

Women Peace Network – Arakan
Universal Periodic Review – Myanmar (Burma)
Submission to the Office of the High Commissioner for Human Rights
March 2015

INTRODUCTION

1. Through law and practice, the Rohingya, a Muslim minority group of over one million who have been residing in northern Rakhine (Arakan) State for hundreds of years, have been denied the rights of citizens of Myanmar. Even more disturbingly, they have for decades been denied their fundamental rights as humans under international law. In the four years since the last Universal Periodic Review of Myanmar, discrimination, violence, and other forms of abuse against the Rohingya and other Muslims in Myanmar have significantly increased despite Myanmar’s internationally applauded steps toward democracy. The human rights violations described in this submission are supported by Women Peace Network – Arakan (WPNA) research conducted by coordinators on the ground in Arakan State and reports from news media, NGOs, and UN agencies.¹ They were verified during a consultation session with Rohingya community leaders, who also provided input into the recommendations set forth here. WPNA makes this submission for the Universal Periodic Review to highlight the urgency of the ongoing violations of Rohingya Muslims’ human rights in Myanmar and to call upon the Myanmar government to restore full citizenship rights, end discriminatory policies, and take action to prevent further violence and human rights abuses.
2. WPNA is a Myanmar-based organization founded by a group of Rohingya women in 2012. It is dedicated to promoting and protecting the rights of women from marginalized communities in Arakan State and elsewhere in Myanmar and empowering them so that they can enjoy justice, equality, and peace. WPNA’s activities include civic education trainings, women’s empowerment programs, English classes, vocational trainings, advocacy and youth engagement related to peace, and research regarding conditions in Arakan State.

FOLLOW UP FROM CYCLE 1 REVIEW

3. During the Cycle 1 review of Myanmar in 2011, discrimination and violence against the Rohingya were raised in stakeholder reports, in the UN summary, and in recommendations made during the interactive dialogue. The Myanmar government rejected recommendations suggesting it take steps to end discrimination and violence against Rohingya and other ethnic and religious minorities, to modify the Citizenship Law to ensure citizenship rights to minorities, to remove restrictions imposed upon

¹ See, e.g., Human Rights Watch, *World Report: Burma* (2015); The International Crisis Group, *Myanmar: The Politics of Rakhine State*, Asia Report No. 261 (22 October 2014); Fortify Rights, *Policies of Persecution* (25 February 2014); UN Office for the Coordination of Humanitarian Affairs (UNOCHA), “Myanmar: Internal Displacement in Rakhine State as of November 30, 2013”; Report of the Special Rapporteur on the Situation of Human Rights in Myanmar, UN General Assembly, September 23, 2013, A/68/397; Physicians for Human Rights, *Patterns of Anti-Muslim Violence in Burma: A Call for Accountability and Prevention* (August 2013); Jason Szep, *Special Report: Buddhist monks incite Muslim killings in Myanmar*, Reuters (April 8, 2013); Human Rights Watch, *All You Can Do is Pray* (2013); Human Rights Watch, “The Government Could Have Stopped This,” <http://www.hrw.org/reports/2012/07/31/government-could-have-stopped>.

Muslims in Arakan State, and to register all births and avoid statelessness.² During the interactive dialogue, in responding to statements made by members of the Council, the Myanmar delegation stated, “The allegation regarding the discrimination and harassment against the local population of Northern Rakhine State is contrary to the facts. Historically and culturally those people do not constitute any national race and are illegal immigrants residing along the border areas of Northern Rakhine State.”³ In a response to a recommendation regarding the promotion of rights of “Muslim minorities,” the government stated, “Religious intolerance or discrimination is non-existent in Myanmar.”⁴

4. These rejections and denials are emblematic of the government’s approach toward violence and mistreatment of the Rohingya and other Muslims throughout the country. Given this reaction, it is unsurprising that the situation for Rohingya and other Muslims in Myanmar has worsened. Moreover, as the remainder of this submission makes clear, the Myanmar government has failed to follow the recommendations they did accept, such as recommendations that the government strengthen and protect fundamental rights of minorities, including one specifically referring to northern Arakan State, rehabilitate returning refugees, and allow the practice of culture, religion, and language without discrimination.⁵

