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Security Council Update II: Ethnic Genocide in the Rakhine State

Introduction

The Rakhine State is located on the western coast of Myanmar where it borders Bangladesh and the Bay of Bengal.¹ Nearly 90 percent of Myanmar's population practice Buddhism, with the next predominant religion being Christianity at 6.2 percent and Islam at 4.3 percent, respectively.² The Rakhine State is populated mostly by Rakhine Buddhists and minority Rohingya Muslims.³ Following the passing of numerous government policies that resulted in discriminatory behavior toward Myanmar's Rohingya population in the 1970s, decades of violence between Myanmar's military and the Rohingya people have ensued. In August 2017 the region saw an uptick in violence, as Myanmar's military carried out an operation to "reinstat[e] stability" in response to attacks on government backed police by a Muslim insurgent group, known as the Arakan Rohingya Salvation Army (ARSA).⁴ This operation resulted in an estimated one million Rohingya fleeing to neighboring Member States for refuge. The United Nations (UN) would later deem this operation as having "genocidal intent" after reports of numerous alleged human rights abuses came to light.⁵

History

In 1974, Myanmar (known as Burma until 1989) passed a new constitution, following the military's successful coup d'état against the elected government, to establish one-party rule.⁶ They would later that year pass the "Emergency Immigration Act," which limited the rights of any persons from Bangladesh, China, or India and allowed the government to revoke citizen registration cards from those persons.⁷ In 1982 Myanmar's government passed legislature that limited citizenship based on ethnicity.⁸ Those impacted by the "Emergency Immigration Act" of 1974 and no longer had a citizen registration card, would no longer have citizen rights in Myanmar with this new legislature.⁹ In response to this discriminatory law, several protests formed throughout the Member State, which in turn led the military to invade communities in order to regain control in 1988.¹⁰ These acts were only the start of the "othering" process of the Rohingya.¹¹

¹ "Burma," *Central Intelligence Agency*, February 14, 2023, accessed February 19, 2023, <https://www.cia.gov/the-world-factbook/countries/burma/#people-and-society>

² "Burma," *Central Intelligence Agency*.

³ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*. A/HRC/39/64. September 12, 2018. https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_64.pdf

⁴ Eleanor Albert and Lindsay Mailand, "The Rohingya Crisis," *Council on Foreign Relations*, January 23, 2020, accessed February 19, 2023, <https://www.cfr.org/background/rohingya-crisis>

⁵ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

⁶ "Burma's Path to Genocide," *United States Holocaust Memorial Museum*, accessed February 19, 2023, <https://exhibitions.ushmm.org/burmas-path-to-genocide/timeline>

⁷ "Burma's Path to Genocide," *United States Holocaust Memorial Museum*.

⁸ "Burma's Path to Genocide," *United States Holocaust Memorial Museum*.

⁹ "Burma's Path to Genocide," *United States Holocaust Memorial Museum*.

¹⁰ "Burma's Path to Genocide," *United States Holocaust Memorial Museum*.

¹¹ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

Over 250,000 Rohingya fled to Bangladesh in the years 1991 and 1992 following the increased unrest throughout the Member State due to the military's force.¹² In 1992, the military established a border security force, known as Nasaka, to operate in the northern Rakhine State near the Bangladesh border, where the majority of Rohingya lived.¹³ The Nasaka were tasked with "enforcing the various discriminatory policies against the Rohingya—including travel restrictions, marriage restrictions, and the [...] two child limit."¹⁴ Myanmar's military continued to rule until 2012, after Myanmar's National League for Democracy (NLD) party won the most seats in parliament.¹⁵ Aung San Suu Kyi, became the head of the NLD, State Counsellor, and the de facto leader of Myanmar in 2016, in an election where the Rohingya were refused the right to vote or run for office.¹⁶ Following the election and new government, Buddhist and Muslim communities clashed in the Rakhine State.¹⁷ The UN Human Rights Council stepped in in 2017 to conduct an Independent International Fact-Finding Mission on Myanmar.¹⁸ At that time, Myanmar's government refused to cooperate with the UN.¹⁹

