

**REPORT OF THE OIC-IPHRC FACT FINDING VISIT TO ROHINGYA
REFUGEES' CAMPS IN BANGLADESH TO ASSESS HUMAN RIGHTS
SITUATION OF ROHINGYA MUSLIM MINORITY IN MYANMAR**



الهيئة الدائمة المستقلة لحقوق الإنسان

Independent Permanent Human Rights Commission
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INTRODUCTION AND BACKGROUND OF THE OIC-IPHRC MANDATE AND FACT-FINDING MISSION:

The Organization of Islamic Cooperation (OIC) Summit and Council of Foreign Ministers (CFM) mandated Independent Permanent Human Rights Commission (IPHRC) through various resolutions (Res 3/4 -EX (IS), Res. EX-CFM/2017, Res 1/44-IPHRC, and Res 4/44-MM) with the task to examine the situation of the Rohingya Muslim minority in Myanmar. Accordingly, the Commission has placed this subject as a priority item on its agenda and regularly discusses the matter during its regular sessions. It also constituted a Working Group to examine the human rights situation in Myanmar, which has made multiple recommendations to the OIC Member States and international community to protect the rights of Rohingya Muslim minority.

IPHRC is also engaged in activities to raise awareness about the human rights violations committed against the Rohingya Muslim minority and has been raising the issue regularly during its participation at the international fora, including the UN Human Rights Council. It has issued multiple press releases on the issue at various occasions and continues to explore opportunities to cooperate with all concerned stakeholders to undertake joint actions to mitigate the worsening human rights and humanitarian situation on the ground.

As mandated by the CFM, since 2014, IPHRC approached the Government of Myanmar to provide access for a fact-finding visit to Myanmar to freely and objectively ascertain the human rights situation. In the absence of any positive response from the Myanmar authorities, IPHRC did explore alternative options to visit Rohingya refugees' camps in neighboring countries, such as Malaysia, Thailand and Bangladesh to investigate the allegations of human rights violations. Upon the invitation of the Government of the People's Republic of Bangladesh, the Commission decided to visit the refugees' camps of the forcibly displaced Rohingya Muslim minority in Cox's Bazar to interact with the victims and other stakeholders to get first-hand information on the state of human rights violations faced by them in Myanmar and to present a report on the subject to the CFM with concrete recommendations on possible ways to address it comprehensively. IPHRC extends its deep appreciation to the Government of Bangladesh for granting its delegation unfettered access and making necessary logistical arrangements to visit the refugee camps.

METHODOLOGY OF THE REPORT AND THE FACT-FINDING VISIT:

Since 2014, IPHRC endeavoured to gain direct access to the Rohingya communities in Rakhine State to investigate the human rights situation on the ground, however, due to non-cooperation of the Myanmar government, repeated requests to visit Rakhine State could not materialise. The substantive research for this report was carried out between October- December 2017, which included extensive review of legislation, available reports and historical records, academic literature, as well as review of photographs, videos and other documentation. This was followed by a fact-finding mission to Rohingya refugees' camps in Cox's Bazar in Bangladesh from 2-6 January 2018 where the delegation interacted with the refugees, civil society, Media and government functionaries to obtain first-hand information about the state of human rights in Myanmar.

The IPHRC delegation to Cox's Bazar included Dr. Rashid Al Balushi (Chairperson) and members Mr. Med Kaggwa, Dr. Raihanah Abdullah, Amb. Abdul Wahab, Mr. Mahmoud Afifi and Mr. Adama Nana. Besides officials from the OIC General and IPHRC Secretariats, Amb. Muhammad Zamir, member elect of IPHRC, also accompanied the delegation. The delegation interviewed dozens of Rohingya refugees displaced from Rakhine State, Myanmar, to Cox's Bazar, Bangladesh. All interviews were conducted in person on 4th and 5th January 2018. All interviewees were informed about the nature and purpose of the IPHRC fact finding mission as well as how the information provided by them would be used. Oral consent was obtained from them prior to the start of the interview and recording. No incentives were provided to interviewees in exchange for providing the information.

The Commission had to surmount the gigantic task of collating reliable data and information as the locus of human rights violations existed in the Rakhine State of Myanmar. Therefore, while compiling this fact-finding report, besides first-hand information from the victims, witnesses and refugees who have fled from the Rakhine State to Cox's Bazar in Bangladesh, IPHRC has consulted and referred to the data reported by the independent human rights bodies and multiple UN Agencies working on the ground on both sides of the Myanmar/Bangladesh border as well as data provided by international non-governmental organizations (INGO) representatives, and other relevant stakeholders.

HISTORY OF THE ROHINGYA MUSLIM MINORITY IN MYANMAR

The history of Rohingya Muslims in the Rakhine State region of Myanmar goes back to many centuries. Multiple available historical records suggest that centuries of human migration and settlement helped evolve Rohingya ethnicity in Arakan region¹, presently called Rakhine. Indeed, Rohingyas of Arakan are not a race group per se developed from one tribal group or single racial stock, but they are a mixed people from various races and cultures. Initially, peoples of Indian origin, Bengalis, Arabs, Persians, Afghans, and Central Asians came mostly as agriculturalists, traders, and preachers, mingled with the local people and settled in Arakan. Since 7th and 8th century, Arab Muslim traders travelled to Arakan for business and also preached Islam to the locals.

During 15th to 17th century, south-eastern part of Bengal was intermittently under Arakan Kingdom rule, which allowed unhindered movement of people within the same kingdom. Bengalis (Muslims and Hindus), Burman, Mon, Persian, Mughal, Chinese, Portuguese, Dutch, Japanese, etc. settled in Arakan during the heyday of independent Arakan Kingdom. Hence, all foreign settlers settled by the Arakanese sovereigns before fall of Arakan Kingdom deserve the right of indigenous status. Arakan lost its sovereignty and independence to the Burmese invasion by the end of 1784. Again, the British occupied Arakan in 1826 after the first Anglo-Burmese War in 1824-26. The term Rohingya was first mentioned by famous linguist Francis Buchanon in his work published in 1800 "*Comparative vocabulary of the languages of the Burma Empire*" to denote some

¹ (Arakan was generally referred to as Roshang or Rohang in the Chronicles of Bengal and Tripura Kings. Arab and Muslim writers referred to Arakan as Rakhang or Arkhang).

