



General Assembly

Distr.: General
24 June 2019

English only

Human Rights Council

Forty-first session

24 June–12 July 2019

Agenda item 4

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.

[01 June 2019]

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



Physicians for Human Rights’ Forensic medical evidence calls for UN Members States to pursue “Genocide Convention” violation complaints against Myanmar at the International Court of Justice for Widespread and systematic targeted violence against the Rohingya

Summary

By using its medical expertise, Physicians for Human Rights (PHR) has applied three research methods to document the scope, scale, and patterns of attacks that took place against Myanmar’s Rohingya minority in late August 2017 and pushed at least 720,000 refugees into neighboring Bangladesh. PHR’s previous research indicates that the grave human rights violations committed against the Rohingya should be investigated as crimes against humanity (namely murder and enforced disappearances, torture, rape and other sexual violence, and forcible transfer of populations). Documentation gathered by PHR supports the conclusions of a UN fact-finding mission, which found that actions by Myanmar security forces indicated “genocidal intent.”^{1,2} Those findings were echoed in the results of the first-ever quantitative survey of Rohingya leaders displaced to refugee camps in Bangladesh.³

PHR’s methodology

Epidemiologic survey

PHR surveyed leaders from 604 Rohingya hamlets in the townships of Maungdaw, Buthidaung, and Rathedaung in northern Rakhine state to gather data on the morbidity and mortality rates resulting from the events of late August 2017. The survey covered events from the end of Ramadan (June 24, 2017) to the time when the Rohingya in these hamlets fled. Of the hamlets surveyed, 92% were solely Rohingya, encompassing an estimated 136,320 households and 916,399 people.⁴

Qualitative research

To complement the quantitative survey data, PHR conducted qualitative interviews with 40 hamlet leaders who reported mass killings, rapes, and/or mass graves. These in-depth interviews provided context to document the scale and nature of the attacks.

Forensic evidence in individual cases

PHR medical teams conducted forensic evaluations by physically examining more than 85 survivors to corroborate the survey and qualitative findings. The breadth and geographical diversity of these individual evaluations points to the widespread and systematic nature of abuses faced by the Rohingya. PHR conducted forensic assessments using an adapted version of the UN Office of the High Commissioner Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” commonly known as the Istanbul Protocol. PHR’s forensic evidence

¹ The United Nations Human Rights Council. *A/HRC/39/64*, Report of the independent international fact-finding mission on Myanmar, Sept 18, 2018.

² 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 2018.

³ “Violence and mortality in the Northern Rakhine State of Myanmar, 2017: results of a quantitative survey of surviving community leaders in Bangladesh,” *Lancet Planetary Health*, March 2019.

⁴ The remaining 8% of villages also included 8,255 people of other ethnicities (Mro, Rakhine, Hindu) residing in the affected areas.

casework demonstrates a high degree of consistency between described events and physical examination findings, and with overall reports by other credible sources.

PHR's preliminary key findings

For decades, the Rohingya have been stateless and subjected to a range of human rights violations, including the denial of the right to health and education, limited political participation, restrictions on freedom of movement, forced displacement, arbitrary detentions and killings, forced labor, and trafficking, among other abuses.⁵ PHR's survey showed that in the weeks leading up to August 2017, authorities (including Border Guard Police, military, and civil government officials) held meetings with 91% of these hamlets. Over two thirds of the hamlets said the meetings included threats of violence or reports of violence and restricted mobility in neighboring hamlets. PHR's forensic research on the village of Chut Pyin exemplifies how this unfolded. Rohingya leaders in Chut Pyin reported that their last meeting with officials was on August 22, when they were given 24 hours to reach a collective decision to accept the National Verification Card (NVC) and were warned they would die if the community did not agree.⁶ When the villagers rejected the NVC the following day, the Myanmar officials said to them "Do not leave your houses. If we see you on the road, we will shoot you."⁷ Three days later, Chut Pyin was destroyed by Myanmar security forces and Rakhine Buddhist villagers, leaving some 400 Rohingya, including 99 children, dead or missing. International law defines deportation or forcible transfer as the "threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power against such person or persons or another person."⁸ PHR's survey shows that the majority of hamlets within which meetings were convened during this time (81%) perceived them as threats, and over half of the respondents reported that this was one of the reasons why they fled. This demonstrates the coercive nature of a widespread and systematic policy that seemed designed to ensure Rohingya communities left Myanmar.

