

A MODERN DAY HOLOCAUST:
*THE GENOCIDE OF THE ROHINGYA MUSLIMS OF
MYANMAR*

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I. INTRODUCTION

In 2017 there were approximately one million Rohingya in Myanmar.¹ Though there are many ethnic minorities in Myanmar, the Rohingya minority “represent[s] the largest percentage of Muslims.”² This population has been harshly discriminated against for years, but recently this has come to a head.³ The Rohingya Muslims are being driven out of Myanmar in devastating ways.⁴ It has become such a crisis, “the United Nations High Commissioner for Human Rights, [Zeid Ra'ad Al Hussein], labeled the army’s actions as a ‘textbook example of ethnic cleansing’ and possibly genocide.”⁵ Many are beginning to call what has happened, and is happening to the Rohingya of Myanmar, a genocide,⁶ including Raphael Lemkin, a Polish-Jewish jurist, who worked with the American team to create the Nuremberg trials.⁷ He coined the term, and had it included in the “indictment against Nazi leadership.”⁸ People writing about what is going on in Myanmar are comparing the cleansing of the Rohingya Muslims to the cleansing of the Jews during the Holocaust.⁹ This article will look at the Rohingya Muslims and how the discrimination against them has escalated into a

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¹ Myanmar Rohingya, *What You Need to Know About the Crisis*, BBC (Jan. 16, 2018), <http://www.bbc.com/news/world-asia-41566561>.

² *Id.*

³ *Id.*

⁴ Geoff Curfmna, *ICC Jurisdiction and the Rohingya Crisis in Myanmar*, Just Security (Jan. 9, 2018), <https://www.justsecurity.org/50793/icc-jurisdiction-rohingya-crisis-myanmar/>.

⁵ *Id.*

⁶ Patrick Winn, *Should We Call the Rohingya Crisis a ‘Genocide’?*, GLOBALPOST (June 10, 2018), <https://www.pri.org/stories/2015-07-06/should-we-call-rohingya-crisis-genocide>.

⁷ *Coining a Word and Championing a Cause: The Story of Raphael Lemkin*, U.S. Holocaust Memorial Museum (June 10, 2018), <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007050>.

⁸ *Id.*

⁹ Winn, *supra* note 7.

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cleansing. It will also compare what happened to the Jewish people during the Holocaust to what the Rohingya Muslims are experiencing in Myanmar.

II. BACKGROUND

A. WHO ARE THE ROHINGYA MUSLIMS?

The Rohingya Muslims have both a culture and language that is unique to them.¹⁰ Like a Bengali dialect, their language along with their culture is very different compared to the predominantly Buddhist community in Myanmar.¹¹ In 2014 Myanmar conducted a census, its first in the last 30 years. In this census the Rohingya Muslims were not counted. Instead, they were told to identify themselves as Bengali.¹²

The Rohingya Muslims are a Muslim minority in a majority Buddhist Myanmar.¹³ There are one hundred thirty-five recognized ethnic groups in Myanmar, but the Rohingya Muslims are not one of them.¹⁴ The Rohingya Muslims are not recognized as lawful citizens, but rather, in the eyes of the government of Myanmar they are “illegal immigrants.”¹⁵ The Myanmar government argues they are illegal because they were brought there from Bangladesh while Myanmar was a British colony.¹⁶ They are systematically discriminated against by the government; by not being considered citizens, the Rohingya have no rights, no freedom, and no access to healthcare or education.¹⁷

¹⁰ Myanmar Rohingya, *What You Need to Know About the Crisis*, BBC (Jan. 16, 2018), <http://www.bbc.com/news/world-asia-41566561>.

¹¹ *Id.*

¹² Megan Specia, *The Rohingya in Myanmar: How Years of Strife Grew Into a Crisis*, *The New York Times* (June 10, 2018), <https://www.nytimes.com/2017/09/13/world/asia/myanmar-rohingya-muslim.html>.

¹³ *The Rohingya Crisis*, CNN (June 10, 2018), <https://www.cnn.com/specials/asia/rohingya>.

¹⁴ *Id.*

¹⁵ Sarah Gibbens, *Myanmar's Rohingya Are in Crisis – What You Need to Know*, *National Geographic* (June 10, 2018), <https://news.nationalgeographic.com/2017/09/rohingya-refugee-crisis-myanmar-burma-spd/>.