Mohammedans (Muslims) natives of Arakan. Other British historical records account that Muslims in Rakhine existed long before its annexation by the British in 1826.

Rohingyas who settled in Arakan/Rakhine after 1826 were also indigenized well before independence of Burma in 1948. The Government of Burma appointed a Commission of Inquiry on 15th July 1939, headed by Mr. J. Baxter, to examine the question of Indian immigration into Burma. The Commission report was completed in 1940 and included also information and statistics about the Muslim population in Burma. According to Baxter Committee Report, the percentage of Muslim population born in Arakan/Rakhine was 77% in 1931. The report also concluded that all historical records suggest that the Rohingyas were indigenous to Arakan/ Rakhine².

In the 1947 Constitution, as stated in Art 11 (iv), Rohingyas were given “National Registration Certificate” with full legal and voting rights, with *guarantees of citizenship* on the basis of having lived in the territory of Burma for at least eight out of previous ten years. During the period between 1948 to 1961, Rohingyas had access to higher education, total freedom of movement and livelihood in Burma. They took part in elections, got elected to Parliament and even became Ministers in the Burmese government beside being represented in various political, social, and educational institutions.

However, since the Burmese coup d'état on 2nd March 1962, the Rohingyas have been facing systematic discrimination and exclusion in all aspects of their livelihood, including revocation of their civil and political rights as well as severe restrictions on their access to education and economic opportunities. With the rise to power of Military Junta, a policy of “Burmanization” was implemented as an ultra-nationalist ideology based on the racial purity of the Bamar ethnicity and its Buddhist faith. In 1974, the Military regime drafted a new constitution, which paved the way for formulation of a new citizenship law to redefine criterion for citizenship, naturalization and revocation of citizenship.

Between 1978 and 1991, heavy-handed government campaigns pushed more than 200,000 Rohingya Muslims across the border to Bangladesh, though later under international pressure, the Military Junta had to accept their repatriation. In 1982, the Military Junta issued another discriminatory Act, which denied citizenship rights to Rohingyas. It identified them as foreigners, thus denying them the recognition of their status as an ethnic minority group and rendered them stateless. This was followed by harsh discrimination against them in all aspects of their lives. At the same time, however, in contradiction with the Act issued by the Military, the Rohingyas were recognized as ‘members of Myanmar Society’ in a joint statement issued by Bangladesh and Myanmar in 1992, allowing repatriation of 236,599 displaced Rohingyas back to their homeland in Myanmar³.

² Report on Indian Immigration into Burma by Commissioner James Baxter: http://www.netipr.org/policy/downloads/19390715_baxter-report.pdf

³ In April 1992, a Memorandum of Understanding (MOU) was signed between the Governments of Bangladesh and Myanmar, setting the terms of the repatriation program and allowing limited UNHCR involvement.

DEVELOPMENTS IN THE SITUATION OF ROHINGYA MUSLIM MINORITY IN MYANMAR SINCE 2012:

Throughout the last decade, the Government of Myanmar has effectively institutionalized discrimination against the Rohingyas. According to World Bank estimates, Rakhine State has been Myanmar's least developed State with a poverty rate of 78 percent compared to the national average of 37.5 percent⁴. This situation of widespread poverty, poor infrastructure, lack of employment opportunities, decades of authoritarian rule and conflict in Rakhine have exacerbated the cleavage between Buddhists and Rohingya Muslims, which at times erupted into conflicts on religious lines. This complicated reality eventually led to major violence in 2012 and further sporadic outbreaks ever since. In order to mask its failure in developing Rakhine State, the government blamed the Rohingyas for the situation, which exacerbated the existing hate campaigns against Rohingya Muslims. Consequently, in June 2012, a renewed wave of religious violence against Muslims left more than 200 dead and close to 150,000 homeless in Rakhine, predominantly Rohingyas. Between 2012 and 2015, more than 112,000 Rohingya fled, mostly, by boats to Malaysia.

Until 2015, the Rohingyas had been able to register as temporary residents with identification cards, known as White Cards, which the Military Junta issued to many Muslims, both Rohingyas and non-Rohingyas, in the 1990s. The White cards conferred limited rights but were not recognized as proof of citizenship. Rohingyas also continued to participate in all national and local elections till the general elections of 2010. In 2014 the Government of Myanmar held a UN-backed national census, its first in thirty years. The Muslim minority was initially permitted to identify itself as Rohingya, but after Buddhist nationalists threatened to boycott the census, the government decided that the Rohingyas could only register if they identified themselves as Bengali instead. Similarly, under pressure from Buddhist nationalists protesting the Rohingyas' right to vote in a 2015 constitutional referendum, the then-President Thein Sein cancelled the temporary identity cards in February 2015, effectively revoking their right to vote. Accordingly, in the November 2015 elections, which were widely touted by international monitors as free and fair, Rohingyas were neither allowed to participate as candidate nor even as voters. For the first time ever, no Muslims were elected to parliament in Myanmar⁵.

In 2016, Myanmar's first democratically elected government in a generation came to power that raised hopes of the international community for bringing peace and security to its most persecuted Rohingya community. However, this optimism faded soon as the situation of Rohingya continued to worsen with rise in communal tensions and increased targeted security operations by the security forces and extremist Buddhist militants against Rohingyas. Ms. Aung San Suu Kyi, the Nobel Peace Prize laureate and Myanmar's new de facto leader, has been reluctant to advocate for the rights of Rohingya Muslims for fear of alienating Buddhist nationalists, which could potentially pose a threat to the power-sharing agreement with the military. Despite overwhelming evidence of widespread violence and discrimination against Rohingya Muslims, Ms. Suu Kyi has avoided addressing or even condemning these violations. This is clearly seen as a political approach to safeguard her rule and newly acquired position in Myanmar.

