INTERNATIONAL COURT OF JUSTICE

APPLICATION OF THE CONVENTION ON THE PREVENTION AND PUNISHMENT OF THE CRIME OF GENOCIDE

THE GAMBIA
v.
MYANMAR

REPLY OF THE GAMBIA

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THE NATURE OF THE ETHNIC GROUP

E. K. FRANCIS

ABSTRACT

In search of a common denominator for nation, race, nationality, people, the ethnic type of cumulative groups is construed as a device of further sociological research. The ethnic group appears as a subtype of the *Gemeinschaft*, which is formed by the transposition of characteristics from the primary face-to-face group to the secondary group. Once the ethnic group has reached a certain maturity, the ideology which has led to its formation, as well as other conditions necessarily present in the early stages, may change without affecting its identity.

Friedrich Meinecke, in his book *Weltbürgertum und Nationalstaat*,[1] has put his finger on a difference in concepts which distinguished Western and central European thought on the phenomenon of the nation. Meinecke was mostly concerned with the political and historical implications of this difference when he set the idea of *Staatsnation* against that of *Kulturnation*. But his dichotomy indicates more than that; namely, two scientific approaches to a distinctive category of social facts; two sociologies, as it were; two philosophies of society, based on different sets of attitudes and scales of values.

This was almost forty years ago. But even today we find that the prevailing trend of thought differs among students of society who have grown up under German influence and those who are working in the Anglo-Saxon scientific climate. The latter put their main emphasis either on the political implications of nation or on the psychological and historical genesis of nationalism. Now, nationalism, taken either as a psychological or as a historical phenomenon, is not identical with the social fact called "a nation." It is, however, significant that probably the most thoroughgoing essay on the nation which has been published in the English language not only bears the title *Nationalism*[2] but gives as one of the characteristics of nation the following: "The idea of a common government whether as a reality in the present or past, or as an aspiration of the future."[3]

The other class of Continental sociologists have tended to separate the concept of nation from that of the state; they also have emphasized the ontological and phenomenological analysis of nation rather than a genetical interpretation. Thus we find among them a great number of book titles, such as *Nation und Staat*,[4] *Nation und Nationalität*,[5] *Volk und Nation*,[6] and *Das eigenständige Volk*.[7] It is significant that the French sociologist J.-T. Delos of Lille divides his recent publication on *La Nation*[8] into two volumes: the first, *Sociologie de la nation*, and the second, *Le Nationalisme et l'ordre de droit*.

There is, however, general agreement that the modern nation signifies a definite stage of social organization which is limited not only in time but also in space. As E. H. Carr has pointed out, nation is not a definable and clearly recognizable entity but "is confined to certain periods of history and to certain parts of the world."[9] "Today," he continues, "—in the most nation-conscious

[1] München and Berlin: R. Oldenbourg, 1919.

[2] *Nationalism: A Report by a Study Group of the Royal Institute of International Affairs* (London, 1939); similarly: Carlton J. H. Hayes, *Essays on Nationalism* (New York, 1926). John Oakesmith, on the other hand, gave his book the title, *Race and Nationality* (New York, 1919).

[3] *Nationalism*, p. xx.

[4] Ignaz Seipel (Vienna, 1916).

[5] Friedrich Hertz (Karlsruhe, 1927).

[6] F. J. Neumann (Leipzig, 1888).

[7] M. H. Boehm (Göttingen, 1932).

[8] *Le Problème de la civilisation: la nation* (2 vols. Montreal, 1944).

[9] *Nationalism and After* (London, 1945).

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of all epochs—it would still probably be fair to say that a large numerical majority of the population of the world feel no allegiance to any nation."[10] It is of secondary importance whether we hold that nations sprang into existence with the waning of the Middle Ages, with the absolute monarchies of the sixteenth and the seventeenth centuries, or with the French Revolution. As the Chatham House report suggests, "a good case can be made for each of these views, which are indeed only incompatible so long as the term 'nation' is assumed to be used in each case in an identical sense."[11] For the present purpose we may adopt Carr's procedure, which distinguishes three stages of nationalism, apart from a fourth—the present one.

In the first period the national unit was identified with the person of the sovereign, the absolute monarch. As Carr recalls: "Louis XIV thought that the French nation 'resided wholly in the person of the King.'"[12] The second period is characterized by the democratization of the nation, which eventually was considered as a corporate personality centered around the *bourgeoisie*. Eventually the nineteenth century brought the socialization of the nation by including the masses of the people. This resulted in the social service state, which claims the absolute loyalty of the whole people to a nation as the instrument of collective interests and ambitions. This description, however, seems to be correct only if we consider Western society in general. The fact is that in many countries, particularly in Germany and in the Slavic regions east of it, the first-named stage seems to be missing. Neither the German princes nor the emperor ever succeeded in creating nation-states in the same sense in which France or England became a nation-state. They did not appeal to national sentiments but to patriotic sentiments. The *Vaterland*, not the *Nation*, was here the central idea of absolutism. Thus, students of the history of nationalism in these parts of Europe have emphasized the transition, which started in the latter part of the eighteenth century, from dynastic and territorial patriotism to nationalism in the modern sense. The Bohemian revivalists of that time, who were backed by the Bohemian aristocracy, originally propagated Bohemian patriotism against Hapsburg patriotism. Only with the spread of the ideas of romanticism and the French Revolution was Bohemian patriotism transformed into a Czech (ethnic) nationalism.

The different ways in which national ideology has become foremost in the minds of Europeans east and west of the Rhine has apparently determined their sociological theories. Since there were no clearly defined nations in the Western sense, German and Slavic authors were moved to seek symbols for the entity of nation in a common language or in the biological concept of the race. Although in the nineteenth century nationalism in central Europe traversed approximately the same stages which Carr describes as the second and third periods, the idea remained alive that *Kultur* and *Rasse* indicate some more basic social fact than *Staat* and *Staatsnation* or, in other words, that *Staat* and *Staatsnation* are nothing but the ephemeral manifestations of human groups which are always present in society; the *Volk*, these scholars maintain, is a basic form of social organization, even *the* basic form, while nation and nation-states are the result of a historical process and may disappear without affecting the existence of *Völker*.

This concept of *Volk* or *narod* cannot be symbolized adequately by any commonly used English word, such as "race," "people," or "nation." Now, in the field of the social sciences it is often a helpful methodological device to adopt the most colorless term to indicate an elusive or difficult social fact. Pareto aptly used algebraic symbols. In order to find out whether the Continental concept of *Volk* is a legitimate one, we propose to use the term "ethnic group" to describe it. This phrase coincides philologically with the French *groupe ethnique* and

[10] *Ibid.*, p. 39.

[11] *Nationalism*, p. 5.

[12] *Op. cit.*, p. 2.

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with the German *Volksgruppe*. Moreover, the Greek described with *ethnos* about the same social unit, which is called in other languages *people*, *popolo*, *peuple*, *Volk*, *narod*. Finally, the term "group" is being used by many sociologists as the *genus proximum* in defining the various types of plurality patterns.[13]

In trying to clarify our hypothetical category, "ethnic group," we find it easier to say what it is not than what it is. An ethnic group is not a race, if we take race in the anthropological sense as a group of people with common physical characteristics. Moreover, an ethnic group is not a nation, if we understand nation to mean a society united under a common government or an aggregation of individuals united by political ties as well as by common language or common territory or common race or common tradition or any combination thereof. Our problem becomes more difficult if we wish to distinguish ethnic group from such phenomena as a definite local or regional community, a patriarchical family, a clan, and similar face-to-face groups. However, this is a problem that occurs with every attempt at a classification, be it of social or of physical facts.

If we adopt for the moment Ferdinand Tönnies' typological dichotomy, *Gemeinschaft* and *Gesellschaft*,[14] we would have to classify an ethnic group as a rather pure type of *Gemeinschaft*. We will recall that, according to Tönnies, a group of the association type is based on a definite purpose, although not necessarily on *ad hoc* contractual agreements. It is a means by which the individual attains his own ends. In a community the parties are treated and act as a unit of solidarity. Institutional sanctions, if present, are concerned rather with attitudes than with specific acts. While groups of the community type always live in relatively local as well as social and mental segregation from other groups, such local, social, and mental barriers to social contact, exchange, and circulation are absent in associations. Based on emotional bonds and endowed with a homogeneous cultural heritage, the community aims at the preservation of the group. Based on rational, contractual bonds and endowed with a heterogeneous social heritage, the association aims at the preservation of the individual. In the language of Freud, a community can be said to be derived mainly from subconscious experiences, while an association is derived from direct knowledge.

Culture is usually regarded as a fundamental factor of an ethnic group. However, the concept of culture is as elusive and contradictory as that of the ethnic group itself. The words *Kultur*, *culture*, appear to mean almost the opposite of what English speakers understand by "culture." While to them civilization usually refers to the late phases or to a superior stage of cultural development, to Continental students *Kultur* is essentially different from civilization. According to them, civilization is a means to an end. Culture is an end in itself; it includes folkways and mores and their manifestations in art and artifact which, persisting through tradition, characterize a human group.[15] While civilization spreads and ac-

[13] The term "ethnic" has been adopted by some American authors in a much narrower sense. L. Warner and L. Srole have proposed the following definition: "The term ethnic refers to any individual who considers himself, or is considered, to be a member of a group with a foreign culture and who participates in the activities of the group. Ethnics may be either of foreign or native birth" (*The Social Systems of American Ethnic Groups* [1945], p. 28). Here the main emphasis is given to the individual, while the sociological aspect is almost lost. Moreover, undue distinction is made between minority and majority groups, although both seem to belong basically to the same type of plurality patterns. Cf. also the article "Ethnic Community" in the *Encyclopaedia of the Social Sciences*. We need not emphasize that in this context "ethnic group" is not limited to ethnic fragments and minorities within a larger culture. In our terminology not only the French-Canadians or the Pennsylvania Dutch would be ethnic groups but also the French of France or the Irish in Ireland.

[14] *Gemeinschaft und Gesellschaft* (1887). For a discussion of this concept see Talcott Parsons, *The Structure of Social Action* (1937).

[15] Cf. Robert Redfield, *The Folk Culture of Yucatan* (Chicago, 1941), p. 132.

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cumulates through cross-fertilization and diffusion, culture tends to produce itself indefinitely.[16] We may say that every ethnic group has a distinctive culture, but a common culture pattern does not necessarily constitute an ethnic group. The peasants of all times and regions, for instance, show more or less identical culture traits. Yet they do not form a social group at all, still less an ethnic group. They belong to the same culture *type*, not to the same culture *group*.[17] An ethnic group may also modify and change its culture without losing its identity.

Every group is defined by social interrelationship. All social relations presuppose contacts and communication. Language is one of the most important means of communication between human persons. Thus, we may say that face-to-face relationship is essential in preliterate societies only, but in literate societies the language spoken by the members of an ethnic group must at least be intelligible without much difficulty to all of them. Nevertheless, there seems to be a limit in size beyond which intimate relationship cannot be maintained when the ties become too spurious and weak to uphold the existence of the group.

Racial affinity, too, has been associated with the ethnic group. Now, ethnic groups usually are endogamous; marriages with members of the outgroup are frequently tabooed. However, the laws of genetics do not suggest that inbreeding alone, without selection, results in homogeneous racial strains. How far selection operates in ethnic groups remains largely a controversial matter. Nevertheless, it cannot be denied that the composition of hereditary traits varies from one ethnic group to another. More significant than the real racial composition is an assumed common descent. Awareness of blood relationship and kinship seems to strengthen the ties between the members of a group. And yet the actual genetic composition is apparently irrelevant; for instance, family names follow either the patrilineal or, more rarely, the matrilineal sequence, and only occasionally both. The device of myths to establish a common ancestry for an ethnic group is a very ancient one. At all times man seems to have tampered with the mystery of biological heredity.

Physical and mental traits, which are really or only supposedly based on heredity and common descent, influence social behavior in yet another sense. Community or difference of objective characteristics affects human behavior in various ways. Physical traits, being obvious and usually indelible, lend themselves—even if they have gone unnoticed for a long time—readily to rationalizations of attitudes of sympathy and antipathy. Conflict situations, whether between ethnic groups or individuals, often—and not only since Hitler—hinge, as it were, on racial characteristics. The same is probably true of sympathetic sentiments and we-feeling.

Since humans are spatial entities, the attribution of a territory to ethnic groups is actually only a corollary to local affinity and size which we have discussed before. The only distinction of an ethnic group seems to lie in the exclusiveness with which it usually occupies a definite space. Finally, there is the time factor. Since an ethnic group is based on an elementary feeling of solidarity, we must suppose that mutual adjustment has been achieved over a considerable length of time and that the memory of having possibly belonged to another system of social relationships must have been obliterated.

The we-feeling present in the members of any group of the community type is, of course, also a characteristic of the ethnic group. We would not have introduced it expressedly if it did not offer a key to the distinction which we proposed to make between ethnic group and nation. Delos suggests that the transition from ethnic group to nation is characterized by *la passage de la communauté de conscience à la conscience de*

[16] Cf. E. Faris, *The Nature of Human Nature* . . . . (New York, 1937), p. 3.

[17] Cf. E. K. Francis, "The Personality Type of the Peasant according to Hesiod's *Works and Days*," *Rural Sociology*, X, No. 3 (1945) 275–94.

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former une communauté.[18] The phrase cannot be translated literally without conjuring up great confusion. Since Delos himself uses *conscience de "nous"* to describe the same phenomenon, we may translate *communauté de conscience* with "we-feeling." The ethnic group, he continues, is *une réalité objective*, although there is no *conscience réflexe*. Two elements transform the ethnic group into a nation: (1) the knowledge of forming an original entity and (2) the value attached to this fact. *Elle se manifeste par la volonté de perpétuer la vie commune.*[19] Consequently, *une nation est un peuple [sic!] qui prend conscience de lui-même selon ce que l'histoire l'a fait; il se replie donc sur soi et sur son passé; ce qu'il aime, c'est lui-même tel qu'il se connaît ou se figure être.*[20] We thus seem to have arrived at a certain solution. Nationalism, the sentiment of forming a community and the will to perpetuate it by—as we would add—political devices, is indeed the prerequisite. But it apparently presupposes another social fact. To describe it Delos uses the term *groupe ethnique*, although, in one place at least, he inadvertently substitutes the word *peuple*.

If sentiment and will are the factors which transform the ethnic group into a nation, the question arises: Which are the constitutional factors of the ethnic group itself?

There are a number of characteristics widely ascribed to the ethnic group: common language, folkways and mores, attitudes and standards, territory, descent, history, and, we may now add, common government. In fact, we know that the subjection of a group of people to a common political organization may directly or, more often, indirectly by imposition of common laws, religion, language, feeling of loyalty, etc., not only forge together different ethnic elements into a new ethnic group but also divide an ethnic group or deliberately alter its structure, culture, and character. This, however, does not answer our question, for upon closer inspection it appears that two or more distinct ethnic groups may share in common certain characteristics, such as language, descent, religion. On the other hand, many ethnic groups are obviously not at all homogeneous as to their descent or religion, for instance.[21] Still worse, the differences in the general culture pattern of different social strata within all the more developed and complex ethnic groups are very marked. It may even be doubtful whether the peasant culture in one ethnic group is not more closely related to the peasant culture in another than to urban culture in the same ethnic group. Thus, we cannot define the ethnic group as a plurality pattern which is characterized by a distinct language, culture, territory, religion, and so on.

It was exactly the attempt to reach a conclusion as to the nature of the ethnic group, inductively, by analyzing objective characteristics of concrete social facts of this kind, which so far has defied the ingenuity of a long series of writers of treatises dealing with our problem. The main reason for this failure must be sought in the fact that the essentially dynamic character of ethnic groups has been largely neglected, for these may represent different stages of development. It may well be the case that factors which have contributed to the formation of an ethnic group will lose their significance—once a certain degree of group coherence has been reached—or will be, later on, replaced by other factors not present in the beginning but contributing to the preservation of the group. In order to decide the issue it would be necessary to analyze the genesis of a great number of existing ethnic groups. Unfortunately, the origins of most ethnic groups lie in the distant and uncertain past. Dubious guesswork alone is our guide in their analysis. The emergence of new ethnic groups in the New World, however, offers more reliable material for the study of our problem. It should be possible from available historical sources to reconstruct their

[18] *Op. cit.*, I, 93.

[19] *Ibid.*

[20] *Ibid.*, p. 94.

[21] Cf. Hans Kohn, *The Idea of Nationalism* (New York, 1944), chap. i.

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genesis in such a way as to reach definite conclusions. What seems clear even on the basis of our limited knowledge is that it is too early yet to reach any definite conclusions.

Here we find, for example, sectarian groups which show all the traits and typical behavior of ethnic groups,[22] although, originally, they were joined together from various ethnic elements under the impact of a distinct religious persuasion and church organization and not on the basis of a distinct language, territory, and so on. Moreover, some of them have in the meantime undergone numerous schisms and religious splits which nevertheless have left untouched their identity and coherence. On the other hand, the major ethnic groups which have sprung up in the Americas seem to have been formed not so much by religion as by politics and geography. It should be possible to reconstruct from the available historical sources their genesis in such a way that definite generalizations could be reached. Yet even on the ground of our limited knowledge it becomes clear that, generally speaking, the stages of development traversed by ethnic groups are: expansion—fission—new combination. The factors which condition fission and new combination, however, appear to vary from case to case.

The thought suggests itself to us that allegiance to some external object is the most essential single factor in the formation or revival of ethnic groups. But the object of allegiance shifts from period to period, from country to country. It may be a monarch, a religion, language and literature, other forms of a higher culture, a political ideology centered around some type of government, a class, a "race." The type of catalyst apparently changes, as culture and the interests and ideas of man change—but, it seems, there always is a catalyst necessary to join the elements together into an ethnic group.

Delos suggests that a social fact is a relationship that unites a person to other persons not directly but by the mediation of another term, which he calls *l'objet*, because it is exterior to the *sujets individuels*, the persons whom it puts into a relationship.[23] According to him, all institutions and all groups present this triad: person—object—person. If Delos' position is correct, the element which we have called figuratively a catalyst seems to coincide with his *objet extraindividuel et extérieur*. Yet this object, he maintains, is an element common to all social facts. Should we, therefore, rather choose the type of objects as a principle of classification? Religious groups would be those which have religion as an "object"; culture groups, those which have culture as their "object"—and so on. Which specific object, however, shall we attribute to an ethnic group? And why does a religious group, under certain conditions, behave exactly as any ethnic group? We even may ask ourselves whether the ideologies and we-feelings which constitute the formative forces in a nation are typologically different from those which constitute the formative forces in a religious group. Hans Kohn said that "today . . . . nationalism is the most universal religion of all times."[24] This statement, though exaggerated in a measure, tends to defy any attempt to classify the phenomena under discussion according to "objects." An ethnic group, if we understand Delos rightly, would almost be identical with a nation which has not yet become fully conscious of itself. Would this not be, so to say, a definition *ex post facto?* Or is ethnic group a more universal, perhaps the most universal, fact of human society, while all other social facts are arrived at by way of elimination?

We hesitate to draw any definite conclusions from the few reflections presented in

[22] In his study on *Group Settlement* in western Canada, C. A. Dawson subsumed—and to our opinion correctly—under the heading "Ethnic Communities" not only the French Canadians but also the Doukhobors, Mormons, or Mennonites (cf. *Canadian Frontiers of Settlement*, ed. W. A. Mackintosh and W. L. G. Joerg, Vol. VII [1936]).

[23] *Op. cit.*, p. 164.

[24] Introduction to *National Consciousness*, by (Walter Sulzbach, Washington, D.C., n.d.), p. iv.

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this paper. But we may state tentatively the following propositions as a working hypothesis for further investigation:

1. In their usual connotation the words "nation," "race," "nationality," "people," "religious group," etc., do not indicate any valid and definite categories of sociological classification. Neither do they describe *entia realia* in the philosophical sense, if such exist at all, or even definite types of social facts which would be useful for sociological generalizations.

2. The term "ethnic group," however, seems to be valuable to describe a variation of the community type. This subtype deserves a special name and formulation because it includes a considerable number of phenomena which are of practical interest to various social sciences. The basic type of the community includes many other phenomena such as the family, caste, or residential community. Nevertheless, we believe it is possible to distinguish them from the ethnic group. While the family or residential community is unable to satisfy all the basic societal needs of human nature, the ethnic group not only permits a high degree of self-sufficiency and segregation but tends to enforce and preserve it.

On the other hand, the ethnic group is not so much dependent on fact-to-face relationship as other types of communities. We find that the pattern of social interaction which is characteristic of the primary group permits its extension under certain conditions to a larger, locally less well-defined, and culturally less homogeneous group. We may, for instance, think of a peasant village as an ideal primary group. Now, under certain conditions, the we-feeling of this community *can be made* to include the natives of a valley or of a wider region, even a whole country. Thus, a larger, but secondary, group is being formed which presents most of the characteristics originally attached to the primary group. In this way, we may say, the ethnic group is the most inclusive, cumulative, and realistic type of *secondary* community.

3. The catalyst, or principal factor, which brings about such an extension of we-feeling is a mental process based on abstraction and hypostatical transposition of characteristics from the primary to the secondary group.[25] We may say that every ethnic group presupposes an ideology, however vague and unreflective it may be. The followers of a new religion, for instance, are moved by the overriding value they attach to their faith to withdraw their we-feeling from the non-believing members of their original community and to extend it to all fellow-believers. Since human nature seems to crave a pattern of social interaction which is of the community type, the wish and will become effective to substitute a community of all fellow-believers for the original community. In the same way, a national ideology tends to substitute or to widen a pre-existing community.[26]

4. All ethnic groups behave in the same typical manner, regardless of whether the underlying ideologies hinge on religious, political, cultural, racial, or other characteristics and regardless of whether these characteristics are real or fictitious. Once an ethnic group is well integrated it makes little difference whether the underlying ideology is rationally disproved; for, by then, the community has become real, that is, a social fact, and it will find new rationalizations for its coherence, if ever its ideological basis should be challenged.

[25] It is significant that in L. von Wiese (ed. Howard Becker), *Systematic Sociology* (1932), the following classification of plurality patterns is suggested: crowds, groups *abstract* collectivities.

[26] "The German ideal of the *Volksgemeinschaft* . . . . apparently is an attempt to reduce the complex social unit of a modern nation to the status of a primary group. The unreflective and instinctive participation of every individual of the 'group mind,' the intimacy of social interaction among all its members, the self-understood cooperation and complete community of purpose that is characteristic of a primary group, is being claimed for the totality of the *Volk*. However the same concept underlies other collectivistic ideologies." In the Marxian ideal of the classless society "we find the traits immanent in a primary group extended to a larger unit, in fact to the largest social unit which is conceivable" (E. K. Francis, "Progress and Golden Age," *Dalhousie Review*, XXV, No. 4 [1946], 460–61).

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5. It is quite likely that the quest for "objective" characteristics by which one concrete ethnic group could be distinguished from any other is futile. But there are certain elements that must be present or which must be deliberately created in the early stages of its genesis, such as a distinctive territory, some sort of distinctive political organization, a common language, a common scale of values. Yet, once the ethnic group has reached a certain maturity, the elements which have conditioned it in the beginning may disappear, change, or be supplanted by others, without affecting its coherence and the *communauté de conscience* among its members. The dissolution of a community is brought about not so much by the loss of external characteristics as by the collision of conflicting values, solidarities, and loyalties.

6. Finally, no individual group, which is always a singular and unrepeatable phenomenon, will ever coincide with that type of plurality pattern which we have described as an ethnic group. As is the case with every other *type*, it will be quite legitimate to state that some concrete social group is an ethnic group to a lesser or greater degree. It appears that the modern nation belongs in the category of ethnic groups just as much as the religious communities of other stages of history. It is the result of deliberate political action by which all the ethnic groups that pre-exist within the actual or visualized territory of a state are molded into a new unit of we-feeling, into a new more or less homogeneous ethnic group.

In the preceding discussion we have been experimenting with a hypothetical sociological category which we thought could cover a number of phenomena popularly classed together. We have ventured to construe the ethnic type of cumulative groups as a device of sociological research, and we have proposed to term it "ethnic group." Whether this is a useful device can be ascertained only by operating with it for some time and by applying it experimentally to a considerable number of concrete cases.

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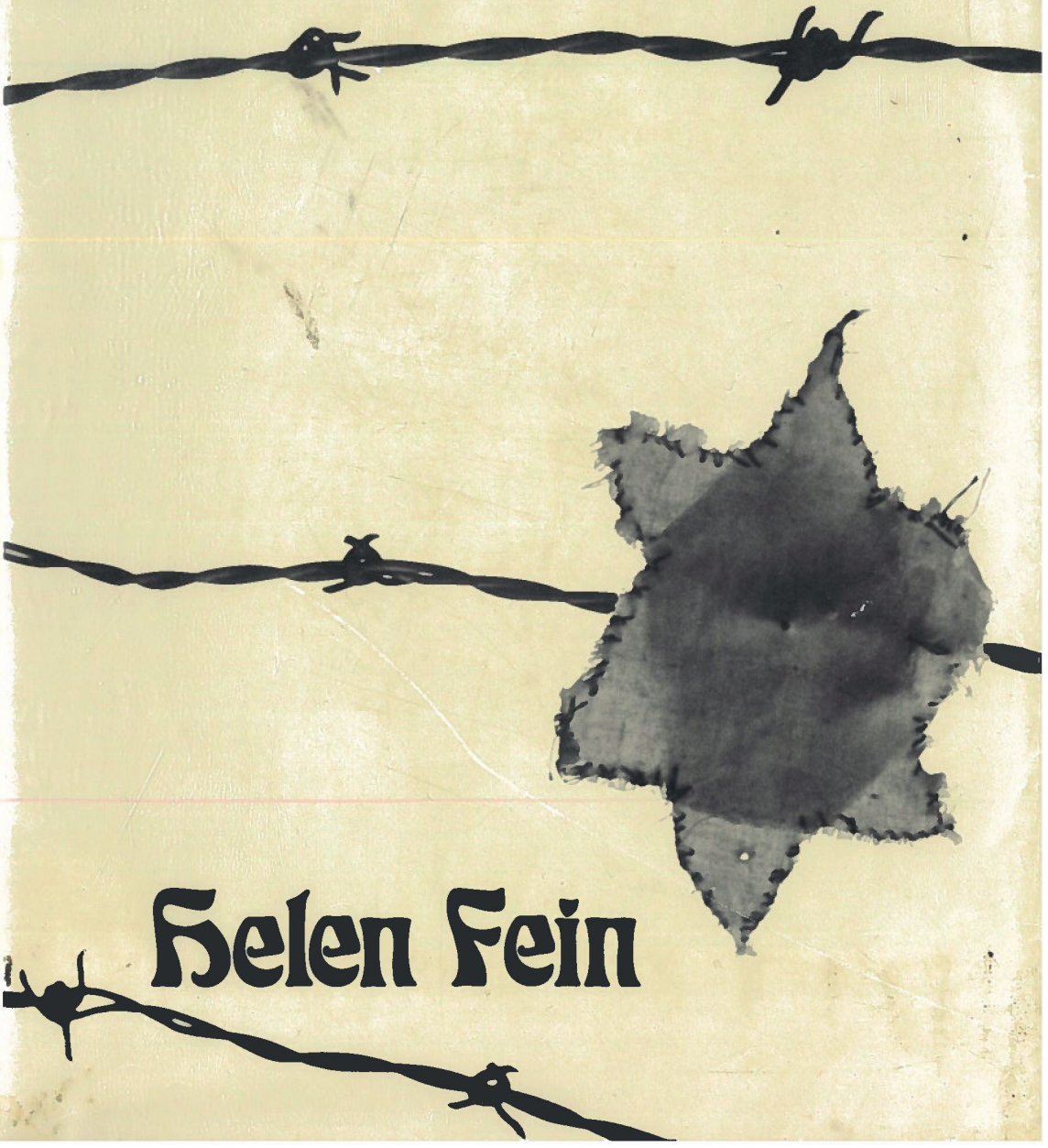
Annex 24

Helen Fein, *Accounting for Genocide: Victims—and survivors—of the Holocaust* (New York, Free Press 1979)

ACCOUNTING for GENOCIDE

Victims—and Survivors—of the Holocaust



Helen Fein



9

The Warsaw Ghetto

Nothing can be gleaned of the intensity of life and death—both so telescoped in time and space—in the largest Jewish community in Europe during the Holocaust without drawing upon the observations of those victims who knew that they might not overcome their enemies but refused to suppress their recognition of what they were undergoing or deny their lack of hope while they resisted being overcome by despair and anguish. The principal works from which we shall draw are *Notes from the Warsaw Ghetto: The Journal of Emmanuel Ringelblum, The Warsaw Diary of Chaim A. Kaplan,* Mary Berg's *Warsaw Ghetto: A Diary,* and the diary of the chairman of the *Judenrat,* Adam Czerniakow.[1] Other first-person documents used include Tuvia Borzykowski's *Between Tumbling Walls,* Alexander Donat's *The Holocaust Kingdom: A Memoir,* Bernard Goldstein's *The Stars Bear Witness,* Jan Karski's *Story of a Secret State,* Vladka Meed's *On Both Sides of the Wall,* Emmanuel Ringelblum's *Polish-Jewish Relations during the Second World War,* Halina Szwambaum's "Four Letters from Warsaw Ghetto," and Michael Zylberberg's *A Warsaw Diary, 1936–1943.*[2]

The immediacy of their perception varies, as these works were written at different distances from the events described. The diaries of Chaim Kaplan, Mary Berg, and Adam Czerniakow, the letters of Halina Szwambaum, and Ringelblum's notes (which he intended to elaborate and explicate for a history) were written at the time of the events recorded. The impressions of Jan Karski and Michael Zylberberg were written after they occurred but during the war, as was Ringelblum's treatise on *Polish-Jewish Relations.* The memoirs of Tuvia Borzykowski, Alexander Donat, Bernard Goldstein, and Vladka Meed were written from five to twenty-five years after the events recorded.

What part did each play? Ringelblum (1900-1944), an outstanding social historian of Polish Jewry and a Labor Zionist, also headed the Jewish self-aid organization based on tenants' committees. He exemplified the ideal of praxis, using his research to try to change as well as record history. He gathered source data for a future social history of the ghetto through trained informants linked in the network known as "Oneg Shabbat" ("Sabbath celebrants"—a code name of a convivial gathering). These data also provided sources for newsletters to Warsaw Jewry and the first reports to the West on the annihilation of the Jews of Poland. Ringelblum's often elliptical notes were jottings for a never completed work rather than a personal memoir.

Chaim Kaplan (1880-1942) was a teacher of Hebrew involved in the modern Hebrew literary revival. He had made his living as an independent schoolmaster in Warsaw. Kaplan's self-image is revealed in his diary in his scorn of the pretension of institutions and ideology and the frequent reiteration of his commitment to the ideals of the prophets: "I am the grandson of Isaiah the prophet, and I am at one with my ancestor in that bloodshed is abhorrent to me, in any form whatsoever." Although Kaplan was committed to Zionism and to Jewish self-help, he repeatedly exhibits contempt for Zionist officers and Jewish welfare officials (including Ringelblum), although he at first admired the network of mutual aid organized throughout the ghetto.

Both Ringelblum and Kaplan were men committed to universal social ideals, including both the preservation of the Jewish people and the introduction of new forms of community and expression. Both could also be considered free men in a unique way: they had chosen to return to or remain in occupied Warsaw, rejecting opportunities for flight. Ringelblum was in Geneva at a World Zionist Congress in September 1939; while other participants from Poland fled to the West, Ringelblum returned. Kaplan refused an exit visa to Palestine in 1941.

Adam Czerniakow (1880-1942) was a member of the educated class, politically outside the Zionist and religious camps. Before the war, he had been a member of the government-appointed Executive Council of the Jewish community and earlier an elected member of the Warsaw Municipal Council. Soon after Warsaw was occupied, he petitioned the (Polish) Mayor to be recognized as head of the Jewish community; later, he was appointed (by the SS) head of the *Judenrat*.[3] He committed suicide on the eve of mass deportations in July 1942, when he realized that the scope of the action meant mass extermination.

Mary Berg was unique among our witnesses; she was exempted from the threat of deportation and extermination by the Germans because her mother was an American citizen. The rights of Jews who were enemy nationals (to the Reich) were respected by the German Foreign Office until mid-1943 whereas Jews who were nationals of occupied nations had no rights. Mary, 15 years

old in 1939, was the daughter of a prosperous Lodz art dealer who came to Warsaw in 1940 to escape the terror of Lodz. The family endured the tightening vise of terror in Warsaw until Mrs. Berg overcame her fear of registration with the German police and realized that their only opportunity lay in claiming special privilege as foreign nationals. They were removed from the ghetto by the German authorities before the deportations, temporarily interned, and later transported to Lisbon and freed in a wartime exchange.

Five witnesses were related to the Jewish underground in different roles. Jan Karski was the pseudonym of a Polish emissary from the Civil Directorate who entered the ghetto in the fall of 1942, and relayed a message from Jewish leaders to the Polish government-in-exile describing their state of enslavement and pleading for help. Tuvia Borzykowski was a member of the Zionist socialist youth organization, Dror. He fought in the ghetto revolt, escaped through the sewers with the aid of a Polish sewer worker from the PPR (Socialist Party), and also fought in the 1944 Warsaw uprising. Bernard Goldstein was a prewar leader of the Jewish Socialist Bund, active in the ghetto revolt, who also escaped and fought in the Warsaw uprising. Halina Szwambaum, a 22-year-old woman, died in the ghetto revolt, fighting alongside her lover. Vladka Meed was a courier for the Council for Aid to People in Hiding, which provided Jews in Warsaw hiding "on the Aryan side" with stipends received from Jewish aid organizations abroad through the Polish government-in-exile.

Michael Zylberberg was a Hebrew schoolmaster in Warsaw, as was Chaim Kaplan. Alexander Donat, the publisher of a Warsaw newspaper before the war, was captured with his wife during the ghetto revolt. He and his wife survived extermination and slave labor camps and their son survived the war in hiding; so did Borzykowski, Goldstein, and Meed, passing as Aryan Poles. Chaim Kaplan, Emmanuel Ringelblum, and Halina Szwambaum were among the 98 out of every 100 Warsaw Jews killed in Poland between 1939 and 1945.[4]

Individuals' deaths are ordinarily assimilated without trauma by the Jewish community living within its conceptions of God and history. But history is merely an abstraction arising from the fact that communities do span generations of existence in space and time. Such continuity maintains their members' sense of meaningful order in the universe. The history of the Jewish community of Warsaw during World War II is one of radical discontinuity, defying previous assumptions. It may be usefully divided into five periods, during which the properties of the community—density, composition, space, and numbers—metamorphosized rapidly as the community expanded and contracted. The members' sense of time and order in the universe was radically transformed during this time of antiorder.

At first, the war was one of devastation against all Poles. The populace of Warsaw was exposed to civilian bombardment for three weeks before the

city's surrender. Between the occupation of Warsaw on 1 October 1939, and the closing of the ghetto in November 1940, the Jewish community (the largest in Europe) was inundated with Jewish refugees from other Polish cities and towns, who fled their homes to avoid the occupiers or were expelled by the Germans from the region of Poland incorporated in the Reich and made *judenrein* [free of Jews] rapidly. Over 150,000 Jews, or "one-third of all the ghetto inmates," had fled to Warsaw by mid-1941.[5] This increase in the dependent population and the elimination of customary occupations and opportunities in trade because of the occupier's discriminatory regulations produced a new social order. People rapidly fell to the bottom and some rose to the top within the Jewish community. Physically, they were compressed into run-down, stifling tenements with 68,000 persons per square kilometer by the time the ghetto was closed. The function of the first phase, noted by discriminatory regulations and marking of Jews, was the *segregation* of the Jews.

Between the closing of the ghetto and the first mass deportation raids on 22 July 1942, the Jews were wholly isolated, and concentrated behind the wall as the *social selection* of tens of thousands of the first victims began. They were decimated by starvation, disease, and enforced labor—the latter masked torture, starvation, and fatal accidents and led to epidemics. The causes of such deaths were a deliberate consequence of German policy. German regulations allowed Jews rations of "less than 10% of the minimum calorie requirements necessary to sustain human life" and produced an average of 7.2 persons per room within the ghetto, thus fostering the spread of disease.[6] Trunk records show that about 85,000 persons of a total Jewish population of over 500,000—or more than one out of six—died between September 1939 and July 1942, *excluding* unrecorded deaths such as those of refugees and beggars on the streets. Most of these occurred after May 1941. Trunk concludes:

> One may reasonably infer that even had the Germans not "resettled" the Jews from the ghettoes for the purpose of mass killing, they would in any case have died at a "slow" death rate in five or six years. But the Germans were impatient. They could not wait.[7]

During this period, there were no deportations to extermination camps. The social selection of the victims was a function of the class order within the ghetto, rendering the powerless more vulnerable to selection for labor by the *Judenrat* and direct death by virtue of their helplessness, impoverishment, and homelessness.

Then came the time of contraction through *annihilation*. From 22 July 1942 to 11 September 1942, the overwhelming majority of Jews of Warsaw were exterminated. The Jewish population dropped from perhaps 390,000 to about 70,000: 310,322 Jews were transported to the extermination camps and 5,961 to 7,654 were shot within the ghetto. (The former is General Stroop's

figure; the latter, the estimate of the Polish government, not including the 1,620 Jews officially recorded as shot in June.)[8] We have few written records during this period as all diarists were either in hiding or in transit to the camps. Ringelblum and Kaplan testify that the overwhelming majority of these victims were seized or pulled out by the Jewish police and the SS, despite their attempts to evade capture. Ringelblum has estimated that in response to the Germans' offer of three kilograms of bread to those who reported voluntarily, at least 20,000 volunteered of about 320,000 seized or shot—or one in 16—among a population in which there was mass starvation.[9]

The fourth phase, September 1942 to April 1943, marked the *reorganization* of the Jewish community in readiness for battle. The authority of the *Judenrat* was destroyed, and combat organizations were formed by the survivors of the ghetto. The preparation for revolt began as a new consciousness emerged; survivors questioned old assumptions, asking themselves why they had not resisted collectively earlier. Despite the fact that their social organization by the Germans was more oppressive and control more pervasive—the Jews were virtual slaves of factory managers, segregated in barracks adjacent to their workplaces that were isolated from other workplaces—Jews felt more free to take risks because they abandoned their old assumptions and now recognized they shared a common fate. Just as they were stripped of illusions, they were stripped of bonds to kin as most family members had been slaughtered. New forms of community and temporary coupling—instigated more by despair than passion—became common. The communes sustaining the combat organizations emerging from the earlier *kibbutzim*—urban communes and training farms for emigration of young pioneers to Palestine—were the most significant of the new forms.

The fifth phase, that of the *rebellion* and its aftermath, is recorded in many later memoirs but will be described here only briefly, and only as a political phenomenon—in terms of the relations between Jews and Poles and the extent of the Polish leadership's identification with and against the Jews. Readers may wish to turn to the accounts cited and other accounts of this period for further documentation.

THE OCCUPATION AND INTRODUCTION OF GERMAN VIOLENCE

During the first days of the German occupation, Kaplan was impressed by the behavior and demeanor of the German troops. The Jews and other Poles were relieved by the Germans' efficient distribution of bread, in the beginning without discrimination. On the next day Kaplan heard rumors that the German Supreme Commander "has let it be known that he wants no difficulties set in the way of the Jews," but Jews were pushed aside on line.[10]

Almost immediately (2 October 1939), Kaplan was faced with homelessness. He and other tenants were expelled from their apartments by German soldiers: "They did not permit them to take even a shoelace out of their apartments: they did not permit them to don even an overcoat."[11] The Kaplans' Christian maid, who was allowed to remain, was raped. Sexual relations with Poles were not proscribed by the Nuremberg laws as were relations with Jewish women. The maid helped Kaplan recover his hidden copper box with his fortune of 600 zloty (about $120) by passing it out through the window. His wife almost fainted with the excitement of their good fortune. Yet they could not reoccupy their flat for an additional month; their return was "not to homes but to stables. Everything is broken and destroyed, stolen and plundered . . . even the electric fixtures were removed, and brooms were stolen. In short we have been cleaned out."[12]

Street robbery by German soldiers and Poles of German descent was common in streets and shops, but such behavior was generally ascribed to private venality among soldiers. Within two weeks, a succession of ordinances stripping the Jews of all property and civil rights was promulgated. On 10 October Jews were caught in the streets for forced labor, on 12 October their bank accounts were blocked, and on 16 October the Polish Mayor announced that all except the Jews would be entitled to public assistance. The ghetto ordinance was first published in November 1939, but the ghetto itself was not closed until November 1940.

Adam Czerniakow, vice president of the Jewish Advisory Council of Warsaw, had volunteered to Warsaw's Polish Mayor to represent the Jews of Warsaw after the chairman had fled. When later appointed by the Gestapo commander to head the *Judenrat,* he co-opted leaders of all Jewish parties, demanding that they share this responsibility. One of these leaders, Shmuel Zygelbojm of the Bund, instigated the *Judenrat* to resist issuing the order for a closed ghetto. Instead, they agreed to simply inform Jews of such an order. Zygelbojm later addressed a crowd milling around the *Judenrat* building, urging them not to leave their homes until removed by force. The Bund Central Committee, anticipating a Gestapo reprisal, smuggled Zygelbojm out of Poland. He fled to London, where he was appointed a member of the London Polish government-in-exile.[13]

Kaplan knew nothing of this but expressed relief on 7 November that a Jewish delegation had succeeded in easing the law. He immediately suspected to what use the *Judenrat* would be put eventually when news of a census was published on 25 October 1939:

> Yesterday we heard over the London radio that the Jews of Vienna have received an order to be ready to leave their native city and migrate to the Lublin district of Poland. This means: Prepare yourselves for total destruction.
>
> Another sign that bodes ill: Today, notices informed the Jewish population of Warsaw that next Saturday (October 29) there will be a census of the Jewish inhabitants. The *Judenrat* under the leadership of Engineer Czerniakow is required

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to carry it out. Our hearts tell us of evil—some catastrophe for the Jews of Warsaw lies in this census. Otherwise there would be no need for it.[14]

Kaplan recognized that the Germans intended to destroy the Jews for ideological reasons, but their real motives were masked by accusations of blackmarketeering, of agitation, and of being socially useless or parasitical.

> Our tragedy is not in the humane or cruel actions of individuals but in the plan in general, which shows no pity toward the Jews. We are certain that this census is being taken for the purpose of expelling "nonproductive elements." And there are a great many of us now. No one knows whose lot will be drawn and therefore sorrow is on every face. We are caught in a net, doomed to destruction.[15]

He suspected a general plan but the worst objective that he could imagine was expulsion—what can be more dreadful than homelessness, being reduced to beggary as were the tens of thousands of dispossessed Jews wandering into Warsaw? Yet he assumes (26 October 1939) that "our existence as a people will not be destroyed. Individuals will be destroyed, but the Jewish community will live on."[16] Therefore, some would become victims of the oppressor. Kaplan knew that because he was a private schoolmaster and, hence, unemployed he was vulnerable. But he survived, possessing some savings, friends, an apartment, and—perhaps most important—a mission to record the testing and trial of Warsaw Jewry.

The Jews of Warsaw were first confronted with the problem of subsistence and survival, and only secondarily with violence. Violence might be exercised for profit (threats used for extortion or direct robbery) or for play. Violence for profit was widespread but not unique to the Nazis: Kaplan recognized it as an endemic byproduct of occupation. Soon there were some Jews who bought back the stolen goods (4 November 1939) from the Germans.

What Jews feared more than robbery was becoming a victim of violence for play, exemplified by the SS men who alighted from a car and began whipping Jews indiscriminately or who compelled clean and respected persons such as a bearded, black-frocked Chassid—member of a Jewish sect widespread in eastern Europe—or a correct, well-dressed lawyer, or a respectable matron to perform rituals of abasement.

> Eyewitnesses tell that even officers and high military officials are not ashamed to chase after an old Jew with scissors in their hands to cut off his beard. When they start chasing a bearded Jew, an uproar starts in the street, and the passersby and tradesmen flee (October 20, 1939).[17]

Soon the Chassidim quit wearing their distinctive garb. Everyone wore his oldest clothes to escape being distinguished. But the pathology sanctioned by the Nazis demanded degradation, the pollution of the clean by the unclean; the acting out of infantile excremental and sadistic fantasies was an end in itself. Kaplan observed on 16 December 1939:

> The beast within the Nazi is whole, completely healthy—it attacks and preys upon

> others: but the man within him is pathologically ill. . . . People who may be trusted told me today of incidents of sadism towards Jews which only a sick mind would be capable of originating.
>
> In Lodz some Jewish girls were seized for forced labor. Women are not given hard work, but instead perform various services, generally in homes. These girls were compelled to clean a latrine—to remove the excrement and clean it. But they received no utensils. To their question: "With what?" the Nazis replied: "With your blouses." The girls removed their blouses and cleaned the excrement with them. When the job was done they received their reward: the Nazis wrapped their faces in the blouses, filthy with the remains of excrement, and laughed uproariously.[18]

On 16 February 1940 he noted:

> I know an intelligent, highly educated woman who, before going outside, always puts a scrub rag into her purse as a precaution in case of trouble, but she has no certainty that the Nazis won't order her to do the work with her blouse or her dress in any case. This is the face of Nazism unmasked.[19]

To be sure, there were mixed instances of violence for profit and play. Mary Berg recorded on 10 January 1941:

> Last night we went through several hours of mortal terror. At about 11:00 P.M. a group of Nazi gendarmes broke into the room where our house committee was holding a meeting. The Nazis searched the men, took away whatever money they found, and then ordered the women to strip, hoping to find concealed diamonds. Our subtenant, Mrs. R., who happened to be there, courageously protested, declaring that she would not undress in the presence of men. For this she received a resounding slap on the face and was searched even more harshly than the other women. The women were kept naked for more than two hours while the Nazis put their revolvers to their breasts and private parts and threatened to shoot them all if they did not disgorge dollars or diamonds. The beasts did not leave until 2:00 A.M., carrying a scanty loot of a few watches, some paltry rings, and a small sum in Polish zlotys. They did not find either diamonds or dollars. The inhabitants of the ghetto expect such attacks every night, but this does not stop the meetings of the house committees.[20]

Such ritual abasement did not physically injure the victims but disabled them by debasing their self-image as they came to reflect their enemies' views of them, fulfilling the Nazi intention to degrade and humiliate. Kaplan noted on 18 November 1939: "Sometimes we are ashamed to look at one another. And worse than this, we have begun to look upon ourselves as 'inferior beings,' lacking God's image."[21]

While such violence was incited by an internal need of the Nazi rather than by any action of the victim, disobedience or a crime by a Jew could incite a deadly and instant reprisal against Jews collectively. Kaplan recorded on 30 November 1939 how

> today we learned officially that on November 22, 1939, fifty-three Jews were shot

> for the "offense of rebellion." All these victims lived at Number 9 Nalewki Street. . . . The terrible event began when some Jewish thief shot and killed a Polish policeman and wounded another. The investigation and inquiry indicated that the murderer was one Jakub Pinchas Zylbring, whom the Jewish merchants had perhaps never seen before and certainly did not know. . . . What does a merchant who is mainly occupied with his business have to do with a ne'er-do-well who lives in the same courtyard and whose occupation is theft and robbery? But there is no place for legal logic when there is an excuse to bring catastrophe upon fifty-three Jewish families. All those who lived in the courtyard were imprisoned and taken to an unknown place. After two weeks they were all shot.[22]

Offenses committed by Poles also incited collective reprisals. But the Jews also might be held guilty for alleged crimes committed by Christians if one of the accused's four grandparents had been a Jew (22 January 1940). To avoid such collective reprisals, Kaplan opposed military resistance by Poles or Jews against the Germans. He wrote on 31 December 1939:

> Apparently a secret military group is quietly functioning in Polish circles. . . . Some military organization has begun to plot against the Nazis' lives. Obviously its work will be clandestine. . . . The terrible conqueror who knows no pity will not stand idly by. His revenge will know no bounds. In place of one, he will kill a hundred. . . . But this is only an introduction to what will be worse. . . . A terrible revenge is wrought by the vengeful sword.
>
> Such an incident occurred a few days ago in Wawer, near Warsaw. Two German officers were shot to death in some tavern, evidently while drunk, and a horrible misfortune has befallen the surrounding area. Every home was entered, every man was seized, and thus 102 victims were led to the scaffold, giving up their souls for a sin that they had not committed. Of them a hundred were Poles and two were Jews. The tavern owner was hanged, and his corpse was not taken down from the gallows for several days so that it would serve as a warning.[23]

THE JEWS ARE SEGREGATED AS THE RACIAL ORDER EMERGES

To Kaplan, Ringelblum, and Berg, the urgent need was to persevere in order to outlast, not to overthrow, the occupiers. This meant to feed the needy (who kept constantly increasing), to secure new work as old jobs and sources of revenue were stripped from Jews, and to remind oneself that one was not an animal even if treated like cattle. A new class order was being sifted, emerging from the symbiosis of Germans and Jews and the interdependence of Jews and Poles. The Jews were still in integral part of the economy and both Germans and Poles needed their services to maintain their power.

But great numbers had been made homeless by expulsion, trade restrictions, and German confiscations and needed immediate aid. Indigenous in-

stitutions for aid of Polish Jewry were supplemented by international Jewish relief organizations, such as the American Joint Distribution Committee. The destitute might apply for aid to the Joint, whose assistance program Ringelblum headed. The more fortunate received gifts directly from relatives overseas. Money was received from the Joint until 1942, but declined severely after American entry into the war. But for the majority, even before 1942, the aid was never adequate. The staff was overwhelmed, unable to cope either personally or efficiently with the escalating flow of applicants and the irregular flow of cash. Kaplan recorded the frustration and debasement of days of waiting on lines, checking one's tongue to suppress one's natural hostility toward bureaucrats on whom one depended, and the need for continuous followups and reapplications. Because of his experiences as a client, he scorned Ringelblum and other professional welfare workers.

The system of aid in Warsaw facilitated the preservation of independent foci of political expression and organization, preventing the *Judenrat* from absorbing all welfare functions. The agencies' funds were channeled to refugee centers and soup kitchens, presided over by officials of the established parties. The soup kitchens helped the parties maintain cohesion among their members. Later this system was complemented by the Jewish Self-Aid Committee, based on courtyard representatives from blocks of elected house committees for which virtually all our diarists worked with enthusiasm. Kaplan described their rise and decline on 22 March 1941:

> A complex machinery was set up almost overnight. . . . There was no building in which a courtyard committee was not established to take charge of all the problems. It was able to classify the residents of the courtyard according to their positions and material resources. It also knew which among the residents of the courtyard needed support, and which were obligated to give for the support of others. A sort of *vox populi* came into existence. . . . Whoever did not wish to give was considered an outcast in his neighbor's eyes and was publicly shamed. His name was listed on a black board, which was hung on the gateway so that all who entered the courtyard would know that So-and-So had set himself apart from the community and would not come to the aid of the people. The courtyard committee assessed everyone's material resources and imposed a monthly payment upon each householder. The sums taken in were turned over to the central fund which supported the soup kitchens. . . . But it wasn't long before public opinion began to intimate that not everything was right and proper with the Self-Aid, that they were stealing and embezzling, that the soup kitchens were spending a lot but feeding very few, that there was no overall control, that "the whole business is not worthwhile," etc., etc. And the more the backbiting, the less money it took in. . . . As usual, people exaggerate. There is no doubt that the hands of the leaders are clean, but it is possible that some individual official betrayed his trust and stole from the funds.[24]

Jews' property was "Aryanized" and they were divested of rights, but in some cases pensions were voluntarily paid by Polish business partners. New businesses sprang up within the ghetto. Both Polish and Jewish entrepreneurs

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refused to sell at the prewar prices (fixed by the Germans) because the Polish currency had been devalued. Thus, a black market emerged, with prices for the cheapest commodities rising as a result of the shortage of goods. Ringelblum and Kaplan testified that nobody lived within the law. Workers and entrepreneurs profited from this and goods were initially plentiful within the ghetto. Everything was available if one had the money. But few had cash in the ghetto, and force was needed to extract it. Unable to collect rents from their tenants, Jewish landlords hired *Volksgenossen* (ethnic Germans), alone privileged among the Poles, as their rental agents because they could threaten to bring in the occupiers. Kaplan commented scornfully on 8 January 1940:

> Can Jews surrender their coreligionists to the hands of their archenemies, especially in time of such terrible material oppression? But the landlords did what they did. Their end will be that the *Volksgenossen* will be the main candidates for these houses, and the landlords will be driven from their own homes, but it is not the way of the world for people to pay attention to what will happen later. The Jew lacks community feeling and a sense of collective responsibility. I am sure that not one Polish landlord would allow himself to be safeguarded by means of such a disgusting action. And if he dared do such a thing, he would be ostracized like a leper.[25]

Professional criminals found their skills in demand. Ringelblum in November 1941 described the career of one such criminal:

> Yussele Ehrlich is the commandant of the Jewish prison. . . . Before the war, he was a confidence man and strong-arm guy, worked at counterfeiting until 1936 (possibly was in the stock market—this has to be investigated). When the Germans took Warsaw and the police began to liquidate the criminal elements, particularly among the Jews, Yussele Ehrlich was arrested and sent to [Auschwitz]. Apparently, he assumed certain duties of a despicable character, because he was released rather quickly. . . . Since June (or July) of this year, he has been the commandant of the Jewish prison, where people in the know say that he is . . . a man with an explicitly evil character, with despotic tendencies. His underlings tremble in fear of him.[26]

Porters became informers, betraying merchants carrying bundles. Yet these petty operators who acquired opportunities for privilege by chance were economic midgets compared to the types of gangsters who rose to the top through collaboration with the Gestapo during the period when the ghetto was sealed.

Jews were not yet completely segregated from the Poles in 1939—the star was imposed in December—but the Polish community's toleration of organized attacks by Poles on Jews helped the occupier to isolate them, despite many personal bonds of mutual interest and some of trust. Kaplan reported on 11 November 1939:

> Besides the conqueror's "legal" pillage, illegal robbery has broken out among the

> Polish masses. Today I was an eyewitness to such a theft in Gesia Street. A dreadful outcry arose. Jews were screaming violently, calling *"Polizei"* with all their strength—and the plundering continued. Dozens of gentiles with stolen merchandise under their arms scattered in all directions, and our Jews continued to shout. No one dared to go up to the thieves and take back the stolen goods they held. It would have been easy to do, but they were afraid. Such scenes are played out each day. The thief steals and the Jews shout.[27]

Mary Berg explained on 10 January 1940 how Jews feared encountering Poles in the streets, incidentally noting the unwillingness of Jews to conform to German regulations when they could avoid them.

> The Nazi-controlled Polish press has published unofficial reports that a ghetto is being planned for the Warsaw Jews. This report has aroused great bitterness among all our people, who have already been ordered to wear white arm bands with the Star of David on them. For the time being those whose Semitic appearance is not striking are not wearing arm bands; but in general all the Jews avoid showing themselves in the streets because of frequent attacks by Polish hooligans who beat and rob every Jewish passer-by. Some Poles not blessed with Nordic features have also been molested by these hoodlums. For many days a middle-aged Polish woman, wrapped in a long black shawl and holding a stick in her hand, has been the terror of Marszalkowska Street. She has not let a single Jew pass by without beating him, and she specializes in attacking women and children. The Germans look on and laugh. So far no Pole has protested against this. On the contrary, when a Jew happens to pass through a Gentile neighborhood, the inhabitants point him out to the Germans with the words: "Oh, *Jude!*"
>
> The same Polish hooligans have also led the Nazis to the apartments of well-to-do Jews and have participated in looting in broad daylight. Protests were of no avail: the law does not protect the Jews.[28]

During the spring of 1940 the occupiers began planting anti-Semitic propaganda in the press, inciting Poles to violence reminding Jews of the anti-Jewish riots in major Polish cities and universities during 1935, 1936, and 1937. Jews responded as they had been conditioned to do, fleeing to avoid violence. Kaplan wrote in evident depression and distress on 26 March 1940:

> We have become a doormat whose purpose is to be trampled upon. . . . Never before have there been such days of chaos, upheaval, and confusion in the Polish capital as on the holiday of Easter, which this year fell on March 25. Christian "ethics" became conspicuous in life. And then—woe to us! Someone organized gang after gang of hooligan adolescents, including also little ones who have not yet left their grade-school benches, to attack Jewish passersby and give them murderous beatings. It was simply a hunt. . . . And what is there to deny? We are cowards! In cases such as this we have only one choice—to run away. And running away only adds courage to the attacking toughs.[29]

On 28 March, he described their organization more precisely:

> The conquerors have begun a new political operation. Gangs of young toughs, Polish youth (you won't find one adult among them), armed with clubs, sticks,

and all kinds of harmful weapons, make pogroms against the Jews. They break into stores and empty their goods into their own pockets . . . your ears catch the tinkling sound of windows being smashed by a patriotic Polish youth doing his work under the protection of the conqueror, who stands nearby with his camera, perpetuating all these abominations.

These sons of Ham—just as a year ago they shouted in their patriotic fervor, "Long live Poland! Long live Smigly-Rydz!" they now shout, in their conquered capital, in the presence of the conquerors who destroyed their land, "Long live Hitler. Death to Smigly-Rydz! We want a Poland without Jews!"[30]

These street attacks lasted three days. Bernard Goldstein recalled that the Bund workers fought defensively against such gangs—they were organized in self-defense squads before the war to deter violence against Jews—avoiding lethal weapons in order to ensure there were no casualties that might give the Germans an excuse for reprisals. But such counteraction was evidently not observed by either Kaplan or Berg and was noted by Ringelblum only once among many incidents of attacks upon Jews by Poles. We may conclude that the more frequent ending of such confrontations was the victim's retreat.[31] The Germans made films of street violence in order to illustrate popular approval of their drive to combat the Jews, thus justifying their objective. The Germans even posed as defenders of the Jews in these films.

Despite the broad resonance of German goals and Polish aims, few Polish leaders would then publicly identify with the Nazi drive against the Jews as did the adolescents. They recognized that Poles were also designated as victims and viewed as an inferior racial class. Ordinary Poles were seized for forced labor and transported to Germany against their will, Polish intellectuals were slaughtered or interned in concentration camps, and blood was extracted from Polish children (those classified as racially acceptable for German use) without parental consent. Later some 200,000 of such children were kidnapped by the Germans from the homes of parents (considered inferior) to be integrated into the master race under the tutelage of German adoptive parents.[32] Poles in Warsaw knew that they could be seized and deported, whereas Jews were conscripted for labor only in Warsaw. Both Ringelblum and Kaplan reported instances of Poles who put on Jewish armbands or ducked into the ghetto to escape labor raids in the streets.

But Polish underground newspapers that represented the radical fascist movement continued to incite Poles against Jews.[33] The Mayor and city administration collaborated fully. However, there were cases of notables and officials who had been public anti-Semites before the war but refused to collaborate. Kaplan noted on 1 November 1939:

The conqueror wanted to open the law courts. The dean of lawyers, Jan Nowodworski, in peaceful days a well-known anti-Semite, was called up and two requests were made of him: to insert an Aryan clause in the judicial code, and second, to take a loyalty oath to the Führer. Nowodworski did not agree to either, on grounds that they were both against the Polish Constitution. He said, in so many words, If

> the Jews are to be deported, let us be the ones empowered to do so, not you! There were also political motivations for opposing the demand for an Aryan clause: they were ashamed to let their allies see it.[34]

Sympathetic bonds arose from common oppression. Ringelblum reported in October 1940:

> Saw this scene today: Students from Konarski's high school are beating Jews on the street. A few Christians stand up against them, and a crowd gathers. These are very frequent occurrences, where Christians take the side of the Jews against attacks by hoodlums. This wasn't so before the war.[35]

When the Jews were finally incarcerated in the ghetto, Ringelblum reported, Jewish businessmen often received gift packages from their Christian associates, and friends brought bread and flowers—"This is a mass phenomenon."[36]

Despite humiliation, loss of status, impoverishment, and constant apprehension over what they could expect on venturing into the streets, people adapted. Jews could see that Poles also were victimized, and neither Kaplan nor Ringelblum (with his extensive ring of informants outside Warsaw) at first imagined a fate worse than expulsion.

How did ordinary Jews view the situation? What people anticipate is often a projection of their desires and anxieties, which are directly reflected in rumor. According to Ringelblum and Kaplan, the great majority were optimistic, expressing wish fulfillment. Hitler was often reported dead between September 1939 and October 1940, and the Germans were said many times to be planning their retreat from Warsaw. Kaplan observed on 5 December 1939: "Such is the imagination of a despised people which has nothing left but imagination. The downtrodden masses are waiting for a miracle; the ground is ripe for Messianism."[37] Other rumors posed counterforces; their common denominator was that the Jews expected to be saved by an external force. Mussolini was said to be fighting Hitler; the Russians were always making advances. Tongues clicked over the Germans' terrible losses; after the fall of Denmark and Norway, the news buzzed through the ghetto that 27 Nazi troop ships were sunk and 30,000 German soldiers drowned.

Humor is also a mode of transcendence for the powerlessness. Ringelblum noted one such masked tale of longing:

> A Jew alternately laughs and yells in his sleep. His wife wakes him up. He is mad at her. "I was dreaming someone had scribbled on a wall: 'Beat the Jews! Down with ritual slaughter!' " "So what were you so happy about?" "Don't you understand? That means the good old days have come back! The Poles are running things again!"[38]

The Jews' contempt for their conquerors (or, as in the case of Kaplan, the conviction that they were sick) gave them the moral distance to compensate for their fear and the shame imposed on them. Ringelblum jots down another (perhaps apocryphal) story:

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A police chief came to the apartment of a Jewish family, wanted to take some things away. The woman cried that she was a widow with a child. The chief said he'd take nothing if she could guess which one of his eyes was the artificial one. She guessed the left eye. She was asked how she knew. "Because that one," she answered, "has a human look."[39]

THE *JUDENRAT* AND THE CLASS ORDER OF THE GHETTO

After Jews were stripped of jobs, rights, and property, segregated on streetcars, and marked with the Jewish star, the deferred order to move into the ghetto was promulgated. This necessitated exchanges of apartments and/or buying out tenants to secure space; 80,000 Christian Poles had to move to make room for 140,000 Jews. The proportion of Jews needing apartments indicates that about one in three had lived outside this quarter, which housed poor Jews and Christians before the war. Christians and Jews competed in their appeals to the authorities to exempt (or include) particular blocks with desired apartments, schools, churches, and other institutions.

The wall was going up, but there was still uncertainty as to what its ascent signified. Kaplan anticipated what would occur in his entries of 24–27 October 1941:

> Will it be a closed ghetto? . . . A closed ghetto means gradual death. An open ghetto is only a halfway catastrophe. . . . From the time when the ghetto is closed, we will become a foreign national organism, separated from the civil life of the nation. . . . Thus it is that the *Judenrat* will be the representative of the Jewish people both within and without. . . . And in this lies the essence of our tragedy. . . . The *Judenrat* is not the same as our traditional Jewish Community Council, which wrote such brilliant chapters in our history. Strangers in our midst, foreign to our spirit, sons of Ham who trample upon our heads, the president of the *Judenrat* and his advisors are musclemen who were put on our backs by strangers. . . . They were never elected, and would not have dared dream of being elected, as Jewish representatives; had they dared, they would have been defeated.[40]

The issue of seeking positions from the *Judenrat* divided Zionists. Kaplan recalled that

> during the time when the revival of Jewish education was on the agenda, and veteran social servants came in contact with the *Judenrat*, even my Zionist friends tried to get close to the "Jewish Government" and its leadership. Hundreds of jobs were handed out to all those who appeared before the *Judenrat*. In the Zionist camp there were many out of work, and so our representatives tried to get some of our members into the *Judenrat* too. They were successful to some extent, but generally our members ran from the *Judenrat*. The clean do not mingle with the unclean.[41]

The best educated and most politically conscious were among those enticed

by and coopted within the *Judenrat*. Those committed to private solutions would have no incentive to consider any collective defense against the German resolve to liquidate the majority in July 1942. Mary Berg accepted—with some expressed distaste—the necessity to exercise "pull" to be selected for a course in mechanical drawing and graphic arts and empathized more with Adam Czerniakow than did many others.

The president of the *Judenrat*, Czerniakow, was not an opportunist seeking material gain but a man who lacked insight into the role he was playing. Czerniakow's diary indicates that he was personally incorruptible, unlike his colleagues and the many petty officials of the *Judenrat*. His privileges consisted of receiving daily orders and abuse from the SS and other German authorities, who were not always familiar with one another's plans, and thus sometimes made contradictory demands. Less than four months after assuming office (on 18 January 1940) he recorded being kept hostage by the SS for five and a half hours. Three days later he was seized for forced labor and released only after promising that the *Judenrat* would supply laborers. His initial desire for the position waned rapidly. He recorded on 26 January 1940 that he had attempted to resign but was advised against it by the SS. Again, on 4 November 1940, he was arrested, imprisoned in the Pawiak, and beaten by the Gestapo. Upon his release the next day, he wrote in his diary: "I can hardly walk."

The *Judenrat*'s policies sprung from its constant need for money to placate the Germans and avert the threatened violence. It lacked sanctions to compel collection except to exploit the fear of becoming a victim, trading security or exemption from forced labor for fines and for taxes. An elaborate system of exchange within the ghetto and between the ghetto and "Aryan" Warsaw simulated a market economy, but the basic need for security created a competitive but quasi-feudal political economy, which ultimately did not bind the German overlords. The *Judenrat* needed money to ransom Jews who the Gestapo alleged had committed some crime or who were being collectively punished for a crime of one Jew. Thus the *Judenrat* paid 100,000 zlotys to the Gestapo (Czerniakow records on 24 November 1939) to ransom 53 hostages from 9 Nalewki Street who were imprisoned because one tenant shot a Polish policeman. Despite this, they were shot. It was the *Judenrat*'s unhappy task to inform their families. On 26 January 1940, the German police demanded that the *Judenrat* pay 100,000 zlotys for the alleged beating up of German Poles by Jews, threatening to shoot 100 Jews if the sum was not paid. Simultaneously, they needed 6,100 zlotys to ransom 61 Jews caught without armbands. Each new regulation made more violations possible. To Czerniakow there was never any question of not paying: he was well aware that any German jail sentence might mean death. On 17 July 1940, he noted, the SS informed him that of the 260 Jews arrested between 18 January and 25 January, 37 were still alive out of the 113 whose fate had been determined.

Czerniakow relied on German reassurances as long as possible: initially (4

April 1940) he was told that the walls would protect Jews against violence before he was informed that the ghetto would be closed. He accepted German terror and extortion, his councillors' corruption, and Jews' complaints against him as evils he must endure in order to serve his people, allaying the occupiers' wrath by propitiating them. He "began to develop," Nachman Blumenthal observes, "the ideal of the passive martyr, the saint: who accepts pain and suffering in order to redeem and emancipate others."[42] His humiliation and loneliness appeared to him as the price to be paid for going down in history as a modern-day suffering servant—"despised, and rejected of men" (Isaiah 53:3). His diary consists of terse jottings, emblematic of his mood and self-image: on 17 February 1940, he commented, "The difference between the saints and me is that they have more time than I."

Although Czerniakow was a cultured man, he was neither astute nor insightful. He selected from literature passages that fortified his conviction that he, like the saints, suffered for a noble purpose, rather than being simply an instrument of the enemy, to be thrown away when his use was exhausted. He noted on 28 May 1940: "I am reading Proust's *Within a Budding Grove*. He says: 'according to the Japanese, victory belongs to an antagonist who knows how to suffer one quarter of an hour longer.' " Czerniakow prepared for the day when he could go no further, when all his illusions would be stripped, by keeping cyanide pills in his desk drawer.

Like Czerniakow, Ringelblum knew of the high death rate in German prisons and concentration camps and found sources in 1940 to find out what happened in Auschwitz to all those prisoners (such as his friend Baruch, who refused to wear an armband) who were heard of only when their families were notified to pick up their cremated remains (5 December 1940). He noted on 10 December that "a great many dispatches are arriving from Oswiecim with news of the deaths of inmates. People are forced to exercise under showers every day for three hours there; this produces inflammation of the lung and death follows."[43]

No mechanical means of inflicting mass deaths were yet in widespread use. The real threat, Ringelblum and Kaplan suspected, was mass starvation. With the closing of the ghetto, prices initially skyrocketed: on 29 November 1940—two days before the closing of the ghetto—Ringelblum reports that potatoes, the staple of life, were up to 95 zlotys per kilo ($19 at prewar exchange rates): by 20 May 1941, they had stabilized at 4 zlotys a kilo. Between December 1940 and July 1942, the Jews of Warsaw spent most of their energy in simply coping, making a living, and surviving. Since the chances of death, whether by typhus, tuberculosis, freezing, or starvation, were highly related to one's class, a medical history of Warsaw corresponds to a history of social classes.

Strata were based on access to power. One's status was primarily determined by three types of relations. First, did a person have any prewar bonds of interest or sentiment to other Warsaw residents—Jewish or Christian? Sec-

ond, could one earn or pay for protection? Third, could one supply protection—exemption from violence, exploitation, or discriminatory legal prosecution?

At the very bottom were the unemployed and unprotected who had no bonds and could offer nothing to anyone; the refugees who were displaced, shocked, and alien to Warsaw were most likely to fall into this class. The more innovative of them simulated a lumpenproletariat of beggars and hawkers. Above this class were the steadily employed workers, craftsmen, and small merchants. These were protected by German employers and/or police taking cuts from their commerce over and under the wall. Former professionals like Kaplan were dependent on contacts within the *Judenrat* or political parties for employment, but could subsist for a time by selling possessions and expending their savings; their status was most precarious. The more one visibly possessed, the more likely he was to be looted by the Germans and expropriated.

A privileged class among the workers, merchants, and artisans were those who supplied petty forms of protection, the informers and intermediaries for German employers. House superintendents, porters, and postal clerks served as informers and could sell their information or their silence. Intermediaries were needed; Ringelblum noted in November 1940:

> Every German institution has its Jew who is well-treated though other Jews are mistreated. For example, there's a man they call "Moses" in the Dinance Park garages. He has been able to get a number of Jews exempted from work.[44]

Judenrat employees could also offer some protection. Employment by the *Judenrat* itself was valued not so much for the meager wages it paid but for the opportunities it offered for bribes, kickbacks, and ransoms—to prevent typhus disinfection (see p. 228), to get an apartment, to keep someone out of an apartment, to prevent fines by the sanitary inspectors, to buy one's way out of forced labor. About 6,000 persons held such jobs.

But the problem remained—that of existence—especially for professionals. How did the jobless middle class fare? Kaplan had escaped paupery by the Germans' failure to notice the copper coinbox with his modest savings. Mary Berg's family was well off before the war; they were also fortunate. Although they had sought refuge in Warsaw from Lodz, they had some contacts in Warsaw and apparently enough cash and valuables to live on for over 21 months without employment. However, on 27 July 1941 she recorded:

> After a long struggle, my father has finally got the job of janitor with all the privileges this office entails. He has been "in office" for two weeks now, and, in addition to the regular Jewish arm band, he now wears a yellow arm band with the inscription: "House Master." He has also received a passport from the community which states that he is exempt from compulsory labor duties. Thus he can circulate freely in the streets without fear of man hunts. The janitors are exempt

from various community taxes, receive extra food rations, two hundred zlotys a month as a salary, and free lodging. But their main income is derived from opening the door at night: in accordance with the curfew regulations the door is closed at an early hour, and to have it opened the tenants pay twenty groszy or more. Some nights these fees total as much as twenty zlotys. In brief, a janitor's income under the present conditions is unusually good; no wonder the job is hard to obtain.

Because my father is not strong enough to perform the heavy duties of a janitor, to wit, keeping the building clean, scrubbing the staircases, and removing the garbage, he has followed his original plan, and has taken my Uncle Percy as his assistant. To him he gives all his direct money receipts.

At first our neighbors were distrustful of their new janitor, who, only yesterday, was a tenant like themselves. They could not conceive that an art dealer and expert on classical painting could perform the duties of an ordinary janitor. But they soon grew accustomed to the idea that even a respectable citizen can become a janitor and still remain a respectable citizen. Now they show the greatest respect for both my father and my uncle. Incidentally, they are not the only people in the ghetto who have fallen so low on the social scale. The janitor in the building next to ours is Engineer Plonsker, a close friend of our family's. And a great number of lawyers are now glad to work as janitors.[45]

Although it was taken for granted, as Kaplan noted, that "everyone steals," the way one stole indicated one's class. A child smuggler with a kilogram of potatoes slung in a hump on his back, who crept like a mouse out of the openings at the wall, was clearly in a different class than a smuggler who had German accomplices, warehouses, and retail outlets.

Men were conscripted for forced labor from January 1940 onward, first within Warsaw and later outside, boarding in barracks. The *Judenrat* began registering all those legally liable in February 1940. It soon began selecting only the poorest. Kaplan noted on 8 July 1940:

The edict about "normal work" in the city, for which the conquerors have made the *Judenrat* responsible and which is known by the technical name of Labor Battalion, has been carried out with full force. As many as ten thousand men a day must be furnished to the conquerors by the *Judenrat*, for various temporary and accidental jobs, besides the hundreds of men seized from among Jewish pedestrians walking innocently in the streets. The *Judenrat* has set up a complete apparatus for this purpose, employing hundreds of clerks and supervisors. Every Jew from sixteen to fifty-five is required to report for work nine days out of each month. In order to increase the *Judenrat's* income, it is not an absolute requirement; anyone who wants to be exempt from this labor requirement must pay a ransom of 60 zloty a month. It is a good source of guaranteed monthly income for the *Judenrat*. In general the conqueror attempts to increase the *Judenrat*'s income, since "whatever a slave owns his master owns." The murderers have burdened this miserable *Judenrat* with such demands that it is powerless to fulfill them; they have made it into a body of water without fish [*sic*]. Its treasury is empty, but the demands never cease. Unwillingly it supports itself from the misfortunes of the

> Jews. In the past few weeks fewer people have been coming to work, and so there was a threat. The unfortunate Czerniakow was summoned and warned: Speak to your *Juden* and tell them that if they don't come voluntarily, we will enforce to the letter every one of the stringent provisions of the decree. Czerniakow publicized that warning in every courtyard and the Jews are in turmoil.[46]

Those who could pay stayed home while those who could not were seized, regardless of condition. Ringelblum described these on 21 November 1940:

> The work camp transports: Some of Those [*sic*] who returned came back in their underwear. Yesterday, the 20th of November, more than 800 Jews were routed from their beds for the forced work camps, invalids, too.[47]

On New Year's Eve (1940–1941), Ringelblum recorded that the exploitation of forced laborers and the role of the *Judenrat* were subjects of public satire:

> "The Memorial Song" is very effective, though not very good from the artistic point of view. The poet calls for all the woes we are suffering to be avenged, he tells about the press gangs, the deathly fear stalking the streets, the work camps ("leeches that suck the blood of workers plunged in swamp mud") from which no one returns. He tells of the scandalous behavior of the Council people, who are sometimes worse than the Others [Germans], of the sorrow of children growing up without schooling; of the death of martyrs; of the child killed because of his beauty.[48]

Death was still individual, a possibility but not of high probability. Ringelblum indicates on 11 May 1941 that his sources attributed the high death rate in one work camp to the Ukrainian prison guards:

> It was worst in Puszcza-Kampinas, where there were thirty-seven Jewish victims, i.e., 10 per cent of the campers. The guards simply stole the campers' rations (18 dekos of bread, a thin soup, and a glass of black coffee). When they came back, the campers died in the Jewish Council house. Some of the inmates were shot while trying to escape from camp. The camp regime was dreadful. The returnees were dreadfully exhausted. Some of them suffered the effects of a camp psychosis and trembled at the sight of a uniform. The Jewish Council is now concentrating on having the camp guards removed—Mannes, the commissar for the Jewish part of Warsaw, is to appeal to the Governor General for this purpose. You can guess the mood of those who have to go to camp. Yesterday's transport actually rebelled and refused to go.[49]

Conditions were improved at this particular camp, Ringelblum observing that "after the priest of Kampinos delivered his sermon on behalf of the Jewish campers, everything changed." But this particular priest was exceptional among the clergy, Ringelblum later noted. His sermons also instigated the peasants to throw food over the barbed-wire fences to the prisoners.[50] However, conditions in most camps were so bad that the *Judenrat* could not persuade people to report for work outside of Warsaw; therefore, they employed dragnet raids to satisfy the German demand for laborers.

Annex 24

THE FIRST SELECTIONS: LIFE CHANCES AND THE SOCIAL ORDER

After the closing of the ghetto, the death rate among Warsaw Jews rose steeply: between January and December 1941, it was over 1,000 times the prewar norm. By February 1941, bread-snatching on the street was common. Kaplan described such a scene on 19 February 1941:

> A crowd of idlers gather around two Jews fighting and wrestling. Each is trying to kill the other. Nobody knows what happened. But if you look closely at the wrestlers, you understand the reason for the battle. One of them was carrying a loaf of bread; the other sneaked up on him, took it away, and started running. The other man ran after him and caught him.
>
> One claims: "I am as hungry as you are, why rob me? Go to the rich people."
>
> The street rabble gets into the quarrel, but the mob is divided into two camps. A student of the Bible decides it: "Men do not despise a thief, if he steals to satisfy his soul when he is hungry."
>
> Everyone agrees that King Solomon was right.[51]

Writing in her diary, Mary Berg recorded on 28 February 1941:

> Many of our students come to [art] class without having eaten anything, and every day we organize a bread collection for them. The lot of our life models is even more tragic. Recently we have been drawing many portraits; our favorite subject is "misery." Models are not lacking for that. They stand on line to earn a few pennies by posing for us. Often they fall asleep on the stand, and then, with closed eyes, they look like corpses.
>
> The directors of our course pay two zlotys for two hours of posing, and we gather together a few small pieces of bread for each model. Yesterday our model was an eleven-year-old girl with beautiful black eyes. All the time we were working the child shook with fever and we found it hard to draw her. Someone suggested that she be given something to eat. The little girl tremblingly swallowed only part of the bread we collected for her, and carefully wrapped the rest in a piece of newspaper. "This will be for my little brother," she said. "He waits at home for me to bring him something."
>
> After that she sat quietly through the entire drawing period.
>
> Once we were compelled to carry an old man out of the classroom; he had fainted from hunger and could not even finish the bread we gave him.[52]

The same day, Ringelblum noted that "almost daily people are falling dead or unconscious in the middle of the street. It no longer makes so direct an impression."[53] Two weeks later, he observed:

> The number of the dead in Warsaw is growing from day to day. Two weeks ago some two hundred Jews died. Last week (the beginning of March) there were more than four hundred deaths. The corpses are laid in mass graves, separated by boards. Most of the bodies, brought to the graveyard from the hospital, are buried naked. In the house I lived in, a father, mother, and son all died from hunger in the course of one day. Pinkiert, the King of the Dead, keeps opening new branches of his funeral parlors. . . .

> The abandonment of children in offices of institutions and Jewish police headquarters has become a mass phenomenon. The establishment of a home for 100 beggar children has not helped. Children are continuing to beg, no less than before. The beggars have a new line. "I'm short 10 groschen for a place to sleep; I can't sleep in the street."[54]

Despite the spring thaw, the death rate climbed steadily as the typhus epidemic spread. Ringelblum recorded on 20 May 1941:

> Recently, people have been dying at the rate of 150 a day (as of the 15th of May, there were 1,700 deaths) and the mortality keeps growing. The dead are buried at night between 1 and 5 A.M., without shrouds—in white paper, which is later removed—and in mass graves. . . . Various groups of excursionists—military men, private visitors—keep visiting the graveyard. Most of them show no sympathy at all for the Jews. On the contrary, some of them maintain that the mortality among Jews is too low. Others take all kinds of photographs. The shed where dozens of corpses lie during the day awaiting burial at night is particularly popular. Today I visited the shed. It is a macabre scene. Under black paper covers lie heaps of corpses, thrown together, clothes awry—it's like nothing more or less than a slaughterhouse. The corpses are mere skeletons, with a thin covering of skin over their bones. Recently there's been an increase in the cases of suicide. For example, two refugees committed suicide at 28 Panska Street by taking strychnine. Two or three members of the same family are being buried at the same time these days. With bread costing 15 zlotys a kilo, half to three-quarters of Warsaw must eventually starve to death.[55]

The typhus epidemic was used to spread propaganda against the Jews among the Poles; Polish papers charged that Jews carried lice, reviving medieval myths. The compulsory disinfectant squads employed to cordon off the epidemic within the ghetto were both corrupt and ineffective, so all who could avoid disinfection by paying them off did so, and the disease spread. The poor, if their calorie intake was sufficient to prevent starvation, had a greater chance to recover than the rich, Kaplan observed.[56] If one survived the typhus and did not starve, there was a cold winter to look forward to in 1941-1942.

The streets were teeming with scurrying souls, seeking to evade the flying lice by anointing themselves with naphtha and other odorous compounds. Besides typhus, there were scurvy and other diseases caused or aggravated by malnutrition. Mary Berg described the casualties on 31 July 1941:

> Near Grzybowska, the streets are full of starving people who come to the community for help. There are a great number of almost naked children, whose parents have died, and who sit in rags on the streets. Their bodies are horribly emaciated; one can see their bones through their parchment-like yellow skin. This is the first stage of scurvy; in the last stage of this terrible disease, the same little bodies are blown up and covered with festering wounds. Some of these children have lost their toes; they toss around and groan. They no longer have a human appearance and are more like monkeys than children. They no longer beg for bread, but for death.

> Where are you, foreign correspondents? Why don't you come here and describe the sensational scenes of the ghetto? No doubt you don't want to spoil your appetite.[57]

Notwithstanding the pestilence, cold, hunger, and nightly howling of children, many ghetto dwellers maintained their morale by dancing, attending lectures, and staging dramatic productions. Kaplan recorded on 20 February 1941 that

> it is forbidden to hold parties with music and dancing. The victims of this order will be the courtyard committees, which live from such spectacles. . . . In the daytime, when the sun is shining, the ghetto groans. But at night everyone is dancing even though his stomach is empty. . . . It is almost a *mitzvah* to dance. The more one dances, the more it is a sign of his belief in the "eternity of Israel." Every dance is a protest against our oppressors.[58]

Mary Berg sang through 1940 and 1941 with a group of friends—the "Lodz Artistic Group," or LZA, which in Polish means "tear"—first organized to raise money for Janus Korzsack's children's home. Every means of expression could be a means of catharsis for actors and audience. She related how, for Passover 1941, her group chose to dramatize the Haggadah:

> To a strongly rhythmic piano accompaniment I thundered out the ten plagues that every Jew in the ghetto wishes upon the Nazis. The whole audience repeated the words after me, and together with me silently wished that they should strike the new Egyptians as soon as possible.[59]

Similarly, Michael Zylberberg told how the headmasters of the Hebrew schools chose to enter a play in the school competition in 1941 based on the

> famous Hebrew poem, "Masada," by Yitzhak Lamdan, . . . Masada was a mountain fortress where the Jews of ancient times resisted Rome. It symbolized defiance in the face of overwhelming odds, but after three years the revolt ended with mass suicide for the helpless defenders. How could we present such a play in our present circumstances? Rabbi Nissenbaum said quietly, "Take a chance. At least show that Jews have always put up a fight. This play will engender moral courage; it will demonstrate, at least, that people must stand firm." He . . . paused at the famous song about the chain. . . .
>
> "The chain has not been broken; the chain continues, from parents to children, from father to son. This is how our parents danced, one hand placed on the next man's back, and in the other hand a Sepher Torah; bringing light to our darkness. So we, too, will keep on dancing, and our hearts will be joyful and lively. We will keep on dancing, dancing, and the chain will never break."[60]

Satires and musical comedies ventilated the frustrations of everyday life. One popular favorite satirizing the lack of privacy in overcrowded flats was "Love Looks for an Apartment," Mary Berg noted. Halina Szwambaum also observed this lack, commenting wryly on how she and her boyfriend were constantly chaperoned by the tenants of the apartment.

Although the yearnings expressed by popular culture were yearnings of

the oppressed, all of these did not affirm Jewish solidarity for they also expressed the natural desire of people to escape membership in a stigmatized, despised, oppressed group. While the party kitchens and Zionist youth groups sought to revive Jewish culture, the Jewish masses imitated Polish fashions and speech.[61] Conversions increased, despite the fact that Jewish converts were also incarcerated in the ghetto. Symptoms of identification with the aggressor appeared, similar to those appearing elsewhere among powerless and oppressed classes.[62] High boots and toy police badges were in vogue. This was first seen by Ringelblum as a sign of illness on 9 May 1940 in the following context: "In a refugee center an eight-year-old child went mad. Screamed, 'I want to steal, I want to rob, I want to be a German.' In his hunger he hated being Jewish."[63] Concurrently, signs of what Ringelblum calls "demoralization," or lack of identification with kin and community, appeared within families. Young girls pilfered their parents' household possessions to sell to obtain money for permanent waves. On the Jewish New Year—the highest of holy days, during which money is not to be touched—Jewish informers smuggled soldiers into services being secretly held in apartments and sold exemptions from forced labor.[64] Others led police to family treasures. Mary Berg empathized with those who had become agents after having first been arrested for minor infractions and tortured by the Germans.[65]

Polish Jews grew more cynical and embittered as they saw that "Jewish" Gentiles and non-Polish Jews were more privileged. They resented the material advantages and status enjoyed by the newly arrived German Jews who traveled to Warsaw in pullman cars, lived in a special quarter, and received better rations than Polish Jews. Most conspicuous were those Poles who were born as Christians but classified as Jews because of the identity of their fathers and grandfathers. These included some well-known anti-Semites and others whose aversion to the Jews was reinforced by their being classed among the victims; they displaced their anger from those who classified them to the victims. Some occupied prominent positions on the Jewish police force and within the council—Czerniakow was under some pressure to accommodate to them—and enjoyed special aid from Caritas, the Roman Catholic charity organization. They were disliked by Kaplan, Ringelblum, and other Jews. Some of the converts overcame their ambivalence toward Jews within the ghetto and identified with them. Mary Berg commented on 11 December 1941 upon their dilemma:

> These Christian-born children of Jewish parents are now living through a double tragedy as compared with Jewish children. They feel entirely lost, and there have even been cases of suicide among them, while there have been no such cases among the Jewish youth.
>
> However, there are also Christians of distant Jewish origin who have been brought back to Judaism by the Nazis' ferocious persecutions of the Jews. A number of Christians of the third generation who did not have to go to the ghetto spontaneously went to the Gestapo and demanded to be sent there. These re-

turned Christians wear the arm band with pride, as a kind of new crown of thorns and martyrdom.[66]

Christians of Jewish origin usually had better connections than Jews and the opportunity to evade the ghetto and pass on the Aryan side if they resolved to identify as Aryan Poles, as most of them probably did.

Those without connections or opportunities either became paupers or turned to new occupations in the ghetto. New occupations created new forms of degradation. Ringelblum observed in October 1941:

> A characteristic recent development in the Ghetto is wagons to which human beings are harnessed. The practice is based on a simple calculation: It costs 80 zlotys a day to maintain a horse, only 20 zlotys a day to maintain a human being.[67]

The refugees and the homeless were most likely to become paupers first, but professionals without capital or connections also drifted downward. Jewish scholars from Warsaw with connections who did not know how to use them and would not beg might die, as did Joseph David Bornstejn, Kaplan's friend. Kaplan indicted Warsaw's Jews on 8 March 1942, writing that

> Joseph David Bornstejn has passed away, starved to death in his lonely attic. Who was he? The very ones who were responsible for his death eulogized him and did not exaggerate when they said: "Veteran Hebrew writer, brilliant linguist, one of the editors of the *Encyclopedia Judaica* . . . known for research on the Talmud and interpretation of the poetry of Bialik."[68]

Kaplan had arranged with Bornstejn's other friends to support him but they were diverted by other problems, "both ideological and technical," and he was forced to rely on the Jewish Self-Aid, the head of which (presumably Emmanuel Ringelblum, whom Kaplan detested anyway) gave him no special assistance.[69] And Bornstejn, like many others, was unable to survive on watery soup and sawdust-filled bread.

In May 1942, the Germans decided to create a film showing the world how well the Jews of the Warsaw ghetto lived. There was not much time left—the ghetto was to be destroyed as a community within three months. It was essential not only to exterminate the Jews but to extirpate their image as archetypes of western morality. Simultaneously, the Germans preferred to portray themselves as benefactors protecting the Jews, as in films made in 1941.[70]

Kaplan saw a novel event on 19 May 1942:

> At ten in the morning three trucks full of Nazis, laughing, friendly, with complete photographic equipment, stopped near Schultz's famous restaurant. . . . They behaved in a friendly manner toward whomever they met, and entered into personal conversations with the ghetto dwellers.
>
> Why the difference today? Today they came to take photographs of the ghetto and its inhabitants, and the pictures must mirror the abundance and good fortune in the ghetto. . . . First they detained every beautiful virgin and every well-dressed woman, and even some who were not beautiful or well dressed, but who

were made up and somewhat elegant. The women were ordered to move around gaily and to look and sound animated. . . . The Nazis detained every fat Jew and everyone with a potbelly which had not had a chance to cave in. Jews overloaded with flesh are almost nonexistent in the ghetto, but among tens of thousands of passersby even this kind may be found. Even plutocrats, those serious men so hated by the Führer, were good material for the film. On order, they crowd up and push their way into Schultz's while at the same time a waiter shoves them back because of lack of room. All the tables are taken, and other plutocrats sit around them eating rich meals and enjoying sweets and dainties. The Nazis are footing the bill because it is worth their while.

Thus, nothing is lacking in the ghetto. On the contrary, every delight is enjoyed, for the Jews of the ghetto have attained paradise in this life.[71]

The Germans, in addition to staging scenes of bourgeois luxury, forced Jews to act out their depraved visions mocking Jewish piety—as they had earlier forced them to enact the projections of the Germans' excremental and sadistic impulses; this time, they filmed the posed scenes. Kaplan (following the passage above) recalled that

a few days ago the Nazis came to the cemetery and ordered the Jews to make a circle and do a Hasidic dance around a basket full of naked corpses. This too they recorded on film. All of these are segments of some anti-Semitic movie, which upon being spliced together will emerge as a gross falsification of the life of the Jews in the Warsaw ghetto.[72]

There were Jews who did temporarily enjoy better life chances than others, appearing to resemble the celluloid plutocrats as a result of their German connections. These were the gangsters who played many roles simultaneously: German business agent, expeditor, wholesaler, blackmailer, and Gestapo informer. The most noted of them was Abraham Gancwajch. Gancwajch headed a combination known as "The Thirteen," allegedly an independent organization to combat corruption by *Judenrat* functionaries and businessmen. Later, he became a rental collection agent for the Germans and operated a "Special Ambulance Service." The Thirteen owned night spots and obtained an exclusive franchise for horse-drawn conveyances. They could obtain ransoms and arranged scenarios for extortion. Ringelblum came to understand: "This is how it works: The Others detain a Jew. Then somebody from 'The Thirteen' communicates that the man can be let go for a large sum of money. They hold the money on deposit."[73]

Gancwajch's background was obscure: "According to himself, Gancwajch was a right Labor Zionist before the war. Some six years ago, he was supposed to have been in Germany, where he is said to have formed a Nazi youth organization."[74] At first, Gancwajch attempted to legitimate his role by philanthropy of a conventional type—charity, support for writers and artists. He played at leading popular movements, pretending to be a militant spokesman and organizer, unhesitatingly unveiling the corrupt. Ringelblum

noted these signs with apprehension even before he was convinced that the man was a Gestapo informer, gathering intelligence on the ghetto.

> Beginning of June [1941]
>
> At the end of May a conference of sixty—merchants, journalists, doctors, engineers—was called under the auspices of "The Thirteen." . . . Some attended out of fear; others out of curiosity. Gancwajch, the head of "The Thirteen," speaks fairly well and won over some people who knew nothing of his scoundrely deeds. They think he can really accomplish things, particularly after he asserts that he can help with the food supply. The only thing is he needs a citizens' committee to show he has some popular backing. He set up a food-supply commission, a children's-aid commission, headed by Dr. Korczak, a cultural commission, and so forth. Lately he has achieved some cheap victories by arresting a couple of thieving Poles and ethnic Germans.[75]

He observed soon after this entry that Gancwajch, who besides his rental collection monopoly had also obtained a garbage concession, was advertising his ability to negotiate with the Nazis and restore employment to the ghetto, intimating that he could cope better than could the *Judenrat*. His "Office to Combat Speculation" weighed bread from bakeries, as do modern consumer affairs departments and nongovernment critics. Later that month Ringelblum noted:

> Unfortunately, there are many people who allow themselves to fall under the spell of Gancwajch's sweet talk—his energetic demonstration of the great services he is capable of performing for the Jews, the evil decrees he has already averted, and the things he could do if he had the support of Jewish society. The persuasiveness of his speeches (he is a polished speaker in both Yiddish and Hebrew) quickly evaporates, however. People sober up; he leaves a bitter aftertaste in the mouth.—Recently, "The Thirteen" formed a youth section of the Special Service, headed by the . . . scoundrel Katz.—There are three currencies in the Ghetto: hard, soft, and Gancwajch.[76]

Gancwajch attempted to buy off potential critics by supporting them. Ringelblum observed in May 1942:

> Gancwajch, e.g., is turning into a regular Maecenas, supporting Jewish literature, art, theater. He arranges "receptions" for Jewish writers and artists, where there is plenty of food—nowadays the important thing. A short time ago he threw an all-night party at the El Dorado night spot. . . . The party was opened with the dedication of an ambulance, named Miriam (after Gancwajch's wife at home). . . . To help them meet their Passover needs, Gancwajch sent the Jewish writers 6,000 zlotys.[77]

CHARITY AND JUSTICE: CRITICISM AND "COMIC" PERFORMANCES

By the winter of 1941–1942, the chief function of voluntary charities endowed by Gancwajch and others was to celebrate their donors. Most houses

had no coal, and lacked gas and electricity for weeks on end. Kaplan also endured the cold despite the fact that he had ordered coal in August and legally was entitled to priority because he conducted classes at home. But the lot of those behind walls could not compare with those in the street. Ringelblum recorded in mid-November 1941:

> The first frosts have already appeared and the populace is trembling at the prospect of cold weather. The most fearful sight is that of freezing children. Little children with bare feet, bare knees, and torn clothing, stand dumbly in the street weeping. Tonight, the 14th [of November], I heard a tot of three or four yammering. The child will probably be found frozen to death tomorrow morning, a few hours off. Early October, when the first snows fell, seventy children were found frozen to death on the steps of ruined houses. Frozen children are becoming a general phenomenon. The police are supposed to open a special institution for street children at 20 Nowolipie Street; meanwhile, children's bodies and crying serve as a persistent background for the Ghetto. People cover the dead bodies of frozen children with the handsome posters designed for Children's Month, bearing the legend, "Our Children, Our Children Must Live—A Child Is the Holiest Thing." That's how people express their protest against the failure of CENTOS to collect these children in a center and save them from certain death in the street. Especially when it is known that CENTOS has collected almost a million zlotys from taxes (postal payments, bread ration cards, etc.)[78]

Mary Berg noted on 22 November 1941 that

> sometimes a mother cuddles a child frozen to death, and tries to warm the inanimate little body. Sometimes a child huddles against his mother, thinking she is asleep and trying to awaken her, while, in fact, she is dead.[79]

A few of the orphaned were more fortunate, but their sponsors were indifferent in charity as in business to others' plight, overlooking adults and other orphans outside their institutions. Ringelblum complained on 30 May 1942 about the implications of Abraham Gepner's philosophy:

> Still another element in the Ghetto is opposed to relief for adults—Abraham Gepner, the president of the former Merchants' Association. Now he's responsible for food supply and in this role can dispose of significant sums of money. Gepner is a fine man, but a capricious one. . . . The policies of Gepner's Food Supply Agency are scandalous and deserve special treatment. But Gepner, who is now childless (his children have left the country), pours out all his fatherly feelings on other children. He has become the great patron of children in the Ghetto—not of all children, however, but only of those who are lucky enough to be sheltered in the home whose patronage he has taken over. These children live, literally, in luxury—all the others may perish. His children are provided with the best of clothing, shoes, entertainment—on the other hand, the children in the refugee centers haven't the barest necessities. They die from hunger under squalid conditions. "Our children must live" is Gepner's slogan; but "our children" means only the children of his homes.[80]

In the demimonde of easy death and fast living, prophecy and criticism emerged in new forms. Among the beggars, one more talented, innovative, and aggressive is recalled by several writers. Rubinstein, supposedly a madman, mocked the powerful. Playing the role of the tolerated jester telling dangerous truths behind the mask, Rubinstein prospered because of both his popularity and the threat he astutely invoked. Alexander Donat, a former Warsaw newspaper publisher, recalls him in richest detail:

> One of the most celebrated Ghetto sights was the famous Rubinstein, half-madman, half-clown. Small and dark, he roamed the streets with his peculiar hopping gait, uttering wild yells or singing, *"Alle Glaych, urym yn raych!"* (Everyone's equal, rich and poor!) It was never clear just how mad he really was, but in that mad time and place Rubinstein certainly made out better than many normal people. When he was hungry, he would stand in front of the best-stocked food store in the Ghetto, screaming at the top of his lungs, "Down with Hitler! Down with the German murderers!" which was quite enough to bring the proprietor running out to load Rubinstein with food and get him to stop that bullet-inviting blackmail. The *noveaux riches* of the Ghetto often invited Rubinstein to dinner in restaurants to amuse them and he never disappointed his hosts. "How many of us are going to survive?" he would inquire, and then answer his own question, "Fifty-five." Asked to explain, he would do the following arithmetic: Add 26 Grzybowska (the *Judenrat* address) to 13 Leszno Street (the address of The Thirteen) and 14 Leszno Street (Kon and Heller) and you got 53. By adding the chief undertaker of the Ghetto, Pinkiert, and himself, Rubinstein got 55.
>
> To the question, "Who should drop dead?" Rubinstein would reply, "Forty!" Adding the *Judenrat*'s 26 to Ganzweich's [Gancwajch] 13, you got 39; then add Hitler to get 40.
>
> Only those who were madmen did not fear the Germans and dared to behave aggressively, and perhaps in that situation they were normal in being able to comprehend the nature of the Nazis.
>
> The normal ones walked past the food-store windows on Karmelicka Street and looked at them, admiring the lavish displays of delicacies, pastries, cold meats. . . . It was not unusual for people dying of starvation to be found right beside those shop windows, and the sight of their bodies covered with newspapers lying next to such lush displays of food was doubly unbearable. Yet not once in the history of the Ghetto did starving mobs ever attempt to break into those stores.[81]

On 6 April 1941, Ringelblum recorded 61 night spots in the ghetto. Kaplan described them on 7 January 1942:

> Places of entertainment function in the ghetto, and they are full to overflowing every evening. Should anyone venture into the ghetto without knowing his whereabouts and enter one of the luxurious cafes, he would be astounded. Who would believe that the lavishly dressed crowds enjoying the music, pastries, and coffee are the persecuted victims of tyranny? The innocent visitor would never suspect the truth until he looked around outside too. Sometimes at the very entrance of one of these elegant cafes he might stumble on the corpse of a victim of starvation.

Leszno Street has the distinction of being the entertainment center of the ghetto. Operating here are all the pleasure places which welcome the smugglers, the black marketeers, and all those fortunates who live off our troubles. Every child in the ghetto knows who they are and what prices they charge.[82]

The less fortunate—now paupers—were dependent on the soup kitchens sponsored by the *Judenrat*. The *Judenrat* had resorted to raising most of its taxes at the point of purchase, throwing the burden on the poorest classes. Ringelblum saw this as a function of the class system. He observed in January 1942 that

periods of break-up have the virtue of illuminating like a giant searchlight evils that have previously been concealed. During these days of hunger, the inhumanity of the Jewish upper class has clearly shown itself. The entire work of the Jewish Council is an evil perpetrated against the poor that cries to the very heaven. If there were a God in the world, he would have long ago flung his thunderbolts and leveled that whole den of wickedness and hypocrisy of those who flay the hide of the poor. . . . The poor people have to meet the costs of their own relief. Adults, for example, pay 70 groschen for a lunch, when it costs only 50, so as to cover with the extra 20 groschen the deficit created because the children only pay 25 for the same lunch. The same is true of the 10 per cent the Council takes from the sales of produce. It is taken impartially from the millionaire and the poorest beggar. The same goes for the work battalions. Here, again, the upper class pays groschen, while the impoverished middle class and the poor, who suffer the most, pay proportionately higher taxes. Those who suffer most are the poor who are the sickest and have to sell all their possessions to buy medicine.[83]

Kaplan condemned the same practices, but explained them as examples of the same human venality and corruption that the prophets condemned in ancient Israel. He wrote on 23 May 1942:

After the Nazi leech comes the *Judenrat* leech. There is no difference between the one and the other but that of race.

Do you wish to consider its ethical quality? Read it from the book of Isaiah: ". . . everyone loveth bribes, and followeth after rewards; they judge not the fatherless, neither doth the cause of the widow come unto them." The *Judenrat* has conducted a program of taxation which has no parallel anywhere in the world. Out of every zloty you spend on household expenses, you "contribute" about forty per cent, through fraud, for the benefit of the *Judenrat*. A tax of forty per cent has been placed on medicines, and for every zloty of the basic price, you pay one zloty and 40 groszy. Even postage stamps are not free of a high tax for the benefit of the *Judenrat*, besides an additional charge for every official manipulation. All this is by law. But illegally, when you need any service from the minions of the *Judenrat*, you can never arrange your affair without behaving in accordance with the principle that one hand washes the other.

There is no end to the tales of its mischief and abominations. All along I have been careful not to write them down for fear of exaggeration and overstatement, until I saw for myself. On my honor, I do not exaggerate in the slightest. Once an entire delegation from the *Judenrat* entered my apartment (of three rooms and a

kitchen) to requisition one of the rooms for a family of refugees. The reason? I am charged with occupying an apartment in an illegal way. Instead of twelve tenants, only seven tenants are registered in my apartment. . . .

This visit occurred at a time when my wife was sick with typhus. I opposed the demand of the delegation on the ground that the room was occupied by a woman with a contagious disease who was sick to the point of death. But the delegation stuck to its demand . . . we began a bitter, angry argument . . . while we were still arguing, the refugee signaled that he wanted a word with me, and in private he bared his soul. . . . If I will reimburse him for his expenses, he will backtrack and inform the delegation that he will forgo this apartment.

When I heard his proposal my eyes lit up. But I bargained with him. The refugee demanded 100 zloty; I offered 20. In the end he agreed to accept 20. Right away the delegation found an excuse to make light of the whole affair. They drafted a protocol that the apartment was full and their requisition nullified. Later on I found out that I need not have been so afraid. This is the way the delegation acts with all of its creatures. They hadn't come to confiscate, but rather to receive 20 zloty. The "refugee" was hired for the occasion.[84]

RECOGNITION OF THE FINAL SOLUTION

General apprehension of a graver threat than gradual starvation grew during the winter of 1941-1942 and the spring of 1942. A decree posted on 1 November 1941, which threatened Jews with death for leaving the ghetto without a pass, was first enforced by the execution of eight Jews on 17 November 1941. Ringelblum described it on 22 November 1941:

The execution of eight Jews, including six women, has set all Warsaw trembling. We've gone through all kinds of experiences here in Warsaw, and in other cities, as well, particularly in Lithuania, where mass executions are common. But all past experience pales in the face of the fact that eight people were shot to death for crossing the threshold of the Ghetto. . . .

Among the six women were a beggar, a mother of three, a sixteen-year-old, fearfully hysterical before the execution. Rabbi Wajnberg was also present, with evidence from one of the sentenced men. It is said that the prisoners bore themselves calmly. At night red posters appeared, signed by Auerswald, notifying the Ghetto that the death sentence had been carried out. It was typical that all eight had been arrested by Polish policemen. One woman lost her life over 100 zlotys. She offered a policeman only 50 zlotys to let her go; he insisted on 150 zlotys. One of the two men was a glazier who supported his family by working on the Other Side. Another 400 Jews have since been arrested, of whom 20 have already been sentenced to death by the court.[85]

Terror gripped the ghetto as petty smugglers, on whom the poor were most dependent, were most threatened. The ghetto served as a place of execution for all of Warsaw and a meeting place for other illegal exchanges, and Jews were subject to extortion by German, Jewish, and Polish officials. Ringelblum noted in April 1942:

> The demoralization of the Polish police and Polish secret agents is indescribable. They do nothing in the Ghetto but move about detaining wagons full of merchandise and extorting protection money. The populace shivers at the sight of them and gives them whatever they ask. They get monthly payments from each of the merchants—the secret agents from the crowd that hangs around Franciszkanska Street get 200 zlotys from every leather merchant. One of the merchants collects the protection money and brings each of the eight agents in the district his share. Anyone who wants to open up a secret grain mill has first to report to the agents and pay them off.[86]

As if she were noting a commonplace, Mary Berg wrote on 27 February 1942 that "shootings have now become very frequent at the ghetto exits. Usually they are perpetrated by some guard who wants to amuse himself. Every day, morning and afternoon, when I go to school, I am not sure whether I will return alive."[87] Twice before she had almost been shot—once a German policeman had begun shooting without any warning at 4:00 P.M., and at another time she was fired upon during a manhunt on the streets in the evening.

While some smugglers paid off officials, others were shot by officials' orders. Dread moved like an incubus from the wall into the midst of the ghetto. Seemingly random victims were punished by massacre. German police invaded ghetto flats in the middle of the night of 18 April 1942—52 Jews were murdered. Since Kaplan—and, we may assume, less politically wise ghetto dwellers—did not immediately understand why these victims had been selected, his description of the massacre best communicates the terror it inspired.

> At midnight the massacre began. Carrying a list of names, four killers to a group, with a Jewish policeman showing them the way, set out for the homes of those who had been condemned to die. In their hands they carried pistols while machine guns were slung on their hips. They rang the bell at a gate. Wherever the killers did not have to cool their heels waiting, the life of the concierge was safe. But a concierge who delayed opening on the instant became the first victim of the bullets. Six gatekeepers lost their lives in this manner although their names were not on the list. Strangely enough, the Nazis were very courteous on this deadly mission. They began with a polite "Good evening," then asked the condemned man to step into the courtyard. With a powerful flash light lighting the scene they stood the victim against a wall and with a shot or two put an end to his life. They left the body at the gate and hurried on to the next place.[88]

Kaplan later discovered they had been printing an illegal newsletter and presumed that they had been betrayed by Gestapo informants within the ghetto. On 10 June 1941 Mary Berg recorded receiving an illegal multigraph paper with news from the BBC. Fear and trembling spread throughout the city as Aryan Poles became targets. Kaplan wrote on 22 April:

> The sound of shots continues through the day and into the night: . . . Rumor has it that the wave of political terrorism has swept over the Aryan quarter too. Today something happened in Zoliwosz that will certainly affect the Aryans. A

> man shot and killed a German gendarme . . . the killer, in a real frenzy of fear, jumped off the tram, ran to a nearby rooftop, and jumped to his death. His suicide, however, did not serve as atonement for his fellow-Aryans. Hundreds were immediately arrested on Kerczelli Square and its vicinity.[89]

Shooting and entrapment of smugglers at the wall were common sights during May. On 23 May, Ringelblum reported: "The Gesia Street jail now contains more than 1,300 prisoners, over 500 of them being children. Some are to be tried in the Special Court. . . . The Special Court has already pronounced more than 200 death sentences, not yet executed."[90]

However, it is clear that Ringelblum, Kaplan, and Berg recognized the possibility of mass extermination before the increase of terror within the ghetto in the spring of 1942. Throughout 1941 Ringelblum gathered information on how prisoners were tortured, starved, and/or frozen to death. As early as 28 February 1941 he distinguished between "extermination barracks" and "work camps." On 30 August 1941, he recounted an SS massacre of Jewish prisoners, among whom there were a few cases of typhus, at a "voluntary work camp" near Chelm. Yet there was no intimation that this was a premeditated and general plan. In September 1941 the fear that typhus would be used as a provocation for more massacres is again expressed.

> The Pomiechowek affair, in which 800 people were exterminated because they were sick, caused the Jewish populace of the Ghetto to tremble, because it demonstrates what can be expected to happen here if the attempt to arrest the spread of disease inside the Ghetto should fail. There is also talk about a drastic resettlement of Jews from the Ghetto because of the epidemics here. In general, they blame the Jewish populace for spreading typhus in the provinces, claiming that the Jews who flee Warsaw carry typhus with them everywhere they go.[91]

In November, Ringelblum expressed the fear that Jews were being eliminated through coercive birth control: "The beginning of November '41, news from Lodz that the Lodz Jews had been prohibited from marrying and having children. Women pregnant up to three months have to have an abortion. In a word—Pharaoh's laws revived by the Prussians."[92]

There is a gap in Ringelblum's notes (those that have been discovered and translated) between December 1941 and April 1942 so that we cannot date exactly when information about systematic massacres in the East executed by or instigated by special extermination units was first received. We know from reconstructing the journeys of the couriers from the youth movements that conveyed news of the Vilna (and other) massacres to Warsaw and the news transmitted by the Oneg Shabbat to the BBC that he must have known of these by February 1942. The couriers were usually young women who could pass as Polish peasants, recruited from the socialist and Zionist youth movements that had branches throughout Poland. In April 1942 Ringelblum recorded:

> Rumors were thick that an extermination squad had come to Warsaw and had begged permission to go on a rampage through the ghetto for just two hours. But

permission was not granted. Auerswald wouldn't agree. Some people say that when the extermination squad arrived in Warsaw from the provinces it found orders to move on to the front. This rumor is associated with the fact that there are various foreign contingents in Warsaw, such as Lithuanians and Ukrainians, and they're just waiting for the right moment to start a pogrom. Besides, one is always hearing reports about extermination squads that are wiping complete Jewish settlements off the face of the earth.

One hundred sixty-four of the German Jews who came to Warsaw a few days ago, the cream of the young people, including a large number of *chalutzim* preparing to migrate to Palestine, were sent to the penal camp at Treblinki, near Sokolow, where most of them were exterminated in a short time. In three weeks, out of 160 Jewish young people from Otwock only 38 were left.[93]

Kaplan had heard earlier rumors with genocidal themes before the spring of 1942. He reported on 22 December 1941 rumors mixing the threat of genocide through population control with medieval segregation:

Some of the guess work is so funny that one can't help laughing. Nevertheless, wild stories are circulating and upsetting everyone. Now then, what are the impending disasters? Lend an ear and listen:

1. Jews will be forbidden to marry and bring a new generation into the world.
2. Husbands and fathers will be castrated to prevent procreation.
3. The curfew will be moved back from nine to five P.M.
4. The blue-and-white "badge of shame" with the Star of David as its background will be replaced by the "yellow patch," relic of the Middle Ages. Moreover, instead of one badge we'll be forced to wear two: one in front, the other in back.
5. Jews will be forced to wear shoes with wooden soles.
6. Jews will be required to wear a uniform hat, a *shtreiml* pointed at the top like a pyramid.
7. Jewish currency will be issued. In Lodz it will be called *Chaimkes* and in Warsaw, *Adamkes,* each named for the local *Judenrat* chairman. The purpose of this special Jewish currency is to cut off permanently all contact between Jews and non-Jews.[94]

By 2 February 1942 he suspected the whole plan.

The latest rumors of new decrees, though they may be exaggerated, must contain some grain of truth.

It is reported that the Führer has decided to rid Europe of our whole people by simply having them shot to death. There is no longer any pretense of legal authorization with all the accompanying byplay. You just take thousands of people to the outskirts of a city and shoot to kill; that is all.

The reports are bloodcurdling:

In Wilno 40,000 Jews were shot to death without a trial or even charges. The survivors number only 10,400.

In Slonim someone killed a Nazi. The Nazi there knew very well that the murderer was not a Jew. But it was a good opportunity for a bloodbath. Eight thousand Jews were shot to death outside the town.

The day before yesterday we read the speech the Führer delivered celebrating January 30, 1933 [sic],* when he boasted that his prophecy was beginning to come true. Had he not stated that if war erupted in Europe, the Jewish race would be annihilated? This process has begun and will continue until the end is achieved. For us the speech serves as proof that what we thought were rumors are in effect reports of actual occurrences. The *Judenrat* and the Joint have documents which confirm the new direction of Nazi policy toward the Jews in the conquered territories: death by extermination for entire Jewish communities.

Heretofore we were afraid of expulsion. Now we are afraid of death. Moreover, signs of expulsion are becoming evident daily.

The *Judenrat* is arranging for a roll call of ghetto Jews. By January 31, 1942, every ghetto dweller must note on a questionnaire his own and his parents' names; his family status; his address in Warsaw prior to the war and his present address; his occupation before September 1, 1939, and his present occupation. Does not this roll call portend catastrophe?

Exiles from other cities tell us that in their cities, too, the evacuations began with such a roll call. In the meantime, we tremble in fear.[95]

The only element his information did not account for was the use of mechanical innovations—the gas vans used previously in Chelmno and in Serbia and the gas chambers that were not yet in general use. By 3 June he was certain that the deportees from Lublin were murdered, although he did not know where or how:

The deportees are transported as prisoners in tightly sealed freight cars under the supervision of Nazi oppressors. They are in the care of these angels of destruction until they come to the place of execution, where they are killed. Many of the deportees, among them mothers and their infants, are put to death along the way; the remainder are brought to some secret place, unknown even to the hawk, and there killed in satanic fashion, by the thousands and tens of thousands. The community of Lublin has lost all its sons. About 40,000 Jews of Lublin have disappeared, and no one knows their burial place. Aryan messengers were commissioned to search for them through the entire General Government, but they found not a trace. It is as though the 40,000 had been swallowed up by stormy waters. But there is no doubt that they are no longer alive.

Lublin was the first to drink the cup of sorrow to the dregs, but not the last. Since then not a day passes without some Jewish settlement being completely wiped off the face of the earth.[96]

The friends of Mary Berg also began to anticipate their death. Mary recalled the mournful New Year's Eve of 1942 they spent together after the last performance of the LZA:

I feel completely empty, as though I were suspended over an abyss. Last night was a mixture of entertainment and nightmare. After the performance my friends of the LZA suggested that we spend New Year's Eve at my home. . . . Instead of champagne we had lemonade, and instead of cake, sandwiches of little pickled fishes, the so-called "stinkies." . . .

* The actual date of this warning was January 30, 1939; see Chapter 1, p. 24.

In the semidarkness I saw Romek place his fingers on the keyboard. With a great effort he began to play Chopin's Funeral March. No one said a word. Anka huddled close to Harry, Dolek to Stefa, Tadek to Bronek—all of them were together; only I was alone. Sad ideas flashed through my mind. Was not all this symbolic? Was there not something terrible in store for me, something that would separate me from my friends?

Suddenly someone cried out: "Romek, how about a different number? He has never been able to play the Funeral March, and now of all nights the Muse is helping him." Romek did not answer. He tried a few other notes, but nothing came. At last, he rose from the piano and sat down by my side. "You know," he whispered, "I have a strange premonition on this New Year's Day, mark my words."

I do not know what he meant, but even in the semidarkness I could read utter despair in his eyes.

A little later we all began to talk. Harry said that our theater group no longer had any reason for existence because most of our members were gone, and that we would have to find new people, which was not easy. No one contradicted him. Apparently, we all felt the same. All of us were overwhelmed by the same apathy, the feeling that this was the end.[97]

Mary recorded on 15 April 1942 how a neighbor's relative had recently arrived in the ghetto who witnessed

the terrible massacre of Lublin, during which he lost his wife and two children. Here is his story: "The Germans ordered all the Jews to leave their homes and gather in the square. The majority did not obey this order, and began to hide in cellars and attics. . . . About half of the ghetto population was murdered, and a considerable number were deported to an unknown destination. About two thousand Jewish people remained of the original forty thousand." . . .

Recently wild rumors have begun to circulate in the ghetto. It is said that all the Jews will be settled in Arabia or somewhere near there. I wonder what it all means?[98]

Two days later, Jewish police tipped her and other tenants off as to the impending massacre, believing it to be the sign of general extermination:

I am almost hysterical. A little before six o'clock today the police captain, Hertz, rushed excitedly into our apartment and said: "Please be prepared for anything; at eight o'clock there is going to be a pogrom." Then he tore out without further explanations. The whole ghetto was seized with panic. People hastily closed their stores. There was a rumor that a special *Vernichtungskommando* (destructive squad), the same which had perpetrated the Lublin pogrom, had arrived in Warsaw to organize a massacre here. It was also said that Ukrainians and Lithuanians would now take over the guarding of the ghetto because the Germans were to go to the Russian front.[99]

But the massacre was of individual victims and the prevalent recognition was that the extermination would not be general—"It can't happen here." Mary recorded on 8 May:

Hertz says that "soon everything will be over and all of us will be killed." But most people think that a pogrom like the one in Lublin cannot happen in Warsaw, because there are too many people here. According to official figures, there are 450,000 inhabitants in the ghetto, but, . . . It is estimated that the total is really more than 500,000. To exterminate such a number of people seems impossible, inconceivable. Yet if the present nightly murders continue, it is quite possible that half the ghetto population will be dead before the war is over.[100]

WAS THE WHOLE WORLD WATCHING?

What action did such a threat incite? How did these men and women use their information and anticipations?

From the beginning, the Oneg Shabbat network was a political act of gathering intelligence and publishing news weekly. The Germans testified to their effectiveness by liquidating the editors, writers, and distributors of underground papers in the ghetto massacre of 18 April 1942. Working through the Bund, which was then represented in the Polish government-in-exile, Oneg Shabbat transmitted specific information on the pattern of massacre and gassing between March and May 1942, estimating that 700,000 Jews had by then been killed. The BBC first mentioned that number on 2 June 1942 in its news broadcast and, pressed by the Polish National Council in London, allowed Shmuel Zygelbojm, the Bund representative, to broadcast the report more fully on 26 June 1942.[101] Almost with a sigh of gratification, Ringelblum wrote in June:

Friday, June 26, has been a great day for [Oneg Shabbat]. This morning, the English radio broadcast about the fate of Polish Jewry. They told about everything we know so well: about Slonim and Vilna, Lemberg and Chelmno, and so forth. For long months we had been suffering because the world was deaf and dumb to our unparalleled tragedy. We complained about Polish public opinion, about the liaison men in contact with the Polish government-in-exile. Why weren't they reporting to the world the story of the slaughter of Polish Jewry? We accused the Polish liaison men of deliberately keeping our tragedy quiet, so that *their* tragedy might not be thrown into the shade. But now it seems that all our interventions have finally achieved their purpose. There have been regular broadcasts over the English radio the last few weeks, treating of the cruelties perpetrated on the Polish Jews: Belzec and the like. Today there was a broadcast summarizing the situation: 700,000, the number of Jews killed in Poland, was mentioned. At the same time, the broadcast vowed revenge, a final accounting for all these deeds of violence.

The O.S. group has fulfilled a great historical mission. It has alarmed the world to our fate, and perhaps saved hundreds of thousands of Polish Jews from extermination. (Naturally, only the immediate future will prove whether or not this last is true.) I do not know who of our group will survive, who will be deemed worthy to work through our collected material. But one thing is clear to all of us. Our toils and tribulations, our devotion and constant terror, have not been in

> vain. We have struck the enemy a hard blow. It is not important whether or not the revelation of the incredible slaughter of Jews will have the desired effect—whether or not the methodical liquidation of entire Jewish communities will stop. One thing we know—we have fulfilled our duty. We have overcome every obstacle to achieve our end. Nor will our deaths be meaningless, like the deaths of tens of thousands of Jews. We have struck the enemy a hard blow. We have revealed his Satanic plan to annihilate Polish Jewry, a plan he wished to complete in silence. We have run a line through his calculations and have exposed his cards. And if England keeps its word and turns to the formidable massive attacks that it has threatened—then perhaps we shall be saved.[102]

The messengers seeking to prevent destruction could envision no salvation of the unarmed Jews of the Warsaw ghetto and elsewhere except by Allied threat. And the only threat that they could imagine was reprisal in kind. Bauer writes:

> The authors therefore ask the Polish Government-in-Exile—and through it the major Powers—to threaten German nationals residing in Allied countries with the fate that the Germans have in store for the Jew. This demand, impossible as it was from the point of view of the free world, was thought to be "the only possibility of saving millions of Jews from destruction," as seen from the desperate perspective of the ghetto.[103]

The response (or, more precisely, lack of response) to this news is surveyed in Chapter 7.

Although Kaplan knew of the work of the Oneg Shabbat, he was ignorant of its organization. His attitude toward illegal political activities of Poles and Jews was mixed. Sometimes he condemned these acts as provocations for which all would pay, and at other times he praised the Bundist editors' courage. He feared that the Polish Socialist Party (political allies of the Bundists) was inciting a rebellion that would provoke retaliatory slaughter, claiming the Jews as the first victims. Thus, he saw their actions as a cynical tactic, "playing at rebellion."

> Nevertheless, they will not cease their provocations because they want to attain a strategic aim: to keep military forces in the rear, engaged in putting down the "rebellions" and thus weakening the forces at the front. It is only the old Jesuit stratagem that "the end justifies the means."[104]

As the terror increased, Kaplan's despair grew. Others turned to messianic hopes reflected in rumor and fantasy life among Jews, recorded by Ringelblum and Kaplan in June. Some reiterated earlier beliefs (reflected in rumors Kaplan recorded on 10 March 1941 and 10 November 1940) that Roosevelt would be their savior. Now, in June 1942, Ringelblum tells us that they were debating what the United Nations could and should do to save them:

> The news that the interpellation of the Polish government-in-exile was radioed by all the British transmitters in all the languages of the United Nations, and several times in German, on Saturday (among others, by the German women's broad-

> caster)—and then the speeches delivered by the Archbishop of Canterbury, the Rev. Dr. Hertz, the deputy Zygelbojm—all this news excited Jewish public opinion in Warsaw. There was joy, mingled with fear as to how the Occupying Power would reply. The general feeling was that it was good for the world to know all about everything. Perhaps a way would be found of forcing the Occupying Power to stop the massacres. Zygelbojm's stand and speeches were cited for their talk about retributory acts of repression against Germans in America. . . . Let [the United Nations] use force to stop the massacres in Poland. Another opinion held that the Allies, particularly democratic America, could not massacre Germans [in retribution], first, because they are American citizens, and second, because public opinion would not countenance it. But everyone held that it was most important for Germans to know about the extermination.[105]

Ringelblum believed that the German public was ignorant of the extermination and would react against it if only because they feared retaliation. Occasional conversations were reported with German soldiers in Warsaw who apologized for or attempted to correct the behavior of the "Others" and treated Jews as other humans—a soccer game was even played between the soldiers and Jews, reinforcing the distinction between Germans and Nazis.[106]

DEFENSES: REAL AND ILLUSORY

Rumors of impending salvation by American or British intervention multiplied—President Roosevelt was apparently revered as much by Polish as by American Jews. Gideon Hausner, the Israeli state prosecutor of Adolf Eichmann, remarks:

> Finally, when the rumors were cruelly belied, the disillusioned Jews invented a mocking nickname for their origin: they all emanated, it was said, from the telegraphic agency YWA ("Yidden Willen Azoi"—"Jews want it that way").[107]

As the apprehension of threat escalated, people clung to their hopes of rescue. All the resources of Jewish tradition were drawn upon to create wish-fulfilling prophecies. Michael Zylberberg has recalled how

> as the situation deteriorated daily, so the religious Jews sought hope in the supernatural, turning to a new cabbalistic [from Cabbala—the major work of medieval Jewish mysticism] interpretation of words from which a shred of comfort might be drawn. This tendency had begun in 1941 and the tortured searchings were even more intense in 1942. For example: a Rabbi reinterpreted the quotation, "When the Sabbath comes it brings with it peace." The Hebrew letters are used as numbers and the letters of the word Sabbath are 702. In the Hebrew calendar the year 702 coincides with 1942. This, they said would be a year of peace, this year would see the end of the war.[108]

The people of the Book also turned to other books for hope. Ringelblum recorded in June that people were reading war memoirs, especially those re-

counting the downfall of the Germans in World War I and of Napoleon in 1812.

> They attempt to draw analogies between 1918 and the present, looking for signs and omens to demonstrate that the defeat of the so-far-unconquerable German army is at hand. . . . But it is certain that H., like Napoleon, has committed the mortal blunder of tangling with the Russian colossus, with its enormous reserves of manpower and material. Tolstoy's *War and Peace* is enormously popular nowadays. Many people who had already read it several times are reading it all over again because of its portrayal of the Napoleonic disaster.
>
> In a word, being unable to take revenge on the enemy in reality, we are seeking it in fantasy, in literature. This explains our preoccupation with books about previous wars, which we turn to for a solution to the tragic problems of the present war. To my mind, however, all this search for historical analogy is beside the point. History *does not* repeat itself.[109]

Kaplan castigated the majority who denied the impending catastrophe, through the literary device of an imaginary interlocutor, Hirsch. He wrote on 7 June 1942:

> Never were we so hopeful of the final Nazi downfall as during these days, days in which our tribulations grow worse from hour to hour. . . . Jewish faith is marvelous; it can create states of mind that have nothing to do with reality. Like the believing Jewish grandfather who in anticipation of the Messiah always wore his Sabbath clothes. . . . The English radio, whose listeners endanger their lives, strengthens our hope. . . . When the news doesn't tell us what we want to hear, we twist and turn it until it seems full of hints, clues, and secrets that support our views. . . . Hirsch, my wise friend, is an exception. He is the only one who sits like a mourner among bridegrooms. "Idiots!" he shouts, and his face becomes red with anger. "Your hope is in vain; your trust is a broken reed. All of you are already condemned to die, only the date of execution has yet to be set."[110]

Two days later, Kaplan recorded more nights of butchery. While people attempted to find a common denominator among the victims, thus reassuring themselves they would not be next, he saw German violence against Jews as being a response to their own ideology and needs.

> Never before in history has any tyranny ever allowed itself to proclaim publicly that it is preparing to annihilate an entire people. In their bitterness they wreak all their anger upon us, and as their defeats increase so will their persecutions.[111]

Gestapo collaborators in the ghetto became victims also. Ringelblum recorded on 25 May that "the biggest wheels of 'The Thirteen' had been liquidated the night before."[112]

By 15 June 1942, Kaplan recognized some pattern behind the massacre:

> There is no system to the Nazi killing, but nevertheless the most obvious objective of this carnage is to purge the ghetto of smuggling. In the main, the victims of the shootings are smugglers. The smallest shadow of suspicion that So-and-so is engaged in smuggling is enough to make him a candidate for murder. Jews are not

judged, they are merely punished, and there is no lighter punishment for them than death by shooting.

There is continuous war between the cruel, dim-witted Nazis who have condemned us to subsist for a whole month on two kilos of bread apiece and the members of the ghetto who want to live. Even the death penalty has not reduced smuggling. If you can afford to pay 25 zloty for a loaf of white bread, someone will throw it into your mouth any time, at any hour you wish. . . .

And now for the clincher! The Nazis themselves are engaging in smuggling, because it is worth their while. The mice of smuggling, the miserable creatures who smuggle small quantities of produce through the wall, are put to death by the tens, and their death is their penance. This is not the kind of smuggling the Nazis abet. The real smugglers sit at home and no danger awaits them.[113]

Kaplan's Hirsch no longer mourned but screamed:

June 16, 1942

"Cowards! A whole community of millions of people stands on the brink of destruction, and you keep silent! You delude yourselves out of hope that the evil will not reach you; you have eyes and see not. Are you any better than the people of Lublin? The people of Cracow? The people of Lodz? If not today, then tomorrow or the next day you will be taken out like lambs to the slaughter. Protest! Alarm the world! Don't be afraid! In any case you will end by falling before the sword of the Nazis. Chicken-hearted ones! Is there any meaning to your deaths?"[114]

As consciousness of the impending catastrophe grew, the occupiers diverted energies and anxiety by holding out the hope for personal exception; they announced that Jews could register for emigration. People rushed to be on line at the queues at the rescue office that the *Judenrat* had established. Kaplan, on 20 June 1944, recorded his conviction that it would be another swindle, merely enabling the Jewish police, the *Judenrat,* and the Gestapo to profit; he was right, of course.

After much hesitation because of uncertainty that her personal protection as a foreign national would be extended to her family, Mary Berg's mother registered with the Gestapo to be interned as a citizen of the Unites States for repatriation. Anticipation of doom was prevalent in the ghetto, and she was seen by acquaintances as a saving link to relations in the free world. Mary reported that

there is a real pilgrimage to our house now; an endless line of persons keeps coming to my mother to give her the addresses of their relatives and friends in America so that she can ask them for help. The exchange is supposed to take place on July 6. Everyone wants the same thing: they must send us affidavits, they must help us get out . . . and don't forget to tell them what we are going through here . . . and please let this be the first thing you do when you get to America, don't delay one minute, so that we may live to see the moment of our liberation. . . . All of them pour their troubles out to my mother—they have nothing left to sell, nothing to live on, in another few months they will perish.[115]

There was no longer any possibility of study:

> Fewer and fewer students come to our school; now they are afraid to walk in the streets. The Nazi guard Frankenstein is going through the ghetto, one day he kills ten persons, another day five . . . everyone expects to be his next victim. A few days ago I, too, ceased completely attending school. The heat is terrible. . . .
>
> The man hunts in the ghetto continue. There are also rumors of the imminent deportation of the whole ghetto. I do not know whence comes the monstrous report that the Warsaw Jews have only forty days left to live. Everyone is repeating this rumor. No doubt the Germans have spread it themselves in order to create a panic. Many Jews are registering at the so-called "shops," which are now mostly on Lezno Street. These are workrooms which chiefly produce German military uniforms. It is said that the people employed in these workshops will not be deported.[116]

On 16 July the Gestapo decided that the entire family was protected by Mrs. Berg's United States citizenship. Mary was intensely relieved but filled with the guilt of evasion as her friends' envy and despair poured out in leave-taking.

> Romek came to see me at eight o'clock (curfew does not begin until ten). He refused to believe that I was about to go to America. He looked at me strangely, as though he were sure he would never see me again. We walked along Chlodna Street. Today I boldly removed my arm band. After all, officially I am now an American citizen. Romek pressed my arm and kept repeating, "I know you're not going, it's only a joke, isn't it? You won't leave me alone, you won't go." The inhabitants of the street looked at me with curiosity: "That's the girl who is going to America." In this street everyone knows everyone else. Every few minutes people approached me and asked me to note the addresses of their American relatives, and to tell them to do everything possible for their unfortunate kin. . . .
>
> I am saying farewell to the ghetto. It is dark and quiet everywhere, but it seems to me that from somewhere in the distance there is a sound of sobbing. I see Romek's face before me just as it was when he said good-by to me. I told him to go, that it would be better for both of us . . . but he refused, and when, finally, the lateness of the hour forced him to leave he refused to shake hands with me. "I know," he said, "that if I shake hands with you I will say 'see you again,' and I don't want to say that because I know we'll never see each other again."[117]

Publicity regarding emigration opportunities masked the initiation of the Final Solution, just as it had within the German bureaucracies before 1941. Czerniakow, who had heard the same reports of mass extermination since 27 October 1941 as had Ringelblum, sought reassurance by inquiring of his supervisory German Kommissar, Auerswald, if reports of impending deportation were true. Auerswald replied negatively.

On 8 July 1942, Czerniakow observed:

> Many people hold a grudge against me for organizing play activity for the children, for arranging festive openings of playgrounds, for the music, etc. I am reminded of a film: a ship is sinking and the captain to raise the spirits of the passengers orders the orchestra to play a jazz piece. I have made up my mind to emulate the captain.

But the rumors persisted and his anxiety escalated. On 19 July, he recorded that he kept trying to smile and calm the population. But he could not calm himself even with two headache powders, a pain reliever, and a sedative. It seems he was not sufficiently reassuring, so he inquired of the Gestapo on 20 July 1942; the report was denied as usual. The *Judenrat* published an official denial of the reports of impending deportation.

On 22 July, the deportation order was issued by the Gestapo through the *Judenrat* as agent of publication but without Czerniakow's signature. He had appealed to widen the category of exemptees, to protect orphans, Jewish self-aid workers, and laborers, but only the workers were exempted. On the day that the notice was posted that all inhabitants of the ghetto except workers and employees of the *Judenrat* and the JSS must report for "resettlement," Czerniakow swallowed the pill in his desk drawer.

Did Czerniakow imagine on his last day that he would be remembered in history as the captain of a sinking ship who smiled while jettisoning the children? Kaplan commemorated his end as his redemption:

> The first victim of the deportation decree was the President, Adam Czerniakow, who committed suicide by poison in the *Judenrat* building. He perpetuated his name by his death more than by his life. . . . Czerniakow had refused to sign the expulsion order. He followed the Talmudic law: If someone comes to kill me, using might and power, and turns a deaf ear to all my pleas, he can do to me whatever his heart desires, since he has the power, and strength always prevails. But to give my consent, to sign my own death warrant—this no power on earth can force me to do, not even the brutal force of the foul-souled Nazi.[118]

Opinions varied among ghetto dwellers of Czerniakow's character and of the symbolic value of his suicide. Underground leaders decried his failure to inform the ghetto of the truth and call for resistance.[119] His suicide, however, could not have fortified belief in the authority of the Warsaw *Judenrat* or added credence to any of its future reassurances.

ANNIHILATION: THE HUNT FOR HUMAN PREY

Kaplan had benefited from Czerniakow's appeal for exemption for the Jewish Self-Aid Society workers, as he had secured a certificate from them (along with 2,000 others); we may assume that Ringelblum did also. Many forged certificates were also printed. But certificates were of transient value, and relying on them might actually increase one's risk. Kaplan described the daily hunt for the policemen's quota of victims on 27 July:

> Men have become beasts. Everyone is but a step away from deportation; people are being hunted down in the streets like animals in the forest. It is the Jewish police who are cruelest toward the condemned. Sometimes a blockade is made of a particular house, sometimes of a whole block of houses. In every building ear-

marked for destruction they begin to make the rounds of the apartments and to demand documents. Whoever has neither documents that entitle him to remain in the ghetto nor money for bribes is told to make a bundle weighing 15 kilos—and on to the transport which stands near the gate. Whenever a house is blockaded a panic arises that is beyond imagination. Residents who have neither documents nor money hide in nooks and crannies, in the cellars and in the attics. When there is a means of passage between one courtyard and another the fugitives begin jumping over the roofs and fences at the risk of their lives; in time of panic, when the danger is imminent, people are not fussy about methods. But all these methods only delay the inevitable, and in the end the police take men, women, and children. The destitute and impoverished are the first to be deported. In an instant the truck becomes crowded. They are all like: poverty makes them equal. Their cries and wails tear the heart out. . . .

But isolated incidents don't hold up the operation. The police do what is incumbent upon them. After the completion of the arrests in one house, they move on to another. The *Judenrat* prepares a daily list of houses in which blockades will be made that day. And here a new source of income is opened up for the graft-chasing police. The wealthy and the middle class have yet to be brought to the transports. For those who have no documents, banknotes turn into documents. There is almost a fixed price for ransom, but for some it is cheaper, all according to the class of the ransomed one and the number of people in his household.[120]

The next day, when 10,000 people were seized, Kaplan felt his physical strength failing:

July 28, 1942

The situation grows graver by the hour. Through the window of my apartment near the scene of the "hunting," I beheld those trapped by the hunt, and was so stricken that I was close to madness. For the detainee, the thread of his life is cut in an instant, and the work of an entire lifetime in which his best efforts were invested becomes abandoned property.

Before my very eyes they capture an old woman who walks with a cane. Her steps are measured, and she makes her way with great exertions. She is unable to straighten up. On her face there are marks of nobility and signs of a family status now past. She too was arrested by a lawless Jewish scoundrel. He needs clients, and even this old lady counts, "as is" without clothes or linens, without even food. She will be sent "to the East." She will be fortunate if she doesn't live long. . . . Never in my life had I known the pangs of hunger. Even after I was pushed into the ghetto I ate. But now I too know hunger. I sustain myself for a whole day on a quarter-kilo of bread and unsweetened tea. My strength is diminishing from such meager fare. At times I can't even stand up. I fall on my bed, but rest eludes me. I am in a state of sleep and am not asleep, of wakefulness and yet am not awake. I am plagued by nightmares. Fear and worry preoccupy me—fear lest I be seized and deported; worry about where to find my bread. My income has stopped. The sums owed to me by others are lost. Besides what he needs for food, no one has a penny to his name, and payment of debts isn't taken into consideration at all.[121]

On 29 July he realized that bribes were only temporary, but believed an *Ausweis* (work permit) was a guarantee of safety.

A house which is blockaded today can be blockaded tomorrow too, and the next day, and so on ad infinitum. A man who was released once can be caught again—even by the same policeman who let him go the first time—especially since the police have nearly 2,400 dogs.[122]

The police were selling the loaves of bread, delivered in abundance to use as wiles to entice people in hiding to report: three kilograms were offered to volunteers who reported to the Umschlagplatz, from which place the trains departed, jammed with human cargo. Those who had already lost a spouse during the hunt were more apt to volunteer. Despite bereavement and mass starvation, only one out of 16 victims reported themselves. On 31 July, Kaplan reported that no certificate was safe. "It's just that with a certificate in your pocket hiding is more comfortable."[123]

On 1 August, the SS joined in the hunt:

At seven in the evening the S.S. arrived and ordered the Jewish police to blockade an entire block. They made an announcement in each courtyard: "Prepare bundles weighing 15 kilos and go down into the courtyard. No one is exempt!" Terrible fear gripped the whole area. Everyone senses that his fate had been given over into the hands of insatiable murderers. With the Jewish police the inhabitants could come to a compromise in one way or another, but this time the decree was inexorable. Submit yourselves to your bitter fate!

About 10,000 people were deported and disappeared.[124]

On 2 August, Kaplan foresaw the future of Jewish Warsaw:

Today the population of the "little ghetto" drank the cup of hemlock. At four the murderers set upon their task, and at seven a crowd of 5,000 people was led out through Smocza to the transfer point. All their possessions were left in the hands of the enemy.

Jewish Warsaw is turning into a city of slave laborers who have nothing of their own. The German companies that own the factories concentrate their employees in one section. To achieve this, they confiscate all the houses near a factory and settle the workers and their families in them. Without them there would be no Jewish community. Every activity in the ghetto, and all its establishments, are being brought to an end. Jews who are not employed in one of the factories will be expelled from Warsaw. For the time being they are busy with schemes and plans for hiding until the wrath passes, but the wrath of the Nazis never passes. On the contrary, it increases. Concessions granted on paper never materialize in practice. All of the various *Ausweisen* are voided and nullified. In the end, everyone will be expelled.[125]

Anticipating confiscation of his apartment, he packed his library and paid 2,000 zloty to have it sent to a relative who had secured "worker-status" outside the ghetto: furniture and other household goods would remain for another's enjoyment. All Chaim Kaplan's and his wife's energies were now concentrated on survival:

Yesterday, the third of August, they slaughtered Zamenhof and Pawia streets. They did not confiscate houses, but blockaded the entire block for expulsion. The

S.S. killers stood guard while the Jewish police worked inside the courtyards. This was a slaughter in proper style—they had no pity even on infants and nurslings. All of them, all, without exception, were taken to the gates of death. The fabricated papers of the Self-Aid Society were as useless as though they did not exist. . . .

There is the silence of death in the streets of the ghetto all through the day. The fear of death is in the eyes of the few people who pass by on the sidewalk opposite our window. Everyone presses himself against the wall and draws into himself so that they will not detect his existence or his presence.

Today my block was scheduled for a blockade with Nazi participation. Seventy Jewish policemen had already entered the courtyard. I thought, "The end has come." But a miracle happened, and the blockade was postponed. The destroyers passed on to the Nalewki-Zamenhof block.[126]

But survival did not mean just preserving himself physically. His last problem was summed up in his last recorded words:

If my life ends—what will become of my diary?[127]

The problem was solved with his characteristic tenacity and resourcefulness. Kaplan gave his notebooks to a Jew working at forced labor outside the ghetto who smuggled them to a Pole who first brought them to the attention of Jewish scholars in 1952. But for the penniless, 62-year-old schoolteacher to save himself and his wife was beyond resourcefulness.

The majority of the police failed to save themselves, despite their cooperation in filling their quota of seven heads a day in order to avoid their own deportation. Trunk reports that only 300 of the 2,600 men were spared, the rest being deported with their families on the last day of the action.[128] Besides the Jewish police, reviled by every writer from Warsaw (and other ghettos in which they played the same role), there were Gestapo informants leading Germans to the secret places where people hid. There were also other Jewish control organizations that cooperated, Ringelblum later noted.

Besides the police, another group of [Jewish] organizations shared in the resettlement operation. Gancwajch's red-capped Special Ambulance Service was the worst. This organization of swindlers had never given a single Jew the medical aid they promised. They limited their activity to issuing authorization cards and caps, for thousands of zlotys. . . . It was this petty gang that now voluntarily reported for the assignment of sending Jews to the hereafter—and they distinguished themselves with their brutality and inhumanity. Their caps were covered with the bloodstains of the Jewish people.

The officials of the Jewish Council also cooperated in the "operation," as did the Service of the K.A.M.—City Aid Committee.[129]

REORGANIZATION OF JEWISH CONSCIOUSNESS AND COMMUNITY

At the start of deportations, Jewish leaders of the major parties and prominent scholars and rabbis met to discuss authorizing a collective armed

defense despite the lack of arms in the ghetto. Reports on this debate are few but they agree that the conclusion was negative, the majority reasoning along the lines of Chaim Kaplan (see pp. 215, 244), that resistance of an unarmed mass would only provoke massacre of both resistants and nonresistants.[130] Although the nuclei of later developed fighting organizations had been created by July 1942, all groups lacked arms. The first independent military organization was created in December 1939 by young Jews and older Polish Army veterans affiliated with the Zionist revisionist movement.[131] The Bund had also established its own fighting organization, and several Zionist, Socialist, and Communist groups had joined together in an anti-fascist bloc in April 1942, but they had not been able to obtain arms or convince other leaders to support them. The terror had effectively inhibited public political activity between April and July. Although some groups issued pamphlets calling for passive resistance to the deportations, there was no organization of evasion or defense.

Before the community could mobilize to defend itself, their belief in the illusion that they would survive by accommodation had to be destroyed. Then the polity needed to be reorganized. New authorities who could command resources and energies and plan how to sustain the community when isolated emerged after a brief struggle for power. But the new leaders needed links with allies and help from allies was uncertain. No recognition of or identification with the Jews' plight had been voiced by any Polish party between July and September 1942, excepting by the Polish Socialist Party, which rhetorically urged the Jews not to give in through a broadside that did not reach the ghetto.[132]

Although firsthand observers' reports of the destiny of the Jews of Warsaw in the killing center at Treblinka had been received by the Polish resistance from Polish railway workers within a week after deportations began on 22 July 1942, the news was not conveyed to the ghetto—direct reports of Treblinka did not reach the ghetto until mid-August—or announced to the world by the Polish government-in-exile in London until 27 November 1942.[133] While the Polish government-in-exile, speaking from their London base, promised Jews equal rights, Polish right-wing parties, part of that government, proclaimed publicly in their underground newspapers in Poland that the solution to the Jewish problem was expulsion of the Jews. Democratic center parties did not publicize the government's declarations pledging Jews' equal rights and warning against anti-Semitism.[134]

Despite the lack of all other preconditions needed for successful rebellion, the Jews of Warsaw had attained the first precondition of autonomy—freedom from illusion. But they were now even more isolated than before.

After the great deportation ended, the survivors, who lived in enclosed living-working quarters, dependent on their German employers for their lives, worked for nothing; these were, Ringelblum noted, "The Signs of Modern Slaves":

1. Numbered and stamped.
2. Live in barracks—without their wives.
3. Wives and children removed, because slaves don't require families.
4. Walk in crowds, not individually.
5. Beaten and terrorized at work.
6. Inhuman exploitation (agreement at Schultz's [?]) like coolies.
7. Ban on organization of any kind.
8. Ban on any form of protest or sign of dissatisfaction.
9. Every slave dependent for his life on his master and the master's Jewish assistant. At any moment a man can be sent to the Umschlagplatz.
10. The murderous discipline, and the sending of workers to forced [labor] camps because of lateness as happened at Schultz's.
11. Compulsion to work, even [when worker is sick] with temperature.
12. Worse off than slaves, because *they* must look after their own food.
13. Confiscation of property from a dead worker's family, because the right of inheritance has been abolished.
14. Locked inside the residential block.
15. Ban on leaving your apartment and walking in the street after work hours.
16. Limitation of personal freedom of movement.
17. *Worse than slaves,* because the latter knew they would remain alive, had some hope to be set free. The Jews are *morituri*—sentenced to death—whose death sentence [has been] postponed indefinitely, or has been passed.
18. The sick and the weak are not needed, so ambulatory clinics, hospitals, and the like have been liquidated.[135]

Despite the oppression, their definition of the situation had been altered ineradicably. Few families existed for, after the murder of their kin, survivors were left only with each other. A new situational ethic was generally accepted: men and women coupled as if they might die tomorrow.

