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Human rights situations that require the Council's attention

Written statement* submitted by Physicians for Human Rights, 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.

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* Issued as received, in the language(s) of submission only.



PHR urges renewed HRC mandate on Human Rights situation in Myanmar

PHR's record of investigating atrocities against the Rohingya

For more than 15 years, Physicians for Human Rights (PHR) has applied its medical expertise to investigations into human rights abuses in Myanmar. Myanmar's security forces launched a campaign of widespread and systematic violence targeting Myanmar's Muslim Rohingya minority in northern Rakhine state in late August 2017.¹ That violence killed at least 10,000 Rohingya civilians and prompted at least 720,000 others to flee for their lives to neighboring Bangladesh.² Since then, PHR has deployed four separate teams of clinicians to the Rohingya refugee camps of Cox's Bazar, Bangladesh to document evidence of the violence suffered by survivors. That documentation has included a quantitative survey, qualitative interviews, and forensic evaluations of survivors to document the scope, scale, and patterns of these attacks, resulting in key evidence-based conclusions on the gravity of the human rights situation in Myanmar.

PHR's documentation has resulted in three long-form human rights reports and three peer-reviewed medical journal articles that provide irrefutable evidence of the widespread and systematic nature of the Myanmar security forces' campaign of mass killings, gang rapes, mutilations, and forced dislocation targeting the Rohingya in northern Rakhine state in late 2017.³ The evidence in that documentation has allowed PHR to demonstrate Myanmar security forces' culpability in that violence. For example, PHR's forensic evaluations revealed that 85 percent of survivors who were medically examined identified the Myanmar military as perpetrators of attacks on their villages.⁴ Similarly, 77 percent of hamlets that reported violence had observed helicopters overhead, and/or special military trucks (70 percent) and tanks (22 percent) in their hamlets.⁵

PHR has also documented the harrowing long-term impact of that campaign of targeted violence. In June 2019, PHR released a report showing how the violence inflicted a decades-long, painful, life-altering legacy on potentially thousands of Rohingya who were disabled in the attacks and their families.⁶ The majority of those Rohingya with disabilities that PHR clinically evaluated were disabled as a result of Myanmar security forces shooting them as they fled their hamlets or through detonation of landmines that security forces had apparently laid around their villages in a deliberate effort to maim or kill Rohingya civilians.

PHR's long record of research has clearly identified a pattern of attacks waged by the Myanmar security forces against the Rohingya minority. PHR's research and evidence further supports the findings of the Independent International Fact-finding Mission on Myanmar (IIMM), which in 2018 found that the actions of the Myanmar security forces indicated "genocidal intent."⁷ As PHR continues its documentation efforts, including more specific investigations into the perpetration of sexual- and gender-based violence, it remains

¹ Physicians for Human Rights, "Widespread and Systematic: Violence against the Rohingya in Myanmar," August 30, 2018, available at <https://rohingya.phr.org/resources/widespread-and-systematic-violence-against-rohingya/>

² Ibid, p. 2

³ Physicians for Human Rights, "'Please Tell the World What They Have Done to Us'": The Chut Pyin Massacre: Forensic Evidence of Violence against the Rohingya in Myanmar," July 20, 2018, available at <https://rohingya.phr.org/resources/chutpyin/?ms=homepagebanner>; Physicians for Human Rights, "Widespread and Systematic;" Laura Mills and Rupa Patel, "Shot While Fleeing: Rohingya Disabled by Myanmar Authorities' Targeted Violence," Physicians for Human Rights, June 25, 2019, available at <https://phr.org/our-work/resources/shot-while-fleeing-rohingya-disabled-by-myanmar-authorities-targeted-violence/>

⁴ Physicians for Human Rights, "Widespread and Systematic," pp. 6-7.

⁵ Ibid, p.7.

⁶ Mills and Patel, "Shot While Fleeing."

⁷ United Nations Human Rights Council, "Report of the independent international factfinding mission on Myanmar," A/HRC/39/64, September 18, 2018, p. 364.

gravely concerned about the ongoing human rights crisis facing the Rohingya and other minority ethnic groups in Myanmar. We now call on the international community to pursue all available means to ensure accountability and justice.