⁴ http://www.worldbank.org/content/dam/Worldbank/document/EAP/Myanmar/WBG_SCD_Full_Report_English.pdf

⁵ <https://www.theguardian.com/world/2015/nov/15/myanmars-muslims-win-no-seats-in-new-parliament>

To deflect international criticism and convey her desire to deal with the issue in a transparent manner, the Government of Myanmar established in August 2016 an Advisory Commission on ethnic strife led by former UN Secretary-General Kofi Annan. However, this positive development was soon overshadowed by the outbreak of violence. On 9th October 2016, the Myanmar military launched an intense crackdown, which they called "Clearance Operation" in the Rohingya villages to find the suspects involved in an attack against border posts in Rakhine State that killed nine police officers. The operation triggered an exodus of 87,000 Rohingyas to Bangladesh (UN estimates) and resulted in destruction of thousands of Rohingya homes besides torture and killing of innocent civilians. The extent and severity of human rights violations by the State security forces against Rohingya civilians in Rakhine State have been confirmed by various credible sources including independent media, international human rights organizations and the United Nations. The reported violations included torture, rape and extrajudicial killings of Rohingya Muslims as well as burning of their houses and mosques in Maungdaw Township and other villages in Northern Rakhine State. On 3rd February 2017, a UN report alleged that Myanmar's security forces have waged a brutal campaign of murder, rape and torture in Rakhine State. The report includes statements from victims and eyewitnesses that give harrowing details of unprecedented levels of violence, including burning people alive, raping girls as young as 11 and cutting children's throats⁶.

LATEST MILITARY OPERATIONS AND MASSIVE REFUGEE CRISIS SINCE 25TH AUGUST 2017:

As explained above, since 2012, the situation of Rohingya Muslims in Myanmar has worsened gradually over decades. Military campaigns in the past five years, notably in 2012 and 2016, resulted in the displacement of tens of thousands of Rohingya Muslims from their home towns. However, the military operation launched by the Myanmar Army on 25th August 2017 was unprecedented, which caused the worst ever wave of killings and forced displacement, to date. The unprecedented offensive was launched against the so called Rohingya terrorists, who on 25th August allegedly attacked 20 police outposts and an army base in Rakhine, which resulted in killing of 12 security officials. However, the response by the Myanmar army was both brutal and disproportionate, resulting in indiscriminate violence by State authorities against the wider Rohingya Muslim community, including mass killings, torture, rape and destruction of Rohingya villages.

During the first 19 days of this operation, about 400,000 Rohingya Muslims crossed into Bangladesh to save themselves from the escalating violence and mass killings waged by Myanmar military using gunfire, helicopters and rocket-propelled grenades against the civilian population. According to multiple reports, including by the international medical charity "Doctors Without Borders", at least 6,700 Rohingyas were killed in the first month of attacks⁷. Allegedly, Myanmar's security forces also opened fire on fleeing civilians and planted land mines near border-crossings used by fleeing Rohingyas to Bangladesh. Observers and Media representatives on the ground and satellite images taken during this timeframe confirmed many razed Rohingya villages across northern Rakhine state⁸.

⁶ Report of OHCHR mission to Bangladesh:

<http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf>

⁷ <http://www.msf.org/en/article/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks>

⁸ <https://www.theguardian.com/world/2017/sep/19/myanmar-satellite-imagery-confirms-rohingya-village-of-tula-toli-razed>

The magnitude of violence evoked overwhelming condemnation from the international community including the OIC and UN Member States, international human rights organizations and civil society actors. The UN High Commissioner for Human Rights described the atrocities as ‘a text book example of ethnic cleansing’ and Human Rights Watch called these as crimes against humanity⁹. The clashes and exodus, since then, have created what the UN Secretary-General Antonio Guterres called a ‘humanitarian and human rights nightmare’¹⁰. Contrary to the claims of the Government of Myanmar, which blamed “terrorists” for initiating the violence, multiple UN and international human rights organizations’ reports including the Report of the Advisory Commission of Mr. Kofi Annan (appointed itself by the Government of Myanmar) have repeatedly highlighted and stressed that “*if the human rights concerns are not properly addressed, and if people remain politically and economically marginalized, it will provide fertile ground for radicalization, with people becoming increasingly vulnerable to recruitment by the extremists*”¹¹.

Instead of paying attention to these well-advised reports, the Government of Myanmar remains in a denial mode and has not taken any concrete action to address the plight of its Rohingya Muslims. In the aftermath of the August 25th military operation, Aung San Suu Kyi denied that ethnic cleansing took place. She dismissed international criticism of her handling of the crisis and accused the critics of fuelling resentment between Buddhists and Muslims in the country. In December 2017, the Government of Myanmar again denied access to the UN Special Rapporteur on human rights in Myanmar, Yanghee Lee, and suspended cooperation for the remainder of her term. On 5th December 2017, the UN Human Rights Council (HRC) held a Special Session on human rights situation in the Rakhine State of Myanmar and issued a strong worded resolution that condemned the alleged systematic and gross violations of human rights and abuses committed against persons belonging to the Rohingya Muslim community and other minorities in Myanmar and called upon the Government of Myanmar to take immediate steps to address these concerns. However, Myanmar dismissed this resolution as unfounded criticism and also reiterated its refusal to cooperate with an earlier Fact-Finding Mission appointed by the HRC¹².