The year 2015 also saw the rise of a notable insurgent group known as ARSA. ARSA began as a branch of the United League of Arakan, a political organization.²⁰ Between 2018 and 2020, Myanmar's military, with the backing of Aung San Suu Kyi's government, fought heavily with the insurgent group, which resulted in the deaths of an estimated 9,000 Rohingya and over 700,000 Rohingya to find refuge in Bangladesh.²¹ In the year following the end of the 2021 military coup d'état that overthrew Aung San Suu Kyi's government, the Rohingya crisis in Myanmar's Rakhine State continues to feed into the growing ethnic-based militia armies, such as the Arakan Army, that have become "influential actors" in the Rohingya crisis.²²

Actions Taken by the United Nations

On September 12, 2018, the UN Human Rights Council published their report from their fact-finding mission on Myanmar's human rights situation.²³ The report highlighted instances of mass killings, displacement, and an "overwhelming levels of brutality."²⁴ The report made recommendations that the Security Council immediately place sanctions on Myanmar and the Member States top officials.²⁵ The findings documented in this report later substantiated the lawsuit filed by The Gambia against Myanmar in the International Court of Justice (ICJ) in 2019.²⁶

In the case of *The Gambia vs Myanmar*, the latter has been accused of violating the UN Genocide Convention in their actions towards the Rohingya.²⁷ The Genocide Convention was passed in 1948 following the genocide of six million Jews during World War II.²⁸ Myanmar's State Counsellor, Aung San Suu Kyi represented Myanmar at the

¹² "Burma's Path to Genocide," *United States Holocaust Memorial Museum*.

¹³ Jim Della-Giacoma, "Myanmar's 'Nasaka': Disbanding an Abusive Agency," *International Crisis Group*, July 16, 2013, accessed February 19, 2023, <https://www.crisisgroup.org/asia/south-east-asia/myanmar/myanmars-nasaka-disbanding-abusive-agency>

¹⁴ Jim Della-Giacoma, "Myanmar's 'Nasaka': Disbanding an Abusive Agency," *International Crisis Group*.

¹⁵ "Aung San Suu Kyi: Myanmar democracy icon who fell from grace," *BBC News*, December 6, 2021, accessed February 19, 2023, <https://www.bbc.com/news/world-asia-pacific-11685977>

¹⁶ "Burma's Path to Genocide," *United States Holocaust Memorial Museum*.

¹⁷ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

¹⁸ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

¹⁹ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

²⁰ Laetitia van den Assum, "Broader solution for Myanmar's Rakhine will be key for Rohingya," *Nikkei Asia*, January 5, 2023, accessed February 15, 2023, <https://asia.nikkei.com/Opinion/Broader-solution-for-Myanmar-s-Rakhine-will-be-key-for-Rohingya>

²¹ Laetitia van den Assum, "Broader solution for Myanmar's Rakhine will be key for Rohingya," *Nikkei Asia*.

²² Kyaw Lynn, "The Emergency of the ULA/AA and Question of the Rohingya Crisis," *Transnational Institute*, January 26, 2023, accessed February 15, 2023, <https://www.tni.org/en/article/the-emergence-of-the-ulaaa-and-question-of-the-rohingya-crisis>

²³ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

²⁴ Human Rights Council. *Report of the independent international fact-finding mission on Myanmar*.

²⁵ Eleanor Albert and Lindsay Mailand, "The Rohingya Crisis," *Council on Foreign Relations*.

²⁶ Eleanor Albert and Lindsay Mailand, "The Rohingya Crisis," *Council on Foreign Relations*.

²⁷ Eleanor Albert and Lindsay Mailand, "The Rohingya Crisis," *Council on Foreign Relations*.