Perception, recognition, and feelings had altered. Feelings were heightened and sentiment diffused to create new bonds of solidarity that replaced kin. The old sense of time—time to live and time to die—and a natural life cycle endowing one's days with security and predictability had been annulled. Regardless of previous assumptions, the Jews of Warsaw challenged why they had been assigned to die—it was now taken for granted that they had been. Michael Zylberberg recalled:

> On Rosh Hashana, 1942, after a massive selection of victims in the ghetto, everyone felt extremely ill at ease. No one knew if the selection—which had started some days previously—had come to an end. People crept out of hiding and asked each other, "What is happening in the streets?" The streets were empty and silent. Suddenly a Jew appeared complete with beard and side-curls, accompanied by an exhausted woman. Both of them could hardly totter. They were covered with feathers and had obviously just crept out of a mountain of bedclothes where they

had been hiding. The man kept raising his clenched fists to heaven and the poor woman who led him wept uncontrollably and shouted, "My husband has gone mad." "Jews," he called, "collect large stones and throw them up to heaven! Why has God picked on us for this torment? Give me stones to throw in defiance of heaven!"[136]

Others did not seek revenge against God, but against their enemy who had murdered their kin. Now, knowing that their death was likely if they were caught, they were freed from the dread that had absorbed so much energy in its repression. Ringelblum, singling out the question that would preoccupy future observers, asked himself, "Why?"

Why didn't we resist when they began to resettle 300,000 Jews from Warsaw? Why did we allow ourselves to be led like sheep to the slaughter? Why did everything come so easy to the enemy? Why didn't the hangmen suffer a single casualty? Why could 50 S.S. men (some people say even fewer), with the help of a division of some 200 Ukrainian guards and an equal number of Letts, carry the operation out so smoothly?[137]

He began to explain the "how" behind the "why":

GERMAN WAR STRATEGY AS APPLIED
TO THE JEWS IN WARSAW

The German fear of approaching the large Jewish settlement [in Warsaw]. Fear of [an] uprising, with the help of Poles and paratroopers.

"Divide and rule"—[the German strategy] poisons relations between Jews and Poles and makes any help from that [Polish] quarter impossible.—[The Germans] fooled the populace about [the meaning of the] resettlement.—Chelmno [the death camp where the Lodz Jews were killed] remained a secret to the greater part of the Jews. . . .

[The Germans] set the Warsawers against the refugees. Supposedly the resettlement was to free Warsaw of its "non-productive elements." Promised the Law and Order Service that they and the members of their family, even uncles, mothers-in-law, brothers-in-law, would be secure.

Afterward, they reassured certain shops of their priority over other trades. Afterward, one shop was promised priority over another.—Afterward, women and children in the shops themselves became dispensable—afterward, poor workers as compared with good workers. Better shops were opposed to poorer shops—red stamps—continually contracting the circle, continually deceiving, declaring that the resettlement operation was over, in order to prevent a revolt.

The Niska Street Pot.—The hermetic sealing of the Ghetto limits, to keep out help.—Hermetic sealing of communications inside and outside the country by stopping the post.

Continual blockades throughout the city. To make any kind of counteraction impossible.—Propaganda lies about the resettlement to the East, to make opposition impossible.—Supporting the Law and Order Service until the operation was over, when 1,300 Jewish policemen were rounded up and herded into wagons for deportation.[138]

THE JEWS' SECOND PLEA TO THE WEST

During the fall of 1942, political representatives of the Jewish Coordinating Committee functioning "on the Aryan side" of Warsaw contacted the emissary of the Polish Civil Directorate, Jan Karski. He was to go to London to report directly to the Polish government-in-exile and the western Allies. JCC leaders wanted Karski to communicate their message to Allied leaders and Jewish spokesmen in Great Britain and the United States. To make his report more convincing, Karski infiltrated into the ghetto in October 1942—he recalled the scene in 1944:

> Everywhere there was hunger, misery, the atrocious stench of decomposing bodies, the pitiful moans of dying children, the desperate cries and gasps of a people struggling for life against impossible odds.
>
> To pass that wall was to enter into a new world utterly unlike anything that had ever been imagined. The entire population of the ghetto seemed to be living in the street. There was hardly a square yard of empty space. As we picked our way across the mud and rubble, the shadows of what had once been men or women flitted by us in pursuit of someone or something, their eyes blazing with some insane hunger or greed.
>
> Everyone and everything seemed to vibrate with unnatural intensity, to be in constant motion, enveloped in a haze of disease and death through which their bodies appeared to be throbbing in disintegration. We passed an old man standing against a wall staring lugubriously and with glassy eyes into space, and although he barely moved from his spot, he, too, seemed to be strangely animated, his body tormented by a force that made his skin twitch in little areas.
>
> As we walked everything became increasingly unreal. . . .
>
> Suddenly my companions seized my arms. I saw nothing, did not know what was happening. I became frightened, thought I had been recognized. They rushed me through the nearest entrance.
>
> "Hurry, hurry, you must see this. This is something for you to tell the world about. Hurry!" . . .
>
> They urged me to the window, pulled down the shade and told me to look through the slit at the side.
>
> "Now you'll see something. The hunt. You would never believe it if you did not see it for yourself."
>
> I looked through the opening. In the middle of the street two boys, dressed in the uniform of the Hitlerjugend, were standing. They wore no caps and their blond hair shone in the sun. With their round, rosy-cheeked faces and their blue eyes they were like images of health and life. They chattered, laughed, pushed each other in spasms of merriment. At that moment, the younger one pulled a gun out of his hip pocket and then I first realized what I was witnessing. His eyes roamed about, seeking something. A target. He was looking for a target with the casual, gay absorption of a boy at a carnival.
>
> I followed his glance. For the first time I noticed that all the pavements about them were absolutely deserted. Nowhere within the scope of those blue eyes, in no place from which those cheerful, healthy faces could be seen was there a single

human being. The gaze of the boy with the gun came to rest on a spot out of my line of vision. He raised his arm and took careful aim. The shot rang out, followed by the noise of breaking glass and then the terrible cry of a man in agony.[139]

The Zionist representative he spoke to demanded that he should reiterate their demand for Allied threats of massive reprisals against Germany for its deterrent use as a counterthreat and demand collective retaliation in kind against German nationals so as to illustrate their own collective execution. But the representatives conveyed another message to Jewish spokesmen abroad, which Karski transmitted to Shmuel Zygelbojm, the Bund representative to the Polish government-in-exile. When challenged by Zygelbojm to tell him what they wanted,

I answered with brutal simplicity and directness.

"Very well, then. This is what *they* want from their leaders in the free countries of the world, this is what *they* told me to say:

" 'Let them go to all the important English and American offices and agencies. Tell them not to leave until they have obtained guarantees that a way has been decided upon to save the Jews. Let them accept no food or drink, let them die a slow death while the world looks on. Let them die. This may shake the conscience of the world.' "[140]

THE GHETTO REVOLT

During this period, two resistance organizations whose goals converged began contacting allies outside the ghetto, gathered arms for an impending confrontation (whose date they could not predict), and established their authority over the ghetto. They achieved this by selected assassinations of police who had led the deportation roundup and by taxing (and/or expropriating) of *Judenrat* leaders and the rich. They enforced such taxes by kidnapping tax delinquents. Ringelblum later listed the names of 13 agents who had collaborated with the Gestapo and were shot by the Jewish Combat Organization.[141] The fighters of the party cadres lived in communes, constantly surrounded by armed defenders whose readiness to kill informers and Gestapo agents deterred a direct attack on their quarters. The hatred of the Jewish police and the reports about Treblinka (from escaped prisoners) that reached the ghetto in September 1942 fortified consensus on the new definition of the situation, legitimating the resistance organizations' claim to authority.

In January 1943, the SS invaded the ghetto, seizing among others some members of the combat group on the street. Their comrades improvised defenses, hurling grenades through tenement windows, enabling many who had been seized to flee as German troops scurried for cover. The insurgents fought several defensive skirmishes during the next three days, exploiting their tactical advantage by firing down from the twisting tenement stairwells,

windows, and roofs. Although 6,500 Jews had been led away, after four days, the Germans' exit from the ghetto without an immediate reprisal raised the hopes of ghetto residents that they could live through a rebellion.[142] Pamphlets recalled from those days stress fighting for life: "We must be able and prepared to fight for this right. . . . Whoever fights for his life has a chance of being saved."[143]

The revolt began at the time of the Germans' choice: the first night of Passover, 19 April 1943. Both the Jewish and Polish flags were hoisted over the ghetto, in accord with the ghetto fighters' slogan that the battle was "for your freedom and ours." After four weeks of insurgency, the central command bunker was penetrated, the Jewish Combat Organization's commander, Mordecai Anieliwicz, was killed, and the revolt was effectively squashed. Unwilling to suffer the losses of fighting a guerrilla war, the Germans had decided to burn the ghetto down, flushing out resistants from bunkers by injecting poison gas.

The isolation of the ghetto was sealed by the refusal of the Polish Civil Directorate and Home Army to support the revolt by instigating a general strike, mobilizing military aid, or instructing Polish police to cease arresting Jews on the "Aryan side" who had fled from the ghetto. Their refusal to support the revolt was masked by the symbolic gesture of giving 50 pistols to representatives of the Coordinating Committee (the Jewish political directorate of parties over the Jewish Combat Organization). Krakowski notes that, contrary to later protestations of their lack of arms, the Polish Army had 1,070 pistols hidden in the Warsaw region in September 1939; a July 1943 Polish government-in-exile memorandum estimated that the Home Army had 6,000 pistols in its possession in the spring of 1943.[144] Despite an earlier promise, they failed to break through the walls or provide protected means of transport outside of Warsaw for the fleeing fighters. However, some party units of the Polish resistance (including units aiding the revisionist group, ZZW) did lead out several dozen fighters through the sewers and other units fought outside the wall, acting against the Home Army's orders.

Shmuel Zygelbojm died by his own hand, protesting in despair. He had not been able to change the policy of the Polish Home Army or incite the Allies to take any steps to stop the Holocaust. Moreover, he was persuaded that no one would allow him to die in front of 10 Downing Street in a fast undertaken to awaken the public, moving the conscience of the West.[145] His last letter (found after his suicide on 12 May 1943) reads:

> I cannot be silent. I cannot live while the remnants of the Jewish population of Poland, of whom I am a representative, are perishing. . . . By my death I wish to make my final protest against the passivity with which the world is looking on and permitting the extermination of the Jewish people.[146]

How did ordinary Poles look upon the ghetto revolt? Ringelblum observed in his treatise on *Polish-Jewish Relations:*

In these conversations among the Poles about what was happening in the Ghetto, the anti-Semitic note was predominant in general, satisfaction that Warsaw had in the end become *judenrein,* that the wildest dreams of Polish anti-Semites about a Warsaw without Jews were coming true. Some loudly and others discreetly expressed their satisfaction at the fact that the Germans had done the dirty work of exterminating the Jews.[147]

Alexander Donat vividly recalls the spectacle of the burning Jews:

Then came Easter Sunday. . . .

Mass over, the holiday crowds poured out into the sun-drenched streets. Hearts filled with Christian love, people went to look at the new unprecedented attraction that lay halfway across the city to the north, on the other side of the Ghetto wall, where Christ's Jewish brethren suffered a new and terrible Calvary not by crucifixion but by fire. What a unique spectacle! Bemused, the crowds stared at the hanging curtains of flame, listened to the roar of the conflagration, and whispered to one another, "But the Jews—they're being roasted alive!" There was awe and relief that not they but the others had attracted the fury and the vengeance of the conqueror. There was also satisfaction.

Batteries of artillery had been set up in Nowiniarska Street and were shelling objectives in the Ghetto from there. The explosions of grenades and dynamite could be heard as well, as Jews scrambled from their hiding places. Pain-crazed figures leaped from balconies and windows to smash on the streets below. From time to time a living torch would crouch on a window sill for one unbearably long moment before flashing like a comet through the air. When such figures caught on some obstruction and hung there suspended in agony, the spectators were quick to attract the attention of German riflemen. "Hey, look over there! No, over there!" Love of neatness and efficiency were appeased by a well-placed shot; the flaming comet was made to complete its trajectory; and the crowds cheered.[148]

Despite such prevalent glee, enmity, or lack of empathy, a large number of Jews had escaped earlier and found rooms or apartments in Warsaw. The most successful of them were those least visibly Jewish, usually members of the educated, professional class who spoke Polish and had Polish friends. Estimates of Jewish evaders passing on the "Aryan side" vary from a maximum of 20,000 to as low as 5,000: there is no way to corroborate these figures.[149] The minimum estimate was that 8 out of 100 Jews alive in October 1942 had evaded capture (or death) within the ghetto by September 1943.

Some were aided by Zegota, the Council for Aid to the Jews, an organization uniting members of democratic Polish parties and Jews representing the Jewish Coordinating Committee, which arose in December 1942 after a provisional committee, initiated by Catholics of conscience who protested the murder of Jews, refused to accept the Jewish representatives.[150] Zegota was affiliated with the Polish Civil Directorate and received funds from airplane drops by the government-in-exile, which also conveyed funds gathered by international Jewish aid organizations (most of which were never received).[151] Vladka Meed, a worker in Warsaw, recalls in most detail how Jews were con-

sistently hunted by the *schmaltzovnik* (blackmailers) on the street and at home, and often taken in before workers (such as herself) could aid them financially.[152] Although Zegota issued leaflets condemning blackmailers and warned that extortion was a punishable crime, the Polish resistance did not execute any death sentences against them until September 1943, although thousands of collaborators were executed by them.[153]

Ringelblum complained of the meagerness of the support provided by Zegota, resulting from slender resources and the drain on funds caused by extortionists, landlords, and others who were exploiting the plight of Jews in hiding:

> In order to illustrate the tragic situation of the Jewish intellectuals, it is sufficient to note that the Council for Aid to the Jews did not have enough means to help a distinguished Jewish historian, a former member of the Diet of the Polish Republic, Dr. S.[154]

The Germans had not given up attempting to trap Jews in hiding. They promised passports to non-Axis countries (mainly Latin American) and protection for passport holders to all Jews registering at the Hotel Polski in May 1943. Despite warnings that this was a snare, hundreds of Jews enrolled. A few hundred departed for the internment camp in Vittel, France, with the papers that the Gestapo had itself captured from deported Jews; from Vittel they were later transported to Auschwitz via the French concentration camp of Drancy. The initial refusal of the American State Department to relay a message to Berlin through South American governments regarding American interest in safeguarding the Vittel detainees contributed to the Germans' decision to transport 240 of them to Auschwitz, Feingold tells us.[155] About 300 other Jews seized from the Hotel Polski were shot by the Germans in July.[156]

We do not know how many Jews in hiding were betrayed between April 1943 and January 1945 (Warsaw's liberation), how many died during shelling of the city during the 1944 civil uprising, and how many died because they were put in the front lines by the Polish resistance and often denied access to shelters or not informed as to when to retreat, as Goldstein, Borzykowski, and Zylberberg have testified. The Jewish leadership's call for Jews in hiding to fight in 1944 did reflect the close bonds between Jewish and Polish socialists and intellectuals in Warsaw; political bonds were closer and aid received by Jewish resistants was greater in Warsaw than in any other city in Poland in which a Jewish resistance movement has been documented. Nevertheless, this was the response of a minority, more typical of members of Polish parties of the left who supported the civil rights of Jews before the war. These few could not check the majority of indifferent or antagonistic Poles who wished to eliminate the Jews. Nor could they alter the policies of the Polish government-in-exile, which incorporated the parties that called during the

war for expulsion or elimination of the Jews as the way to end the Jewish problem in Poland, as they had before the war.

The deputy chairman of the Council for Aid to Jews, Tadeusz Rek, pleaded with the Government Delegate (the head of the Polish civil resistance) for more money to save the Jews, recognizing the prevailing antipathy toward them: "It should be objectively stated . . . that the overwhelming majority of Polish society are hostile toward those extending relief (to the Jews)."[157] Pleas by the council representatives to the Government Delegate to engage in public propaganda combating the anti-Semitism growing among the Polish public in 1943 and 1944 produced no result. The commander of the Home Army (the military wing of Polish resistance) was not indifferent but undermined the ability of Jews to survive by authorizing Poles (on 15 September 1943) to shoot "bandits" (Jewish evaders) hiding in the forests.[158]

THE LAST ACCOUNT AND THE FINAL TOLL

The first notice of the Warsaw ghetto rebellion in the *Polish Fortnightly Review* (monthly organ of the government-in-exile) appeared 15 January 1944, nine months after the revolt had occurred. The account claimed that

> arms were supplied by the Polish Underground Army, and instructors, soldiers and officers helped in the battle. . . . Not one of the defenders came out alive. But the close co-operation which had been established between the ghetto and the rest of Warsaw had its result in the very fact that it was made possible largely because of the supply of arms by the Poles.

The complete extinction of the Jews of Warsaw reported by the Polish government (perhaps wishfully) was exaggerated. By 5 June 1945 there were 801 registrations of Jews originating from Warsaw listed in Warsaw. There were an estimated additional 8,164 registrants from Warsaw elsewhere in Poland, or a total of 9,966 registrants, including extermination, concentration, and labor camp survivors.[159] Among the 1,801 Jews registered in Warsaw whose birth dates are listed, we find that only 112 infants and children born between 1939 and 1945 are registered, despite the presumably better chances for children to survive because they were less visible as Jews, less likely to speak a tongue that would betray their origin.[160] Because of multiple registrations by the same persons in different towns (believed to be common during this period), the number of registrants probably exceeds the number of Jewish survivors. Thus, fewer than 2.5% of the 1939 Jewish population of Warsaw had remained alive upon, or returned alive to, Polish soil (apart from refugees returned from the Soviet Union who fled Poland before the Holocaust began). Perhaps one Jew in 100 in Warsaw evaded capture by the Germans, usually living in continual fear and isolation.

Annex 25

William Schabas, *Genocide in International Law*
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Genocide in International Law: The Crimes of Crimes

William A. Schabas

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Genocide in International Law

After more than forty years of near dormancy, the 1948 Genocide Convention has suddenly become a vital legal tool in the international campaign against impunity. The succinct provisions of the Convention, including its enigmatic definition of the crime, are now being interpreted in important judgments by the International Court of Justice, the *ad hoc* Tribunals for the former Yugoslavia and Rwanda, and a growing number of domestic courts. In this definitive work William A. Schabas focuses on the judicial interpretation of the Convention, relying on the preparatory work, debates in the International Law Commission, political statements in bodies like the General Assembly of the United Nations, and the growing body of case law. Detailed attention is given to the concept of protected groups, to the quantitative dimension of genocide, to problems of criminal prosecution including defences and complicity, and to issues of international judicial cooperation such as extradition. He also explores the duty to prevent genocide, and the consequences this may have on the emerging law of humanitarian intervention.

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Genocide in International Law

The Crimes of Crimes

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To my parents, Ann and Ezra

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4 The physical element or *actus reus* of genocide

This chapter and the one that follows concern the two basic elements of the offence called 'genocide'. Because genocide constitutes a criminal infraction, and because this study concentrates essentially on the law of genocide, a jargon familiar to criminal lawyers has been chosen for this discussion. To the criminal lawyer, the 'elements of the offence' are fundamental because they set out the ground rules of the trial, determining what must be proven by the prosecution for a case to succeed. If the prosecution establishes all the elements of the offence beyond a reasonable doubt (or the *intime conviction*) of the trier of fact, then a conviction may lie. If the defence casts reasonable doubt on even one 'element of the offence', then the accused is entitled to acquittal.

Criminal law analysis of an offence proceeds from a basic distinction between the material element (the *actus reus*) and the mental or moral element (the *mens rea*). The prosecution must prove specific material facts, but must also establish the accused's criminal intent or 'guilty mind': *actus non facit reum nisi mens sit rea*.[1] The definition of genocide in the 1948 Convention invites this analysis, because it rather neatly separates the two elements.[2] The initial phrase or *chapeau* of article II addresses the *mens rea* of the crime of genocide, that is, the 'intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such'. The five subparagraphs of article II list the criminal acts or *actus reus*.

In his book, *Axis Rule in Occupied Europe*, Raphael Lemkin conceived of several 'techniques of genocide in various fields': physical and biological, political, social, cultural, religious, economic and moral.[3] He was not referring to political, social, cultural, religious, economic or

[1] *Reynolds* v. *G. H. Austin & Sons Ltd* [1951] 2 KB 135; *Sherras* v. *De Rutzen* [1895] 1 Q.B. 918, 921.

[2] 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', UN Doc. A/51/10, p. 87.

[3] Raphael Lemkin, *Axis Rule in Occupied Europe*, *Analysis of Government, Proposals for Redress*, Washington: Carnegie Endowment for World Peace, 1944, p. 82.

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moral groups, but rather to acts of genocide directed at various aspects of the life of a group. Political genocide, for example, involves the destruction of a group's political institutions and may even entail forced name changes.[4] Economic genocide targets the group's economic institutions and its source of livelihood. Lemkin said physical genocide is carried out mainly by racial discrimination in feeding, endangering of health, and outright mass killings.[5] In all of this, his mind was turned to the ongoing genocide in Nazi Germany and in the Reich's occupied territories.

Lemkin's broad view of the nature of genocide was reflected in the original draft convention, proposed by Saudi Arabia in late 1946.[6] Article I contemplated mass killing, destruction of 'the essential potentialities of life', 'planned disintegration of the political, social or economic structure', 'systematic moral debasement' and 'acts of terrorism committed for the purpose of creating a state of common danger and alarm . . . with the intent of producing [the group's] political, social, economic or moral disintegration'.

It became clear, from the adoption of General Assembly Resolution 96(I) in December 1946, that any international consensus on the scope of genocide would be considerably more narrow. The preamble described genocide as 'a denial of the right of existence of entire human groups, as homicide is the denial of the right to live of individual human beings'. This association between genocide and homicide focused on the physical dimension. The Resolution noted that genocide had resulted 'in great losses to humanity in the form of cultural and other contributions represented by these human groups'.[7] But the reference to culture did not have the same connotation as in Lemkin's writings. It merely lamented cultural loss occasioned by physical genocide, without necessarily suggesting that the destruction of culture, in the absence of violence against the person, might also amount to the crime of genocide.

The Secretariat draft contained three categories of genocide, corresponding roughly to the headings of physical, biological and cultural genocide. According to the Secretariat, physical genocide involved acts intended to cause the death of members of a human group; biological genocide consisted in placing restrictions upon births; cultural genocide was the destruction 'by brutal means of the specific characteristics of a human group, that is to say, its moral and sociological characteristics'. In its explanatory report, the Secretariat noted that Lemkin had distinguished between these three types. Should all three, or only the first two, be included, asked the Secretariat? It also cautioned the General

[4] *Ibid.* [5] *Ibid.*, pp. 87–9. [6] UN Doc. A/C.6/86. [7] GA Res. 96(I).

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Assembly about covering too much ground with the convention, insisting upon a restrictive definition: '[O]therwise there is a danger of the idea of genocide being expanded indefinitely to include the law of war, the right of peoples to self-determination, the protection of minorities, the respect of human rights, etc.'[8] The Secretariat also signalled a tendency to include crimes that did not constitute genocide, saying this could jeopardize the success of the convention.[9]

The *Ad Hoc* Committee and the Sixth Committee of the General Assembly both decided to exclude acts of cultural genocide.[10] Besides working on the precise definitions of acts of genocide, the debates addressed whether the enumeration should be merely indicative. The list in the draft adopted by the *Ad Hoc* Committee was an exhaustive one. In the Sixth Committee, China proposed replacing the words 'the following', used in the *Ad Hoc* Committee draft, with 'including the following',[11] to make the enumeration non-exhaustive.[12] Similarly, Peru proposed adding the phrase 'for example' in order to convey the idea that the enumeration was not exhaustive.[13] In opposition, Poland argued that the Charter of the International Military Tribunal contained an indicative enumeration of war crimes.[14] Yugoslavia observed that the future convention was not 'a law which judges would have to apply' but rather an international obligation, so a similar approach was acceptable.[15] Opponents of the Chinese amendment claimed that law required certainty, and that a failure to specify all acts of genocide might mean the convention would be applied differently in different countries.[16] The United States warned against incorporating provisions that could encourage international tension, explaining that an open-ended list of acts of genocide might increase the chances of one State accusing another of violating the convention. The example it gave dealt with freedom of the press,[17] a sore point where the Soviet Union and the United States had serious differences. In any case, the Chinese amend-

[8] *Ibid.*
[9] 'Ad Hoc Committee on Genocide, Ad Hoc Committee's Terms of Reference, Note by the Secretary-General', UN Doc. E/AC.25/2.
[10] See pp. 179–89 below.
[11] UN Doc. A/C.6/232/Rev.1. France (UN Doc. A/C.6/233) and the Soviet Union (UN Doc. A/C.6/223) proposed similar amendments.
[12] UN Doc. A/C.6/SR.78 (Ti-tsun Li, China). See also UN Doc. A/C.6/SR.81 (Morozov, Soviet Union).
[13] UN Doc. A/C.6/241. [14] UN Doc. A/C.6/SR.78 (Lachs, Poland).
[15] *Ibid.* (Bartos, Yugoslavia).
[16] *Ibid.* (Manini y Ríos, Uruguay). See also *ibid.* (Kaeckenbeeck, Belgium); and *ibid.* (Amado, Brazil).
[17] *Ibid.* (Maktos, United States).

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ment was soundly defeated.[18] Thus, any suggestion that article II invites the addition of analogous acts is unsustainable.

Despite what seems a convincing rejection of the idea of an indicative list of acts of genocide, the International Law Commission opted for a non-exhaustive enumeration during the initial drafting of the Code of Crimes Against the Peace and Security of Mankind in 1951.[19] Later, Special Rapporteur Doudou Thiam proposed yet another definition which said genocide consisted of 'any act committed with intent to destroy . . .' and retaining the word 'including' to indicate that the list was not exhaustive. Even though Thiam's initiative received considerable support,[20] the drafting committee established by the Commission in 1991 preferred a return to the Convention text, 'in view of the *nullum crimen sine lege* principle and the need not to stray too far from a text widely accepted by the international community'.[21] No suggestion to enlarge the list of acts or to deem the enumeration non-exhaustive even arose during the drafting of the Rome Statute, although there has been some support for the idea in the academic literature.[22]

Genocidal acts defined in the Convention

After the *chapeau*, article II of the Convention comprises five paragraphs, an exhaustive list of acts constituting the crime of genocide:

(a) Killing members of the group;
(b) Causing serious bodily or mental harm to members of the group;
(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
(d) Imposing measures intended to prevent births within the group;
(e) Forcibly transferring children of the group to another group.

Together, they define the material element or *actus reus* of the offence,

[18] *Ibid.* (thirty-five in favour, nine against, with five abstentions).

[19] *Yearbook . . . 1951*, Vol. II, p. 136: '(9) Acts by the authorities of a State or by private individuals, committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group as such, including . . . [the enumeration of acts of genocide in article II of the Convention follows].' For the debates, see *Yearbook . . . 1951*, Vol. I, 90th meeting, pp. 66–8.

[20] 'Report of the Commission to the General Assembly on the Work of Its Forty-First session', UN Doc. A/CN.4/SER.A/1989/Add.1 (Part 2), p. 59, para. 160.

[21] *Yearbook . . . 1991*, Vol. I, 2239th meeting, p. 214, paras. 7–8; *ibid.*, 2251st meeting, pp. 292–3, paras. 9–17; 'Report of the Commission to the General Assembly on the Work of Its Forty-Third Session', A/CN.4/SER.A/1991/Add.1 (Part 2), p. 102, para. (2).

[22] Matthew Lippman, 'The Drafting of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide', (1985) 3 *Boston University International Law Journal*, p. 1 at p. 62.

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although within the paragraphs there are also elements of the mental element or *mens rea*.

The term 'acts' is also used in article III of the Convention, but in a different context. Article III of the Convention deals essentially with criminal participation, and provides for liability of individuals other than the principal offender, such as accomplices, as well as for incomplete or inchoate offences, such as attempts and conspiracy, where there is no principal offender at all because the ultimate crime never takes place. Other provisions of the Convention distinguish between 'acts' of genocide – those defined in article II – and 'other acts' of genocide – those listed in paragraphs (b) to (e) of article III. The 'other acts', all of which have their own specific material element or *actus reus*, are defined in article III and are considered in chapter 6 of this study. The present chapter concerns the material element of the crime of genocide itself, taken from the standpoint of the principal offender.

The expression 'acts of genocide' occurs only once in the Convention, in article VIII, a provision addressing the right of States parties to submit cases to the relevant bodies of the United Nations. Article VIII contemplates 'acts of genocide or any of the other acts enumerated in article III', indicating that the words 'acts of genocide' refer to the five subparagraphs of article II and not to the 'other acts' defined in article III. The Security Council referred to 'acts of genocide' in Resolution 925, adopted on 8 June 1994 with respect to Rwanda, the first time in its history that it had used the word 'genocide' in a resolution. The General Assembly has also spoken of 'acts of genocide' in certain of its resolutions.[23]

Criminal acts, depending upon the definition of the crime, may require proof not only of the act itself, but also of a result. Put differently, the material element includes a result. Three of the five acts defined in article II of the Convention require proof of a result: killing members of the group; causing serious bodily or mental harm to members of the group; forcibly transferring children of the group to another group. Two of the acts do not demand such proof, but require a further specific intent: deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; or imposing measures intended to prevent births within the group. In the three cases where the outcome is an element of the offence, the accused may still be subject to prosecution for attempting to commit the crime even

[23] 'The Situation in Bosnia and Herzegovina', UN Doc. A/RES/48/88, preamble; 'The Situation in Bosnia and Herzegovina', UN Doc. A/RES/49/10, preamble.

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if no result can be proven.[24] Proof of a crime of result also requires evidence that the act itself is a 'substantial cause' of the outcome.[25]

The *actus reus* of an offence may be either an act of commission or an act of omission. This principle applies to all of the acts of genocide enumerated in article II, including killing.[26] The most obvious act of genocide by omission is article II(c): 'deliberately imposing conditions of life designed to destroy the group'.[27] Manfred Lachs called it 'negative violence', observing how the Nazi authorities reduced the amount of food in occupied countries to 400 and even 250 calories a day.[28] Robert Ley, the German Minister for Labour, who was charged at Nuremberg but committed suicide before judgment, stated: 'A lower race needs less room, less clothing, less food, and less culture, than a higher race. The Germans cannot live in the same fashion as the Poles and the Jews.'[29] But omission can also apply to the other paragraphs of article II, as the International Criminal Tribunal for Rwanda noted in the *Kambanda* judgment:

> Jean Kambanda acknowledges that on 3 May 1994, he was personally asked to take steps to protect children who had survived the massacre at a hospital and he did not respond. On the same day, after the meeting, the children were killed. He acknowledges that he failed in his duty to ensure the safety of the children and the population of Rwanda.[30]

[24] Pursuant to art. III(d) of the Convention. Attempts are discussed in chapter 6, pp. 280–5 below.

[25] *Prosecutor* v. *Delalic et al.* (Case No. IT–96–21–T), Judgment, 16 November 1998, para. 424.

[26] In *Prosecutor* v. *Kambanda* (Case No. ICTR 97–23–S), Judgment and Sentence, 4 September 1998, para. 40(1), the International Criminal Tribunal for Rwanda found that the accused, '[b]y his acts or omissions described in . . . the indictment, [was] responsible for the killing of and the causing of serious bodily or mental harm to members of the Tutsi population with intent to destroy, in whole or in part, an ethnic or racial group, as such, and has thereby committed GENOCIDE'. Subparagraphs (2)–(4) make the same finding with respect to conspiracy to commit genocide, direct and public incitement to commit genocide, and complicity to commit genocide. In the indictment of Drljaca and Kovacevic, the prosecutor of the International Criminal Tribunal for the Former Yugoslavia alleged that the accused did, 'by their acts and omissions, commit genocide': *Prosecutor* v. *Kovacevic and Drljaca* (Case No. IT–97–24), Indictment, 13 March 1997, para 9. See also *Prosecutor* v. *Delalic et al.*, *ibid.*, para. 424; Oscar M. Uhler, Henri Coursier *et al.*, *Commentary, IV, Geneva Convention Relative to the Protection of Civilian Persons in Time of War*, Geneva: International Committee of the Red Cross, 1958, p. 597.

[27] See the dissenting opinion of Judge Kreca in *Legality of Use of Force* (*Yugoslavia* v. *Belgium*), Request for the Indication of Provisional Measures, Order, 2 June 1999, para. 13.

[28] Manfred Lachs, *War Crimes, An Attempt to Define the Issues*, London: Stevens & Sons, 1945, p. 21.

[29] 'Rationing Under Axis Rule, Report 2 of the Inter-Allied Information Committee', London, 1942.

[30] *Prosecutor* v. *Kambanda*, note 26 above, para. 39(ix).

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Moreover, the possibility that a commander or superior may be found guilty of genocide for failing to intervene when subordinates are actually carrying out acts of genocide, while not specifically contemplated by the Convention, is also clearly recognized in the statutes of the *ad hoc* tribunals as well as in the Rome Statute.[31] Nevertheless, troubled by the possibility that crimes of omission might not be adequately covered, Benjamin Whitaker proposed an amendment to article II: 'In any of the above conduct, a conscious act or acts of advertent omission may be as culpable as an act of commission.'[32] The word 'advertent' clarifies the intentional aspect of the omission, although the proposed amendment is totally unnecessary for judges to give such an interpretation to article II.

Killing

The term 'killing' initially appeared in the 1946 Saudi Arabian proposal.[33] The Secretariat draft divided the *actus reus* into three categories, the first entitled 'causing the death of members of a group or injuring their health or physical integrity'. Its four subcategories included 'group massacres or individual executions'.[34] In the *Ad Hoc* Committee, China significantly simplified this provision.[35] The Committee's chair further reworked the text to contain two paragraphs dealing with physical genocide, and a third covering cultural genocide. The first form of physical genocide was 'killing members thereof'.[36] The concept was relatively uncontroversial, and, with the final wording changed to '[k]illing of members of the group', it was adopted.[37] The Sixth Committee agreed to 'killing' as the first form of genocide, after little discussion and without a vote.

A trial chamber of the International Criminal Tribunal for Rwanda in *Akayesu* identified two material elements: the victim is dead; and the

[31] 'Statute of the International Criminal Tribunal for the Former Yugoslavia', UN Doc. S/RES/827, annex, art. 7(3); 'Statute of the International Criminal Tribunal for Rwanda', UN Doc. S/RES/955, annex, art. 6(3); 'Rome Statute of the International Criminal Court', UN Doc. A/CONF.183/9, art. 28.

[32] Benjamin Whitaker, 'Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide', UN Doc. E/CN.4/Sub.2/1985/6, p. 20, para. 41.

[33] UN Doc. A/C.6/86: 'Mass killing of all members of a group, people or nation.'

[34] UN Doc. E/447.

[35] UN Doc. E/AC.25/9: '1. Destroying totally or partially the physical existence of such group; 2. Subjecting such group to such conditions or measures as will cause the destruction, in whole or in part, of the physical existence of such group.'

[36] UN Doc. E/AC.25/SR.12.

[37] UN Doc. E/AC.25/SR.13, p. 8 (five in favour, two against).

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death resulted from an unlawful act or omission of the accused or a subordinate.[38]

The reference to 'members of the group' as victims of the genocidal act in paragraph (a) of article II, as well as in the subsequent paragraphs, may suggest that the act itself must involve the killing of at least two members of the group.[39] Such an interpretation seems a bit absurd, however, and from a grammatical standpoint, the phrase can just as easily apply to a single act of killing. The co-ordinator's discussion paper, submitted at the conclusion of the February 1999 session of the Working Group on Elements of Crimes, following informal discussions with interested States, took the reference to 'members of the group' to mean 'one or more persons of that group'.[40] Clearly, the quantitative dimension, that genocide involves the intentional destruction of a group 'in whole or in part', belongs to the mental and not the material element, as explained in chapter 5.

Paragraph (a) of article II of the Convention specifies that the victim must be a member of the national, racial, ethnic or religious group that is the target of the genocide in question.[41] In *Akayesu*, the Trial Chamber considered whether murder of an individual who was not a member of the group, but who was killed within the context of genocide, could be considered an act of genocide under the Convention definition. The Tribunal was convinced of Akayesu's presence and participation when Victim V was beaten with a stick and the butt of a rifle by a communal policeman called Mugenzi and by a member of the *interahamwe* militia. The Chamber said that the act would have constituted genocide had Victim V been a Tutsi, but because Victim V was

[38] *Prosecutor* v. *Akayesu* (Case No. ICTR–96–4–T), Judgment, 2 September 1998, para. 588. In *Prosecutor* v. *Kayishema and Ruzindana* (Case No. ICTR–95–1–T), Judgment, 21 May 1999, another trial chamber purported to discuss the *actus reus* of 'killing', but in fact addressed only the difficulties in defining the mental element: paras. 101–4.

[39] This must be why the United States genocide legislation specifies that 'the term "members" means the plural': Genocide Convention Implementation Act of 1987 (the Proxmire Act), S. 1851, S. 1093(4). Yet the United States delegation to the Preparatory Commission of the International Court took the view that acts of genocide apply to one or more members of a group: 'Draft Elements of Crimes', UN Doc. PCNICC/1988/DP.4, pp. 5–6.

[40] This view is supported by the ongoing work of the Working Group on Elements of Crimes of the Preparatory Commission for the International Criminal Court. Following informal discussions with interested States, the co-ordinator proposed the following: 'The accused knew or should have known that the conditions inflicted would destroy, in whole or in part, such group or that the conduct was part of similar conduct directed against that group' ('Discussion Paper Proposed by the Co-ordinator, Article 6: The Crime of Genocide', UN Doc. PCNICC/1999/WGEC/RT.1).

[41] Nothing prevents the offender from being a member of the targeted group, however: Whitaker, 'Revised Report', note 32 above, para. 31, p. 16.

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Hutu, Akayesu could not be convicted of genocide for this particular act.[42]

Causing serious bodily or mental harm

The Secretariat draft included 'mutilations and biological experiments imposed for other than curative purposes' as a punishable act.[43] What is now paragraph (b) did not really emerge until the meetings of the *Ad Hoc* Committee. It was based on a French proposal: 'Any act directed against the corporal integrity of members of the group.'[44] Delegates to the Sixth Committee advanced similar alternatives. Belgium proposed 'impairing physical integrity'.[45] The Soviets favoured 'the infliction of physical injury or pursuit of biological experiments'.[46] The United Kingdom suggested 'causing grievous bodily harm to members of the group'.[47] India recommended that the United Kingdom replace the term 'grievous' with 'serious'.[48] The principle that the Convention punish serious acts of physical violence falling short of actual killing was affirmed without difficulty.

The concept of 'mental harm' was more troublesome for some delegates. China initiated an amendment reading 'impairing the physical or mental health of members of the group'.[49] It insisted on mentioning drug use as a method of perpetrating genocide,[50] explaining this related to 'crimes committed by Japan against Chinese people by promoting consumption of narcotics'.[51] According to China, 'Japan had committed

[42] *Prosecutor* v. *Akayesu*, note 38 above, para. 710.

[43] The United States proposed that the words 'physical violence' should be inserted before the words 'mutilations and biological experiments', that 'mutilations and biological experiments' be changed to 'mutilations or biological experiments', and that the words 'imposed for other than curative purposes' should be deleted: UN Doc. E/623.

[44] UN Doc. E/AC.25/SR.13, p. 12 (five in favour, one against, with one abstention).

[45] UN Doc. A/C.6/217. [46] UN Doc. A/C.6/223 and Corr. 1.

[47] UN Doc. A/C.6/222. Gerald Fitzmaurice explained that 'grievous' had a very precise meaning in English law; but said he would not press the point, because the idea of intention was made very clear in the first part of article II: UN Doc. A/C.6/SR.81.

[48] UN Doc. A/C.6/SR.81 (Sundaram, India).

[49] UN Doc. A/C.6/211. China was really recycling an idea it had promoted, unsuccessfully, before the *Ad Hoc* Committee. In the debate on cultural genocide, China had requested that the systematic distribution of narcotic drugs for the purposes of bringing about the physical debilitation of a human group be included in the list of measures or acts aimed against a national culture: UN Doc. E/AC.25/SR.5, p. 9. An additional paragraph was not adopted, although China insisted on the inclusion of a statement in the final report of the Committee referring to Japan's wartime construction of an opium extraction plant and the intention to commit genocide using narcotics: UN Doc. E/794, p. 6.

[50] UN Doc. A/C.6/SR.65 (Tsien Tai, China). [51] UN Doc. A/C.6/232/Rev.1.

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numerous acts of that kind of genocide against the Chinese population. If those acts were not as spectacular as Hitlerite killings in gas chambers, their effect had been no less destructive.'[52]

China's amendment was defeated.[53] The United States said it had voted in favour, believing that physical integrity also included mental integrity.[54] But the United Kingdom considered that 'to introduce into the convention the notion of impairment of mental health might give rise to some misunderstanding'.[55] Nevertheless, India submitted a new amendment to add 'or mental' after the word 'physical'.[56] The United Kingdom argued that the idea had been defeated with the Chinese amendment, but India insisted, and its proposal was adopted.[57]

The notion of acts that cause bodily harm is well known in domestic legal systems.[58] It differs from assault, requiring proof that actual harm has resulted. Domestic laws often recognize degrees of assault causing bodily harm, distinguishing between harm in a general sense and harm of a serious or permanent nature. The Convention text does not specify that the harm caused be permanent, but it does use the adjective 'serious'.

The District Court of Jerusalem, in its 12 December 1961 judgment in the *Eichmann* case, stated that serious bodily and mental harm of members of a group could be caused 'by the enslavement, starvation, deportation and persecution . . . and by their detention in ghettos, transit camps and concentration camps in conditions which were designed to cause their degradation, deprivation of their rights as human beings, and to suppress them and cause them inhumane suffering and torture'.[59] In *Akayesu*, the Rwanda Tribunal ruled the term 'serious bodily or mental harm, without limiting itself thereto, to mean acts of torture, be they bodily or mental, inhumane or degrading treatment, persecution'.[60] Another Trial Chamber of the Rwanda Tribunal defined this as 'harm that seriously injures the health, causes disfigurement or causes any serious injury to the external, internal organs or senses'.[61] The Trial Chamber of the Yugoslav Tribunal likewise considered torture and inhuman or degrading treatment to fall within the provision's

[52] UN Doc. A/C.6/SR.81 (Ti-tsun Li, China).
[53] *Ibid.* (seventeen in favour, ten against, with thirteen abstentions).
[54] *Ibid.* (Maktos, United States).
[55] *Ibid.* (Fitzmaurice, United Kingdom).
[56] UN Doc. A/C.6/244.
[57] UN Doc. A/C.6/SR.81 (fourteen in favour, ten against, with fourteen abstentions).
[58] In submissions to the Preparatory Commission of the International Criminal Court, the United States used the term 'physical harm': 'Draft Elements of Crimes', UN Doc. PCNICC/1988/DP.4.
[59] *A-G Israel* v. *Eichmann* (1968) 36 ILR 5 (District Court, Jerusalem), p. 340.
[60] *Prosecutor* v. *Akayesu*, note 38 above, para. 503.
[61] *Prosecutor* v. *Kayishema and Ruzindana*, note 38 above, para. 109.

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scope.[62] These acts overlap, of course, with some of the material acts of crimes against humanity, as well as with well-known prohibitions set out in international human rights law.[63]

The International Law Commission has proposed a very demanding standard, requiring that: 'The bodily harm or the mental harm inflicted on members of a group must be of such a serious nature as to threaten its destruction in whole or in part.'[64] This interpretation goes beyond the plain words of the text, and is not supported by the *travaux préparatoires*. Indeed, it indicates a confusion between the mental element of the *chapeau* and the material element of paragraph (b).

Including 'causing mental harm' within acts of genocide was tendentious, and the scope of this act of genocide remains problematic. In the above-cited excerpt from the *Akayesu* judgment, the Tribunal explained that rape and sexual violence may constitute genocide on both a physical and a mental level.[65] However, Nehemiah Robinson, in his important study of the Convention, wrote that mental harm 'can be caused only by the use of narcotics'.[66] Robinson obviously relied on China's statements during the drafting. Interestingly, however, the Chinese amendment was defeated. It was India that proposed the final wording of the provision, without any particular reference to use of drugs. Robinson also cited Canadian diplomat Lester B. Pearson, during domestic parliamentary debates, saying that 'mental harm' could not mean anything but 'physical injury to the mental faculties' of the members of the group.[67] Pearson said: 'I therefore suggest to the House that the use of the words "mental harm" would and should be interpreted, as a measure of both our domestic and our international responsibilities, as meaning "physical injury to the mental faculties".'[68] Pearson's views are unsupported by either the Convention text or the *travaux*. Consequently, Robinson's interpretation of article II(b) is excessively narrow.

According to the Rwanda Tribunal, causing serious bodily or mental harm to members of the group does not necessarily mean that the harm

[62] *Prosecutor* v. *Karadzic and Mladic* (Case Nos. IT–95–5–R61, IT–95–18–R61), Consideration of the Indictment within the Framework of Rule 61 of the Rules of Procedure and Evidence, 11 July 1996, para. 93.

[63] For example, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, (1987) 1465 UNTS 85.

[64] 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', note 2 above, p. 91.

[65] Note that Spain's new Penal Code, art. 607, enacts an offence of genocide that includes sexual aggression as a punishable act: (1998) 1 YIHL, p. 504.

[66] Nehemiah Robinson, *The Genocide Convention: A Commentary*, New York: Institute of Jewish Affairs, 1960, p. ix.

[67] *Ibid.*, p. 65, n. 32

[68] Parliamentary Debates, House of Commons (Canada), 21 May 1952, p. 2442.

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is permanent and irremediable.[69] It seems well accepted that physical harm need not be permanent, but there is more controversy with respect to mental harm.[70] When ratifying the Convention, the United States formulated the following 'understanding': '(2) That the term "mental harm" in article II(b) means permanent impairment of mental faculties through drugs, torture or similar techniques.' Its domestic legislation is to the same effect.[71] Professor Jordan Paust has criticized the 'permanent impairment' notion, pointing to the possibility of alleged terrorists or Nazi war criminals defending their actions with evidence that intense fear or anxiety produced in the primary victims was not intended to be 'permanent' but temporary.[72] The Preparatory Committee of the International Criminal Court took a similar although far more moderate approach to the issue, indicating, in a footnote to its draft provision on genocide, that '[t]he reference to "mental harm" is understood to mean more than the minor or temporary impairment of mental faculties'.[73] This makes sense, since such impairment of mental faculties would in any event fail to meet the threshold of seriousness required by article II(b). The Preparatory Committee's definition was endorsed by the International Criminal Tribunal for Rwanda.[74]

Reflecting long-standing gender stereotypes, sexual crimes of violence directed against women have often been treated in national law from the standpoint of morality rather than as assaults on the physical and mental integrity of the victim.[75] In *Akayesu*, the Trial Chamber affirmed that rape and other crimes of sexual violence may fall within the ambit of paragraph (b):

[69] *Prosecutor* v. *Akayesu*, note 38 above, para. 501. See also *Prosecutor* v. *Kayishema and Ruzindana*, note 38 above, para. 108; and *Prosecutor* v. *Rutaganda* (Case No. ICTR–96–3–T), 6 December 1999. See also B. Bryant and R. Jones, 'Codification of Customary International Law in the Genocide Convention', (1975) 16 *Harvard International Law Journal*, p. 686 at pp. 694–5.

[70] Stephen Gorove, 'The Problem of "Mental Harm" in the Genocide Convention', (1951) 4 *Saskatchewan University Law Quarterly*, p. 174.

[71] Genocide Convention Implementation Act of 1987, note 39, s. 1091(a)(3). Interestingly, the point is not made in the 'Annex on Definitional Elements for Part Two Crimes' prepared by the United States: UN Doc. A/CONF.183/C.1/L.10, p. 1.

[72] Jordan Paust, 'Congress and Genocide: They're Not Going to Get Away with It', (1989) 11 *Michigan Journal of International Law*, p. 90 at p. 97. This seems to confound the *actus reus* and the *mens rea*. The Convention does not require that the offender *intend* to cause permanent harm; rather, this must be the result of the act accomplished by the offender, who must also *intend* to destroy the group in whole or in part.

[73] 'Draft Statute for the International Criminal Court. Part 2. Jurisdiction, Admissibility and Applicable Law', UN Doc. A/AC.249/1998/CRP.8, p. 2.

[74] *Prosecutor* v. *Kayishema and Ruzindana*, note 38 above, para. 94.

[75] Susan Brownmiller, *Against Our Will: Men, Women and Rape*, New York: Simon and Schuster, 1975.

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[T]he Chamber wishes to underscore the fact that in its opinion, they constitute genocide in the same way as any other act as long as they were committed with the specific intent to destroy, in whole or in part, a particular group, targeted as such. Indeed, rape and sexual violence certainly constitute infliction of serious bodily and mental harm on the victims and are even, according to the Chamber, one of the worst ways of inflict [*sic*] harm on the victim as he or she suffers both bodily and mental harm. In light of all the evidence before it, the Chamber is satisfied that the acts of rape and sexual violence described above, were committed solely against Tutsi women, many of whom were subjected to the worst public humiliation, mutilated, and raped several times, often in public, in the Bureau Communal premises or in other public places, and often by more than one assailant. These rapes resulted in physical and psychological destruction of Tutsi women, their families and their communities. Sexual violence was an integral part of the process of destruction, specifically targeting Tutsi women and specifically contributing to their destruction and to the destruction of the Tutsi group as a whole. The rape of Tutsi women was systematic and was perpetrated against all Tutsi women and solely against them. A Tutsi woman, married to a Hutu, testified before the Chamber that she was not raped because her ethnic background was unknown. As part of the propaganda campaign geared to mobilizing the Hutu against the Tutsi, the Tutsi women were presented as sexual objects. Indeed, the Chamber was told, for an example, that before being raped and killed, Alexia, who was the wife of the Professor, Ntereye, and her two nieces, were forced by the Interahamwe to undress and ordered to run and do exercises 'in order to display the thighs of Tutsi women'. The Interahamwe who raped Alexia said, as he threw her on the ground and got on top of her, 'let us now see what the vagina of a Tutsi woman tastes like'. As stated above, Akayesu himself, speaking to the Interahamwe who were committing the rapes, said to them: 'don't ever ask again what a Tutsi woman tastes like'. This sexualized representation of ethnic identity graphically illustrates that Tutsi women were subjected to sexual violence because they were Tutsi. Sexual violence was a step in the process of destruction of the Tutsi group – destruction of the spirit, of the will to live, and of life itself. On the basis of the substantial testimonies brought before it, the Chamber finds that in most cases, the rapes of Tutsi women in Taba, were accompanied with the intent to kill those women. Many rapes were perpetrated near mass graves where the women were taken to be killed. A victim testified that Tutsi women caught could be taken away by peasants and men with the promise that they would be collected later to be executed.

Following an act of gang rape, a witness heard Akayesu say 'tomorrow they will be killed' and they were actually killed. In this respect, it appears clearly to the Chamber that the acts of rape and sexual violence, as other acts of serious bodily and mental harm committed against the Tutsi, reflected the determination to make Tutsi women suffer and to mutilate them even before killing them, the intent being to destroy the Tutsi group while inflicting acute suffering on its members in the process. In light of the foregoing, the Chamber finds firstly that the acts described *supra* are indeed acts as enumerated in Article 2(2) of the Statute [corresponding to article II(b) of the Genocide Convention], which constitute the factual elements of the crime of genocide, namely the killings of

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Tutsi or the serious bodily and mental harm inflicted on the Tutsi. The Chamber is further satisfied beyond reasonable doubt that these various acts were committed by Akayesu with the specific intent to destroy the Tutsi group, as such.[76]

On this point, the *Akayesu* judgment constitutes a major contribution to the progressive development of the law of genocide.[77] The recognition that sexual violence accords with serious bodily and mental harm is perhaps not revolutionary. Nevertheless, the historic trivialization of such crimes of violence directed principally against women impacted upon the prosecution of genocide as it did upon war crimes and crimes against humanity. The prosecutor did not include gender-based crimes in the initial indictment of Akayesu. It was only midway through the trial, after pressure from non-governmental organizations, that the indictment was amended.[78] The *Akayesu* case law on this point has already found a sympathetic ear in the Preparatory Commission for the International Criminal Court, where a discussion has asserted that 'serious bodily or mental harm' may include, but is not limited to, 'acts of torture, rape, sexual violence or inhuman or degrading treatment'. The paper also 'recognized that rape and sexual violence may constitute genocide in the same way as any act, provided that the criteria of the crime of genocide are met'.[79]

Yet while sexual violence and rape may in fact have the effect of contributing in a significant manner to the destruction of a group in whole or in part, this is not what the text of paragraph (b) requires. The prosecution need not demonstrate a cause and effect relationship between the acts of violence and the destruction of the group. The result

[76] *Prosecutor* v. *Akayesu*, note 38 above, para. 731.

[77] On the subject of rape and sexual assault as acts of genocide, see also Kelly Dawn Askin, *War Crimes Against Women, Prosecution in International War Crimes Tribunals*, The Hague: Martinus Nijhoff, 1997; Beverley Allen, *Rape Warfare, The Hidden Genocide in Bosnia-Herzegovina and Croatia*, Minneapolis: University of Minnesota Press, 1996; Catherine A. Mackinnon, 'Rape, Genocide and Women's Human Rights', (1994) 17 *Harvard Women's Law Journal*, p. 5; Yolanda S. Wu, 'Genocidal Rape in Bosnia: Redress in United States Courts under the Alien Tort Claims Act', (1993) 4 *UCLA Women's Law Journal*, p. 101; Siobhan K. Fisher, 'Occupation of the Womb: Forced Impregnation as Genocide', (1996) 46 *Duke Law Journal*, p. 91; Kate Fitzgerald, 'Problems of Prosecution and Adjudication of Rape and Other Sexual Assaults under International Law', (1997) 8 EJIL, p. 638; and Pamela Goldberg and Nancy Kelly, 'International Human Rights and Violence Against Women', (1993) 6 *Harvard Human Rights Journal*, p. 195.

[78] Akayesu himself complained about this, saying the indictment had been amended because of pressure from the women's movement and women in Rwanda, whom he described as 'worked up to agree that they have been raped'. See *Prosecutor* v. *Akayesu*, note 38 above, para. 447.

[79] 'Discussion Paper Proposed by the Co-ordinator, Suggested Comments Relating to the Crime of Genocide', UN Doc. PCNICC/1999/WGEC/RT.3.

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that the prosecution must prove is that one or more victims actually suffered physical or mental harm.[80] If this act is perpetrated with the requisite mental element, the crime has been committed.

Deliberately inflicting conditions of life calculated to destroy the group

The 1946 Saudi Arabian draft contained '[d]estruction of the essential potentialities of life of a group, people or nation, or the intentional deprivation of elementary necessities for the preservation of health or existence'.[81] Under its heading physical genocide, the Secretariat draft presented two provisions addressing this issue: the subjection to conditions of life which, by lack of proper housing, clothing, food, hygiene and medical care, or excessive work or physical exertion, are likely to result in the debilitation or death of the individuals;[82] and the deprivation of all means of livelihood,[83] by confiscation of property, looting, curtailment of work, denial of housing and of supplies otherwise available to the other inhabitants of the territory concerned. Only the second category led to a significant comment in the explanatory report: 'If a state systematically denies to members of a certain group the elementary means of existence enjoyed by other sections of the population, it condemns such persons to a wretched existence maintained by illicit or clandestine activities and public charity, and in fact condemns them to death at the end of a medium period instead of to a quick death in concentration camps; there is only a difference of degree.'[84]

In the *Ad Hoc* Committee, China's proposal noted that the *actus reus* of genocide should include not only destruction of the physical existence of the group but also 'subjecting such group to such conditions or measures as will cause the destruction, in whole or in part, of the physical existence of such group'.[85] The Soviet 'Basic Principles' like-

[80] But see M. Cherif Bassiouni and Peter Manikas, *The Law of the International Criminal Tribunal for the Former Yugoslavia*, Irvington-on-Hudson, NY: Transnational Publishers, 1996, pp. 587–8, arguing that sexual violence may cause destruction of a group through 'deliberate emotional destruction of a vital part of that group'. Women are the caretakers of society, and if they become dysfunctional, the survival of the society is threatened, according to Bassiouni.

[81] UN Doc. A/C.6/86.

[82] The United States attempted to improve on the wording: 'Subjection to conditions of life wherein, by lack of proper housing, clothing, food, hygiene and medical care, or excessive work or physical exertion the individuals are doomed to weaken or die' (UN Doc. E/623).

[83] The United States proposed deletion of the word 'all' which it said seemed to narrow unduly the crime: UN Doc. E/623.

[84] UN Doc. E/447, p. 25. [85] UN Doc. E/AC.25/9.

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wise urged that '[t]he concept of physical destruction must embrace not only cases of direct murder of particular groups of the population for the above-mentioned reasons, but also the premeditated infliction on such groups of conditions of life aimed at the destruction of the group in question'.[86] The United States and the Soviet Union submitted revisions of the Chinese text on this point.[87] In general, the idea received support within the *Ad Hoc* Committee.[88] As France explained, '[t]o quote an historical example, the ghetto, where the Jews were confined in conditions which, either by starvation or by illness accompanied by the absence of medical care, led to their extinction, must certainly be regarded as an instrument of genocide. If any group were placed on rations so short as to make its extinction inevitable, merely because it belonged to a certain nationality, race or religion, the fact would also come under the category of genocidal crime.'[89] The Soviet proposal, reworked by Venezuela, was adopted: 'Inflicting on the members of the group such measures or conditions of life which would be aimed to cause their deaths.'[90] Debate on the provision in the Sixth Committee addressed the mental element of the act, and is considered in chapter 5.

The Trial Chamber of the International Criminal Tribunal for Rwanda has proposed the following interpretation of the provision:

> The Chamber holds that the expression deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part, should be construed as the methods of destruction by which the perpetrator does not immediately kill the members of the group, but which, ultimately, seek their physical destruction. For purposes of interpreting Article 2(2)(c) of the Statute [and article II(c) of the Convention], the Chamber is of the opinion that the means of deliberate inflicting on the group conditions of life calculated to bring about its physical destruction, in whole or part, include, *inter alia*, subjecting a group of people to a subsistence diet, systematic expulsion from homes and the reduction of essential medical services below minimum requirement.[91]

[86] UN Doc. E/AC.25/7, Principle II.

[87] The United States proposal, UN Doc. E/AC.25/SR.13, p. 12, said: 'Subjecting members of a group to such conditions or measures as will cause their deaths or prevent the procreation of the group.' The Soviet Union proposal, UN Doc. E/AC.25/SR.13, p. 12, said: 'The premeditated infliction on those groups of such conditions of life which will be aimed at destroying totally or partially their physical existence.' Platon Morozov subsequently agreed to withdraw the word 'premeditated' and to insert the words 'measures or' before the words 'conditions of life'.

[88] See also UN Doc. E/AC.25/SR.4, p. 14 (Ordonneau); *ibid.*, pp. 15–16 (Rudzinski).

[89] *Ibid.*, p. 14 (four in favour, one against, with three abstentions).

[90] UN Doc. E/AC.25/SR.13, pp. 13–14.

[91] *Prosecutor* v. *Akayesu*, note 38 above, para. 505. See also *Prosecutor* v. *Rutaganda*, note 69 above.

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The examples provided by the Tribunal appear to be drawn from Nehemiah Robinson's commentary on the Convention:[92]

> It is impossible to enumerate in advance the 'conditions of life' that would come within the prohibition of Article II; the intent and probability of the final aim alone can determine in each separate case whether an act of Genocide has been committed (or attempted) or not. Instances of Genocide that could come under subparagraph (c) are such as placing a group of people on a subsistence diet, reducing required medical services below a minimum, withholding sufficient living accommodations, etc., provided that these restrictions are imposed with intent to destroy the group in whole or in part.[93]

In *Kayishema and Ruzindana*, the Rwanda Tribunal said the conditions of life include 'rape, the starving of a group of people, reducing required medical services below a minimum, and withholding sufficient living accommodation for a reasonable period, provided the above would lead to the destruction of the group in whole or in part'.[94]

Unlike the crimes defined in paragraphs (a) and (b), the offence of deliberately imposing conditions of life calculated to bring about the group's destruction does not require proof of a result.[95] The conditions of life must be calculated to bring about the destruction, but whether or not they succeed, even in part, is immaterial. If a result is achieved, then the proper charge will be paragraphs (a) or (b). This important distinction was made by the District Court of Jerusalem in the *Eichmann* case. Eichmann was charged with imposing living conditions upon Jews calculated to bring about their physical extermination. In the view of the District Court of Jerusalem, such an accusation was only applicable to the persecution of Jews who had survived the Holocaust: 'We do not think that conviction on the second Count [i.e., imposing living conditions calculated to bring about the destruction] should also include those Jews who were not saved, as if in their case there were two separate acts – first, subjection to living conditions calculated to bring about their physical destruction, and later the physical destruction itself.'[96]

[92] Robinson, *Genocide Convention*, p. 64.

[93] *Ibid.*, pp. 60, 63–4. Cited with approval by the International Law Commission in 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', note 2 above, p. 92, n. 123.

[94] *Prosecutor* v. *Kayishema and Ruzindana*, note 38 above, para. 116.

[95] Nevertheless, in its 'Draft Elements of Crimes' paper submitted to the Preparatory Conference of the International Criminal Court, the United States suggested that the prosecution establish that 'the conditions of life contributed to the physical destruction of that group': 'Draft Elements of Crimes', UN Doc. PCNICC/1988/DP.4, p. 7. The United States view is surely an error, as was pointed out by delegates during the general debate on 17 February 1999, and in a paper submitted by Colombia: 'Proposal Submitted by Colombia', UN Doc. PCNICC/1999/WGEC/DP.2, p. 2.

[96] *A-G Israel* v. *Eichmann*, note 59 above, para. 196.

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The treatment of the Armenians by the Turkish rulers in 1915 provides the paradigm for the provision dealing with imposition of conditions of life.[97] These crimes have often been described as 'deportations'. But they went far beyond mere expulsion or transfer, because the deportation itself involved deprivation of fundamental human needs with the result that large numbers died of disease, malnutrition and exhaustion. When the International Law Commission considered adding 'deportation' to the list of acts of genocide, Juri Barsegov explained that in 1948 the General Assembly was unaware 'of many existing precedents in which whole populations had been destroyed by depriving them of their means of subsistence, such as soil and water, or forcing them to emigrate'.[98] He argued that 'deportation' of populations should be considered an act of genocide.[99] However, the Commission concluded an amendment was unnecessary, the situation being adequately covered by the text of paragraph (c) as it stands, to the extent a deportation occurred with the intent to destroy the group in whole or in part.[100] The Preparatory Commission for the International Criminal Court did not refer to deportation, but mentioned 'systematic expulsion from homes' as a possible element in the definition of article II(c).[101]

The Guatemalan Commission for Historical Clarification that concluded genocide had been committed against the Mayan people by the army in 1981–3 noted practices which included the razing of villages, the destruction of property, including collectively worked fields, and the burning of harvests. These left the communities without food. In the

[97] On the Armenian genocide, see generally Vahakn N. Dadrian, 'Genocide as a Problem of National and International Law: The World War I Armenian Case and its Contemporary Legal Ramifications', (1989) 14 *Yale Journal of International Law*, p. 221; Vahakn N. Dadrian, *Warrant for Genocide, Key Elements of Turko-Armenian Conflict*, New Brunswick, NJ: Transaction, 1999; Richard G. Hovannisian, *The Armenian Genocide in Perspective*, New Brunswick, NJ: Transaction, 1986; Robert Melson, *Revolution and Genocide: On the Origins of the Armenian Genocide and Holocaust*, Chicago: University of Chicago Press, 1992; James H. Tashjian, 'Genocide, The United Nations and the Armenians', in Jack Nusan Porter, *Genocide and Human Rights, A Global Anthology*, Lanham, New York and London, University Press of America, 1982, pp. 129–49; and Yves Ternon, *The Armenians: History of a Genocide*, 2nd. edn, Delmar, NY: Caravan Books, 1990.

[98] *Yearbook . . . 1989*, Vol. I, 2100th meeting, p. 30, para. 32.

[99] *Ibid.*, para. 34; 'Report of the Commission to the General Assembly on the Work of Its Forty-First Session', note 20 above, p. 59, para. 161; *Yearbook . . . 1991*, Vol. I, 2239th meeting, p. 215, para. 21; *ibid.*, 2251st meeting, p. 293, paras. 15–17.

[100] *Yearbook . . . 1991*, Vol. I, 2239th meeting, p. 215, para. 9; 'Report of the Commission to the General Assembly on the Work of Its Forty-First Session', note 20 above, p. 102, para. (5); 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', note 2 above, p. 92; see also *Yearbook . . . 1991*, Vol. II (Part 2), p. 102.

[101] 'Discussion Paper Proposed by the Co-ordinator, Suggested Comments Relating to the Crime of Genocide', UN Doc. PCNICC/1999/WGEC/RT.3.

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opinion of the Commission, this amounted to infliction of conditions of life 'that could bring about, and in several cases did bring about, its physical destruction in whole or in part'.[102] The Inter-American Commission on Human Rights has declared admissible a petition alleging genocide in Guatemala in 1982.[103]

Yugoslavia based its charges of genocide, which were directed against several NATO States in a May 1999 application to the International Court of Justice, upon article III(c). In its oral argument in an application for provisional measures, the Yugoslav agent said:

> Continued bombing of the whole territory of the State, pollution of soil, air and water, destroying the economy of the country, contaminating the environment with depleted uranium inflicts conditions of life on the Yugoslav nation calculated to bring about its physical destruction.
>
> The Respondents have used weapons containing depleted uranium. The Institute for Nuclear Science, based in Belgrade, confirmed this fact (Ann. 7). The Army Environmental Policy Institute tasked by the Office of the Assistant Secretary of the Army Installations, Logistic and Environment of the USA has produced the technical report on health and environmental consequences of depleted uranium use in the US Army. Commenting on the health risk from radiation, the Report informed: 'Internalized DU [depleted uranium] delivers radiation wherever it migrates in the body. Within the body, alfa radiation is the most important contributor to the radiation hazard posed by DU. The radiation dose to critical body organs depends on the amount of time that DU resides in the organs. When this value is known or estimated, cancer and hereditary risk estimates can be determined.' (Health and Environmental; Consequences of Depleted Uranium Use in the US Army: Technical Report, p. 108, Ann. 8)
>
> It is well known that the radiation hazard materialized in the case of a large number of US soldiers participating in actions against Iraq. Serious health and environmental consequences have been detected in areas of Bosnia and Herzegovina exposed to effects of weapons containing depleted uranium. Far-reaching health and environmental damage is a matter of certain pre-knowledge of the Respondents, and that implies the intent to destroy a national group as such in whole or in part.[104]

Subsequently, Ian Brownlie, counsel to Yugoslavia, proposed a six-point list of evidence to support the claim that article II(c) had been breached: the large number of civilian deaths and the resulting knowledge of the risk of death; the high explosive power of the missiles and the widespread

[102] *Guatemala: Memory of Silence, Report of the Commission for Historical Clarification, Conclusions and Recommendations*, 'Conclusions', paras. 116–18, www.hrdata.aaas.org/ceh/report/english/toc.html (consulted 9 March 1999).

[103] *Plan de Sanchez Massacre* (Case No. 11.763), Report No. 31/99, 11 March 1999, in *Annual Report of the Inter-American Commission on Human Rights*, OAS Doc. OEA/Ser.L/V/II.102, Doc. 6, p. 132.

[104] *Legality of Use of Force* (*Yugoslavia* v. *Belgium et al.*), Verbatim Record, 10 May 1999 (Rodoljub Etinski).

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effects of blast; the incendiary element in the weapons and the knowledge that some victims are quite commonly burnt to death; the general disruption of patterns of life; the extensive damage to the health care system and the deliberate creation of risks to patients by causing power cuts.[105] The argument is fine from a theoretical basis, in that far-reaching health and environmental damage might well constitute an act calculated to destroy a group in whole or in part. It is, however, virtually impossible to distinguish acts of warfare in a general sense from these charges of genocide, and it was surely not the intent of the Convention's drafters to include this within the scope of the definition. The most serious difficulty with the Yugoslav case on this point was establishing a genocidal intent, as several of the respondent States insisted during their oral arguments.[106] As the agent for Canada pointed out, the Yugoslav approach to genocide amounted to the assertion that 'any use of force and any act of war is automatically equated with genocide'.[107] In his response, Professor Brownlie did not answer the challenges from the NATO States to provide evidence of genocidal intent.[108]

Cherif Bassiouni has argued that rape and sexual assault may be deliberately used to create conditions of life calculated to bring about the destruction of the group, noting that Islamic law provides that women who have sexual relations outside of marriage are not marriageable. He has explained that 'targeting Muslim women for rape and sexual assault in order to effectively separate Bosnian Muslim women from Bosnian Muslim men may create a condition of life calculated to bring about the group's destruction'.[109]

Although it is possible for all five acts of genocide to be committed by omission, the concept applies most clearly to paragraph (c). Because of the specific intent requirement in the first paragraph of article II, not to mention the requirement in the subparagraph that the conditions be 'calculated', the omission cannot be one of simple negligence. The examples given by the Rwanda Tribunal and by Nehemiah Robinson, namely placing a group of people on a subsistence diet, reducing

[105] *Ibid.*, 12 May 1999 (Ian Brownlie).

[106] *Legality of Use of Force* (*Yugoslavia* v. *the Netherlands*), Verbatim Record, 11 May 1999, para. 29 (J. G. Lammers); *Legality of Use of Force* (*Yugoslavia* v. *Portugal*), Verbatim Record, 11 May 1999, para. 2.1.2.2.2 (José Maria Teixeira Leite Martins); *Legality of Use of Force* (*Yugoslavia* v. *United Kingdom*), Verbatim Record, 11 May 1999, para. 20 (John Morris).

[107] *Legality of Use of Force* (*Yugoslavia* v. *Canada*), Verbatim Record, 10 May 1999 (Philippe Kirsch).

[108] *Legality of Use of Force* (*Yugoslavia* v. *Belgium et al.*), Verbatim Record, 12 May 1999 (Ian Brownlie).

[109] Bassiouni and Manikas, *International Criminal Tribunal*, p. 587. For similar comments, see Fisher, 'Occupation', p. 123.

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required medical services below a minimum and withholding sufficient living accommodations, are all to a certain extent acts of omission. As a general rule, domestic criminal law takes the position that intentional acts of omission are criminal in nature where there is a positive duty to act.[110] Such a positive duty is stronger in penal codes of the Napoleonic tradition, which usually require an individual to intervene where the life of another is in danger,[111] than in the common law, where positive duties to act are considerably rarer.[112] A positive duty to act to prevent genocide is imposed upon military and civilian superiors by the superior responsibility provisions of the Rome Statute.[113] They may be held liable before the International Criminal Court for their failure to exercise control properly if their subordinates have committed genocide.

Nevertheless, in the case of genocide, an approach to crimes of omission that relies on the existence of a positive duty may unduly limit the scope of the Convention. It is difficult to establish the extent of the obligation of a State, or for that matter of an individual, in terms of assuring adequate nutrition, medical care and housing. International human rights law has made promising inroads in the protection of economic and social rights, and its norms may provide helpful guidance here.[114] Where genocide is committed by the omission to provide necessities of life, in a manner calculated to destroy the group in whole or in part, this omission will probably be apparent not by some abstract standard of a vital minimum but because it is discriminatory *vis-à-vis* other groups.[115]

[110] *Prosecutor* v. *Delalic et al.*, note 25 above, para. 334.

[111] *Code pénal* (France), art. 434–1. See Jean Pradel, *Droit pénal comparé*, Paris: Dalloz, 1995, pp. 234–38; L. Moreillon, *L'infraction par omission. Étude des infractions à la vie et à l'intégrité corporelle en droits anglais, français, allemand et suisse*, Geneva: Droz, 1993.

[112] *R.* v. *Miller* [1983] 1 All ER 978, [1983] AC 161 (HL).

[113] 'Rome Statute of the International Criminal Court', note 31 above, art. 28.

[114] Universal Declaration of Human Rights, GA Res. 217 A (III), UN.Doc. A/810, arts. 22–26; International Covenant on Economic, Social and Cultural Rights, (1976) 993 UNTS 3. See the discussion of this in Roger W. Smith, 'Scarcity and Genocide', in Michael N. Dobkowski and Isidor Wallimann, *The Coming Age of Scarcity, Preventing Mass Death and Genocide in the Twenty-First Century*, Syracuse, NY: Syracuse University Press, 1998, pp. 199–219 at pp. 207–9.

[115] In the *Ministries case*, the court agreed the defendant's department had issued decrees depriving Jews of special food rations allowed to other German citizens. However, the prosecution conceded that they were not 'so severe or their effects so harsh as to cause sickness or exposure to sickness and death'. The accused were exonerated on charges of crimes against humanity for such acts: *United States of America* v. *von Weizsaecker et al.* ('Ministries case'), (1948) 14 TWC 314 (United States Military Tribunal), pp. 557–8.

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Imposing measures intended to prevent births

In the Secretariat draft, biological genocide was addressed under the heading 'restricting births',[116] a rubric which contained three subcategories: sterilization and/or compulsory abortion; segregation of the sexes; and obstacles to marriage.[117] The explanatory report noted segregation of the sexes could 'be induced by various causes such as compulsory residence in remote places, or the systematic allocation of work to men and women in different localities'.[118] In comments on the draft, Siam (Thailand) proposed adding the phrase 'including racial prohibition' to the third subcategory, 'obstacles to marriage', observing that '[a]t the present time, there exist certain racial groups with less female in number than male and the prohibition of their marriage with persons belonging to other racial groups may result in their gradual extinction'.[119]

China's draft for the *Ad Hoc* Committee removed all reference to forms of biological genocide, that is, to restriction of births.[120] Proposals from the United States[121] and the Soviet Union[122] also omitted the concept. The Soviet Union said the Committee needed first to decide whether genocide encompassed biological and cultural destruction, as well as physical acts.[123] But, after brief discussion, it agreed to modify the Soviet 'principles' to include '[r]estriction of births by means including among others, sterilization and compulsory abortion'.[124] The *Ad Hoc* Committee eventually adopted an additional paragraph dealing with restrictions on births, proposed by Lebanon: 'Any act or measure calculated to prevent births within the group.'[125]

The Sixth Committee perfunctorily adopted the phrase 'imposing measures intended to prevent births.'[126] A Soviet variant, 'the prevention of births by means of sterilization and enforced abortion',[127] was rejected following no real debate.[128]

The Nazi atrocities remained very fresh in the minds of the drafters of article II(d), introduced largely to deal with the revelations of the post-war trials. The Supreme National Tribunal of Poland found the director

[116] The United States proposed that the heading be changed to 'Compulsory restriction of births': UN Doc. E/623.
[117] Norway made the interesting observation that, in distinction to the other crimes listed in the Convention, creation of obstacles to marriage was a crime that could only be committed by organs of a State and not by individuals: UN Doc. E/623/Add.2.
[118] UN Doc. E/447, p. 26. [119] UN Doc. E/623/Add.4.
[120] UN Doc. E/AC.25/9. [121] UN Doc. E/AC.25/SR.12, p. 2.
[122] *Ibid.*, p. 3. [123] UN Doc. E/AC.25/SR.4, p. 5. [124] *Ibid.*, p. 13.
[125] UN Doc. E/AC.25/SR.13, p. 14 (by four votes with three abstentions).
[126] UN Doc. A/C.6/SR.82. [127] UN Doc. A/C.6/223 and Corr. 1.
[128] UN Doc. A/C.6/SR.82 (thirty votes in favour, five against, with seven abstentions).

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of the Auschwitz camp responsible for sterilization and castration, qualifying these acts as a form of genocide.[129] Similarly, a United States Military Tribunal condemned Ulrich Greifelt and his associates for sterilization and other measures aimed at restricting births, acts that it also described as genocide.[130] But the scope of article III(d) is not confined to acts analogous to those committed by the Nazis. Nehemiah Robinson, in his commentary on the Convention, remarked that: 'The measure imposed need not be the classic action of sterilization; separation of the sexes, prohibition of marriages and the like are measures equally restrictive and produce the same results.'[131]

Article II(d) of the Convention does not make a result a material element of the offence. The *actus reus* consists of the imposition of the measures; it need not be proven that they have actually succeeded. Nevertheless, in its proposed 'Elements of Crimes' for the Rome Statute, the United States suggested that the prosecution must establish that 'the measures imposed had the effect of preventing births within that group'.[132] The 'Elements' are intended to facilitate the interpretation of the text, not to change the definition of the offence. Pursuant to article 9(3) of the *Statute*, the Court could disregard such a provision, if it is ever included in the final version of the 'Elements', as being incompatible with the *Statute* itself.[133]

In recent years, attention has focused on rape as a war crime or a crime against humanity. That rape and sexual assault are covered by paragraph (b)[134] cannot be questioned, and there are also compelling arguments for considering these crimes in the context of paragraph (c).[135] Can it moreover be argued that rape and sexual assault are forms of biological genocide akin to other techniques for 'restricting births' within the group? Testifying before the Yugoslavia Tribunal, Christine Cleirin, a member of the Commission of Experts established in 1992 by the Security Council, was asked if rape had been used systematically to change the ethnic character of the population by impregnating women. She answered: 'The Commission did not have enough information to

[129] *Poland* v. *Hoess*, (1948) 7 LRTWC 11 (Supreme National Tribunal of Poland), p. 25.
[130] *United States* v. *Greifelt et al.*, (1948) 13 LRTWC 1 (United States Military Tribunal), p. 17.
[131] Robinson, *Genocide Convention*, p. 64. Cited with approval by the International Law Commission in 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', note 2 above, p. 92, n. 124.
[132] UN Doc. PCNICC/1988/DP.4, p. 8. The United States proposal also added the requirement that the imposition be accomplished 'forcibly', which seems to be totally redundant. The United States position was criticized on these grounds: 'Proposal Submitted by Colombia', UN Doc. PCNICC/1999/WGEC/DP.2, p. 2.
[133] 'Rome Statute of the International Criminal Court', note 31 above.
[134] See pp. 162–5 above. [135] See p. 170 above.

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verify, let us say, these testimonies, who spoke in these terms. I guess it is possible that both happened.'[136] Based on this and other testimony, the Trial Chamber concluded that: 'The systematic rape of women . . . is in some cases intended to transmit a new ethnic identity to the child.'[137]

The Trial Chamber of the International Criminal Tribunal for Rwanda, in *Akayesu*, considered that rape could be subsumed within paragraph (d) of the definition of genocide:

> For purposes of interpreting Article 2(2)(d) of the Statute [and article II(d) of the Convention], the Chamber holds that the measures intended to prevent births within the group, should be construed as sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes and prohibition of marriages. In patriarchal societies, where membership of a group is determined by the identity of the father, an example of a measure intended to prevent births within a group is the case where, during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not belong to its mother's group. Furthermore, the Chamber notes that measures intended to prevent births within the group may be physical, but can also be mental. For instance, rape can be a measure intended to prevent births when the person raped refuses subsequently to procreate, in the same way that members of a group can be led, through threats or trauma, not to procreate.[138]

Such views may seem exaggerated, because it is unrealistic and perhaps absurd to believe that a group can be destroyed in whole or in part by rape and similar crimes. But this is not what the Convention provision demands. In contrast with paragraph (c), paragraph (d) does not require that the measures to restrict births be 'calculated' to bring about the destruction of the group in whole or in part, only that they be intended to prevent births within the group. Such measures can be merely ancillary to a genocidal plan or programme, as it was, for example, in the case of the Nazis. Adolph Eichmann was tried on a charge of 'devising measures intended to prevent child-bearing among the Jews'. The court said it did not regard the prevention of child-bearing as an explicit part of the 'final solution', concluding Eichmann's involvement in 'imposing measures' had not been proven.[139] Nevertheless, he was convicted for devising 'measures the purpose of which

[136] *Prosecutor* v. *Karadzic and Mladic* (Case Nos. IT–95–18–R61, IT–95–5–R61), Transcript of Hearing, 2 July 1996, p. 19.

[137] *Prosecutor* v. *Karadzic and Mladic*, note 62 above, para. 94.

[138] *Prosecutor* v. *Akayesu*, note 38 above, para. 507. See also *Prosecutor* v. *Kayishema and Ruzindana*, note 38 above, para. 117; and *Prosecutor* v. *Rutaganda*, note 69 above. Similar views are expressed in Bassiouni and Manikas, *International Criminal Tribunal*, p. 588.

[139] *A-G Israel* v. *Eichmann*, note 59 above, para. 199.

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was to prevent child-bearing among Jews by his instruction forbidding births and for the interruption of pregnancy of Jewish women in the Theresin Ghetto with intent to exterminate the Jewish people'.[140]

Forcibly transferring children

Paragraph (e), '[f]orcibly transferring children of the group to another group', was added to the Convention almost as an afterthought, with little substantive debate or consideration. The provision is enigmatic, because the drafters clearly rejected the concept of cultural genocide. The International Law Commission treated paragraph (e) as 'biological genocide'.[141] But the idea for such a provision originated in the Secretariat draft, which quite logically proposed that 'forcible transfer of children to another human group' be considered as an act of cultural genocide. The three experts consulted by the Secretariat differed on the issue of cultural genocide but, exceptionally, agreed on including 'forced transfer of children . . .' as a punishable act.[142] Subsequently, it disappeared from the *Ad Hoc* Committee's compromise text.[143] In the Sixth Committee, after the notion of cultural genocide had been definitively rejected, Greece proposed adding '[f]orced transfer of children to another human group' to the list of punishable acts.[144] Greece noted that States opposed to cultural genocide did not necessarily contest 'forced transfer'.[145]

Manfred Lachs of Poland was uncomfortable with the Greek text: 'The transfers carried out by the Germans during the Second World War were certainly to be condemned, but the word "transfer" could also be applied to the evacuation of children from a theatre of war.'[146] Platon Morozov maintained that 'no one had been able to quote any historical case of the destruction of a group through the transfer of children'.[147] But, despite the concerns of several delegates, and an unsuccessful attempt at postponement, the Greek amendment was adopted.[148]

[140] *Ibid.*, para. 244.
[141] 'Report of the Commission to the General Assembly on the Work of Its Forty-First Session', note 20 above, p. 102, para. (4).
[142] UN Doc. E/447, p. 27. The same view was taken by the United States in its comments on the draft: UN Doc. E/623. The World Jewish Congress, in submissions to the Secretary-General, urged that the Convention 'should specifically outlaw the systematic practice of forcibly separating children from their parents and bringing them up in a culture different from that of their parents': UN Doc. E/C.2/52.
[143] UN Doc. E/AC.25/SR.14, p. 14.
[144] UN Doc. A/C.6/242.
[145] UN Doc. A/C.6/SR.82 (Vallindas, Greece).
[146] *Ibid.* (Lachs, Poland).
[147] *Ibid.* (Morozov, Soviet Union).
[148] *Ibid.* (twenty in favour, thirteen against, with thirteen abstentions). Siam, Haiti, Belgium, Yugoslavia, Poland and Czechoslovakia made statements.

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According to the International Law Commission, '[t]he forcible transfer of children would have particularly serious consequences for the future viability of a group as such'.[149] Like the acts of genocide defined in paragraphs (a) and (b), paragraph (e) requires proof of a result, namely that children be transferred from the victim group to another group. But in *Akayesu*, the International Criminal Tribunal for Rwanda suggested that this went further, covering threats of such transfer: 'as in the case of measures intended to prevent births, the objective is not only to sanction a direct act of forcible physical transfer, but also to sanction acts of threats or trauma which would lead to the forcible transfer of children from one group to another.'[150]

The Convention does not specify what is meant by 'children',[151] and the question was not addressed by the drafters. The authoritative international precedent is the Convention on the Rights of the Child, defining a child as anyone under eighteen.[152] The United States genocide law declares that for the purposes of the crime of genocide, children are under eighteen.[153] Israel's genocide legislation offers the same definition.[154] The Working Group on Elements of Crimes of the Preparatory Commission for the International Criminal Court also appears to favour the age of eighteen.[155] But, although not stated in the Convention, the genocidal act of transferring children only makes sense with relatively young children, and eighteen years must be too high a threshold. Presumably, when children are transferred from one group to another, their cultural identity may be lost. They will be raised within another group, speaking its language, participating in its culture, and practising its religion. But older children are unlikely to lose their cultural identity by such transfer.

The difficulty of applying forcible transfer to older children becomes even more obvious in the case of adults. From a legal standpoint, while children may be considered to belong to their parents, the principle is

149 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', note 2 above, p. 92.

150 *Prosecutor* v. *Akayesu*, note 38 above, para. 505. See also *Prosecutor* v. *Kayishema and Ruzindana*, note 38 above, para. 118.

151 Robinson, *Genocide Convention*, p. 65.

152 Convention on the Rights of the Child, UN Doc. A/RES/44/25, annex, art. 1.

153 Genocide Convention Implementation Act of 1987, note 39 above, s. 1093(1). In the 'Draft Elements of Crimes' that the United States submitted to the first session of the Preparatory Commission for the International Criminal Court, the age had dropped to fifteen: UN Doc. PCNICC/1988/DP.4, p. 8.

154 The Crime of Genocide (Prevention and Punishment) Law, *Laws of the State of Israel*, Vol. 4, 5710–1949/50 P101, s. 1(b).

155 'Discussion Paper Proposed by the Co-ordinator, Article 6: The Crime of Genocide', UN Doc. PCNICC/1999/WGEC/RT.1, p. 2. See also 'Proposal Submitted by Colombia', UN Doc. PCNICC/1999/WGEC/DP.2, p. 2.

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completely inapplicable to adults. There is nobody from whom to be forcibly transferred. Of course, article II(e) does not apply to adults, but some States have taken the position that this is a lacuna in the Convention. For example, the genocide provision in Bolivia's Penal Code refers to transfer of both children and adults.[156] Paraguay made a similar submission to the International Law Commission with respect to the genocide provision of the Code of Crimes Against the Peace and Security of Mankind,[157] although it received little serious support.[158] Nevertheless, in its report the Commission stated: 'Although the present article does not extend to the transfer of adults, this type of conduct in certain circumstances could constitute a crime against humanity . . . or a war crime . . . Moreover, the forcible transfer of members of a group, particularly when it involves the separation of family members, could also constitute genocide under subparagraph (c) [inflicting conditions of life, etc.].'[159]

In its draft 'Elements of Crimes' paper submitted to the Preparatory Commission of the International Criminal Court, the United States approached the issue of transfer as being 'from that person's or those persons' lawful residence'.[160] Amnesty International criticized this new gloss on the Convention, noting that: 'Any such requirement would not only be contrary to the Convention for the Prevention and Punishment of the Crime of Genocide, but also exclude transfers of children born in prison or in concentration camps and children whose parents were not in a location which was considered lawful, such as immigrants whose papers were not in order or persons who were evicted from housing for non-payment of rent.'[161]

The term 'forcible' was also considered by the Preparatory Commission for the International Criminal Court in the context of drafting the 'Elements of Crimes'. The co-ordinator's discussion paper said that the term 'forcible' is 'not restricted to direct acts of physical force and may include, but is not necessarily restricted to, threats or intimidation'.[162]

156 Penal Code (Bolivia), 23 August 1972, Chapter IV, art. 138.

157 'Comments and Observations of Governments on the Draft Code of Crimes Against the Peace and Security of Mankind Adopted on First Reading by the International Law Commission at its Forty-Third Session', UN Doc. A/CN.4/448, p. 80.

158 *Yearbook . . . 1995*, Vol. I, 2384th meeting, p. 40, para. 53.

159 'Report of the International Law Commission on the Work of Its Forty-Eighth Session, 6 May–26 July 1996', note 2 above, pp. 92–3.

160 UN Doc. PCNICC/1988/DP.4, p. 8.

161 Amnesty International, 'The International Criminal Court: Fundamental Principles Concerning the Elements of Genocide', AI Index IOR 40/01/99, February 1999. Colombia, also, attacked the proposal from the United States: 'Proposal Submitted by Colombia', UN Doc. PCNICC/1999/WGEC/DP.2, p. 2.

162 'Discussion Paper Proposed by the Co-ordinator, Suggested Comments Relating to

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During the drafting, the Soviet delegate challenged the Sixth Committee to provide an historical example of genocide committed by transfer of children. There was no response, but delegates might have referred to the Nuremberg judgment. There, Nazi leader Heinrich Himmler was proven to have said:

> What happens to a Russian, a Czech, does not interest me in the slightest. What the nations can offer in the way of good blood of our type, we will take. If necessary, by kidnapping their children and raising them here with us. Whether nations live in prosperity or starve to death interests me only in so far as we need them as slaves for our Kultur, otherwise it is of no interest to me.[163]

These were, apparently, only threats. But there have been recent accusations concerning aboriginal children in Australia. In 1997, the Australian Human Rights and Equal Opportunities Commission concluded that the Australian practice of forcible transfer of indigenous children to non-indigenous institutions and families violated article II(e) of the Genocide Convention.[164] According to its report: 'The Inquiry's process of consultation and research has revealed that the predominant aim of Indigenous child removals was the absorption or assimilation of the children into the wider, non-Indigenous, community so that their unique cultural values and ethnic identities would disappear, giving way to models of Western culture . . . Removal of children with this objective in mind is genocidal because it aims to destroy the "cultural unit" which the Convention is concerned to preserve.'[165]

Acts of genocide not punishable under the Convention

Raphael Lemkin described a broad range of acts that might be carried out in the course of commission of genocide, as a frenzied racist regime endeavoured to destroy a group's political, economic, linguistic and cultural existence. The Convention's drafters were more conservative, deliberately excluding what is known as cultural genocide, as well as forced expulsion from the group's homeland, an act known more recently as 'ethnic cleansing'. The destruction of political institutions, including partition, dismemberment or annexation of a sovereign State,

the Crime of Genocide', UN Doc. PCNICC/1999/WGEC/RT.3. See also 'Proposal Submitted by France', UN Doc. PCNICC/1999/GEC/DP.1, pp. 2–3.

163 *France et al*. v. *Goering et al*., (1946) 22 IMT 203 at 480.

164 Australian Human Rights and Equal Opportunities Commission, *Bringing Them Home, Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families*, pp. 270–5, www.austlii.edu.au/au/special/rsjproject/rsjlibrary/hreoc/stolen (consulted 18 March 1999).

165 *Ibid*. The Commission's conclusions were favourably received by the Federal Court of Australia: *Nulyarimma* v. *Thompson*, [1999] FCA 1192, paras. 5–11 (*per* Wilcox J).

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is also excluded from the Convention, as the International Court of Justice noted in its ruling of 13 September 1993.[166]

Cultural genocide

Axis Rule in Occupied Europe attached great attention to the cultural aspects of genocide.[167] Destruction of a people often began with a vicious assault on culture, particular language, religious and cultural monuments and institutions. During the post-war trials, attention had focused on the cultural aspects of the Nazi genocide. In the *RuSHA* case, the defendants were charged with participation in a 'systematic program of genocide' that included 'limitation and suppression of national characteristics'.[168] Evidence revealed that Greifelt and his accomplices carried out 'Germanization' orders from Himmler.[169] In another post-war decision, Artur Greiser was found guilty of 'genocidal attacks on Polish culture and learning'.[170] Amon Leopold Goeth was convicted of '[t]he wholesale extermination of Jews and also of Poles [which] had all the characteristics of genocide in the biological meaning of this term, and embraced in addition destruction of the cultural life of these nations'.[171]

The Secretariat draft divided acts of genocide into three categories, of which the third, entitled 'destroying the specific characteristics of the group', dealt with the crime's cultural manifestations. There were five subcategories: the forcible transfer of children to another human group; forced and systematic exile of individuals representing the culture of a group; the prohibition of the use of the national language even in private intercourse; the systematic destruction of books printed in the national language or of religious works or prohibition of new publications; systematic destruction of historical or religious monuments or their diversion to alien uses; and the destruction or dispersion of documents and objects of historical, artistic or religious value and of objects used in religious worship.

Two of the three experts consulted by the Secretariat opposed inclu-

166 *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro)*), Further Requests for the Indication of Provisional Measures, 13 September 1993, [1993] *ICJ Reports* 325 at 345, para. 42.

167 Lemkin, *Axis Rule*, pp. 84–5.

168 *United States of America* v. *Greifelt et al.*, note 129 above, pp. 36–42.

169 *Ibid.*, p. 12.

170 *Poland* v. *Greiser*, (1948) 13 LRTWC 70 (Supreme National Tribunal of Poland), pp. 112–14; see also *ibid.*, pp. 71–4 and 105.

171 *Poland* v. *Goeth*, (1946) 7 LRTWC 4 (Supreme National Tribunal of Poland).

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sion of cultural genocide, with the exception of 'forced transfer of children'.[172] Otherwise, Donnedieu de Vabres and Pella believed cultural genocide unduly extended genocide, reconstituting the former protection of national minorities which they said was based on other conceptions.[173] This argument emerged as a theme in the debate on cultural genocide. In these initial exchanges, for example, it was maintained that forced assimilation did not constitute genocide, and that '[t]he system of protection of minorities should provide for the protection of minorities against a policy of forced assimilation employing relatively moderate methods'.[174] Nevertheless, Lemkin felt strongly that cultural genocide should be included, and his arguments were compelling. He insisted that a racial, national or religious group cannot continue to exist unless it preserves its spiritual and moral unity.[175]

The United States and France supported the majority of the three experts in excluding acts of cultural genocide. The United States insisted on confining the convention 'to those barbarous acts directed against individuals which form the basic concept of public opinion on this subject. The acts provided for in these paragraphs are acts which should appropriately be dealt with in connection with the protection of minorities.'[176] France maintained the definition should be '[l]imited to physical and biological genocide, for to include cultural genocide invites the risk of political interference in the domestic affairs of States, and in respect of questions which, in fact, are connected with the protection of minorities'.[177] Similarly, the Netherlands said this was 'a human rights issue'.[178]

Siam favoured retaining cultural genocide, and made suggestions aimed at improving the text.[179] So did the Soviet Union, which insisted upon the point in its 'Principles'. While conceding that genocide 'essentially connotes the physical destruction of groups', the Soviet Union argued for coverage of measures and actions aimed against the use of the national language or national culture. It called this 'national-cultural genocide', giving as examples the prohibition or restriction of the use of the national tongue in both public and private life, the destruction or prohibition of the printing and circulation of books and other printed matter in the national tongues, and the destruction of historical or religious monuments, museums, documents, libraries and

[172] UN Doc. E/447, p. 27. [173] *Ibid.* [174] *Ibid.*, pp. 24 and 27.
[175] *Ibid.*, p. 27.
[176] UN Doc. E/623. The United States also wanted to eliminate wording from the preamble that addressed the issue of cultural genocide. The Secretariat draft included 'by depriving it of the cultural and other contributions of the group so destroyed'.
[177] UN Doc. A/401/Add.3. [178] UN Doc. E/623/Add.3.
[179] UN Doc. E/623/Add.4.

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other monuments and objects of national culture or of religious worship.[180]

Early in its work, the *Ad Hoc* Committee decided, by six votes to one, to recognize the principle of the prohibition of cultural genocide.[181] The United States was the dissenting voice: 'The decision to make genocide a new international crime was extremely serious, and the United States believed that the crime should be limited to barbarous acts committed against individuals, which, in the eyes of the public, constituted the basic concept of genocide.'[182] John Maktos, head of the United States delegation and chair of the *Ad Hoc* Committee, reminded the Committee that the General Assembly resolution had been inspired by the systematic massacre of Jews by Nazi authorities during the Second World War. 'Were the Committee to attempt to cover too wide a field in the preparation of a draft convention for example, in attempting to define cultural genocide – however reprehensible that crime might be – it might well run the risk to find that some States would refuse to ratify the convention.'[183] France, while not so openly hostile to the notion, said initially that it 'would adopt a waiting attitude, for, above all, it was necessary to succeed in drafting a convention condemning physical genocide'.[184]

In the *Ad Hoc* Committee debates, Maktos suggested placing cultural genocide in a separate article, so as to 'enable Governments to make reservations on a particular point of the Convention'.[185] But the Soviet Union said 'a Convention constituted a whole which could only be ratified or rejected in its entirety'.[186] Although agreeing with the Soviet delegate, France said it would be useful to put cultural genocide in a separate article to avoid confusion, as the crimes were rather distinct.[187] The Committee decided to insert the notion of cultural genocide in a separate provision.[188]

France expressed concern about the possibility that the problem really fell within the scope of the protection of minorities.[189] The United States also argued that the matter was one of defence of national minorities, especially in time of armed conflict, and on that account it should be included in the conventions regarding war.[190] Even the Soviets seemed alive to the problem, insisting upon the term 'national-cultural' rather than simply 'cultural', 'as the crime had to be considered

[180] UN Doc. E/AC.25/7.
[181] UN Doc. E/AC.25/SR.5, p. 8. The negative vote presumably was the United States.
[182] UN Doc. E/AC.25/SR.14, p. 10. [183] UN Doc. E/AC.25/SR.5, p. 3.
[184] *Ibid.*, p. 5. [185] UN Doc. E/AC.25/SR.10, p. 5.
[186] *Ibid.*, p. 7. [187] *Ibid.*, p. 8.
[188] *Ibid.*, p. 12 (three in favour, one against, with two abstentions).
[189] UN Doc. E/AC.25/SR.14, pp. 8–9. [190] UN Doc. E/AC.25/SR.5, p. 3.

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only from a national standpoint'; otherwise, this might concern individual members of a national minority and should be dealt with not by the convention but by the international bill of rights.[191] Lebanon claimed that General Assembly Resolution 96(I) 'made it a duty for the Committee to mention cultural genocide', although what it meant by this is unclear, because there is no particular reference to cultural genocide in the resolution.[192] The only relevant allusion in the 1946 resolution was in the first preambular paragraph, which deplored the fact that genocide 'results in great losses to humanity in the form of cultural and other contributions represented by these human groups'.[193]

A committee, made up of China, Lebanon, Poland, the Soviet Union and Venezuela, all of whom had been openly favourable to the concept of cultural rights, prepared a new draft:

> In this convention, genocide also means any of the following deliberate acts committed with the intention of destroying the language or culture of a national, racial or religious group on grounds of national or racial origin or religious belief:
> (1) prohibiting the use of the language of the group in daily intercourse or in schools, or prohibiting the printing and circulation of publications in the language of the group;
> (2) destroying, or preventing the use of, the libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.[194]

Lebanon suggested adding the words 'such as' at the end of the first paragraph so that the enumeration would be indicative and not exhaustive. Lebanon also proposed a third paragraph: '(3) subjecting members of a group to such conditions as would cause them to renounce their language, religion or culture.' With these amendments, the article was adopted, by five votes to two (the United States and France).[195]

The Sixth Committee reversed the *Ad Hoc* Committee's decision to include cultural genocide as a punishable act of genocide. France launched the battle, proposing the matter be referred to the Third Committee, which would ensure 'the protection of language, religion

[191] *Ibid.*, p. 2. [192] UN Doc. E/AC.25/SR.5, p. 6.
[193] GA Res. 96(I). [194] UN Doc. E/AC.25/SR.14, p. 13.
[195] *Ibid.*, p. 14. The final *Ad Hoc* Committee text said: 'In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion or culture of a national, racial or religious group on grounds of the national or racial origin or religious belief of its members such as: 1. prohibiting the use of the language of the group in daily intercourse or in schools, or the printing and circulation of publications in the language of the group; 2. destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.'

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and culture within the framework of the international declaration on human rights'.[196] Belgium had a similar amendment: 'Omit, with a view to inclusion among provisions for the protection of human rights. Such transfer could be noted in a resolution.'[197] Sweden noted that the draft provision resembled texts in the post-First World War minorities treaties, agreeing that the genocide convention was not 'the appropriate instrument for such protection'.[198] Iran opposed inclusion of cultural genocide, advocating instead the adoption of a supplementary convention on the subject.[199] Others favouring elimination of a reference to cultural genocide were the United Kingdom,[200] India,[201] the United States,[202] Peru[203] and the Netherlands.[204]

Nevertheless, many States that wanted to retain cultural genocide found the *Ad Hoc* Committee draft too broad. Pakistan submitted an amendment that was more limited than what had been adopted by the *Ad Hoc* Committee.[205] Venezuela recalled that genocide had been defined, in General Assembly Resolution 96(I), as 'a denial of the right of existence of entire human groups', saying this implied protection against cultural genocide.[206] But it warned that the term cultural genocide 'should be used with reference only to violent and brutal acts which were repugnant to the human conscience, and which caused losses of particular importance to humanity, such as the destruction of religious sanctuaries, libraries, etc.'[207] Along the same lines, the Philippines cautioned that the draft provision 'could be interpreted as depriving nations of the right to integrate the different elements of which they were composed into a homogeneous whole as, for instance in the case of language'.[208] Egypt urged that the definition be 'reduced to the very reasonable proportions suggested by the delegation of Pakistan'.[209]

[196] UN Doc. A/C.6/216. See also UN Doc. A/C.6/SR.65 (Chaumont, France).
[197] UN Doc. A/C.6/217. [198] UN Doc. A/C.6/SR.83 (Petren, Sweden).
[199] *Ibid.* (Abdoh, Iran). See also UN Doc. A/C.6/218.
[200] UN Doc. A/C.6/222. [201] UN Doc. A/C.6/SR.83 (Setalvad, India).
[202] *Ibid.* (Gross, United States). [203] *Ibid.* (Goytisolo, Peru).
[204] *Ibid.* (de Beus, Netherlands).
[205] UN Doc. A/C.6/229: 'In this Convention, genocide also means any of the following acts committed with the intent to destroy the religion or culture of a religious, racial or national group: '1. Systematic conversions from one religion to another by means of or by threats of violence. 2. Systematic destruction or desecration of places and objects of religious worship and veneration and destruction of objects of cultural value.'
[206] UN Doc. A/C.6/SR.83.
[207] UN Doc. A/C.6/SR.65 (Pérez-Perozo, Venezuela).
[208] *Ibid.* (Paredes, Philippines).
[209] UN Doc. A/C.6/SR.83 (Raafat, Egypt). See also UN Doc. A/C.6/SR.63 (Raafat, Egypt). In support, see *ibid.* (Tarazi, Syria); *ibid.* (Correa, Ecuador); *ibid.* (Khomussko, Byelorussia); *ibid.* (Tsien Tai, China); UN Doc. A/C.6/SR.65 (Kovalenko, Ukraine); and UN Doc. A/C.6/SR.83 (Morozov, Soviet Union).

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It was clear that the issue had hit a nerve with several countries who were conscious of problems with their own policies towards minority groups, specifically indigenous peoples and immigrants. Sweden noted that the fact it had converted the Lapps to Christianity might lay it open to accusations of cultural genocide.[210] Brazil, said: 'The cultural protection of the group could be sufficiently organized within the international framework of the protection of human rights and of minorities, without there being any need to define as genocide infringements of the cultural rights of the group.'[211] Brazil warned that 'some minorities might have used it as an excuse for opposing perfectly normal assimilation in new countries'.[212] New Zealand argued that even the United Nations might be liable to charges of cultural genocide, because the Trusteeship Council itself had expressed the opinion that 'the now existing tribal structure was an obstacle to the political and social advancement of the indigenous inhabitants'.[213] South Africa endorsed the remarks of New Zealand, insisting upon 'the danger latent in the provisions of article III where primitive or backward groups were concerned'.[214] Canada declared that, if the Committee were to retain the cultural genocide provision, the Canadian government would have to make certain reservations 'as the Canadian Constitution limited the legislative powers of the Federal Government to the benefit of the provincial legislatures'.[215]

[210] UN Doc. A/C.6/SR.83 (Petren, Sweden). [211] *Ibid.* (Amado, Brazil).

[212] UN Doc. A/C.6/SR.133 (Amado, Brazil). See also UN Doc. A/C.6/SR.63 (Amado, Brazil).

[213] UN Doc. A/C.6/SR.83 (Reid, New Zealand). Referring to UN Doc. A/603, concerning Tanganyika.

[214] UN Doc. A/C.6/SR.83 (Egeland, South Africa). See also UN Doc. A/C.6/SR.64 (Egeland, South Africa).

[215] UN Doc. A/C.6/SR.83 (Lapointe, Canada). The National Archives of Canada reveal that 'cultural genocide' was the single most important issue for the Canadian Government. 'The Canadian delegation to the seventh session of Economic and Social Council was instructed to support or initiate any move for the deletion of Article III on "cultural" genocide (see document E/794) and, if this move were not successful, it should vote against Article III and, if necessary, against the whole convention. The delegation was instructed that the convention as a whole, less Article III, was acceptable though legislation will naturally be required in Canada to implement the convention.': 'Commentary for the Use of the Canadian Delegation', NAC RG 25, Vol. 3699, File 5475–DG–3–40"2" (this text is also in NAC RG 25, Vol. 3699, File 5475–DG–1–40). In a report to Ottawa at the conclusion of the debate, the Canadian representative took a rather exaggerated view of his own importance in the debate: 'According to instructions from External Affairs, the Canadian delegate had only one important task, namely to eliminate the concept of "cultural genocide" from the Convention. He took a leading part in the debate on this point and succeeded in having his viewpoints accepted by the Committee. The remaining articles are of no particular concern for Canada. Most of the contentious items have already been settled. The delegates are for the greater part wearying of their own eloquence on the subject and the final articles may well be dealt with during

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On a roll-call vote, the Sixth Committee decided to exclude cultural genocide from the Convention.[216] But the Soviet Union and Venezuela returned to the point in the General Assembly debate on 9 December 1948 with amendments aimed at incorporating cultural genocide in the Convention.[217] Venezuela quickly withdrew its proposal after realizing there was no chance of success.[218] The Soviet proposal was defeated on a roll-call vote.[219]

Many of the delegates had argued against including cultural genocide in the Convention because it was a 'human rights question' more properly addressed under that rubric. Of course, while debate on the Convention was proceeding in the Sixth Committee, the Third Committee was drafting the Universal Declaration of Human Rights.[220] But, despite the sentiments expressed in the Sixth Committee, the protection of the cultural survival of ethnic minorities was not included in the Declaration, which was adopted one day after the final approval of the Genocide Convention.[221] A text on minority rights, based on an original proposal by Hersh Lauterpacht,[222] appeared in the initial drafts of the declaration prepared in the Commission on Human Rights,[223] but ultimately the Commission voted against the idea of a minority rights provision.[224] The delegations in the Sixth Committee who called the issue of cultural genocide a 'human rights issue' to be studied by the

the next two weeks.': 'Progress Reports on Work of Canadian Delegation, in Paris, 1 November 1948', NAC RG 25, Vol. 3699, File 5475–DG–2–40.

216 UN Doc. A/C.6/SR.83 (twenty-five in favour, sixteen against, with four abstentions). See *Yearbook . . . 1991*, Vol. 2 (Part 2), p. 102.

217 The Soviet Union (UN Doc. A/760) proposed the addition of a new article: 'In this Convention genocide also means any deliberate act committed with the intent to destroy the language, religion or culture of a national racial or religious group on grounds of national or racial origin, or religious beliefs, such as: (a) prohibiting the use of the language of the group in daily intercourse or in schools or the printing and circulation of publications in the language of the group; (b) destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.' Venezuela's amendment (UN Doc. A/770) was more modest: 'Systematic destruction of religious edifices, schools or libraries of the group.'

218 UN Doc. A/PV.179.

219 *Ibid.* (fourteen in favour, thirty-one against, with ten abstentions).

220 Note 113 above.

221 On the exclusion of a minority rights provision from the Universal Declaration, see William A. Schabas, 'Les droits des minorités: Une déclaration inachevée', in *La Déclaration universelle des droits de l'homme 1948–98, Avenir d'un idéal commun*, Paris: La Documentation française, 1999, pp. 223–42.

222 Hersh Lauterpacht, *An International Bill of the Rights of Man*, New York: Columbia University Press, 1945. See also UN Doc. E/CN.4/AC.1/3/Add.1, pp. 380–1.

223 UN Doc. E/CN.4/AC.1/3, art. 46; UN Doc. E/CN.4/AC.1/W.2/Rev.2, art. 39; UN Doc. E/CN.4/77/Annex.

224 UN Doc. E/800, p. 38.

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Third Committee were thus well aware the latter was unlikely to give the matter serious treatment. In fact, there was sharp debate about this in the Third Committee, with the United States opposed to a provision and Yugoslavia, the Soviet Union and Denmark in favour. Ultimately, the General Assembly adopted a companion resolution to the Universal Declaration that noted the decision not to have such a provision, calling upon the Sub-Commission on Prevention of Discrimination and Protection of Minorities to study the matter.[225]

Some twenty years later, the General Assembly adopted a text on cultural rights of ethnic minorities, article 27 of the International Covenant on Civil and Political Rights: 'In those States in which ethnic, religious or linguistic minorities exist persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.'[226] In its general comment on article 27, the Human Rights Committee stated:

> With regard to the exercise of the cultural rights protected under article 27, the Committee observes that culture manifests itself in many forms, including a particular way of life associated with the use of land resources, specially in the case of indigenous peoples. That right may include such traditional activities as fishing or hunting and the right to life in reserves protected by law. The enjoyment of those rights may require positive legal measures of protection and measures to ensure the effective participation of members of minority communities in decisions which affect them.[227]

According to the Committee, which is responsible for implementation of the Covenant, the protection of the rights enshrined in article 27 'is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned . . . States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected.'[228] Measures of cultural genocide contemplated during the drafting of the Genocide Convention, such as destruc-

[225] GA Res. 217 C (III).

[226] International Covenant on Civil and Political Rights, (1976) 999 UNTS 171. See Manfred Nowak, *CCPR Commentary*, Kehl: Engel, 1993; Dominic McGoldrick, *The Human Rights Committee*, Oxford: Clarendon Press, 1991; Louis Henkin, ed., *The International Bill of Rights: The Covenant on Civil and Political Rights*, New York: Columbia University Press, 1981; Marc. J. Bossuyt, *Guide to the 'Travaux préparatoires' of the International Covenant on Civil and Political Rights*, Dordrecht: Martinus Nijhoff, 1987.

[227] 'General Comment No. 23 (art. 27)', UN Doc. CCPR/C/21/Rev.1/Add.5, para. 7 (reference omitted). See also the views of the Committee on these issues: *Lubicon Lake Band (Bernard Ominayak)* v. *Canada* (No. 167/1984), UN Doc. CCPR/C/38/D/167/1984, UN Doc. A/45/40, Vol. II, p. 1, 11 HRLJ 305; *Kitok* v. *Sweden* (No. 197/1985), UN Doc. A/43/40, p. 221.

[228] 'General Comment No. 23 (art. 27)', note 227 above, para. 9.

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tion of libraries and the suppression of the minority language, obviously fall within the ambit of article 27. In its general comment on reservations, the Committee declared that the minority rights set out in article 27 are customary norms.[229]

Cultural rights of minorities are also protected by instruments of international humanitarian law, applicable in armed conflict. The regulations annexed to the fourth Hague Convention of 1907 prohibit '[a]ll seizure of, destruction or wilful damage done to institutions of this character, historic monuments, works of art and science'.[230] Protocol Additional I to the Geneva Conventions defines 'extensive destruction' of 'clearly-recognized historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples' as a grave breach under certain conditions.[231] A specialized instrument, the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, also applies in this context.[232]

Nevertheless, in light of the *travaux préparatoires* of the Genocide Convention, it seems impossible to consider acts of cultural genocide as punishable crimes if they are unrelated to physical or biological genocide. According to the International Law Commission:

> As clearly shown by the preparatory work for the Convention, the destruction in question is the material destruction of a group either by physical or by biological means, not the destruction of the national, linguistic, religious, cultural or other identity of a particular group. The national or religious element and the racial or ethnic element are not taken into consideration in the definition of the word 'destruction', which must be taken only in its material sense, its physical or biological sense. It is true that the 1947 draft Convention prepared by the Secretary-General and the 1948 draft prepared by the *ad hoc* Committee on Genocide contained provisions on 'cultural genocide' covering any deliberate act committed with the intent to destroy the language, religion or culture of a group, such as prohibiting the use of the language of the group in daily intercourse or in schools or the printing and circulation of publications in the language of the group or destroying or preventing the use of libraries, museums, schools, historical monuments, places of worship or other cultural institutions and objects of the group.[233]

[229] 'General Comment No. 24', UN Doc. CCPR/C/21/Rev.1/Add.6, para. 8.

[230] Convention (IV) Respecting the Laws and Customs of War by Land, [1910] UKTS 9, annex, art. 46. For a case where the destruction of monuments was considered a violation of art. 56 of the regulations annexed to Hague Convention IV, which protects cultural monuments, see *Karl Lingenfelder*, (1949) 8 LRTWC 67 (Permanent Military Tribunal, Metz).

[231] Protocol Additional I to the 1949 Geneva Conventions and Relating to the Protection of Victims of International Armed Conflicts, (1979) 1125 UNTS 3, art. 53(a).

[232] Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, (1954) 249 UNTS 240.

[233] 'Report of the International Law Commission on the Work of Its Forty-Eighth

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The cultural component remains relevant as evidence of the intent to destroy a group. Proof an accused was involved in the destruction of cultural monuments or similar acts directed against the culture of the group will aid a tribunal in assessing the elements of intent and motive. In its hearing into charges of genocide in *Karadzic and Mladic*,[234] the International Criminal Tribunal for the Former Yugoslavia heard a UNESCO expert on cultural heritage describe the destruction of monuments in Mostar and other towns in Bosnia and Herzegovina.[235] He concluded that this constituted an attempt to change 'the physical environment' by destroying cultural evidence of a culture or civilization. Asked by Judge Riad whether this was part of a strategy, he answered:

> Well, if it was not the strategy at the beginning of the war, it certainly became part of the strategy. You cannot possibly have 1,183 damaged mosques without something fairly deliberate being done. I return back to my original position: it certainly became one, it was very useful, but destruction or damaging of a minaret is clearly a sign to a population. I know of an example in western Herzegovina where you have a village which is totally undisturbed, with a village of Muslims in 1993, and then in 1994 or 1995 you have one shot on the minaret. This is a signal. Hitting a minaret is also one way of chasing, chasing the people.[236]

The Tribunal concluded: 'The destruction of mosques or Catholic churches is designed to annihilate the centuries-long presence of the group or groups; the destruction of the libraries is intended to annihilate a culture which was enriched through the participation of the various national components of the populations.'[237]

Critics of the Convention continue to lament the absence of cultural genocide,[238] although among international lawmakers this is a dead issue. Neither the International Law Commission nor the drafters of the Rome Statute seriously entertained adding cultural genocide to the list

Session, 6 May–26 July 1996', note 2 above, pp. 90–1; see also 'Report of the Commission to the General Assembly on the Work of Its Forty-First Session', note 20 above, p. 102, para. (4).

234 According to Rule 61 of the Rules of Procedure and Evidence of the International Criminal Tribunal for the Former Yugoslavia, UN Doc. IT–14, where the Tribunal is unable to obtain custody of the accused, the prosecutor may present evidence and, if the Tribunal is satisfied that there are 'reasonable grounds for believing that the accused has committed all or any of the crimes charged in the indictment, it shall so determine and may issue an international arrest warrant'.

235 *Prosecutor* v. *Karadzic and Mladic* (Case Nos. IT–95–18–R61, IT–95–5–R61), Transcript of hearing, 2 July 1996, pp. 35–59.

236 *Ibid.*, p. 59.

237 *Prosecutor* v. *Karadzic and Mladic*, note 62 above, para. 94. See also *Prosecutor* v. *Karadzic and Mladic* (Case No. IT–95–5–I), Indictment, 25 July 1995, para. 31.

238 Whitaker, 'Revised Report', note 32 above, p. 17, para. 32; Lippman, 'Drafting', pp. 62–3.

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of punishable acts. Recognizing that 'cultural genocide' does not fall within the ambit of the Convention, another term, 'ethnocide', appears in the academic literature,[239] documents of international human rights organs[240] and even in international instruments.[241] According to the UNESCO 'Declaration of San Jose':

> Ethnocide means that an ethnic group is denied the right to enjoy, develop and transmit its own culture and its own language, whether individually or collectively. This involves an extreme form of massive violation of human rights . . .
>
> 1. We declare that ethnocide, that is, cultural genocide, is a violation of international law equivalent to genocide, which was condemned by the United Nations Convention on the Prevention and Punishment of the Crime of Genocide.[242]

Of course cultural genocide is not 'a violation of international law equivalent to genocide', because no international instrument exists making it a punishable act. Moreover, in light of the above, it would be implausible to argue that there was some customary norm to fill the void in the Convention on this issue.

'Ethnic cleansing'

The expression 'ethnic cleansing' first appeared in 1981 in Yugoslav media accounts of the establishment of 'ethnically clean territories' in

[239] Ben Kiernan, 'Genocide and "ethnic cleansing"', in Robert Wuthnow, ed., *The Encyclopedia of Politics and Religion*, Vol. I, Washington: Congressional Quarterly, 1998, pp. 294–9, at p. 195; C. C. Tennant and M. E. Turpel, 'A Case Study of Indigenous Peoples: Genocide, Ethnocide and Self-Determination', (1990–1) 59–60 *Nordic Journal of International Law*, p. 287; G. Weiss, 'The Tragedy of Ethnocide: A Reply to Hippler', in J. H. Bodley, ed., *Tribal Peoples and Development Issues: A Global Overview*, Mountain View, CA: Mayfield Publishing Co., 1988, pp. 124–33; Frank Chalk and Kurt Jonassohn, 'The Conceptual Framework', in Frank Chalk and Kurt Jonassohn, eds., *The History and Sociology of Genocide*, New Haven and London: Yale University Press, 1990, pp. 3–43 at p. 23; Natan Lerner, *Group Rights and Discrimination in International Law*, Dordrecht, Boston and London: Martinus Nijhoff, 1990, p. 143; Israel W. Charney, 'Toward a Generic Definition of Genocide', in George J. Andreopoulos, *Genocide, Conceptual and Historical Dimensions*, Philadelphia: University of Pennsylvania Press, 1994, pp. 64–94 at p. 85; Barbara Harff, 'Recognizing Genocides and Politicides', in Helen Fein, ed., *Genocide Watch*, New Haven: Yale University Press, 1991, pp. 27–41 at p. 29; Robert Jaulin, *La Décivilisation: politique et pratique de l'ethnocide*, Brussels: Editions Complexe, 1974; Robert Jaulin, *La paix blanche; introduction à l'ethnocide*, Paris: Editions du Seuil, 1970.

[240] Whitaker, 'Revised Report', note 32 above, p. 17, para. 33.

[241] UNESCO Latin-American Conference, Declaration of San Jose, 11 December 1981, UNESCO Doc. FS 82/WF.32 (1982), reproduced in James Crawford, *The Rights of Peoples*, Oxford: Clarendon Press, 1988.

[242] *Ibid.*

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Kosovo.[243] The term entered the international vocabulary in 1992, used to describe policies being pursued by the various parties to the Yugoslav conflict aimed at creating ethnically homogeneous territories.[244] There have been a number of attempts at definition. According to the Security Council's Commission of Experts on violations of humanitarian law during the Yugoslav war: 'The expression "ethnic cleansing" is relatively new. Considered in the context of the conflicts in the former Yugoslavia, "ethnic cleansing" means rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area.'[245] The Commission considered techniques of ethnic cleansing to include murder, torture, arbitrary arrest and detention, extra-judicial executions, and sexual assault, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian populations, deliberate military attacks or threats of attacks on civilians and civilian areas, and wanton destruction of property.[246] During the Rule 61 hearing in *Karadzic and Mladic*, the prosecutor of the International Criminal Tribunal for the Former Yugoslavia was asked to define the term. He said:

> Well, ethnic cleansing is a practice which means that you act in such a way that in a given territory the members of a given ethnic group are eliminated. It means a practice that aims at such and such a territory be, as they meant, ethnically pure. So, in other words, that that territory would no longer contain only members of the ethnic group that took the initiative of cleansing the territory.
>
> So, in other words, the members of the other group are eliminated by different ways, by different methods. You have massacres. Everybody is not massacred, but I mean in terms of numbers, you have massacres in order to scare these populations. Sometimes these massacres are selective, but they aim at eliminating the elite of a given population, but they are massacres. I mean, that is the point. So whenever you have massacres, naturally the other people are driven away. They are afraid. They try to run away and you find yourself with a high number of a given people that have been massacred, persecuted and, of

[243] Drazen Petrovic, 'Ethnic Cleansing – An Attempt at Methodology', (1994) 5 EJIL, p. 342 at p. 343.

[244] See Norman Cigar, *Genocide in Bosnia: The Policy of Ethnic Cleansing*, College Station, TX: Texas A&M University Press, 1995; Nathan Lerner, 'Ethnic Cleansing', (1994) 24 *Israel YBHR*, p. 103; John Webb, 'Genocide Treaty – Ethnic Cleansing – Substantive and Procedural Hurdles in the Application of the Genocide Convention to Alleged Crimes in the Former Yugoslavia', (1993) 23 *Georgia Journal of International and Comparative Law*, p. 377; Damir Mirkovic, 'Ethnic Cleansing and Genocide: Reflections on Ethnic Cleansing in the Former Yugoslavia', (1996) 548 *Annals of the American Academy of Political and Social Science*, p. 191; Andrew Bell-Fialkoff, 'A Brief History of Ethnic Cleansing', *Foreign Affairs*, Summer 1993, pp. 110–21.

[245] 'Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)', UN Doc. S/35374 (1993), para. 55. See also Bassiouni and Manikas, *International Criminal Tribunal*, p. 608.

[246] UN Doc. S/25274 (1993), para. 56.

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course, in the end these people simply want to leave. They also submitted to such pressures that they go away. They are driven away either on their own initiative or they are deported. But the basic point is for them to be out of that territory and some of them are sometimes locked up in camps. Some women are raped and, furthermore, often times what you have is the destruction of the monuments which marked the presence of a given population in a given territory, for instance, religious places, Catholic churches or mosques are destroyed.

So basically, this is how ethnic cleaning is practised in the course of this war.[247]

The Special Rapporteur of the Commission on Human Rights, Tadeusz Mazowiecki, said that '"[e]thnic cleansing" may be equated with a systematic purge of the civilian population with a view to forcing it to abandon the territories in which it lives'.[248] The Commission itself, in the resolution adopted during its first special session in August 1992, said that 'ethnic cleansing . . . at a minimum entails deportations and forcible mass removal or expulsion of persons from their homes in flagrant violation of their human rights, and which is aimed at the dislocation or destruction or national ethnic racial or religious groups'.[249] *Ad hoc* Judge Elihu Lauterpacht of the International Court of Justice defined ethnic cleansing as 'the forced migration of civilians'.[250] In a speech to the Security Council, Sir David Hannay of the United Kingdom said it was 'the forcible removal of civilian populations'.[251] Ambassador Colin Keating of New Zealand, in the General Assembly, said the term ethnic cleansing 'covered a multitude of gross violations of human rights such as systematic expulsion, forcible relocation, destruction of dwellings, degrading treatment of human beings, rape and killings'.[252] A member of the Committee for the Elimination of Racial Discrimination described ethnic cleansing as a form of 'enforced segregation'.[253] In a 1998 resolution, the Sub-Commission on Prevention of Discrimination and Protection of Minorities described it as 'forcible displacement of populations within a country or across borders'.[254]

[247] *Prosecutor* v. *Karadzic and Mladic* (Case Nos. IT–95–18–R61, IT–95–5–R61), Transcript of hearing, 28 June 1996, p. 10.

[248] UN Doc. S/PV.3134, para. 39. In an early report, Mazowiecki defined ethnic cleansing as 'the elimination by the ethnic group exerting control over a given territory of members of other ethnic groups': UN Doc. A/47/666, UN Doc. S/24809 (1992).

[249] 'The Situation of Human Rights in the Territory of the Former Yugoslavia', CHR Res. 1992/S–1/1, preamble.

[250] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro)*), note 165 above, Separate Reasons of Judge *ad hoc* Lauterpacht, p. 431, para. 69.

[251] UN Doc. S/PV.3106 (1992), p. 36.

[252] UN Doc. A/C.3/48/SR.6, para. 29.

[253] UN Doc. A/CERD/SR.1003.

[254] 'Forced Population Transfer', SCHR Res. 1998/27.

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The expression 'ethnic cleansing' began to appear in the documents of international bodies in August 1992. That month, the term was used, always within quotation marks, in resolutions of the Security Council,[255] the General Assembly,[256] the Commission on Human Rights[257] and the Economic and Social Council.[258] The quotation marks reflected the view that the term had been coined by the perpetrators themselves,[259] although by 1994 the General Assembly no longer used the quotation marks.[260]

The Commission of Experts appointed by the Security Council stated that '"[e]thnic cleansing" is contrary to international law'.[261] It suggested that in some cases 'ethnic cleansing' could be considered a breach of the Genocide Convention:

> Based on the many reports describing the policy and practices conducted in the former Yugoslavia, 'ethnic cleansing' has been carried out by means of murder, torture, arbitrary arrest and detention, extrajudicial executions, rape and sexual assault, confinement of civilian population in ghetto areas, forcible removal, displacement and deportation of civilian population, deliberate military attacks or threats of attacks on civilians and civilian areas, and wanton destruction of property. Those practices constitute crimes against humanity and can be assimilated to specific war crimes. Furthermore, such acts could also fall within the meaning of the Genocide Convention.[262]

The most affirmative assertion that ethnic cleansing is equivalent to genocide appears in a December 1992 General Assembly resolution that evokes 'the abhorrent policy of "ethnic cleansing", which is a form of genocide'.[263] This reference has been reaffirmed in a number of subsequent resolutions.[264] During the debates on the December 1992 resolu-

[255] UN Doc. S/RES/771 (1992), para. 2.
[256] UN Doc. A/RES/46/242, preamble, paras. 6 and 8.
[257] UN Doc. E/CN.4/1992/84/Add.1. [258] ECOSOC Res. 1992/305.
[259] UN Doc. S/PV.3106 (1992), p. 22.
[260] 'The Situation in Bosnia and Herzegovina', UN Doc. A/RES/49/10; 'The Situation in the Occupied Territories of Croatia', UN Doc. A/RES/49/43; 'Third Decade to Combat Racism and Racial Discrimination', UN Doc. A/RES/49/146.
[261] 'Interim Report of the Commission of Experts Established Pursuant to Security Council Resolution 780 (1992)', note 245 above, para. 55.
[262] *Ibid.*, para. 56.
[263] 'The Situation in Bosnia and Herzegovina', UN Doc. A/RES/47/121. UN Doc. A/47/PV.91, p. 99 (102 in favour, with 57 abstentions, on a recorded vote). The abstentions concerned a provision in the resolution calling for an arms embargo to be lifted, and had nothing to do with the reference to genocide.
[264] 'Situation of Human Rights in the Territory of the Former Yugoslavia: Violations of Human Rights in the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia (Serbia and Montenegro)', UN Doc. A/RES/48/153; 'Rape and Abuse of Women in the Areas of Armed Conflict in the Former Yugoslavia', UN Doc. A/RES/48/143; 'Rape and Abuse of Women in the Areas of Armed Conflict in the Former Yugoslavia', UN Doc. A/RES/49/205; 'Rape and Abuse

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tion, several delegates described ethnic cleansing as 'genocide'[265] or, more frequently, 'genocidal',[266] as well as a 'crime against humanity'[267] and a form of 'apartheid'.[268] The debates are, however, embarrassingly laconic with respect to the assertion that ethnic cleansing is a form of genocide, considering the months that the General Assembly devoted to defining the crime in 1948. Significantly, another resolution adopted by consensus at the same session in December 1992, entitled '"Ethnic Cleansing" and Racial Hatred', approached the question from the standpoint of racial discrimination and the protection of minorities and did not even refer to genocide or to the Convention.[269]

In other debates in both the General Assembly and the Security Council, several delegations have equated genocide with ethnic cleansing, among them Malaysia,[270] Pakistan,[271] Egypt,[272] Iran,[273] Bangladesh,[274] the Czech Republic[275] and Senegal.[276] But most countries use the term 'ethnic cleansing' in a way that suggests they understand it is distinct from genocide, although related.[277] There has also been occasional reference to 'religious cleansing' in debates in the United Nations organs.[278]

Whether ethnic cleansing corresponds to genocide was also addressed before the International Court of Justice, in Bosnia's 1993 application against Yugoslavia. Bosnia named Professor Elihu Lauterpacht of Cambridge University as its *ad hoc* judge, in accordance with article 31(3) of the Statute of the International Court of Justice. In the Court's 13 September 1993 ruling on provisional measures, Judge Lauterpacht appended a separate opinion in which he asked 'Has Genocide Been Committed?' He noted 'the forced migration of civilians, more commonly known as "ethnic cleansing", is, in truth, part of a deliberate

of Women in the Areas of Armed Conflict in the Former Yugoslavia', UN Doc. A/RES/50/192; 'Rape and Abuse of Women in the Areas of Armed Conflict in the Former Yugoslavia', UN Doc. A/RES/51/115.

265 UN Doc. A/47/PV.86, p. 31 (Jaya, Brunei Darussalam); UN Doc. A/47/PV.87, pp. 14–15 (Khoshroo, Iran); UN Doc. A/47/PV.87, pp. 24–5 (Elaraby, Egypt); UN Doc. A/47/PV.87, p. 46 (Huq, Bangladesh); UN Doc. A/47/PV.88, p. 22 (Shkurti, Albania).

266 UN Doc. A/47/PV.86, p. 21 (Nobilo, Croatia); UN Doc. A/47/PV.86, p. 48 (Pirzada, Pakistan); UN Doc. A/47/PV.87, p. 2 (Al-Ni'mah, Qatar); UN Doc. A/47/PV.88, p. 65 (Ansay, Organization of the Islamic Conference).

267 UN Doc. A/47/PV.86, p. 46 (Cissé, Senegal); UN Doc. A/47/PV.88, p. 65 (Ansay, Organization of the Islamic Conference).

268 UN Doc. A/47/PV.88, p. 12 (Arria, Venezuela).

269 UN Doc. A/RES/47/80. See also 'Third Decade to Combat Racism and Racial Discrimination', GA Res. 48/91.

270 UN Doc. S/52/PV.71, p. 7.

271 *Ibid.*, p. 12.

272 UN Doc. A/48/PV.82, p. 17.

273 UN Doc. S/PV.3136, para. 68.

274 UN Doc. S/PV.3137, para. 111.

275 UN Doc. A/C.3/48/SR.10, para. 2.

276 UN Doc. A/48/PV.83, p. 9.

277 *Ibid.*; UN Doc. A/48/PV.84

278 UN Doc. A/C.3/48/SR.5, para. 17; UN Doc. A/C.3/48/SR.9, para. 54.

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campaign by the Serbs to eliminate Muslim control of, and presence in, substantial parts of Bosnia-Herzegovina':

> Such being the case, it is difficult to regard the Serbian acts as other than acts of genocide in that they clearly fall within categories (a), (b) and (c) of the definition of genocide quoted above, they are clearly directed against an ethnical or religious group as such, and they are intended to destroy that group, if not in whole certainly in part, to the extent necessary to ensure that that group no longer occupies the parts of Bosnia-Herzegovina coveted by the Serbs. The Respondent stands behind the Bosnian Serbs and it must, therefore, be seen as an accomplice to, if not an actual participant in, this genocide behaviour.
>
> Should there be any disposition to regard 'ethnic cleansing' as no more than an aspect of a particularly vicious territorial conflict between Serbs and Muslims . . . it must be recalled that the respondent has itself also characterized 'ethnic cleansing or comparable conduct' as genocide . . . Since the evidence presently before the Court of such 'genocide against the Serb ethnic group' is of a limited kind, and in terms of expulsion by Bosnian Muslims of Bosnian Serbs from the areas in which they were living does not approach the same order of magnitude as the expulsion of Bosnian Muslims by the Serbs, it would appear *a fortiori* that the Respondent also regards the 'ethnic cleansing' as carried out in this conflict as a breach of Article II of the Genocide Convention.[279]

Judge Lauterpacht declared he was prepared to order, pursuant to the Genocide Convention, 'a prohibition of "ethnic cleansing" or conduct contributing thereto such as attacks and firing upon, sniping at and killing of non-combatants, and bombardment and blockade of areas of civilian occupation and other conduct having as its effect the terrorization of civilians in such a manner as to lead them to abandon their homes'.[280] These individual views were not, however, echoed in the majority decision.

In the academic literature, 'ethnic cleansing' has sometimes been described as a euphemism for genocide.[281] The special rapporteur of the Commission on Human Rights on extrajudicial, summary and arbitrary executions has also said ethnic cleansing is a euphemism for genocide.[282]

The term 'ethnic cleansing' was unknown at the time the Genocide Convention was drafted. But the notion of 'rendering an area ethnically

[279] *Application of the Convention on the Prevention and Punishment of the Crime of Genocide* (*Bosnia and Herzegovina* v. *Yugoslavia (Serbia and Montenegro)*), note 166 above, Separate Reasons of Judge *ad hoc* Lauterpacht, pp. 431–2, paras. 68–70.

[280] *Ibid*., p. 447, para. 123(A)(ii).

[281] Petrovic, 'Ethnic Cleansing'; Mackinnon, 'Rape', p. 8; Lori Lyman Bruun, 'Beyond the 1948 Convention – Emerging Principles of Genocide in Customary International Law,' (1993) 17 *Maryland Journal of International Law and Trade*, p. 193 at p. 200. See also Webb, 'Genocide Treaty', pp. 402–3.

[282] 'Extrajudicial, Summary or Arbitrary Executions, Note by the Secretary-General', UN Doc. A/51/457, para. 69.

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homogeneous by using force or intimidation to remove persons of given groups from the area' has a long history in international relations, and only in the late twentieth century has it come to be understood as a serious human rights violation.[283] For example, in post-war Europe, the Allies forcibly removed ethnic German populations from areas in Western Poland. As many as 15 million Germans were expelled and resettled pursuant to Article XIII of the 1945 Potsdam Protocol.[284] Indeed, during the drafting of the Convention, the United States expressed concern that the proposed definition of the crime 'might be extended to embrace forced transfers of minority groups such as have already been carried out by members of the United Nations'.[285] And while the Convention was being drafted, Palestinians were 'cleansed' of areas in the new state of Israel.[286]

Another contemporary indication of the acceptability of 'ethnic cleansing' appears in the debates of the 1952 session of the prestigious Institut de Droit International. Rapporteur Giorgio Balladore Pallieri listed twenty 'population transfer' treaties between 1913 and 1945, admitting that 'il n'y a jamais de transfert vraiment volontaire des

[283] Jennifer Jackson Preece, 'Ethnic Cleansing as an Instrument of Nation-State Creation: Changing State Practices and Evolving Legal Norms', (1998) 20 HRQ, p. 817.

[284] A. De Zayas, 'International Law and Mass Population Transfers', (1975) 16 *Harvard International Law Journal*, p. 207; A. De Zayas, *Nemesis at Potsdam; The Expulsion of the Germans from the East*, Lincoln, NE: University of Nebraska Press, 1989; Freiherr Von Braun, 'Germany's Eastern Border and Mass Expulsions', (1964) 58 AJIL, p. 747.

[285] 'Comments by Governments on the Draft Convention Prepared by the Secretariat, Communications from Non-Governmental Organizations', UN Doc. E/623. The United States cited specifically para. 3(b): 'Destroying the specific characteristics of the group by . . . (b) Forced and systematic exile of individuals representing the culture of a group . . .' The fears of the United States were not totally misplaced. One academic writer has said that 'the expulsion of Germans and of persons of German descent living in the former eastern provinces of Germany and in eastern and south-eastern European countries frequently took place under conditions that are classifiable as genocide': Hans-Heinrich Jescheck, 'Genocide', in Rudolph Bernhardt, ed., *Encyclopedia of Public International Law*, Vol. II, Amsterdam: North-Holland Elsevier, 1995, pp. 541–4 at p. 541. During the United States Senate's consideration of the Genocide Convention in 1950, James Finucane of the National Council for the Prevention of War testified about the United States' 'genocidal intent, or genocidal carelessness, at Potsdam': United States of America, *Hearings Before a Subcommittee of the Committee on Foreign Relations, United States Senate*, *Jan. 23, 24, 25, and 9 February 1950*, Washington: United States Government Printing Office, 1950, p. 312.

[286] Mark Tessler, *A History of the Israeli–Palestinian Conflict*, Bloomington and Indianapolis: Indiana University Press, 1994, pp. 291–307; Baruch Kimmerling and Joel S. Migdal, *Palestinians: The Making of a People*, New York: The Free Press, 1993, pp. 146–56; Benny Morris, *1948 and After: Israel and the Palestinians*, Oxford: Clarendon Press, 1990, p. 22; John Quigley, 'Displaced Palestinians and a Right of Return', (1998) 39 *Harvard International Law Journal*, p. 171.

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populations'.[287] Pallieri concluded, with the logic of an ethnic cleanser, that there was nothing in international law to oppose the legitimacy of population transfers and that they were even, in certain circumstances, desirable. They were the consequences of the legitimate desire of all modern States to have loyal citizens, he said.[288] Pallieri's analysis was well received by most of the members of the Institute, including Max Huber, Jean Spiropoulos and Fernand de Visscher. Georges Scelle stood alone, deeming the whole idea repulsive and incompatible with the emerging law of human rights.

There is no doubt the drafters of the Convention quite deliberately resisted attempts to encompass the phenomenon of ethnic cleansing within the punishable acts. According to the comments accompanying the Secretariat draft, the proposed definition excluded 'certain acts which may result in the total or partial destruction of a group of human beings . . . namely . . . mass displacements of population'.[289] The commentary continued: 'Mass displacement of populations from one region to another also does not constitute genocide. It would, however, become genocide if the occupation were attended by such circumstances as to lead to the death of the whole or part of the displaced population (if, for example, people were driven from their homes and forced to travel long distances in a country where they were exposed to starvation, thirst, heat, cold and epidemics).'[290] The unspoken reference here is to the mass displacement of Armenians within the Ottoman Empire in 1915, where the exposure to starvation, thirst, heat, cold and epidemics resulted in the death of hundreds of thousands.

In the Sixth Committee, Syria proposed an amendment to the definition of genocide corresponding closely to the contemporary notion of 'ethnic cleansing'. The Syrian amendment read: 'Imposing measures intended to oblige members of a group to abandon their homes in order to escape the threat of subsequent ill-treatment.'[291] The Syrian representative said: 'The problem of refugees and displaced persons to which his delegation's proposal referred had arisen at the end of the Second World War and remained extremely acute.'[292] Yugoslavia supported the amendment, citing the Nazis' displacement of Slav populations from a part of Yugoslavia in order to establish a German majority. 'That action was tantamount to the deliberate destruction of a group', said the Yugoslav delegate. 'Genocide could be committed by forcing members

[287] Giorgia Balladore Pallieri, 'Les transferts internationaux de populations', (1952) 2 AIDI, p. 138–99 at pp. 142–3.
[288] *Ibid.*, p. 149. [289] UN Doc. E/447, p. 23. [290] *Ibid.*, p. 24.
[291] UN Doc. A/C.6/234. [292] UN Doc. A/C.6/SR.82 (Tarazi, Syria).

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of a group to abandon their homes', he added.[293] But the United States argued that the Syrian proposal 'deviated too much from the original concept of genocide'.[294] For the United Kingdom, 'the problem raised by the Syrian amendment was a serious one but did not fall within the definition of genocide'.[295] The Soviets said: 'Measures compelling members of a group to abandon their homes, in the case of acts committed under the Hitler regime, were rather a consequence of genocide.'[296] The Syrian amendment was resoundingly defeated, by twenty-nine votes to five, with eight abstentions.[297]

During discussion of the 'Elements of Crimes' of the Rome Statute, the 'Arab Group' criticized a United States draft for failing to deal with the practice of ethnic cleansing as a means of genocide within the context of article 6(b)(iii) of the Statute, which corresponds to article II(c) of the Convention. Accordingly: 'This confirms the difficulty of enumerating all the so-called elements of crimes. It is more than likely that future events in the world will reveal other forms of genocide that have not been mentioned in this or similar proposals.'[298]

In the confirmation of the Srebrenica indictment (second indictment) in *Karadzic and Mladic*, Judge Riad referred to 'ethnic cleansing' as a form of genocide:

> The mass executions described in the indictment were evidently systematic, being organized by the military and political hierarchy of the Serbian administration of Pale, apparently with close support from elements of the army of the Federal Republic of Yugoslavia (Serbia-Montenegro). These executions were committed in the context of a broader policy of 'ethnic cleansing' which is directed against the Bosnian Muslim population and which also includes massive deportations. This policy aims at creating new borders by violently changing the national or religious composition of the population. As a result of this policy, the Muslim population of Srebrenica was totally banished from the area.
>
> The policy of 'ethnic cleansing' referred to above presents, in its ultimate manifestation, genocidal characteristics. Furthermore, in this case, the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, which is specific to genocide, may clearly be inferred from the gravity of the 'ethnic cleansing' practised in Srebrenica and its surrounding areas, i.e. principally, the mass killings of Muslims which occurred after the fall of Srebrenica in July

[293] *Ibid.* (Bartos, Yugoslavia). [294] *Ibid.* (Maktos, United States).
[295] *Ibid.* (Fitzmaurice, United Kingdom). [296] *Ibid.* (Morozov, Soviet Union).
[297] UN Doc. A/C.6/SR.82.
[298] 'Proposal by Algeria, Bahrain, Comoros, Djibouti, Egypt, Jordan, Iraq, Kuwait, Lebanon, Libyan Arab Jamahiriya, Morocco, Oman, Palestine, Qatar, Saudi Arabia, the Sudan, the Syrian Arab Republic, Tunisia, United Arab Emirates and Yemen, Comments on the Proposal Submitted by the United States of America Concerning Terminology and the Crime of Genocide', UN Doc. PCNICC/1999/WGEC/DP.4, p. 3.

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1995, which were committed in circumstances manifesting an almost unparalleled cruelty.[299]

A similar interpretation was adopted by Trial Chamber I (Jorda, Odio-Benito and Riad), in its Rule 61 decision in *Nikolic*. The judges invited the Prosecutor to amend the indictment, 'if feasible and advisable', adding complicity in genocide or acts of genocide:

It emerged on the basis of the record that the policy of discrimination implemented at Blasenica, of which Dragan Nikolic's acts formed a part, was specifically aimed at 'cleansing' the region of its Muslim population. In this instance, the policy of 'ethnic cleansing' took the form of discriminatory acts of extreme seriousness which tend to show its genocidal character. For instance, the Chamber notes the statements by some witnesses which point, among other crimes, to mass murders being committed in the region . . . The Chamber considers that the Tribunal may possibly have jurisdiction in this case under Article 4 of the Statute.[300]

In the *Tadic* judgment, the Tribunal spoke of the horrors of ethnic cleansing but stopped shy of using the word genocide.[301] Indeed, Tadic

[299] *Prosecutor* v. *Karadzic and Mladic* (Case No. IT–95–18–I), Confirmation of Indictment, p. 4.

[300] *Prosecutor* v. *Nikolic* (Case No. IT–95–2–R61), Review of Indictment Pursuant to Rule 61, 20 October 1995, para. 34. During the hearing, Judge Jorda asked expert witness James Gow, of King's College, London, whether 'the concept of ethnic cleansing is to be found somewhere, either officially or in documents or proclamations as organized plans'. Professor Gow answered: 'The term ethnic cleansing has been widely used. It does have some history, but it has come to prominence and has been used in a widespread way in connection with the war in Bosnia and Herzegovina and, particularly, with the Serbian campaign there. The term is often attributed to one of the Serbian paramilitary leaders, Vojislav Seselj, in the current context. It has also been used by one of the other Serbian paramilitary leaders, Zeljko Raznjatovic (Arkan), and there is some film evidence, I believe, in which Arkan is giving instructions to his troops to be careful in this particular cleansing operation. But to say that there is some official document in which a plan for ethnic cleansing appears, I think, would be to take – would be to make too strong a statement. I have seen no evidence of an official document in which the term "ethnic cleansing" is used, but the term has been used and it has been used by some of the people involved in the activity that they have been carrying out.' *Prosecutor* v. *Nikolic* (Case No. IT–95–2–R61), Transcript, 9 October 1995.