THE HUMAN RIGHTS SITUATION ON THE GROUND

5. Since the last UPR review of Myanmar in 2011, violence between Rakhine Buddhists and Rohingya Muslims has led to the deaths of hundreds of Muslims and the displacement of thousands. Over 140,000 Rohingya and Kaman Muslims remain in Internally Displaced Person (IDP) camps within Arakan State, while others fled to neighboring countries, often dying or falling victim to traffickers in the process. Rohingya in Arakan State are subject to discriminatory and abusive policies by local officials, especially in regards to freedom of movement, freedom to marry, and freedom to found a family. Anti-Muslim sentiment is increasing throughout the country as evidenced by the growth of the 969 and Ma Ba Tha movements and by violence in 2013 outside of Mandalay and in other locations throughout the country. State actors have consistently failed to act to prevent violence and protect vulnerable Muslim communities. In some instances, state actors were directly responsible for promulgating discriminatory policies and involved in violence and other forms of abuse.

Arbitrary Detention

6. NaSaKa—a border guard force made up of army, police, immigration, and customs officials—arbitrarily arrested and detained thousands of Rohingya in the years following the first UPR review. While in custody, Rohingya were subjected to beatings and other forms of mistreatment. While NaSaKa was officially disbanded in 2013, many of the

² See Report of the Working Group on the Universal Periodic Review, Myanmar, A/HRC/17/9, ¶¶ 106.44, 107.3, 107.10, 107.12, 107.24-28, 107.30, 107.44-46, 107.51.

³ Report of the Working Group on the Universal Periodic Review, Myanmar, A/HRC/17/9, ¶ 101.

⁴ Addendum of the Republic of the Union of Myanmar to the Report of the Working Group on the Universal Periodic Review, Myanmar, A/HRC/17/9, ¶ 11.

⁵ See Report of the Working Group on the Universal Periodic Review, Myanmar, A/HRC/17/9, ¶¶ 104.17, 104.29, 104.49, 104.52, 104.54, 106.21.

same practices have continued. WPNA research has revealed abuses by Border Guard Police, a people's militia known as Pyithu Sit, and a new force known as MaKaPa, which resembles NaSaKa in membership and practices. Its full name Matayar Khoewin Kyukyaw Thumyar Tarsi Taikphyatyey Aphwe makes clear its purpose: it means "Illegally Entering and Invading People Preventing and Destroying Association." WPNA is also concerned about several reports it has received in the last year of Rohingya being randomly arrested and then extorted and mistreated while in detention.

Restrictions on Marriage and Birth Rate

7. Local authorities in northern Arakan State apply burdensome requirements to Muslim marriages and limit the number of children Muslim families are allowed to have. WPNA has also heard reports of village administrators setting quotas for the number of permitted Muslim marriages. Rohingya homes are subject to "spot checks" during which officials compare children's ages and appearances against a family registration list and force women to breastfeed their children in front of them to demonstrate their relation. These policies constitute an arbitrary interference with privacy, family, and home and impinge upon the rights to marry and found a family. Penalties of imprisonment up to ten years are prescribed for couples who do not receive proper permissions for marriage, have more than two children, or otherwise do not follow rules set by local authorities. These draconian enforcement measures have led many Rohingya to flee to Bangladesh and many Rohingya women to attempt unsafe abortions. Local and Union-level authorities have repeatedly used an unsupported claim regarding population growth to justify these discriminatory and abusive policies.
8. Furthermore, Union-level officials and Parliamentarians have expressed support for a discriminatory package of proposed laws widely considered to target the Muslim population, known as the "Race and Religion Protection Laws." The first of the laws, placing limits on the frequency women can have children, has already been approved by both houses. The other three laws would require Buddhist women seeking to marry non-Buddhist men to receive permission from local authorities, place restrictions on conversion, and mandate monogamy. WPNA fears that these laws will be used as justification for further arbitrary arrests and harassment of the Muslim community and other religious minorities.

