

# HEAR OUR SCREAMS!

## Making a case for the Rohingya genocide

"When you see measures preventing births, trying to deny the identity of the people, hoping to see that they really are eventually, that they no longer exist; denying their history, denying the legitimacy of their right to live where they live, these are all warning signs that mean it's not frivolous to envisage the use of the term genocide." - *Professor William Schabas*, former president of the International Association of Genocide Scholars, on the position of the Rohingya in <http://m.aljazeera.com/story/2012125122215836351/>



Source: <https://twitter.com/IHHen/status/439712908788768768/photo/1/>

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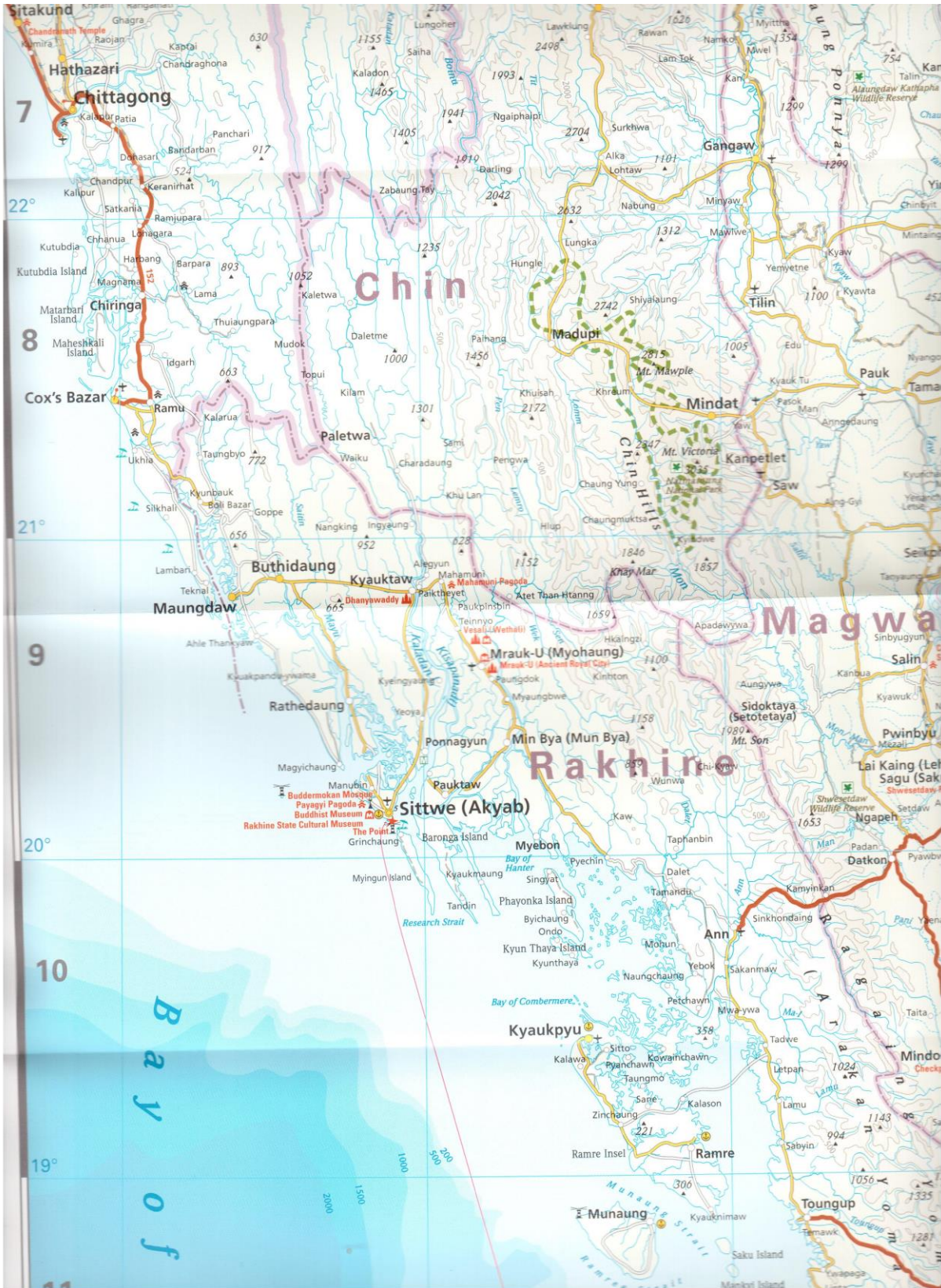
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## A. INTRODUCTION

1. This report represents a well-documented scream for help. It aims to warn and informs the international community of the imminent threat of genocide on the Rohingya people of Myanmar. It further strives to formulate a plea for immediate international action. The report contains a map of the areas where the violence has been concentrated including a time line of the recent violence, and an overview of where the violence stems from. This is followed by an exposition of the legal instruments pertaining to genocide within the framework of international law and a detailed presentation of the brutal conditions under which the Rohingya are forced to live. This report is based on locally sourced information and numerous reports by human rights organisations and articles.
2. The information is structured in relation to the eight stages of genocide, as proposed by Gregory H. Stanton on Genocide Watch, which is a run by a coalition that aims to predict, prevent, stop, and punish genocide and other forms of mass murder<sup>1</sup>. The facts presented within the eight stages will then be analysed normatively within the framework of the international law on genocide. The outcome is that, amid an atmosphere of extermination, a genocide against the Rohingya is both probable and possibly already underway. Sections containing practical steps by which this imminent genocide against the Rohingya may be averted as well as calls to the United Nations, international community and the Burmese authorities to take immediate and effective action conclude this report.
3. This report presents both an update to previous reports outlining the risks of an imminent genocide against the Rohingya and a detailed analysis of developments leading up to a future genocide<sup>2</sup>. In conclusion, a number of measures are recommended, that need to be taken if genocide is to be averted.
4. The report has been co-authored by Protect the Rohingya<sup>3</sup>, which is a South African based awareness organisation that advocates for the rights of the

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<sup>1</sup> An earlier article using this approach is to be found at <http://www.undispatch.com/the-8-stages-of-genocide-against-burmas-rohingya/>

<sup>2</sup> A good collection of prior reports is to be found at <http://www.burmacampaign.org.uk/index.php/news-and-reports/burma-briefing/>

<sup>3</sup> Protect the Rohingya has a regularly updated Facebook page on [https://www.facebook.com/groups/308153155947556/565850323511170/?notif\\_t=group\\_activity/](https://www.facebook.com/groups/308153155947556/565850323511170/?notif_t=group_activity/)

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Rohingya, and the Muslim Lawyers Association which is a non-profit making body committed towards creating a community free of injustices as prescribed by Islam<sup>4</sup>.

5. According to the United Nations the Rohingya are one of the most persecuted minorities in the world today<sup>5</sup>. Reports from some of the most high-profile NGOs such as Human Rights Watch and Physicians For Human Rights have raised alarms in recent years about the brutal crimes that have been committed against the Rohingya with impunity<sup>6</sup>.
6. In September of 2013, the Sentinel Project for Genocide Prevention concluded a report stating that the risk of genocide or related mass atrocities in Burma, especially against the Muslim Rohingya minority in Rakhine state, is extremely high<sup>7</sup>.
7. The Rohingya people are an ethnic group who practice Islam and mainly speak Rohingya, an Indo-European language closely related to Chittagonian. They are indigenous to the Burmese state of Rakhine, formerly the independent state of Arakan or Rohang, and one of the poorest areas in an already poor country<sup>8</sup>. Some Rohingya are known to speak other languages such as Rakhine or Burmese. As of 2014, 800,000 Rohingya are estimated to live in Burma. Of these, the

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<sup>4</sup> <http://www.mlajhb.com/>.

<sup>5</sup> The source of this remark is unclear, but generally repeated in the media. One article attributes the phrase to Médecins sans Frontières, see <http://akrockefeller.com/features/rohingya/>. Even a pro-regime publication such as the Myanmar Times, while casting doubt about the source of this characterization, has to admit the Rohingya are experiencing “extreme persecution”. See <http://www.mmtimes.com/index.php/national-news/7376-origin-of-most-persecuted-minority-statement-unclear.html/>. In its thorough report of 2010, the Irish Centre for Human Rights was moved to remark: “During the meetings conducted as part of this Report, it was stated more than once by individuals working for international organizations, that the level of abuse against the Rohngyas is amongst the worst they have seen in relation to all their international experience, not only in Burma.”; see Irish Centre for Human Rights, *Crimes against Humanity in Western Burma: The Situation of the Rohingyas*, p. 17, to be found at <http://www.burmacampaign.org.uk/index.php/news-and-reports/reports/title/crimes-against-humanity-in-western-burma-the-situation-of-the-rohingyas/>.

<sup>6</sup> See for instance a report on ethnic cleansing by Human Rights Watch at <http://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims/> and the Physicians for Human Rights report “Stateless and Starving. Persecuted Rohingya Flee Burma and Starve in Bangladesh” at <http://physiciansforhumanrights.org/library/reports/rohingya-in-bangladesh-2010.html/>.

<sup>7</sup> See <http://thesentinelproject.org/new-report-high-risk-of-genocide-in-burma/>.

<sup>8</sup> See [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_288.pdf/](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_288.pdf/).

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majority live in the northern part of Rakhine State, where they make up 80% of the population. Additionally hundreds of thousands of Rohingya have been driven out of Burma by the authorities and live in other countries in the region like Bangladesh, India, Thailand, Malaysia and Pakistan<sup>9</sup>.

8. It is worth mentioning that besides the Rohingya, there are several other smaller groups of Muslims living in Burma. Some belong to other ethnicities, such as the Kaman from the central Rakhine town of Thandwe, and others inhabit the central and eastern parts of Burma<sup>10</sup>.
9. Information about the different Islamic communities in the country has been scant and severely restricted due to the bans on freedom of the media by the Burmese government<sup>11</sup>. The areas of Rakhine state where the Rohingya are concentrated have also been closed off to foreign observers. The information that does leak out is usually via the internet or mobile phones and at a great risk to those providing it<sup>12</sup>.

## **B. INSTRUMENTS**

10. According to the Convention on the Prevention and Punishment of the Crime of Genocide<sup>13</sup>, genocide is "the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group."
11. More specifically, any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, is considered as genocide:

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<sup>9</sup> For a good general introduction see [http://en.wikipedia.org/wiki/Rohingya\\_people/](http://en.wikipedia.org/wiki/Rohingya_people/). There is much dispute as to exact facts between different authorities and groups, caused to a large extent by the efforts of the Burmese authorities to restrict all access and information on this subject. For a pictorial introduction, see <http://www.exiledtonowhere.com/index.php#s=0&mi=2&pt=1&pi=10000&p=0&a=0&at=0/>.

<sup>10</sup> For an overview, see [http://en.wikipedia.org/wiki/Islam\\_in\\_Burma/](http://en.wikipedia.org/wiki/Islam_in_Burma/)

<sup>11</sup> See <http://mumbrella.com.au/challenges-reporting-myanmar-209146/>.

<sup>12</sup> See for a map showing the northern part of Rakhine state is a restricted area <http://www.anatoleetsophie.com/blog/birmanie/birmanie-petit-bilan.html>

<sup>13</sup> See for the official tekst <http://www.hrweb.org/legal/genocide.html>

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- a. killing members of the group;
- b. causing serious bodily or mental harm to members of the group;
- c. deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part;
- d. imposing measures intended to prevent births within the group, and
- e. forcibly transferring children of the group to another group.

12. Article 2 of the Convention characterises genocide by two constitutive elements:<sup>14</sup>

- a. the *actus reus* of the offence, which consists of one or several of the acts enumerated under Article 3;
- b. the *mens rea* of the offence, which is described as the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such. (a critical determination must still be made as to whether the offences were committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group.)

13. The *actus reus* component of the offence is straightforward while the *mens rea* component requires further elucidation and will be discussed briefly below: first, the “intent to destroy” and second, the meaning of “in part”.

### **‘Intent to destroy’**

14. In 2007 the European Court of Human Rights (ECHR), noted in its judgement in the *Jorgic v. Germany* case that in 1992 the majority of legal scholars took the narrow view that “intent to destroy” in the CPPCG meant the intended physical-biological destruction of the protected group and that this is still the majority opinion<sup>15</sup>.

### **‘In part’**

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<sup>14</sup> See an exposition of this William Shabas, *Genocide in International Law. The Crime of Crimes*, Cambridge University Press, 2009, chapters 4 and 5.

<sup>15</sup> See for the text of this case, <http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-81608#%7B%22itemid%22:%5B%22001-81608%22%7D>

15. The International Criminal Tribunal for the Former Yugoslavia found in Prosecutor v. Radislav Krstic – Trial Chamber I – Judgment – IT-98-33 (2001) ICTY8 (2 August 2001)[26] that Genocide had been committed. In Prosecutor v. Radislav Krstic – Appeals Chamber – Judgment – IT-98-33 (2004) ICTY 7 (19 April 2004)[27] paragraphs 8, 9, 10, and 11 addressed the issue of in part and found that "the part must be a substantial part of that group. The aim of the Genocide Convention is to prevent the intentional destruction of entire human groups, and the part targeted must be significant enough to have an impact on the group as a whole."<sup>16</sup>

#### **CPPCG coming into force**

16. After the minimum 20 countries became parties to the Convention, it came into force as international law on 12 January 1951. Myanmar/Burma has signed and ratified the CPPCG, but has asserted certain reservations which explicitly require its consent to trial any of its citizenry before an international court for the crime of genocide<sup>17</sup>.

#### **UN Security Council on genocide**

17. UN Security Council Resolution 1674, adopted by the United Nations Security Council on 28 April 2006, "reaffirms the provisions of paragraphs 138 and 139 of the 2005 World Summit Outcome Document regarding the responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity". The resolution committed the Council to action to protect civilians in armed conflict<sup>18</sup>.

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<sup>16</sup> For the documents on this case, see <http://www.icty.org/case/krstic/4> .

<sup>17</sup> See [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-1&chapter=4&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-1&chapter=4&lang=en) under Myanmar.

<sup>18</sup> For the text of the resolution see <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N06/331/99/PDF/N0633199.pdf?OpenElement> , for an commentary see [http://en.wikipedia.org/wiki/United\\_Nations\\_Security\\_Council\\_Resolution\\_1674](http://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1674)



18. In 2008 the U.N. Security Council adopted resolution 1820, which noted that “rape and other forms of sexual violence can constitute war crimes, crimes against humanity or a constitutive act with respect to genocide”<sup>19</sup>.

### **C. EIGHT STAGES LEADING TO GENOCIDE**

19. “Genocide is a process that develops in eight stages that are predictable but not inexorable” - Gregory H. Stanton, President, Genocide Watch<sup>20</sup>.

#### **(a) Classification:**

20. Burma is a country, with many ethnic groups, of these the Buddhist Burman ethnicity constitutes the largest. Most of the larger ethnicities are Buddhist as well although smaller numbers of Muslims, Christians, Hindus, and animists are present too<sup>21</sup>. Soon after independence on 4 January 1948 fighting broke out between the army of the newly independent state, led by Ne Win, on one side and several armies of ethnic minorities and communists on the other. Many years of fighting and outside assistance were required to retain the integrity of the country. Among the ethnic armies, an army made of Muslim Rohingya seems to have tried to secede the northern parts of Arakan from Burma, but was defeated<sup>22</sup>. During the unsuccessful period of parliamentary politics from 1948 to 1962 under the leadership of U Nu, the army gradually gained in strength. U Nu increasingly warned of a fascist danger towards democracy and established Buddhism as the state religion in the Constitution of 1961. Several important ethnicities protested against this move, including the Rohingya. In spite of assurances towards the other main religions, including Islam, which was officially recognised, this served to raise sectarian tensions. When the protection of the other, non-Buddhist religions was passed into law that same year, some Buddhist

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<sup>19</sup> For the text of this resolution, see [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=S/RES/1820%282008%29](http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1820%282008%29), for a commentary see [http://en.wikipedia.org/wiki/United\\_Nations\\_Security\\_Council\\_Resolution\\_1820](http://en.wikipedia.org/wiki/United_Nations_Security_Council_Resolution_1820)

<sup>20</sup> See <http://www.genocidewatch.org/aboutgenocide/8stagesofgenocide.html>

<sup>21</sup> See [http://en.wikipedia.org/wiki/Burma#Ethnic\\_groups](http://en.wikipedia.org/wiki/Burma#Ethnic_groups)

<sup>22</sup> See [http://en.wikipedia.org/wiki/Rohingya\\_conflict\\_in\\_Western\\_Burma](http://en.wikipedia.org/wiki/Rohingya_conflict_in_Western_Burma)

monks rioted and seized a mosque in Rangoon<sup>23</sup>. This was one of the first times Buddhist monks publicly expressed their intolerance of Islam. A year later, Prime-Minister U Nu in an attempt to shore up his support, established a separate state for the Arakanese, who used to form an independent state until the late 18th century<sup>24</sup>, and Arakan was henceforth known as Rakhine State. In order to forestall a genuine federal system and defeat the various rebel movements, however, the army under Ne Win took over power on 2 March 1962<sup>25</sup>.