[301] *Prosecutor* v. *Tadic* (Case No. IT–94–1–T), Opinion and Judgment, 7 May 1997, para. 62: 'Many of these hard-fought and bloody conflicts took place in Bosnia and Herzegovina and many of the outrages against civilians, especially though by no means exclusively by Ustasa forces against ethnic Serbs, also took place there, particularly in the border area between Croatia and Bosnia and Herzegovina, where the Partisans were especially active and which is the very area in which Prijedor lies. A minister of the wartime Croatian puppet government had promised to kill a third of the Serbs in its territory, deport a third and by force convert the remaining third to Catholicism. Another urged the cleansing of all of the greatly enlarged Croatia of "Serbian dirt". Wholesale massacres of Serbs ensued; in six months of 1941 the Ustasa may have killed well over a quarter of a million Serbs, although the exact number is a subject of much controversy. Bulgarian and Hungarian occupying forces in other parts of

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was not even indicted for genocide. Trial Chamber II, in contrast with the *Nikolic case*, never suggested that Tadic might also have been charged with genocide.[302]

In any case, the Office of the Prosecutor seemed unimpressed with the proposal to amend the *Nikolic* indictment. More generally, it has been extremely cautious in laying charges of genocide. The prosecutor addressed the acts of ethnic cleansing carried out by the Milosevic regime in Kosovo in early 1999 under the rubrics of 'deportation' and 'persecutions', both of which belong within the general category of crimes against humanity.[303]

The opinion expressed in certain resolutions of the General Assembly and by some writers that ethnic cleansing is a form of genocide is troublesome. While there is no generally recognized text defining ethnic cleansing, the various attempts at definition by jurists, diplomats and scholars concur that it is aimed at displacing a population in order to change the ethnic composition of a given territory, and generally to render the territory ethnically homogeneous or 'pure'. Plainly, this is not the same thing as genocide, which is directed at the destruction of the

Yugoslavia also engaged in massacres of Serbs *and in ethnic cleansing*. However, other ethnic groups also suffered in Prijedor, the Partisans killing many prominent Muslims and Croats in 1942 and again, in nearby Kozarac, in 1945' (emphasis added). See also *ibid*., para. 84: 'The objective of Serbia, the JNA [Yugoslav People's Army] and Serb-dominated political parties, primarily the SDS [Serbian Democratic Party], at this stage was to create a Serb-dominated western extension of Serbia, taking in Serb-dominated portions of Croatia and portions, too, of Bosnia and Herzegovina. This would then, together with Serbia, its two autonomous provinces and Montenegro, form a new and smaller Yugoslavia with a substantially Serb population. However, among obstacles in the way were the very large Muslim and Croat populations native to and living in Bosnia and Herzegovina. To deal with that problem *the practice of ethnic cleansing was adopted*. This was no new concept. As mentioned earlier, it was familiar to the Croat wartime regime and to many Serb writers who had long envisaged the redistribution of populations, by force if necessary, in the course of achieving a Greater Serbia. This concept was espoused by Slobodan Milosevic, with ethnic Serbs widely adopting it throughout the former Yugoslavia, including Serb political leaders in Bosnia and Herzegovina and in Croatia. In addition to the concept of a Greater Serbia, there was also a concept on the part of Croats of the creation of a Greater Croatia that would include all Croats living in the territory of the former Yugoslavia' (emphasis added).

302 In Germany, where he was initially arrested, Tadic had been charged with 'aiding and abetting genocide'. In his study of the *Tadic* case, Michael Scharf wrote: 'Conspicuously absent from the Tribunal's indictment of Tadic is the charge of genocide, especially since it was on the basis of that charge that he had been arrested in Germany. "We were amazed that Germany had no specific evidence on that charge," [deputy prosecutor] Graham Blewitt explains. "They were going to attempt to prove it solely on the basis of the testimony of an expert witness. But we thought it would be difficult to establish genocide with respect to Tadic."' Michael Scharf, *Balkan Justice*, Durham, NC: Carolina Academic Press, 1997, pp. 97, 101.

303 *Prosecutor* v. *Milosevic et al.* (Case No. IT–99–37–I), Indictment, 22 May 1999.

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group. To use a historical example, until 1941, Nazi anti-Semitic policies were directed towards convincing Jews in Germany to leave the country. Jews were required, of course, to pay a price for their freedom. Moreover, large numbers who attempted to leave were unable to find refuge because other 'civilized' States refused to admit them.[304] The Nazi policy, at the time, was one of ethnic cleansing. Jews were incited to leave by various forms of persecution, including discriminatory laws and periodic outbursts of violence such as the *kristalnacht* of 9–10 November 1938. After the war against the Soviet Union was underway, the Nazi policy became destruction of the Jews of Europe, in whole or in part. No longer was emigration permitted, even if asylum was possible. At this point, the Nazi policy became genocidal. The District Court of Jerusalem, in the *Eichmann* case, noted this evolution in Nazi policy, commenting that: 'The implementation of the "Final Solution", in the sense of total extermination, is to a certain extent connected with the cessation of emigration of Jews from territories under German influence.'[305] Until mid-1941, when the 'final solution' emerged, the Israeli court said 'a doubt remains in our minds whether there was here that specific intention to exterminate', as required by the definition of genocide. The Court said it would deal with such inhuman acts as being crimes against humanity rather than genocide. Eichmann was acquitted of genocide for acts prior to August 1941.[306]

To conclude on this point, it is incorrect to assert that ethnic cleansing is a form of genocide, or even that in some cases, ethnic cleansing amounts to genocide. Both, of course, may share the same goal, which is to eliminate the persecuted group from a given area. While the material acts performed to commit the crimes may often resemble each other, they have two quite different specific intents. One is intended to displace a population, the other to destroy it. The issue is one of intent and it is logically inconceivable that the two agendas coexist. Of course, as the *Eichmann* judgment notes, ethnic cleansing – described as 'deportation' – remains punishable as a crime against humanity and a war crime.[307]

[304] United States Holocaust Memorial Museum, *Historical Atlas of the Holocaust*, New York: Macmillan, Simon & Schuster, 1996, pp. 25–7.

[305] *A-G Israel* v. *Eichmann*, note 59 above, para. 80.

[306] *Ibid.*, para. 244(1)–(3); see also paras. 186–7.

[307] See M. Cherif Bassiouni, *Crimes Against Humanity*, Dordrecht, Boston and London: Martinus Nijhoff, 1992, pp. 301–17; and Bassiouni and Manikas, *International Criminal Tribunal*, p. 530. The Rome Statute expands slightly upon the terminology, referring to 'deportation or forcible transfer of population'. These terms are defined as the 'forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law'. 'Rome Statute of the International Criminal Court', note 31 above, art. 8(1)(d) and 8(2)(d).

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Ethnic cleansing is also a warning sign of genocide to come. Genocide is the last resort of the frustrated ethnic cleanser.

Ecocide

Threats to the integrity of the environment can conceivably imperil the survival of a group or people. If associated with the intent to destroy the group, the definition of genocide may apply. The term 'ecocide' has been developed to describe cases of environmental destruction falling short of genocide because the evidence can only establish negligence and not the special intent of genocide.[308] 'Ecocide' means 'adverse alterations, often irreparable, to the environment – for example through nuclear explosions, chemical weapons, serious pollution and acid rain, or destruction of the rain forest – which threaten the existence of entire populations'.[309] According to Malcolm Shaw, 'ecocide' is 'generally defined as the intention to disrupt or destroy the ecosystem by assault upon the environment, usually for military purposes'.[310] Professor Shaw has urged that concern with ecocide be focused elsewhere than on the Genocide Convention.[311] Nicodème Ruhashyankiko noted that States had placed the question of ecocide 'in a context other than that of genocide', and that 'it is becoming increasingly obvious that an exaggerated extension of the idea of genocide to cases which can only have a very distant connexion with that idea is liable to prejudice the effectiveness of the 1948 Convention Genocide [*sic*] very seriously'.[312]

Apartheid

Apartheid is a crime against humanity, defined by the Apartheid Convention as 'inhuman acts committed for the purpose of establishing and maintaining domination by one racial group of persons over any other

[308] Richard A. Falk, 'Ecocide, Genocide and the Nuremberg Tradition of Individual Responsibility', in V. Held, S. Morgenbesser and T. Nagel, *Philosophy, Morality, and International Affairs*, New York: Oxford University Press, 1974, pp. 123–37; Barbara Harff, 'Recognizing Genocides and Politicides', in Helen Fein, ed., *Genocide Watch*, New Haven: Yale University Press, 1991, pp. 27–41 at p. 29. See also the opinions of members of the Sub-Commission on Prevention of Discrimination and Protection of Minorities: UN Doc. E/CN.4/Sub.2/SR.658–659.

[309] Whitaker, 'Revised Report' note 32 above, p. 17, para. 33.

[310] Malcolm N. Shaw, 'Genocide and International Law', in Yoram Dinstein, ed., *International Law at a Time of Perplexity (Essays in Honour of Shabtai Rosenne)*, Dordrecht: Martinus Nijhoff, 1989, pp. 797–820 at p. 810.

[311] *Ibid*., p. 811.

[312] 'Study of the Question of the Prevention and Punishment of the Crime of Genocide, Study Prepared by Mr Nicodème Ruhashyankiko, Special Rapporteur', UN Doc. E/CN.4/Sub.2/416, para. 478.

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racial group of persons and systematically oppressing them'.[313] The preamble to the Apartheid Convention refers to the Genocide Convention: 'Observing that, in the Convention on the Prevention and Punishment of the Crime of Genocide, certain acts which may also be qualified as acts of *apartheid* constitute a crime under international law . . .'[314]

The *Ad Hoc* Working Group of Experts of the Commission on Human Rights considered that certain practices of *apartheid* should be characterized as genocide:

(a) The institution of group areas ('Bantustan policies'), which affected the African population by crowding them together in small areas where they could not earn an adequate livelihood, or the Indian population by banning them to areas which were totally lacking the preconditions for the exercise of their traditional professions;
(b) The regulations concerning the movement of Africans in urban areas and especially the forcible separation of Africans from their wives during long periods, thereby preventing African births;
(c) The population policies in general, which were said to include deliberate malnutrition of large population sectors and birth control for the non-white sectors in order to reduce their numbers, while it was the official policy to favour white immigration;
(d) The imprisonment and ill-treatment of non-white political (group) leaders and of non-white prisoners in general;
(e) The killing of the non-white population through a system of slave or tied labour, especially in so-called transit camps.[315]

The Working Group believed that *apartheid* did not fall within the scope of the Genocide Convention definition, however, recommending it be revised to make punishable 'inhuman acts resulting from the policies of *apartheid*'.[316] It also urged that cultural genocide be recognized as a crime against humanity.[317]

Subsequently, an *Ad Hoc* Working Group of Experts on Violations of Human Rights in Southern Africa concluded that: 'The way in which

[313] International Convention on the Suppression and Punishment of the Crime of Apartheid, (1976) 1015 UNTS 243, art. II.
[314] See Kader Asmal, Louise Asmal and Ronald Suresh Roberts, *Reconciliation Through Truth, A Reckoning of Apartheid's Criminal Governance*, New York: St Martin's Press, 1997, pp. 198–202.
[315] 'Study Concerning the Question of Apartheid from the Point of View of International Penal Law', UN Doc. E/CN.4/1075. See also UN Doc. E/CN.4/950; UN Doc. E/CN.4/984/Add.18; UN Doc. E/CN.4/1020; UN Doc. E/CN.4/1020/Add.2.
[316] 'Study Concerning the Question of Apartheid from the Point of View of International Penal Law', UN Doc. E/CN.4/1075, para. 161. See also Leo Kuper, *Genocide, Its Political Use in the Twentieth Century*, New Haven: Yale University Press, 1981, pp. 197–204.
[317] 'Study Concerning the Question of Apartheid from the Point of View of International Penal Law', UN Doc. E/CN.4/1075, para. 163.

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the South African regime implements the policy of *apartheid* should henceforth be considered as a kind of genocide.' The Working Group requested the Commission on Human Rights to call upon the General Assembly to seek an advisory opinion from the International Court of Justice 'on the extent to which *apartheid* as a policy entails criminal effects bordering on genocide'.[318]

In his study on genocide, Special Rapporteur Nicodème Ruhashyankiko concluded that *apartheid* should be approached as a crime against humanity rather than as genocide.[319] His successor, Benjamin Whitaker, discussed the question in some detail but did not take a position.[320] The Rome Statute defines *apartheid* as a crime against humanity.[321] With the fall of the racist South African regime, the practical interest of the legal distinctions between genocide and *apartheid* have virtually vanished.[322]

The South African Truth and Reconciliation Commission, established as part of the democratic transition in South Africa, considered whether acts perpetrated by the white supremacist regime should be described as genocide. In the result, it rejected the qualification as inappropriate, and the term 'genocide' does not appear in its final report.

Use of nuclear weapons

In its 1996 advisory opinion, the International Court of Justice examined whether the threat to use or the use of nuclear weapons could be considered genocide. Some States had argued that the Genocide Convention set out 'a relevant rule of customary international law which the Court must apply' in examining whether nuclear weapons were contrary to customary international law.[323] The Court observed:

[318] UN Doc. E/CN.4/1985/14.

[319] 'Study of the Question of the Prevention and Punishment of the Crime of Genocide, Study Prepared by Mr Nicodème Ruhashyankiko, Special Rapporteur', note 311 above, paras. 404–5.

[320] Whitaker, 'Revised Report', note 32 above, paras. 43–5.

[321] 'Rome Statute of the International Criminal Court', note 31 above, art. 7(1)(j). *Apartheid* is defined as inhuman acts 'committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime': art. 7(2)(h).

[322] See Steven R. Ratner and Jason S. Abrams, *Accountability for Human Rights Atrocities in International Law, Beyond the Nuremberg Legacy*, Oxford: Clarendon Press, 1997, pp. 113–16.

[323] See Vera Gowland-Debbas, 'The Right to Life and Genocide: The Court and an International Public Policy', in Philippe Sands and Laurence Boisson de Chazournes,

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It was maintained before the Court that the number of deaths occasioned by the use of nuclear weapons would be enormous; that the victims could, in certain cases, include persons of a particular national, ethnic, racial or religious group; and that the intention to destroy such groups could be inferred from the fact that the user of the nuclear weapon would have omitted to take account of the well-known effects of the use of such weapons.

The Court would point out in that regard that the prohibition of genocide would be pertinent in this case if the recourse to nuclear weapons did indeed entail the element of intent, towards a group as such, required by the provision quoted above. In the view of the Court, it would only be possible to arrive at such a conclusion after having taken due account of the circumstances specific to each case.[324]

A few of the judges took the argument somewhat more seriously. Judge Weeramantry wrote: 'If the killing of human beings, in numbers ranging from a million to a billion, does not fall within the definition of genocide, one may well ask what will.'[325] Judge Koroma expressed his apprehension over the Court's dismissal of the genocide argument. He said the Court:

must be mindful of the special characteristics of the Convention, its object and purpose, to which the Court itself referred in the Reservations case as being to condemn and punish 'a crime under international law involving a denial of the right of existence of entire human groups, a denial which shocks the conscience of mankind and results in great losses to humanity and which is contrary to moral law and the spirit and aims of the United Nations.

According to Judge Koroma:

The Court cannot therefore view with equanimity the killing of thousands, if not millions, of innocent civilians which the use of nuclear weapons would make inevitable, and conclude that genocide has not been committed because the State using such weapons has not manifested any intent to kill so many thousands or millions of people. Indeed, under the Convention, the quantum of the people killed is comprehended as well. It does not appear to me that judicial detachment requires the Court from expressing itself on the abhorrent shocking consequences that a whole population could be wiped out by the use of nuclear weapons during an armed conflict, and the fact that this could tantamount to genocide, if the consequences of the act could have been foreseen. Such expression of concern may even have a preventive effect on the weapons being used at all.[326]

Debate about the incompatibility of the use of nuclear weapons with

International Law, the International Court of Justice and Nuclear Weapons, Cambridge: Cambridge University Press, 1999.

[324] *Legality of the Threat or Use of Nuclear Weapons*, *Advisory Opinion*, [1996] *ICJ Reports* 226, para. 26.

[325] *Ibid.*, Dissenting Opinion of Judge Weeramantry, p. 61

[326] *Ibid.*, Dissenting Opinion of Judge Koroma, p. 16.

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the prohibition of genocide has been around since 1948. During drafting of the Convention, the Netherlands warned that: 'Attention will have to be paid that the definition of genocide is not made so large as to include every act of war against a large group of persons, notably an attack by atom bombs.'[327] A few years later, when ratification was being considered by the United Kingdom Parliament, Emrys Hughes said that if there were another war, persons responsible for the use of nuclear weapons could be charged with genocide.[328] In his commentary on the Convention, Nehemiah Robinson described Hughes' remarks as a 'misunderstanding of the Convention'. According to Robinson: 'It is hard to understand how anyone could have arrived at this groundless fear, since the Convention does not treat of the outlawing of wars, nor does it deal with the destructions (even though intended) of "enemy" populations within the meaning of the laws of war.'[329]

Certainly the use of nuclear weapons, where the intent is to destroy a protected group in whole or in part, meets the definition of genocide. But, in the absence of the special characteristics of genocide, situations of mass killing such as those occasioned by the use of nuclear weapons are better examined from the perspective of crimes against humanity or war crimes.

[327] UN Doc. E/623/Add.3. [328] *Hansard*, 18 May 1950. [329] *Ibid.*

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Annex 26

Machteld Boot, *Genocide, Crimes Against Humanity and War Crimes: Nullum Crimen Sine Lege and the Subject Matter Jurisdiction of the International Criminal Court*
(Intersentia 2002)

Genocide, Crimes Against Humanity, War Crimes: Nullum Crimen Sine Lege and the Subject Matter Jurisdiction of the International Criminal Court

Machteld Boot

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counts before concluding that genocide is occurring'[95] does not make sense. Therefore, the number of victims is irrelevant in principle. However, the result of the act or acts could be used to prove the intent of the perpetrator. Then, the intent to commit genocide may be indicated by a large number of victims. Requiring a number of victims involves the risk that a perpetrator will avoid prosecution by claiming that the number of victims was not sufficient to constitute the crime of genocide. For that matter, the question remains whether the requirement of specific intent or a particular state of mind can be proven by this circumstantial evidence if the intent is not expressly uttered.

397. Although Article 6 Rome Statute, in conformity with Article 2 of the Genocide Convention, states that the perpetrator must have had the intent to destroy a group "in whole or in part," which means that the intent to destroy part of a group is sufficient to constitute an act of genocide, the Commission of Experts for Rwanda noted that the number of victims may be of evidentiary value with respect to proving the necessary intent.[96] The Commission of Experts for the former Yugoslavia also stated that the destruction of a group "in whole or in part" does not mean that the group in its entirety must be exterminated.[97] The ad hoc Tribunal for the former Yugoslavia is of the opinion that, given the goal of the Genocide Convention to deal with mass crimes, it is widely acknowledged that the intention to destroy must target at least a *substantial* part of the group.[98] The degree to which the group was destroyed in whole or in part is, however, not necessary to conclude that genocide has occurred.[99]

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95 B. Harff, *Genocide and Human Rights: International Legal and Policy Issues*, Denver, Cdo.: Graduate School of Human Rights Studies, University of Denver 1984, p. 11.

96 In this respect, the Commission of Experts for Rwanda cited with approval an opinion of Bryant, stating that 'unless the intent were express ... the intent to destroy the group would be difficult to prove, except in those instances where the number of people of the group affected was significant"; Final Report of the Commission of Experts for Rwanda, UN Doc. S/1994/1405, para. 166, citing Bryant, 'The United States and the 1948 Genocide Convention,' 26 *Harvard International Law Journal* 683 (1975).

97 Final report of the Commission of Experts for the former Yugoslavia, UN Doc. S/1994/674 (1994), para. 93.

98 Cf. Kayishema and Ruzindana Judgment, para. 97 (demanding that the accused have the intention of destroying a "considerable" number of individual members of a group. The Trial Chamber in its Jelisić Judgment considered this requirement to go further than the word "substantial"; para. 82.

99 Prosecutor v. Karadzić and Mladić, Decision on Review of Indictment Pursuant to Rule 61, 11 July 1996, para. 92.

acts may not be deemed "slow death measures" in and of themselves. However, given the broad language of paragraph (c), the Court may determine that genocide has been carried out by means of, inter alia, deportation, provided that the perpetrator carried out such acts with the intent to destroy the group in whole or in part.[220]

5.2.4 Imposing Measures Intended to Prevent Births within the Group (d)

422. In order to constitute genocide, it is not necessary that the perpetrator had the intent to prevent births totally. According to Drost, it will be sufficient that partial prevention is the purpose of the measures in question.[221] The words "imposing measures" indicate the necessity of an element of coercion. Therefore, voluntary birth control programs sponsored by a state as a matter of social policy would not be covered by this provision.[222] Examples of such a measure that the drafters of the Convention had in mind are compulsory sterilization and compulsory abortion.[223] However, according to Robinson, separation of the sexes and prohibition of marriages are equally restrictive and produce the same results.[224]

One of the Trial Chambers of the Rwanda Tribunal held that the measures intended to prevent births within the group should be construed as sexual mutilation, the practice of sterilization, forced birth control, separation of the sexes, and prohibition of marriages, and stated that

> [i]n patriarchal societies, where membership of a group is determined by the identity of the father, an example of a measure intended to prevent births within a group is the case where, during rape, a woman of the said group is deliberately impregnated by a man of another group, with the intent to have her give birth to a child who will consequently not belong to its mother's group.

The Chamber held that such measures may be physical but may also be mental. For instance, rape could be a measure intended to prevent births when the person raped refuses subsequently to procreate, in the same way that members of a group can be led, through threats or trauma, not to procreate.[225]

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220 Cf. 1996 Draft Code of Crimes, UN Doc. A/51/10 (1996), p. 93 (". . . the forcible transfer of members of a group, particularly when it involves the separation of family members, could also constitute genocide under subparagraph (c)").

221 Drost, 1959, p. 86.

222 1996 Draft Code of Crimes, UN Doc. A/51/10 (1996), p. 92, para. (16). See also Schabas, 2000b, p. 244.

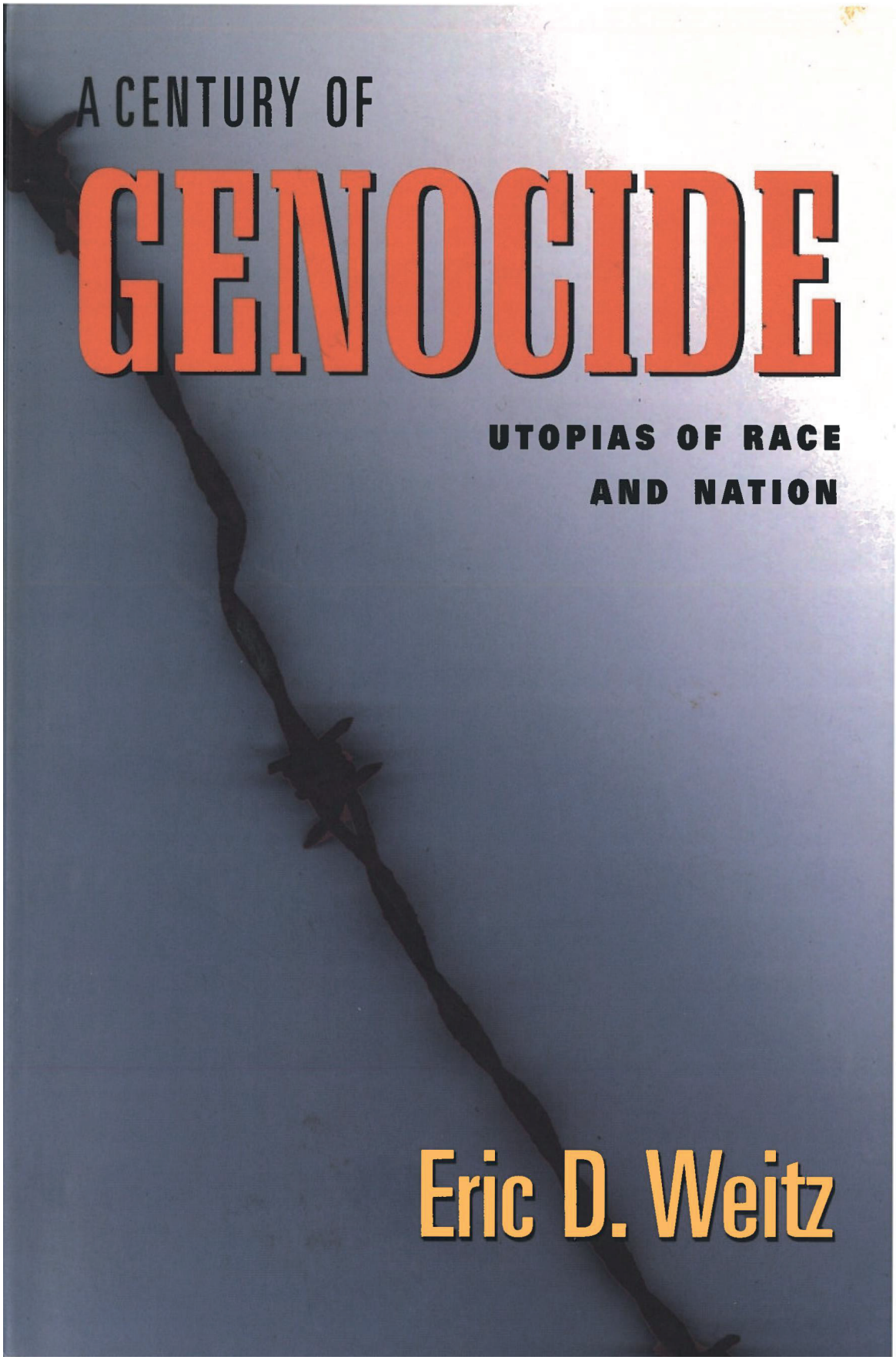
223 3 UN GAOR C.6, 82nd meeting, p. 183 (1948); Drost, 1959, p. 87.

224 Robinson, 1960, p. 64.

225 Akayesu Judgment, Trial Chamber, paras. 507-508; see also Kayishema and Ruzindana Judgment, Trial Chamber, para. 117. Cf. Amnesty International, 1997, p. 23.

Annex 27

Eric Weitz, *A Century of Genocide: Utopias of Race and Nation* (2003)


A CENTURY OF
GENOCIDE
UTOPIAS OF RACE
AND NATION
Eric D. Weitz

Annex 27

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■ ■ ■ ■

Genocides in the Twentieth Century

Genocides have occurred since the earliest recorded history, from the Israelite destruction of numerous communities in Canaan, depicted in the Book of Joshua, to the Roman annihilation of Carthage and its population. But beginning with the Armenians, genocides have become more extensive, more systematic, and more thorough. They represent a lethal, depressing culmination of the large-scale violence that so marked the twentieth century. Genocides stand at the center of our contemporary cultural crisis. They challenge our hopes for peaceful, tolerant coexistence among diverse peoples; they raise the deepest fears that the modern world we inhabit is not a site of continual improvement in the human condition but the very cause of more intense, seemingly unstoppable violence against civilian populations. In this book I try to provide a historical account for the escalation of genocides in the twentieth century by examining in detail four cases: Nazi Germany, the Soviet Union under Lenin and Stalin, especially the ethnic and national purges initiated by Stalin, Cambodia under the Khmer Rouge, and the former Yugoslavia. Each of the cases has its particularities, but together they also display some notably common features, especially in relation to the historical origins and the practices of genocide.

The word "genocide" is a much contested and overused term. Sometimes it is uttered with thoughtless abandon, and I hope, through the study of these four cases, to bring clarity to a word and a history heavily laden with the emotions of memory and politics. The word was invented in the 1940s by the international jurist Raphael Lemkin, who struggled to find a way to define the novelty of Nazi atrocities against Jews. But Lemkin also knew that there were precedents, notably in the late Ottoman Empire's genocide of Armenians. He hit on the Greek word *genos*, meaning a people or nation, and the Latin suffix of *-cide*, for murder. The United Nations codified the meaning of the term by

adopting on 9 December 1948 the Convention on the Prevention and Punishment of the Crime of Genocide, commonly known as the Genocide Convention. By one recent count, the Convention has been accepted by 142 countries.[1]

Nearly everyone who considers the definition finds it insufficient for one reason or another.[2] It manages to be at one and the same time both too broad and too narrow. The Convention defines as genocide the intent to destroy "in whole or in part" a population defined by race, nationality, religion, or ethnicity. The Convention specifically does not include groups defined by their political orientation or class background. In the negotiations in the 1940s, the Soviet Union and its allies forced the exclusion of these categories for fear that its policies toward the peasantry and political opponents could be considered genocide. On the basis of the existing definition, for example, the regime in Indonesia could not be accused of genocide for the roughly 500,000 people it killed in 1965 because they were purportedly communists. The charge of genocide would be operative only if it could be shown that they were killed *because* of their Chinese ethnicity (as was true of so many of the victims). Similarly, if the Khmer Rouge were to come before an international tribunal, the indictment of genocide could be leveled only because of their treatment of Vietnamese, Muslims, and other minorities in Cambodia, but not for the vast repressions carried out against Khmer city dwellers and the educated elite. While the exclusion of populations defined by class and politics makes for too narrow a definition, the adoption of the qualifying term "in part" opens up a whole range of cases for consideration, including, for example, that of Native Americans.

For all of the difficulties surrounding the definition of genocide contained in the Convention, intentionality is clearly a critical criterion. For genocide to occur, there needs to be demonstrable intent to destroy "in whole or in part" particular population groups. This is a central point that distinguishes genocides from the civilian casualties that may occur in wartime, from pogroms, from massacres, from forced deportations—even if the number of victims is massive, and although any one of these actions may subsequently evolve into a genocide. By the criterion of intentionality, the atomic bombings of Hiroshima and Nagasaki were by no means genocides, however horrific the events, because the United States intended military victory over Imperial Japan, not the destruction of the Japanese people as such. One might also argue—though with much less certainty, I believe—that in its campaigns against Native Americans, the United States sought rather "typical," age-old territorial

conquests achieved by warfare, not the physical annihilation of the Native American population.

Clearly, "intention" is not always easy to define. Since in most instances direct orders to commit genocide are rarely given, the case, both legal and historical, has to be built from the evidence of actions on the ground and often circumstantial links in the chain of command between those who occupy positions of power and those who carry out the actual killings. Despite some looseness in the wording that enables still looser readings, the Convention focuses on the *physical* destruction of defined population groups, not what is sometimes called cultural genocide or ethnocide (such as the forced assimilation of a group by preventing the use of its language). Nor does the Convention's definition encompass what we now call ethnic cleansing, the forced removal but not the killing of a population, although admittedly the line between genocide and ethnic cleansing can be quite indistinct. In fact, the initial General Assembly resolution of 1946 and the signed Convention of 1948 significantly narrowed Lemkin's original formulations, which had encompassed ethnocide and ethnic cleansing.[3]

Through its focus on intentionality, the fate of defined population groups, and physical annihilation, the Genocide Convention, despite its weaknesses, provides us with a fruitful working definition that can guide the study of past regimes and events. It is the definition I abide by in this book, though with perhaps a more restrictive interpretation than others might employ.[4]

In choosing the four cases for this study, I have been driven by concerns both substantive and personal in nature. To write about genocides in the twentieth century means grappling, of necessity, with the two very large and powerful dictatorial systems of twentieth-century Europe, Nazi Germany and the Stalinist Soviet Union. They happen to be, as well, the histories with which I am most familiar. But in writing a comparative study that moves closer to our contemporary world, I wanted also to trace the influences that these systems exercised, sometimes only indirectly, upon subsequent cases. The book is set up not only as the side-by-side examination of four parallel cases, but also as an exploration of the internal linkages among them. I do not argue that the Soviet Union and Nazi Germany learned from one another, although they were certainly highly attentive to one another's policies. They did, though, emerge out of a partly common historical background, notably World War I and the culture of violence that it spawned. And both systems had far-reaching reverberations that echoed well beyond their

own life spans. Communism's influence extended out from the Soviet Union to the far reaches of Southeast Asia and the Balkans. As we shall see in the subsequent chapters, Soviet policies of the 1930s and 1940s had very direct bearing on the practices of the Khmer Rouge regime and of Yugoslavia even in its late stage of dissolution. Cambodia was of course spared Nazi influence, but Germany's occupation of the South Slav lands and its establishment of a puppet fascist state in Croatia in World War II played a significant role some fifty years later in the unraveling of Yugoslavia in the 1980s and 1990s. All the major actors in the Yugoslav crisis constantly referenced that history and mobilized its memory for their particular nationalist goals.

Another factor governed my choice of cases. A number of broad, general studies of genocides exist, and they have been important resources for me.[5] Many more detailed studies of individual cases have been written, and I have learned a great deal from these as well. Yet historians (as I am) tend to be averse to the large-scale generalizations or even lawmaking to which many social scientists are prone. Historians favor the detailed study of a particular place and time; they seek to render the nuance that comes with knowledge of language and culture as well as empirical facts, and to be open to the indeterminacy of events. At the same time, that deep immersion in the history of a particular people makes it difficult to move beyond individual cases, beyond the national frame that structures not only modern politics but the training of modern historians as well. I have sought in this book to tread a middle ground, to write a comparative study that tries to be faithful to the historian's propensity for detail, nuance, and contingency, but that also goes beyond an individual case to examine how, in the modern world, political models, not only capital and commodities, move in a global space.[6]

Each of these cases continues to generate high-intensity politics and emotions, and my treatment of them comparatively will no doubt arouse the ire of some. The issue is perhaps most raw in relation to the Holocaust because it occupies such a prominent role in contemporary culture, and because prior efforts to deal with it comparatively have so often been mendacious. Prominent scholars like Ernst Nolte in Germany as well as neofascist activists have sought to diminish the crimes of Nazi Germany by comparing them to other cases or by arguing that the Third Reich "merely" copied practices pioneered in the Soviet Union or elsewhere.[7] Needless to say, I completely reject that approach. But I also think that we should not allow our historical perspectives to

be narrowed because comparisons have been done poorly or for notorious political purposes. The Holocaust was an atrocity of monumental proportions and the greatest tragedy in Jewish history. Like all historical events, it had its particular dimensions. The Nazis' industrial-style killing of Jews, rooted in Germany's highly developed bureaucratic and military culture, was and is unprecedented. But the Holocaust was not "unique" if by that term we mean an event that is incomparable and completely irreplicable. "Uniqueness" is a metaphysical or theological term. For historians, it can only have the mundane meaning that every event is specific to a time and place. Historians compare all the time, most often implicitly; indeed, the only way one could even sustain an argument of uniqueness is by comparison. If we insist on the incomparability of the Holocaust, we place it outside of history.[8] Instead, I work in this book in an explicitly comparative manner. The obvious, underlying premise is that many states, not just Nazi Germany, have organized the systematic killing of populations defined along national or racial lines. We can learn at least as much by looking at some of these tragic events together, exploring their similarities and differences, their historical links to one another, as by studying each case individually.

Similarities *and differences*. Each case of genocide has its particularities, and among the four that I explore in detail, I distinguish two "genocidal regimes," Nazi Germany and Democratic Kampuchea. My intent here is in no way to relativize or diminish the tragedies suffered by various populations, but, again, to bring some analytical clarity to a topic that is so emotionally and politically charged. Historically all sorts of regimes have perpetrated genocides. From the fifteenth to the nineteenth centuries European settlers acting under the aegis of liberal states annihilated indigenous populations in Australia and North America. In the first decade of the twentieth century a semiliberal German state committed the genocide of the Herero in Southwest Africa. As I will argue in chapter 2, the Soviet deportations of Chechens and Crimean Tatars were carried out in circumstances designed to lead to substantial death rates, so these events can also be characterized as genocides under the terms of the UN Convention. But in none of these cases did genocide come to constitute the nearly exclusive, central motor of the systems. A panoply of policies and concerns—economic development, social welfare, military security—played equal or even more important roles. Nazi Germany and Democratic Kampuchea, in contrast, unleashed such a vortex of violence that at some point in their existence, the actual physical annihilation of defined population groups moved to

the very core of state policies, and all the normal aspects of governance retreated to the shadows. While genocides have not been uncommon, regimes on the order of these two have, thankfully, been less typical.

In writing this study, I have violated one of the historian's cardinal rules: to work only on areas where he or she knows the language of the people and has access to the primary sources. I have ventured far from my core areas of knowledge but felt that the last two of my selections—Cambodia and the former Yugoslavia—were at least partly justified by my familiarity with the history of twentieth-century communism. Yet I did not feel free to roam just anywhere, and readers will note that I do not deal with another very large and virtually undisputed case of genocide, that of Rwanda. There I felt that my lack of knowledge of African histories and cultures was too great, that its story should be left to those with much more substantial expertise. Moreover, while Rwanda was certainly shaped by Western colonialism, it lies outside the realm of Nazi and Soviet influence, a key factor that influenced my decision to explore the histories of Yugoslavia and Cambodia.

Of all the cases with which I deal, the literature on Nazi Germany and the Holocaust is the most voluminous. Histories, sociological studies, memoirs, philosophical ruminations—the literature is so vast that it is now beyond the grasp of any individual. As mentioned, it is also the case in which resistance to comparative analysis has been the greatest. Part of my impulse in writing this book has been my frustration, as a historian of Germany, with the constrictions of the national frame in German history and in Holocaust studies. But in some ways, this book is also an attempt to apply the insights gleaned from decades of scholarship on Nazi Germany and the Holocaust to other cases around the globe. In particular, my emphasis in this book on the dual character of genocides, their organization by states but also their enactment with high levels of popular participation, comes out of the vibrant discussions in the German field.

The tragic events in Cambodia and Yugoslavia painfully exposed as chimeras two hopes that were already rather forlorn: that the revelation of Nazi atrocities would forever stand as an obstacle to the reprise of such crimes in other places and at other times, and that the collapse of communism would lead necessarily to more prosperous and liberated lives in postcommunist societies. Clearly, something deeper has been at work than Russian or German particularities or even the many crises of Europe in the first half of the twentieth century. Those deeper currents,

in my view, have to do with the very categories of race and nation, those inventions that define the modern world so thoroughly that we can barely imagine our histories and our contemporary lives without them. While there is no unmediated, direct connection between these categories and genocide—many national and racial systems are "merely" discriminatory rather than murderous, and in each of the cases, many other historical factors have to be taken into account—they lie at the heart of the genocides of the twentieth century, which is why I begin this book with an intellectual history of race and nation.

In none of the cases discussed in this book was genocide predetermined or inevitable, not even in Nazi Germany. In the chapters that follow, I try to delineate the various elements that, together, led to the unfolding of genocides. The chapters on Nazi Germany, the Stalinist Soviet Union, Cambodia under the Khmer Rouge, and the former Yugoslavia are structured similarly. Each begins with a section titled "Power and Utopia," which is about the ideological orientation of the movements and regimes in question. In each case, the leaders were animated by powerful visions of the future and sought to create utopia in the here and now. The transformations they sought to implement were so substantial that I characterize all four regimes as revolutionary. The leaders viewed the state as the key agency in the creation of the future society and sought to build states that would exercise total control over society. Though profound differences existed in the contours of the future each intended to create, each imagined a society bereft of difference and marked by a homogeneous population of one sort or another. Hence all the regimes discussed in this book obsessively divided and classified the populations under their domains. They went to great lengths to define the legal criteria of identities and then to place individuals in their "proper" class, national, and racial slots, the subject of the second section of each chapter, "Categorizing the Population."

The genocides discussed in each of the chapters did not emerge suddenly, and they were not the only forms of killing that the regimes implemented. Generally the genocides emerged after particular groups had already been subject to discrimination and exclusion, and the population at large had been barraged with incessant propaganda about their nefarious characteristics. Political and class opponents had also been repressed and killed, and preparations had begun for more extensive population purges. The third section of each chapter details these critical historical processes that formed the essential background to genocide. But these harsh and brutal policies did not quite constitute genocides.

Only at moments of extreme societal crisis—often self-generated—of immense internal upheaval and war, of great opportunities but also dread dangers, did the regimes initiate the most extreme form of population politics. The fourth section, "The Ultimate Purge," analyzes how each regime "tipped over" from pursuing discrimination and partial killings to perpetrating the more systematic and deadly policies of genocide.

These genocides were all the result of state policies. But genocides in the twentieth century became so extensive and systematic because the regimes engaged massive social projects that mobilized people for all sorts of activities, from the construction of dams to massive demonstrations to population purges.[9] The literal reshaping of the population could not simply be decreed and could not happen overnight; it had to be created by the hard work of thousands and thousands of people, whether obtained through force, begrudging compliance, enthusiastic support, or the innumerable forms in between. In the penultimate section of each of the chapters, "Rituals of Population Purges," I use eyewitness accounts, trial testimonies, memoirs, interviews, and poems and novels to explore how large numbers of people became active participants in the brutalities of genocide.

These four cases of genocide that I explore in detail are not the only ones that have occurred in the twentieth century. A variety of authoritarian regimes, sometimes acting with the tacit or direct support of the great powers, have also perpetrated genocides. But the four I have chosen have been some of the most important ones. The commonalities I have found among them may not apply to every single case of genocide; other historical factors may come into play in other situations. But I would venture that the combination of factors I delineate—ideologies of race and nation, revolutionary regimes with vast utopian ambitions, moments of crisis generated by war and domestic upheaval—might, in some form, serve as guides to other cases and warning signs for the future.

Annex 28

Alison Kesbi, *The Right to Have Rights, Citizenship, Humanity and International Law* (OUP 2012)

The Right to Have Rights: Citizenship, Humanity, and International Law

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Introduction

The situation is routine, almost banal. The state in which a woman is born and resides refuses to issue her with a birth certificate or any other document by which she can prove her right to a nationality. Without such documents she lives under the constant threat of expulsion from the only state she has ever known and is unable to obtain health care, participate in elections, or even acquire and transfer property. Her most basic rights are denied. Question: what has happened to her?

In being refused a nationality, has she lost the 'right to have rights'? If her right to a nationality were recognized would her 'right to have rights' be restored? Surely with the advent of international human rights law, a person holds rights irrespective of their nationality status such that an 'illegal' migrant is also a legitimate rights-bearer. Do we enjoy the right to have rights by virtue of our humanity alone? What then of the significance of citizenship as a political concept for right-bearing? Do we recognize one another's rights by virtue of our membership of the political community? Or is it more apt to dispense with notions of nationality, humanity, and citizenship, however conceived, and grapple with the politics of human rights: the right to have rights as the vulnerable and excluded taking up and enacting the rights they have been denied and constituting themselves as the subject of rights?

Writing in the immediate aftermath of the Second World War, and with personal experience of statelessness, the political theorist Hannah Arendt (1906–1975) pointed to the existence of a 'right to have rights'. Human rights, she argued, had proved impotent at the moment of their greatest need. In being deprived of a political community willing and able to guarantee their rights, stateless people had been left entirely without rights. They lost not only their distinct rights as citizens, but all human rights. Citizenship, therefore, remained an essential basis of rights, and the right to have rights was the right to citizenship—to membership of a political community. Since then, and especially in recent years, theorists have continued to grapple with the meaning of the right to have rights. In the context of enduring statelessness, mass migration, people flows, and the contested nature of democratic politics, the question of the right to have rights remains of pressing concern for writers and advocates across the disciplines, and indeed for all concerned with the complex question of the protection of human rights in the contemporary context. From international relations scholars[1] to sociologists,[2] from deliberative democracy

[1] See P Owens, *Between War and Politics: International Relations and the Thought of Hannah Arendt* (Oxford: Oxford University Press, 2007) Chapter 6 and B Cotter, 'Hannah Arendt and "The Right to have Rights"' in A F Lang and J Williams, *Hannah Arendt and International Relations: Reading across the Lines* (New York: Palgrave Macmillan, 2005) 95.

[2] M R Somers, *Genealogies of Citizenship: Markets, Statelessness, and the Right to have Rights* (New York: Cambridge University Press, 2008).

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theorists[3] to French philosophers,[4] the concept of the 'right to have rights' has captured the imagination of theorists and advocates alike. For many, it raises no less fundamental a question than the subject of rights. While Arendt's work has figured as a 'source for inspiration'[5] in the work of an ever-increasing number of international legal scholars,[6] to date no one has engaged in an in-depth examination of the right to have rights in the context of the international protection of human rights. In seeking to remedy this lack, the present volume explores two overarching questions. First, how do different and competing conceptions of the right to have rights shed light on right-bearing in the contemporary context, and in particular on concepts and relationships central to the protection of human rights in public international law? How, for example, does the political concept of citizenship relate to concepts of humanity and nationality in international law? Secondly, given the contested and competing conceptions of the right to have rights, how is the right to have rights to be understood in the context of international law? What is the significance of this intriguing concept for international legal thought and practice today?

1. Arendt and the right to have rights

The starting point of my exploration of the right to have rights is the work of Hannah Arendt. For the eighteen years spanning Arendt's flight from Germany in 1933 to her obtaining American citizenship in 1951, she was stateless.[7] Her writing bears the stamp of the events she experienced and the opinions she formed during those turbulent years. Arendt's primary discussion of the 'right to have rights' appears in chapter 9 of *The Origins of Totalitarianism* entitled 'The Decline of the Nation-State and the End of the Rights of Man'.[8] Taking the plight of stateless people in

[3] S Benhabib, *The Rights of Others: Aliens, Residents and Citizens* (Cambridge: Cambridge University Press, 2004).

[4] J Rancière, 'Who is the Subject of the Rights of Man?' (2004) 103(2/3) *South Atlantic Quarterly* 297 and É Balibar, *We, the People of Europe?: Reflections on Transnational Citizenship*, J Swenson (trans) (Princeton: Princeton University Press, 2004).

[5] J Klabbers, 'Possible Islands of Predictability: The Legal Thought of Hannah Arendt' (2007) 20(1) *LJIL* 1, 23.

[6] See ibid; J Bhabha, 'Arendt's Children: Do Today's Migrant Children have a Right to have Rights?' (2009) 31(2) *Hum Rts Q* 410; and M Osiel, *Mass Atrocity, Ordinary Evil, and Hannah Arendt: Criminal Consciousness in Argentina's Dirty War* (New Haven: Yale University Press, 2001).

[7] See E Young-Bruehl, *Hannah Arendt: For Love of the World* (2nd edn) (New Haven: Yale University Press, 2004) 113, 115–63.

[8] H Arendt, *The Origins of Totalitarianism* (revised edn) (New York: Harcourt, [1973]) 267. Excerpts from that chapter first appeared in Arendt's article, '"The Rights of Man" What are They?' (1949) 3(1) *Modern Review* (New York) 24. *Origins* consists of three parts, dealing respectively with anti-Semitism, imperialism, and totalitarianism. Chapter 9 appears in part two, dealing with imperialism. Arendt identifies totalitarianism as an entirely novel form of government which combined hubris—the belief that everything is possible—with obedience to the strict logic of the laws of nature or of history. She seeks to understand how totalitarian regimes were able to reduce humans to what she terms 'superfluous' beings. She is concerned with how anti-Semitism and imperialism unleashed phenomena such as social rootlessness, statelessness, expansion for expansion's sake, and the decline of the nation state and of political life which 'crystallized into totalitarianism'. (See H Arendt, 'A Reply to Eric Voegelin' in H Arendt, *Essays in Understanding 1930–1954: Formation, Exile, and*

the inter-war period as a test case, Arendt provides a devastating critique of human rights. Stateless people, she maintains, became the anomaly for which the law did not provide, and were therefore 'outlaws', exposed to arbitrary power, and at the mercy of the police and illegal acts.[9] The only 'country' the world had to offer the stateless was the 'internment camp', as Arendt herself had experienced.[10] The treatment of stateless people revealed what she terms the 'perplexities' of human rights:[11] rights are not a given by virtue of an individual's abstract 'humanity', rather they are an artefact associated with membership of a political community. As Arendt famously remarked: '[t]he world found nothing sacred in the abstract nakedness of being human'.[12] Stripped of the legal and political status of their former citizenship, and thus reduced to the status of 'a human being in general',[13] the stateless found themselves to have lost all human rights—to be rightless. The loss of their human rights coincided with their reduction to the very status for which human rights—those inalienable rights which are said to be independent of government—are supposed to provide. The issue was not the loss of 'specific rights' (which are the rights of citizens) 'but the loss of a community willing and able to guarantee any rights whatsoever'.[14] Arendt asserts that the French Revolution, in declaring the rights of man and yet demanding national sovereignty, contained a contradiction which ensured that human rights were protected and enforced only as national rights. The 'people' and not the individual became the 'image of man'.[15] Ironically, the rights of man therefore became dependent upon, rather than independent of, governments.[16] This became evident in the inter-war period as growing numbers of people emerged who, in lacking citizenship of any sovereign state, found that their seemingly 'inalienable' human rights had been rendered meaningless.

Thus Arendt argues that the stateless point to the existence of a 'right to have rights'. If human rights flow from membership of a political community, the one true human right is the right to belong to such a community—the right to have rights:

> We became aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of the new global political situation.[17]

The conundrum with which, for Arendt, the world was faced was that the right to have rights could only be guaranteed by humanity, and yet in a world of sovereign

Totalitarianism, J Kohn (ed) (New York: Schocken Books, 1994) 401, 403 and H Arendt, 'On the Nature of Totalitarianism: An Essay in Understanding' in Arendt, *Essays in Understanding*, 328.) That is to say, the issue for her is how political and social ties linking people could be dissolved, resulting in the atomization and loneliness which facilitated the total domination of individuals by totalitarian regimes.

[9] Arendt, *Origins*, 283–4.

[10] In 1940, Arendt was interned along with other 'enemy aliens' in a camp at Gurs in France which she was able to leave in the chaos following the fall of France. Tragically, those who remained were later transported to German extermination camps. Young-Bruehl, *Hannah Arendt: For Love of the World*, 152–5.

[11] Arendt, *Origins*, 290.

[12] Ibid, 299. [13] Ibid, 302. [14] Ibid, 297. [15] Ibid, 291.

[16] Ibid, 291–2. [17] Ibid, 296–7.

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states, it was 'by no means certain whether this [were] possible'.[18] A 'law above nations' was required which would be concerned with the rights of man, with the 'one right that transcends [a person's] various rights as a citizen: the right never to be excluded from the rights granted by his community'.[19]

Arendt's articulation of the right to have rights is strongly influenced by her republican conception of politics. Like Aristotle, she conceived of man as a political being, who derives his dignity from speech and action in community. For Arendt, freedom consists in acting. To act is to be free: it is to begin something new and initiate change.[20] For action to be significant and not merely another 'form of achievement among others',[21] it must reveal something of the actor and be the means by which a person 'inserts' him- or herself into the world.[22] Thus action is dependent upon speech. Arendt writes: '[i]n acting and speaking, men show who they are, reveal actively their unique personal identities and thus make their appearance in the human world'.[23] In Arendt's framework of thought, action and speech are what make a person distinctly human. To be human is to live in community and in relation with others. Arendt maintained that a life without speech and without action is 'dead to the world'. It 'has ceased to be a human life because it is no longer lived among men'.[24] Action and speech bind people together because they deal with interests we hold in common with others. They do not take place in isolation but within the '"web" of human relationships'.[25] As conceived by Arendt, action is 'the political activity par excellence':[26] it 'found[s] and preserve[s] political bodies'.[27]

Arendt's conception of action undergirds her understanding of the right to have rights. As articulated by Arendt, the right to have rights expresses the need to guarantee to each individual 'a *place in the world* which makes opinions significant and actions effective'[28] (my emphasis)—where he or she can live, act, and contribute to public life as of right and not out of charity. The 'fundamental deprivation of human rights' was manifested 'first and above all' in the deprivation of such a 'place'.[29] Only membership of a political community, Arendt asserted, gives a person a distinct political status[30] by which she can have a voice in shaping the laws of the community, claim their protection, and above all, bring her own unique individuality to bear in building a 'common world, together with [her] equals'.[31] For Arendt, the polity and community are sources of agency and equality. While the private sphere is the sphere of differentiation, the political sphere is the sphere of equality. In Arendt's words, we are not born equal but become so through 'human organization'[32] 'as members of a group on the strength of our decision to guarantee ourselves mutually equal rights'.[33] Without a political status and legal personality, the stateless are expelled from the public sphere of equality and left with only those

[18] Ibid, 298.

[19] H Arendt, *The Burden of Our Time* (London: Secker and Warburg, 1951) (British title of the 1st edition of *The Origins of Totalitarianism*) 436–7.

[20] H Arendt, *The Human Condition* (2nd edn) (Chicago: University of Chicago Press, 1998) 9, 177.

[21] Ibid, 180.

[22] Ibid, 176–7. [23] Ibid, 179. [24] Ibid, 176. [25] Ibid, 183. [26] Ibid, 9.

[27] Ibid, 8–9. [28] Arendt, *Origins*, 296. [29] Ibid. [30] Ibid, 301.

[31] Ibid.

[32] Ibid. [33] Ibid.

characteristics which can be expressed in the private sphere[34]—characteristics which bring to the fore differences between people and thus arouse 'dumb hatred, mistrust, and discrimination'.[35] For Arendt this was a paradoxical situation. She maintained:

> The paradox involved in the loss of human rights is that such loss coincides with the instant when a person becomes a human being in general—without a profession, without a citizenship, without an opinion, without a deed by which to identify and specify himself—*and* different in general, representing nothing but his own absolutely unique individuality which, deprived of expression within and action upon a common world, loses all significance.[36]

To summarize, Arendt believed that human rights flow from citizenship such that the right to have rights becomes the right to citizenship. Reversing most constitutional formulae which found the rights of the citizen on the rights of man, and citizenship on humanity, for Arendt human rights are not the foundation but the outcome of politics. To be excluded from a political community is to be excluded from the sphere of rights—to have no voice in their content and no chance of claiming their protection—and ultimately to become an 'anomaly' for which the law does not provide. It is to be deprived of a community in which people can bring their distinct individuality to bear productively. She contrasted the rootedness of the rights-bearing citizen with the rightlessness of the stateless, and stressed the importance of each individual having a community to which to belong.

The concept of the right to have rights has attracted the interest of scholars from a variety of disciplinary backgrounds and with a range of theoretical orientations. While some see it as poorly conceived and lacking any coherent theoretical foundation, others find in it a rich tool of critique which can be reinterpreted in the light of contemporary challenges. For those coming to Arendt from a cosmopolitan perspective, the right to have rights is deeply problematic. Seyla Benhabib, for example, maintains that the concept is philosophically and normatively ungrounded.[37] According to Benhabib, Arendt's 'moral cosmopolitanism founders on [her] legal and civic particularism'.[38] Other scholars, such as Margaret Canovan, emphasize Arendt's republican framework of thought. They argue that a foundation for, and means of realizing the right to have rights, can be found in Arendt's principle of plurality. Rights are not a given but rather need to be articulated and guaranteed together with others in community. They are the product of human action—in particular action in political community.[39] As will be discussed in Chapter 5, other theorists (Jacques Rancière prominent among them) still go beyond Arendt

[34] Ibid.

[35] Ibid. Arendt for example, wrote: 'If a [black person] in a white community is considered [black] and nothing else, he loses along with his right to equality that freedom of action which is specifically human; all his deeds are now explained as "necessary" consequences of some "[black]" qualities; he has become some specimen of an animal species, called man.' Ibid, 301–2.

[36] Ibid, 302 (original emphasis).

[37] S Benhabib, *The Reluctant Modernism of Hannah Arendt* (Oxford: Rowman & Littlefield Publishers, 2000) 82.

[38] Benhabib, *The Rights of Others*, 66.

[39] M Canovan, *Hannah Arendt: A Reinterpretation of Her Political Thought* (Cambridge: Cambridge University Press, 1994) 191 and S Parekh, 'A Meaningful Place in the World: Hannah Arendt on the Nature of Human Rights' (2004) 3(1) *Journal of Human Rights* 41.

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and indeed argue that the paradox of human rights, and the conundrum of the right to have rights she posits, is the outworking of the limitations of Arendt's own conceptual framework.

My aim here, however, is not to resolve these debates about Arendt's work, nor to provide an Arendtian conception of the right to have rights. Arendt provides the starting point of my analysis, but I think with and beyond Arendt to reach my own understanding of the right to have rights and its significance for public international law. My analysis is not shackled by Arendt's conceptual framework, nor by that of contemporary theorists who have sought to reconceive the right to have rights. Moreover, the object of my analysis is not merely the right to have rights, but the right to have rights as an analytical tool to illuminate concepts and relationships central to the protection of human rights.

2. Structure of the book

In dialoguing my way to a fresh understanding of the right to have rights, I first examine five different and at times competing interpretations of the right to have rights (Chapters 1 to 5). Each chapter in turn explores the question of the right to have rights along two related axes: the right to have rights in terms of 'a place in the world' and the right to have rights in terms of the subject of rights. These two questions form a unifying thread across the chapters.

2.1 A 'place in the world'

My first point of entry in examining the right to have rights is Arendt's statement that the right to have rights means having 'a *place in the world* which makes opinions significant and actions effective' (my emphasis). With this in mind, 'place' is an idea which is foregrounded in each chapter. What does it mean to have a 'place in the world'? Clearly, this phrase had a particular meaning in Arendt's work—not least referring to the importance of individuals through their speech and action bringing their unique singularity and opinions to bear on a world held in common with a plurality of people. Having a place in the world meant having a voice and agency and above all a political status. While drawing on Arendt, my analysis of a 'place in the world' is not limited to her conceptual framework. Chapter 1 adopts the most tangible and straightforward conception of a place in the world—namely a place of lawful residence. There has to be somewhere in the world, some state, where a person has the right to enter and reside. In Chapters 2 to 5, the phrase a 'place in the world' is more explicitly concerned with the question of whether a person is recognized and included as a rights-holder.

'Place' is a particularly rich concept for examining the right to have rights for it not only raises the question of the site or sphere of right-holding, but crucially also a person's status or means of recognition as a rights-bearer within it, and the resultant level of protection of human rights afforded. With these layered meanings in mind, a recurring question across the chapters is 'what does it mean to be "in place"

within the international legal system' and 'who is "out of place" '?[40] It will be seen that each articulation of the right to have rights sheds light on one aspect of what it means to be 'in place' in the international system. Let me elaborate these interrelated aspects of a place in the world as used in the following chapters.

The sphere or site of right-bearing

'Place' raises the issue of the sphere of right-bearing. This may refer to the site or location of right-holding. For example, a particular conception of the right to have rights may privilege the national and/or international level. From another perspective however, 'place' may raise the issue of how the sphere of right-bearing is conceived. Is it, for example, the sphere of the political community and, if so, how is the political community itself to be understood? Thus, one aspect of the analysis in Chapters 1 to 5 is to probe different spheres and sites of right-bearing. Related to this is the role of international law in constituting or hindering the constitution of a particular sphere or site.

Recognition as a rights-bearer

Crucially, a 'place in the world' also raises the question of the basis of 'belonging' and 'recognition' of rights. What is the means of emplacement—of acquiring a place and being in place? And what does it mean to 'have' a place in the world? For example, is this achieved through the conferral of a legal status (and/or political status), and if so which? Or is recognition as a rights-holder something which needs to be fought for and conferred upon oneself through a politics of human rights? This aspect of a place in the world directly overlaps with that of the right to have rights examined from the perspective of the 'subject of rights' discussed below. I nevertheless retain the language of a 'place in the world' for it brings to the surface aspects of right-bearing, and of what is at stake, more clearly than the more muted, and seemingly objective, or even distancing, language of the subject of rights. It underscores that there is an evaluative or judgement-conferring aspect to subjectivity.[41] Being a subject is related to conceptions of who is considered to be 'in place' and who is 'out of place'. We begin to focus on the relation between right-bearing and belonging, right-bearing and 'visibility', right-bearing and recognition.

International law and emplacement as a rights-bearer

Finally, a central concern of each chapter is how legal analyses emplace or misplace the most vulnerable as rights-holders. How does the articulation of the right to have rights in any given chapter illuminate how international law (as presently conceived and articulated) facilitates and negates the recognition and protection of the human rights of the most vulnerable, marginalized, or otherwise stigmatized?

[40] This idea was prompted by T Cresswell, *In Place/Out of Place: Geography, Ideology, and Transgression* (Minneapolis: University of Minnesota Press, 1996) and A Brysk and G Shafir (eds), *People Out of Place: Globalization, Human Rights, and the Citizenship Gap* (New York: Routledge, 2004).

[41] Again, I draw here on Cresswell, *In Place/Out of Place: Geography, Ideology, and Transgression*.

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At the same time, I examine the emancipatory potential and limits of the given conceptions of the right to have rights, and in varying degrees, how they might be rearticulated or reoriented.

2.2 The subject of rights

If the right to have rights can be examined in terms of having a 'place in the world' then a closely related, and indeed central question it poses, is that of the subject of rights. Four different subjects emerge from the analysis: the subject as the national, the citizen, the human, and the subject of politics. What is the significance of nationality, citizenship, humanity, and politics for right-bearing? These are each highly contested terms which I do not attempt to define for the purposes of this introduction for their meaning is one aspect of the analysis in the ensuing chapters. Not only does the question of the right to have rights bring these concepts into focus, but it also raises the question of their interrelation. How, for example, does the international legal status of nationality stand in relation to humanity of international human rights law? Or what is the relationship of citizenship as a political concept to holding human rights? Then again, how might the contested concepts of nationality and citizenship stand in relation to one another? This is not to suggest that there is only one possible configuration of the relationship in each instance. Clearly there are as many configurations as conceptions of the individual terms themselves.

At this point, let me clarify what this book is not about. It is not an analysis of international legal personality or of the individual in international law.[42] Although my analysis clearly touches on these issues, its focus lies elsewhere, namely with the concepts of citizenship, nationality, humanity, and politics, the connections between them, and their significance for right-bearing. At times, the very deferral of analyses to the 'international level' or to within the 'international legal order' may be symptomatic of a politics of the denial of rights and thus precisely what needs to be put in question.

2.3 Chapter descriptions

My aim in Chapters 1 to 5 is to examine five different and often competing conceptions of the right to have rights. I map the contours of the given articulation of the right to have rights, and its strengths and weaknesses, while simultaneously examining how the given conception of the right to have rights sheds light on the capacity and incapacity, as the case may be, of international law to find a place for the most vulnerable, excluded, and stigmatized within the international legal system, thought, and practice. In light of this overarching aim, the analysis of any

[42] On international legal personality see F Johns (ed), *International Legal Personality* (Farnham: Ashgate, 2010) and R Portmann, *Legal Personality in International Law* (Cambridge: Cambridge University Press, 2010). As to the position of the individual in international law, see K Parlett, *The Individual in the International Legal System: Continuity and Change in International Law* (Cambridge: Cambridge University Press, 2011).

given conception of the right to have rights (and the law relevant to that conception) does not intend or purport to be exhaustive. Chapters 1 and 2 approach the concept of the right to have rights from the perspective of public international law, focusing in particular on the international legal status of nationality. It is primarily in Chapters 3 to 5 that the question of the 'having' of the right to *have* rights comes to the fore, taking the form of membership of a political community (Chapter 3), entitlement to rights under international human rights law (Chapter 4), and most pertinently, the politics of human rights (Chapter 5) respectively.

Chapter 1 commences with perhaps the most tangible conception of 'a place in the world', namely a place of lawful residence. In the international system of sovereign states it is essential that a person has the right to enter and reside in at least one state. The context in which the right to have rights is examined in this chapter is thus the movement of people across borders. It is shown how international law is integral to the construction of the present international legal order of sovereign states and posits two primary legal statuses or means by which an individual may attain the right to enter and reside in a state, namely the international legal status of nationality, and exceptionally, humanity of international human rights law as asserted in rights such as the right to respect for family and private life. At one level, if the national is in place then a stateless person is out of place and at risk of being shunted between states. At another level, however, I argue that this picture is patently simplistic for in the context of the movement of people across borders, distinctions are not only drawn between nationals and non-nationals but also within these categories—distinctions which international law in part facilitates. For example, non-nationals lacking the requisite social status and substantive citizenship may be contained within their state of nationality and denied the right to leave and enter a third state such that their state of nationality becomes what I term the 'non-place' of containment. Notwithstanding evident discrepancies in the rights attaching to any given nationality, I argue that the legal status of nationality remains a prized possession in the present international legal order.

Having examined the significance of the legal status of nationality for admission and residence in states, Chapter 2 considers one of the central conceptions of the right to have rights by public international lawyers—namely the right to have rights as the right to a nationality. If statelessness remains an acutely vulnerable condition, then it is argued by some that it is to be addressed through the conferral of the right to a nationality. What, however, does this right to a nationality entail? If the right to a nationality were secured, what would be the protection afforded? I explore four different articulations of the right to a nationality which I term the formal, human rights, democratic governance, and the substantive belonging approaches. The site of right-bearing, and the protection afforded—the place in the world conferred—differs on each articulation as does the given conception of statelessness and the 'need' which the right to a nationality is to address. I argue that if the full vulnerability of the condition of statelessness is to be addressed, then the right to a nationality is to be reconceived in terms of the substantive belonging approach, such that it is oriented towards the individual holding a rich, multifaceted place in the world which embraces nationality as an international and domestic legal status, but which also connotes political agency, and substantive inclusion. In examining the right to have

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rights in terms of the right to a nationality, the chapter also explores the complex relationship between the legal status of nationality and the legal and political status of citizenship, and between nationality of public international law and humanity of international human rights law (that is, between nationality and the protection of human rights). Drawing on Arendt, for example, the analysis draws the link between participatory political communities founded on plurality on the one hand, and protection against arbitrary deprivation of nationality and statelessness on the other. It is also shown that whichever conception of this articulation of the right to have rights is adopted, nationality risks usurping or even cannibalizing humanity such that the subject of rights becomes the national alone, thereby exacerbating the vulnerability of the inevitable remainder of stateless people denied the right to a nationality.

If, for certain public international lawyers, the right to have rights is founded on the international legal status of nationality, for political theorists such as Arendt it brings into focus the political status of citizenship and the relationship of citizenship to humanity. Taking Arendt's conception of citizenship as the starting point for the analysis, at issue in Chapter 3 is the construction of the subject-as-citizen: the right to have rights is citizenship due to the equality of status conferred—and the political participation secured—by membership of the political community. The human is not the abstract human of human rights, but the situated human who holds rights among her equals in the political community. The lens through which I examine this conception of the right to have rights is the denial to convicted prisoners of the right to vote. While by no means exhausting the meaning of citizenship or of this conception of the right to have rights, the right to vote is a powerful symbol of inclusion. The analysis illustrates the strengths and limitations of this conception of the right to have rights on the one hand, and of the 'citizenship' which emerges from international legal analyses in this context on the other. It is argued that the political equality of prisoners posited by international law remains tenuous. International law embraces two arguably conflicting conceptions of citizenship—namely citizenship as a privilege and citizenship as a status of equality conferred on all without differentiation. The denial of the right to vote also raises the issue of overlapping grounds of exclusion from the equality of citizenship, namely of criminality, 'race', and social exclusion. In exploring these issues, and in calling into question legal and Arendtian analyses which privilege political membership and inclusion for the protection and recognition of rights, I draw on the work of the sociologists Loïc Wacquant and Margaret Somers. While international human rights analyses may acknowledge the disproportionate effect of disenfranchisement laws on ethnic minorities, the link between disenfranchisement and social exclusion remains elusive. If the right to have rights is citizenship, it is a precarious citizenship of potential internal exiles.

Arendt's articulation of the human-as-citizen—the subject-as-citizen—stands in direct opposition to the claims of international human rights law which form the focus of Chapter 4. On what might be termed an orthodox or standard interpretation of international human rights law,[43] the human is the subject of rights.

[43] See M-B Dembour, *Who Believes in Human Rights?: Reflections on the European Convention* (Cambridge: Cambridge University Press, 2006) 243–7, 253–6.

Rights are held by virtue of being a person as such and irrespective of the legal status of nationality or citizenship. A person's place in the world is that which their humanity confers upon them. While noting claims that the individual is now a subject of rights at the international level, at issue in this chapter is the protection international human rights norms afford non-citizens (in particular the stateless and undocumented) within a state's territory. Certain postnational citizenship theorists, for example, cite international human rights law as an example of rights being delinked from nationality or citizenship status and being based on personhood. The context in which I explore this conception of the right to have rights (the right to have rights as humanity, the subject of rights as the human) is the practice of certain states of interpreting human rights on the basis of immigration status, which I argue is an example of the institution of what might be termed an 'internal border'. A non-national may be physically present in a state's territory, but exclusion is secured through the interpretation of rights on the basis of immigration status. At times, international human rights norms may challenge these internal borders (as evidenced by a case involving an undocumented migrant's right to marry). Yet international human rights law may equally be the means by which internal borders are fostered as in the case of the Migrant Workers Convention. Finally, the chapter explores the border between international and national law: an indefinitely detained stateless person may be entitled to protection from arbitrary detention in international human rights law, and yet as a non-national be denied that right under national law. I conclude that humanity at times incorporates and at times overcomes the exclusions of the territorial border and the construction of the rights-bearer on the basis of immigration status. In sum, humanity is not the answer to the right to have rights but the site of its contestation.

If a stateless person may be entitled to the right to liberty of the person under international human rights law, but be denied the enjoyment of that right under national law, are human rights the rights of the rightless, or is the putative conundrum the impetus for yet again reconceiving who is the subject of rights. In Chapter 5, taking the French political theorist Jacques Rancière as my guide, I examine the right to have rights in terms of the politics of human rights such that the subject of rights is the subject of politics. The focus here is on a performative understanding of the 'having' of the right to have rights and of a place in the world. Rancière's work is illuminating for it takes issue with the paradox of rights Arendt poses, while also positing a novel conception of the subject of rights and of the relationship between man and the citizen. Human rights, Rancière contends, are not as per Arendt, the rights of the citizen (the rights of those who have rights) or the rights of the rightless (abstract man who is denied rights) but the rights of the ever-fluctuating subject of politics. Here the relationship of humanity and citizenship is not framed in terms of an identification (the human is the citizen) but is rearticulated as an interval or gap: rights are not possessed by definite, predetermined subjects (the national, citizen, or the human) but by the political subject who emerges in the gap between man and the citizen and lodges a dispute as to whom is included in their terms. Man and the citizen—or the human and the citizen—are political predicates. The subject of rights is whoever takes up, enacts,

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and demonstrates their capacity to hold the very rights they have been denied. The subject is the collective subject who engages in dissensual politics, asserts and then verifies or demonstrates their equality. Recognition as a rights-holder is not conferred from above, but claimed by the excluded themselves. In this way they confer a place in the world on themselves and simultaneously reconfigure that place by challenging who is considered to count as a member of the political community. While Rancière's analysis does not suffer from the overt exclusions of the subject as the national, the citizen, or the human, exclusion still persists as it is only those who demonstrate their capacity to hold the rights they have been denied who, on Rancière's analysis, 'have' them. Finally, I examine the implications of Rancière's work for international human rights law. While he helpfully underscores the limits of international human rights law—not least its pacifying effect and potential to transform the subject of rights into the victim—we cannot simply escape from the law into a Rancièrian politics for if the rightless are indeed to 'have' rights then alongside a dissensual politics, the emancipatory potential within the law must also be exploited.

Finally, having come to the limits of nationality, citizenship, humanity, and politics, how is the right to have rights to be understood in the context of international legal thought and practice? In the Conclusion I outline my understanding of the right to have rights and its significance for international law. At this point, however, I merely pose the following question: will the different articulations of the right to have rights discussed in Chapters 1 to 5 suggest that a new subject of rights is needed, or is the very attempt to name the subject in fact the problem which must be addressed?

1

The Right to have Rights as a 'Place in the World'

Arendt's experience of statelessness and her study of the fate of the stateless impressed upon her the importance of securing for each person a place in the world where he or she can reside as of right. According to Arendt, the first loss which the stateless suffered was the loss of their home, that is, the loss of the 'entire social texture into which they were born' and 'a distinct place in the world' recognized and guaranteed by others.[1] Having lost this place they were unable to secure another. Wherever the stateless travelled, they were met with border controls, the impossibility of securing visas, the constant threat of expulsion, and the denial of the right to reside. For Arendt, the fate of stateless people was linked to the structure of the international system. In a system of states, to be stateless was to be an 'anomaly' for which the international system and international law did not provide. To be expelled from one state without having the right to enter another was to be 'thrown out of the family of nations altogether'.[2] Without the legal status of nationality there was nowhere left for the stateless person to reside, leaving them perilously exposed.

Thinking with and beyond Arendt, the articulation of the right to have rights explored in this chapter is the right to enter and reside in a state. In the present international system of states, it is imperative that each person has a 'place in the world' in the sense of a place of lawful residence and is not constantly shunted between states. At this moment, each one of us is situated at some point on the globe. Yet some of us will be, or be considered to be, 'in place' and others 'out of place'.[3] We are not only located physically, but legally, because how our physical presence is characterized turns on our legal status. This chapter examines how international law constructs the need for a 'place in the world' and the legal statuses by which individuals are emplaced (or misplaced) within it. The first section explores nationality as the primary status of admission and residence and the enduring vulnerability of stateless people in the present international legal order. The second section then turns to practices by which non-nationals are contained within their state of nationality and excluded from third states. How, I ask, might

[1] H Arendt, *The Origins of Totalitarianism* (revised edn) (New York: Harcourt, [1973]) 293.
[2] Ibid, 294.
[3] This idea was prompted by T Cresswell, *In Place/Out of Place: Geography, Ideology, and Transgression* (Minneapolis: University of Minnesota Press, 1996) and A Brysk and G Shafir (eds), *People Out of Place: Globalization, Human Rights, and the Citizenship Gap* (New York: Routledge, 2004).

probing what it means to be 'out of place' further illuminate the sense of being 'in place' in the context of the movement of people across borders? Finally, I examine the contribution of international human rights law to emplacing non-nationals within a state.

Before addressing these questions, let me briefly return to the concept of 'place'. In this chapter, I am referring to place as a given: at one level, it is the territory of the state. More broadly, a 'place in the world' as used in this chapter concerns the relation between physical and legal space—a place of lawful residence. This is clearly a static and one-dimensional conception, whereas in the social sciences place is a contested and multifaceted concept.[4] In contrast to the passive conception of place I have employed here, writers across the disciplines argue that places emerge when space is 'produced'.[5] Places are not given but are socially produced in that the meaning we attribute to a 'space' is shaped by societal and political relations. Edward Soya explains as follows: '[s]pace in itself may be primordially given, but the organization, and meaning of space is a product of social translation, transformation, and experience'.[6] On a performative conception of place, a person is not merely the passive recipient of a 'place in the world' in the sense of possessing and exercising the right to reside in a territory, but comes to 'have' a place and to constitute places through their action, to which I return in Chapter 5. Places are never fully constituted but always in the process of becoming. To a limited extent, the contingent and produced nature of places is taken into account in section 3 below in that the characterization of the place where a person lives (a place of rights to which entry is sought or the non-place of containment from which egress is impeded) is a product of acts of placement and/or containment. While cognizant of the rich conceptions of place noted above, the focus of the present chapter largely lies elsewhere, namely on territorial conceptions of place, on the importance in an international system of sovereign territorial states of having the right to enter and reside in a state. Such an approach is a more passive conception of place. I am here concerned with notions of being emplaced, 'in place' and 'out of place', which is not to imply that there is anything natural or inevitable about the present legal, political, and territorial configuration of space and consequent categorization of people, but to seek to probe the implications of that configuration and whom it excludes.[7]

[4] I am indebted to one of the anonymous OUP reviewers who highlighted this point.

[5] Most notably, see H Lefebvre, *The Production of Space*, D Nicholson-Smith (trans) (Oxford: Blackwell Publishing, 1991).

[6] E W Soya, *Postmodern Geographies: The Reassertion of Space in Critical Social Theory* (London: Verso, 1989) 79–80. Of course, these ideas have also been taken up by critical legal geographers. See, for example, N Blomley, *Law, Space, and the Geographies of Power* (New York: Guilford Press, 1994); N Blomley, D Delaney, and R T Ford (eds), *The Legal Geographies Reader: Law, Power, and Space* (Oxford: Blackwell, 2001); and J Holder and C Harrison (eds), *Law and Geography*, Current Legal Issues 5 (Oxford: Oxford University Press, 2003).

[7] Indeed, it was not until the late nineteenth and early twentieth centuries that states' governance of territory came to incorporate control of the movement of people across borders. The First World War was a key turning point marking the end of the era of relatively free movement across borders. See J Torpey, *The Invention of the Passport: Surveillance, Citizenship and the State* (Cambridge: Cambridge University Press, 2000) 111–21.

1. Nationality and emplacement: a 'place in the world' and the international legal order

As stated above, in the present international system, it is imperative that a person possesses the right to enter and reside within the territory of at least one state. This imperative stems from the present legal and political configuration of global space. With few exceptions,[8] there are no 'non-governed spaces'. The territory of the globe is governed, administered, with international law being integral to this administration of space. For example, international law constitutes the 'spaces on a map'[9] as 'territory' of a state subject to its jurisdiction—its governance and control. In international law, the border is the means of delineating the territory over which a state exercises sovereignty. The borders of a state's territory have been described as 'the imaginary lines on the surface of the earth which separate the territory of one state from that of another, or from unappropriated territory, or from the open sea'.[10] Although international law does not require the borders of a state to be fully delimited in order for that state to exist,[11] several consequences follow from such a delimitation. Borders, for example, demarcate the internal territory over which a state exercises its exclusive authority, that is, its territorial sovereignty.[12] Within the limits of its borders, a state is said to have 'exclusive territorial control',[13] and on crossing a state's border all individuals and property fall under the territorial authority of that state.[14] Through being bordered, space/territory comes under the control and title of the state. In the words of one writer, '[b]oundaries have pulled territory into a statist paradigm making it available for administration'.[15] Borders, however, not only bring territory, but also people, under the statist paradigm. Indeed it is in relation to borders that people are categorized. The legal status of the national or the 'illegal' migrant only has meaning in relation to 'bounded spaces'.[16] Given this administration of the territory of the world, it is essential that there is a 'place' (here, a state) in relation to which a person possesses the requisite legal status for entry and residence. To cite Catherine Dauvergne, 'the geography of the globe is "nationalized". There is no empty, non-national space where people can live beyond the reach of [a] nation'.[17]

[8] See V Prescott and G D Triggs, *International Frontiers and Boundaries: Law, Politics and Geography* (Leiden: Martinus Nijhoff Publishers, 2008) 148.

[9] I am drawing here on terminology used by Vasuki Nesiah in 'Placing International Law: White Spaces on a Map' (2003) 16(1) *LJIL* 1, although the context in which I am doing so clearly differs.

[10] R Jennings and A Watts (eds), *Oppenheim's International Law* (9th edn) (Harlow: Longman, 1992) 661 (para 226).

[11] Ibid, 121 (para 34).

[12] Ibid, 382 (para 117).

[13] *Corfu Channel Case* ICJ Rep 1949, 4, 18.

[14] Jennings and Watts, *Oppenheim's International Law*, 384 (para 118).

[15] Nesiah, 'Placing International Law', 30.

[16] N Blomley, D Delaney, and R T Ford, 'Preface: Where is Law?' in Blomley, Delaney, and Ford, *The Legal Geographies Reader*, xiii, xviii.

[17] C Dauvergne, *Making People Illegal: What Globalization Means for Migration and Law* (New York: Cambridge University Press, 2008) 44. Dauvergne notes that the high seas and Antarctica are limited exceptions to this.

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In this section the focus is on nationality as the legal status which enables a person to be physically and legally emplaced (in the sense of acquiring a place of lawful residence) in the international system of states with all the consequent legal ramifications for the enjoyment of rights. It is the national who has the right to enter and reside in the state of nationality and who therefore enjoys a 'place in the world' to live. Both the articulation and interpretation of the right to enter in international law tie admission to nationality.

1.1 Entry as the national's return

In customary international law, and in international human rights law, admission to a state primarily depends upon a person's nationality. A state's duty to admit its nationals (and allow them to reside within the state of nationality) is said to be of the essence of nationality.[18] This customary legal duty is the product of the system of territorially sovereign states. For a state to refuse admission to its nationals is to violate the 'territorial supremacy' of the expelling state.[19] Similarly, the state of nationality is under a duty not to expel its nationals. Therefore under customary international law, a state's duty to admit its nationals is owed not to the individual national him- or herself, but rather to whichever other state wishes to expel that individual.[20] Accordingly, no such duty lies in relation to non-nationals. In their case, admission is a matter of state discretion[21] subject to countervailing international legal obligations[22] not least under international human rights and refugee law.[23] In international human rights law, a state's duty to admit its nationals becomes the individual's right to enter and reside free from expulsion in his or her 'own country' or country of nationality.[24] Though today articulated as a right of the individual, rather than only a duty of the state of nationality to another state, nationality remains the axis on which admission turns. The presupposition of international human rights law is that an individual possesses a state of nationality, or 'his own country', so that what is in question is his or her freedom of movement in relation to that state.[25]

[18] H F van Panhuys, *The Rôle of Nationality in International Law: An Outline* (Leiden: Sijthoff, 1959) 56.

[19] P Weis, *Nationality and Statelessness in International Law* (2nd edn) (Alphen aan den Rijn: Sijthoff & Noordhoff, 1979) 47.

[20] See Jennings and Watts, *Oppenheim's International Law*, 857–8 (para 379).

[21] Ibid, 897–8 (para 400). For challenges to the traditional position see J Nafziger, 'The General Admission of Aliens Under International Law' (1983) 77(4) *AJIL* 804 and S Juss, 'Free Movement and the World Order' (2004) 16(3) *IJRL* 289.

[22] See further ILC, 'Third Report on the Expulsion of Aliens' (Special Rapporteur M Kamto), UN Doc A/CN.4/581 (19 April 2007) paras 6–23.

[23] See further section 2 below.

[24] For example, a national's freedom from expulsion is explicitly protected in ECHR, Fourth Protocol, art 3(1) and ACHR, art 22(5) and is implicit in the right to enter one's 'own country': ICCPR, art 12(4). See HRC, General Comment No 27, 'Freedom of Movement', adopted 2 November 1999, UN Doc CCPR/C/21/Rev.1/Add.9 (2 November 1999) para 19.

[25] The ILC's Special Rapporteur on the expulsion of aliens has posited that states may exceptionally refuse to admit nationals (see ILC, 'Third Report on the Expulsion of Aliens', paras 50–7), however, the unconditional nature of a national's freedom from expulsion was emphasized by several

That the right to enter was originally conceived in terms of the national's right to leave and return to his or her state of nationality is reflected in article 13(2) of the Universal Declaration which provides that 'everyone has the right to leave any country, including his own, and to return to his country'. The right to return was added as a means of strengthening the right to leave; in effect, what was contemplated was thus a right of re-entry.[26] In terms of the ICCPR, an initial proposal referred to the individual's right 'to return to the country of which he is a national'. 'Return' was later changed to 'enter' to take into account nationals who were born elsewhere and had never actually lived in their country of nationality. At the same time, the phrase 'country of which he is a national' became 'his own country' so as to incorporate permanent residents.[27] Several human rights instruments retain the language of 'return' or limit admission to nationals. For example, ICERD and the African Charter refer to 'the right to return to [one's] country',[28] while the ECHR and the ACHR articulate the right of a national to enter the state of nationality.[29] Vincent Chetail therefore aptly concludes that the right of admission is primarily conceived as a right 'concentrated on the state of origin'.[30] Indeed, in the words of John Torpey, the very enunciation of the right to leave and to return 'indicates the extent to which states and the state system have expropriated and monopolized the legitimate means of movement in our time'.[31]

The original conception of the right to enter as the right of the national continues to inform the interpretation of article 12(4) of the ICCPR which provides that '[n]o one shall be arbitrarily deprived of the right to enter his own country'. In principle, one's 'own country' is not limited to a person's country of nationality. According to the HRC, it 'embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien'.[32] While it may extend to 'categories of long-term residents',[33] the Committee's interpretation of one's 'own country' suggests that it involves cases where nationality would have been conferred but for the arbitrary acts of the state in question. For example, it would extend to 'stateless persons arbitrarily deprived of the right to

ILC members: 'Report of the International Law Commission on the Work of its Fifty-ninth Session (7 May–5 June and 9 July–10 August 2007)', UN Doc A/62/10 (2007) para 229.

[26] V Chetail, 'Freedom of Movement and Transnational Migrations: A Human Rights Perspective' in T A Aleinikoff and V Chetail (eds), *Migration and International Legal Norms* (The Hague: TMC Asser Press, 2003) 47, 57.

[27] M Bossuyt, *Guide to the 'Travaux Préparatoires' of the International Covenant on Civil and Political Rights* (Dordrecht: Martinus Nijhoff Publishers, 1987) 261 and S Jagerskiold, 'The Freedom of Movement' in L Henkin (ed), *The International Bill of Rights: The Covenant on Civil and Political Rights* (New York: Columbia University Press, 1981) 166, 180.

[28] ICERD, art 5(d)(ii) and African Charter, art 12(2).

[29] ECHR, Fourth Protocol, art 3(2) and ACHR, art 22(5). The *Declaration on the Right to Leave and the Right to Return* 1972 (a declaration adopted by the Uppsala Colloquium, Sweden, 21 June 1972) is even more explicit, referring to every person's entitlement 'to return to the country of which he is a national' (art 9). See H Hannum, *The Right to Leave and Return in International Law and Practice* (Dordrecht: Martinus Nijhoff, 1987) 150–3.

[30] Chetail, 'Freedom of Movement and Transnational Migrations', 59.

[31] Torpey, *The Invention of the Passport*, 159.

[32] HRC, General Comment No 27, para 20.

[33] Ibid.

acquire the nationality of the country of... residence'.[34] In the Committee's view, a failure to adopt a country's nationality when there are no obstacles preventing such a step demonstrates the intention to remain a non-national such that a person cannot call the country in question 'his own'. One's 'place in the world', in the sense of the state where a person has the right to reside, primarily remains the state of nationality. The primary community of importance is the community of the state of nationality. *Stewart v Canada* before the Committee involved a UK national who faced deportation from Canada due to conviction for petty crimes.[35] Although he had resided in Canada since the age of seven and had dependants in Canada, the Committee reasoned that Canada had not become the author's 'own country'. It deemed that as he had opted to remain a non-national in Canada in circumstances where Canada did not impose restrictions on the grant of nationality, he had to bear the consequences of that decision.[36] Despite having lived in Canada from the age of seven, on this analysis, the UK constituted the applicant's 'country'—his place in the world. Similar reasoning has been applied by the Committee in further communications.[37] Here, a place in the world is the territorial state entry to which is gained and guaranteed via the legal status of nationality. The legal status of nationality—or of de facto nationality where nationality has been arbitrarily denied—forms the link between a person and entry and residence in a state. It is the formal tie of nationality, or the arbitrary deprivation of that tie, which has purchase—in other words: is recognized—as gaining entry to the state, and thus which in this sense emplaces the individual within the international system of states.

With the advent of multiple nationality that place may no longer be a single state, but the point remains that it is the formal legal status of nationality which is the key to admission and the right to reside in the state's territory. The importance of nationality for a right to enter and reside in a state is most clearly demonstrated by the plight of stateless persons. Unlike nationals, there is no state a stateless person may enter and remain in as of right.[38] A striking deficiency of the 1954 Convention relating to the Status of Stateless Persons[39] is the omission of the right of stateless people to enter and remain in the territory of state parties. The non-penalization provision for

[34] Ibid. The Committee did go on to acknowledge that '[s]ince other factors may in certain circumstances result in the establishment of close and enduring connections between a person and a country, States parties should include in their reports information on the rights of permanent residents to return to their country of residence' (para 20). As noted by David Martin, this is 'modestly suggestive' but 'quite cautious' language. D A Martin, 'The Authority and Responsibility of States' in T A Aleinikoff and V Chetail (eds), *Migration and International Legal Norms* (The Hague: TMC Asser Press, 2003) 31, 42 (fn 39).

[35] UN Doc CCPR/C/58/D/538/1993 (views adopted 1 November 1996).

[36] Ibid, para 12.8.

[37] See *Canepa v Canada*, UN Doc CCPR/C/59/D/558/1993 (views adopted 3 April 1997) para 11.3 and *Francesco Madafferi v Australia*, UN Doc CCPR/C/81/D/1011/2001 (views adopted 26 July 2004) para 9.6.

[38] However, the HRC's interpretation of one's 'own country' in art 12(4) of the ICCPR may be of benefit to certain categories of stateless people: see L van Waas, *Nationality Matters: Statelessness under International Law* (Antwerp: Intersentia, 2008) 260–1.

[39] New York, 28 September 1954, entered into force 6 June 1960, 360 *UNTS* 117 (hereafter '1954 Statelessness Convention').

unlawful entry contained in the Refugee Convention[40] is not reproduced, nor does the Convention provide for the regularization of a stateless person's immigration status.[41] Indeed, the 1954 Statelessness Convention only provides protection from expulsion for a stateless person lawfully on the territory of a state party (subject to the exceptions of expulsion on the grounds of national security or public order)[42] leaving unaddressed the plight of the unlawfully resident stateless person.[43] Even where a stateless person is habitually resident in a state, his residence has been said to be a mere 'state of affairs rather than something that confers rights'.[44] As stated by Audrey Macklin such an approach assimilates the position of the stateless to that of non-nationals in general. It fails to grasp that unlike non-nationals who possess a nationality, stateless people have nowhere else to go. They have no other state in which they may reside as of right.[45] Indeed the 'powerlessness' of stateless people derives in large part from the absence of freedom of movement in relation to at least one state thereby exposing them to the vulnerable existence flowing from illegal entry.[46]

Modise v Botswana[47] before the African Commission on Human and Peoples' Rights is a striking example of how expulsion from one state without the right to enter another relegates a person to a no man's land of arbitrary treatment. Though Mr Modise was a Botswanan citizen, Botswana refused to acknowledge his nationality status (rendering him stateless) and deported him to South Africa four times. Each time he was rejected by the South African authorities. As summarized by the Commission, Mr Modise was forced to live for seven years in the 'homeland' of Bophuthatswana, and then for several weeks in 'no man's land', a border strip between the former South African 'homeland' of Bophuthatswana and Botswana.[48] The Commission accepted his submission that these acts exposed him to personal suffering and indignity in violation of the right to freedom from cruel, inhuman

[40] Art 31(1). A further omission is the principle of *non-refoulement*: Refugee Convention, art 33.

[41] However, note art 32 on naturalization. See further van Waas, *Nationality Matters*, 248–9.

[42] Art 31(1).

[43] See ILC, 'Third Report on the Expulsion of Aliens', paras 86–96. As noted by Kamto, in reproducing the corresponding provision in the Refugee Convention, the 1954 Statelessness Convention fails to address the particular vulnerability of stateless people. While Kamto advocates a progressive development of the law in relation to the expulsion of stateless persons, as presently drafted, the ILC's article on the non-expulsion of stateless persons is ambiguous as to whether the article extends to unlawfully present stateless people (para 96).

[44] *MT (Palestinian Territories) v Secretary of State for the Home Department* [2008] EWCA Civ 1149, para 50 (Scott Baker LJ). As noted by Stefanie Grant, however, readmission agreements 'increasingly include an obligation to readmit third country nationals and stateless persons coming from or having resided in the country concerned'. S Grant, 'The Legal Protection of Stranded Migrants' in R Cholewinski, R Perruchoud, and E MacDonald (eds), *International Migration Law* (The Hague: TMC Asser Press, 2007) 29, 39.

[45] A Macklin, 'Who is the Citizen's Other? Considering the Heft of Citizenship' (2007) 8(2) *Theoretical Inq L* 333, 344.

[46] M S McDougal, H D Lasswell, and L Chen, 'Nationality and Human Rights: The Protection of the Individual in External Arenas' (1973) 83(5) *Yale LJ* 900, 961.

[47] *John K Modise v Botswana*, Communication No 97/93, 'Fourteenth Annual Activity Report of the African Commission on Human and Peoples' Rights 2000–2001', AHG/229(XXXVII) 28.

[48] There is a large discrepancy in the case report as to the time frames in question. See ibid, para 5 (seven years in the 'homeland' of Bophuthatswana and five weeks in no man's land) and para 87 (eight years in the 'homeland' of Bophuthatswana and seven years in no man's land).

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or degrading treatment guaranteed under article 5 of the African Charter,[49] and deprived him of his family, and his family of his support, in violation of article 18(1) of the Charter.[50] The deportations also violated Mr Modise's right to leave and to return to his country (article 12(2) of the Charter).[51] The case affirms the link between nationality on the one hand, and admission to, and the right to reside within a state's territory on the other[52] and the vulnerability of stateless people unlawfully present in the host state. In being relegated to the no man's land border strip, Mr Modise's plight also illustrates Arendt's assertion that the international order consists of a closed system of states such that to be expelled from one, without having any right to enter another, is to be expelled from the sphere of rights itself.[53]

So essential is a national's right to enter his or her own state for the enjoyment of other rights that it has been argued that to deny such a right may constitute persecution under the Refugee Convention when done for a Convention reason. To exclude a national is said to 'cu[t] him off from enjoyment of all those benefits and rights enjoyed by citizens and duties owed by a state to its citizens'.[54] Similarly, the HRC has argued that the violation of a person's right to remain in, return to and reside in his own country 'necessarily has a negative impact on [their] enjoyment of the other rights ensured under the Covenant'.[55] Thus, while article 12(4) of the ICCPR provides that 'no one shall be arbitrarily deprived of the right to enter his own country', the HRC maintains that 'there are few, if any, circumstances in which deprivation of [that] right... could be reasonable'.[56]

In the case of stateless people, the right to enter the territory of a state party to the 1954 Statelessness Convention may also be crucial as the conferral of many rights in the Convention is conditional on 'physical, lawful or even durable access to the territory of the contracting state'.[57] Most crucially, unlawful entry compels a stateless person or other non-national to 'lead an illegal existence, avoiding all contact with the authorities and living under the constant threat of discovery and expulsion'[58] such that he does not claim any rights to which he may be entitled under international human rights law within a state's territory. Having lost the

[49] Ibid, para 91. The European Commission of Human Rights has also stated that constant expulsion to a country where admission is not guaranteed may violate art 3 of the ECHR: see *Harabi v The Netherlands*, Application No 10798/84, decision of 5 March 1986.

[50] *Modise v Botswana*, para 92. [51] Ibid, para 93.

[52] Clearly the case also raises the issue of the arbitrary deprivation of nationality and the right to a nationality discussed in Chapter 2.

[53] Arendt, *Origins*, 293–4.

[54] *Adan v Secretary of State for the Home Department* [1997] 1 WLR 1107, 1126 (Hutchison LJ obiter). See also *EB (Ethiopia) v Secretary of State for the Home Department* [2009] QB 1, 18–21 (paras 64–72) (Longmore LJ).

[55] *Luis Asdrúbal Jiménez Vaca v Colombia*, UN Doc CCPR/C/74/D/859/1999 (views adopted 25 March 2002) para 7.4.

[56] HRC, General Comment No 27, para 21. The effect of restrictions of movement (both internal movement and the right to enter from abroad) on the exercise of a range of rights is perhaps most clearly demonstrated in the context of Palestine. See United Nations Fact-Finding Mission on the Gaza Conflict, 'Human Rights in Palestine and other Occupied Arab Territories', UN Doc A/HRC/12/48 (25 September 2009) para 1543.

[57] See van Waas, *Nationality Matters*, 246, 229–31.

[58] UN, 'A Study of Statelessness', UN Doc E/1112;E/1112/Add.1 (August 1949) 14.

'place in the world' where he or she can reside as of right, a person unable to secure another such place becomes exposed to arbitrary treatment. This link between lawful residence and the enjoyment of rights within a state is examined further in Chapter 4 but it is crucial to bear it in mind here for it underscores the importance of the right to enter and reside in a state not only for a physical place to live but for the enjoyment of rights per se.

From the discussion above, it can be seen that, at the present time, nationality remains the principal international legal status by which access to a state's territory is achieved. It is the national who has the right to enter and reside in the state of nationality and who therefore enjoys a 'place in the world' to live. There is a place, here a state, in which nationals can live and reside as of right without the constant threat of expulsion. The prevailing assumption of the international legal system is that an individual will possess the nationality of at least one state.

1.2 Questioning the national's place: not all nationals are 'in place'

So far I have noted the importance of possessing the right to enter and reside in a state and have argued that the legal status of nationality is the key instrument of admission. However, we need to beware of reifying nationality. Clearly, the value of the right to enter and remain in the state of nationality differs among states and even between nationals. Not every state is a refuge. A national may possess the right to enter and reside in a state but be unwilling to avail himself of that state's protection for fear of persecution as is the premise of international refugee law. Recognizing this, the IACtHR has held that the right to enter and reside is denied where an exiled population is unable to return for fear that their rights—in particular their right to life and personal integrity—will be violated.[59] Even if a person's life may not be threatened through persecution or war, the place one enters also varies in terms of the rights the national enjoys whether civil, political, economic, or social. As argued by Macklin, the value of the right to enter a state 'is conditioned by the quality of social citizenship available generally and in particular to an individual. Returning to one's country of citizenship may represent the restoration of state protection, or consignment to an abyss'.[60] A person may be a national in law and yet be politically, socially, or economically 'absent' or superfluous. I return to this issue in Chapter 2.

Finally, the reverse side of nationality also comes to the fore when we consider restrictions on nationals' right to leave their state of nationality. Nationality is not only the trigger permitting admission to the state of nationality, but may also be the basis for effectively 'imprisoning' the national within that state. While the practice of states imprisoning their entire population within their territory (a practice which prevailed during the Cold War) has been held to violate the right to leave,[61]

[59] *Case of the Moiwana Community v Suriname*, Petition No 11,821/97, judgment of the IACtHR of 15 June 2005, Series C, No 124, paras 119–20.

[60] Macklin, 'Who is the Citizen's Other?', 356.

[61] *Streletz v Germany* (2001) 33 EHRR 31, paras 98–101.

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this right—including (although not limited to) the state of nationality—may be restricted on grounds such as national security, public order, and public health.[62] One of the most evident examples of this is where the right to leave is denied to a national due to his failure to perform military service. According to one study on the movement of persons across borders, such a restriction is 'founded on the bond of nationality that exists between an individual and a State which gives rise to certain duties and obligations on the part of both the individual and the State'.[63] The national's duty to the state reciprocates the state's duty to admit nationals and provide them with diplomatic protection while abroad.[64] To date, the views of the HRC on this issue have been inconsistent. Relying on the *travaux préparatoires* of the ICCPR, the Committee has maintained that restrictions on the freedom of movement of individuals who have not yet performed their military service are in principle to be considered necessary for the protection of national security and public order,[65] and therefore fall within the ambit of the exceptions in article 12(3) of the Covenant. On other occasions, however, the Committee has expressed its regret at a state's imposition of restrictions on the right to leave for failure to perform military service.[66]

In general, however restrictions on the right to leave have been construed narrowly. For example, the removal of a passport pending a trial may serve the legitimate aim of the maintenance of public order, but the right to leave will be violated where that ban continues without review so as to become indefinite.[67] This need for a narrow interpretation is particularly acute in the context of the national security exception to the right to leave[68] as evidenced by cases before the African Commission on Human and Peoples' Rights concerning political activists or members of the opposition who have been prevented from leaving the state in question's territory due to their criticism of government practices.[69] Similarly, both the ECtHR[70] and

[62] ICCPR, art 12(2) and (3); ECHR, Fourth Protocol, art 2(2) and (3); ACHR, art 22(2) and (3); ACHPR, art 12(2); and ArabCHR, art 27(1).

[63] L B Sohn and T Buergenthal (eds), *The Movement of Persons across Borders*, A Part of the Joint Project on the Governing Rules of International Law of The American Society of International Law, The John D and Catherine T MacArthur Foundation, Studies in Transnational Legal Policy No 23, The American Society of International Law, October 1992, 78.

[64] See further Chapter 2.

[65] *Peltonen v Finland*, UN Doc CCPR/C/51/D/492/1992 (views adopted 21 July 1994) paras 8.2–8.4.

[66] See, for example, the Committee's Concluding Observations on the Russian Federation in which the Committee 'regretted' the imposition of restrictions on the right to leave for failure to complete national service. UN Doc A/50/40 Vol I (1995), 65 (para 381).

[67] *Hajlik v Hungary* (2008) 47 EHRR 11. An automatic travel ban for failure to pay taxes is also a disproportionate measure: *Riener v Bulgaria* (2007) 45 EHRR 32 and *A E v Poland*, Application No 14480/04, judgment of the ECtHR of 31 March 2009.

[68] See M Nowak, *UN Covenant on Civil and Political Rights CCPR Commentary* (Kehl am Rhein: N P Engel, 1993) 214 and R Higgins, 'The Right in International Law of an Individual to Enter, Stay in and Leave a Country' (1973) 49(3) *International Affairs* 341, 353.

[69] See *Burkinabé des Droits de l'Homme et des Peuples v Burkina Faso*, Communication No 204/97 (2001), 'Fourteenth Annual Activity Report of the African Commission on Human and Peoples' Rights 2000–2001', AHG/229(XXXVII) 78, 85 (para 47) and in the context of the ACHR, *Canese v Paraguay*, Petition No 12,032, judgment of IACtHR, 31 August 2004, Series C, No 111.

[70] *Bartik v Russia*, Application No 55565/00, judgment of the ECtHR of 21 December 2006, para 49.

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the HRC[71] have determined that the requirements of necessity and proportionality will not be met by the mere fact that a person holds state secrets. A contested issue, however, remains travel bans imposed on individuals designated as being associated with a terrorist organization.[72] The approach of the HRC is that it remains obliged to consider the extent to which obligations imposed on a state party under UN Security Council resolutions may justify the infringement of the right to liberty of movement protected under the ICCPR. The facts of the individual case have to be examined to determine whether the restriction on the right to leave is indeed necessary on the grounds of national security or public order and thus comes within the legitimate exceptions to the right provided in article 12(3) of the Covenant.[73]

Whereas in the context in which Arendt articulated the right to have rights, departure was due to an act of coercion, as in the case of expulsion or flight from persecution, international human rights law concerns itself with the possibilities for voluntary departure, and articulates the right to leave. But the right to leave is not an absolute or unqualified right; in the case of nationals, it may be restricted on the grounds of failure to perform military service or, for example, for reasons to do with national security. Nationality may not only open the door to admission, but potentially also seal it against departure. In exercising the right to leave a state, the non-national may therefore be in a privileged position as contrasted with the national. So if nationality is the axis on which admission turns and the basis on which a 'place in the world' is secured, here we see that it may exceptionally be the means of confining the individual to that place.

2. Humanity and emplacement: place and relationships

Let me now return to the question of admission and residence. Nationality may remain a privileged legal status for admission into the state of nationality, but it is clearly not the sole status by which admission may be secured. How might humanity as inflected in international human rights law constrain state discretion in the admission of non-nationals and support their right to reside within a state? In this section I first examine how distinctions between nationals and non-nationals can be attenuated on the basis of a person's family ties within a state and the protection of the right to family life. That is, I seek to explore the extent to which international

[71] HRC, General Comment No 27, para 16 and Concluding Observations on the Russian Federation, UN Doc ICCPR, A/50/40, Vol. I (1995), 65 (para 398).

[72] See UN Security Council resolution 1267 (1999) and related resolutions, <http://www.un.org/sc/committees/1267/information.shtml)> accessed 29 March 2011.

[73] See *Nabil Sayadi and Patricia Vinck v Belgium*, UN Doc CCPR/C/94/D/1472/2006 (views adopted 22 October 2008) paras 10.5–10.8. While the HRC has acknowledged that the obligation to comply with the Security Council decisions 'may constitute a "restriction" covered by article 12, paragraph 3, which is necessary to protect national security or public order' (para 10.7), the Committee has maintained that it is still under an obligation to determine whether the national measures implementing the SC resolutions conform with the Covenant. The circumstances of the case may be such that they do not disclose a need to restrict the right to leave on the grounds of national security or public order—for example where a criminal investigation has been dismissed and the relevant state party has requested that the names be deleted from the sanctions list.

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law has recognized a more relational conception of 'place' such that it is a person's familial and social ties which form the basis of the right to enter and reside in the state and thus which emplace them in its territory. The relevant relationship in question is not limited to that of the bond of nationality. Secondly, I examine how a state's discretion in expelling non-nationals is constrained by the principle of *non-refoulement* which I examine in the context of the prohibition of expulsion to torture or ill-treatment.

2.1 The right to enter one's 'own country': a relational perspective

A more relational conception of place emerges from the dissenting opinions in the case of *Stewart v Canada* before the HRC discussed above. On the minority's approach, one's 'own country' in article 12(4) of the ICCPR is not limited to those who have 'formal links to that state';[74] rather the aim of the article is to protect 'the strong personal and emotional links an individual may have with the territory where he lives and with the social circumstances obtaining in it'.[75] That is, an individual is not to be deprived of 'the web of relationships that form his or her social environment'.[76] A similar opinion was recently expressed by Judge Cançado Trindade of the ICJ who asserted that article 12(4) 'extends an unrestricted protection against expulsion to aliens who... have developed such a close relationship with the State of residence that [it] has practically become his "home country" '.[77] It has therefore been argued that those who have been lawfully present for an extended period should be protected from expulsion on the basis of 'acquired rights' or 'legitimate expectations'.[78] On this approach, the expression, 'his own country', requires matters such as 'long standing residence, close personal and family ties and intentions to remain (as well as the absence of such ties elsewhere)' to be considered. In the case of a non-national, the connection would need to be strong to support a finding that the country was 'his own', however, it would be open to an 'alien' to show such ties.[79] Here we are reminded of Arendt's analysis that the first loss which the 'rightless suffered' was the loss of their 'homes' that is 'the loss of the entire social texture into which they were born and in which they established for themselves a distinct place in the world'.[80] Having a place in the world is not merely a matter of possessing the right to enter and reside in a state of nationality to which a person's ties are merely formal, but to reside where one's relational community is situated.

[74] *Stewart v Canada*, individual opinion of Elizabeth Evatt and Cecilia Quiroga (co-signed by Francisco Urbina), para 5.

[75] Ibid.

[76] Ibid. See also the separate concurring opinion of Judge Martens in *Beldjoudi v France* (1992) 14 EHRR 801, 840, para 2.

[77] *Diallo Case (Republic of Guinea v Democratic Republic of the Congo)* ICJ, 2010 (30 November 2010), separate opinion, para 156.

[78] G Goodwin-Gill, *International Law and the Movement of Persons Between States* (Oxford: Clarendon Press, 1978) 255–9.

[79] *Stewart v Canada*, individual opinion of Elizabeth Evatt et al, para 6. See also separate opinion of Martin Scheinin in *Canepa v Canada*. Although he agreed that there had not been a violation of art 12(4), he argued that the Committee had adopted too narrow an interpretation of 'own country'.

[80] Arendt, *Origins*, 293.

Comparing the majority and dissenting opinions of the HRC, how one conceives of 'place', and whether one has the right to live and remain in that place turns on the scale of analysis adopted: is the relevant relationship that which exists at the international level (in the sense that 'nationality' is the prized relationship) or is it at the more local level—that of the relational community a person has established within a state.[81] This brings to the fore the frequently limited scale of what counts as legal ties for the purposes of international law, a point which has also been raised in the context of the law of self-determination. As noted by one writer, in determining what counts as legal ties for the purposes of 'territorial self-determination', social ties of cultural and religious relationships may be irrelevant whereas those identified with the formal 'administrative functions of the nation-state—powers of taxation, powers of protection... and so on' signify the requisite attachment.[82]

2.2 Emplacement and the right to respect for family and private life

While the more relational perspective of place did not hold sway before the HRC in interpreting article 12(4) of the ICCPR, the right to respect for family and private life may be the means by which entry and residence are secured in the place where a person's key relationships and social ties are located. Several human rights instruments express the principle that states must respect the family life of those in their territory.[83] Indirectly, the right to family life may secure admission to, and residence within, a state. Reflecting this, an EU Council Directive on the right to family reunification requires member states to 'authorize the entry and residence' of certain family members of third country nationals residing lawfully in a member state.[84] The discussion below focuses on the most developed jurisprudence in this area, namely that of the ECtHR.

While the ECtHR acknowledges that the right of a non-national to enter or remain in a country is not 'as such' guaranteed by the European Convention, and that under international law, the entry of non-nationals into a state and their residence is a matter of state discretion, the court has maintained that immigration controls must be exercised consistently with Convention obligations, including protection of the right to respect for family and private life.[85] The purpose of article 8 is to protect an

[81] See H Osofsky, 'Panel: Law and Geography' (2007) 5(2) *Santa Clara J Int L* 507.

[82] Nesiah, 'Placing International Law', 6.

[83] UDHR, arts 12 and 16(3); ICCPR, arts 17 and 23(1); ICESCR, art 10(1); CRC, inter alia, arts 9, 10 and 16; ICRMW, art 44 (in relation to documented migrant workers); ECHR, art 8; ACHR, arts 11(2) and 17(1); and ACHPR, art 18(1). See also CERD, General Recommendation No 30, 'Discrimination against Non-Citizens', adopted 1 October 2004, 'Report of the Committee on the Elimination of Racial Discrimination', 64th and 65th sessions, UN Doc A/59/18 (Supp), 2004, 93, 96 (para 28).

[84] Council Directive 2003/86/E of 22 September 2003 on 'The Right to Family Reunification' [2003] OJ/L 251/12, art 4(1). See also Council of Europe, Committee of Ministers, 'Recommendation on the Legal Status of Persons admitted for Family Reunification', Rec (2002) 4 (26 March 2002), especially art II (residence status of family members) and art IV (effective protection against expulsion of family members).

[85] See, for example, *Abdulaziz Cabales and Balkandali v United Kingdom* (1994) 7 EHRR 471, paras 59–60.

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'individual against arbitrary action by the public authorities'.[86] As discussed below, however, respect for family life may also impose positive obligations on a state party. Assuming the exclusion or expulsion is in accordance with the law,[87] an interference with family life will be justified within the terms of article 8(2) of the ECHR where the state has struck a fair balance between the applicant's right to respect for family life and the state's pursuit of such legitimate aims as immigration control[88] and the prevention of crime and disorder.[89] The strength of a person's family ties in the state, and the feasibility of transferring those ties to the state of origin or a third state, are weighed against the public interest. This is particularly difficult to prove in the case of admission.[90] In the case of expulsion, the public interest often has to do with the commission of a crime by the individual concerned. In those circumstances, relevant factors include the nature and severity of the offence committed, the length of stay in the state from which the person is to be expelled, his or her family situation, such as the length of a marriage and whether there are children, the 'seriousness of the difficulties' the spouse and children are likely to face in the country of origin,[91] and 'the solidity of social, cultural and family ties with the host country and with the country of destination'.[92]

Though the interpretation of this right by the ECtHR has been notoriously inconsistent, the court's more recent jurisprudence on article 8 has made significant inroads into the margin of appreciation enjoyed by states in the area of immigration control.[93] The court has been particularly open to applicants where they are nationals of the state of residence in all but name such as where they have been born and have lived all of their life in the state in question and have established their family life there.[94] While article 8 does not provide absolute protection against expulsion for any category of non-national, 'very serious reasons'[95] would be required to justify

[86] See *Konstatinov v Netherlands*, Application No 16351/03, judgment of ECtHR of 26 April 2007, para 46.

[87] See *Al-Nashif v Bulgaria* (2003) 36 EHRR 37, paras 117–128 for a case in which the interference was not 'in accordance with the law'.

[88] For example, *Gül v Switzerland* (1996) 22 EHRR 93, para 38; *Sen v Netherlands* (2003) 36 EHRR 7, paras 33–42; and *Konstatinov v Netherlands*, paras 46–53 (re exclusion).

[89] *Boultif v Switzerland* (2001) 33 EHRR 50, paras 47–56.

[90] See *Gül v Switzerland*.

[91] *Boultif v Switzerland*, para 48.

[92] *Üner v Netherlands* (2007) 45 EHRR 14, paras 57–8. This includes consideration of the best interests and welfare of the children (para 58). See also *Maslov v Austria*, Application No 1638/03, judgment of the ECtHR of 23 June 2008, para 82. See also Council of Europe, Committee of Ministers 'Recommendation concerning the Security of Residence of Long-term Migrants', Rec (2000) 15 (13 September 2000) and EU Council Directive 2003/109/EC of 25 November 2003 concerning 'The Status of Third-country Nationals who are Long-term Residents', art 12.

[93] For a discussion of this jurisprudence, see D Thym, 'Respect for Private and Family Life under Article 8 ECHR in Immigration Cases: A Human Right to Regularize Illegal Stay?' (2008) 57(1) *ICLQ* 87.

[94] See *Beldjoudi v France* (1992) 14 EHRR 801which concerned the deportation of an Algerian national who was born and had lived all of his life in France. To all intents and purposes the court found that he was a 'quasi national'. Indeed Judge Martens assimilated his position to that of a national such that he would have examined his expulsion under art 3(1) of the Fourth Protocol to the ECHR (the prohibition of the expulsion of nationals) (840 (para 2)). See also *Üner v Netherlands*, para 58.

[95] *Maslov v Austria*, para 75.

the expulsion of 'aliens who have spent most, if not all, their childhood in the host country, were brought up there and received their education there'.[96] The Grand Chamber of the ECtHR has also found that article 8 may impose a positive obligation on states to grant certain long-term residents a residence permit,[97] however, as the ECHR is subsidiary to national human rights protection, article 8 does not guarantee the right to a particular residence permit.[98] In some circumstances, the obligation may even extend to people 'residing illegally' within a state. Thus, in a case concerning an applicant who had negligently failed to take steps to regularize her stay, the court argued that the Netherlands had 'indulged in excessive formalism' in attaching 'paramount importance' to the applicant's illegal status,[99] and had failed to strike a fair balance between the state's interest in immigration control and the applicant's right to family life. However, the court did emphasize that this was a case in which lawful residence would have been possible if steps had been taken at the appropriate time.[100]

The court will also consider the deportation of long-term residents under the category of a violation of the right to respect for private life. The Grand Chamber has found that 'the totality of social ties between settled migrants and the community in which they are living constitutes part of the concept of "private life" within the meaning of article 8'.[101] Irrespective of whether 'family life' exists, expulsion of a 'settled migrant' will therefore 'constitut[e] an interference with his or her right to respect for private life'[102] and a violation of article 8 when the interference cannot be justified. Therefore well-established family and social ties may mitigate the

[96] Ibid, para 74 and *Üner v Netherlands*, para 58. The potential of the right to family life to cut across immigration law and states' regulation of admission and expulsion is also demonstrated by a decision of the HRC in which the majority of the Committee determined that the expulsion of a child's parents would constitute an arbitrary interference with the family (contrary to art 17(1) of the ICCPR in conjunction with art 23) as the child, an Australian citizen, had lived in Australia for thirteen years. In such circumstances, the state party needed to demonstrate additional factors justifying the removal of both parents over and above a simple enforcement of its immigration law in order to avoid a characterization of arbitrariness (*Winata v Australia*, UN Doc CCPR/C/72/D/930/2000 (views adopted 26 July 2001) paras 7.1–7.3). Several members of the Committee, however, dissented on the basis that the majority's interpretation encouraged 'queue-jumping' and ignored 'prevailing standards of international law' by which states may regulate the entry and residence of non-nationals in their territory. (See individual opinion of Committee Members Prafullachandra Natwarlal Bhagwati, Tawfik Khalil, David Kretzmer, and Max Yalden (dissenting), paras 4 and 6.)

[97] *Kurić & Ors v Slovenia*, Application No 26828/06, judgment of the ECtHR of 13 July 2010, paras 359–76, 407. (The case has been referred to the Grand Chamber.) (See further Chapter 2.) (In that case, the residence status of the applicants was stronger than that of long-term migrants for they had settled in Slovenia as citizens of the former Socialist Federal Republic of Yugoslavia and 'registered their permanent residence in the same way as citizens of the then Socialist Republic of Slovenia' (para 357).)

[98] *Sisojeva et al v Latvia* (2007) 45 EHRR 33, para 91.

[99] *Rodrigues da Silva & Hoogkamer v Netherlands* (2007) 44 EHRR 34, para 44.

[100] Ibid, para 43. The judgment has been criticized for paying insufficient regard to the sanctions of immigration law. See Thym, 'Respect for Private and Family Life', 102.

[101] *Maslov v Austria*, Application No 1638/03, judgment of the ECtHR of 23 June 2008, para 63

[102] Ibid. See also *Kurić v Slovenia*, paras 352 and 359–76. In *Slivenko v Latvia* (2004) 39 EHRR 24, the applicants were 'removed from the country where they had developed, uninterruptedly since birth, the network of personal, social and economic relations that make up the private life of every human being' (para 96) which constituted a clear interference with their private life.

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effects of a person's status as a non-national and give rise to an intermediate category in which admission and the right to remain may be secured without the formal status of nationality being conferred. Here the law looks beyond formal status to the relationships existing between people and to the effects on those relationships of the otherwise rigid distinctions drawn between nationals and non-nationals in terms of entry and residence. In this way, the right to respect for family and private life may prevent a person from being removed from the place in which his or her 'web of relationships' is located. Humanity, however, remains a tenuous status. Whether a non-national's exclusion or expulsion will be considered to violate the right to family and private life depends upon a delicate balance of factors and is particularly weak in admission cases. It is also noteworthy that it has been argued that state practice outside of the European context is more accepting of the expulsion of long-term residents.[103]

2.3 Non-refoulement

Finally, at least temporary admission and protection from expulsion may be granted, albeit often rather grudgingly, where the principle of *non-refoulement* applies. For those who meet the Convention definition of a refugee, article 33 of the Refugee Convention prohibits the return or expulsion of a refugee to 'the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion'[104] subject to the exceptions in article 33(2).[105] Crucially, in treaty and customary international law, *non-refoulement* encompasses non-return and non-rejection at the border,[106] which 'implies at least temporary admission to determine an individual's status'.[107] When we turn to international human rights law, it has been said that an expanded prohibition of return applies such that 'an individual is protected whenever there exists a real risk of violation of one of the individual's core fundamental rights in the country of destination'.[108] For the purpose

[103] Martin, 'The Authority and Responsibility of States', 36. [104] Art 33(1).

[105] Eg. where there are reasonable grounds for regarding the refugee as a 'danger' to the host state's 'security'. The prohibition in art 33(1) is said to be recognized as customary international law. See E Lauterpacht and D Bethlehem, 'The Scope and Content of the Principle of *Non-Refoulement*: Opinion' in E Feller, V Türk and F Nicholson (eds), *Refugee Protection in International Law: UNHCR's Global Consultations on International Protection* (Cambridge: Cambridge University Press, 2003) 87, 149 (para 218). See further 149–64.

[106] *R (European Roma Rights Centre & Ors) v Immigration Officer at Prague Airport & Anor (UNHCR intervening)* [2004] UKHL 55; [2005] 2 AC 1, para 26 (in relation to customary international law). See also Lauterpacht and Bethlehem, 'The Scope and Content of the Principle of *Non-Refoulement*', 113 (para 76) (on art 33(1) of the Refugee Convention); 159 (para 242) (on customary international law), and *Declaration on Territorial Asylum* 1967, UN General Assembly Resolution A/RES/2312(XXII) (14 December 1967) art 3(1).

[107] G Goodwin-Gill and J McAdam, *The Refugee in International Law* (3rd edn) (Oxford: Oxford University Press, 2007) 215.

[108] V Vandova, 'Protection of Non-Citizens against Removal under International Human Rights Law' in A Edwards and C Ferstman (eds), *Human Security and Non-Citizens: Law, Policy and International Affairs* (Cambridge: Cambridge University Press, 2010) 495, 500. See further J McAdam, *Complementary Protection in International Refugee Law* (Oxford: Oxford University Press, 2007) chs 3–5.

of the discussion below, however, I will focus on the well-established prohibition of expulsion to a territory where there is a real risk of an individual's being subjected to torture or to cruel, inhuman, or degrading treatment or punishment.[109] Here the prohibition is absolute. The prohibition not only refers to the state to which non-nationals are expelled but also to any state to which they may subsequently be expelled.[110] Similarly in the asylum context, to deport an asylum seeker to an intermediary state without ensuring that that state's asylum procedure provides adequate protection against his being removed to the state of origin or to another territory where he faces a real risk of torture or ill-treatment would constitute a violation of the prohibition against torture or ill-treatment.[111] Although the principle of *non-refoulement* is not limited to non-return to the state of nationality, where return to the state of nationality is in question, international law looks beyond the formal status of nationality, and beyond the protection the legal status of nationality would otherwise afford, to the treatment to which the individual risks being exposed on return.

The absolute nature of the prohibition of return to torture or ill-treatment in international human rights law, however, has come under considerable pressure in the counter-terrorism context, with some states asserting that a state's national security concerns must be taken into account such that the obligation not to expel is to be weighed against the interests of the community as a whole.[112] The absolute nature of the prohibition has also been questioned on the basis of the immigration status of the expellee.[113] On this approach, the right not to be returned to torture is qualified by the acts and status of the person to be expelled—namely, by the national security risk he or she poses and the vulnerability of the non-national to expulsion. While courts and human rights bodies have repeatedly affirmed that the prohibition of expulsion to torture is absolute irrespective of the expellee's identity and of any security concerns relating to him or her,[114] their willingness to take

[109] See CAT, art 3; ICCPR, art 7; and ECHR, art 3. For a discussion of the prohibition in customary international law, see Lauterpacht and Bethlehem, 'The Scope and Content of the Principle of *Non-Refoulement*', 150–64

[110] See Committee against Torture, General Comment No 1, 'Implementation of Article 3 of the Convention in the Context of Article 22 (*Refoulement* and Communications)', adopted 21 November 1997, UN Doc A/53/44 (16 September 1998) Annex IX, para 2.

[111] *M S S v Belgium and Greece*, Application No 30696/09, judgment of the ECtHR of 21 January 2011(Grand Chamber) paras 341–61.

[112] *Saadi v Italy* (2009) 49 EHRR 30, paras 117–23. See also the decision of the Supreme Court of Canada in *Suresh v Canada*, in which the court, though concluding that 'deportation to torture will generally violate the principles of fundamental justice' protected by the Canadian Charter (para 76), '[did] not exclude the possibility that in exceptional circumstances, deportation to face torture might be justified' for example where this is the outcome of the process of balancing Canada's interest in combating terrorism and the individual's interest in not being deported to torture. *Suresh v Canada (Minister of Citizenship and Immigration)* (2002) 41 ILM 954, para 78.

[113] Ibid (*Saadi v Italy*), para 119. The UK noted that states may use immigration law to protect themselves from external security threats and that the ECHR did not guarantee the right to political asylum.

[114] Eg *Chahal v United Kingdom* (1997) 23 EHRR 413, paras 79–81; *Saadi v Italy*, paras 138–9; *Paez v Sweden*, UN Doc CAT/C/18/D/39/1996 (views adopted 28 April 1997) para 14.5; and *Mansour Ahani v Canada*, UN Doc CCPR/C/80/D/1051/2002 (views adopted 29 March 2004) para 10.10.

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into account diplomatic assurances from the receiving state when assessing the risk of torture or ill-treatment jeopardizes the protection of the expellee and places the absolute nature of the prohibition in question.[115]

Even where a state is under an obligation not to expel a non-national to torture or ill-treatment under international human rights law, the non-national's plight remains precarious. There is no recognized legal status flowing to the non-national from the state's obligation not to expel, and consequently few substantive rights are in practice enjoyed.[116] Protection from expulsion does not equate to a right of residence. Developing the concept of complementary protection, Jane McAdam has therefore argued that individuals whose need of international protection is derived from the extended principle of *non-refoulement* in international law ought to be granted a legal status equivalent to that of refugees under the Refugee Convention (provided they are not expressly excluded from the Convention regime).[117] In the EU context, third country nationals or stateless persons who do not qualify as refugees but in respect of whom substantial grounds have been shown for believing that, if returned to their country of origin or of former habitual residence, they would face a real risk of suffering serious harm,[118] may qualify for 'subsidiary protection status'.[119] Such protection includes the grant of a residence permit valid for at least one year and renewable, 'unless compelling reasons of national security or public order otherwise require'.[120] For those lacking such protection statuses, bare humanity remains a precarious status.

The discussion above of the right to family life and of the principle of *non-refoulement* brings to the fore the advantage that physical presence within a state (and presentation at a state's border in the case of *non-refoulement*) can make—especially when the *non-refoulement* of those within a state is compared with the plight of the Roma in the *Roma Rights* case we shall discuss presently. However, the analysis also underscores the tenuous nature of the residence 'humanity' (inflected in the right to family life or in the principle of *non-refoulement*) may secure. Whether exclusion or expulsion will be found to constitute an unjustified interference with the

[115] The weight given to these assurances will depend on the facts of the case. *Saadi v Italy*, para 148; *Ismoilov v Russia* (2009) 49 EHRR 42, para 127; *Alzery v Sweden*, UN Doc CCPR/C/88/D/1416/2005 (views adopted 25 October 2006) paras 11.3–11.5; and *Agiza v Sweden*, UN Doc CAT/C/34/D/233/2003 (views adopted 20 May 2005) paras 13.4–13.5.

[116] See McAdam, *Complementary Protection in International Refugee Law*, esp 198–208.

[117] Those who are excluded from the Refugee Convention regime (for example under art 1F) and are not removable or prosecutable, as may be the case for suspected terrorists, are to be granted a minimum status under human rights law. Ibid, 234–45.

[118] Council Directive 2004/83/EC of 29 April 2004 on 'Minimum Standards for the Qualification and Status of Third Country Nationals or Stateless Persons as Refugees or as Persons who otherwise need International Protection and the Content of the Protection Granted' [2004] OJ L304/12, arts 2(e) and 15.

[119] Ibid, art 2(e) and (f).

[120] Ibid, art 24(2). Protection from *refoulement* is provided in art 21. See Chapter VII of the Qualification Directive for the content of international protection. As argued by McAdam, however, the rights accorded to beneficiaries of subsidiary protection under the Directive are 'diluted' and 'differentiated' in relation to the rights enjoyed by refugees and also in terms of the latitude states enjoy in implementing rights. See McAdam, *Complementary Protection in International Refugee Law*, ch 2 and 110.

right to family life rests on a delicate balance of factors and a court's perception of the strength of the family ties within the excluding state and the state of origin, while the legal status and rights to which the principle of *non-refoulement* gives rise remains unclear. Moreover, as will be discussed further in Chapter 5, the harm from which the non-national is to be protected remains disputed: at least on some accounts, it would not as a rule extend to the harm suffered when expulsion to the state of origin results in lack of access to life-saving medicine available in the expelling state.[121]

3. Non-nationals and exclusion: the 'non-place' of containment

In the analysis above, we saw that international law constructs the spaces of the world as states and emplaces individuals within them through the legal bond of nationality, and exceptionally through rights such as the right to family life. I also touched on the function of the border in structuring global space: in international law, the border distinguishes one sovereign territory from another. In the discussion below, my interest is not so much in borders as a means of delimiting territorial and legal space as in their policy dimensions and role in categorizing people. National state borders are not, of course, natural lines; rather they are contingent outcomes of historical processes.[122] All borders are artificial in the sense that their location, significance, and identity *as* borders are ultimately the product of a decision.[123] Acknowledging this, Étienne Balibar describes borders as 'institutions':[124] they institute policy decisions, primarily in relation to immigration control. At the border, distinctions are drawn not only between nationals and non-nationals, but between different groups of non-nationals as well. To further grasp what it means to have a place in the world and be 'in place' in the international system, at least in the context of the movement of people across borders, we shall need to probe what it means to be 'out of place' and the steps taken to prevent it. As stated elsewhere, what is deemed to be 'out of place' helps to reinforce what is conceived to be 'in place'.[125] Here we see that the movement of people across borders is not only indexed to legal status but also to social standing. It is not only the national who may be 'in place' and possess the right to enter and reside in a state, but the legal non-national of a certain social standing.

In this section, I am concerned with the darker side of emplacement—namely the mechanisms employed to 'contain' undesirable non-nationals within their state of nationality. Here emplacement may become containment in that nationals are

[121] *N v United Kingdom* (2008) 47 EHRR 39 (Grand Chamber) (discussed in Chapter 5).

[122] M Foucher, *Fronts et frontières: un tour du monde géopolitique* (Paris: Fayard, 1988) 13.

[123] D Newman, 'Boundaries' in J Agnew, K Mitchell, and G Toal (eds), *A Companion to Political Geography* (Oxford: Blackwell Publishing Ltd, 2003) 123, 126 and Foucher, ibid, 9. See, also D Bardonnet, 'Les frontières terrestres' (1976) 153 *Hag R* 9, 21–2.

[124] É Balibar, *We, the People of Europe?: Reflections on Transnational Citizenship*, J Swenson (trans) (Princeton: Princeton University Press, 2004) 109.

[125] P K Rajaram and C Grundy-Warr, 'Introduction' in P K Rajaram and C Grundy-Warr (eds), *Borderscapes: Hidden Geographies and Politics at Territory's Edge* (Minneapolis: University of Minnesota Press, 2007) ix, xxvii.

denied the right to leave their state of nationality by a third state. (The analysis thus stands in contrast to section 1.2 above where the focus was on the state of nationality restricting the right to leave on grounds such as national security). In this respect, place and emplacement can be viewed from two perspectives. First, the excluding state, the place of the putative sphere of rights to which entry is sought, is in part constituted through the exclusion of undesirable non-nationals. The border of a state does not just mark the limit of a state's territory but is imbued with social and collective meaning. As helpfully stated by Balibar, to draw a border is to establish an identity, and to establish an identity is to draw a border.[126] He argues that the 'external border' becomes the 'inner border'[127] shaping communal identity. The external border creates internal unity and relativizes differences between individuals and social groups within the territory by subordinating these differences to the overarching distinction between 'ourselves' and 'foreigners'. In this way, the external frontier is seen as a 'projection and protection of an internal collective personality'.[128] Extraterritorial border controls are one means by which this collective identity is produced and protected.[129] Such controls also facilitate the characterization of the state in question as a sphere of rights to which entry is sought.

Secondly, through extraterritorial immigration control the state of the excluded non-national becomes the place of containment. Here a person possesses a place in the world in the sense of a state to live and reside in, and is to be contained within it, regardless of whether it is a refuge or an abyss. This is not to deny the underlying assumption of international refugee law that the state of nationality may become a state of persecution such that the right to seek asylum is engaged. But coupled with this recognition are practices which contain those seeking refuge within their state of nationality or residence such that the right to leave to seek asylum is denied. The assumption is that a person has a place and is to be contained within it irrespective of the substance of the nationality in question, such that the place of residence becomes what might be termed the 'non-place'. This containment is in part achieved through the externalization of borders.

For certain non-nationals, the border is confronted not at the state's territorial frontier, but outside its territory. Balibar aptly refers to this as the practice of 'transporting the actual borders beyond the borderline'.[130] No longer is entry into a community solely negotiated at the state's territorial boundary. Rather, in this context, the border itself is exported. National borders are being exported today by

[126] É Balibar, *Politics and the Other Scene*, C Jones, J Swenson, and C Turner (trans) (London: Verso, 2002) 76.

[127] Here Balibar is citing Fichte's phrase 'innere Grenzen'. Ibid, 78.

[128] É Balibar, 'The Nation Form: History and Ideology' in É Balibar and I Wallerstein, *Race, Nation, Class: Ambiguous Identities* (London: Verso, 1991) 86, 94–5.

[129] In a similar move, Torpey maintains that states have come to monopolize the 'legitimate means of movement'; that is, they have expropriated the exclusive right to regulate the movement of people. Torpey argues that this monopolization is integral to the construction of the modern territorial state in that modern territorial states need to distinguish between nationals and non-nationals. Torpey, *The Invention of the Passport*.

[130] É Balibar, 'Europe as Borderland', The Alexander von Humboldt Lecture in Human Geography, University of Nijmegen, 10 November 2004, 16, <http://socgeo.ruhosting.nl/colloquium/Europe%20as%20Borderland.pdf> accessed 30 March 2011.

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many governments and in many ways, such that entry into foreign states is negotiated from within would-be entrants' state of nationality. State security is clearly one factor at work here. It has been said that we all have 'data doubles'—that is, 'virtual identities located in networked databases'—which often travel across borders with greater ease than their physical counterparts.[131] For example with no-fly lists, passengers may only depart for the state in question if they are given a 'board' status by that government.[132]

International law plays a central role in this process. For example, it 'regulates' 'extraterritorial enforcement of immigration controls' through carrier sanctions.[133] Annex 9 to the 1944 Convention on International Civil Aviation requires air carriers to take precautions at the point of embarkation to ensure that passengers possess the travel documents required by the states of transit and disembarkation.[134] The significance of such measures has only increased as they not only serve to control irregular migration, but also act as security measures. This is also typified by the Smuggling[135] and Trafficking[136] Protocols supplementing the 2000 United Nations Convention against Transnational Organized Crime. The overarching aim of these Protocols is to prevent non-nationals from leaving, and hence to contain them within, their state of origin. For example, the Protocols require states to adopt cooperative measures to prevent trafficking or smuggling and 'illegal' entry into the territory of the state party. 'Without prejudice to international commitments in relation to the free movement of people', states parties are to 'strengthen' their border controls in order to prevent and detect trafficking in persons and migrant smuggling.[137] In each case, sanctions are to be imposed on commercial carriers that fail to ensure their passengers possess the travel documents required for entry into the receiving state.[138] Where a person is trafficked or smuggled into a third state, the state of that person's nationality or permanent residence is obliged to facilitate his or her return to its territory.[139] In light of the obligations imposed on

[131] D Lyon, 'Filtering Flows, Friends and Foes: Global Surveillance' in M B Salter (ed), *Politics at the Airport* (Minneapolis: University of Minnesota Press, 2008) 29, 30, 36.

[132] M B Salter, 'The Global Airport: Managing Space, Speed, and Security' in M B Salter (ed), *Politics at the Airport* (Minneapolis: University of Minnesota Press, 2008) 1, 9.

[133] See D Fisher, S Martin, and A Schoenholtz, 'Migration and Security in International Law' in T A Aleinikoff and V Chetail (eds), *Migration and International Legal Norms* (The Hague: TMC Asser Press, 2003) 87.

[134] See s 3.33 reprinted in International Civil Aviation Organization, *International Standards and Recommended Practices: Facilitation—Annex 9 to the Convention on International Civil Aviation* (12th edn, July 2005).

[135] *Protocol against the Smuggling of Migrants by Land, Sea and Air Supplementing the United Nations Convention against Transnational Crime*, New York, 15 November 2000, entered into force 28 January 2004, 2241 *UNTS* 507; UN Doc. A/55/383.

[136] *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, New York, 15 November 2000, entered into force 25 December 2003, 2237 *UNTS* 319; UN Doc. A/55/383.

[137] See art 11(1) of each Protocol and Council of Europe Convention on Action against Trafficking in Human Beings, Warsaw, 16 May 2005, entered into force 1 February 2008, CETS No: 197, art 7(1).

[138] Art 11(2)–(4). I draw here on A Kesby, 'International Law and the Right to have Rights' in *Select Proceedings of the European Society of International law*, Vol 2, 2008 (Oxford: Hart, 2010) 133, 135.

[139] Trafficking Protocol, art 8; Smuggling Protocol, art 18.

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states by the Smuggling Protocol, international law is said to permit, if not require, states to prevent their nationals from departing their territory by unauthorized or irregular means.[140] By criminalizing trafficking and smuggling, international law facilitates state security measures in the migration context.[141]

A further context for this is the extraterritorial application of immigration laws. Non-nationals are physically absent (in the sense that they remain within their state of nationality or at least outside of the state to which entry is sought) and yet are embraced by the law of that state to the extent that its immigration law applies extraterritorially to them, which might be termed physical absence and legal presence—but presence only for the purposes of exclusion. One example of this practice is an agreement entered into in 2001 by the governments of the UK and the Czech Republic permitting British immigration officers to grant or refuse passengers at Prague Airport leave to enter the UK before they boarded planes destined for the UK. The acknowledged object of the procedure was to stem the flow of asylum seekers, especially Roma asylum seekers, from the Czech Republic to the UK. In 2004 the House of Lords considered a challenge to these pre-clearance procedures by a number of Czech Roma who had been refused permission to leave Prague.[142] Rejecting their claims under the Refugee Convention and the customary international law principle of *non-refoulement*, Lord Bingham did not consider that they had presented themselves at the frontier of the UK 'save in a highly metaphorical sense'.[143] Hence there could be no argument that they were being returned to a country in which they had a well-founded fear of persecution. From another perspective, however, the Roma were in reality confronted with the 'UK border' while still in Prague, and not only in a 'metaphorical sense'. There was a disjuncture between the location of the 'geographical' border and the place at which the border was experienced by the Roma applicants in this case. Immigration rules which otherwise would have operated at UK ports applied extraterritorially to them. Such external borders serve to emplace—but in the sense of containing—non-nationals within their state of nationality such that it becomes (or is reinforced in being) a 'non-place'. The border is exported to the 'non-places' of the world. Indeed Jonathan Yovel argues that movement is often perceived as being from 'territories' (or we could add from 'non-places') to 'places': 'within territory nothing much ever occurs: movement is *from* there, it becomes discernible, worthy of linguistic signification (and of legal attention) when it is *towards* place'.[144] A state externalizes its immigration law so as to prevent entry into its territorial and primary legal space. A person

[140] C Harvey and R Barnidge, 'Human Rights, Free Movement, and the Right to Leave in International Law' (2007) 19(1) *IJRL* 1, 14.

[141] See Fisher, Martin, and Schoenholtz, 'Migration and Security in International Law', 87.

[142] *R (European Roma Rights Centre & Ors) v Immigration Officer at Prague Airport & Anor (UNHCR intervening)* [2004] UKHL 55; [2005] 2 AC 1 (hereafter the '*Roma Rights* case'). Here I draw on A Kesby, 'The Shifting and Multiple Border and International Law' (2007) 27(1) *OJLS* 101 and to a lesser extent Kesby, 'International Law and the Right to have Rights', 135–6.

[143] Ibid (*Roma Rights* case), para 26.

[144] J Yovel, 'Imagining Territories: Space, Place, and the Anticity' (1 January 2010) 7–8. University of Haifa Faculty of Law Legal Studies Research Paper, <http://ssrn.com/abstract=950895> accessed 30 March 2011 (original emphasis). I acknowledge with thanks the OUP reviewer who drew my attention to this article.

may be outside the territory of the state but captured by its law so as to ensure they do not enter its territory.

While the state border is being externalized, international law retains the fiction that the place at which the border is experienced remains unified and reduced to the territorial frontier. On this approach, the distinction between where territorial frontiers are located and where the border is experienced is ignored. Though the law of state responsibility ensures that a state is internationally responsible for the acts of its authorities outside its territory which breach international law, the *Roma Rights* case raises the new challenge of the de facto shift in the border to prevent primary international obligations being triggered in the first place. On this approach, the failure to grasp the complexity of borders in the contemporary world results in the denial of the right to leave a state to seek asylum. The fiction is retained that the territorial and the relevant legal border coincide, whereas here the border is deterritorialized so as to prevent entry to the state's territory and primary site of jurisdiction and protection of rights. This takes the form of the externalization of a state's borders which international law in part facilitates, for instance through the Trafficking and Smuggling Protocols, or ignores in the case of the extraterritorial application of immigration law to deny the right to leave to seek asylum. Though in theory those 'contained' within their state of origin possess a 'place in the world' to reside, the whole thrust of Arendt's analysis is the importance of being able to flee a place of persecution and secure a 'home' elsewhere—to be neither contained within a state of persecution nor excluded from all states.

Not everyone, however, is contained within their state of nationality. A striking feature of the evidence presented in the *Roma Rights* case is the different manner in which Roma and non-Roma experienced the process of attempting to cross the border between the Czech Republic and the UK. Balibar terms this the 'polysemic' nature of borders: 'they do not have the same meaning for everyone'.[145] We are reminded here that law is not only spatial, but also social, and that the spatial may be manipulated vis-à-vis certain subjects. The evidence of the European Roma Rights Center indicated that a Roma passenger was 400 times more likely to be refused pre-entry to the UK than an individual non-Roma.[146] The Roma were subjected to longer questioning by immigration officials than the non-Roma, and 80 per cent of Roma were subjected to a second interview as compared with less than 1 per cent of non-Roma.[147] Arguably, non-discrimination norms may go some way in attenuating the racially discriminatory effects of the border and in protecting against the arbitrary application of immigration law. In the *Roma Rights* case, for example, the House of Lords held that the operation at Prague Airport was 'inherently and systematically discriminatory and unlawful',[148] in breach of domestic legislation[149] and the UK's international law obligations.[150] Norms such as the prohibition of racial discrimination, though useful in addressing particular discriminatory effects of the border, leave in place what might be termed their 'socially discriminatory' effect.

[145] Balibar, *Politics and the Other Scene*, 81.
[146] *Roma Rights* case, para 92. [147] Ibid, para 93.
[148] Ibid, para 97. [149] Race Relations Act 1976, s (1)(a).
[150] Refugee Convention, art 3; ICERD, art 2(1)(a); ICCPR, art 26; and the customary international law principle of non-discrimination. *Roma Rights* case, paras 98–103.

The border not only distinguishes on racial, but also on social lines. While for a 'rich person from a rich country', borders signify a mere formality and the point at which their 'surplus of rights' may be exercised, for 'a poor person from a poor country', borders operate as discriminator and filter.[151] Balibar writes:

> Today's borders (though in reality this has long been the case) are, to some extent, designed to perform precisely this task: not merely to give individuals from different social classes different experiences of the law, the civil administration, the police and elementary rights, such as the freedom of circulation and freedom of enterprise, but actively to *differentiate* between individuals in terms of social class.[152]

It was because Roma were considered by the British immigration officers to have a greater incentive to claim asylum than others that their reasons for travel were treated with such scepticism and leave to enter frequently denied. Paradoxically, those with a greater incentive to apply for asylum are prevented from doing so.[153] A 'dual regime of the circulation of individuals' is thereby established.[154] The fact that the needy asylum seeker must be contained within the state of nationality or residence such that if they were to leave they would be 'out of place' reveals a further dimension of what it means to be 'in place' in the international system (in the context of the movement of people across borders). It is not just to be a national with a physical place to reside but to be a national who is of a certain social standing and who, on crossing the international border legally, is still considered to be in place (though to a lesser extent than in the state of nationality).

Noting this dual regime, Audrey Macklin maintains that freedom of movement is indexed to the 'heft' of the legal and social citizenship[155] a person enjoys. She argues that '[i]n general, the heft of citizenship negatively correlates to the incentives to migrate, and positively correlates to the legal capacity to migrate'.[156] Non-entry mechanisms, such as visa schemes, externalized borders and carrier sanctions, are designed to target 'spontaneous migration' of people whose 'citizenship falls below a certain substantive threshold in the countries of origin'.[157] With this is to be contrasted the heft of the global entrepreneur/highly skilled worker who can take advantage of points-based migration.[158] Low social class and minimal substantive citizenship coupled with practices such as the externalization of borders, in effect contain 'undesirable' non-nationals within the state of origin. It is when the 'place' has become the 'non-place' (the place of the absence of substantive citizenship for all or a section of the population) that containment practices surface—practices often facilitated by or articulated through international law. And citizenship—here

[151] Balibar, *Politics and the Other Scene*, 83. [152] Ibid, 81–2 (original emphasis).

[153] Notably, the appellants maintained that 'the operation in Prague was introduced because it would have been too politically sensitive to introduce visa control in respect of the Czech Republic, and was an inappropriate way of achieving the same result [namely the stemming of the flow of asylum seekers] by stealth'. See first instance judgment of Burton J, [2002] EWHC 1989, para 45.

[154] Balibar, *Politics and the Other Scene*, 82.

[155] By 'social citizenship' Macklin means 'the more voluminous package of rights, responsibilities, entitlements, duties, practices and attachments that define membership in a polity, and situate individuals within that community'. Macklin, 'Who is the Citizen's Other?', 334.

[156] Ibid, 357.

[157] Ibid, 358. [158] Ibid, 358–9.

social and thus substantive citizenship—serves as the indicator that containment is required. That is, the movement of those lacking in substantive citizenship and who live in the non-places of the world, to the 'place' of perceived affluence, is to be impeded. Strikingly, the lack of substantive citizenship forms the rationale for exclusion and the formal legal status of nationality as the instrument of containment.

The flipside of the analysis above is that, when we turn to non-nationals present within the territory of a third state, it is the undocumented and 'undesirable' non-national who is out of place. A correlation between international practices of containment and the status (or more accurately the lack of status) of the non-national within the territory of the third state is seen when we consider the Trafficking and Smuggling Protocols discussed above. Though often presented as human rights instruments, their rationale is clearly that of stemming 'illegal' migration in that victims of trafficking enjoy few remedies and are treated as 'migration law transgressors' to be sent home.[159] Their need to be contained within their state of nationality translates into their being out of place when they leave that state; the prevailing practice is not to grant a trafficked person refugee status—and thereby emplace them (physically and legally) within the receiving state—but to return trafficked people to their state of nationality. Again nationality serves as the instrument of emplacement. Here it is helpful to draw on the insights of Hans Lindahl. He argues that boundaries do not only exclude—that is divide one legal and political order from another—and thereby members from non-members, nationals from non-nationals, but in doing so locate the excluding legal order and that which is excluded within a common 'single legal space'.[160] 'Illegally' present non-nationals are 'deemed to have their own place' within this broader legal space such that 'legal immigrants are emplaced, and illegal immigrants misplaced'.[161] He writes: 'The claim to a common, encompassing legal space in which, in principle, everyone has her/his own place, is the indispensable presupposition of immigration policy, European or otherwise.'[162] This is reflected in the regulation of the expulsion of non-nationals in international law. It is striking, for example, that the human rights provision which expressly provides for procedural safeguards in the context of the expulsion of non-nationals is limited to those lawfully present in a state.[163] A notable exception to this of course is a state's tolerance of the presence of undocumented migrants where this is perceived to be in its economic interests. The assumption that each person by virtue of their nationality possesses a 'place' in the international legal system may exacerbate the vulnerability of those whose place is tenuous at best.

