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## Human Rights Council

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Human rights situations that require the Council's attention

### **Written statement\* submitted by the Minority Rights Group, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[23 August 2012]

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\* This written statement is issued, unedited, in the language received from the submitting non-governmental organization.

## **Grave situation of Rohingya in Rakhine State, Myanmar and Bangladesh's refoulement of refugees\*\***

This statement on the situation of stateless Rohingya in Myanmar and Bangladesh represents the views of Minority Rights Group (MRG) and partner organisations, the Equal Rights Trust (ERT) and The Cordoba Foundation (TCF).

The Rohingya are an ethnic, religious (Muslim) and linguistic minority in Myanmar. Approximately one million Rohingya live today in Rakhine state of Myanmar, of which over 700,000 are concentrated in the northern region of the state. The 1982 Citizenship Law of Myanmar stripped them of nationality, making them stateless.<sup>1</sup> This law has been the legal basis for systematic arbitrary and discriminatory treatment against the Rohingya community. Their human rights and freedoms have been routinely violated and eroded through a series of draconian policies, arbitrary taxes and controls. Notably, Rohingya do not have the freedom to move within Myanmar, those who leave Myanmar are denied the right to return and face long-term imprisonment if captured upon re-entry, and severe controls are placed on Rohingya marriages.<sup>2</sup> The Myanmar security forces have a long history of discrimination and systematic human rights abuses against the Rohingya including extrajudicial killings, arbitrary arrest and detention, restriction of movement, and forced labour.<sup>3</sup>

Bangladesh, the immediate neighbour of North Rakhine State, has been the destination of a steady flow of Rohingya refugees, in particular the two mass refugee exoduses, each of about 250,000, in 1978 and 1991-92. Both mass exoduses were followed by repatriation, often coerced. At present, 29,000 Rohingya refugees who first arrived in the 1991-92 mass exodus remain in Bangladesh in the two "official" refugee camps of Nayapara and Kutupalong in the Cox's Bazar district of South-East Bangladesh. In addition, more than 200,000 live outside the two official refugee camps.

In Myanmar, what began as sectarian violence quickly evolved into organised and large-scale state sponsored violence against the Rohingya. The violence which began on 3 June 2012 mainly occurred in Sittwe and Maungdaw. On 10 June, a state of military emergency was declared, after which the UN pulled its staff from the area, leaving no international observers on the ground. On 29 June, it was announced that United Nations High Commissioner for Refugees (UNHCR) staff had returned to Rakhine State.

It is evident that the military turned a blind eye to violence perpetrated by members of the majority Rakhine and also partook in violence against Rohingya themselves, further heightening this crisis. From 16 June onwards, the military became more actively involved

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\*\* NGOs without consultative status, also share the views expressed in this statement: Equal Rights Trust (ERT) and The Cordoba Foundation (TCF).

<sup>1</sup> Burma Citizenship Law [Myanmar], 15 October 1982, available at: <http://www.unhcr.org/refworld/docid/3ae6b4f71b.html>.

<sup>2</sup> For a detailed account of the human rights abuse endured by the Rohingya in Myanmar, see The Equal Rights Trust, *Unravelling Anomaly: Detention, Discrimination and the Protection Needs of Stateless Persons*, July 2010, pp. 59 to 63, available at: <http://www.equalrightstrust.org/view-subdocument/index.htm?id=748>. For an overview of the violence against Rohingya in June 2012, see The Equal Rights Trust, *Burning Homes, Sinking Lives*, July 2012, available at: <http://www.equalrightstrust.org/ertdocumentbank/The%20Equal%20Rights%20Trust%20-%20Burning%20Homes%20Sinking%20Lives.pdf>.

<sup>3</sup> NUI Galway, *Crimes against humanity in Western Burma: The situation of the Rohingyas*, 2010, available at: [http://www.nuigalway.ie/human\\_rights/documents/ichr\\_rohingya\\_report\\_2010.pdf](http://www.nuigalway.ie/human_rights/documents/ichr_rohingya_report_2010.pdf).

in committing acts of violence and other human rights abuses against the Rohingya including killings and mass scale arrests and disappearances of Rohingya men and boys in North Rakhine State. Incidences of indiscriminate shooting by military personnel on Rohingya civilians have been documented by the Equal Rights Trust, Human Rights Watch and other organisations. There have been reports of over five hundred Rohingya prisoners being transferred to Buthidaung prison, where they have been subject to torture, cruel, inhuman and degrading treatment or punishment. Incidences of rape of the women left behind committed by Myanmar security personnel have increased.