¹⁶ *Id.*

¹⁷ Rebecca Ratcliffe, *Who Are the Rohingya and What is Happening in Myanmar?*, *The Guardian* (Sep. 5, 2017) <https://www.theguardian.com/global->

Since the government believes the Rohingya Muslims are illegal, they have created extreme policies that discriminate against them – this has been ongoing since the 1970s.¹⁸ Because of their status in the governments’ eyes the Rohingya are one of the largest stateless groups in the world.¹⁹ The Myanmar government does not recognize what they have done or are doing to this population; instead they refuse to use their true name “Rohingya.”²⁰ As seen in the 2014 census where they were forced to register as Bengali, the government is doing everything they can to label the Rohingya as “other.”²¹

B. WHEN DID THIS BECOME A CRISIS

Although included in the 1961 census, the next year the discriminatory practices against the Rohingya Muslims began.²² The 1962 military coup in Myanmar began the isolation of the Rohingya, and then in 1974 they were refused registration to attain documentation cards.²³ Instead, the Rohingya were forced to register as foreigners.²⁴ It did not take long for the government to pass a law that prohibited the Rohingya from being citizens, leading to these people becoming stateless.²⁵ The law identified one hundred thirty-five ethnicities that would be considered citizens, not including the Rohingya Muslims – this began the downfall of the Rohingya Muslims.²⁶

development/2017/sep/06/who-are-the-rohingya-and-what-is-happening-in-myanmar.

¹⁸ Eleanor Albert, *The Rohingya Crisis*, Council on Foreign Relations (Feb. 9, 2018) https://www.cfr.org/background/rohingya-crisis?cid=ppc-Google-paid-Rohingya_Background-091916&gclid=Cj0KCQjwn-bWBRDGARIsAPS1svv34Hex70_9Ss9yCovFh0WlZwyBxk4ytMS3aX_H7YUO99VMacUifGUaAgN8EALw_wcB.

¹⁹ *Id.*

²⁰ Aamna Mohdin, *A Brief History of the Word “Rohingya” at the Heart of a Humanitarian Crisis*, Quartz (Oct. 2, 2017) <https://qz.com/1092313/a-brief-history-of-the-word-rohingya-at-the-heart-of-a-humanitarian-crisis/>.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Specia supra* note 13.

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C. DISCRIMINATORY LAWS

The first discriminatory law that began the decline of the rights of the Rohingya was the 1982 law that denied them citizenship.²⁷ Not only was their citizenship taken away, but also their access to health care, education, and freedom of movement both within the country and out of the country.²⁸

The discrimination did not stop there. The 969 is a radicalized Buddhist movement with the goal of eliminating the Rohingya Muslims.²⁹ The 969 is led by Wirathu, who began with violence and, in time, turned to discriminatory laws.³⁰ Alder Ledge claims that although some might criticize him for comparing the democracy of Myanmar to Hitler's Nuremberg race laws, a close look at the discriminatory laws enacted in Myanmar will prove otherwise.³¹

It was vital to Hitler to protect the German blood and honor; one way he did this was restricting who could marry.³² One of the Nuremberg race laws that was enacted banned marriage and sexual relations between Jews and non-Jews, as "these relationships were labeled 'race defilement'" or *rassenschande*.³³ Meaning, there were laws that dictated who the Jews could marry, who they could have sex with, and how many children they could have.³⁴ If someone violated a race defilement law and a child was born of the relationship the child was a "mischling or a half-breed," meaning that in the eyes of the Nazi law the child was in fact Jewish.³⁵

There are comparable laws for the Rohingya. The family unit is strictly regulated for the Rohingya. Marriage for the Rohingya Muslims is greatly restricted as to whom they can

²⁷ *Id.*

²⁸ *Id.*

²⁹ Alders Ledge, *Nuremberg Revisited*, The Stateless Rohingya (June 10, 2018), <http://www.thestateless.com/2013/06/nuremberg-revisited.html>.

³⁰ *Id.*

³¹ *Id.*

³² *Nuremberg Laws*, U.S. Holocaust Memorial Museum (June 10, 2018), <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007902>.

³³ *Id.*

³⁴ Ledge *supra* note 31.