Violations of the Right to Nationality and Non-Discrimination

9. Rohingya children whose parents are alleged to have violated restrictions on marriage or birth rate or committed other unapproved acts have been "blacklisted" and denied birth certificates. This lack of documentation has made it difficult, if not impossible, for them to provide the requisite documentation needed to register for any kind of identification, let alone citizenship, and has prevented them from accessing many basic services. Since 2012, the number of children denied birth certificates has been said to have increased. Such practices violate children's right to a nationality, to be registered immediately after birth, to non-discrimination, and to social protection.

Denial of Right to Movement, Health Care, Education, Livelihood, and Religion

10. Local authorities have written policies in certain townships in northern Arakan State that require Rohingya to acquire special travel permits to leave their townships and difficult to obtain authorization to travel outside of the state. Rohingya living in IDP camps are even more restricted in their ability to travel anywhere outside of the camps. Such restrictions place discriminatory and unjustified restrictions on Rohingya movement and

burden their ability to seek medical care, education, and economic opportunity. Furthermore, WPNA has learned that the government has not provided schooling for children in IDP camps and Rohingya university students from Arakan State have been prevented from returning to classes. Making matters worse, after violence against Rohingya in January 2014 in the village of Du Chee Yar Dan in Arakan State, the government withdrew staff and supplies from a state-run hospital and suspended MSF's operations in the state.⁶ Lack of necessary health services has led to unnecessary suffering and avoidable deaths. These restrictions on movement and lack of access to services impinge upon Rohingya rights to freedom of movement, work, education, and health care. WPNA also understands that Rohingya in Rakhine State are being denied access to mosques and religious schools, which is a violation of their right to religious expression.

Rape and Sexual Harassment

11. Rohingya women have been subjected to rape and sexual harassment by state security forces in Arakan State in recent years. NaSaKa, described above, had a well-documented history of raping Rohingya women, which continued through 2013 when it was disbanded. In the last year, WPNA has been informed of multiple instances of gang rape of Rohingya women by police officers in police stations in northern Arakan State along with other forms of abuse toward Rohingya women by military and other state actors. Such abuse infringes upon women's rights to security of person and protection from sexual violence. Perpetrators have not been held accountable. Victims have reported harassment and fear of harassment if they attempt to file a report with the police. Thus, women in Arakan State are denied access to justice and the right to an effective remedy.

Forced Fleeing and Trafficking

12. In response to the dire conditions in Arakan State, over 100,000 Rohingya have been forced to flee to neighboring countries since 2012. Many of those who flee face perilous conditions and die before they reach their final destination. Others fall prey to traffickers or face detention and abuse when they arrive in destination countries. Rohingya seeking to flee by boat are forced to pay large sums of money to brokers, a portion of which often goes to local security forces, and are sometimes directly extorted for further sums of money by state officials before they leave. There are also reports that members of the Myanmar military have escorted and abused the Rohingya attempting to flee. WPNA is particularly concerned by a recent pattern of increased harassment of local residents prior to the arrival of boats used to transport people out of Myanmar.

Impunity

13. No action has been taken against any state actors for abuses or violence committed against Rohingya. The investigations into the instances of violence in June and October 2012 and January 2014 were inadequate at best. The Myanmar National Human Rights Commission (MNHRC) has contributed to the impunity for abuses committed against Rohingya during the outbreaks of violence during 2012 and 2014. After investigating the violence in Arakan State in June 2012, it found that there were "no government abuses" and claimed all humanitarian needs were being met. In its investigation into the alleged killings of Rohingya in Du Chee Yar Dan in Arakan State in January 2014, it proclaimed that there was insufficient evidence to prove that the killings occurred, contrary to

⁶ We understand that MSF has currently returned to Arakan State but access to health care for many Rohingya remains limited.

WPNA research and the results of a limited investigation by the UN. Such inadequate investigation and refusal to take action has served to deny Rohingya their right to an effective remedy and may even encourage further violence and abuses.