In this section I have shown how the vulnerability of groups such as those wishing to leave their state of nationality and seek asylum elsewhere is exacerbated by external border controls coupled with analyses which present the formal legal

[159] Dauvergne, *Making People Illegal*, 83.

[160] H Lindahl, 'In Between: Immigration, Distributive Justice and Political Dialogue' (2009) 8(4) *Contemporary Political Theory* 415, 425.

[161] Ibid, 426.

[162] Ibid.

[163] Eg ICCPR, art 13. But see *Union Inter Africaine des Droits de l'Homme & Ors v Angola*, Communication No 159/96, 'Eleventh Annual Activity Report of the African Commission on Human and Peoples' Rights 1997–1998', DOC/OS/43(XXIII), 38, 41 (para 20).

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status of nationality as a means of containing those lacking the requisite social and substantive citizenship within their state of nationality—practices which in part are facilitated by international law. The right to leave one's country and enter another is denied to those lacking the requisite social standing.

4. Conclusion

In this chapter we have considered the right to have rights as the right to enter and reside in a state. Here a 'place in the world' is a place to live, a place of lawful residence. This is a territorial and legally constructed conception of place. For all the sophistication of the present 'globalized' world, of people flows and flux, an enduring presupposition of the international legal order is that each person possesses a 'place in the world' where she can live and reside as of right. Nationality remains a prized possession and the axis on which this conception of the right to have rights turns. At the international level it is primarily nationality which provides the individual with a place to reside and protects him or her from the no man's land of statelessness. A person without a settled place to reside cannot claim and contest rights, and thus becomes vulnerable to expulsion and arbitrary treatment. The national is in place and the stateless person out of place. The very privileging of the legal status of nationality in the international legal order accounts at least in part for the persistent vulnerability of stateless people.

This place of lawful residence and putative protection, however, may become the non-place of containment. Those lacking substantive citizenship are contained within their state of nationality with international law acting as the instrument of containment in the case of externalized controls such as carrier sanctions. Through an examination of these containment practices, and the corresponding treatment of certain non-nationals within a state's territory, a further dimension of being 'in place' was revealed: it is not only the national but the lawfully present non-national with the requisite social standing who is 'in place' within the international legal order. Being in place is indexed to legal status and social standing. As a result, those most needing to leave and seek asylum are denied the right to do so.

This is not to deny that, with the development of international human rights law, the significance of nationality for entry and residence in a state has been attenuated. International human rights law introduces a relational perspective which, in certain circumstances, looks beyond formal status and seeks to preserve the 'web of relationships' a person has developed in a state. Yet humanity enjoys a tenuous status: emplacement hangs in the balance as the right to family life is pitted against public order, or is temporary in the case of *non-refoulement*. If nationality remains the primary legal status on which admission to a state turns, then can the right to have rights be articulated as the right to a nationality, and if so, how is this right to be conceived?

Annex 29

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Genocide Is a Process, Not an Event

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Genocide studies is simultaneously an emerging and accepted category of scholarly inquiry. The field is robust and at a critical turning point as more disciplines engage the subject. This article identifies two areas within the field that suggest the need for further scholarly attention. First, it urges a renewed attention to the processional *nature of genocide and the implications that flow from a particularized understanding of it, specifically in relation to prevention. The article explores this relationship by providing a process-oriented examination of the under-theorized concept of "genocide by attrition," seeking engagement and critique of the concept. Second, new disciplines have entered the field of genocide studies, bringing with them new methodologies and insights. While this is a welcome advance, genocide studies must move from multidisciplinary to interdisciplinary research to avoid fragmentation and achieve the diverse objectives of the field.*

Key words: genocide by attrition, prevention, multidisciplinary research, law of genocide

Since the early 1990s there has been a renewed interest in the subject of genocide and its prevention. The scholarly attention has been vibrant and dynamic. In fact, there is now a category of scholarly inquiry specifically dedicated to and referred to by many as "genocide studies." It is a diffuse and multidisciplinary field in which vigorous debates over definitions continue in full force. In fact, as of 2001 political scientist Scott Straus noted approximately 21 different definitions of the term "genocide."[2] To some, genocide is a classic example of an essentially contested term. And at least one scholar argues that its contentious status precludes its acceptance as an actual discipline,[3] while for others definitional disputes provide energy to historical and cultural debates.[4] Regardless of one's stance in this debate, one cannot deny that the study of genocide and its prevention is healthy and maturing. More disciplines are weighing in, bringing their own sets of methodologies to the table. For example, micro studies by contemporary political scientists such as Scott Straus and Lee Ann Fujii provide nuanced and complex analyses to complement theories of blind masses, ancient ethnic hatreds, and elite divide-and-conquer strategies. Historians are looking at macro factors across space and time to focus on exogeneous and endogenous factors. Critical genocide studies is starting to take root with the work of historian A. Dirk Moses, sociologist Thomas Cushman, and others. These scholars attempt to interrogate some of the fundamental assumptions and biases that exist throughout most scholarship related to genocide studies. When scholars within their own discipline begin to critique their own acquisition of knowledge, it becomes apparent that a field of inquiry has been established. Nonetheless, old debates persist and new challenges have emerged.

Among the categories of inquiry, there has been a thread of scholarship explicitly dedicated to exploring the genocidal process and the implications that flow from deducing a particularized understanding of it.[5] The "genocidal process" is a relatively indeterminate term, and it is the notion of the complex genocidal process that will

Sheri P. Rosenberg, "Genocide Is a Process, Not an Event," *Genocide Studies and Prevention* 7, 1 (April 2012): 16–23. © 2012 *Genocide Studies and Prevention*. doi: 10.3138/gsp.7.1.16

be the focus of this article, which urges renewed attention to exploring the social phenomenon of genocide as a process rather than as the outcome of a process. The rigid conception of genocide as a definition (as opposed to a social phenomenon) of "something" against which unfolding events are to be measured is in part due to the very success and standing of the concept in international law. The emphasis on legalism subjects each genocide to a rigid test in order to maintain the integrity of the term and determine criminal culpability. This, however, has caused some authors and policy makers to lose sight of the fact that genocide is a fluid and complex social phenomenon, not a static term. This process perspective is crucial to the detection and standardization of early warning indicators for the prevention of genocide, a goal which many genocide scholars seek to pursue.[6] As Bloxham and Moses argue, "the focus on specific types of outcomes that qualify as genocide is analogous to studying the peaks of mountains from above a cloud-line that only particularly tall mountains penetrate, when a glimpse beneath the cloud-line would illustrate that other mountains fall just short."[7] Hence, if one focuses on how the process of genocide unfolds and the acts that are often perpetrated on the victim—both indirectly and directly—during the genocidal process, then one might begin to link these preliminary or early acts to the efforts of genocide prevention. Moreover, a process-oriented approach provides lawyers and jurists with a lens through which to interpret the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide (UNCG). This approach aids in the interpretation of the UNCG's dual goals of prevention and punishment.

Genocide discourse may be unpacked in a variety of ways. One's approach is naturally influenced by his or her personal, ideological, and academic discipline. For the purpose of this review, we will adhere to the definition of the phenomenon set forth in the 1948 UNCG.[8] While Professor William Schabas seeks, in my view, an overly narrow and restrictive interpretation of the UNCG itself, we agree when he suggests that "[f]or decades the Genocide Convention has been asked to shoulder a burden for which it was never intended, essentially because of the relatively underdeveloped state of international law dealing with accountability for human rights violations."[9] Today, there is a relatively well-developed body of international law that deals with mass atrocities and is codified in the Rome Statute establishing the International Criminal Court. As a result, mass atrocities that are crying out for individual accountability no longer need to be corralled under the crime of genocide; rather, the individuals who commit these atrocities that fall short of genocide can be brought to justice for crimes against humanity.

Nonetheless, pushing the outer boundaries of the UNCG and arguing for an interpretation of the crime that approximates contemporary instances of its pursuit, rather than static and narrow interpretations that dismiss Raphael Lemkin's original conception and the modern-day occurrences that do not—and will not—fit the paradigm or politics of the 1940s (the years during which the UNCG was finalized), has merit. After all, as Nigel Eltringham eloquently suggests, the danger with classifications (and concrete definitions) is that we will "set out to prove that our abstract concepts . . . really do correspond to reality, rather than being contingent approximations."[10] With this in mind, it becomes evident that genocide is a complex social phenomenon that cannot solely be disaggregated into its parts and tucked neatly into a definition. Rather, it must be understood as an unfolding process to be viewed against or within historical, political, and social factors. What follows is a brief analysis of the evolution of concept of

the genocidal process, followed by a summary of a theory of "genocide by attrition" and how the development of this concept, heretofore under-theorized, can be useful for early warning, and hence prevention, of genocide. Finally, this article concludes with a number of suggestions for future directions in genocide studies.

Genocide as Process in Genocide Studies

While many early studies have focused on comparative analysis of specific cases, an increasing number of scholars have taken the broader view of genocide as a complex and dynamic process. These scholars explore the causal contexts of genocide by using structure and agency theories to understand the process. They analyze structures of government, political systems, and relevant socioeconomic, cultural, and historical factors.[11] Some genocide scholars have synthesized and reduced this complex process into the many "stages" of genocide. According to Gregory H. Stanton, genocide "develops in eight stages that are predictable but not inexorable."[12] The stages are classification, symbolization, dehumanization, organization, polarization, identification, extermination, and denial. Helen Fein, examining the Holocaust, identifies five necessary and usually sequential stages of genocide: "definition (identifying discrimination victims), stripping (of rights, roles, offices, claims), segregation (enforced compulsory wearing of the yellow star), isolation, concentration."[13] These stages preceded the Final Solution. More recently, Jacques Semelin, in his book *Purify and Destroy*, has investigated the sources of mass killing using the Holocaust, Rwanda, and Bosnia as the primary sources for his explorations. He seeks to create a political sociology of mass murder and, among other things, explores the dynamic process of implementation against the historical and political backgrounds of each situation.[14] Although these stages are broad enough to cover most instances of genocide, it is unlikely there is a single process of genocide. As Leo Kuper notes, "[t]he forms of genocide are too varied, with quite different sequences of action, and great differences in scale, raising different 'logistic' problems."[15] Technological sophistication, geographical concentration of victims, bureaucratic efficiency, and the possibility of reciprocal violence are some of the variables that differentiate one genocide from another and resist the easy accommodation of a linear model of the genocidal process.

Contributing to the body of literature, which seeks to understand a specific genocide's complex and evolving nature with prevention in mind, this article sets forth a brief conceptualization of the genocidal process that can be marked by the term "genocide by attrition" to bring to the foreground what is often in the background: genocide is a process, a collective cataclysm, that relies more heavily—than currently appreciated—on *indirect methods of destruction* for its success.[16] It is the excessive focus on violent deaths and a preoccupation with the numbers of victims that have obscured alternative means of annihilation and have thereby missed the signals of unfolding tragedies. In fact, many victims of historical genocides died from slower, "indirect," and less immediately deadly methods than outright murder. For example, approximately 13.7% of all Jewish Holocaust victims died as a result of disease and starvation attributable to their confinement in dire, despondent, and life-threatening ghettos at a time prior to their deportation to forced-labor and extermination camps.[17] This theory is not intended to offer yet another typology of stages. Rather, it presents a list of attributes that are likely to occur at different stages of genocide and follow their own distinct paths of development.

Genocide by Attrition: A Process-based View

As the field continues to grow, new and important ways of looking at and describing genocide are found. The emphasis on strict, narrow legalism in genocide interpretation coupled with the conceptual link between genocide and the paradigmatic case, the Holocaust, have imposed a restrictive reading on the term set out in the UNCG. Justifiably, this perceived rigidity led those witnessing the developing crises and unfolding violence in today's complex international arena to search for a more flexible term that would nevertheless maintain the emotional and conceptual force of the genocide concept.

The term genocide by attrition is relatively new to common parlance. While the term has been used before, it is most notably associated with the crisis unfolding in Darfur, Sudan.[18] Eric Reeves, who has closely monitored the situation in Darfur, has been the most ardent supporter of the view that what has occurred since late 2004 or early 2005, after the more direct killings took place, is genocide by attrition. As Reeves observed in 2005, "[s]ometime in the summer of 2004 (we will never know precisely when), genocidal destruction became more a matter of engineered disease and malnutrition than violent killing, [as] there came a point . . . in which ongoing genocide was no longer primarily a result of slaughter, but a cruel attrition."[19] Both Nicholas D. Kristof's work as well as that of Michael Petrou and Luiza Savage describes what we are witnessing in Darfur as "genocide in slow motion."[20] More recently, Gerard Prunier has drawn attention to the constellation of violence by describing death in Darfur as "killing by attrition."[21] Moreover, countless news media outlets wantonly describe the situation in Darfur as "genocide by attrition" or "genocide in slow motion."[22]

Although the term is bandied about with some frequency, there has been little attempt to provide it with a theoretical, legal, or conceptual foundation. Most uses of the phrase are loose and descriptive. However, by engaging in a comparative analysis of prior genocides and of the contemporary usage of the term, it becomes evident that genocide by attrition essentially describes a slow process of annihilation that reflects the unfolding phenomenon of the mass killing of a protected group rather than the immediate unleashing of violent death. The methods of genocide by attrition describe state (or non-state) policies and practices which deprive individuals of a specific set of human rights; such policies and practices do not cause the immediate death of an individual but rather lead to the slow and steady death of the individual and the annihilation of the group.[23]

The concept of genocide by attrition set forth in this article is consistent with the UNCG. While grounding the legal definition of genocide in physical annihilation, the UNCG defines acts that constitute genocide not only as acts of immediate physical destruction but also as acts which create conditions that will lead to physical destruction, including the infliction of physical and mental harm, acts to arrest procreation, the transfer of children, and incitement to genocide.[24] Thus, genocide by attrition is not a new definition of genocide or one that intends to stretch the meaning of the crime of genocide as set forth in the UNCG to accommodate emotional, political, or tactical resorts to the term. Moreover, genocide by attrition does not replace the concept of genocide; instead it draws attention to the genocidal process (rather than the outcome of a process) and illuminates the prominent role that indirect methods of annihilation play in the genocidal process.

Practices and policies of genocide by attrition primarily, but not exclusively, include forced displacement, the denial of health and health care, the denial of food, and sexual violence. Empirical evidence from cases of genocide points to this set of attributes and suggests several tentative conclusions about the genocidal process.[25] First, indirect methods of mass killing play a more important role in the genocidal process than previous models have suggested. Second, indirect methods of annihilation might occur at different points in the linear process and/or might reflect a jumping or collapsing of stages. The concept of genocide by attrition ultimately helps correct the view of genocide as a primarily directly murderous event that can simply be tracked back to individual culpability in order to assign moral and legal responsibility.

Genocide by Attrition and Prevention

The failure to apprehend the process of genocide by attrition reflects a general failure to understand the link between the conditions of life that bring about the physical annihilation of the group and the policy decisions that bring about such conditions. This oversight is particularly troubling where early warning of genocide is concerned. Generally, early warning systems seek to collect, analyze, and communicate information about escalating situations that are developing or could develop into genocide.[26] The UNCG requires state parties to prevent and punish the crime it seeks to prohibit. Thus, unlike most other human rights laws and even international criminal laws, there is a direct obligation upon states to prevent genocide. Until February 2007, when the International Court of Justice issued its decision in the case of *Bosnia and Herzegovina v. Serbia,*[27] there was a debate among scholars on whether the prevention clause in the UNCG created a legal rather than a moral obligation upon states. This decision settled the matter. The International Court of Justice held that prevention is a legal obligation and one that is separate from the obligation to punish genocide. Moreover, it found Serbia liable for failing to prevent the genocide in Srebrenica. More than 136 states have undertaken an obligation to prevent genocide, and the prohibition of genocide is *jus cogens*—that is, a norm so fundamental that no state can derogate from it.

The obligation to prevent genocide necessarily implies the need for effective early warning. Of course, there is no human phenomenon that is 100% preventable. All we can do is develop and enhance our techniques of early detection and pay close attention to each situation that appears to be percolating. The paradigm is the same in health care as it is in international relations: each of these fields is concerned with regulating intervention in relation to death risks. Like in the field of health care, the benefits of accurately preventing genocide greatly outweigh the risks associated with robust enthusiasm in early detection. Specifically, focusing on discriminatory forced displacement, discriminatory denial of health and health care, discriminatory denial of food, and targeted sexual violence provides a clear set of attributes of the genocidal process, thus distinguishing them from the noise of regular human rights reporting. While these attributes generally continue throughout the genocidal process, they often occur during the earlier stages. For example, it might not have been as easy to send Jews into death camps during the Holocaust if they had not been previously displaced from their homes, often into ghettos where hundreds of thousands of Jews died from disease and starvation. Likewise, sexual violence is more likely to occur to women or children who are displaced from their homes. Thus, clearly recognizing these attributes of the genocidal process might aid in identifying early warnings in advance or at a relatively early stage of the conflict. Early warning might be doomed to failure if it cannot make

predictions at a relatively early stage. Once a crisis has fully unfolded and the dynamic murderous process is well underway, policy options for the international society are significantly restricted. In particular, once military intervention is the only realistic option on the table, relevant stakeholders are left with a virtual Pandora's Box, where complex legal, moral, and political issues abound.

While most early warning systems identify a build-up of human rights violations as an early warning indicator, broad emphasis on human rights abuses might potentially overwhelm the models with too many variables, creating the opposite problem of the rigid interpretation of genocide. The information overload makes it difficult to identify emerging patterns of genocidal violence from other deteriorating situations. The concept of genocide by attrition proposes a framework that short-circuits both of those problems by narrowing the universe of variables.

Conclusion and New Directions in Genocide Studies

In the evolution of genocide studies, all of the participating disciplines have made significant contributions and provided much-needed insights. Nonetheless, in the existing literature, ranging from philosophy to law, there is a lack of an overarching methodology or theoretical convergence of how to approach the subject. As a result, there is a pronounced murkiness in the field and an inability to move on from old debates (e.g., over definitions) that stymie the field's development and inhibit its potential. Moreover, it does not appear that anyone has addressed the implications of the social sciences developing in one way, while legal developments have gone in a different direction. In addition, while many genocide scholars proclaim interest in prevention, very few pieces related to genocide tie explicitly to this concern.

Genocide by attrition represents a new direction in genocide studies that demonstrates the field's elasticity and its ability to draw from historical episodes to understand, in practical terms, present instances of genocide. Further, genocide by attrition is part of the expanding literature that views both genocide and humanitarian crises as complex processes. While this article points to only one way in which the interpretation of genocide by attrition can aid in genocide's prevention, hopefully further research will engage with the concept (positively or critically) and the many ways this interpretation of the genocidal process may (or may not) aid in early warning.

Finally, many scholars in the field talk about its interdisciplinary nature. However, the field is multidisciplinary, not interdisciplinary. An interdisciplinary approach is necessary to genuinely grasp the essential meaning of genocide. Because genocide envelops the political, the social, and the legal, giving expression to its multifaceted dimensions demands an interdisciplinary rather than multidisciplinary approach. While scholars from politics, law, and social anthropology all engage in genocide studies, they rarely engage with one another. Moreover, when they do, it is not uncommon for conversations to sink into definitional debates and academic pageantry. The field would greatly benefit from more cross-pollination. For example, often there is a divide between legal scholars and political (and other social) scientists. On the one hand, the former are usually interested in establishing clear legal definitions because the fundamental principles of law—and criminal law in particular—require that crimes be defined with precision as a matter of fairness so that the individual is forewarned about the illegality of his or her actions. The political scientists, on the other hand, view definitions and conceptual debates as useful tools for establishing some parameter for the universe of admissible cases and for elucidating links between structures and agency. These in turn are viewed

as crucial to the development of generalizable models that can explain the causal links between a set of variables and the observed phenomenon. By working together, a balance might be struck between fidelity to definitional precision and a greater approximation of the fluid and chaotic reality of the genocidal process. Similar conversations should take place across varying disciplines. It is only then that the field of genocide studies will truly continue to move into a new and productive direction.

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Notes

1. I wish to thank Professor Kathleen Cavanaugh for her insights on this article and Kelly Bonner, Gaelle Uzan, and Kristy Lin for their excellent research and editing. I also would like to thank the editors of *Genocide Studies and Prevention*, Henry Theriault and Samuel Totten, for inviting me to participate in this endeavor and for their endless patience and editorial inputs. Of course, all errors are my own.
2. Scott Straus, "Contested Meanings and Conflicting Imperatives: A Conceptual Analysis of Genocide," *Journal of Genocide Research* 3,3 (2001): 359–68.
3. Christian Gerlach argues that genocide studies is not a discipline but an area dealing with certain phenomenon and therefore not bound to a sound methodological approach. See Christian Gerlach, "Extremely Violent Societies: An Alternative to the Concept of Genocide," *Journal of Genocide Research* 8,4 (2006): 455–71, 463.
4. Dan Stone, "Introduction," *The Historiography of Genocide*, ed. Dan Stone (Basingstoke: Plagrave Macmillan, 2008), 1–7, 1.
5. While some case studies and comparative case studies reveal genocidal patterns, the unfolding nature of genocide is implied by the careful consideration of the socioeconomic, cultural, and historical factors that lead to genocide. For example, in their descriptions of governmental structures, many authors touch upon discriminatory practices that existed prior to the commencement of the genocide. This type of study, however, is not the same as one that seeks to set forth specific typologies or generalizable characteristics.
6. Thomas Cushman, "Is Genocide Preventable? Some Theoretical Considerations," *Journal of Genocide Research* 5,4 (2003): 523–42.
7. Donald Bloxham and A. Dirk Moses, "Editors' Introduction: Changing Themes in the Study of Genocide," *The Oxford Handbook of Genocide Studies*, ed. Donald Bloxham and A. Dirk Moses (Oxford: Oxford UP, 2010), 1–15, 8. Bloxham and Moses continue with the quote to emphasize that the tallest mountains are connected contiguously to the smaller ones, illustrating their concern with the relationship between genocide and broader historical trends, periods, and structures.
8. *Convention on the Prevention and Punishment of the Crime of Genocide*, 9 December 1948, 78 U.N.T.S. 277, http://www.preventgenocide.org/law/convention/text.htm (accessed 7 Feb 2012).
9. William Schabas, *Genocide in International Law* (Cambridge: Cambridge UP, 2000), 10.
10. Nigel Eltringham, *Accounting for Genocide* (London: Pluto, 2004), 7.
11. Leo Kuper, *Genocide: Its Political Use in the Twentieth Century* (New Haven, CT: Yale UP, 1982); Eric D. Weitz, *A Century of Genocide: Utopias of Race and Nation* (Princeton, NJ: Princeton UP, 2003); Gregory H. Stanton, "The 8 Stages of Genocide," http://www.genocidewatch.org/genocide/8stagesofgenocide.html (accessed 13 Jul 2011); Scott Straus, *The Order of Genocide: Race, Power, and War in Rwanda* (Ithaca, NY: Cornell UP, 2006).
12. Stanton, "8 Stages of Genocide."
13. Helen Fein, *Accounting for Genocide: National Responses and Jewish Victimization During the Holocaust* (New York: Free Press, 1979), 210.
14. Jacques Semelin, *Purify and Destroy: The Political Uses of Massacre and Genocide* (New York: Columbia UP, 2007).
15. Kuper, *Genocide*, 101.
16. Developing the concept of genocide by attrition is a project that Professor Everita Silina and I are completing for publication in a forthcoming collection that will be edited by Joyce Apsel and Ernesto Verdeja. In this article, I simply provide a sketch of the argument.

17. Helen Fein, "Genocide by Attrition 1939–1993: The Warsaw Ghetto, Cambodia, and Sudan; Links between Human Rights, Health, and Mass Atrocities," *Health and Human Rights* 2,2 (1997): 10–45.
18. Helen Fein coined the term to describe the link between human rights, health, and mass death which she observed in the cases of the Warsaw Ghetto, Cambodia, and Sudan. See Fein, "Genocide by Attrition." In 1998 Mark Bradbury described the systematic persecutions of Nuba as genocide by attrition. See Mark Bradbury, "Sudan: International Response to War in the Nuba Mountains," *Review of African Political Economy* 25,77 (1998): 463–74, 464. In his 2005 book, Donald Bloxham observed that by 1915 the Ottoman Empire's treatment of the Armenians had crystallized into a policy of generals and "death by attrition." See Donald Bloxham, *The Great Game of Genocide* (New York: Oxford UP, 2005), 69.
19. Eric Reeves, "'Two Darfurs': Redefining a Crisis for Political Purposes; Amidst Genocide by Attrition, Expedient Misrepresentations Are Proliferating," *Sudan Tribune,* 20 May 2005, http://www.sudantribune.com/spip.php?page=imprimable&id_article=9675 (accessed 13 Jul 2011).
20. Nicholas D. Kristof, "Genocide in Slow Motion," *The New York Review of Books*, 9 Feb 2006; Michael Petrou and Luiza Savage, "Genocide in Slow Motion," *Mclean's* 119,49 (2006): 35–41.
21. Gerard Prunier, *Darfur: A 21st Century Genocide* (Ithaca, NY: Cornell UP, 1982), 122.
22. "Whitewashing Darfur," *Europe Intelligence Wire*, 14 Jun 2009; "Genocide Starts with Incitement to Hate," *African News Service*, 8 Apr 2009; "Commentary Calls for Joint Efforts to Fight Against War Criminals in Sudan," *BBC Monitoring International Reports*, 7 Apr 2009; "Politics-Sudan: Aid Agencies Accused, Expelled over Bashir Case," *Interpress Service*, 9 Mar 2009; "Commentary Discusses Power Struggle, Humanitarian Crisis in Zimbabwe," *BBC Monitoring International Reports*, 29 Jan 2009; "Why ICC Prosecutor Went for President Bashir [opinion]," *Africa News Service*, 21 Jul 2008.
23. In a forthcoming paper (see note 15 above), Everita Silina and I use a historical, political, and legal lens to give the term conceptual contours and place it within a sound theoretical framework that will lend it analytical depth and practicality. In particular, the paper explores the concept of genocide by attrition using the Ottoman Empire (May–Aug 1915), the Holocaust (1939–1943), Cambodia (1975–1979), Southern Sudan (1983–1993), Ukraine (1932–1933), Bosnia-Herzegovina (1992–1995), and Darfur, Sudan (2003–present) as primary case studies.
24. *Convention on the Prevention and Punishment of the Crime of Genocide*.
25. Empirical evidence from cases of genocide can be found in Silina and Rosenberg's forthcoming paper (see note 15 above).
26. Lawrence Woocher, "Early Warning for the Prevention of Genocide and Mass Atrocities" (paper presented at the 48th Annual ISA Convention, Chicago, IL, 2007).
27. *Bosnia and Herzegovina v. Serbia and Montenegro: Case Concerning the Application of the Convention on the Prevention and Punishment of the Crime of Genocide*, Judgment (26 Feb 2007), www.icj.org (accessed 24 Feb 2012).

Annex 30

Martin King Whyte, Wang Feng & Yong Cai, 'Challenging Myths about China's One-Child Policy' (2015) 74(2) The China Journal 144

Challenging Myths About China's One-Child Policy

Martin King Whyte, Wang Feng and Yong Cai

ABSTRACT

China's controversial one-child policy continues to generate controversy and misinformation. This essay challenges several common myths: that Mao Zedong consistently opposed efforts to limit China's population growth; that consequently China's population continued to grow rapidly until after his death; that the launching of the one-child policy in 1980 led to a dramatic decline in China's fertility rate; and that the imposition of the policy prevented 400 million births. Evidence is presented contradicting each of these claims. Mao Zedong at times forcefully advocated strict limits on births and presided over a major switch to coercive birth planning after 1970; as much as three-quarters of the decline in fertility since 1970 occurred before the launching of the one-child policy; fertility levels fluctuated in China after the policy was launched; and most of the further decline in fertility since 1980 can be attributed to economic development, not coercive enforcement of birth limits.

In 2013, with the merger of the National Population and Birth Planning[1] Commission and the Ministry of Health to form a new National Health and Population Planning Commission in March and the announcement of a partial relaxation of the one-child policy in November, China embarked on a journey that may eventually end the most extreme and controversial policy of birth control in human history.[2] In the last three decades and more, numerous studies have been devoted to examining the policy's origin, enforcement and effects. Yet

1. The Chinese term *jihua shengyu* is usually translated as "family planning" in Chinese government publications, including when referring to the names of government agencies responsible for this task. However, since the term "family planning" is understood outside China to refer to a variety of practices that help families to meet their own childbearing goals, while the Chinese practices involved are decidedly different—state interventions to limit the numbers of births—we will throughout instead use the terms "birth planning" or "birth limits".

2. The partial relaxation involves couples where one spouse is an only child and the other spouse has siblings. Such couples are now allowed to have two children. (Couples where both spouses are single children have been allowed to have two children since the policy was launched in 1980.) While the symbolic importance of this relaxation may be important, the actual demographic effect is likely to be quite minor. See Martin King Whyte, "Modifying China's One-Child Policy", published online in *E-International Relations* (2 February 2014), http://www.e-ir.info/2014/02/02/modifying-chinas-one-child-policy/, accessed 2 February 2015. At the time of writing, the one-child policy remains very much in effect, although we note long-standing exceptions to the one-child limit later in this article.

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confusion and myths remain, not only among the public but also in scholarly publications.

One example is an article published in this journal. Issue No. 72 of *The China Journal* contains a very interesting analysis by Yan Wei and Li Zhang of the record of Yicheng, Shanxi, in implementing a two-child rather than a one-child policy since 1980.[3] Although the details on how Yicheng carried out a two-child policy are fascinating and we are in substantial agreement with their conclusions about the Yicheng experience, the authors set the context for their analysis with statements about the origins of mandatory birth limits that are incorrect. For example, in describing the situation in the 1970s, they state: "the state never extended its birth-limitation efforts to rural areas and set no numerical demographic targets at the national level until the late 1970s" (p. 102). Their contention that the switch from voluntary to coercively enforced birth planning only occurred after 1980 is contradicted by a large amount of prior research.[4]

Nor is this example from the article about Yicheng County an isolated instance of mistaken generalizations about the historical record. In his otherwise masterful account of Deng Xiaoping's role in transforming China after the death of Mao Zedong, Ezra Vogel deals only very briefly with the origins of the one-child policy, but when he does he also gets the facts wrong: "When Mao was alive, despite some educational programs and the supplying of birth control devices, birth control made little headway".[5]

Erroneous statements such as these are quite common. There is a need to set the record straight regarding a series of myths about the origins and record of China's coercive birth planning regime. Even though an accurate picture is already available from prior research and publications, key features of that record have too often been ignored or forgotten. We use this opportunity to challenge a series of such myths, and not just the specific erroneous claims cited above.

Common myths about the origins and record of China's policy include the following:

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3. Yan Wei and Li Zhang, "Re-Examination of the Yicheng Two-Child Program", *The China Journal*, No. 72 (July 2014), pp. 98–120.

4. See in particular, Susan Greenhalgh, *Just One Child: Science and Policy in Deng's China* (Berkeley: University of California Press, 2008); Wang Feng, Yong Cai and Baochang Gu, "Population, Policy, and Politics: How Will History Judge China's One-Child Policy?", *Population and Development Review*, Vol. 38 (2013 [supplement]), pp. 115–29. See also Tyrene White, *China's Longest Campaign: Birth Planning in the People's Republic, 1949–2005* (Ithaca: Cornell University Press, 2006); Thomas Scharping, *Birth Control in China 1949–2000: Population Policy and Demographic Development* (London: RoutledgeCurzon, 2003); Susan Greenhalgh and Edwin Winckler, *Governing China's Population: From Leninist to Neoliberal Biopolitics* (Stanford: Stanford University Press, 2005).

5. Ezra Vogel, *Deng Xiaoping and the Transformation of China* (Cambridge MA: Harvard University Press, 2011), pp. 434–35.

1. Mao Zedong was and remained an ardent pro-natalist until the end. Despite some periods in which he allowed voluntary birth planning efforts, it was only possible to switch to a much more concerted national effort to enforce fertility limits after his death.
2. Due to the obstruction that Mao's stance on population issues created, China's population continued to grow at a rapid and uncontrolled rate until after his death, necessitating the contemplation of a more drastic and coercive program, the mandatory policy enforced after 1980.
3. Once the transition from voluntary birth planning campaigns to the highly coercive one-child policy was launched in 1980, Chinese fertility rates began a sharp descent, eventually reaching sub-replacement levels of fertility (below a total fertility rate of 2.1 births per woman[6]) by about 1990 and in the years that followed.
4. However coercive and objectionable the one-child policy may be, the campaign led to the prevention of at least 400 million births. China today and perhaps the world in general are better off in multiple ways as a result of that success in controlling population size.

WAS MAO A PRO-NATALIST?

Each of these generalizations is at least highly misleading, and in many particulars completely wrong. We start with Mao's pro-natalist record. It is certainly true that Mao is on record on several occasions as stating that population growth was not a problem in a socialist country like China, but such statements were more philosophical and ideological than practical. Mao made his best-known statement on this subject shortly before the founding of the People's Republic, in September 1949. In a rebuttal of statements by Dean Acheson, US Secretary of State under President Truman, who considered overpopulation a main source of China's revolution, Mao proclaimed:

> It is a very good thing that China has a big population. Even if China's population multiplies many times, she is fully capable of finding a solution; the solution is production. The absurd argument of Western bourgeois economists like Malthus that increases in food cannot keep pace with increases in population was not only thoroughly refuted in theory by Marxists long ago, but has also been completely

6. The total fertility rate (TFR) is not a statistic, but a projection or estimate of how many babies the average woman would give birth to in her lifetime if current fertility rates (of women of all ages, marital statuses and parity levels) were to continue indefinitely at the same levels.

> exploded by the realities in the Soviet Union and the Liberated Areas of China after their revolutions.[7]

However, such rhetoric does not mean that Mao favored promoting population growth or that he consistently opposed efforts to reduce China's birth rate.

Mao's approach to population issues after 1949 was more practical than ideological. By the mid-1950s, confronted with the challenges of managing the country and feeding its population, Mao and other leaders began to sing a different tune. At the Eighth Congress of the Chinese Communist Party in 1956, Premier Zhou Enlai gave a speech in which he twice mentioned the need to advocate birth control. Early the following year, in the original version of his famous speech of 27 February 1957, "On the Correct Handling of Contradictions among the People", Mao Zedong conveyed the same idea in much more detailed terms:

> Our country has so many people, which no country in the world can compare with. It would be better to have fewer births. (Re)production needs to be planned. In my view, humankind is completely incapable of managing itself. It has plans for production in factories, for producing cloth, tables and chairs, and steel, but there is no plan for producing humans. This is anarchism—no governing, no organization and no rules. This government perhaps needs to have a special ministry—what about a ministry of birth control? Or perhaps establishing a commission, as part of the government?[8]

By late 1957, the urgency which Mao attached to birth control had increased. In his speech concluding the Enlarged Third Plenary Session of the Eighth Central Committee of the Chinese Communist Party, delivered on 9 October 1957, Mao remarked:

> Of course birth control is still necessary, and I am not for encouraging more births. There should be a ten-year program for promoting birth control: three years for pilot programs and publicity, three years for promotion and expansion, and four years for universal implementation. It would be too late to wait until our population size reaches 800 million. While we don't promote birth control in ethnic minority areas, nor in sparsely populated mountainous areas, we still need to have the idea debated and heard. I think birth control should be part of the middle school

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7. "The Bankruptcy of the Idealist Conception of History" (16 September 1949), in *Selected Works of Mao Tse-tung*, Vol. IV (Peking: Foreign Language Press, 1961), p. 453.

8. *Mao Zedong zhuzuo zhuanti zhaibian* (Excerpts from Works of Mao Zedong by Topic) (Beijing: Central Document Publishing House, 2003), p. 970 (translation our own). This passage, along with several others unrelated to population issues, was deleted from subsequent published versions of Mao's 1957 speech.

curriculum. It's not OK to have human reproduction in a state of total anarchy—we need birth planning.[9]

It is true that by the following year, believing that socialism and the Great Leap Forward would solve China's food security problems, Mao became less worried about population growth, but he still believed in the ultimate desirability of birth control, albeit not in the short term. For example, on 28 May 1958, he said, "We are not afraid of a population of 800 million or one billion. American reporters say that after 100 years, the Chinese population will constitute 50 per cent of the world population. By that time, our cultural level will be high. When all the people are college educated, they will naturally practice birth control."[10] On 17 August 1958, in a Politburo meeting, he made another comment on population: "We need to change our thinking about population. I have said to control it within 800 million, but I now see that it would not be a problem to go over 1 billion. There is no need to advocate for more births. Fertility control goes together with improvement in education."[11]

However, even before the end of the massive famine caused by the Great Leap Forward, Mao had reverted to expressing more concern about the need to limit births. In his conversation with General Montgomery on 27 May 1960, Mao said that the population in China would grow by 100 million, not 150 million as suggested by Montgomery: "We are working to control our population growth". Several years later, in a conversation with the Minister of Health on 20 August 1965, Mao made two comments related to birth control. "Tianjin provided birth control for free. While it looked like an economic loss to the state on the surface, the real effect is just the opposite . . . You need to include birth control when you launch rural health programs."[12] In talking with the American journalist Edgar Snow in 1965 and again in 1971, Mao Zedong complained that too few in rural China were using contraceptives.[13]

Finally, while not much is available in official documents on Mao's thinking on population matters during the 1960s and 1970s, from the record it is clear that Mao returned to the assessment of China's need for birth control that he had made in 1957. China's Birth Planning Commission within the State Council was established in 1964 to lead birth-control efforts, shortly after China's population growth recovered from the devastating Great Leap Forward famine, and exactly

9. *Mao Zedong wenji* (Works of Mao Zedong), Vol. 7 (Beijing: People's Press, 1999), p. 308.

10. Quoted in a Cultural Revolution Red Guard document collection, *Mao Zedong sixiang wansui* (Long Live Mao Zedong Thought), Vol. 3 (Wuhan: n.p., 1968), p. 86.

11. *Mao Zedong sixiang wansui*, p. 101.

12. Yang Kuifu, Liang Jimin and Zhang Fan (eds), *Zhongguo renkou yu jihua shengyu dashi yaolan* (A Chronicle of Major Events in China's Population and Birth Planning) (Beijing: China Population Press, 2001), p. 38.

13. Yang Kuifu, Liang Jimin and Zhang Fan (eds), *Zhongguo renkou yu jihua shengyu dashi yaolan*, p. 37.

as proposed by Mao in his speech in 1957. China also developed its own version of the contraceptive pill by the mid-1960s and expanded the national distribution and propaganda network devoted to promoting birth control.[14]

We do not have much evidence on what Mao was thinking about population issues toward the end of his life but, given his supreme position at the time, we can be sure that he must have signed off on the very decisive shift that China made from voluntary to mandatory and highly coercive birth planning enforcement after 1970 (not after 1980). In 1971, China's State Council approved a report on birth control, setting the goals of reducing the annual rate of population growth from 2.5 per cent in 1970 to 1 per cent in cities and 1.5 per cent in rural areas by 1975 as part of the fourth Five-Year Plan. In 1975 and for the subsequent Five-Year Plan, birth-control goals were further ramped up, aiming to reduce the annual rate of population growth from 1.57 per cent in 1975 to 1 per cent in rural areas and 0.6 per cent in cities by 1980.[15] These were the policy decisions that launched China on a dramatically tougher birth planning effort in the closing years of Mao's life.

WAS CHINA'S BIRTH CONTROL PROGRAM VOLUNTARY IN THE 1970S?

With these ambitious goals a national campaign of mandatory birth planning was put into full motion. The slogan that summarized the three demographic components of the campaign was "later, longer, and fewer" (*wan, xi, shao* 晚、稀、少). "Later" referred to the effort to enforce late marriage—at least after age 25 for brides and 27 or 28 for grooms in the city, and after 23 for brides and 25 for grooms in the countryside. "Longer" referred to requiring greater intervals between permitted births—at least four years. "Fewer" meant limits on the number of births allowed—no more than two children for urban families and three for rural families, with penalties for those who did not comply.

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14. For a contemporary overview of efforts to promote birth planning during the 1950s and 1960s, see Michael Freeberne, "Birth Control in China", *Population Studies*, Vol. 18 (1964), pp. 5–16. Freeberne discusses the controversy surrounding the role of Peking University president Ma Yinchu in advocating birth planning in 1957. Later accounts have suggested that Mao was critical of Ma's advocacy of birth control, and that in the anti-rightist campaign Ma was criticized and then fired from his presidency, thus silencing a voice that could have helped to slow China's population growth much earlier. See, for example, "Cuopi yiren, duosheng sanyi" (One Individual Wrongly Criticized, Three Hundred Million More Births), *Guangming ribao* (Guangming Daily) (5 August 1979), p. 3. However, Ma's statements on the need for birth planning very much echoed Mao's own statements from 1957 quoted above, he was never condemned as a rightist, and when he left the presidency in 1960 he was already 78 years old. Furthermore, voluntary birth planning efforts resumed and were expanded in the early 1960s, as Freeberne documents. The claim that Ma's treatment led to the demise of Chinese birth planning efforts until 1980 thus also belongs in the category of myth.

15. Liang Zhongtang, *Zhongguo jihua shengyu shilun* (History of China's Birth Planning Policy) (Beijing: China Development Press, 2014).

The post-1970 campaign in no way relied simply upon persuasion or voluntary compliance. Many of the coercive enforcement techniques that became notorious after the one-child policy was launched in 1980 actually date from this "later, longer, fewer" campaign of the 1970s.[16] The state bureaucratic hierarchy in charge of enforcing birth control then oversaw grass-roots birth planning workers in each village, urban work unit and neighborhood. These birth planning enforcers kept detailed records on each woman of child-bearing age under their responsibility, including past births, contraceptive usage and even menstrual cycles, in many reported instances becoming "menstrual monitors" who tried to detect out-of-quota pregnancies at an early stage.[17] In some factories, there were quotas for reproduction as well as for production, and a woman employee who did not receive a birth allotment was not supposed to get pregnant (even if she had not yet reached her two-child maximum). Women who became pregnant without permission were subjected to regular harassment to get an abortion, with pressure also on their husbands and other family members. In rural areas, women who gave birth to a third child were similarly pressured to get sterilized or have IUDs inserted, while urban women were more trusted to continue using effective contraception until they were no longer fertile (although not trusted enough to dispense with regular menstrual cycle checks). Families were threatened that, if they persisted in having an over-quota birth, the baby would be denied household registration (and thus denied opportunities for ration coupons, schooling and other essential benefits that depended upon registration).

Published statistics from Chinese official sources confirm the coercive, campaign-driven nature of China's birth planning program in the 1970s. As shown in Figure 1, although not as extreme as China's 1983 sterilization and abortion high tide following the launch of the one-child policy, birth-control operations (abortions, IUD insertions and sterilizations) shot up several times during the 1970s in association with the campaign to enforce birth limits. In the early

16. In the interviews which Martin Whyte and William Parish conducted in Hong Kong in 1972–74 with former residents of Guangdong villages, the early stages of this stricter birth planning enforcement were described. William Parish and Martin King Whyte, *Village and Family in Contemporary China* (Chicago: University of Chicago Press, 1978), pp. 138–54. Similarly, former residents of a variety of cities whom Whyte and Parish interviewed in Hong Kong in 1977–78 provided details on the enforcement of the "later, longer, fewer" program in urban China during that period. See Martin King Whyte and William Parish, *Urban Life in Contemporary China* (Chicago: University of Chicago Press, 1984), particularly pp. 160–61.

17. See the translation of one such form used in the early 1970s, in William Parish and Martin King Whyte, *Village and Family in Contemporary China*, p. 143. Almost two decades earlier, when China's first voluntary birth planning campaign was being launched during the mid-1950s, a resident French journalist presciently observed, "I seriously think that this regime is probably the first in history which could officially adopt birth control as a compulsory measure, and make sure that its orders will be universally obeyed . . . And who will control the birth control? Quite simple: the street committee. It will fix the quotas, give advice, and keep an eye on married couples." Robert Guillain, *600 Million Chinese* (New York: Criterion Books, 1957), p. 295. While obedience was far from universal after 1970, the CCP's grass-roots control structures made it possible to contemplate enforcing mandatory birth planning.

Annex 30

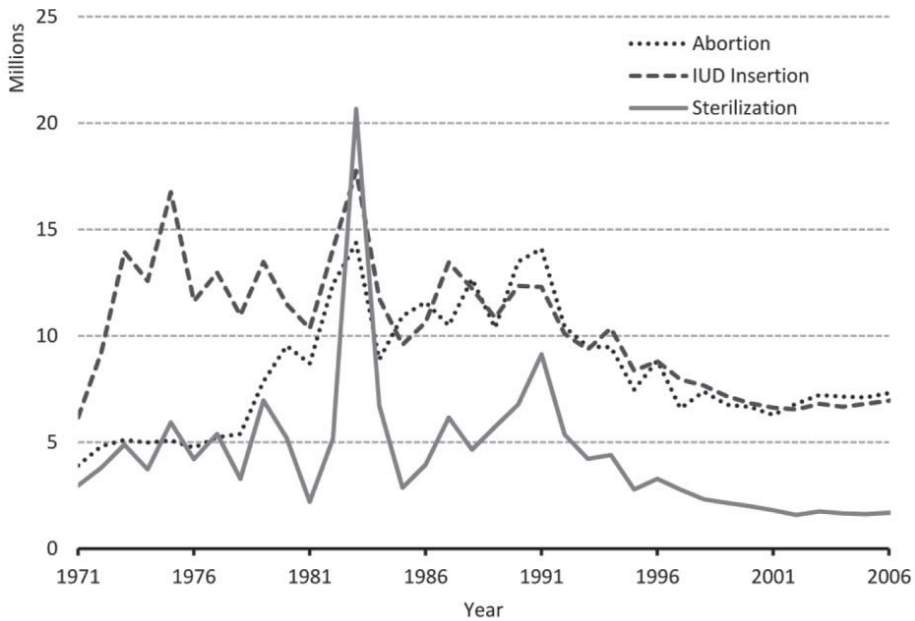

Figure 1. Number of birth-control operations in China, 1971–2006

Source: Ministry of Health of China, *Zhongguo weisheng tongji nianjian* (China Health Statistics Yearbook [2010]) (Beijing: Peking Union Medical College Press, 2010). Sterilization numbers include both male and female sterilizations.

days of the "later, longer, fewer" program, IUD insertion, female sterilization and induced abortions all increased sharply. IUD insertions more than doubled in two years, from 6.17 million in 1971 to 13.95 million in 1973; female sterilization operations increased by nearly 70 per cent, from 1.74 million to 2.95 million; and induced abortions increased by 30 per cent, from 3.91 to 5.11 million. By 1975, the number of IUD insertions, female sterilizations and induced abortions all reached historic highs at levels that were, respectively, 270 per cent, 217 per cent and 130 per cent of the levels in 1971. In 1979, immediately prior to the formal announcement of the one-child policy, there was another push for birth-control medical operations. Nationwide, the number of birth-control operations rose nearly 50 per cent in one year, from 21.72 million in 1978 to 30.58 million in 1979. Female sterilizations more than doubled in the same one-year period, from 2.51 to 5.29 million, and induced abortions rose from 5.39 to 7.86 million. These drastic increases in birth-control operations can hardly be construed as indicative of voluntary birth planning.

Prior to 1980, abuses resulting from efforts to enforce fertility limits also became common. Just prior to the launch of the one-child policy, Steven Mosher reported that dozens of "over-quota" pregnant women in his rural Guangdong field

site during 1979–80 were ordered confined in the brigade headquarters, not able to go home for days, if not weeks, while being subjected to harangues to get them to consent to abortions. He also documented local instances of third trimester "Caesarean abortions"[18] more than three decades prior to Feng Jianmei's forced late-term abortion, which became an Internet sensation in 2012.[19]

DID THE POST-MAO ONE-CHILD POLICY HELP REDUCE CHINA'S FERTILITY?

It is thus clear that highly coercive birth planning enforcement was already the order of the day during the 1970s, in both rural and urban areas, and preceding the launching of the one-child policy. The record is equally clear that China during that decade experienced among the most dramatic declines in fertility in human history. Far from being "out of control", China's fertility declined very substantially after 1970, attaining levels that are unusually low for a poor agrarian society, although not quite dropping to replacement level. As Figure 2 shows, China's total fertility rate fell from close to six around 1970 to only 2.7–2.8 at the end of the decade. Thus, at least 70 per cent of the decline in fertility from 1970 up to the present was achieved prior to the launching of the one-child policy, not afterward. (Note that, in their article, Wei and Zhang show that a similarly dramatic drop in fertility occurred in Yicheng, as well as in Shanxi Province generally, prior to the launching of the one-child policy, rather than following that launch—see their Figure 3, p. 113.) Although economic modernization and the increased availability of contraceptives contributed somewhat to the sharp fertility decline prior to 1980, particularly in urban areas, there can be no doubt that coercive enforcement of state-mandated limits on births played the dominant role.[20]

If China's rate of population growth was already sharply reduced by stricter birth planning enforcement in the 1970s, why was the even more coercive one-child policy launched, starting in 1980?[21] The answer to this puzzle is already

18. Steven Mosher, *Broken Earth: The Rural Chinese* (New York: The Free Press, 1983), Chapter 9. Mosher reports that "high tides" of birth planning enforcement occurred regularly after 1978 in his village.

19. Evan Osnos, "Abortion and Politics in China", *The New Yorker* (15 June 2012), available at http://www.newyorker.com/news/evan-osnos/abortion-and-politics-in-china, last accessed 2 February 2015. In Feng's case, injections rather than surgery were used to abort her seven-month fetus, and pictures which a relative took of the mother in the hospital lying beside her stillborn daughter were widely circulated.

20. See the discussion in Arthur Wolf, "The Preeminent Role of Government Intervention in China's Family Revolution", *Population and Development Review*, Vol. 12 (1986), pp. 101–16.

21. Initially in 1980 there were efforts to promote a limit of one birth for all Han Chinese, although not for ethnic minorities. However, the difficulties of enforcing a one-child limit, particularly in the countryside, led to a compromise rule being applied in most rural areas from 1984 to the present (following the 1983 peak of coercive enforcement, as shown in Figure 1). The most common formula is a "1.5-children rule": if the first-born child is a son, the couple is supposed to stop, but if it is a daughter they are allowed to have one more

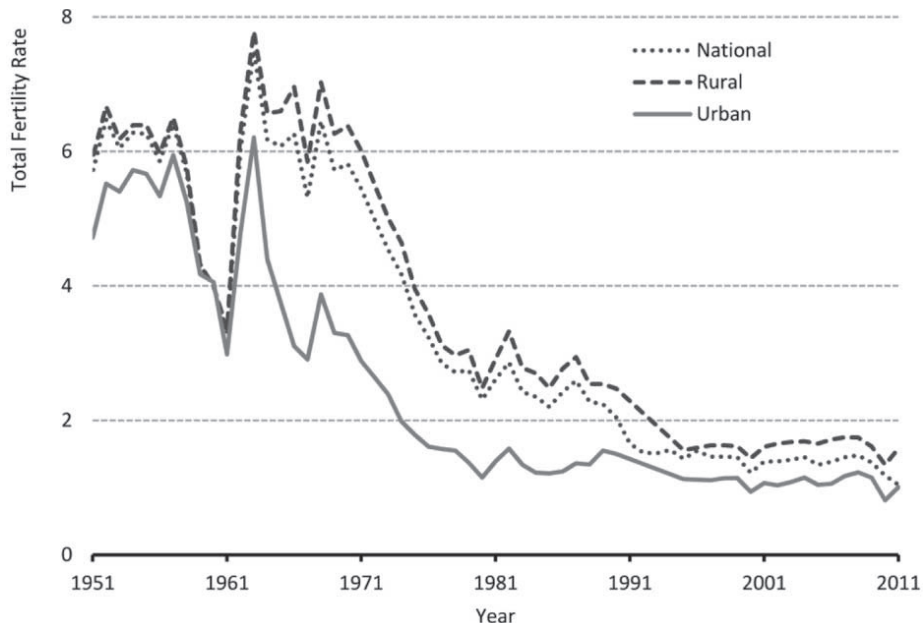

Figure 2. Total fertility rate trends in China, 1951–2011

Note: TFRs for 1951–90 are from Yao Xinwu (comp.), *Zhongguo shengyu shujuji* (Fertility Data of China) (Beijing: China Population Press, 1995). TFRs for 1991–2011 are calculated based on age-specific fertility data published in National Bureau of Statistics of China, *Zhongguo renkou (yu jiuye) tongji nianjian* (China Population [and Employment] Statistics Yearbook [1991–2012]) (Beijing: China Statistics Press). (Data broken down by rural *versus* urban are not available for 1991–94 and 1996.) These age-specific fertility data are not adjusted for underreporting problems that are not uncommon for this period, but the raw data reflect well the fertility trends in China, as shown in Yong Cai, "China's New Demographic Reality: Learning from the 2010 Census", *Population and Development Review*, Vol. 39 (2013), pp. 371–96.

available in prior research, including Susan Greenhalgh's 2008 book, *Just One Child: Science and Policy in Deng's China*, and more recently Liang Zhongtang's 2014 book, *History of China's Birth Planning Policy*.[22] Briefly, the urgent search by

child, after which they should stop (even if the second child is also a daughter). However, in two populous provinces, Jiangsu and Sichuan, almost all residents, even in rural areas, are expected to obey the one-child limit. So, while it would be an oversimplification, or even another myth, to claim that China has adopted a one-child rule for everyone since 1980, nonetheless close to two-thirds of the population would end up having only one child if local regulations on birth limits as of the late 1990s were strictly obeyed by all. On the nature of local variations in birth limits across China and the proportion of the population falling under a one-child limit, see Gu Baochang, Wang Feng, Guo Zhigang and Zhang Erli, "China's Local and National Fertility Policies at the End of the Twentieth Century", *Population and Development Review*, Vol. 33 (2007), pp. 129–47.

22. Susan Greenhalgh, *Just One Child*; Liang Zhongtang, *Zhongguo jihua shengyu shilun*. See also Liang Zhongtang, *Zhongguo shengyu zhengce yanjiu* (Research on China's Birth Control Policy) (Taiyuan: Shanxi Renmin Chubanshe, 2014).

Deng and other post-Mao leaders to find any conceivable way to increase the *per capita* economic growth rate led to a strong desire among the Party leadership for a birth-control program that was even more restrictive than in the 1970s. Already in 1978, the Chinese leadership began contemplating the need for a one-child policy.[23] Even more ambitious official fertility control targets found a ready and purportedly scientific rationale after 1979 in demographic projections produced by a small group of scientists headed by Song Jian, who were influenced by the Club of Rome's *Limits to Growth* and other Western doomsday writings in the 1970s.[24] At a time when the country's population was already approaching 1 billion (the 1982 census counted 1.008 billion Chinese), they asserted that it was necessary for China to reach zero population growth as rapidly as possible. They also claimed that China's optimal population *ca*. 2080 was 700 million or less, and that only a total fertility rate of closer to one rather than two or higher would enable China to reach this long-run optimal population. Their pseudo-scientific claims and projections, based upon ideas that have since been widely criticized and largely discredited in the West, offered a scientific-sounding justification for China's even more draconian one-child policy.[25]

The trend data in Figure 2 also make it clear that the launching of the one-child policy was not followed by a sustained further decline in fertility. Rather, after an initial drop in 1980, China's overall fertility rebounded upward and then fluctuated for most of the rest of the decade. So, despite the massive increase in coercive enforcement that the new policy precipitated (1983 was a particularly dreadful year—China performed 14.4 million abortions, 20.7 million sterilizations and 17.8 million IUD insertions that year; see Figure 1), China did not initially have much success in producing a further decline in fertility.[26]

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23. The historical record is still unclear about the decision-making process lying behind the one-child policy. Chen Muhua, who was newly charged with developing an even more restrictive fertility regime, played a critical role in pushing for a one-child policy. It is reasonable to assume that she had strong support from leaders such as Hua Guofeng and Deng Xiaoping.

24. Donella H. Meadows, Dennis L. Meadows, Jørgen Randers and William W. Behrens III, *The Limits to Growth: A Report for the Club of Rome's Project on the Predicament of Mankind* (New York: Universe Books, 1972). Song Jian was a former rocket scientist who rose to become a State Councilor, member of the Central Committee of the Chinese Communist Party and President of the Chinese Academy of Engineering. In the late 1970s, he became centrally involved in making demographic projections, using his access to computers and his political connections to increasingly dominate debates among professional demographers about China's population policy, as described by Greenhalgh and Liang.

25. See the details provided in Susan Greenhalgh, *Just One Child*, particularly p. 158. For one biting critique of the Club of Rome projections, see Julian Simon, *The Ultimate Resource* (Princeton: Princeton University Press, 1981). Past research also shows that China could have approached or reached replacement level fertility with a further implementation of a "two children with spacing" requirement, rather than the more drastic one-child limit that became official policy. John Bongaarts and Susan Greenhalgh, "An Alternative to the One-Child Policy in China", *Population and Development Review*, Vol. 11 (1985), pp. 585–617.

26. The rebound in fertility in 1981 and 1982 was partly a result of a sharp reduction in the average age of first marriage in China after 1980. After the launching of the one-child policy, with its overwhelming

A further sustained decline in China's fertility to sub-replacement levels began only toward the end of the 1980s, as shown in Figure 2. Some of this further decline can be attributed to a change in the system of enforcement. Instead of the primary burden for enforcement falling on grass-roots birth planning workers, most of them middle-aged women, major responsibility shifted to more powerful actors—local Party secretaries and other officials (overwhelmingly men). Achieving success in keeping the number of births down became one of the key criteria used in the annual performance ratings of local officials. Under the "one-veto rule", an official who failed to meet birth-control targets in his locality could be denied promotion or even lose his post, even if the local performance was acceptable regarding economic growth and other evaluation criteria. (The new rule's initial effect can be seen in the spikes in birth-control operations in 1991 shown in Figure 1.) Still, it would be highly misleading to attribute the attainment and maintenance of sub-replacement fertility or even the overall trend toward lower fertility since 1970 solely to the post-1980 policy or to China's coercive birth planning enforcement. This brings us to the final myth that needs to be challenged—the claim that the one-child policy is responsible for preventing 400 million excess births, producing manifold benefits for China and for the rest of the world.

DID THE ONE-CHILD POLICY PREVENT 400 MILLION BIRTHS?

Of all the myths that have circulated regarding the one-child policy, the one that has gained the most currency recently is that it has prevented 400 million births. Supporters of the policy argue that such a huge number of prevented births not only fueled China's dramatic post-1978 economic boom, as claimed by the Chinese government, but also contributed to global well-being.[27] For ex-

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emphasis on fertility reduction, the "later" part of the 1970s birth planning campaign was neglected. Simultaneously in 1980 a revision of the Marriage Law of the People's Republic of China was promulgated. While on the surface it appeared that the 1980 revision required higher minimum ages of marriage than the original 1950 Marriage Law (20 for females and 22 for males, compared with 18 and 20 in the 1950 version), the actual effect was to make it easier for couples and their parents to demand to have marriages registered at ages younger than the "late marriage" ages of the 1970s campaign. Nationally, the mean age of first marriage for both males and females dropped by about 2 full years after 1980 and only gradually started increasing after that, with marriage ages in 1990 still younger than in 1980 (Deborah Davis and Sara Friedman [eds], *Wives, Husbands, and Lovers: Marriage and Sexuality in Hong Kong, Taiwan, and Urban China* [Stanford: Stanford University Press, 2014], Table 1.1, p. 7.) Marriage age reduction was responsible for at least 16 per cent of the rise in fertility in 1981 (Griffith Feeney, Wang Feng, Mingkun Zhou and Baoyu Xiao, "Recent Fertility Dynamics in China: Results from the 1987 One Percent Population Survey", *Population and Development Review*, Vol. 15 [1989], pp. 297–322).

27. Critics of the policy also cite the estimate of 400 million births prevented. See, for example, http://www.cnsnews.com/news/article/penny-starr/400-million-lives-prevented-through-one-child-policy-chinese-official-says, last accessed 5 February 2015.

ample, a 20 September 2014 special report in *The Economist* on global efforts to curb greenhouse gas emissions ranks China's one-child policy as the fourth most important policy or action contributing toward this goal in recent decades, after the Montreal Protocol, worldwide use of hydroelectric power and the spread of nuclear power. The one-child policy is credited with producing a cumulative reduction of 1.3 billion tons of carbon emissions in China as of 2005.[28]

It is already clear from our discussion above that most of China's fertility decline cannot be attributed to the one-child policy, since the decline largely occurred prior to the policy's launch. How was the number of 400 million generated, and how credible is it? Our research reveals that the original calculation of the number of births prevented came from an internal study sponsored by China's National Population and Birth Planning Commission in the late 1990s, a study which was based on overly simplistic and unrealistic assumptions.[29] This "number of births prevented" claim has subsequently been utilized by Chinese government officials to showcase the success of China's birth-control program.

The estimate of the number of prevented births was based on a study whose results are displayed in Figure 3. Basically, the report used a straight line to portray the overall fertility trend between 1950 and 1970 based on adjusted crude birth rates, and then simply extrapolated this line forward into later years, based upon the (mistaken) assumption that this extrapolation provided an accurate projection of what China's fertility would have been in the absence of birth planning campaigns.[30] The report's projected crude birth rate for China in 1990 was 29.71 per thousand, and for 1998 28.43 per thousand, as shown in the top line in Figure 3. By comparing the births that would have occurred under this scenario and the observed actual birth rates (shown as the bottom line in Figure 3), the report's authors arrived at their estimate of the cumulative number of births "prevented". For the period between 1970 and 1998, they concluded that this number was 338 million. In the decade after this study, not only was the starting date conveniently shifted forward from 1970 to 1980 (thus redirecting attention to the one-child policy), but also the number of births prevented was inflated to 400 million.

The claim that China's one-child policy prevented 400 million births contains at least three fatal flaws. First, the number is based on a "what if" scenario that is completely unrealistic. The projected trajectory of crude birth rates, as shown by

28. http://www.economist.com/news/briefing/21618680-our-guide-actions-have-done-most-slow-global-warming-deepest-cuts, last accessed 5 February 2015. *The Economist* cites a statement by a Chinese Foreign Ministry spokesman in 2007 as the basis for the specific carbon emissions reduction estimate (which was based on a more modest figure at that time of 300 million births prevented).

29. Wang Feng and Cai Yong, "Siyi Zhongguoren shi zenmo shaoshengde?" (Did China's One-Child Policy Prevent 400 Million Births in the Last 30 Years?), *Zhongguo gaige* (China Reform), Vol. 7 (2010), pp. 85–88; Wang Feng, Yong Cai and Baochang Gu, "Population, Policy, and Politics".

30. According to official statistics, China's crude birth rate in 1950 was 37.0 per thousand, and in 1970 it was 33.4 per thousand.

Annex 30

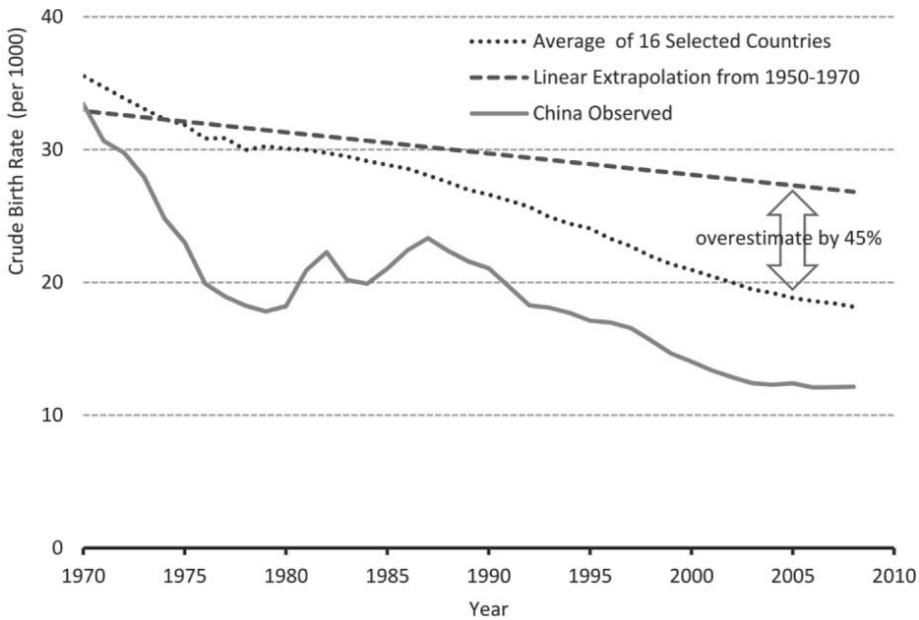

Figure 3. Calculations behind "400 million births prevented"

Note: Observed crude birth rates for China are taken from China National Bureau of Statistics, *Zhongguo tongji nianjian* (China Statistics Yearbook [2012]) (Beijing: China Statistical Press, 2013). Linear extrapolation from 1950 to 1970 is from Yang Kuifu, Chen Shengli and Wei Jinsheng (eds), *Zhongguo jihua shengyu xiaoyi yu touru* (The Costs and Benefits of China's Birth Planning) (Beijing: People's Press, 2000). The average for selected "comparable" countries is calculated using data from the World Bank's World Development Indicator database.

the top line in Figure 3, severely underestimates the decline in fertility that would have occurred in the absence of China's birth-control programs. This problem can be seen by comparing China with the real experiences of countries that had birth rates similar to China's in the 1970s but did not have mandatory birth-control programs. The middle line of Figure 3 shows this comparison. There were 16 countries in 1970 with a population of a million or more that had crude birth rates of between 30 and 38 per thousand, with an average crude birth rate of 35.55 per thousand, slightly above China's level at the time, which was 33.43 per thousand.[31] In the years after 1970, the average birth rate of these 16 countries declined to 26.6 per thousand by 1990, and to 21.96 by 1998, significantly below the predicted values of the "China births prevented" estimate. By predicting

31. The 16 countries are Albania, Brazil, Colombia, Costa Rica, Jamaica, North Korea, South Korea, Lebanon, Malaysia, Panama, Paraguay, South Africa, Thailand, Turkmenistan, Uzbekistan and Venezuela. (Sri Lanka also qualified, with a crude birth rate of 30.9 and a population of 12 million in 1970, but it was excluded from the study because data were missing for 1998.)

a birth rate that is unrealistically high—17 per cent higher than the average of the comparison group as of 1990, 29 per cent higher in 1998, and as much as 45 per cent higher in 2005—the estimate of total births prevented is clearly a wild exaggeration.

The second fatal flaw with the simplistic "births prevented" estimate is its neglect of a particular feature of China's process of fertility decline, namely, that the major part of the fertility decline occurred in the 1970s, prior to the one-child policy. The drastic pre-1980 decline in China's actual birth rates, as shown in the bottom line of Figure 3, had far-reaching consequences. The contraception, abortion and sterilization campaigns that resulted in the rapid decline in the birth rate during the 1970s had long-lasting effects well beyond that decade. The smaller birth cohorts of the 1970s that resulted from this decline laid the foundation for smaller numbers of births 20 years later and beyond, when those smaller birth cohorts entered reproductive ages.

The third fatal problem with the "400 million births prevented" claim is that it totally ignores the most significant source of fertility decline worldwide: economic development. As the popular slogan has it, "economic development is the best contraceptive". China's dramatic post-1978 economic boom and the profound social changes unleashed by rising incomes and levels of education and rapid urbanization would have driven down birth rates even in the absence of state birth planning campaigns. Given the much more rapid pace of economic and social change in China than in any of the 16 comparison countries used in Figure 3, it is highly likely that the trajectory of birth rate decline in China after 1980 due to this source alone would have been steeper than the average for the 16 comparison countries, and therefore even closer to the observed birth rate changes, as shown in the bottom line in Figure 3. In sum, the claim that China's one-child policy prevented 400 million births is entirely bogus. While the earlier "later, longer, fewer" mandatory birth planning campaign launched under Mao Zedong did drive China's fertility levels down to levels below what would be expected for a country at China's economic development level at that time, in the period since 1980 it is debatable how much of China's further fertility decline can be attributed to the one-child policy.[32]

We conclude by offering our own summary of the historical record to replace the myths with which we began:

1. Despite Mao Zedong's earlier declarations that a large and rapidly growing population was not a problem for China, he was still in charge when a dramatic shift from voluntary to mandatory birth planning occurred after 1970. Birth planning

32. Yong Cai, "China's Below-Replacement Fertility: Government Policy or Socioeconomic Development?", *Population and Development Review*, Vol. 36 (2010), pp. 419–40.

was already being coercively enforced during the 1970s under the "later, longer, fewer" campaign, prior to the launching of the one-child policy in 1980.

2. Rather than continuing to experience out-of-control population growth, China during the 1970s recorded a dramatic decline in fertility rates, with the bulk of the decline in fertility from 1970 to the present achieved in that decade. Birth-control programs in the 1970s cannot be portrayed as voluntary, as they relied on mass campaigns and heavy coercion in order to try to meet government birth-limitation targets.
3. The even more coercive one-child campaign was based on politics and pseudo-science, rather than on necessity, much less on good demography. China could have achieved further progress in lowering fertility with some version of a two-child policy, a choice that would have sharply reduced the human suffering caused after 1980. Despite the widespread coercion and abuses connected to the new policy, it was not in fact very successful initially in reducing fertility levels further. Fertility rates fluctuated through most of the 1980s and only resumed their decline toward today's sub-replacement levels at the end of the decade.
4. While a substantial portion of China's dramatic decline in fertility rates since 1970 can be attributed to the implementation of mandatory birth control, it is highly misleading to claim that the one-child policy successfully prevented 400 million extra births.[33] Despite the coercive ferocity of the campaign, China's rapid economic development since 1980 deserves the lion's share of the credit for the (much more modest) numbers of reduced births that have occurred as the country's total fertility rate further declined, from about 2.7–2.8 at the end of the 1970s to perhaps 1.4–1.5 today. It is a damning indictment of the Chinese record that all of her Confucian neighbors in East Asia achieved rapid declines to their present sub-replacement fertility rates via robust economic growth supplemented by voluntary birth planning campaigns, thus avoiding the massive abuses that China's misguided launching of the one-child program produced.

33. Even if one uses a lower and more realistic estimate of the reduction in the number of births that can be attributed to coercive birth planning since 1970, the claim that China has benefited greatly as a result is yet another myth. Such a claim ignores the very serious problems that China is now facing as a result of its peculiar demographic history, including a rapidly aging population, rising labor costs and a highly distorted sex ratio. See the discussion in Wang Feng, Yong Cai and Baochang Gu, "Population, Policy, and Politics".

Annex 31

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Unpacking the Mind of Evil: A Sociological Perspective on the Role of Intent and Motivations in Genocide

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Introduction

Genocide is the crime of crimes. What distinguishes the most prominent of all international statutory offences from other forms of macro violence[1] is the *dolus specialis*, the special intent, that informs perpetrators when they commit certain acts of violence (structural or physical). The genocide convention of 1948 states: "genocide means any of the following acts committed with intent to destroy, in whole or in part, a ... group, as such."[2] By definition, intent is more than a simple will to kill or to perform other acts of violence–it is the will to do violence to certain human beings because they are perceived or real members of a specific group, ultimately with the goal to destroy the group.[3]

Beyond these rather general conceptual boundaries the role and meaning of intent has always been heavily disputed. On the one hand, intentionalists stress the importance of intent from the very beginning of the mass violence; on the other hand, functionalists emphasize structural dynamics driven by other motivations.[4] Along the same lines, Powell, referring to Moses, identified a liberal and post-liberal divide.[5] Representatives of the former view "conceive of genocide as the intended action of a coherent agent."[6] This agent is chiefly the state, under whose umbrella elites and foot soldiers both act intentionally alike. Post-liberal views "conceive of genocide as a structural process that does not require any intending agent."[7] Deviating from liberal individualism, collectives and structures are foregrounded in a way that intent and intentional action of single perpetrators fade from the spotlight almost completely. In a similar fashion, jurisprudence and legal scholars distinguish between a purposed-based and a knowledge-based approach: "Adoption of a so-called purpose-based approach, which dwells on intent, results in a focus on individual offenders and their own personal motives. A so-called knowledge-based approach, on the other hand, directs the inquiry towards the plan or policy of a state or similar group, and highlights the collective dimension of the crime of genocide."[8]

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[1] Herbert Jäger, *Makrokriminalität: Studien zur Kriminalität kollektiver Gewalt* (Frankfurt am Main: Suhrkamp, 1989).

[2] United Nations, Convention on the Prevention and Punishment of the Crime of Genocide, December 9, 1948 (UN Doc. A/RES/260(III)[A-C]).

[3] Throughout this essay, we take a wide definition of genocide as a basis. The definition of the Genocide Convention (supra fn. 2) establishes genocide as a legal fact and is widely accepted in both legal and political discourse. However, researchers, especially in the social fact and is widely accepted in both legal and political discourse. However, researchers, especially in the social sciences and humanities, revealed its various shortcomings with regard to the analysis of genocide as an empirical phenomenon. Law practitioners continue to use the UN definition despite its constraints because its international legal acceptance allows the prosecution of participants in genocide. As social scientists, however, our aim is to approach the topic more analytically than legally, broadening our understanding of genocide to embrace more groups than those specified in the UN convention and to take wider approaches to mass violence in the context of genocide into account and simply speak of structural and physical violence (instead of 'killing' or 'forcibly transferring children' etc.). See Claudia Card, "Genocide and Social Death," *Hypatia* 18, no. 1 (2003), 63-79; Martin Shaw, *What is Genocide?* (Cambridge, UK: Polity Press, 2007).

[4] Samuel Totten and Paul R. Bartrop, *Dictionary of Genocide* (Westport: Greenwood Press, 2008), 214-215.

[5] Christopher Powell, "What Do Genocides Kill? A Relational Conception of Genocide," *Journal of Genocide Research* 9, no. 4 (2007), 527-547; A. Dirk Moses, "Conceptual Blockages and Definitional Dilemmas in the 'Racial Century': Genocides of Indigenous Peoples and the Holocaust," *Patterns of Prejudice* 36, no. 4 (2002): 7-36.

[6] Powell, *What Do Genocides Kill?*, 528

[7] Ibid.

[8] William A. Schabas, *An Introduction to the International Criminal Court* (Cambridge, UK: Cambridge University Press, 2011).

Timothy Williams and Dominik Pfeiffer, "Unpacking the Mind of Evil: A Sociological Perspective on the Role of Intent and Motivations in Genocide" *Genocide Studies and Prevention* 11, 2 (2017): 72-87. ©2017 *Genocide Studies and Prevention*.
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However, the polarisation of the debate has increasingly been seen as deeply problematic because it leads to either overstating or understating intent. The individualism of liberal and purposed-based thinking and the intentionalist perspective ultimately leads to a strong emphasis on a monolithic version of intent. There is a tendency to assume a strong and direct relationship between genocidal intent and genocidal praxis that does not withstand any serious criminological analysis. In contrast, post-liberal, functionalist and knowledge-based approaches downplay the role of intent to a point where it dissolves in social collectives and socio-political structures. Thus, the distinction from other forms of mass violence becomes blurred. Ultimately, this position encounters the problem of formulating a distinct concept of genocide that distinguishes it from other types of mass violence.

Against this backdrop, however, scholars such as Kimura[9], Ambos[10] or Jensen[11] have already developed more nuanced concepts and thoughts about the role of intent in genocide. From a criminological perspective, Ambos argues for a combination of the above-mentioned approaches, thereby taking especially different roles and classes of actors into account. He concludes that "purpose based intent should only be upheld with regard to the top- and mid-level perpetrators while for the low-level perpetrators' knowledge of the genocidal context should suffice."[12] Also arguing for a more differentiated view, Jensen examined the role of intent in legal prosecution and its shortcoming that there are juridical expectations of what he calls consistency in individuals' behaviour in order to infer intent.[13] Jensen shows elegantly how consistency is not a necessary precondition for intent in the cases of Goran Jelisić and Josef Schwammberger. Verdeja shows that current research tends to opt for a more dynamic view on intent by focusing on its emergence rather than taking it as pre-given.[14] Finally, these new conceptual tendencies correspond to developments in history and historiography, where the different motivations and intentions have been the focus of research for quite some time.[15]

Generally following this new perspective on intent in genocide, we want to add some conceptual sociological thought to the debate in order to strengthen its theoretical foundations.[16] Drawing on social movement theory and frame analysis we want to support juridical discussions and contribute to the current criminological thinking on genocide. In this regard we will combine macrosociological observations on collective action with microsociological and sociopsychological insights into the attitudes and the behaviour of individuals. Our main argument is as follows: We argue that intent needs to be primarily located in the cognitive frames that open up a joint action context for the collective action of genocide. Low-level perpetrators commit their individual crimes as part of a state-sponsored social movement whose existence depends on a cognitive frame in which genocidal intent plays a crucial role. But while "ordinary men"[17] may at times explicitly share a general genocidal intent, they usually act due to a host of more profane motivations. We draw here on the work of Williams whose inter-contextual model flags many other motivations

[9] Akio Kimura, "Genocide and the Modern Mind: Intention and Structure," *Journal of Genocide Research* 5, no. 3 (2003), 405-420.

[10] Kai Ambos, "Criminologically Explained Reality of Genocide, Structure of the Offence and the 'Intent to Destroy' Requirement," in *Collective Violence and International Criminal Justice: An Interdisciplinary Approach*, ed. Alette Smeulers (Antwerpen: Insertia, 2010), 153-173.

[11] Olaf Jensen, "Evaluating Genocidal Intent: The Inconsistent Perpetrator and the Dynamics of Killing," *Journal of Genocide Research* 15, no. 1 (2013), 1-19.

[12] Ambos, "Criminologically Explained Reality of Genocide," 153.

[13] Jensen, "Evaluating Genocidal Intent."

[14] Ernesto Verdeja, "The Political Science of Genocide: Outlines of an Emerging Research Agenda," *Perspectives on Politics* 10, no. 2 (2012), 307-321.

[15] Paul Gerhard, *Die Täter der Shoah: Fanatische Nationalsozialisten oder ganz normale Deutsche?* (Göttingen: Wallstein Verlag, 2002).

[16] Although this paper is sociological in nature, at the micro level discussed in section 4 there are many influences from social psychology, anthropology and criminology, too.

[17] Christopher Browning, *Ordinary Men: Reserve Police Battalion 101 and the Final Solution in Poland* (New York: Harper, 1993); for a critique see Peter Longerich, *Holocaust. The Nazi Persecution and Murder of the Jews* (Oxford: Oxford University Press, 2010), 186.

besides ideology and intent for individuals' motivation to participate in genocide.[18] Thus, genocidal intent can be realised without direct perpetrator intent. In this sense, we combine a purpose-based approach (which we mainly locate at the macro level) with a knowledge-based approach (which we attribute to the micro level of individual perpetration). We distance ourselves from the simple linear liberal/ intentionalist thinking of a straight and monolithic relationship of intent and outcome, while also avoiding a post-liberal/functionalist view that negates any distinction of genocide from other forms of mass violence.

This article is structured as follows: The first two sections elaborate on our sociological concept of genocide as collective action by a genocidal social movement. We start with a theoretical derivation on how intent is to be situated in cognitive frames; frames that constitute these social movements and secure their existence as such. These conceptual statements at the macro-level of genocide are followed by some remarks on how genocidal frames create a possibility for genocide at the micro level. We complement this first step of connection between the macro and the micro level with a reflection on how individual perpetrators perceive this framed intent. Next, we elaborate on the types of motivations low-level perpetrators may have when they act in a framed context. We then briefly discuss how the resulting individual acts of violence aggregate in genocide.

Genocidal Frames

In this first section, we start our argument by laying out our concept of genocide at the macro level. We will argue that genocidal action is action by a state-sponsored social movement that is working towards the destruction of a specific group as such, thereby being constituted and instructed by a collective frame. In the process of framing, state level actors develop genocidal intent and realign the frame accordingly. This rather abstract theoretical formulation requires further elaboration and we will tackle the different terms and aspects step by step.

Let us begin by stressing the rather simple fact that genocide is a social phenomenon. Although a single person may hypothetically commit them,[19] genocides have always been perpetrated by a large amount of different people–instigators, low-, mid-, and high-level perpetrators, bystanders, and more–interacting with each other. The Holocaust, Rwanda, Armenia, or Cambodia–in historical cases, a whole range of actors such as political leaders and elites, civil servants and common people, military personnel and paramilitaries all fulfil different roles when they engage together in atrocities, often bringing together state actors such as armed forces and police with state-sanctioned paramilitaries such as the SS or SA in Nazi Germany, the *interhamwe* in Rwanda, the *Teşkilati Mahsousa* during the Armenian genocide or the Khmer Rouge *chhlop*. These groups were then supplemented by civilian supporters in various roles, ranging from broad societal participation in Rwanda and Armenia to quite limited civilian involvement in Cambodia and the Holocaust. In this sense, we can say that genocidal action is collective action, i.e. the formation and action of a social movement that is working towards a common goal in a joint action context.

Usually, social movements are mostly associated with noble causes such as fighting for human rights or against climate change. But by common definition, a social movement is just a form of collective action that shows some resilience and stability over a certain period of time.[20] The demands, claims and goals of the people participating in it can be virtually anything. It is not even said that all social movements engage in so-called contentious politics against the state, as one might initially think. Quite on the contrary, state-sponsored social movements have gained some attention in research and the discourse on collective action. Su defines them as "popular movement[s] initiated and endorsed by the central leadership of the state and organized by the

[18] Timothy Williams, "The Complexity of Evil: A Multi-Faceted Approach to Genocide Perpetration," *Zeitschrift für Friedens- und Konfliktforschung* 3, no. 1 (2014), 71-98.

[19] In the Jelisic case, the International Criminal Tribunal for the former Yugoslavia famously coined the idea of a 'lone genocidal maniac'. See note 8 above. While the idea certainly is of some interest for jurisprudence, it still resembles a legal intellectual game. At least to us it is of no further interest for the investigation at hand because it would reduce it to the question of whether a single person does or does not have intent.

[20] Sidney Tarrow, *Power in Movements: Social Movements and Contentious Politics*, 2nd ed. (Cambridge, UK: Cambridge University Press, 2008), 2.

government's apparatuses."[21] When it comes to genocide, we clearly speak of this special kind of social movement, as the state and its military and security apparatus almost always play a major role in genocide.[22] Looking back in history, Schabas states that "genocide was generally, although perhaps not exclusively, committed under the direction or, at the very least, with the benign complicity of the State where it took place. Usually, the crime was executed as a quite overt facet of State policy, particularly within the context of war or colonial conquest."[23]

Michael Mann even goes so far as proclaiming a direct connection between the emergence of new states and genocide, particularly evident in how interwoven genocidal policies became with nation-building projects in the late Ottoman Empire and in the breakup of Yugoslavia.[24] So we can enhance the definition presented above by saying that genocidal action is action by a state-sponsored social movement that is working towards a common goal in a joint action context.

The goal of genocide is the destruction of a specific group as such; a group that is singled out by the state-sponsored social movement. Perpetrators then try to achieve this goal by applying structural violence (e.g. racist laws that force people to live under miserable conditions in ghettos) and physical violence (e.g. mass murder). Of course, these settings of mass violence each consist of specific individual acts–from policing the ghetto to picking up a rifle and shooting someone. So we can say that genocidal action is action by a state-sponsored social movement that is working towards the destruction of a specific group as such in a joint action context.

Following this definition, it remains to elaborate on the joint action context. Our argument is that this is the place where we must locate intent. To justify this argument, we refer to frame analysis theory.[25] Its foundational work was developed by Goffman[26] and picked up and refined by Snow and others.[27] Today, this approach represents one of the most influential sociological theories on explaining collective action. While the research focus in the literature on social movements has been on resource mobilization and political opportunities for a long time,[28] frame analysis highlights the relevance of "meaning work–the struggle over the production of mobilizing and countermobilizing ideas and meanings"[29] – for and through social movements. Relying on vast empirical data, the theory states that neither the command of resources (e.g. money, media, and power) nor an advantageous political situation (not even the direct support by the state) suffices to explain the formation and the collective action of social movements. What is needed is a cognitive frame, which we can understand as a "interpretative schemata that simplifies and condenses 'the world out there' by selectively punctuating and encoding objects, situations, events, experiences, and sequences of actions within one's present or past environment."[30]

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[21] Yang Su, "State-Sponsored Social Movements," in *The Wiley-Blackwell Encyclopedia of Social Movements*, ed. David A. Snow et al. (Oxford: John Wiley & Sons, 2013).

[22] Peter B. Owens and David A. Snow, "Genocide and Social Movements," in *The Wiley-Blackwell Encyclopedia of Social Movements*, ed. David A. Snow et al. (Oxford: John Wiley & Sons, 2013).

[23] William A. Schabas, *Genocide in International Law: The Crimes of Crimes*, 2nd ed. (Cambridge, UK: Cambridge University Press, 2009), 1.

[24] Michael Mann, *The Dark Side of Democracy: Explaining Ethnic Cleansing* (Cambridge, UK: Cambridge University Press, 2005).

[25] It should be noted that we are not the first to introduce this theoretical approach into analysing mass violence. Others have impressively demonstrated the value of frame analysis for understanding the actions and behaviour of perpetrators. However, they used frame analysis for the detailed analysis of soldiers acting in war, while we want to present a more conceptual argument on genocide. See Sönke Neitzel, *Abgehört: Deutsche Generäle in britischer Kriegsgefangenenschaft, 1942-1945* (Berlin: Propyläen, 2005).

[26] Erving Goffman, *Frame Analysis: An Essay on the Organization of Experience* (Boston: Northeastern University Press, 1986).

[27] David A. Snow et al., "Frame Alignment Processes, Micromobilization, and Movement Participation," *American Sociological Review* 51, no. 4 (1986), 464-481.

[28] David A. Snow, "Framing Processes, Ideology, and Discursive Fields," in *The Blackwell Companion to Social Movements*, ed. David A. Snow et al. (Malden: Blackwell, 2004).

[29] David A. Snow and Robert D. Benford, "Framing Processes and Social Movements: An Overview and Assessment," *Annual Review of Sociology* 26 (2000), 611-639.

[30] David A. Snow and Robert D. Benford, "Master Frames and Cycles of Protest," in *Frontiers in Social Movement Theory*, ed. Aldon D. Morris and Carol M. Mueller (New Haven: Yale University Press, 1992).

Annex 31

In every case study on genocide we can identify the workings of such frames. In Cambodia, for example, the Khmer Rouge revitalized (at least in part fictional) images of a glorious past during the Kingdom of Angkor, blended it with Marxist-Leninist ideas and preyed upon anti-Vietnamese and anti-Chinese resentments that were widespread in Cambodia. Combined with stressing self-reliance and the need to forge a new socialist man living a rural, communal life, the Khmer Rouge developed a new interpretative schema for Cambodia and the world. Based on this thinking, the communist cadres developed a cognitive frame that would support mass murder and genocide which basically consisted of a narrative, a mental map of a nation under threat by a whole series of enemies – counterrevolutionaries, US-imperialists, spies and saboteurs, Vietnamese traitors.

The Nazi story of their so-called Aryan master race threatened by what they perceived as Jewish bolshevism and in dire need of *Lebensraum* is another well-known example in this regard. Hitler and his followers constructed a frame that was based on a crude mixture of racism, eugenics, Nordic and Germanic mysticism, social Darwinism and several other ideas. From this worldview sprung a genocidal frame that singled out the perceived enemies of the self-proclaimed Aryans (especially the Jews) and those who were not worthy of inclusion in the new society (*unwertes Leben*, *Asoziale* etc.). In other parts of the world and at other times in history, leaders and perpetrators used other narratives and cognitions to frame their crimes. But while they all differ in their specific appearance, they nonetheless all serve some common purposes. In all of these and other cases of macro violence, these new frames abetted the necessary transformation of deviant behaviour (e.g. murder) into expected behaviour.[31] In order to deal with the psychological consequences of difficult life conditions, frames encompassed what Staub calls "differentiation of ingroup and outgroup (…); just-world thinking (…); and scapegoating."[32]

So the joint action context necessary for the collective action of a state-sponsored social movement can be thought of as a frame, here: a genocidal frame. As such a frame establishes itself in the realm of the cognitive, it comes natural to also locate intent here. Out of the sociopsychological processes Staub describes, fuelled by ideology and bigot narratives, grows the will to exterminate human beings just for their (real or imagined) affiliation to a certain group.[33] However, as Mann already convincingly argued, we need to take into consideration that intent is rarely there from the start: "Murderous cleansing is rarely the initial intent of perpetrators. It is rare to find evil geniuses plotting mass murder from the very beginning."[34] In a similar vein, Verdeja argues for the concept of an "emerging intentionality."[35] The theoretical reflection on genocide through the eyes of frame analysis supports these perspectives. A frame is not something that is created at one point in time and then keeps a static existence. In fact, framing "is active in the sense that something is being done, and processual in the sense of a dynamic, evolving process."[36] So we need to register that the intent to commit genocide arises in a frame that precedes it and marks a certain (but important) point in a longer framing process. Thus, as this frame develops prolonged periods of discrimination leading up to genocide occur, such as the anti-Jewish racial legislation in the 1930s in Nazi Germany only then culminating in the subsequent formalisation of the genocide process in the Holocaust. Also, in the run-up to the Rwandan genocide, the programmes broadcast on *Radio-Télévision Libre des Milles Collines* demonstrate how a genocidal frame can gradually emerge. In the late Ottoman empire, the increasing discrimination against the Armenians and their exclusion from the rights of Ottoman citizens, from the Hamidian massacres of 1894-96 into the early twentieth century, also leads to the 1914 document dubbed "The Ten Commandments" which spelled out the plan for genocide as it then subsequently unfolded.

Furthermore, complex cognitive patterns like a frame are never fully controlled by a single actor and are subject to constant reformulations and reformations, at least on a small scale.

[31] Jäger, *Makrokriminalität*.

[32] Ervin Staub, *The Roots of Evil. The Origins of Genocide and Other Group Violence* (Cambridge, UK: Cambridge University Press, 1989), 17.

[33] Ibid.

[34] Mann, *The Dark Side of Democracy*, 7; Shaw, *What is genocide*, 84.

[35] Verdeja, *The Political Science of Genocide*, 316.

[36] Snow and Benford, *Framing Processes and Social Movements*, 614.

Although as a social phenomenon frames do have a life of their own, individual people and groups can systematically intervene and assert influence in its construction e.g. by using the media or other means for propaganda. In the context of state-sponsored movements, this is usually executed through the state apparatus.[37] As Ambos shows in his criminological statements it is only on the state level that we find the "mastermind, leader, and planner", the "top-level actors" of genocide.[38] We complement his remarks by adding that their genocidal intent manifests itself in frames that are crucial to constituting a social movement that actually executes the will to extermination. So intent does not magically and automatically arise, but is subject to the agency of individuals at some point in the framing process.

We now have established how intent develops and manifests itself on the macro level. The crucial question that subsequently arises is of course how this relates to the micro level of actual perpetration.

Framing and the Possibility of Genocide: the Macro-Micro Bridge

The emergence and development of genocidal frames should not be confused with the occurrence of actual genocide. While both are connected, as we will show in the following, we should not assume a strict causal relationship between them. Framing just makes the 'crime of crimes' possible. This becomes clear when we take a further look at the condition of frames and the options for action by the actors (the individual possible perpetrators).

First of all, we should note that frames seldom remain undisputed and uncontested. Almost always do alternative narratives of and solutions to perceived injustices and problems exist. While the context in which an individual is located and the offered genocidal frame are relatively stable across people in various concrete situations around the country, it is not said that the context is seen uniformly by the actors and it is possible for alternative frameworks of reference to be available to the individual in question. What may result is "boundary framing", "adversarial framing" and even "counterframing".[39] It follows that we need to be aware of challenges to the framing initiatives of state actors, leaders and elites when analysing the dynamics of genocide.[40] They need to establish "frame resonance" – conciliating the cognitive frameworks "with the current life situation and experience of the potential constituents."[41] Thus, the genocidal intent also needs to be mediated and in some sense sold to the target audience.

Second, individual actors act in actual situations. The general genocidal context manifests itself in concrete situations[42] and the individual finds himself or herself located within the joint action context – characterized by genocidal frames – as described above. An individual can find him or herself in a situation of genocidal possibility and then has to react to and within this situation and the opportunity structure which it offers. We need to take into account that individuals in the state-sponsored social movement do not automatically follow all aspects of frames and fully share its core components. This is of course important to our reflections on intent as it suggests that the common movement participants – the "ordinary men" – do not necessarily need to share this intent and may act due to different motivations than state actors and elites. From a sociological perspective, it is theoretically implausible to assume that framed genocidal intent is contagious

[37] Su, *State-Sponsored Social Movements*.

[38] Ambos, *Criminologically Explained Reality of Genocide*, 164.

[39] Snow and Benford, *Framing Processes and Social Movements*, 616-617.

[40] Of course, an intended dynamic towards genocide in a framing process may very well be initiated 'from below'. We do not want to add to the myth of elites deceiving innocent masses and luring them into genocide. Social movements and their participants should not be given *carte blanche* for instigating genocide. Having said this, however, we should keep the crucial role of state actors in mind when we talk about genocide.

[41] Snow et al., *Frame Alignment Processes*, 477.

[42] Situations are the concrete spatial and temporal environment in which individuals are actually located, which they perceive, in which they interact with others and in which their actual actions occur. Situations can be seen as the 'immediate environment', which Samuel Tanner defines as 'includ[ing] the social sphere to which the actor considers himself affiliated to, or belonging to', thus, often bringing together people who share certain frames, beliefs or attitudes. See Samuel Tanner, "Towards a Pattern in Mass Violence Participation? An Analysis of Rwandan Perpetrators' Accounts from the 1994 Genocide," *Global Crime* 12, no. 4 (2011).

in a way that every movement participant will unanimously and immediately adopt it. Thus, when assessing the analytical value of and theoretical importance of intent in the perpetration of genocide, it is important to look at the context from the perspective of the individual, to see what frames they perceive and are acting in the context of.

To conclude, if we take these considerations into account, we need to retain that the development of a genocidal frame creates the possibility of genocide but not necessarily the actual execution of genocide. The formation of a genocidal frame is a necessary precondition for the formation of a genocidal movement that then in turn might engage in mass murder and other practices that put the genocidal intent into action. The possibility of genocide rises with the elaboration of the frame and increased frame resonance but should not be seen as an automatism.

In practice, this is one of the many gateways for genocide prevention. Here, however, in the context of our theoretical and conceptual remarks, we have reached a point where we need to leave the macro level and look at the motivations of the "ordinary men". How do they relate to genocidal frames, and what informs their actions to commit the atrocities?

Genocidal Frame Reception: How Individuals Perceive Genocidal Intent

When contemplating why people participate in this genocidal social movement, the general genocidal context manifests itself in concrete situations and the individual finds himself or herself located within the larger context of the genocidal frame and the genocidal possibilities this provides. Thus, our focus now moves from the national level to the individuals and the individuals' understanding of the broader context and the concrete situation in which they finds themselves. People can only act upon the information that they have on the situations they are in and here people are not entirely autonomous actors, but are embedded in a situation and particularly in multiple social relationships. Due to time limitations and limited cognitive resources, the normal strategy often is not to examine the details of any situation oneself, but to rely on the perceived judgements of influential others in one's environment whom one trusts and sees as authoritative on these issues; this could be people in positions of authority or peers.[43] Not only does this strategy free one of the cognitive exertions of having to make one's own decision, but it also minimises the risk of ostracism from or ridicule by the group if one acts in discordance with the group. In the context of military or paramilitary groups, people will refer to what they believe their comrades or superiors believe about their situations, while civilians will also take into account not just political and social leaders, but also their friends and family.

This imitation of the beliefs of others around one, however, can lead to everyone taking on a similar frame and following this in action. Though only a minority may in fact believe in the frame, no-one questions it, and thus, individuals just assume that everyone else is in accordance with this frame. This state of what might be called pluralistic ignorance allows a minority to define which frame is chosen by the majority of the social movement. If many perpetrators believe that their compatriots are all ideologically supportive because of their actions and are, thus, adhering to a specific frame, they may also choose this frame. Because of the fear of ingroup repercussions, no individual speaks out against this in the assumption that the rest are a homogenous group, thus, making it possible for an overwhelming majority who do not actually support the genocidal norms to still act within the frame which stipulates genocidal intent and corresponding action.[44] This effect is strengthened more because for most people this setting is novel and "people cannot call on previous guidelines for their new behavioural options",[45] awarding the perceived group's consensus an even higher effect and raising fears of potentially being excluded from the group if one were to diverge from this consensus.

To what degree a person accepts the frame presented to him depends not only on his or her peers and beliefs on whether these peers also accept the frame. Instead individuals must hold the sources from whence the opinion has been propagated to be genuinely credible and reliable. This

[43] Jens Rydgren, "Beliefs," in *The Oxford Handbook of Analytical Sociology*, ed. Peter Hedström and Peter Bearman (Oxford: Oxford University Press, 2009), 83.

[44] Ibid., 84.

[45] Philip Zimbardo, *The Lucifer Effect: Understanding How Good People Turn Evil* (New York: Random House, 2008), 212.

credibility can be enhanced when the frame is disseminated by "significant, epistemic authorities who are deemed trustworthy by members of a social group."[46] These could be also be termed what Jacques Sémelin calls "identity entrepreneurs" who "aim to show that the core of the [perpetrator ingroup's] problem–and therefore its solution–resides in the affirmation of their group's identity in the face of a threat from another group."[47] These actors, thus, prepare a more fertile ground for the intent to destroy to manifest itself. In other words, they are more likely to achieve a significant threshold of frame resonance.

Further, as already mentioned above, in order to strengthen frame resonance, they must resonate with potential perpetrators' broader perception of the world, society or historical facts, that is, ideological statements regarding the intent to act out genocidal destruction must fit well into the master frame[48] within which the individual is acting. Practically this means that a subtle acceptance of the premise of intent can create a permissive environment for the annihilation of the victim group, without the perpetrator even thinking of their perception of the victim group as ideologically influenced, much as people seldom reflect on the moral fabric of the society in which they live.

Altogether we see that in order to understand the role of intent it is important to look at how the message is received by the individuals themselves, to see whether the frame resonates with them, how they perceive the ideologies themselves. Even if something is propagated strongly at the macro level, there is no guarantee that it will arrive in this form or at all with the individual on the micro level. The next section will now look at how the individuals take this frame on board and how it does (or does not affect) affect their decisions on participating in the mass endeavour of genocide.

Doing the Deed: How Individuals Come to Actually Participate in the Genocide

It is within this micro-level situation, the immediate environment of the individual, that an individual makes his or her action decisions on whether to participate in the unfolding dynamics of violence or not. Here it is the motivation which an individual has which propels him or her into action, or conversely to not act at all. Finding themselves in a certain context and a specific situation, frames, including the one stipulating the necessity of genocidal action and including the intent to destroy the victim group, help people to make sense of their environment. In this clarification they also support the process of deciding between socially structured and individually constructed choices of action.[49] Here, motivations become active as they guide a person in choosing an alternative for action. What we label as motivations here are what others have called situational mechanisms that create a link between the individual and the environment they are embedded in and, thus, guide a decision-making process.[50]

It is important to note that an individual can only choose between alternatives which he or she actually perceives, not any which lie beyond the horizon of their imagination and framing. Nonetheless, individuals will in all situations perceive multiple possibilities for how they can act, even when they are being strongly coerced or see few alternatives, as it is precisely the alternatives (consequences of non-participation) which can make people want to participate. So when a Khmer Rouge cadre says "whether they wanted to do it or not, they must do it" what he actually means is "if they did not do it, they were also killed."[51] Although the individual is portraying the action

[46] Jonathan Leader Maynard, "Rethinking the Role of Ideology in Mass Atrocities," *Terrorism and Politcal Violence* 26, no. 5 (2014), 821-841.

[47] Jacques Sémelin, *Purify and Destroy: The Political Uses of Massacre and Genocide* (New York: Columbia University Press, 2005), 84; Lee Ann Fujii, *Killing Neighbours: Networks of Violence in Rwanda* (Ithaca: Cornell University Press, 2009), 4.

[48] Master frames are more generic, wider, and of greater social range than certain frames of specific movements. See Snow and Benford, *Framing Processes and Social Movements*, 614.

[49] Peter Hedström and Lars Udehn, "Analytical Sociology and Theories of the Middle Range," in *The Oxford Handbook of Analytical Sociology*, ed. Peter Hedström and Peter Bearman (Oxford: Oxford University Press, 2009).

[50] Per-Olof H. Wilkström and Kyle H. Treiber. "Violence as Situational Action," *International Journal of Conflict and Violence* 3, no. 1 (2009).

[51] Quoting a former Khmer Rouge cadre who was chief of the commune *chhlop* [militia] and later chief of the collective committee (interview conducted by one of the authors in August 2015 in Kampong Chhnang Province, Cambodia).

as inevitable and saying there are no alternatives, at the same time he is acknowledging that there is one (extremely unattractive) alternative which is refusing action and risking death. In the end, which of the perceived action alternatives an individual chooses is decided by whether an individual has a motivation for or against particular alternatives; these motivational orientations are weighed against each other and a person will only participate in genocidal action if they believe their motivations to be more strongly in favour of participation, outweighing the downsides of this participation.

Early research on motivations for participation in genocide postulated that participation could be best explained by certain personal dispositions and individual characteristics of the individuals who participate and a propensity to follow a genocidal ideology.[52] Later Goldhagen controversially asserted strong claims that a majority of German policemen, soldiers and other functionaries were – as Germans – supportive of an eliminationist antisemitism and, thus, in favour of exterminating the Jews.[53] However, most research since has demonstrated that these individualistic and dispositional, as well as ideological explanations are reductionist and that perpetrators' characters are not individually aberrant nor are they ideologically different from many of their peers, but instead overwhelmingly normal.[54] Instead, the situation in which an individual is embedded has a significant impact on decisions to participate – Newman stipulates the need to explain participation in genocide from an interactionist perspective which sees participation decisions as resulting both from personal dispositions in reaction to the situation, as well as the result of specific situations which have an impact on specific types of individuals.[55] Consequently and importantly in the context of this article, the motivation does not need to be based on the ideology which stipulates the intent to destroy the victim group as provided in the frame propagated by the regime. This ideology can play a role for the individual, but does not have to. Instead there are a multitude of motivations which can lead to participation and these have been synthesised into an interdisciplinary model by Williams, who has attempted to break down the broad literature from several disciplines into just eleven distinct motivations.[56] Williams differentiates between ingroup-focused, outgroup-focused and intrinsic motivations and here we will provide a short overview of the motivations in his model, referring them back to other parts of the literature.

Ingroup-focused motivations revolve around the perpetrators' social group, social dynamics within this group and social influence exhibited in these relations. Social influence occurs both vertically and horizontally, stemming from authorities and peers respectively, and can be tacit, explicit or laced with threats of force. The motivation which perpetrators cite most often themselves is obedience to the orders of an authority, as many believe this abdicates them from any responsibility for their actions, with this form of vertical influence conveyed either explicitly or tacitly.[57] Further, social influence also works horizontally. Tacitly such horizontal social influence motivates people to participate through a desire for conformity with the other members of their ingroup and this has been demonstrated impressively in social psychological experiments by Asch.[58] Horizontal influence can also be more explicitly and actively exerted by other members of the ingroup through peer pressure; these dynamics were seen widely in Rwanda and Bosnia,[59] with over 64% of Scott Straus' respondents citing in-group pressure as a motivation for their genocide

[52] Theodor W. Adorno et al., *The Authoritarian Personality* (New York: Harper & Row, 1950).

[53] Daniel J. Goldhagen, *Hitler's Willing Executioners: Ordinary Germans and the Holocaust* (London: Abacus, 1996).

[54] See note 17 above.

[55] Leonard Newman, "What is a Social-Psychological Account of Perpetrator Behaviour? The Person versus the Situation in Goldhagen's Hitler's Willing Executioners," in *Understanding Genocide: The Social Psychology of the Holocaust*, ed. Leonard Newman and Ralph Erber (Oxford: Oxford University Press, 2002); Paul Wilson, „Do normal people commit genocide? Observations from the Cambodian trial of 'Duch,'" *Psychiatry, Psychology and Law* 17, no. 4 (2010).

[56] Williams, *The Complexity of Evil*.

[57] Scott Straus, *The Order of Genocide: Race, Power, and War in Rwanda* (Ithaca: Cornell University Press, 2006).

[58] Solomon Asch, "Effects of Group Pressure upon the Modification and Distortion of Judgments," in *Groups, Leadership and Men: Research in Human Relations*, ed. Harold S. Guetzkow (New York: Russell & Russell, 1963).

[59] Natalija Bašić, "'You can't run away': Former Combat Soldiers and the Role of Social Perception in Coping with War Experience in the Balkans," in *After Mass Crime: The Challenges of Rebuilding States and Communities Following Mass Violence*, ed. Béatrice Pouligny et al. (Tokyo and New York: United Nations University Press, 2006).

participation.[60] Finally, both horizontal and vertical pressures can be reinforced by the threat or actual application of force: coercion can, thus, strongly motivate people to participate genocide. In Cambodia many former Khmer Rouge cadres speak of "being fearful for their security",[61] a phrase commonly used when discussing the Khmer Rouge regime as people felt that their security and lives were constantly endangered, as they may commit mistakes inadvertently and, thus, be defined as the enemy. Empirically, various instances of genocide have provided significantly different degrees of how credible threats of coercion were, with no evidence ever having been found in a post-war judicial setting that a refusal to participate in the Holocaust ever meant that a German functionary was killed; further, in the Rwandan genocide there are many examples of how people managed to evade participation altogether or for strategies to be recruited into the group of perpetrators but not actually have to participate in the killings.[62] Nonetheless, these narratives of the fear of threats are often widespread amongst perpetrators and can, thus, very well motivate individuals to participate in genocide.

The next group of motivation factors put forward by Williams identify the locus of perpetration impetus in some aspect of the self, independent of a person's ingroup and their outgroup (to which we will subsequently come). First, individuals may participate in pursuance of opportunistic, self-serving goals, such as receiving the opportunity to loot or rape, promote their career, settle personal or political scores.[63] For example, while career progression (or the aversion of demotion) posed a significant motivation for people to participate in killing across all the cases discussed here, looting and rape was particularly prolific in the Rwandan, Balkan and Armenian genocides. Further, settling personal scores which were open from prior to the genocide under the auspices of the genocidal framework allowed people in Rwanda and Cambodia particularly to rid themselves of old foes.

Also, people with a penchant for sadism can seize the opportunity to participate, and while these people may not make up many in terms of numbers their excessive cruelty has been documented widely for many genocides.[64] Further, as with committing crimes or doing something else forbidden, the resulting excitement or thrills provide an impetus for participation.[65] Some individuals assume alternative genocidal roles and start to conform to a new set of norms and practices associated with this role.[66] Thus, in the Cambodian context, one cadre speaks about what it was like to join the Khmer Rouge: "When we joined, it was like we were entering into a tiger zone, so we had to be a tiger like them. So, we needed to be a tiger like them, to be cruel like them. No morality like them. That's why they were like that."[67] This former militiaman uses the metaphor of the tiger and the tiger zone to express how he internalised the norms and values, as well as the behaviour he believed was expected of him in this role. Finally, the allure of *status and power* which are associated with participation can exert a strong pull on some individuals; a key motivation can be constituted by threats to someone's status or their ego[68] or by the intensely satisfying experience of power over someone else.[69] Using another Cambodian example in which status has been shown

[60] Straus, *The Order of Genocide*, 139.

[61] Multiple interviewees used this terminology in interviews conducted by one of the authors with fifty-nine former Khmer Rouge cadres between July 2014 and January 2015 in ten provinces of Cambodia.

[62] Ravi Bhavnani, "Ethnic Norms and Interethnic Violence: Accounting for Mass Participation in the Rwandan Genocide," *Journal of Peace Research* 43, no. 6 (2006); Herbert Jäger, *Verbrechen unter totalitärer Herrschaft: Studien zur nationalsozialistischen Gewaltkriminalität* (Frankfurt am Main: Suhrkamp, 1982), 84-93.

[63] Williams, *The Complexity of Evil*.

[64] C. Fred Alford, *What Evil Means to Us* (Ithaca: Cornell University Press, 1997), 28.

[65] Jack Katz, *Seductions of Crime: Moral and Sensual Attractions in Doing Evil* (New York: Basic Books, 1988), 53; Mark Warr, *Companions in Crime: The Social Aspects of Criminal Conduct* (Cambridge, UK: Cambridge University Press, 2002), 82.

[66] Donald Bloxham, "Organized Mass Murder: Structure, Participation, and Motivation in Comparative Perspective," *Holocaust and Genocide Studies* 22, no. 2 (2008).

[67] Quoting a former Khmer Rouge cadre who was first a member and later chief of the commune *chhlop* [miltia] (interview conducted by one of the authors in August 2015 in Battambang Province, Cambodia).

[68] Roy Baumeister, "The Holocaust and the Four Roots of Evil," in *Understanding Genocide: The Social Psychology of the Holocaust*, ed. Leonard S. Newman and Ralph Erber (Oxford: Oxford University Press, 2002).

[69] Jacques Sémelin, *Purify and Destroy: The Political Uses of Massacre and Genocide* (New York: Columbia University Press, 2005).

to be particularly prominent as a motivation: "No, no-one wanted to stop; they were happy. In short, because they were in the unit, they had face."[70]

The last group of motivations focus on the outgroup of the perpetrators: the victims. First, emotions regarding the victims can certainly have an impact on motivating individuals to participation. This is particularly so with fear, resentment, hatred, anger and disgust allowing for situations to be framed so that people have psychological incentives to participate in genocidal actions against members of the victim group, as has been shown particularly for the Bosnian case.[71] Next, genocidal ideologies can motivate participation as they stipulate the moral foundations of the destruction of the victim group and, thus, transport the genocidal intent discussed above. Such an ideology creates a frame within which it is the good, right and legitimate course of action and a necessary or inevitable pathway which needs to be followed;[72] anti-Semitism,[73] exclusive ideologies,[74] toxification[75] and many other types of ideologies have been discussed in the literature.[76]

Regarding the role of intent–the focus of this paper–the conclusions from this model are slightly sobering: only one of the eleven motivations proposed by Williams is inherently connected to the notion of genocidal intent: that of ideology.[77] The other motivations all stipulate reasons why people would want to participate in the killing, not with the final aim of annihilating the victim group, but rather for the sake of participation.

As we have seen that genocidal intent only plays a part in some motivations, a key question that needs to be asked in order to fully comprehend the role and idea of intent at the micro level is that of individuals' knowledge of this macro level intent, as already suggested above. An individual lower down the hierarchy can 'be aware of the genocidal context and, thus, of the supporting nature of his conduct but he may not possess the purpose-based intent to destroy the respective group himself'.[78] This would mean that the individual has knowledge of the enterprise to which he or she is contributing even without the intention of this contribution being the destruction of the group. Rather, the many other motivations can be the reason someone participates, despite the knowledge of the consequences of his or her action in concert with the actions of many other people. This

[70] Quoting a former Khmer Rouge guard at a security centre, who later became the body guard and messenger for chief of the security centre (interview conducted by the author in August 2015 in Kandal Province, Cambodia). In the Cambodian context, having face means to have status, a concept which is defined individually according to many different criteria; the attainment of face is extremely important within Cambodian culture, thus making it an important motivation in individuals' actions. See Alexander Laban Hinton, *Why Did They Kill? Cambodia in the Shadow of Genocide* (Berkeley: University of California Press, 2005).

[71] Roger Petersen, *Understanding Ethnic Violence: Fear, Hatred, and Resentment in Twentieth-Century Eastern Europe* (Cambridge, UK: Cambridge University Press, 2002).

[72] For a more nuanced discussion of the function of genocidal ideologies see Leader Maynard,"Rethinking the role."

[73] Goldhagen, *Hitler's Willing Executioners*; Karin Orth, "Experten des Terrors. Die Konzentrationslager-SS und die Shoah," in *Die Täter der Shoah: Fanatische Nationalsozialisten oder ganz normale Deutsche?*, ed. Gerhard Paul (Göttingen: Wallstein, 2002), 93-108.

[74] Barbara Harff, "No Lessons Learned from the Holocaust? Assessing Risks of Genocide and Political Mass Murder since 1955," *American Political Science Review* 97, no. 1 (2003).

[75] Rhiannon S. Neilsen, "Toxification as a More Precise Early Warning Sign for Genocide than Dehumanisation? An Emerging Research Agenda," *Genocide Studies and Prevention* 9, no. 1 (2015).

[76] In Williams' model the motivations are complemented by facilitative factors and contextual conditions. Facilitative factors are not sufficient for causing someone to actually participate, but they make the participation significantly easier, and thus, also more likely. Contextual conditions are macro-level conditions, which set the framework within which the genocide can occur and which can also impact participation by making some motivations more salient than others. It would go beyond the scope of this paper, however, to present these in detail here. See note 18 above.

[77] Besides framing, transporting and advocating intent, ideologies can also impact participation in several other ways, which are seldom differentiated stringently from intent in the literature. Ideologies can help reduce cognitive dissonance within the perpetrator. Normally, people try to avoid behaviour which violates their moral standards, but cognitive dissonance arises when actions are misaligned with how individuals think they *should* be acting. See James Waller, *Becoming Evil: How Ordinary People Commit Genocide and Mass Killing* (Oxford: Oxford University Press, 2002). Ideologies can assist in combatting cognitive dissonance by disengaging the person's acts from the moral nature of the act of killing. Going further than just disengagement, ideologies can increase the moral appeal of the act of killing itself by justifying it as imperative and portraying it in a positive light. See Manuel Eisner, "The Uses of Violence: An Examination of Some Cross-Cutting Issues," *International Journal of Conflict and Violence* 3, no. 1 (2009).

[78] Ambos, *Criminologically Explained Reality of Genocide*, 166.

participation is the tacit acceptance of the intent to destroy in its concrete manifestation, providing behavioural support, while refusing attitudinal support or remaining indifferent.

One empirical question remains, however, concerning whether it is possible for people to participate in genocidal actions without knowledge of the intent to destroy. When we reflect on much discussed perpetrators such as SS guards in Third Reich concentration camps who were involved in the gassing of millions of Jews, the answer is unequivocally negative, but as the bureaucratic and physical distance to the killing increases, perhaps so does the knowledge of the intent to destroy. While there may have been individuals who were not aware of the larger implications of their actions and the dynamics within which they were embedded, for most perpetrators in Rwanda, Cambodia and Armenia it will have been quite obvious that they were acting as part of a master plan of genocidal destruction.

Are these people legally or morally equally culpable? Does the knowledge of what one is participating in have normative implications for otherwise identical actions? Can people be held accountable for actions they had no intention of committing, that is for the crime of genocide even though they thought they were 'only' committing state-sanctioned murder? From a legal point of view they are not culpable unless *dolus specialis* is proven for every accussed, and we would argue that it is not necessary for these people to be understood as perpetrators of crimes of genocide (which would by definition stipulate intent) as it would suffice for them to be seen as just perpetrators of the individual crimes they commit. Nonetheless, from a sociological point of view one could equally label them as genocide perpetrators as the aggregation of their crimes (even without them individually having intent) still creates the genocidal outcome with or without their knowledge of the consequences of their actions. In the end it reduces them more still to tools of the political elite, who have agency only within their situations but have little impact on the broader societal dynamics of violence.

On the other hand, it is unlikely that a large number of people will participate in genocide without knowledge of the broader implications of their actions and the dynamics unfolding around them. This suspicion is supported up by the case of Cambodia in which the Khmer Rouge was notoriously secretive about their plans and whose recruits came from the most uneducated of the population, and were often very young. Nonetheless, the cadres of the regime knew very well what they were participating in, even if it was most often not their explicit intention to support this intent to destroy. All Khmer Rouge cadres knew what it meant to be an "internal enemy" and a "traitor of Ângkar", the party organisation of the Khmer Rouge. People were defined as an internal enemy quite easily by committing anything defined as a mistake by the Khmer Rouge, be it stealing food, not working hard enough, engaging in extra-marital affairs, or a plethora of other misdemeanours. It was perfectly clear to the cadres that being an enemy necessitated being killed, and that it was necessary for the good of the revolution that all internal enemies be killed.

Genocide as the Aggregation of Individual Acts

With these motivations individuals can commit acts against people of the victim group. As indicated above, there is no analytical consensus in the social-scientific literature on what constitutes an individual act of perpetration in the context of genocide and, thus, it is unclear how people actually participate. Individuals at the extreme end of the spectrum appear quite obvious in their categorisation: people who kill members of the victim group can be easily classed as perpetrators. However, it is unclear as to which further acts such as logistical assistance, arresting and transportation, vocal support or incitement can also be counted as perpetration. Legally these acts would be described as aiding and abetting genocide, but in the social-scientif study of perpetrators this complicated field has as yet not been addressed systematically. While it is certainly necessary for future research to discuss a more nuanced typology, it would go beyond the scope and aim of this paper to develop this here. Furthermore, for the argument we are making about the role of intent in the genesis of genocide at the macro and micro level, these differences in perpetration make little difference. These acts occur in concrete situations by specific individuals, but it is the summation of many of these acts across many situations that allows for genocide to manifest itself in reality. These acts together allow the victim group to be increasingly discriminated against, marginalised and ultimately to be killed, thus eliminating the group in whole or in part.

This aggregation of multiple acts which eliminate the victim group constitutes the occurrence of genocide.

With the occurrence of genocide through myriad small acts of perpetration, by definition, the realisation of genocidal intent manifests itself. Usually thousands of different people work together towards the gruesome goal of annihilating a whole group of human beings, thereby adopting different roles and duties. Genocide occurs for various reasons, as "ordinary men", collaborators, the joiners act following a large variety of different motivations.

Conclusion

The purpose of this article was to develop a sociological conceptual perspective with a more nuanced view on the role of intent in genocide. Our starting point was to think of genocide as a social phenomenon, as collective action by a state-sponsored social movement that is working towards the destruction of a specific group as such, thereby being constituted and instructed by a collective frame. As we have further elaborated, elites and leaders develop genocidal intent in the process of framing, and realign the frame accordingly. The more the frame is in line with their other beliefs with them, the higher the chance that low-level perpetrators will act on their other motivations and join the movement. Frame resonance is increased when it is accepted by "identity entrepreneurs" and successfully linked to prevailing master frames. Low-level perpetrators might know of the intent of the elites, and if they are ideologically motivated actors, they might also share the beliefs of the elite. Social movement theory even allows acknowledging that genocidal frames might decisively be developed "from below." But as empirical findings suggest, most "ordinary men" join the movement and commit acts of cruelty for more simple reasons ranging from obedience to authority, coercion, and peer pressure, to sadism, opportunism or the allure of status and power.

So, on the one hand, genocidal intent certainly is an important step in the framing process. Regardless of when it actually emerges and manifests itself in the process, intent is what pushes elites and leaders to further consolidate and disseminate the frame (e.g. through propaganda). It also transforms what might otherwise be "just" a repressive and reactionary frame into a murderous one and allows the movement it informs to further radicalize itself. But while we should not downplay the role of genocidal intent to the point where it barely matters at all in our conceptualization of genocide and mass violence, we also should not overstate its impact. As we have shown above, genocidal intent can be realised without (direct) perpetrator intent. Those who intend to commit genocide do not need to convince everyone in a genocidal movement of their mission. They simply need to align the frame accordingly and, thus, create a context in which individual perpetrators act out of very different motives. Whether or not perpetrators have genocidal intent to commit genocide is essential for legal proceedings, but for the actual realisation of the genocidal campaign it is significantly less relevant.

Against the backdrop of these considerations and findings we want to encourage thinking beyond the liberal/post-liberal divide. Assuming a uniform conception of intent and a direct correlation (or even a causal relationship) between intent and the actual outcome of mass murder is certainly misleading. However, blurring the distinction between genocide and other occurrences of macro-level violence is also not an advisable solution. There are certain phenomena of mass atrocity where intent clearly is identifiable and might play a vital role in framing the context of a violent state-sponsored social movement. Our conceptual approach takes a middle ground that also cuts through the binary thinking of knowledge- and purpose-based approaches. Generally speaking, elites and leaders act purposefully when framing genocidal action at the macro level, while low-level perpetrators act mostly out of different motivations knowing what their superiors might have in mind at the micro level. Incorporating frame analysis into a theory of genocide, thus, offers a new perspective that pushes beyond some of the conceptual shortcomings of the current debate.

It would be worthwhile to clarify that it was beyond the scope of the article to discuss the ethical, legal and normative implications of our theoretical arguments. Rethinking the relevance of intent and other forms of motivation not only calls for a legal reconceptualization of genocidal intent. It also asks us to contemplate the status of genocide as the so-called crime of crimes and

its distinction from other forms of mass atrocities. While genocide as a phenomenon of macro violence differentiates itself from other forms of mass killing through genocidal intent, this intent does not necessarily manifest itself in the individuals who implement the genocidal policies. Thus, at the individual level patterns of participation and perpetration should not be different between genocide and other forms of mass killing. At this level and beyond a legal framework, it might be more fruitful to resort more to the uniqueness of each case of macro violence or a more nominal scale of violence and escalation instead of thinking in clear categories like genocide and crimes against humanity. Further discussion is needed on what consequences this defining element of intent has on the men and women who participate in genocide. For this, further research must go beyond the conceptual clarification of the role of intent in genocide discussed in this article.[79]

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N. Cheesman, 'How in Myanmar "National Races" Came to Surpass Citizenship and Exclude Rohingya' (15 March 2017) 47(3) Journal of Contemporary Asia 461



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How in Myanmar "National Races" Came to Surpass Citizenship and Exclude Rohingya

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ABSTRACT

The idea of "national races" or *taingyintha* has animated brutal conflict in Myanmar over who or what is "Rohingya." But because the term is translated from Burmese inconsistently, and because its usage is contingent, its peculiar significance for political speech and action has been lost in work on Myanmar by scholars writing in English. Out of concern that Myanmar's contemporary politics cannot be understood without reckoning with *taingyintha*, in this article I give national races their due. Adopting a genealogical method, I trace the episodic emergence of *taingyintha* from colonial times to the present. I examine attempts to order national races taxonomically, and to marry the taxonomy with a juridical project to dominate some people and elide others through a citizenship regime in which membership in a national race has surpassed other conditions for membership in the political community "Myanmar." Consequently, people who reside in Myanmar but are collectively denied citizenship – like anyone identifying or identified as Rohingya – pursue claims to be *taingyintha* so as to rejoin the community. Ironically, the surpassing symbolic and juridical power of national races is for people denied civil and political rights at once their problem and their solution.

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Burma; Myanmar; *taingyintha*; national races; Rohingya; citizenship

"National races" or *taingyintha* is among the pre-eminent political ideas in Myanmar today. It has animated brutal conflict over who or what is "Rohingya" as well as communal violence that human rights researchers and advocates have variously characterised as a crime against humanity, ethnic cleansing and genocide (see Green, MacManus, and Venning 2015; Ibrahim 2016; Lindblom, Marsh, Motala, and Munyan 2015; Maung Zarni and Cowley 2014). Although more scholars are struggling to make sense of how and why the "Rohingya problem" appears to be so intractable (Kipgen 2014; Zawacki 2013), little explicit attention has been paid to how the conflict over Rohingya identity specifically, and contemporary politics in Myanmar generally, is contingent on the idea of national races.

This article seeks to provide a reckoning of the political salience of *taingyintha*. In particular, the article attends to *taingyintha* as an idea that provides the basis for guidelines by which certain facts are accepted and others rejected in determining

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membership in Myanmar's political community, with injurious consequences for any group like Rohingya who fail to obtain recognition. In contemporary Myanmar, *taingyintha* is an exemplary term of state: a contrivance for political inclusion and exclusion, for political eligibility and domination.

To explain how *taingyintha* came to surpass citizenship and exclude Rohingya, I adopt a genealogical method. Genealogy recommends itself for the study of *taingyintha* because it is concerned with denaturalising accepted ideas, with pointing to the ambiguity, contingency and uncertainty that inhere to human activities and interpretations of them (Bevir 2008; Hoy 1994). The genealogist seeks to trace how terms, categories and techniques constitute our present-day human relations: to interrogate the assumptions that lie behind them and understand how something has turned out to be the way it appears to us today; how it is possible for it to work the way that it does, as well as how we might think of it – and act on it – differently.

By adopting a genealogical method to *taingyintha*, I deliberately depart from conventional readings of the term as a synonym for race, ethnicity or indigeneity (see Cheesman 2002b; Nyi Nyi Kyaw 2015; Roberts 2016; Taylor 2015; Thawnghmung 2016; Walton 2013). This is not to say that it is wrongheaded to talk about *taingyintha* as denoting a kind of "state-sponsored" ethnicity, race or indigeneity (see Fujii 2009). Rather, the objective is to use a genealogical method so as to uncover features of the national-races idea and its attendant practices that might otherwise remain obscured, to bring out some of its historical contents that are buried or occluded by the politics of the present. In other words, a genealogical approach to *taingyintha* invites a different mode of inquiry from its conventional counterparts; one aimed at disaggregating rather than uncritically adopting the usual categories of practice as categories for analysis.

Like all research methods, genealogy has its limitations. One common criticism is its apparent disregard for human agency (see, for example, Allen 2002; Bevir 2010). This article has not overlooked the many ways in which political actors deploy the language of national races for their own goals, advancing group interests independent from or against the state – including the many political parties and alliances that presently go by the nomenclature of *taingyintha*. Genealogical study does not neglect but anticipates the forms of situated agency in which the lexicon of national races is used, because it is concerned with how statements come to be verified both through structure and agency (Foucault 1980, 112). The genealogical method reveals how political actors' capacity to speak and act authentically as *taingyintha* is contingent on subjugation to the modes of state practice for the organisation of truth. This subjugation is one of the reasons that so little criticism is levelled at the idea of *taingyintha* from within Myanmar: a point considered in the article's conclusion.

As this article uses genealogy to situate the conflict over Rohingya identity claims in the politics of national races, it begins by attending to the contingencies of *taingyintha*. Concentrating on significant episodes in the growth, development and change of the term since the colonial period, through readings of politically salient published texts, it examines how *taingyintha* went from being an idea of small political significance a century ago to become a pre-eminent term of state practice in the present. It then discusses the haphazard attempts to order *taingyintha* taxonomically, resulting in 135 officially designated categories, none of which is named Rohingya or Bengali. The taxonomy, married with a juridical project in which national race has become the surpassing quality for

membership in the political community "Myanmar," resulted in the elision of Rohingya through a combination of legal and extra-legal measures to deny citizenship. But the national-race idea compels any collectivity residing in Myanmar to participate in the project for its reproduction as a "price of admission to the polity" (Herzfeld 1992, 160). It at once invites and obligates people who self-identify as Rohingya to make collective claims to membership of the national-races schema, which generate hostility and contribute to the persistence of conflict.

To be clear, this treatment of *taingyintha* as a distinctive idea animating political action is not a retreat to exceptionalism. With Leider (2012, 369), I write against the scholarship of Myanmar as an exceptional case of anything, and argue for the expert study of its particulars that may better inform and enable scholars to make meaningful comparisons with other country cases. What follows is a study of how political relations in a specific setting consist of certain ideas and practices that validate some ways of knowing while subjugating others, and dominating some categories of person – those classed among *taingyintha* – while eliding others – namely, those excluded from the national-races schema.

A Genealogy of *Taingyintha*

A genealogy of *taingyintha*, of that term denoting different linguistic and cultural groups joined together by an imagined and shared ancestry or a common homeland, must start from the premise that the term's meaning and function today are not the same as whatever they once were. How did *taingyintha* become politically salient? How has it grown, developed and changed?

Taingyintha is a term that, like so many other politically salient modern terms in Southeast Asia, has a history that is neither a long nor glorious one. A genealogy of *taingyintha* may begin in the British colonial period prior to national independence in 1948; followed by independence and the upsurge of civil war into the 1950s; then proceed from the consolidating of one-party dictatorship in 1964; and, from around 1990, to a condition of military rule absent ideology (Cheesman 2015a, 101–107).

Taingyintha was not a politically significant term in anti-colonial politics. Nationalist political leaders did not address their audiences as "national races," as their counterparts today so often do. Rather, nationalist leaders used terms like *taingthu-pyitha* for "countrymen and women," *pyithu* for "the people," and as politics moved increasingly to the left, *ludu* for "the masses."[1] When referring to racial groups they generally used *lumyo*, the generic term for race adopted in the colonial period and still used today, which literally means "type of person."[2] Most emerging political parties with ethnic or racial ascriptions adopted *amyotha*, or "national," to designate themselves – a term that could apply to any group in the country struggling for liberation, including "Indian nationals" or "Chinese nationals."[3]

Where writers and speakers in the 1910s and 1920s used *taingyintha* and its synonyms it was not to address a political community or refer to a particular linguistic or cultural group, as is so often the case today, but to recognise native handicrafts, medicines and trades. The term entered political language when attention turned to matters like rights to livelihood, such as when resolving to support the production of salt by *taingyintha* (Han Tin 1967, I: 157; Le Maung 1973, 114, 198). It also featured in

expressions of rights to teach in the vernacular, and in calls to value vernacular literature (see Gandalawka 1933; Han Tin 1967, I: 241, II: 44).

With the emergent nationalist movement of the early 1920s came strands of an explicit narrative for elision and domination through reference to *taingyintha*. In some usages, the term had a negative quality – as in the demands of a leading nationalist organisation in the 1920s that wealthy "non-*taingyintha*" be barred from owning or leasing land (Compilation Committee 1976, 85). In such usages, the necessary condition for being *taingyintha* was nothing other than not to be European, Chinese or Indian. Where convenient, the term could also be directed internally, to suggest the subordination of some groups to others, such as in nationalists' calls for autonomous regions to be brought under central government control so as to recognise the oneness of *taingyintha* and end colonial practices of divide and rule (Le Maung 1973, 237; Han Tin 1967, II: 391).

The idea also found its way into political language on the future state as a signifier of difference and plurality. At the end of the Second World War, it featured in negotiations on the draft constitution, in particular concerning the cultural and linguistic rights of "minority *taingyintha*" (Kyaw Win, Mya Han, and Thein Hlaing 1990, 427, 447).[4] Ultimately it failed to get a special mention in the 1947 Constitution on the matter of minority rights, succeeding only in getting two modest references in the chapter on citizenship, where in the English version it is translated as "indigenous races." Nor is it found in the 1947 Panglong Agreement, which is commemorated annually on Union Day and mythologised as laying "the foundation for *taingyintha* unity" (Ohn Pe 1984, 455; see also Walton 2008). Nevertheless, these two interpretations of *taingyintha* – one pulling various groups together under a single ascription, the other distinguishing some groups from others – would remain in play in post-colonial politics.

Burma's independence brought civil war. As armed groups formed under ideological or communalist banners, Prime Minister U Nu used an April 16, 1948 radio address marking the traditional lunar New Year to insist that everyone was duty-bound to work for the solidarity of *taingyintha*:

> Under no circumstances can we allow *taingyintha* unity to be destroyed. Shan, Kachin, Karen, Karenni, Mon and Burman must be united. The great mass of *taingyintha* in the union must be united. Our Union of Burma cannot go back to the fragmented "every man to his own chief" way that we've been – apart from during the reigns of [kings] Anawrahta, Alaunghpaya and Bayinnaung – throughout Burmese history (Nu 2013, 66).

In this address and others during the late 1940s and early 1950s Nu referred to *taingyintha* to denote safety from existential threat through strong statehood, exemplified by the mythology of ancient kings. Far from denoting unity in diversity, the political significance of *taingyintha* in these speeches is "more akin to 'unity through hegemony'" (Walton 2015, 2). Nu calls on *taingyintha* to accept and discharge a duty of responsibility to the state. Yet, he was speaking from a position of weakness, and his calls for solidarity for the most part fell on deaf ears.

Taingyintha remained on the periphery of political language over the next decade. It played a modest part in some debates, such as the long-running negotiations over the establishment of Mon and Arakan states (see Kyaw Win, Mya Han, and Thein Hlaing 1991; Myat Thu 2013). It also had a part in some forums where the emphasis lay on

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unity of diverse religious, linguistic and cultural groups, such as in the formation of a National [Races] Religious Minorities Alliance in 1960 (Kyaw Win, Mya Han, and Thein Hlaing 1991, 106–107). However, the term was far from ubiquitous. Even in the aftermath of the first military coup in 1958, it failed to figure prominently. In stark contrast to the texts of later periods, the army's ideological paper on nation building contains no reference at all to the need for *taingyintha* solidarity, instead emphasising the rule of law, democracy, and the building of a socialist economy (Government of the Union of Burma 1960b).

On February 12, 1964, a new day dawned for *taingyintha*, one in which it would go from being a term of limited political salience to the paradigm for military-dominated statehood. General Ne Win, who had seized power for a second time two years earlier, now grasped the idea of *taingyintha* and wielded it in the manner of his predecessor Nu but with hitherto unprecedented enthusiasm. Drawing on familiar themes, lamenting the mistrust between *taingyintha* and the failure to achieve reconciliation some 16 years after independence, he used the Union Day address to urge that:

> Every one of the *taingyintha* needs to accept that the amity and unity of all *taingyintha* are fundamental to the building of an economically and socially prosperous state that is stable and united. To speak of unity and amity among *taingyintha* is to say that Kachin, Karenni, Karen, Chin, Burman, Shan and other *taingyintha* inhabiting the Union of Burma need to be resolved to stick together for life, through weal and woe. Only then will *taingyintha* be able to join hands with each other and work trustingly for the good of the Union and the good of all its inhabitant races (Ne Win 1965, 308).

According to his hagiographer Ne Win's address was special:

> The statement of policy on the national races was drafted by Gen. Ne Win with considerable care. Madame Ne Win and he went to Mandalay to participate in the celebration of the 17th Union Day (February 12, 1964), and he had spent the after dinner hours of February 11 with some members of the Revolutionary Council going over a draft…When time came to go to the mammoth rally at the foot of the Mandalay hill, the final draft was only just about done. The statement has so far been the only one which Gen. Ne Win wrote and read out. His other speeches were extempore (Maung Maung 1969, 312).

Ne Win may not have written the speech himself but from a genealogical perspective it hardly matters. The point is that with it, *taingyintha* obtained a hitherto unprecedented place in state lexicon, and thereafter, in the state-building programme and its rituals of national unity. It is only from this point that we can speak of *taingyintha* as "national races" with many of the connotations that it has today.

The project for national races meshed with a larger programme for political domination and exclusion through the nationalisation of assets and deportation of alleged aliens. This programme was not new, but it expanded and intensified after 1962 (Government of the Union of Burma 1960a, 216–217; Holmes 1967). It had profound consequences for permanent residents descended from Indian – and to a lesser extent Chinese – migrants (see Egreteau 2011; Ho and Chua 2016; Roberts 2016). The government arrested and imprisoned thousands on allegations of economic crimes; hundreds of thousands more it forced out of the country or marginalised by making life untenable for them (Cheesman 2015a, 110–111). In 1968 it also set up a new

department of national registration and committees for the scrutiny of citizenship records and applications (Khin Maung Kyaw 1971, 217–221).

But to have stronger political salience, *taingyintha* needed more substantive contents of its own. It had to function not only as a negative of something or someone else, but also somehow stand for the state, for what the state ostensibly represented. To this end, Ne Win closed his 1964 address by announcing that his government would "begin working systematically" to bring economic and social equality to the national races; and, would help them in projects for support of their literature, languages and cultures (Ne Win 1965, 316). Within the same year, the government had set up an Academy for the Development of National Races.[5] The following year, staff from universities around the country began state-directed fieldwork – autonomous academic research was by this time a thing of the past – to document and publish authoritative studies on national races' culture.

Throughout the mid-1960s *taingyintha* had an aspirational, modernising quality that complemented the larger state programme of building a modern socialist economy. The national races learned that they had had their difficulties in earlier feudal and colonial periods, but with five-year plans and abundant goodwill, happier days lay ahead. Nationalisation of capitalists' assets, industrial and agricultural development and systematic work would bring everyone together. Official lexicon affirmed the significance and centrality of *taingyintha* in state building through repetitive use of compounds such as the "national races-working people-of the union" (see Nyunt Maung 1967). The fortunes of *taingyintha* were bound firmly to regime aspirations for a modern socialist economy and unitary state. The 1974 Constitution subsequently affirmed this centrality of *taingyintha* to the national project, with Article 21(a) asserting that the state would be responsible "for constantly developing and promoting unity, mutual assistance, amity and mutual respect among *taingyintha*."

In 1967 Ne Win's Burma Socialist Programme Party published the first of seven books on national races, one for each of the categories for whom administrative regions had been demarcated: initially, Kachin, Karenni, Karen, Chin and Shan, and later, the Arakanese and Mon. Another book explored the economic, social, cultural and religious commonalities of the various national races (BSPP 1975). Together, the publications anchored aspirations for the new socialist economy in a narrative of solidarity that once had existed but had been lost during the colonial period. While striving for a better future, *taingyintha* now were invited also to gaze backwards to a mythical past. They did not have to imagine that they could be united; all they had to do was reimagine life prior to the colonial occupation when:

> From the beginning they lived together in the land of this Union as kinfolk and brethren. Up until the time that the imperialists arrived in Burma, *taingyintha* lived closely with one another through weal and woe…[Thereafter] outside instigation combined with landlordism and the evil capitalist system stirred up this country in which *taingyintha* had lived in mutual harmony through weal and woe, and the connections between *taingyintha* were broken, leading them to be ignorant of the lives of one other, and sadly, to the disintegrating of *taingyintha* unity (BSPP 1967, i–iii).

More books followed that reinforced both the essential unity of the national races and distinguished them from their enemies by describing how *taingyintha* had without reservation or exception fought valiantly against the British invaders. The first definitive

text on national races' shared anti-colonial resistance begins, "It is manifest that throughout Burma's history all *taingyintha* of Burma have been united in solidarity, both in their resistance to imperialist invaders and in the defence of sovereignty and independence" (BSPP 1971, 11). Texts after 1964 had reminded readers that "*taingyintha* capitalists" had once colluded with the British imperialists for personal gain and even after independence had continued to exploit their brethren (see BSPP 1966, 1972). But as time went on, no room remained in the emerging narrative for quislings or collaborators among national races. Unassailable facts drawn from historical data proved that national races had been united through weal and woe all along, and now the job fell to one official history after the next to iterate the details (see, for example, Compilation Committee 1976; Department of History 1988).

By the 1980s the national-race truth regime, the domain for the production and ordering of what constitutes truth and falsity, was firmly established. It was by now the orthodoxy that political texts – all of which had to meet with the one-party state's approval before publication – at some point refer to national races' eternal solidarity, their historical fraternity and their intentionality in working together for a new socialist economic order. And although that economic order – and with it the political arrangements that conceived it – collapsed under the weight of nationwide protests in 1988, the national-race truth regime not only prevailed but emerged stronger than ever.

The newly comprised military junta that seized control of government and suppressed protest lacked a coherent ideology. Instead it drew on a hodge-podge of political ideas from earlier periods to justify its takeover (see Cheesman 2015a, 101–102). Among them, it announced *ad nauseam* that "non-disintegration of national [*taingyintha*] solidarity" was the second of its three main causes. For want of any other unifying motif, national races were invoked on every broadcast and publication, and at every major event. The following year, the junta picked up on the institutional work of its predecessor to establish a new Central Committee for the Development of Border Areas and National Races, which later became a government ministry concerned with the material development of frontier regions.

If the 1940s marked the emergence of *taingyintha* as a term of state, and the 1960s its institutionalisation, then the 1990s witnessed its renaissance, yet with at least two distinct meanings at play. In one, national races comprised the members of a single political community, united in struggle against common enemies inside and out. In the other, national races were a sub-section of that community: people living far away who had failed to progress due to civil war and ignorance, people who were "primitive, backward and in need of guidance" (Walton 2013, 11). Between them, these usages worked to justify relentless military campaigns against armed groups operating under the banners of multitudinous national races (see Smith 1999; South 2009). The state's guiding hand was required to draw all *taingyintha* together into the natural condition of unity from which they had been driven by historical circumstances. Attempts by evildoers to push them further apart in the name of particularistic group interests could not be tolerated. The state had no choice but to respond with force, in the common interests of the *taingyintha*.

These messages were conflated with a third message, via the project Houtman (1999) described as the "Myanmafication" of the state in which "Burma" became "Myanmar" on the grounds that whereas the former term and its analogues refer to the Burman, the

latter supposedly denotes the inclusion of all *taingyintha* in the union (SLORC 1989). Children in schools across the country now sang of Myanmar to signify *taingyintha*, yet the books from which they learned, "Myanmar" readers, did not include the languages and alphabets of all *taingyintha*, or even the biggest linguistic groups; merely those of the dominant group. "Myanmar," while signifying national races, above all was to signify the pre-eminent linguistic and cultural group, the Burmans. To speak and read the language of the Burman, to be civilised and cultured like a Burman was nothing other than to belong to Myanmar, which is to say, to be *taingyintha* (see Cheesman 2002a, 156-160; Treadwell 2014).

And so, the rise of *taingyintha* to the apex of national politics in the 1990s brought with it a multiplicity of inconsistent meanings. On top of the semantic jumble, the junta rediscovered and imposed a schema for the identification, enumeration and management of all national-race groups in the country.

Taxonomic Troubles

In 1990 army officers in the new junta began iterating that "135 national [race] groups" reside in Myanmar (BPS 1990).[6] The number was not explained or formally announced, and as Ferguson (2015, 15) has observed, its formulation remains something of a mystery. In 2013 a representative from Shan State in the union legislature, established at the end of unmediated military rule in 2011, asked in what period, under what government, and with what list or register the 135 groups had been identified and classed as national races. In reply, the deputy minister for immigration and national registration relied on an old newspaper article:

> With regards to the 135 *taingyintha* in Myanmar the September 26, 1990 edition of the *Working People's Daily* made known that the list had been the list of *taingyintha* used in the 1983 census, drawn up based upon the list of ethnic groups in the 1931 and 1953–54 censuses, and advice given in 1960 by the Office for Ancient Literature and Culture under the Ministry of Culture and in the same year by the advisory board of the Burma Historical Commission, with the coordination in 1972 of the Committee for National Race Affairs, Burma Socialist Programme Party Central Committee Headquarters (Pyithu Hluttaw 2013).

But if the number 135 had been the basis for enumeration of groups in the 1983 census, the advice and data from which the number was derived remain obscure. The 1931 census, for instance, lists what appear to be 135 or 136 groups, depending on whether two categories of person are separated or combined, classed by mother tongue (Bennison 1933). But many of the groups listed in the census tables do not correspond with the list of 135 national-race groups, and the tables offer no clues as to how the later list was derived. Nor are the contents of subsequent publicly available documents more revealing. The 1953 census report states that in drawing up the data officials had adopted the lists from earlier periods "with necessary modification" but had published data only for the "seven main indigenous race groups of the country and four foreign race groups" (Union of Burma 1957, xvii).[7] A government publication from 1960 listed 45 groups that when broken down into subgroups would come to "about 160" (Min Naing 1960, 21). The author added that probably more groups remained living in inaccessible places, or were trickling in from neighbouring countries.

The taxonomic volatility did not end when *taingyintha* became a term of state par excellence, notwithstanding the various projects to give it fixity and permanence after 1964. The purportedly comprehensive official list from 1972 contained 144 groups, while another that appeared in the state newspapers the following year had 143 (*Botataung*, February 23, 1973). These lists were reportedly part of preparations for the 1974 Constitution, but according to the head of the law reform commission, who was also instrumental in drafting the new charter, "although over a hundred names were already on the list of *taingyintha*, as the list was not yet complete" it could not be annexed to the constitution (Maung Maung 1979, 8). When the government later removed eight groups from the list for the 1983 census, to arrive at the number of 135, it did so without public explanation (Khin Maung Cho 2014, 66–67). And despite the belligerent insistence of army officers from the 1990s onwards that the taxonomy of 135 groups represents the natural order of things, even official records equivocate. For example, the 1996 Myanmar yearbook refers to "approximately" 135 groups (Sabebiman 1996, 43).

Taxonomies of populations register two political fictions: that they catalog differences rather than produce them; and, that they document social membership rather than create subject positions and affiliations (Stoler 2002, 207). They are implicitly hierarchical, and always concerned with the establishment of a boundary so as to separate those elements internal to them from potentially intrusive or disruptive external ones (Handelman 1981, 7–8; Herzfeld 1992, 109). In these respects, taxonomy recommends itself for translating a political idea like national races into a truth regime for differentiation, domination and exclusion of populations.