³⁵ *Id.*

marry, when they can marry, and whether they can marry.³⁶ In addition, the number of children Rohingya can have is regulated and the government forces them to register their children in order to make sure the law is enforced.³⁷ Similar to the Nuremberg Laws, where a child was considered a half-breed, if a Rohingya woman is raped by a soldier of the government, any children born as a result is considered a Rohingya child.³⁸

The government has also enacted population control laws on the Rohingya.³⁹ For the Rohingya Muslims the number of children they are allowed to have is also regulated.⁴⁰ Although proponents of the law claim that the restrictions on the number of children will help the country deal with the level of poverty and living standards, this is ultimately a guise.⁴¹ The extremist Buddhists who are working to eradicate the Rohingya Muslims fear that without the restriction the Muslims may take over the country.⁴² Minister Khin Yi backed this law, 969 fully supported this law, and most other leaders in Myanmar also supported it.⁴³ Another underlying purpose of this law is to put the Rohingya deeper in poverty.⁴⁴ With little opportunity for the Rohingya Muslims, they are left to farm and are at a major handicap without a lot of children in the family to help.⁴⁵

Not only are the Rohingya restricted in their private family life, but they are also restricted when it comes to participating in government.⁴⁶ Similar to how Nuremberg banned Jews from public office, Rohingya Muslims cannot participate in the government of Myanmar.⁴⁷ As previously mentioned, the Rohingya Muslims are a stateless people, the government does not recognize them as citizens, much like how the Jews' citizenship was stripped from

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ CHLOE WHITE, PROTECTION FOR WHOM? VIOLATIONS OF INTERNATIONAL LAW IN MYANMAR'S NEW RACE AND RELIGION PROTECTION LAWS 14-15 (2015), <https://giwps.georgetown.edu/wp-content/uploads/2017/10/Violations-of-International-Law-in-Myanmar-2.pdf>.

⁴² *Id.*

⁴³ Ledge *supra* note 31.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ *Id.*

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them in Nazi Germany.⁴⁸ However, unlike the Jews, who once had citizenship, the Rohingya have often been denied the right to exist in this state; the government has pushed a “policy of denial.”⁴⁹ Although these are harsh laws, the laws are not the only way the Rohingya Muslims have faced discrimination, as they have also experienced extreme violence.

D. VIOLENCE

While discriminatory laws have become a norm to the Rohingya Muslims, the violence being perpetrated against them has escalated to a point where the United Nations High Commissioner for Human Rights, Zeid Ra’ad Al Hussien, is calling the crisis a “textbook example of cleansing.”⁵⁰ Although the rest of the world is reporting on the violence against the Rohingya Muslims, the Myanmar government⁵¹ established a commission failed to find the violence that the rest of the world is reporting.⁵² No one is allowed in the country, although the United Nations, outside organizations, and journalists have tried to go to further research the crisis.⁵³ The information that currently exists has come from those who have escaped and crossed the Bangladesh border.⁵⁴ Zeid Ra’ad Al Hussien published a report in 2017 that told the stories of the Rohingya Muslims who are fleeing from Myanmar to Bangladesh.⁵⁵ The report told devastating tales of death by fire, close range shootings, stabbings, burnings, beatings to death, killing children, kidnapping, and all types of sexual violence.⁵⁶

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ Gibbens, *supra* note 16.

⁵¹ *Id.*

⁵² *Myanmar Says 'No Evidence' of Rohingya Genocide*, BBC (June 10, 2018), <http://www.bbc.com/news/world-asia-38505228>.

⁵³ Gibbens, *supra* note 16.

⁵⁴ *Id.*

⁵⁵ *Report of OHCHR Mission to Bangladesh Interviews with Rohingyas Fleeing from Myanmar Since 9 October 2016*, United Nations Human Rights Office of The High Commissioner (Feb. 3, 2017), <http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf>.

⁵⁶ *Id.*

There are satellite images of the “scorched earth tactics” that are being used against the Rohingya.⁵⁷ The government is campaigning to use these tactics to force the Rohingya out of the country by burning down villages, and shooting anyone who flees.⁵⁸ Yae Twun Kyun, a villager, reported his experience:

When the military came, they started shooting at people who got very scared and started running. I saw the military shoot many people and kill two young boys. They used weapons to burn our houses. There used to be 900 houses in our village, now only 80 are left. There is no one left to even bury the bodies.⁵⁹

The Myanmar government is using these fires to push the Rohingya out of the country once and for all.⁶⁰