The increasing international criticism against Myanmar’s human rights violations, is echoed in various U.N resolutions on the human rights situation in Myanmar (Third Committee and HRC resolutions), reports of the relevant UN Special Rapporteurs as well as in the UN Security Council. This strong international reaction forced Myanmar to sign an initial deal with Bangladesh for the repatriation of hundreds of thousands of Rohingya Muslims who fled violence in Rakhine state. Contrary to the earlier statements by the Head of the country’s military, the Government of Myanmar also pledged that there would be no restrictions on the number of Rohingyas allowed to return. Rohingya refugees, however, remain very reluctant to return due to lack of trust in the pronouncements of the Government of Myanmar and for fear of persecution on return.

⁹ <http://www.un.org/apps/news/story.asp?NewsID=57490#.WnbJUaiWaUk>

¹⁰ <https://www.un.org/press/en/2017/sc13012.doc.htm>

¹¹ <http://www.rakhinecommission.org/the-final-report/>

¹² <http://www.ohchr.org/EN/HRBodies/HRC/SpecialSessions/Session27/Pages/27thSpecialSession.aspx>

OBSERVATIONS OF THE OIC-IPHRC FACT-FINDING VISIT ON THE HUMAN RIGHTS VIOLATIONS AGAINST ROHINGYA MUSLIMS IN MYANMAR:

The ongoing humanitarian crisis resulting from latest Myanmar military operations against Rohingya civilians has caused suffering on a catastrophic scale. By the end of 2017, there have been nearly one million Rohingya refugees in Cox's Bazar – of whom 700,000 have arrived since 25 August 2017, added to the 300,000 who came after similar waves of violence in the past. This means that more Rohingyas now live in Bangladesh than in their homeland. Not only the pace of new arrivals since 25 August 2017 has made this the fastest growing refugee crisis in the world but the concentration of refugees in Cox's Bazar is now amongst the densest in the world. Refugees arriving in Bangladesh—mostly women and children—are traumatized, and some have arrived with serious injuries caused by gunshots, shrapnel, fire and landmines. But everyone has a story to tell that includes some of the worst forms of human rights violations suffered over a long time.

During the OIC-IPHRC Fact Finding visit to Rohingya Refugees' Camps in Cox's Bazar, IPHRC delegation had the opportunity to meet and discuss in detail with the Rohingya refugees the sordid state of human rights situation faced by them in Myanmar. The horrifying tales of human rights violations narrated by the Rohingya refugees, included systematic and systemic discrimination which denied all sorts of civil, political, economic and social rights to them. In addition, innocent civilians including women, children and elderly, endured widespread and indiscriminate violence in the form of torture, rape and extrajudicial killings. Eye witnesses also provided poignant details of dreadful events of August 2017, when in the garb of pursuing the attackers of two security posts, hundreds of Rohingya villages were torched and thousands of innocent civilians were tortured and brutalized by the Myanmar military using helicopters and rocket propelled grenades.

Some of the worst forms of violence, including extrajudicial killings, torture, rapes and forced displacement have been committed against the Rohingya women and children. IPHRC delegation received first-hand information from victims who suffered these violations and fled to Cox's Bazar. Many Rohingya women narrated in tears how they, including the young girls were gang-raped by soldiers. Some of them also shared the horrific accounts of witnessing their family members killed, thumping the heads of their children against trees, throwing children and elderly parents into burning houses, and shooting their husbands. Based on multiple reliable reports¹³, these widespread violations in particular sexual violence against women and children, especially girls, are systematic, multidimensional and part of the organized campaign of ethnic cleansing, which falls in the category of crimes against humanity under international law.

The IPHRC delegation also met with the officials from relevant UN human rights and humanitarian agencies, representatives of international human rights organizations and local government / civil society actors, who all confirmed receiving similar accounts from victims who fled their homes in Myanmar to save their lives. Accordingly, based on the first-hand information acquired from the direct victims and eye-witnesses accounts, which were repeated/confirmed by separate groups of victims in different camps as well as widely reported in relevant human rights reports by reputed organizations, the IPHRC delegation

¹³ <https://www.hrw.org/report/2017/11/16/all-my-body-was-pain/sexual-violence-against-rohingya-women-and-girls-burma>

was able to conclude that there exists sufficient proof of institutionalized discrimination and systematic violations against Rohingya Muslims in Myanmar. The systematic and systemic nature of discrimination can also be dubbed as a form of apartheid, which is considered a crime against humanity under international human rights law. Some of the specific nature of human rights violations narrated by the victims are given below:

1. Violation of the Right to Life

A significant number of Rohingya refugees in Cox's Bazar have reported killing of some of their family members in front of their eyes. However, it is very hard to verify the total number of Rohingyas killed inside Rakhine State because of the complete media censorship by the Government of Myanmar, which includes blocking most international and independent media agencies from verifying the facts in the sieged Rohingya communities and camps of internally displaced Rohingyas in Rakhine State. According to the statistics gathered from multiple sources, reportedly, more than 7,000 Rohingya refugees were killed by the Myanmar security forces in Rakhine State since 25th August 2017. Many refugees also counted details of similar violations as part of their persecuted lifestyle in ghetto communities over past decades.

On 10th January 2018, Myanmar's military admitted that security forces and villagers summarily killed 10 captured Rohingya people and buried them in a mass grave outside Inn Din, a village in Maungdaw, Rakhine State¹⁴. Based on multiple reports about the extrajudicial killings of Rohingya by Military, this rare and grisly admission, seems to be only the tip of the iceberg and warrants serious independent investigation into what other atrocities were committed amid the ethnic cleansing campaign since 25th August 2017.

The systematic killing of Rohingya Muslims in Myanmar expands beyond the latest army operations. As evident from the repetitive refugee crises resulting from violence against Rohingyas in Rakhine State (1977-78/1982/1991-92/2001/2012) and past reports on human rights situation in Myanmar from multiple international sources, it is clear that these violations are not new, but a continuation of decades old systematic discrimination against Rohingya Muslims. Rohingya refugees informed the IPHRC delegation that while access of Rohingya to hospitals was very limited and restricted for many years, Rohingya women attending hospitals for different ailments were maltreated, often resulting into their death even after simple medical procedures. These consistent and repetitive incidents, which seem to raise the flag about intended killings of Rohingya women, have forced Rohingyas to stay away from hospitals and to use other primitive alternatives for medical treatments, including giving birth at home. Such inhuman treatment not only violates Rohingya Muslims' right to health but also manifests a form of social stratification that clearly falls under contemporary forms of racism and racial discrimination.