²⁸ "Genocide Convention: Background," *UN Office on Genocide Prevention and the Responsibility to Protect*, accessed February 19, 2023, <https://www.un.org/en/genocideprevention/genocide-convention.shtml>

first hearing of the ICJ in December 2019 where she defended the actions of Myanmar's military. Since the initial hearings, Myanmar's NLD party was overthrown by Myanmar's military and Aung San Suu Kyi has been imprisoned. Myanmar is now represented in court by Myanmar's military-backed Minister for International Cooperation, Ko Ko Hlaing, and Union Attorney general, Thida Oo. In January 2020, the ICJ adopted "provisional measures to protect the Rohingya remaining in Myanmar from genocide," and ordered Myanmar to "prevent all genocidal acts against the Rohingya, to ensure that security forces do not commit acts of genocide, and to take steps to preserve evidence related to the case."²⁹ In addition, Myanmar would be responsible for submitting a report on compliance status every six months.³⁰ All ICJ court orders are sent to the UN Security Council for review and deliberation.³¹

In December 2022, the UN Security Council passed resolution 2669, which denounces violations made by Myanmar's military since the 2021 coup d'état.³² More specifically, the UN Security Council urges the support for the work being done by the Association of Southeast Asian Nations (ASEAN) in their efforts towards peaceful reconciliation between all ethnic parties within Myanmar.³³ In addition, the resolution addresses the need for heightened humanitarian assistance in the region and calls for the release of political prisoners, State Counsellor Aung San Suu Kyi and President Win Myint.³⁴ This resolution was the first to be passed regarding Myanmar by the UN Security Council since 1948 when the Member State first gained independence.³⁵

Recent Developments and Conclusion

The ongoing situation in the Rakhine State is one of many complexities. The years of conflict between Myanmar's military and the Rohingya have spilled over the borders of several neighboring Member States who also bare the impact of Myanmar's behavior towards the Rohingya. Today, there are nearly 600,000 Rohingya living in Myanmar that are restricted to living only in the Rakhine State due to government legislature.³⁶ As of October 2022, nearly one million Rohingya refugees live in overcrowded camps in Bangladesh and other neighboring Member States, with bleak hope they will be able to return to the Rakhine State of Myanmar soon as violence is still at a high in the region and the government remains unstable following the 2021 coup d'état.³⁷ Myanmar's military-run government has also placed travel and aid restrictions in September 2022 on Rohingya camps and banned the UN and other non-governmental organizations (NGOs) from operating within its border.³⁸

Despite efforts made by the United Nations, NGOs, and other Member States to diffuse the tensions between Myanmar's government and several pro-democracy and ethnic-based militia groups, such as ARSA, all discussions have been dismissed. The ICJ case of *The Gambia vs Myanmar* is still ongoing with Myanmar having until April 2023 to submit a counter-memorial in response to one filed by the Gambia in 2022.³⁹ The UN Security Council's recent resolution on Myanmar is a hopeful entry in the timeline of this ongoing crisis, but there is still room for improvements. With the help of the international community and cooperation, the crisis in Myanmar's Rakhine State will subside and Rohingya refugees will one day have the option to safely return to their homeland.

²⁹ "World Court Rejects Myanmar Objections to Genocide Case," *Human Rights Watch*, July 22, 2022, accessed February 19, 2023, <https://www.hrw.org/news/2022/07/22/world-court-rejects-myanmar-objections-genocide-case>

³⁰ "World Court Rejects Myanmar Objections to Genocide Case," *Human Rights Watch*.

³¹ "World Court Rejects Myanmar Objections to Genocide Case," *Human Rights Watch*.

³² UN Security Council resolution 2669. Opened for signature on December 21, 2022. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/767/33/PDF/N2276733.pdf?OpenElement>

³³ UN Security Council resolution 2669.

³⁴ UN Security Council resolution 2669.

³⁵ "Myanmar: Events of 2022," *Human Rights Watch*, accessed February 19, 2023, <https://www.hrw.org/world-report/2023/country-chapters/myanmar#a48a3b>

³⁶ "Myanmar: Events of 2022," *Human Rights Watch*.

³⁷ "Rohingya Refugee Crisis," *UN Office for the Coordination of Humanitarian Affairs*, accessed February 19, 2023, <https://www.unocha.org/rohingya-refugee-crisis>

³⁸ "Myanmar: Events of 2022," *Human Rights Watch*.

³⁹ International Court of Justice. *Application of the Convention of the Prevention and Punishment of the Grime of Genocide (The Gambia vs Myanmar)* Year 2022. July 22, 2022. <https://www.icj-cij.org/public/files/case-related/178/178-20220722-ORD-01-00-EN.pdf>