21. From the beginning, the military put forward the vision of a united country under a strong central state with Buddhism as its state religion. Only Buddhists were deemed to be 'true' Burmese. The British colonial period was seen as a time of humiliation for many Burmese when Burma was classed by Britain as being part of India<sup>26</sup>. The army pointed out there were large numbers of immigrants from India, and that these "Indians" were associated as being part of colonial rule. In the early sixties a first massive group of ethnic "Indians" was forced to leave the country for India and Pakistan. True to the traditional policies of the old Burmese kings, the Buddhist sanghas, or monk orders, were tightly linked to the government and a growing lay –also military- involvement in religious Buddhist affairs was fostered from the late fifties onwards. This culminated in a situation in the past decade where the head of Burmese military intelligence was at the same time the Minister of Religious Affairs<sup>27</sup>. It was at this time, that a

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<sup>23</sup> For an extensive overview of the role of Buddhist monks in Burmese politics, see [http://www.genocidewatch.org/images/Myanmar\\_09\\_09\\_22\\_The\\_Resistance\\_of\\_the\\_Monks.pdf/](http://www.genocidewatch.org/images/Myanmar_09_09_22_The_Resistance_of_the_Monks.pdf/).

<sup>24</sup> For the history of Arakan as an independent state, see Michael W. Charney, *Arakan, Min Yazagyi, and the Portuguese*, (thesis at Ohio State University), 1993; for view that posits the Rohingya as indigenous to the area, see [http://www.islamawareness.net/Asia/Burma/ro\\_article003.html/](http://www.islamawareness.net/Asia/Burma/ro_article003.html/). There is also a site that pleads for restoration of Arakan as an independent state. Old maps show on it show clearly that that state was a mixed Buddhist-Islamic state, as it also included the area around Chittagong, which is part of Bangladesh today. Hence it is hardly surprising that the Rohingya in Northern Rakhine claim to be indigenous. See [http://www.arakanland.com/rich\\_text.html/](http://www.arakanland.com/rich_text.html/). Burmese MP Shwe Maung for Buthidaung Town constituency said much the same in a speech before the Burmese parliament, <http://www.ndphr.net/2012/07/mp-u-shwe-maungs-parliamentary-speech.html/>.

<sup>25</sup> For the overall information in this paragraph, see Maung Maung, *Burma and General Ne Win*, Asia Publishing House, 1969.

<sup>26</sup> See for the information in this paragraph, Maung Maung, *Burma and General Ne Win*, chapters 9 and 10.

<sup>27</sup> See Ingrid Jordt, *Burma's Mass Lay Meditation Movement. Buddhism and the Cultural Construction of Power*, Ohio University Press, 2007.

policy of Burmisation was instituted that hardened the other major ethnicities in their open rebellion. The Burmisation policy was carried out through the school curriculum<sup>28</sup>, in which the ancient Burmese kings were presented as main national references, the "Myanmar" identity was projected back in history, and the Thai, along with British colonialists, were designated as historical enemies of the nation. Muslims were portrayed as the agents of the British. In answer to the centrifugal forces of the minority ethnicities, the army pursued a heavy handed approach to economic 'development'<sup>29</sup>. Large numbers of people in ethnic minority areas were forcibly displaced and conscripted to work without compensation. A culture of impunity developed in the army in the face of ongoing severe human rights violations<sup>30</sup>. This policy was largely condoned by outside powers, such as China, the ASEAN and the Western powers.

22. In 1974 the Burmese authorities decided to move against the Rohingya. As part of the ongoing Burmisation policy, the military government issued the Emergency Immigration Act, which stripped the Rohingya of their Burmese nationality<sup>31</sup>. Under the act, all Burmese citizens were required to present National Registration Certificates, but the Rohingya were only issued Foreign Registration Cards, i.e. non-national cards. Despite evidence that Rohingya had been inhabitants of the northern and central Rakhine State for centuries<sup>32</sup>, the Rohingya's claims to indigenesness was rejected by the Burmese government and from then on they were treated officially and legally as unwelcome migrants from Bangladesh. All 'so-called' Rohingya, it was claimed, were the direct descendants of migrants from Bengal during the British colonial period. In other words, they were no longer recognised as one of the "indigenous races" of Burma, but rather seen as 'aliens'. Several years later, in 1977-78, the army moved to carry out the logic of the law. It proceeded to register every person living in

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<sup>28</sup> See Nicolas Salem-Gervais and Rosalie Metro, "A Textbook Case of Nation-Building: The Evolution of History Curricula in Myanmar" in *Journal of Burma Studies*, Volume 15(2).

<sup>29</sup> See, for instance, <http://www.ash.harvard.edu/extension/ash/docs/creating.pdf/>.

<sup>30</sup> See for a legal approach to this culture of impunity, <http://www.nd-burma.org/documentation/other-resources/item/76-revealing-burma%E2%80%99s-system-of-impunity.html>

<sup>31</sup> See [http://www.burmalibrary.org/docs14/Kei\\_Nemoto-Rohingya.pdf/](http://www.burmalibrary.org/docs14/Kei_Nemoto-Rohingya.pdf/)

<sup>32</sup> See *The Encyclopedia of Islam*, Brill, CD-Rom Edition 1.0, 1999 under "Arakan".

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Burma and take action against 'foreigners' who had filtered into the country illegally. This Nagamin, or King Dragon Operation, developed into an ethnic cleansing campaign, that drove between 200,000 and 250,000 Rohingya from their homes in central and northern Rakhine State into neighbouring Bangladesh. After causing the starvation of about 10,000 Rohingya with the aim of pushing them back, Bangladesh succeeded in having the remainder of the refugees return home to Burma<sup>33</sup>.

23. The expulsion of the Rohingya was partly occasioned because the Buddhist Rakhine formed a group within Burma, who had long been ignored by the ethnic Burmans and who strongly resented the Rohingya<sup>34</sup>. Rakhine is state is one of the poorest states in Burma, which is the poorest states of the world<sup>35</sup>. Many Rakhine will not settle for less than the complete departure of all the Rohingya. The poverty and economic underdevelopment of the area and the depredation of the Burmese army are important factors behind these sentiments<sup>36</sup>.

24. In 1982 a new Nationality Law was enacted in Burma, which again excluded the Rohingya<sup>37</sup>. It denied citizenship to those who could not verify their ancestry in

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<sup>33</sup> See <http://www.hrw.org/reports/2000/burma/burm005-01.htm/> and also Silvia Gaetano, *How to Protect the Rights of the Stateless Rohingya?*, paper at the Institute of Law, Politics and Development, p. 11 to be found on [https://www.academia.edu/4970444/How\\_to\\_protect\\_the\\_rights\\_of\\_the\\_stateless\\_Rohingya\\_people\\_in\\_Myanmar/](https://www.academia.edu/4970444/How_to_protect_the_rights_of_the_stateless_Rohingya_people_in_Myanmar/)

<sup>34</sup> Aye Chan describes the way the Rakhine have been ignored by the Burmese authorities in <https://www.soas.ac.uk/sbbr/editions/file64388.pdf/>.

<sup>35</sup> See, for instance, <http://www.worldbank.org/en/country/myanmar/overview/>; see also the already cited World Food Programme Report from 2011, [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_288.pdf/](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_288.pdf/).

<sup>36</sup> See Kyaw Yin Hlaing, Robert H. Taylor and Tin Maung Maung Than (eds.), *Myanmar. Beyond Politics to Societal Imperatives*, ISEAS Publications, 2005, p. 59 and pointing to the complexities of the situation, see <http://www.eurasiareview.com/21022014-myanmars-religious-violence-buddhist-siege-mentality-work-analysis/#.Uwc6kDBjX71.mailto/>

<sup>37</sup> For information on this law, see Tun Tun Aung, *An Introduction to Citizenship Card under Myanmar Citizenship Law* to be found at <http://dspace.lib.niigata-u.ac.jp:8080/dspace/bitstream/10191/6399/1/>; Muhammad Saad Lakhani, *Statelessness and Ethnic Discrimination*, p. 12 for the origins of the law to be found at [http://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDUQFjAA&url=http%3A%2F%2Fwww.academia.edu%2F3660933%2FStatelessness\\_and\\_Ethnic\\_Discrimination&ei=1D8LU-zFH8KYyAQjs4DICQ&usq=AFQjCNEXE1QCYxtnL7XWFrAutWLT4Doa4g&sig2=ulxS8on-ub-fcnDwNwqrwg&bvm=bv.61725948,d.bGQ/](http://www.google.nl/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0CDUQFjAA&url=http%3A%2F%2Fwww.academia.edu%2F3660933%2FStatelessness_and_Ethnic_Discrimination&ei=1D8LU-zFH8KYyAQjs4DICQ&usq=AFQjCNEXE1QCYxtnL7XWFrAutWLT4Doa4g&sig2=ulxS8on-ub-fcnDwNwqrwg&bvm=bv.61725948,d.bGQ/); and Silvia Gaetano, *How to Protect the Rights of the Stateless Rohingya?*, pp 20-22.

Burma prior to British colonial rule and as such seems to be crafted specifically with the intention of excluding the Rohingya. This piece of legislation is still enforced today. In a census in 1983, the Rohingya were duly counted as 'others', i.e. as foreigners called 'Bengali'. Subsequently, the Burmese government issued Citizen Scrutiny Cards to its citizens in 1989. Again the Rohingya, who lived in Northern Rakhine state were not included, although many Rohingya, who lived elsewhere in Burma, did receive these cards and many were allowed to take part in the 1990 elections<sup>38</sup>. In the wake of the 1974 National Registration Cards, new massive expulsions took place from Northern Rakhine State in 1991-92, during the first Gulf War in the Middle East<sup>39</sup>. Again Bangladesh left the Rohingya out in the cold and many were subsequently and often involuntarily repatriated to Burma<sup>40</sup>.

25. Faced with its inability to expel the Rohingya, the central authorities began to issue personal identity documentation to the stateless Rohingya of Northern Rakhine from 1995 onwards. They were handed Temporary Registration Certificates (TRCs), as a method of confirming the lawful residence of the holders in northern Rakhine State<sup>41</sup>. This status was further strengthened by the fact that the Rohingya with TRCs were allowed to vote in the successive national elections from 2008 onwards<sup>42</sup>.
26. The reaction to this looming emancipation and a growing nationalistic Buddhist backlash both in the central areas of Burma and locally in Rakhine State worked against the Rohingya. According to this movement, there were no Rohingya in

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<sup>38</sup> See Irish Centre for Human Rights, *Crimes against Humanity in Western Burma: the Situation of the Rohingyas*, p. 26.

<sup>39</sup> See for a report on conditions then <http://www.ibiblio.org/obl/docs/AI-Rohingyas92.htm/>.

<sup>40</sup> See <http://www.unhcr.org/4ee754c19.html/>, Kei Nemoto, *The Rohingya Issue: A Thorny Obstacle between Burma (Myanmar) and Bangladesh* to be found at [http://www.burmalibrary.org/docs14/Kei\\_Nemoto-Rohingya.pdf/](http://www.burmalibrary.org/docs14/Kei_Nemoto-Rohingya.pdf/)

<sup>41</sup> See <http://www.kaladanpress.org/news/114-news-2009/december-2009/2292-temporary-registration-card-trc-for-arakanese-rohingya/>. An operation that was repeated in 2009, as this article points out.

<sup>42</sup> In part, but not entirely, this was caused by the attempts of the military junta to buy votes. See Network for Democracy and Development, *Burma: A Violent Past to a Brutal Future. The Transformation of a Paramilitary Organization into a Political Party*, 2010, p. 43 to be found at <http://www.nd-burma.org/news/644-burma-aviolent-past-to-a-brutal-future.html/>.

Burma, but only illegal Bengalis<sup>43</sup>. Also that prior to the British era, there had been no Muslims present in Rakhine State at all and that these “illegal Bengalis” had been brought in by the British with the sole purpose of controlling the Burmese<sup>44</sup>. The state-run press studiously referred to ‘locals’ and ‘Bengalis’ to distinguish between Buddhist Arakanese and Muslim Rohingya<sup>45</sup>. Strong racist overtones also prevailed, with the darker skinned ‘Indian’ Rohingya being distinguished from the more pale skinned Burmese and Arakanese<sup>46</sup>, who shared the race of the Buddha who was born, not very far away, in Nepal<sup>47</sup>.

27. In recent years the Burmese government has again repeatedly and openly disputed the right of the Rohingya to live in Burma, as well as, asked for international assistance to remove them from the state entirely. The “only solution”, government officials maintained, would be to expel the Rohingya to other countries or to camps overseen by the UN High Commissioner for Refugees (UNHCR)—undoubtedly a reference to UNHCR camps in Bangladesh. “We will send them away if any third country would accept them,” Thein Sein, the president of Burma, said<sup>48</sup>. “This is what we are thinking is the solution to the issue.” The UNHCR quickly rejected the proposal, saying, “As a refugee agency we do not usually participate in creating refugees.”<sup>49</sup> During a visit to Europe,

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<sup>43</sup> An example of this view is to be found on <http://rohingyaaremurderers.blogspot.nl/>. A more official Burmese version is to be found on [http://myanmar.e-consulate.org/Myanmar/Myanmar\\_current\\_news\\_090130.html/](http://myanmar.e-consulate.org/Myanmar/Myanmar_current_news_090130.html/). In

<sup>44</sup> An articulate view supporting this standpoint is to be found at <http://www.slideshare.net/Ohnmaroo/burma-myanmar-bengali-socalled-rohingya-citizenship-problem/>. This view takes the British conquest of Burma in 1825 as hour zero and ignores the fact that independent Arakan prior to 1785 had extended into areas that are now part of Bangladesh and known a strong Islamic influence at its court.

<sup>45</sup> See, for instance, Maung Tha Hla, “In the Name of Human Rights” in *Rakhaing Guardian*, 28 December 2013 on <http://rakhainguardian.blogspot.nl/2013/12/normal-0-false-false-false-en-us-x-none.html/>.

<sup>46</sup> For a discussion at length based on this approach, see U Shwe Zan and Dr. Aye Chan, *Influx Viruses. The Illegal Muslims in Arakan*, New York, 2005, to be found on <http://anti-rohingya.blogspot.nl/2011/10/influx-virus.html/>.

<sup>47</sup> For the view that the Buddha was of the Mongoloid race, see i.a. Roger Bischoff, *Buddhism in Myanmar. A Short History* on <http://www.accesstoinsight.org/lib/authors/bischoff/wheel399.html/>.

<sup>48</sup> See <http://www.unhcr.org/cgi-bin/texis/vtx/refdaily?pass=463ef21123&date=2012-07-13&cat=Asia/Pacific/>.

<sup>49</sup> See <http://www.google.com/hostednews/afp/article/ALeqM5g9uu1BfJAXm4g5bnobdaFjOOXJ3w?docId=CNG.120afc0009d2e67fc7a25839be1e4986.f1&hl=en/>.

President Thein Sein re-iterated that he had ‘no plans’ to revise or repeal the 1982 Citizenship Law, stating “the law is intended to protect the nation”<sup>50</sup>.