The need for concerted actions in support of justice and accountability

Recent developments at the International Court of Justice (ICJ) and International Criminal Court (ICC) have given some indication that the perpetrators of grave human rights abuses may be held accountable. PHR has welcomed the ICJ's decision to support the Gambia's request that the Government of Myanmar take all necessary actions to protect the country's Muslim Rohingya minority.⁸ By placing legally-binding obligations on Myanmar to adhere to its commitments under the Convention on the Prevention and Punishment of the Crime of Genocide, the ICJ has taken a critical first step toward international accountability for the violent campaign waged by Myanmar's security forces.

Similarly, PHR welcomes the decision of the ICC to begin investigations into alleged crimes against humanity in the Rohingya context, including deportation of Rohingya across the Myanmar-Bangladesh border.

PHR also supports the initiatives of national courts that undertake universal jurisdiction prosecutions of Myanmar government and military officials implicated in the slaughter of 2017. On November 13, Rohingya and Latin American human rights organizations filed a case with an Argentine court against Myanmar government and military officials under the principle of universal jurisdiction, which allows that people implicated in the most serious international crimes may be arrested, prosecuted, and convicted in countries other than their own.⁹ The Argentine court filing seeks "the criminal sanction of the perpetrators, accomplices and cover-ups of the genocide" perpetrated by Myanmar security forces against the Rohingya.¹⁰

While these proceedings provide some hope for holding the perpetrators of mass atrocities accountable for their actions, PHR sees an urgent need for the international community to take further action to ensure that grave human rights abuses are brought to an immediate end.

A critical role for the Human Rights Council

The United Nations Human Rights Council (HRC) has already done critical work in addressing the crisis in Myanmar by establishing and supporting the mandate of the Special Rapporteur on the situation of human rights in Myanmar; the fact-finding mission; and the Independent Investigative Mechanism for Myanmar.

Given the advancements being made toward accountability through international justice mechanisms, the HRC now has an even more crucial role to play. The HRC must support these justice mechanisms with increased political pressure, including the ICJ's recent ruling that demands a halt to further attacks on the Rohingya, and the preservation of evidence and documentation of the abuses committed by the Myanmar state.

The HRC must also hold Myanmar to its commitments under international human rights law, particularly with the obligations outlined in the Convention on the Prevention and Punishment of the Crime of Genocide and the International Covenant on Economic, Social and Cultural Rights.

⁸ Physicians for Human Rights, "International Court of Justice Delivers Rebuke of Myanmar's Abuse of Rohingya Minority," January 23, 2020, available at <https://phr.org/our-work/resources/international-court-of-justice-delivers-rebuke-of-myanmars-abuse-of-rohingya-minority/>.

⁹ "Myanmar's Aung San Suu Kyi faces first legal action over Rohingya crisis," the *Guardian*, via *Agence France Press*, November 14, 2019, available at <https://www.theguardian.com/world/2019/nov/14/myanmars-aung-san-suu-kyi-faces-first-legal-action-over-rohingya-crisis>.

¹⁰ *Ibid.*

Through the renewal of a strong mandate for the Special Rapporteur on the situation of human rights in Myanmar, the Council can reiterate its strong political support for transparency and accountability, as well as supporting the Council's own prevention mandate. Furthermore, with a strong mandate from the Council, the Special Rapporteur can act as an independent observer who may also report on continued abuses inside Myanmar or raise urgent concerns about any further destruction of evidence outside of the ICJ-mandated reporting cycle.

Recommendations

In its 43rd Regular Session, the Human Rights Council is due to again extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar, providing an opportunity for the Council to send a robust message to the Government of Myanmar that it must end its attacks on civilians and to lend support to wider efforts seeking justice and accountability. In this regard, PHR calls on the Council to support a resolution which:

- Recognizes the ICJ case against Myanmar under the Genocide Convention, and the Court's preliminary relief order in the case;
- Renews the mandate of the Special Rapporteur on the situation of human rights in Myanmar for at least one more year;
- Mandates the Special Rapporteur to gather information on the current state of the human rights of the Rohingya and other minorities, both inside and outside Myanmar, including a clear reporting mandate;
- Demands that Myanmar fully cooperates with the Special Rapporteur, including providing unconditional access to Rakhine state where the violence of 2017 unfolded;
- Extends the mandate of the Special Rapporteur to monitor and report on Myanmar's adherence to the ICJ preliminary relief order, and to communicate its findings to international justice mechanisms;
- Reiterates the need for full legal recognition and protection of the Rohingya in Myanmar, including full citizenship rights, and the safe, dignified, and voluntary return of refugees.