However, not all taxonomies realise their goals. For the taxonomy of a population to be successful it must appear natural and work in the background, describing, naming, ordering and distinguishing between the smallest of differences among literally everything that falls into its domain (Foucault 2002, 171–174). A successful taxonomy is not itself the subject of constant scrutiny or dispute. Naturalness requires that a taxonomy have consistent classificatory principles, that its categories are mutually exclusive, and that it be complete – that it cover the entire population with which it is concerned (Bowker and Star 1999, 10–11). Furthermore, its rules for the delineation of categories and resolution of anomalies need to be explicit, as well as those rules concerning how new categories are created (Handelman 1981, 7).

Myanmar's taxonomy of national races struggles to meet these requirements. Emerging haphazardly and episodically, it is internally inconsistent. Deriving from an essentially negative idea, denoting non-Europeans, Indians or Chinese, it lacks positive contents. To the extent that national races can be identified by name they were, up until recently, listed ad hoc. With the establishment of states and territories with cultural group ascriptions, the five and then seven groups whose names also designate states came, sometimes together with the Burmans, sometimes not, to signify *taingyintha*. Even the 1973 Interpretation of Expressions Law, which provided definitions of key political and legal terms of the period, says of *taingyintha* only that, "this expression includes Kachin, Karenni, Karen, Chin, Mon, Arakanese, Shan, Burman and other *taingyintha*" (Revolutionary Council 1973, section 5[a][i]). National race categories were by then supposed to be self-evident.

Of course, none of these categories is self-evident, as meetings of the union legislature during 2014 concerning an inaugural draft law for the protection of the rights of national races made clear. The chairman of the law's drafting committee said that as the 2008 Constitution contained no definition of *taingyintha* his committee had relied on the existing interpretation law (Pyithu Hluttaw 2014). A legislator from the Naga minority group, which was not shortlisted in the 1973 law, objected that the definition gives primacy to the eight groups named and implies that others are sub-types (Amyotha Hluttaw 2014). Legislators again raised questions about the enumeration of national races, with one arguing that the law ought to be postponed until the taxonomy itself was resolved. Others said this task would fall to a new union ministry for national-race affairs established under the law.[8] The bill went through a series of proposed changes in which the definition became increasingly convoluted as it attempted to address objections and encompass all possible articulations of national-race identity (Law Drafting Committee 2014).

Ultimately, the definition that the president approved in February 2015 contains none of the parameters of the drafts, or the contents of earlier versions that legislators criticised. Instead, the Law Safeguarding the Rights of National Races in section 2(a) adopts a definition that is even less precise than any of those preceding it, describing national races as "having continuously resided in the Union of the Republic of Myanmar as their homeland." Although the absence of the usual shortlisting of key national races might have satisfied the Naga legislator, the question of who is responsible for determining which groups are national races remains unanswered. For an answer to that question, we must turn to an earlier law, and an earlier reading of the national-race idea: one with damaging consequences for anyone identifying or identified as Rohingya.

National Race Surpasses Citizenship

In an article on Myanmar's "citizenship crisis," Holliday (2014, 410) cites the English translation of the opening lines to the preamble of the 2008 Constitution, that "the national people [of Myanmar] have been living in unity and oneness," words he says "point to a mythic unity that has never emerged and could be read as a defiant repudiation of ethnic diversity." In Burmese, the term used for "national people" is none other than "the collective people of *taingyintha*." The phrase is repeated three more times in the preamble, signalling both a mythic unity, as Holliday suggests, but with it also a hegemonic conception of unity in diversity, one in which *taingyintha* continues as a trope for Myanmar's many linguistic and cultural groups pulled together in a state-building enterprise.

But the preamble does more than merely situate *taingyintha* at the centre of the narrative on state formation. It puts *taingyintha* over and ahead of citizenship, addressing the political community not as an aggregation of "citizens" but as "national races."[9] From its opening words, the constitution establishes a conceptual relation between national races and citizenship, such that the former is irreducible to the latter. Whereas in the independence constitution of 1947 citizenship preceded and enveloped the national races designation, lexically and legally, today national races precede and surpass citizenship. To talk of the political community "Myanmar" is to talk of *taingyintha*, and to talk to that community is above all to address its members not as citizens but as national races.

The pre-eminent political and juridical position that *taingyintha* now occupies did not, as we have already seen, come out of nowhere with the passing of the 2008 Constitution, even if that document is notable for the degree to which it has not only conjoined the state and national races lexically but also institutionally.[10] Rather, the superordinate relation of *taingyintha* to citizenship was already established a quarter of a century earlier, via the 1982 Citizenship Law.

Researchers and commentators alike tend to misinterpret both the contents of the 1982 law and the manner of its enforcement. News articles and opinion pieces frequently contain statements to the effect that Rohingya "have been stateless since they were collectively stripped of their citizenship in a 1982 citizenship law that recognised 135 ethnic groups" (*Canberra Times*, May 23, 2015). Human rights groups and international organisations make similar assertions (see, for example, Fortify Rights 2014; Green, MacManus, and Venning 2015; Lindblom, Marsh, Motala, and Munyan 2015; Quintana 2009). Scholarly work also misconstrues the 1982 law as having "denied the Rohingya both full and associate citizenship," thereby rendering them stateless (Holliday 2014, 409). In fact, the law contains no reference to the enumerated 135 national race groups nor does it contain any specific sections to deny Rohingya citizenship. Rather, it makes membership in a national race the gold standard for citizenship and the primary basis for determining the rights of someone claiming to be a member of the political community that was then "Burma" and subsequently "Myanmar."

To understand how the law achieved this outcome we need to compare it with its predecessor, the 1948 Union Citizenship Act. The earlier law, working from the 1947 Constitution, took *taingyintha* to mean "Arakanese, Burmese, Chin, Kachin, Karen, Mon or Shan race and such racial groups as had settled in any of the territories included within the Union as their permanent home anterior to 1823AD" (section 3), the cut-off date preceding the first Anglo-Burmese war of 1824–25. Having done so, it then paid no heed to *taingyintha* at all, instead stipulating in section 4 that "any person" whose forebears had lived in Burma for at least two generations would be deemed a citizen. And it went on to offer a range of other conditions that would satisfy the requirements for citizenship. In short, whether a person was *taingyintha* or not was incidental to one's citizenship after 1948. Like its counterparts in other newly independent Asian countries, the state in Burma granted citizenship rights to pretty much anyone residing in its territory and opting for them.

The insignificance of *taingyintha* for the pre-1982 regime is obvious from a glance at the identity documents issued in the period. The National Registration Card or "green card," which was first issued in 1952, under the 1949 Union Residents Registration Act (Khin Maung Kyaw 1971, 120), contains no entry for *taingyintha*. Even after 1964, no government agency had the authority to issue an official document indicating that a person belonged to a particular national race (Khin Maung Kyaw 1971, 190).

The 1982 law turned the contents of its predecessor on its head by making membership in a national race the primary basis for citizenship. It achieved this result in two steps. First, it declared in its section 3 that, "Kachin, Karenni, Karen, Chin, Burman, Mon, Arakanese, Shan and other *taingyintha* and ethnic groups who resided in an area of the state as their permanent home anterior to 1185 Myanmar Era or 1823AD are Burmese citizens."[11] Second, in its section 5 it individualised this provision, consistent with article 145 of the 1974 Constitution, such that, "All persons born *taingyintha*, or all

persons born of parents both of whom are *taingyintha* are citizens." Whereas in the prior law the person's individual status was not contingent on group identity, in 1982 not only were they bound together but also a person's status as a member of a national race, or not, preceded and partly determined their status as a citizen.

Importantly, for hundreds of thousands of people who were not classed as *taingyintha*, section 6 of the law provided that nobody who already had citizenship would lose it.[12] This provision should have functioned to prevent large-scale statelessness by enabling existing citizens to transfer over to the new regime without having to provide evidence in support of their claim, other than an application with a green card attached. But it is at this point that we move from questions of the law's contents to the circumstances of its drafting and application.

After a new constitution for a one-party state took effect in 1974, a law drafting committee began work on the new citizenship law, which passed through three rounds of revisions before a final draft (*Guardian Supplement*, April 21, 1982). Meanwhile, in 1978 the government launched the Nagamin operation to identify, prosecute and expel illegal migrants and non-citizens. Heavy violence accompanied the campaign in border areas adjacent to Bangladesh; a region that successive governments insisted had experienced high illegal immigration since the 1950s. Up to 250,000 people fled across the border. Authorities in Burma buckled under international pressure and took back some 200,000. A state media columnist wrote that the authorities had "gone all the way to accommodate even those who may not have registration cards in hand – even those who can offer only secondary proof that they have resided in a specific place within Burma" (*Working People's Daily*, October 2, 1978). Yet, a little over a decade later hundreds of thousands would again flee into Bangladesh, this time because of the registration process under the terms of the new law being drafted even as they were accepted back in 1978.

One reason that the second exodus did not occur earlier is because the 1982 Citizenship Law was not immediately implemented. Nor was it put into effect after the completion in September 1983 of a set of procedures for its administration. Only after some years did authorities officially begin issuing a Citizenship Scrutiny Card or "pink card," on which a holder is identified by entries indicating whether they are in part or fully a member of one or more national races or otherwise.[13] The work of introducing the new citizenship regime appears to have gone on lethargically and without fanfare.[14] But the year after the new military junta took power in 1988 and had reasserted *taingyintha* as a pre-eminent term of state it started vigorously enforcing the law, requiring anyone with a green card to turn it in for a pink one.

The re-registration process should not have posed an unusual difficulty to many among the Muslim population living near Bangladesh, who were probably better documented than other frontier groups (Aye Chan 2005, 413).[15] But, registration officers apparently acting on orders from superiors refused to re-register people who were entitled to pink cards. Those denied new documentation included not only people who may have been poorly documented but also state university graduates and civil servants who had already had to pass through numerous background checks. Furthermore, people who submitted green cards with their applications to obtain the new pink cards did not have their green cards returned to them, but instead were issued Temporary Registration Cards or "white cards" (ICHR 2010, 97; Kyaw Min 2015, 48).

These cards are, as their name suggests, clearly intended under paragraph 13 of the 1951 Union Residents Registration Rules only as interim documentation. They were never intended as alternative documents for non-citizens; in that case, the person should be issued with a certificate under the Registration of Foreigners Rules, 1948. Nevertheless, white cards were, from the early 1990s, treated as proxy permanent identification documents for some 700,000 people to whom they were issued (UNHRC 2011, 12).[16]

Thus, the process of rendering stateless hundreds of thousands hitherto identified or self-identifying as Rohingya but now officially designated "Bengali" was not *de jure* but *de facto*. It was not achieved by complying with the terms of the Citizenship Law per se, even though the law's contents were in their general intentions inimical to the interests of this population, but through their deliberate breach and selective application.

Because *taingyintha* identity had surpassed citizenship to become the gold standard for membership in the political community "Myanmar," the place of people belonging to non-national-race groups would remain precarious. Meanwhile, those people excluded juridically from Myanmar but living within its territory now had to find a way back in to the political community. And the only way available to them politically, as a collectivity, is to submit to the politics of domination inherent in the national races project, and insist that they too are *taingyintha*. This is exactly what Rohingya advocates have done, causing them to become the targets of much anger from the members of other communities.

Reproducing the Truth Regime

In mid-2012 then-President U Thein Sein told the visiting head of the United Nations (UN) High Commission for Refugees that with regard to people who had fled from recent attacks into Bangladesh his government would "take responsibility for our *taingyintha*, but under no circumstances would accept illegally entering non-*taingyintha* 'Rohingya'" (*Weekly Eleven*, July 12, 2012, in Burmese). The following year media reported the then-speaker of the national assembly as saying that any failure to protect *taingyintha* from the exceedingly large Bengali populace in Rakhine State would precipitate the end of Myanmar itself (*Voice Daily*, September 30, 2013). And in 2014 when the UN Secretary General visited the country and called on the government to "ensure humanitarian access to Rohingya living in vulnerable conditions" he met with an outcry (*Irrawaddy*, November 13, 2014). An organiser of one of many public gatherings to condemn the UN chief for his use of the term "Rohingya" mapped national-race politics back onto the call for humanitarianism:

> In referring to Rohingya, who are not Myanmar *taingyintha*, Ban Ki-Moon has created an opening [for people to come from Bangladesh]. If we say that there are Rohingya, can we just accept anyone from over there who comes calling themselves Rohingya? In reality, they are not genuine *taingyintha* (*Tomorrow*, December 2, 2014, in Burmese).

While the Secretary General was struggling to respond sensibly to so much offence caused by saying so little, for those working according to the pervasive logic of the *taingyintha* truth regime, the reason for indignation was obvious. By this time, national-race identity was functioning to represent the integrity of the nation and exclude interlopers claiming to

be members of the political community "Myanmar." It is for this reason that, as Leider (2014, 221) has observed, the Rohingya claim "to be a separate ethnic group" is more than anything else what has caused such resentment and generated conflict with their counterparts (see also Thawnghmung 2016). Seen from inside the *taingyintha* truth regime, any claim to be Rohingya is not only to insist upon a falsehood, but also to be at once dangerous and illegal: it is an identity that is both politically and juridically unacceptable. Those people who accept that they are "Bengali" are entitled to present their credentials for citizenship on a case-by-case basis. But any assertions of a collective right to political membership by virtue of being *taingyintha* will not be tolerated, not for any logical reason but because according to the truth regime it must be so. The truth regime is self-validating. It does not invite questions about the reasons for inclusion or exclusion, and to ask after its reasons for the inclusion of some groups and exclusion of others would be to mistake happenstance for design.[17]

However, the present-day political imperatives of the national-races truth regime have to be reconciled with its juridical arrangements, which do allow for the possibility that groups who are not yet recognised as national races can become *taingyintha*. Section 4 of the Citizenship Law stipulates that cabinet has the authority to determine whether or not a group constitutes a national race.[18] Furthermore, paragraph 9 of the 1983 procedures recognises that apart from the eight national races listed in the law, "Many other races and ethnic groups that are *taingyintha* remain," hence the need to make determinations on which groups are *taingyintha* and which are not. In sum, people seeking to participate in the political community "Myanmar" are legally encouraged if not compelled to make claims that they too are national races, and the law implies that a process must for the adjudication and administration of such claims.

Consequently, rather than question the ambiguities and inconsistencies inherent in the national-race truth regime, the advocates of marginalised or excluded groups bypass them. Instead of challenging *taingyintha* they embrace the idea, and insist that they too deserve to be recognised as national races (Thawnghmung 2016, 534; see also Cheesman 2015b). They do not oppose the truth regime itself but rather the proposition that Rohingya are "not included in over 100 national races of the Union of Myanmar" (*New Light of Myanmar*, January 30, 2009). By engaging the state on questions of entitlement according to the terms it has itself laid down, rather than critiquing or challenging those terms, they rehearse the state's own logic (Herzfeld 1992, 109). By acquiescing to the national-race truth regime, they recognise that the surpassing symbolic and juridical power of *taingyintha* is at once their problem and their solution.

Rohingya advocates make their claim to be *taingyintha* in two parts: one evidentiary, establishing the existence of "Rohingya," the other typological, situating Rohingya as a category in the national races schema. The first part, aimed at demarcating the Rohingya as a distinctive linguistic and cultural group deserving of a category in the schema, emerged out of political and ideological struggle in the same period that *taingyintha* grew in stature, from the 1930s or 1940s onwards (Leider 2014, 211; Tonkin 2015, 7–10). Like the arrangements that produce and reproduce the national-race idea, the project to establish the category "Rohingya" advances historical claims based on an admixture of readings and interpretations from manuscripts, coins and engravings to rebut those "narrow-minded racists lacking Union Spirit [who] have fabricated allegations that Rohingya nationals are Chittagonian Indians or forest Indians, Bangladeshi foreigners and so on" (NHRDP 1990, n.p.). The project

is not concerned with establishing a claim that people designated "Bengali" have any rightful claim and place in the political community "Myanmar." Rather, the case for Rohingya as *taingyintha* aims to represent them as a distinctive and unique group that does not wish to be confused with the Bengali any more than any of the other national races, and that this discrete group's claim is legitimate (see Leider 2016).

Whatever their status today, Rohingya had been advocating for recognition and making some headway prior to Ne Win's Union Day address in 1964. By 1960, at least six groups were promoting the Rohingya cause (Yegar 1972, 102). The national encyclopedia refers to Rohingya as comprising some 75% of the population in the region bordering then East Pakistan (Burma Translation Society 1964, 90). At least one military publication carried an article sympathetic to the Rohingya agenda for recognition (in NHRDP 1990, 64). And, in 1961 the Deputy Chief of Defence, Brigadier General Aung Gyi told audiences that the government recognised Rohingya as an ethnic group in the union, and was committed to ensuring that they would obtain citizenship as promptly as possible (Aung Gyi 1961a, 1961b; NHRDP 1990, 49–50). He later wrote that the name Rohingya was agreed upon as official usage for the administration of a special frontier region which ran for six years from 1959, observing that as other races in the country that had once been known by one name had in modern times become known by another, no difficulty had arisen with the choice of term (Aung Gyi 1992, 8).

The second part of the claim is in some respects more difficult to establish, because when explicit references were being made to Rohingya in official and public records, the "national races" truth regime had not yet emerged. That Rohingya were not identified specifically as *taingyintha* when the term denoted different ideas from today and was not yet a term of state *par excellence* is not surprising. Nevertheless, it means that advocates of Rohingya claims to be *taingyintha* must work inferentially and establish their credentials consistent with the conditions that attach to being members of the national races in official histories published since. To write history for this purpose of establishing the existence of Rohingya is to rely upon the official history-writing project and the claim that "national races" also exist. It is to engage in a box-ticking exercise: national races have lived in the territory now designated Myanmar anterior to 1823, and so have Rohingya; national races lived together amicably prior to the British invaders' arrival, and so did Rohingya; national races fought together against the imperialists from the time of their incursion until the time of national independence, and Rohingya also laid down their lives for this cause (see Aung Khin 2012; Kyaw Min 2013, 2015; NHRDP 1990).

Thus, the alternative history that Rohingya advocates articulate, while being a history told "from within the shadows," is not a counter-history of subjugated knowledge of the sort that Foucault (2003, 70) envisages because although it aims to bring out historical contents that are buried and disqualified and contest some premises of the truth regime, it does not question the premises of the regime itself, or its underlying "truths." Far from releasing anyone from the *taingyintha* truth regime by virtue of their articulations, Rohingya advocates reproduce it.

Conclusion

In his discussion of Myanmar's "citizenship crisis," Holliday (2014, 416) expresses concern at the tendency to focus "largely on the question of whether Rohingya are an indigenous or national minority," urging instead for attention to be directed towards

how best to build equal rights for this group. While I am sympathetic to his argument, and share with Holliday hopes for the emergence of a tolerant, consociational democracy in Myanmar, it is simply not possible to bypass the politics of national-race identity on the way to the question of citizenship. The latter is subsumed under the former. Myanmar's citizenship crisis is, like the question of Rohingya identity, a feature of the surpassing political force of the national-race idea. Without confronting the "national races" problem, Myanmar citizenship will remain in crisis.

The genealogical method that I have used to that end does not invite a prescription for the problems that the idea of *taingyintha* creates. It is not aimed at delivering solutions to the problems it uncovers. Nevertheless, it can be transformative. Foucault (1980, 133) insists that "the essential political problem for the intellectual is…that of ascertaining the possibility of constituting a new politics of truth." Having shown how particular truths come from contingent historical episodes, not as natural features of human relations, genealogy frees us to imagine other possible worlds (Bevir 2010, 430). An obligation now falls on the researcher to envisage something else in its stead, and to act to realise it.

Although this obligation may seem onerous, given the degree to which *taingyintha* has been naturalised and elevated as a term of state, neither the national-race idea nor its taxonomy is especially beguiling. It persists not because it is believable but because of its coercive power, because of the manner in which it functions to dominate and exclude politically. Consequently, self-identifying Rohingya have little choice but to give assurances that if included in the schema of national races they will be demonstrably good citizens by showing their commitment to the idea of *taingyintha*. Because people in a tenuous position have more to gain from showing their commitment to a project for political domination than people who are secure in their membership, ironically they aim to show that given the chance they could be more vociferous defenders of the truth regime than anyone.

Under these circumstances, Foucault's essential political problem of ascertaining the possibility of constituting a new politics of truth takes on an even greater urgency. A special responsibility falls to people who are not beholden to the politics of *taingyintha*, not subject to its practices of elision and domination, to ask questions of the national-race truth regime, to interrogate it. This responsibility extends beyond pointing to specific arrangements to deny Rohingya a place in the political community, and rightly condemning the gross and manifest abuses of human rights that people who identify or are identified as Rohingya suffer. It also extends to recognising and explaining how ultimately Myanmar's problem is not a "Rohingya problem" but a national-races problem: how the surpassing status of *taingyintha* itself is the problem.

To discharge this responsibility in particular requires of scholars that they challenge rather than uncritically adopt national-race categories for their analyses, and question rather than accept the premises of the *taingyintha* truth regime. Adapting Brubaker (2004, 32), we might say that the undeniable salience of specific ascribed national-race categories (or for that matter, ostensibly racial or ethnic categories) for the practice of politics in contemporary Myanmar does not require their use as categories of scholarly analysis. Not only might other categories of analysis or other modes of inquiry demand fewer intellectual and perhaps political compromises of the researcher, but they may also liberate scholarship on politics and conflict in present-day Myanmar of many of its self-imposed constraints.

A special responsibility also falls to those people who are part of the political community "Myanmar" but are least threatened by the present arrangements, by virtue of being authentic *taingyintha*. Because people living in Myanmar who are excluded from the national races are not themselves in a position to contest the truth regime's premises, its beneficiaries need to challenge them vigorously. So far we have little evidence that Burmese intellectuals and academics, let alone politicians or prominent religious figures, are cognisant of this responsibility, far less that they might be willing to take it on.

Given the pre-eminence of the *taingyintha* truth regime, the unpreparedness or unwillingness of intellectuals and political leaders to challenge its politics is hardly surprising. As these people are themselves subjugated by the politics of national races, even in their attempts to exert control over the idea they succeed in reproducing it, and in reinforcing the primacy of the state-building project innate to *taingyintha*. Nevertheless, evidence of some sustained efforts to speak back against not just the taxonomy of national races but also the idea itself will, for me at least, give cause for hope that Myanmar might one day become democratic: not in the sense that formal procedures exist to elect political representatives, or that military institutions are at last subordinated to civilian ones – although these conditions are necessary – but in the sense that the members of its political community are judged not according to the characteristics assigned them at birth but through their actions and opinions; what they say, do, and think (Benhabib 2004, 59). This vision of democratic politics does not occlude linguistic, cultural and religious difference, or deny its political salience, but nor does it privilege the identities of some categories of persons so as to elide others who notwithstanding would be entitled to participate in the community as political equals.

Notes

1. The authoritative Burmese-English dictionary for the period contains an entry for *taingthu-pyitha* but none for *taingyintha* (Judson 1893). A widely used English-Burmese dictionary published in 1906 translates "native" as *taingyintha* or *pyiyintha* but makes no reference to it under entries for national or nationality (Tun Nyein 1906). Significantly, one of the most comprehensive dictionaries published after 1964 contains no less than seven entries for *taingyintha*, including two referring to it as a signifier for national solidarity (Hoke Sein 1978).
2. In the pre-colonial period *lumyo* operated across a variety of classificatory schema, which were class and caste-based. The radical bifurcation of *lumyo* was between noble and commoner. Consistent with Indic political theory, a fourfold stratification further divided *lumyo* into rulers and warriors, priests (Brahmin), traders and merchants and labourers (Tin 1965, 11).
3. An exception was the Arakan National Congress, established in 1939, which despite its translation to English as "national," in Burmese was not *amyotha* but *taingyintha*, or rather, the All Arakan Nationalities Congress (Ba San 1996, 48–64). Another exception was the United Mon Association, or Mon *Taingyintha* Association, formed in late 1945 and active from 1946 as the first Mon group with an overtly political agenda (Pantha 2014, 66–67; South 2003, 101). Thanks to Ashley South for his communication on this topic.
4. The published text of the draft constitution does not offer a definition of minority *taingyintha*, but in his book published over a decade later U Thant (1961, 189) identifies "majority" *taingyintha* as Mon, Burman and Arakanese, and "minority" *taingyintha* as "Shan, Chin, Karen, Karenni, and so on."

5. *Pyidaungzu Taingyintha Lumyomya Punbyoye Theikpan*. In 1991 the academy was rebadged as a university (Sabebiman 1996); and later was replaced by two degree colleges for "union national-race youths" (*Myanma Alin*, September 22, 2011).
6. The chairman of the military junta, General Saw Maung, made a passing reference to the 135 national-race groups in a press conference on July 5, 1989 (*Working People's Daily* 1989, 41); however, it was not until the following year that the junta began referring to the number routinely. I thank Derek Tonkin for drawing my attention to the 1989 speech.
7. The tables in 1953 list data for Burmese, Karen, Shan, Chin, Kachin and Karenni followed by "other indigenous races," then Indian and Pakistani, Chinese, European and American, and other races. The 1983 published data contain the same categories for national races; however, other categories are Chinese, Indian, Pakistani, Bangladeshi, Nepalese, "mixed foreign and Burmese," and "other foreign" (Immigration and Manpower Department 1986). The published data for Arakan State from 1983 suggests that Rohingya were classed among Bangladeshi, who officially constituted 24.3% of the total population in that state (Immigration and Manpower Department 1987, 1–14).
8. On March 21, 2016, the newly elected National League for Democracy-majority legislature approved the establishment of the new union-level Ministry of National Race Affairs, or *Taingyintha-yeya Wungyi-dtana* (*Myanma Alin*, March 22, 2016). In English, it has been designated the Ministry of Ethnic Affairs, concealing its distinctive nomenclature.
9. The preamble invokes national races seven times in two pages, repeatedly addressing the "national people" as *taingyintha*. The term for "the state" features 18 times, "sovereignty," thrice, "citizen," not once.
10. Section 56 establishes special autonomous regions for designated national race groups, while under section 161, *taingyintha* get seats reserved in the legislatures of states and regions where they reside if they have a population of at least 0.1% of the nationwide total (see TNI-BCN 2014, 12).
11. Paragraph 5 of the Procedures Concerning the Citizenship Law (Council of Ministers Notification No. 13/83), stresses that Kachin, Karenni, Karen, Chin, Burmans, Mon, Arakanese, Shan and others who had not settled in the territory of Burma for the requisite period are not *taingyintha* for the purposes of the law.
12. However, paragraph 7 of the 1983 Procedures Concerning the Citizenship Law is clear that these persons are "not citizens by birth" and therefore they can be prosecuted and can have their citizenship revoked if they have acquired it by deceit (see Cheesman 2015a, 112–114).
13. A pink card may have multiple hyphenated identities indicating parentage and lineage. For discussion and illustrations see Nyi Nyi Kyaw (2015, 52–53).
14. Accounts differ on when the law was first implemented. Tun Tun Aung (2007, 278) says 1985; Aye Chan (2005, 413), 1987. U Kyaw Min (Interview, Yangon, July 18, 2015) says that the new regime was not rolled out on the border of Bangladesh until 1989. His account is consistent with state documentation showing renewed interest in firm application of the 1982 law and its regulations under the junta that seized government in 1988. See State Law and Order Restoration Council Letter No. 057/1-1/NaWaTa, August 24, 1989 (in Burmese), circulated to the chairmen of military councils in all states and divisions, concerning work for the issuance of new identity cards.
15. The percentage of the Muslim population on the border with Bangladesh holding identity documentation at the time is difficult to estimate. Tonkin (2015, 18–19) notes that some 65% of repatriates from Bangladesh held green cards. The estimated percentage is complicated by the presence of children under the age of 12 who were not entitled to cards, suggesting that the percentage of eligible returnees holding cards would have been somewhat higher. The returnees reportedly included relatively few young men (Farrer 1979, 4), who would have had more difficulty getting cards after 1962 than their elders in earlier periods.
16. Under pressure from a Rakhine political party, at the end of March 2015 the government cancelled the white cards and replaced them with new interim documentation (President's Office Notification 19/2015, February 12, 2015; see Chit Win and Kean 2017). The card's

annulment might have resolved some of the ambiguity associated with the earlier regime, but the new document in effect confirms the existence of a category of persons that the state refuses to admit to any established legal or political category.

17. The question of why, for instance, certain groups like the Muslim Kaman (see Nyi Nyi Kyaw 2015), or Kokang of the border with China (see Maung Aung Myoe 2011), have obtained nominal recognition on the list of 135 national race groups while the Rohingya have not cannot be answered logically absent of a coherent set of criteria for determining whether or not a group is eligible for membership, or an epistemology permitting the objective identification, classification and perhaps measurement of each group of persons according to these criteria.
18. Under the 1982 law, the Council of State had this authority. Its successor military junta assumed the power of the Council of State via the 1988 Adaptation of Expressions Law. Since the 2008 Constitution took effect, presumably authority to make determinations under section 4 would fall to the Union Government, comprising the president, vice presidents, ministers and the attorney general.

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Annex 33

S. DeGooyer, A. Hunt, et al., *The Right to Have Rights*
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The Right to Have Rights

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Introduction
The Right to Have Rights

I

Between the ages of 27 and 45, Hannah Arendt was a stateless refugee. In 1933, fearing for her life in Hitler's Germany, she sought safety in Paris. Two years later the Nuremberg Laws formally confirmed what she had already intuited from her experience: she and all other German Jews were no longer citizens of the Reich. Effectively, she was homeless. After the outbreak of the war in 1939, the French government interned her and other "enemy nationals" at a camp at Gurs in southern France. Amid the chaos caused by the German occupation of France in 1940, Arendt escaped and made her way deeper into the unoccupied part of the country. Seeking a way out of Europe, she appealed to US diplomats. However, the State Department discouraged the issuance of visas to any of the thousands of refugees fleeing the Nazis. Through a combination of sheer luck, quick thinking, and assistance from several individuals, including an American diplomat prepared to defy his government's directives, Arendt was able to secure a Nansen passport, a French

exit visa, Spanish and Portuguese transit visas, and a US emergency visa. These documents allowed her to travel, in 1941, to the United States, where she was granted asylum as a refugee. In 1951, she was naturalized as a US citizen.[1]

That same year, Arendt published her first English-language book, *The Origins of Totalitarianism*. In one of the book's central chapters, she reflected on what her experience as a stateless refugee had taught her about the ways in which individuals come to lose and gain rights. That Arendt was able to leave war-entrenched Europe, for example, had nothing to do with her humanity or the intercession of any concerned government: it was circumstance and accident. Whereas the Universal Declaration of Human Rights, which appeared in 1948 in response to these events, proclaimed that human beings have rights simply by virtue of being human, Arendt knew firsthand that in order to have rights, individuals must be more than mere human beings. They must be members of a political community. Only as a citizen of a nation-state can a person enjoy legally protected rights to education, to work, to vote, to healthcare, to culture, and so on. Hence, Arendt declared that before there can be any specific civil, political, or social rights, there must be such a thing as a "right to have rights."

Arendt was writing about her own time and experience. The argument of the present book, however, is that her phrase—"the right to have rights"—offers a key resource for thinking and acting politically in our own moment, especially in an age where an ever-increasing number of people across the globe are unable to secure meaningful membership in any political community. The most conspicuous group in this predicament are, of

course, the migrants and refugees who have been forced by violent conflict or climate change to flee their homelands and seek asylum in other countries. The United Nations High Commissioner for Refugees reports that, as of 2015, there are 65.3 million forcibly displaced people worldwide, 21.3 million of them refugees.[2] Those without functioning citizenship, however, also include the millions of undocumented immigrants, or *sans papiers*, who reside in countries without holding the legal permission to do so. A smaller but no less significant group includes those currently held in indefinite detention without trial by supposedly civilized governments. Yet another group comprises ordinary workers of many western nations who, although legally citizens of the country in which they live, find their ability to access the full range of citizens' rights threatened by the assault of neoliberal market fundamentalism on public institutions. Compounding the problems faced by all of these groups is the rise of neoliberal populist movements worldwide, which have made a trade out of xenophobic and nativist rhetoric and used this rhetoric, successfully, to gain political power—with, ironically, support from the disenfranchised citizens whose precarious predicament they have created.

A number of activists and scholars have already called upon Arendt's "right to have rights" to make sense of and intervene into our current struggles in democratic politics. Most of them, however, tend to treat the phrase as merely another, more poetic name for "human rights." This is perhaps understandable among activists who are eager to find assistance for their causes. However, even scholars who give Arendt's phrase, and the argument that threw it up, more thorough consideration tend to reduce the "right to have rights" to a new-and-improved version of human rights.

Arendt would have been critical of such a move. In her work, the phrase is born out of a critique of human rights. This critique is not only directed at the inadequacy of the institutional mechanisms meant to ensure the practical implementation of these rights, but also at the insufficiency of human rights as a theoretical concept coherent enough to become the basis of democratic politics.

This book aims to develop resources for democratic struggle by offering critical readings of the "right to have rights" that are attentive to subtleties, complexities, ambiguities, and potentialities too quickly glossed over in existing interpretations of the phrase. Without dismissing the importance of campaigns for human rights, the contributors to this volume aim to challenge the reflexive assimilation of Arendt's phrase into the paradigm of human rights. We do so by turning to the texts in which Arendt first developed the phrase and to those places in her larger body of work where we hear the phrase resonating. In all cases, we try to understand, as precisely as we can, the argument she makes and the rhetorical features of her texts, even when they might seem marginal or minor, as symptoms of her own intellectual struggle.

Moreover, unlike much of the scholarship that does exist on the "right to have rights," we find it important to look beyond the first "right" in the phrase. Taken together the four chapters give equal consideration to *all* of the construction's parts: its two nouns ("right" and "rights"), its infinitive verb ("to have"), and even its hidden subject. Thus, in the first chapter, Stephanie DeGooyer thinks critically about whether this single "right" to have rights really is any kind of foundation at all; in Chapter 2, Lida Maxwell examines the implications of the infinitive "to have"; the third chapter, by Samuel Moyn, considers

the oft-neglected pluralized "rights" in the phrase; and in Chapter 4, Alastair Hunt asks after the implied, but unnamed, bearers of the "right to have rights." The afterword by Astra Taylor looks outside the phrase altogether, to its relevance to the conditions of what she calls "transnational oligarchy," or the deterritorialized flows of capital that threaten to make all people, even citizens, dispossessed and rightless.

II

Arendt first spoke of "a right to have rights" in an article titled "'The Rights of Man': What Are They?," which was published in the 1949 summer issue of the short-lived American labor movement magazine *Modern Review*.[3] Two years later, she recycled large parts of this article, including the passage where the phrase appears, in the ninth chapter of *The Origins of Totalitarianism*, "The Decline of the Nation-State and the End of the Rights of Man."[4] It is in the context of this chapter that most readers of Arendt first encounter the concept of the "right to have rights."

In this chapter, Arendt details the ways in which the notion of human rights was put to the test in the decades after World War I, when millions of people were suddenly living in European countries without claiming citizenship to any of them. Such people fell into two, often overlapping groups: "national minorities" and "stateless persons." The former mostly resided in the new Eastern and Southern European countries formed out of the dissolution of the large multiethnic empires at the end of the war. These included, among others, Slovaks in Czechoslovakia (a

successor state to the Austro-Hungarian Empire) and Lithuanians in Poland (in the former German Reich). While these people were, in principle, citizens of the country in which they lived, they could not, as separate minorities within the dominant national culture, reliably depend on their government to guarantee them the standard legal protections routinely enjoyed by other citizens. Those in the second group, "the stateless," were both functionally and formally not citizens of any country. Indeed, they had been stripped of any citizenship they had possessed through governmental acts of mass denationalization. Among those affected were people from Spain, Turkey, Hungary, and Germany—including Arendt herself. The predicament shared by the minorities and the stateless, Arendt contends, was that, after losing their citizenship formally or functionally, both groups were transformed into something distinct from members of a political community. They were stripped to their bare status as members of the human species. No longer belonging to any nation-state, these people were "human and nothing but human."[5]

It is at this point, when people are human in this most reductive sense, that human rights should provide relief. As established by the United Nations, human rights—or the "rights of man," as they were still called in the early twentieth century—are the rights human beings possess simply by virtue of being human.[6] This conception of rights, Arendt observes, assumes the existence of "a kind of human 'nature'" from which "rights spring immediately."[7] To this day, human rights are said to be intrinsic to the very existence of human beings, regardless of nationality, gender, language, religion, ethnicity, or any other specific status. Since they are thought to be secured by the

idea of humanity as such and not bestowed by an earthly power, they cannot, or so the theory goes, be taken away by any earthly power:

> The decisive factor is that these rights and the human dignity they bestow should remain valid and real if only a single human being existed on earth; they are independent of human plurality and should remain valid even if a human being is expelled from the human community.[8]

Indeed, the three historical statements of human rights—the Declaration of Independence (1776), the Declaration of the Rights of Man and of the Citizen (1789), and the Universal Declaration of Human Rights (1948)—all boldly assert these rights to be "inalienable." When all else is lost, human rights are what humans fall back on as a natural birthright.

But far from finding any relief in their human rights, the minorities and stateless people in Europe who lacked citizenship, appearing to others to be purely human, were exposed to extreme forms of violence. Being human, as opposed to being a citizen, certainly did not save six million Jews from being killed by the Nazis. On the contrary, as Arendt emphasizes, the Nazis challenged the Jews' most basic of all so-called human rights, the "right to live," only after carefully turning them into human beings by depriving them of "all legal status" in the eyes of any government.[9] "The world," she writes with chilling understatement, "found nothing sacred in the abstract nakedness of being human." Being human proved—paradoxically from the point of view of human rights—to be a Jewish person's "greatest danger."[10]

If humanity is a mark of vulnerability rather than a

source of protection, citizenship comes into view for Arendt as the right that can enable the exercise of so-called human rights. In theory, of course, it was supposed to work the other way around. In the late eighteenth century, the newly founded American and French republics drew their legitimacy from their ability to ensure the protection of the natural rights that human beings already possessed. Nation-state citizenship was in some sense merely the concrete realization of these abstract rights. In practice, however, as Arendt points out, it turned out that the opposite was the case. The so-called Rights of Man could be enjoyed only as the rights of citizens. No one better understood this crux than minority and stateless persons in the twentieth century. The more these groups were rendered merely human by denationalization practices, the more they insisted on their nationality and the more urgently they claimed reintegration into a national community—despite the work of international organizations, to no avail.[11]

It is only near the end of this long argument about the disjunction between the theory of human rights and the lived experiences of those actually reduced to bare humanity that the "right to have rights" arrives in Arendt's text. Here is how the phrase first appears in *Origins*:

> We became aware of the existence of a right to have rights (and that means to live in a framework where one is judged according to actions and opinions) and a right to belong to some kind of organized community, only when there suddenly emerged millions of people who had lost and could not regain these rights because of the new global political situation.[12]

Having detailed the disparity between citizens who can enjoy their rights with some security and human beings who have been stripped of rights, Arendt's insight here is that the one right that is really needed, and missing, is the right to be a citizen of a nation-state, or at least a member of some kind of organized political community. Insofar as the right to be a citizen is the one right that makes enjoyment of all civil, political, and social rights possible, it seems natural for Arendt to call this right the "right to have rights."

The supreme importance of this right makes Arendt's refusal to draw any special attention to it all the more conspicuous. "The banality of evil," the phrase for which she is most well known, played a starring role in her 1963 book *Eichmann in Jerusalem*: it appears both in the book's subtitle and in rare italics at the end of the last sentence of the last chapter. But in *Origins*, the "right to have rights" is offered almost as a throw-away expression. The phrase appears just once, as one way, among several others, to describe the kind of right that those without citizenship sorely lack but desperately need. Even though Arendt added a second use of the phrase, this time with the definite article ("*the* right to have rights") to the revised edition of *Origins* in 1958, the phrase receives no preferential treatment and is not at all the climax to the chapter.[13] Rather, in the six pages following the introduction of the "right to have rights," the chapter continues to explore the predicament of rightlessness in preparation for the third part of *Origins* on full-blown totalitarian movements. The "right to have rights" flared up briefly in Arendt's thinking. It was not meant to be a watershed moment.

III

After it had been invented by Arendt, the "right to have rights" would wait some fifty years before garnering interest from scholars, activists, and the general public.[14] In fact, it was largely ignored for decades after it was articulated. Although *The Origins of Totalitarianism* was quickly heralded as an important book written by a brilliant new political theorist, none of its first reviewers mentioned the "right to have rights" or the chapter in which it appears. Compared to the heated, even scandalous, public controversy that surrounded the "banality of evil," the "right to have rights" was hardly noticed by anyone. Arendt herself paid the phrase no attention. She does not mention it in subsequent writings, even when the topic at hand, such as rights, statelessness, violence, or civil disobedience, would seem to invite its reprise.[15]

When the "right to have rights" was first welcomed into the world in the late 1950s, nearly a decade after its invention, it was at the cost of being treated as a foundling. In two opinions written in 1958, US Supreme Court Chief Justice Earl Warren invoked the phrase to oppose the US government's legal ability to strip citizens of their nationality. "Citizenship," he wrote in a dissenting opinion in *Perez v. Brownell*, "*is* man's basic right, for it is nothing less than the right to have rights."[16] It is clear from court records that Warren borrowed the expression from Arendt. (During their deliberation the Supreme Court Justices consulted a lower court's opinion on the case, which itself cited an article in an issue of the *Yale Law Journal* from 1955. This article quotes from *Origins* the phrase the "right to have rights.")[17] However, Warren did not acknowledge his citation in either of his opinions. As a

consequence, the "right to have rights" was, until quite recently, widely believed to originate with him. Indeed, a quick Google search reveals that most usages of the phrase until 2000 identify its author as Chief Justice Warren.

In the 1980s, the "right to have rights" almost received a wider welcome. French post-Marxist political philosopher Claude Lefort addressed the phrase a couple of times in "Human Rights and the Welfare State," an essay that occasioned a surge in efforts to rethink the concept of human rights as a resource for radical democracy. Lefort's mention of the "right to have rights" and acknowledgment of Arendt as its source was a chance for her invention to be more broadly disseminated in its original context. But Lefort's attribution is carefully qualified:

> Specific statements aside, [the American Declaration of Independence and the French Declaration of the Rights of Man and Citizen] granted the recognition of *the right to have rights* (the expression is borrowed from Hannah Arendt although she uses it in a rather different sense), and thus gave rise to an adventure whose outcome is unpredictable.[18]

Not only does he fail to mention the book from which he quotes Arendt, he folds the phrase into his own argument about human rights, sidestepping the argument that led Arendt to introduce it. All of this, moreover, occurs parenthetically. Unsurprisingly, Lefort's essay, as influential as it has been, hardly encouraged interest in Arendt's invocation of the "right to have rights." This is especially ironic since something like "his" reading of the right to have rights is already legible in *Origins*.[19]

After half a century of being plagiarized in US law,

hijacked in French political philosophy, and overlooked everywhere else, toward the end of the 1990s the "right to have rights" and the reasoning that produced it finally began to attract considerable attention from human rights advocates and scholars from various disciplines. Among the former group who turned to the phrase to make sense of political struggle was French citizen Nizar Sassi. In 2002, Sassi described his situation as a detainee inside the prison at the US military base at Guantánamo Bay as follows: "If you want a definition of this place, you don't have the right to have rights."[20] Some years later, as the Obama administration began to more aggressively clamp down on noncitizens working in the country without legal permits, the magazine of the North American Congress on Latin America argued that the "nation-state system" is "effectively denying migrant workers ... the 'right to have rights.'"[21] After Irish citizens voted in May 2015 to legalize gay marriage, one of the leaders of the political left in Italy celebrated the achievement as not just a lesson for his own traditionally Catholic country, but as "a victory for the beauty of the right to have rights."[22] In October of the same year, while Europe was finally waking up to the reality of the greatest forced migration and refugee crisis since the last world war, the European Council on Refugees and Exiles launched a social media campaign around the slogan, "Refugees have the right to have rights."[23]

While activists have mainly treated the "right to have rights" as an uncomplicated synonym for human rights, a more nuanced interpretation has emerged among scholars. The initial scholarly take-up of the phrase came from political theory, though interest soon spread to researchers from fields as diverse as sociology, literary studies,

political science, and jurisprudence. Turkish-American political theorist Seyla Benhabib was one of the earliest scholars to draw attention to the phrase. Her lucid interpretation, first stated in *The Reluctant Modernism of Hannah Arendt* (1996) and subsequently elaborated in various books and articles, has become the most widely influential.

One of Benhabib's principal concerns with the "right to have rights"—as Stephanie DeGooyer discusses in the first chapter of this book—is its foundation. As has been explained, the phrase was born out of the realization that in order to have rights, it seems that one must first have a right to be a member of a political community. And yet in calling it the "right to have rights," Arendt highlights a potential contradiction. For how can a person who does not belong to a polity assert a right to belong to one when the condition of asserting rights is belonging to a polity? Benhabib's explanation is that the repetition of the word "right(s)" masks the fact that the singular "right" and the plural "rights" belong to different orders of existence: the first "right" is a moral entitlement possessed by all individuals, while the second "rights" refers to legal entitlements possessed only by citizens. Even as this interpretation avoids letting the phrase founder on a contradiction, for Benhabib it raises the pressing question of the foundation for the first, moral right. She acknowledges that Arendt does not specify the ground on which the normative claim to belong to a community rests.[24] By withholding this ground, she argues, Arendt "leaves us with disquiet about the normative foundations" of the right to have rights.[25] Insisting that the only way to resolve this problem is to "leave behind the pieties of textual analysis,"[26] Benhabib posits that the "right to have rights" is

premised on a Kantian conception of each human being as a free, rational agent and, hence, an end in itself.[27] It is a right that each and every human being has simply by being "a member of the human species."[28] In other words, the "right to have rights" is Arendt's version of the traditional conception of human rights.

Arendt herself, as we note above, expressed grave concerns about whether being human was, in practice, enough to enable anyone to enjoy rights without also being a citizen of a nation-state. According to Benhabib, however, Arendt is too hasty in concluding that only citizenship in a nation-state can reliably guarantee rights to individuals. Changes in international law and politics since the publication of *Origins*, she contends, have created a forum above the level of the nation-state in which the rights of human beings who are not citizens can be asserted and enforced with increasing effectiveness. Principal among these developments are the Universal Declaration of Human Rights (1948), the Convention Relating to the Status of Refugees (1951), the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights (both 1976), as well as the institutions of compliance and monitoring that accompanied them, such as the United Nations High Commissioner on Human Rights and on Refugees and the European Court of Human Rights.

Benhabib admits that nation-states too often act as if their "exclusionary territorial control is an unchecked sovereign privilege which cannot be limited or trumped by other norms and institutions."[29]And yet, even if the right of all human beings to have rights is not already a reality on the ground, it is, she argues, a regulative ideal that the most powerful actors in national and international

politics are now forced to negotiate. National sovereignty, in other words, is increasingly constrained by international legal norms. Moreover, these legal norms are increasingly being interpreted in a more universal manner, through the interventions of judiciaries, international NGOs such as Human Rights Watch, and ordinary citizens. Indeed, the interactions of the hermeneutic actions of all three, she suggests, can encourage nation-states to confront their own indifference, even hostility, toward such noncitizens as stateless people, minorities, refugees, and *sans papiers*. In sum, she claims that the "right to have rights" increasingly finds articulation and enforcement in institutional law. "The right to have rights today," she asserts, "means the recognition of the universal status of personhood of each and every human being independently of their nationhood."[30]

IV

Indeed, Benhabib's interpretation of the "right to have rights" has inspired interest in the expression, especially among political scientists and human rights advocates. And for good reason. Approaching Arendt's throwaway phrase as neither a mantra for activists to repeat nor an academic puzzle for scholars to solve, her interpretation challenges us to see the "right to have rights" as a conceptual instrument for analyzing the terrible predicament of those who live on, or even beyond, the margins of political community. Benhabib also mobilizes the phrase to call for the reintegration of excluded subjects and to seek legal and political transformations that will help us avoid repeating these exclusions. Moreover, the fact that

she describes the "right to have rights" in the language of parliamentary politics, international law, and public debate brings opportunities for drawing on the power of political, legal, and cultural institutions to have real-world effects.

Nevertheless, it remains the case that Benhabib's interpretation of the "right to have rights" leaves many questions unanswered and also unasked. In the chapters that follow, we attempt to articulate and think through these questions in the hopes of offering alternative perspectives on the "right to have rights." We approach this task with the belief that reading the "right to have rights" will force us to account for what Arendt actually wrote, rather than what we want to realize ourselves through her writing. Our goal is not to return the "right to have rights" to its rightful owner or to propose an interpretation of the phrase that Arendt, as an author, would authorize. On the contrary, the readings here untangle threads of signification that Arendt herself was in all likelihood unaware of, following them in directions she probably did not anticipate. In doing so, we try to remain alert to the ways in which the "right to have rights" resists being read as a sign with a determinate meaning or meanings. In fact, from our point of view, Benhabib's wariness of "the pieties of textual analysis" can itself be read as an attempt to avoid grappling with the ambiguities of the "right to have rights."

In the opening chapter, "The Right...," DeGooyer addresses head-on the status of the first right in the phrase. This first right has been most famously interpreted as the normative foundation for the civic, social, economic, and political rights mentioned in the latter half of the phrase, or as a performative right. These readings, however,

ignore the anxiety evident in the repetition of the word "right(s)," an anxiety that Arendt gives voice to in her historical account of the total loss of empirical rights suffered by stateless minorities in the aftermath of the world wars and in her practical, if not philosophical, engagement with the conservative thinking of Edmund Burke. DeGooyer takes seriously the temporality of Arendt's narration—that the "right to have rights" can only be deduced in situations when human rights have already been lost—and in so doing, she questions whether we are correct to assign any radical importance to this first right. Now, more than ever, we need to think critically about the history in which Arendt situates the "right to have rights" rather than separate it out as a theorem or solution.

If rights only make their appearance in Arendt's analysis through their very loss, how, asks Lida Maxwell in Chapter 2, "...to Have...," can we understand what it means to "have" them? That rights are a kind of property that individuals own is arguably the most basic assumption underlying the modern conception of rights. It has certainly made the discourse of rights as detested by the Marxist tradition as it is beloved by the liberal tradition. Noting that Arendt was critical of such a discourse, Maxwell argues that Arendt offers a new way of understanding what it means "to have" rights. This is to understand "having" in the sense not of possession, but of an ongoing and collective project of creating community. As Maxwell admits, though this conception of rights is more positive insofar as it centralizes community-building, it is also a more ambivalent and fragile conception that is bereft of moral certainty and purpose.

Chapter 3, "... Rights," by Samuel Moyn reflects on Arendt's level of commitment to the pluralization,

fulfillment, and expansion of citizenship that the final word of the phrase seems to portend. In the rest of her political theory, Arendt was averse to offering a final vision of citizenship in terms of rights. She notoriously excluded the social question from the concerns of politics, thus ensuring that she was an acerbic critic of the social welfare projects that most defined her time. In our day, Moyn argues, we must recover Arendt's theory of the preconditions of inclusionary citizenship that make any rights possible. But to do so without remarking on her skepticism of imagining robust citizenship in terms of rights would be to fail to take the measure of her thought. If Arendt was interested not just in the right of prior inclusion but in the pluralized rights with which her phrase concludes, then this was not as a matter of the normative truth of the values. Rather, it seems worth seeking elsewhere, at the level of institutional schemes for the protection of plurality that are pursued, in one way, by national and international rights regimes.

Whereas each of the first three chapters in this book takes as its occasion one or more of the words that comprise the phrase the "right to have rights," Chapter 4 offers a reading of the conspicuous absence in the phrase of a name for the holder of this right. Against the virtually universal assumption that the subjects of the right to have rights are self-evidently human beings, Alastair Hunt reads the lack of a name for the holder of the right to have rights as a sign of wariness about repeating the assumption, so manifest in human rights, that only human beings are subjects of rights. He makes his case by considering Arendt's overlooked criticism of human rights as a biopolitical fantasy as well as her presentation of the right to have rights as a resource for critically

contesting established assumptions about who counts as a subject of rights. A thorough examination of both, he argues, suggests that being human is neither a sufficient nor a necessary feature of subjects of the right to have rights. Instead, the "right to have rights," liberated from its capture by humanism, offers a way to recalibrate the project of radical democracy from the recognition that the real plurality that functions as the condition of political community includes the nonhuman living creatures with whom, one way or another, we already live.

Annex 34

M. Habib *et al.*, *Forced Migration of Rohingya: the Untold Experience* (Ontario International Development Agency 2018)

Forced migration of Rohingya : the untold experience / Mohshin Habib, Christine Jubb, Salahuddin Ahmad, Masudur Rahman, Henri Pallard ; photographs, Salahuddin Ahmad



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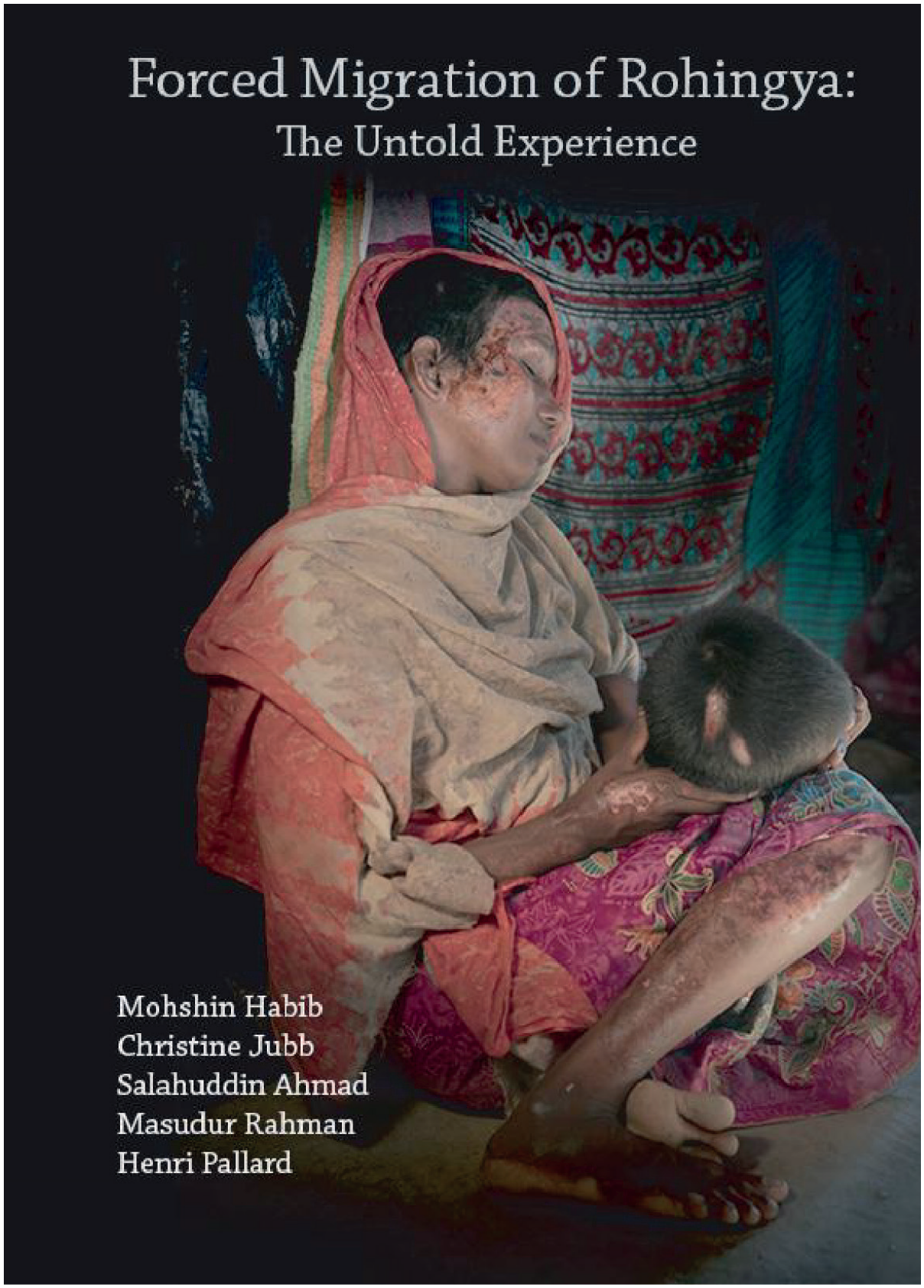

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Printed in Bangladesh

Dedicated to forcebly displaced Rohingya people

and

Hon'ble Sheikh Hasina, Prime Minister of the People's Republic of Bangladesh for her humanitarian leadership in saving Rohingya lives by offerring refuge in Bangladesh

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Executive Summary

The mass exodus of Rohingya people from Myanmar in 2017, has been recognised as the fastest growing refugee influx in the world and these refugees are currently living in the most densely populated camps in the world in Cox's Bazar district in Bangladesh. The long-standing, recurring crackdowns have left an estimated population of only 200,000 in Myanmar of an estimated 2.4 million Rohingya across the world. The recent mass exodus has been described by United Nation's officials as a classic case of ethnic cleansing (Washington Post, October 12, 2017) and a hallmark of genocide (CNN, March 13, 2018). Alongside humanitarian urgencies, there are numerous challenges, including human rights, legal and geopolitical issues, and economic and environmental implications. Thus, the Rohingya Crisis demands multiple and multidimensional approaches to help Rohingya people with immediate rehabilitation and finding a sustainable solution through repatriation to Myanmar.

This current report presents the findings of an international collaborative research effort that entailed interviewing 3,300 Rohingya households living in the makeshift camp, Cox's Bazar, Bangladesh. The report investigates various dimensions of the life of Rohingya people in Myanmar and the extent and nature of atrocities experienced in Myanmar. This report also provides the socio-political and cultural contexts of Rohingya people and their experiences before fleeing to Bangladesh. One of the major contributions of this report is revealing the types and extent of long-term social, economic and political exclusion that Rohingya people faced at a community and national level in Myanmar.

This project investigates the socio-political and cultural context of Rohingya people and their experiences before fleeing to Bangladesh. It investigates the socio-economic lives of Rohingya people, and the emergence of various issues connected with short- and long-term rehabilitation and resettlement in Bangladesh. The project examines ethnicity and preservation of cultural heritage, their sources or earning and the levels of economic activities of Rohingya people in the Bangladesh camps. It also documents the health and wellbeing of Rohingya refugees living there. One of the major contributions of this project is to record the responses and

reactions of Rohingya people about the repatriation process, and possible compensation for their losses before returning to Myanmar. This research utilised a researcher-constructed semi-structured interview guide and a qualitative interview guide for primary data collection, including photography and videography.

The findings reveal far greater incidence of murder, rape, beatings and gunshot wounds experienced by Rohingya people in the August 2017 incident before fleeing to Bangladesh that has been reported previously. Crimes against property in terms of houses burned down, crops and businesses damaged and theft are also estimated at levels above those previously reported. Most respondents wanted to return as soon as possible to Myanmar, but wanted citizenship to be granted to them and for perpetrators of crimes to be prosecuted first.

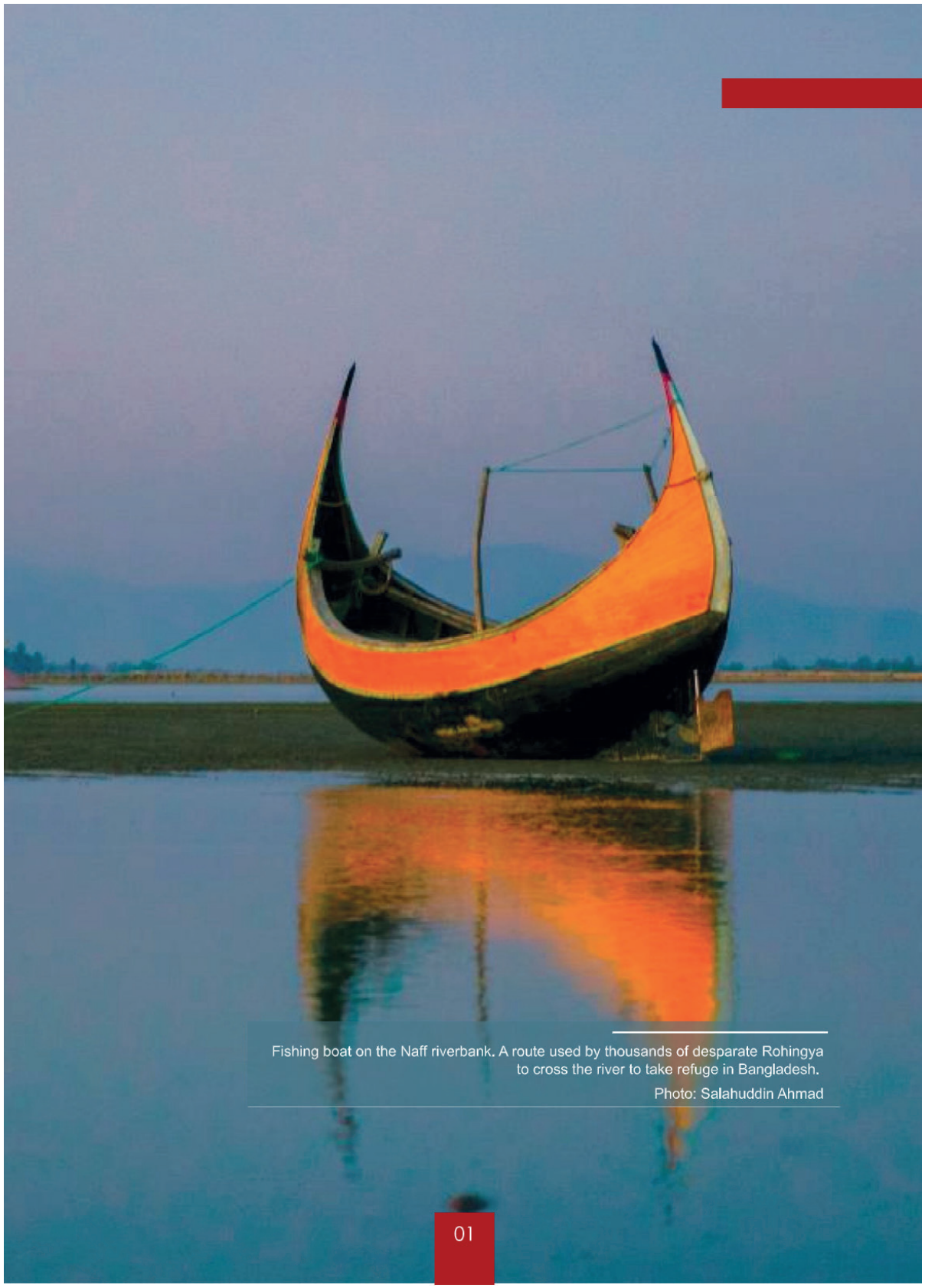
This project is conducted by a research consortium consisting of academics and practitioners from Australia, Canada and Norway and national and international institutional partners, namely ASA Philippines Foundation, Ontario International Development Agency, Institution of Diploma Engineers Bangladesh (IDEB), Education for Skill Development (ESD) and Film for Peace Foundation (F4P).

Acknowledgements

The team gratefully acknowledges the cooperation and patience of the "victims of atrocities" - the participants - 'Rohingya households' who have given their trust to the researchers and willingly participated in in-depth interviews. We recognise the wholehearted support from our industry partners and their cash and in-kind support for the project. We also thank all our researchers, graduates from Cox's Bazar International University and Chittagong University who meticulously followed instructions and collected alarge dataset in a most challenging environment. We particularly acknowledge the researchers for coping with significant levels of physical and emotional challenge that confronted them in recording graphic descriptions of atrocities experienced by the majority of interviewees. We also acknowledge unparalleled support from Mr. Ali Hossain, District Commissioner, Cox's Bazar. Without his help this research would have been impossible to conduct. Finally, to our families in the East and West, we thank you for allowing us to undertake this task which was entirely completed during valuable family time.

List of Abbreviations:

ARSA	Arakan Rohingya Salvation Army
BBC	British Broadcasting Corporation
BDT	Bangladeshi Taka
CI	Chief Investigator
CNN	Cable News Network
ESD	Education for Skill Development
GIS	Geographic Information system
GPS	Global Positioning System
IDEB	Institution of Diploma Engineers, Bangladesh
IDP	Internally Displaced People
ISCG	Inter-Sectoral Coordination Group
MSF	Medecins Sans Frontieres
NGO	Non-Government Organizations
PI	Partner Investigator
RRR, R	Rehabilitation, Resettlement and Repatriation of displaced Rohingya
UN	United Nations
UNCHR	United Nations High Commissioner for Refugees
UNITAR	United Nations Institute for Training and Research
USD	United States Dollar
WHO	World Health Organization



Fishing boat on the Naff riverbank. A route used by thousands of desparate Rohingya to cross the river to take refuge in Bangladesh.

Photo: Salahuddin Ahmad

Introduction

The Rohingya ethnic minority population has faced recurring military crackdowns, and many have fled to Bangladesh and other parts of the world over the years; in 1978, 1991, 1992, 2012, 2015, 2016 and 2017. It has been well documented that August 25, 2017 marked the beginning of the recent military crackdown on Rohingya people living in Myanmar. There is wide acknowledgement that this latest incident in a long standing series of incidents inflicting harassment and worse on Rohingyas began with an attack on Myanmar police by Rohingya militants calling themselves the Arakan Rohingya Salvation Army (ARSA) that resulted in the deaths of 12 security personnel (Gee 2017).

The response by the Myanmar army and police was swift and brutal, with a level of violence that has seen 1.1 million Rohingya flee to neighbouring Bangladesh. The Rohingya Muslim ethnic minority in Rakhine has been subject to persecution for decades at the hands of Myanmar's Buddhist majority, who consider them to be illegal immigrants from Bangladesh. The military junta that ruled the nation for decades stripped them of their citizenship and rights (Lederer 2017). This report documents responses by principles of households in one refugee camp in Bangladesh to questions about the situation they faced in Myanmar prior to the August 25, 2017 incident and the current situation in Bangladesh.



Another early marriage of a teenager living in the makeshift Refugee camp in Bangladesh.
Photo: Salahuddin Ahmad

Background:

The Rohingya represent an ethnic minority that evolved and grew in Arakan over centuries and was well settled there long before Burma became independent in 1948. The Rohingya enjoyed citizenship and had a National Registration Card (NRC). They participated in all elections until 2011 in Myanmar. This population has experienced unprecedented government oppression over decades and repeatedly been subject to state-sponsored violence and torture, particularly after Ne Win took over in 1963.

The discriminatory policies and persecution led to an exodus of Rohingyas to Bangladesh in 1978-79. Subsequently, about 240,000 returned to Burma as "lawful residents" of Burma. Following a 1982 citizenship law that denied them citizenship their situation and legal status worsened. Persecution led to another refugee situation in 1992-93. Myanmar then accepted the Rohingyas as residents and committed to "integrate them as a member of Myanmar society". However, their marginalisation and discrimination not only continued, but became accentuated. Rohingya people faced violence in 2012 and were interned in Internally Displaced People (IDP) camps (Brady 2013) and were subject to harsh restrictions and movements. Finally, in 2015, they were deprived of their voting rights, the final act of their delegitimisation in Myanmar. They faced a policy of deportation after 2016 October attacks by a self-claimed group called Arakan Rohingya Salvation Army (ARSA) and further attacks in 2017 led to a full-blown humanitarian and refugee crisis (Gee 2017). Holliday (2014), Cheeseman (2017) and Alam (2018) provide detailed historical explanations of the treatment of Rohingya in Myanmar.

Since August 2017, by some estimates more than 800,000 Rohingya have crossed the border and sought shelter in Bangladesh (MSF 2017). This mass exodus was described on September 11, 2018 by the top human rights official for the United Nations as a classic case of ethnic cleansing (Washington Post, October 12, 2017) and a hallmark of genocide (CNN, March 13, 2018). Currently, 1.1 million of an estimated 2.4 million Rohingya across the world are living in Bangladesh (BBC, 2018).

International communities have praised the courageous and humanitarian leadership of Prime Minister Sheikh Hasina for opening the border and accepting the Rohingya Refugees. This means that a economically struggling Bangladesh and already over crowded, is now shouldering much of the burden for a million Rohingya individuals. The long-standing and recurring crackdowns and systematic strategy to remove Rohingya peoples from Myanmar's responsibility for their political, social, moral and physical protection have left a population of only an estimated 200,000 in Myanmar of an estimated 2.4 million Rohingya across the world. Doctors Without Borders estimated that there had been 6,700 cases of death among Rohingya people during their mass exodus from Myanmar in August 2017 (MSF 2017). However, other reports and analysts tend to believe that the causalities were much higher (ABC 2017, Barron 2018a, Guardian 2017).

Several studies had investigated the experience of Rohingya people in Myanmar before they fled to Bangladesh and a number of agencies, including media, have reported on the levels and extent of atrocities that Rohingya people experienced during their mass exodus in August 2017. However, no study explores the socio-economic issues facing Rohingya people in Bangladesh or those anticipated, should they be able to return to their home, nor the emergence of various issues associated with rehabilitation in camps, their repatriation or long-term resettlement issues. There is also an urgent need to examine ethnicity and issues of preservation of their cultural heritage, skills sets, socio-political participation and engagement of the Rohingya people in camps from a broader perspective.

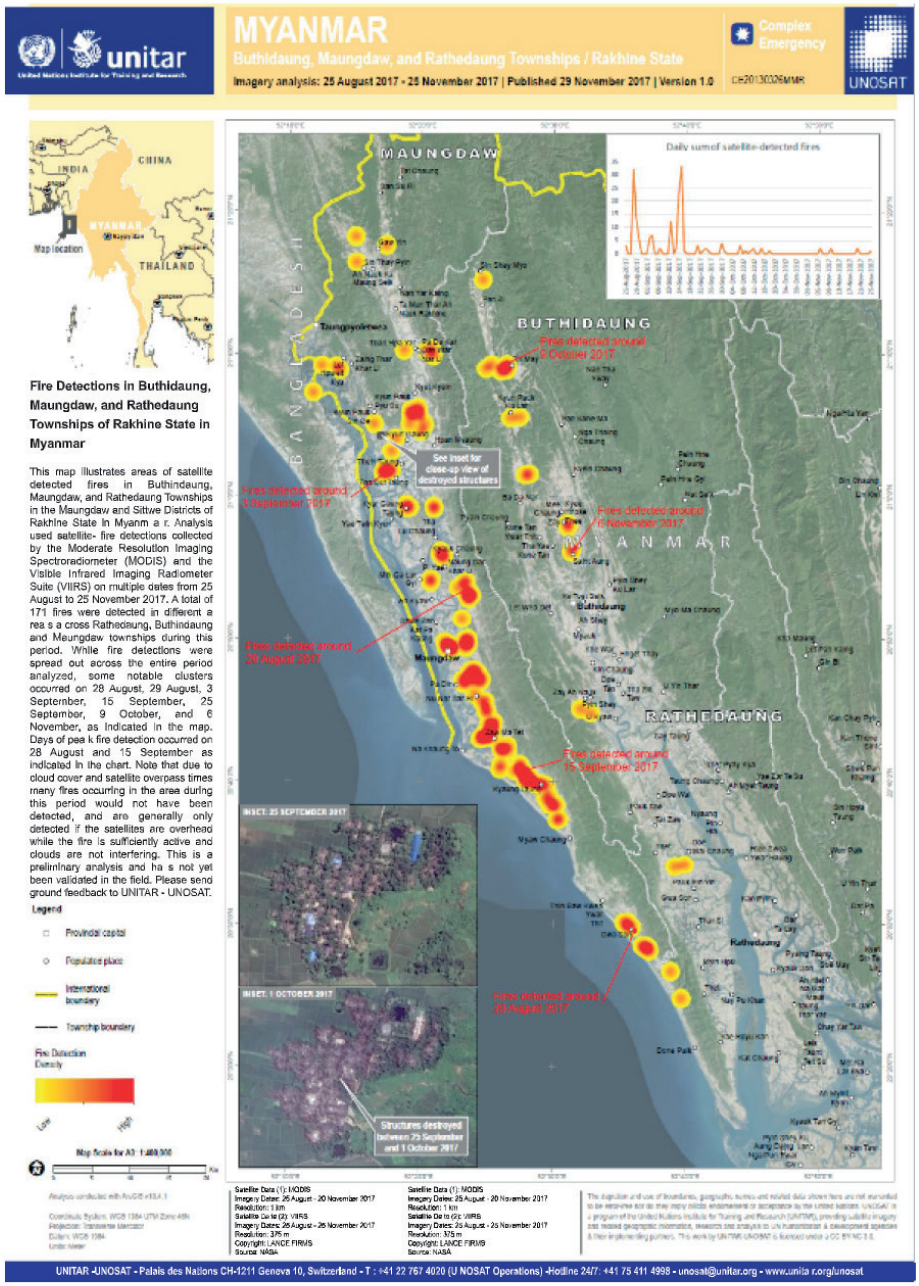


Figure 1 : Fire Detections in Buthidaung, Maungdaw, and Rathedaung Townships of Rakhine State in Myanmar (UNITAR, 2017c).

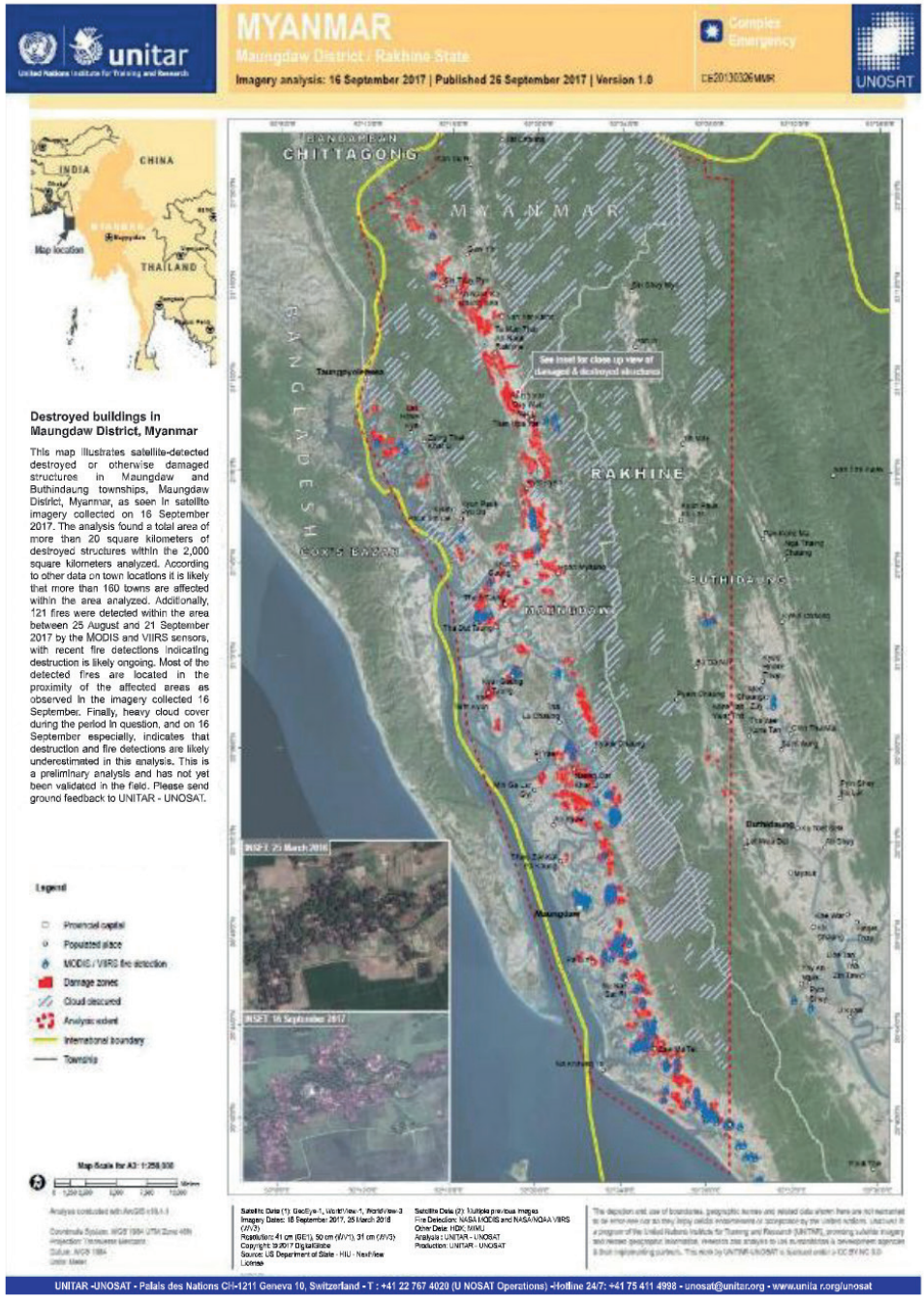


Figure 2 : Destroyed areas in Buthidaung, Maungdaw, and Rathedaung Townships of Rakhine State in Myanmar (UNITAR, 2017b).

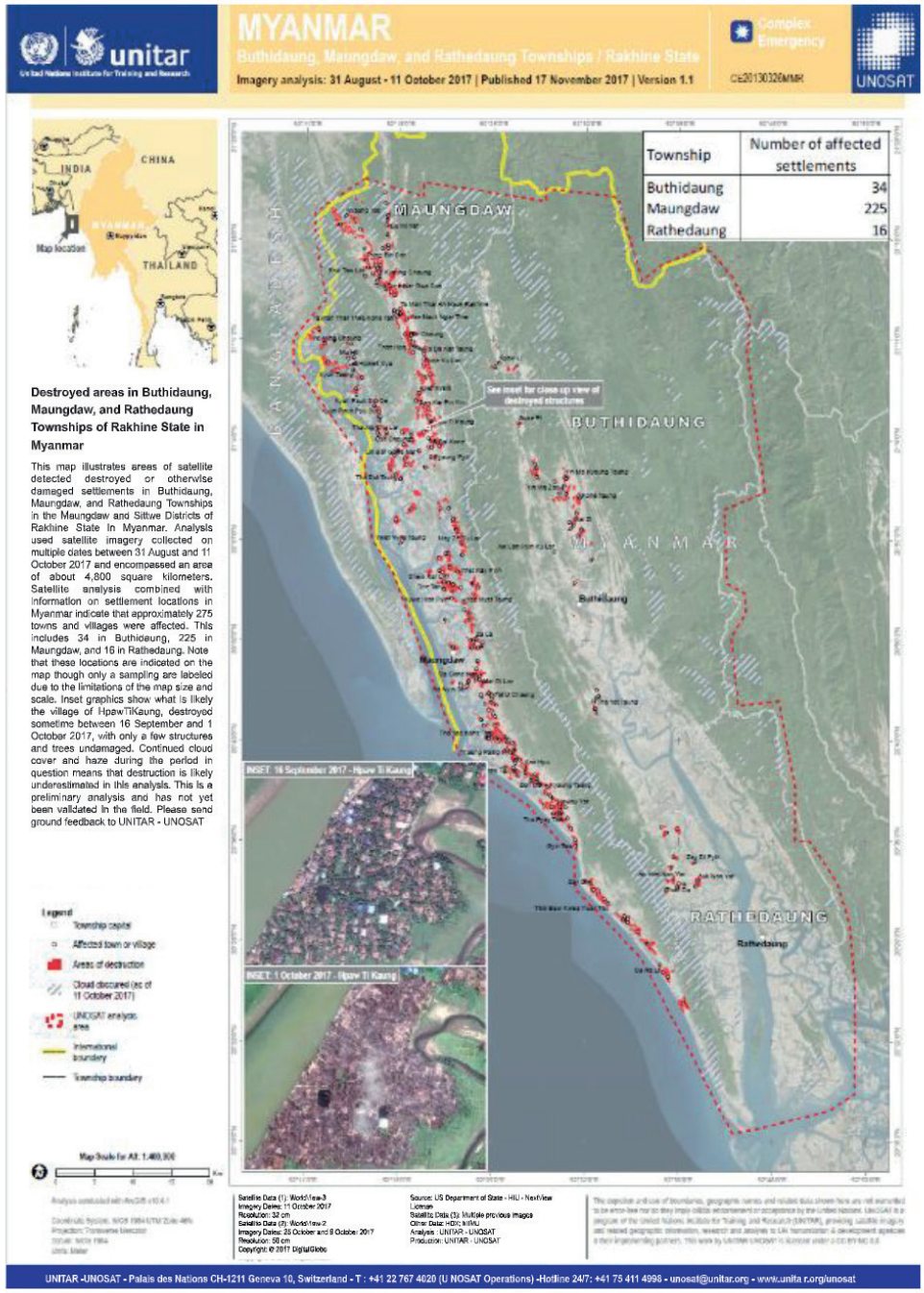
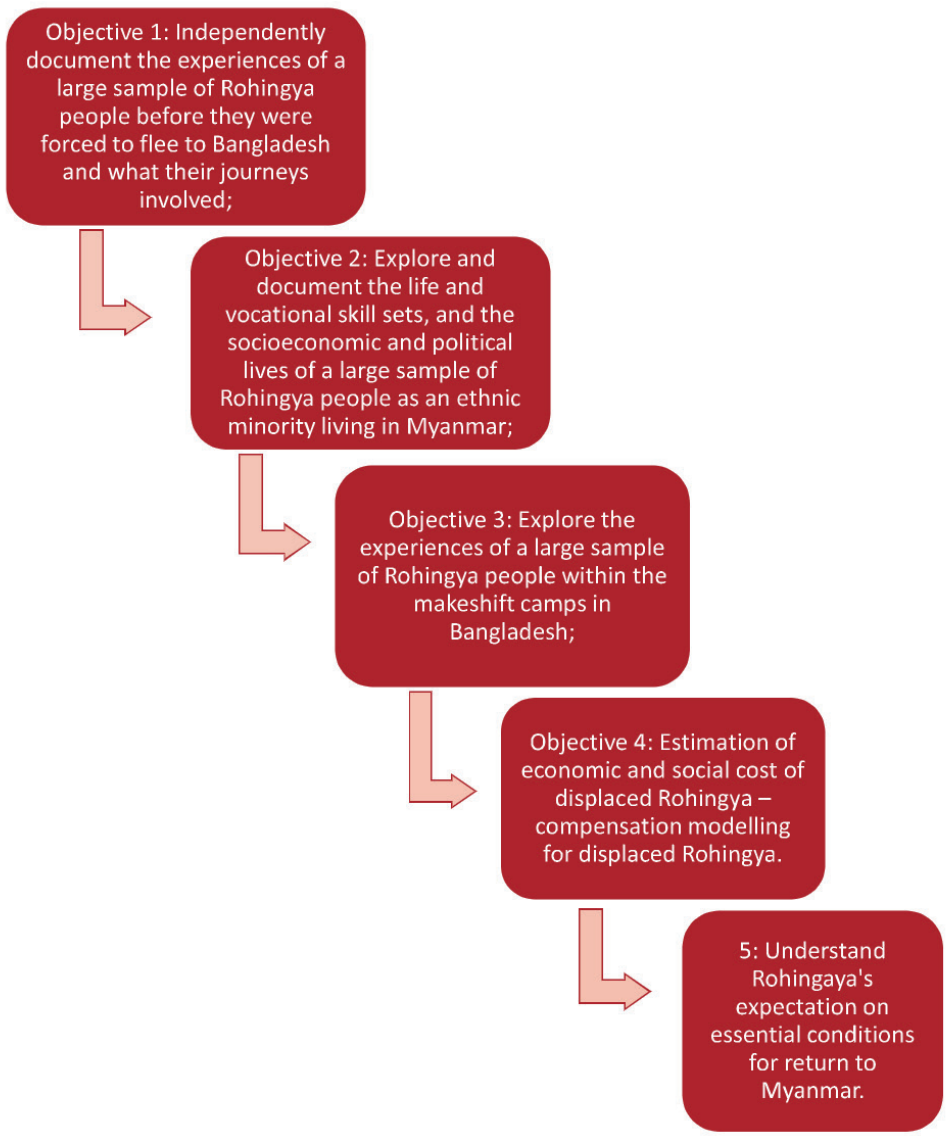


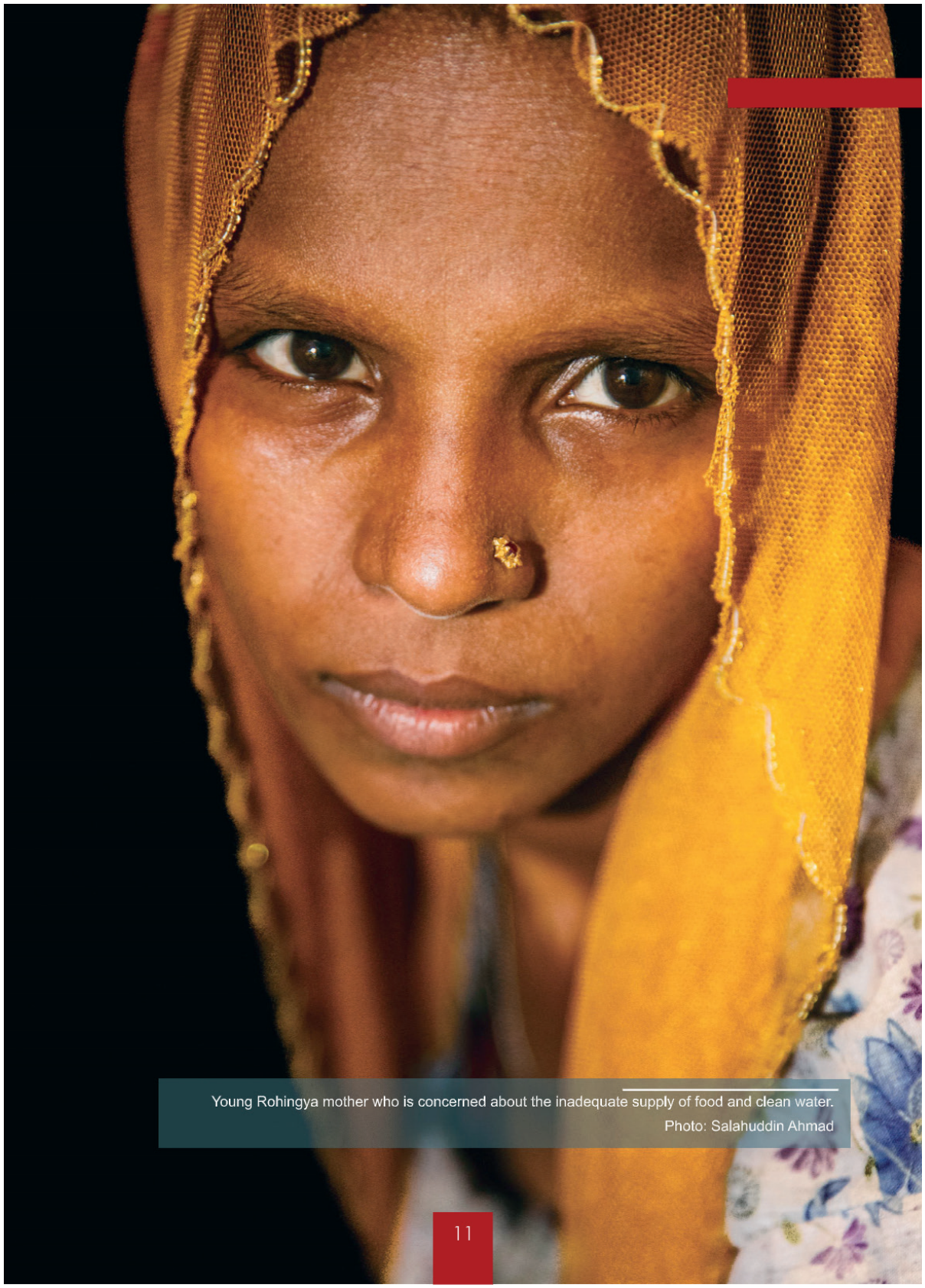
Figure 3 : Destroyed buildings in Maungdaw and Buthindaung townships, Maungdaw District, Myanmar (UNITAR, 2017a).

Research findings in the foregoing areas will not only enable the Government and aid agencies to more effectively coordinate extended aid services (including food security, sanitation and primary health; and education services) for a million Rohingyas living in Camps in Bangladesh, but also to undertake a process of consultation and engagement in order to develop a repatriation process for their return to Myanmar.

Alongside humanitarian urgencies, there are numerous challenges, including human rights, legal and geopolitical issues, economic and environmental implications. Thus, the Rohingya Crisis demands multiple and multidimensional approaches to help Rohingya people with immediate rehabilitation and finding a sustainable solution through repatriation to Myanmar. To ensure these goals can be achieved, a team of researchers from four countries and with broad expertise across the fields of development economics, sociology, anthropology, environment, international law and national and international organisations (including non-profit, private sector) have come together to conduct research into the background, rehabilitation, resettlement and repatriation of Rohingya people currently living in Bangladesh. This study was implemented with the intention to achieve the following objectives:

Research Objectives



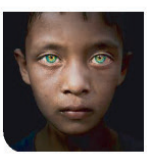


Young Rohingya mother who is concerned about the inadequate supply of food and clean water.
Photo: Salahuddin Ahmad



A Rohingya mother with her three children mourning for her elder son.
Photo: Salahuddin Ahmad








Research design and implementation:

This project was implemented in a **four-stage** process. The first **two stages** involved analysis of historical data and background information and help appreciating the epistemology of the Rohingya crisis. This analysis contributed to the **research design** of the overall project and development of data collection tools. The two remaining stages involved the research instrumentation process, including sampling techniques, data collection and quality control activities. Segmentation of the design and implementation phases allowed development of a quality data collection tool, design of an interface for effective knowledge transfer to in-field research assistants, and implementation of complex data collection procedures for a large sample study.

Research Design:

Stages one and two entailed the research design process that includes the literature review, conceptualisation and development of research tools. These two stages are outlined below:

Research Design Process

Stage one entailed conducting an initial literature review on the cultural ethnicity and the social and economic lives of Rohingya people, rehabilitation and resettlement of refugees, how recent Rohingya refugee crises have unfolded over the last two decades, and the role and activities of Governments and international humanitarian agencies in addressing the crises.

In **stage two**, the initial review of relevant literature and information from international media informed and equipped the research team with the necessary background knowledge to develop a semi-structured interview guide for primary data collection from participants in the refugee camps in Bangladesh. The research team also developed an open-ended qualitative interview questionnaire that was used for qualitative data collection and analysis using a mixed-method approach.

Research Implementation process:

The research implementation process is divided into two stages. The following describes the two stages of the research implementation process.

Research Instrumentation Process

In **stage three**, the researchers utilised a variety of scientific methods and techniques *(identified from relevant literature)* for selecting research areas, for field management and quality control of the data collection process.

Stage three of the research instrumentation and implementation process was divided into two steps. **Step one** entailed core functions of selecting the ***'study area'*** and **step two** entailed calculation of sample size or ***'population sampling',***

Stage four involved actual data collection and quality control processes, including photography and videography.

Step one - study area:

Among the 1.1 million Rohingya currently living in Bangladesh (BBC, 2018). This study particularly targets the displaced Rohingya population who have experience atrocity crimes during August 2017 crackdowns. Thus, the total number of Rohingya refugee arrived between August 2016, and January 2018 (when the interview of the current study was conducted) were 650,000 Rohingya people had crossed the border and sought shelter in Bangladesh (Alam 2018). The Bangladesh Government has allocated 4,000 acres of public land in a forested area (Ahmed, 2018) in five local township areas (Union) in Ukhiya, Tenknaf and in Cox's Bazar districts for the newly arrived Rohingya refugees, as there were Rohingya camps and unorganised settlements even before August 2017. The Bangladesh Government, with assistance from the International Migration Organisation, UNHCR, MSF, Red Cross and other international agencies, has provided makeshift shelter arrangements for displaced Rohingyas. Figure 4 depicts the estimated numbers of such refugees by locations within Bangladesh.



Step one under **stage three** involved identifying the camp locations using high-resolution aerial imagery (including satellite and drone images) and other geospatial techniques, such as maps of zones created by the Inter-Sector Coordination Group (ISCG) - Bangladesh. Using ISCG zoning system geo-spatial products, the research team created zone centorID using ArcGIS 10.3. Then, mobile phone GPS technology and Avenza maps apps were used by the research team to navigate to the zone centroid.

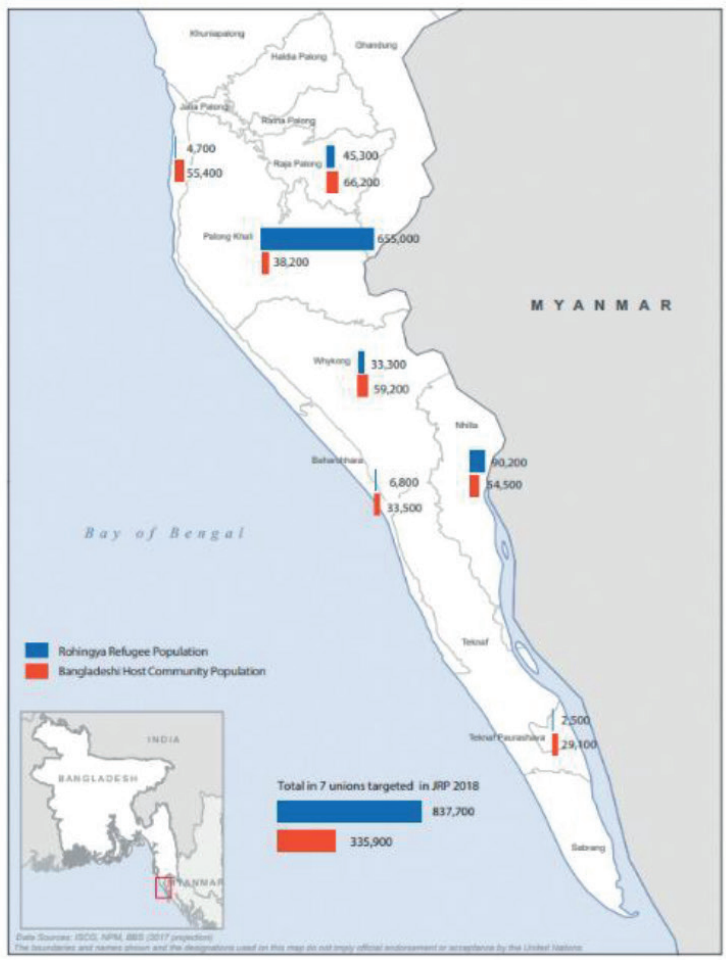


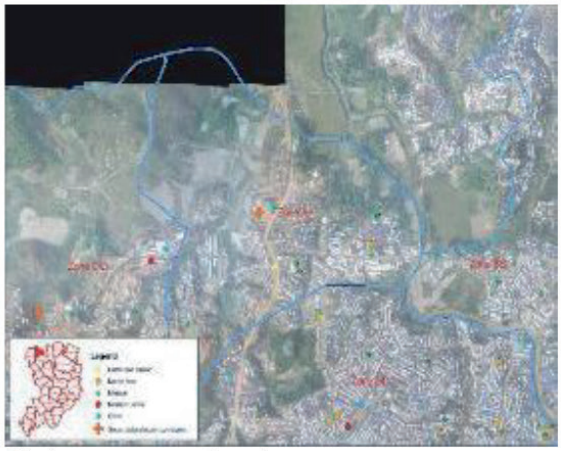
Figure 4 : Location and number of displaced Rohingya and host community people in Cox's Bazar district in Bangladesh as of February 2018 (Humanitarian Response 2018).

Step two - sample size calculation:

Another core activity under the **stage four** was to calculate the sample size for the study. The ISCG formed to manage the crisis produced a series of spatial information, including high-resolution aerial images of the campsites. Analysing the spatial datasets and related attributes in ArcGIS 10.3, the research team identified 33 camp zones where, post-August 2017, the displaced Rohingya population is residing and 100 households[1] were selected from each of the 33 zones. Sector centroid was created using ArcGIS 10.3; and 33 geo-referenced pdf maps were created (one for each sector) using a combination of high-resolution drone imagery, road networks and known infrastructure (Figure 5). Those georeferenced pdf maps were uploaded to Avenza Maps apps and used for navigational purposes. Once the research interview team reached the zone centroid, male and female members working in pairs randomly visited 100 households within that zone. Household heads[2] aged usually between 18 and 99, male or female, were invited to participate in interviews if they consented.

Therefore, **step two** entailed members of the research team contacting the Rohingya leaders (known as Majhi) in each zone where they live, who are responsible for coordinating other fellow Rohingya people for communication, translation services or, to some extent, supporting the Bangladesh Government or other international agencies for relief coordination. These 33 Majhis (Rohingya leaders in 33 different zones) assisted the researchers to approach Rohingya households for participation on a voluntary basis in interviews.

[1]A group of two or more people who make common provision of food or other essential for living.
[2]Household head is considered the principal member of the household.



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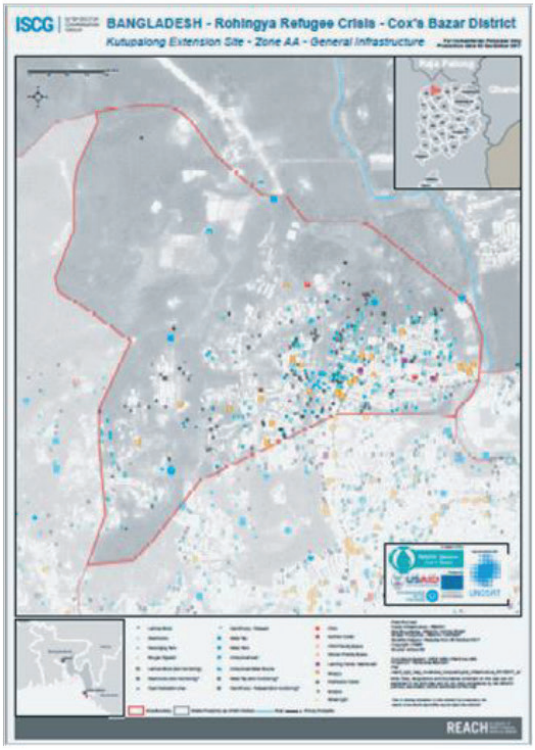


Figure 5: An example of georeferenced pdf zone map with high resolution drone image, road and other infrastructure (left) and infrastructure map (right) for navigational use (maps adopted and modified from ISCG).

Justification for recuiting these participants:

The project targetted the post-August 2017 Rohingya refugees who fled to Bangladesh as respondents. The recent influx (post-August 2017) of refugees has received substantial media attention around the world and has been defined by the UN as a "textbook example of ethnic cleansing" (Barron 2018c). This refugee population has allegedly experienced atrocities committed by the Myanmar army and security forces (Banyan 2018), and there is an urgent need for independent research of this population and their experiences. Moreover, these refugee camps are the most densely populated makeshift camps in the world (Solomon 2017), where the highest concentration of refugees is taking shelter on humanitarian grounds. Finally, there has been no independent research undertaken on this, one of the most significant refugee crises that the world has experienced in terms of the number affected and displaced within such a short timeline. Appropriate research design through systematic sampling of household heads, a well-designed semi-structured interview protocol, trained interviewers, robust analysis of data and interpretation of findings have the potential to inform about dealing with and emerging from humanitarian crises which will be of interest to government and non-government aid organisations, policy makers, regulators and governments.



Rohingya people take refuge on the hills on Teknaf, Cox's Bazar, Bangladesh. No space is left unused in this densest population place on earth.

Photo: Salahuddin Ahmad








Participants selection "inclusion and exclusion criteria"

Household heads, aged over 25, males or females, from the displaced Rohingya population who fled the Rakhine state of Myanmar after August 2017, currently living in spontaneous camps established in Ukhiya, Teknaf and Cox's Bazar, Bangladesh, were recruited for voluntary participation in face to face structured interviews and in-depth unstructured or open-ended interviews.

Stage Four - data collection and quality control process:

Data collection procedures:

In stage four, researchers (a pair of research interviewers (RA) - Male & Female) approached random households starting from the zone centroid, 'knocking' at individual makeshift 'houses', making known that this research was being undertaken and inviting each prospective participant to take part in a semi-structured interview. Once a household agreed to participate, after receiving or being read the Consent Information Statement, the actual 25-30-minute semi-structured interview commenced. In this process, the male RA interviewed only male participants (heads of households), and the female RA interviewed female participants (heads of households). Participants were given the right to discontinue the interview at any time and then the RAs invited different (replacement) households to participate. In this way the RAs approached and interviewed individual households until they completed 100 household semi-structured interviews from each zone.

Stage four also involved conducting 34 (17 male and 17 women from 34 households) in-depth unstructured interviews with willing heads of households. These interviews were conducted by the CI or PIs together with a senior female research coordinator of the research project. One household was selected randomly from each zone out of the 33 zones where the data collection was taking place. The open-ended interviews took approximately 30-45 minutes each. A right of replacement to interview another household participant was also applied when any head of household preferred not to participate.

Field management and Quality Control:

To ensure high standard data was gathered, a significant amount of training of research interviewers and field operations managers was provided by specific members of the research team. The CI and some of the PIs spent at least 80 per cent of the total data collection period with the data collection team and ensured data quality was not compromised. During this time, many camp inhabitants were asked by a member of the research team for their consent to be photographed or videographed to create a pictorial record of the situation in the camp. Where permission was given, visual recording proceeded. The organisational structure of the data collection team is given below in Figure 6:

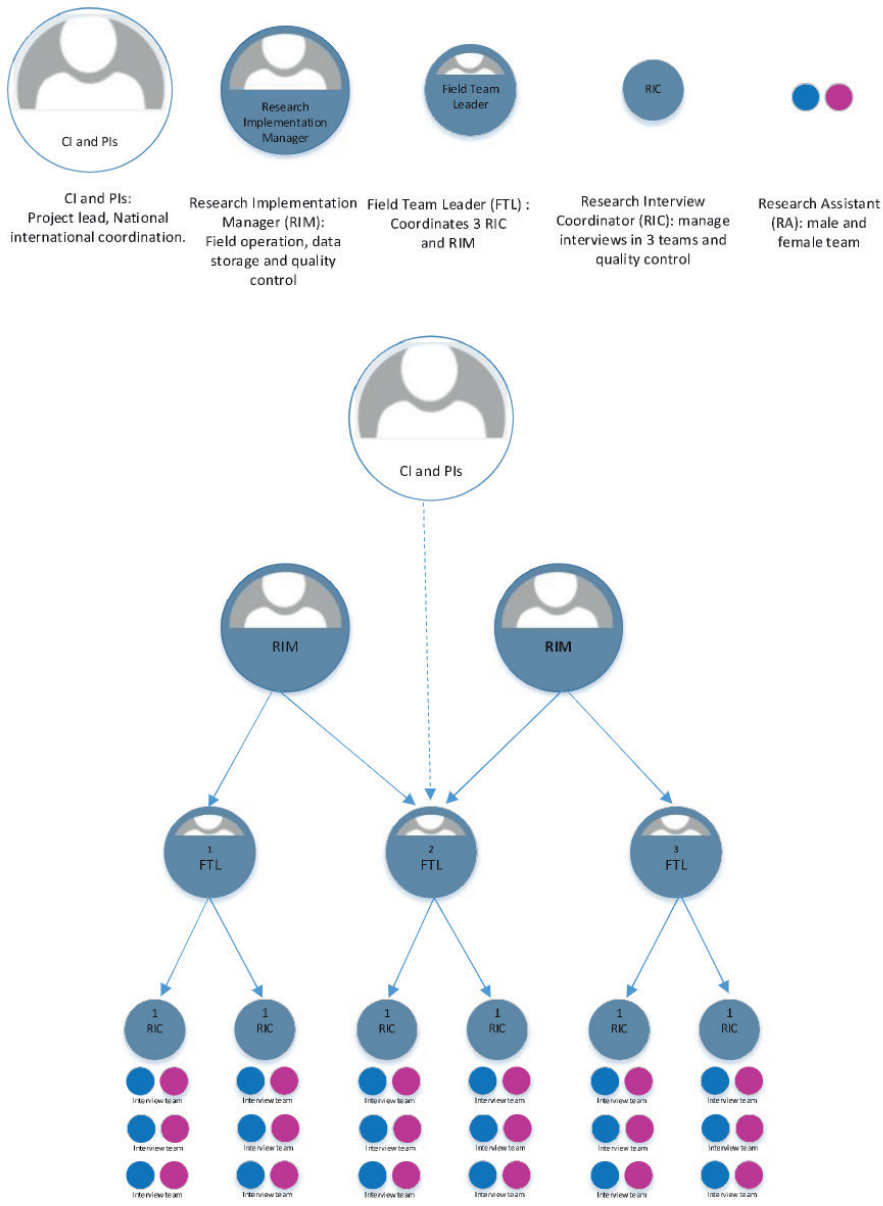


Figure 6: Research data collection, management and quality control team organogram



Two Rohingya boys with an elderly person in a sling tied to a bamboo beam on their way to a nearby short-term health centre.

Photo: Salahuddin Ahmad








Results and Discussion

Study sample:

As detailed in the 'Research instrumentation process' (under research design), the research team analysed the ISCG spatial dataset and related attributes in ArcGIS 10.3 and identified 33 camp zones where, post-August 2017, the displaced Rohingya population is residing. Thus, 100 participants' households were randomly interviewed in each zone, giving a total of 3,300 households by the end of the quantitative data collection process. However, the quality control process involved discarding 80 household interviews for various reasons, including, data validation errors, data inconsistency, invalid answers, extreme values recorded, etc. Consequently, a total of 3,221 household interviews from 33 zones comprise the final sample for data analysis. Descriptive statistics for responses to structured questions are presented in the following sections.

Descriptive Statistics:

The 3,221 household heads came from 23 townships and 1,306 villages in Myanmar. Of the 3,221 households interviewed, Table 1 documents that 56 per cent have male heads and 44 per cent female heads. The average household head age is 37 years, with the average for males being 39 years and females 36 years, with a range from 16 to 102 years and 16 to 98 years respectively.

Annex 34



Abdun Nobi's home has been burnt and he withstood a bullet on his femur.
Photo: Salahuddin Ahmad

Table 1 Gender and Age of Household Heads

Gender of Household Head	N	%	Average Age (years)	Min Age	Max Age
Male	1,810	56.2	38.6	16	102
Female	1,411	43.8	35.8	16	98
Total	**3,221**	**100.00**	**37.2**	**16**	**102**

Despite the wide age range for both genders, household heads are predominantly young as Table 2 reveals, with 56.3 per cent of male and 58.5 per cent of female household heads aged between 21 to 40 years.

Table 2 Frequency of Household Head Age Ranges

Age Range (years)	Male (N)	%	Female (N)	%	Population (N)	%
<=20	149	8.2	162	11.5	311	9.7
21 -30	590	32.6	529	37.5	1,119	34.8
31 -40	428	23.7	296	21.0	724	22.5
41 -50	254	14.0	237	16.8	491	15.2
51 -60	243	13.4	123	8.7	366	11.4
61+	145	8.0	64	4.5	209	6.5
Total	**1,809**	**100**	**1,411**	**100**	**3,220**	**100**

Together with the 3,220 household heads, these households comprised 16,314 family members (8,785 or 54 per cent under 18), with dependent children most frequently aged between 6 to 12 years, as reported in Table 3 and 54.3 per cent of those aged over 18 unmarried. With 282 households reporting the presence of children under 6 months of age, and 344 of these babies reported in total, this means that breastfeeding mothers are likely to be represented in 8.8 per cent of households.



A playful Rohingya baby who is yet to understand the complexities of displaced life.

Photo: Salahuddin Ahmad








Table 3 Number of Households and their dependent children

	Household Heads with Dependents in each Age Range	Age Ranges of Family Members		%
	N	N	%	%
Number of newborns (1-6 months old)	282	344	3.92	
Number of infants (7 months–5 Years)	1,497	2,594	29.53	
Number of children (6-12 years)	1,633	3,119	35.50	
Number of adolescents (13-18 years)	1,401	2,728	31.05	
Total number of children <=18		8,785	100	53.77
Number family members >18	3,803	7,552		46.22
		16,337		**100**
Who are unmarried		**4,772**		
Total Households	**3,221**	**16,337**	**Family size 5.07**	

When household heads were questioned about whether they possessed an identification card, only 0.5 per cent of respondents held some sort of ID issued by a Myanmar authority. On the other hand, 92.5 per cent (2,980) of the household heads reported having received a registration card issued by the Bangladesh Government. Thus, only 7.41 per cent (241) respondents do not hold any registration card.

In terms of household educational attainment, of the 3,220 households interviewed, as Table 4 reports, only 43 families (1.3%) had at least one of their family members who had attended any form of schooling. This table reveals an unusally high degree of illiteracy among the Rohingya population.



Rohingya children learn to read the Quran.

Photo: Salahuddin Ahmad








Table 4 Household Educational Attainment

Education attainment	N	%
No education	3,178	98.66
Primary (1-5)	15	0.46
Secondary (6-10)	23	0.71
Higher secondary	5	0.15
Number (%) of Households	3,221	99.98

Turning to household income, Table 5 reports the various sources of income when household heads had resided in Myanmar compared with Bangladesh, with income from 'farming' making up the vast majority (74.6 per cent) in Myanmar, but 'no income' generating activity making up the majority (26.1 per cent) of responses in Bangladesh. The variety of income generating activities is much lower in Bangladesh and opportunities for the skilled much lower.

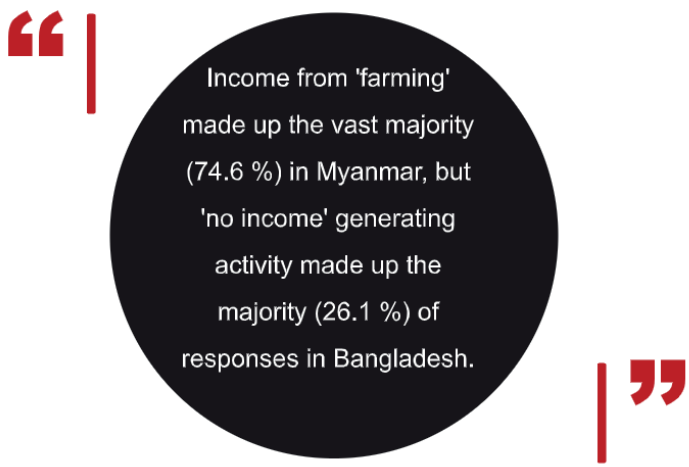


Table 5 Household Sources of Income in Myanmar and Bangladesh

Myanmar - before displacement			Bangladesh - after refuge		
Occupation	**N**	**%***	**Occupation**	**N**	**%***
Farming	2,403	74.6	No income generating activity	842	26.1
			Service	159	5.0
Grocery shop	431	13.4	Grocery shop	15	0.5
			Teaching in local Moktob	15	0.5
Day labour	376	11.7	Day labour	14	0.4
			Translator	10	0.3
Irrigation	224	7.0			
Fishing	206	6.4			
			Camp management	4	0.1
House wife	110	3.4			
Food processing	64	2.0	Dry fish business	3	0.1
Medicine shop	39	1.2	Medicine shop	1	0.0
Vending	36	1.1			
Tailoring	29	0.9			
Service	15	0.5			
Butcher	9	0.3			
Craft Making	8	0.3			
Barbershop	6	0.2			
			Firewood collection	1	0.0
Other*	50	1.6	Other**	127	4.0
	4,006			1,191	

% of total interviewed, multiple sources of income were mentioned by some respondents, *Other occupations include teacher, shopkeeper, own business, local legislator, mechanic, NGO worker, landlord, contractor, carpenter, imam, guard, doctor, driver. ** Other occupations include teacher, imam, tailor, relief worker.



Since there are no jobs in the camp, a Rohingya man started a barber shop near Kutupalong Refugee camp. For as little as US$ 0.12, one can have a haircut.

Photo: Salahuddin Ahmad

It is little wonder then that Table 6 reports a dramatic drop in average income when in Bangladesh (2.78US$) compared with Myanmar (233US$). This is due to the fact that Rohingya refugees living in Bangladeshi Camps are involved in only a few income generating activities. If these income data are compared to those of income data in Rakhine, one can easily find out the economic situation of the Rohingyas prior to their exodus. This will also point to the economic marginalisation of the community.

Table 6 Monthly Household Income in Myanmar and Bangladesh

	Myanmar		Bangladesh	
	Kyat*	US$	BDT**	US$
Total income	1,054,444,790	748,656	656,801	7882
Average income	327,467	233	232	2.78
Standard deviation	450,033	320	1,928	23.14
Maximum income	1,500,000	1,065	50,000	600
Per capita expenditure		255		

*1 kyat = 0.00071 US$, **1 BDT = 0.012 US$, In Bangladesh, maximum income is from relief work (n= 1,50,000) and as a translator (n = 3,15,000)

Table 7 reports assets the household heads noted as households having possessed in Myanmar prior to fleeing, with widespread holding of land titles, farming and irrigation equipment, basic furniture, phones and buffaloes or cows for milk. Rohingya people appeared to own limited numbers of transports (Bicycle, motorcycle, boats etc). This may affect their mobility and consequently their access to economic activities, access to markets and access to basic health services in Myanmar.

Table 7 Assets held in Myanmar

Asset type	Count	%*
Land		
Land (without title)	71	2.2
Land (with title)	3,065	95.16
Fishpond	372	11.6
Accommodation		
Number of households with more than one bedroom	745	23.1
Bed	3,100	96.2
Access to basic Toilets	2,932	91
Transport		
Boat	80	2.5
Bi-Cycle	233	7.2
Motorcycle	259	8
Communication		
TV	54	1.7
Mobile phone	2,629	81.6
Radio/CD player	100	3.1
Internet access	71	2.2
Farming		
Farming equipment	2,344	72.8
Irrigation equipment	171	5.3
Buffalo /Cow	3,033	94.2
Homestead garden	1,389	43.1
Others		
Sewing machine	111	3.5
Solar system	2,489	77.3
Table	2,836	88.1
Tubewell	2,874	89.2

Multiple responses, *% of interviewed



A Rohingya mother with her child. In the distance, thousands are in a queue, waiting for more than half a day for relief.

Photo: Salahuddin Ahmad








Table 8 reports household heads' accounts of their families' house condition in Myanmar. Most house walls (83%) were made of wood or bamboo, most floors (91%) were earth or clay and most roofs were palm leaf or thatch grass (97%). These materials point to the combustible nature of the housing in Myanmar.

Table 8 House condition in Myanmar

		Brick/ concrete/ stone	Alum-inum/ Tin	Palm leaf/ Thatch/ grass	Wood/ bamboo	Plywood/ logs	Earth/ clay	Roof Tile	Parquet/ Polished wood
Floor	**Count**	72	-	1	48	34	2,942	4	118
	%	2.2	-	0.03	1.5	1.06	91.3	0.12	3.7
Wall	**Count**	20	-	1	2,686	128	363	-	21
	%	0.6	-	0.03	83.4	3.97	11.3	-	0.7
Roof	**Count**	16	48	3,113	32	11	-	-	-
	%	0.5	1.5	96.7	1.0	0.34	-	-	-



With high demand, makeshift grocery stores are growing like mushrooms in the Kutupalong camp area.

Photo: Salahuddin Ahmad










Table 9 reports household heads' estimates of household savings when in Myanmar at an average of 862US$ but most of these savings were left in Myanmar (estimated average 773US$) with an estimated average 37US$ brought to Bangladesh. On average, it took 5.6 days to travel from Myanmar to Bangladesh according to the household heads and the average cost of the journey was reported as 158US$.

Table 9: Cash held by Rohingya Households

	Household Savings in Myanmar		Money brought to Bangladesh		Money left in Myanmar	
	kyat	US$	BDT	US$	BDT	US$
Total savings	3,911,037,083	2,776,836	168,061,003	119,323	3,505,038,079	2,488,577
Ave. savings	1,214,231	862	52,177	37	1,088,183	773
Std. dev.	2,431,719	1,727	316,702	225	2,028,503	1,440
Maximum	10,000,000	7,100	5,000,000	3,550	7,500,000	5,325

1 kyat = 0.00071 US$



With a lack of sustainable fuel sources and demand for firewood, a Rohingya man collects wood from the nearby forest.

Photo: Salahuddin Ahmad








Table 10 compares the sources of drinking water between Myanmar and Bangladesh reported by household heads, with a tube well the most frequent (over 90%) source in both countries. The striking findings in this table is that the Rohingya people are having a better access to drinking water even as a refugee than when they were in Myanmar, indicating the extent of their socio-economic deprivation.

Table 10 Sources of drinking water in Myanmar and Bangladesh

Source of drinking water	Myanmar		Bangladesh	
	Count	%	Count	%
River/pond/stream	306	9.50	49	1.52
Rainwater	0	0.00	0	0.00
Protected dug well	38	1.18	0	0.00
Unprotected dug well	0	0.00	38	1.18
Tube well	2,955	91.74	3,053	94.78
Public stand pipe/tap	16	0.50	68	2.11
Household water connection	45	1.40	16	0.50
Others	4	0.12	38	1.18

However, as reported in Table 11 only approximately one-third of households in Myanmar had a similar distance of less than 100 meters to collect drinking water, with 98 per cent of household heads reporting this distance when they lived in Myanmar but only 37 per cent reporting this distance when in Bangladesh. In Bangladesh, much higher distances of up to 250 meters were reported by 41 per cent and up to 500 meters by 25 per cent of household heads.

Table 11 Distance travelled to collect drinking water in Myanmar and Bangladesh

Distance travelled to get drinking water	Myanmar		Bangladesh	
	Count	%	Count	%
Distance< 100m	3,147	97.70	1,177	36.54
Up to 250m	23	0.71	1,331	41.32
Up to 500m	21	0.65	789	24.50
Up to 1km	26	0.81	12	0.37

Annex 34



Makeshift dwellers charge a solar lamp at Balukhali makeshift camp, Ukhiya, Cox's Bazar, Bangladesh.
Photo: Salahuddin Ahmad








Use of firewood as a cooking fuel is reported by household heads as per Table 12 as being used by the vast majority of households in both Myanmar and Bangladesh.

Table 12 Sources of cooking fuel used in Myanmar and Bangladesh

Source cooking fuel	Myanmar		Bangladesh	
	Count	%	Count	%
Firewood	3,216	99.84	3,188	98.98
Kerosene	1	0.03	7	0.22
Leaves/rice husks/straw/thatch	4	0.12	107	3.32
Bottled Gas/LPG	0	0.00	15	0.47

In both Myanmar and Bangladesh, solar as a source of lighting is reported by household heads as the major source (over 90%) as Table 13 shows.

Table 13 Sources of lighting in Myanmar and Bangladesh

Sources of lighting	Myanmar		Bangladesh	
	Count	%	Count	%
Firewood	5	0.16	2	0.06
Kerosene	25	0.78	18	0.56
Oil, Kerosene lamps	23	0.71	37	1.15
Solar lamp	3,147	97.70	2,928	90.90
Electricity	6	0.19	107	3.32
No source of lighting	4	0.12	114	3.54



A group of orphans having a meal during a chehlam (40th day of someone's death) at Kutupalong makeshift camp. Plate full of rice and approximately 2cm piece of beef cube (just 1 piece only).

Photo: Salahuddin Ahmad








Table 14 Health issues and services received in Bangladesh

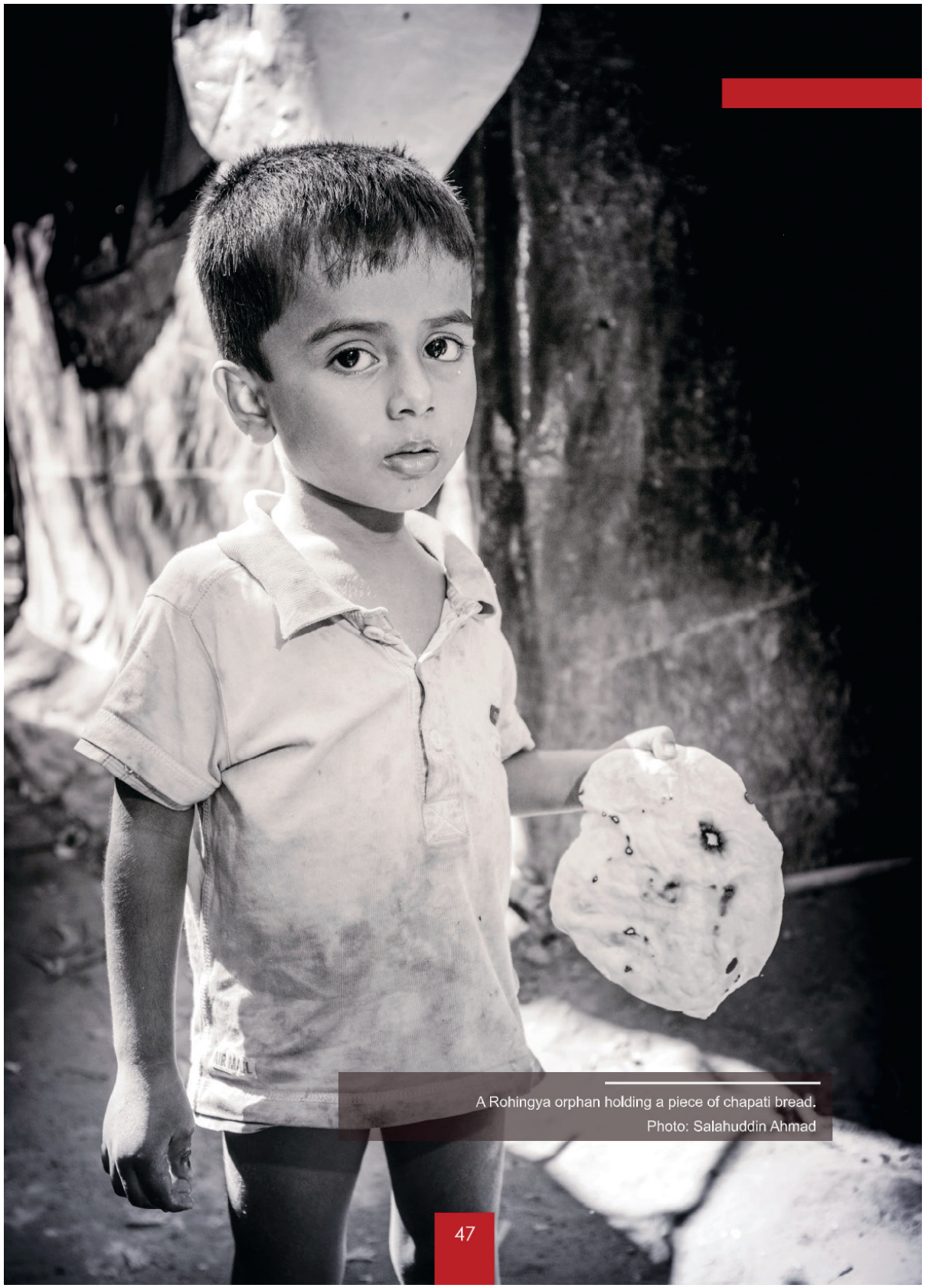
Health issues	Count	%
Vaccinated in Bangladesh	2,930	91.0
Breathing difficulties in the camp	1,365	42.4
Skin disease in the Camps	1,037	32.2
Suffering from any diarrhoea in camp	278	8.6
Become pregnant in camps	174	5.4
Undergone an abortion since August 2017	95	3.00
Any family members been sick with minor sickness in the camp	3,107	96.5
Visiting doctors for treatment since arrival	3,108	96.5

Table 14 reveals household heads' reporting of health-related issues experienced in their households. Breathing difficulties were reported in 42 per cent of households, followed by skin diseases in 32 per cent and diarrhoea in 9 per cent. Overall, 97 per cent of households had experienced minor illness, with vaccination rates within the Bangladesh camp high, with 91 per cent of household heads reporting at least one household member had been vaccinated and 97 per cent reporting that at least one household member had seen a doctor within the Bangladesh camp. Pregnancies were reported by 5 per cent of household heads and abortions by 3 per cent. The high vaccination rate reported is consistent with other reports (e.g. WHO 2017). Nevertheless, Barron (2018) reported that more than 4,000 suspected cases of diphtheria have occurred, resulting in 32 deaths.

In terms of nutrition, Table 15 documents household heads' responses to questions about meal frequency, with the majority (over 90%) reporting eating three times per day in both Myanmar and Bangladesh.

Table 15 Number of meals daily

How many times did/do you have meals daily?	Myanmar		Bangladesh	
	Count	%	Count	%
Once	0	0.00	2	0.06
Twice	33	1.02	157	4.87
Three times	3,170	98.42	3,037	94.29
More than three times	5	0.16	10	0.31



A Rohingya orphan holding a piece of chapati bread.
Photo: Salahuddin Ahmad

The diet in the Bangladeshi camp comprises mostly rice or wheat, dal or lentils, vegetables and dry fish according to household heads' responses reported in Table 16 when questioned about what their households ate the previous evening, with most households (46%) having at least two types of food as reported in Table 17.

Table 16 Previous night's meal

Food	Count	%
Rice / wheat	3,085	95.78
Leafy Vegetables	646	20.06
Puffed rice	90	2.79
Egg	161	5.00
Beef	70	2.17
Flattened rice	9	0.28
Fish	402	12.48
Dal / Lentils	2,433	75.54
Mutton	8	0.25
Dry fish	1,069	33.19
Vegetables	1,339	41.57
Chicken	113	3.51
Canned food	18	0.56
Didn't eat	1	0.03

Multiple responses

Table 17 How many items did you have during you last meal

No. of Types of food	Count	%	Extrapolated to estimated population of 128,205 households	95% CI Lower	95% CI Upper	Extrapolated to estimated population of 650,000 people	95% CI Lower	95% CI Upper
1 type	134	4.16	5,333	4,882	5,784	27,040	24,753	29,327
2 types	**1,537**	**47.72**	**61,179**	**60,051**	**62,308**	**310,180**	**304,459**	**315,901**
3 types	621	19.28	24,718	23,827	25,609	125,320	120,802	129,838
4 types	340	10.56	13,538	12,844	14,233	68,640	65,120	72,160
5 types	504	15.65	20,064	19,243	20,885	101,725	97,564	105,886
6 types	83	2.58	3,308	2,950	3,666	16,770	14,954	18,586
No response	2	0.06	77	22	132	390	110	670
Total	3,221	100	128,218	123,819	132,617	650,000	627,762	672,368

*types of food refers to the indicators used in table 16

One type of food is likely to consist of rice only, two types is likely to consist of rice and dal, so over 50 per cent of households or over 310,000 individuals are likely to be consuming little to no protein, meaning that malnutrition is likely to be frequent.



Annex 34



He is named as Kalar in Myanmar and Rohingya in Bangladesh.
"Kalar" - a derogatory term in Myanmar used to describe Rohingya (Human Rights Watch, 2013).

Photo: Salahuddin Ahmad








Discrimination in Myanmar

There is historical evidence of institutionalised discrimination against the Rohingya population in Myanmar (Green, MacManus, de la Cour Venning, 2015). This current study also found that over 93 per cent of participants responded that they had experienced discrimination in Myanmar, where an overwhelming 90 per cent of Rohingyas reported that they "always" experienced discrimination in Myanmar (refer Table 18). Among these respondents, more than 85 per cent of them reported being discriminated against due to their 'ethnic or racial identity' and almost 87 per cent reported being discriminated against for their 'religious' beliefs.



Table 18 Trends and Nature of Discrimination in Myanmar

	Count	%
Discrimination in Myanmar	3,005	93.3
Frequency of feeling discriminated		
Always	2,892	89.8
Sometimes	113	3.5
Rarely	12	0.37
Very rarely	0	0.00
Nature of discrimination		
Cultural	7	0.22
Gender	42	1.30
Ethnic or racial identity	2,749	85.4
Religion	2,800	86.9
Don't know	3	0.09

Places of Discrimination in Myanmar Hospitals were reported by 79% of respondents, followed by schools at 76%, police stations at 63%, banks at 27%. Neighbours were implicated in 40% of the incidents, followed by social service personnel at 13%, shop personnel 3%, and restaurants at 1%.

Table 19 In the last 5 years where/by who did you experience discrimination

	Count	%
School	2,445	75.91
Police station	2,012	62.47
Social service personnel	424	13.16
Neighbour	1,295	40.20
Restaurant	42	1.30
Bank	867	26.92
Salesperson in a store/shop	79	2.45
Unknown person in a public place	150	4.66
Hospital	2,549	79.14

Multiple responses

Table 20 documents the locations in Myanmar at which discrimination had been experienced, as reported by household heads. Hospitals were reported by 79 per cent of respondents as places of discrimination, followed by schools at 76 per cent, police stations at 63 per cent and banks at 27 per cent. Neighbours were implicated in 40 per cent of the incidents, followed by social service personnel at 13 per cent, shop personnel 3 per cent, and restaurants at 1 per cent. Discrimination experienced in hospitals is consistent with prior reports. For instance, Perlez and Moe (2014) report that the Myanmar government banned Doctors Without Borders because it favoured treating Rohingya people and Ives and Nang (2016) reported on a study that concluded Rohingya people were facing racial discrimination in medicare in Myanmar, and that this was affecting their health and mortality rates. Motlagh (2014, p. 1) states:

"Two years after the outbreak of communal violence, a deepening humanitarian crisis is claiming more lives by the day. Malnutrition and waterborne illnesses in the camps, aggravated by the eviction of aid groups and onset of monsoon rains, have led to a surge of deaths that are easily preventable. In a country that's still being hailed in the West for its tilt toward democracy, the ongoing blockade on critical aid to more than 100,000 displaced Rohingya around Sittwe -- and thousands elsewhere in Rakhine state -- amounts to a crime against humanity, rights groups say."



Shoeb of Buthidong, Myanmar, showing his Myanmar ID card in Kutupalong makeshift camp.

Photo: Salahuddin Ahmad








More than 90 per cent of respondents also reported that they had experienced bullying in their workplace in Myanmar (refer Table 20), with 84 per cent recording that they 'always' experienced bullying due to their 'ethnic or racial identity' (87 per cent) or due to their 'religion' (87 per cent).

Table 20 Trends and Nature of Bullying in the Workplace

	Count	%
Bullying in Workplace	2,918	90.6
Frequency of experience Bullying		
Always	2,717	84.4
Sometimes	305	9.5
Rarely	7	0.2
Very rarely	0	0
Nature of Bullying		
Cultural	41	1.3
Gender	65	2.0
Ethnic or racial identity	2,788	86.6
Religion	2,802	87.0
Don't know	6	0.2

Multiple responses



Hundreds gathered to collect food and supplies at Kutupalong makeshift camp.

Photo: Salahuddin Ahmad








In terms of crime, Table 21 reports household heads' responses to questions about being a victim of crime in Myanmar. Over 80 per cent responded that they had been subject to verbal or physical assault or arrest. Broken down by specific crimes against property, 70 per cent reported having been arrested, 55 per cent reported vandalism at their home, 43 per cent reported that crops had been damaged or destroyed, 46 per cent reported that their homes had been burned down, and 11 per cent reported seeing their village being burned down, consistent with reports of widespread destruction. In terms of personal harm, around 22 per cent reported that they had been tortured, 0.8 per cent reported rapes. In only 1 per cent of cases was the perpetrator known to the victim according to the household heads. Table 23 reports that in the vast majority of instances (83 per cent), these crimes were not reported to anyone, with only 6 per cent reporting to a local leader or village lawmaker, and 2 per cent to police. Given this, it is not surprising that Table 24 reports the vast majority (46 per cent) as not being satisfied with the response to the incident.

Table 21 Been a Victim of Crime

	Count	%
Verbal or physical assault, or arrest	2,579	80.07
Vandalism at your home	1,778	55.20
Arrested	2,244	69.67
Robbery	284	8.82
Damaged or destroyed crops	1,368	42.47
Evicted	264	8.20
Political violence	8	0.25
Burned down home	1,467	45.54
Raped	25	0.78
Physically tortured	694	21.55
Vandalism at your store	188	5.84
Burned down whole village	362	11.24
	Count	**%**
Know the perpetrator, yes	40	1.24

Multiple responses

Annex 34



A group of children at Balukhali makeshift camp.

Photo: Salahuddin Ahmad










Table 22 Reporting of this/these incident(s)

Crime Report to	Count	%
No one	2,685	83.36
Police	66	2.05
Media	6	0.19
Local leader/ village lawmaker	196	6.09
Political leader	8	0.25
No response	260	8.07
Total	3,221	100

Table 23 How satisfied were you with the way they dealt with your complaint or incident

	Count	%
Completely Satisfied	0	0.00
Slightly Satisfied	0	0.00
Neither satisfied nor dissatisfied	6	0.19
Slightly dissatisfied	1	0.03
Completely Unsatisfied	1,484	46.07

Annex 34



Ten year old Idris lost part of his ear due to a bullet. He was still unable to stand on his own several months after the incident.

Photo: Salahuddin Ahmad








Few household heads responded to questions about political considerations. Of those who did, Table 24 reports that only 4 per cent voted in the Myanmar national election, but 10 per cent had raised concerns about the Myanmar government's policies. Of those who had raised concerns, Table 25 reports that it was mostly done through signing a petition to government (35 per cent), followed by a change to voting preferences (32 per cent) and signing a petition to court (25 per cent). A small number joined a political movement against the government (8 per cent). In response to voicing of concern, Table 26 documents that 29 per cent of those who voiced concerns had no response or action taken by authorities, and 23 per cent had their concern suppressed through use of excessive force. Concerns were taken into account for 10 per cent of those expressing concerns.

Table 24 Political Considerations

	Count	%
Member of any mainstream political party	7	0.22
Member of an NGO/cooperative/association in Myanmar	27	0.84
Supported any political party	1	0.03
Voted in a Myanmar national election	138	4.28
Happy with the Myanmar Government policies	2	0.06
Raised concerns about Myanmar Government policies	346	10.74

Annex 34



Rohingyas have lost their homes, farms, businesses and work. They live on relief and have nowork rights as refugees.

Photo: Salahuddin Ahmad








Table 25 How household heads raised concerns

	Count	% of households	% of concerns raised
Changed your voting preferences	156	4.84	32.3
Signed a petition to the government	169	5.25	35.0
Signed a petition to the court	121	3.76	25.1
Joined in a political movement against the government	37	1.15	7.7

Table 26 Household treatment by State in response to raising of concerns

	Count	% of households	% of responses
None	6	0.19	2.0
Not considered by any authorities/ State	81	2.51	27.3
Concern(s) taken into consideration	31	0.96	10.4
Have been prosecuted by law enforcing agencies	106	3.29	35.7
Govt. used excessive police power to suppress protest	67	2.08	22.6
Other	6	0.19	2.0
Total	**297**		**100**

Of the household heads, Table 27 documents that 940 or 29 per cent reported that family members, relatives or neighbours had been killed or were still missing after the August 2017 crackdown by the Myanmar government. Barron (2018) reports that more than 43,000 Rohingya parents have been reported lost, presumed dead in the six months since Myanmar's military unleashed a crackdown in August 2017. Barron (2018) observes that hat even by conservative estimates the number of Muslim Rohingya killed in the crisis far exceeds the Myanmar government's official count of 400 (Hincks 2017). Doctors Without Borders has estimated that 6,700 died in a month (Beech 2017).

Table 27 Have any family members, relatives or neighbours been killed or are missing after Government actions?

	Count	%
Family members, relatives or neighbours killed or missing	940	29.18



Salma and her mother withstood a bullet in their bodies. They travelled to Bangladesh with their bullet wounds.
Photo: Salahuddin Ahmad

Table 28 reports household heads' accounts of crimes against them or their family members before travelling to Bangladesh. In terms of property, over 88 per cent reported their homes as having been vandalised and/or burnt down, 32 per cent as having damaged or destroyed crops, 28 per cent as having their businesses vandalised, 20 per cent as having had money or other valuables taken from them. Satellite images obtained by Human Rights Watch revealed showed fires burning in more than 10 locations, across a 100-kilometer stretch of land in Rakhine state (Holtz 2017a). More than 1,000 buildings in villages had been burned (Holtz 2017b) with the near-total destruction of 284 villages across northern Rakhine (Holtz 2017b). More worryingly, in terms of crimes against persons, almost 90 per cent reported being beaten, 44 per cent as having been arrested, 32 per cent has having been exposed to gunfire, 27 per cent has having a family member thrown into fire, 19 per cent has having a family member murdered, and 14 per cent as having a family member raped. The statistics are consistent with reporting by Naqvi (2017) that "one hospital was struggling to treat dozens of men who had arrived with broken bones, bullet wounds and horrific stories of death."



Many adolescents have witnessed murder and experienced gender violence.

Photo: Salahuddin Ahmad

Table 28 Were you or your family members victims of crime in Myanmar prior to travelling to Bangladesh

Crime(s) experienced in Myanmar prior to travelling to Bangladesh	Count	%	Extrapolated to estimated population of 128,205 families	95% CI Lower	95% CI Upper
Burned down home	2,890	89.72	115,026	114,339	115,712
Beaten	2,886	89.60	114,872	114,182	115,561
Vandalism at your home	2,846	88.36	113,282	112,557	114,006
Arrested	1,400	43.46	55,718	54,598	56,838
Gun shot	1,035	32.13	41,192	40,137	42,247
Damaged or destroyed crops	1,029	31.95	40,961	39,908	42,015
Vandalism at your business	892	27.69	35,500	34,489	36,511
Thrown family member into fire	865	26.86	34,436	33,435	35,437
Snatched money or valuables	633	19.65	25,192	24,295	26,090
Murdered	602	18.69	23,962	23,081	24,842
Evicted	500	15.52	19,897	19,079	20,715
Raped	445	13.82	17,718	16,938	18,498
Robbery	437	13.57	17,397	16,624	18,171

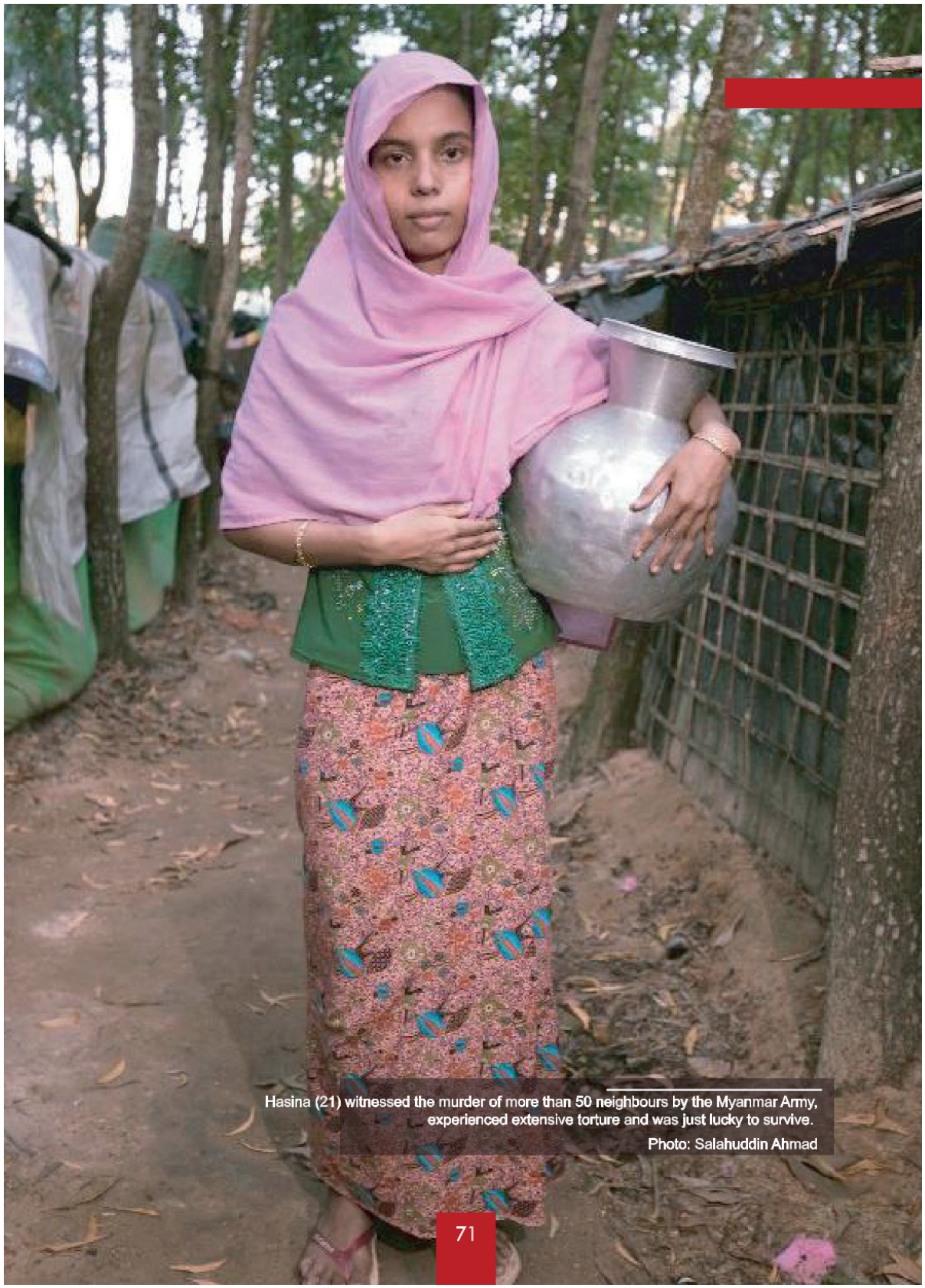
Multiple responses recorded

Method of Estimation: Estimated Rohingya families 650,000 in January 2018 (Alam2018), Household size= 5.07, therefore estimated total number of Rohingya Families is 128,205. Presuming a normal distribution (since np(1-p)>10 where n=3 221 and p=estimated proportion, the estimated 95% confidence interval (CI) can be calculated as $= z \pm 1.96\sqrt{p(1-p)/n}$. For instance, for the 'Burned down home' estimate of incidence in the population of the estimated 128,205 families, the 95% CI = $Z\pm 1.96\sqrt{(\frac{0.8972(1-0.8972)}{3221}} = 0.00535$. Hence the incident estimate is $128{,}205\ x\ (0.8972 \pm\ 0.00535)$, so there is 95% confidence that the number of homes burned down lies between 114,339 and 115,712.

When these numbers are extrapolated to the population of families in the camp at the time of the interviews, the estimated incidences of crimes are truly horrifying, as Table 28 reveals. The limitations of the estimates need to be acknowledged given that the population of families is estimated, as well as the potential that reporting of the sample incidents may not be representative of the population, and the possibility that the responses from different household heads refer to the same incident, and that some crimes are counted twice (e.g., homes vandalised and homes burned). With these limitations in mind, estimation of the number of murders is 23,962 ± 881, the estimated number of rapes is 17,718 ± 780, the estimated number of incidents of a family member thrown into fire is 34,436 ± 1001 the estimated number of beatings is 114,872 ± 690, the number of gunshot injuries is 41,192 ± 1001 and the estimated number arrested is 55,718 ± 1120. In terms of property crimes, the estimated number of houses burned is 115,026 ± 687, the estimated number of houses vandalised is 113,282 ± 725, the number of crops damaged or destroyed is estimated at 40,961 ± 1053, and the estimated number of businesses vandalised is 35,500 ± 1011. Many of these numbers are far in excess of previous reports.

> Estimation of the number of murders is 23,962 ± 881, of rapes is 17,718 ± 780, of a family member thrown into fire is 34,436 ± 1001 of beatings is 114,872 ± 690, of gunshot injuries is 41,192

> The estimated number of houses burned is 115,026 ± 687, the estimated number of houses vandalised is 113,282 ± 725, the number of crops damaged or destroyed is estimated at 40,961 ± 1053, and the estimated number of businesses vandalised is 35,500 ± 1011.



Hasina (21) witnessed the murder of more than 50 neighbours by the Myanmar Army, experienced extensive torture and was just lucky to survive.

Photo: Salahuddin Ahmad

No one left Myanmar without being physically assaulted

Hasina Begum (21) a victim of brutality by the Myanmar Army was lucky enough to survive and escape to Bangladesh.

Hasina heard gunshots and saw the military was burning near her village Tolatuli (Moungdaw) and killing people. Her family and neighbours were afraid. They fled from their home and took shelter by the nearby river bank. But military personnel came to the river bank, surrounded them and started to shoot. About 50/60 people died in the first shootings. Some of them jumped into the river and very few of them could survive as the river was swollen by the tide. Next within 4/5 hours they killed all men and captured all the women, then picked the young women and started to rape them. They dug three big holes and burnt all the bodies in these holes. The Myanmar military took her 4-month old baby and threw the baby on that burning fire. The military punched her and took her, her sister in law and mother in law into a house. They forced them to become naked and raped them. She became unconscious. Before they left they lit a fire to burn the house. Her sister in law became conscious and managed to get out. Her sister in law rescued her from the burning house. They took shelter after running across a crop field. It was 2 or 3 am at night. They both were naked but found an abandoned lungi (men's skirt / traditional dress) in the crop field. She and her sister in laws tore it in half and covered themselves. Then they went to a nearby village. Her body was full of blood, but there was no one in that village. They walked into a forest and found someone with a mobile phone. She looked for her husband but she had no clue where he was. She lost her mother in law, and three brothers in law. After a few days of struggle she finally arrived at the Bangladesh border. Her uncle found her in the no man's land between Bangladesh and the Myanmar border and later she found her husband there.