Myanmar’s army is not only burning down villages, but they are raping and gang raping the women.⁶¹ The aforementioned United Nations report concluded, “more than half of the women interviewed reported having been a victim of sexual violence.”⁶² The army is not showing mercy to any Rohingya, not even children. In only one month seven hundred thirty children under the age of five were murdered.⁶³

Amnesty International is labeling the violence as a “widespread and systematic attack amounting to crimes against humanity.”⁶⁴ There are eleven acts under the Rome Statute of the

⁵⁷ Shehab Khan, *Rohingya Muslim Crisis: Burma’s Security Forces Using Scorched Earth Tactics to Drive Out Minority, New Evidence Finds* (June 10, 2018), <https://www.independent.co.uk/news/world/asia/rohingya-muslim-burma-myanmar-latest-ethnic-cleansing-claims-scorched-earth-tactics-a7947476.html>.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ Specia, *supra* note 13.

⁶² Gibbens *supra* note 16.

⁶³ *Supra* note 2.

⁶⁴ *Myanmar: Crimes Against Humanity Terrorize and Drive Rohingya Out*, Amnesty International (June 10, 2018),

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International Criminal Court that constitute crimes against humanity, and at least six of these have happened to the Rohingya Muslims: “murder, deportation and forcible displacement, torture, rape and other sexual violence, persecution, and other inhumane acts such as denying food and other life saving provisions.”⁶⁵ However, the Rome Statute does not protect Myanmar, and this greatly limits what the United Nations can do.⁶⁶

E. WHAT IS AUNG SAN SUU KYI DOING?

Aung San Suu Kyi is viewed as the de facto leader of Myanmar.⁶⁷ Professor Yanghee Lee has criticized Aung San Suu Kyi’s inaction on what is happening to the Rohingya Muslims.⁶⁸ He believes her inaction is complicity and that she should be held accountable for this.⁶⁹ Aung San Suu Kyi has done absolutely nothing to stop what the Rohingya Muslims are experiencing.⁷⁰ As a result of Aung San Suu Kyi’s inaction, the United States Holocaust Museum took back the human rights award she received.⁷¹ Not only is she inactive, but she also refuses to recognize the atrocities that have occurred.⁷²

III. ANALYSIS: IS THIS GENOCIDE?

<https://www.amnesty.org/en/latest/news/2017/10/myanmar-new-evidence-of-systematic-campaign-to-terrorize-and-drive-rohingya-out/>.

⁶⁵ *Id.*

⁶⁶ Curfman *supra* note 5.

⁶⁷ *Profile: Aung San Suu Kyi*, BBC, (June 10, 2018), <http://www.bbc.com/news/world-asia-pacific-11685977>. She is seen as the de facto leader because the constitution “forbids her from becoming president because she has children who are foreign nationals.” *Id.*

⁶⁸ Max Walden, *Aung San Suu Kyi Could be Guilty of Crimes Against Humanity*, Asian Correspondent (June 10, 2018), <https://asiancorrespondent.com/2018/02/aung-san-suu-kyi-guilty-crimes-humanity/#mjZdDB1hPzkVHATI.97>.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ Toi Staff, *US Holocaust Museum Withdraws Award to Myanmar Leader Aung San Suu Kyi*, Times of Israel (June 10, 2018), <https://www.timesofisrael.com/us-holocaust-museum-withdraws-award-to-myanmar-leader-aung-san-suu-kyi/>.

⁷² *Id.*

Although people are recognizing the crisis in Myanmar, there is a question of whether it, in fact, constitutes genocide.⁷³ Raphael Lemkin coined the term genocide in 1943, after witnessing the Holocaust.⁷⁴ The word genocide was adopted in the United Nations Convention on Genocide in Article Two of the convention, which defined Genocide as:

any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: killing members of the group, causing serious bodily or mental harm to members of the group, deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, imposing measures intended to prevent births within the group, and forcibly transferring children of the group to another group.⁷⁵

The difference between ethnic cleansing and genocide is that genocide is “recognized as a crime under international law and ethnic cleansing is not.”⁷⁶ Turkish President Recep Tayyip Erdogan has declared that the situation is in fact genocide.⁷⁷ Although the United Nations has declared the situation an “ethnic cleansing,” it has not gone further to classify it as genocide.⁷⁸ Despite this, some are comparing the situation in Myanmar to the

⁷³ John Haltiwanger, *Is Genocide Occurring Against The Rohingya In Myanmar?*, Newsweek (June 10, 2018), <http://www.newsweek.com/genocide-occurring-against-rohingya-myanmar-experts-weigh-659841>.