28. Similarly, the democracy icon and opposition party leader Aung San Suu Kyi has refrained from directly defending the Rohingya<sup>51</sup>. In a European tour during the crisis—her first trip abroad in 24 years—she characterized the sectarian violence in Rakhine State incorrectly as the result of the government’s failure to enforce its immigration laws. She said she “does not know”, if the Rohingya should be considered Burmese, lending credence to popular views that Rohingya are foreigners or “intruders.” She suggested “some of them” would meet the requirements of the citizenship law, and blamed the problem on the law’s lack of clarity<sup>52</sup>. Other opposition leaders have made clear they do not view the Rohingya as Burmese citizens<sup>53</sup>.

### **(b) Symbolization**

29. In recent years the categorization of Muslims in general and the Rohingya in particular has given rise to clear symbolization, which has served to distinguish the Buddhist majority from the Islamic minorities.

30. At one level use is being made by racist Buddhists of the popular symbolism of numbers, in which the Buddhists are designated by the number 969 and the Muslims by the number 786<sup>54</sup>. The numbers 969 have been skewed in Burma from celebrating virtues of religious figures to becoming a calling card for the

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<sup>50</sup> See <https://www.dvb.no/news/suu-kyi-calls-on-citizenship-law-to-be-revised/27605/>.

<sup>51</sup> Reflecting the pressures she is under, Daw Aung San Suu Kyi has called for amendments to the 1982 Nationality Law (see the previous note) and has called Rohingyas “illegal immigrants from Bangladesh”, see [http://www.chinadaily.com.cn/xinhua/2012-11-19/content\\_7535474.html/](http://www.chinadaily.com.cn/xinhua/2012-11-19/content_7535474.html/).

<sup>52</sup> For these remarks see the interview with Daw Aung San Suu Kyi on <http://www.rfa.org/english/news/myanmar/rakhine-06142012192635.html/>.

<sup>53</sup> See for instance Ko Ko Gyi, spokesperson of the 8888 Generation, on <http://www.youtube.com/watch?v=mu33MzdCoOA/> and more recently, <http://www.mmtimes.com/index.php/opinion/9519-why-the-government-is-right-to-deny-rohingya-citizenship.html/>.

<sup>54</sup> For a description of the numerology behind this, see Peter A. Coclanis, “Terror in Burma: Buddhist vs. Muslims” to be found on <http://strategicstudyindia.blogspot.nl/2013/12/terror-in-burma-buddhists-vs-muslims.html/>.

nationalist Buddhist group the 969 Movement<sup>55</sup>. Numerous stickers in public places and on cars and other vehicles display '969' against a background of Buddhist symbols and colours. It is ostensibly a pride movement that urged Buddhists to patronize Buddhist shops<sup>56</sup>. But the loudest proponents of 969 are a group of nationalist, extremist monks led by Ashin Wirathu, who was on the cover of Time magazine's 20 June 2013 issue as, "The face of Buddhist terror"<sup>57</sup>.

31. They group urges its followers to avoid all shops unwilling to fix the 969 emblem to their storefronts<sup>58</sup>. The numbers '969' in Buddhism symbolize the virtues of the Buddha, Buddhist practices and the Buddhist community. The first '9' stands for the 9 special attributes of the Buddha and the '6' for the 6 special attributes of his *Dharma*, or Buddhist teachings and the last '9' represents the 9 special attributes of the Buddhist *Sangha*, or monks<sup>59</sup>.

32. Similarly, it would be a common sight in the past to see the numbers "786" affixed to local Muslim owned houses and businesses to signify their religious pride and to encourage Muslim patrons. This numerological symbolism has also had a long-standing presence in South Asia in general and also in Burma. 786 denotes the total value assigned to the letters of the phrase, "Bismillah al-Rahman al-Rahim" which appears at the beginning of almost every chapter within the Quran and translates as: 'In the name of God the Beneficent the Merciful'<sup>60</sup>.

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<sup>55</sup> On the 969 Movement see [http://en.wikipedia.org/wiki/969\\_Movement/](http://en.wikipedia.org/wiki/969_Movement/); <http://www.ipcs.org/article/myanmar/myanmar-profiling-the-969-movement-4029.html>; <http://www.buddhistpeacefellowship.org/the-969-movement-and-burmese-anti-muslim-nationalism-in-context/> and <http://www.ruom.net/portfolio-item/inside-969-movement/>. This movement has been banned by the official Burmese Buddhist monk committee; see <http://shambhalasun.com/news/?p=50222/>.

<sup>56</sup> See <http://www.globalpost.com/dispatch/news/regions/asia-pacific/myanmar/130326/969-anti-muslim-buddhist-riots-burma/>.

<sup>57</sup> For freely accessible version of this article, see <http://khanyzdanilibrary.blogspot.nl/2013/07/the-face-of-buddhist-terror.html/>.

<sup>58</sup> See <http://www.burmacampaign.org.uk/index.php/news-and-reports/burma-briefing/title/examples-of-anti-muslim-propaganda/>.

<sup>59</sup> See Peter A. Coclanis, "Terror in Burma: Buddhist vs. Muslims".

<sup>60</sup> See Coclanis, "Terror in Burma".



33. From pictures it is apparent that often the red scarf wearing riot control brigade are complicit in the violence along with border guards, security, check-point guards and the general Rakhine population<sup>61</sup>.
34. Finally, symbolisation has been used to feed racial preconceptions about the Rohingya, portraying them as brown, 'Indian' or 'Bengali' Muslims, who speak the Rohingya language. In actual fact there are many Rohingya, who speak Rakhine or Burmese as their first language and who look like their Rakhine neighbours<sup>62</sup>.

**(c) Dehumanization**

35. As a result of the legal categorization of the Rohingya as "illegal Bengali" and the resultant social exclusion in a country where human rights abuses by the army and the population have enjoyed close to complete impunity, an ongoing process of progressive dehumanization is happening<sup>63</sup>. Fundamentally as 'aliens', Rohingya are denied access to education and employment<sup>64</sup>. Many are engaged in forced labour<sup>65</sup>. Their shops and businesses are targeted with calls to, "Stop shopping from 'Kalars'" or any shops with the 786 sign or that sell Halal meat, which is meat prepared according to prescribed Islamic laws<sup>66</sup>. During pogroms, shops and businesses are always plundered and set on fire<sup>67</sup>.

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<sup>61</sup> See, for the expulsions in October 2012, for instance, [http://www.youtube.com/watch?v=ssy\\_HxtyVa8/](http://www.youtube.com/watch?v=ssy_HxtyVa8/).

<sup>62</sup> See <http://asiapacific.anu.edu.au/newmandala/2012/06/10/intolerance-islam-and-the-internet-in-burma-today/> and <http://www.refworld.org/docid/49749cdcc.html/>.

<sup>63</sup> <http://www.burmapartnership.org/wp-content/uploads/2011/09/Revealing-Burmas-System-of-Impunity-BLC-Briefer.pdf/> and <http://asiapacific.anu.edu.au/newmandala/2012/06/10/intolerance-islam-and-the-internet-in-burma-today/>.

<sup>64</sup> See <http://www.refworld.org/docid/49749cdcc.html/>. For the poverty cycle in which many Rohingya find themselves, see [http://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_288.pdf/](http://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_288.pdf/).

<sup>65</sup> See, for instance, <http://www.dvb.no/elections/forced-labour-dashes-rohingya-elections-hope/12018/> and <http://www.aprrn.info/1/index.php/resources/press-releases/127-forced-labour-against-the-rohingya-persists-in-the-aftermath-of-the-june-2012-communal-violence/>. See also for more general information, <http://www.thestateless.com/p/rohingya.html/> under "Forced Labour".

<sup>66</sup> See [http://www.burmacampaign.org.uk/images/uploads/Examples\\_of\\_Anti-Muslim\\_Propaganda.pdf/](http://www.burmacampaign.org.uk/images/uploads/Examples_of_Anti-Muslim_Propaganda.pdf/).

<sup>67</sup> See, for instance, <http://www.economist.com/blogs/banyan/2012/06/myanmars-minorities/> and <http://www.hrw.org/news/2013/04/01/burma-satellite-images-detail-destruction-meiktila/>.

36. The anti-Rohingya and anti-Muslim sentiments, have long been a part of the political and social landscape of Burma<sup>68</sup> and have become rampant since the outbreak of violence in June 2012<sup>69</sup>. In public, Rohingya are generally being called by derogatory and/or racist slurs, such as ‘Bengali’, ‘so-called Rohingya’, or ‘kalar’, which is intended to portray them as sub humans of an inferior race. ‘Kalar’ is a very discriminatory term not unlike referring to a person of African descent as ‘nigger’. And yet, anti-Muslim prejudice is seen as socially acceptable by a very large number of Burmese<sup>70</sup>.

37. Rohingya face widespread animosity from broader Burmese society, including from long time pro-democracy advocates and members of ethnic nationalities who themselves have historically faced oppression from the Burmese state<sup>71</sup>. In this way a “deeply ingrained disdain for Muslims” has gained widespread acceptance and has in turn gained currency even among Burmese citizens abroad<sup>72</sup>. This has

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<sup>68</sup> See, for instance, [http://www.atimes.com/atimes/Southeast\\_Asia/SEA-01-030913.html/](http://www.atimes.com/atimes/Southeast_Asia/SEA-01-030913.html/) mostly blaming the military regime, but feelings go deeper, certainly in Rakhine State, as is shown in Habiburrahman and Sophie Ansel, *Nous, les innombrables. Un tabou birman (We, the Unspeakables. A Burman Taboo)*, Paris, 2012.

<sup>69</sup> Interestingly, anti-Muslim riots have since 2001 been linked to the monk U Wirathu. After his involvement in the 2001 riots (see [http://en.wikipedia.org/wiki/Ashin\\_Wirathu/](http://en.wikipedia.org/wiki/Ashin_Wirathu/)), he was released in 2010 and directly influenced the riots from 2012 onwards, see [http://en.wikipedia.org/wiki/Persecution\\_of\\_Muslims\\_in\\_Burma/](http://en.wikipedia.org/wiki/Persecution_of_Muslims_in_Burma/). For analysis of the role of Buddhist monks, see <http://www.eurasiareview.com/08022014-myanmar-clergy-angry-analysis/>. There are links to thought patterns of Buddhist monks and events in Sri Lanka, as described in the work of Stanley Tambiah. For Rohingyas treated as animals during the recent violence in January 2014, see <http://www.ibtimes.co.uk/muslims-myanmar-treated-like-animals-says-rohingya-activist-1434185#.UutYhedNNhg.facebook/>.

<sup>70</sup> See <http://asiapacific.anu.edu.au/newmandala/2012/06/10/intolerance-islam-and-the-internet-in-burma-today/>. In an email to dr. Merle Jacobs, herself an associate professor of Burmese descent at York University, Canada, an informer told her: “Most Burmese inside and outside of Burma including Burmese Christians believe that those are fabricated stories created by the politically motivated propaganda machines and reproduced by others while we believe many Bengali Muslims suffered human rights abuses.”

<sup>71</sup> Rather cooperate to get recognised in the upcoming 2014 census, many minorities only try to further their own interests; see <http://www.rohingyablogger.com/2014/02/burmas-ethnic-minorities-decry-census.html/>.

<sup>72</sup> See [http://www.nytimes.com/2013/06/21/world/asia/extremism-rises-among-myanmar-buddhists-wary-of-muslim-minority.html?pagewanted=all&\\_r=0/](http://www.nytimes.com/2013/06/21/world/asia/extremism-rises-among-myanmar-buddhists-wary-of-muslim-minority.html?pagewanted=all&_r=0/) and <https://www.soas.ac.uk/sbbr/editions/file64388.pdf/> for Rakhine State by a Burmese national living abroad. Aye Chan’s interpretation of the term Chittagonians is completely anachronistic and seems to ignore wilfully pre-1785 Arakan’s intimate links to what is only since 1971 Bangladesh. His description of the start of animosities between Muslims and Buddhists in Arakan during the war is credible, although he fails to make clear the Muslims generally chose the side of the British and the Buddhists that of the Japanese. See also <http://asiapacific.anu.edu.au/newmandala/2012/06/10/intolerance-islam-and-the-internet-in-burma-today/>.

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served to ease widespread and gross human rights violations and dispossession against them inside the country<sup>73</sup>. In order to enforce their social exclusion, Burmese citizens sympathetic to the plight of the Rohingya have also been attacked or had their property destroyed by angry mobs<sup>74</sup>.

38. Rohingya have been driven from their homes, dispossessed of their money, goods and lands<sup>75</sup>. Rape, mutilation, summary executions, mass arrests, torture and the brutal murders of men, women and children have taken place in open daylight with complete impunity by civilians and state officials, such as policemen, soldiers and border guards<sup>76</sup>. No actions have been undertaken by Burmese authorities to end the rising tensions and the outbreak of sectarian violence in Rakhine State.

39. Examples of atrocities are well documented in several reports on the widespread persecutions and killings in June<sup>77</sup> and October<sup>78</sup> 2012, 2013<sup>79</sup> and more recently,

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<sup>73</sup> This admittedly part and parcel of a broader Burmese phenomenon, see [http://www.burmalibrary.org/docs07/HOLDING\\_OUR\\_GROUND%28en%29.pdf/](http://www.burmalibrary.org/docs07/HOLDING_OUR_GROUND%28en%29.pdf/), but Rohingyas are particularly affected, see

<sup>74</sup> See <http://dippost.com/2014/02/26/myanmars-apartheid-the-camps-and-gaining-an-education/>.

<sup>75</sup> For the recent January 2014 case of Duchiradan, see <http://www.islametinfo.fr/2014/02/07/birmanie-une-rohingya-temoigne-de-loppression-que-subissent-les-musulmans/>. There are many recorded cases of extortion by the authorities, see for instance, <http://www.rna-press.com/en/news/25242.html/> and they are a daily occurrence in the twitter reports from the local source @Aungangsittwe.

<sup>76</sup> For a report on rape as a systematic weapon of war on the minorities, see [http://www.kachinwomen.com/images/stories/publication/sameimpunitysamepattern\\_english-final.pdf/](http://www.kachinwomen.com/images/stories/publication/sameimpunitysamepattern_english-final.pdf/) for a recent case involving a Rohingya girl, <http://www.worldbulletin.net/muslim-world/128322/rohingya-muslim-girl-allegedly-raped-by-myanmar-police/> and another case on <http://www.rvisiontv.com/police-rape-two-rohingya-girls-in-southern-maungdaw/>. One report on Hlun Htein officials sodomizing four minor Rohingya boys is to be found on <http://myarfarakan.blogspot.nl/search/label/news/>.

<sup>77</sup> For a good account what really started off the riots in June 2012, see <http://asiapacific.anu.edu.au/newmandala/2012/06/10/intolerance-islam-and-the-internet-in-burma-today/> and [https://www.academia.edu/4917472/Myanmars\\_Rohingya\\_Muslims\\_-\\_Whose\\_Responsibility\\_to\\_Protect/](https://www.academia.edu/4917472/Myanmars_Rohingya_Muslims_-_Whose_Responsibility_to_Protect/).

<sup>78</sup> For an overview of all riots in 2012, see [http://en.wikipedia.org/wiki/2012\\_Rakhine\\_State\\_riots/](http://en.wikipedia.org/wiki/2012_Rakhine_State_riots/) and [http://www.crisisgroup.org/~media/Files/asia/south-east-asia/burma-myanmar/251-the-dark-side-of-transition-violence-against-muslims-in-myanmar/](http://www.crisisgroup.org/~/media/Files/asia/south-east-asia/burma-myanmar/251-the-dark-side-of-transition-violence-against-muslims-in-myanmar/).

<sup>79</sup> See for the first half of 2013, [https://s3.amazonaws.com/PHR\\_Reports/Burma-Violence-Report-August-2013.pdf/](https://s3.amazonaws.com/PHR_Reports/Burma-Violence-Report-August-2013.pdf/).

amongst others, in Duchiradan village in January 2014<sup>80</sup>. In 2012, an elder Rohingya man in Sittwe reported the killing of his two brothers-in-law by an Rakhine to which he was an eyewitness: “The police were there. It was not far from the police. They were killed in front of me and the police did nothing.”<sup>81</sup> Burmese security forces in 2012-2014 themselves engaged in killings, rape, and mass arrests against Rohingya Muslims after failing to protect both them and Rakhine Buddhists during the terrible sectarian violence in western Burma in June and October 2012. Government restrictions on humanitarian access to the Rohingya community left many of the over 100,000 people displaced and in dire need of food, shelter, and medical care.