In a separate question that asked whether household heads' houses remained standing in August 2017 when had they left Myanmar, only 411 household heads or 12.76 per cent responded in the affirmative.

Table 29 reports that overwhelmingly household heads identified the Myanmar police or army as the perpetrators of these crimes.

Table 29 Who was the perpetrator of crimes to the best of your knowledge

	Count	%
Don't know	310	9.62
Myanmar Army	3,138	97.42
Myanmar Police	2,656	82.46
I know them by name	14	0.43
I know them by face	27	0.84
Other ethnic communities	435	13.51
Other	52	1.61

Multiple responses recorded



Many adolescent Rohingya girls experience early marriage in refugee camps to safeguard them from trafficking and other potential gender violence.

Photo: Salahuddin Ahmad








In response to questioning as to family members dying as a result of the August 2017 incident in Myanmar, 1,292 or 40 per cent of household heads reported such deaths, predominantly identifying children (71%) as victims (refer Table 30).

Table 30 Did any family members die in Myanmar as a result of the 2017 incident

	Death Count	% of household heads	% of deaths	Missing Count	% of household heads	% of Missing
Husband	207	6.43	16.02	28	0.87	38.89
Wife	24	0.75	1.86	9	0.28	12.50
Children	917	28.47	70.98	16	0.50	22.22
Core family	1,148	30.89	88.85	53	1.65	73.61
Not identified	144	4.47	11.15	19	0.59	26.39
Deaths	1,292	40.11	100.00	72	2.24	100.00

Household heads were asked whether they or any of their family members had specific experiences during the August 2017 incident. Their responses are recorded in Table 31. Almost all had witnessed neighbours' injuries and close to 11 per cent had been injured themselves or had a family member injured, some permanently, including loss of sight. Over 80 per cent of household heads or families had witnessed the death of a neighbour and 6 per cent had witnessed the death of one of their own family members, close to 60 per cent had witnessed the rape of a neighbour and 0.5 per cent had witnessed the rape of one of their own family members. Over 85 per cent had witnessed the burning down of homes and over 60 per cent the burning of villages.

Table 31 Experience of atrocities in Myanmar during August 2017 incident

	Count	%
Witnessed neighbour injured	3,134	97.30
Witnessed death of neighbour	2,631	81.68
Witnessed rape of a neighbour	1,904	59.11
Witness of Burning Burned down home	2,753	85.47
Witness of Burning Burned down village	2,173	67.46
Been injured	346	10.74
Witnessed death of a family member	195	6.05
Witnessed a family member being injured	190	5.90
Raped/witnessed rape of a family member	15	0.47
Lost sight	27	0.84
Permanent disability due to injury	13	0.40
None	1	0.03





12-year-oldJannatullha has become the sole carer of her sister Asma since their parents died in Myanmar during the August crackdown.

Photo: Salahuddin Ahmad

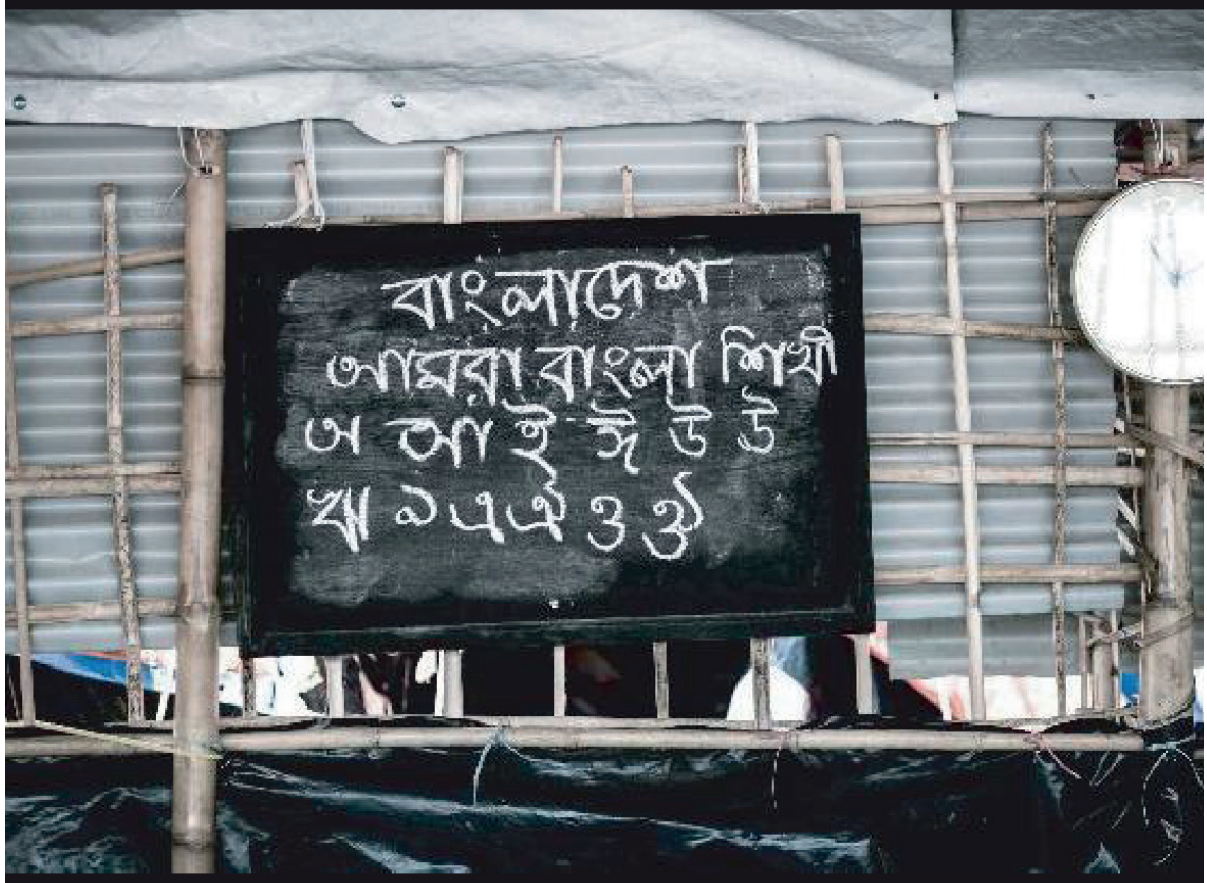
Lost children

Junnatullah (12) and Asma (4) whos parents were shot dead in Maungdaw, Myanmar seeking justice.

They just ran with thousands of other people from their own and nearby villages. With fear, hunger, and uncertainty they just followed others and ended up in Bangladesh. They have no family members left and therefore no shelter and care. Asma is heavily dependent on her brother Junnatullah, but he does not know how to take care of her.

> Household heads were asked to choose from a given list of suggested arrangements that might motivate a return to Myanmar for themselves and their families. First ranked was the granting by Myanmar of citizenship.

In terms of repatriation, household heads were asked to choose from a given list of suggested arrangements that might motivate a return to Myanmar for themselves and their families. As reported in Table 32, all of the options resulted in over 90 per cent affirmative responses. First ranked was the granting by Myanmar of citizenship, followed by prosecution of perpetrators, recognition of Rohingya ethnicity by the Myanmar government, cash compensation, provision by Myanmar of services for Rohingya, such as education and health, a halt to the violence, deployment of a UN peace force, broadening of socio-economic opportunities for the Rohingya population and re-establishment of normal life.



Rohingyas are losing their culture, heritage and identity. Rohingya children are learning the Bengali language in the Refugee camps, which means little preserving of their culture, language, or heritage.

Photo: Salahuddin Ahmad








Table 32 What sort of arrangement would motivate you to return to Myanmar

	Count	Percentage
Granting of citizenship	3,132	97.24
Prosecution of perpetrators	3,096	96.12
Recognition of Rohingya ethnicity by Myanmar Government	3,089	95.90
Cash compensation	3,047	94.60
Provision of citizen's services (education, health etc.) to the Rohingya population	3,030	94.07
Full halting of violence	3,018	93.70
Deployment of UN peace force	3,005	93.29
Broadening of socio-economic opportunities for Rohingya population	2,995	92.98
Re-establishment of normal political, economic and social life	2,984	92.64
Others	15	0.47

Multiple responses

The overwhelming desire of the household heads was to return to Myanmar as soon as possible (79 per cent) (refer Table 33).

Table 33 When you would like to return to Myanmar

	Count	Percentage
As soon as possible (ASAP)	2,549	79.14
3 months	1	0.03
6 months	37	1.15
1 year	0	0.00
> 1 year	12	0.37
Don't know	434	13.47

Annex 34



Rohingya youth playing kickball before dusk in kutupalong makeshift camp.
Photo: Salahuddin Ahmad








Closing observations

With rare access to refugees living in the major refugee camps in Bangladesh, this report seeks to document the experiences of forcibly displaced Rohingyas using a set of structured questions. Given the denial of access to reporters or investigators within Myanmar, accounts of survivors are the best guide to the reality of what occurred during the latest military crackdown that began on August 25, 2017 in Myanmar. The responses received largely corroborate the generally held view that Rohingya people were subject to serious deprivation while in Myanmar, with very low level of access to education, employment, health and social services. Negligible means of personal transport and extremely limited access to transport indicate minimal to no freedom of movement.

Rohingya people were also subject to widespread discrimination and bullying. Such treatment was prevalent everywhere, from school to hospital, from workplace to police stations. They would generally not lodge complaints, as they were unlikely to receive a response to their satisfaction. Their income levels were generally extremely low, even in relation to their neighbours in Rakhine and others in Myanmar. As such, their pre-departure situation was that of a marginalised and vulnerable community, a condition which had been created over a long period.

The Rohingya as victims of decades of economic, social, cultural and political marginalisation then faced an unprecedented level of violence following the attacks by some Rohingya extremists against Myanmar authorities in October 2016 and August 2017.

This study reports interview evidence of an extremely high degree of destruction of livelihoods and criminal activities against Rohingya, including burning down homes, damaging of crops, snatching of money and robbery, vandalism of business enterprises, indiscriminate arrests etc. that made the situation unsuitable for continued livelihoods and created enormous insecurity.The high level of burning of homes, vandalism, and beatings experienced attests to the damage inflicted on Rohingya people. This was followed with extensive criminal activities and violence that targeted lives, including beatings, gunshots, rape, throwing into fire and murder. These actions may have been to eliminate as many Rohingya as possible, or to extinguish hope of continuing life for Rohingya people if they stayed in Myanmar, or both.

This report provides interview evidence that amounts to allegations of killing, in particular of children, in the tens of thousands. Further investigation is needed as to why children, who cannot be combatants, faced such fate. Husbands (meaning males

or heads of families) were killed more in comparison to their wives. Together their deaths have led to thousands of orphans. Strikingly, instances of death far surpass that of missing persons, perhaps indicating a focus on the part of the perpetrators to kill.

Most of the interviewees witnessed injury and death of neighbours. Together with direct experiences of death of own family members, families wiped out and those missing, one can estimate killings of over twenty thousand. A very high percentage of interviewees witnessed burning down of properties, indicative of an organised campaign to destroy homes. Individual injuries and disability inflicted on surviving Rohingya people corroborate a reign of indiscriminate firing, hacking and torture. The pervasiveness of the experience of violence and the gravity of the findings require a much broaderand comprehensive examination by an independent authoritative body than this study could achieve, including of atrocity crimes.

Despite facing all kinds of marginalisation, violence and atrocities and generally a limited diet in the refugee camp, Rohingya people in Bangladesh generally express a desire to return to their homeland. To enable this, they ask for a full halt to the violence, reestablishment of normal political, economic and social life, and access to basic services. They generally call for assurance over the safety of their lives and deployment of peace forces may be a means to ensure that. In the long-term, they have unequivocally articulated their demand for granting of citizenship and recognition of Rohingya ethnicity in Myanmar. Finally, they demand persecution of perpetrators and compensation as conditions for return. These conditions will need to be met in order for a voluntary and sustainable return, and involve much beyond creating reception centres and model villages for returnees. This could be yet another area for further examination.

In sum, the very personal experiences of the over 16,000 Rohingya indicate that noone was spared from the unleashing of violence by the perpetrators, however children became the major victims by far of the crimes committed. Their experiences while being forcibly displaced must have left permanent scars on them. As such, convincing them to return will remain a major challenge. Their experiences before their departure inevitably will have made them wary about Rakhine and conditions prevailing there. They will need robust guarantees of safety, security and livelihood in order to return. Their strong pronouncements on the long-term conditions needed make it explicit that repatriation cannot be expected without ensuring critical aspects of civil and political rights, in particular citizenship, which far exceeds the immediate focus of sending them back to Rakhine.

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Appendix 1

Data collection form

Rehabilitation, repatriation and resettlement of Rohingya

Camp Name *location on map*		Form ID	☐☐☐_☐☐☐_2018_01_☐☐_☐☐_☐☐
Name		Male ☐	Female ☐ Age ☐☐
Myanmar village		Myanmar township	
Myanmar ID *if any*		Bangladesh Govt ID No.	
Understood Consent permission	No ☐ Yes ☐	Consent to publish	Yes ☐ No ☐

1. No. of people in Household	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	Household size
Age class	1-6 months	7 months -5yr	6-12yrs	13-18 yrs	19 - 49 yrs	> 50 yrs	☐☐
Number of unmarried family members	☐☐		Do any family members live overseas?				No ☐ Yes ☐

2. Did you or any of your family members attend any forms of schooling?			Yes ☐ No ☐
Highest education in the family *(please write year of study)*	Male ☐☐	Type of school? Traditional ☐ Moktob ☐	Relationship to the respondent Self ☐ Wife ☐ Mother ☐ Father ☐ Daughter ☐ Son ☐
	Female ☐☐	Type of school? Traditional ☐ Moktob ☐	Relationship to the respondent Self ☐ Husband ☐ Mother ☐ Father ☐ Daughter ☐ Son ☐
Did you or any of your family members can read Rohingya language Yes☐ No☐ write Rohingya language Yes☐ No ☐			

3. Main source of household (HH) income

In Myanmar						Currently in Bangladesh	
Farming	☐	Medicine shop	☐	No income generating activity	☐	Butcher	☐
Irrigation	☐	Barbershop	☐	Translator	☐	Vending	☐
Fishing	☐	Vending	☐	Dry fish business	☐	Day labor	☐
Butcher	☐	Tailoring	☐	Grocery shop	☐	Medicine shop	☐
Grocery shop	☐	House wife	☐	Fishing	☐	Craft making	☐
Food processing	☐	Day labour	☐	Teaching in local Moktob	☐	Firewood collection	☐
Craft Making	☐	Service at _____	☐	Camp management	☐	Service at _____	☐
Other _____				Food processing	☐	Other _____	☐
What was your total monthly HH income in Myanmar		_____Kyet		How much is your current total monthly HH income		_____Taka	

4. What household assets did you have in Myanmar?

Land (without title)	Land (with title)	Fish pond	Number of bed rooms	Toilets	Farming equipment	Irrigation equipment	Boat	Bi-Cycle	Motorcycle	Radio/CD player	Bed	Table	Solar system	Mobile phone	Internet access	Buffalo /Cow	Tube well	TV	Sewing machine	Homestead garden
☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐	☐

5. What possessions you were able to bring to Bangladesh?

Gold Jewelry	Solar system	Mobile phone	Bi-cycle	Clothes	Radio/CD player	Other 1. _____ Other 2. _____ *Write anthing value > 10,000 taka*
☐	☐	☐	☐	☐	☐	

6. Did you have any household savings (amount in Kyet) _____ in Myanmar?

7. How much were you able to bring to Bangladesh _____ in Kyet?

8. What material was your house in Myanmar was made of *(Tick where it applies)*

	Brick/ concrete/stone	Aluminum/ Tin	Palm leaf/ Thatch/ grass	Wood/ bamboo	Plywood/ logs	Earth/ clay	Floor Tiles	Roof Tile	Parquet/ Polished wood	Makeshift, salvaged/ improvised materials
a. Floor										
b. Wall										
c. Roof										

In Myanmar					Currently in Bangladesh
9. Source of drinking/cooking water					
River/pond/stream	☐		River/pond/stream	☐	
Rainwater	☐		Rainwater	☐	
Protected dug well	☐		Protected dug well	☐	
Unprotected dug well	☐		Unprotected dug well	☐	
Tubewell	☐		Tubewell	☐	
Public stand pipe/tap	☐		Public stand pipe/tap	☐	
Household water connection	☐		Household water connection	☐	
Other _____			Other _____		
How far you travel to get water? <100m ☐ upto 250m ☐ upto 500m ☐ upto 1km ☐			How far you travel to get water? <100m ☐ upto 250m ☐ upto 500m ☐ upto 1km ☐		
10. What kind of fuel was most often used by your household for cooking					
Firewood	☐		Firewood	☐	
Kerosene	☐		Kerosene	☐	
Leaves/rice husks/straw/thatch	☐		Leaves/rice husks/straw/thatch	☐	
Coal/charcoal	☐		Coal/charcoal	☐	
Bottled Gas/LPG	☐		Bottled Gas/LPG	☐	
Other _____			Other _____		
11. Main source of lighting					
Firewood	☐		Firewood	☐	
Kerosene	☐		Kerosene	☐	
Oil, Kerosene lamps	☐		Oil, Kerosene lamps	☐	
Solar	☐		Solar	☐	
Electricity	☐		Electricity	☐	
No source of lighting	☐		No source of lighting	☐	

12. Health

Were you or your household members ever vaccinated in Myanmar?	Yes ☐ No ☐
Have you been vaccinated since you arrived in Bangladesh?	Yes ☐ No ☐
Do you feel difficulty in breathing while living in the camp?	Yes ☐ No ☐
Have you been suffering from any skin disease since you are living in the camp?	Yes ☐ No ☐
Have you been suffering from any diarrhoea since you are living in the camp?	Yes ☐ No ☐
Have you or any of your household member become pregnant since you moved into this camp?	Yes ☐ No ☐
Have you or any of your household member undergone an abortion procedure since August 2017?	Yes ☐ No ☐
Have you or any of your family members been sick since you are living in this camp?	Yes ☐ No ☐
If sick, did you or your family members consult a doctor for treatment?	Yes ☐ No ☐

13. Nutition - how many times do you have meals every day?			
Myanmar		**At present in Bangladesh**	
Once	☐	Once	☐
Twice	☐	Twice	☐
Three times	☐	Three times	☐
More than three times	☐	More than three times	☐
What did you and your family eat last night?			
☐ Rice / wheat	☐ leafy Vegetables	☐ Biscuit	☐ Puffed rice
☐ Bread	☐ Egg	☐ Beef	☐ Flattened rice
☐ Fish	☐ Dal / Lentils	☐ Mutton	☐ Dry fish
☐ Vegetables	☐ Chicken	☐ Canned food	☐ Didn't eat

14. Discrimination in Myanmar in the last 5 year

Have you been a victim of discrimination in your neighbourhood in Myanmar?			No ☐ Yes ☐, *if yes- how often*
Always ☐	Sometimes ☐	Rarely ☐	Very rarely ☐
What was the nature of discrimination in your neighbourhood?			
Cultural☐ Gender ☐ Ethnic or racial identity ☐ Religion ☐ Don't know ☐ Others _____			
Have you been a victim of bullying or discrimination at your workplace or while undertaking your occupational duties in Myanmar?			No ☐ Yes ☐, *if yes- how often*
Always ☐	Sometimes ☐	Rarely ☐	Very rarely ☐
What was the nature of discrimination at your workplace?			
Cultural☐ Gender ☐ Ethnic or racial identity ☐ Religion ☐ Don't know ☐ Others _____			

15. Have you or any of your family members experienced any verbal or physical assault, or arrest by locals or Myanmar police or army in the last 5 years.				Yes ☐ No ☐	
Have you or any of your family members been a victim of crime in the last 5 years in Myanmar *(Choose all that apply and assign frequency e.g. 1,2,3)?*					
Vandalism at your home	☐☐	Arrested	☐☐	Robbery	☐☐
Damaged or destroyed crops	☐☐	Evicted	☐☐	Political violence	☐☐
Burned down home	☐☐	Raped	☐☐	Physically tortured	☐☐
Vandalism at your store	☐☐	Burned down whole village	☐☐	Others (specify) _____	
Do you happen to know the perpetrator? Yes ☐ No ☐					
In the last 5 years to whom did you report this/these incident(s)? If you have reported these incidents to more than one person or institutions, choose the one that you went to *(choose all that apply and assign by order e.g. 1-3).*					
Reported to	**Rank**	**Reported to**	**Rank**	**Reported to**	**Rank**
No one	☐	Police	☐	Media	☐
Local leader/ village lawmaker	☐	Political leader	☐	Others (specify)_____	
How satisfied were you with the way they dealt with your complaint or incident? (Tick that which applies)					
Completely Satisfied ☐ Slightly Satisfied ☐ nither satisfied nor dissatisfied ☐ Slightly dissatisfied ☐ Completely Unsatisfied ☐					
In the last 5 years where/by who did you experience discriminations? *(Choose 3 best answer by Ranking 1-3)*					
Place/person	**Tick**	**Place/person**	**Tick**	**Place/person**	**Tick**
School		Police station		Social service personnel	
Neighbour		Restaurant		Bank	
Salesperson in a store/shop		Unknown person in a public place		Hospital	

16. Socio-political participation in Myanmar in the last 5 year

Have you or any of your family been a member of any mainstream political party?			Yes ☐ No ☐
Have you ever been a member of an NGO/cooperative/association in Myanmar?			Yes ☐ No ☐
Have you or any of your family supported any political party?			Yes ☐ No ☐
Have you ever cast your vote in a Myanmar national election?			Yes ☐ No ☐
Are you happy with the Myanmar Government policies on social, economic and political rights			Yes ☐ No ☐
Have you been able to raise concerns about Myanmar Government policies that you feel need to change			Yes ☐ No ☐
If yes, how did you raise your concern? Choose all that apply			
Changed your voting preferences		Signed a petition to the government	
Signed a petition to the court		Joined in a political movement against the government	

17. How were you/your household treated by the State in response to your action(s) ticked above? *Choose all that apply*

Actions taken by the Government	**Rank**	**Actions taken by the Government**	**Rank**
None		Not considered by any authorities/ State	
Concern(s) taken into consideration		Have been prosecuted by law enforcing agencies	
Govt. used excessive police power to suppress protest		Other (specify) ……	
Have any of your family members, relatives or neighbours been killed or been missing after Government actions? No ☐ Yes ☐			

What did you do after you/your fellows were a victim of abuse or ill-treatment by the Government?	
None ☐	Became a silent supporter of the movement against the Govt. ☐
Joined alternative political party(ies) ☐	Been terrified and stopped every social and political activity ☐
Been terrified and stopped taking part in the political process ☐_____	Other (specify)

18. August 2017 incident

When did you arrive Bangladesh? *(write month and date)* 2017 _____ _____ *(3 letter month then date)*	
How much money did you spend to come to Bangladesh _____ kyet	
How many days did it take you to travel to Bangladesh?	
Have you or any of your family members been a victim of any of the following crime/s in Myanmar before fleeing to Bangladesh *(Choose all that apply and assign frequency e.g. 1,2,3)*?	
Vandalism at your home ☐ Vandalism at your business ☐ Arrested ☐ Raped ☐ Damaged or destroyed crops ☐ Snatched money or valuables ☐ Murdered ☐ Beaten ☐ Thrown family member into fire ☐ Burned down home ☐ Gun shot ☐ Evicted ☐ Robbery ☐ Don't know ☐ Other (specify) _____	
Who was the perpetrator who committed the foregoing crimes to the best of your knowledge? Don't know ☐ Myanmar Army ☐ Myanmar Police ☐ I know them by name ☐ I know them by face ☐ Other ethnic communities ☐ others _____	
Have any of your family members died in Myanmar as a result of the 2017 incident? No ☐ Yes ☐	
Husband ☐ Wife ☐ Children ☐	How many Children died during this incident ☐☐
Have any of your family members gone missing as a result of the 2017 incident? No ☐ Yes ☐	
Husband ☐ Wife ☐ Children ☐	How many children missing during this incident ☐☐
Has your household adopted any children since living in the camp? Yes ☐ No ☐ How many Children ☐☐	
How many family members burnt ? _____	How many family members disabled? _____
How many family members raped ? _____	How many family members become blind? ___

19. TRUMA / WITNESS

During the 2017 incident, have you or any of your family members experienced any of the following? Please tick responses that apply:

Incident		**Incident**		**Incident**		**Incident**	
Witnessed neighbour injured	☐	Witnessed death of neighbour	☐	Witnessed rape of a neighbour	☐	Witness of Burning Burned down home	☐
Witness of Burning Burned down village	☐	Been injured	☐	Witnessed death of a family member	☐	Witnessed a family member being injured	☐
Raped/witnessed rape of a family member	☐	Lost sight	☐	Permanent disability due to injury	☐	None	☐

20. REPATRIATION TO MYANMAR

Was your house standing when you left Myanmar? Yes ☐ No ☐	
What sort of arrangement would motivate you to return to Myanmar? *Rank 1 - 9*	☐ Prosecution of perpetrators ☐ Full halting of violence ☐ Deployment of UN peace force ☐ Cash compensation of _____ _____Kyat ☐ Recognition of Rohingya ethnicity by Myanmar Government ☐ Granting of citizenship ☐ Broadening of socio-economic opportunities for Rohingya population ☐ Provision of citizen's services (education, health etc.) to the Rohingya population ☐ Re-establishment of normal political, economic and social life ☐ Others _____
When you would like to return to Myanmar?	ASAP ☐ 3 months ☐ 6 month ☐ 1 year ☐ > 1 year ☐ Don't know ☐

2018 | RESEARCH TEAM





Dr Mohshin Habib
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Dr Mohshin Habib, PhD (Deakin), MBA (Santo Tomas), BSc (ICT) (Hons) is a Senior Lecturer in International Business. Dr Habib's academic career spans more than 15 years across Monash University, Deakin University and Swinburne University of Technology, Australia. During his time at Swinburne, he has also held positions as the Director of the International Business Program, Discipline Leader, Management and Program Coordinator of International Business. He has consulted in the areas of governance, leadership & management, TVET, international development, poverty alleviation and human development internationally. He is currently supervising four PhD candidates, and few have graduated with their PhDs.

Prior to entering academia, Dr Habib was a development practitioner, working in international development organisations in Asia and the Pacific. Dr Habib is the team leader in the "Rehabilitation, Resettlement and Repatriation of Rohingya (RRR,R) research project that delivers the current report. His recent research projects are Poverty Alleviation Measurement Tool (Cambodia & Timor Leste), Intergenerational Poverty and Resilience in the presence of Disaster in the Philippines and Railway Resettlement Cambodia. Mohshin is involved in several honorary roles in non-profit and private sector organisations.



Professor Christine Jubb
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Professor Christine Jubb (CPA Auditing, CA), PhD (Melbourne), Grad Dip Sc. in App. Statistics (Swinburne), MBA (Deakin), Grad Dip Ed (Monash), BBus (Acc.) (RMIT) currently holds a Chair in Accounting and Finance and is a University Senate Committee member at Swinburne University of Technology and a member of the Academic Standards Quality Committee. She was previously Research Fellow and Director of the Australian National Centre for Audit and Assurance Research at the Australian National University. She was appointed, by the Australian Financial Reporting Council, to the Auditing and Assurance Standards Board in 2005 and reappointed for a second three-year term to the Board which ended in December 2010.

Professor Jubb has worked in a number of Australian Universities including Melbourne University, Monash University and Deakin University. Her research interests lie in the areas - the market for external audit services, microfinance, entrepreneurship and enterprise development, impact assessments, research methodology etc. She currently is supervising 13 PhD candidates working in these areas and many more have graduated with PhD, Master by Research or Honours degrees. Her main teaching area at Swinburne is Accounting Theory.

She has been the recipient of prestigious Australian Research Council Discovery Grants and Australian Research Council Linkage Grants and many more national and international research grants. Currently she is working on two research projects in Cambodia and the Philippines on disaster mitigation and microfinance, intergenerational poverty and poverty alleviation measurement tools.



Salauddin Ahmad, MSc, MAppSc
Department of Environment, Land, Water and Planning
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Master of Applied Science, RMIT University, Master of Geography, National University, Bangladesh.

Mr Ahmad was involved in one of the world's largest population health and nutrition research project on Vitamin A intervention lead by the Johns Hopkins University. This project was jointly implemented in collaboration with international and national organisations including Johns Hopkins University, United States Agency for International Development (USAID), International Center for Diarrhoeal Disease Research, Bangladesh, Sight and Life, The World Food Program (WFP). The project developed one of the most intensive Geographic Information System for Health Research in a Developing-country Setting. Mr Ahmad has more than 15+ years of field-based population, health, epidemiological, environmental, disaster and spatial data collection experience and 20+ years of spatial data management and analysis experience.

Mr Ahmad is a photography student at Melbourne Polytechnic and also an award-winning photographer by Food and Agriculture Organization of the United Nations. He contributed more 800 photographs at Mr Ahmad Victorian Department of Environment, Land, Water and Planning's various publication.

Mr Ahmad spent several weeks in different slots in the camps in Bangladesh and documented displaced Rohingya's life in the camps and made significant contribution to develop research method and data analysis. Since November he organised more than a dozen photography exhibitions in many national and international locations including Dhaka, Thailand, Italy, Belgium, Sydney and Melbourne.



Professor Henri Pallard
Department of Law and Justice
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Henri Pallard is a specialist in international human rights and cultural diversity. He has worked extensively on problems related to the international transposition of human rights norms into new cultural contexts More particularly, he has examined whether the presuppositions underlying the Western conception of human rights are transferable into the North Africa setting. This has led him to think deeply about the challenges linked to raising sensitivity to human rights in societies that have very different conceptions of human autonomy and different conceptions of the relationship between the individual and the broader social group.

Henri then developed expertise in the area of colonialism, poverty and human rights. He has been an associate director of a large scale multi-year project looking at the characteristics of homeless persons and people who cycle in an out of poverty. This has led him to reflect on the historical relationship between Canadian Indigenous cultures and the dominant Eurocentric white culture. Homelessness and poverty are products of systemic abuse of power by the dominant culture which reflect the ingrained structures of the colonial project. Henri's work seeks to further human rights from both the perspective of the dominant culture and the subservient culture.



Associate Professor Masudur Rahman
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Dr. Masudur Rahman, Associate Professor of Development and Economics at the University of Nordland, an internationally recognised centre for higher education and research in the fields of social sciences and business studies. The university can boast of quality researchers in international business, sociology of welfare, economic sociology, education, social work, journalism, political science and history. Researchers carried out at the Faculty of Social Sciences also take the form of applied and cross-disciplinary projects.

Educated both as an economist and a sociologist Rahman has an eclectic range of research interests. Rahman's research works are diverse and multifaceted. Those include macroscopic studies of the structures of power as well as interpersonal relations, structures of informal network relations, at a variety of levels. Divers, yet, Rahman's research works fit broadly under the umbrella of development process and achievements in Bangladesh.

ASA Philippines Foundation
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ASA Philippines is a non-profit, non-stock corporation specializing in microfinance and the largest MFI in South East Asia and the Pacific and serves 1.5 million clients in the Philippines. ASA Philippines offers various financial and social development services to clients and their households, including financial services, insurance, health services and many other social development services. ASA has been active in supporting its clients/ members and vulnerable populations in general displaced by various disasters within the Philippines (both natural, such as typhoons, and human-made disasters, such as war). ASA recently launched a community resettlement and economic revitalisation program in the province of Sulo, Mindanao, a region recently devastated by war.

Institution of Diploma Engineers Bangladesh (IDEB)
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The Institution of Diploma Engineers, Bangladesh (IDEB) is the largest professional organization of Bangladesh, established on 8th November 1970. This institution was establish to serve as one voice for the main stream of engineering community who are also being known as a people's engineer in Bangladesh and engineering profession. IDEB is a multidisciplinary organization of engineering societies which dedicated for advancing the knowledge, understanding and practice of engineering sector. IDEB envision to be one of the largest & vibrant professional organization of engineers-technologists in Bangladesh & in the world, which is committed to promotion of continual professional development & innovative approach towards the cause of sustainable development & to serve the humanity through inclusive growth.

IDEB promotes Engineering, Science & Technological knowledge and skill in the world of work and facilitates dissemination and exchange of information, ideas amongst members of the profession and to extend value based service to the nation at all levels. IDEB seeks to improve the quality of life for all, prosperity and adding value through innovation & sustainable development.



Ontario International Development Agency
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Ontario International Development Agency (OIDA) is a nongovernmental organization (NGO) registered in Ontario, Canada. OIDA provides humanitarian programs to develop skills and alleviate poverty, chronic unemployment, and hunger in rural communities in South Asian and West African countries. OIDA is actively involved in the creation of a conducive and sustainable environment through programs and projects, fostering socio economic development by promoting ethnic harmony, ensuring the provision of equal opportunities to all. OIDA funds applied research by researchers from South Asian and West African countries on the problems they identify as crucial to their communities. It also helps to obtain technical support to those researchers from Canadian universities and colleges, institutions and NGOs associated with it. OIDA builds local capacity in developing countries to undertake projects and create innovations, believing that people from developing, especially South Asian and West African countries, must take the lead in producing and applying knowledge for the benefit of their own communities. OIDA also fosters alliances and knowledge sharing between scientific, academic, and development communities in Canada and developing countries, and supports its development projects.

Education for Skill Development (ESD) Pty. Ltd
Australia, Bangladesh and Philippines
Website: www.esd-edu.org
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ESD is an international educational consulting firm that facilitates key stakeholders in providing access to international educational qualifications and skills for student from diverse background. A core value set and interest within ESD is shaping education relevant to economic and social development. The major strategic focus of ESD is to align international education and training opportunities that fills skill gaps and support sustainable development goals concerning Bangladesh's capability building.



Film for Peace Foundation (F4P)
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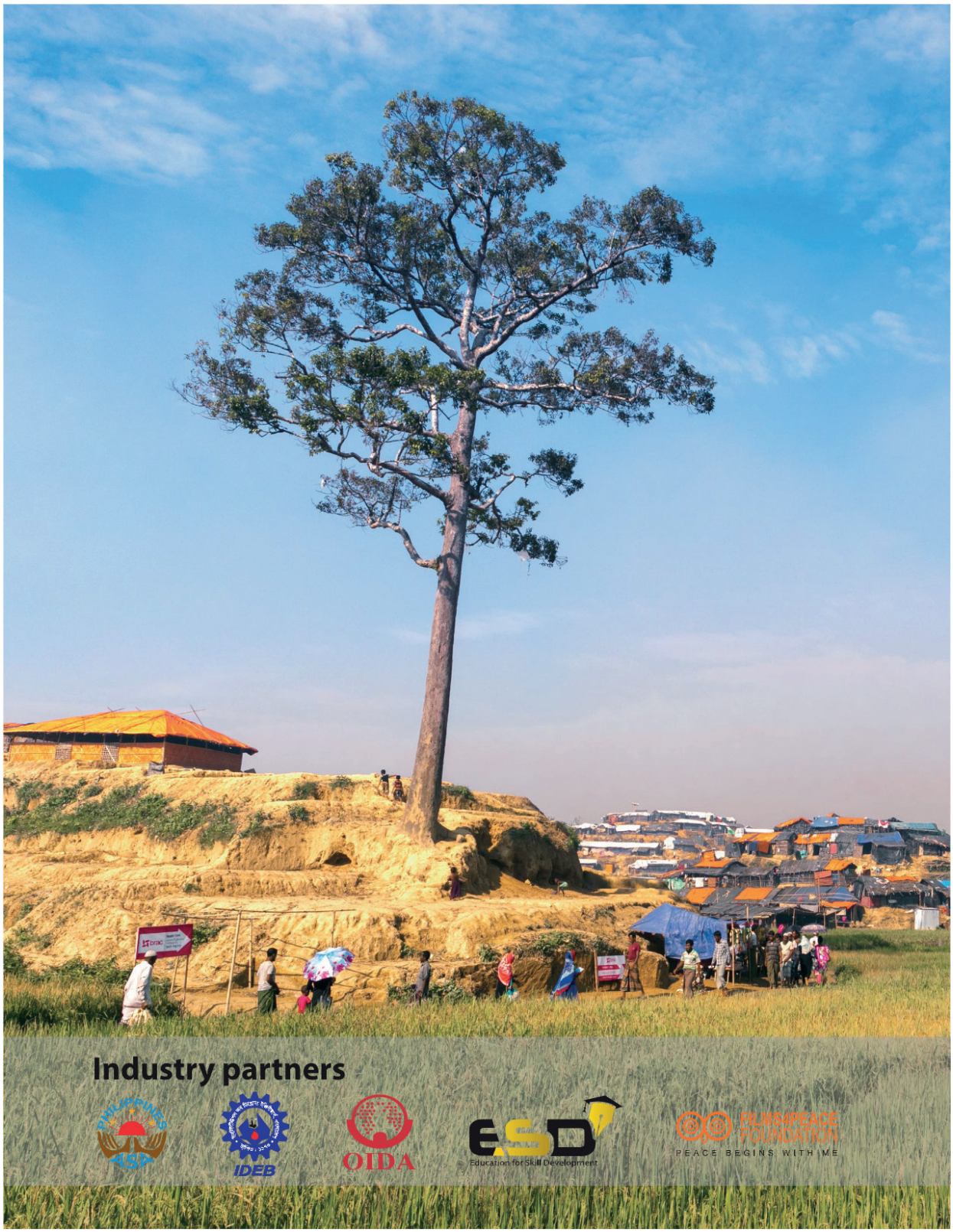
Films for Peace Foundation is a non-profit organisation, which is dedicated to promoting peaceful and inclusive societies for sustainable development through films. Films for Peace Foundation have assisted in implementing the research project in the Rohingya refugee camps in Bangladesh. Film for Peace Foundation managed the infield logistics issues and coordinated with local grass roots organisations which are working in various rehabilitation and resettlement projects for the Rohingya refugees.

Annex 34


Industry partners
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PEACE BEGINS WITH ME

Annex 35

Augn Ye Twin, Aye Aye Thant (MNA), "Government official says new petro import testing labs on the way", *The Global New Light of Myanmar* (6 June 2017)

RAKHINE ADVISORY COMMISSION MEETS CIVIL SOCIETY ORGANIZATIONS P-9 (LOCAL NEWS)

THE GLOBAL NEW LIGHT OF MYANMAR

Vol. IV, No. 50, 12th Waxing of Nayon 1379 ME www.globalnewlightofmyanmar.com Tuesday, 6 June 2017



President U Htin Kyaw addresses the audience at the World Environment Day event held yesterday in Nay Pyi Taw. **PHOTO: MNA**

World Environment Day celebrated in Nay Pyi Taw

PRESIDENT U Htin Kyaw spoke at a ceremony celebrating World Environment Day yesterday in Nay Pyi Taw, in which he encouraged the country to appreciate and help preserve the beauty of Myanmar, one of the most ecologically diverse countries in the region.

The President's message was in keeping with this year's World Environment Day theme, "Connecting People to Nature".

"In Myanmar, we are fortunate to be blessed with impressive landscapes that extend from the snow-capped mountains in the north, to the southern coastal region of Tanintharyi. The possibilities to enjoy and connect with the natural world are endless and can be found in every corner of our country", the President said.

"The variety of our ecosystems means that Myanmar is one of the most biologically diverse countries in Asia. This biodiversity is a gift that we must all cherish. Our terrains are home to over 18,000 species of plants, some 1,100 species of birds and almost 300 species of mammals. These include 61 species of plants and 44 species of mammals that are globally classified as endangered or critically endangered species. The species of Golden Deer and six species of bird that are in the global endangered species list can only be found in Myanmar."

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State Counsellor Daw Aung San Suu Kyi arrives in Canada
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Confiscation review committee returns lands to original owners
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54th Myanmar Gems Emporium planned in August
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Teen-aged suspect died from disease while in police custody
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Yangon extends use of stoplights, traffic sensors
PAGE-4

KBZ BANK
STRENGTH OF MYANMAR
သင့်ဘဏ်သန် မြန်မာအားမာန် ကမ္ဘောဇဘဏ်

Pyithu Hluttaw

2nd Pyithu Hluttaw 5th regular session holds its 9th day meeting

Work-site security for health personnel, specialist physicians, and a national health insurance system were discussed at yesterday's Pyithu Hluttaw session in Nay Pyi Taw.

At the 9th day meeting 2nd Pyithu Hluttaw 5th regular session held yesterday, eight questions were answered, a report submitted, a motion tabled and a bill discussed and approved.

U Ba Shein of Kyaukpyu constituency raised the question of whether any plan exists to enact law that provides work-site security for health personnel, inclusive of health officers, in order to perform their works effectively. Union Minister for Health and Sports Dr. Myint Htwe said a total of 23 laws covering the work of the ministry and eight bills were being drawn, but there is no law yet that provides work-site security for health personnel at work.

The Department of Public Health helps resolve problems that occur while basic health care personnel provide emergency medical treatment. Relevant authorities and departments concerned will coordinate to quickly enact a law that provides work-site security for health personnel including assistant health officers and midwives, said the Union Minister.

Responding to U Zon Taint of Chipwe constituency in Kachin State on appointing doctors at Kachin State Hospital who specialise in specific filed of medicine, Union Minister Dr. Myint Htwe said priority is given to appoint required specialist, but there is a need to simultaneously purchase and install supporting medical equipment and personnel. The minister said this cannot be done at the moment.



Union Minister Dr. Myint Htwe. **PHOTO: MNA**

Afterward, Union Minister for Health and Sports Dr. Myint Htwe responded to questions on sports ground construction, upgrading of hospitals and rural health sub departments raised by U Tun Tun Win of Yamethin constituency, Dr. U Soe Moe Thu of Myaungmya constituency, U Htay Min Thein of Gyobingauk constituency, U Sai Sai Mai of Mongkai constituency, U Khin Maung Thi of Loilem constituency and U Myint Kyi of Katha constituency.

Dr. U San Shwe Win of Yekyi constituency tabled a motion to set up a national health insurance system that includes effective implementation of universal health coverage, providing timely health care service to all nationals including the poor, and having sufficient funds for such services. The Hluttaw agreed to debate the motion and asked that Hluttaw Representatives who wished to participate in the debate to submit their names. In the day's meeting, Pyithu Hluttaw International Relations Committee annual report was read and amendments, discussions and approval of the Canal Bill was made. — Kyaw Thu Htet (MNA) ■

Amyotha Hluttaw

Government official says new petro import testing labs on the way

A senior official from Ministry of Electricity and Energy explained quality assurance protocols for imported fuel oil in response to a previous inquiry from a Mon State legislator at the 2nd Amyotha Hluttaw yesterday.

Deputy Minister Dr. Tun Naing said the Myanmar government is establishing a fuel laboratory that will meet international standards through a public-private partnership. The lab will test imported petroleum products that arrive at the sea port of Thilawa.

Dr. Tun Naing said that petroleum products are currently sent across Bago River to an oil refinery laboratory in Thanlyin for testing and, if they meet quality standards, are permitted to be sold for distribution. Other quality control measures for imported fuels and lubricants include mobile labs capable of conducting spot checks and responding to anonymous consumer complaints.

Official sanctions were imposed against 17 petro stations in FY 2012-2013, 32 in 2013-2014, 10 in 2014-2015 and seven in 2015-2016. Sixty-six received official warning letters, Dr. Tun Naing said, and several were prohibited from selling petroleum products.

Quality safeguards will soon include inspections of oil tankers along roads and waterways, Dr. Tun Naing said.

In another exchange at the Amyotha Hluttaw yesterday, Rakhine representative U Tet Tun Aung asked if the government planned to provide any new model communities for ethnic people in Rakhine.



Deputy Minister Dr. Tun Naing. **PHOTO: MNA**



Deputy Minister for Border Affairs Maj- Gen Than Htut. **PHOTO: MNA**

Deputy Minister for Border Affairs Maj. Gen. Than Htut responded with a historical overview of the development of model villages in Maungtaw and Buthidaung townships since 1990. The general said that there were a total of 19 different resettlement projects to establish 36 Na Ta La model villages.

"742 households and 3433 family members who moved from Bangladesh are being accommodated in Na Ta La model villages and subsidized with household commodities and food for a one-year period," the general said.

The bill committee of the Amyotha Hluttaw also read out a draft of a new water resources and river conservation bill. — Aung Ye Thwin, Aye Aye Thant (MNA) ■

Union Minister Dr. Pe Myint leaves to attend 14th Asia Media Summit

UNION MINISTER for Information Dr. Pe Myint took a flight yesterday from Yangon to Qingdao, the People's Republic of China to attend the 14th Asia Media Summit from 6 to 8 June.

The Union Minister was seen off at the airport by Myanma Radio and Television (MRTV) Director General U Myint Htway and other officials. Deputy Permanent Secretary of the Ministry of Information U Myint Kyaw and MRTV Broadcasting Director U Zay Yar accompanied the Union Minister to China. — Myanmar News Agency ■



Union Minister for Information Dr. Pe Myint leaves for China to attend the 14th Asia Media Summit yesterday. **PHOTO: MNA**

Confiscation review committee returns lands to original owners

THE Myanmar government returned 6,372 acres of land it had previously confiscated from farmers and other landholders in Yangon, said U Than Myint, secretary of a Yangon Region level review on confiscated land.

The restored lands were among 9,180 acres taken from farmers by various government agencies. The review committee investigated whether confiscated lands were virgin or vacant lands or lands allocated for housing, whether confiscated lands were in fact designated for future development projects and what types of compensation are appropriate in each case. The Yangon review committee determined that in 1,905 cases land taken by government entities should revert back to the original owners. U Than Myint said that a certain number of incomplete cases had been sent back to the Central Committee on Confiscated Farms and Other Lands established by the Hluttaw.

Most of the confiscated lands were taken by the Ministry of Defence and Department of Human Settlement and Housing Development.—Ko Moe ■

World Environment Day celebrated in Nay Pyi Taw

FROM PAGE-1

The President said yesterday that Myanmar is committed to preserving and protecting the environment, which includes combatting the effects of global warming. Myanmar is a signatory to the Paris Climate Change Agreement.

"Our government is working to conserve and protect our precious forest lands, natural parks and wildlife sanctuaries, including: Hkakaborazi National Park, Alaungdaw Kathapa National Park, Shwe Set Taw Wildlife Sanctuary, Lampi Marine Park and Inle Biosphere Reserve", he said.

"But it is not just these protected sites that deserve our attention. Today, all of the earth's ecosystems are under threat and we must work together to protect them. Myanmar's many natural forests are being depleted at a rapid rate, meanwhile air quality and fresh water sources are being threatened by pollution. One of the greatest challenges that we face in Myanmar today is the threat of climate change. Globally we are considered to be one of the countries that are most vulnerable to climate change. In recent times, we have experienced an unprecedented increase in temperatures and extreme weather events more than ever before".



Presiden U Htin Kyaw tours World Environment Day exhibits yesterday in Nay Pyi Taw. **PHOTO: MNA**

U Htin Kyaw pointed out the destructive effects of major storms that struck the country in 2008 and as recently as seven days ago.

"Only last week, for example, towns and villages in Rakhine State were impacted by the powerful Mora Cyclone, which also caused great devastation in Sri Lanka, Bangladesh and north-east India. To this day, many communities in Myanmar are still recovering from the impact of Cyclone Nargis, the worst natural disaster in our country's history, which occurred less than a decade ago", he said.

The President said the government's ability to respond to future threats of climate change is essential to securing sustainable development and economic prosperity throughout the country.

"Our government is pleased to be working towards the adoption of the Myanmar National Climate Change Policy, which was recently formulated in close collaboration with civil society, the private sector and experts from across all fields. We expect to announce the launch of this policy soon, along with the adoption of a new National Climate Change Strategy and Action Plan," he said.

At yesterday's event, the winners of article and essay competitions for the World Environment Day were awarded with prizes by the President, Union Minister for Natural Resources and Environmental Conservation U Ohn Win. At the ceremony, eight ministries, seven NGOs, six INGOs and five private organisations staged 42 booths promoting environmental conservation. In attendance with the President were two vice-presidents, union ministers, diplomats and guests.

World Environment Day is a United Nations-led annual event aimed at bringing awareness to the destructive effects of natural resource extraction pollution and the need to protect biodiversity. Yesterday's ceremony included a video address from the UN Secretary-General Mr Antonio Guterres. World Environment Day began in 1972 and has been celebrated in Myanmar since 1994.

At the conclusion of his speech, the President reiterated his request for the country's citizens to appreciate the natural beauty of their country.

"I would like to invite each of you here to take forward the call to Connect with Nature. However big or small your action may be, we must remember that we are privileged to live in this world full of great beauty and diversity", he said.—Myanmar News Agency ■

State Counsellor arrives in Canada

State Counsellor Daw Aung San Suu Kyi arrived in Toronto, Canada, yesterday morning and was welcomed by Myanmar and Canadian officials.

She was greeted at Lester B. Pearson International Airport by Myanmar Ambassador to Canada U Kyaw Myo Htut, and Hon. Mr Bryon Wilfert, Honorary Consul for Canada to the Republic of the Union of Myanmar. Myanmar nationals in Canada welcomed the State Counsellor at the Royal York Hotel, where she will stay during her visit.

The State Counsellor left Yangon for official visits to Canada and Sweden on 4 June and arrived in Seoul, Korea at 7am on 5 June.

The State Counsellor was welcomed at Seoul Incheon International Airport by Myanmar ambassador to Korea Thura Thet Oo Maung and officials.

The State Counsellor and party then departed for Canada on a Korea Airlines flight at 9:30 am local standard time.



State Counsellor Daw Aung San Suu Kyi welcomed by Myanmar nationals at the Royal York Hotel in Toronto, Canada yesterday, where she will be staying during her visit to the Quebec city. **PHOTO: MNA**

During the official visits, the State Counsellor will discuss with officials from both Canada and Sweden about the two countries' transitions to a federal democratic system.

The State Counsellor holds honorary citizenship to Canada, which was presented to her in 2012 by John Baird, the Conservative foreign minister at the time, during a visit to Myanmar.

Daw Aung San Suu Kyi is scheduled to visit Canada from 5 June to 9 June, travelling to Toronto and Ottawa. She and her entourage will then depart for Sweden.—Myanmar News Agency ■

Yangon to ban smoking in 20 places, in 20 years

YANGON is on a slow path toward quitting smoking according to U Than Sein, chair of the Public Health Foundation.

The city is embarking on a 20-year plan to implement 20 smoke-free areas in Yangon, according to the Control of Smoking and Consumption of Tobacco Product Law.

Restricted areas will include sports arenas and stadiums, public parks, playgrounds, schools, universities, bus stops, cinemas, markets and other public spaces.

More than six million people in the world are diagnosed with lung or mouth cancer each year. Ninety per cent of those cases are caused by first-hand or second-hand tobacco smoke.—200 ■

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Due to limitation of space we are only able to publish **"Letter to the Editor"** that do not exceed 500 words. Should you submit a text longer than 500 words please be aware that your letter will be edited.

Teen-aged suspect died from disease while in police custody

A teen-aged boy arrested on suspicion of taking part in a 12 November 2016 machete attack against security forces near GwaSone village in Maungtaw township died in the custody of border security officials on 2 February, according to statement released yesterday by the State Counsellor's office Information Committee.

Government security forces apprehended six boys aged 12 to 16 years old on suspicion of attacking border police while on patrol and detained them by the order of a Maungtaw township judge at No. 3 border police force camp. One of the boys, Mummad Rawphi, believed to be less than 15 years old, died while in border police custody.

He had been hospitalised twice in January at Buthidaung Hospital for stomach inflammation — for two days on 18 January again on 30 January, according to the statement. A medical report determined that the boy died on 2 February while receiving treatment at the hospital, according to the statement. The remaining five boys are being tried in a juvenile court overseen by Judge U Ba Thaung.—Myanmar News Agency ■

No.	Name	Age	Village	Section	Remark
1.	Mummad Rawphi, son of Mummad Tarlaung	between 13 and 15	Zinpaingnya Village	302/333/307/34 19 (a) 17 (1)/17 (2)	died from disease
2.	Nosi Mullah, son of Bawli Mullah	between 12 and 13	Kyakhaung Taung Village	302/34/ 19 (a) 17 (1)/17(2)	
3.	Annawah, son of Adusalin	between 12 and 13	Yaykhatchaung, Gwason Village	302/34/ 19(a) 17 (1)/17(2)	
4.	Yarsein, son of Shaungshu Ahlaung	between 12 and 13	Yaykhatchaung, Gwason Village	302/34/ 19(a) 17 (1)/17(2)	
5.	Phal Tu, son of Sweyaw Tumein	between 13 and 14	Yaykhatchaung, Gwason Village	302/34/ 19(a) 17 (1)/17(2)	
6.	Zarphal Arlaung, son of Shawphi Yamauk	between 14 and 15	Yaykhatchaung, Gwason Village	302/34/ 19 (a) 17 (1)/17(2)	

Yangon extends use of stoplights, traffic sensors

YANGON will install 154 new responsive traffic stoplights and use a number of the old traffic lights at intersections in outlying areas, according to an announcement issued on 1 June by the No. 8 branch Yangon traffic police station.

"We will replace the old traffic lights and install them in towns which need traffic lights," said police Major Myo Aung Myint of No.8 branch traffic police station in Yangon's southern district.

New traffic lights have been installed in Hline, Kamayut, Kyimyindine and Mayangon townships to reduce traffic congestion and ensure safety. The new lights have sensors to detect oncoming traffic and are linked to a central traffic control system.

Traffic police are currently conducting surveys to determine how many vehicles are on the road at certain intersections. Once traffic flows and distributions are determined, the central traffic control system will adjust stoplight durations accordingly.—Min Thwe ■



Workers replacing new traffic light system in Yangon on 6 May, 2017. **PHOTO: GNLM/ PHOE KHWAR**

Fingerlings to be distributed to Sagaing Region breeders

Over 20 million fingerlings will be distributed in FY 2017-2018 by YeU fish breeding centre, Shwebo fish breeding centre and Inngyingone fish breeding centre, according to a Myawady Daily report on the Sagaing Region fisheries department.

The three government-run fish breeding centres seek to assist local fish farms and increase fish stocks during the rainy season, primarily in Shwebo district. Targeted breeds include shwewah carp, labeorohita, Hamilton carp and barbus. The government will restock the Chindwin River, Ayeyawady River, Mu River in addition to private fisheries.

Fish breeding is conducted mainly during fish mating seasons. Shwewah carp breed in January, February and March. Other fish are bred in June, July, August and September.

Officials from Fishery Department said that they do not use hormonal injections, but rather produce fish eggs using natural means.—200 ■

North Dagon apartment complex starts 2nd round of property sales

A new affordable housing complex in North Dagon Township announced its second round of apartment sales in May. The Bo Ba Htoo complex adds 864 apartments in 27 eight-storey buildings to Yangon's overburdened housing stocks.

The apartments come in four floor plans: there will be 570 927-square feet apartments being sold for Ks37.7 million each, 38 877-square feet apartments for Ks35.9 million each, 240 614-square feet apartments for Ks28.5 million each and 16 565-square feet apartments for Ks26.7 million each.

The homes can be purchased by government employees and private sector workers. Government workers are required to have at least 20 years of civil service and approval of government authorities. Private sector applicants must hold a national identity card, earn at least 3 lakhs per month and be head of their household.

Eligible applicants will be required to make a down payment of 30 per cent of the cost of the apartment within three months. Buyers must also agree not to sell their properties within five years of purchase.—200 ■

54th Myanmar Gems Emporium planned in August

MYANMAR will hold its 54th annual Gems Emporium from 2-11 August at Mani Yadana Jade Hall in Nay Pyi Taw, according to an announcement by the Ministry of Natural Resources and Environmental Conservation. Gem dealers must submit jade lots they intend to trade to the jade enterprise committee between 6-15 June.

Those lots will be inspected between 22 June and 17 July, after which the committee will set floor prices.

All licensed and authorized buyers are entitled to participate. The upcoming emporium follows an earlier expo held in March for lower quality grade C and D jade.—Ko Htet ■



A merchant appraises a jade stone at the 53rd Myanmar Gems Emporium in the Mani Yadana Jade Hall in Nay Pyi Taw. Photo: MNA

YSX stock trading stable in early June



Visitors seen at Yangon Stock Exchange in downtown Yangon. **PHOTO: GNLM/ PHOE KHWAR**

Trading on the Yangon Stock Exchange (YSX) was stable during the past three days.

YSX started last year and lists First Myanmar Investment (FMI), Myanmar Thilawa SEZ Holdings (MTSH), Myanmar Citizens Bank (MCB) and First Private Bank (FPB).

FMI traded shares priced at Ks 15,500 between 2-5 June, having declined from 16,000 on 1 June. MTSH traded at Ks 3,750, MCB at Ks 9,100 and FPB at Ks 27,000 during the same period.

On 5th June, a total volume of 9,168 shares traded on YSX, compared to 12,490 and 10,036 shares on 1 and 2 June, respectively.

Total stock values reached Ks 1.5 billion in May, a slight increase over record low YSX stock value in April, according to YSX data.

In 2016, the first year of the stock exchange, FMI – then the only company listed on the YSX – traded shares worth Ks 24 billion in March and Ks 5.8 billion in April.

MTSH was listed on the YSX on 20 May and combined value of the two listed companies traded shares worth Ks 16 billion. Total YSX trades dropped to a value of Ks6.8 billion in June and to Ks3.7 billion in July.

MCB was listed in August, during which time total YSX trades were valued at Ks 2.9 billion.

In September YSX trading values were Ks 2.4 billion, in October they were Ks4 billion, in November they were Ks 2.2 billion and in December they were Ks 1.5 billion.

FPB drove stock trades beyond Ks 6 billion in January and February. Trade values on YSX dropped to Ks 3.3 billion in March and again to Ks 1.2 billion in April, according to YSX data.—GNLM ■

Tourist visits to Inle increased in 2017

INLE saw 30,000 more tourists in the first four months of 2017 compared to 103,000 during the same period last year, according an announcement by the Shan state Hotels and Tourism Department.

Along with Bagan, Inle is among Myanmar's most popular tourist destinations.

Local businesses have responded to increasing numbers of travelers by recently starting up a night bazaar as well as creating community based tourism models, which emphasize local involvement in the tourism sector – for example communal planning of tourism projects and sharing of tourism proceeds. Inle has more than three thousand rooms at 99 hotels licensed by Myanmar's Ministry of Hotels and Tourism.—Min Thu ■

Chinese import restrictions hurt rice prices

MYANMAR rice merchants are complaining that Chinese rice import restrictions at Muse border gate on low quality grains are suppressing prices of the staple crop. China is imposing restrictions on so-called "broken rice" during Myanmar's summer paddy season, when crops are abundant. The restrictions were imposed after the Thingyan holiday, when Chinese demand was relatively high. Low grade rice prices at the Muse border gate dropped Ks 2,500-3,800 per bag from last week's prices of Ks 16,100 to Ks 20,500 per bag. Muse trade comprises 80 per cent Myanmar's 700,000 tonnes per annum rice export, which has struggled to compete and achieve international quality standards due to poor quality milling equipment.—Zar Lin Thu (AMIA) ■

CARD Myanmar Company Limited, registered and incorporated as a company on December 4, 2013 under Myanmar Companies Act through the Directorate of Investment Company Administration (DICA). It aims to help in eradicating poverty by giving assistance to low income individuals to increase their income and to exercise free control over productive resources through the provision of appropriate and best practice microfinance services in Myanmar. It was granted to provide three (3) major services: 1) Microfinance, 2) Capacity Building and 3) Technical Assistance. Its microfinance operation through the Microfinance Supervisory Committee Temporary License was issued on August 8, 2014 and after one year and three months a Permanent License was issued on November 5, 2015.

As of May 31, 2017 CARD Myanmar Company Limited has established seven branches namely Thingangyun, North Okkalapa, Bago 1, Bago 2, Waw, Thanatpin and Pha Yar Gi with 7,900 clients and 34 locally hired employees.

CARD Myanmar Company Limited announces its new set of Board of Directors and Officers for Fiscal Year 2017:

Name of the Board of Directors	Position
Ms. Jean Pauline Belarmino Landicho	Chairman
Mr. Josef Marvida Leron	Member/ Managing Director
Ms. Marjorie Artillaga Marasigan	Member
Mr. Edzel Almaza Ramos	Member
Ms. Marilyn Magampon Manila	Member

Cambodia's Hun Sen says he's confident of keeping power after local vote

PHNOM PENH— Cambodian Prime Minister Hun Sen, whose critics accuse him of undermining democracy, on Monday hailed the results of local elections as a sign he would win next year's general election to extend more than three decades in power.

But although the main opposition party fell short of its hopes in Sunday's ballot, it increased its share of the vote and promised a hard-fought contest in 2018.

The Southeast Asian country has grown increasingly tense in the run-up to the elections and Hun Sen's opponents complained of having to counter threats, court cases and the detention of politicians and activists.

The opposition Cambodia National Rescue Party (CNRP) won about 46 per cent of votes in Sunday's vote compared with more than 51 per cent for Hun Sen's ruling Cambodian People's Party (CPP), according to unofficial results from both parties.

It was a big gain for the opposition over its showing in the last local elections, but it had hoped for 60 per cent in the ballot for 1,600 communes.

"It is already clear the ruling party will remain a majority party in the National Assembly and continue to lead the government ahead," Hun Sen wrote in a post on social media site Facebook, beside pictures of himself playing golf and posing in sunglasses.



Cambodia's Prime Minister and president of Cambodian People's Party (CPP) Hun Sen. **PHOTO: REUTERS**

Hun Sen, 64, one of Asia's longest serving rulers, has been prime minister for 32 years. His growing friendship with Beijing has brought infrastructure loans that have made Cambodia less reliant on Western donors who express concerns about democracy. The prime minister has repeatedly warned of violence if his party does not keep power, raising deep concerns in a country where about 1.8 million people died of starvation, violence, exhaustion or disease under the communist Khmer Rouge regime in the 1970s.

Voting went smoothly on Sunday and observers recorded little malpractice or intimidation.

The opposition said it was still pleased with its results. The ruling party won control of 97 percent of Cambodia's communes in the 2012 election, when opposition parties were divided.

"These results are the basis that may prove that we will win the general 2018 election," said CNRP leader Kem Sokha, whose exiled predecessor resigned in February, saying he feared the party would be banned if he did not.

The opposition did much better than expected in the last general election in 2013, leaving the ruling party with only a small majority in parliament.

"The momentum has always been on the opposition side," said Ou Virak of the Future Forum think-tank.

"Given that the 2018 election is the most important election, I think the opposition will be stronger and that makes the outcome of the next election pretty unpredictable."

The National Election Committee is due to publish official results on 25 June.

Sunday's voting was orderly and peaceful, the US embassy said, but added that it expected the election body to "investigate fully the concerns expressed by opposition parties and civil society organizations before and during the campaign".—Reuters ■

India rejects Trump charge that it linked Paris climate accord for aid

NEW DELHI — India on Monday rejected US President Donald Trump's comments that it had linked its accession to the Paris climate control accord to receiving foreign aid and said it was committed to protecting the environment on its own.

Trump withdrew the United States from the 2015 agreement to cut emissions saying it undermined the US economy, cost US jobs, and put it at a disadvantage to other nations. He also complained that China and India were getting favourable terms under the accord, saying New Delhi had made its participation contingent on receiving "billions and billions and billions of dollars in foreign aid" from developed nations.

But Foreign Minister Sushma Swaraj said India was not in the Paris accord for money or because it had faced pressure from other countries."Anyone who says we have signed Paris because of the lure of money, I reject that as baseless. This is not the reality," she told reporters. "Our signature is not out of greed or fear." India is the world's third-biggest emitter of greenhouse gases that cause global warming. It has said it remained committed to carrying out its obligations under the accord despite the US pullout. Developing nations agreed the 2015 Paris deal after the rich set a goal of raising climate finance from $100 billion a year from 2020 to help the poor limit greenhouse gas emissions and adapt to more heat waves, floods, storms and rising seas.

Some countries such as Ethiopia said Trump's decision would make things harder for the least developed nation, but there were no plans for anyone to quit the Paris pact. Swaraj said India had a long tradition of respect for the environment. "Our commitment to the environment is 5,000 years old. We are a people who worship rivers, mountains, trees." —Reuters ■

Abe pledges cooperation with ASEAN on "free and open" world order

TOKYO — Prime Minister Shinzo Abe pledged Monday to cooperate with the Association of Southeast Asian Nations to maintain a free and open international order in the Indo-Pacific region, in apparent reference to China's expansionary activities in the South China Sea.

During a meeting in Tokyo with Le Luong Minh, the secretary general of ASEAN, Abe also expressed Tokyo's desire to support the regional group in economic fields and to make the bonds between Japan and the bloc unshakeable through mutual understanding driven by cultural and interpersonal exchanges, according to the Japanese Foreign Ministry.

Minh told Abe that contributions in security and political areas have been part of Japan's continued support for ASEAN in the 50 years since its establishment in 1967, the ministry said.

A number of ASEAN members are involved in territorial disputes with China in the South China Sea, where Beijing has engaged in land reclamation to buttress its claims. —Kyodo News ■

Abe offers conditional cooperation with China's Silk Road initiative

TOKYO— Prime Minister Shinzo Abe said on Monday that Japan is ready to cooperate with China's "One Belt, One Road" cross-continental infrastructure development scheme under certain conditions.

Speaking at a forum in Tokyo on Asia's future, Abe said those conditions would include "harmony with a free and fair Trans-Pacific economic zone," alluding to the terms of the Trans-Pacific Partnership free trade pact, to which Japan is a signatory but China is not.

The One Belt, One Road initiative, put forward by Chinese President Xi Jinping in 2013, would involve massive investment to connect up both a land-based economic belt based off the ancient Silk Road and a maritime corridor spanning from China to Southeast Asia, India, Africa and Europe.

Xi has said he wants to create a "big family of harmonious coexistence" through the project, but skeptics see it as a bid to position China as a viable alternative to US global leadership. Abe lauded the initiative's "potential to connect East and West as well as the diverse regions found in between." But he cautioned that it is "critical for infrastructure to be open to use by all, and to be developed through procurement that is transparent and fair."



Prime Minister Shinzo Abe. **PHOTO: REUTERS**

"I furthermore consider it essential for projects to be economically viable and to be financed by debt that can be repaid, and not to harm the soundness of the debtor nation's finances," Abe said, adding Tokyo is "ready to extend cooperation from that perspective."

The statement may be part of efforts to foster warmer relations with China as Japan seeks to host a postponed trilateral summit with the leaders of China and South Korea by the end of the year. It also comes amid speculation that the United States could be considering joining the China-led Asian Infrastructure Investment Bank, a move that would likely put pressure on Japan to follow suit.

Japan and the United States, the main backers of the decades-older Asian Development Bank, are the only members of the Group of Seven developed nations not signed up to the AIIB.

Abe said last month he could be open to considering joining the AIIB if questions surrounding projects' environmental impacts and other issues are resolved.

Toshihiro Nikai, the secretary general of Abe's Liberal Democratic Party and known for his pro-China stance, attended a One Belt, One Road-themed international forum in Beijing last month and is said to support the AIIB idea.—Kyodo News ■

China upset at Mattis' "irresponsible remarks" on South China Sea

SHANGHAI — China has expressed its strong dissatisfaction with what it labelled "irresponsible remarks" on the South China Sea by US Secretary of Defence James Mattis during a security forum at the weekend.

Mattis accused China of having contempt for other nations' interests and disregarding international law.

He told the annual Shangri-La Dialogue in Singapore that the construction and militarisation of artificial islands in the South China Sea undermined regional stability.

Chinese Foreign Ministry spokeswoman Hua Chunying said China's construction of facilities in the Spratly archipelago in the South China Sea was aimed at improving working conditions for people stationed there, maintaining sovereignty and fulfilling China's international responsibilities.

The sovereign activities undertaken by China had nothing to do with militarisation, Hua said in remarks posted on the ministry's website late on Sunday. China's claims in the South China Sea, through which about $5 trillion in ship-borne trade passes each year, are contested by Brunei, Malaysia, the Philippines, Taiwan and Viet Nam. China and Japan both claim islands in the East China Sea.

Hua said countries around the South China Sea had tried to lower tensions, but others outside the region "have been bent on going against the trend, making repeated erroneous remarks, ignoring the facts and confusing black from white with entirely ulterior motives". —Reuters ■

S Korean president orders additional probe into unreported THAAD launchers deployment

SEOUL — South Korean President Moon Jae-in on Monday ordered an additional probe into the unreported deployment of four more mobile launchers of the US missile shield to the country.

Senior presidential press secretary Yoon Young-chan told a press briefing that President Moon ordered his senior secretary for civil affairs to look further into any suspicions over the installation of the US Terminal High Altitude Area (THAAD) missile interception system. Moon ordered an initial investigation last week into the "intentional" omission of report to the new leader about the deployment of four THAAD mobile launchers to an unidentified US military base in South Korea.

During the regular meeting earlier in the day between Moon and his senior secretaries, Moon was briefed by the civil affairs secretary on the investigation findings. The findings showed Wi Seung-ho, chief of the defence ministry's national defence policy office, ordered officials to omit the deployment of four more THAAD launchers from a document to the presidential Blue House.

The defence ministry reported to the state affairs planning advisory panel, which acted as a transition committee, on 25 May and to the National Security Office of the Blue House the following day, but the additional installation was omitted from the documents.

In the preliminary documents, the additional deployments to the unnamed US military base in South Korea were written, but Wi instructed defense ministry officials to omit them in the final version.

The Blue House informed the US side of the investigation results earlier in the day. In response, the US side said it can understand the South Korean position.

Wi will be excluded from relevant defense affairs, while other relevant defense ministry officials will be subject to further investigations, according to the Blue House. —Xinhua ■



It is time for YCDC to make good on its pledges

Tha Sein

The bouts of heavy rain, apparently brought by storm Mora, inundated a vast area of Yangon and overwhelmed the city drainage capacity, causing motorists to get stuck in traffic and forcing the people to wade waist-deep into the water to run their chores.

One thing leads to another, and all of a sudden a whole slew of symptoms converge into a stream of serious ailments. First, there was flooding, a common enough occurrence in the city after heavy rain. The city's ineffective drainage system is being blamed for the floods, and the allowance of the urban landscape to grow with little regard for proper design and management of the city's drainage system a factor to blame.

The floods have also caused frequent power cuts, which leave traffic lights unpowered, playing havoc with people across the city being stuck in traffic.

The issue has now become a topic of discussion. Rapid development and population growth compounded by increasing environmental degradation and the effects of climate change made the city more vulnerable to flood than other areas of the country.

That is because we tend to shy away from tackling problems at the root cause. We try to solve structural problems but do little to fix cultural issues having to do with people's environmental behavior and social responsibility. Crisis management is the name of the game.

A tendency of the people to leave rubbish behind, including large pieces such disposed plastic bottles, various furniture items and assortments of other trash makes the problem worse. If they are troubled by environmental or developmental harm caused by their actions, they will find some rationale to explain it.

Yangon is at greater risk than many other parts of the country to flood in the rainy season because of its blocked drainages. It is easy for the people to lambaste the government for the failure to deal adequately with city's drainage systems. Instead, the people should do all they can to support and encourage the government in its endeavors.

The YCDC received its fair share of criticism during the floods, and it is time to revive and then make good on its pledges to turn the city into a clean and pleasant one. ■

Myanmar drafting new development strategy for agriculture sector

By Rey Davis-Tuplano,
Editorial Manager,
Oxford Business Group

FACED with weak investment inflows and growth rates well behind that of GDP, Myanmar's agriculture industry is being targeted by the government and international agencies for an overhaul aimed at lifting productivity and returns.

In late April the Ministry of Agriculture, Livestock and Irrigation (MALI) announced it was in the process of drafting a development strategy for the sector.

The main targets of the blueprint are to improve sectoral monitoring, increase production and raise the sector's competitiveness, officials said.

Authorities hope to accomplish these goals by establishing stronger links between the public and private sector via 42 programmes and 263 plans of action.

Being developed with input from the Asian Development Bank, the UN Food and Agricultural Organisation, and Livelihoods and Food Security Trust Fund, the MALI expects to finalise and publish the new strategy in July, with extensive consultations with stakeholders to be held both this month and next.

Cooling growth

The new strategy is being developed at a time when agriculture is failing to keep up with the rest of the economy.

The sector expanded by an estimated 4.3% in 2016, according to data issued by the World Bank in mid-April. While this represented an improvement on the 3.4% growth posted in 2015 and 2.8% a year earlier, the sector continues to lag behind the broader economy, with GDP expansion hitting 6.5% last year.

This gap is forecast to persist in the medium term, with the World Bank estimating in its "Sustaining Resilience" report published last month that Myanmar's agriculture sector will expand by around 5.4% every year through to 2019, compared to broader economic growth of 7%.



"Of the 20m ha of agricultural land available in Myanmar, only 20% is farmed using machinery."

Easing credit drought

Even in its draft stage, the MALI strategy has identified some key areas where improvements need to be made to help bridge the growth gap. One of these involves improving access to credit among the nation's farmers – an issue cited by other observers as restricting capacity development in the sector.

An Article IV Consultation released by the IMF in early February, for example, highlighted that improved access to credit was called for in the sector given the lower than expected growth recorded last year. According to the international lender, there was scope for "carefully sequenced loosening of controls on lending interest rates, supported by appropriate supervision".

Investment shortfall

At the same time farmers have struggled to obtain appropriate financing, their industry is also having difficulty attracting significant levels of investment when compared with other leading sectors.

Although agriculture is the country's leading employer and contributor to the economy – accounting for some 24% of GDP – it is has not drawn levels of investment that are commensurate with this high input.

Domestic investors directed MMK13.19trn ($9.7bn) into more than 1240 registered enterprises in the 12 months ending March 31, with the agriculture and livestock segment only drawing 0.38% of the total. Even with the fisheries segment factored in, this only rose to 0.91%.

By contrast, the real estate sector attracted MMK2.76trn ($2bn) of domestic investments, just under 21% of the total, according to data issued by the Directorate of Investment and Company Administration in April, with manufacturing and transport drawing MMK2.4trn ($1.7bn) and MMK2.3trn ($1.6bn), respectively.

Furthermore, of the 20m ha of agricultural land available in Myanmar, only 20% is farmed using machinery. This has contributed to the slow growth, with the government pushing for the sector's restructuring and mechanisation as a result.

"The country is not able to fully leverage its capacity because it does not have the best machinery, nor the best quality seeds, and undertakes limited research and development." Sunil Seth, president of the Overseas Agro Traders Association of Myanmar and TATA group head in Myanmar, told OBG.

If not tackled fast, Myanmar could lose ground to competitors in African markets, such as Mozambique, Sudan and Tanzania, which can produce the same crops at a lower cost than Myanmar, according to Seth.

U Aung Zaw Oo, chairman of agricultural group Aung Naing Thitsar, also spoke of shortcomings that limited forward momentum in the industry. "There is no proper infrastructure in rural areas, whether that be storage facilities or transportation." he told OBG.

New law lifts investment potential

To help tackle these challenges, agriculture has been identified by the Myanmar Investment Commission as one of 20 key sectors for investment prioritisation, with a new investment law introduced in April aimed at easing the route to investment for overseas companies.

Unlike previous investment acts, the new legislation covers both overseas and domestic firms. Along with income tax exemptions for investors buying into targeted sectors such as agriculture and agribusiness, there is also support for firms operating out of special economic zones being established by the state.

The fact that the new law has reduced the corporate income tax exemption from five to three years in major cities and increased it to seven years in less-well-developed areas could also help attract investors into the agriculture sector, which is largely based in rural regions. ■

This Myanmar economic update was produced by Oxford Business Group.

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Rakhine Advisory Commission meets civil society organisations in Sittway

Ms. Laetitia van den Assum and party of Rakhine Advisory Commission arrived in Sittway by Myanmar National airline flight on the afternoon of 4 June.

Yesterday morning, the commission members met with 10 farmers from villages in Sittway township led by farmer U Tin Myint and 10 youths from Rakhine Youth Group led by Zaw Zaw Tun at Sittway Hotel.

In the afternoon, the commission members met with 10 representatives of civil society organisations led by U Khaing Kaung Zan of Wun Let Foundation and Hindus led by U Maung Tha Aung of Hindu faith at Sittway hotel and discussed matters relating to socio-economic development of Rakhine State.

On 6 June, the commission will meet with Rakhine people in Mrauk U, civil society organisations from two communities in Kyauktaw and on 7 June, will meet with top departmental officials in Thandwe Township to discuss matters relating to travel and fish breeding sector.



Ms. Laetitia van den Assum and party of Rakhine Advisory Commission meet civil society organizations in Sittway. **PHOTO: MNA**

The commission members include Ms. Laetitia van den Assum, U Win Mya, U Khin Maung Lay, Dr. Thar Hla Shwe, Dr. Mya Thida and Daw Saw Khin Tint.—Tin Tun (Information/ Relations) ■

Villager killed by unidentified men in Maungtaw

A villager from Ywathitkay Village, Gawdutharya Village-tract, Maungtaw Township, was killed by a group of unidentified men on Sunday.

Nu Armein, the head of the 100-households of the village, was abducted by about 15 men armed with machetes at his home about 3 am and his brother was beaten by them. Nu Armein was found dead with cuts about 11.45 am near a prawn farm south of Ywathitkay Village.—Myanmar News Agency ■

KBZ awarded Business Initiative Directions' International Quality Summit Award 2017

Kanbawza Bank Limited won the International Quality Summit Award (Diamond Category) for 2017 for the third year in a row. The award is sponsored by Business Initiative Directions (BID) of Spain to organisations for excellence, leadership and innovation.

This year's BID International Quality Summit Convention was held in the Marriott Marquis Hotel in New York City from 28 to 29 May. Senior General-Manager of KBZ Bank Limited U Soe Tin Maung Zaw and Deputy Manager U Aung Phyo Htay received the award on behalf of KBZ Bank Limited.

U Nyo Myint, Senior Executive Director of KBZ Group of Companies, said KBZ is Myanmar best bank. U Nyo Myint also touted KBZ's position as a leading corporate taxpayer in Myanmar for the past five years, a practice that contributes to the nation's development goals.

KBZ Group of Companies won the International Star Award for Quality (Gold Category) in 2015, the World Quality Commitment Award (Platinum Category) in 2016 and is now awarded the International Quality Summit Award (Diamond Category) for sustained excellence. BID called KBZ a role model for management.—Thura Lwin-Eco ■



U Nyo Myint, Senior Executive Director of KBZ Group of Companies, Senior General-Manager of KBZ Bank Limited U Soe Tin Maung Zaw and Deputy Manager U Aung Phyo Htay accept the International Quality Summit Award (Diamond Category) from Spain-based Business Initiative Directions, for the third year in a row. **PHOTO: SUPPLIED**

Republic of the Union of Myanmar
President's Office
Order 10/2017

11th Waxing of Nayon, 1379 ME
5 June, 2017

Deputy Minister approved

In accordance with the provisions stated in article 234 (a) (d) of the Constitution of the Republic of the Union of Myanmar and Section 16 (b) Sub-section (9) of Union Government Law, U Kyaw Lin, has been appointed as Deputy Minister for Construction.

Sd/Htin Kyaw
President
Republic of the Union of Myanmar

Republic of the Union of Myanmar
President's Office
Order 11/2017

11th Waxing of Nayon, 1379 ME
5 June, 2017

Appointment of Ayeyawady Region Minister

In accordance with the provisions stated in article 262 (f), article 264 (c) of the Constitution of the Republic of the Union of Myanmar and section 19 (c), section 82 (c) of Union Government Law and Section 8 (g), Section 56 (a) of Region or State Government Law, U Htay Win, has been appointed as Ayeyawady Region Minister for Planning and Finance.

Sd/Htin Kyaw
President
Republic of the Union of Myanmar

Man missing in Maungtaw Township, Rakhine State

A villager from Kyikanpyin Ale Village in Maungtaw Township has been missing since 27 May, according to local police.

Mamauk Tarhar left his home about 6 pm on 27th May and still has not arrived back his home, said his mother to the police. She opened a file for missing of her son at Pyinbyu Police Station.—Myanmar News Agency ■



Dr Myint Htwe, Union Minister for Health and Sports and Mr. Staffan Herrstrom, Ambassador of Sweden delivers welcoming speeches at the ceremony to mark Swedish National Day in Yadanar Room, Park Royal Hotel in Nay Pyi Taw yesterday. **PHOTO: MYANMAR NEWS AGENCY**

After London attack, May faces election heat over police cuts

LONDON — Britain's election campaign resumed in earnest on Monday with Prime Minister Theresa May's opinion poll lead narrowing and the focus firmly on her security record after an attack by marauding jihadis killed seven people in the heart of London.

In Britain's third Islamist attack in as many months, three men rammed a van into pedestrians on London Bridge on Saturday night before running into the busy Borough Market area where they slit people's throats and stabbed them indiscriminately.

All three attackers were shot dead by police, who have since made at least a dozen arrests in east London and were carrying out further raids on Monday morning. The attackers' identities have not been disclosed.

A parliamentary election takes place on Thursday and May's spokeswoman said the government was working closely with police on security for the vote.



Britain's Prime Minister Theresa May delivers a campaign speech in central London, Britain, on 5 June, 2017. **PHOTO: REUTERS**

With the London attack dominating attention, a reduction in the number of police officers in England and Wales by almost 20,000 during May's six years as interior minister from 2010 to 2016 shot to the top of the election agenda.

The Conservative Party leader did not answer repeated questions on the cutbacks but said counter-terrorism budgets had been protected and police had the powers they needed.

Her main opponent, Labour Party leader Jeremy Corbyn, backed calls for her resignation over the police cuts.

He said many people were "very worried that she was at the Home Office for all this time, presided over these cuts in police numbers, and now is saying that we have a problem".

The Conservatives' lead over Labour has narrowed markedly from 20 points or more when she called the election in April to a range between one and 12 points now, although they are still widely expected to win a majority.

The pound rose on currency markets, which favour May over Corbyn, after the latest ICM poll, taken between 2 and 4 June and June and published on Monday, suggested the Conservatives were ahead by 11 points.

After chairing a meeting of the government's crisis response committee on Monday morning, May said the official threat level remained at "severe", meaning an attack was highly likely, and additional security measures were in place.

"This was an attack on London and the United Kingdom, but it was also an attack on the free world," she said.

A Canadian and a French national are known to have died and 48 people were injured, 21 of them critically.

The rampage came less than two weeks after a suicide bomber killed 22 children and adults at a pop concert in Manchester. In March, five people died after a man drove a van into pedestrians on London's Westminster Bridge and stabbed a policeman.

The Islamic State militant group, which is losing territory in Syria and Iraq to an offensive backed by a US-led coalition, claimed responsibility for the London Bridge attack, though it is unclear whether the attackers had links to the group.

London police chief Cressida Dick said that, while some of the recent attacks in Britain had international dimensions, they had a largely domestic "centre of gravity". Both the Westminster and Manchester attackers were British-born.

With the issue of security now dominating the election agenda, May responded to the latest violence by saying Britain should be tougher in stamping out Islamist extremism.

The police response to the rampage, which saw officers shoot dead the attackers within eight minutes of police receiving the first call, has been widely praised. But that did not stop the questions to May about police numbers during her time as interior minister. According to official data, officer numbers decreased every year that she was in the post, from 2010 to 2016. The number of authorised firearms officers in England and Wales fell to just under 5,700 in 2016 from nearly 7,000 in 2010. Asked whether she regretted presiding over the cuts, May did not answer the question, saying London's Metropolitan Police was well resourced and had powerful counter-terrorism capabilities. "We have protected counter-terrorism policing budgets, we have also provided funding for an increase in the number of armed police officers," she said.

May tried to deflect the pressure onto Corbyn, a pacifist who has opposed some security legislation in parliament and expressed reservations in the past about police responding to armed attackers with "shoot-to-kill" tactics.

He sought to end that earlier controversy on Sunday by stating that he backed the "full authority for the police to use whatever force is necessary to protect and save life as they did (at Borough Market), as they did in Westminster in March". —Reuters ■

WORLD BRIEFS

Kremlin wants stability and peace in the Gulf despite Qatar diplomatic row

MOSCOW — It is in Russia's interest to have a "stable and peaceful" situation in the Gulf, the Kremlin said on Monday, commenting on the decision by a number of Arab nations to sever diplomatic relations with Qatar.

Moscow also hopes that the current diplomatic row in the Gulf will not affect "the common determination and resolve" in the joint fight against "international terrorism", Kremlin spokesman Dmitry Peskov told a conference call with reporters.—Reuters ■

Multiple fatalities in Florida workplace shooting – sheriff

ORLANDO — Multiple people were killed in a workplace shooting in Orlando, Florida, on Monday morning, the Orange County Sheriff's Office said, adding that the situation had stabilized.

"OCSO working shooting scene that has stabilized. Multiple fatalities," the sheriff's office posted on Twitter. The incident occurred in an industrial area on Forsyth Road, the sheriff's office said. —Reuters ■

US top court rules against SEC over recovery of ill-gotten gains

WASHINGTON — The US Supreme Court on Monday scaled back the Securities and Exchange Commission's power to recover ill-gotten profits from defendants' misconduct, handing Wall Street firms a victory and dealing another blow to the regulator's enforcement powers. In a 9-0 ruling, the Supreme Court found that the SEC's recovery remedy known as "disgorgement" is subject to a five-year statute of limitations. The justices sided with New Mexico-based investment adviser Charles Kokesh, who previously was ordered by a judge to pay $2.4 million in penalties plus $34.9 million in disgorgement of illegal profits after the SEC sued him.—Reuters ■

Saudi, Egypt lead Arab states cutting Qatar ties, Iran blames Trump

DUBAI — Saudi Arabia, Egypt, the United Arab Emirates and Bahrain severed their ties with Qatar on Monday, accusing it of supporting terrorism and opening up the worst rift in years among some of the most powerful states in the Arab world.

Iran — long at odds with Saudi Arabia and a behind-the-scenes target of the move — immediately blamed US President Donald Trump for setting the stage during his recent trip to Riyadh.

Gulf Arab states and Egypt have already long resented Qatar's support for Islamists, especially the Muslim Brotherhood which they regard as a dangerous political enemy.

The coordinated move, with Yemen and Libya's eastern-based government joining in later, created a dramatic rift among the Arab nations, many of which are in OPEC.

Announcing the closure of transport ties with Qatar, the three Gulf states gave Qatari visitors and residents two weeks to leave. Qatar was also expelled from the Saudi-led coalition fighting in Yemen.

Oil giant Saudi Arabia accused Qatar of backing militant groups — some backed by regional arch-rival Iran — and broadcasting their ideology, an apparent reference to Qatar's influential state-owned satellite channel al Jazeera. "(Qatar) embraces multiple terrorist and sectarian groups aimed at disturbing stability in the region, including the Muslim Brotherhood, ISIS (Islamic State) and al-Qaeda, and promotes the message and schemes of these groups through their media constantly," Saudi state news agency SPA said. It accused Qatar of supporting what it described as Iranian-backed militants in its restive and largely Shi'ite Muslim-populated Eastern region of Qatif and in Bahrain.

Qatar said it was facing a campaign aimed at weakening it, denying it was interfering in the affairs of other countries.

"The campaign of incitement is based on lies that had reached the level of complete fabrications," the Qatari foreign ministry said in a statement.

Iran saw America pulling the strings. "What is happening is the preliminary result of the sword dance," Hamid Aboutalebi, deputy chief of staff of Iran's President Hassan Rouhani, tweeted in a reference to Trump's recent visit to Saudi Arabia.

Trump and other US officials participated in a traditional sword dance during the trip in which he called on Muslim countries to stand united against Islamist extremists and singled out Iran as a key source of funding and support for militant groups.

US Secretary of State Rex Tillerson told reporters in Sydney on Monday that the spat would not effect the fight against Islamist militants and that Washington has encouraged its Gulf allies to resolve their differences.

A split between Doha and its closest allies can have repercussions around the Middle East, where Gulf states have used their financial and political power to influence events in Libya, Egypt, Syria, Iraq and Yemen. The economic fallout loomed immediately, as Abu Dhabi's state-owned Ethihad Airways, Dubai's Emirates Airline and budget carrier Flydubai said they would suspend all flights to and from Doha from Tuesday morning until further notice.

Qatar Airways said on its official website it had suspended all flights to Saudi Arabia.

Qatar's stock market index sank 7.5 per cent with some of the market's top blue chips hardest hit. The measures are more severe than during a previous eight-month rift in 2014, when Saudi Arabia, Bahrain and the UAE withdrew their ambassadors from Doha, again alleging Qatari support for militant groups. At that time, travel links were maintained and Qataris were not expelled.

The diplomatic broadside threatens the international prestige of Qatar, which hosts a large US military base and is set to host the 2022 World Cup. It has for years presented itself as a mediator and power broker for the region's many disputes.



A map of Qatar is seen in this picture illustration on 5 June, 2017. **PHOTO: REUTERS**

Kristian Ulrichsen, a Gulf expert at the US-based Baker Institute, said if Qatar's land borders and air space were closed for any length of time "it would wreak havoc on the timeline and delivery" of the World Cup.

"It seems that the Saudis and Emiratis feel emboldened by the alignment of their regional interests — toward Iran and Islamism — with the Trump administration," Ulrichsen said. "(They) have decided to deal with Qatar's alternative approach on the assumption that they will have the (Trump) administration's backing."

Qatar used its media and political clout to support long-repressed Islamists during the 2011 pro-democracy "Arab Spring" uprisings in several Arab countries.

Muslim Brotherhood groups allied to Doha are now mostly on the backfoot in the region, especially after a 2013 military takeover in Egypt ousted the elected Islamist president.

The former army chief and now president, Abdel Fattah al-Sisi, along with the new government's allies in Saudi Arabia and the UAE, blacklist the Brotherhood as a terrorist organisation.

Egypt, the Arab world's most populous nation, said on its state news agency that Qatar's policy "threatens Arab national security and sows the seeds of strife and division within Arab societies according to a deliberate plan aimed at the unity and interests of the Arab nation."

Oil prices rose after the moves against Qatar, which is the biggest supplier of liquefied natural gas (LNG) and a major seller of condensate - a low-density liquid fuel and refining product derived from natural gas. —Reuters ■

Tillerson says break with Qatar by Saudi Arabia, others won't affect counter-terrorism

SYDNEY — US Secretary of State Rex Tillerson said he does not expect a decision by Saudi Arabia, Egypt, the United Arab Emirates and Bahrain to sever ties with Qatar on Monday to have a significant effect on the fight against Islamic State.

"I do not expect that this will have any significant impact, if any impact at all, on the unified - the unified — fight against terrorism in the region or globally," Tillerson told reporters in Sydney after meetings between Australian and US foreign and defence ministers.

Tillerson urged the Gulf Cooperation Council nations to instead sort out their differences.


US Secretary of State Rex Tillerson speaks at a press conference at the Australia-United States Ministerial Consultations (AUSMIN) at Government House in Sydney, Australia on 5 June, 2017. **PHOTO: REUTERS**

The coordinated move dramatically escalates a dispute over Qatar's support for the Muslim Brotherhood, the world's oldest Islamist movement, and adds accusations that Doha even backs the agenda of regional arch-rival Iran.—Reuters ■

Irish police say one London attacker had Irish ID — RTE TV

DUBLIN — One of three attackers shot dead during an attack near London Bridge on Saturday evening had an Irish identification card, the Irish state broadcaster RTE reported on Monday, citing Irish police sources.

The Irish police declined to comment on the report.

"The British police discovered the Irish identity card on the body of one of the three London attackers after he was shot dead," RTE security correspondent Paul Reynolds said in a report. "Gardai (Irish police) were contacted and have established that he lived in Dublin for some time.

The man is believed to have been of Moroccan origin and is married to a Scottish woman," he said. The man had not come to the attention of the Gardai in relation to any crime or security issues, the report said.

The head of the Irish police force was due to hold a special meeting of security and intelligence officers in Dublin on Monday morning in relation to the attack, RTE reported. At least seven people were killed when the three men rammed a van into pedestrians on London Bridge and then stabbed revellers in nearby bars, British police said.

An Irish police spokesman said the force was providing assistance to colleagues in the British police and would answer any enquiries from them in relation to the identity of any individuals. —Reuters ■

Trump urges tougher US travel ban, expedited court review

WASHINGTON — US President Donald Trump urged his administration to seek a tougher version of his controversial travel ban proposal on Monday following a weekend attack in London, and pressed for an expedited judicial review by the nation's top court.

"The Justice Department should have stayed with the original travel ban, not the watered down, politically correct version they submitted to SC," Trump, referring to the US Supreme Court, wrote in a series of early morning tweets on the issue. "The Justice Department should ask for an expedited hearing of the watered down travel ban before the Supreme Court — & seek much tougher version!" tweeted Trump, who as president oversees the department.



US President Donald Trump makes concluding remarks as first lady Melania Trump listens at the Ford's Theatre Gala, an annual charity event to honor the legacy of President Abraham Lincoln, in Washington, US on 4 June, 2017. **PHOTO: REUTERS**

Last week, Trump's legal team asked the nation's top court to allow his controversial 6 March executive order, which blocks citizens of six predominantly Muslim countries from entering the United States, to take effect immediately despite being blocked by lower courts. The Supreme Court rarely grants emergency requests. Trump has said his proposed ban, a centerpiece of his 2016 presidential campaign, is necessary to protect Americans from terrorist attacks. Critics have assailed the ban as discriminatory and that his reasoning for it is flawed. US Senator Ben Cardin, the ranking Democrat on the Senate Foreign Relations Committee who opposes the ban, said on Monday Trump's tweets on the issue "clearly shows his intent" and his disdain for the judicial branch.

"The courts have ruled, and the courts said this abused the executive powers. His lawyers tried to justify it by saying it wasn't a travel ban, that it was just extreme vetting," Cardin told CNN. "The president's made that very clear: it is a travel ban."

Trump also tweeted on Monday that even as legal wrangling over the ban continues, his administration was implementing tougher vetting of would-be visitors to the United States, adding: "The courts are slow and political!"

Last week, his administration rolled out new policies for those seeking a US visa, asking for the social media handles they have used over the last five years and biographical information going back 15 years.—Reuters ■

CLAIM'S DAY NOTICE

MV ACACIA VOY. NO ( )

Consignees of cargo carried on MV ACACIA VOY. NO ( ) are hereby notified that the vessel will be arriving on 5.6.2017 and cargo will be discharged into the premises of SPW(5) where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

SHIPPING AGENCY DEPARTMENT
MYANMA PORT AUTHORITY
AGENT FOR: M/S BEN LINE AGENCIES (S'PORE) PTE LTD

Phone No: 2301928

CLAIM'S DAY NOTICE

MV TOVE MAERSK VOY. NO ( )

Consignees of cargo carried on MV TOVE MAERSK VOY. NO ( ) are hereby notified that the vessel will be arriving on 6.6.2017 and cargo will be discharged into the premises of M.I.P where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

SHIPPING AGENCY DEPARTMENT
MYANMA PORT AUTHORITY
AGENT FOR: M/S MCC TRANSPORT (S'PORE) PTE LTD

Phone No: 2301185

CLAIM'S DAY NOTICE

MV KOTA HARTA VOY. NO ( )

Consignees of cargo carried on MV KOTA HARTA VOY. NO ( ) are hereby notified that the vessel will be arriving on 5.6.2017 and cargo will be discharged into the premises of MITT/AWPT where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

SHIPPING AGENCY DEPARTMENT
MYANMA PORT AUTHORITY
AGENT FOR: M/S ADVANCE CONTAINER LINES

Phone No: 2301185

CLAIM'S DAY NOTICE

MV CAPE FLORES VOY. NO ( )

Consignees of cargo carried on MV CAPE FLORES VOY. NO ( ) are hereby notified that the vessel will be arriving on 5.6.2017 and cargo will be discharged into the premises of A.W.P.T where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

SHIPPING AGENCY DEPARTMENT
MYANMA PORT AUTHORITY
AGENT FOR: M/S NEW GOLDEN SEA LINES

Phone No: 2301185

CLAIM'S DAY NOTICE

MV YANTRA BHUM VOY. NO ( )

Consignees of cargo carried on MV YANTRA BHUM VOY. NO ( ) are hereby notified that the vessel will be arriving on 5.6.2017 and cargo will be discharged into the premises of M.I.P where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

SHIPPING AGENCY DEPARTMENT
MYANMA PORT AUTHORITY
AGENT FOR: M/S REGIONL CONTAINER LINES

Phone No: 2301185

CLAIM'S DAY NOTICE

MV NINOS VOY. NO ( )

Consignees of cargo carried on MV NINOS VOY. NO ( ) are hereby notified that the vessel will be arriving on 6.6.2017 and cargo will be discharged into the premises of H.P.T where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

SHIPPING AGENCY DEPARTMENT
MYANMA PORT AUTHORITY
AGENT FOR: M/S NEW GOLDEN SEA LINES

Phone No: 2301185

US army Pacific chief in Bangkok amid regional security concerns

BANGKOK — The head of the US Army Pacific met his Thai counterpart in Bangkok on Monday, a rare top-level meeting between the old allies' militaries since the United States criticised a Thai military coup in 2014.

The visit to Thailand by General Robert B Brown, who is also director of the US Missile Defence Agency in Seoul, comes as the United States looks to reassure allies about its commitment to the region.

Brown met General Chalermchai Sitthisart, commander of the Royal Thai Army, at the army's headquarters in Bangkok.

"The United States and Thailand have had a relationship since 1833 ... We have exchanged ideas, cooperated militarily," the Thai army said in a statement. Neither of the two generals spoke to media following a military parade to welcome Brown.

Thailand is Washington's oldest ally in the region, but ties were strained by the 2014 military coup led by then-army chief Prayuth Chan-ocha that ousted an elected civilian government.



The chief commander of the US Army Pacific, General Robert B Brown reviews the honour guard with his Thai counterpart, General Chalermchai Sittisart (not in pictured) during his visit to Thailand at the Royal Thai Army headquarters in Bangkok, Thailand on 5 June, 2017. **PHOTO: REUTERS**

The United States scaled back some military exchanges with Thailand and Thailand responded by forging closer ties with Asian giant China.

But the United States and Thailand have continued to hold joint military exercises including the annual Cobra Gold exercises, Asia's largest multinational drill.

US Defence Secretary Jim Mattis told a regional security conference in Singapore on the weekend that United States remained committed to its Asia-Pacific allies. US President Donald Trump's "America First" rhetoric and expectations that he would concentrate on a domestic agenda has stoked fears of a retreat from a traditional US security role that has underpinned the region for decades.

Now the United States was reacting to China's growing ties with countries like Thailand and its neighbour, Cambodia, an analyst said.

"The Trump administration would like to re-balance military power in Asia, which has increasingly moved toward China, in an effort to reassert Washington's security influence," Paul Chambers from the College of ASEAN Community Studies at Naresuan University told Reuters.

Last month, Trump invited former army chief Prayuth, who now heads the military government as prime minister, to visit Washington.—Reuters ■

"TPP 11" should unite behind pact, Abe tells Vietnamese PM

TOKYO — Prime Minister Shinzo Abe told his Vietnamese counterpart Nguyen Xuan Phuc on Monday that the remaining signatories of the Trans-Pacific Partnership free trade deal should come together to bring it into force following the United States' withdrawal.

"The 'TPP 11', the eleven (signatories) to the TPP, will unite to realize (it)," Abe said in Tokyo at a conference on investment in Vietnam attended by Phuc.

Since US President Donald Trump announced the withdrawal of the world's biggest economy from the TPP soon after taking office in January, the 11 remaining signatories have differed over whether to bring the pact into force without Washington.

Japan, along with Australia and New Zealand, advocates quick implementation of the deal without the United States, but Vietnam and Malaysia have been reluctant as they had hoped to take advantage of increased trade with the United States under the TPP in order to expand their economies.

Abe is scheduled to hold talks later this week with Phuc, who is on an official visit to Japan from Sunday to Thursday.

Abe said the "world is watching Vietnam" because of its pursuit of multilateral agreements like the TPP in tandem with domestic economic reforms and "this movement must not be stopped."

"With or without a TPP, we will go forward with economic reform, domestic economic reconstruction and pass on a model for economic development," Phuc said at the conference before Abe arrived.

"From here on, Vietnam wants to coordinate with (the other signatories), have an open discussion with Japan and reach a logical conclusion. We want to do our best for our common goal," Phuc said.

At a business conference in the capital earlier on Monday, Phuc said his country is discussing the "best options" for the TPP.

"We are discussing with other members to assess the best options on a mutually beneficial basis...when there's no United States in the TPP," he said.

The chief negotiators of the 11 remaining TPP countries plan to meet in Japan next month to discuss the future of the free trade deal without the United States.

The planned meeting, to be hosted by Tokyo for the first time, follows an agreement by the trade ministers of the 11 TPP members on 21 May in Hanoi to complete preparatory work by November to swiftly bring the deal into force. —Reuters ■

Eight dead, nine injured in petrochemical plant explosion

JINAN — Rescuers have retrieved a further seven bodies following an explosion at a petrochemical company in eastern China's Shandong Province Monday morning, bringing the death toll to eight.

As of 4 pm, the fire in Linyi city had been put out with secondary disasters unlikely, according to the emergency rescue headquarters.

Nine others were injured after a liquefied gas tanker exploded around 1 am Monday, causing the fire in the loading area of Linyi Jinyu Petrochemical Company, in the city's Lingang Economic Development Area.

The injured were not in critical condition, according to the rescuers.

Police have detained the owner of the company.

More than 900 firefighters and over 170 fire engines were mobilized to extinguish the flames, with people in nearby villages and plants evacuated.

An investigation is underway. —Xinhua ■

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Dated 6th **June 2017** lmm@kcyangon.com

CLAIM'S DAY NOTICE

MV SAN GIORGIO VOY. NO ( )

Consignees of cargo carried on MV SAN GIORGIO VOY. NO ( ) are hereby notified that the vessel will be arriving on 5.6.2017 and cargo will be discharged into the premises of M.I.T.T where it will lie at the consignee's risk and expenses and subject to the byelaws and conditions of the Port of Yangon.

Damaged cargo will be surveyed daily from 8 am to 11:20 am and 12 noon to 4 pm to Claim's Day now declared as the third day after final discharge of cargo from the Vessel.

No claims against this vessel will be admitted after the Claims Day.

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Top Drama Desk awards for 'Oslo,' 'Come From Away' and Bette Midler in 'Hello, Dolly!'

NEW YORK — The musical "Come From Away," the play "Oslo," and Bette Midler in a hit revival of "Hello, Dolly!" were among the top winners at Sunday's Drama Desk Awards, one of a series of theater honours leading up to Broadway's top honours, the Tony Awards.

"Come From Away," set in Gander, Newfoundland where dozens of jetliners were forced to land, stranding passengers after the 11 September attacks, was named best musical, while Midler won best actress in a musical for her star turn in "Hello, Dolly!" which also took the best musical revival prize.

"Oslo," JT Rogers' play about the behind-the-scenes negotiations in Norway that led to the historic 1993 peace accord between Israel and the PLO, won best play, while August Wilson's "Jitney" was named best play revival. Other big winners included best actor in a play Kevin Kline in Noel Coward's "Present Laughter" and Laura Linney, who took best actress in a play for "The Little Foxes." Cynthia Nixon in "The Little Foxes" and Danny DeVito in "The Price" took honours for featured performances in a play. Almost all the winners are seen as frontrunners for the Tony Awards, which will be handed out on 11 June at a gala ceremony hosted by Kevin Spacey at Radio City Music Hall, though Linney faces stiff competition from favorite Laurie Metcalf in "A Doll's House, Part 2." Best actor in a musical went to Andy Karl for "Groundhog Day," an adaptation of the popular Bill Murray film. "Dear Evan Hansen," the favorite for the best musical Tony, was not eligible for this year's Drama Desks, having played off-Broadway last year.

The Drama Desk awards are chosen by theater critics and writers to honor Broadway, off-Broadway and off-off-Broadway productions, unlike the Tonys, which are limited to Broadway shows.—Reuters ■



Actress Salma Hayek . **PHOTO: REUTERS**

Salma Hayek, husband bonded over science and sports

LONDON — Actress Salma Hayek and her husband Francois-Henri Pinault fell in love with each other because of their shared passion for sports and science.

The 50-year-old actress met Pinault 11 years ago and she was blown away by their exchange, which she said was not a "typical conversation" to spark romance, reported Hello magazine. "It was so silly. We started talking about football — we're crazy about soccer — then science because we love space and physics.

"He was so smart, charming and funny. At first I stereotyped him as not my kind of guy at all, and then I realised he was my perfect match," Hayek said.—PTI ■



Ariana Grande performs during the One Love Manchester benefit concert for the victims of the Manchester Arena terror attack at Emirates Old Trafford, Greater Manchester, Britain on 4 June, 2017. **PHOTO: REUTERS**

Justin Bieber gets emotional during UK benefit concert

LONDON — Pop star Justin Bieber had tears in his eyes as he delivered an emotional speech at the One Love concert in Manchester on Sunday.

The Canadian singer performed the acoustic versions of "Love yourself" and "Cold water" to pay tribute to the victims of the terror attack at Ariana Grande's 22 May gig in the British city that claimed 22 lives, reported Us weekly. "I'm not going to let go of hope. I'm not going to let go of love. I'm not going to let go of God... Put your hand up if you're not going to let go," Bieber, 23, told the crowd at the Old Trafford Stadium. The "Purpose" hitmaker's voice choked with emotion as he continued, "God is good in the midst of the darkness, God is good in the midst of the evil, God is in the midst no matter what's happening in the world. God is in the midst and he loves you and he's here for you." Besides Bieber, the three hour-long concert, organised and headlined by Grande, also saw artistes such as Coldplay, Take That, Robbie Williams, Pharrell, Miley Cyrus, Niall Horan, The Black Eyed Peas, Imogen Heap, Katy Perry performing on their hits. Grande also got emotional while recalling her meeting with the mother of 15-year-old victim, Olivia Campbell, who died in the terrorist attack at her concert last month. —PTI ■

Priyanka Chopra's 'twinning' moment with Nicole Kidman



Actress Priyanka Chopra. **PHOTO: REUTERS**

NEW YORK — Actress Priyanka Chopra spent an afternoon with Hollywood star Nicole Kidman, wearing almost similar looking dresses.

The 34-year-old actress took to Twitter to post a picture with the "Lion" star where both of them can be seen donning white outfits with black polka dots.

"We got the memo... Lol @nicolekidman #twinning," wrote Priyanka.

The "Quantico" actress, who just finished the world tour promoting her Hollywood debut "Baywatch", also shared a photograph with actresses Kate Mara, Keri Russell and supermodel Kendall Jenner.

"A perfect New York afternoon with these lovely ladies @NicoleKidman @katemara @KendallJenner #kerirussell," wrote Priyanka, alongside their photograph together. Priyanka and the other celebrities were attending the polo event organised to support Alicia Keys' Keep a Child Alive charity, which helps aid and support children and families dealing with HIV issues.—PTI ■

Japan NPO screens films for children in developing countries

KANAZAWA, Japan — A nonprofit organization in Japan is aiming to give children in developing countries a chance to enjoy films by hosting screenings in places where seeing them is a rare opportunity.

The Tokyo-based organization, World Theater Project, started showing films at schools in Cambodia in 2012 hoping children will expand their horizons by viewing them.

Tatsuki Kimbara, a 29-year-old company employee, joined the group's Osaka branch office in 2016 and has held events to raise donations for the project.

The NPO has hosted about 320 screenings across Cambodia by bringing its own equipment such as generators and projectors, Kimbara said, adding it hopes to host such screenings also in Myanmar and other developing countries.

When the crew visited a farming village about five hours by car from Cambodia's capital Phnom Penh, they showed an animation by the late cartoonist Takashi Yanase about a boy raised in a forest who becomes a musician.

Children who gathered in a classroom leaned forward to concentrate on the film dubbed in Khmer. One of them was quoted as saying, "I want to be like the main character (of the film)."

The NPO currently has the rights to screen four films, including an animation with the main character modeled after Japanese soccer player Yuto Nagatomo.

Increasing the number of films for showing requires the purchase of screening rights from distributing agencies and creating a dubbed version of each film.

In addition to the expenses in Cambodia, the cost of one screening exceeds 100,000 yen ($900), Kimbara said, adding that all the costs are covered by donations by members and companies who support the cause. Kimbara, who traveled to Cambodia when he was a student at Kanazawa University, opened a branch of the organization in Kanazawa on the Sea of Japan coast after he recently switched jobs and moved to Ishikawa Prefecture.

To cover the costs of the project, Kimbara is set to host events such as re-creating and tasting meals that come up in the animated film "Castle in the Sky" and other works by Studio Ghibli Inc. He is also considering having talk shows by people in the film industry.

"I want to bring smiles to children in developing nations through our support from the Hokuriku (Sea of Japan coast) region," Kimbara said.

Individual donations start as small as 300 yen a month. "I'd like people to know they can treat a child to a movie with just a 100 yen donation," he said. — Kyodo News ■

World Environment Day marked in Thailand



A desk made from recycled beverage packages is displayed at the "Eco Wanderlust" pop-up market in Bangkok, Thailand, on 5 June, 2017. Some 20 enterprises from the cultural and creative industries launched a pop-up market named "Eco Wanderlust" Monday in Bangkok to mark World Environment Day 2017. By selling eco-friendly daily life products made from recycled materials, the market organizers hope that their action could raise environmental awareness among the public. **PHOTO: XINHUA**

mitv Myanmar International
Programme Schedule

(6-6-2017 07:00am ~ 7-6-2017 07:00am) MST

07:03	Am	News
07:25	Am	The World's Largest Book
07:49	Am	Artistic Erosion on Steel: Kyi Wynn
08:03	Am	News
08:26	Am	Myanmar Traditional Instruments - Myanma Harp(Episode-1)
08:51	Am	Pyin Oo Lwin Sweater
09:03	Am	News
09:26	Am	Culture Show: Abdication of King Thibaw
09:44	Am	Today Myanmar: Union Peace Conference - 21st Century Panglong (Second Session)
10:03	Am	News
10:25	Am	The Eel Business (Fisherman the eel culture)
10:40	Am	Jade Pagoda: Weirawsana
10:58	Am	Waso or the Buddhist Lent

(11:00 Am ~ 03:00 Pm) - Monday Repeat (07:00 Am ~ 11:00 Am)
(03:00 Pm ~ 07:00 Pm) - Today Repeat (07:00 Am ~ 11:00 Am)

Prime Time

07:03	Pm	News
07:26	Pm	A Day Out With Sarah (EP-7)
07:53	Pm	The Pride of Myanmar Traditional Handicraft
08:03	Pm	News
08:26	Pm	Discovering Tribes "MUUN (Episode-II)"
08:51	Pm	Myanmar Leading Lady: Naw Susanna Hla Hla Soe

(09:00 Pm ~ 11:00 Pm) - Today Repeat (09:00 Am ~ 11:00 Am)
(11:00 Pm ~ 03:00 Am) - Monday Repeat (07:00 Am ~ 11:00 Am)
(03:00 Am ~ 07:00 Am) -Today Repeat (07:00 Am ~ 11:00 Am)

(For Detailed Schedule – www.myanmaritv.com/schedule)

Trash-picking event held to promote eco-friendly 2020 Olympics

TOKYO — Olympic race walk bronze medalist Hirooki Arai led the way around the main competition area for the 2020 Tokyo Olympics and Paralympics on Monday in a trash-picking event aimed at increasing environmental awareness in the buildup to the games.

Athletes, representatives from business partners for the games and those from the Brazilian Embassy in Tokyo were among the roughly 100 people who took part in the competition-style event, which coincided with World Environment Day.

The participants were divided into more than 20 teams and competed in the amount and type of trash they picked up in one hour on the streets near National Stadium, which is under construction, and Prince Chichibu Memorial Rugby Ground.

"There will be many people visiting Tokyo from foreign countries and I want them to think Tokyo is a clean place," said Arai, the bronze medalist in the men's 50-kilometre walk at last year's Rio de Janeiro Olympics.

"I'd like to help elevate Japan's reputation through not only my results in races but community services like this," he added after the event sponsored by the organizing committee of the 2020 Games.

More than 76 kilograms of garbage were picked up in total, including cigarette butts and broken umbrellas. The trash that the first place team picked up exceeded 10 kg, according to the organizers.

"It was a great way to raise awareness about the environment and motivating people to find improvements," said Ana Paula Kobe, a diplomat at the Brazilian Embassy in Tokyo.

"Sustainability was important in the Rio Olympics, so this event connected Rio and Tokyo and passed down the initiative," said Pedro Brancante, another diplomat at the embassy. — Kyodo News ■

Myanmar hero vs Moscow mauler for MMA championship in Yangon



Aung La N Sang fights against Vitaly Bigdash in boxing match at ONE Middleweight World Championship. **PHOTO: ONE CHAMPIONSHIP**

In a much-anticipated rematch, Aung La N Sang, also known as the Burmese Python, and Russian fighter Vitaly Bigdash will fight for the second time for the world mixed martial arts championship at Thuwunna Stadium in Yangon on 30 June.

Aung La N Sang is ranked as one of the best middleweight MMA fighters, winning all three of his fights held in Yangon, but at the ONE Middleweight World Championship held in Jakarta, Indonesia last January, he lost his fight against Bigdash, the reigning champion. Aung La N Sang got his nickname because of his style of winding his body around his opponent and crushing his rival. "I could not fight him well in the previous fight, as I knew (about the matchup) only when the fight was very near. But (for this fight) I had time enough for preparation and I got full training. I pledge that I will try my best to the best of my ability", Aung La N Sang said.

He was defeated in their first matchup in part because he received only two weeks notice before the fight was held, so was unable to train properly and attain his best style of fighting, he said. But this time, he has properly trained and will have the support of his countrymen at Thuwanna Indoor Stadium.

"I am very proud to compete with my opponent before my audience. I solemnly pledge to bring back the championship belt for Myanmar. The present fight will be the fiercest one, and the better man will triumph," he said.

Aung La N Sang's record is 19 wins, 10 defeats, and one draw. Bigdash is undefeated, with 9 wins an no losses. The defending champion said he is not concerned about facing off against a hometown favourite.

"Aung La N Sang was the best among those with whom I fought. I am also to be proud to come for the title to his native land. I never think that he will be in favour because the fight will be held in his land, because a real champion can vie for the title anywhere", Bigdash said.

"I am excited to be in the boxing ring again. I hope the present match will be the grand event in Myanmar. I respect Aung La's style of fighting, but I will go back home with success, and I believe that the championship belt will be on my shoulder."

An announcement concerning the other matches to be held on 30 June will be announced soon, said Daw Aye Thidar Oo (Vickie), in charge of media for the ONE Championship.

Aung La N Sang was a Kachin national born in Myikyina. Since his rise in the MMA rankings while representing Myanmar, he has become a superstar in his home country. The ONE Championship has been broadcast globally on TV networks such as FOX Sports, Setanta, MNC, Astro, Thairath TV, ABS—CBN, TV 5, MYTV, HTV & OSN. —Ye Khaung Nyunt ■



Two top judo coaches poses for a photo before departure for Japan. **PHOTO: SAW THEIN WIN**

MJA Coaches leave for Japan to attend Judo Coach's Rules Seminar

Two top judo coaches flew from Yangon to Japan to attend a referee and coaching seminar in preparation for the 2017 Southeast Asian Games.

Chief Coach U Zaw Lwin and Coach U Nyan Soe of the Myanmar Judo Association (MJA) were invited to attend the meeting by Mr. Fujita Shiro of Kodokan University of Japan. Mr. Shiro provided a one-week judo workshop to Myanma Judo athletes in May. The coaches were seen off at Yangon International Airport by MJA Vice Chairman U Aye Kyi and other officials. —Saw Thein Win ■

Myanmar to host Asia U-16 championship selection match's group-H



PHOTO - PHO THAW ZIN

Myanmar will host the 2018 Asia U-16 championship selection group (H) matches from 20th to 24th September.

Asian Football Confederation is holding the selection matches in 10 groups and a country from each group is selected to host the matches. Myanmar team is in the same group with South Korea and China together with Philippines.

The matches will be held at Thuwunna Stadium, Yangon, and two matches will be held each day. 10 teams that come in first in the groups will be joined by five second-best teams in the groups to compete in the Asia U-16 championship match. Myanmar is in a tough group and faces a big challenge to succeed.Chief coach U Nyi Nyi Latt is handling the Myanmar team consisting of 24 players and is training in a camp in Yangon while playing test matches with local youth teams.—Ye Yint Shine ■

Annex 36

"Consider How to Develop the Country,"
The Global New Light of Myanmar (24 August 2021)

Consider how to develop the country

SINCE 1948 when the country regained her independence, the armed conflicts of ethnics have been long-lasting for some 75 years. Due to immigration problems related to some neighbouring countries, citizenship problems came out. It was scrutinized that there are some four million of citizens who do not have citizenship scrutiny cards after turning 18. These are actual situations of Myanmar. Depending on these facts, the government needs to consider how to develop the country.

(Excerpt from the speech to the meeting 1/2021 of the Provisional Government of the Republic of the Union of Myanmar made by Republic of the Union of Myanmar State Administration Council Chairman Prime Minister of the State Senior General Min Aung Hlaing on 11 August 2021)

Supervision of the relevant authorities and good cooperation of the people help drop disease infection to an extent: Senior General





Chairman of the State Administration Council Prime Minister of the Provisional Government of Myanmar Senior General Min Aung Hlaing makes the address at the ninth coordination meeting on COVID-19 prevention, control and treatment activities yesterday in Nay Pyi Taw.

CHAIRMAN of the State Administration Council Prime Minister of the Provisional Government of Myanmar Senior General Min Aung Hlaing addressed the 9th coordination meeting on COVID-19 prevention, control and treatment activities yesterday morning in Nay Pyi Taw.

The meeting was also attended by Vice-Chairman of the State Administration Council Deputy Prime Minister Vice-Senior General Soe Win, members of the Council, Union Ministers, Tatmadaw Officials, and the Region/State Chief Ministers joined the meeting through videoconferencing.

Firstly, Chairman of the State Administration Council Prime Minister of the Provisional Government Senior General Min Aung Hlaing said the rate of COVID-19 disease infection has dropped due to the supervision of the relevant authorities and the good cooperation of the people, adding the need to diagnose the contact persons of the COVID-19 positive patients in order to continue to reduce the infection and to be cautious despite the decline rate in virus infection.

He said the COVID-19 outbreak has caused travel problems and affected production, and amid the striving for living, there are people trading foods and essential medicines with greed. Due to systematic inspections, the high prices of medicines have returned to normal in recent months in Yangon and Mandalay.

> He continued that the Ministry of Information is conducting education programmes and the respective regions and states should accelerate the educative campaigns, especially in ethnic areas.

The Government has been making a concerted effort to get the COVID-19 vaccines during the difficult time to provide the people with the vaccines as soon as possible, as vaccinated people are more resistant to the disease infection, he continued. The Prime Minister stressed the need to effectively take action against the traders of counterfeit COVID-19 vaccines.

Afterwards, those present at the meeting discussed the preventive measures of variant viruses spreading in the neighbouring countries; the need to use oxygen cylinders with SOP guidelines; disaster preparedness in various hospitals; healthcare service to be provided to healthcare workers; posting of immunization status on WHO and ASEAN Websites; vaccine arrival and status of re-orders and coordination to re-purchase; status of plans to develop COVID-19 vaccine locally; international humanitarian assistant of COVID-19 vaccines and related equipment; importation status of essential medical supplies; education programmes on healthcare and entertainment programmes on newspapers, television and radio; primary foods being sold in mobile carts to avoid food shortages; services in quarantine centres and construction of oxygen plants, production of essential medical supplies locally; operation of garment factories under the COVID-19 guidelines; COVID-19 vaccines plantation of more than 80,000 factories workers as of 22 August and further plans.

Union Ministers for the respective regions and states briefed on the COVID-19 vaccinations in the regions of ethnic armed forces; implementation to vaccinate more than 5 million IDPs in Kachin State, Shan State, Kayin State and Rakhine State in this week, and the systematic record of vaccinated people in regions and states.

SEE PAGE-4

Annex 37

United States Military Tribunal Nuremberg, *Greifelt et. al*, Judgment
(10 March 1948)

GREIFELT et al.

so-called RuSHA-Trial

US Military Tribunal Nuremberg, Judgment of 10 March 1948

Page numbers in braces refer to US Military Tribunal Nuremberg, judgment of 10 March 1948, in *Trials of War Criminals Before the Nuremberg Military Tribunals Under Control Council Law No. 10*, Volume V

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X. CONCURRING AND DISSENTING OPINION BY JUDGE DANIEL T. O'CONNELL66

JUDGMENT

The constitution, powers, jurisdiction, and functions of this Tribunal are fully stated in the judgment of the International Military Tribunal and the following subsequent cases: The United States of America vs. Brandt, et al, Case No. 1; the United States of America vs. Altstoetter, et al, Case No. 3; and the United States of America vs. Pohl, et al, Case No. 4. We deem it sufficient to say that this case was submitted to this Tribunal, and the trial conducted, in accordance with the law and rules of procedure applicable to the Tribunal.

When it is considered that the oral and documentary evidence in this case consists of approximately 10,000 pages, it becomes readily apparent that any effort to even summarize the evidence would be impracticable. We shall, in the main, therefore record here our findings. Those interested in the details of evidence must be referred to the record.

During the course of the trial several witnesses, including some defendants who made affidavits that were offered as evidence by the prosecution, testified that they were threatened, and that duress of a very improper nature was practiced by an interrogator. The affidavits referred to were excluded from the evidence and have not been considered by the Tribunal.

Considerable evidence on the part of the defense was adduced to the effect that certain functions, actions, and measures taken, were Party matters while others came under the competency of offices of the government. In our opinion this attempted differentiation of spheres of competency makes no difference. In practice the Nazi Party and the Government in Germany under Hitler were one and the same thing. In fact, the law in Germany under date of 1 December 1933 declared the unity of the Nazi Party and the German State.

The indictment in this case is framed in three counts. The first and second counts charge the commission of crimes against humanity and war crimes, respectively. Count one alleges, in substance, that between September 1939 and April 1945, all of the defendants—

> *"were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, persecutions on political, racial, and religious*
>
> {88}
>
> *grounds, and other inhumane and criminal acts against civilian populations, including German civilians and nationals of other countries, and against prisoners of war."*

Count one further alleges that these—

> *"Acts, conduct, plans and enterprises * * * were carried out as part of a systematic program of genocide, aimed at the destruction of foreign nations and ethnic groups, in part by elimination and suppression of national characteristics. The object of this program was to strengthen the German nation and the so-called 'Aryan' race at the expense of such other nations and groups by imposing Nazi and German characteristics upon individuals selected therefrom * * * and by the extermination of 'undesirable' racial elements. This program was carried out in part by—*
>
> *(a) Kidnaping children.*

(b) Abortions.

(c) Taking away infants of Eastern workers.

(d) Punishment for sexual intercourse with Germans.

(e) Preventing marriages and hampering reproduction of enemy nationals.

(f) Evacuating enemy populations from their native lands by force.

(g) Forced Germanization of enemy nationals.

(1) Slave labor.

(h) Plunder.

(i) Persecution of Jews."

Count two, which charges the defendants with war crimes, alleges that all the defendants between September 1939 and April 1945—

> *"Were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations or groups connected with atrocities and offenses against persons and property constituting violations of the laws or customs of war, including but not limited to plunder of public property, murder, extermination, enslavement, deportation, imprisonment, torture, and ill treatment of and other inhumane acts against thousands of persons. These crimes embraced, but were not limited to 'the ten specifications made in count one,' and were committed against prisoners of war and civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by, Germany."*

The fourteen defendants in this case were, in various capacities, connected with four organizations, namely, Reich Commissioner for Strengthening of Germanism, Staff Main Office (commonly

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known as the "Staff Main Office of RKFDV", and hereinafter referred to by that designation); the Repatriation Office for Ethnic Germans (commonly known as VoMi, and so referred to hereafter); the SS Race and Resettlement Main Office (commonly known as RuSHA, and hereinafter so designated); and the Well of Life Society (commonly known as Lebensborn, and so referred to hereinafter). The organizations were under the supervision and direction of Reich Leader SS Himmler, as Reich Commissioner for the Strengthening of Germanism. Each organization had certain well-defined tasks, which after 1939 were modified or expanded as the recent war progressed. The organizations worked in close harmony and cooperation, as will later be shown in this judgment, for one primary purpose in effecting the ideology and program of Hitler, which may be summed up in one phrase: The two-fold objective of weakening and eventually destroying other nations while at the same time strengthening Germany, territorially and biologically, at the expense of conquered nations.

In the execution of this broad program, Hitler selected Himmler, the notorious leader of the SS. The decree issued by Hitler on 7 October 1939, appointing Himmler, states, in part—

> *"The consequences which Versailles had on Europe have been removed. As a result, the greater German Reich is able to accept and settle within its space German people, who up to the present had to live in foreign lands, and to arrange the settlement of national groups within its spheres of*

interest in such a way that better dividing lines between them are attained. I commission the Reich Leader SS with the execution of this task in accordance with the following instructions:

"Pursuant to my directions the Reich Leader SS is called upon—

"1. to bring back those German citizens and racial Germans abroad who are eligible for permanent return into the Reich.

2. to eliminate the harmful influence of such alien parts of the population as constitute a danger to the Reich and the German community.

3. to create new German colonies by resettlement, and especially by the resettlement of German citizens and racial Germans coming back from abroad."

Himmler lost no time in promulgating measures to be applied in effectuating the Germanization program. Poland had just been overrun by the Nazis; and by a Hitler decree territories in Poland had been annexed to the Reich. These territories, in numerous decrees, were referred to as "the Incorporated Eastern Territories". The balance of Poland was known as the "Government General".

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As early as 25 November 1939, Himmler had received a forty-page treatise entitled, "The Problem of the Manner of Dealing with the Population of the Former Polish Territories on the Basis of Racial-Political Aspects," which had been compiled by the Racial-Political office of the NSDAP (Nazi Party). A few excerpts from this lengthy treatise are sufficient enlightenment as to the proposed manner of "dealing with the former Polish territories". After lengthy quotations of statistics on the population of these territories, the treatise states:

"It follows from these statistics, that in the districts until now under Polish sovereignty, there were 86 percent Poles and 5 percent Jews, compared to only 7 percent Germans. Consequently, the necessity arises for a ruthless decimation of the Polish population and, as a matter of course, the expulsion of all Jews and persons of Polish-Jewish mixed blood.

"If the transfer of Poles from the Reich territory is not effected in a ruthless manner, it has to be feared that the Polish population will increase more or less at the same rate as before the war and up till now."

With reference to a classification of the population and their treatment, the treatise states:

"Who is a German?

"A German is [one] who, in folkdom, custom, and family community, lives as a German, if he is of German or related blood. These Germans are to be included in a German People's List.

"We have to have such an awe and respect for the blood witnesses since 1918 and the distress of these Germans who were conscious of their people that we will not be unnecessarily generous.

"All Germans, beyond doubt established as German nationals, are to be registered in a German People's List. They received the German citizenship. Only these Germans have the right to be Reich citizens.

"All other persons are not entitled to the right to be Reich citizens and therefore have no political rights.

"In the future Germans are to carry exclusively German names; that is, family names which in their root and etymology are of German origin. Names which are only Germanized in the written form, but show their Slavonic origin, cannot be regarded to be German names. They, too, are to be changed.

"The official language of all authorities, including courts, is exclusively German.

"Economy and culture.

"Poles cannot be business owners. The real estate, also the

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farms they possessed up to now, are being expropriated. Poles are not permitted to exercise an independent trade and cannot be masters of a trade; all existing apprentice contracts are annulled; promising Polish apprentices can be taken to Germany proper as apprentices.

"As to the treatment of the population remaining in the Eastern territories—mainly of the Polish and the German-Polish mixed population—it is constantly to be born in mind that all measures of the legislature and administration have but one purpose, namely, to achieve a Germanization of the non-German population by all means and as quickly as possible. For this reason a continuation of a national Polish cultural life is definitely out of question. The Polish orientated population, in as far as it cannot be assimilated, is to be deported, the remainder to be Germanized. Therefore, a basis for a national and cultural autonomous life must no longer exist. In future there will be no Polish schools in the Eastern territories. In general there will be only German schools with emphasis on National Socialist racial teachings. Poles and members of the German-Polish mixed population who are not yet completely Germanized are not permitted to attend German universities, trade schools, or high and secondary schools. Children of the members of this part of the population are only admitted if they are members of the Hitler Youth and are reported by it.

"Any religious service in Polish is to be discontinued. The Catholic and even the Protestant religious service are only to be held by especially selected German-conscious German priests and only in German. Considering the political importance and the danger of the Catholic-Polish church connected with it, one could get the idea to outlaw the Catholic church entirely. However, one has to keep in mind that the population is strongly attached to the church and that such a measure could perhaps result in the opposite of a Germanization. Specially selected, German-minded Catholic priests could probably gain not unimportant a success for the Germanization by a clever influence on the Catholic-Polish part of the population. The probability that especially Catholics of German extraction who were Polonized in the past centuries could, with the help of suitable German priests, be brought back to the German people is very great. In case of the Protestant church, the priests who during the Polish time, especially during the last year, tried to betray the German people in a hatefulness which can hardly be described (under the leadership of their bishop Bursche), are ruthlessly to be removed as enemies of any national conviction and of National Socialism. Polish church holidays are to be

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abrogated. Only the holidays of both denominations permitted in the Reich are to be observed.

"In order to prevent any cultural or economic life, Polish corporations, associations, and clubs cease to exist; Polish church unions are also to be dissolved.

"Polish restaurants and cafes as centers of the Polish national life are to be closed down. Poles are not permitted to visit German theaters, variety shows, or cinemas. Polish theaters, cinemas, and other places of cultural life are to be closed down. There will be no Polish newspapers, nor printing of Polish books, nor the publishing of Polish magazines. For the same reasons Poles must not have radios and should not possess a phonograph.

"The aim of the policy in the East.

"The aim of the German policy in the new Polish territory in the East must be the creation of a racial and therefore intellectual-psychical as well as national-political uniform German population. This results in the ruthless elimination of all elements not suitable for Germanization.

"This aim consists of three interwoven tasks:

First, the complete and final Germanization of the population which seems to be suitable for it.

Second, deportation of all foreign groups which are not suitable for Germanization; and

Third, the resettlement by Germans.

"Our Germanization policy has the aim to extract the Nordic groups from the remaining population and to Germanize them, and, on the other hand, to keep the racially foreign Polish strata on a low cultural level and to deport them from time to time to central Poland.

"Treatment of the mixed population.

"These thoughts make it most recommendable to transfer these persons, who were not included in the German People's List but who live in a racial mixed marriage with Poles or who are of mixed German-Polish descent, to Germany proper, if they were not especially active for the Polish ideology. The final Germanization can be achieved in Germany proper. Children from such German-Polish racial mixed marriages have, whenever possible, to be educated in Germany proper and in German surroundings (educational institutions). The influence of the Polish parent must be excluded to the greatest possible extent.

"Germanization of the Polish population.

"Probably only a small part of the Polish population within the new Reich territory can be Germanized; the easiest way will be to transfer them, and especially their children, to Germany

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proper, where, as a matter of course, a collective employment or settlement is completely out of question.

"Special treatment of racially valuable children.

"A considerable part of the racially valuable groups of the Polish people, who, on account of national reasons are not suitable for Germanization, will have to be deported to the rest of Poland. But here it has to be tried to exclude racially valuable children from the resettlement and to educate them in suitable educational institutions, probably like the former military orphanage at Potsdam, or in a German family. The children suitable for this are not to be over 8 to 10 years of age because, as a rule, a genuine ethnic transformation, that is, a final Germanization, is possible only up to this age. The first condition for this is a complete prevention of all connections with their Polish relatives. The children receive German names which etymologically are of accentuated teutonic origin, their descendant certificate will be kept by a special department. All racially valuable children whose parents died during the war or later will be taken over in German orphanages without any special regulation. For this reason a decree prohibiting the adoption of such children by Poles is to be issued.

"Any keeping of biologically healthy children in church institutions is prohibited.

"Children of such institutions, if no older than approximately 10 years, are to be transferred to German educational institutions.

"Poles with a neutral attitude, who are willing to send their children to German educational institutions, do not need to be deported to the rest of Poland.

"As already related, the final aim must be the complete elimination of the Polish national spirit. Those Poles who cannot be Germanized must be deported to the remaining Polish territory.

"In all cases of eviction of classes which are racially equivalent to us and valuable, the possibility of a retention of the children and their special education is to be considered.

"If the Eastern territories are to be Germanized it is necessary that all the land, also land which was handed down from generation to generation by its Polish owners, be expropriated in favor of the German settlers. Thereby the Polish peasant loses the basis of his existence and is therefore to be deported to the remainder of Poland, if he cannot be Germanized.

"Jews, regardless whether they are Jews by creed or baptized, are to be deported to the remainder of Polish territory by cancellation of all their obligations ruthlessly and as soon as possible.

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"Persons of mixed Polish-Jewish blood, regardless of their degree, are to be placed on the same level, without any exceptions and under all circumstances, as Poles and Jews who are to be deported."

Dealing with the problem of resettling the area from which the Polish were to be transported, the treatise states:

"Efforts are to be made to repatriate all Germans without exceptions from the remainder of Poland and the territories falling to Russia into our new Eastern territories.

"With reference to Germans overseas and their settlement, this question can only be solved after the war, in view of transportation facilities, if for no other reason."

Under the subhead "The treatment of Poles and Jews in the remaining Poland," the treatise states:

"Independent of the not yet published future solution of the problem regarding the legal state structure of the remainder of Poland, one must start from the fact that the remainder of Poland will also in the future be under the ruling influence of the Reich.

"The population of this territory is composed of Poles and Jews and, in addition, of a large number of Polish-Jewish half breeds. A part of the population must be considered as definitely of alien blood from a racial point of view, at any rate as unsuitable for assimilation. Under the circumstances it must be stated in principle that the German Reich is in no way interested in raising the Polish and Jewish parts of the population of the remainder of Poland to a higher racial and cultural level or in their education.

"The inhabitants of the remainder of Poland must be given their citizenship. However, they are not to have any independent political parties and associations which might provide a possible nucleus for a future national concentration must be forbidden. Nonpolitical clubs should not be allowed either, or only from very special points of view. Cultural associations, for instance, vocal societies, clubs for the study of the home-country, gymnastic and sport clubs, social clubs, etc., can by no means be regarded without misgivings, as they can easily promote nationalism among their members. In particular, the gymnastic and sport clubs also lead to a physical strength of the population in which we are not interested.

"Medical care on our part should be confined to preventing epidemics from spreading to the Reich territory.

"All measures serving birth control are to be admitted or to be encouraged. Abortion must not be punishable in the remaining territory. Abortives and contraceptives may be publicly

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offered for sale in every form without any police measures being taken. Homosexuality is to be declared as not punishable. Institutes and persons who make a business of performing abortions should not be prosecuted by the police. Hygienic measures from a racial point of view should not be encouraged in any way.

"It will be the task of the German administration to play up the Poles and Jews against each other."

From the quoted excerpts it may be seen that in the very beginning the Germanization program envisioned certain drastic and oppressive measures, among them: Deportation of Poles and Jews; the separation of family groups and the kidnapping of children for the

purpose of training them in Nazi ideology; confiscation of all property of Poles and Jews for resettlement purposes; the destruction of the economic and cultural life of the Polish population; and the hampering of the reproduction of the Polish population. This policy was put into practice in all of the countries, twelve in number, as they were ruthlessly overrun by Hitler's armed forces.

Following receipt of the treatise quoted, Himmler issued a directive, entitled "Reflections on the Treatment of Peoples of Alien Races in the East," which stated:

> *"Within a very few years—I should think about 4 to 5 years—the name of the Cashubes, i.e., must be unknown, because at that time there won't be a Cashubian people any more (this also goes especially for the West Prussians). I hope that the concept of Jews will be completely extinguished through the possibility of a large emigration of all Jews to Africa or some other colony.*
>
> *"Within a somewhat longer period, it should also be possible to make the ethnic concepts of Ukrainians, Goralen, and Lemken disappear in our area. What has been said for those fragments of peoples is also meant on a correspondingly larger scale for the Poles.*
>
> *"A basic issue in the solution of all these problems is the question of schooling and thus the question of sifting and selecting the young. For the non-German population of the East there must be no higher school than the fourth-grade elementary school.*
>
> *"The sole goal of this school is to be simple arithmetic up to 500 at the most; writing of one's name; the doctrine that it is a devine law to obey the Germans and to be honest, industrious, and good. I don't think that reading should be required.*
>
> *"Apart from this school there are to be no schools at all in the East. Parents who from the beginning want to give their children better schooling in the elementary school as well as*
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>
> *later on in a higher school must take an application to the Higher SS and the Police Leaders. The first consideration in dealing with this application will be whether the child is racially perfect and conforming to our conditions. If we acknowledge such a child to be as of our blood, the parents will be notified that the child will be sent to a school in Germany and that it will permanently remain in Germany.*
>
> *"The parents of such children of good blood will be given the choice of either giving away their child (they will then probably produce no more children so that the danger of this subhuman people of the East obtaining a class of leaders which, since it would be equal to us, would also be dangerous for us will disappear) or else the parents pledge themselves to go to Germany and to become loyal citizens there. The love towards their children whose future and education depends on the loyalty of the parents will be a strong weapon in dealing with them.*
>
> *"Apart from examining the applications made by parents for better schooling of their children, there will be an annual sifting of all children of the General Government between the ages of six and ten in order to separate the racially valuable and nonvaluable. The ones who are considered racially valuable will be treated in the same way as the children who are admitted on the basis of the approved application of their parents."*

It might be well to remember that these measures, in the early days of the war, were among the first of many to be adopted and laid down in hundreds of decrees and directives; and as the ferocity of the war quickened, more drastic decrees and barbaric policies were adopted. For instance, as will be subsequently shown, the solution of the question of dealing with the so-called "racially inferior" population was solved not so much by deportation as by the adoption of extermination measures, thus bringing about a speedier elimination of undesirable foreign elements by death.

Besides Hitler, Himmler entrusted knowledge of his directive to only a very select group of persons, including the defendant Greifelt. That Himmler was fully aware of the diabolical nature of the proposed program is evidenced by the fact that on 28 May 1940, in a handwritten memorandum, Himmler said:

> *"On Saturday, 25 inst., I handed my report on the treatment of peoples of alien races in the East to the Fuehrer. The Fuehrer read the six pages and considered them very good and correct. He directed, however, that only very few copies should be issued, that there should be no large edition, and that the report is to be treated with utmost secrecy.*
>
> *"One copy was given to the chief of my office, SS Brig. General Greifelt in his capacity as Reich Commissioner for the*
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>
> *Strengthening of Germanism. I shall give him the order to inform in turn all chiefs of the Main Offices. The notification to the chiefs of the Main Offices shall be effected by an SS leader who will have to wait until the concerned chief of the Main Office has read the report and has acknowledged it by his signature. At the same time everyone has to confirm that he has been informed of the fact that this is to be considered as a directive, but that it shall never be laid down in an order of one of the Main Offices; neither in form of a mere excerpt nor from memory.*
>
> *"Moreover SS Brig. General Greifelt is authorized to bring the contents of the report to the attention of the town mayor Winckler and his own main collaborators; the latter he shall suggest to me."*
>
> *Prior to the distribution of his directive, and shortly after his appointment, Himmler had entrusted to Greifelt the responsibility of carrying out tasks connected with the Germanization program by a decree, reading in part:*
>
> *"1. By the Fuehrer decree, dated 7 October 1939, I have been appointed Reich Commissioner for Strengthening of Germanism.*
>
> *"2. For the direction and promulgation of general orders and directives and for the execution of certain tasks which can only be dealt with centrally, I establish the office of the Reich Commissioner. I have placed SS Oberfuehrer Greifelt in charge.*
>
> *"3. I wish to mention particularly some of these tasks as well as the institutions and agencies which are charged with the solution and execution of these tasks.*
>
> *a. VoMi and Foreign Organizations bring in the Germans and ethnic Germans.*
>
> *b. Reich Health leader and RuSHA examine all Germans from the Reich and abroad in the new areas in town and country.*
>
> *c. The Security Police in cooperation with the chief of the Civil Administration establishes and takes care of foreign elements dangerous to the German Folkdom."*

Immediately after his appointment as RKFDV, and prior to the issuance of the directive on the treatment of Peoples of Alien Races in the East, Himmler had already inaugurated certain measures. One of the first steps was an order marked "urgent decree" issued on 16 December 1939, concerning confiscation, and reading:

> *"1. To strengthen Germanism and in the interest of the defense of the Reich, all articles mentioned in section II of this decree are hereby confiscated. This applies to all articles located*
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>
> *in the territories annexed by the Fuehrer's and Reich Chancellor's decree of 12.10.39 and in the General Government for the occupied Polish territories. They are confiscated for the benefit of the German Reich and are at the disposal of the Reich Commissioner for the Strengthening of Germanism. Provided always that this does not apply to articles which are fully or for more than*

75 percent the property of German citizens or persons of German race. In particular are confiscated all articles mentioned in section II which are in archives, museums, public collections, or in the private possession of Poles and Jews if their protection and expert safekeeping is in German interest.

II

"1. Historical and prehistorical articles, documents, books, which are of interest for questions of cultural value and of public life, specially for the question of the German share in the historical, cultural, and economic development of the country, and documents which are relevant for the history of present events.

"2. Articles of art of cultural value, e.g., pictures, sculptures, furniture, carpets, crystal, books, etc.

"3. Furnishings and jewelry made of precious metal.

IV

"All confiscations made before this decree by authorities of the Reich Leader SS and Chief of German Police and the Reich Commissioner for the Strengthening of Germanism are hereby confirmed. They are to be regarded as made for the benefit of the German Reich and are at the disposal of the Reich Commissioner for the Strengthening of Germanism."

On 11 June 1941, Himmler, in his capacity as RKFDV, changed the name of the office of the RKFDV to the Staff Main Office of the RKFDV, with the defendant Greifelt remaining as its chief. At the same time Himmler provided that the Staff Main Office and VoMi, with the defendant Lorenz as chief of that office, should be "on an equal level with the Main Offices" of the SS Supreme Command.

Many orders and instructions were issued concerning the spheres of activity of the four offices charged with the execution of the Germanization program. It would serve no practical purpose to quote extensively from the various decrees; but, briefly, it may be stated that the four organizations involved were charged with, and participated in, the following activities:

According to an ordinance issued by Himmler on 28 November 1941—

"The task of the Staff Main Office comprises the whole planning

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of settlement and development in Germany and in the territories under German supremacy as well as the realization of that planning. It includes also the cultural and administrative planning and the propaganda for the idea of settlement. The Staff Main Office is thus in charge of all questions of allocation of German people for settlement in Germany and in territories under German supremacy including all questions of an administrative and economic character connected with settlement.

"As far as economic questions arise in connection with resettlement the Staff Main Office deals with them."

The Staff Main Office was actually the directing head of the whole Germanization program, coordinating the activities of the other organizations. Before the end of the war, the activities of the Staff Main Office involved, among other things, the expulsion and deportation of whole populations; the Germanization of foreign nationals; the deportation of foreigners to Germany as slave labor; the kidnaping of children; and the plundering and confiscation of property of enemy nations.

The defendant Greifelt was chief of the Staff Main Office; Creutz was his deputy; Meyer-Hetling was head of the Planning Office of the Staff Main Office; and Schwarzenberger was chief of the Finance Office of the Staff Main Office.

As to the competency of VoMi, the ordinance stated:

> *"The VoMi carries out the whole ethnical work for the Strengthening of Germanism in Germany and in the territories under German supremacy. This work includes also the accomplishment of measures for the reception of persons and of foreign nationals considered fit for Germanization (German Ethnical Register 3 and 4) into the German racial community.*
>
> *"Under its supervision is placed the evacuation within the framework of eventual resettlement of ethnical Germans from their former homes and the whole administration and care of the camps."*

VoMi came into existence prior to the commencement of the war, and after Himmler's appointment as RKFDV he utilized this office primarily as an agency charged with the evacuation of ethnic Germans, as well as foreigners of non-German blood, from their former countries and the transportation of these persons to collecting camps, known as VoMi camps. In the course of these activities, VoMi became directly or indirectly involved in the forced expulsion of the populations of various countries; conscription of enemy nationals for the SS and the armed forces; compulsory Germanization of enemy nationals; the utilization of

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foreigners as slave labor in the Reich; and the kidnaping of alien children.

The defendant Lorenz was chief of VoMi; and the defendant Brueckner was head of Amt VI—Safeguarding of Germanization of the Reich.

As to RuSHA, the ordinance provided:

> *"The RuSHA is an advisory and executive office for all questions of racial selection. It has to handle the examination of the racial Germans who are to be resettled in Germany as well as the examination of the settlers in the East coming from Germany. The RuSHA also has to carry out the racial selection of the groups of foreign nationals with regard to the fitness for Germanization of single families and persons and the racial examination for marriages with foreign nationals."*

RuSHA, which existed long prior to the war, was originally concerned primarily with checking on candidates for admission to the SS, as well as marriage applications of SS members, the purpose of these functions being to safeguard the SS against alien blood and the making of the SS into a Nazi aristocracy. But with the advent of the war, the original aims of RuSHA were largely abandoned; and entrusted to that organization was the task of screening millions of people in carrying out the Germanization program. RuSHA conducted, through racial examiners, racial examinations in connection with Germanization, the transfer and expulsion of populations, abortions, slave labor, persecution of Jews and Poles, punishment for sexual intercourse between Germans and non-Germans, and the kidnaping of foreign children. The racial examination determined the treatment to be accorded the person to be examined.