⁷⁴ *How Do You Define Genocide?*, BBC (June 10, 2018), <http://www.bbc.com/news/world-11108059>.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Erdogan accuses Myanmar of 'genocide' as thousands of Rohingya flee to Bangladesh* (September 2, 2017), The Guardian, <https://www.theguardian.com/world/2017/sep/02/erdogan-accuses-myanmar-of-genocide-against-rohingya>.

⁷⁸ Lizzie Dearden, *Burma treatment of Rohingya Muslims a 'textbook example of ethnic cleansing', says UN*, <https://www.independent.co.uk/news/world/asia/burma-rohingya-muslims-ethnic-cleansing-un-massacre-minority-myanmar-aung-san-su-kyi-human-rights-a7940021.html>

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Holocaust.⁷⁹ Abdul Malik Mujahid is of the belief that “this is a slow motion genocide.”⁸⁰

At the Queen Mary University of London, the International State Crime Initiative (ISCI) reported that...“the Rohingya face the final stages of genocide.”⁸¹ The ISCI used genocide expert Daniel Feierstein’s framework to conduct the study.⁸² In his book, *Genocide as Social Practice*, he lays out six stages of genocide, and the ISCI uses this as a guide to examine what is happening in Myanmar.⁸³ ISCI concludes that the first four stages of genocide are already complete: (1) stigmatization and dehumanization, (2) harassment, violence and terror, (3) isolation and segregation, and (4) systematic weakening.⁸⁴ They also argue that step (5) “mass annihilation” is underway, and, arguably, so is (6) “removal of victim group from collective history.”⁸⁵

Archbishop Desmond Tutu is another scholar who believes this is a “slow genocide.”⁸⁶ He is among a group of Nobel Peace Prize winners who agree this is “nothing less than genocide.”⁸⁷ Although many have spoken out and compared this situation to the Holocaust, the United Nations has not yet used the term genocide to describe this crisis.⁸⁸ During the U.S. President Obama’s administration’s second term, Myanmar was allegedly becoming a democracy.⁸⁹ Although the United States recognized

⁷⁹ Ted Phillips, *Atrocities Against Myanmar Minority Compared to Holocaust*, News Day (June 10, 2018), <https://www.newsday.com/long-island/nassau/glen-cove-myanmar-rohingya-1.17109329>.

⁸⁰ *Id.* Abdul Malik Mujahid is the president of Chicago-based Sound Vision, a Muslim organization.

⁸¹ Rishi Iyengar, *Burma’s Million-Strong Rohingya Population Faces ‘Final Stages of Genocide,’ Says Report*, Times (June 10, 2018), <http://time.com/4089276/burma-rohingya-genocide-report-documentary/>.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ Patrick Winn, *Should We Call the Rohingya Crisis a ‘Genocide?’*, PRI (June 10, 2018), <https://www.pri.org/stories/2015-07-06/should-we-call-rohingya-crisis-genocide>.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ Nahal Toosi, *The Genocide the U.S. Didn’t See Coming*, Politico Magazine (June 10, 2018), <https://www.politico.com/magazine/story/2018/03/04/obama-rohingya-genocide-myanmar-burma-muslim-syu-kii-217214>.

the atrocities occurring in Myanmar, they skirted using the term genocide because of the legal implications of the word.⁹⁰

IV. CONCLUSION

It is no question the Rohingya Muslims have faced decades of discrimination and violence.⁹¹ The Rohingya have been a stateless people since 1982 and subsequently their rights have been stripped from them at rapid speeds.⁹² The violence has escalated to extreme levels and people are taking notice.⁹³ Although the United Nations recognizes this crisis as an ethnic cleansing, it has yet to call it genocide.⁹⁴ It is a possibility that by calling it genocide there will be more attention brought to the crisis and other countries will be able to effectively intervene to help the Rohingya Muslims. Considering the existing research, there is not enough attention on this crisis, and the Rohingya Muslims need aid. In my opinion this is in fact genocide, the parallels to Nazi Germany are uncanny and the United Nations needs to take action.

⁹⁰ *Id.*

⁹¹ *Specia supra* note 13.

⁹² *Supra* note 16.

⁹³ *Id.*

⁹⁴ Phillips *supra* note 83.