40. With regard to rape, NGO’s, INGO’s the UN and others in the international community as well as those in civil society have concluded on the basis of well-documented evidence, that rape is and has been used by ‘State actors’ in Burma against women and girls, and that it is widespread and systematic<sup>82</sup>.
41. In fact, anti-Rohingya policies, combined with government inaction against those inciting hatred and violence, give official legitimacy to those committing acts of violence<sup>83</sup>. Since these human rights violations are generally carried out with impunity and often by state officials, they are harbingers of future violations<sup>84</sup>.
42. Consecutive well-documented programmes of, forced and often extremely violent displacements in the 1970s and 1990s, that have been executed by the army, the police, border guards and bands of thugs, have effectively destroyed the social fabric of Rohingya society. Villages, mosques and schools have been irretrievably lost, abandoned and destroyed or taken over by Rakhines. This has led in some places to an endemic lack of education and a loss of social cohesion and organization. During these displacements, rather than being engaged in any

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<sup>80</sup> Again, see <http://www.islametinfo.fr/2014/02/07/birmanie-une-rohingya-temoigne-de-loppression-que-subissent-les-musulmans/>. Another village has since been torched, see <http://kaladanpress.blog.com/2014/02/07/rakhine-set-to-fire-gawdusara-village-in-maungdaw-sou/>.

<sup>81</sup> <http://www.hrw.org/reports/2012/08/01/government-could-have-stopped/>.

<sup>82</sup> See a recent report on the policy of systematic rape in Burma, [http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern\\_English-final.pdf/](http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf/).

<sup>83</sup> See [http://www.fortifyrights.org/downloads/Policies\\_of\\_Persecution\\_Feb\\_25\\_Fortify\\_Rights.pdf/](http://www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf/).

<sup>84</sup> See <http://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims/>.

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action to protect the Rohingya from any violence - crimes against humanity, war crimes, ethnic cleansing and genocide- the Burmese government has demonstrably been a perpetrator.

43. Thousands find themselves in a state of complete subjection and repression. The Rohingya that remain in Rakhine State are restricted in their movement and confined to camps<sup>85</sup>. They are subjected to forced labour without remuneration and repeated and well-documented extortion<sup>86</sup> by police, border guards and army officers and soldiers<sup>87</sup>. Around Sittwe and in other areas, entire communities of Rohingya are driven from their homes and villages and put in concentration camps, where people are starved because insufficient food is allowed in by security forces. Harsh treatment is meted out to those found attempting to leave the camps<sup>88</sup>.
44. Additionally, due to their “illegal” status, Rohingya have been subjected to rules forcing them to ask state permission to marry and are allowed a maximum of two children which is not only a form of forced sterilisation but also a violation of their basic human rights<sup>89</sup>. As a result, many Rohingya children cannot even have their births registered. A Rakhine Commission report expressly pointed out that the “high birth rate” of Rohingya was partly responsible for ethnic tensions. This is a theme, which has been repeatedly used by anti-Rohingya extremists who wish to curb Rohingya population growth, thus treating them as pests whose population must be controlled, rather than as human beings. The threat of a

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<sup>85</sup> See, for instance, <http://dippost.com/2014/02/26/myanmars-apartheid-the-camps-and-gaining-an-education/>, <http://www.franciswade.net/2014/02/07/burmas-rohingya-are-now-being-forced-to-live-in-squalid-ghettos-watched-by-guards/> and <http://www.thestateless.com/p/rohingya.html/> under “Restriction of Movement”.

<sup>86</sup> See <http://www.thestateless.com/p/rohingya.html/> under “Arbitrary Taxation and Extortion”.

<sup>87</sup> See the Twitlonger posts of @Aungangsittwe, a Rohingya who lives in Rakhine State, on twitter.

<sup>88</sup> <http://www.rohingyablogger.com/2014/02/government-restrictions-severely.html/>.

<sup>89</sup> <http://www.thestateless.com/p/rohingya.html/> under “Registration of Births and Deaths in Families” and “Restrictions on Marriage of Rohingyas”.

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Rohingya population explosion is ludicrous when considering the fact that the Rohingya makes up less than 2% of the total Burmese population<sup>90</sup>.

45. The appalling conditions under which the Rohingya live in Burma have led a UN Rapporteur on human rights in Burma to describe the Rohingya as, “the most vulnerable and marginalised group in Myanmar”<sup>91</sup>.
46. President Thein Sein has ruled out international humanitarian access to displaced Rohingya and other Rohingya communities, who face restrictions, which have led to many preventable deaths<sup>92</sup>. It is clear that at the present time there is no political will or desire from the government of Burma or opposition parties to address the current crisis or the laws and policies that have resulted in the violence and oppression of the Rohingya.
47. These widespread and gross human rights violations have left hundreds of thousands of civilians with no other option but to flee the territory by any means available to them resulting in many deaths and large volumes of human trafficking<sup>93</sup>. Recent reports describe Rohingya fleeing Burma in boats, who have fallen into the hands of traffickers and have been forced to work as slave labour in Thailand and Malaysia. These reports have provided numerous well-documented cases of deaths, abuse, slavery, sex trafficking and utter destitution<sup>94</sup>.
48. The consistently inhumane and illegal response of neighbouring countries has served to deepen the dehumanization of the Rohingya in the region as a whole.

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<sup>90</sup> And according to earlier figures should even have been higher; see <http://networkedblogs.com/THvv3/>. Stories about a rapidly increasing Rohingya population do not tally with the facts; see <http://www.ash.harvard.edu/extension/ash/docs/creating.pdf/>.

<sup>91</sup> On <http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=13391&LangID=E/>.

<sup>92</sup> See, for instance, <http://refugeesinternational.org/policy/field-report/myanmar-protecting-minority-rights-non-negotiable/>, <http://www.rohingyablogger.com/2014/02/government-restrictions-severely.html/> and [http://www.burmacampaign.org.uk/images/uploads/Human\\_Rights\\_Abuses\\_Since\\_Thein\\_Sein\\_Became\\_President.pdf/](http://www.burmacampaign.org.uk/images/uploads/Human_Rights_Abuses_Since_Thein_Sein_Became_President.pdf/).

<sup>93</sup> See, for instance, <http://www.rna-press.com/en/news/25202.html/>.

<sup>94</sup> See, for instance, <http://phuketwan.com/tourism/penned-like-animals-boatpeople-fall-victim-atrophy-skin-disease-19720/>, <http://www.rna-press.com/en/news/25181.html/> and the report <https://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf/> and <http://ejfoundation.org/oceans/soldtothesea/>.

## Hear Our Screams!

Mistreatment of the Rohingya has extended to Bangladesh, which twice has ignored their plight and repatriated hundreds of thousands of Rohingya refugees in the 1970s and 1990s. In southern Bangladesh, approximately 30,000 Rohingya refugees have been living for decades in two of the world's most squalid refugee camps, and an estimated 40,000 barely subsist in what are called "informal camps", while a further 160,000 can be found living outside of camp settings<sup>95</sup>.

49. Yet when sectarian violence broke out in June and again in October 2012<sup>96</sup>, the Bangladeshi government, in violation of its international legal obligations towards asylum seekers, ordered its border guards and naval services to prevent any refugees from crossing the border<sup>97</sup>. Rohingya men, women, and children arrived onshore and pleaded for mercy from Bangladeshi authorities, only to be pushed back into the sea in their unseaworthy boats during rough monsoon rains, putting them at the grave risk of drowning or persecution back in Burma. The numbers of dead as a result of the pushbacks remain unknown. More recently the Bangladesh government refused to accept persecuted Rohingya, who had been at sea or crossing the border at the Naf River, among other alternative routes<sup>98</sup>. Those who have made it into Bangladesh remain in hiding with no official protection from the Bangladeshi government or the UN and no access to humanitarian assistance as a result of policy decisions by the Bangladeshi government<sup>99</sup>.

50. Authorities in Thailand, Malaysia, and Indonesia have consistently turned a blind eye to traders, who sell fleeing Rohingya into slave labour or lock away

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<sup>95</sup> See <http://refugeesinternational.org/where-we-work/asia/bangladesh/>, <http://reliefweb.int/report/bangladesh/analysis-how-bangladesh-aid-restrictions-impact-rohingyas/>, <http://www.unhcr.org/5106a7609.html/> and <http://www.abc.net.au/news/2013-07-17/rohingya-struggle-in-bangladesh-refugee-camps/4825194/>.

<sup>96</sup> See, for instance, <http://www.economist.com/news/asia/21565638-why-buddhists-and-muslims-rakhine-state-myanmar-are-each-others%E2%80%99-throats-unforgiving/>.

<sup>97</sup> For 2012, see <http://www.reuters.com/article/2012/06/16/us-myanmar-bangladesh-un-idUSBRE85E1H720120616/> and for 2014, see [http://www.theindependentbd.com/index.php?option=com\\_content&view=article&id=205660%3Aabgb-fortifies-border-to-stop-rohingya-influx&catid=129%3Afrontpage&Itemid=121/](http://www.theindependentbd.com/index.php?option=com_content&view=article&id=205660%3Aabgb-fortifies-border-to-stop-rohingya-influx&catid=129%3Afrontpage&Itemid=121/).

<sup>98</sup> See, for instance, <http://networkedblogs.com/THrjd/>.

<sup>99</sup> See, for instance, <http://www.thestateless.com/p/rohingya.html/> under "The Forgotten Rohingya Refugees in Bangladesh".

## Hear Our Screams!

groups with women and children in squalid camps. Attempts by journalists in Thailand to draw attention to the plight of Rohingya and the inaction against or cooperation of the Thai navy with slave traders led to these journalists being hauled before the courts. Recently, Thailand has engaged in refolement, thereby incurring widespread international criticism<sup>100</sup>.

51. This crisis led the United Nations Special Rapporteur on human rights in Burma, Mr. Tomás Ojea Quintana, to declare that, “Burma’s ethnic Rohingya minority are the most vulnerable and marginalized group in Myanmar”<sup>101</sup>. Until June 2012 they could also have been described as ‘friendless’<sup>102</sup>. Not only did they face persecution at the hands of the dictatorship in Burma, they also faced it in many of the countries they fled to<sup>103</sup>.
52. Additionally, since 1991 the United Nations General Assembly has been adopting resolutions on the situation in Burma<sup>104</sup>. However all calls have thus far been ignored as the resolutions are not binding under international law. There is a continuous and predictable refusal by the Burmese government to act on any of the 20 resolutions, which the General Assembly has passed with regards to the

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<sup>100</sup> See, for instance, <http://www.radioaustralia.net.au/international/2014-02-13/thailand-confirms-repatriation-of-1300-myanmar-rohingya-prompting-criticism-from-rights-groups/1264668/>. Beyond words, however, little was done.

<sup>101</sup> See <http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=13391&LangID=E/>.

<sup>102</sup> For the term “friendless”, see [http://fpif.org/united-nations-description-burmas-rohingya-friendless-true/?utm\\_source=rss&utm\\_medium=rss&utm\\_campaign=united-nations-description-burmas-rohingya-friendless-true/](http://fpif.org/united-nations-description-burmas-rohingya-friendless-true/?utm_source=rss&utm_medium=rss&utm_campaign=united-nations-description-burmas-rohingya-friendless-true/). See also for instance how the different countries in the U.N. callously voiced their opinions on the plight of the Rohingya even in 2013 in <http://www.un.org/News/Press/docs/2013/gashc4091.doc.htm/>.

<sup>103</sup> See elsewhere in this report on the treatment of the Rohingya in Bangladesh and Thailand.

<sup>104</sup> See the following: on mass exoduses (1991) [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/46/127&Lang=E&Area=RESOLUTION/](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/46/127&Lang=E&Area=RESOLUTION/), on Myanmar 46/132 (1991) [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/46/132&Lang=E&Area=RESOLUTION/](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/46/132&Lang=E&Area=RESOLUTION/), on ethnic cleansing and racial hatred 47/80 (1992) [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/47/80&Lang=E&Area=RESOLUTION/](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/47/80&Lang=E&Area=RESOLUTION/), on Myanmar 47/144 (1992) [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/47/144&Lang=E&Area=RESOLUTION/](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/47/144&Lang=E&Area=RESOLUTION/), <http://www.unhcr.ch/Huridocda/Huridoca.nsf/TestFrame/e72d13c89f446b95802567c800552d24?Opendocument/>, <http://www.un.org/documents/ga/docs/51/plenary/a51-466.htm/>,



ongoing human rights abuses against the Rohingya<sup>105</sup>. Additionally, the United Nation's failure to use such words as 'war crimes' or 'crimes against humanity' in their declarations continues to shield the Burmese regime from any international action.

**(d) Organization**

53. In the preceding sections it has become clear that the widespread and systematic persecution of the Rohingya has been planned, prepared and executed by the Burmese authorities, both centrally and locally in Rakhine state.

54. The massive expulsions of the 1970s and 1990s, involving hundreds of thousands of people that affected large areas of Rakhine State, could never have taken place without state organization<sup>106</sup>.

55. Also the violence in June 2012 occurred through well-timed and co-ordinated incitement by racist organisations and individuals, including monks<sup>107</sup>. For many months anti-Muslim leaflets and letters were widely distributed across Burma<sup>108</sup>. Many of them targeted Muslim shopkeepers. The 969 movement of has repeatedly called for a boycott of Muslim businesses, and for Buddhists not to serve or sell to Muslim customers. Even before the violence erupted, a letter had been circulated around Meiktilar, in the central Burma, calling for attacks against Muslims for eating Halal food or going to Mosques regularly. Clearly, this was a well-organized and government sponsored media campaign inciting violence against Rohingya.

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<sup>105</sup> Recently, this has been the case with calls by the U.N. on the Government of Myanmar to allow equal access to full citizenship for the Rohingya minority, which sparked off demonstrations in Rakhine State against this resolution; see <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/562/60/PDF/N1356260.pdf?OpenElement/> and <http://democracyforburma.wordpress.com/2013/11/29/locals-and-monks-in-rakhine-state-protest-against-un-resolution-%E1%80%9B%E1%80%99%E1%80%B9%E1%80%B8%E1%80%BB%E1%80%97%E1%80%B2-%E1%81%BF%E1%80%99%E1%80%AD%E1%80%B3%E1%82%95%E1%80%90%E1%80%BC%E1%80%84/>.

<sup>106</sup> Little, if any research has been done on the 1978 Nagamin Operation, leading to scant information. Although the general outlines of the events are clear, the more precise histories of individual suffering are not; see [http://en.wikipedia.org/wiki/King\\_Dragon\\_operation\\_in\\_Arakan/](http://en.wikipedia.org/wiki/King_Dragon_operation_in_Arakan/).

<sup>107</sup> For pictures of such a demonstration inciting hatred against the Rohingya, see [http://www.rightnow.io/breaking-news/rohingya-monks-rakhine-sittwe-arakan\\_bn\\_1391414776408.html/](http://www.rightnow.io/breaking-news/rohingya-monks-rakhine-sittwe-arakan_bn_1391414776408.html/).

<sup>108</sup> <http://www.burmacampaign.org.uk/images/uploads/Last-Month-March-2013.pdf/> and .