The defendant Hofmann was chief of RuSHA from July 1940 to April 1943. When Hofmann left that office in 1943, the defendant Hildebrandt took over and continued as chief until the end of the war.

In connection with the re-Germanization of Poles, a field office was set up in 1940 in the incorporated territories of Poland with the defendant Schwalm in charge. He became chief of the branch office at Lodz in January 1941 and remained in that capacity until September 1941. Also, during this period, he was chief of the RuSHA agencies in the EWZ. After a term of military service, Schwalm became staff leader of the RuSHA, serving in that capacity from 1 March 1943 until February 1945.

The defendant Huebner was RuSHA field leader in the Warthegau, with headquarters in Poznan, and was chief of the resettlement staff Poznan as well as labor staffs.

The Lebensborn society existed long prior to the outbreak of

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hostilities. This society was primarily a maternity home. Included in its activities, before and during the war, was the placing of children born in the maternity homes in foster homes.

Evidence produced by the prosecution discloses that since the cessation of hostilities, IRO, an agency engaged in tracing foreign children brought into Germany, has located approximately 10,000 foreign-born children in the American Zone of Germany. Of this number, according to the prosecution's evidence, Lebensborn had been connected with only 340 in any manner.

Sollmann was managing director of Lebensborn; Tesch was Sollmann's deputy and head of the Main Legal Department; Ebner was head of the Main Health Department; and Viermetz was in charge of the department dealing with homes and adoptions as well as the employment department, and later, Main Department A.

We have attempted to give an over-all picture of the organizations charged with participating in the Germanization program. We shall now deal with the specific crimes charged in the indictment, and the participation or nonparticipation of each organization in the crimes charged; and, in part, we shall discuss the role played by certain defendants in the Germanization program and in connection with particular crimes.

KIDNAPING OF ALIEN CHILDREN

The Nazis, soon after the invasion of Poland, began an extensive campaign of kidnaping foreign children. Although at first these kidnapings were confined, principally, to so-called ethnic Germans, it soon became apparent that sufficient children were not being secured to satisfy the Nazi aims; and the program was therefore extended to include all children of "good racial characteristics"; that is, physical appearances, such as blond hair and blue eyes, indicating that the child might have some "Nordic" blood or might make a good German. Racial examiners of RuSHA performed these examinations to determine whether the child was of good or inferior blood.

Himmler, in a speech to Party comrades, outlined his aims. He said:

> *"* * * Closely linked to this problem 'children and people' for this coming and now shaping great empire which has recently been much enlarged by the addition of the Eastern territories and which gradually becomes an empire of Germanic greatness which has been created for us by the Fuehrer; linked to this problem is now a second problem, that is my task as Reich Commissioner for Strengthening of Germanism. Here,*

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too, this task is one which deals with the question, how we can add to the victory of the sword the victory of the blood, of the blood of our kind. How will the organization be carried out, after the victory over the enemy, the real Germanization of the land, how will the real occupation of the new provinces from the racial point of view be carried out. I have received orders to carry out this task on October 7th, from the Fuehrer, as Reich Commissioner for Strengthening of Germanism.

"We must see to it that at least in the Provinces which belong to Germany now, the problem of a Polish minority is liquidated and eliminated, the problem must be liquidated.

*"We have to see to it that now, in these days when we are strong, people who are of our blood will be brought back to us, as much as is in our power and that we see to it that none of our blood is ever lost to the outside world * * *. The manner in which this is to be achieved will be different every time. At the beginning it was necessary—and this, if you please, should not go beyond our small circle—to carry this out in a very ruthless fashion, especially in West Prussia, where the atrocities committed by the Poles were worst, and where German blood was heavily shed * * *. It is a matter of course that Germany will bring back ethnic Germans from all countries after the war, all people who are of ethnic-German good stock, I would even say, of good blood * * *."*

Later, in a letter dated 18 June 1941, Himmler made his plan quite clear in unambiguous language when he said:

*"I would consider it right if small children of Polish families who show especially good racial characteristics were apprehended and educated by us in special children's institutions and children's homes which must not be too large. The apprehension of the children would have to be explained with endangered health * * *.*

*"After half a year the genealogical tree and documents of descent of those children who prove to be acceptable should be procured. After altogether one year it should be considered to give such children as foster children to childless families of good race * * *."*

In furtherance of Himmler's pernicious kidnaping plans, Greifelt lent his assistance by issuing "Regulation 67/I". This order was sent to numerous offices, including the Higher SS and Police Leaders, as deputies to the RKFDV, in the occupied territories and in Germany and RuSHA. The decree, which was immediately placed into operation and which resulted in many kidnapings, declared:

"In order to be able to regain for German folkdom those

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children whose racial appearance indicates Nordic parents, it is necessary that the children, who are in former Polish orphanages and with Polish foster-parents, are subjected to a racial and psychological process of selection. These children, who are considered to be racially valuable to German Folkdom, shall be Germanized."

The decree further provided, in great detail, for the registration of the children, their racial examination by RuSHA, a medical examination, and their subsequent handling, stating in part:

"My representative at Poznan will report all children from 6 to 12 years of age who have been considered suitable for Germanization to the inspector of the German folk schools. The inspector of the German folk schools will accommodate these children in special folk schools which answer the children's needs. Those children, who leave the German folk schools with positive results, are to be lodged in rural homes of Germany proper.

"Special attention is to be given that the expression 'Polish children suitable for Germanization' may not reach the public to the detriment of the children. The children are rather to be designated as German orphans from the regained Eastern territories."

On 16 February 1942 Himmler issued a decree dealing extensively with the kidnaping of foreign children.

In part the decree states:

> *"Politically heavily incriminated persons will not be included in the resettlement action. Their names are also to be submitted by the Higher SS and Police Leaders (Inspectors of the Security Police and of the SD) to the competent State Police (Main) Office for the purpose of transfer to a concentration camp. The wives and children of such persons are to be resettled in Germany proper and included in the procedures for Germanization.*
>
> *"If the wife too cannot be included in the resettlement action because she is politically badly incriminated, she too is to be named to the competent State Police (Main) Office for the purpose of transfer to a concentration camp. In such cases the children are to be separated from their parents * * *. Persons to be considered politically heavily incriminated are those who committed the most serious offenses against Germandom (for example, participation in persecution of Germans, economic destruction of racially pure Germans, among other things).*
>
> *"The children are to be admitted to the local German public schools and included in the Hitler Youth. Attendance at a local school of higher education is prohibited. * * **
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>
> *"The Higher SS and Police Leaders are to pay particular attention that the re-Germanization of the children does not suffer as the result of detrimental influence by the parents. Should such detrimental influence be determined to exist, and should it be impossible to eliminate them through coercive measures by the State Police, accommodations are to be found for the children with families who are politically and ideologically above reproach and ready to take in the children as wards, without reservation and out of love for the good blood present in the children and to treat them as their own children. The same thing is applicable to children who must be separated from their parents in accordance with paragraph II A 3 of this regulation.*
>
> *"They are to take into protective custody persons in whose cases the Higher SS and Police Leader has ordered the revocation of nationalization, and to transfer them to a concentration camp."*

Ten copies of this decree were sent, for information, to the Staff Main Office.

A graphic example of the kidnaping of foreign children and the procedure followed are contained in correspondence covering a period of more than a year, concerning a number of persons. This correspondence occurred between Himmler's office, RuSHA, VoMi, and the Staff Main Office. After a decision had been made to perform a racial examination on the subjects of the correspondence and the examination had been conducted by RuSHA, Himmler reached the following decision in a memorandum marked "Secret" and sent to VoMi, RuSHA, and the Staff Main Office:

> *"1. Maria Lambucki and Stanislaw Koch are not to continue to remain in protective custody.*
>
> *"2. Jachwiga Koch is to be assigned to a German folk school.*
>
> *"3. Brunhilde Muszynski is to be taken into protective custody. Her two children, aged 4 and 7 years, are to be sterilized and lodged somewhere with foster parents.*
>
> *"4. Ingeborg von Avenarius is also to be taken into protective custody. Her children too are to be lodged somewhere with foster parents, after sterilization."*

Speaking at Bad Schachen in October 1943, Himmler reiterated his policy of kidnaping children in the following language:

"I consider that in dealing with members of a foreign country, especially some Slav nationality, we must not start from German points of view and we must not endow these people with decent German thoughts and logical conclusions of which they are not capable, but we must take them as they really are.

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*"Obviously in such a mixture of peoples there will always be some racially good types. Therefore I think that it is our duty to take their children with us, to remove them from their environment, if necessary by robbing or stealing them * * *. Either we win over any good blood that we can use for ourselves and give it a place in our people or * * * we destroy this blood."*

The defendant Creutz, who was deputy to Greifelt, was also involved in the kidnaping of foreign children. Even before Greifelt issued his decree "67/I" in 1942, Creutz in writing to Reich Governors declared:

*"There are a great number of children in former Polish orphanages who, on account of their racial characteristics, must be considered to be children of Nordic parents. These children * * * must be subjected to a racial and psychological selection procedure. Children found to be biologically valuable for the Germandom are to be Germanized."*

In this correspondence Creutz further gave detailed suggestions and instructions as to the procedure to be followed in the Germanization of the foreign children.

The evidence establishes beyond all doubt that Creutz issued instructions for the carrying out of a "children's operation", which meant the bringing of children into Germany for Germanization; and for this activity, as a part of the Germanization program, he bears full responsibility.

RuSHA actively participated in the kidnaping of alien children. To this organization was delegated the task of making racial examinations and, upon the basis of these examinations and racial evaluations, many children were wrested from their parents and relatives and sent to Germany. These examiners were working directly at different intervals under the control and supervision of Hofmann and Hildebrandt respectively, who had knowledge of their activities; and for the participation of RuSHA in this program, both these defendants bear full responsibility.

Hofmann, as chief of RuSHA, and Hildebrandt, who later became chief of RuSHA, knew as early as the summer of 1941 the details of the proposed program. Both defendants were sent a copy of the letter from Himmler, to which we have already adverted, in which he said he would consider it right if small children of Polish families, who show good racial characteristics, were apprehended and educated by the Reich.

Further proof of Hofmann's knowledge and participation in the bringing of children into Germany for Germanization is contained in a file note sent to Hofmann concerning two Russian boys who had been deported to Berlin and were being cared for by RuSHA.

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On 12 February 1942 Hofmann, in a memorandum concerning actions to be taken against foreigners who made difficulties, said:

"At another occasion, SS Gruppenfuehrer Greifelt was ordered to submit a directive according to which Germanizable Poles, who make special difficulties, are to have their children taken away from them. These children are to be sent to special homes, etc. The Reich Leader expects an especially educating effect from this measure."

The defendant Schwalm participated in the kidnaping program as is shown by several exhibits.

In January 1941, Schwalm became chief of the Staff Office at Lodz and remained in that position until September 1941. Also, in January 1941, he became chief of the RuSHA agencies in the EWZ at Lodz. He had authority over racial examiners who were constantly engaged in making examinations and evaluations of children. There is evidence in the record showing that Schwalm, while 'chief of the branch office at Lodz, trained racial examiners; and the evidence irrefutably shows that Schwalm, in this position, was the person who had the power to change racial decisions.

At a meeting of the offices for race and settlement, attended by Schwalm, and at which time he was appointed chief of the RuSHA agencies in the EWZ at Lodz, the following illuminating decision was made:

> *"Oberfuehrer Kaaserer then said that, by an order of the SS Personnel Main Office effective 1 December 1940, he was transferred as chief of the Ancestry Research Office of the Main Office SS for Race and Settlement and, therefore, as chief of the office for Race and Settlement would resign from the Central Office for Immigration on 15 January 1941. SS Sturmbannfuehrer Schwalm was appointed his successor. * * * The racial sentence once passed on a resettler by an expert may not be altered by any office. The judgment of an expert is an expert diagnosis just like that of a physician. Only Sturmbannfuehrer Schwalm, in his capacity as chief of the Offices for Race and Settlement, has the power to alter a judgment after a thorough investigation which is best done by looking over the resettler personally. * * *"*

Schwalm's activities and participation in kidnaping is established beyond doubt by a number of reports signed by him concerning transports. Writing with reference to the 288th transport, 239th transport, 340th transport and 432d transport "of families and individuals to be re-Germanized," Schwalm gives a long list of persons transported, as well as the date and place of birth of the individuals; and in quite a number of instances the reports show that young boys and girls unaccompanied by family members

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were being transported. Girls of 15 years of age were shipped and there were quite a number of 18 and 19 year old girls.

The participation of VoMi in the kidnaping of foreign children is clearly established by a number of exhibits from various officials of VoMi concerning the disposition of relatives of Slovenes who had been executed. Typical of these memorandums is the following from the VoMi office in Berlin to the VoMi office in Bayreuth: "Subject: Relatives of the bandits executed in Lower Styria—resettler's child, Albin Wipotnik, born 26 June 1937, at present in Camp Kastl near Bamberg. Released to family Zozej at Geislingen." This letter states:

> *"In conclusion of the above matter, I wish to notify you, that the resettler's child Albin Wipotnik may be released.*
>
> *"I request that you state the above file number on the release certificate, which is to be forwarded to this office, and that you make a full report to me, since I have to contact the Lebensborn yet."*

Knowledge on the part of both Lorenz and Brueckner, and their participation in kidnaping activities, is established by a teletype message signed by the defendant

Brueckner in which he urgently requested information as to the number of children separated from their parents. He said:

> *"Regarding separation from their parents of children whose ethnic characteristics are in jeopardy, the decision of the Reich Leader SS was announced by the letter from this office dated 28 August 1942 and it was ordered that lists of such children and orphans are to be submitted to this office for forwarding to the Reich Leader SS. Despite a reminder, no report has been made. As the Reich Leader SS repeatedly demanded the report from SS Obergruppenfuehrer Lorenz, I expect at once information by teletype as to when lists will arrive here."*

Many children were concentrated in VoMi camps outside of Germany, separated from their parents in many instances, and usually they were finally transferred to VoMi camps in Germany. These children, who unquestionably had been forcibly taken from their parents, were subjected to racial examinations in VoMi camps, and then disposed of according to racial evaluations. The evidence indisputably establishes that these incidents occurred particularly in regard to Yugoslav children and also in Czechoslovakia. It is quite clear that both Lorenz and Brueckner are inculpated in crimes connected with the kidnaping of foreign children.

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ABORTIONS ON EASTERN WORKERS

The policy of abortions on Eastern workers began in 1943, and had its basis in a decree issued by Himmler in March 1943, which provided:

> *"* * * that in those cases where pregnancy is caused by sexual intercourse between a member of the SS or the police and a non-German woman residing in the occupied Eastern territories, an interruption of pregnancy is to be carried out positively by the competent physician of the SS or the police, unless that woman is of good stock, which is to be ascertained in advance in every case.*
>
> *"The Russian physicians or the Russian Medical Association, which must not be informed of this order, are to be told in individual cases that the pregnancy is being interrupted for reasons of social distress. It must be explained in such a way that no conclusions to the existence of a definite order may be drawn."*

Following the Himmler decree on abortions, Dr. Kaltenbrunner [chief of RSHA], from the office of the RKFDV, issued detailed instructions on the subject of abortions, stating:

"In cooperation with the offices concerned, the Reich Health Leader has decreed in his Order No. 4/43, dated 11 March 1943, that in the case of Eastern female workers, pregnancy may be interrupted if the pregnant woman so desires * * *.

> *"The consent for abortion of Eastern female workers on the part of the offices of the Reich Commissioner for the Strengthening of Germanism is valid herewith as retroactively granted in the cases in which the father was a man of foreign race (not Germanic). In these cases, the office for expert opinion will, therefore, not obtain the consent of the Higher SS and Police Leader as Deputy of the Reich Commissioner for the Strengthening of Germanism, but may order the abortion on its own authority.*
>
> *"Obtaining the consent of the Higher SS and Police Leader as Deputy of the Reich Commissioner for the Strengthening of Germanism is, according to this, necessary only in the cases in which it is maintained or is probable that the father was a German or a member of an ethnically related (Germanic) race.*
>
> *"The Higher SS and Police Leader will then be informed of those cases. * * *"*

The decree then provided for the taking of personal histories and racial examinations by the RuS Leader, and further provided:

> *"* * * If it is found by this racial examination that a racially*
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> *valuable result is to be expected, then the consent for abortion is to be denied. If on the basis of the racial examination the offspring is expected not to be racially valuable, the consent for abortion is to be granted.*
>
> *"The racial examination is to be carried out rapidly. Further directives concerning the carrying out of the racial examination and the treatment of the cases in which the consent for abortion is to be denied are issued by the Reich Leader SS and Chief of the German Police, or by the RuS Main Office SS."*

It appears from the evidence that basic decrees and memorandums on the question of abortion were principally issued by offices and defendants other than those here involved, with the exception of RuSHA. That RuSHA participated in the abortion program is clearly shown. The role played by RuSHA was principally in conducting racial examinations of the pregnant worker as well as the suspected father to determine whether a racially inferior or satisfactory child might be expected; and upon the basis of this examination it was determined whether an abortion should or could be performed—orders being to the effect that no abortion could be performed where a child of good racial characteristics might be expected, and that an abortion should be performed where such a child was improbable. Upon these racial examinations depended also the future treatment of a child in those cases where a pregnancy interruption was not practicable because pregnancy was in too far an advanced stage at the time of the examination. In the event the racial examiner determined that a racially inferior offspring was to be expected, the child was assigned to a "foreign children's home", which meant that it would be reared under adverse conditions without the benefit of the normal necessities of life and culture, while in the event the racial examiner found that a racially suitable child might be expected, such a decision meant that the child would be subjected to Germanism through adoption by foster parents.

That a child evaluated as of good racial characteristics would be wrested from its mother and subjected to Germanization is clearly shown in a letter from Himmler's office to RuSHA in which it is stated:

> *"The reception into the care of the NSV or of Lebensborn of the child of good racial stock will necessitate in most cases its separation from the mother who remains at her working place. Particularly for this reason the reception into that care of the child of good racial stock is only possible with the mother's consent. She has to be made to consent to it through interpretations by the caretaking office which set forth the advantages but not the ends of this procedure. * * *"*
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While it may be noticed that this letter states that such a child can be taken from its mother only by her consent, the letter proceeds to state that the mother "has to be made to consent." Of course, through no stretch of the imagination can the forced agreement of a slave laborer in the Reich, working under the conditions to which these laborers were subjected, be termed a "consent".

The role of RuSHA in the abortion program was principally carried out, so far as basic directives are concerned, by the defendants Hofmann and Hildebrandt. On 13 August 1943, Hildebrandt wrote concerning abortions:

> *"I should like to emphasize especially that the necessity for the racial examination, which take place upon the suggestion of the SS Race and Settlement Main Office, also applies here.*
>
> *"The directives for the RuS field leaders" decision in the racial examination are the same as the ones laid down by me through the ordinance of 13 August 1943 to be applied in decisions about applications for pregnancy interruption for Eastern female workers.*
>
> *"All files of cases in which the RuS field leader refuses the pregnancy interruption are to be submitted to the Race and Settlement Main Office together with photographs and addresses of their relatives, so that they may be examined in the light of inclusion into the re-Germanization program."*

And 10 days later, Hildebrandt, in a memorandum marked "Secret", stated:

> *"Enclosed find the Order of the Reich Leader SS and Chief of the German Police of 27 July 1943 which has been issued in agreement with the Race and Resettlement Main Office for your compliance.*
>
> *"The carrying out and the decision on the treatment of the pregnant women, as well as of the expected children, is the responsibility of the SS Leader for Racial and Resettlement matters. The regulations issued by me, in regard to the decisions on applications for interruption of pregnancy, also correspondingly apply to the decisions of the SS Leaders for Racial and Resettlement matters. * * **
>
> *"Naturally the opinion of the SS Leader for Racial and Resettlement matters is the decisive one in the judgment. * * **
>
> *"Though I have already done so in the regulations on the decisions on the interruption of pregnancies, I want to point out once more the grave responsibility which has been assigned to the SS Leaders for Racial and Resettlement matters by this new order, i.e., to especially further all valuable racial*
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> *strains for the strengthening of our people, and to accomplish a complete elimination of everything racially inferior."*

The desired result of this systematic program of abortions was (a) to keep the Eastern laborers available as slave labor; and (b) to hamper and reduce the reproduction of the population of the Eastern nations.

Since one of the main defenses to this specific charge is the contention that abortions were performed in all cases only on a voluntary basis, by the express consent of the women involved, we quote another document which clearly refutes this contention:

> *"It is known that racially inferior offspring of Eastern workers and Poles is to be avoided if at all possible. Although pregnancy interruptions ought to be carried out on a voluntary basis only, pressure is to be applied in each of these cases. * * *"*

TAKING AWAY INFANTS OF EASTERN WORKERS

Closely linked to the program of abortions was that of stealing children born to Eastern workers. Notwithstanding the abortion program, it often happened that a case of pregnancy was not discovered until it was too late to perform an abortion or the child was born before pregnancy was actually discovered. Therefore, the Nazis conceived it

to be necessary to deal with this situation. They solved it by simply, in many cases, stealing the child and sending the mother back to labor for the Reich.

The procedure of taking away infants of Eastern workers is clearly outlined in a decree issued by Kaltenbrunner on 27 July 1943. This decree, among other things, provided:

> *"Relative to the question of the treatment of pregnant foreign women and the children born in the Reich by foreign working women, I give the following directives in accordance with the respective central offices which, on their part, will give corresponding instructions to their subordinate offices:*
>
> *'After giving birth the foreign working women have to resume work as soon as possible according to the instructions of the Plenipotentiary for the assignment of labor. * * *'*
>
> *"The children born by the foreign working women may in no case be attended by German institutions, be taken into German children's homes, or else be reared and educated together with German children. Therefore, special infant-attendance institutions of the simplest kind—so-called 'foreigners' children's nursing homes—have been erected within the billets where these children of foreigners are attended to by female members of the respective nationality. Foreign population is*
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> *emphasized by the human sacrifices in the war. It is therefore important that the children of foreigners who, partly, are of a similar race and bearers of German blood and may therefore be considered as valuable are not assigned to the 'foreigners' children's nursing home according to figure 3 (not reproduced), but, if possible, they are to be saved for the German nationality and to be educated as German children.*
>
> *"For this reason an examination of the racial characteristics of the father and mother has to be carried out in cases where the father of a foreigner's child is of German or of kindred race (Germanic). * * *"*

The decree then provides for racial examinations by RuSHA, and further states:

> *"In cases where on the basis of the racial examination and of the expert opinion as to the health stock both of the father and the pregnant woman racially good descendants can be expected, the children, in order to assure their education as German children, will be put in the care of the National Socialist Public Welfare Association (NSV) which will place them in special children's homes for foreigners' children of good racial stock or in private families. Should the examination prove negative then the children will be treated according to figure 3 (not reproduced).*
>
> *"The Higher SS and Police Leader is to submit as quickly as possible—*
>
> *"To the Youth Offices the result of the racial examination, respectively the decision on all cases reported by them. In cases of a positive result of the racial examination the summons has to be added to bring about the appointment of a guardian at the appropriate time.*
>
> *"In cases of a positive result of the racial examination, to the competent Gau office of the NSV moreover the summons to have the child of the foreign woman adopted at the appropriate time under the care of the NSV for children of good racial stock. * * **
>
> *"The reception into the care of the NSV or of Lebensborn of the child of good racial stock will necessitate in most cases its separation from the mother who remains at her working place. Particularly for this reason the reception into that care of the child of good racial stock is only possible with the mother's consent. She has to be made to consent to it through interpretations by the caretaking office which is set forth the advantages but not the ends of this procedure. * * *"*

A copy of this decree went to RuSHA.

RuSHA's role in the procedure for taking infants from Eastern

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workers was similar to that in the case of abortions. RuSHA's evaluation of the racial value of the child determined the fate of the child. The fate of those determined to be of racial value is plainly stated in a memorandum to Himmler, suggesting the disposition of these children:

> *"* * * Polish women and Eastern female workers should, in every case of pregnancy, be examined by the Race and Settlement Main Office. Their children, if they are proved to be of good race, should be handed over to the institutions of the NSV.*
>
> *"If the pregnancy of an alien female worker has been caused by a German man, normally no procurement of abortion is necessary, but an investigation of the racial purity of the mother and the father will be conducted by plenipotentiaries of the Race and Settlement Main Office. The alien woman will be re-allocated to labor after the birth. All children proved to be racially pure will be sent to the children's institutes, which are to be established for those children who are to be educated as Germans. The approval of the mother is only required if the mother is a national of an independent state. Children of impure race (schlechtrassisch) would be handed over to children assembly centers, in order to prevent German children growing up together with foreign children, and to make the mother available for labor allocation. Children assembly centers, which would be managed by members of foreign nations, could be set up in almost every village and without exception in every alien camp. * * *"*

Himmler agreed to the suggestions made, but in the case of foreign children, he considered "it proper to introduce a pompous sounding designation for the assembly centers for foreign children."

The fate of those found not to be of racial value, and accordingly sent to foreign children's homes, is disclosed in a report of investigation of such a home. This report, which was made directly to Himmler, discloses that:

> *"* * * This home was founded some time ago for a trial period on the basis of your correspondence of 9 October 1942 with Gauleiter Eigruber. On the basis of the order you gave then SS Oberfuehrer Langoth founded the home.*
>
> *"During this visit I found that all of the babies located in this home were undernourished. As I was told by SS Oberfuehrer Langoth only 1/2 liter milk and 1 1/2 cubes of sugar per baby per day are furnished to the home on the basis of a decision of the Land Food Office. With this ration the babies must perish from undernourishment in a few months. I was informed*
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> *that this agreement exists concerning the raising of these babies. * * **
>
> *"I have already asked SS Oberfuehrer Langoth to inform Gauleiter Eigruber of this condition and to ask him to assure sufficient nourishment of these babies until your opinion is obtained. I consider the manner in which this matter is treated at present as impossible.*
>
> *"There exists only one way or the other. Either one does not wish that these children remain alive—then one should not let them starve to death slowly and take away so many liters of milk from the general food supply; there are means by which this can be accomplished without torture and pain. Or one intends to raise these children in order to utilize them later on as labor. In this case they must be fed in such a manner that they will be fully usable as workers. * * *"*

A decree emanating from Himmler's office, and previously quoted, shows that an Eastern worker was unable to resist the forcible taking of her child, and it was decreed that although, in the case of racially valuable children, the child could not be taken without the consent of the mother, in the same breath the decree voices the mandate that "she has to be made to consent".

The defendant Hofmann, as chief of RuSHA, was fully conversant with this atrocious program. He was sent copies of suggestions adopted by Himmler, as well as Himmler's decision to introduce a pompous sounding name for assembly centers for foreign children. Not only did he have knowledge, but he issued instructions, which coincided exactly with Himmler's ideas and views. On 24 March 1944, in a letter of instructions marked "Secret" dealing with the "treatment of the pregnant foreign Working women and of children born of foreign female workers in the Reich", he said, "If the evaluations indicate that the children are good from the viewpoint of race and hereditary health, they are transferred to the care of the NSV in children's homes for foreign children or in private families. In negative cases children are sent to institutions for foreign children". There can be no doubt Hofmann actively participated in this criminal program.

Hildebrandt, who succeeded Hofmann as chief of RuSHA, is equally guilty with Hofmann in this specific charge. On 25 August 1943, Hildebrandt sent to all RuS leaders Kaltenbrunner's decree of 27 July 1943 giving basic instructions on the treatment of children born to foreign workers. In an accompanying letter dealing with the subject, "treatment of pregnant foreign workers and of children born in the Reich to foreign female workers", Hildebrandt emphatically issued instructions, and stated in part:

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*"Naturally the opinion of the SS Leaders for Racial and Resettlement matters is the decisive one in the judgment. * * * I want to point out once more the grave responsibility which has been assigned to the SS Leaders for Race and Resettlement matters by this new order, that is, to especially further all valuable racial strains for the strengthening of our people and to accomplish a complete elimination of everything racially inferior."*

The prosecution seeks to attach responsibility for the taking of infants from foreign workers on Lebensborn and the defendants connected with that institution. In this respect, the prosecution rests its case upon the ground that in two memoranda or decrees issued by various persons and offices it was mentioned that children of good blood should be placed with Lebensborn. The defense asserted emphatically that Himmler rescinded this part of the decree and no children of foreign workers were actually taken into Lebensborn.

As to this defense, the prosecution strongly contended that the defense was absurd and untenable, stating that "Himmler's sole purpose in creating Lebensborn was to obtain 'blood' for the Third Reich".

We think the position of the defense is not only tenable, but correct for three reasons.

1. The prosecution introduced numerous exhibits in which it was stated that children of good racial blood would be transferred to NSV homes and those of foreign blood to foreigners' children's homes. Either these decrees are absolutely erroneous or those mentioning transfer to Lebensborn are erroneous;

2. The prosecution has failed to show that a single child of a foreign worker was ever transferred to Lebensborn;

3. Although the decrees mentioning Lebensborn were sent to a number of offices and individuals, according to the distribution list Lebensborn was not included on the list.

For these reasons we exonerate Lebensborn and the defendants connected therewith in connection with this phase of the charges lodged against the named defendants.

The defendants connected with VoMi were not charged with this specific crime; and as to the defendants connected with the Staff Main Office, the evidence was insufficient to implicate any of them in this criminal activity.

PUNISHMENT FOR SEXUAL INTERCOURSE WITH GERMANS

During the war hundreds of thousands of workers from foreign countries, particularly from the East, were brought into Germany as forced laborers in factories and agriculture. With

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this advent of foreigners there naturally followed incidents of sexual intercourse between the foreigners and Germans. The Nazis, in order to meet this situation, began the issuance of numerous decrees concerning the treatment of foreigners who had sexual intercourse with Germans. Foreign nationals, particularly from the East, including Poles, Czechs, and Russians, were subject to these decrees (both civilians and prisoners of war).

As early as 3 July 1940 Pancke, then chief of RuSHA, sent a report to the office of Bormann, assistant to Hess, suggesting the issuance of laws to protect German blood. Pancke said:

> *"At present there are hundreds of thousands of prisoners in Germany of all nationalities and degrees, partly in camps, but for the most part, however, as workers.*
>
> *"* * * The dangers of intermixing and bastardizing of our people are extraordinarily grave. They lie to a great extent in the almost unlimited lack of knowledge throughout our nations of the problems of blood."*

Following Pancke's suggestion, the Reich Security Main Office, known as RSHA, and under Himmler, began dealing with the problem by promulgating decrees which provided that in the event a foreigner had sexual intercourse with a German woman, he should be arrested and examined by a racial examiner of RuSHA. Upon the basis of this examination depended the treatment accorded the foreigner. Those determined to be racially inferior were subject to "special treatment" or a concentration camp; those found to be racially valuable were subject to Germanization. In order that the term "special treatment" might not be misunderstood, we quote from a decree issued by RSHA:

> *"Special treatment is hanging. * * *
>
> "Sexual intercourse is forbidden to the manpower of the original Soviet Russian territory.
>
> "For every case of sexual intercourse with German countrymen or women, special treatment is to be requested for male manpower from the original Soviet Russian territory, transfer to a concentration camp for female manpower.
>
> "When exercising sexual intercourse with other foreign workers, the conduct of the manpower from the original Soviet Russian territory is to be punished as severe violation of discipline with transfer to a concentration camp.
>
> "The intercourse between other foreign workers employed in the Reich and the manpower from the original Soviet Russian territory also brings great dangers to be dealt with by the security police, therefore, it should also be fought with measures against the foreign workers. * * *"*

The principal participants in carrying out measures relating

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to this charge were Himmler's organization, RSHA, which issued decrees and had the final decision on punishment after racial examination, and RuSHA, which made the racial examination and evaluation upon which depended to a large extent whether the offender should die or receive a lighter punishment.

That RuSHA was an active participant in these measures cannot be denied, for practically every decree or piece of correspondence concerning this subject either originated in the office of RuSHA or was sent to that office, or else the correspondence or decrees mentioned RuSHA's role in the matter.

We need quote but a few documents to show the close connection RuSHA had with this program.

On 14 September 1942, a letter originating from the office of RuSHA while Hofmann was chief of that office, stated:

> *"It is requested that in all special treatment cases where German women have become pregnant by men of alien races, the offenders be racially examined without delay.*
>
> *"The Reich Security Main Office has instructed its branch office to present these cases immediately to the Commissioner of the SS Race and Settlement Main Office."*

In a report sent to Hofmann in October 1942, we find the following:

> *"The order given by the Reich Leader of the SS on the special treatment of Poles is extended to the Czechs too. The Reich Security Main Office continues to complain that a quicker decision must be reached concerning suitability for Germanization. It proposes a short course of instruction for all the heads of the State Police Regional Offices and afterwards the inauguration through these of a system of rough racial selection of the civilian workers suggested for special treatment. On account of principal considerations this consent to the Reich Security Main Office had to be refused. It then remains for us, however, on the other hand to guarantee that the examination process will be speeded up. Once more reference must be made to the regular submission of the expert opinions to the Higher SS and Police Leaders. * * *"*

Hofmann's complete familiarity with and participation in this program is shown by instructions he himself issued while Higher SS and Police Leader, after he left RuSHA. He said:

> *"With regard to illicit sexual intercourse of laborers of foreign stock the following ordinances are in force:*
>
> *"All serious offenses such as assault and sexual offenses and sexual intercourse with German women and girls are to be reported at once to the Security Service (Security Police); as a matter of principle the department of justice will not be*
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> *contacted in the beginning. As a rule both parties will be arrested.*
>
> *"After being investigated as to his nationality the party of foreign race is subject to a racial evaluation by the competent RuS field leader; a potential suitability toward Germanization is to be explored.*
>
> *"When a case of sexual intercourse is detected, the Amtsarzt (official physician) has to ascertain whether the participating German woman is pregnant. It is to be stated how far the pregnancy is advanced and whether another and what person beside the one of foreign stock in question might*

have fathered the prospective child (this investigation to be made by the Youth Office). If the person of foreign stock is fit for Germanization and if both parties are evaluated favorably under the racial viewpoint, marriage is possible under certain conditions, however, marriage between laborers from Serbia, or other Eastern laborers, and German girls are not permitted for the time being. A female worker of foreign stock, caused by the German man (in abuse of his position) to submit to sexual intercourse, will be taken into protective custody for a brief period, thereafter assigned to a different job. In other cases the female worker of foreign race is to be confined to a concentration camp for women. Pregnant women are to be sent to a concentration camp only after they have given birth and stilled the baby."

In 1943 Hildebrandt succeeded Hofmann as chief of RuSHA. The measures with reference to punishment of foreigners for sexual intercourse continued thereafter. During the time Hildebrandt was chief, two copies of Kaltenbrunner's decree of 10 February 1944 were sent to RuSHA. This decree, marked "secret", was a ten-page detailed order covering the procedure in cases involving foreigners who had had sexual intercourse with Germans. With reference to "special treatment" the decree states:

"Especially acts of sabotage, crimes of violence, and immoral crimes as well as sexual intercourse with German women and girls are to be considered as severe offenses.

*"On principle, the cases will not be handed over to Justice. Only those cases are to be transmitted there, where a court sentence appears to be desirable for reasons of political disposition of the public and where it has been ascertained by previous sounding that the court will pass the death sentence * * *.*

"Carrying out the special treatment shall serve especially to intimidate the foreign workers inside the Reich, this, however, will only be completely achieved if the expiation follows

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the deed at once. Therefore the inquiries have to be completed immediately. It must be made possible for the reports to be submitted to RSHA in the case of B I, 4 days at the latest, B II, 2 months at the latest, B III, 3 weeks at the latest after the event. These offices which are involved in the process, are to be informed of this fact."

Hildebrandt, while on the witness stand, first denied that he comprehended the meaning of the term "special treatment", but later admitted that he knew that in the case of "special treatment" hanging might result.

Hildebrandt's familiarity with "special treatment" procedure is clearly shown in one of his own orders. On 31 March 1944, he appointed Dr. Turner as a deputy with powers to act in his absence. This appointment, according to the order, was made because Hildebrandt's assignment in the East would last a little while longer. In the order of appointment, Hildebrandt said:

"As before, I reserve the right to make long-range decisions as well as decisions of a fundamental nature. However, I again expressly decree that the official channel to me leads only via my deputy.

"Petitions for engagement and marriage permits and special treatment cases for submission to the Reich Leader SS are from 1 March 1944 to be submitted every week to SS Gruppenfuehrer Dr. Turner, when in Berlin, for dispatching to the Reich Leader SS, or to the Reich Security Main Office. When SS Gruppenfuehrer Dr. Turner is absent from Berlin, the chiefs of the marriage office and the race office retain the right of signature as ordered in point 5 of letter of 16 December 1943."

Thus, not only did Hildebrandt have familiarity with the term "special treatment", but he, and those deputized by him and under his express orders, actually handled special treatment cases.

HAMPERING THE REPRODUCTION OF ENEMY NATIONALS

Preliminary to a discussion of a specific charge now dealt with, we might mention the German People's List, known as the DVL procedure, which played an important part in measures taken to hamper the production of enemy nationals, as well as many other Germanization measures. The DVL procedure will be further dealt with later; but for present purposes we point out only that under this existing procedure Polish citizens, and later other foreign nationals, were divided into four groups, numbered 1, 2, 3, and 4. According to the decrees establishing the DVL procedure, and

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according to Nazi conception, group 1 included so-called ethnic Germans who had taken an active part in the struggle for Germanization of Poland; group 2 included those ethnic Germans who had "preserved" their German characteristics, though they had not taken an active part in the national struggle; group 3 comprised persons of alleged German stock who had become "Polonized", but who it was believed could be won back to Germanism, and also persons of non-German descent married to Germans and members of non-Polish groups who were considered desirable so far as their political attitude and racial characteristics were concerned; group 4 comprised persons of German stock who had become politically merged with Polonism.

Upon registration in the German People's List, persons listed in groups 1 and 2 automatically became German citizens; those listed in group 3 acquired German citizenship subject to revocation; those listed in group 4 received revocable German citizenship through naturalization proceedings.

Persons ineligible for the German People's List and residing within the incorporated territories were considered ineligible for consideration as protectees, and were classified as stateless; those Poles residing in the Government General were classified as nonprotectees.

As a part of the gigantic program of strengthening Germany while weakening, and ultimately destroying, enemy nations, measures were taken to hamper and impede the reproduction of enemy nationals. These took the form of various decrees, all aimed at one purpose—to greatly reduce the birth rate among enemy nationals and thereby gradually bring about the destruction of the entire national group. These decrees were mainly directed toward drastically curtailing marriages. They were aimed at all Polish groups, protectees and nonprotectees, as well as all groups of the German People's List.

By a decree dated 25 April 1943, protectees were allowed to marry among themselves unless restrictive measures should later be imposed. Such restrictions were imposed by Himmler, by raising the marriageable age to 28 for men and 25 for women. According to the decree of 25 April 1943, protectees and nonprotectees were prohibited to marry each other, except that the RKFDV had the power to grant exemptions. Such exemptions were permissible, for instance, to "enable a protectee who is particularly valuable for racial and other reasons to marry a German, in order to gain him over to the German ethnic community." And in the case of a male protectee such exemptions depended on his becoming naturalized or Germanized in order that the German Woman should retain her German nationality.

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Decree 12/C, issued by Himmler on 9 February 1942, provided that marriages and adoptions by the persons classified in group 3 of the German People's List with each other or with Germans was permissible but further provided that restrictive regulations might be issued by the Staff Main Office. The decree further provided that persons in group 3 were prohibited to marry persons in group 4, persons of alien race, or with Germans holding citizenship subject to revocation who were not classified in group 3. There were further restrictions on persons of group 3 prohibiting marriages to an enumerated group of persons, such as civil service employees, without a special license.

On 6 August 1944 in a memorandum issued by the Prague Office of RuSHA, it was stated that persons of Polish descent and persons of Ukrainian descent were to be prevented from marrying each other "as a matter of principle," because "experience has shown that such marriages do not tend to split up, but rather to camouflage the Polish factor; thus the children of these marriages usually are brought up as Poles."

Notwithstanding the many decrees enacted to hamper reproduction, the Nazis suddenly awakened to the realization that their measures, as occurred in other cases, were not bringing forth the desired results, and in the words of the Nazis, as shown by the report of a conference on the question, attended by the defendant Brueckner of VoMi and representatives of RuSHA, it was discovered that "because of the raising of the marriage age for Poles the number of legitimate children is reduced resulting in an increase of the number of illegitimate children. The information memorandum recently obtained showed that the number of illegitimate children is increasing to an even greater extent than the number of legitimate children is decreasing."

The conference met this problem in the following manner:

> *"With regard to the question of reducing the number of illegitimate children, it was the general concensus of opinion to allow the unwed Polish mothers a minimum subsistence for the care of the child, the subsistence to be paid for by the Polish fathers and to be paid out only if the care of the child is not assured by either the unwed mother or her family. This was to prevent any negligence. Here it must be the primary principle not to spend one German penny for Polish welfare. This method of putting the illegitimate, racially undesirable Polish child at a definite disadvantage, even though it will not, in general, reduce the number of illegitimate children, will at least not encourage a rise in the number of illegitimate children. The Race and Settlement Main Office suggested that the father of the illegitimate child be required to make especially*
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> {122}
>
> *large payments, but that the money become part of a general fund from which the necessary sums might then be paid out. In cases where the paternity cannot be established, all potential fathers will be equally liable to payment. This measure is not likely to increase the pleasure of having an illegitimate child; all surplus money might be turned over to German youth welfare. * * *"*

Even further and more far-reaching measures were thought necessary as is clearly shown by an exhaustive file note, initialed by the defendant Brueckner in his own handwriting, as well as a "strictly confidential" memorandum to Brueckner. Both memorandums are in essence the same, dealing with the same subject. The file note dealt with the subject, "Immediate Reich measures to decrease the dangers from infiltration in view of the numerous births of alien races in rural areas." After discussing

the high percentage of births to alien women working on farms in Germany, the file note, with reference to emergency measures, mentioned the following:

> *"Comprehensive sterilization of such men and women of alien blood in German agriculture who, on the basis of our race laws—to be applied even more strictly in these cases—have been declared inferior with regard to their physical, spiritual and character traits.*
>
> *"A ruthless but skillful propaganda among farm workers of alien blood, to the effect that neither they nor their children, produced on the soil of the German people, could expect much good, in other words immediate separation between parents and children, eventually complete estrangement; sterilization of children afflicted with hereditary disease. * * *"*
>
> *"A quiet distribution of contraceptives among farm workers of alien blood.*
>
> *"General and strictest compliance with the principle of taking away for good from their mothers all new born children of female farm workers of alien blood as well as children of German women if the father is of alien race, at the latest 4 weeks after their birth, and then sending them to geographically remote homes."*

According to the report these measures were considered to be necessary because "to leave the children with the mother of alien blood for a prolonged period would mean a continued and increased bother to the German farm wife; and even the German housewife and members of her family" might become attached to the child. Also "it must be constantly on the mind of the female farm worker of alien blood that to give birth to a child in Germany would mean to lose it at the same time."

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The memorandum further disclosed that "homes for alien children" were to be established, to which a child was to be sent upon separation from its mother, and that one such home had already been established and in operation.

Though we have not exhausted the subject, we think the facts outlined give a sufficiently clear picture of the extent of the program inaugurated to hamper the reproduction of enemy nationals.

The offices of RuSHA, VoMi, and the Staff Main Office bear particular responsibility for this criminal activity. Representatives of RuSHA and VoMi actively engaged in discussions and made suggestions concerning measures to be enacted. These representatives demanded, and received, the right for determination of individual cases by Higher SS and Police Leaders, which would result in a decisive intervention on the part of RKFDV. It was further agreed that in deciding cases it should be determined whether the child constituted a "desirable increase in population (Poles suitable for Germanization); this will then be determined by the SS Race and Settlement Main Office."

The Staff Main Office prepared decrees concerning marriages. Greifelt under his own signature, forwarded decree 12/C, dealing with the question of prohibiting marriages; and representatives of the Staff Main Office participated actively in conferences in which drastic regulations were discussed and agreed upon. The defendant Greifelt bears full responsibility for the activities of the Staff Main Office, as well as his own individual acts, which contributed in a large measure toward the program of hampering the reproduction of enemy nationals.

The defendant Lorenz, as chief of VoMi, and the defendant Brueckner, as chief of Amt VI (safeguarding of German folkdom in the Reich, which was an office of VoMi) are also responsible for the atrocious crimes committed in the furtherance of this program. Being an office which dealt primarily with ethnic questions, VoMi naturally was drawn into this program, for it was peculiarly within VoMi's field of activity. We have already shown quite clearly that Brueckner was active and energetic in conferences and decisions. His chief is responsible for his acts.

In preliminary conferences leading to the issuance of decrees, RuSHA, while Hofmann was chief, had an active representative present. Afterwards, when Hildebrandt became chief of RuSHA, Klinger, acting "for the chief of the SS Race and Settlement Main Office," issued decree after decree, on the basis of existing decrees, outlining prohibitive measures to be followed in carrying out the program.

Hofmann and Hildebrandt had full knowledge of all the details of this program and willingly assisted in its execution. Practically

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all correspondence and the various decrees issued outside the RuSHA office went directly to RuSHA; and by the decrees it was provided that RuSHA should play an important part in measures to be taken; for instance, it was expressly provided that RuSHA should examine those coming within the prohibitive marriage decrees. And as the evidence shows, RuSHA with determination guarded its right to make these examinations. Since both Hildebrandt and Hofmann were chiefs of RuSHA while these measures were being enacted and carried into effect, they both bear responsibility for the criminal acts committed against the populations of occupied territories.

FORCED EVACUATIONS AND RESETTLEMENT OF POPULATIONS; FORCED GERMANIZATION OF ENEMY NATIONALS; SLAVE LABOR

Within the framework of the gigantic program undertaken by Himmler and offices subordinated to his command, three aims were paramount: To evacuate and resettle large areas of the conquered territories; to Germanize masses of the population of the conquered territories; and to utilize other masses of the population as slave labor within the Reich. These aims, and the procedures and measures adopted to carry them out, are so interwoven and interrelated that one can hardly be mentioned without at the same time referring to the others. Accordingly, these specifications of the indictment will be considered and discussed together.

In the execution of the Germanization program, the measures taken in regard to these three specifications of the indictment utilized, as a basis of operation, the DVL procedure, already discussed in this judgment, or the WED procedure.

In making examinations for the purpose of resettlement of so-called ethnic Germans, the RuSHA racial examiners used the DVL procedure, dividing those considered acceptable in the German People's List into four groups, as already explained. In the case of resettlement of populations, the groups were further subdivided into "A", "O", and "S" cases. The evidence establishes that "0" cases were those determined to be racially and politically reliable; "A" cases were those who were determined to be less politically

reliable but still of racial value; "S" cases were those found to be of alien blood and not racially valuable.

Generally, "O" cases (those politically and racially valuable) were transferred to the Incorporated Eastern Territories, it being assumed that such persons would aid in a speedier Germanization of that territory; "A" cases, being less reliable politically, were transferred to Germany proper, the idea being that these persons

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could be indoctrinated with Germanism much faster in the environment of Germany and could be, from a security angle, under closer surveillance. The "S" cases, being in the conception of the Nazis of no racial value, were transferred to the dumping ground of the Government General or sent back to their native countries.

Of all the measures taken in the vast Germanization scheme, those connected with the forced deportation and evacuation of populations and the resettlement of other populations were perhaps the most far-reaching and in some respects the most cruel. These measures resulted in death, misery, and destitution to thousands upon thousands of the citizens of conquered nations. The scheme was simple in its framework, but cruel in its execution.

With the incorporation of the Eastern territories of Poland, evacuations and resettlements immediately began. According to the plan, all Poles and Jews living within the incorporated territories, except those considered fit for Germanization and registered on the German People's List, were to be evacuated to the Government General.

We have already cited many decrees which clearly establish the general plans for evacuation and resettlement. Numerous decrees and documents on this subject are contained in the record, but a reference to all these decrees and documents of various kinds would be impracticable. The evidence unquestionably establishes the aims and measures taken in the execution of this program.

Poland, being one of the first nations overrun by the Nazis, became the first nation to be affected by this program; and it was within the incorporated territories of Poland that evacuations and resettlements were carried out on the largest and most ruthless scale. However, before the end of the war, these measures had been extended to practically all conquered territories, encompassing, for instance, Yugoslavia (whose citizens were known as Slovenes) and French citizens of Luxembourg, Alsace, and Lorraine. While evacuations occurred principally in the countries named, resettlers came from many countries, including Russia, Poland, and Greece. Some were transferred by virtue of treaties entered into by Germany and the country concerned by the resettlement action; and with those resettlements, insofar as the removal of the resettlers is concerned, we need not deal. Hundreds of thousands were removed, however, from their native land, not by virtue of a treaty but simply by virtue of Germany's armed might as an occupying belligerent. Many of these resettlers were, according to irrefutable evidence, forced to sign the

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DVL procedure, and were forced to leave their native lands. Intimidation and deceit in various forms were employed to force registration of the populations on the German

People's List and after registration, to force the population to remain on the list. Typical of the measures taken in this coercion of the population was the threat of German authorities to take the children of those refusing to sign, and the actual taking of such children from their parents; the threat of placing persons refusing to sign in concentration camps, and the actual placing of such persons in concentration camps. Many of these resettlers were deceived into believing that they would find much better living conditions in the land to be resettled and would receive compensation in kind for property left behind; but, instead, they found themselves for months in VoMi camps, enduring hardships and living under very unfavorable conditions. Hundreds of thousands were never resettled, but remained in VoMi camps until the end of the war, and never received any compensation whatever for their property; and by the thousands others of these resettlers, instead of resettlement, were forced to work within the Reich in industry and agriculture.

Many of the resettlers, who had steadfastly refused to succumb to threats and deceit, were nevertheless placed on the German People's List without their knowledge and notwithstanding they had not applied to authorities to be placed on the list.

By January 1944, nearly three million Poles alone had been registered on the DVL procedure. Hundreds of thousands had been deported to the Government General or to the Reich to labor in factories, in agriculture, and other enterprises. These Poles had no choice, but their disposition was governed entirely by the whim of the conquerors. As Poles were deported, a corresponding number of resettlers were evacuated from their homeland and resettled on the Polish property left behind by those Poles who had been evacuated. These resettlement actions were so immense that many times it was necessary to await an evacuation of Polish citizens before the resettlers could be accommodated. And in addition to those hundreds of thousands going to the Incorporated Eastern Territories, other hundreds of thousands of resettlers went direct to the Reich as laborers. They, too, had no choice in the matter and were allocated to such jobs as those in authority desired to place them.

The enormity of the crimes committed in the evacuation and resettlement actions are shown by reports made by high German officials during the period when these actions were taking place. Shortly after Poland was conquered, the Commander in Chief East, in his own notes made for the purpose of reporting to the

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commander in chief of the army, describes the chaotic conditions attending those evacuations as follows:

> *"The resettlement scheme is causing particular and steadily increasing alarm in the country. It is quite obvious that the starving population, struggling for its very existence can regard the wholly destitute masses of evacuees, who were torn from their homes over night, as it were, naked and hungry, and who are begging shelter from them, only with the greatest anxiety. It is only too understandable that these feelings are intensified to immense hatred by the numerous children starved to death on each transport and the train loads of people frozen to death * * *."*

Himmler himself, in a speech to Party comrades, acknowledged that in evacuations people froze to death on transport trains in the East, but he said: "I imagine that we have to be ruthless in our settlement, for these provinces must become Germanic, blond provinces of Germany."

Frank, Governor General of Poland, made a lengthy report direct to Hitler on 25 May 1943, in which he described in detail the harsh treatment of the Poles and the conditions prevailing in the resettlement districts of Poland. This report, a copy of which went to Himmler, stated—

> *"* * * the newly settled area and, unfortunately, the nearer and even the farther surroundings, have for a long time been in a state of open rebellion.*
>
> *"According to my own conviction, the reason for the complete destruction of public order is to be found exclusively in the fact that the expelled persons were in some cases given only 10 minutes, and in no case more than 2 hours, to scrape together their most necessary belongings to take with them. Men, women, children, and old people were brought into mass camps, frequently without any clothing or equipment; there they were sorted into groups of people fit for work, less fit for work, and unfit for work (especially children and aged persons), without regard to possible family ties. All connections between the members of families were thus severed, so that the fate of one group remained unknown to the other. It will be understood that these measures caused an indescribable panic among the population affected by the expulsion, and led to it that approximately half of the population, earmarked for expulsion, fled. They fled, in their despair, from the expulsion district and have thus contributed considerably to the increase of the groups of bandits which existed for some time in the Lublin district and which act with continuously increasing audacity and force. This movement has extended, like waves in a pond, also to the inhabitants*
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>
> *of those rural districts which were not—in any case not yet—intended for expulsion. In the course of these events it has even happened that the newly settled ethnic Germans, forced by casualties inflicted on them by bandit actions, frequently banded together into armed troops and procured for themselves from the surrounding villages, with alien population, on their own initiative and by force of arms, the necessary implements for their farms.*
>
> *"This chaotic situation was further aggravated by retaliatory measures by the constabulary in the Lublin district to forestall additional attacks on ethnic German villages. These retaliatory measures consisted, among other things, in mass-shootings of innocent persons, especially of women and children and also of aged persons, between the ages of 2 and 80 and over.*
>
> *"* * * In connection with the execution of the resettlement plan described by me, the point of view has often been maintained that all humanitarian considerations must be completely neglected. May I give the assurance that I, too, share this view utterly and completely."*

It is established by the evidence, including the testimony of inmates of concentration camps, that persons who refused to sign the DVL procedure were incarcerated in these camps, and after their confinement were still subjected to coercion in an attempt to compel them to enroll on the German People's List.

There existed a close connection between resettlements and evacuations. Almost all correspondence and decrees concerning evacuations and resettlement actions discussed both subjects, and detailed measures to be taken in regard to both evacuation and resettlement. While at first there was not such a close connection in point of time, the Nazis, finding that to leave a farm unattended often resulted in thefts and loss of property left on the evacuated premises, adopted a procedure whereby the person to be evacuated was given only a few hours notice. He was permitted to carry away only a meager amount of personal possessions; and the evacuations took place only after resettlers were in a VoMi camp and in a position to move onto the evacuated premises immediately.

These evacuations were carried out without regard whatever to military necessity. While there were instances where property was confiscated for military purposes, in the great majority of cases, vast areas comprised of farms and various enterprises were evacuated for the sole purpose of ridding the Incorporated Eastern Territories of those persons the Nazis regarded as unsuitable and to make room for those persons the Nazis hoped would speedily make of the incorporated areas a Germanic stronghold.

In the gigantic undertaking comprising evacuations and resettlements,

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Germanization, and commitment to slave labor of foreign nationals, the Staff Main Office, VoMi and RuSHA held significant roles. Greifelt, as chief of the Staff Main Office and also as deputy to Himmler, issued decree after decree concerning measures to be taken in the evacuation and resettlement of populations.

Greifelt's intimate connection with, and active participation in, evacuations and resettlements as well as Germanization and slave labor, affecting the populations of various countries, may be clearly shown by reference to several decrees.

On 7 July 1941, Greifelt issued a directive concerning "the evacuation from Southern Carinthia of elements of alien stock", in which it was directed:

> *"The Slovenian intelligence will be submitted to a racial examination. The racially valuable elements (groups 1 and 2) will not be evacuated to Serbia but will be transferred to Germany proper to be Germanized.*
>
> *"The above change does not affect the ordinance to the effect that a sharp selection will be made from among the native population of Southern Carinthia and that the undesirable population must be evacuated in accordance with existing directives." Greifelt, in writing Himmler on 22 September 1941 regarding the completion of racial examinations of inmates of Baltic refugee camps, reported that 70 percent were "fit for immediate labor service"; 28.5 percent were "foreign elements which should be brought back to their land of origin"; and 1.5 percent were "considered as politically incriminated or suspected or asocial, and as such to be handed to the Chief of the Security Police for commitment to a concentration camp."*

In discussing the settlement of Lithuanian Germans, Greifelt in a report to Himmler on 19 November 1941 proposed—

> *"In order to be able to give the German peasants profitable holdings, the following is suggested:*
>
> *"1. Resettlement of Lithuanian peasants in former German holdings in eastern Lithuania.*
>
> *"2. Evacuation of Poles and resettlement of Lithuanians in the former Polish holdings.*
>
> *"3. Immediate requisition of Polish, Russian, and Jewish property."*

In an order dated 3 October 1942, marked "Secret", and concerning 'the treatment of labor allocation of the persons evacuated from Alsace, Lorraine, and Luxembourg," Greifelt decreed— "Evacuees who—

a. express their wish to be sent to France,

b. refuse to accept German citizenship,

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c. show by gross insubordination other than the above that they feel as Frenchmen and intend to remain such,

d. for those reasons refuse to accept reasonably suitable work or housing,

are to be reported to the competent Gestapo Regional Hq. for deportation to a concentration camp or, in the case of racial inferiority, to be deported to France."

Creutz, deputy to Greifelt, was also active in resettlement and evacuation actions as well as the Germanization and commitment to slave labor of various foreign populations. Creutz issued instructions concerning these matters to various persons and made detailed reports direct to Himmler. On 30 July 1941, in reporting to Himmler on deportations from Lorraine, Creutz said:

> *"* * * it has become clear during the time following the conclusion of these evacuations that—*
>
> *"1. further evacuations to France, although affecting only a smaller number of people are yet to be carried out (mainly priests and members of the intelligentsia);*
>
> *"2. there still remain about 2,000 families which, although not suited for deportation to France, cannot remain in the West-mark, if we want to clear up the situation in that region.*
>
> *"According to information from SS Gruppenfuehrer Berkelmann, these 2,000 families represent members of a variety of vocations, and are, generally speaking, entirely decent people, who, however, have to be removed from their present environment in order to win them back for Germanism at another place and to remove them from the current unfavorable influences." The defendant Creutz, in correspondence direct with Himmler on 3 July 1942, requested permission to utilize a portion of the Government General for the resettlement of ethnic Germans; and on 10 October 1942, Creutz issued an order designating the district of Lublin as the area for resettlement of resettlers from Bulgaria, Serbia, and Leningrad. The order stated—*
>
> *"Will you, please, immediately move the above mentioned resettlers into camp Lodz and put the necessary documents immediately at the disposal of the delegate of the Reich Commissioner for Strengthening of Germanism, Lublin Office." Creutz, in other orders, also designated the district Lublin as the area of resettlement for resettlers coming from other countries.*
>
> *Creutz' full knowledge of, and active participation in, deportation and resettlement actions is clearly shown by a report he made to Himmler's secretary on 7 August 1943. He reported in detail the exact number of persons settled in various districts, which*
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>
> *represented "a grand total of 546,000 resettlers." He reported that—*
>
> *"* * * there are 55,500 resettlers in the camps of the repatriation office for ethnic Germans, of which 31,500 are O-cases, further 44,000 evacuees, together a total of 99,500. All are working temporarily in Germany proper with the exception of 22,000 who are in the camps in Lodz. Remaining capacity of camp another 40,000 persons."*

A prolific source of labor for the Reich's war efforts was supplied by the re-Germanization or WED procedure. Notwithstanding, hundreds of thousands of foreign nationals were pouring into Germany by virtue of the DVL procedure, Himmler, in order to make use of those Poles not eligible for the DVL procedure, introduced the WED procedure. This procedure was somewhat similar to the DVL procedure, differing principally only in the fact that while the DVL procedure applied to so-called ethnic Germans, the WED procedure applied to those who were admittedly not of German descent but whose racial characteristics appeared to be satisfactory. The prime purpose of this procedure was to bring labor to Germany, at the same time depriving Poland of masses of its citizens and attempting to effect a forced Germanization of these foreign citizens.

On 9 May 1940 Himmler, in preliminary remarks to decree 17/II, the basic decree of the WED procedure, made his aim quite clear when he said:

> *"Among the people of alien (not German) nationality in the annexed Eastern districts as well as in the Government General there are often such who are eligible for Germanization on the basis of their racial suitability. I therefore ordered that a selection of the racially most valuable families of Nordic nature be made, according to directives issued by me, and I intend to put them into plants in the Old Reich. Since this is not a question of utilization of labor in the ordinary sense but an extremely important national-political task, the accommodation of this group of persons cannot be done in the usual way through the labor offices.*
>
> *"For this reason I entrust the Higher SS and Police Leaders in their capacity as my deputies for the Strengthening of Germanism with this task of the distribution of people and at the same time with the utilization of this group of persons. * * **
>
> *"* * * it should be endeavored to accommodate able-bodied sons and daughters, who are not necessarily needed in the same plant, in other, more distant places."*

Both Greifelt and Creutz actively participated in the slave labor program connected with the WED procedure. On 4 June 1941,

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Greifelt, in a supplement to Himmler's decree 34/I, which extended the WED procedure to Southern Carinthia and Lower Styria, issued these specific instructions:

> *"The number of persons suitable for re-Germanization to be expected from Southern Carinthia and Lower Styria is not yet determined, but in the very near future if the transport difficulties can be overcome, an extensive number may be expected.*
>
> *"Supplementing Decree No. 34/I, I therefore state: I ask that the competent Laender Labor Offices be contacted as well as the other offices participating according to the hitherto customary procedure. I attach the greatest importance to closest cooperation with the Party offices.*
>
> *"All the labor locations which you have already selected and not yet filled will not be settled by persons from the former Polish territories suitable for re-Germanization, but by those from Southern Carinthia and Lower Styria.*
>
> *"Once again I call attention to the fact that according to Decree No. 34/I for the allocation of the persons from Southern Carinthia and Lower Styria who are suitable for re-Germanization, the procedure already used for the persons from the Eastern territories capable of re-Germanization is to apply to the fullest extent. This additional group of people is to be treated in the same manner."*

In an eight-page report, dated 25 March 1943, Creutz outlined the entire re-Germanization program, giving details as to the measures that had been taken. A few extracts from this report are sufficient to show Creutz' familiarity with the procedure and his participation therein:

> *"The selection of the persons is made by the branch office of the SS Race and Settlement Main Office, Litzmannstadt [Lodz].*
>
> *"The persons found suitable for being Germanized will be turned over to the individual Higher SS and Police Leaders in Germany proper according to the plannings to be drawn up by the Staff Main Office.*
>
> *"The Higher SS and Police Leaders are competent for the selection of the work assignments. They are willing to consider proposals of other offices also (District Directorates, National Food Agricultural Estate, Labor Offices); the definite decision, however, is theirs exclusively.*

"The families suitable for Germanization will, after their transfer to Germany proper, first be lodged for a short period in transit camps, which are subordinated to the Higher SS and Police Leaders. At these camps a thorough examination takes place in order to find out for what kind of the approved work assignments the individual families are best suited.

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"Until 31 January 1943, 14,592 persons from the former Polish territories have been selected by the branch office of the SS Race and Settlement Main Office and were transferred into Germany proper.

"The Staff Main Office is not able to concur fully with the statements of the Reich Security Main Office regarding the willingness to be Germanized. According to experiences gained here, the willingness to be Germanized is lowest in such persons who came to the Reich as single individuals and whose families were left behind in the Eastern territories.

"A low degree of readiness to be re-Germanized also prevails in those who left behind larger properties.

" * * it is emphasized that the care of the persons suitable for re-Germanization shall not degenerate into an exaggerated kind of welfare. It was also often necessary to discipline some obstinate persons in the harshest manner and to keep them in line through the use of compulsory measures.*

"If there still exists, as is understandable, a lack of willingness for re-Germanization, it is nevertheless to be expected that the next generation, on account of its racial orientation, will have almost completely merged with Germanism. The care and education of juveniles is therefore considered the main task in the procedure of re-Germanization.

"On the basis of the decree 34/I of the Reich Fuehrer SS of 4 June 1941, 10,121 persons have been transferred to Germany proper until 31 January 1943, to work and live there.

"Approximately 6,500 Slovenes, which still are in camps, are at present available for allocation in the district of Lublin.

"According to reports of the Immigration Center, the Slovenes have an aversion against settlement in the district Lublin. They try to influence the Immigration Center by all means, so that they will not be declared worthy of settling in the East. Among the Slovenes already settled in Germany proper, a strong uneasiness can be observed also."

Greifelt, as the active directing force, and Creutz, acting by reason of Greifelt's directions, were instrumental in bringing into Germany young girls to be used as domestic workers in German households. Himmler, in a decree issued on 1 October 1941, had pronounced his purposes in this respect. He said:

"One of the greatest calamities is at present the shortage of female domestic help, especially in families with many children.

"I therefore order that girls of Polish and Ukrainian descent, who meet the requirements of the racial evaluation groups 1 and 2 shall be selected by the racial examiners of the Race and Settlement Main Office and shall be brought into the Reich

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territory. The selection is not to be limited only to those persons who are to be evacuated but, as far as possible, to all available girls. In this connection not only the Warthegau but also the other Incorporated Eastern Territories, the General Government, and, after prior understanding is reached with locally competent offices, the former Esthonian, Latvian, and Lithuanian territories are to be considered.

"Assignments may only be made to households of families with many children who are firm in their ideology and fit for training such girls."

The defendants Greifelt and Creutz assisted in fulfilling Himmler's ambitions, as is shown by the report of Creutz, a few months after the issuance of Himmler's decree. In reporting to Himmler on 20 February 1942, Creutz said:

> *"Regarding the status of the allocation of female domestic help eligible for re-Germanization I wish to report as follows:*
>
> *"521 female domestics suitable for re-Germanization were allocated to nonfarming households until 31 December 1941 (total number of allocated persons including children, 10,520).*
>
> *"The selection of the persons eligible for re-Germanization is made by the field office of the SS Race and Settlement Main Office in Litzmannstadt [Lodz]. The allocation in the Reich is carried out by the locally competent Higher SS and Police Leaders.*
>
> *"The field office of the SS Race and Settlement Main Office makes its selections primarily from among the evacuated Poles. In addition, pursuant to the personal order of the Reich Leader SS, it has the responsibility of removing qualified female domestics, eligible for re-Germanization, from the re-Incorporated Eastern territories (especially from the Warthegau), and of transferring them to the Reich proper. It receives the names of girls in the Warthegau through my deputy. Furthermore, it contacted the local employment offices and welfare offices in the allocation of the girls."*

Subsequently, less than a year later, Creutz reported to Himmler that the total number of re-Germanizable domestics and agricultural workers was 6,818, of which 1,127 were allocated to urban households. The number of persons suitable for re-Germanization allocated to the Reich up to 30 November 1942 was estimated at 26,000 in a memorandum by Greifelt dated 12 December 1942 and addressed to Higher SS and Police Leaders.

RuSHA held a prominent role in the adoption and enforcement of measures taken to evacuate and resettle foreign populations, Germanize enemy nationals, and utilize enemy nationals as slave labor. In all three of these closely connected procedures, RuSHA

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was the organization charged with, and upon which depended, the selection and evaluation of so-called ethnic Germans and foreigners. Upon the decision of RuSHA depended the future treatment of the persons examined.

We have already detailed the mass resettlement actions from numerous countries and the mass deportations of Poles and Jews from the Incorporated Eastern Territories, as well as the forcible evacuations by the tens of thousands from Yugoslavia and Luxembourg, Alsace, and Lorraine. In all these actions RuSHA was involved, the duties of that office varying in accordance with the action being taken in each instance; but in all cases the fundamental role of RuSHA was to racially examine and classify the persons involved in the various actions.

In the case of resettlement actions, the resettlers, after being removed from their native lands by VoMi and transferred to VoMi camps, were examined and classified by racial examiners; and on the basis of "A", "O", or "S" classifications, some resettlers were allowed to resettle in the Eastern territories, some were taken to Germany as laborers, and some were sent direct to the Government General.

RuSHA's responsibility for examinations and evaluations in this connection is clearly outlined in a draft of instructions for the Immigration Center where the resettlers were assembled and screened. The instructions provided:

> *"The Race and Settlement Office (RuS) determines the racial suitability of the resettler according to general directions by the Reich Leader SS. The results are listed in a card index. This race and settlement card index is also centrally stored in Lodz and is consulted when determining the final settlement."*
>
> *RuSHA's responsibility also extended to the Government General. The procedure followed and the ultimate results of racial examinations in connection with the expulsion of Poles from the Government General is described in a report made directly to Himmler by Mueller on 31 October 1942. This "secret" report from a Gestapo office concerning evacuations from the Lublin district stated:*
>
> *"The Polish families classified in groups 1 and 2 will be separated and taken to Lodz for Germanization or screening. In as far as no settlers are available at present, a small group of these families will be retained to be settled on the so-called 'Z-farms' which are to be formed by combining larger and smaller Polish farms.*
>
> *"Of those classified in groups 3 and 4 the children together with the Poles above the age of 60 will be segregated, i.e., as a rule children together with grandparents, and will be taken to*
>
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>
> *the so-called 'pensioneers villages'. Sick and infirm Poles under the age of 60 who are unable to work will also be taken to the 'pensioneers villages'. The age limit for children should be fixed at 14 years of age (not 10 years) since children under the age of 14 cannot be taken to Germany proper to work there. The able-bodied members of group 3 between the ages of 14 and 60 years of age without their disabled family members will be taken to the Reich as laborers.*
>
> *"Individuals in group 4 between the ages of 14 and 60 are to be sent to concentration camp Auschwitz."*

All three of the defendants connected with RuSHA—Hofmann, Hildebrandt, and Schwalm—lent their assistance and active support to measures formulated and carried out in connection with the three specifications of the indictment being considered.

Hofmann was informed by RKFDV as early as 10 January 1941 of proposed evacuation actions in Poland. In a letter to Hofmann from the RKFDV, after a description of certain evacuation actions, it was stated:

"* * * in the near future a particularly large number of evacuations will be carried through, also in the Warthegau, Danzig-West Prussia and Upper Silesia. I request that there, too, the racial examination should be made sure."

Hofmann complied with this request. On 21 January 1941, Hofmann answered:

> *"Please be informed that during my stay in Lodz, on 20 January 1941, I discussed and established with SS Sturmbannfuehrer Schwalm, chief of the branch office, the employment of racial examiners for the racial examination of those Poles who will be evacuated. SS Sturmbannfuehrer Schwalm will remain in contact, personally and through representatives, with SS Obergruppenfuehrer Krueger or with the authoritative agencies in the Government General as far as the start of the action is concerned."*

In writing concerning the status of Dongus, chief of the branch office of RuSHA in Lodz, Hofmann outlined the activities of RuSHA in Poland. He said:

> *"From the beginning of 1941, SS Hauptsturmfuehrer Dongus has been directing the branch office of the Race and Settlement Main Office in Lodz. The branch office was commissioned to select*

from the new Reichsgaue [Reich districts] the Polish families which were racially most valuable from among the Poles being evacuated. This commission was in the meantime extended to the area of the entire Government General. On the instructions of the Reich Leader SS Reich Commissioner for Strengthening of Germanism, this selection process has to be

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carried out with particular care. To carry out this work, therefore, I must have at my disposal a man who has the necessary knowledge in the fields of anthropology and psychology. In the case of Dongus we have in addition a man who has considerable experience and practice. Dongus' qualifications make it possible for me to appoint him, over and above his commission, as instructor and trainer for the new specialists in the sphere of anthropology.

"I beg you to consider that, through the work of the branch office at Lodz, most valuable families are gained by the Reich; at the moment they can be employed as acceptable labor forces, and their children, as can be seen even today, are growing up in the youth organizations as valuable blood of Germandom."

Hofmann, in a letter to RuS field leaders and "all racial examiners" emphasizes the importance of racial examinations being made by examiners from the RuS office. He declared:

"The racial evaluation made by the branch office Lodz of the SS Race and Settlement Main Office is binding in every case. The reversion of a decision made by the branch office can only be executed upon an order of the SS Race and Settlement Main Office. Grievance cases can be decided on by the chief of the SS Race and Settlement Office only after detailed facts have been submitted."

Continuing with a report about racial examinations made by racial examiners from a replacement office, which had "turned out to be completely unsuitable," Hofmann said:

"In this connection it is to be considered that the branch office has part of the persons which are to be re-Germanized at the camp Lodz under observation for weeks and that the racial selection can be made from naked persons. The racial examiner—as in the above-mentioned case—is only able to see these persons for a short time. Moreover, it is possible that he may see only parts of a family, but never the whole family, as it is the case in Lodz."

A lengthy report and survey made in the main office of RuSHA on 31 July 1942 and forwarded to Hofmann for transmission to Himmler covers the entire field of RuSHA activities. This report gives complete figures on the number of persons undergoing Germanization as well as the nationality of such persons, such as Poles and Slovenes. It also contains reports on deportations and the activities of RuSHA in that regard; it being stated that RuSHA had intervened with examinations to determine whether persons "represent a racially desirable increase in the population or the reverse." According to the report, those found racially valuable were to be settled in the Old Reich [Germany proper]; those

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racially inferior were to be evicted to France. With reference to the commitment to labor in the Reich of those found fit, the report stated:

"The Reich Governor of Poznan, Department of Labor, and the Race and Settlement Field Leader Vietz-Danzig are striving in closest conjunction with the labor offices to bring about the necessary transfer of workers suitable for Germanization to the Old Reich.

"The Race and Settlement Main Office cannot shut its eyes to this necessity in view of the fact that it is the fourth year of the war and considering the problems of armaments and food

confronting us in the Eastern sector too and has made the Staff Main Office corresponding promises."

Hildebrandt, after becoming chief of RuSHA, was informed of the deportations being conducted. On 8 December 1943, in writing in regard to planned deportations of students from the University of Strasbourg, a RuSHA field leader in France informed Hildebrandt:

*"In the course of a larger action by the Security Police against the students of the former university of Strasbourg at Clermont-Ferrand, I examined there 107 male and female students along racial lines. It is well known that among the students there are many persons of German descent. Their political opinion, however, is in direct contrast to their descent. Thirty-seven percent of the students were classified as having biologically valuable characteristics, and it is intended to transfer them to the Reich * * *."*

In actively directing racial examinations of French citizens, Hildebrandt ordered, in a letter to Higher SS and Police Leaders on 5 August 1943:

"All matters pertaining to resettled persons are to be handled centrally by the SS Race and Settlement Main Office.

"Insofar as the persons to be resettled have not yet been registered, they will be reported to the SS RuS Main Office by the Higher SS and Police Leader or by the Office for Ethnic Germans. The order to, carry out the racial examination will be issued to the competent RuS field leaders by the SS RuS Main Office and the family cards to be used will be included. The results of the examination are to be forwarded to the SS RuS Main Office. It is not permissible to inform the offices of the Deputies of the Reich Commissioner for the Strengthening of Germanism of the results from there.

"The decisions will be made by the SS RuS Main Office, on the basis of the complete family evaluations, and the competent offices will be informed of them".

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The evidence establishes that Schwalm, while chief of the branch office at Lodz, supervised racial examiners in that area, and Schwalm not only had full knowledge of the activities of his subordinates, but he himself was active in this field. We have already referred in this judgment to Schwalm's report in which he gave a complete list of persons being transported in a number of transports for Germanization from his area of command. Within Schwalm's jurisdiction examinations were carried out for the purpose of resettlement, evacuations, Germanization, and slave labor; and for the activity of his many subordinates, he bears full responsibility.

The organization VoMi was deeply involved in the forceful evacuation and resettlement of populations as well as the Germanization and commitment to slave labor of foreign nationals.

During the course of the war, hundreds of thousands of persons went through VoMi camps for various reasons. Documentary proof has already been quoted to give some idea of the vastness of the VoMi operations. It is disclosed by the evidence that VoMi actually operated some 1,500 to 1,800 camps; and at the end of the war there were still hundreds of thousands of persons confined within these camps. VoMi camps held resettlers, evacuees, and slave laborers.

Both Lorenz and Brueckner occupied high positions in VoMi and in the course of the immense VoMi operations became deeply involved in measures carried out under the

Germanization program. Both defendants are responsible for a systematic and organized expulsion and evacuation of masses of the population throughout the invaded countries of Europe.

Immediately after his appointment as RKFDV, Himmler commissioned VoMi to carry out evacuations, resettlements, and the "whole ethnical work for the strengthening of Germanism." VoMi was charged with the "whole administration and care" of the VoMi camps.

Lorenz, from the date of the decree conferring such responsibility upon him and his organization, until the end of the war, was an energetic worker in the Germanization program; and he bitterly contested any encroachment by another organization upon activities Lorenz regarded to be within the realm of his duties.

Brueckner, likewise, was an energetic participant in the activities conducted by VoMi.

The evidence conclusively shows that VoMi was responsible for transporting thousands of resettlers and deported persons to VoMi camps; that these persons were subjected to the harshest kind of treatment and hardships; that they were herded into VoMi camps, several families assigned to one room, and for months forced to

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live without adequate food and clothing. Within these camps some of those subjected to these hardships died.

The close connection between VoMi and expulsion and resettlement actions may be seen from the fact that Himmler, just four days after his appointment as RKFDV, issued an order on 11 October 1939 regarding resettlements in Poland, in which he stated that "a preliminary condition for the populating of these cities is the deportation of poles and the evacuation of their dwellings." Himmler then ordered:

> *"The selection of the population will be carried out by the Chief of the Security Police in collaboration with SS Obergruppenfuehrer Lorenz. A preliminary condition for repopulating these cities is the deportation of Poles and the evacuation of their dwellings.*
>
> *"Members of the Polish Intelligentsia are to be deported in the first place."*

From that time onward during the war, Lorenz, Brueckner, and VoMi were closely connected with all such undertakings.

On 10 December 1942 Lorenz reported to Himmler that 16,932 persons had been transported from Bosnia to VoMi camps. On 15 January 1943 Lorenz wrote the following letter to Himmler:

> *"Einsatzgruppe D reports that the North Caucasian territory had been cleared of ethnic Germans owing to military developments. Transport of ethnic Germans was channelled from Kursavka to Yeisk where 2,000 ethnic Germans were scheduled to arrive on 9 January. Transport leader requested further directives. Suggested that Oberfuehrer Hoffmeyer should settle ethnic Germans in Halbstadt territory. Hoffmeyer acknowledges this possibility under the condition that the appropriate number of Ukrainians be evacuated. Request approval."*

Himmler approved this plan and on 18 January 1943 Brueckner wrote the Higher SS and Police Leader in Russia-South:

> *"In consequence of a report to the effect that a transport of approximately 2,000 ethnic Germans from the Caucasus has arrived in Yeisk, SS Obergruppenfuehrer Lorenz suggested to the Reich*

*Leader SS to settle these people in the Halbstadt region and to expel simultaneously a corresponding number of Ukrainians. The Reich Leader approved this suggestion. * * *"*

Brueckner in writing to the Reich Minister for the occupied Eastern territories on 14 April 1943 said in regard to the competency of VoMi:

"The registration and the welfare of ethnic Germans within the Reich are matters falling exclusively within the competence of the Reich Leader SS in his capacity as Reich Commissioner for Strengthening of Germanism who has commissioned his

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Main Office (Repatriation Office for Ethnic Germans) to carry out this program. In pursuance of this commission the Repatriation Office for Ethnic Germans registered the above mentioned group of people already. The welfare service is provided through our ethno-political agencies. The racial examination of ethnic Germans takes place in pursuance of the directives of the Reich Leader SS through the SS Race and Settlement Main Office.

"On this occasion it may be further pointed out that in the course of the discussion which took place some time ago in the Reich Ministry of the Interior, concerning the German People's List procedure, it was decided that the Repatriation Office for Ethnic Germans will have competence to report ethnic Germans from the Reich Commissariat of the Ukraine to the appropriate People's List Offices."

As previously stated, Lorenz jealously guarded his field of competency, which often led to disputes with those he thought were encroaching upon his duties. He even complained to Greifelt with reference to a jurisdictional dispute concerning labor allocation and the handling of resettlers; and he suggested to Greifelt that if Greifelt's office would desist from certain functions and leave them to his agency, he could bring in laborers to Germany by the tens of thousands. The text of this complaint reads:

"I am, of course, quite prepared to let your office in the future solely handle the labor allocation for the supply industries of the Luftwaffe, if you attach any importance to that matter; in that case, however, I wish to ask you even now to let my office complete the pending allocation operations.

"Yet apart from this, my dear Greifelt, there seems to me that something is wrong with the entire set-up of the labor allocation and I would ask you to give this matter some thought.

"Practically, the set-up is like this—the actual labor allocation, that is, the selection of the resettlers, the screening of the resettlers, the formation and execution of the transports, is handled by my camps, whereas your deputies tell my camp offices where the shipments are to go, or they negotiate in my camps with the companies concerned. This situation applies particularly to Lodz, and in this connection I may add the following remark: Your 5 deputies in Lodz were able to complete the allocation of only 500-600 resettlers within roughly 4 months, or to discharge them in order to join relatives. That is an output which certainly cannot have absorbed all of their time.

"The procedure in Germany proper is to report the "B" cases by name to the competent Higher SS and Police Leaders and to place them in camps made available by us, and only then to

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have them allocated by the Higher SS and Police Leaders. This procedure might have had certain advantages during the last few years. Under the current conditions, however, when again many thousands of resettlers have come to the Reich it is, in my opinion, too clumsy to be practicable, not to speak of the immense paper work that it entails.

"The following, in my views, might be an expedient solution: Since today we can anyway no longer speak of a settlement according to plan, but are—if for no other reason than due to the housing shortage—concerned only with a temporary wartime placement of the resettlers to be handled still now, the allocation should be made directly by my office. From my subordinate

offices, I know that in agriculture alone we could place tens of thousands of resettlers and at the same time this would be of immense importance from an ethnological viewpoint, since we thus could proceed with deportations in villages which today have an alien population of 60, 70, and 80 percent."

And still fighting for the right to handle and allocate workers, Lorenz wrote a bitter protest to the Higher SS and Police Leader in the Gaue Upper and Lower Silesia. Within this area the Higher SS and Police Leader had ordered that every allocation for release of resettlers or evacuees should have his approval. In protesting this order, Lorenz said:

"Therefore, your purely local order must necessarily lead to confusion and uncertainty, especially since it does not take into account the thoroughly incorporated existing plan of procedure. For example, you also overlook the fact that the labor allocation of Slovenes not suitable for re-Germanization and other similar groups of evacuees is entirely my job. The fact that I am not dependent upon a single Gau in the allocation of these cases, but can execute relocation measures into other Gaus according to economic necessities, guarantees speedy completion of these labor allocation measures.

"I request of you, with respect to these facts, to retract the order issued by you on the 18th of this month. It is not in accordance with the Reich Leader's orders and therefore cannot be recognized by me. Furthermore, it leads to unnecessary difficulties which especially at the present moment must be termed undesirable.

"Since I am aware of the efficient cooperation between you and the local allocation headquarters of the repatriation office for ethnic Germans in Breslau, I am somewhat amazed how such an order ever came into being at all without my having been consulted. Therefore, I am returning to you your letter of 18 August of this year and request, contrary to the intentions

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expressed therein, that in the future you give my local allocation headquarters the opportunity to carry out their duties on the basis of instructions issued to them by me without any difficulties."

The nature of the camps operated by VoMi may be seen from a drastic order issued to Lorenz by Himmler on 21 September 1942 after it had been reported to Himmler that Slovenes had escaped from the VoMi camps. Himmler decreed:

"The escape of a Slovene is to be reported immediately by the camp commander of the VoMi to the Gestapo. The Gestapo, in turn, will notify immediately the Higher SS and Police Leader Alpenland.

"The family of the escapee as well as his relatives will be removed immediately from the camp and be taken to a concentration camp. Their children will be taken away from them and sent to a home.

"At once investigation has to be made in the camp in order to determine who knew of the proposed escape and aided it. All men who knew about the escape and lent a helping hand will be hanged in the camp."

It has been established beyond any doubt by voluminous evidence that both Lorenz and Brueckner had knowledge of, and actively engaged in, actions carried out to evacuate and resettle foreign populations, to Germanize enemy nationals, and to utilize enemy nationals as slave labor within the Reich.

COMPULSORY CONSCRIPTION OF ENEMY NATIONALS INTO THE ARMED FORCES

Both Lorenz and Brueckner are charged under this specification of the indictment.

The evidence discloses that tens of thousands of foreign nationals, after registration in the DVL procedure, were conscripted into the Waffen SS or armed forces. There is an abundance of evidence, in the form of periodical reports, disclosing the extent to which foreign nationals were drafted for military service. For instance, in an information bulletin by RLD on 28 December 1943, the following information is given about the drafting of ethnic Germans for military service: NO-2015, Pros. Ex. 341.

> *"The first more extensive recruiting of ethnic Germans for the Waffen SS took place in Romania in 1940. This was done under the pretense of recruiting labor for the Reich. In a later, second action, a thousand men belonging to this ethnic German group in Romania were recruited. At that time these recruitments were not made for the purpose of strengthening the German*
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> *Army but with the idea, strongly backed by the Repatriation Office for Ethnic Germans (VoMi) and the present SS Obergruppenfuehrer Berger, that the participation of the ethnic Germans in the war within the ranks of the Waffen SS would cause a still closer union between these ethnic German groups and the German people and, especially after the war, in territories settled by ethnic Germans, led to the development of a veteran's generation like those in the German Reich.*
>
> *"The political situation in the Serbian Banat made it possible, after the dissolution of the Jugoslav state, to collect the ethnic Germans living there into a unit, called the SS division "Prinz Eugen". Above and beyond this all further available men of the ethnic German group in the Banat fit for service were drafted into the police forces or served as temporary policemen in the Banat. Of the ethnic German group in the Banat and Serbia, counting approximately 150,000 ethnic Germans, 22,500 are serving in the aforementioned units, that is to say, more than 14 percent of this whole number."*

This report gives a list, country by country, of the "allotment of German ethnic groups", enumerating the total number of persons in the Waffen SS and Wehrmacht. Typical of these listings are the following: Romania, "Waffen SS, 54,000"; Slovakia, "Waffen SS, 5,390"; "German Wehrmacht, 237".

The status of the aforementioned SS Division "Prinz Eugen", composed of ethnic Germans, is classified in a letter from Reinecke to the SS Main Office, dated 12 July 1943. Writing on the subject of "compulsory military service for racial Germans of foreign citizenship", the writer states:

> *"* * * the SS and police court in Belgrade reported e.g., on 14 August 1942 that the volunteer division "Prince Eugen" no longer was an organization of volunteers, that on the contrary, the ethnic Germans from the Serbian Banat were drafted to a large extent under threat of punishment by the local German leadership, and later by the replacement agency."*

Order after order was issued in which it was expressly stated that those who were registered on the German People's List and who attempted to shirk military service should be severely punished. For instance, one order discussed cases which had arisen where such persons had claimed "Polish affiliation" when it was sought to induct them into the army; and in other cases persons in groups from 1 to 3 had tried, when it was sought to induct them into the army, to have their registration changed to group 4 in order to avoid military service. It was ordered that such persons should be transferred to a concentration camp.

Toward the end of the war more drastic measures were taken,

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as is shown by a letter dated 20 September 1944 from the Higher SS and Police Leader Southeast to deputies of the RKFDV, in which it is stated:

> *"In the individual case of a member of group 3 who refused acceptance of the German People's List identification card in order to avoid being drafted into the army, the Reich Leader has decided that in this and similar cases firm action will have to be taken and has ordered the execution of the individual in question.*
>
> *"If, in spite of having been properly instructed, persons en' rolled in the German People's List should refuse acceptance of their German People's List identification cards a motion for special treatment will have to be submitted in future."*

It is quite clear from the evidence that Lorenz was an active and willing participant in the forced conscription of enemy nationals. One document in the evidence discloses that he had suggested such conscriptions. Another document, from which we shall quote, should suffice to show his close connections and active participation in this matter. On 21 December 1942, in a report to the Assistant Secretary of the Foreign Office by Berger, head of the recruiting office of the Waffen SS, a lengthy account is given concerning the activity of Lorenz and others in the induction into the Waffen SS of members of "compulsory labor service of Croatia." It appears from this report that some dissension had arisen among officials with regard to this proposed induction, and it was finally decided "to postpone a decision about the labor service until SS Obergruppenfuehrer Lorenz visited Croatia." This report then continues:

> *"During this visit to Croatia SS Obergruppenfuehrer Lorenz informed the officer commanding the reserve command that he desired the induction of all the men of the labor service who were fit for the SS. One third of the leaders could join as well, otherwise, however, the labor service should be maintained as arranged. SS Obergruppenfuehrer Lorenz made an identical statement to the racial German leaders as Minister Kasche himself states in a teletype message of 7 November 1942. SS Obergruppenfuehrer Lorenz stated furthermore that he would inform Minister Kasche of the state of affairs."*

According to further details of the report, a transport was supposed to leave on 5 November 1942 with inductees, but difficulties arose when the German labor service and the German legation failed to give their approval to the release of the laborers. Thereupon, according to the report, the following occurred:

> *"SS Obersturmfuehrer Heermann told SS Standartenfuehrer Ruschka that troop trains for the transportation of the labor*
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> *service men, who had been drafted into the Waffen SS, had already arrived, and that the transport escort troops had already been assigned. Since the minister himself had proposed that the decision about the induction of the labor service men should be left to SS Obergruppenfuehrer Lorenz, and since the latter had decided that the men had to join, he, SS Obersturmfuehrer Heermann, was obliged to regard it as sabotage if the draft orders were withdrawn by command of the legation one day prior to the scheduled departure of the transport trains, particularly as the orders had been submitted as early as a fortnight beforehand * * *."*

Thus, Lorenz' activity, not only by way of consent but by way of direction, in the compulsory induction of foreign nationals is made quite clear.

The thousands of foreigners inducted into the armed forces of Germany came principally from VoMi camps which were under the supervision of Lorenz. By his activities in forcibly inducting these foreigners under his jurisdiction and supervision, he forced

foreign nationals to fight against their own country and their own allies. He bears full responsibility for these deeds.

While Brueckner is shown by the evidence to have at one time submitted a draft of an order, under the terms of which "auxiliaries" under certain circumstances were to be inducted into the army, the evidence fails to disclose that the proposed order was ever adopted or carried out. No other evidence of an incriminating nature has been offered against the defendant Brueckner with regard to this specification of the indictment. We find the evidence insufficient to prove Brueckner guilty on this specification.

PLUNDER OF PUBLIC AND PRIVATE PROPERTY

As country after country was overrun by the Nazis, the plunder of public and private property was carried out on an immense scale in practically every conquered territory. The plunder seized consisted of various objects—from cultural property, such as paintings, carpets, and crystal, to agricultural property consisting of millions of acres of land.

Greifelt, as deputy to Himmler, was deeply involved in the plunder and confiscation of this property. He issued decrees directing that confiscations be carried out; and after confiscations had taken place, he refused to return the property to those from whom it had been confiscated. He was directly involved in the confiscation of many churches, hospitals, and sanitoriums as well as agricultural property. These confiscations were not carried out by reason of military necessity, but mainly were a part of a preconceived plan

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to strip the Polish population of the Eastern territories of all their property and in turn to make the property available to resettlers.

Greifelt made periodic reports to Himmler in which he gave detailed accounts of the stages reached in resettlements and confiscation of property. Some conception of the extent of these confiscations may be gained from a report made by Greifelt to Himmler as early as 3 August 1942. Following page after page of statistics, the report reveals that in four Eastern Gaue [districts] alone the total number of confiscated farms and estates amounted to 626,642, with a total area of 5,849,987 hectars. Roughly, the land confiscated consisted of more than 14,000,000 acres.

None of the land confiscated was ever paid for; and although it is claimed in defense to these confiscations that it was intended to pay for these properties after the war, it is quite plain from the evidence that no such intention existed, for in reporting in a memorandum on a conference held with Hitler on 12 May 1943, Greifelt stated:

> *"The Reich Leader SS has pointed out that the property in question in the Incorporated Eastern Territories was formerly German property which was robbed in 1918 and for which no one can demand compensation. On the other hand, the situation in the Government General is different since the Poles there are still owners of their property. In so far as this property will be utilized for German resettlement measures, one could, therefore, consider a compensation for the previous owner."*

With regard to property confiscated from Jewish owners, no compensation at all was contemplated, as is disclosed by a memorandum by Greifelt, written in December 1942, which he sent to Himmler's secretary. This memorandum revealed that "the Reich

Leader SS had signed a general directive whereby the entire Jewish real estate is to be placed at the disposal of the Office for Strengthening of Germanism."

We have previously shown in this judgment that in reporting to Himmler, Greifelt recommended the "immediate requisition of Polish, Russian, and Jewish property." Greifelt, on other occasions, voiced his opinion that requisitions should take place. For instance, on 23 February 1941, he wrote Himmler:

> *"After having issued your carrying-out decree concerning the treatment of the population in the Eastern occupied countries of 12.9.1940, you will find it necessary to issue instructions concerning the treatment of the property belonging to persons included in groups 3 and 4 of the 'List for the Repatriation of German ethnic groups' and this for the agricultural as well as for the trade sections.*
>
> *"In the interest of Germanizing the country as fast and as*
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> *effectively as possible and of separating from both these groups their property located in the occupied Eastern territories as soon as feasible, my office is of the opinion that real estate situated in the annexed Eastern areas, and belonging to members of groups 3 and 4 of the list should be expropriated * * *.*
>
> *"My office proposes to expropriate the property of these persons under the law concerning the treatment of property belonging to nationals of the former Polish State * * *."*

While in that correspondence Greifelt further voiced the opinion that in the case of group 3 compensation should be paid, and in the case of group 4 partial compensation should be paid, this procedure was never followed; and, as we have shown, future measures adopted explicitly provided that no compensation at all should be paid for confiscated property.

As early as 4 October 1940, Greifelt expressly ordered the confiscation of property. In an order to the Central Land Office he declared:

> *"I wish to inform you that real property of people of Polish citizenship but who belong to other ethnic groups is on principle subject to requisition and confiscation in pursuance of the provisions of the decree concerning the handling of property of citizens of the former Polish State. This applies particularly to real estate of owners belonging to the Czechoslovakian, Russian, and Lithuanian ethnic groups.*
>
> *"I request that the land offices be instructed accordingly and that the necessary action be taken."*

Confiscation of property was carried out in such a ruthless and indiscriminate manner that it caused the Reich Minister of Justice to enter a protest against the extent of confiscation of Polish property. In a letter direct to Himmler on 22 May 1942, the Reich Minister of Justice complained that a sudden action had taken place whereby all live and dead stock belonging to former owners of Polish property had suddenly been seized. He reported:

> *"During the execution of this order, of which neither the Gauleiter nor the Landrat of the Kreis Bielitz had any knowledge as it was probably initiated by the decision of the head of the Gau Office Strengthening of Germanism, the Poles were robbed not only of their technical appliances but also of their food and personal articles and clothes.*
>
> *"The Polish inhabitant who has been left practically without means after the extent of the confiscation has become very agitated, which might result in further expressions of hate and acts*

of sabotage against Germans. The action will also have bad effects as far as nutrition policies are concerned."

Greifelt answered the complaint of the Reich Minister of Justice

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on 8 July 1942, and he sought to justify such seizures with these remarks:

"Since these Poles began to steal the fodder for their animals after they had lost their agriculture enterprises, and furthermore because the resettlers were in want of the missing live and dead stock which belonged to the farms, it became necessary for economic reasons to confiscate this stock and to return it to the now German farms to which it belonged."

The confiscation of property with which Greifelt dealt extended to both public and private property. In a "secret" report to Himmler on 21 October 1943, Greifelt, in opposing a loan plan which had been suggested by the Reich Minister of Finance, stated:

*"The plan will endanger the execution of plans repeatedly outlined by the Reich Leader SS in conversations with the undersigned. In these plans it was foreseen to utilize the entire amount of confiscated former Polish landed property in the Incorporated Eastern Territories, including as far as possible municipal and industrial property under the administration of the Main Trustee Office "Ost", as separate property of the Reich Commissioner in order to make the financing of subsequent settlement tasks in the new territories at least in part independent of the Reich finances * * *."*

Greifelt further opposed this plan because certain aspects of the plan would reveal to the world the secret aim of the Nazis to confiscate all Polish property, and would make useless an ordinance previously issued for the purpose of camouflaging the aim of the Nazis in regard to Polish property. Greifelt reminded Himmler that—

"On the basis of this figure it would be possible for everybody in foreign countries to calculate that the entire Polish house property without exceptions has been confiscated. The reasons for hesitation dictated by international law and foreign policy, which in 1940 were conclusive for formulating the ordinance concerning Polish property in such a way that it could not be realized by any uninitiated person that actually all Polish property was supposed to be confiscated, would thus be thrown overboard."

For the ruthless and indiscriminate confiscation of property without regard whatever to military necessity Greifelt bears full responsibility.

The evidence on this specification of the indictment is insufficient to prove the guilt of the other defendants connected with the Staff Main Office.

VoMi was directly connected with the plunder and confiscation of property for the evidence unquestionably shows that many confiscations

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were carried out for the very purpose of using the confiscated property for the housing of resettlers. These confiscations particularly occurred with reference to church property and hospitals and sanitoriums.

The defendant Lorenz, as chief of VoMi, confiscated property for use of VoMi, and he was opposed to the return of confiscated property to its original owner, the church.

Greifelt, in a letter to Himmler dated 17 December 1940, gives the following account of VoMi's activities with reference to the confiscation of property:

"Realizing the impossibility of providing temporary housing accommodation for the resettlers by normal lawful means, the Office for the Repatriation of Racial Germans was empowered by an authorization issued by the Reich Leader on 30 December 1939 to requisition lodging space suitable for the communal housing of racial German resettlers.

"On the strength of this authority the Office for the Repatriation of Racial Germans has requisitioned a large number of inns, hospitals, sanatoriums, old people's homes, and especially convents. To a large extent this requisitioning was done with full collaboration of the minor administrative authorities."

In June 1943 Lorenz wrote Brandt, Himmler's secretary, concerning an inspection of certain camps, and in giving reasons for the full maintenance of the camp apparatus although the camps were only partly occupied, Lorenz said:

" * * Another reason for the maintenance of the camps * * * is the following:*

"The buildings confiscated there for the accommodation of resettlers mainly come from former church property. An unrestricted surrender of this property to the Wehrmacht, the National Socialist Public Welfare organization, etc., undoubtedly would result in this property gradually returning to the hands of the previous clerical owners. In order to prevent such a development which is undesirable to the Reich Leader SS, I have, so far, persistently opposed the surrender of these camps."

The evidence has clearly established the responsibility of Lorenz for the plunder and confiscation of public and private property belonging to enemy nationals without regard to military necessity; and for these acts Lorenz is criminally responsible.

On this specification of the indictment the evidence is inadequate to prove guilt on the part of the defendant Brueckner. Though he might have had knowledge of confiscations it has not been proved beyond reasonable doubt that he actually was connected in any manner with confiscations.

On this specification of the indictment, the evidence is insufficient

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to prove the guilt of any of the defendants connected with RuSHA.

The four defendants connected with Lebensborn—Sollmann, Ebner, Tesch, and Viermetz—are charged under this specification of the indictment. While it appears from the evidence that Lebensborn utilized certain property formerly belonging to Jews, such as several hospitals, old people's homes, and children's homes, it further appears that these properties had already been confiscated by other agencies and were empty at the time Lebensborn took them over. Furthermore, it appears that Sollmann, as chief of Lebensborn, deposited one million Reichsmarks of Lebensborn's funds for the purpose of paying for these properties upon transfer. Although the evidence discloses that no compensation was actually paid for these properties, this occurred by reason of an order of the Reich Minister of Justice suspending land registration entries, and not by virtue of any refusal to pay on the part of Lebensborn. While there is evidence to the effect that in isolated instances Lebensborn also utilized a small amount of personal property for the welfare and maintenance of children under Lebensborn's care, it has not been established beyond a reasonable doubt that Lebensborn actually confiscated such property without payment; nor has it been established that any defendant connected with Lebensborn was connected with any plan or program to plunder occupied territories.

The burden of proof rests upon the prosecution; and the evidence by which it is sought to criminally implicate the defendants connected with Lebensborn is, in the opinion of the Tribunal, insufficient to justify a conclusion of guilt on this specification.

PERSECUTION AND EXTERMINATION OF THE JEWS

Insofar as the evidence might connect the individual defendants with this charge in the indictment, this specification has heretofore been dealt with, particularly under specifications relating to punishment for sexual intercourse with Germans, plunder of public and private property, and evacuations of foreign nationals.

Persecutions upon racial grounds were directed particularly toward the Poles and Jews, and both the Poles and Jews were the victims of similar measures, as we have heretofore shown in this judgment.

WAR CRIMES AND CRIMES AGAINST HUMANITY

Judged by any standard of proof, the record in this case clearly establishes crimes against humanity and war crimes, substantially as alleged in the indictment under counts one and two.

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The acts and conduct, as set forth in this judgment, and as substantially charged in the indictment, constitute crimes against humanity as defined in Article II (c) of the Control Council Law No. 10, and are violative of international conventions, and particularly of Articles 23, 45, 46, 47, 52, 55, and 56 of the Hague Regulations (1907), and are violative of the general principles of criminal law as derived from the criminal laws of all civilized nations and of the internal penal laws of the countries in which such crimes were committed.

The acts and conduct set forth in this judgment, and as substantially alleged in the indictment, also constitute war crimes, as defined in Article II (6) of Control Council Law No. 10, and are violative of international conventions, and particularly of Articles 23, 45, 46, 47, 52, 55, and 56 of the Hague Regulations (1907), and are violative of the general principles of criminal law as derived from the criminal laws of all civilized nations and of the internal penal laws of the countries in which such crimes were committed.

During the course of the trial defenses common to all defendants have been urged.

It has been insisted repeatedly by the defendants that numerous activities were not within their sphere of competency but on the contrary some other person or some other organization was charged with the performance of these various tasks. We have given careful consideration to these assertions, and in instances we have determined that certain assertions of this nature were creditable; and in such instances the defendant has not been held responsible for those activities. However, a complete and irrefutable answer to many of these assertions is found in the words of the defendants themselves in many orders, directives, and memoranda issued under their own signature while the barbarous Germanization program was in full swing. We can give no credence to such defenses when the words of a defendant absolutely refute the contentions now urged. It is no defense for a defendant to insist, for instance, that he never evacuated populations

when orders exist, signed by him, in which he directed that the evacuation should take place. While in such a case the defendant might not have actually carried out the physical evacuation in the sense that he did not personally evacuate the population, he nevertheless is responsible for the action, and his participation by instigating the action is more pronounced than that of those who actually performed the deed.

Another defense urged is that, in performing certain functions, the defendants were acting under superior orders. By Control Council Law No. 10 it is expressly provided that superior orders

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shall not free a defendant from responsibility for crime but this fact may be considered in mitigation of punishment. We have, in passing judgment on all the defendants, given due consideration to this defense as it might affect the punishment of the individual defendants. It is our view in this respect that justice demands a fair consideration of the fact that each and all defendants occupied a subordinate position, being answerable to Himmler, and several of the defendants were even subordinate to other defendants at bar.

Still another defense often asserted is to the effect that if certain events happened, or certain orders or memoranda were issued, the defendant knew nothing of these transactions. Such a defense is of no avail when it appears, as it does in many instances, that the defendant urging such a defense actually issued an order or memorandum, or actually received it, or otherwise had full knowledge, at the time, of the commission of various acts.

It has been urged and argued at length that certain territories, such as the Incorporated Eastern Territories of Poland and parts of Luxembourg, Alsace, and Lorraine, were incorporated into the Reich and thereby became a part of Germany during the war. Hence, it is urged, the laws and customs of war are inapplicable to these territories.

Any purported annexation of territories of a foreign nation, occurring during the time of war and while opposing armies were still in the field, we hold to be invalid and ineffective. Such territory never became a part of the Reich but merely remained under German military control by virtue of belligerent occupancy. Moreover, if it could be said that the attempted incorporation of territories into the Reich had a legal basis, it would avail the defendants nothing, for actions similar to those occurring in the areas attempted to be annexed also occurred in areas which Germany never professed to have incorporated into the Reich.

COUNT THREE

Count three of the indictment charges all defendants, except the defendant Viermetz, with membership in a criminal organization, namely, the SS. This charge will be dealt with in passing upon the guilt or innocence of the individual defendants.

We shall now consider and determine the individual responsibility of the defendants.

ULRICH GREIFELT

The defendant Ulrich Greifelt, as chief of the Staff Main Office and deputy to Himmler, was, with the exception of Himmler, the

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main driving force in the entire Germanization program. By an abundance of evidence it is established beyond a reasonable doubt, as heretofore detailed in this judgment, that the defendant Greifelt is criminally responsible for the following actions: kidnaping of alien children; hampering the reproduction of enemy nationals; forced evacuations and resettlement of populations; forced Germanization of enemy nationals; the utilization of enemy nationals as slave labor; and the plunder of public and private property.

The evidence submitted is insufficient to establish beyond a reasonable doubt the defendant Greifelt's guilt upon the following specific charges: abortions on Eastern workers; taking away infants of Eastern workers; and the punishment of foreign nationals for sexual intercourse with Germans.

The defendant Greifelt is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Greifelt was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

RUDOLF CREUTZ

Rudolf Creutz, as deputy to Greifelt, was an active participant in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment; and it has been established beyond any reasonable doubt that the defendant Creutz is criminally responsible for, and implicated in, the following criminal activities: the kidnaping of alien children; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of foreign nationals as slave labor.

Upon the following specific charges the evidence is insufficient to justify a conclusion of guilt: abortions on Eastern workers; taking away infants of Eastern workers; punishment of foreign nationals for sexual intercourse with Germans; and hampering the reproduction of enemy nationals.

The defendant Creutz is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Creutz was a member of a criminal organization, that is, the SS, under the conditions

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defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

KONRAD MEYER-HETLING

Konrad Meyer-Hetling was chief of the planning office within the Staff Main Office. During his entire period of service in this position he was a part time worker only, still retaining a professorship at the University of Berlin. Meyer-Hetling is a scientist of considerable world renown—an agricultural expert.

The prosecution's case rests principally upon the "General Plan East", a survey and proposed plan for the "reconstruction of the East", prepared by Meyer-Hetling at Himmler's request and submitted to Himmler on 28 May 1942. It is the contention of the prosecution that this plan formed the basis for the measures taken in the incorporated Eastern territories and other occupied territories.

A consideration of General Plan East, as well as correspondence dealing with this plan, reveals nothing of an incriminatory nature. This plan, as contended by the defendant, envisaged the orderly reconstruction of the East—and particularly village and country—after the war. The plan plainly states, "According to plan, the achievement of the work of reconstruction will be spread over five periods of 5 years each, totalling 25 years." There is nothing in the plan concerning evacuations and other drastic measures which were actually adopted and carried out in the Germanization program. As a matter of fact, it is made quite plain by the evidence, as the defendant contended, that this General Plan East was never adopted and no effort was made to carry out its proposals. Actually, Himmler, instead of an orderly reconstruction, decided upon and pursued a drastic plan which in all its cruel aspects sought the reconversion of the East into a Germanic stronghold practically overnight. Of course, Meyer-Hetling is not responsible for these measures which he did not suggest.

Simply by virtue of his position as chief of planning, the prosecution would have the Tribunal assume that Meyer-Hetling was the person responsible for all planning and, consequently, the drastic actions taken must have had their origin in his planning. The difficulty with such an assumption is that there is no proof to support it. He is charged, for instance, with such criminal activities as kidnaping alien children, abortions on Eastern workers, and hampering the reproduction of enemy nationals. Yet in thousands of pages of documentary and oral evidence, there is not a single syllable of evidence even remotely connecting him with any of these activities.

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Upon the evidence submitted, the defendant Meyer-Hetling is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Meyer-Hetling was a member of a criminal organization; that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

OTTO SCHWARZENBERGER

Otto Schwarzenberger was chief of finance in the Staff Main Office. As such, he dealt with the operational finances and expenses of all organizations charged in the indictment with participation in the Germanization program. He also handled operational finances of other organizations, such as DUT, DAG, EWZ, and UWZ.

Schwarzenberger has contended throughout the trial that, as chief of finance, his duties consisted almost entirely of paying out funds on lumpsum requisitions submitted to him by various organizations, and that, as chief of finance, he had no power to approve or disapprove requisitions for funds, which was a duty resting solely with the Reich Minister of Finance. He contends, furthermore, that not even in the requisitions and bills submitted to his office was there anything indicating the purpose for which the funds were to be used or had been used, and he never had knowledge of the purposes for which these funds were being dispersed. Schwarzenberger's contentions are supported by an abundance of evidence. It would appear from the evidence that Schwarzenberger's principal task was to submit to the Reich Minister of Finance a budget containing the estimated operational needs of the various departments; and upon approval by the Reich Minister of Finance, the funds were deposited with Schwarzenberger's office for payment to the various organizations.

Volumes of documents have been introduced by the prosecution in this case—hundreds pertaining to the various organizations involved—and Schwarzenberger's name is conspicuous in its absence among these documents. No documentary evidence of an incriminatory nature has been offered against this defendant; yet the prosecution would have the Tribunal assume, as it is argued, that he held numerous conferences with all departments with reference to all financial matters and was intimately acquainted with all activities of the various departments. This is an assumption

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which the prosecution bases wholly upon the position held by the defendant and which is not supported by proof.

Upon the evidence submitted, the defendant Schwarzenberger is found not guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Schwarzenberger was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

HERBERT HUEBNER

As chief of labor staffs and the resettlement staff in Poznan, Herbert Huebner was concerned in the forcible evacuation and resettlement actions as well as the slave labor program. Within the area under his jurisdiction and supervision, these actions were carried out on a large scale. One document, written by him, suffices to show his

connection with these actions. Huebner on 29 August 1941 wrote to the SS Settlement Staff at Lodz and Poznan as follows:

> *"According to the newest order of the Reich Governor, the Poles who will have to be displaced in the course of the settlement must under no condition leave the Warthegau, e.g., in order to be allocated for labor in Germany proper via the employment offices, since the Poles will probably be needed later on as manpower (in this area). The Landraete (chiefs of district adm.) will have to provide emergency work for them until large-scale projects will provide the possibility to make use of all available Polish manpower.*
>
> *"The Reich Governor will instruct the Landraete tomorrow by circular letter to make all provisions to prevent the displaced Poles from leaving the Gau. The Landraete also were again urged to support the displacement measures in every way.*
>
> *"I request you to comply with this order under all conditions and, where necessary, to instruct the Landraete to provide housing for the Poles to be displaced. In all cases they are to be informed in time of any planned displacement measures."*

It has been established by the evidence beyond a reasonable doubt that the defendant Huebner actively participated in the forced evacuation and resettlement of foreign populations and the use of foreign nationals as slave labor.

The evidence is insufficient to authorize a conclusion of guilt on the part of Huebner with regard to the other specifications of the indictment.

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The defendant Huebner is found guilty on counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Huebner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

WERNER LORENZ

The defendant Werner Lorenz, as chief of VoMi, was an active participant in practically every phase of the Germanization program, as has heretofore been set forth in detail in this judgment. The evidence establishes beyond any reasonable doubt that Lorenz is criminally responsible for and implicated in the following criminal activities: the kidnaping of alien children; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy nationals; the utilization of enemy nationals as slave labor; the forced conscription of non-Germans into the SS and armed forces; and the plunder of public and private property. The evidence is insufficient to authorize a conclusion of guilt with regard to forcible abortions on Eastern workers.

The defendant Lorenz is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Lorenz was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the

International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

HEINZ BRUECKNER

Heinz Brueckner, as head of the Amt VI of VoMi, actively participated in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment. It has been established beyond a reasonable doubt that this defendant is criminally responsible for and implicated in the following criminal activities: the kidnaping of alien children; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy

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nationals; and the utilization of enemy nationals as slave labor.

The evidence is insufficient to authorize a conclusion of guilt on the part of Brueckner with regard to the other specifications of the indictment.

The defendant Brueckner is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Brueckner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

OTTO HOFMANN

Otto Hofmann, as chief of RuSHA from 1940 to 1943, actively participated in the measures adopted and carried out in the furtherance of the Germanization program, as has heretofore been set forth in detail in this judgment. The evidence establishes beyond any reasonable doubt Hofmann's guilt and criminal responsibility for the following criminal activities pursued in the furtherance of the Germanization program: the kidnaping of alien children; forcible abortions on Eastern workers; taking away infants of Eastern workers; the illegal and unjust punishment of foreign nationals for sexual intercourse with Germans; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of foreign populations; the forced Germanization of enemy nationals; and the utilization of enemy nationals as slave labor.

The evidence is insufficient to prove this defendant's guilt with regard to the plunder of public and private property.

The defendant Hofmann is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Hofmann was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

RICHARD HILDEBRANDT

Richard Hildebrandt was Higher SS and Police Leader at Danzig-West Prussia from October 1939 to February 1943, and

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simultaneously he was leader of the Administration District Danzig-West Prussia of the Allgemeine SS and deputy of the RKFDV. From 20 April 1943 to the end of the war, he was chief of RuSHA. From 1939 to 1945, while serving in these capacities, he was deeply implicated in many measures put into force in the furtherance of the Germanization program, as has heretofore been set forth in detail in this judgment. By an abundance of evidence, it has been established beyond a reasonable doubt that the defendant Hildebrandt actively participated in and is criminally responsible for the following criminal activities: the kidnaping of alien children; forcible abortions on Eastern workers; taking away infants of Eastern workers; the illegal and unjust punishment of foreign nationals for sexual intercourse with Germans; hampering the reproduction of enemy nationals; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of the enemy nationals as slave labor.

Hildebrandt, as the sole defendant, is charged with special responsibility for and participation in the extermination of thousands of German nationals pursuant to the so-called "Euthanasia program." It is not contended that this program, insofar as Hildebrandt might have been connected with it, was extended to foreign nationals. It is urged by the prosecution, however, that notwithstanding this fact, the extermination of German nationals under such a program constitutes a crime against humanity; and in support of this argument the prosecution cites the judgment of the International Military Tribunal as well as the judgment in the case of the United States of America vs. Brandt, Case No. 1. Neither decision substantiated the contention of the prosecution. For instance, in holding defendants guilty in the Brandt judgment, the Tribunal expressly pointed out that the defendants, in participating in this program, were responsible for exterminating foreign nationals. The Tribunal expressly stated:

> *"Whether or not a state may validly enact legislation which imposes euthanasia upon certain classes of its citizens is likewise a question which does not enter into the issues. Assuming that it may do so, the Family of Nations is not obliged to give recognition to such legislation when it manifestly gives legality to plain murder and torture of defenseless and powerless human beings of other nations.*
>
> *"The evidence is conclusive that persons were included in the program who were non-German nationals. The dereliction of the defendant Brandt contributed to their extermination. That is enough to require this Tribunal to find that he is criminally responsible in the program."*

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It is our view that euthanasia, when carried out under state legislation against citizens of the state only, does not constitute a crime against humanity. Accordingly the defendant Hildebrandt is found not to be criminally responsible with regard to this specification of the indictment.

The evidence is insufficient to implicate this defendant on the specification regarding the plunder of public and private property.

The defendant Hildebrandt is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Hildebrandt was a member of a criminal organization, that is, the SS under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

FRITZ SCHWALM

The defendant Fritz Schwalm was an active participant in certain phases of the Germanization program, as has heretofore been set forth in detail in this judgment. It has been established by the evidence beyond a reasonable doubt that this defendant is criminally responsible for and implicated in the following criminal activities conducted in the furtherance of this program: kidnaping of alien children; the forced evacuation and resettlement of populations; the forced Germanization of enemy nationals; and the utilization of enemy nationals as slave labor.

Upon the other specifications of the indictment the evidence is insufficient to justify a conclusion of guilt on the part of this defendant.

The defendant Schwalm is found guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Schwalm was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

MAX SOLLMANN

The defendant Max Sollmann, as chief of Lebensborn—together with the other three defendants connected with that institution—is charged with criminal responsibility in three specifications of

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the indictment, namely, the kidnaping of alien children, taking away infants of Eastern workers, and the plunder of public and private property. With two of these specifications we have already dealt. We now consider the charge concerning the kidnaping of alien children.

It is quite clear from the evidence that the Lebensborn Society, which existed long prior to the war, was a welfare institution, and primarily a maternity home. From the beginning, it cared for mothers, both married and unmarried, and children, both legitimate and illegitimate.

The prosecution has failed to prove with the requisite certainty the participation of Lebensborn, and the defendants connected therewith, in the kidnaping program conducted by the Nazis. While the evidence has disclosed that thousands upon

thousands of children were unquestionably kidnaped by other agencies or organizations and brought into Germany, the evidence has further disclosed that only a small percentage of the total number ever found their way into Lebensborn. And of this number only in isolated instances did Lebensborn take children who had a living parent. The majority of those children in any way connected with Lebensborn were orphans of ethnic Germans. As a matter of fact, it is quite clear from the evidence that Lebensborn sought to avoid taking into its homes, children who had family ties; and Lebensborn went to the extent of making extensive investigations where the records were inadequate, to establish the identity of a child and whether it had family ties. When it was discovered that the child had a living parent, Lebensborn did not proceed with an adoption, as in the case of orphans, but simply allowed the child to be placed in a German home after an investigation of the German family for the purpose of determining the good character of the family and the suitability of the family to care for and raise the child.

Lebensborn made no practice of selecting and examining foreign children. In all instances where foreign children were handed over to Lebensborn by other organizations after a selection and examination, the children were given the best of care and never ill-treated in any manner.

It is quite clear from the evidence that of the numerous organizations operating in Germany who were connected with foreign children brought into Germany, Lebensborn was the one organization which did everything in its power to adequately provide for the children and protect the legal interests of the children placed in its care.

Upon the evidence submitted, the defendant Sollmann is found not guilty on counts one and two of the indictment.

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COUNT THREE

The Tribunal finds that the defendant Sollmann was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

GREGOR EBNER

Upon the evidence submitted, the defendant Gregor Ebner is found not guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Gregor Ebner was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

GUENTHER TESCH

Upon the evidence submitted, the defendant Guenther Tesch is found not guilty upon counts one and two of the indictment.

COUNT THREE

The Tribunal finds that the defendant Guenther Tesch was a member of a criminal organization, that is, the SS, under the conditions defined and specified by the judgment of the International Military Tribunal, and he is, therefore, guilty under count three of the indictment.

INGE VIERMETZ

Upon the evidence submitted, the defendant Inge Viermetz is found not guilty on all counts of the indictment with which she has been charged.

This March 10, 1948

[Signed] LEE B. WYATT
Presiding Judge
DANIEL T. O'CONNELL
Judge
JOHNSON T. CRAWFORD
Judge

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SENTENCES

ULRICH GREIFELT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the international Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you Ulrich Greifelt, to life imprisonment.

RUDOLF CREUTZ, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Rudolf Creutz, to fifteen years of imprisonment.

KONRAD MEYER-HETLING, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely since 27 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

OTTO SCHWARZENBERGER, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 2 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

HERBERT HUEBNER, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand

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convicted, Military Tribunal I sentences you, Herbert Huebner, to fifteen years of imprisonment.

WERNER LORENZ, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Werner Lorenz, to twenty years of imprisonment.

HEINZ BRUECKNER, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Heinz Brueckner, to fifteen years imprisonment.

OTTO HOFMANN, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Otto Hofmann, to twenty-five years of imprisonment.

RICHARD HILDEBRANDT, Military Tribunal I has found and adjudged you guilty of war crimes, crimes against humanity and membership in an organization declared criminal

by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Richard Hildebrandt, to twenty-five years of imprisonment.

FRITZ SCHWALM, Military Tribunal I has found and adjudged you guilty of war crimes, 'crimes against humanity and membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I sentences you, Fritz Schwalm, to ten years of imprisonment.

MAX SOLLMANN, Military Tribunal I has found and adjudged

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you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand Convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 6 July 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

GREGOR EBNER, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 5 July 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

GUENTHER TESCH, Military Tribunal I has found and adjudged you guilty of membership in an organization declared criminal by the judgment of the International Military Tribunal, as charged under the indictment heretofore filed against you.

For your said crimes on which you have been and now stand convicted, Military Tribunal I is of the opinion that the time you have already spent in confinement pending trial, namely, since 13 May 1945, is sufficient punishment for this offense. It is the order of the Tribunal that you shall be discharged from custody by the marshal when the Tribunal presently adjourns.

INGE VIERMETZ, having been acquitted shall be discharged from custody by the marshal when the Tribunal presently adjourns. This the 10th day of March, 1948.

[Signed] LEE B. WYATT

Presiding Judge, Tribunal No. I.

DANIEL T. O'CONNELL
Judge, Tribunal No. I
[Handwritten] Concurring specially.
JOHNSON T. CRAWFORD
Judge, Tribunal No. I

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X. CONCURRING AND DISSENTING OPINION BY JUDGE DANIEL T. O'CONNELL

Dissent by O'Connell, Judge, Military Tribunal I from Such Part of Judgment as Fixes Periods of Imprisonment Applicable to the Defendants, Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt

With all findings of the Tribunal and disposition of indictments as applicable to all defendants, I concur, except in respect to sentences of imprisonment imposed upon the defendants Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt. I dissent from the majority of the Tribunal in the extent of terms of imprisonment as applicable to the aforesaid defendants and for reasons hereinafter stated.

It is my reasoned judgment, based upon nineteen years of judicial service, related in large measure to imposition of prison sentences, that in respect to each of the above-named defendants, the sentence imposed is too extreme in fixed duration of time when consideration is given to the character and scope of the duties each performed. Severity of sentence is erroneously believed by many to be a preventive of future crime by others. I do not subscribe to such a belief.

These six defendants, associated with other defendants, some of whom have been found not guilty of the crimes alleged in counts one and two, were essentially employed in civilian capacities. Their duties related almost exclusively to direction, or aiding in direction, of bureaus subordinate to governmental control, springing from the power Himmler exercised as delegated by Hitler, and accompanied with all its ruthlessness as disclosed by the evidence before us. Their guilt is fixed by the findings heretofore set forth, is entwined with military mandates and superiority of direction. Grave difficulty exists in effecting separation of dominant governmental and military superiority of direction from civilian association and support.

All governments engaging in war, of necessity, must have the aid of civilian bureaus operating under governmental direction, and functioning closely with the armed forces. It is difficult to draw a line fixing to what extent punishment can be inflicted upon those associated with civilian bureaus, also how far down the line of authority in the direction of bureau activities, responsibility is to be fixed in decreeing punishment and

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the extent of punishment the civilian invites for himself or herself in participating in actual war activities. It is also most difficult to determine to what extent the civilian bureau official joins in spirit, or without definite objection or protest, against acts calculated to further the perpetration of criminal acts.

These defendants cannot rightly be held accountable in degree of participation in the war crimes alleged, and of which they have been found guilty, as would be warranted if they, respectively, had been wholly or substantially acting upon their own initiative. It is, therefore, a warranted judicial conclusion that the sentences imposed upon these civilian officials, even though all enjoyed military titles, awarded as establishing greater and perhaps more effective prestige in executing their civilian duties, should be less in severity than as fixed by the majority of the Tribunal.

In no instance as affecting these defendants do I believe a sentence of life imprisonment is warranted; neither is it warranted to fix upon sentences which in duration carry the person to an age which, based upon normal life expectancy, is the equivalent of a life sentence.

I believe, also, sound reasoning in respect to decreeing of imprisonment should include a stated direction that the sentence imposed is to be reduced by subtraction of the period of time covered by imprisonment while awaiting trial.

I concur with the majority of the Tribunal in respect to the sentences imposed upon the defendants Huebner and Schwalm.

As applicable to the defendants Greifelt, Creutz, Lorenz, Brueckner, Hofmann, and Hildebrandt, the sentences which I believe should be decreed and in respect to which I record my judgment, are as follows:

(1) The defendant, Greifelt, twenty (20) years,

(2) The defendant, Creutz, ten (10) years,

(3) The defendant, Lorenz, fifteen (15) years,

(4) The defendant, Brueckner, ten (10) years,

(5) The defendant, Hofmann, fifteen (15) years,

(6) The defendant, Hildebrandt, fifteen (15) years,

and furthermore:

That in each and all instances, the period of sentence be reduced to the extent as disclosed by the prison records the defendants, respectively, have heretofore been imprisoned.

10 March 1948

[Signed] DANIEL T. O'CONNELL

Judge, Military Tribunal I

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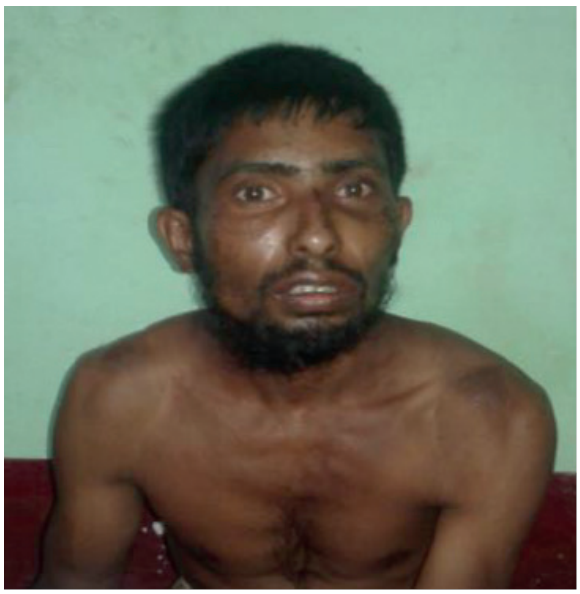
Annex 38

Interview of Kay Fayad Ullah by Rick Heizman (15 September 2017)



Name- Kay Fayad Ullah
Other Name - Nil
Age/Birth year - 31 Yrs / 1986
Race/Religion - Bengali / Islam
Birth place - Be Lar Mi Hamlet, Pauk Pin Yin Village, Rathedaung Township
NRC No - Nil
Education - Nil
Occupation - Unidentified (Daily worker)
Names of Parents / Address- (F) Ramauk Tullah, (M) Gusal (dead), Be Lar Mi Hamlet
Wife / Occupation / Address - Sabayra, Dependent, Be Lar Mi Hamlet
Reason of Investigation - According to Terrorist Act-50(A)
Date and Place of Investigation - (15.9.2017), Maungdaw Police Station

Brief History

I was born in 1986 in Be Lar Mi Hamlet of Pauk Pin Yin village. the eldest son among 8.
My siblings are:

(1) Satara Begun (Younger sister)
(2) La Maw Tin (Younger sister)
(3) Aya Tullah (Younger brother)
(4) Salamaw Tullah (Younger brother)
(5) Shaw Baw Tullah (Younger brother)
(6) Sha Khartu (Younger sister)
(7) Romasha (Younger sister)

I did not go to school. At the age of 25, I married Sabayra, (F) Nu Ra Mauk, (M) Zura from Tha Byay Taw village of Rathedaung township. I have three children. I make my living as a daily worker.

Claims

How I Was Recruited:

When I was at home in the evening of 22.8.2017, Nu Ma Mauk (25 yrs) from Chut Pyin village came to our village and called our villagers for something to discuss in Chut Pyin village. When we went there, there were about 100 Bengalis from Ah Htet Nan Yar, Auk Nan Yar, Be Lar Mi and Ni Lin Paw villages.

Rawfis (who already had training by ARSA) told us to join the attack to make Buthidaung, Maungdaw and Rathedaung townships to be a separate Islamic State. Moreover, in the morning of 23.8.2017, when we went to say prayers in the village mosque, Mawlawi [Imam] Esoup and Rawfis (32 yrs) said that ARSA would lead the attacks and we all need to join with them and he ordered us to be ready. They said if we did not join, we would be executed in accordance with our Islamic religion. He also said that Bengalis from other villages would also join the attacks. Mawlawi Esoup is the Islamic leader of our village mosque.

How We Prepared to Attack:

[Note: There were groups in some parts of Rathedaung and Buthidaung Townships ready to attack that did not receive the command to attack in the early morning of 25.8.2017. They attacked either one day or two days later]

Around 11:45 pm on 26.8.2017, about 30 Bengalis led by Mawlawi Esoup and Rawfis came to us and told us to come and fight together with them, or die. I, and Sayed Amin (35 yrs), (F) Matslam, and Eman Hu Saung (37 yrs), and Addulah Min (30 yrs), (F) Sawlim, and Aryu (40 yrs), (F) Matslam, and Maw Go Ar Mauk (48 yrs), (F) Kasim (already arrested prisoner), and Sayed Dullah (20 yrs), (F) Eman Hu Saung (already arrested prisoner). We all had swords or heavy sticks. We arrived at Chut Pyin village (1 mile away from our village) around 2:00 am of (27.8.2017). We saw there were about 100 Bengalis from Chut Pyin lead by Saltar and unknown Mawlawis, as well as Bengalis from Ni Lin Paw and Auk Nan Yar villages lead by Mawlawis from their villages.

How We Attacked the Security Forces at Chut Pyin Police Outpost:

Around 3:00 am, on 27.8.2017, Saltar from Chut Pyin village approached the police outpost and attacked with 2 bombs. When policemen from the outpost chased after him, we (about 100 Bengalis) ambushed, surrounded and attacked them shouting '*Allahu Akbar*'. Then, some who already had training from ARSA attacked them with guns and handmade bombs. Policemen also shot back. I saw some Bengalis get shot. We moved back into Chut Pyin village, and then to Be Lar Mi village. I know Atta Ura Man (22 yrs) and Bawshid Ullah (30 yrs) from Ni Lin Paw village, and Hu Saung Ar Mauk (65 yrs) - because they are from neighboring villages. They were involved in the attacks. Later we were all arrested. The leader of the attack was Saltar from Chut Pyin. I did not know any other leader.

How We Trekked to the Naf River After the Attack:

On the morning of 28.8.2017, all of our villagers from Be Lar Mi village started to flee. We also heard the villagers from Ni Lin Paw, Auk Nan Yar , Ah Htet Nan Ya and Chut Pyin villagers did the same. On the way, we saw these neighboring villagers. We spent 1 night in the Mayu mountains as we crossed over. After that we walked for 2 days. When we reached the shores of the Naf River, we saw that some of our neighboring villagers were there too.

How We Were Captured:

When we were at the shore of the Naf River, we had some problems trying to cross into Bangladesh. The Bengali boatmen demanded very high prices to cross the wide river. On the morning of 11.9.2017, we had no food. I, Hu Sang Ar Mauk, Kay Fayad Ullah, Sayed Dulla, Bawshid Ullah and Maw Go La Mauk went to nearby Bengali villages to ask for or to buy rice. But, we did not find anything.

At 9:00 am, Maw Go La Mauk, grabbed an unknown 14 years old Bengali boy. We tied him with rope and asked him to show us his house and give us rice or else we would kill him. We took him to an empty house in Kha Yin Tan village (Alay Than Kyaw). Among the six of us, Maw Go La Mauk was our leader, and we all had swords or sticks. While we are threatening to kill the young Bengali boy around 22 villagers from Kha Yin Tan Village came and confronted us and reported us to the Burmese Army and Border Guard Police (BGP) and we were arrested.

Annex 39

Interview of Maw Go Lar Mauk by Rick Heizman
(15 September 2017)



Name - Ma Go Lar Mauk
Other Name - Nil
Age / Date of Birth - 48 Years
Race / Religion - Bengali / Islam
Place of Birth - Be Lar Mi Village, Pauk Pin Yin Village tract, Rathedaung Township
NRC No - Nil
Education - Nil
Occupation - unidentified (general worker)
Parents / Address - (F) Kaseem, (M) Aumak Kyaw Su, Be Lar Mi Village
Wife / Occupation / Address - Ulma Kartu, Dependent, Be Lar Mi Village
Reason of Investigation - Terrorist Act-50(A)
Place of Investigation - Maungdaw Police Station
Date of Investigation - 15.9.2017

Brief History

I was born in Be Lar Mi Village of Pauk Pin Yin Village tract, Rathedaung Township. I am the eldest son among 5 siblings. The others are:
(1) Habi Sar Mauk (fisherman)
(2) Fatima Khartu (dependent)
(3) Lailar Begun (dependent)
(4) Nou Ma Mauk (farmer)
I don't have formal education. I learned Arabic (Basic) in Be Lar Mi Mosque. I live with my parents. I married Ulma Khatu, (F) Adu Salam, (M) Fatima Kartu, from Be Lar Mi Village, when I was 18 years old. We have 9 children. I live in Be Lar Mi Village, working as a daily worker.

CLAIMS:

How I Was Recruited:

I used to go to the Be Lar Mi Mosque to pray. Our mosque Mawlawi [Imam] is Mawlawi Esoup. We are instructed to go to the mosque 5 times a day to pray. I can only go a few times a day, when I have free time. Mawlawi Esoup and Rawfis (32), (F) Adurah Kane, used to tell us that ARSA would lead attacks to occupy Maungdaw, Buthidaung, and Rathedaung and declare it an Islamic State. They said we must join with ARSA, and we should get ready to join.

They told us that if we did not do what they said we would have our heads cut off, in accordance with Islamic practice. And, they said other Bengalis from other villages would also join the attacks. We heard Mawlawi Esoup and Rawfis speak these kind of words also in Chut Pyin Village Mosque.

ARSA Training Sessions:

From our village, Rawfis (35), Adu La Min (20), Dil Mar Mauk (40), Azi Zulla (20), Ar Yu (30), Atta Ullah (20), Dini Salam (25), Rawfique (18), Mawlawi Adu Shu Kha (30), from Auk Nan Yar Village, Mawlawi Habi Sarmauk (35), Mawlawi Shuku (40), Faw Saw La Mauk (35) from San Tu La Village, Hu Saung (30), Futura (25), Malawi Sayed Alom (55), Malawi Abu La Sheim (55), and Saw Tar (25) have attended some training from ARSA. The training sessions were given in Koe Tan Kauk Village. If we crossed the mountain, which takes a day, we would arrive at Thin Baw Kwea, Inn Din, and Tha Win Chaung villages. And then, we would go by foot to Koe Tan Kauk village.

The leader of ARSA lived, or stayed, in Koe Tan Kauk village. I don't know his true name. He is around 50 years old, brown, tough, round face, beard, and about 5 ft 9 inch tall. ARSA conducted training sessions, focused on fighting skills, shooting guns, and making handmade bombs and mines. Villagers from Koe Tan Kauk village are the trainers of ARSA.

After the October 2016 attacks, Rawfis, Dil Mar Mauk, Adu La Min, Azi Zulla, Eman Ha Saung, Ar You, Atta Ullah, Di Ni Slam, and Rofique gave training sessions in the house of Dil Mar Mauk. I attended the training sessions once a week, and they told us that if we failed to attend, they would kill us. The training was from 9 pm to 12 am midnight. They used to say, in the trainings, that they were going to establish a Rohingya Islamic State. All of our villagers above 15 years old took the trainings, and so did men up until 40 years old. Kay Fayad and Sayed Dulla (arrested) also joined the training. Rawfis put me in the 'Attacking Group'.

Members of ARSA used to come to our village and other nearby villages, and they killed those who were opposed to them, or those suspected to be government informants. They used to wear black shirts and black pants and white headbands with Arabic words printed on them. I don't know because I don't read, but some said the words on the headbands meant *"Bless me, Allah"*. Some of the ARSA members wore masks.

Ata Ullah and His Financial Support:

Ata Ullah, who had lived in Saudi Arabia, came with 20 others to our village mosque in February 2017. They met with us trainees and told us to cooperate with them to establish a Rohingya Islamic Country. Ata Ullah gave some poor families of our village, 200,000 Myanmar Kyat [150 US dollars] to each family. Ata Ullah did the same in Buthidaung, and Maungdaw Townships as well. Ata Ullah is also called Mawlawi Hani Bar (another name). We heard he went to Saudi Arabia 20 years ago and came back again as Ata Ullah.

Ata's eldest brother, Saw Raw Din (70), and his cousins; Zu Ri Din (60), Shaung Shu (40), Fil Mar Mauk (50), and Dil Mar Mauk (45) live in Pyaing Taung village. Naw Bi Hu Saung (50) from our village is also a cousin of Ata Ullah.

After Ata Ullah travelled around Maungdaw, Buthidaung and Rathedaung townships, he gave 10 million Burmese Kyat [$7400 US dollars] to Rawfis from our village, 15 million to Mawlawi Adu Shuku, and Mawlawi Ha Bi Sa Mauk from Auk Nan Yar village, 10 million to Mawlawi Esoup from Chut Pyin village, 5 million to Faw Saw Ar Mauk and Rashid from San Tu La village, and 20 million to Mawlawi Mawni. He assigned them to be financial agents. They also give support to other villages, but I don't know which ones.

Rawfis, Hasu, Mawlawi Adu Shu Ku and Mawlawi Mawni went to Shinma Phyu Island near Teknaf, Bangladesh, and received this money from one of Ata's men (name-unknown).

Ata's Headquarters of ARSA is located somewhere in the jungle of Bandarban, Bangladesh. Rafis went there about once a month. He showed us the emblem of ARSA and told them that our village would receive 10 guns and 40 swords. Other Bengalis from Rathedaung and Buthidaung also went to ARSA's Headquarters.

Making Handmade Bombs:

ARSA trainees, Ha Su, Saltar, Mawlawi Sayed Alom, and Mawlawi Abu Ha Sheim learned how to make bombs when they went to Bangladesh. They made bombs in the home of Mawlawi Adu Shu Ku, and kept the bombs in Adu Shu Ku's house and Dil Ma Mauk's house in our village.

How We Prepared for the Attacks:

[Note: There were groups in some parts of Rathedaung and Buthidaung Townships ready to attack that did not receive the command to attack in the early morning of 25.8.2017. They attacked either one day or two days later]

Around 3:00 pm on 22.8.2017, Nru Ma Mauk from Chut Pyin village gathered about 100 Bengalis from Chut Pyin, Ah Htet Nan Yar, Auk Nan Yar, Be Lar Mi, and Ni Lin Paw villages in the house of Mawbi from Chut Pyin. He said ARSA had arrived in Chut Pyin village and they would attack very soon. They told us to be ready to join, and if any of us refused, they would be killed. 10 of our villagers, including me, attend that meeting.

Around 10 pm of 26.8.2017, we gathered some people in the house of Rawfis. Rawfis, Dil Ma Mauk, Aman Hu Saung, and Adu La Min were wearing black suits, holding swords, and each one of them had 10 homemade bombs. They said after attacking the police outposts we will have their guns. I remember Sayed Amin, Ar Yu, Sayed Dulla (later arrested), Kay Fayad Ullah (later arrested), led by Rawfis and Mawlawi E Su were with us holding swords and sticks to attack the police outposts.

We, around 50 Bengalis, arrived at Mawbi's house in Chut Pyin village around 2 am on 27.8.2017. We met other villagers there - from Chut Pyin, Ni Lin Paw, Auk Nan Yar, and Samdu villages - and now we were, all together, about 200 Bengalis. Everyone - both young and old, even some kids - joined together with us. We decided to approach Chut Pyin Police Outpost, to attack with bombs, and when policemen chase after us, some of our group would ambush them. We made sure the our women and children were kept together in the center of Chut Pyin village.

How We Attacked Chut Pyin Police Outpost:

Around 3 am on 27.8.2017, Saltar, Mawlawi Abul La Sheim (Mawlawi leader of Rathedaung) and Ha Su from Chut Pyin village attacked Chut Pyin Police Outpost with bombs. When the policemen chased after them, our group - lead by Rawfis - ambushed the policemen, while shouting *"Allahu Akbar"*. Some unknown ARSA members and Saltar, Nu Ma Mauk, Rawfis and Aman Hu Saung shot the policemen with guns. Some villagers from our Be Lar Mi village, and Ni Lin Paw village were hit by gunfire, and we then retreated to home. On the way, we set some mines on the road.

How We Fled Our Villages, and Set Fire To Our Villages As We Left:

After attacking Chut Pyin police Outpost, in the early morning of 27.8.2017, Ar Mauk Dullah (45), Ru Taung Are (50), Ra Mauk Dullah (50) and other ARSA members set fire to Chut Pyin village. All the villagers from our village fled around around 5 am on 28.8.2017. We and other villager crossed trail-less mountains and slept in the jungle in front of Kyauk Pan Du village. Then we stayed around Chein Khar Li, Na Khaung To, and Alay Than Kyaw villages, waiting for boats to cross the Naf River to Bangladesh. [The Bangladeshi boatmen were charging inhumanly high prices] My family stayed nearby at Na Khaung To village.

How We Were Captured:

While we were waiting to cross the Naf River we ran out of food. On 11.9.2017, around 9 am, I, Sayed Dulla, Kay Fayad Ullah, Atta Ura Man, Bawshid Ullah, and Aman Hu Saung came to Alay Than Kyaw Ka Yin Tan for food. When we saw a young Bengali boy we grabbed him and tied him up with longyi-made rope, and took him to an empty house. While we were threatening to kill him if he did not lead us to food around 20 Bengalis, led by the boy's father, arrived and detained us. They took our swords and sticks. Then the Army and Border Guard Police (BGP) came and arrested us.

We joined the attacks because we were convinced by, and threatened by Rawfis and Mawlawi Esoup. The attacks were mainly organized by Rawfis and some ARSA members. I was in the 'Attacking Group' but I did not get paid. Rawfis told us that if we got arrested, don't tell the authorities anything about ARSA - and if we did, our families would be killed.

Annex 40

Rick Heizman, "Some People Will Say - With Ignorance, Arrogance, Or Both - That The Rakhine Buddhists - In Fact All Of The Buddhists Of Myanmar - Have An Irrational Fear Of Islam They Do Have A Fear, A Very Rational Fear" (23 September 2017)

SOME PEOPLE WILL SAY - WITH IGNORANCE, ARROGANCE, OR BOTH -
THAT THE RAKHINE BUDDHISTS -
IN FACT ALL OF THE BUDDHISTS OF MYANMAR -
HAVE AN IRRATIONAL FEAR OF ISLAM
THEY DO HAVE A FEAR,

A VERY RATIONAL FEAR

BY RICK HEIZMAN, SEPT 23, 2017, SAN FRANCISCO

Some people - who don't have knowledge about the situation, its history, and its troubling future implications - have opinions, reach conclusions, and pass judgement, however, they don't even realize they are participating in the destruction of the deeply rooted, highly developed - BUT endangered - Rakhine Buddhist culture of Arakan.

One of their erroneous statements is that the Rakhine Buddhists (and, as well, the Burmese Buddhists) have an unwarranted, irrational, obsessive, fear or paranoia that they and their culture are under threat of being overrun, taken over, and destroyed by Muslims.
Well, let's look at WHY they might have concerns like that.

Following is a partial list of incidents that should make nearly anyone concerned.

If you don't know of these incidents you have no basis for an honest opinion about it.

If you read and learn about these episodes you should understand much more about the conflict.

1942: The Largest Massacre in Contemporary Rakhine/Burmese History - The Maungdaw Massacre

About 30,000 Rakhine Buddhists were killed in an absolute genocide, in Maungdaw and vicinity in mid-May of 1942. Maungdaw is a large town in Arakan, close to Bangladesh. In addition, hundreds of villages were burned down, and around 100,000 Rakhine Buddhists were ethnically cleansed from their ancestral lands. In early 1942 (preceding the slaughter), as the Japanese were advancing towards Arakan, the British formed a battalion of Muslims - called the Bengali V Force - and gave them weapons. The British knew them as more willing to fight, and better fighters then the Arakanese. As the British suddenly retreated - the Bengali Muslims quickly used the weapons - not against the Japanese - but they used them to slaughter many thousands of Buddhists, and burned down all of the Buddhist villages, pagodas, temples and monasteries in the Maungdaw and Buthidaung areas.

1945: British Return, Muslims Resist Letting Buddhists Rebuild Their Burnt Villages



As World War II ended, the British took control again, but the Muslims would not accept the British demand that the Buddhists be allowed back to rebuild and live in their native villages that had been burnt and destroyed. Instead, they planned to join the soon-to-be Islamic country of Pakistan. The Muslims in Arakan - fanatically religious - wanted the lands of the Rakhine Buddhists - and believed they had the divine right to anything of the Buddhists, because the Buddhists were infidels (non-believers in Allah) and 'idol-worshippers' (statues and images of Buddha, and other figures).

1946: British Prepare to Grant Independence, Bengalis Form Mujahideen Army


Mujahideen training

As the British were preparing to give independence to Burma, the Muslim leadership - represented by the Jami-atul Ulema-e Islam party - made connections with the Muslim leaders of soon-to-be Pakistan and formed an insurgency army - which was to invade Arakan and attach it to East Pakistan (now known as Bangladesh). In 1946 they formed the Muslim Liberation Organization (MLO) and started their holy war (Jihad). In 1948 they changed the name of the party to Mujahid Party, and the insurgency then became known as the Mujahideen Insurgency.
(Jihad: holy war in the name of Islam,
Mujahideen: Muslim fighters engaged in a Jihad).

