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Summary Report

International Conclave Justice and Accountability for Rohingya

Centre for Peace and Justice
Brac University

Summary Report on

International Conclave on

Justice and Accountability for Rohingya

The Hague, The Netherlands
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Convened by

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The Centre for Peace and Justice, Brac University (CPJ), partnered with the International Institute for Social Studies (ISS), Erasmus University Rotterdam and Asia Justice Coalition (AJC) to convene an International Conclave on Justice and Accountability for Rohingya on 18 October 2019 at ISS in The Hague.

Key Stakeholder Participation



CPJ liaised closely with key stakeholders throughout the planning process for the Conclave, most notably Government of Bangladesh officials including Foreign Secretary Md. Shahidul Haque, and Bangladesh Ambassador to The Netherlands, Sheikh Mohammad Belal.

The Foreign Secretary of Government of Bangladesh (GoB) planned to attend the Conclave but was regrettably unable to attend for personal reasons. The Ministry of Foreign Affairs (MoFA) was represented by Shahanara Monica, Director of UN Affairs. Both Ambassador Belal and Monica participated actively throughout the Conclave.

Keynote Speakers



Two keynote speakers made opening presentations with the Gambian Justice Minister Abubacarr Marie Tambadou announcing that on 4 October he had instructed his government's lawyers to file a case against Myanmar at the International Court of Justice (ICJ) for the crime of genocide. Minister Tambadou reflected the need for not only individual but state accountability to bring about justice for the Rohingya.

Keynote speaker Bob Rae, Canada's Special Envoy to Myanmar, spoke about the need to bring justice to the Rohingya as an ongoing social and political process that transcends purely legal avenues. Mr Rae cited the need to hold Myanmar accountable for its crimes against the Rohingya but stated that this in itself is insufficient. There are also needs for education in the camps, humanitarian access, refugee rights, and for the Rohingya themselves to have a voice and participate in processes toward sustainable solutions.

Notable Guests – Inaugural Session

In addition to the keynote speakers, the Bangladesh Ambassador and other senior officials and members of the diplomatic corps, other inaugural session speakers were Brac University Vice Chancellor Professor Vincent Chang, ISS Rector Professor Inge Hutter, ISS Professor Syed Mansoob Murshed, CPJ Executive Director Manzoor Hasan, and Amnesty International Director for South Asia, Biraj Patnaik.

Other Key Participants

Other Conclave participants included policymakers, academics, and Rohingya leaders. Each of the three thematic panels was initially designed to include one representative from each of these categories. Unfortunately, due to visa issues one of the three Rohingya panelists was unable to attend. AJC steering committee attendees included Manzoor Hasan, Biraj Patnaik, Dr. Priya Pillai, Kingsley Abbott and Tun Khin.

Summary of Thematic Panels

The three thematic panels were organised to examine the multifaceted challenges involved in bringing about justice and accountability for the Rohingya, as well as other components that must be addressed in order for sustainable solutions to take hold. The first panel aimed to build participants' awareness of the current situation in Myanmar and the massive challenges involved in overcoming the Myanmar military's impunity, the neglect of the country's development and governance, and how this particularly impacts ethnic Rohingya. The second panel provided an update on current justice and accountability mechanisms and the processes already underway, while the third panel examined the impacts of the crisis on different levels, including the host community, Myanmar civil society at large, ASEAN, and within the broader geopolitical context.

Panel 1: The Rohingya Crisis and Myanmar's Social and Political Landscapes

The first panel was entitled "The Rohingya Crisis and Myanmar's Social and Political Landscape" and consisted of moderator Shireen Huq of Naripokkho Bangladesh and panellists Nickey Diamond of Fortify Rights Myanmar, Laetitia van den Assum of the Advisory Commission on Rakhine State chaired by Kofi Annan, and Brian Gorlick of



University of London (formerly UNHCR). Diamond provided an overview of Myanmar's problematic 1982 Citizenship legislation and 2008 Constitution, as well as the rise of Islamophobia and the incomplete nation-building process under the military junta as issues to be addressed to overcome the country's legacy of civil conflict.