56. Once the persecutions began, it was clear that these were tightly controlled and well-organized<sup>109</sup>. What could be described as communal violence evolved quickly into organised and systematic attacks against the Rohingya. In its 2012 report on the outbreak of violence in Rakhine State, “The Government Could Have Stopped This”, Human Rights Watch devotes an entire chapter and almost a quarter of the report to the human rights violations by the various state administrations, security forces and other armed bands<sup>110</sup>. Many instances of police and paramilitary Lon Thein—units specially trained to handle riots, and physically distinguished by their red scarfs— were reported to open fire on Rohingya as they attempted to extinguish fires that had been set by Rakhine groups, thereby confirming that state armed forces were co-operating with local violent bands. Over and over, the police used brutal force to arrest, loot and kill Rohingya. One Rohingya woman reported: "They (security forces) tried to snatch the gold jewelry she had, her earrings and her nose ring, but she didn't let them. Then they cut her ear lobe and her nostril with a knife to take it. When she tried to stop them, they tore her blouse open and then raped her. Twelve military and Nasaka entered two houses and they raped the women". Information gathered by NGO's, INGO's, the UN and others in the international community, as well as observers in civil society, shows conclusively that rape was used by 'state actors' against women and girls in such a widespread and systematic way, and is therefore clearly also been organized by these same actors<sup>111</sup>.
57. Similarly, in its April 2013 report “All You Can Do is Pray”, Human Rights Watch draws attention to coordinated attacks by state security forces and armed bands<sup>112</sup>. Again, rape, looting and killing of Rohingya and their property took place in a systematic and organized way.

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<sup>109</sup> Something the BBC concluded according to [http://www.burmacampaign.org.uk/images/uploads/Rohingya\\_and\\_International\\_Law.pdf/](http://www.burmacampaign.org.uk/images/uploads/Rohingya_and_International_Law.pdf/). See also the recent report by Fortify Rights, <http://www.fortifyrights.org/publication-20140225.html/>.

<sup>110</sup> <http://www.hrw.org/reports/2012/07/31/government-could-have-stopped/>.

<sup>111</sup> See a recent report on the policy of systematic rape in Burma, [http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern\\_English-final.pdf/](http://womenofburma.org/wp-content/uploads/2014/01/SameImpunitySamePattern_English-final.pdf/).

<sup>112</sup> <http://www.hrw.org/reports/2013/04/22/all-you-can-do-pray-0/>.

58. Importantly, throughout such violent actions, the Burmese government sealed off areas where the persecutions were taking place to any foreign observers and erected checkpoints to restrict the movements of the local population. Clearly it did not want anyone to know what exactly was taking place. Revealingly, the New Light of Myanmar quoted Burma's Minister for Home Affairs, Lieutenant General Ko Ko, as saying: "Border Regions Immigration Inspection Command Headquarters is tightening the regulations in order to handle travelling, birth, death, immigration, migration, marriage, constructing of new religious buildings, repairing and land ownership and right to construct buildings of Bengalis under the law."<sup>113</sup>

**(e) Polarization**

59. Adding to the categorization and dehumanization of the Rohingya, the Burmese administration, both at the national and the local level, together with groups of extremists monks have since 2012 launched media campaigns to incite Buddhist communities throughout Burma, but more especially in Rakhine State, to spread hate against Muslims in general and Rohingya in particular<sup>114</sup>.

60. Most visibly perhaps, in early 2013 the 969 monks toured the country to preach a message of hate against Muslims. The notorious monk Wirathu and other extremist monks linked to the 969 movement delivered anti-Muslim speeches in the Mandalay Region, Gyobingauk Township, Minhla in Bago Region, Okkan , Taunggyi and near Lashio in the days before the anti-Muslim violence erupted in those towns<sup>115</sup>.

61. At the same time leaflets containing hate messages were disseminated by extremists and also by certain monasteries<sup>116</sup>.

62. State radio broadcasts served to support the monks, by inciting hatred against Muslims, through the sermons and opinions of extremist monks, and spreading

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<sup>113</sup> See <http://www.mmtimes.com/2012/news/639/news63912.html/>.

<sup>114</sup> [http://www.burmacampaign.org.uk/images/uploads/Examples\\_of\\_Anti-Muslim\\_Propaganda.pdf/](http://www.burmacampaign.org.uk/images/uploads/Examples_of_Anti-Muslim_Propaganda.pdf/).

<sup>115</sup> See [https://s3.amazonaws.com/PHR\\_Reports/Burma-Violence-Report-August-2013.pdf/](https://s3.amazonaws.com/PHR_Reports/Burma-Violence-Report-August-2013.pdf/).

<sup>116</sup> <http://www.independent.co.uk/news/world/asia/burmas-monks-call-for-muslim-community-to-be-shunned-7973317.html/>.

rumours about crimes committed by Muslims. A recent news report for instance reported that Wirathu proudly called the 2013 massacre of Muslims in Meiktilaa “a show of strength.”<sup>117</sup>

63. Making use of the internet and social media, several Facebook sites and many Youtube videos have been posted online to allow the anti-Muslim rhetoric and hate speech to spread further and faster than ever before. Wirathu, for instance, boasts a Facebook page<sup>118</sup> and sermons by 969 monks can be easily found on Youtube in abundance<sup>119</sup>. Much of the commentary on these sites by ordinary Burmese leaves little room for any doubt as to the general disposition towards Muslims<sup>120</sup>.
64. In order to effectively spread the symbolization of the anti-Muslim movement, the 969 movement actively promoted the boycott of Muslim businesses and encouraged Buddhists to display 969 logos on their homes, businesses, and vehicles in a show of solidarity as mentioned above<sup>121</sup>.
65. Incitement against the Rohingya depicted them as an aggressive and dangerous community that was intent on attacking Burma and breaking away parts of Burmese territory. Making use of the longstanding fear of perceived ‘outsiders’, Buddhist nationalist groups and individuals dredged up old conflicts—such as the Mujahid rebellion for independence in Rakhine State following World War II—in order to rouse feelings of Buddhist nationalism among the civilian population<sup>122</sup>. In this way they tried to frighten Buddhists into believing that the Muslims were intent on taking over Burma, claiming amongst other things that “Muslim Kalars are trying to wipe out our Myanmar nationality and religion”<sup>123</sup>.

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<sup>117</sup> <http://www.the-american-interest.com/blog/2013/06/24/burmese-president-defends-burmese-bin-laden/>.

<sup>118</sup> <https://www.facebook.com/pages/Wira-Thu/568228566538397/>.

<sup>119</sup> [http://www.youtube.com/results?search\\_query=969+myanmar&sm=1/](http://www.youtube.com/results?search_query=969+myanmar&sm=1/).

<sup>120</sup> Some examples are found in [http://www.burmacampaign.org.uk/images/uploads/Examples\\_of\\_Anti-Muslim\\_Propaganda.pdf/](http://www.burmacampaign.org.uk/images/uploads/Examples_of_Anti-Muslim_Propaganda.pdf/).

<sup>121</sup> <http://www.ipcs.org/article/myanmar/myanmar-profiling-the-969-movement-4029.html/>.

<sup>122</sup> For this insurrection (1948-1961) and the reasons behind it see <http://www.goodreads.com/review/show/420998928/>.

<sup>123</sup> See [http://www.burmacampaign.org.uk/images/uploads/Examples\\_of\\_Anti-Muslim\\_Propaganda.pdf/](http://www.burmacampaign.org.uk/images/uploads/Examples_of_Anti-Muslim_Propaganda.pdf/).

66. Wirathu is also reported to have called upon Buddhists to only buy from Buddhist shops, saying that if Buddhist money came into the hands of the enemy, it would destroy the entire Burmese nationality and Buddhist religion. He warned that Muslims would use the money earned to manipulate Buddhist women, forcefully convert them to Islam, and turn their children into enemies of the state. Buddhist women therefore had to be weary of marrying Muslim men, because in that way, the Muslims were seeking to destroy the Burmese nation and its Buddhist religion. In any case, they claimed, Muslim men viewed Buddhist women as mere prostitutes. Pointing to Rakhine State, he said, that once their population grew, they would do the same thing as they did there: invade and take over the entire country<sup>124</sup>.
67. The answer was clear: ‘good Buddhists’ had to fight the ‘bad Muslim kalars’, who had been living on Burmese land, drinking Burmese water, and eating Burmese rice, while they plotted heinous strategies to wipe out Buddhism and destroy the Burmese nationality altogether.
68. Following the attacks in Meiktila, DVDs were sold in Mandalay that contained video footage, reportedly shot during the Meiktila riots in March 2013, of Muslims being burned and beaten to death. The DVDs were being sold by Buddhists with “pride and glee,” according to the people who bought them<sup>125</sup>.
69. Extremist monks were not the only ones to bring hate messages to the Burmese public. Surprisingly, a number of long-time democracy activists have made incendiary anti-Rohingya statements as well<sup>126</sup>. In early June 2012, prominent pro-democracy activist Ko Ko Gyi spoke at a press conference in Rangoon and categorically denied that the Rohingya were an ethnic group of Burma<sup>127</sup>. While conceding that ethnicity is not a requirement for citizenship, pro-democracy activist Ko Ko Gyi blamed the sectarian violence on “illegal immigrants from Bangladesh” and “mischievous provocations from the international community,”

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<sup>124</sup> <http://freedomnewsgroup.com/2013/06/22/the-face-of-buddhist-terror/> and <http://asiancorrespondent.com/109842/wirathu-time-magazine-and-the-power-of-propaganda-in-burma/>.

<sup>125</sup> See [https://s3.amazonaws.com/PHR\\_Reports/Burma-Violence-Report-August-2013.pdf/](https://s3.amazonaws.com/PHR_Reports/Burma-Violence-Report-August-2013.pdf/).

<sup>126</sup> See <http://www.bdcburma.org/statements.asp?id=154/>.

<sup>127</sup> To be found on <http://www.youtube.com/watch?v=mu33MZdCoOA/>.

referring to Western attention to the Rohingya. “Such interfering efforts of powerful nations on this issue without fully understanding the ethnic groups of Burma, will be viewed as offending the sovereignty of our nation,” he said.

**(f) Preparation**

70. In Burma it appears that preparations are being made for a final “resolution” of the Muslim Rohingya problem. A spiralling pattern of violence could emerge from one inciting incident<sup>128</sup>. Many Rohingya in Rakhine State today are extremely nervous about just such an incident being sparked off. It could lead to a renewed cycle of killings, forced displacement and other massive human rights violations that have nothing inevitable about them, save for the planning and preparations of the Burmese central and local Rakhine State authorities.
71. An important aspect of other genocides is that they are rarely purposeful events from the start. Rather, minor patterns of violence which tend to grow suddenly in proportion. This scenario in Burma is entirely possible, in view of the extreme forms of dehumanisation and dependency the Rohingya experience at the hands of the Burmese authorities. Certainly, the authorities have so far undertaken no measures to prevent such an event from happening.
72. Particularly worrisome is the oft repeated standpoint of the president of Burma, Thein Sein, that the blame for the violence in Rakhine State in June 2012 lay squarely on the shoulders of the Rohingya and that the only solution to prevent further violence would be to send the Rohingya to other countries or refugee camps. In view of the refusal of the international community to accede to the Burmese wishes of ‘taking over’ the Rohingya community as a whole, more killings seem inevitable<sup>129</sup>.
73. The Burmese authorities appear to keep a close eye on the impact the violence against the Rohingya could have on the attitude of the international community. It is doubtful that the regime will at present go so far as to openly and defiantly

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<sup>128</sup> See, <http://pambazuka.org/en/category/features/21207/> where it is made clear that “genocide is not ‘triggered’ by a single event that pushes the perpetrators over the brink. On the contrary, the so-called ‘trigger events’ are excuses for setting in motion the logical end to a process prepared for well in advance.” As this report has tried to show, most if not all of that process is already in place in Burma.

<sup>129</sup> <http://www.irrawaddy.org/burma/unhcr-rejects-rohingya-resettlement-suggestion.html/>.

antagonize its foreign partners if those partners chose to firmly oppose any further serious violence in Rakhine State against the Rohingya. As a gesture to the international community, Thein Sein announced on 17 August 2012, two months after the violence started, the formation of a twenty-seven person commission to investigate the situation in Rakhine State<sup>130</sup>. The commission included religious leaders, artists and former dissidents, but no Rohingya representatives and no representatives of the National League for Democracy, the main opposition party, were included either. The commission's assignment was to "reveal the truth behind the unrest" in Rakhine State and "find solutions for communities with different religious beliefs to live together in harmony"<sup>131</sup>.

74. At the same time, however, the Burmese government seems to be playing for time and has restricted access to affected areas, particularly Rohingya areas, crippling the humanitarian response<sup>132</sup>. United Nations and humanitarian aid workers have faced arrests as well as threats and intimidation from the local Rakhine population, which perceived and continues to perceive the aid agencies as biased toward the Rohingya<sup>133</sup>. Government restrictions have made some areas, such as villages south of Maungdaw, where intense violence took place, inaccessible to humanitarian agencies. A pamphlet circulated locally in Rakhine State, obtained by Human Rights Watch, says anyone working for the Rohingya will be recognized "as traitors and thereby our enemy.... We will no longer sit and watch you stay in our country and work for the [Rohingya's] development." The pamphlet goes on to say landlords who rent space to international NGOs in Sittwe will be targeted. Regarding UN agencies, it says, "We have to attack

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<sup>130</sup> <http://www.internationallawbureau.com/index.php/burma-to-investigate-rakhine-violence/>.

<sup>131</sup> For reactions to the report, see <http://www.alrc.net/doc/mainfile.php/hrc23/758/> and <http://www.amnesty.org/en/news/myanmar-government-report-will-not-stop-cycle-buddhist-muslim-violence-2013-04-30/>.

<sup>132</sup> The order by the Burmese authorities to MSF to suspend operations in Myanmar, and in particular Rakhine State, where it is one of the biggest providers of healthcare, is an example of this; see <http://www.bbc.com/news/world-asia-26379804/>.

<sup>133</sup> Myanmar authorities have in the past arrested aid workers, see for instance, (in the wake of the Saffron revolution in Yangon) [http://www.nytimes.com/2007/10/03/world/asia/03cnd-myanmar.html?\\_r=0/](http://www.nytimes.com/2007/10/03/world/asia/03cnd-myanmar.html?_r=0/), (in 2012 in Rakhine State) <http://uk.reuters.com/article/2012/07/13/uk-un-myanmar-detentions-idUKBRE86COP320120713/> and <http://www.rohingyablogger.com/2012/07/burma-asked-to-explain-un-workers.html/>.

them”. On recently Médecins sans Frontières was told to suspend its work in Rakhine State<sup>134</sup>.

75. In the past year, Rohingya in Rakhine State have been subjected to what only can be called pre-planned attacks by the authorities and Rakhine citizens alike. Increasingly, they have been concentrated into larger IDP camps. Within the past two calendar years, approximately 40 camps and 135,000 people have been displaced and forced into larger camps mainly along Sittwe and in the north<sup>135</sup>. In the past weeks, information has come out of these camps that the delivery of food has deliberately been kept to a minimum.
76. At the same time, the Burmese government has allowed and encouraged the local authorities, the security services and local bands to systematically commit arson and raze Rohingya villages, as has been the case in Duchiradan village recently<sup>136</sup>. In the process, villagers have been killed, raped, arrested, and mutilated in such a way that the remaining villagers have seen themselves forced to abandon their homes<sup>137</sup>. Importantly, no plans or laws have been put in place to settle these people back into their homes. Being particularly vulnerable, the displaced Rohingya are either herded into camps, have gone into hiding, or are forced to take their chances in the ocean with the unseaworthy boats and the human traffickers. Because the area has been closed to foreign observers, it is difficult to gauge the total extent of these operations.
77. At the end of January 2014, information transpired that an order had been handed down that all Rohingya men and boys of 10 and older were to be arrested and killed<sup>138</sup>. Probably due to intense diplomatic pressure, this order has been

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<sup>134</sup> See <http://www.bbc.com/news/world-asia-26379804/>.

<sup>135</sup> For information on the camps see <http://www.mizzima.com/mizzima-news/rohingya-issues/item/9627-100-000-idps-to-be-re-housed-in-rakhine-state/> and <http://www.restlessbeings.org/projects/rohingya/unhcr-help-rohingya-relocate-from-idp-camp-in-sittwe-arakan-with-images/>. And for a map of the location of the IDP camps in Rakhine State see <http://reliefweb.int/map/myanmar/myanmar-3w-shelter-rakhine-state-idp-camps-november-2013/>.

<sup>136</sup> This is part of a systematic policy of land confiscation, forced evictions and house destruction; see <http://www.thestateless.com/p/rohingya.html/>.

<sup>137</sup> See <http://www.hrw.org/news/2013/04/22/burma-end-ethnic-cleansing-rohingya-muslims/>.