2. Torture, cruel, inhuman or degrading treatment or punishment

The full extent of the violations and crimes against Rohingya Muslims in Myanmar resulting from the latest military operation cannot be precisely measured until a UN Fact-Finding Mission and other independent observers are given unfettered access to Rakhine State in Myanmar. However, the refugees who survived the violence and were able to

¹⁴ <https://www.amnesty.org/en/latest/news/2018/01/myanmar-militarys-mass-grave-admission-exposes-extrajudicial-killings-of-rohingya/>

cross over to Bangladesh provide walking evidence of the cruel and inhuman treatment they were subjected to. During the IPHRC interaction with these refugees in Cox's Bazar, they showed the bullet scars and burn and injury marks on their frail bodies. Dozens of eyewitnesses narrated that no one was spared — men, women, old and young, and children, even infants, were shot at and thrown into the fires by the Myanmar army and Buddhist mobs. When asked why they were attacked, they said it was because they registered themselves in their ID documents as Rohingya, instead of Bengali, which the Government of Myanmar insists on calling them. Multiple credible reports have confirmed these testimonies.

Again, scores of refugees described suffering physical violence as part of their routine life even before 25th August 2017 incidents. Innocent civilians who were forced to live a ghetto life based on their Rohingya ethnicity, were subjected to torture and cruel inhuman treatment on routine basis for not following discriminatory and illegal restrictions imposed on their freedoms of religion, movement and peaceful assembly. By analysing the nature of the systematic military operation, it can be safely stated that these were carried out against the entire Rohingya population of Rakhine State in an apparent attempt to permanently drive them out of the country.

3. Destruction of Rohingya Villages by Myanmar security forces:

During its interaction with Rohingya refugees in Cox's Bazar, dozens of eyewitnesses confirmed to IPHRC delegation that the Myanmar army conducted a systematic operation of burning houses and whole Rohingya villages. Multiple victims narrated the manner in which Myanmar army soldiers rendered the Rohingya defenceless by ordering them to hand over all sharp tools and knives to the soldiers and assemble in one area, before putting to fire the whole villages. The accounts included military men who clubbed the baby children and hurled them into fire in front of their mothers. Also, many women were gang-raped and subjected to brutal torture.

These incidents of burning of Rohingya houses and mosques in Maungdaw Township and other villages in Northern Rakhine State, were confirmed through various credible reports from media, reputed international human rights organizations as well as United Nations. As early as December 2016, many satellite images also confirmed that the destruction in Rohingya villages is far greater and at places more than the Government of Myanmar has admitted in its official communications. In early October 2017, Amnesty International revealed evidence pointing to a mass-scale scorched-earth campaign across northern Rakhine State, where Myanmar security forces and vigilante mobs burnt down entire Rohingya villages and shot people at random as they tried to flee. The organization's analysis of active fire-detection data, satellite imagery, photographs and videos from the ground, as well as interviews with dozens of eyewitnesses in Myanmar and across the border in Bangladesh, shows how an orchestrated campaign of systematic burning of Rohingya villages across northern Rakhine State took place for almost three weeks¹⁵.

Contrary to the claims of the Government of Myanmar that it is addressing the situation based on the principle of rule of law, it appears that it is merely deflecting the criticism and remains in a state of denial to address the grave human rights violations. This assumption is strengthened by Myanmar authorities' assertions that civilians were themselves burning their homes to attract attention and that the security forces were merely attacking the

¹⁵ <https://www.amnesty.org/en/latest/news/2017/09/myanmar-scorched-earth-campaign-fuels-ethnic-cleansing-of-rohingya-from-rakhine-state/>

militant groups. However, the evidence is irrefutable – the Myanmar security forces set ablaze Rohingya villages in Northern Rakhine State in a targeted campaign to push the Rohingya people out of Myanmar.

IPHRC delegation, after going through various credible reports and hearing the corresponding testimonies from Rohingya refugees, concluded that attacks on Rohingya villages were planned, deliberate and systematic to deprive the Rohingyas of their homes and living places and to force them to flee to permanently change the demographic composition of the State. Lately, it has been reported that the Myanmar authorities have also changed the names of the burnt sites and villages, which makes it even difficult for the Rohingya refugees to return to and claim their lands through available records.

4. Violation of the Freedom of Religion and belief

Freedom of religion and belief is guaranteed under the international law¹⁶. Despite multiple historic causes of discrimination against Rohingya Muslims in Myanmar, it must be recognized that one of the key causes of the current situation is institutionalized discrimination based on religion and race. Historically, during the British-Japan clash during the 2nd World War, Buddhists of Myanmar sided with Japanese whereas Muslims supported the British. Apparently, that animosity has not been forgotten by the Buddhist majority and the Myanmar military. In many of the public declarations, extremist Buddhists and military leaders in Myanmar used religion and race as the main trigger for inciting discrimination and violations against Rohingya Muslims. This goes in line with the statement of Pope Francis who said that Rohingya Minority in Myanmar had been tortured and killed simply because they wanted to live according to their culture and Muslim faith¹⁷.

Multiple Rohingya refugees in Cox's Bazar confirmed to IPHRC that for many years, especially since 2012, the Government of Myanmar imposed arbitrary and unlawful ban on their right to offer their daily prayers and holding Friday congregations in mosques. Instead they were forced to offer it in their houses or secretly in make-shift arrangements within their camps. Military administration used brute force against Rohingya Muslims walking to Friday prayers, especially if they walk outside their camps where they are confined. Scores of witnesses conveyed to IPHRC how their mosques were destroyed and even burnt.