Violence and injuries across Northern Rakhine State

PHR's survey indicates that Chut Pyin was an emblematic case, as these threats turned into violence in subsequent weeks across many hamlets in northern Rakhine state: from the end of June to early September 2017, 88% of the survey respondents reported incidents of violence, which led to a vast array of human rights violations. Some 91% of the hamlet leaders that reported violence noted blunt force trauma such as beatings, hitting, kicking, punches, or penetrating injuries using weapons such as machetes, knives, and sticks. Over half of these hamlets (55%) reported people shot, as well as rape and sexual assault (28%) and gang rape (9%). Moreover, 88% of those who reported violence within their hamlet stated that the Rohingya's right to freedom of movement had been curtailed by travel restrictions. This survey data is supported by PHR's forensic evidence casework. Ranging from 3.5 to 74 years of age, more than 85 survivors whom PHR medically examined sustained several different kinds of injuries, with some survivors sustaining multiple injuries. Of these survivors, almost a quarter now have a long-term disability. Some 75% of hamlets reported fields or farms burned and/or homes torn down or destroyed. Moreover, the majority of hamlets (65%) reported that mosques were destroyed or burned, indicating persecution based on ethnic and religious grounds. 64% of hamlet leaders said Rohingya also faced violence as they fled to Bangladesh, including: blunt force trauma such as beatings, hitting, kicking, punches, or biting, or penetrating injuries using weapons such as machetes, knives, sticks (82%); gunshot wounds (65%); mortars/RPGs/grenades (35%); rape (27%); and gang rape (11%).

⁵ UN Office of the High Commissioner for Human Rights (OHCHR), "Report of OHCHR Mission to Bangladesh: Interviews with Rohingyas fleeing from Myanmar since 9 October 2016," (3 February, 2017).

⁶ Ibid, p.12.

⁷ Ibid, p.13.

⁸ International Criminal Court (ICC), *Elements of Crimes*, 2011, ISBN no. 92-9227-232-2, (p. 6).

Conclusion and recommendations

A quarter of the affected hamlets reported that the violence took place on August 25. Over two thirds (69%) of the reported violence directly perpetrated against Rohingya hamlets took place from August 15 to September 4, when the military announced the end of its “clearance operations” against the insurgent Arakan Rohingya Salvation Army. PHR’s forensic evaluations indicate that 85% of survivors who were medically examined identified the Myanmar military as perpetrators of attacks on their villages. Similarly, 77% of hamlets that reported violence had observed helicopters overhead, and/or special military trucks (70%) and tanks (22%) in their hamlets. Myanmar has refused to cooperate with international attempts to investigate the alleged crimes and has failed to establish truly independent mechanisms to do so within the country itself. A government-backed commission announced in December 2018 that it had found no evidence to confirm the UN fact-finding mission’s allegations.⁹ Eight previous Myanmar-led commissions have failed to find systemic wrongdoing on the part of the security forces,¹⁰ and there is little hope that members of the new council will be impartial.

PHR has determined that the crimes detailed in its studies may constitute violations of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (“Genocide Convention”),¹¹ which Myanmar ratified in March 1956.¹² The Genocide Convention specifically criminalizes acts “committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group.” PHR calls on UN Member states who are party to the Genocide Convention and who have already recognized the crimes against the Rohingya as genocide – particularly Canada – to file complaints to the International Court of Justice (ICJ) for the Myanmar government’s violation of the Genocide Convention and to press the ICJ to seek reparations.

⁹ Naing Zaw, Htet, “Commission Invites Victims of Violence in Rakhine State to Submit Evidence,” *The Irrawaddy*, Dec 12, 2018.

¹⁰ Human Rights Watch, “Myanmar’s Investigative Commissions: A History of Shielding Abusers,” September 2018.

¹¹ UN General Assembly, Convention on the Prevention and Punishment of the Crime of Genocide, 9 December 1948, United Nations, Treaty Series, vol. 78, p. 277, accessed April 26, 2019.

¹² United Nations Treaty Collection, Convention on the Prevention and Punishment of the Crime of Genocide, Accessed on April, 26, 2019.