Revocation of Citizenship and Political Rights

14. The Citizenship Law of 1982 contains discriminatory provisions that distinguish between three classes of citizens and states that only certain ethnicities qualify as “nationals” guaranteed full citizenship. This law has been used in practice to revoke citizenship and other rights of thousands of Rohingya. Rohingya are not included in the list of ethnicities eligible for full citizenship, and the burdens of otherwise proving eligibility for either full or naturalized citizenship have made it practically impossible for many Rohingya to obtain citizenship. During a citizenship verification process in 1989, the government collected National Registration Cards (NRC) from Muslim citizens in Arakan State but never provided them with replacement cards. Later, in 1995, the government handed out Temporary Registration Cards or “white cards,” which state that they do not confer citizenship status, to many Rohingya regardless of the status they had held prior to the collection of the cards in 1989. To this day, many Rohingya still hold these “temporary” cards as their only form of identification. The law and its implementation thus deny Rohingya the right to a nationality. Despite a UN General Assembly Resolution in December of 2014 calling on the government to grant Rohingya full citizenship, the government has not taken any action to do so.
15. Further cementing Rohingya statelessness, the government excluded Rohingya from the census conducted in March and April 2014. Rohingya were excluded from the list of ethnic nationalities and were not even allowed, as originally promised, to fill in “Rohingya” next to the other box after a violent response from Rakhine nationalists. Thus, Rohingya were forced to either identify as Bengali, a label used to imply that they are illegal immigrants, or not be counted.
16. The government has taken further steps to strip Rohingya of the last remaining political rights they had historically enjoyed in Myanmar. An amendment to the Political Parties Registration Law was passed in November 2014 removing Temporary Registration Card Holders from the list of persons eligible to participate in party politics. Furthermore, after protests against legislation allowing holders of Temporary Registration Cards to vote in a constitutional referendum, the President announced that all Temporary Registration Cards needed to be turned in, as they would soon expire. The practical effects of this move have yet to be fully realized but they will likely be far-reaching.

RECOMMENDATIONS

1. Restore full citizenship rights of Rohingya. Eliminate requirements for citizenship that discriminate on the basis of race, religion, ethnicity or any other protected status. Remove burdensome documentation requirements that make it harder for individuals from remote areas, with little resources, or from backgrounds not deemed a “national race” to assert their citizenship rights.
2. Unequivocally endorse non-discrimination and the right of all individuals in Arakan State to equal protection of the law.
3. Provide and protect freedom of movement for Rohingya and other displaced or isolated persons.
4. End all official and unofficial policies burdening Rohingya right to marry and limiting

the birth rate of Rohingya women. Reject—or repeal, if already passed—each of the “Race and Religion Protection Laws.”

5. Implement reforms of security forces, especially MaKaPa and Border Guard Police, and the justice sector to ensure they comply with international human rights standards. Order police and security forces to cease “spot checks” of Rohingya homes, arbitrary arrests of Rohingya individuals, and other forms of harassment of Rohingya communities. Immediately release any individuals detained for religious, ethnic, or political reasons.
6. End impunity of state actors implicated in rape, harassment, killings, and other forms of violence against Rohingya men and women. Investigate and prosecute alleged abuses and allow individuals to bring cases against perpetrators, including those in the military, in civilian courts.
7. Ensure access to health care, education, and economic opportunity for Rohingya and Rakhine on a non-discriminatory basis. Provide primary school education for all Rohingya children and allow Rohingya students to return to university. Provide adequate health care services to IDPs and allow all Rohingya to travel to receive necessary medical care.
8. Facilitate returns and resettlements of all displaced persons in accordance with international standards, on a voluntary basis, in a manner protecting those persons’ safety and dignity. Enable them to recover land and other property and provide protection to returning residents. Set up reconciliation and reintegration programs to allow for a smooth and peaceful transition and to prevent future violence.
9. Issue birth certificates to every child born in Myanmar and revise the Citizenship Law so that it ensures that children have the right to have a nationality when they would otherwise be stateless, as required by international law.
10. Resume recognition of Rohingya as an ethnic group legitimately residing in Myanmar, including by recognizing Rohingya as a “national race” under the 2008 Constitution. Respect the right of Rohingya to identify as Rohingya.
11. Establish an independent monitoring body of all security forces, including police, Border Guard Police, military, and MaKaPa, and the justice sector.
12. Reform the MNHRC so that it is consistent with the Paris Principles. Allow UN OHCHR to establish an office in Myanmar and freely monitor and investigate allegations of human rights abuse.