Van den Assum described the Annan Commission's mandate and the incomplete status of implementation of its recommendations, and the ongoing relevance of the report as violent conflict persists in Rakhine State. She emphasized that the National Verification Card (NVC), strongly opposed by the Rohingya, is shown to exacerbate rather than overcome the entrenched inequalities and statelessness of the Rohingya. Gorlick noted that the recent final report released by the Independent International Fact-Finding Mission on Myanmar (IFFM) provides a well-documented account that conditions in Rakhine are unsuitable for repatriation. Any efforts towards seeking accountability and justice will be a slow process and indeed such measures could frustrate the possibility for refugee return. Further, the UN Security Council has to date failed to take decisive action. Operationally, the UN in Myanmar

has limited manoeuvrability, leverage and presence, and in some cases has adopted negative coping strategies with respect to humanitarian response; it has also compromised its obligations to promote human rights and protection principles. Gorlick proposed that in addition to seeking justice and accountability, all solutions should be on the table including the possibility of the Rohingya accessing work rights and other services with government support in Bangladesh, pursuing reparations, and regional responsibility-sharing including resettlement of some Rohingya refugees in the Asia region and beyond to alleviate pressure on Bangladesh.

During the discussion, the topic of economic sanctions was discussed, with several participants supportive but questioning the potential effectiveness. A Bangladeshi official addressed the expressed concerns of Bangladesh's management of the refugee crisis and suggested that public and international pressure should remain focused on Myanmar.

Panel 2: Justice and Accountability

The second panel entitled "Justice and Accountability" consisted of moderator Dr Priya Pillai and panellists Professor Azeem Ibrahim of Centre for Global Policy, Kingsley Abbott of International Commission of Jurists (ICJ), and Tun Khin, Rohingya leader and Co-Founder of Burmese Rohingya



Organisation UK. Ibrahim expressed doubts that Myanmar would ever change as the military (commonly known as the Tatmadaw) has demonstrated no intention of taking responsibility for its actions or limiting its authority. He shared the prediction that the refugee crisis will become further protracted and repatriation will not become a realistic option.

Abbott provided an overview of the various mechanisms and legal institutions currently pursuing pre-investigative and investigative activities toward justice and accountability, as well as Myanmar's claims that it is pursuing accountability domestically. Tun Khin shared his own family's experience of having their citizenship status gradually stripped, pointing out the absurdity of the Rohingya being painted by Myanmar as outsiders. He stressed the need to engage Rohingya leaders in political processes and amplify the voices of the Rohingya people who continue to face an existential threat. The restoration of citizenship must be at the core of a long-term solution to the current crisis.

In discussion, participants asked about coordination between the different legal entities; Abbott commented that this is already occurring and that the legal processes are moving forward much more quickly than previous cases investigated by the International Criminal Court (ICC). Professor Ibrahim, a Bangladeshi official and some other participants expressed differing views on whether it is worthwhile to focus solely on repatriation.

Panel 3: Toward Sustainable Solutions: Multi-faceted Engagements for Concrete Action

The third panel entitled “Toward Sustainable Solutions: Multi-faceted Engagements for Concrete Action” consisted of moderator Farah Kabir, Country Director of Action Aid Bangladesh and panellists Rezaul Karim Chowdhury of COAST Trust, Yasmin Ullah of the Rohingya Human Rights Network, Lilliane Fan of Asia Pacific Refugee Rights Network, and Professor Imtiaz Ahmed, Director of Centre for Genocide Studies, Dhaka University.



Chowdhury shed light on the plight and grievances of the host communities of Cox’s Bazar and called for localization of funding and management of the humanitarian response to ensure that Bangladeshi NGOs are in the lead. Ullah described the “divide and rule” approach of the Tatmadaw and the need for ethnic groups to establish trust, build coalitions and work together for justice. Fan explained how ASEAN countries are responding in different ways to the crisis, with Malaysia taking a more assertive stance than most nations. She described possible means by which ASEAN’s traditional positions of non-interference and consensus might be overcome, sharing that many within ASEAN are dissatisfied by the tone of indifference this tradition presents in the face of human rights violations. Like earlier panellists she emphasised the need for education and refugee rights. Finally, Professor Imtiaz called for Myanmar’s “friends,” namely, China, India and Japan, to play a constructive role toward solutions. He voiced his views in favour of education, sanctions and Rohingya leadership, and against the suggestion that repatriation was not the priority solution or feasible, stating that this would only fulfil Myanmar’s desire to permanently displace and remove the Rohingya population.

During the discussion, the conversation focused on ongoing debate about repatriation and resettlement and the need for intensified pressure on Myanmar including through ASEAN.

Concluding session

Following the three thematic panels, a final panel assembled to share reflections and recommended action points. The final panel was moderated by Laetitia van den Assum; with panellists Yasmin Ullah, Barrister Nina Tavakoli of Red Lion Chambers, UK, K.A.M. Morshed of BRAC, Professor Payam Akhavan of McGill University, and Ambassador Belal.