<sup>138</sup> See <http://uk.news.yahoo.com/un-rights-chief-urges-myanmar-probe-sectarian-killings-044503208.html#TscGLnh/>.



rescinded however the fact that such an order was made to begin with itself goes a long way towards showing how urgently action needs to be taken to protect the Rohingya.

**(g) Extermination**

78. To quote professor William Shabas on the Rohingya, 'We're moving into a zone where the word [genocide] can be used. When you see measures preventing births, trying to deny the identity of the people, hoping to see that they really are eventually, that they no longer exist, denying their history, denying the legitimacy of the right to live where they live, these are all warning signs that mean that it's not frivolous to envisage the use of the term genocide.'<sup>139</sup>
79. There is not only ample evidence to suggest that the Burmese Government has serious intentions to exterminate the Rohingya population, but a quiet extermination is in fact already taking place<sup>140</sup>. Twice before the authorities have tried in vain to 'get rid' of the entire Rohingya population of Rakhine State by expelling hundreds of thousands of people to Bangladesh<sup>141</sup>.
80. Once these attempts failed, the authorities opted for lower intensity violence<sup>142</sup>, gradually emptying the cities and villages of Rakhine State of their Rohingya population and either forcing them to leave the country on hazardous trips by boat, making them go into isolation and hiding or herding them into concentration camps that are tightly controlled by the Burmese security forces. In doing so the authorities persisted in a steady stream of hate campaigns, active measures to isolate the Rohingya socially from sympathetic Rakhine, and ongoing killing sprees, that are never allowed to reach an intensity that will signal an

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<sup>139</sup> See <http://www.aljazeera.com/pressoffice/2013/03/20133210535530465.html/>.

<sup>140</sup> There have been a number of reports of by Rohingyas who fled to Bangladesh who claimed that the Burmese army and police shot groups of villagers in 2012; see [http://en.wikipedia.org/wiki/2012\\_Rakhine\\_State\\_riots/](http://en.wikipedia.org/wiki/2012_Rakhine_State_riots/). More recently, @Aungaungsttwe has documented the murder of a group of Rohingya villagers by the police; see [http://www.twitlonger.com/show/n\\_1s0m4uk](http://www.twitlonger.com/show/n_1s0m4uk) with three lists of those killed: [pic.twitter.com/2y8rHO6mfX](http://pic.twitter.com/2y8rHO6mfX), [pic.twitter.com/FxSMsNY600](http://pic.twitter.com/FxSMsNY600), and [pic.twitter.com/3ZwCalsAFP](http://pic.twitter.com/3ZwCalsAFP).

<sup>141</sup> Recent utterances by Rakhine politicians show that this intention is still there; see <http://networkedblogs.com/TA3nP/>.

<sup>142</sup> See for a documentary on the June 2012 violence, <http://www.rohingyablogger.com/2014/02/statement-of-special-rapporteur-on.html/>.

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alarm to the international community –or so the plan intends<sup>143</sup>. Little is known of the whereabouts of many Rohingya who have opted to go into hiding and thus are vulnerable to roaming bands of killers, smugglers and traffickers<sup>144</sup>.

81. The Rohingya in the camps are refused proper living conditions, sufficient food, medical treatment, aid or assistance. The security forces have in the past done nothing to protect the Rohingya against killing sprees, leaving the weak and impoverished Rohingya in the IDP camps in an incredibly vulnerable position that is open to more dispossession, violence and death<sup>145</sup>.

82. There is no doubt that the Burmese government has the ability and the will to either commit atrocities against Muslims, including mass killings and rapes, burning of Muslim villages, arrests, forced labor, and torture<sup>146</sup>, or allow other agents to commit them. Next to the security forces, secret organizations and local bands of extremists are on standby to carry out killings, thus providing an excuse for the authorities to protest their innocence from any involvement.

83. Recent information that has transpired about events in the Maungdaw village of Duchiradan (Kila Dong), offers a glimpse into what is going on in the area: a continued pattern of violence and persecution by both the local authorities and extremist citizens of Rakhine State<sup>147</sup>. In this village of upwards of 4000 Rohingya, people have been slaughtered, raped, mutilated, hunted down,

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<sup>143</sup> Although the scale of the killings is never allowed to surpass a certain level so far, the brutality of the killings is well illustrated by these pictures (graphic scenes): <http://amcarakan.wordpress.com/2014/02/03/rohingya-muslims-have-been-killed-in-attacks-by-buddhists-in-rakhine-state/>.

<sup>144</sup> A good example is a group of 300 women and children, who hid in a paddy field after the killings at Duchiradan; see <http://www.rohingyablogger.com/2014/02/300-women-and-children-on-paddy-field.html/>.

<sup>145</sup> See for an overview from 2012, [http://209.61.208.233/LinkFiles/MMR\\_ESR\\_2\\_2012.pdf/](http://209.61.208.233/LinkFiles/MMR_ESR_2_2012.pdf/) and more recently [http://reliefweb.int/sites/reliefweb.int/files/resources/MYR131\\_Rev1\\_Rakhine\\_IDPs.pdf/](http://reliefweb.int/sites/reliefweb.int/files/resources/MYR131_Rev1_Rakhine_IDPs.pdf/).

<sup>146</sup> For an instance, see <http://www.rohingyablogger.com/2014/02/military-sergeant-tortures-villagers.html/>.

<sup>147</sup> Médecins sans Frontières treated numerous wounded; see <http://www.reuters.com/article/2014/01/24/us-myanmar-massacre-idUSBREA0N1JO20140124/> and has recently been told to cease all operations. The link is obvious. A list of 52 was published online on <http://www.rohingyablogger.com/2014/02/death-list-of-52-rohingyas-given-to.html/>.

arrested, and taken to undisclosed places<sup>148</sup>. Their possessions have been looted, their homes soon to be destroyed in arson attacks. It all began with murders by local officials, who in order to cover up their crimes, sought to arrest any witnesses. In the process they raped any women related to the witnesses that they could find. This provoked a reaction from the villagers and violence between the Rohingya villagers and the local forces ensued. As a result the military used live rounds to disperse the crowds. An unknown number of people were killed on site, while others were arrested. Simultaneously, women were caught and raped. Some soldiers proceeded to then cut off their breasts and hack them to death<sup>149</sup>.

84. In order to cover up the slaughter, authorities put out notices to nearby villages warning that no one was to house or harbour any of the thousands of displaced Rohingya from the village, who were fleeing for their lives<sup>150</sup>. All of the villages in the area were searched and women in hiding were arrested. At further meetings, the authorities made abundantly clear through announcements that the Rohingya had no place in Rakhine. An official reportedly said, "there are no Rohingya in Myanmar" and "the term Rohingya can't be used". He further said to the Rohingya present, that they were Bengalis, which means they were illegal immigrants from Bangladesh. He went on to say "All of you are Bengalis."

85. After sealing Duchiradan off to remove the bodies of the dead and letting local Rakhinese loot all the houses, the authorities then forced people back into the village. No humanitarian aid was provided and those that returned, some 300 villagers, were forced to live in the village school. There remains a large military presence both in Duchiradan and the neighbouring villages. Reports of ongoing

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<sup>148</sup> The intensity of the violence was such, that one journalist did not hesitate to use the term "genocide"; see <http://www.foreignpolicyjournal.com/2014/01/29/genocide-and-ethnic-cleansing-of-the-rohingya-people-in-myanmar/>.

<sup>149</sup> See <http://www.rohingyablogger.com/2014/01/duchiradan-village-deserted-after.html/> with a list of those know to be killed, and <http://www.rohingyablogger.com/2014/01/urgent-humanitarian-assistance-needed.html/>.

<sup>150</sup> Villagers who had sought refuge in neighbouring villages were arrested; see <http://www.rohingyablogger.com/2014/01/nine-women-from-duchiradan-taking.html/>.

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violence continue, with gang rapes by the police and the beating of young children with guns. In one such case the teeth of a 4 year old girl were shattered<sup>151</sup>.

86. As in previous cases, there is as yet no sign of the authorities making any solid plans to allow Duchiradan village to return to normalcy. The village will in all probability follow the many other rural villages, which have become deserted after being the location of attacks<sup>152</sup>. There has since been a case of arson that saw the burning of 60 of the 200 houses in the west hamlet of the village. EU diplomats visited Duchiradan but were not permitted into the west hamlet<sup>153</sup>.
87. In an effort to forestall calls for an international investigation, president Thein Sein has nominated an investigative commission, but no visible action was undertaken to right any wrongs<sup>154</sup>. On April 29, 2013, moreover, the commission, that was asked to investigate the June 2012 killings, finally released a long-awaited report, which predictably failed to address abuses by state authorities or the need for any accountability for human rights violations<sup>155</sup>.
88. “What we’re seeing is a protracted pattern of atrocities inflicted upon the Rohingya, in addition to abuses they’ve endured for decades,” Matthew Smith of Fortify Rights said. “The authorities in Naypyidaw and Rakhine State are unable or unwilling to put an end to the violence. An international investigation is long overdue.”<sup>156</sup> Subsequently the U.N. Special Rapporteur on human rights for

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<sup>151</sup> <http://collectif-hameb.com/index.php/fr/histoire/fil-infos/item/219-une-fille-de-4-ans-battue-sans-piti%25C3%25A9-par-des-militaires-birmans/> and <http://www.rvisiontv.com/instances-of-myanmar-regimes-crimes-against-innocent-rohingya-people/>.

<sup>152</sup> Temporary shelter built by the Duchiradan villagers were also ordered destroyed, effectively denying an living space to the Rohingyas there; see <http://www.restlessbeings.org/projects/rohingya/attacks-on-the-rohingya-in-arakan-continue/>.

<sup>153</sup> See <http://www.rohingyablogger.com/2014/01/eu-diplomats-meet-rohingyas-in.html/>.

<sup>154</sup> See <http://www.rohingyablogger.com/2014/02/hla-thein-investigation-commission.html/>. For a claim that a witness, who spoke the truth about the Duchiradan killings to the investigative commission was subsequently made to disappear, see [http://www.twitlonger.com/show/n\\_1s0l4e7/](http://www.twitlonger.com/show/n_1s0l4e7/).

<sup>155</sup> For reactions to the report, see <http://www.alrc.net/doc/mainfile.php/hrc23/758/> and <http://www.amnesty.org/en/news/myanmar-government-report-will-not-stop-cycle-buddhist-muslim-violence-2013-04-30/>.

<sup>156</sup> See [http://www.fortifyrights.org/downloads/Myanmar\\_Press\\_Release\\_Jan\\_23\\_Fortify\\_Rights.pdf/](http://www.fortifyrights.org/downloads/Myanmar_Press_Release_Jan_23_Fortify_Rights.pdf/).

Myanmar, Tomás Ojea Quintana visited Duchiradan and made a critical if muted statement<sup>157</sup>.

**(h) Denial**

89. A constant factor in all genocides is that “the perpetrators deny that they committed any crimes”. In the present case, the perpetrator is a sovereign state. But all states have the duty to prevent genocide and that duty is *ius cogens*.
90. It is easy to deny that extermination, if not already a genocide, is taking place when an entire group of people is isolated from the rest of the world<sup>158</sup>. With Rakhine State well cordoned off, any investigation that will take place locally will, if it does not have the possibility of staying on the ground for a sizeable length of time and have the liberty to talk to victims and witnesses in a safe environment, be a futile exercise. If so, the denial will stand, and Rakhine may perhaps experience a full-blown genocide against the Rohingya in the near future.
91. The lives of close to a million people are at stake and the information that has thus far transpired from Duchiradan village indicates that the authorities will have sanitized the area before any investigative commission sets foot in Rakhine State<sup>159</sup>. All bodies seem to have been removed and burned, any witnesses taken away to another place. The village will have been cleared of any traces of violence, except in so far as to show that a policeman was killed.
92. The sum of the preparations by the authorities will enable them to deny that killing of Rohingya has ever taken place<sup>160</sup>. In press reports the authorities have already made their standpoint clear by insisting that nothing has ever happened to the villagers of Duchiradan but rather that it was the villagers who committed a crime.

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<sup>157</sup> See <http://www.rohingyablogger.com/2014/02/statement-of-special-rapporteur-on.html/>. See also this interview Ojea Quintana gave recently, <http://www.rna-press.com/en/news/25305.html/>.

<sup>158</sup> This is done by restricting access, but also by making communication impossible; see for instance <http://www.rna-press.com/en/news/25243.html/>.

<sup>159</sup> For the denial, see <http://www.rohingyablogger.com/2014/02/rbs-challenge-statement-against-recent.html/> and <http://www.aa.com.tr/en/s/284774--rohingya-muslim-village-attacked-in-myanmar/>.

<sup>160</sup> For similar attempts at denials in June 2012, see <http://www.ndphr.net/2012/07/burmas-fabrications-ahead-of-un.html/>.

93. With regard to accusations of rape, organizations representing the international community had concluded that rape against women and girls was and had been used extensively and systematically by 'state actors' in Burma. However, in spite of all the evidence, the Burmese Government downplayed, denied and dismissed these findings.
94. Although it has made clear its visceral opposition to the presence of Rohingya on its soil, the government of Burma continues to claim that it is an impartial actor in Rakhine State and casts itself as being between the two sides of the conflict caught between the Muslim Rohingya and the Buddhist Rakhine<sup>161</sup>. In doing so the government lays bare one of the fundamental flaws of the international legislation on genocide that is, the very state who is suspected of an intent of committing genocide can be its own judge<sup>162</sup>.
95. Will the international community gamble with the lives of nearly one million Rohingya and accept the denials of the Burmese government? If it does, it may have to face the disastrous consequences in a short space of time, as it did not long ago in the former Yugoslavia and in Rwanda.

### **C. LEGAL ANALYSIS**

96. The Rohingya are victims of both crimes against humanity and genocide.

#### **Crimes against humanity**

97. Crimes against humanity are characterised by crimes such as murder, rape, kidnapping, enforced disappearance and displacement which are directed against a civilian population as part of a systematic and widespread attack pursuant to the furtherance of a state or organisational policy<sup>163</sup>.

98. There can be little doubt the Rohingya are victims of crimes against humanity.

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<sup>161</sup> As it does by forming an investigative commission into the 2014 Duchiradan violence, see [http://elevenmyanmar.com/index.php?option=com\\_content&view=article&id=5124%3Agov-t-commission-questions-du-chee-yar-tan-villagers&catid=32%3Apolitics&Itemid=354/](http://elevenmyanmar.com/index.php?option=com_content&view=article&id=5124%3Agov-t-commission-questions-du-chee-yar-tan-villagers&catid=32%3Apolitics&Itemid=354/).

<sup>162</sup> As is made clear by the successive investigative commissions in 21012 and 2014.

<sup>163</sup> This has recently been argued by the Fortify Rights report; see [http://www.fortifyrights.org/downloads/Policies\\_of\\_Persecution\\_Feb\\_25\\_Fortify\\_Rights.pdf/](http://www.fortifyrights.org/downloads/Policies_of_Persecution_Feb_25_Fortify_Rights.pdf/).

99. In his 2012 report to the UN General Assembly, Special Rapporteur on the situation of human rights in Myanmar<sup>164</sup>, Tomás Ojea Quintana emphasised his particular concern at the ‘endemic discrimination’ faced by the Rohingya, and called for the government to “review and amend laws and policies that deny the Rohingya community its fundamental human rights”. The Special Rapporteur cited the urgent need to resolve the legal status of the many Rohingya who have been relegated to statelessness, including by revision of the Citizenship Act of 1982<sup>165</sup>.
100. The effect of the Burma Citizenship Law 1982 is to make it almost impossible for the Rohingya to gain citizenship. This violates the Universal Declaration of Human Rights, the Convention on the Rights of the Child and international norms prohibiting discrimination of racial and religious minorities<sup>166</sup>.
101. The fact that the Rohingya are effectively excluded from citizenship is a clear violation of international human rights law. It is a fundamental principle that “everyone has the right to a nationality”. This principle is especially important in relation to children. The UN Convention on the Rights of the Child provides in terms that every child “shall have from birth...the right to acquire a nationality”. As a party to that Convention, Burma is obliged to “ensure the implementation” of every child’s right to acquire a nationality. Since it is almost impossible for a Rohingya, and in particular a Rohingya child, to acquire Burmese citizenship, as long as the 1982 Burma Citizenship Law remains in place.

