and ongoing violence to end, the international community must demonstrate widespread support for the proceedings of these courts, as well as a willingness to seek out all additional opportunities to hold the Burma/Myanmar military accountable for its vast array of crimes. KHRG, the Karen community and ethnic and civil society organisations thus make the following recommendations:

- Additional states should join Canada and the Kingdom of the Netherlands to intervene in the genocide case at the ICJ, and/or provide financial or legal support.
- Individual states, and particularly states sitting on the UN Security Council, should publicly declare support for an ICC referral, regardless of possible veto of a resolution by Russia or China.
- The Prosecutor should accept the declaration made on 17 July 2021 by the NUG under Article 12(3) of the Rome Statute; and extend the territorial scope of his investigation to cover crimes falling within the jurisdiction of the ICC committed in Myanmar since 1 July 2002.
- More states should allow the use of universal jurisdiction laws to hold the Burma/Myanmar military to account for its crimes.
- States must provide more financial support to CSOs in and from Burma/Myanmar that are documenting human rights violations and providing information used by the United Nations, governments and other justice organisations.
- More focus should be given in future UN resolutions and reports on the situation in Burma/Myanmar on the failure to implement previous recommendations, rather than repeating the same recommendations year after year.
- Acknowledging the lengthy timeframe for investigations and proceedings, states should ensure adequate humanitarian assistance and protection for ethnic populations who are facing violence and atrocities at the hands of the Burma/Myanmar military.
- All states individually and collectively at the United Nations and other international and regional organisations should refuse to lend legitimacy to the military junta and impose targeted economic sanctions and a global arms embargo.

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3. Association of Human Rights Defenders and Promoters
4. Athan - Freedom of Expression Activist Organization
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6. Burmese Rohingya Organisation UK
7. Burmese Women's Union
8. Calgary Karen Community Association
9. California Karen Youth Forum
10. Chin Human Rights Organization
11. Committee of the Internal Displaced Karen People
12. Democracy for Ethnic Minorities Organization
13. Edmonton Karen Community Youth Organization
14. European Karen Network
15. Future Light Center
16. Future Thanlwin
17. Gender Equality Network
18. Generation Wave
19. Human Rights Foundation of Monland
20. International Karen Organisation
21. Kachin Women's Association Thailand
22. Karen American Association of Wisconsin, Milwaukee, WI
23. Karen Association of Huron, SD
24. Karen Baptist Churches USA
25. Karen Community Association UK
26. Karen Community in Norway
27. Karen Community in the Netherlands
28. Karen Community of Akron, OH
29. Karen Community of Austin, TX
30. Karen Community of Canada
31. Karen Community of Czech Republic
32. Karen Community of Finland
33. Karen Community of Hamilton
34. Karen Community of Iowa, IA
35. Karen Community of Ireland
36. Karen Community of Israel
37. Karen Community of Kansas City, KS & MO
38. Karen Community of Kitchener & Waterloo
39. Karen Community of Leamington K
40. Karen Community of Lethbridge
41. Karen Community of London
42. Karen Community of Louisville
43. Karen Community of Minnesota, MN
44. Karen Community of North Carolina
45. Karen Community of Ottawa
46. Karen Community of Regina
47. Karen Community of Saskatoon
48. Karen community of Tennessee
49. Karen Community of Thunderbay
50. Karen Community of Toronto
51. Karen Community of Windsor
52. Karen Community of Winnipeg
53. Karen Community Society of British Columbia

54. Karen Environmental and Social Action Network
55. Karen Finland Culture Association
56. Karen Organization of America
57. Karen Organization of Illinois, IL
58. Karen Organization of San Diego
59. Karen Organization of San Diego - Signed
60. Karen Peace Support Network
61. Karen Society of Nebraska
62. Karen Student Association, University of Nebraska
63. Karen Swedish Community
64. Karen Thai Group
65. Karen Women's Organization
66. Karen Youth Education Pathways
67. Karen Youth Networks
68. Karen Youth of Norway
69. Karen Youth of Toronto
70. Karen Youth Organization
71. Karen Youth UK
72. Karen-Canadian Education Alliance
73. Karenni Civil Society Network
74. Karenni Human Rights Group
75. King N Queens Organization
76. Korea Karen Organization
77. Korea Karen Youth Organization
78. Let's Help Each Other
79. Metta Campaign Mandalay
80. Myanmar People Alliance (Shan State)
81. Oversea Karen Organization Japan
82. Pa-O Women's Union
83. Progressive Voice
84. Save and Care Organization for Ethnic Women at Border Areas
85. Synergy - Social Harmony Organization
86. Ta'ang Legal Aid
87. Utica Karen Community, NY
88. Women Advocacy Coalition Myanmar
89. Women's League of Burma