Ullah called for greater Rohingya participation in similar proceedings in the future and emphasised the need for justice and accountability to stand as the main pillars of a sustainable solution. Morshed highlighted the need to overcome the growing sense of hopelessness amongst refugees as well as the host community. Tavakoli highlighted the progress made in the past year as a case for tentative optimism and called for ongoing coordination amongst various accountability and investigative mechanisms and legal bodies. She also noted the need for involvement of the Rohingya community and the importance of properly collecting and preserving evidence which may be used in the criminal process. Professor Akhavan highlighted the need for political rather than humanitarian solutions and the fact that justice processes have indeed resulted in substantive changes for victims. He also called for other states to help ease some of Bangladesh's burden. Ambassador Belal stressed the need for repatriation and sustainable solutions, the need for justice for the Rohingya, and the importance of deterring future perpetrators from committing genocidal acts.

Finally, the Ambassador offered closing remarks and a vote of thanks was delivered by CPJ Research Coordinator and ISS doctoral candidate Muhammad Badiuzzaman.

Final analysis

The Conclave created a constructive space in which the complex and nuanced issues comprising the Rohingya crisis could be debated and examined in detail. While there was recognition that international legal mechanisms are moving forward more quickly than anticipated, several participants highlighted that these processes do not constitute standalone sustainable solutions. Myanmar's political, social cohesion, development and security challenges are likely to persist even as justice and accountability processes move ahead.

There was at times an atmosphere of constructive disagreement in the room, with several participants pointing out that because Myanmar appears unlikely to change, conditions are likely to remain unconducive for repatriation. There are many indications the refugees' residency in Bangladesh is likely to become protracted. Thus, these



participants argued, Bangladesh and the international community should begin looking toward creative and multi-faceted approaches in addition to justice and accountability. This requires improved conditions for refugees, particularly in terms of accessing education, livelihoods, and participation in political dialogue and other efforts to negotiate solutions. Additional suggestions such as third-country resettlement were also raised. Others disagreed, stating that a focus on third-country resettlement or the Rohingyas' long-term integration into Bangladesh merely helps Myanmar accomplish its goal of disintegrating the Rohingya people and culture.

These dilemmas have no easy answers: the Rohingya people's own inputs must be sought and incorporated as each difficult question is navigated. Not only is their participation critical for the pursuit of justice to be successful, the international community bears a moral obligation to listen to and amplify their voices as a stateless people lacking formal political representation. As one participant noted, the refugee camps of Cox's Bazar and the intractability of the political problem have begun to resemble "the Gaza of the region". Although the crisis emerged out of civil conflict rooted in Myanmar's inability or unwillingness to foster a cohesive nation-building process in its post-colonial era, it has spilled across the country's borders to create a destabilizing regional challenge and potential threat to international peace and security. Therefore, all affected actors should work together in a bold and innovative manner. Justice and accountability for both individual and state perpetrators of the atrocities committed against the Rohingya will continue to be key pillars of this process.

Action points

Action point 1: Bolster support for individual criminal accountability and state responsibility The international community can support international legal processes by supporting key legal institutions, such as the ICJ, ICC, and the Independent Investigative Mechanism for Myanmar (IIMM) by coordinating with each other in these initiatives. Civil society actors should continue to raise awareness on the need for justice and accountability. To preserve the reliability of evidence and testimonies, researchers and those working closely with victim communities should avoid duplicative documentation and ensure proper procedural and ethical practices are in place.

Action point 2: Harness political pressure, particularly amongst key state actors

The Bangladesh officials in attendance and others stressed their sense that the best way for the international community to lend support is to intensify pressure on Myanmar; they urged the international community to focus on justice and accountability. China, India and Japan should be urged to become more proactive, as they are key supporters of Myanmar.

Action point 3: Increase economic pressure

Participants widely agreed that more action must be taken to “follow the money” and the international community must increase economic pressure on Myanmar. All states and actors of good faith must uphold their responsibility to refrain from doing business with the Myanmar government and Tatmadaw. The public and private sectors alike must avoid complicity in supporting Myanmar government investments and enterprises which have increased the consolidation of state interests and activities against the Rohingya.

Action point 4: Uphold the dignity of Rohingya survivors


As they face an ongoing existential threat due to the seriousness of the crimes committed against them, Rohingya communities require the support of the entire international community to ensure that they are continually engaged in, updated on, and empowered to participate in the justice and accountability processes. Refugees also deserve rehabilitation support in the form of the extensive and ongoing humanitarian services, education, and related access to other basic human rights.





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