### **Genocide**

102. The Convention on the Prevention and Punishment of Genocide requires the international community to punish either domestically or by such international criminal tribunal as may have jurisdiction any acts which were intended to destroy in whole or in part a national, ethnic or racial group committed by anyone

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<sup>164</sup> [http://www.un.org/ga/search/view\\_doc.asp?symbol=A/67/383/](http://www.un.org/ga/search/view_doc.asp?symbol=A/67/383/).

<sup>165</sup> [http://www.burmacampaign.org.uk/images/uploads/Rohingya\\_and\\_International\\_Law.pdf/](http://www.burmacampaign.org.uk/images/uploads/Rohingya_and_International_Law.pdf/).

<sup>166</sup> Important in this respect is that stateless persons are considered unprotected persons. In a constitutional setting that only reserves rights for citizens, that is problematic, to say the least. See Atle Grahl-Madsen, *The Status of Refugees in International Law*, Volume 1, Leiden, pp 95-101.

whether they are constitutionally responsible rulers, public officials or private individuals.

103. There is an *erga omnes* duty to respect life and the religious identity of all peoples. There is a legal duty on the Burmese government to ensure that nationals belonging to religious and racial minorities be placed in every respect on an equal footing with everyone else.
104. Genocide is a crime under international customary law. The very existence of the Rohingya as a people is under threat. The Government of Burma has engaged in deliberate steps to destroy the Rohingya and this is in direct contravention of all human rights instruments.
105. In the Simić case before the Yugoslav Tribunal, the Trial Chamber made the largely isolated remark that, 'both deportation and forcible transfer are closely linked to the concept of "ethnic cleansing"'.
106. "Local and international leaders should condemn the use of hate speech and make it culturally unacceptable. Leaders who incite genocide should be banned from international travel and have their foreign finances frozen."
107. According to the Convention on the Prevention and Punishment of the Crime of Genocide, genocide is "the deliberate and systematic destruction, in whole or in part, of an ethnic, racial, religious, or national group".
108. More specifically, any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, is considered as genocide:
  - a. killing members of the group;
  - b. causing serious bodily or mental harm to members of the group;
  - c. deliberately inflicting on the group conditions of life, calculated to bring about its physical destruction in whole or in part;
  - d. imposing measures intended to prevent births within the group
  - e. [and] forcibly transferring children of the group to another group
109. In the sections on categorization, dehumanization and polarization, it has become apparent that the government of Burma is engaging in *deliberate* actions against the Rohingya with an *intent to remove* or *kill* the *entire* Rohingya



community from Burma by any means<sup>167</sup>. Many villages that have been abandoned and *destroyed*, thereby making it impossible for the Rohingya to return to their homes<sup>168</sup>. The two recorded massive expulsions have failed to obtain the desired results and the government at present is still trying to expel the Rohingya by requesting other countries to admit the entire community.

110. From the dehumanization and organization sections it is obvious that the actions of the Burmese authorities are *systematic* and well-planned<sup>169</sup>. At the same time, the government seeks to conceal its actions by closing off the areas where Rohingya live and denying any killings or persecution have occurred.

111. In the following the acts as outlined in paragraphs (a) to (e) will be discussed in greater detail, thereby corroborating the remarks above:

**(a) Killing members of the group;**

112. In the past, government officials of the Burmese army, police, border guard and secret services have engaged in protracted killing of Rohingya. Although documentation is at places patchy, it is clear that widespread killing took place during the Nagamin campaign and probably during the 1991-92 expulsions as well. (See stage one, classification)

113. Additionally government officials have engaged in killings and condoned killings, as is illustrated by the man, who say his two brothers-in-law had been stabbed by thugs without any police interference. (Stage 3, dehumanization)

114. Gangs of thugs have also engaged in widespread killings as has been well-documented in June 2012 and the recent killings in Duchiradan in January 2014. (Stage 3, dehumanization)

115. Finally, as result of the massive expulsions in the past, but also the low-intensity expulsions leading many thousands of Rohingya to take to often

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<sup>167</sup> President Thein Sein's repeated public requests to the international community to relocate the entire Rohingya community constitute *prima facie* of this intent.

<sup>168</sup> The message is that the Rohingya have no future in Burma.

<sup>169</sup> And the official nature of this intent is shown clearly by the documents published in the recent Fortify Rights report.

inadequate boats, there many well-documented stories of people dying at sea.  
(stages 3, dehumanization and 6, preparation)

116. In view of the prolonged, systematic and deliberate campaign of killing or expelling Rohingya, it can be said that the conditions have been fulfilled<sup>170</sup>.

**(b) Causing serious bodily or mental harm to members of the group;**

117. The events that have occurred in the past decades have also caused both serious mental and bodily harm to the Rohingya.

118. Serious mental harm has been caused through an ongoing campaign of threats and hate speech against, social discrimination and exclusion of the Rohingya, as has been shown in stages three on dehumanization and stage five on polarization, causing added feelings of social insecurity and uncertainty through the inaction of authorities.

119. Extensive bodily harm has also and is taking place. Beatings (of men, women, children) are taking place. Mutilation and mass rape have also been recorded, as shown in stage three on dehumanization. As a result of the violence, the police have carried out arbitrary arrests, involving police brutality and torture. Only recently an order was registered which called for the arrest of all men and boys older than ten years old. (stages 6, polarization and 7, preparation)

120. Serious bodily and mental harm has also resulted from widespread and systematic material attacks, extortion, plunder and looting, arson attacks and the razing of buildings and entire villages. (stage 7, extermination)

121. The legislation on marriage and pro-creation has led to forced sterilizations.

122. As a result of the expulsions, Rohingya have been victims of slavery, human- and sex-trafficking, and forced labour, in which deaths have also occurred. (stage 3, dehumanization)

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<sup>170</sup> Against the background of statelessness, lack of protection and ongoing persecution in Burma, coupled to the policies of countries such as Bangladesh and Thailand to stop and/or send back Rohingya refugees and the perilous voyages the Rohingya have to undertake to escape persecution, an ongoing process of dying may logically be inferred.

123. In view of the extensive documentation presented in this report, it has been determined that the conditions for this second requirement have also been fulfilled.

**(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;**

124. Spread out over the report are reports about actions that taken together inflict conditions of life on the Rohingya that if continued for a longer period of time are certain to bring about the physical destruction of the entire population<sup>171</sup>. The stages on dehumanization, polarization, organization and preparation are full of these elements.

125. This began with forms of social exclusion, such as barring children from education and disallowing religious and cultural activities to take place. Many have been deprived of their work and forced instead to perform forced labour without remuneration, which has reduced many to a state of slavery. (stage 1, classification)

126. There have been well-documented instances of sympathetic Rakhine who have been persecuted because of their support for Rohingya. (stage 7, extermination)

127. As a result of the expulsions there has been massive destruction of property through arson attacks and razing of villages. But even in recent years a continual and prolonged dispossession of land and goods is taking place, which aims to render the Rohingya entirely powerless against any depredations of the authorities or the other communities in which they live. (stages 3, dehumanization and 7, extermination)

128. In the countryside there have been reports of check points and controls that have restricted the freedom of movement of the Rohingya<sup>172</sup>.

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<sup>171</sup> One only need to look at the massive figures of the 1978, 1991-92 and 2012 expulsions to realise the extent of the social uprooting and destruction these have caused within the Rohingya community. The IDP camps within Burma provide further evidence for this.

<sup>172</sup> For recent information on checkpoints, see <http://www.r4biaplatform.com/content/news-story/myanmars-apartheid-camps-and-gaining-education/>.

129. In the meantime, many Rohingya have been driven from their homes and relocated into concentration camp like environments, where there has been a lack of sufficient food and access to medical care. Reports have shown that many people have been relocated from smaller camps to larger ones closer to where the authorities can supervise them. (stages 3, dehumanization, 6, preparation, and 7, extermination)

130. Taken as a whole, the information gathered under this section shows clearly that a pattern has emerged in Rakhine State where conditions have been structurally created to bring about the physical destruction of the entire Rohingya community.

**(d) Imposing measures intended to prevent births within the group;**

131. Measures intended to prevent births and thereby limit the size of the Rohingya population have been officially published. The Rohingya are legally submitted to marriage restrictions through a system of permits and each couple is only allowed a maximum of two children. There are even reports that women have been subjected to forced sterilisations. (stage 3, dehumanization)

132. Additionally, there have been reports about systematic rape and abductions of women, dishonouring them. Through forced labour and expulsions, men and women have also been separated. (stages 3, dehumanization, 4 organization, 6 preparation and 7 extermination). Based on the above, it can be said that the conditions for this requirement have also been fulfilled.

**(e) Forcibly transferring children of the group to another group.**

133. To date, it has not been reported that children of the Rohingya have been transferred to other groups.

134. Based on the above analysis it may be said that a kind of silent genocide has been going on for the past couple of years at least (if one discounts the massive expulsions in the seventies and nineties). If, as has been made clear in the case of several international courts, genocide is restricted to a core of massive killings, the above provides clear indications of developments that point to a strong intent to get rid of the entire Rohingya population.

135. After vain attempts at forced and massive expulsion and similarly fruitless attempts at having them admitted by the UNHCR or some other state outside of Burma, it is clear that a continued intent to be rid of the Rohingya points to the probability of massive killings. As the facts adduced show, the organization and steps to effect such an operation have already been put in place, as is clear from the concentration of large numbers of Rohingya in big camps and the reported order to arrest and kill all men and boys older than 10 years old.

136. This report therefore contends that there is a good case to be made that there is *prima facie* genocide currently occurring in Burma, or at the very least extermination of the Rohingya is occurring and that a full-blown genocide is probable and imminent unless urgent large scale steps are taken to avert it.

#### **D. CONCLUSION**

137. This concluding section incorporates recommendations which provide how Burma could step back from the brink of genocide and incorporate the Rohingya and other Muslim minorities as integral ethnicities to the Union that is Burma.

138. All the signs that genocide of the Rohingya in Burma is probable and imminent are apparent. The Rohingya have been stripped of their citizenship in 1974 and again in 1982, making their status close to that of refugees in their own country.

139. Repeatedly after dispossessing them, the Burmese government has tried to expel large numbers of Rohingya, beginning in the early sixties, and again in 1977-78 and 1991-92. Each time they failed. For reference, the genocide of the Armenians was in fact an expulsion and the Kosovo War began due to the expulsion of the ethnic Albanians, who but for the UN would have suffered hundreds of thousands of deaths. Even the holocaust only started after the Nazi plans to expel the Jews to Madagascar failed.

140. It is this dynamic of attempted expulsions, which was reiterated by the Burmese president Thein Sein's pleas to accept expulsion of the entire Rohingya community and have it accepted in another country, linked to a growing international awareness of the problem and the racist and eliminationist activities and atmosphere against the Rohingya in Burma today, that makes the

onset of genocide foreseeable<sup>173</sup>. Increasingly eliminationist rhetoric has made itself heard through the 969 groups, who not unlike the Interhamwe, in Rwanda, are inciting common people to commit acts of rape and murder. Recently an order given by the Burmese authorities to round up all men older than 10 years old was issued and it was the foreign diplomatic pressure which eventually managed to stop the order from being carried out for now. The question remains, for how much longer will the genocide of Rohingya be averted by the inaction of both the Burmese state and the international community?

## **E. RECOMMENDATIONS**

### **We call upon the UN human rights commission:**

- To initiate a special investigation into the genocide of the Rohingya.
- To urgently refer the matter to the security council before the Rohingya are annihilated.

### **We call upon the International Criminal Court:**

- To initiate proprio motu investigations into the widespread, deliberate and systematic killings of the Rohingya.
- To bring those guilty of crimes within its prerogatives to justice.

### **We call upon the democratic forces of Burma and the international community:**

- To concede a right of return to all Rohingya which have been expelled from Burma.
- To grant full citizenship rights to all Rohingya and thereby recognise them as one of the ethnicities of Burma.
- To end all violence in Rakhine state and elsewhere against the Muslim communities.
- To end all violence against the Rohingya.
- To deal with breaches of the peace according to the rule of law.
- To establish a commission under UN oversight that will determine the property rights of all the ethnicities in Rakhine state based on equitable principles.
- To repeal any law discriminating against the Rohingya.

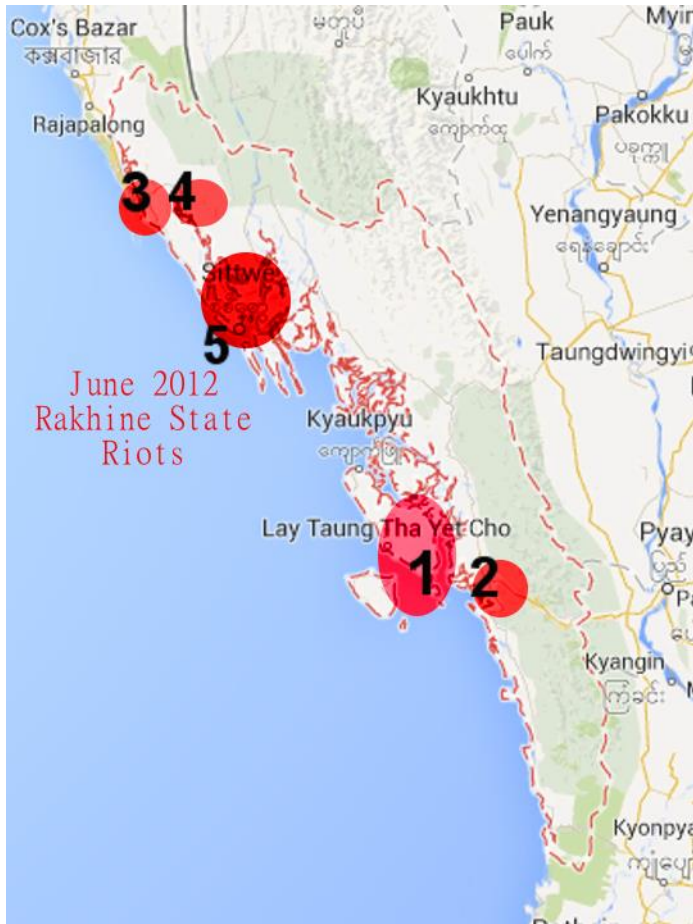
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<sup>173</sup> A similar approach is suggested on <http://www.refworld.org/docid/3ae6a84a2.html/>.

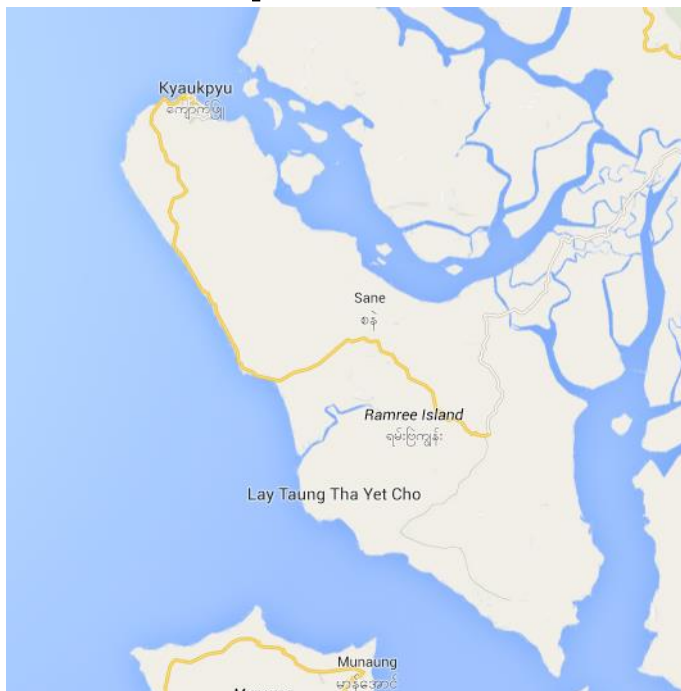
## Hear Our Screams!