Furthermore, older Rohingya witnesses stated that for many years, the Government security forces, frequently ordered many Muslim communities in Rakhine State to close their religious centres, including mosques, madrassahs, and “moqtobs” (madrassahs), and “hafez khanas” (Qur'an reciting centres). The closures were ordered under the pretext that these centres were not officially registered. However, same witnesses also confirmed that government officials did not allow any madrassah to register officially. It was also conveyed that Myanmar authorities frequently refused to approve requests for gatherings to celebrate traditional Islamic holidays and restricted the number of Muslims that could gather in one place. Rohingya Muslims were only allowed to gather for worship and religious rituals during the major Muslim holidays, and that too under strict vigilance.

The systematic discrimination against Rohingya Muslims because of their faith has been widely reported by many organisations. Rohingya refugees informed IPHRC delegation

¹⁶ Articles 18 of the UDHR and ICCPR and the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief

¹⁷ <https://www.reuters.com/article/myanmar-rohingya-pope-int/pope-issues-stinging-criticism-of-myanmars-treatment-of-rohingya-idUSKBN15N120>

that they were treated as illegal foreigners and the Government had issued them with "Temporary Registration Cards" (TRC). Myanmar Authorities also insisted that Rohingya Muslim men applying for TRCs to submit photos without beards. Refugees also reported that many Buddhist leaders, endorsed by the military regime, conducted multiple campaigns of enticing Muslims to convert to Buddhism by offering charity or bribery. Indeed, conversion of non-Buddhists, coerced or otherwise, is part of a longstanding government campaign to "Burmanize" ethnic minority regions. These campaigns have frequently coincided with increased military presence and pressure. However, Rohingya refugees stated that all these campaigns have failed miserably.

5. Denial of Civil and Political Rights including Citizenship

Since the military coup of 1962, the Government of Myanmar has effectively denied the Rohingya Muslim minority their political rights and institutionalized discrimination against them through gradual restrictions on all aspects of their lives, including marriage, family planning, employment, education, religious practices and freedom of movement. For example, as narrated by some Rohingya refugees in Cox's Bazar, Rohingya couples are only allowed to have two children, these restrictions have been confirmed in an earlier report¹⁸ by Fortify Rights Organization. Rohingyas must also seek permission to marry, which may require them to bribe authorities and provide photographs of the bride without a headscarf and the groom with a clean-shaven face to humiliate their Islamic customs.

Similarly, the Rohingya Muslims were restricted to their areas and were not allowed to move, relocate or travel outside their designated areas without prior government approval. Majority of Rohingya refugees interviewed by IPHRC were illiterate or had very basic education. On enquiry, it was revealed that they were also subjected to institutionalized discrimination in this sector, where first they were not welcomed, secondly needed to bribe authorities for admission in public schools and lastly were discriminated within the schools vis-à-vis non-Rohingya students. No facilitation was provided for their higher education. Most refugees got basic education in home schools/*moqtobs* of their shanty towns.

Most Rohingya Muslims were effectively deprived of their nationality by applying the discriminatory 1982 Citizenship Law. This Law created three categories of citizens: "citizens" (commonly referred to as "full citizens"), "associate citizens" and "naturalized citizens," each of which affords different rights and entitlements. Section 3 of the 1982 Citizenship Law provides that people belonging to one of the officially recognized "national races" are considered to be full citizens by birth, as are people belonging to ethnic groups that are considered to have settled in the country prior to 1823.

While available official records clearly indicate that Rohingya Muslims inhabited these lands much before the British occupation of 1826, they were excluded from the eight "national races" listed in the Law and were also not included in a list of 135 officially recognized ethnic groups, which was subsequently published by the Government of Myanmar in September 1990. As explained in earlier parts of this report, the institutionalized discrimination worsened overtime and the minimal right to vote has also been taken away from Rohingyas. In November 2015, while the world celebrated the

¹⁸ www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf

holding of first democratic elections in Myanmar, since the end of military rule, Rohingyas were not allowed to participate either as candidates or as voters.

The International Advisory Commission on Rakhine State led by Kofi Annan in its final report published on 24th August 2017, called for the review and revision of Myanmar's Citizenship Law and to end all restrictions on its Rohingya Muslim minority to prevent further violence in the beleaguered region. The report also states that the Government of Myanmar has actively supported the drive towards segregation between Rohingya Muslims and Buddhists in Rakhine State¹⁹. A number of recommendations in this report focus on the Myanmar's citizenship verification process for Muslims, their rights and equality before the law, their freedom of movement, and the situation of those who are confined to internally displaced persons (IDP) camps. The Advisory Commission also advised the Government of Myanmar to take concrete steps to end enforced segregation of ethnic Rakhine Buddhists and Rohingya Muslims; allow unfettered humanitarian access in Rakhine; address the statelessness of the Rohingyas; hold accountable those who violate human rights and end restrictions on the Rohingya's freedom of movement²⁰.

6. A System of Apartheid: Ethnic Cleansing and Genocide

Under the International Convention on the Suppression and Punishment of the Crime of Apartheid and the Rome Statute of the ICC, apartheid is defined as a crime against humanity covering a range of acts, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and with the intention of maintaining that regime²¹. Specific acts committed in this context and criminalized as apartheid range from openly violent ones such as murder, rape and torture to legislative, administrative and other measures calculated to prevent a racial group or groups from participation in the political, social, economic and cultural life of the country and to deny them basic human rights and freedoms. All these conditions are aptly met in the case of the treatment of Rohingya Muslims in Myanmar.

Also, based on the testimonies recorded from a wide range of Rohingya victims taking refuge in Cox's Bazar, which include systematic violations of the range of civil, political, economic, social and cultural rights of Rohingya Muslims, over a protracted period of time, the IPHRC believes that the human rights situation faced by Rohingya Muslims in Myanmar bears the hallmark of an organized campaign of ethnic cleansing, which is a crime against humanity under the international law. The international community is duty bound to take all possible steps to put an end to this situation, forthwith.