The UN Special Rapporteur on Myanmar who recently visited Rakhine State said he was “gravely concerned” by allegations of serious human rights violations allegations carried out by State officials and called for a credible, independent investigation.

Meanwhile, the humanitarian crisis that resulted from the violence has placed the lives of countless persons at risk. Humanitarian organisations operating in Rakhine state estimate that there are over 100,000 displaced persons, the majority of whom are Rohingya. There remain significant challenges to providing humanitarian aid in particular due to a double barrier created by obstructive government forces and hostility within the local population. The government has unnecessarily blocked the access of humanitarian agencies to displaced populations in certain areas of North Rakhine State. Local UN and INGO humanitarian staff were arrested some of whom continue to be detained - on unfounded charges of treason. At the same time, aid workers have been threatened by local Rakhine groups for their role in distributing aid. Many more Rohingya in North Rakhine State who have taken shelter in the homes of others or cannot leave their own homes due to threats of violence, have lost their livelihoods and have no means of accessing food or humanitarian aid.

Myanmar’s response to the human rights and humanitarian crisis has further excluded the Rohingya. In July 2012, Thein Sein, president of Myanmar, informed the UNHCR that the Rohingya are illegal immigrants who should be moved to refugee camps or resettled to third countries; a proposal rejected by the refugee agency. This statement of the president is emblematic of the exclusion, discrimination and abuse that stateless Rohingya have faced for many decades at the hands of the state, and a dangerous indication of Myanmar’s preferred solution to this human rights crisis. There have also been calls by Rakhine groups to create a “Muslim free zone” in Sitwe, the capital of Rakhine state of which almost 50% of the population is Muslim. We fear that Rohingya displaced from their homes in Sittwe will not be allowed to return to their land, but instead will be placed in a protracted state of displacement in camps that have been constructed by the authorities. A further danger faced by Rohingya is that many of those who fled their homes and their country have been struck off ‘family lists’. This legal erasing of their identity means they will not be entitled to return to their homes and continue their lives without risking arrest and detention.

Bangladesh, in contravention of its international legal obligations, closed its borders and has pushed many Rohingya, who have fled the violence and persecution, back into dangerous waters. The first boat with Rohingya refugees arrived in Bangladesh and was pushed back - *refouled* - on 11 June 2012. On 18 June, 139 persons in 8 boats were pushed back from Teknaf. Only 33 persons in two boats are confirmed to have survived. However, more refugees continue to arrive in Bangladesh due to the desperate situation in Myanmar. There have been no visible steps taken by the government of Bangladesh to provide humanitarian aid to the refugees. In fact, on 2 August 2012, Bangladesh banned three international humanitarian organisations - Doctors without Borders (MSF), Action Against Hunger (ACF) and Muslim Aid UK – from continuing their operations in Cox’s Bazar District, thus putting the lives of over 200,000 long-term displaced Rohingya “persons at risk” and all recent refugees – who almost exclusively depend on the humanitarian support

of such organizations, at immediate and heightened risk. A similar ban in 1978 resulted in the deaths of approximately 12,000 Rohingya refugees.

The legal obligations of both states require them to protect all persons within their territories or subject to their jurisdictions, regardless of whether they are citizens, stateless or refugees. Both states appear to have violated the right to life, the right to be free from torture or cruel, inhuman or degrading treatment or punishment, the right to liberty and freedom from arbitrary detention, the right to food and shelter including the fundamental right to be free from hunger, and the right to the highest attainable standard of health. In addition, Bangladesh has acted in violation of the rights of the Rohingya to seek and to enjoy asylum. The severity of the treatment of the Rohingya and the widespread, systematic nature of the violence raises concern of possible crimes against humanity being committed by Myanmar.

We call on the Myanmar Government to take urgent steps to end the current violence and protect all individuals within the territory or subject to the jurisdiction of Myanmar, in an equal and non-discriminatory manner.

We urge full cooperation of the Myanmar Government with the UN and other humanitarian organisations and provide access for humanitarian assistance and support to affected communities.

We call on the Bangladesh Government to refrain from *refoulement* or forcible return of all refugees, asylum seekers and persons of concern; to take all necessary steps to prevent further escalation of this humanitarian tragedy by opening its borders to Rohingya refugees fleeing violence and persecution in Myanmar and to fully cooperate with UN agencies and international NGOs to enable the provision of humanitarian assistance and support to all refugees.

We recommend that the HRC commission an impartial, independent and transparent inquiry into the causes of the violence, with the objective of identifying and bringing those responsible to justice, whether agents of the state or private individuals, compensating the victims and restoring damaged property.

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