- To establish a policy that will lead to reconciliation between the Rohingya and the other ethnicities in Burma.
- To establish economic policies that will benefit the different ethnicities of Burma equally.
- To a similar degree as other ethnicities to concede cultural and religious rights to all Islamic ethnicities in Burma.
- To put into action positive policies and measures that allow for economic development and alleviate poverty and create jobs.
- To institutionalise upliftment projects that economically benefit Rakhine state as a whole and which allow all ethnicities that live there a higher standard of living and ensure equitable and democratic economic participation for all.

**F. Map & Key Of Violent Events – 2012**



**1. Rambree Township**





## Hear Our Screams!

- 28 May 2012: Unknown assailants raped and murdered a 27-year-old Rakhine woman in Rambree Township.
- 29 May 2012: Local police detained three local Rohingya in connection with the 28 May murder of the Rakhine woman in Rambree Township

### 2. Taunggoat



- 3 June 2012: Local Rakhine in Taunggoat distributed leaflets that warned Rakhine women of potential sexual assaults by Muslims.
- June 3 2012: A mob of about 300 Buddhist Rakhine in Taunggoat Township attacked a bus and beat to death a group of 10 Muslim pilgrims who were returning to central Burma following a visit to Sandoway. The mob attacked the bus because they allegedly believed it was carrying those responsible for the 28 May rape and murder of the Rakhine woman in Rambree Township. Regime authorities made no arrests in connection with the attack.

### 3. Maungdaw



- 8 June 2012: Violence erupted in Maungdaw Township when a crowd of Muslims threw stones at regime buildings and local businesses after Friday prayers at a local mosque. Police fired warning shots in an attempt to disperse the crowd. The crowd then set fire to homes of Rakhine Buddhists in the area. Buddhists also launched reprisal attacks on Muslim villages.<sup>22</sup> According to a spokesperson from the Rohingya-affiliated National Democratic Party for Development, riots erupted after security forces opened fire on Muslims and several of them were killed.
- The regime imposed an indefinite 6pm-6am curfew in Maungdaw and Buthidaung Townships.<sup>25</sup> It also banned public gatherings of more than five people.<sup>26</sup>
- 8-9 June: Riots were reported in Maungdaw, Buthidaung, and Akyab.<sup>27</sup>
- 11 June: Riots were reported in Akyab, Maungdaw, and Pauktaw.
- On 16 June, a regime official said that more than 200 people remained missing from Maungdaw.

4. **Buthidaung**



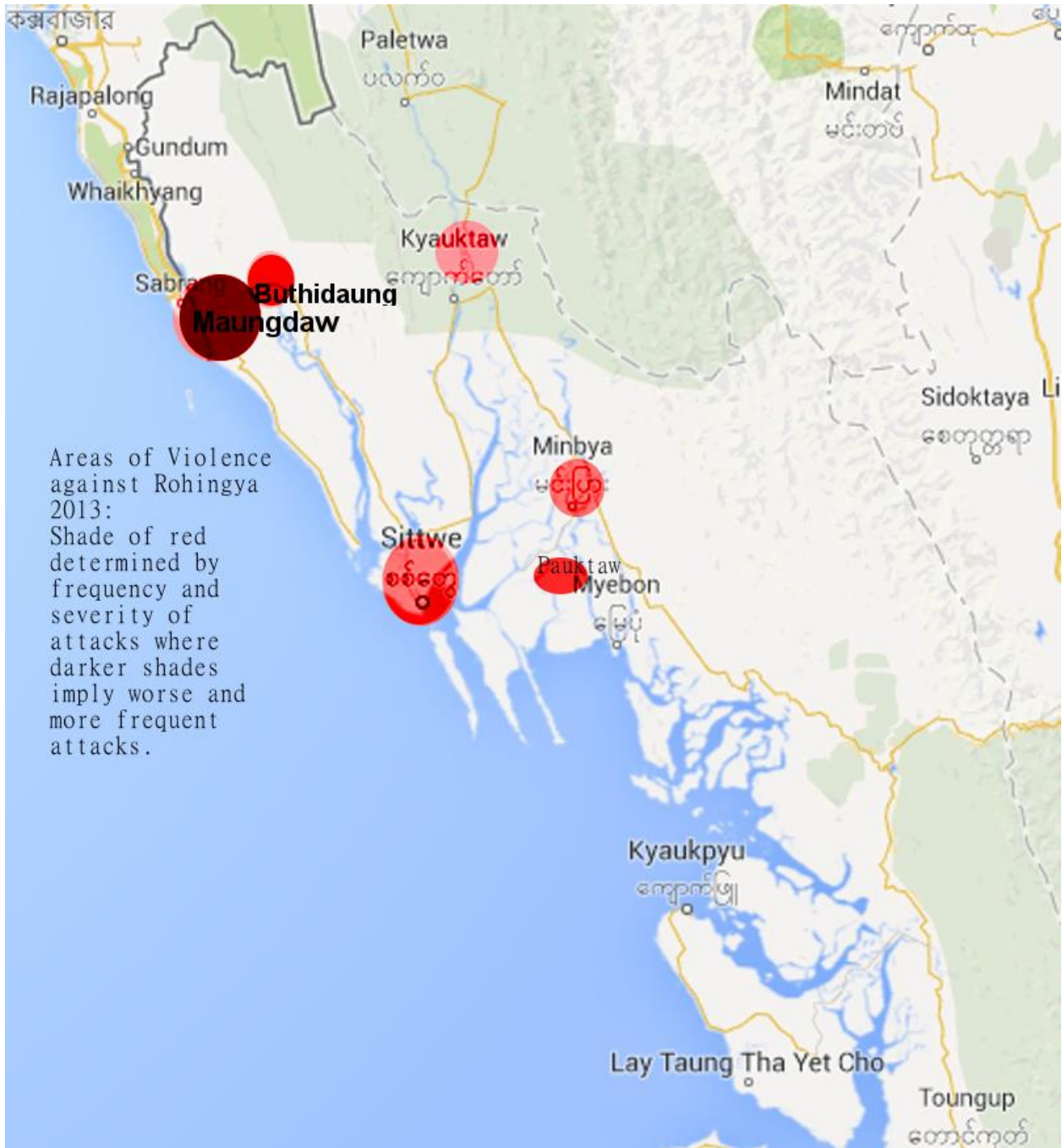
- 8-9 June: Riots were reported in Maungdaw, Buthidaung, and Akyab.
- 9 June: The regime imposed an indefinite 6pm-6am curfew in Maungdaw and Buthidaung Townships after riots in both townships. It also banned public gatherings of more than five people.

5. Akyab/Sittwe



- 10 June: Riots were reported in Akyab.<sup>330</sup> The regime imposed an indefinite 6pm-6am curfew in Akyab, Sandoway, Kyaukpyu, and Rambree Townships. It also banned public gatherings of more than five people.
- 11 June: Riots were reported in Akyab, Maungdaw, and Pauktaw.
- 12 June: Riots were reported in Akyab. Ferry cargo companies stopped the delivery of food supplies to the town. Akyab residents said they faced food shortages and skyrocketing prices for the limited food commodities available. Shops, banks, schools, and markets remained closed.
- 15 June: Unknown assailants burned about 60 houses in Akyab.

**G. Map of violent events 2013**



**January 28:** Maungdaw, A Rohingya Farmer was shot dead by Rakhine  
<http://www.rohingyablogger.com/2013/01/breaking-news-rohingya-shot-dead-in.html>

**February 15:** Pauktaw, Six Rohingya men killed by mob.  
<http://www.rohingyablogger.com/2013/02/six-rohingyas-killed-by-rakhine.html>

**February 19<sup>th</sup>:** Several women raped by NaSaKa border guard.

<http://www.rohingyablogger.com/2013/02/breaking-news-number-of-rohingya-girls.html>

**April 15:** Maungdaw, A Rohingya Man and His Son attacked with Machete

<http://www.rohingyablogger.com/2013/04/a-rohingya-man-and-his-son-hacked-in.html>

**April 14:** Kyauktaw, A Rohingya man is shot dead and three others injured by unknown shooter while they were at work in forest.

<http://www.rohingyablogger.com/2013/04/sudden-shot-made-one-rohingya-dead-and.html>

**April 22:** Maungdaw, NaSaKa Border Guard arrest and torture several Rohingya for extortion.

<http://www.rohingyablogger.com/2013/04/nasakas-in-maung-daw-south-forget-they.html>

**April 26:** Sittwe, Attempts to force Rohingya to register themselves as Bengali immigrants by authorities lead to minor clashes

<http://www.rohingyablogger.com/2013/04/forced-bengali-zation-of-rohingyas-led.html>

**May 5:** Maungdaw, Five Rohingya beaten by NaSaKa Border Guard, two of them children

<http://www.rohingyablogger.com/2013/05/five-rohingyas-tortured-and-extorted-of.html>

**May 11:** Maungdaw, A Rohingya boy shot by NaSaKa Border Guard

<http://www.rohingyablogger.com/2013/05/a-rohingya-boy-shot-by-nasaka.html>

**May 12:** Maungdaw Forced labor and extortion of Rohingya by NaSaKa Border Guard

<http://www.rohingyablogger.com/2013/05/rohingyas-in-immense-troubles-due-to.html>

**May 30:** Sittwe, Rohingyas hit with multiple charges for not registering as 'Bengalis'

<http://www.dvb.no/news/rohingyas-hit-with-multiple-charges-for-not-registering-as-%E2%80%98bengalis%E2%80%99/28558>

**June 02:** Minbya, Rohingya Muslim Woman Hacked to Death, Security Forces Ignore Murder

<http://www.rohingyablogger.com/2013/06/a-rohingya-woman-hacked-to-death-by.html/>

**June 04:** Mrauk-U, Four Rohingya Women Shot Dead by Police, One Pregnant.

<http://www.rohingyablogger.com/2013/06/four-rohingya-women-shot-dead-and-five.html/>

**June 11:** Maung Daw, Myanmar Burmese Border Guard (Nasaka) Pillage Rohingya Muslims in Rhakine State

<http://www.rohingyablogger.com/2013/06/continuous-robberies-of-burmese.html>

**June 28:** Pauktaw, Two Rohingya Killed by Security Forces in Internally Displaced Persons Camp

<http://abcnews.go.com/International/wireStory/killed-myanmar-refugee-camp-dispute-19520925#.Uc22ufnrxSI>

**August 18:** Maungdaw 2 Rohingya Women Raped by Security Forces in Tun Chaung

<http://www.rvisiontv.com/two-rohingya-girls-raped-by-security-force-in-southern-maung-daw/>

**August 29:** Maungdaw Entire Rohingya Quarter Seized by Security Forces in Maung Daw

<http://www.rvisiontv.com/a-whole-rohingya-quarter-confiscated-in-southern-maung-daw/>

**September 5:** Maungdaw, Arbitrary arrests continue in Maungdaw. Reports of detainees being beaten, one of them to death.

<http://www.rohingyablogger.com/2013/09/5-rohingya-brothers-arrested-on-false.html/>

**September 10:** Buthidaung Arbitrary arrests and violence by police against Rohingya continues. One woman detained reported as being kept naked in her cell and raped by police.

<http://www.rohingyablogger.com/2013/09/police-rape-rohingya-girl-inside-her.html/>

**September 19:** Maungdaw, Hlun Htaine Police attempt to rob and Rape Rohingya woman

<http://www.rohingyablogger.com/2013/09/hlun-htaine-police-robbed-rohingya.html/>

**October 5:** Maungdaw Police rape Rohingya woman

<http://www.rohingyablogger.com/2013/10/policeman-zaw-zaw-aung-from-kyain.html/>

**October 16:** Maungdaw Threats of violence against Rohingya if they perform Eid Prayers by village administrator

<http://www.rohingyablogger.com/2013/10/will-be-shot-if-performed-eid-prayer.html/>

**22 October:** MSF interview stating that Rakhine state hospitals refuse to treat Rohingya

<http://www.radioaustralia.net.au/international/radio/program/asia-pacific/muslims-blocked-from-rakhine-township-hospitals-says-msf/1206856/>

**October 31:** Maungdaw: A Rohingya man shot dead by a police officer while he was fishing.

<http://www.rohingyablogger.com/2013/10/a-rohingya-was-shot-dead-by-local.html/>

**November 2:** Pauktaw, a Rohingya man was killed by Rakhine mob, a confrontation between Rohingya and Rakhine escalated afterwards. MSF was then targeted afterwards for treating Rohingya patients.

<http://www.rohingyablogger.com/2013/11/a-rohingya-killed-in-pauktaw-by-rakhine.html/>  
<http://www.mmtimes.com/index.php/national-news/8720-patients-not-politics-in-rakhine-state.html/>

**November 03:** Buthidaung, The township administrator of Maung Daw issued directives that no Rohingya is allowed to marry for "population control" reasons.

<http://www.rohingyablogger.com/2013/11/buthidaung-township-administrator-says.html/>

**November 04:** Pauktaw, Myanmar Phone conversation reveals that police threatened to kill Rohingya if he did not confess to crime.

<https://soundcloud.com/rohang-3/conversation-with-pauktawrohingya/>

English translation at

<http://threatwiki.thesentinelproject.org/burmavisualization?datapoint=85/>

**November 8:** Burmese Military destroys an unregistered IDP beats Rohingya IDP's and kills a Rohingya baby:

<http://www.rohingyablogger.com/2013/11/a-rohingya-child-killed-and-tents.html/>

**November 17:** Buthidaung A Rohingya man is beaten by a group of men, and then beaten, humiliated, and kicked out of hospital by nursing staff when he went to get treatment for his injuries.

<http://www.rohingyablogger.com/2013/11/rohingya-man-beaten-by-group-of.html/>

**November 23/24:** Attacks on Rohingya Markets, property, and Mosque by Rakhine mobs in Maungdaw raise fears among Rohingya of escalation in attacks against them.

<http://www.rohingyablogger.com/2013/11/arson-attack-in-maungdaw-market-by.html/>

<http://burmatimes.net/a-two-century-old-mosque-has-burnt-down-by-buddhist-extremists-in-maung-daw/>

<http://www.rohingyablogger.com/2013/11/rohingyas-concerned-more-attacks-could.html/>

<http://www.rohingyablogger.com/2013/11/an-old-mosque-torched-in-maungdaw-by.html/>

**November 29:** Maungdaw , A Rohingya man is arbitrarily detained by police, beaten, and forced to pay a heavy fine as extortion.

**December 13:** Maungdaw, an elderly Rohingya woman beaten and robbed by police.

<http://www.rohingyablogger.com/2013/12/an-elderly-widow-robbed-and-tortured-by.html/>

### **2014 violence against Rohingya**

**January 10:** A father and two sons mutilated, tortured and murdered in Maungdaw

**January 13/14th** Authorities and Rakhine villagers attack Rohingya in Village tract of KilaDong, Maungdaw killing, raping, looting beating. Later numbers quoted by UN state over 40 Rohingya killed

<http://www.ibtimes.co.uk/myanmar-16-rohingya-muslims-killed-rakhine-state-1432609#.Utf-G0TtPA.twitter>

<http://www.theprovince.com/life/Rights+group+says+Buddhist+kills+more+than+dozen+Rohingya/9394342/story.html>

<http://www.rohingyablogger.com/2014/01/police-and-rakhines-loom-and-rape-3.html/>

**January 21:** reports that a Rohingya woman gang raped by Burmese soldiers

<http://www.rohingyablogger.com/2014/01/a-rohingya-woman-mother-of-three-gang.html/>

**January 23:** Mass arrests ordered in KilaDong

<https://plus.google.com/+FortifyrightsOrg/posts/hSzsST4Z3vC/>

<http://www.ibtimes.co.uk/myanmar-buddhist-authorities-order-mass-arrests-rohingya-muslims-rakhine-state-1433472/>

A woman and her children, including a four year old girl, are beaten by Burmese soldiers for returning to Kiladong after they did so on orders from a neighboring community's authority.

<http://www.rohingyablogger.com/2014/01/4-year-old-rohingya-girl-mercilessly.html/>

Reported on **January 29:** Police burn down homes in KilaDong after violence there killed at least 48 Rohingya in earlier riots

<http://www.ibtimes.co.uk/myanmar-police-burn-down-rohingya-homes-rakhine-state-1434323/>