Murder, torture, rape, forced displacement/ transfer of population, enforced disappearance and other inhuman acts committed by Myanmar security forces against its Rohingya population, particularly in October 2016 and August 2017, are added manifestations of their crimes against humanity. One of the foundational elements of the discrimination and persecution of the Rohingya is the denial of their right to nationality (enforced through 1982 Citizenship law), which coupled with the government's denial of their identity as an ethnic minority of Myanmar and the persistent reference to them as "foreigners" or "Bengalis" falls into the realm of racism and racial discrimination. This in turn has enabled and facilitated a system of severe restrictions on the Rohingya's freedom of movement, which have expanded in scope and severity since the violence of 2012.

¹⁹ Final Report of the Advisory Commission on Rakhine State, page 50.

²⁰ http://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf

²¹ <http://www.un.org/en/genocideprevention/crimes-against-humanity.html>

In a legal analysis of the human rights situation in Myanmar's Rakhine State, the Allard K. Lowenstein International Human Rights Clinic at Yale Law School has found strong evidence of genocide against the Rohingya population²². The 65-page legal analysis released in October 2015 found that the record of anti-Rohingya rhetoric from government officials and Buddhist leaders, the policies that specifically target Rohingya and the mass scale of the abuses against Rohingya, all provide strong evidence that each of the three elements of genocide have been present in the overall situation of Rohingya in Rakhine.

7. State of Rohingya Refugees from Myanmar in Cox's Bazar

The IPHRC delegation visited refugee camps in Cox's Bazar namely Kutupalong and Balukhali. As witnessed and conveyed by relevant authorities, despite the signing of a Repatriation Agreement (23 Nov 2017) between Myanmar and Bangladesh, the influx of refugees was continuing, which manifested their persistent plight for safety in Rakhine.

IPHRC delegation also visited the Tomru border area, which is a No Man's Land between Myanmar and Bangladesh, where in a short strip of land thousands of Rohingya refugees are taking shelter. Representative of Bangladesh Border Security Force (which is providing them the humanitarian assistance), narrated the horrific details of these refugees' struggle to reach this area after crossing the heavily guarded zones of barbed wire and landmines from Myanmar under constant hostile fire. Relevant Bangladesh authorities also conveyed that these refugees would soon be transferred to the regular refugee camps.

The delegation also interacted with both the local and international humanitarian stakeholders, on the ground, who explained in detail the ongoing humanitarian operation. At the same time, they urged the OIC and its Member States to lend their full support in various forms to alleviate the suffering of the Rohingya refugees who left their country, in most cases, with nothing except clothes on their bodies and some identity documents.

It is worth noting that the refugees' camps have been established in an area stretching along the border with Myanmar in a valley which previously had a lot of wildlife and a great number of trees and lakes. However, due to heavy influx of refugees in a short period of time, the ecology of the area has faced extensive damage as most of the bamboo trees have been cut to build the makeshift huts for the refugees and for use as firewood. One of the key fears expressed by Bangladeshi officials is that the situation might worsen during the monsoon season, which will bring about landslides and heavy floods unless more engineering works were carried out. Additional resources are, therefore, critically needed as Bangladesh, despite its best efforts, would not be able to cope with the massive humanitarian challenge during the upcoming rainy season.

While the situation of refugees and their stories were heart-wrenching, it was pleasing to note that the Government of Bangladesh is striving its best to facilitate the Rohingya refugees and facilitating the orderly management of humanitarian relief operation. One must also acknowledge and pay tribute to the generosity and compassion of the host communities in Cox's Bazar in providing shelter and sharing their personal – in many cases limited – resources to help the Rohingya population who fled from Myanmar for the fear of their lives and dignity.

Most of all, one is squarely humbled by the resilience and strength shown by the Rohingya refugees, women and children who survived the hardest conditions of discrimination and

²² Persecution of the Rohingya Muslims: Is Genocide Occurring in Myanmar's Rakhine State? – A Legal Analysis: <https://law.yale.edu/system/files/documents/pdf/Clinics/fortifyrights.pdf>

persecution one can imagine. At the same time, however, the visiting delegation noted with regret the abysmal psychological state of refugees, who were visibly shattered by the horrific violations faced and witnessed by them in the recent past. Most of them, when asked about their willingness to return, frightfully refused to return unless fool proof guarantees were provided for their safety and basic human rights.

CONCLUSION

Based on its research, including following up of the crisis since 2012, as well as first-hand testimonies received from the victims in Cox's Bazar, the IPHRC fact-finding Mission concluded that the discrimination against Rohingya in Rakhine State is multi-faceted and systemic. They have been systematically stripped of their citizenship, discriminated against and increasingly marginalized in the economic, social and political spheres. Despite their centuries old presence, Rohingyas are still not accepted as full members of Myanmar society and are often labelled as foreigners or illegal migrants. An intersecting collection of discriminatory laws, regulations, policies and practices, form a central part of a State machinery of oppression, which meets the definition of apartheid a crime against humanity under international law.

Recent horrific human rights violations since October 2016 and more severely since August 2017, resulted in arson attacks against Rohingya villages - forcing their mass scale displacement; ill treatment and torture; rape and extrajudicial killings of civilians. However, all these horrible crimes were perpetrated with ease as these are conducted in the backdrop of decades of state-sponsored persecution and negative stereotyping of Rohingya Muslims on the basis of their ethnicity and religious beliefs. The unending misery and plight of Rohingya Muslims in Myanmar are a matter of grave concern for the entire international community, in particular all Muslims around the world. While affirming the culpability of the Government of Myanmar for the dire human rights situation faced by the Rohingya Muslims, one must also acknowledge that this situation could have been avoided or at least its magnitude could have been reduced if the international community acted decisively on time when the wave of violations committed by the Government of Myanmar were reported back in 2012. It is indeed clear that the tragic events of August 2017 were the tipping point of the injustices and violations long endured by the Rohingyas and inaction by the rest of the world.

Sustained OIC and international pressure has forced Myanmar to sign a framework agreement with Bangladesh for the repatriation of Rohingya refugees on 23 November 2017. There, however, are many loopholes in this agreement, which must be fixed to ensure their safe and dignified return. Most importantly, there is a need to take a range of steps to assuage the concerns of petrified Rohingya refugees, who are unwilling to return without firm guarantees for their safety.

The IPHRC fact-finding mission to Cox's Bazar discovered details of the egregious human rights violations committed against the Rohingyas in Myanmar, which substantiate allegations of deplorable discrimination on the basis of their race, religion and origin in all spheres of life including their socio-economic, civil and political rights. The Commission, therefore, concludes that, despite IPHRC's inability to physically visit the Rakhine State and investigate (due to Myanmar's refusal to allow such a visit), there is a considerable body of empirical and circumstantial evidence, which lends credence to the allegations of human rights violations by the Myanmar security forces against unarmed and innocent civilians, resulting into torture, rape, extrajudicial killings and forced displacement. Based on the available data and findings of the field visit, the Commission also considers that

real scale of violations and atrocities in Myanmar is far more serious and grave than what was heard from the victims. The extent and severity of these violations have rightly obliged the UN High Commissioner for Human Rights to describe these as “text book examples of ethnic cleansing” and forced other human rights NGOs to call these as “crimes against humanity”. IPHRC extends its sincere appreciation to the Government of the People’s Republic of Bangladesh for the unfettered access and full logistical support provided to its delegation to visit Rohingya refugees’ camps in Cox’s Bazar, enabling it to undertake its mandated task with objectivity and neutrality. The Government of Bangladesh also deserves praises for the large-scale humanitarian assistance provided to the Rohingya refugees in an organized and consistent manner.

RECOMMENDATIONS

For the Government of Myanmar

- Take immediate and effective actions to put an end to all forms of human rights violations against innocent and unarmed Rohingya Muslims in Rakhine State and other parts of the country. To this end, the Government of Myanmar must initiate urgent, transparent and impartial investigations of all the allegations of human rights violations and swiftly bring to justice the perpetrators of these violations.
- Revise and replace all discriminatory policies and practices against its Rohingya population, and to take concrete steps to address root-causes of deprivation and discrimination of the Rohingya, including the core issue of right to nationality /citizenship and long-standing challenges to social and economic development through a human rights-based approach.
- Immediately allow its forcibly displaced Rohingya population in neighbouring countries, especially the over one million Rohingya refugees in Bangladesh, to return to their homeland in Rakhine State. It is critical for Rohingya to feel secure before returning to their homeland, hence, necessary steps must be taken to ensure their protection and guarantees for a dignified life on return. IPHRC recommends that the minimum conditions for any repatriation program must include a sustainable and voluntary return of Rohingya refugees in safety, security, dignity and with ensured livelihood including the provision of their fundamental human rights such as freedom of religion, movement and equal access to socio economic opportunities.
- Allow free and unfettered access to humanitarian aid agencies, facilitate UN and OIC fact finding missions for independent investigations into all alleged violations of international human rights law with a view to addressing these comprehensively.
- Address the disinformation/hate campaigns against Rohingya Muslims both in the public spaces and official media as well as initiate an inclusive and sustained interfaith dialogue process to foster peace and harmony between affected communities. To this end, the establishment of the long promised OIC Humanitarian office in Rakhine²³ will greatly help both the Myanmar and OIC countries.
- Immediately and positively implement the recommendations of the International Advisory (Kofi Annan) Commission on Arakan/Rakhine State. These include the longstanding demands to the Government of Myanmar by the international human rights community on issues of citizenship, freedom of movement, Internally Displaced Persons, unhindered humanitarian and media access, provision of education, health,

²³ https://www.oic-oci.org/upload/documents/acm_2017_rohingya_rep_en.pdf

and other development issues that are crucial to prevent violence, maintain peace, foster reconciliation and offer a sense of hope to the State's hard-pressed Rohingyas.

For the OIC, the UN and the International Community:

- IPHRC urges all OIC Member States, especially neighbouring countries of Myanmar to continue to engage and urge the Government of Myanmar to uphold its obligation of ensuring the promotion and protection of human rights of all its citizens in particular its persecuted Rohingya Muslim minority. OIC countries should also continue to raise these concerns at all appropriate international forums including the UN Human Rights Council in Geneva, UN General Assembly and the Security Council in New York.
- The Commission called upon the international community in general and OIC Member States in particular to do all they can to engage Myanmar to fulfil its international human rights obligations towards its Rohingya minority in a concrete and time bound manner, to abide by its obligations under international human rights law and to prevent further deterioration of the crisis in Rakhine state.
- IPHRC also urges the international community in particular the OIC countries to extend all out humanitarian assistance to the Rohingya population both internally displaced in Myanmar and those living in refugee camps in neighbouring countries.
- OIC should expedite the appointment of its Special Envoy on Rohingya, who should actively coordinate with relevant UN and international counterparts to duly highlight the plight of Rohingya as well as work with Myanmar government for a durable solution of Rohingya crisis through dialogue and development.
- The OIC Contact Group on Rohingya should utilize the opportunity of upcoming OIC CFM in Bangladesh to visit Cox's Bazar; deliberate on this issue in detail and make concrete recommendations on the subject.

For the IPHRC:

- The Commission should continue to closely follow the human rights situation of Rohingya Muslims; raise awareness about human rights violations against them in Myanmar and to do all it can to mitigate their sufferings in cooperation with the relevant regional and international human rights actors and stakeholders.
- IPHRC may continue to regularly brief the OIC Contact Group on Rohingya about the latest human rights situation in Rakhine State. IPHRC may also coordinate with OIC Missions in New York and Geneva to circulate the findings of this report widely with the UN and human rights organizations.