1946: Emissaries Go To Talk and Make Peace - Killed In Cold Blood



After the Japanese were driven out, Bo Yan Aung, one of the 'Thirty Comrades' was sent to Arakan to set up the administration in Sitetway district, and to stop the violence. He sent his two lieutenants, Bo Yan Naung and Bo Myo Nyunt, to Maungdaw to negotiate with the radical Muslim leaders. Instead of talking to them the Muslim leaders killed both of them - at the welcoming dinner!
The Muslims wanted this land to be their own and they wanted to create a Dah-rul-Islam - an Islamic kingdom that will join with others, as Muslims eliminated the non-Muslims everywhere - and eventually the entire world would become Islamic - with no other religion or faith tolerated.

1948: Burma Achieves Independence, Bengalis Demand Muslim State

Burma became independent on January 4, 1948, however, the Muslims had other plans.
On June 9, 1948 the Mujahid Party sent a letter to the new government of The Union of Burma.
It was a list of demands, including:

1) The areas between the Kaladan and Naaf rivers [the northern half of Arakan] must be recognized as the National Home of the Muslims of Burma *[and this is the land they had ethnically cleansed of Buddhist in the last 6 years!]*

2) The Mujahid Party must be granted legal status as a political organization in the new government of Burma *[despite the party preaching a holy war to eliminate the Buddhists who have lived there for centuries!]*

3) The Mujahideen fighters who had been captured and jailed *[for slaughtering Buddhists; from elderly to babies to monks, and burning and destroying villages, temples and monasteries]* must be unconditionally released.

.....and those were just three of the demands.

1948: Muslims Declare Jihad on Burma: Launches a Campaign of Ethnic Cleansing, Slaughter, and Destruction

The new central government, still trying to recover from the assassination of Bogyoke Aung San - Burma's hero, father-figure, and hope for the new independent country - the government refused the outrageous demands of the Mujahid, and quickly the Muslims in northern Arakan declared jihad (holy war) on Burma.

The Mujahideen launched a vicious campaign and destroyed all the Buddhist villages in northern Maungdaw Township (the southern parts had been destroyed 6 years earlier). On July 19, 1948 they attacked Ngapruchaung, and villages around it, and used a new tactic - kidnapping Buddhist monks, and holding them as hostages, and killing them if they didn't get the money or conditions that they demanded.



By then, the Buddhists saw what was really happening - that they were going to lose their lives, their ancestral homeland, their culture, and their history, if this kept going.

1950s and 1960s: Mujahideen Militant Groups Keep Attacking, Killing

At times the Mujahideen groups held great swathes of territory, and at times the Burmese Army retook territory, but, neither side could 'win'. For the Burmese army this was a very distant part of the country, supply routes were horribly long and slow, and impossible during rainy seasons.

1977: Plot to Create Chaos in Burma and Seize Arakan, With Help From Libya and Bangladesh



In 1977, Mujahid rebels and members of ARNO led by Sultan Mahmud, sent select members to Libya and met with Libyan leader Colonel Qaddafi. (Qaddafi thought of himself as the leader of the Arab Muslims and in his megalomania he projected himself as the leader of Muslims around the world.) Sultan Mahmud's group explained their their intention was to transform Arakan into an Islamic State - to be called Arkistan - and they asked for Colonel Qaddafi and Libya to help them and the other resistance groups to wage a well-armed jihad against the Burmese central government. Shortly after that visit to Libya, a serious plot to elicit a full-blown Muslim insurrection throughout Burma and overthrow the government of Ne Win was discovered by the Burmese government. Bangladesh, and Libya were covertly involved in the conspiracy. However, subversive attempts to spark their nefarious plans failed as they were stopped by Burmese authorities. Many local Muslim conspirators were arrested, and others then feared arrest or harm, and many fled back to Bangladesh.

1985: Ahmed Shah calls for Elimination of the Buddhists

Starting in 1985 Ahmed Shah the Chairman of RLO - Rohingya Liberation Organization – freely distributed many copies of his recorded cassette tape urging the Bengalis in the Maungdaw District to drive all non-Muslims out of the District. He was basically calling for the genocide of Buddhists and all other non-Muslims of Maungdaw District.



Armed Bengali Family in the field.

1988: Planned Massacre of Rakhine Buddhists, Invasion of Maungdaw on Anniversary of 1942 Massacre

On May 13, 1988, the anniversary of the 1942 Bengali V-Force massacre of 30,000 native Rakhine Buddhist, the Rohingya Liberation Organization (RLO) led 50,000 Bengali-Muslims to try to quickly and violently take over the Maungdaw township. They first destroyed a big Buddhist Monastery and then began to burn all the wards where Rakhine lived, and planned to kill ALL Rakhine people in this area. But, their genocidal plan was stopped by the local army reinforced police force, and ever since then some Burmese Army units have been permanently stationed there to prevent another genocidal attack by the Muslims.

1992: Saudi Arabian Military Chief calls on Muslim Countries to Gather an Army to Invade Burma and Rescue the 'Rohingya'

Prince Khaled Bin Sultan Bin Abdul Aziz, the commander of the Saudi Arabian forces during the first Gulf War called on the UN [mainly directed at the 56 Muslim countries] to do for the 'Rohingyas' 'what it just did to liberate Kuwait'. Fortunately, as the U.S. and other countries heard that 'war-cry' the Prince was persuaded to abandon that plan. If a Muslim invasion of that sort ever happened it can be assumed that the slaughter of Buddhists and the destruction of Buddhist statues, temples, monuments, and monasteries would have been absolutely genocidal.

There were reports, around that time, that 'Rohingya' insurgent groups were being funded by Middle East countries and organizations such as the OIC and the Muslim World League (Rabita al-`Alam al-Islam) to buy arms from the Cambodia–Thailand and the Afghanistan–Pakistan border areas, which were awash with weaponry, smugglers, and brokers.

Media in the greater Muslim world can be fantastically fabricated, exaggerated, and manipulative - to serve an agenda. News, reports, and videos will very often use images of bodies from other incidents in other countries - Tibetan earthquake victims, burnt bodies of Nigerian Christians, car crash casualties in China - and label them as Muslim victims of Burma's Buddhist killers. Stories of thousands of Muslims



1994: RSO Terrorists Sneak Into Maungdaw: Burn Homes, Set Off Bombs

In 1994, around midnight of April 28, about 120 RSO (Rohingya Solidarity Organization) Mujahideen militants entered the Maungdaw Township area from opposite directions - about 80 militants entered from the south, while another group of 40 fighters entered from the north. Within hours unprecedented and frightening explosions began to rock Maungdaw. Nine bombs - at various locations in and around Maungdaw - had exploded. Another 3 bombs, found the next day, had failed to detonate.

The southern terrorist group burned down 26 houses and injured and killed several people.
The militants coming in from the north burned and destroyed 13 houses, and planted landmines which very seriously injured two civilians when they stepped on mines planted by those terrorists.

The Burmese military, members of the Border Enforcement, local Police, and local residents - a combined force of 26,000 people - encircled the entire area and blocked the escape routes and began to hunt down the terrorists. Over a 20 day period there were 13 encounters with the terrorists - eventually 52 terrorists were killed. The authorities also captured and arrested eight local terrorists involved in helping the planting of the bombs in Maungdaw. Nearly 60 Mujahideen terrorists escaped.





The authorities confiscated:
16 assorted guns
3,611 rounds of assorted ammunition
1,418 assorted mines
522 hand grenades
10 40-mm shells
five communication devices

The hand grenades, mines, guns, and explosives were provided by foreign terrorist organizations.



Mujahideen plotting attacks against the indigenous Rakhine Buddhists

2012: Maungdaw Explodes With Prepared Violence

On June 8, 2012, violence exploded in the town of Maungdaw - the closest big town to the Bangladesh border, and the town in Arakan with the greatest percentage of Muslims (now, about 96%). The area around Maungdaw is Maungdaw Township, which has changed from majority Buddhist to 90% Muslim in just 60 years. But, disturbingly, that change is due to murder, intimidation and ethnic cleansing by the Bengali Muslims against the indigenous Rakhine Buddhists.



On Friday, June 8th, Muslim men poured out of the central mosque in unusually large numbers (around 1000), after Friday prayers ended, most of them armed with long heavy sticks, metal rods, knives, swords, rocks and gasoline bombs - which had, apparently been stored in the mosque in preparation for this day. They were several distinct large mobs, and they were instructed to branch out in different directions. Photos and film show this.



They were loudly yelling taunts and death messages to the Buddhists - people had never heard such a loud, and terrifying, collective sound. The Muslims surged in great numbers up the roads, breaking the windows, and looting Buddhist owned shops, and beating or killing Buddhists that they could catch. The Buddhist population of several thousand fled in sheer panic. The Muslims started torching buildings - especially the Buddhist temples and monasteries. They did not consider the peaceful Buddhist monks to be worthy of any respect or reverence, and monks were badly wounded, beaten, and sometimes viciously killed. And, many Rakhine people - including elderly and children - were severely wounded, killed, trapped in burning buildings, or were trying to hide or running for their lives. The Bengalis even callously raided Maungdaw Hospital causing severe pandemonium.



By evening there were fires raging in every direction. Dozens of villages were burning out of control, and thousands and thousands of Buddhists (and also Hindu minority, Christians, and even Muslims who were not Bengali) were fleeing, or becoming a victim of the Muslims' campaign to eliminate the Buddhist and other non-Muslims, and seize the land for their own pure Islamic land.

The next day, June 9, Maungdaw was under curfew and troops started to enter to rescue Arakanese people - in some quarters of the town - who were trapped and extremely fearful.

> *"In our village of Mawra Waddy we had a Police Post with 5 policemen. When the rioting Muslim mob appeared the police fired warning shots. But the mob knew the police wouldn't shoot at them directly and so they kept on coming and finally burnt the place down and killed the women and children who couldn't run. The policemen also ran,"* said a villager from Mawra

2012: June - Sitetway: Burning, Rioting, Death and Destruction

As the rioting Bengali Muslims were burning and looting Maungdaw and the surrounding villages, Sitetway, the capital of Rakhine State was tensely anticipating the violence to spread there, as the news and situation was steadily becoming worse.



The first bad news, on June 9, was the arrest of two Bengali Muslim youths who were each carrying a large can of petrol into the Sitetway Myoma Bazaar. It is clear that they intended to burn down the Bazaar, but, alert Rakhine neighborhood-watch group members caught them before they could do serious damage and the two boys were delivered unharmed to the local police station.

The next bad news was that groups of armed Muslims were gathering, menacingly, near Nhazi Village - a majority Bengali Muslim village near Sitetway (2700 households, 90% Muslim, 10% Buddhist). The whole town of Sitetway was on red alert - as the situation was ominous and the Bengali Muslims were becoming disturbingly agitated.



Then, in the late afternoon of June 9, about 1,000 Bengali Muslims - from the Bengali villages of Tapaing, Bumai, and Thechaung Bengali, near the Sitetway Airport - armed with knives, swords, heavy sticks, and petrol bombs had begun to march towards the town. The mob withdrew only after the Security Police fired warning shots over their heads.



But the Bengali mob didn't disperse, and from their side of the railway track they were throwing stones at the Security Police taking position on the town side of the tracks. Those three Bengali Muslim villages are on the coast, and men seemed to have snuck over from Bangladesh to help stage an attack on the Buddhists in Sitetway during the night.

2012: June - Buddhist Minority Flees Their Village

The Buddhist residents of Nhazi Village just outside Sitetway started to abandon the village.
The large village had 5 Buddhist monasteries: Zeya Mingala, Zedi Byin, Sanda Lawka, Dahma Wihara, and Gyit Chaung. By the next morning three of the monasteries and most of the Buddhist homes were burning.





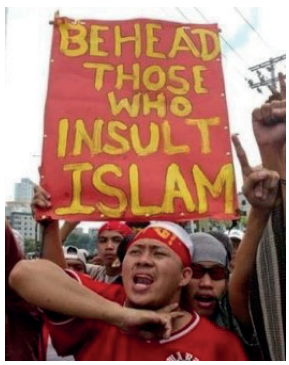
The main water distribution pipeline to Sitetway goes through Nhazi Village which meant that the Bengalis in Nhazi could destroy it or try to poison the water supply, as has happened before, elsewhere in Arakan. The Sitetway town municipal authorities ordered the pipeline turned off.

2012: June-October - Simmering Tensions, Muslim Media Demonizes Buddhists

Since the large-scale violence of June 2012 happened tensions remained high, conditions were often dismal, and the prospects of peace were abysmal. Small-scale incidents continued to happen - some homes burned, people ambushed and attacked, wounded, or killed.

Even in other countries related incidents happened. In the nearby Islamic country of Malaysia, Muslims attacked Burmese (whom are usually Buddhists, sometimes Christian) owned restaurants, ransacking and burning them, beating or killing owners, staff and/or customers. Arab Muslim countries called for all Muslims to join in Jihad (Holy war) against Burma, and the Arab Muslims demonized the Buddhist people and Buddhism itself in the most vulgar ways, and even branded Buddhist monks as 'Buddhist terrorists' and 'killer monks', and labeled photos of monks chanting prayers as: 'racist monks praying for genocide'. This was spread by the Muslim media, giving a green light to attack Burmese, or actually any Buddhist, anytime, anywhere.





The Burmese Embassy in Jakarta, Indonesia was attacked by a large Muslim mob, and fortunately was prevented from breaking into the Embassy where they most certainly would have killed anyone inside.

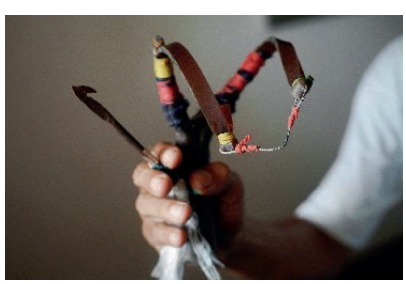


"*If embassy officials refuse to talk with us, I demand all of you break into the building and turn it upside down*," a leader shouted.

Others shouted, "*Every drop of blood that is shed from a Muslim must be paid back.*
"Go to Myanmar and carry out jihad for your Muslim brothers."

2012: October - Violence Erupts Again, With Fury

In late October 2012, violence erupted again in Arakan - with fury. In the downtown of Minbya, a Buddhist man, U San Thein, was shot with an arrow by a Muslim man whom was bothering U San Thein's wife. As he cried out for help many fellow Arakanese rushed over to assist him. Crowds of both Buddhists and Muslims gathered and began fighting with sticks, knives, swords, and firebombs. In that incident 18 of 200 homes of Muslims in the Muslim ward of Paik Thei were burned down. In the days that followed there were more villages burned - both Buddhist and Muslim.



Jingali - sharpened bicycle spokes shot with slingshot

2012: Three Unarmed Military Road Building Engineers Kidnapped and Beheaded

One of the more atrocious and recent terrorist operations by the Rohingya Solidarity Organization (RSO) was the killing of one unarmed Road Officer (Lan-bo) Kyaw Kyaw Wai and the abduction and kidnap of three unarmed Burmese military engineers near the border on November 6, 2012. The attack was an ambush on a 13-men unarmed construction team from the Burma Army General Engineering unit which was (ironically) building the Burma-Bangladesh Friendship Road on the Burmese side of the borderline.

"The Bengali Muslim terrorists raided the construction site yesterday about 6 in the evening, and an officer was killed and 3 unarmed engineering soldiers were captured. The rest of the 13-men crew managed to escape. The three men are still missing and we think they were already killed," said a local Buddhist from nearby Aung-tha-byay village.

Usually, there were some armed troops guarding them, because of previous incidents with Bengali Muslims. A local Buddhist monk, who heard the gunshots of the nearby ambush, explained,



"*The raid happened during the time that the army soldiers were helping villagers celebrate an important Buddhist festival and its ceremonies. The RSO terrorists knew that news, and took the opportunity to raid the unprotected and unarmed engineering troops by the border*".

In mid 2013, photos were discovered on a Turkish Islamist website which showed the three engineers. **We now know that after the photos were taken they had their heads cut off!**

2013: 'Rohingya' Leaders Seek Fighters, Weapons, and Bomb Makers in Indonesia

"Concerning the incidents of the massacres of the Rohingyan Muslims, currently the Rohingyan Mujahideen need the help of the Mujahideen from various muslim countries including Indonesia, besides arms and financial assistance. We need the Mujahideen from Indonesia to train and supply the Mujahideen in their training camp, ***especially in bomb making****."*

Abu Shafiyah - commander of the extreme militant terrorist group Laskar Mujahideen

"There should be no diplomacy whatsoever, we Muslims must fight. *We the Mujahideen of Rohingya have hope in the Muslim brothers in Indonesia. If there are those who could help, then help in the form of Mujahideen warriors, firearms, funds and medical teams."*

Abu Arif - Rohingya Ulama (high Islamic cleric and scholar), June 19, 2013, at a forum in Jakarta, where he expressed that Muslims, around the world, should view the Rohingya cause as 'Jihad fi sabilillah' (mandatory Holy War requested by and fought for Allah).

On July 10, 2013 the Ar Rahmah website founded by the extremist terrorist group - Jemaah Islamiah (JI) - uploaded 28 photos of 'Rohingyas' undergoing military training and called it a *"Ramadan gift"* and stated that it should ***"encourage Muslims around the world to reignite jihad in Arakan".***

"The Mujahideen of the RSO are ready to wage jihad in Arakan to establish the religion of Allah."

Ustadz Abu Arif - another terrorist leader

2014: Taliban-Trained Bengali-Muslim RSO Terrorists Captured

Three Bengali Muslim (‘Rohingya’) militants, trained by the notorious and violent terrorist group ‘Tehrik-e-Taliban’ (TTP) of Pakistan - in how to terrorize and kill Buddhists in Burma -were caught by detectives of the Bangladeshi Police Anti-Terrorism Unit in Dhaka, Bangladesh, on January 19, 2014. The three ‘Rohingya’ terrorists were on their way to Teknaf, and then sneak across the Burma-Bangladesh border, to assist ‘Tehrik-e-Azadi Arakan' (TAA), their like-minded organization just over the border in Rakhine State.

‘Tehrik-e-Taliban’, a notorious and violent terrorist group based in Pakistan, gained notoriety for a powerful car-bomb attempt that failed in the United States at the always crowded iconic landmark of New York City - Times Square - on May 1, 2010. They have established a branch in Arakan, known as ‘Tehrik-e-Azadi Arakan’ (TAA).

Osman(23), Mehmud(26), and Fakhrul Hasan(50) are from Burma, but, had moved to Pakistan and joined and participated in Taliban and al-Qaeda jihad training and actions.



At the time of arrest, on January 18, 2014, they had (among other things) a laptop computer containing manuals on making various types of bombs, explosives knowledge, and techniques and usage of various weapons. Mehmud and Osman were experts in making 12 types of bombs, including car bombs, ambush bombs, suicide bombs, and secondary bombs set to go off as rescuers assist the victims of an initial blast.

According to Bangladeshi police investigators, they were planning to re-energize the militant terrorist groups, to teach their bomb-making and weapon tactics skills, to participate in jihad against the Buddhist and Hindu minorities, and to plot and execute devastating terrorist attacks in Burma - as well as to strike down Muslims that they perceived to be uncommitted to the Taliban ideology.

Also captured from them were detailed plans, and a list of Bengali-Muslim contacts to operate with in Maungdaw, Buthidaung, and Sittwe. The captured documents and crucial information from the terrorists is giving Burma’s Counter-Terrorism Police, in both Yangon and Sittwe, very good leads to track down and detain those local Bengali-Muslims who are collaborating with the Pakistani Taliban, al-Qaeda, the RSO, and other Islamic terrorist groups.

2014: May 12 - Firefight after Bengali Militants Breach Burmese Bangladesh Border

At around 7 pm on May 12, a Burmese Border Police patrol ran into a group of about 10 Bengali militants trying to cross the border fence between Bangladesh’s Barlu-khali Village and Burma’s Taung-byo-let-wel Village.
The resulting fire-fight lasted only about 15 minutes as the Bengali terrorists quickly withdrew back into the safety of Bangladesh that night. However, the next morning they tried again.



2014: May 13 - Terrorists at the Border Again

Bengali terrorists tried to enter into Burma again, at 6 am, but were repelled by Burmese police patrols after an hour-long firefight.

Burmese authorities did not announce the casualties from the two skirmishes of May 12 and 13, but many locals said that the Bengalis left a couple of dead bodies hanging on the border fence. Later Maungdaw District Police Chief Shwe Than confirmed that two Bengali militants - **a Bangladesh Army major, and a private in the RSO Bengali-Jihadi-Brigade -** were killed in that short firefight. (Note: one was official Bangladesh ARMY, the other was TERRORIST group - working together.)

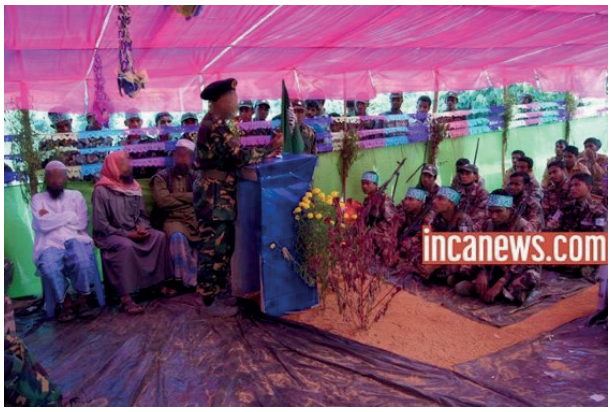


The Bangladeshi government then declared, in Bangladeshi newspapers, their displeasure at the Burmese army's use of heavy mortars, as a few 60 mm mortar shells had landed on Bangladeshi soil. But, they still refused to publicly declare the existence of RSO terrorist camps and thousands of Bengali terrorists, who are training and massing inside Bangladesh.

RSO terrorists, trained by unofficial elements of the Bangladeshi Army and Pakistani terrorist groups in Bangladesh, had been testing Burmese patience since a few years ago, by regular incursions into northern Arakan, with the help of local Bengali Muslim 'Rohingya' illegals.

A Bangladeshi army colonel giving a speech at the RSO militant terrorist camp in Naikhongchari.

This shows the close collaboration and kinship between the 'professional' army and the eager fanatic jihadists



Bangladeshi politicians and Imams attending a RSO graduating ceremony at Naikhongchari, **showing that the government, the Islamic religious leaders, and the militant jihadists all are working and colluding together.**



2014: May 17 - Ambush of Burma Police Patrol by Bengali Militants

In the early morning of May 17, four members of a Burmese police patrol were killed, one policeman was wounded, and two policemen were reported missing. That day, a heavily-armed group of RSO Bengali Muslim militants crossed the border and were quietly hiding and waiting to ambush an 8-men lightly-armed Burmese police unit which was conducting their daily routine patrol of the border fence. The patrol was then attacked by surprise by at least 60 heavily-armed RSO terrorists.



As soon as the gunshots were heard, in the distance, Captain Sit Min Thu - leading an army platoon nearby - rushed to the ambush site and engaged the RSO militants. The firefight was over in less than 30 minutes as the Bengalis fled across the border-fence, back into their safe haven of Bangladesh.

At the ambush site Burmese soldiers found Police-Sub-Inspector Nway Oo Maung badly wounded, as well as the bodies of four dead policemen. Two policemen from the ambushed patrol were missing, and presumed kidnapped.

Two of the dead policemen's bodies were found to be booby-trapped with mines!

Captain Sit Min Thus's platoon and more reinforcements then crossed the border and chased the Bengalis, pursuing them deep into Bangladesh. Burmese army units then finally discovered a fortified RSO base-camp at Bangladesh's Trakul Muslim Village just a few miles from the borderline. Burmese army units then attacked the camp between 1 and 3 pm, and again from 8 to 10 pm on the same day, May 17. Scores of Bengali terrorists were killed by devastating Burmese frontal attacks on the fortified Trakul Camp.

Finally a 500-strong Bengali militant force - supported by heavily-armed Bangladesh Army infantry and artillery approached the besieged Trakul Camp and Burmese army units withdrew back into the Burma side of the border.

Inside Bangladesh, the RSO have three fortified camps:

1 - the RSO HQ and Jihadist Training Camp at Naikhongchari in Bandarban District - across from Maungdaw Township of Burma's north-Arakan,

2 - another base-camp somewhere nearby, and

3 - the front-line camp at Trakul - close to the border.

Previously, the Burmese army had normally not deployed army combat units right along the border fence, instead, only lightly-armed and mostly inexperienced police units patrolled the Bangladesh-Burma border.

But, that policy is now being abandoned as RSO terrorists, and others, have been steadily accelerating their devastating cross-border raids on Burma Police and Border Control units.

2014: May 28 - Burmese Forces Stop 2 RSO Terrorists - 1 Dead

At about 9:00 am on May 28, an army platoon, led by Lieutenant Zaw Moe Aung, observed two armed RSO terrorists in their yellowish camouflage uniforms who had crossed the border and were advancing inside Burmese territory. Once they reached about 80-yards inside Burma the army unit challenged them to stop and surrender. But the two fired back, and during the short fire fight one RSO militant was killed and the other one escaped back into Bangladesh.

The dead terrorist, about 30 years old, was dressed in the now well-known RSO camouflage uniform. He was carrying an M-22 automatic rifle (cheap Chinese copy of AK-47), and more than 200 rounds of ammunition.

2014: May 29 - Clash between Burma Army and RSO Terrorists One of Many, and Increasing, Incidents at the Burma Bangladesh Border

May 29, at about 3:30 am, an Army Company led by Captain Htun Naung observed ten RSO terrorists trying again to enter Burmese territory, by stealthily approaching the border fence, under the pre-dawn darkness.
Again, Burmese soldiers challenged them to surrender - but they refused - and a long firefight ensued in which 3 RSO terrorists were killed and their three M-22 automatic assault rifles captured along with more than 1,000 rounds of ammo.
According to local Buddhists from the Yakhine Pan Chaung Buddhist Village on the Bangladesh side of the border, Border Guard troops forced them to collect the 3 bodies of the BGB who were killed. The bodies had been left where they were shot, well inside Burma's side of the border.

"BGB bastards, together with RSO militants, forced us native Buddhists [of Bangladesh] *to march ahead at gunpoint and collect the bodies of their dead BGBs. But once we reached near Post-52 Burmese soldiers started firing indiscriminately at us. Bullets were flying all around and over us. I just ran up the nearby hill away from shootings and I got knocked out. When I came to I found I'd soiled my pants. So many BGBs got shot too. I don't know how many. Definitely many dead BGBs lying there right now,"* said one local Bangladesh Buddhist later, after being forced to be a porter.





Indisputable evidence from the border zone clearly highlights the undeniable fact that Border Guard Bangladesh (BGB) is either directing the RSO terrorists or that the notorious BGB itself - *famously well known for their drug and human smuggling operations on the border line* - is playing the dual role of border guards / terrorists - as they share the same supremacy and contempt of Buddhists and other infidels, and the same goal of making all lands and all people Islamic - whether they want it or not.

2016: October Multiple Surprise Attacks

In the early hours of October 9, 2016, a new violent militant group launched multiple surprise attacks. About 400 insurgents, in three groups, launched simultaneous surprise attacks on three Burmese Border Guard Police (BGP) bases in Maungdaw and Rathedaung townships, near the border with Bangladesh. One of the targets was a BGP headquarters, a major installation in Kyee Kan Pyin (just north of Maungdaw town) that was overrun in a carefully planned multi-phase attack, and from where many weapons were looted. In another indication of the preparation level, the group planted an improvised explosive device (IED) and set an ambush on the approach road to the headquarters, delaying reinforcements and damaging vehicles. The two other targets were a BGP sector headquarters at Nga Khu Ya in north Maungdaw and a BGP outpost at Koe Dan Kauk in Rathedaung, just south of Maungdaw township. The terrorist group is known by its Arabic name 'Harakah al-Yaqin' (translated as: the Faith Movement, or the the Movement of Certainty) is a dangerous 'Rohingya' nationalistic Islamic terrorist group which carried out a series of surprise deadly attacks in October andNovember 2016. Harakah al-Yaqin (HaY), is also known as 'Aqa Mul Mujahadeen' (translated from Arabic as, 'Those who stand asMujahideen (Muslim warriors)'. Recently, on March 29, 2017, the group released a press statement using the new name of 'Arakan Rohingya Salvation Army' (ARSA), perhaps a savvy move to have an English name, and therefore minimize the Arab and Islamist connection, and to use the term 'Arakan' to strengthen the propaganda that the Bengali 'Rohingya' Muslims are indigenous to the land of Arakan - which is wildly inaccurate.

Leader Ata Ullah had instructed that after attacking the bases, the attackers should murder the members of the police, take their weapons and equipment, and use those weapons in further attacks on nearby army and police bases.



On the afternoon of October 10, heavily-armed 'Rohingya' Jihadis ambushed an army column on the road between Kyee-gan-byin and Kyane-gyaung and killing five soldiers.

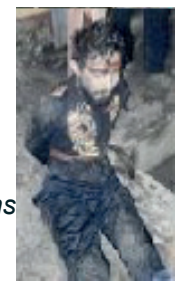
The Muslims killed 9 officers, and carried away many weapons and large quantities of ammunition. Over the next few days 5 more soldiers were killed in further attacks, ambushes, and firefights.

On October 10 and 11, Burmese army units entered Myo-thu-gyee, Yay-dwin-Byin, and U-Chint Bengali 'Rohingya' Muslim villages in northern Maungdaw area and cleared the Bengali militants who were armed with some of the stolen guns, as well as guns smuggled in from Bangladesh. Several stolen weapons and quantities of ammunition were recovered.

On October 13, another operation was made in the Bengali village of War-bate. One stolen gun and more than a thousand rounds of ammo were recovered from the village ruins after the Muslim terrorists set the village on fire and fled towards the nearby border with Bangladesh.

Similar operations were made against several Bengali villages suspected of hiding local villagers who had taken part in the October 9 attacks, and harboring jihadis who had snuck in from Bangladesh. According to unofficial sources altogether 40 Muslim terrorists were killed and more than 200 were captured and have been detained and interrogated in Sittwe Prison.

A captured Bengali 'Rohingya' named Mamud Eslam said, while being interrogated, *"When we arrived at the mosque the Imam persuaded us to join the militant group. We were told that we must conduct violent attacks in collaboration with the men from Bangladesh."*



Another detainee, Saw Du Aarr Mane said, *"Our group was armed with Clubs, machetes, and slingshots. There was a plan to loot guns* (in the surprise attacks on the BGP bases) *and then attack the Burmese army and police forces when they arrived."*

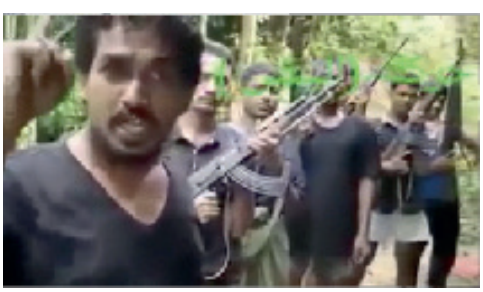
Another Bengali being interrogated told what he witnessed, *"On October 13, we Muslims set fire to villages. I saw about 100 houses burning."* Ei Ar Har admitted.

2016: August 25 - Full Jihad Launched with Multiple Surprise Attacks Against Dozens of Targets, Slaughter of Buddhists, Hindus, Tribal Ethnicities

This is a date which must be, and will be, never forgotten. It marks the imposition of Islamic conquest and jihad upon people whom want to live peacefully with each other, and build a common better future for themselves, and their future generations. But, there is a people, not indigenous, not peaceful, and not able to live in harmony with any others, and they are the Bengali Muslims, infamous for their intolerant, supremacist, and violent ideology - which they believe gives them divine right to burn, slaughter, and drive away all on-Muslims. The Bengali Hindus are never a problem, the tribal ethnicities are not a problem - but the Bengali Muslims have again and again attacked others, and they will again again do the same if they are allowed to live there. Enough is enough, and the Bengali Muslims have now forfeited their right to live in the land of Rakhine State - which will be totally peaceful when it is without Bengalis. And, this is how the world must deal with terrorism. Embarking on this kind of bloody and wicked jihad will lead to consequences - of those actions.









Bengalis and others coming to a recruitment center somewhere in Bangladesh join the Mujahideen and destroy and kill Buddhists



Young, dangerous Bengali (Rohingya) terrorists who are so eager to kill, kill, kill

‘Rohingya’ Propaganda is Fooling Many Many

The military training of Bengali Muslim / ‘Rohingya’ terrorists has been going on for a long time, and has recently intensified, as they are winning the propaganda war with their never-ending false and manipulative media, which is influencing many people, organizations and countries.

According to Indian and Western counter-terrorism reports, Bengali Muslims / ‘Rohingya’ are being trained in the use of weapons, weapon techniques, bomb-making skills, explosives knowledge, and ambush and assassination skills at jungle-hidden camps, with the help of many Islamic militant terrorist groups - including Taliban, Al-Qaeda, and now ISIS.

Meanwhile, the influential Rohingya Lobby in the West, manages to put out plenty of false and manipulative media, which turns everything around and accuses, denigrates and demonizes the indigenous Buddhists to the point of absurdity - and the naive and gullible Western activists believe it to such an extent that they don't even consider hearing the voices of, and learning the reality of - the Buddhists of Rakhine State. Groups such as MSF-Holland, Human Rights Watch, UNHCR and others put out heavily slanted 'reports' which will contain not even a sentence saying anything good about the Rakhine Buddhists, and instead be full of charges against the Buddhists and whitewashing the 'Rohingya' as pure, gentle victims of the warrantless wrath of the Buddhists.





THE BENGALI MUSLIMS ARE **NOT** PREPARING AND TRAINING TO LIVE IN PEACE AND HARMONY WITH OTHERS

YES, THE BUDDHISTS IN BURMA, PARTICULARLY IN RAKHINE STATE, HAVE VERY GOOD REASON TO BE WORRIED, CONCERNED, AND EVEN FRIGHTENED

If your town was experiencing the types of incidents noted in this report - for all of your childhood and adult life - you would most likely have some concerns.

Imagine if this was reversed -

Buddhists were streaming across a border into a Muslim country, demanding their own Buddhist State, and attacking Muslim villages and towns, burning, killing, destroying - and doing it all for the sake and the praises of Lord Buddha. Anyone would know that this scenario would be impossible, and if it ever was attempted the consequences would be staggering.

Hoping for peace and harmony, in diversity, with metta (loving kindness)

Rick Heizman, Sept 13, 2017, San Francisco

PLEASE SEE MY PAPERS AND REPORTS ABOUT THIS CONFLICT AT: scribd.com/rheizman
PHOTOS AND VIDEOS HERE: arakan-reality.smugmug.com

Annex 41

Video and transcript of Interview of Nazmul Islam
(28 February 2018)

NAZMUL ISLAM part 1

[00:00:23.17] - [00:00:34.29] I was born in Mawlamyine, Mon State in 1949.
[00:01:25.18] - [00:01:31.01] My parents are Buddhists and I was born as a Buddhist.
[00:01:31.22] - [00:01:42.13] In 1966, I was graduated from high school. Then I went to the military and served.
[00:02:14.12] - [00:02:15.26] I didn't go to university.
[00:02:16.19] - [00:02:17.29] I only finished high school.
[00:02:47.01] - [00:02:50.26] My parents were just merchants.
[00:02:59.22] - [00:03:02.18] My parents owned shops.
[00:03:33.10] - [00:03:45.18] They are all Buddhists.
[00:04:00.11] - [00:04:12.02] I joined the army when I was 16. After the high school.
[00:04:25.19] - [00:04:38.07] I was unhappy because I didn't think I could pass the high school exam that's why I joined the army. But after I had joined the army, I was aware that I passed the exam.

[00:05:00.14] - [00:05:04.26] Because I couldn't have done exam well. That's why I was unhappy and joined the army.
[00:05:26.20] - [00:05:37.23] I was from the communication department in the army.
[00:05:44.29] - [00:05:49.04] And also quarter-master.
[00:06:03.20] - [00:06:04.26] Radio operator.
[00:06:10.12] - [00:06:12.19] Sittwe
[00:06:28.01] - [00:06:32.05] I moved/ deployed to Sittwe in 1967.
[00:07:03.24] - [00:07:34.08] I was serving in the army. I had to follow the order to protect the area for the security, prevent from the enemy. So I just had to follow the order not my own.

[00:09:06.05] - [00:09:24.22] As I have mentioned before, I have to follow the order from higher officer since I joined the army. I can't do any work outside.
[00:10:08.23] - [00:10:27.22] There were many Rohingya when I was there. Since I arrived in Sittwe, I saw Rohingya owned the business and living peacefully, and also there are much Rohingya serving in the army.
[00:11:01.22] - [00:11:12.08] When I was there, they were called as Muslim/ Islam not acknowledge as Rohingya.
[00:11:12.24] - [00:11:14.18] Even people in the Army are Muslim too,
[00:11:36.06] - [00:11:53.11] They have got the same/equal salary, support and everything with other ethnic people.

[00:12:11.26] - [00:12:14.07] there was no discrimination.
[00:13:28.25] - [00:13:37.24] When I was living there, there was no conflict between Rakhine and Muslim.
[00:13:40.02] - [00:13:56.00] And in 1971, there was a Nagar Minn pilot project.
[00:13:56.10] - [00:14:00.07] At that time, Govt was checking the IDs of the people then they were fleeing.

[00:14:06.18] - [00:14:13.08] Not only in Sittwe but also in the whole Rakhine State.
[00:14:14.11] - [00:14:18.07] It was not the killing; it was checking the IDs called Nagar Min pilot project.
[00:14:29.17] - [00:14:44.02] And there was a Hinthar pilot project. Since after Burma Socialist Party time, there was discrimination between Rakhine and Muslim.
[00:15:20.22] - [00:15:30.25] The problem between Muslim and Rakhine started to happen in 2012.
[00:15:32.29] - [00:15:35.17] In 2012, started from Toungup township.

[00:15:36.19] - [00:15:41.19] Muslims privileges were killed in Toungup.
[00:16:22.06] - [00:16:30.14] I retired from military in 1984 and got pension.
[00:16:43.12] - [00:16:45.05] i was in Military for 20 years.
[00:17:02.08] - [00:17:14.22] I left the military because I didn't reach my goal, not satisfied, and many discrimination between higher and lower ranks. that's why
[00:18:09.22] - [00:18:14.23] NO .. I left military on my own decision and i got pension.
[00:18:38.29] - [00:18:42.08] Because there was no happiness in the military for me. that's why I didn't want to be there anymore and left.
[00:18:43.06] - [00:18:53.24] Don't wanna stay there anymore. That's why I left and got the pension as I served there for 20 years.
[00:19:16.29] - [00:19:21.22] As I have told you, I didn't wanna stay there. That's why I left Military.
[00:19:24.19] - [00:19:27.13] I didn't wanna serve there any more that's why.
[00:19:34.26] - [00:19:38.23] didn't want to stay with them. that's why left army.

[00:21:12.07] - [00:21:15.11] I only signed for 10 years

[00:21:32.02] - [00:21:37.07] No .. didn't see anything against Muslims.
[00:21:55.01] - [00:22:05.17] After I had left Army, I got the pension and working farm.
[00:22:40.17] - [00:22:43.07] I bought some lands after leaving the army.
[00:22:52.22] - [00:22:57.04] Yes, lands in Tula Tuli village .. and Mingyi Village
[00:22:59.04] - [00:23:02.06] At that time I was not living in Tula Tuli but in Mingyi village.
[00:23:16.14] - [00:23:25.23] I moved to Mingy Village from Sittwe because at that time my ex-wife is Rakhine and she is from there.

[00:23:26.10] - [00:23:30.00] That's why i followed her to her parents' village.
[00:24:01.01] - [00:24:05.11] Yes, I married with her.
[00:24:06.20] - [00:24:12.23] At that time, my duty was in Mingyi village and got married to her.
[00:24:14.28] - [00:24:24.07] When I was there, my military base is there and I was a sergeant.
[00:25:09.26] - [00:25:13.22] It was in 1984.
[00:25:28.06] - [00:25:43.22] When I was living in Mingyi village, I was a secretary at Myanmar Socialist Party.

[00:26:36.04] - [00:26:41.20] When I was in Tula Tuli, I was an in-charge officer for the station.
[00:26:47.05] - [00:26:53.10] At that time there was no discrimination between Rakhine and Muslim.
[00:27:36.23] - [00:27:38.23] When I got married to her, she was 18.
[00:27:48.04] - [00:27:52.02] And I was 22.

[00:27:59.07] - [00:28:07.16] At that time, we don't have children but we now have 5 children.

[00:29:16.07] - [00:29:21.06] Since I converted to Islam, I was divorced with her (the first one).

[00:30:17.12] - [00:30:21.22] After a moment leaving army and converted to islam.

[00:31:07.24] - [00:31:12.10] After I had left the army, I lived in Tula Tuli.

[00:31:21.25] - [00:31:26.17] Before I left from Army, I had to take her to Sittwe.
[00:31:28.20] - [00:31:32.02] And we left the army together.

[00:32:14.06] - [00:32:27.19] i'm telling you the truth.
[00:32:29.00] - [00:32:44.11] I first got married to Buddhist Rakhine woman. Then I moved to Sittwe military unit with her.
[00:32:44.28] - [00:32:54.28] and I was retired in 1984. And I got married to her (the Mulism wife) and live here in Mingyi village. I don't have any job and any duty from army anymore.
[00:32:55.00] - [00:33:00.29] So I was just a civilian and I was living at Min Gyi village at that time. That's it.
[00:34:11.12] - [00:34:19.02] In 1990, they founded NaSaKa (Border Police Force)
[00:34:19.19] - [00:34:29.29] then files from Muslim villages were captured and Muslim villages were persecuted.
[00:34:31.00] - [00:34:41.24] and they were creating the NaTaLa villages. and they gave those houses to ethnic Buddhists. so since that time I've seen Muslims in troubles.
[00:35:41.11] - [00:35:56.08] and those NaSaKa and ethnics people started seeing differently to Muslims. And Muslims didn't have (lost) their lands and jobs. Even if they are working on their own, NaSaKa asked for duty fees.
[00:35:56.20] - [00:36:00.24] Even if they are traveling to other places, Rakhine said "MotherFxxxx Kalar" to them.
[00:36:02.00] - [00:36:08.10] and they beat them up. and they asked for money if Muslims are going to market to buy and sell.
[00:36:08.10] - [00:36:17.10] and there's many rules for them. Even they have to pay bride for the marriage bcos they are not allowed to get married.
[00:36:17.28] - [00:36:21.28] Those kinds of persecution were started happening. They started persecuting them.

[00:37:02.05] - [00:37:14.00] and I started learning why Muslims have been persecuted.
[00:37:15.04] - [00:37:32.00] And I've learned all those major 4 religions in Myanmar: Buddhism, Hinduism, Christianity and Islam and their books in Burmese.
[00:37:35.02] - [00:37:41.18] And I realized that Buddhism and Islam are the main ones among them.
[00:37:41.28] - [00:37:48.14] In Buddhism, they have religion but no concept/belief.
[00:37:49.00] - [00:37:52.13] But in Islam, we have teaching and way. both
[00:37:53.05] - [00:38:03.12] and I've found that Islam is better and nobler. They think Muslims will rule them. That's why they persecuted them.
[00:39:35.00] - [00:39:55.26] and then i started learning the religions. And I found that there are Allah and Islam. I realized that I'm in faith in Islam. Then I think I should convert to Islam.
[00:40:20.00] - [00:40:28.06] I took time, for 10 years, studying Islam, not just 1/2 years.
[00:40:49.16] - [00:40:51.07] No. i didn't have.
[00:40:54.18] - [00:41:04.11] i knew some Muslims friends but no friends. no relative but my wife does at that time.
[00:41:40.17] - [00:41:48.07] they didn't have any problem. they came to Rohingya houses and Rohingyas went to their homes.
[00:42:27.23] - [00:42:29.17] at that time i have 6 acres of lands.
[00:42:30.25] - [00:42:35.19] Yes, I have 6 acres.
[00:42:48.05] - [00:42:49.00] and i grow rice.
[00:42:49.07] - [00:42:51.19] I grow rice and winter crops.
[00:43:03.14] - [00:43:06.06] I had cow and buffalo.
[00:43:15.06] - [00:43:27.19] When I was living with my first wife, I had 10 buffalos, 6 cows and 6 acres of lands.
[00:43:28.22] - [00:43:36.17] Then I learnt Islam for over 10 years and I converted to Islam in 2007.
[00:43:37.10] - [00:43:52.02] At that time, I told my first wife that I'm belive in Islam and I'm going to convert to Islam. Come with me. I invited them.
[00:44:52.13] - [00:44:54.24] and I gave some time to them to consider.
[00:44:55.04] - [00:45:14.11] At that time, I told my wife that even if the children can't come with me, she has to come. I'm converting to Islam and I had Kalimah. I'm going to Killah to 4months. When I came back, she has to tell me the answer.
[00:46:16.17] - [00:46:21.17] At that time, I could read the Quran in Burmese.
[00:46:24.18] - [00:46:27.13] I already learnt everything for 10 years.
[00:47:17.17] - [00:47:30.02] Muslims are working harder than Rakhine. Rakhine is always drinking and playing card but no working. But Muslims are saving money they just eat chili and work more.
[00:48:15.07] - [00:48:16.06] At that time, I got pension.
[00:48:24.18] - [00:48:28.11] 325 Kyats per month.

[00:49:12.00] - [00:49:34.26] When I came back from the Kyilah, I asked my wife if she decided to come with me. I told her that kids are adult now we can't force them but she has to come with me as she's my wife. She said she can't.
[00:49:35.04] - [00:49:43.05] and she asked me to divorce.

[00:49:43.26] - [00:49:49.06] That's why we divorced in front of village leaders and administrators.

[00:50:48.22] - [00:50:56.14] the first wife wants my properties.
[00:50:57.12] - [00:51:01.06] she asked the paddy fields, and animals.
[00:51:01.11] - [00:51:29.25] she opened the case at the court and NaSaKa as I converted to Islam. Then I have to give all the properties like paddy field, home, land, animals. I gave them all.
[00:52:54.23] - [00:53:12.00] if we fight and divorce, we can divide the properties equally but this one was because of the Religious problem that's why I got nothing.
[00:53:12.08] - [00:53:24.22] then I couldn't live in the Rakhine village anymore that's why I had to live at the madrasa.

[00:54:40.06] - [00:54:41.11] I lost everything.
[00:54:44.10] - [00:54:47.29] I couldn't even bring my clothes.
[00:54:55.07] - [00:55:24.02] While I was living at the madrasa, I was teaching Burmese to students and Mawlawis. I got 10,000-15,000 Kyats per month as support. then I can survive.

[00:56:32.17] - [00:56:57.08] and after some time, elders and teachers from madrasa suggested me to get married. They said there should be someone with me for my life.
[00:56:57.14] - [00:57:00.05] and they were looking for someone for me but I didn't accept that.
[00:57:00.17] - [00:57:17.10] they found many girls for me but I don't think I'm matched with them bcos I left from the village without anything. That's why I told them not to find one for me I'll find myself.
[00:57:17.14] - [00:57:49.18] and I found my her (his current wife). she was very poor and her father's one eye was blind. they were bagging in the village. she's also divorced with one kid. I found her and believe she's the one for me. That's why I told village leaders. and married with her.
[00:57:50.00] - [00:57:51.17] in 2008.

[00:59:24.23] - [00:59:41.12] I already knew her when I was living in Mingyi village but I just chose her when I moved here.

[01:00:14.08] - [01:00:32.18] and I went to her parents and asked if they allowed me to marry her. They al; lowed.

[01:00:33.24] - [01:00:41.24] she had a husband before and divorced, she had a 2 yrs od kid.

[01:01:51.08] - I had Nekkah with her according to the religious law.

NOT SURE ABOUT THE AGE

[01:03:47.12] - [01:04:14.04] I didn't feel anything about the age difference because we have true love. In the true love, there is no difference. We love each other and got married.

[01:04:55.02] - [01:05:03.23] she gave birth 2 years after the married.
[01:05:04.10] - [01:05:13.10] Mhd Ismail is my elder son. Mhd Enus is her first son.

[01:05:42.08] - [01:06:06.24] i didn't have any properties. I was just teaching at the madrasa. and I got children.

[01:06:07.10] - [01:06:13.19] when I married her, NaSaKa didn't allow me.

[01:06:13.29] - [01:06:21.07] they said, "hey you can't get married. in the law, you have to apply permission for the married. they called me 3 times.
[01:06:22.23] - [01:06:45.28] they asked me why I married her. and I told them I'm a citizen and I have my own freedom. I can marry whoever I like. They said I can't build a house. But I told them I have no house to stay that's why I build the house. If you can arrest me, come arrest me. I'm an ethnic guy and citizen.

[01:08:34.25] - [01:08:47.23] they way they talked to me is different from before.
[01:08:49.02] - [01:09:00.28] they started discriminated to me. Friends didn't talk to me anymore. they didn't come visit me.

[01:10:45.10] - [01:10:53.05] i think there were 70 Rakhine houses and 300 Rakhine people .
[01:10:54.29] - [01:11:03.22] for Muslims, 200 houses and 2000 people.

[01:14:04.01] - [01:14:20.08] there was no problem in 2012, There was the problem in Sittwe and was started in Taunggote.
[01:14:20.13] - [01:14:40.28] even though there were some problems in Maungdaw, we don't have any problem in the village. But Rankine villagers were worried that if we attack them. That's why their words and their manners are not matched anymore.
[01:14:41.10] - [01:14:46.29] and they had emotion in their mind.

[01:15:59.07] - [01:16:08.06] they attacked them because of the religion like monks.

[01:16:08.14] - [01:16:33.24] they said, " Muslims have large population here. they will occupy your properties" they are worried about that.

[01:16:46.16] - [01:17:12.01] they are worried that if Muslims make problem to them. Since that time, NaSaKa comes to the village every day and check the Muslims houses if we have weapons.
[01:17:13.05] - [01:17:39.22] they check the people list in the household registration and check the houses at night. Asked the money for the animals like 5000 MMK per cow. When Rakhine people saw rich Rohingya, they informed (misinformed) police that they are doing illegal business.

[01:20:46.00] - [01:21:01.05] no one would make the problem and stimulate the problem. even though we have many houses in the village, there is no rule of law for us, there is no justice for us.
[01:21:01.22] - [01:21:12.23] so they won't do any problem. they just want to live peacefully.

[01:22:21.02] - [01:22:57.00] we are also afraid if those problems are coming to us. that's why we took guarding ourself because they don't have any rule and law. We are feeling afraid.
[01:22:58.16] - [01:23:06.20] we wanted to live peacefully but we are afraid that if they come and do something to us.
[01:24:02.07] - [01:24:26.12] we were living in the fear. we won't go to the forest bcos we are afraid if we got killed. Muslim women won't go to the forest and afraid of the rape. then 2016 attacked was happened.
[01:24:26.28] - [01:24:43.23] since that attack, NgarSarKyu and other villages were destroyed and people were killed. Military came in and out to our Tulatuli village.
[01:26:20.10] - [01:26:30.11] we have connection with Rakhine for the business. I don't know what was in their mind.
[01:26:30.21] - [01:26:40.28] we don't know what is in their mind and they don't know what's in our mind. But we were communicating each other for the business.
[01:27:46.02] - [01:27:49.08] I was teaching at the madrasa.
[01:27:49.22] - [01:28:04.18] and i also do as a writer man.

[01:28:06.26] - [01:28:20.01] if they want me to write the letter to the Govt department, I write for both Rakhine and Muslim no difference.
[01:28:20.20] - [01:28:23.13] I got 2000 MMK for one letter.

[01:29:15.18] - [01:29:28.17] I earn money by working how I can work. If village administrator wanted me to write, I write for him. For police, for Rakhine villagers as well but I charge for my service.

[01:30:08.26] - [01:30:36.28] When they attacked in 2016, we were hearing many things like people were killed, bombed and raped. So we were also afraid of something that might happen to us.

[01:30:50.12] - [01:31:07.10] When Oct attacked was happened, we heard that military killed Rohingya in villages: KunTheePin, KyatYoePyin and even we heard the sounds of the helicopters but we didn't see them with eyes.
[01:31:08.02] - [01:31:30.12] so people were afraid of potential problem. We can't enter into the Rakhine village after 6pm but we can enter from 6am to 6pm. They do not accept that.
[01:31:31.06] - [01:31:40.08] When we entered, they made problem to us, So we had to be very careful.
[01:33:44.28] - [01:33:50.24] I don't know any ARSA and don't know whether they are white or black.
[01:33:57.11] - [01:33:59.00] they never came to TulaTuli.
[01:34:02.18] - [01:34:14.10] ARSA do not have any sign. They are like us. So don't know who is ARSA.

[01:34:54.00] - [01:34:59.17] we were not allowed to keep the knife to cut the wood/ tree.
[01:35:43.14] - [01:36:16.16] because they don't want us to keep the knife after 2016 problem. We were not allowed to build the fence at home. Fences were destroyed. BGP came and looted our properties what they saw. they were giving us hard time.

01:37:14.20] - They started doing everything after 2016 attack.
[01:37:17.07] - [01:37:22.25] What they think in their mind is that all of our Rohingyas are terrorists.
[01:37:23.08] - [01:37:28.19] that's why they persecuted us more and more.
[01:37:29.06] - [01:37:34.17] they are saying that we are not the citizen we are Bengali. that's why restrict more and more

[01:38:48.19] - [01:39:23.29] They came to the village in the day time and leave in the evening. They called the administrator and ordered him to order us. destroyed the fence. it we didn't, beaten us. They asked money as fine. We have to pay a lot of money if we want to go Maungdaw to get recommendation letter. There were more control and restriction.
[01:39:24.10] - [01:39:27.01] these were happened everything to everyone.

[01:40:01.17] - [01:40:08.13] we can't keep the knives and weapons. We have to give them to administrator office.
[01:40:29.17] - [01:40:53.00] some people wanted to keep their knife for their works. that's why they have to pay money to the administrator. They have to pay 1000 MMK for the recommendation letter if they want to go to the forest to get wood.
[01:41:38.18] - [01:41:39.19] yes he's a Rakhine administrator.

[01:42:08.19] - [01:42:13.00] WFP distributed the foods for both Muslim and Rakhine.
[01:42:30.08] - [01:42:55.16] the food situation was really bad. NGO can't provide aid when the problem happening. They could just provide aid for 6months and no more.
[01:42:55.25] - [01:43:02.04] we had eat what we had it was so hard.

[01:43:55.00] - [01:43:59.28] WFP distributed foods for both Rakhine and Muslims.

[01:44:38.07] - [01:44:39.26] Since Nov, they stopped helping us.
[01:44:47.12] - [01:44:53.16] they started distributing the foods in April.

[01:44:53.25] - [01:45:01.00] from April to Dec. so 9 months.

[01:45:01.28] - [01:45:08.16] in the 9 months, they could only work for 6 months. then problems come and they can enter the area.

[01:45:17.14] [01:45:23.23] only 5/6 months they can help us then they can't come when the probem was happening. they were not allowed to come so.

[01:45:45.19] - [01:46:05.22] but for the Rakhine, they could still get ration and food from the Rakine orgs after the conflict. they went to their homes.

[01:46:21.24] - [01:46:25.02] they didn't give the foods to us.
[01:46:25.02] - [01:47:05.20] Even Malaysian and Indonesian NGO are helping to both of the communities. but If there are 70 Rakhine houses, they got 70 bags of rice. But Muslims only got 50 bags of rice even there are 200 houses and population is 2000. then we have given 10 bags to administrator. So finally each family got very little amount of rice.
[01:47:05.19] - [01:47:16.08] they got a lot but we didn't . They took the donation from Malaysia and other countries.

[01:49:09.02] - [01:49:24.05] Everything was so bad for Rohingya like food, life, transportation and so on. We can't go anywhere.
[01:49:24.28] - [01:49:35.22] there are many restriction on the travel. We can't go anywhere.
[01:49:36.06] - [01:49:55.29] even the aid from Malaysia and other countries didn't reach to us. They said we can't drink the purified water. We have to drink the stream water.

[02:06:51.18] - [02:07:03.28] it was after Oct 2016 attack.
[02:07:44.26] - [02:08:04.08] According to my experience, both Rakhine and Rohingya villagers were afraid of something before August 25, 2017, attack.
[02:08:04.11] - [02:08:23.16] i'm not interested in the politic. that's why I don't know why they are worried.
[02:08:23.23] - [02:08:30.11] they looked afraid of something before 25th August attack.

[02:09:23.00] - [02:09:44.12] and there were more BGP in their stations like Mingyi BGP. and more military too.

[02:09:44.20] - [02:09:46.02] this is what i've seen.
[02:10:30.25] - [02:10:33.11] it was like June, July.
[02:10:37.18] - [02:10:39.29] between that time june and july.

[02:10:46.29] - [02:10:51.19] and there were more restriction on the travel.
[02:10:52.14] - [02:11:00.23] more restriction like they can't go out from the village for work, for a farm.

[02:11:35.14] - [02:11:44.00] at that time our Rohingyas were getting in troubles bcos NGO was not giving anything else and we were not allowed to go anywhere.
[02:11:44.14] - [02:12:10.13] everything was restricted. they have to pay money if they want to go out of business. that's why people were not going out. there were a lot of people who did not have food in the village.

[02:13:07.05] - [02:13:11.24] they didn't not allow us to go out;
[02:13:16.01] - [02:13:30.20] people couldn't go out, no food. even they took their chickens that's why villagers can't sell anything.
[02:14:11.22] - [02:14:15.22] nothing we can sell. nothing we can work. what shall we do?
[02:14:42.04] - [02:14:44.13] the administrator did that.
[02:14:52.07] - [02:15:02.04] there were some exceptions. if we want to go market, w have to pay 2000 per person for recommendation letter.
[02:15:02.13] - [02:15:12.06] and we had to pay money if we are going for the farm. let's say if we are going from Tultuli to KyeinChaung for 5days, we had to pay 10,000 MMK.
[02:15:50.00] - [02:15:58.17] if we had one more day, we had to pay file.
[02:16:20.22] - [02:16:28.18] people were suffering and finally Aug 25 was arrived.
[02:16:29.00] - [02:16:30.20] on that day i was sleeing at home.
[02:16:30.26] - [02:16:38.16] I heard the sounds of shooting around 4 am and i woke up from the sleep.
[02:16:39.28] - [02:17:02.04] I've heard of shooting sounds before. that's why i called some people and asked but no answer. But the next morning, we heard that ARSA attacked police outposts last night.
[02:17:02.23] - [02:17:07.26] and people were getting more worried.
[02:17:08.08] - [02:17:16.18] more worried and military came in. it's brigade 99.

[02:18:26.16] - [02:18:33.26] and i came to the daytime.
[02:18:34.08] - [02:18:41.11] and Muslims were not allowed to enter Rakhine village.
[02:18:41.20] - [02:18:44.17] Rakhine didn't come to Muslim villages too.
[02:19:01.16] - [02:19:08.26] Muslims were now allowed to go Rakhine village and can't go out for the farming.
[02:19:10.01] - [02:19:41.23] on 25th and 26th, villagers were afraid and won't sleep at the village boss military came in the village and torched some houses that they suspected in some villages.

[02:19:42.20] - [02:19:48.12] so that's why villagers were sleeping at the other place and come back in the day time.
[02:20:55.19] - [02:21:07.18] i could see houses burning and friends from those villages also called me and said some of the houses were burnt.
[02:21:08.11] - [02:21:13.28] not all the houses but some houses in the villages.
[02:21:24.05] - [02:21:32.22] and they arrested some people they suspected, and brought there to the court and sued. then burn the houses.

[02:22:17.14] - [02:22:47.01] I don't know what is the aim of the ARSA. 'm not interested in politic. we couldn't ask to other people especially at that time. They should have their aim. Everyone has aim.
[02:23:28.19] - [02:23:34.18] I realized it was ARSA that attacked the police outposts after attacks.
[02:23:35.04] - [02:24:05.17] What i understand about their movement is that they want their rights, citizenship, freedom equal law. What they are doing is right.

[02:25:16.23] - [02:25:24.29] I don't know about ARSA when the KyeKanPyin was attacked. ARSA has not found it yet.
[02:26:45.16] - [02:26:50.24] I heard that I was ARSA who attacked after Aug 25.
[02:27:06.00] - [02:27:08.16] in 2016, they were insurgent.

[02:27:39.00] - [02:27:42.01] when the military came to me, I was at the home. couldn't go out.

[02:28:32.12] - [02:29:02.23] at that time military and police are coming in and out to the village. On 27 afternoon, BGP called me.
[02:29:02.25] - [02:29:24.05] they said i'm a influential person in the village. they need to discuss with me. so pls come with village leaders and elders. at that time they were preparing to go to sleep at other place bcos they won't sleep at night.
[02:29:24.25] - [02:29:29.26] I went there to meet with them bcos they called me.

[02:31:03.00] - [02:31:04.22] It was on 27th August.
[02:31:17.04] - [02:31:20.29] the one who called me is Burman BGP.
[02:31:25.02] - [02:31:25.29] I don't know the name.

q[02:31:41.16] - [02:31:44.05] yes they are the in charge persons in the village.
[02:31:54.05] - [02:31:57.05] they called me and said they wanted to meet with me. I will tell you about it.

[02:31:57.25] - [02:32:10.04] They called and said they wanted to meet. As soon as I arrived at the entrance of the village, the BGP started surrounding me.
[02:32:11.04] - [02:32:14.05] After that they arrested me.

[02:32:23.05] - [02:32:24.06] Yes, they called/phoned me and I went there to meet with them.

[02:32:27.22] -[02:32:28.12] i went there.

[02:32:31.10] - [02:32:37.12] i even was not able to enter the village, just in the entrance 3/4 BGP polices surronded me.
[02:32:38.01] - [02:32:38.24] And then arrested me.

[02:33:01.24] - [02:33:03.13] Becasue they phoned me.

[02:33:23.24] - [02:33:26.13] Yes. I was walking .. very close by.

[02:33:32.12] - [02:33:35.23] Police station and Rakhine village are so clise.

[02:33:36.25] - [02:33:39.00] just 300 yards far.

[02:33:40.22] - [02:33:45.26] Police station and Rakhine village are the same spots and it's only 300 yards far from the police station to Muslim village.

[02:33:46.13] - [02:33:47.14] just 300 meters. (I'M NOT SURE IF IT'S 300 OR 3)

[02:33:48.18] - [02:33:50.17] It's like from here to there.

[02:34:13.16] - [02:34:27.01] then I asked them "What are you guys doing? I'm here bcos you called me to discuss. Are you arresting me?"
[02:34:28.08] - [02:34:31.18] and they said don't ask too many just come with us.

[02:34:46.13] - [02:35:11.13] they took me to the small guard house which is nearby the bridge next to administrator office, was told to stay there not to go Rakhine village or Muslim and told I will be killed if I do so.

[02:35:33.08] - [02:35:36.13] It's not a police station but guard for protecting the village.

[02:35:59.00] - [02:36:03.12] so there were village guard and BGP guard.

[02:36:05.23] - [02:36:10.23] Rakhine villager and BGP were guarding becaue they don't want me to run.
[02:36:38.11] - [02:36:42.18] only 2 villagers and 2 BGP.

[02:36:54.00] - [02:36:55.04] Military were not there yet at that time.

[02:36:58.02] - [02:37:02.29] BGP have weapons and those villagers have some some Yan-Done (handmade guns).
[02:37:03.06] - [02:37:04.24] Yan-Done is a handmade/self-made gun. (PERCUSSION LOCK FIREARM)

[02:37:52.12] - [02:37:53.16] it's made up of wood.

[02:38:20.25] - [02:38:22.16] I didn't see administrator.
[02:38:23.28] - [02:38:25.00] he lives separately.
[02:38:30.01] - [02:38:41.00] I once met Administrator and he was with the village elder.
[02:38:41.02] - [02:38:59.12] and that village elder told me that don't go anywhere as they warned you. in this situation, they can kill you if they want. you won't even sue them.

[02:39:52.04] - [02:39:53.14] Aung Kyaw Thein is the name of the administrator.
[02:40:25.13] - [02:40:29.06] someone was with him called Shwe Tun Phyu.
[02:40:38.00] - [02:40:39.06] He's the village elder.

[02:41:27.00] - [02:41:28.07] And another elder named is Mg Hla Sein.
[02:41:35.08] - [02:41:42.16] and they said you are educated.
[02:41:44.07] - [02:41:56.18] they said that stay follow their order. if they killed you, no one can help.
[02:41:56.19]`- [02:41:58.25] they can kill you.

[02:42:39.10] - [02:42:43.18] No one will feel sorry even if you got killed.
[02:42:43.20] - [02:42:50.19] you're the one who converted to Islam that's why we will be thinking that Kalar (bad term) got killed - he said to me.
[02:42:52.07] - [02:42:57.20] Don't try to escape or we will kill you. No one will feel sorry for you.
[02:42:58.17] - [02:43:01.01] we will just think a Kalar (Muslim) got killed.

[02:43:50.28] - [02:43:55.18] they gave me some foods but i didn't receive it because I told them I can't eat the food you cooked.
[02:43:59.14] - [02:44:22.23] on 28th, in the morning 8:30, I heard the sound of the launcher, gun, and some crying, and burning of the houses.
[02:44:23.17] - [02:44:26.16] Gun shooting and launcher. houses were burning.
[02:44:26.26] - [02:44:35.25] And i heard the shouting and crying. Shouting is from Rakhine and Crying is from Rohingya.
[02:44:36.17] - [02:44:44.24] heard the sounds of burning the houses, killing. I could see them from my place. and military Division 99 was coming in the village.

[02:46:45.01] - [02:46:52.19] at that time I just told my wife that I will come back, they just called me for the meeting. that's it.
[02:47:14.19] - [02:47:16.29] She doesn't have a phone but her sister does.
[02:47:17.23] - [02:47:18.18] and her brother has phone too.

[02:47:23.05] - [02:47:29.12] When I arrived there, I couldn't call her and they didn't let me call my wife.
[02:47:35.17] - [02:47:37.10] they just said we will let you go free now that's it.

[02:48:19.28] - [02:48:20.14] i didn't communicate with her on that night.

[02:48:25.25] - [02:48:33.24] at that time I couldn't call them because they were not here. They were hiding somewhere because they were afraid.
[02:49:26.19] - [02:49:37.26] they were not running at that time. They didn't dare to sleep at home. it was just hiding somewhere at night but come back in the daytime to the homes.
[02:49:42.10] - [02:49:48.01] not even one from Tula Tuli was running/fleeing in the daytime.
[02:49:48.28] - [02:49:53.10] because they just stayed at home and they don't have any problem with the villagers.

[02:50:03.29] - [02:50:13.08] they took my phone, my money, and the gold in my pocket.

[02:50:48.07] - [02:50:51.05] I heard of crying and shouting,

[02:50:51.22] - [02:50:58.14] at that time, my wife called the administrator's number.
[02:50:58.22] - [02:51:04.23] She asked him to inform me. She would like to talk with me.
[02:51:04.24] - [02:51:10.00] and she said "people got killed and houses are burning. what are you doing there?"

[02:51:11.00] - [02:51:15.22] And I told her that I will come now but they said don't go. we will kill you if you go.

[02:51:16.28] - [02:51:19.18] "Don't go. We will kill you"

[02:51:19.29] - [02:51:36.22] and I told my wife "pls run and try to save your life. If I'm not killed, if Allah grant me his merciful, I will come to you wherever you are"

HIS WIFE IS SPEAKING IN ROHINGYA LANGUAGE

[03:03:18.20] - [03:03:24.22] around 9:30 i got a call from her (to administrator phone)
[03:03:25.29] - [03:03:35.02] Administrator told her 'just stay at your home close the door. don't think about your husband. He is in safe.
[03:03:35.20] - [03:03:49.19] But what I told her was that don't stay there. if you do so, we both gonna die. nothing is valuable to us. so run I can die.
[03:03:50.00] - [03:03:53.00] if Allah allowed me to meet with you, I will come to you.
[03:03:55.06] - [03:03:58.29] After I had told her, I was hearing the noise of gun shooting and crying.
[03:03:59.20] - [03:04:08.00] But I was not hearing the voice of Rakhine but Khami, Dainet, Mro, and Thet were with the military.
[03:04:13.01] - [03:04:18.20] Military shoot the Rohingyas with the gun and they (Mro, Khami, Thet, and Daingnet) killed Rohingyas by chopping with knives. and stabbed with the awls.
[03:04:19.03] - [03:04:26.07] When the mothers died, they threw the kids into the fire. They lifted the kids from the toes, smash the kids with the wall of the house and thrown into the fire.
[03:04:26.25] - [03:04:28.19] it were happened days after days.
[03:04:29.02] - [03:04:31.22] Shootings were stopped around 11.
[03:04:31.28] - [03:04:32.23] Stopped at all.
[03:04:33.29] - [03:04:37.12] and then helicopter come.
[03:04:37.23] - [03:04:53.29] Some of Rakhines who come from there said helicopter supported weapons and fuels to fire the dead bodies.

[03:06:57.20] - [03:06:58.18] They come down to the ground from the helicopter.

[03:07:02.05] - [03:07:02.24] and they gave the weapons and fuels.

[03:07:04.22] - [03:07:08.06] bullets in the boxes.

HE DIDN'T ANSWER IT'S WOODEN BOX. BUT HE SHAKES HIS HEAD.

[03:08:00.18] - [03:08:07.12] the guard place where I was kept had just root no window no wall.

[03:08:38.22] - [03:08:50.19] Rakhine people didn't go there and didn't let me go there too. They just stayed at their village on standby. BGP didn't go there too.

[03:08:56.29] - [03:08:57.26] They (Rakhine) didn't even say anything.

[03:08:58.26] - [03:09:06.20] they just said pls stay alert. don't go to Kalar village. (Muslim village)

[03:09:07.19] - [03:09:10.11] BGP officer also told his men not to go there.

[03:09:10.28] - [03:09:15.06] "our police do not go to Muslim village"

[03:09:16.01] - [03:09:19.25] "and Rakhine, do not go there. they will take care of their matters"

[03:09:21.13] - [03:09:23.26] ‘'The military will do their work"

[03:10:25.20] - [03:10:36.14] at 12, two-thirds of Tula Tuli were all burnt down.
[03:10:37.12] - [03:10:38.13] only one-thirds left.

[03:10:39.05] - [03:10:45.25] some houses from that one-third were burning ... about 2000 people died already. the shooting was stopped.

[03:10:45.26] - [03:10:51.08] I didn't hear the noise of shootings but I heard the sounds of torching.
[03:10:50.28] - [03:10:53.10] was hearing the sounds of torching the dead bodies.

[03:10:53.11] - [03:10:54.10] i had the smell.

[03:11:01.10] - [03:11:04.26] the place i was held is far from the place they were torching.
[03:11:06.10] - [03:11:14.04] In the evening, people who were with the military, (Mro, Khami, Thet and Daingnet) came into the Rakhine village.
[03:11:14.24] - [03:11:23.11] they (Mro, Khami, Thet and Daingnet) were telling each other in front me of me, "some were in injury not dead but were put in the fire"
[03:11:23.26] - [03:11:25.24] "some died then put in the fire"
[03:11:26.08] - [03:11:31.13] "some kids were crying as their mothers were died, also put into the fire"
[03:11:32.00] - [03:11:45.23] 'they were laughing out loud and telling each other how they took the jewelry and money off the women they raped.
[03:11:50.00] - [03:11:52.08] they were talking each other and I heard them.

[03:12:58.19] - [03:13:05.10] not Rakhine but Mro, Khami, Thet, and Daingnet.

[03:13:08.05] - [03:13:10.05] they are not from Tula Tuli.

[03:14:23.13] - [03:14:29.17] Since I knew my family run already, I was not thinking about them.
[03:14:29.24] - [03:14:31.26] I knew that they were escaped.

[03:14:51.02] - [03:15:15.24] They were talking each other that they found 5 girls who were stuck in the house and couldn’t run. they raped them and took jewelry and locked them in the house then set a fire.

[03:15:38.15] - [03:15:40.01] and they said Military involved too.

[03:15:43.00] - [03:15:44.17] they burnt them alive.
[03:15:46.23] - [03:15:51.16] according to their conversation, they said Military also done it and they done it too.
[03:15:55.04] - [03:16:03.11] the rain started coming after 4 hours of burning the dead bodies.
[03:16:03.26] - [03:16:05.18] It was a heavy rain.

[03:16:06.00] - [03:16:10.17] because of the heavy rain, flooded.
[03:16:10.20] - [03:16:12.25] and the dead bodies couldn't be burning.
[03:16:13.17] - [03:16:23.07] and the next morning, water from the mountain were falling and all the dead bodies are gone into steam. many dead bodies are in the steam.

[03:17:19.10] - [03:17:31.13] dead bodies are not gone with the water in that evening but in the next morning, river full of bodies. the rain was so heavy the whole night. Dead bodies were not floating while raining.

[03:18:05.10] - [03:18:10.22] it's very close with the place where I was held like from here to toilet.

[03:18:19.05] - [03:18:20.20] But i couldn't go there.

[03:18:35.10] - [03:18:46.24] my home is at the bank. some of the bank areas were destroyed by the tight. very close to Rakhine village too.

NOT CLEAR (TALKING ABOUT HOME)

[03:20:19.10] - [03:20:20.24] Where did you get this?

DRAWING MAP - NOT CLEAR THE NAME OF THE VILLAGES - PLS CHECK WITH HIM AGAIN

[03:22:21.08] - [03:22:26.18] this is the lake, this is the cemetery.

[03:23:18.19] - [03:23:23.24] you can go Rakhine village from this way and also from this way.
[03:24:34.02] - [03:24:37.05] Military started coming in the village from this way.
[03:24:39.00] - [03:24:48.18] on 28th morning, they (Mro, Khami, Thet, and Daingnet) came in from this way.
[03:24:53.26] - [03:24:59.14] coming from this way ... and .. burnt everything.

[03:25:00.23] - [03:25:08.00] they gather/ put the people here in this paddy filed and killed those over 2000 people.
[03:25:08.10] - [03:25:12.26] people who were stuck in the village like the girls I mentioned before were killed in the house.

[03:25:15.10] - [03:25:24.18] my wife was running from this way. But if they chose this way, they will get killed.

[03:25:25.04] - [03:25:31.06] they chose this way, that's why they escaped. If this way, they and my children will be killed.

[03:25:32.11] - [03:25:36.19] this is where I was held.

[03:25:56.06] - [03:25:58.20] these are the exact locations.

[03:30:08.00] - [03:30:09.14] this is my house.
[03:30:10.00] - [03:30:15.02] on 27th, I was with my family to run together,

[03:30:15.18] - [03:30:26.01] we were here. but got the call and I went to Rakhine village.

[03:30:26.02] - [03:30:28.22] and they arrested me.

[03:30:29.00] - [03:30:35.19] on 28th morning, military, those people ((Mro, Khami, Thet, and Daingnet) came in the village.

[03:30:35.29] - [03:30:42.11] and starting from here, torching the houses, shooting and doing all the area.

[03:30:43.01] - [03:30:56.17] and people that I mentioned who won't sleep at home at night, are here. so they were running there.
[03:30:57.02] - [03:31:01.19] they saw them running, so shooting them.

[03:31:02.01] - [03:31:15.18] shooting with a gun, launcher and using knives. went into the houses, rape and looted jewelry. Everything was burnt at 11.

[03:31:15.25] - [03:31:19.24] there were over 2000 dead bodies at 12.

[03:31:21.00] - [03:31:29.07] I told my wife to run at 10. They run to this way but they will get killed if they chose this way.

[03:31:29.18] - [03:31:32.07] They chose the way to Pagoda.

[03:31:32.16] - [03:31:38.01] and they crossed the river and went to the mountain nearby Chain Khar Li.

[03:31:39.16] - [03:31:42.13] they called and arrested me and I was held here.

[03:31:42.10] - [03:31:45.18] I could see everything there what I can see from here.

[03:31:45.19] - [03:31:47.28] It's very close just 1000 yeards.

[03:31:48.05] - [03:31:52.01] it's not clear the face of the people but I could see all the movements.

[03:31:54.04] - [03:31:58.13] Helicopter stopped here.
[03:31:59.04] - [03:32:01.12] here. in the sand.

NOT SURE HELICOPTER STOPPED OR FALLEN.

[03:32:06.02] - [03:32:08.18] i saw limitless cruelty.
[03:32:09.00] - [03:32:13.25] it's like Genocide. killed kids. they don't have any fault.
[03:32:14.04] - [03:32:20.28] the older people don't have any fault too. if they want ARSA, they can look for them and take action by the law.
[03:32:21.00] - [03:32:24.02] the life of our Rohingya were destroyed.
[03:32:24.17] - [03:32:26.28] the life which can't change with anything were destroyed.

[03:32:27.12] - [03:32:36.22] we can cure the wounds on our skin, but we can't cure the injuries in our minds.

[03:33:59.04] - [03:34:11.18] I saw the smoke from burning houses, i saw them torching the houses and saw them looting the properties like animals and motorbikes.

ROHINGYA SPEAKING

[03:34:52.23] - [03:34:57.25] i heard from them how many people they killed and head how many people were killed, from administrator.

[03:35:38.18] - [03:35:43.26] And i witnessed burning of houses on the hill and under the mountain.

[03:36:28.24] - [03:36:35.01] I saw helicopters on 28 and another 3 times with Govt officials.

[03:36:35.08] - [03:36:43.14] State Govt and Chief Ministers came to the village to give supplies and foods.

[03:37:11.18] - [03:37:19.12] Heliicopter landed in Mingyi village in 3 times and others in many times to meet with people.
't
[03:37:20.00] - [03:37:25.02] they gave food and supplies to Rakhine people.

[03:38:48.01] - [03:38:54.14] In the military, you can't do anything with your own decision.
[03:38:54.28] - [03:39:01.01] All the things have done are bcos of the order from above.
[03:39:22.00] - [03:39:33.08] If we do so on our own, we will be punished but with higer order, there is no punishment. we can't do anything without order.

[03:40:08.00] - [03:40:21.22] they didn't dig the graves. they dropped the weapons from the helicopters. dropped the weapons and fuels then left. and the rest of the soldiers ordered the villagers to bring the dead bodies and burn them.

[03:40:23.20] - [03:40:28.16] Those villagers are Rakhine and other minorities like Thet, Mro.

[03:42:38.11] - [03:42:41.22] There were many things happened when I was arrested.
[03:42:54.00] - [03:43:03.05] There were many dead bodies left when the helicopters had left. There was a rain as I told.
[03:43:03.14] - [03:43:08.17] The next day after the rain, they torched the rest of the farms.
[03:43:08.25] - [03:43:28.18] and they (Rakhine and other minorities) lootted the properties of the Rohingyas like buffalos, cows, goats, motorcylces, rice, chieckens, clothes and everything. then they torched them.
[03:43:28.04] - [03:43:43.24] they torched everthing. no muslim left there. Do they need to torch all the houses and kill people if they are not doing genocide? just have arrest the terrorists. After that military came into the village.
[03:43:43.23] - [03:43:57.02] and they asked me if i'm the one who quited from the army and converted to Islam. I reliped that yes, i'm.
[03:43:57.25] - [03:44:14.23] they said, "Alright, you are ethnic, ex-soldier. If you are coming back to Buddhism, w will take care of you".
[03:44:15.13] - [03:44:23.19] and they said, "you know what Kalars (Muslims) can't live in our country."
[03:44:24.00] - [03:44:36.00] and I told them I was created by Allah. My life was created by Allah. If Allah will take my life back, I'll be dead.
[03:44:36.01] - [03:44:42.16] **"MotherF@@ .. you talk too much" he slapped my hat off.**
[03:44:43.00] - [03:45:02.25] I was arrested for 3 and a month. They gave me some foods but i didn't eat them. I told them just give me some rice, cilie and salt, I can cook myself.
[03:45:02.25] - [03:45:10.16] Even in the army, I didn't have food for a month.
[03:45:10.25] - [03:45:15.13] so I could live without having anything.
[03:45:15.22] - [03:45:29.02] They came to me everyday and beaten me. And finally they had meeting on Oct 1.
[03:45:29.19] - [03:45:36.10] that meeting was about me. they wil force me to convert into Buddhism back. If not, they will finish (kill) me I heard that.

[03:45:38.16] - [03:46:03.01] And i was thinkingl like I'm alive without any hope. It's like i'm dead. I don't know about my family. don't know where they are. What should i do?
[03:46:03.16] - [03:46:18.08] If I'm afraid of them, my faith will be damaged. If I'm dead, It's just once.
[03:46:19.02] - [03:46:52.25] it was on 3rd Oct, Wed. they were busy with cooking for the next day festival. and I escaped from there by jumping into the river that do not have a lot of water. A

guy called Shwe Tun Phyu saw me and shout "hey old man is runnning" then they shoot me 5 times.
[03:46:53.05] - [03:46:57.16] By the grace of Allah, I was not died.
[03:46:58.08] - [03:47:07.11] And i was runnig until i arrived to Kyein Chaung. i have NRC Card but don't have money and phone.
[03:47:07.20] - [03:47:16.10] ah i got my phone back but no sim and no memory card.
[03:47:16.19] - [03:47:27.02] and from Kyein Chaung to Maungdaw, i rent a Rakhine motorbike.
[03:47:27.17] - [03:47:32.19] He doesn't know what was happened with me. I had to pay him 50,000 MMK.
[03:47:32.26] - [03:47:36.08] I paid that and arrived in Maungdaw.
[03:47:36.18] - [03:47:44.02] When I arrived in Maungdaw, I don't have money. But there is a relative house of my wife. I went there and borrowed 200,000 MMK from them.
[03:47:43.29] - [03:47:48.29] and I asked them to help me 200,000. I had to pay 50,000 MMK to motorebike too.
[03:47:49.06] - [03:47:57.20] On Saturday, I crossed the Teknaf from Mawnifara, Maungdaw. We had to pay 120,000 MMK per person.
[03:47:58.16] - [03:48:19.29] And I arrived Zarai Fara in Bangladesh, inserted sim card and called my wife. Then I came here and arrived by the grace of Allah. Allah is great.
[03:48:08.23] - [03:48:20.17] arrived here becasue of the mercy of Allah. I experinced it.
[03:48:20.29] - [03:48:31.01] I've suffered many things in my life. I'm already died. i'm 69 years old.
[03:48:31.11] - [03:48:34.20] I don't even know whether i'm gonna die today or tomorrow.
[03:48:34.29] - [03:48:43.00] I'm thinkiing about my children and other Rohingya children. They lost their ways.
[03:48:43.01] - [03:48:55.05] Where is the education? Where is the business? How comes they can do business and study? Are they spending their life in the camp?
[03:48:55.13] - [03:49:14.04] Where is the living standard? The world is talking about Rohingya. But they should come and help us not only with words but also in the real life. **We don't have any light in our life. Everything is dark.**
[03:49:15.20] - [03:49:18.07] The light is gone.
[03:49:18.29] - [03:49:39.10] Of course we are now receving the aid from international orgs by the mercy of Allah. But we have no extra money.
[03:49:39.20] - [03:49:52.14] We get bean but people can't weat bean everyday that's why they sometime sell their ration to buy fish.
[03:49:53.14] - [03:49:56.02] Who would like to live at the place like this?
[03:49:56.11] - [03:50:06.24] Myanmar Govt is saying that Rohingyas are burning their own houese. Are they fool or Rohingyas are fool?
[03:50:07.02] - [03:50:11.14] Even fool knows his house and won't burn it. So those people who are saying Rohingya burn their houses are fool.
[03:50:11.28] - [03:50:22.08] Please tell me who gonna stay here like on the ground by buring the properties and houese?
[03:50:22.28] - [03:50:31.00] We staying here becasue we are happy to do so? NO .. we were force to leave our place that's why. i'm so hurt.
[03:50:31.11] - [03:50:38.23] it's not only about me but also about all the Rohingyas.

[03:50:54.18] - [03:50:56.24] I'm not afraid of dying.
[03:50:57.00] - [03:50:59.10] my life was dead.
[03:51:01.00] - [03:51:07.07] But the life of my children and other Rohinyas' should be died like me.
[03:51:07.26] - [03:51:11.22] So I request International community to help us.
[03:51:11.20] - [03:51:17.28] If they all helped us, Rohingyas and the world will be oeacefull.
[03:51:20.22] - [03:51:23.18] i also have disease and injuries that they have beaten.
[03:51:23.23] - [03:51:28.25] I go to Masjid every friday to collect the money to cure my disease.
[03:51:29.01] - [03:51:37.23] I told the Imam that I'm getting in troubles. That's why I could collet the donations sometime I got 500 sometime 1000.
[03:51:38.02] - [03:51:45.29] they collected it and gave it to me. Everyone knows that. I have take the pill and injection eveyday,.
[03:51:47.10] - [03:51:55.00] I do not think about my life but about my Rohingyas and family.
[03:51:55.12] - [03:52:04.06] That's why I request that pls help our Rohingyas to escaope and to be peaceful.
[03:52:04.20] - [03:52:07.07] I do request on behalf of everyone.

[03:52:09.20] - [03:52:11.10] I don't have any relative.
[03:52:12.10] - [03:52:15.20] Rohingyas are my relaive. My wife is my relative.

[03:53:53.01] - [03:53:57.19] I didn't know that. I didn't say it.
[03:54:31.26] - [03:54:47.24] they just told me that no one will take action you if you killed a Muslim.

[03:55:04.25] - [03:55:07.23] Tatmadaw, BGP and villagers told me like that.
[03:56:05.25] - [03:56:10.10] They told me.

[03:56:13.06] - [03:56:45.23] they said hey don't go anywhere that you are not allowed to go. Even if Muslim is killed, no one gonna sue us. That will be just a Kalar was killed. We have right to do it.**

HE WAS TALKING ABOUT THE RANK

[03:58:08.01] - [03:58:19.17] So i was told in front of BGP and military by coporal.

[03:59:25.24] - [03:59:30.12] I heard that they are from brigade 99.

[03:59:33.22] - [03:59:37.17] they are not from Rakhine but from Bama area.

[04:00:15.28] - [04:00:21.06] becasue brigade 99 is from Sagaing area.

[04:01:27.23] - [04:01:29.25] I was wearing the cap at that time but they took away and thrown it.
[04:01:31.20] - [04:01:33.11] and they stepped on it.
[04:01:45.16] - [04:01:50.01] not this one. this one i got from here.
[04:01:52.05] - [04:01:55.12] the old one was took away and thrown.

[04:02:02.00] - [04:02:06.23] yes, white too. But i got this one someone gave me.

[04:02:07.10] - [04:02:09.06] I don't have it. That's why asked it from someone.

—

NAZMUL ISLAM part 2

[00:01:05.12] - [00:01:11.08] In the tatmadaw, Kachin Karen Kayah Muslims all are living peacefully.
[00:01:12.17] - [00:01:20.22] we were working together. eat together, sleep together , work togetehr.
[00:01:33.04] - [00:01:34.13] no i didn't.

[00:02:45.04] - [00:02:57.12] in the military, the connection between Rakhine and Muslims were good.
[00:03:48.25] - [00:03:59.24] I quit from the military because I served there full time and time was over that's why I got the pension

[00:04:27.18] - [00:04:45.12] Since I left the military, there was no more Muslim soldier in the army. they all were on pension. they were kicked out and teachers too.

[00:05:40.00] - [00:05:45.26] Mro, Thet, Dinet, Khami, Rakhine, Tatmadaw.

[00:05:59.01] - [00:06:18.08] mIlitary was shooting to Muslims and they (Mro,Thet, xxxx) stabbed with a knife, torched, killed cutthroat to Muslims.
[00:06:21.07] - [00:06:25.25] Military also did that/.

[00:08:14.06] - [00:08:16.16] they were talking each other in front of me.

[00:08:28.12] - [00:08:31.16] each other

[00:09:26.17] - [00:09:30.25] i saw the burning.

[00:10:00.11] - [00:10:18.00] I could see the burning. Even I saw the burning of the Twin fara (NEED TO CHECK THE SPELLING) on the first day and Saw fara on the second day.
[00:10:20.02] - [00:10:40.08] They didn't need to tell me I could see the smokes day and night like Aung Sit Pyin, KyatKye and other villages.

[00:11:28.07] - [00:11:35.22] I could even smell it.

[00:11:47.18] - [00:11:51.20] you mean the smell of the burning dead bodies?

[00:12:01.28] - [00:12:20.12] I couldn't even stand on the situation, the smell of roasting the meat ... worse than that. a smell of the fat,

[00:12:53.16] - [00:12:57.00] that's what they were talking each other.

[00:12:58.16] - [00:13:15.02] soldiers and those minority ethnics people were talking each other like how they killed, how they got money and how they raped. they locked the people in the house and burn them.

[00:13:34.28] - [00:13:43.00] they are Mro, Dinet and Khami.

[00:13:57.08] - [00:14:17.16] Khami guys said how many girls they raped and burnt.

[00:14:55.16] - [00:15:09.01] Military was in Tutuli until the time I escaped from arrest (for 1 month and 3 days).

[00:15:09.28] - [00:15:27.18] I was arrested for 1 month and 3 days. The military are everwhere when I was arrested, they were at Mingyi village, WatKeit village, Aung Sit Pyin and DonePeik too.
[00:15:29.00] - [00:15:37.17] they burn the houses, killed the people who crossed the mountain, killed the people who come from Buthidaung.

[00:16:13.00] - [00:16:28.29] there are 50 soldiers in Mingyi village, 50 in WatKeit, and BGP too. around 70-80 security forces in each village.

[00:16:29.20] - [00:16:33.23] more troops in KyeinChaung.

[00:17:31.07] - [00:18:03.14] since they started firing, we have to run. if they found us, they will kill us. we can't run after the burning. we will get killed. we all were escaping when they were shooting. People who were fleeing on Taung Pyo Rd from Buthifaung area were got killed too.

[00:18:04.07] - [00:18:14.12] their money were looted. raped. that's what we heard.

SPEAKING IN ROHINGYA

[00:20:36.05] - [00:20:41.29] Military were there where they killed people.

[00:21:02.29] - [00:21:23.29] I saw a military officer met with another officer who came from the Helicopter. After another guy and helicopter had left, they came and diged the whole to put the dead bodies then burnt them.

[00:22:30.17] - [00:22:52.14] When the helicopter landed, the administrators were called and were told that they need 20 volunteers to burn the dead bodies. they gave them volunteers then burnt the dead bodies.

[00:23:46.26] - [00:23:57.24] need 20 volunteers to dig the graves, put the dead bodies into the graves. burn them all, they said.

[00:24:28.00] - [00:24:32.28] 20 Rakhines and the rest are Khami, Mro and Dinet .. I think total over 50 peoples.

[00:24:33.13] - [00:24:46.12] burnt the dead bodies. some may even not dead but burnt them too. took off the clothes of women and searched for the jewellery from them, took them then burnt them too.

[00:25:06.25] - [00:25:08.20] they speak Rakhine.

[00:25:39.17] - [00:25:43.29] I heard his voice and I saw him too but he didn't come to me.

[00:27:30.11] - [00:27:46.28] As you know, we now have 2 Govts in Myanmar.; Min Aung Hlaing Govt and Aung San Suu Kyi Govt. we don't know whom to ask help for. Because of Min Aung Hlaing, we are now getting into troubles. Aung San Suu Kyi can't even say anything else.

[00:27:47.30] - [00:28:09.11] But they are in the same Govt. it's like living in the same house. it's not possible that she doesn't know. she must know what's happening there. she's pretending like she doesn't know about that. this is Genocide. Genocide to us. they even killed kids and elders. [00:28:09.25] - [00:28:35.00] even the Rakhine people said they killed the dogs from Muslim house too because they don't Muslims and their dogs in the country. this is Genocide. killing all the alives.

[00:29:31.23] - [00:29:36.26] BGP didn't do that but Military did.

[00:29:57.28] - [00:30:02.22] they followed the order from above. they can't do anything without the order.

[00:30:55.08] - [00:31:21.05] it's like my family. my wife can't do anything without an order from me. they said they are doing this because of the order from above. they said they are not from miliary based in Rakhine, they are from Bama land, brigade 99.

[00:31:22.10] - [00:31:29.18] they said we are allowed to kill everyone and are allowed to shoot everyone.
[00:31:32.08] - [00:31:33.13] this is what they said. I heard that.
[00:31:34.29] - [00:31:48.23] they told this to Rakhine in the village. they said they will not favour anyone. If someone was in front of them, will kill him not only Rakhine but also Kalar (Muslim).

[00:32:36.07] - [00:32:38.18] I head that and i saw that.
[00:32:39.08] - [00:32:40.23] they have logo; red Brigade 99 logo and Bandoola logo.
[00:32:43.12] - [00:32:48.29] they are with the military uniform.

[00:33:01.12] - [00:33:05.25] Bandoola logo are on both arms.
[00:33:06.13] - [00:33:15.00] one is the military logo from Sagaing region.
[00:33:21.17] - [00:33:23.10] that's their base.
[00:33:24.05] - [00:33:28.18] what i've seen are just soldiers.
[00:33:29.17] - [00:33:34.23] not even Lance Coporal sergant just normal soldiers.

[00:33:59.08] - [00:34:01.11] i heard and i saw that.

[00:34:21.08] - [00:34:26.02] I think it was at 3pm in the evening when they were entering the village and were talking about that.
[00:34:40.00] - [00:34:47.02] at that time they were drinking.
[00:34:56.14] - [00:35:00.20] because there were liquor shops in the village. they came and bought the drinks.

[00:35:13.08] - [00:35:23.28] after they had killed people, they stayed at the villages. 50 in Mingyi village, another 50 in Wetkyi village, another 50 in Kyeinchaung.
[00:35:25.05] - [00:35:50.12] they were staying there because they were taking the animals and properties from Muslims houses like cows, chickens, goats and even motorbikes. they sold those taken motorbikes with just 30,000 MMK and 20,000 MMK for a cow.
[00:35:55.19] - [00:35:59.10] no Muslim in the village, I'm the only one because I was arrested.
[00:36:24.00] - [00:36:26.28] and I was raining.

[00:37:00.14] - [00:37:07.26] they were celebrating everyday. they killed/cooked 1 cows and 3/4 goats day.
[00:37:08.07] - [00:37:12.08] because they got them free. that's our properties.
[00:37:13.26] - [00:37:28.13] they killed cows and goats everyday. caught chickens. happy every day and dancing.

[00:38:12.11] - [00:38:32.06] every time Rakhine killed 2 animals and soldiers killed 2 too. they only take meat, thrown bones into the stream.
[00:38:44.02] - [00:39:08.26] not big parties but they had parties every day. killed animals, drunk, shot gun into the sky and to other villages even though there was no one. burnt the houses, destroyed the mosques.
[00:39:09.29] - [00:39:21.20] they finished everything. people, buildings, and even dogs.

[00:40:06.20] - [00:40:17.01] they eat chicken while drinking. they eat cow/ beef with rice.

[00:40:50.26] - [00:40:59.07] they cooked the meals themselves. they didn't even believe Rakhine and also Muslims.

[00:41:37.28] - [00:41:43.24] the place where I was sitting is very close to the stream. I could see dead bodies floating.

[00:41:45.17] - [00:41:58.13] I could see them everyday for 10 days. after that 4/5 dead bodies were still floating.

[00:42:51.00] - [00:43:11.02] they didn't give me the meals but the villagers from the village did, I didn't accept their foods as they are non-Muslim. they (soldiers) didn't have any idea about me. But they remember only to beat me.

[00:43:12.04] - [00:43:17.11] when they drunk, they beat me and kicked me.
[00:43:20.12] - [00:43:23.20] they didn't feed me anything.

[00:43:25.05] - [00:43:33.20] I had to stay there separately.

[00:43:34.16] - [00:43:47.26] I only had water for around 20 days. Had a meal (rice) a day. mixed water into rice with salt I had.
[00:44:48.06] - [00:44:58.24] when they woke up in the morning and came into the village, then slapped me.
[00:45:01.01] - [00:45:18.23] whenever they came in and out the village, they slapped me/ beat me. and whenever they drunk, they did so.
[00:45:18.28] - [00:45:32.20] there was the worst moment when they were saying to me, you know that kalars can't live in our country. you are Kalar too. if you come back to Buddhism, we will take care of you.
[00:45:33.14] - [00:45:40.20] and I said NO, them more tortures to me.

[00:46:20.24] - [00:46:34.11] If I did not convert to Buddhist, they will kill me, and I even said No. they even planned to kill me. they said "if he is not coming back into Buddhism, finish/kill him"

[00:46:44.20] - [00:47:11.01] I'm the one who believes in Allah I stay under his shade and I even believe in Kalimah. Allah is everything. no place for me there they can kill me.

[00:48:09.22] - [00:48:21.05] I even pray to god for my release everyday.
[00:48:22.25] - [00:48:28.07] SPEAKING IN ROHINGYA
[00:48:32.22] - [00:48:46.14] even thinking of release everyday. I couldn't sleep at the night time. I was afraid they'd kill me if i slept in the night time, I'm not afraid in the day time.

[00:48:48.22] - [00:48:55.20] that's why I escaped/run in the daytime when they lost their concentration.

[00:49:47.23] - [00:49:53.12] at that time, it was 1pm in the afternoon.
[00:49:54.00] - [00:50:37.00] SPEAKING IN ROHINGYA
[00:50:38.06] - [00:51:00.13] SPEAKING IN ROHINGYA. they shot me but luckily I was not shot. then I went to Maungdaw Mori fara then to Taf Naf.

[00:51:59.15] - [00:52:00.12] they were Rakhine.

[00:52:14.18] - [00:52:17.16] they shot me 5 shots.

[00:52:22.20] - [00:52:40.05] no one runs after me. they shot me from the station and I crawled on the ground and hide. - SPEAKING IN ROHINGYA - 5 times.

[00:53:00.23] - [00:53:22.17] SPEAKING IN ROHINGYA.
[00:53:41.18] - [00:53:45.18] Watchmen are BGPs, KarKwalYay (militia OR Rakhine village controller) and military.
[00:54:23.24] - [00:54:29.00] 6 watchment in the daytime and 4 in the night no military at night.

[00:55:12.11] - [00:55:14.13] Mg Ni village

[00:55:24.17] - [00:55:31.19] i didn't see anything there. I saw just carrying people around, people who are fleeing.

[00:55:57.07] - [00:56:08.17] Rohingya can't go to the city from Mg Ni village.

[00:56:10.00] - [00:56:18.00] I used the road in the daytime then I use the road inside the villages. we can't use the road outside. didn't see any killing there.

[00:56:41.05] - [00:56:46.14] we can't go outside after 5pm.

SPEAKING IN ROHINGYA

TALKING ABOUT TATTOO: FIGHT PEACOCK in ROHINGYA

[00:58:44.17] - [00:58:46.22] i don't remember who made this tattoo for me.

Annex 42

USC Shoah Foundation, Video and transcript of Interview
of Shafika Begum (13 March 2018)

USC Shoah Foundation
The Institute for Visual History and Education

Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

1
00:00:44 --> 00:00:45
Yes.

2
00:01:00 --> 00:01:09
You have to tell us which village you are from and how you grew up there.

3
00:01:14 --> 00:01:18
We were young, five years old.
At the age of five, we started school.

4
00:01:18 --> 00:01:26
In the summer, my father hired farm workers to graze the cows and do farm work.

5
00:01:26 --> 00:01:32
In the rainy season, the workers grazed the cows, but in the summer we had to graze the cows.

6
00:01:34 --> 00:01:37
Which village are you from?
-I am from Tula Toli in Burma.

7
00:01:57 --> 00:02:04
What types of play did you do before you grew up?

8
00:02:05 --> 00:02:07
We played with sand, making sand castles.

9
00:02:07 --> 00:02:13
We played with coconut cups and sand.

10

USC Shoah Foundation
The Institute for Visual History and Education

Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:02:35 --> 00:02:36
We played with buckets.

11
00:02:36 --> 00:02:41
We did not play hide and seek where we live.

12
00:02:42 --> 00:02:49
How did you play with buckets?

13
00:02:49 --> 00:02:54
We played with buckets in rows with five to ten people on each side.

14
00:02:54 --> 00:02:59
We would hold each other's hands and escape suddenly.

15
00:03:12 --> 00:03:14
Did you go to school?

16
00:03:14 --> 00:03:16
I did not go to school.

17
00:03:17 --> 00:03:18
What did you study?

18
00:03:18 --> 00:03:22
I studied Arabic. I used to go to Maktab.

19
00:03:37 --> 00:03:38
What was your father's name?

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

20
00:03:38 --> 00:03:40
My father's name was Amir Hussain.

21
00:03:41 --> 00:03:43
What did he used to do?

22
00:03:43 --> 00:03:45
He used to work in agriculture.

23
00:03:45 --> 00:03:49
In the rainy season, he used to cultivate the land and in the summer he would grow vegetables,

24
00:03:49 --> 00:03:55
like peanuts, white potatoes, etc.

25
00:03:55 --> 00:03:56
Did you help your father?

26
00:03:56 --> 00:04:04
I used to help, picking beans. Once they ripened, I had to carry them.

27
00:04:04 --> 00:04:08
You need to soften the soil around the vegetables, and after that it needs to be cleaned.

28
00:04:08 --> 00:04:15
When peanuts reach two and a half months, they have to be pulled up and separated to be sold.

29
00:04:15 --> 00:04:17

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

That is what I used to do.

30
00:04:40 --> 00:04:54
What type of man was he? The angry type? The irritable type?

31
00:04:55 --> 00:05:04
My father was a calm person and not quarrelsome at all. He used to pray five times a day.

32
00:05:04 --> 00:05:09
Working in agriculture means running your own business.

33
00:05:35 --> 00:05:37
What was your mother's name? Tell me about your mother.

34
00:05:37 --> 00:05:39
My mother's name was Dolu.

35
00:05:41 --> 00:05:52
She used to get along well with others, other villagers.

36
00:06:14 --> 00:06:16
How many brothers and sisters do you have?

37
00:06:16 --> 00:06:22
I have no brothers but I have six sisters.

38
00:06:22 --> 00:06:24
Yes, all sisters.

39

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:06:46 --> 00:07:05
When did things change in your village? There was peace before. When did the turmoil start?

40
00:07:06 --> 00:07:09
The problem started in 2012, but we were very far from Akyab.

41
00:07:10 --> 00:07:20
I heard in the news that Muslims were attacked by Magh along with military and security forces,

42
00:07:20 --> 00:07:23
and that Muslims were killed and slaughtered. That is what I heard.

43
00:07:23 --> 00:07:30
After hearing that, curfews were put in place from 6:00 p.m. to 6:00 a.m.

44
00:07:30 --> 00:07:37
If you were found outside, you would be fined, so we stayed home from 6:00 p.m. to 6:00 a.m.

45
00:07:37 --> 00:07:51
After 10 to 15 days, as I recall, the military started coming to the village once or twice a month.

46
00:07:51 --> 00:07:58
The chairman did not allow them to enter the village. Not the current chairman, the previous one.

47
00:07:58 --> 00:08:07
They asked for sheep or chicken, so a person from the village was made responsible and called the “Mazi”.

48

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:08:07 --> 00:08:10
In Tula Toli, we had four Mazi.

49
00:08:10 --> 00:08:16
So when the Mazi was ordered to collect such and such, they had to bring it to them.

50
00:08:16 --> 00:08:21
They ate the food and went away after searching wherever they liked.

51
00:09:15 --> 00:09:17
Did they take anything from you?

52
00:09:17 --> 00:09:22
I had to give a chicken whenever they came.

53
00:09:27 --> 00:09:29
Did they give you money for the chicken?

54
00:09:29 --> 00:09:30
They did not.

55
00:09:36 --> 00:09:38
How old are you?

56
00:09:38 --> 00:09:40
I am 20 years old.

57
00:09:51 --> 00:09:57
How old were you when you got married?

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

58
00:10:03 --> 00:10:06
I was 19 years and 8 months when I got married.

59
00:10:08 --> 00:10:10
What did you do on your wedding day?

60
00:10:14 --> 00:10:17
My house and my father-in-law's house were close to each other.

61
00:10:17 --> 00:10:21
A cow was butchered at my father-in-law's house, and everyone who came was well fed.

62
00:10:21 --> 00:10:24
A cow was also butchered at my house.

63
00:10:24 --> 00:10:33
Relatives normally give clothes, but of poor quality.
So my mother bought me 2.5 Lakh worth of clothes.

64
00:10:33 --> 00:10:36
I was given 70 pairs of clothes.

65
00:10:36 --> 00:10:45
Relatives brought some clothes and altogether it became pairs of clothes.

66
00:10:48 --> 00:10:52
What types of clothes did you wear on your wedding day as a bride?

67
00:10:52 --> 00:10:55

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

As a bride, we were given sets of precious stones.

68
00:10:58 --> 00:11:00
What color were your clothes?

69
00:11:00 --> 00:11:02
My dress was green.

70
00:11:58 --> 00:12:04
What happened on your wedding day?
How were you taken to them?

71
00:12:04 --> 00:12:06
I was taken by motorcycle.

72
00:12:08 --> 00:12:10
Four motorcycles came to bring me.

73
00:12:38 --> 00:12:46
Did your marriage require any permission, payment of money or anything like that?

74
00:12:46 --> 00:12:49
That was a requirement since there was a curfew at the time.

75
00:12:52 --> 00:12:55
You had to stay inside from 6:00 p.m. to 6:00 a.m.

76
00:12:55 --> 00:13:01
Our guests came, and the chairman was nearby in the village.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

77
00:13:01 --> 00:13:06
There was a military camp on the opposite side of the river.

78
00:13:06 --> 00:13:10
Guests brought me to my father-in-law's house.

79
00:13:10 --> 00:13:18
We were required to report to the military camp and pay the military and security forces.

80
00:13:18 --> 00:13:21
We were also required to get permission from the chairman.

81
00:13:21 --> 00:13:30
When we told them our guests had to stay the night, they announced that some villagers could not stay.

82
00:13:30 --> 00:13:38
From 6:00 p.m. to 6:00 a.m., if any guest came out at night, it had to be reported.

83
00:13:38 --> 00:13:41
Even you bring with you a prior permission slip, you have to report to them,

84
00:13:41 --> 00:13:44
and either way, you have to pay money for permission.

85
00:13:45 --> 00:13:46
For your marriage, what was required?

86
00:13:46 --> 00:13:53

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

We had to pay 70,000 Kyat to the chairman for butchering a cow.

87
00:13:53 --> 00:13:57
We had to pay 20,000 Kyat for the cow's hide.

88
00:13:58 --> 00:14:01
Did you require permission?

89
00:14:02 --> 00:14:04
We had to get permission for the marriage, which cost us 2.5 Lakh Kyat.

90
00:14:04 --> 00:14:08
We paid 1 Lakh from my family and another 1.5 Lakh from my in-laws just to get one signature.

91
00:14:08 --> 00:14:14
We cannot marry if we are under 18 years of age, whether man or woman.

92
00:14:15 --> 00:14:17
What age do you have to be?

93
00:14:17 --> 00:14:19
The woman has to be at least 18 years of age.

94
00:14:19 --> 00:14:20
And the man?

95
00:14:20 --> 00:14:22
The man also has to be at least 18 years of age.

96

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:16:02 --> 00:16:11
Paying money for marriage, curfews and permission – is that required for all groups or just the Rohingya?

97
00:16:11 --> 00:16:14
All those conditions are required for the Rohingya only, not any other groups.

98
00:16:24 --> 00:16:26
What was your husband's name?

99
00:16:26 --> 00:16:28
My husband's name was Jamal Hussain.

100
00:16:32 --> 00:16:38
What was he like? What did he do?

101
00:16:39 --> 00:16:43
He used to do agriculture in the rainy season and grew vegetables in the summer.

102
00:16:43 --> 00:16:48
He used to pass his time happily, talking to people.

103
00:16:58 --> 00:17:01
Did your husband bring friends to the house?

104
00:17:01 --> 00:17:03
Yes, he used to bring friends home.

105
00:17:03 --> 00:17:06
My husband used to bring things home.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

106
00:17:10 --> 00:17:12
How was your husband with you?

107
00:17:17 --> 00:17:19
He was good to me and we had no problems.

108
00:17:23 --> 00:17:30
After you were married, did he bring anything for you? Something you liked or anything you remember?

109
00:17:31 --> 00:17:41
If a woman goes to her husband's house, everything has to be provided to last for three months.

110
00:17:41 --> 00:17:48
All kinds of food, including a hot water pot, has to be provided.

111
00:17:48 --> 00:17:51
So why would my husband bring more? We ate whatever we wished.

112
00:17:53 --> 00:18:13
It could be anything, such as clothes. Wasn't there anything? Only known to you and nobody else?

113
00:18:14 --> 00:18:18
He brought a set of bangles.

114
00:19:04 --> 00:19:13
Did you work? What did you do at your father-in-law's house?

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

115
00:19:13 --> 00:19:16
At my father-in-law's house, I used to do the cooking.

116
00:19:27 --> 00:19:29
Did you do tailoring?

117
00:19:29 --> 00:19:31
Yes, I did tailoring work.

118
00:19:31 --> 00:19:34
I did tailoring work at my mother's home, but my in laws did not have the machine.

119
00:19:34 --> 00:19:36
I did at my mother's house, not at my father-in-law's house.

120
00:19:47 --> 00:19:57
How did you learn tailoring? How did you do? How many friends did you have?

121
00:19:57 --> 00:20:08
My cousin's wife lived a short a five-minute walk away, and I wore a burqa to go there.

122
00:20:08 --> 00:20:18
I first started by learning how to cut paper for fear that the cloth may get destroyed the first time.

123
00:20:18 --> 00:20:22
After cutting paper, then I moved onto clothes.

124

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:20:22 --> 00:20:24
How many days did it take you to learn?

125
00:20:24 --> 00:20:27
To learn completely, it took one full month.

126
00:20:28 --> 00:20:30
So after learning, you were able to do the work by yourself?

127
00:20:30 --> 00:20:32
After that, I did it myself, yes.

128
00:20:33 --> 00:20:35
What types of clothes did you make?

129
00:20:35 --> 00:20:42
I made men's shirts, lungi, headscarves, ladies' shirts and blouses.

130
00:20:42 --> 00:20:46
We do not wear "teribis" where we live, but sarongs only.

131
00:20:46 --> 00:20:51
We mostly wear sarongs, and those who wear skirts buy a set of valuable stones.

132
00:20:51 --> 00:20:54
Mostly they stitch sarongs and shirts.

133
00:21:32 --> 00:21:34
Did you have any friends?

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

134
00:21:34 --> 00:21:36
I had colleagues and friends, yes.

135
00:21:37 --> 00:21:40
What did you do with your friends?

136
00:21:40 --> 00:21:44
After learning, I was asked if I were able to learn.

137
00:21:44 --> 00:21:46
So I bragged about how I cut the clothes.

138
00:21:47 --> 00:21:53
How many friends did you have? How many best friends?

139
00:21:54 --> 00:21:56
I had four good friends.

140
00:21:56 --> 00:21:59
What were their names?

141
00:21:59 --> 00:22:03
They are Janatara, Dilara, Surahatu and Rooimahatu.

142
00:22:05 --> 00:22:15
What were each of them like? Who was the most beautiful?

143
00:22:16 --> 00:22:18
Janatara was the most beautiful.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

144
00:22:30 --> 00:22:33
Were they all married or were some unmarried?

145
00:22:35 --> 00:22:38
Two got married and the rest were unmarried.

146
00:22:44 --> 00:22:46
Did you attend any of your friends' weddings?

147
00:22:46 --> 00:22:47
Yes, I did.

148
00:22:47 --> 00:22:49
Whose wedding did you attend?

149
00:22:49 --> 00:22:51
I attended Janatara's wedding.

150
00:22:51 --> 00:22:53
What did you bring?

151
00:22:53 --> 00:22:56
I gave her a pair of clothes as a gift.

152
00:23:35 --> 00:23:37
How many younger brothers did your husband have?

153
00:23:37 --> 00:23:40

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

My husband did not have any younger brothers. He was the last son of the family.

154
00:23:40 --> 00:23:42
What about younger sisters? How many?

155
00:23:43 --> 00:23:46
He did not have any younger sisters either.

156
00:24:19 --> 00:24:27
Could you tell me what happened on August 25th?

157
00:24:28 --> 00:24:52
On August 25th, at 1:00 a.m. on a Thursday night, we had military camps all around us.

158
00:24:52 --> 00:24:58
The Waikkong area was to the east of us and Diyoltoli was to the north of us.

159
00:24:58 --> 00:25:03
Salassur was south of us and Mokfara was west of us.

160
00:25:03 --> 00:25:07
In the Tula Toli massacre, there was a military camp close by,

161
00:25:07 --> 00:25:11
and as the clock struck 1:00 a.m., there was shooting from all camps.

162
00:25:11 --> 00:25:14
From all the noise, people were wondering what was going on.

163

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:25:14 --> 00:25:17
There was so much shooting, the whole village woke up.

164
00:25:17 --> 00:25:23
People were waiting in their homes and wondering what was happening.

165
00:25:23 --> 00:25:28
It was Friday that day.

166
00:25:28 --> 00:25:33
When day broke at 8:00 or 9:00 a.m., we could see fire in the Salassur area.

167
00:25:33 --> 00:25:39
Who started the fire? Why were homes being burned?

168
00:25:39 --> 00:25:45
I found out through our relatives who had mobiles that the military was burning the houses.

169
00:25:45 --> 00:25:48
The military was trying to kill people and they were burning houses.

170
00:25:48 --> 00:25:52
When word spread that the military was going other places, people fled into the mountains and jungle.

171
00:25:52 --> 00:26:00
On Friday, Salassur was burned.

172
00:26:00 --> 00:26:06
On Saturday, Waikkong was burned after crossing across.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

173
00:26:06 --> 00:26:10
We did not see any fire for two days.

174
00:26:10 --> 00:26:15
After those two days, Diyoltoli was burned on Monday.

175
00:26:15 --> 00:26:20
On Tuesday, the Faratuli and Lobboi villages were burned.

176
00:26:20 --> 00:26:26
After burning, the military stayed in Lobboi on Tuesday.

177
00:26:26 --> 00:26:28
We heard that they would come to Tula Toli.

178
00:26:28 --> 00:26:34
The chairman said there was shooting in other places, and our camp was also shot.

179
00:26:34 --> 00:26:37
There was even shooting going on here, and the military went other places as well.

180
00:26:37 --> 00:26:39
Nothing entered my area.

181
00:26:39 --> 00:26:41
Nothing entered; nothing will be done to you.

182
00:26:41 --> 00:26:45

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

You do not have to go into the mountains or jungle; you do not have to run away.

183
00:26:45 --> 00:26:48
I will take responsibility.

184
00:26:48 --> 00:26:51
Nothing will be done to you; you do not have to go anywhere.

185
00:26:51 --> 00:26:54
I have an agreement, so you do not have to go anywhere, even if the military comes.

186
00:26:54 --> 00:27:02
If the military does come shooting and burning houses, go to the riverbank.

187
00:27:02 --> 00:27:05
After he said that, the military stayed in Lobboi.

188
00:27:05 --> 00:27:12
At 8:00 or 9:00 a.m., the military entered the village from the north side.

189
00:27:12 --> 00:27:18
They set fire to the houses by entering from the north side. They entered from the mountain side.

190
00:27:18 --> 00:27:20
They set fire to the houses, then started shooting.

191
00:27:20 --> 00:27:23
It was said that people fled into the mountains after seeing other people get killed.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

192
00:27:23 --> 00:27:28
There was a Guna Fara village on that side and everyone fled into the mountains.

193
00:27:28 --> 00:27:33
We are riverbank villagers, but we were far from the riverbank.

194
00:27:33 --> 00:27:37
From where military entered, they could not approach the people.

195
00:27:37 --> 00:27:40
They immediately started burning the houses and shooting.

196
00:27:40 --> 00:27:43
We could see that they were killing whoever they could find.

197
00:27:43 --> 00:27:46
People were falling and dying from the bullets.

198
00:27:46 --> 00:27:52
We left with just the clothes on our back and some paper documents.

199
00:27:52 --> 00:27:55
Some of them were burning the houses and others were circling us.

200
00:29:28 --> 00:29:33
What is the name of the chairman?

201
00:29:33 --> 00:29:35
Our chairman’s name is Aung Ko Sing.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

202
00:29:36 --> 00:29:38
What does he look like?

203
00:29:38 --> 00:29:43
He is thin, tall and of light coloring.

204
00:29:52 --> 00:29:55
Was he a Magh?

205
00:29:55 --> 00:29:57
He is a Rakhine person.

206
00:29:59 --> 00:30:03
What happened on Wednesday?

207
00:30:03 --> 00:30:05
After that, we were circled.

208
00:30:05 --> 00:30:07
We had gone to the riverbank.

209
00:30:07 --> 00:30:11
They were heavily firing bullets while we were behind the slope.

210
00:30:12 --> 00:30:22
At 8:00 or 9:00 a.m., we were coming down to the east toward the riverbank, and we had not sat yet.

211

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:30:22 --> 00:30:26
Some were burning the houses and some came, bent on one knee and circled us.

212
00:30:26 --> 00:30:28
We were in front of the river that flows east.

213
00:30:28 --> 00:30:38
On the Friday of the shooting, the chairman had ordered that all boats be removed from the water.

214
00:30:38 --> 00:30:41
He said he will stop all the boats in use.

215
00:30:41 --> 00:30:46
All boats, sampans, small boats and canoes were removed from the water.

216
00:30:46 --> 00:30:49
So, we could not cross the river,

217
00:30:49 --> 00:30:53
and we could not go east due to the river,

218
00:30:53 --> 00:30:57
so we were sitting behind the slope at the riverbank.

219
00:30:57 --> 00:31:05
They came and circled us, and my husband was killed first by a bullet.

220
00:31:05 --> 00:31:11
My father-in-law saw that his son was shot and

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

221
00:31:11 --> 00:31:17
as the father held his son, he was also shot in the chest.

222
00:31:17 --> 00:31:20
The father fell to the side.

223
00:31:20 --> 00:31:26
[SOBBING]

224
00:32:30 --> 00:32:32
What happened after that?

225
00:32:34 --> 00:32:40
After that, one of my younger sisters, Rafika, was also shot and killed.

226
00:32:40 --> 00:32:50
I had the bangles that my husband gave me, one Tical of gold and a mobile, all of which were taken away.

227
00:32:50 --> 00:32:55
My sister Rafika had 2.5 Lakh Kyats, which were also taken away.

228
00:32:55 --> 00:32:58
Earrings and chains were also taken away.

229
00:32:58 --> 00:33:03
My father-in-law had 6 Lakh Kyats, all of which were taken away.

230

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:33:03 --> 00:33:13
We took three pairs of clothes: two for my father-in-law, two for my husband, two for my mother-in-law.

231
00:33:13 --> 00:33:16
I took six to seven pairs of clothes.

232
00:33:16 --> 00:33:23
All our clothes were spread out, and then land documents were spread out and burned together.

233
00:34:08 --> 00:34:10
Where was your father at that time?

234
00:34:10 --> 00:34:13
My father was there, and he was killed in the crowd.

235
00:34:13 --> 00:34:15
Did you see your father get killed?

236
00:34:15 --> 00:34:17
No, I did not see my father get killed.

237
00:34:18 --> 00:34:25
Your father was not with you. Is that right?
-We saw only those who were near us.

238
00:34:42 --> 00:34:44
What happened next?

239

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:34:44 --> 00:34:54
After taking all our jewelry and money, two helicopters came: one red and the other black.

240
00:34:54 --> 00:34:58
We were taken from the south to the north.

241
00:34:58 --> 00:35:01
People from the north were taken to the south.

242
00:35:01 --> 00:35:06
Any males over the age of 10 were killed outright.

185
00:35:06 --> 00:35:11
No one was able to escape, and if anyone tried to escape, three or four military came and killed them.

243
00:35:11 --> 00:35:15
Some were mutilated and some were killed. Some people did not die instantly.

244
00:35:15 --> 00:35:19
If they struggled, they rushed over and stabbed them.

245
00:35:19 --> 00:35:22
If they did not die, they went and slaughtered them.

246
00:35:22 --> 00:35:27
Then we were taken toward the north. All the women from the north and the south

247
00:35:27 --> 00:35:35
who were alive were made to sit in one place along with any small children.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

248
00:35:35 --> 00:35:41
There was a pit of waist-level water and we were made to stay in it, bowing.

249
00:35:41 --> 00:35:47
We came on foot to the south, and we saw there were no people in the north.

250
00:35:47 --> 00:35:50
We were at the very far end of the south.

251
00:35:50 --> 00:35:57
The men who were killed in the north were placed in rows in three layers, like piles of clothes.

252
00:35:57 --> 00:36:00
They piled people in three places, like a triangle.

253
00:36:00 --> 00:36:04
The bodies were covered up to the knees or the chest.

254
00:37:06 --> 00:37:07
Then what happened?

255
00:37:07 --> 00:37:20
At around maybe 12:00 p.m., rain came and we were kept in the wet, bowing.

256
00:37:20 --> 00:37:28
When it was noon, I looked around a little bit while we were kept bowing.

257
00:37:28 --> 00:37:35

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

There was sandy beach to the west; I could see them digging pits with a garden hoe.

258
00:37:35 --> 00:37:40
After that, the women were taken up, in groups of five to six people.

259
00:37:40 --> 00:37:47
This is pit of water. We were picked up and seated in another area.

260
00:37:47 --> 00:37:52
Some small children were snatched away and thrown into the river.

261
00:37:52 --> 00:37:59
Documents and clothes were taken away and burned using lighters.

262
00:37:59 --> 00:38:02
Children were snatched away and thrown into the blazing fire.

263
00:38:02 --> 00:38:06
If the mother ran to catch them, they stabbed or shot her down.

264
00:39:22 --> 00:39:23
And after that?

00:39:23 --> 00:39:27
When it was noon, the women were taken out of the water and made to sit in another place.

265
00:39:27 --> 00:39:36
Then four people would carry her, holding her on each side.

266
00:39:36 --> 00:39:42

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

Only a few children were able to stay with their mother, if she was able to hide the child in her chest.

267
00:39:42 --> 00:39:49
There were two three-year-old children. Five to six women had children with them.

268
00:39:49 --> 00:39:55
This was a five-minute walk from the village.

269
00:39:55 --> 00:39:59
Some houses were burned and others were not.

270
00:39:59 --> 00:40:04
Women were taken away on foot like that and we could not know what they would do with them.

271
00:40:04 --> 00:40:10
They came back again for another group to go on foot.

272
00:40:10 --> 00:40:15
Five women were taken to sit aside from our group.

273
00:40:15 --> 00:40:18
We did not know what they would do with those women.

274
00:40:18 --> 00:40:22
They took six groups like that.

275
00:40:22 --> 00:40:24
By the time they had taken six groups, it became Asr time.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

276
00:40:24 --> 00:40:31
At Asr time, it was my turn. At my turn, another person came in.

277
00:40:31 --> 00:40:34
Another was my sister, who was married in Diyoltoli.

278
00:40:34 --> 00:40:36
Diyoltoli had been burned already.

279
00:40:36 --> 00:40:40
So she went to her parents' home with her husband.
Her husband was killed with all the other men.

280
00:40:40 --> 00:40:42
Her two sons were also killed.

281
00:40:42 --> 00:40:53
That sister with two children,

282
00:40:53 --> 00:40:56
that made three, and me and my mother, which made five.

283
00:40:56 --> 00:40:59
Another four were our villagers.

284
00:40:59 --> 00:41:03
A lady had a small child in the crowd.

285

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:41:03 --> 00:41:05
We were also being taken like that.

286
00:41:05 --> 00:41:09
We did not know where we were being taken.

287
00:41:09 --> 00:41:11
I was being taken away.

288
00:41:11 --> 00:41:14
I was taken into one of the houses.

289
00:41:14 --> 00:41:17
I knew that house.

290
00:41:17 --> 00:41:22
After being taken inside that house, the door was closed suddenly.

291
00:41:22 --> 00:41:26
Six or seven military entered in uniform.

292
00:41:26 --> 00:41:30
It was not clear if Magh was also involved within the military.

293
00:41:30 --> 00:41:33
Some had guns and others did not.

294
00:41:33 --> 00:41:38
Some had knives and some had sticks, while others had guns.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

295
00:41:40 --> 00:41:44
Seven people entered at the same time, shut the door suddenly and pushed us aside.

296
00:41:44 --> 00:41:52
Small children were hit, stabbed and knocked unconscious.

297
00:41:52 --> 00:41:59
They wanted to rape us and when denied, they beat us and knocked us unconscious.

298
00:41:59 --> 00:42:03
Then my mother was slaughtered in front of me.

299
00:42:03 --> 00:42:59
[SOBBING]

300
00:43:30 --> 00:43:32
What happened after that?

301
00:43:35 --> 00:43:50
Out of the six of us, four were young. All the young ones were stripped naked and raped.

302
00:43:50 --> 00:43:53
After being raped, we were left unconscious.

303
00:43:53 --> 00:43:58
They thought we were dead and suddenly left, closing the door.

304
00:43:58 --> 00:44:01
Then they set the house on fire.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

305
00:44:01 --> 00:44:05
At that time, I regained consciousness while the fire was falling down on my body.

306
00:44:05 --> 00:44:07
The fire did not fall over me.

307
00:44:07 --> 00:44:17
As I felt the heat from the fire, I woke up and was able to come out from under the bamboo sheet.

308
00:44:17 --> 00:44:19
Everyone else was burned.

309
00:44:19 --> 00:45:14
[SOBBING]

310
00:45:14 --> 00:45:17
And after that? Nobody else was able to get out of the house?

311
00:45:17 --> 00:45:21
I was the only one who was able to get out; the other eight were burned.

312
00:45:27 --> 00:45:28
And after that?

313
00:45:28 --> 00:45:30
My head was split at the top.

314

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:45:30 --> 00:45:32
And my hand was injured with the skin split apart.

315
00:45:32 --> 00:45:35
And blood was flowing down.

316
00:45:35 --> 00:45:44
Where is the injury to your head?
-Here it is.

317
00:45:53 --> 00:45:54
And after that?

318
00:45:54 --> 00:46:00
After that, I went to the paddy field in the south.
My uncle was sitting in the paddy field.

319
00:46:00 --> 00:46:02
He said he had been there since the morning.

320
00:46:02--> 00:46:08
He had cows and wanted to release the cows but could not because the military came.

321
00:46:08 --> 00:46:12
I was lying down so that the military could not see me.

322
00:46:12 --> 00:46:16
I crawled until I found my uncle.

323
00:46:16 --> 00:46:21

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

My uncle said to lie down; otherwise, the military might find you.

324
00:46:21 --> 00:46:25
My uncle's whole family was killed; only my uncle himself survived.

325
00:46:25 --> 00:46:27
The sun had gone down completely.

326
00:46:27 --> 00:46:34
The place where the men were killed at the riverbank was nearby and we could see them.

327
00:46:34 --> 00:46:39
They had dug three large pits.

328
00:46:39 --> 00:46:44
I could see them dragging the dead bodies into the pits.

329
00:46:44 --> 00:46:52
I could see the dead bodies being dragged until dark.

330
00:46:52 --> 00:47:03
As darkness fell, the military came down to the pits; security force may have been involved.

331
00:47:03 --> 00:47:09
I could not see very much in the dark, but my uncle could see clearly.

332
00:47:09 --> 00:47:14
About 30 military came down to the pits.

333

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:47:14 --> 00:47:17
I did not know if the chairman was involved there, as I could not see clearly.

334
00:47:17 --> 00:47:23
As it became dark, the bodies were burned in the pits.

335
00:47:23 --> 00:47:28
They burned them by pouring gas on their clothing.

336
00:47:28 --> 00:47:32
We could not stand the bad smell of the bodies burning at the side of the riverbank.

337
00:47:32 --> 00:47:38
We were there until midnight, watching everything that the military was doing.

338
00:47:38 --> 00:47:41
Then my uncle said we could not stay there anymore.

339
00:47:42 --> 00:47:45
For those who were killed in their homes, their homes were burned.

340
00:47:45 --> 00:47:48
Those who were burned at the riverbank were burned here and there.

341
00:47:48 --> 00:47:51
We would not be able to see the dead bodies anymore.

342
00:47:51 --> 00:47:54
My uncle said we could not stay there anymore; he said “Let’s go”.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

343
00:47:54 --> 00:48:00
At midnight we went south, then to the east and crossed the river.

344
00:48:00 --> 00:48:11
We collected some bamboo from other side, and my uncle helped me to cross.

345
00:48:11 --> 00:48:17
From there, we slowly made our way to a place known as Halingorsur.

346
00:48:17 --> 00:48:19
It became fully daylight.

347
00:50:00 --> 00:50:02
What happened then?

348
00:50:03 --> 00:50:10
All the Tula Toli people had been killed, so we could not stay.

349
00:50:10 --> 00:50:13
All the people from that village were leaving.

350
00:50:13 --> 00:50:18
We left with other people, which took three days.

351
00:50:18 --> 00:50:21
We were almost near the border area.

352
00:50:21 --> 00:50:25
As we reached the border area, I found my sister's husband.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

353
00:50:25 --> 00:50:27
He was with us in our crowd.

354
00:50:27 --> 00:50:30
We did not know he had crossed the border by swimming.

355
00:50:30 --> 00:50:32
People had thought he died.

356
00:50:32 --> 00:50:38
My sister's husband survived, but all the others were killed.

357
00:50:38 --> 00:50:41
So my sister's husband found me.

358
00:50:41 --> 00:50:45
We crossed the river from the front side of the Shil Hali.

359
00:50:45 --> 00:50:50
We had no money with us, and the boat person did not take any money, seeing our injuries.

360
00:50:50 --> 00:50:53
He helped get us across the border.

361
00:50:53 --> 00:50:56
After crossing the border, we spent one night in Bangladesh.

362
00:50:56 --> 00:51:02

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

The next day, I was hospitalized there.

363
00:51:40 --> 00:51:43
What is your uncle's name and age?

364
00:51:43 --> 00:51:45
My uncle's name is Gura Meah.

365
00:51:47 --> 00:51:49
He is about 50 years old.

366
00:51:49 --> 00:51:50
Where is he now?

367
00:51:50 --> 00:51:52
He is in Balu Hali.

368
00:51:52 --> 00:51:59
He does not have anyone with him? -He has a son who got married and moved away.

369
00:51:59 --> 00:52:01
He is now with that son.

370
00:52:01 --> 00:52:04
He is now with that son, who has family with him.

371
00:52:43 --> 00:52:48
How many people survived from your family and your husband's family?

372

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:52:55 --> 00:52:57
None survived from my side of the family.

373
00:52:57 --> 00:53:00
From my husband's side, I am the only one who survived.

374
00:53:11 --> 00:53:15
How many people were in your husband's family?
-16 people. I survived and the other 15 were killed.

375
00:53:27 --> 00:53:29
How many people were in your parents' family?

376
00:53:29 --> 00:53:32
Of my parents' family, there were eight people and they were all killed.

377
00:53:44 --> 00:53:47
Of your six sisters, how many survived?

378
00:53:50 --> 00:53:52
Out of six sisters, three survived.

379
00:53:52 --> 00:53:53
Three survived?

380
00:53:53 --> 00:53:55
Yes, three of my sisters survived.

381
00:53:56 --> 00:53:59
Where are the others?

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

382
00:54:00 --> 00:54:03
There's me, one in Kutupalong Lambashia, and the other one is here.

383
00:54:28 --> 00:54:39
Do you know anything about your chairman? While this was happening, do you know where he was?

384
00:54:39 --> 00:54:42
His village and our village are far from each other.

385
00:54:42 --> 00:54:44
The chairman stays in his village.

386
00:54:44 --> 00:54:46
He comes by weekly.

387
00:54:46 --> 00:54:48
At that time, he was in his village.

388
00:54:49 --> 00:54:51
He was in his Magh village.

389
00:55:04 --> 00:55:14
When this was happening, did you hear anything he was telling people or military?

390
00:55:14 --> 00:55:21
When half of our people were killed, there was a military of high rank that I do not know.

391

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

00:55:21 --> 00:55:27
There were other people who were firing heavily, so some people jumped into the river.

392
00:55:27 --> 00:55:29
My brother-in-law got away that way.

393
00:55:29 --> 00:55:39
People say when he took his phone out of his pocket, they heard the chairman said, “shoot them all”.

394
00:55:39 --> 00:55:42
He caused the massacre because he was jealous of our people.

395
00:56:20 --> 00:56:30
He told you nothing would happen in his village, so don’t flee, but he didn’t do anything to protect people?

396
00:56:31 --> 00:56:33
No, he did not offer any protection.

397
00:56:33 --> 00:56:36
His lips said one thing, but his actions said another.

398
00:56:54 --> 00:56:58
How do you spend your time? What is your current situation?

399
00:57:00 --> 00:57:03
My life is horrible. My days and nights seem endless.

400
00:57:03 --> 00:57:06

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

I do not have my parents. I do not have my father in law. I do not have my husband.

401
00:57:06 --> 00:57:09
I do not have children even though I was married.

402
00:57:09 --> 00:57:14
I cannot seem to pass my days and nights.

403
00:57:48 --> 00:57:50
Would you go back?

404
00:57:50 --> 00:57:52
Where is there to go?

405
00:57:52 --> 00:57:54
Back to your home in Burma?

406
00:57:57 --> 00:58:02
If there is no justice, how can we go back?
They will try to kill us again.

407
00:58:03 --> 00:58:09
What kind of justice do you mean?
-Firstly, they need to give us cards that say Rohingya.

408
00:58:09 --> 00:58:17
They did not ask us to take citizenship cards, but they did in other areas.

409
00:58:17 --> 00:58:22
They did not say anything like that to us; they just came and killed us.

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

410
00:58:22 --> 00:58:27
They were giving cards saying that we are not from this country.

411
00:58:27 --> 00:58:32
We were born in this country. Our father was born here; we were born here.

412
00:58:32 --> 00:58:35
It is our birthright; we did not inherit it.

413
00:58:35 --> 00:58:49
First, they have to give us a Rohingya card, like they give to the people in Bangladesh.

414
00:58:49 --> 00:58:57
Second, they must give us back our cattle, land and homes, which were all destroyed.

415
00:58:58 --> 00:59:01
Third, we want justice for the death of our families.

416
00:59:01 --> 00:59:05
We will go back only when these three demands are met.

417
01:00:01 --> 01:00:09
You say your parents were killed and your husband was killed. What would justice look like for that?

418
01:00:15 --> 01:00:21
If one person is killed, isn't there someone to punish for justice?

419

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

01:00:21 --> 01:00:25
From my husband's side, 15 people were killed, and from my parents' side, eight people were killed.

420
01:00:25 --> 01:00:30
In our village, at least 2,000 people were killed.

421
01:00:30 --> 01:00:34
In Tula Toli, so many were killed, and people were killed from other places as well.

422
01:00:34 --> 01:00:38
According to the law of the world, how should they be punished?

423
01:00:38 --> 01:00:42
Won't the people in the world decide what the punishment should be?

424
01:00:42 --> 01:00:47
We want that type of punishment. Only then will we go back.

425
01:01:19 --> 01:01:33
Where were your friends, Janatara, Dilara, Surahatu and Rooimahatu? -They were killed.

426
01:01:33 --> 01:01:35
Do you know they were killed?

427
01:01:35 --> 01:01:38
If they did not come here, that means they were killed.

428
01:01:38 --> 01:01:41
Did you see any of your friends die?

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

429
01:01:41 --> 01:01:44
I saw one.

430
01:01:44 --> 01:01:47
It was Surahatu who was killed.

431
01:01:47 --> 01:01:49
She was shot.

432
01:02:06 --> 01:02:07
Do you miss them?

433
01:02:07 --> 01:02:09
Yes, I miss my friends.

434
01:02:09 --> 01:02:16
Who was the best friend you had among them?

435
01:02:16 --> 01:02:19
Rooimahatu was my best friend.

436
01:02:19 --> 01:02:22
Her home and my home were next door to each other.

437
01:02:35 --> 01:02:38
Rooimahatu was the one you saw killed?

438
01:02:38 --> 01:02:40

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Transcript: Interview with Shafika Begum (Recorded March 13, 2018)

No, I saw Surahatu get killed.

439
01:02:57 --> 01:03:04
Do you have anything that the world should know?

440
01:03:04 --> 01:03:06
I don’t have anything else.

Annex 43

Fortify Rights, "Firsthand Testimonies from August-September 'Clearance Operations' in Myanmar"
(14 April 2020) (full version of MG, Vol. X, Annex 338)

To: Arsalan Suleman, Foley Hoag
From: [redacted] Fortify Rights
Re: Firsthand testimonies from August-September "clearance operations" in Myanmar
Date: April 14, 2020

#1
Name: [redacted]
Age: Unknown
Gender: Male
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: outside Maungdaw Town
Date: August 28, 2017
Note: Conducted via phone

I am in Maungdaw near the office. I am leaving one of the posts. I am in my village.
The villages are burning. We see the smoke and hear the gunshots. Near downtown some places were burned yesterday. No one can go near.

Yesterday we heard the government is trying to bring military by helicopters. I also heard that many villagers moved to nearby villages, to where they can be safe. The military and police are looting, firing, and they are killing some people. Some of our staff…[inaudible].

We were not completely stopped but they were stopping us indirectly. All the staffs' movements were restricted, but food was not stopped entirely. We were not able to…[inaudible].

People are dying. They are going to starve. There is no food available.

The government thinks we are just trying to create a problem. The government thinks we are secretly trying to support the militant people. They want to block the support to the people that are suffering here.

INGO staff evacuated yesterday. Almost all international aid workers have been evacuated from Maungdaw and Buthidaung townships.

We would like to move from our location but we can't.

Via phone, in Cox's

Now most of the villages were burned in the north and the south. The authorities and some of the extremists of Rakhine, and the military were there burning. At least seven villages are completely burned down. And today, most of the villages were burned down downtown. I moved to another area. They burned down . They used the launcher. We observed this. They used the

launcher, shooting it to the village. It is like a weapon that can shoot a far distance. Most of the military brought with them these weapons, at least five or seven with one group.

In downtown today they are burning there were police and some Rakhines. They brought them from elsewhere. We've never seen them here. I think they are just organizing to bring them from other places. They had long swords, machetes and knifes. Our head of service observed themselves when they were downtown. I moved today from my current location...

I was running and running, so I was not able to take photos. We heard a lot. There were many people, more than 200 people were killed. They didn't shoot. They just used the knife. They will try to collect it tomorrow
Today I had less time to contact with people—many villagers were very rushed. That's why it was difficult to collect today.

I heard at least that big big villages were burned down. The problem is the border is not open. People are suffering in the roads and paddy fields.

As far as i know today, [redacted] met with the local government.

Tomorrow, i'm just wondering, if people are fleeing to other places, then I will have no choice but to go. We will see the condition tomorrow. One of our villages is already burned down, in downtown. We fear they will come for us and our village.

Today they already burned down the village next door. We will change our position tomorrow. Tomorrow, let's see our...

I cannot sleep the whole night. We have to watch for battalions. I will be up at 4 or 5am.

[Aug 31 by phone]

The situation is very bad. We heard many are killed in Min Gyi yesterday—around 1000 people were killed. In Maungdaw, the situation is the same. Very few families are able to cross the border so far. For the time being it is very difficult for us to make a better plan due to the restriction on movement. The military operation is widespread. We are thinking how we can move from our current village. Our village is not a big problem as we are close to downtown—beside our village is a lot of INGO and NGO office. For now we are safe. We don't know what will happen in th future. We are trying to keep in touch with our office but we don't have good expectations. We don't know what will happen. We are just thinking how we can survive. There is no possible way to move today to a safe place. We also heard that many villagers are fleeing from Buthidaung to Bangladesh. Its a long distance. People left two and three days ago but they still not reached. We are worried about killing on the way. Also people from Buthidaung side they are trying to flee but there is no way to move easily to the border side. This is a big problem for the people. The military operations, they are just shooting with no reason. People are scared. It is difficult to say how many are killed and how many are fleeing because villages have been completely burned down and no one can access there.

According to or estimation, mainly about 200,000 people fled.

Especially the people are fearful. They are burning down. There is no clash between the rebels and military in these places. The military is just burning down all the villages. They just kill and shoot. This is a big problem for people to stay.

Yes this group [Al Yaqin] is blocking the people. They just are letting the women and small kids pass and not the youth and men who are strong. But this morning we heard they are not blocking the people.

We believe that we need your support. We have no hope. If we can have some international pressure on the government it will help. We believe and trust [redacted]. Please apply the pressure. We believe in the UN and agencies but still the government does not allow them to start the assistance approach. They are trying to negotiate with the Naypyidaw level and local level but there is no green light to provide assistance to the victims.

Especially now in the downtown some villages are not burned down but we are really fearing that the extremists will try to burn down at night. There is no time for them. They can move freely during the curfew time. We are not able to go out. They are encouraging the extremists to burn down. They are again doing communal violence here.

If you don't mind, I would like to give some advice, what we can do for the moment. Whatever you think because we don't have any idea. We can't conceive a better way.

The curfew is from 6am to 6pm but between the curfew time the Rohingya people cannot move anywhere. We can see Rakhine people moving around, outside and on the main road. I can tell you this is only imposed on the Muslim people. We fear that the extremists will attack us because the Rakhine people can move during the curfew time. This is our main fear in the downtown area. All the community cannot move during the curfew time. All the non-Muslim can move freely during the curfew time. It is very difficult for us. Especially in urban area, we have main fear of extremists.

Another thing, I would like to give you the message that many small villages are located between the rakhine villages in the urban area. They are completely blocked to go outside. I don't know how they are surviving. We can't even keep in touch with them because they said they shouldn't use the mobile phone.

ENDS

#3
Name: [redacted]
Age:
Gender: Male
Ethnicity: Rohingya

Religion: Islam
Occupation: [redacted]
Village: Maungdaw
Date: August 30, 2017
Note:
phone:

My name is [redacted]. I don't want to speak because I am [redacted] worker. I am from Maungdaw, Sittlia village. The village was burned down in northern and southern Maungdaw. The situation is critical. The military and BGP were working in coordination. I saw them in ward number five [neighborhood in [NW Maungdaw] and Myo Ma Kan Yin Tan [urban area] and Myo Thu Gyi village.

I saw for two days in Myo Thu Gyi, they were burning the village. And another village called Dal Para near the Maungdaw district. From my home, it is very close to Myo Thu Gyi, so I could see what was happening there. It was very close by, and ward number five is only 3 furlongs from me.

I have friends in those villages. We had contact on the phone. And the military and BGP were killing people and burning the houses and some of the people were running out of their houses. Some people who escaped from the village came to us and explained to us, and it was the same that we heard from others.

The gunfire was very heavy, so I am sure there are many dead bodies in the village. Those who fled, they didn't have anyplace to go so they are facing many problems.

At my village, nothing happened yet, so I could not see well what was happening.

No, I haven't seen [militants].

It started on Saturday and Sunday in Myo Thu Gyi. There are more than 8,000 people living in this village. It would take about 25 minutes to walk there.

I can't put you in touch with them now but I can try for tomorrow.

ENDS

#5
Name: [redacted]
Age: 41
Gender: Male
Ethnicity: Rohingya
Religion: Islam
Occupation: Day Laborer
Village: (Chut Pyin) Show Prang, Rathedaung Township

Date: August 30, 2017
Note: Now in hiding in [redacted]; Contacted him through phone [redacted] not his phone.

I am [redacted], son of [redacted]. The list of dead is 185. Now i am in Lilam Ba Para. I am from Show Prang [Chut Pyin]. Two days ago my village was burned down [August 27]. The first day the military came into our village and called the village elders, about 50 people. They killed and cut and beheaded some people. We dove into a pond. The former village administrator killed a man named Solim. He cut his head off. Solim's father's name is [redacted]. He was about 40 years old.

There were four people in total. First the military shot them and then the village administrator cut Solim's head off. He is Rakhine [village administrator]. The Rakhine village is very close to our village. Kyaw Pyin village tract, Kyak Para.

We have a list of people who were killed so far. It's 185 people. The villagers also listed who is missing and who they can't find. 66 people were injured.

They collected the bodies and put hay on them and burned them. We conducted a funeral for them.

We were hiding in the pond when they killed them.

We were in the mosque to pray and some were in their houses. I was in the mosque. I ran away. I climbed through a window in the mosque. And then I jumped into the pond. I saw the military was shooting the people. And when they fell down, some Rakhine came with swords and cut them. I saw only two Rakhine in the front. and the rest were soldiers, around 50. And behind them there were maybe 50 more Rakhine.

I was running away when they shot. And the military also threw the launchers. [sobbing]. No one was fighting them. There was nothing like that in our village. We had nothing to fight back with. No, no one was holding sticks.

The military took and arrested around 50 people. They brought them to the military camp. This happened on the same day as the shooting. They took them to the camp and set fire to where they kept them. One was my own brother. There was a small hut and they put all the people in there and set it on fire. It was in Kyauk Para camp. It takes only five minutes to get there. I saw it. They shot a launcher at the hut. There were around 50 people. I don't know exactly [the number]

They shot more than 50 people but I don't know an exact number. We know the people who came with the army; they are Rakhine from a neighboring village. I know them well. I could recognize them. The army shot them and then the Rakhine cut them.

I saw with my own eyes. He cut his head off. I saw the army was cutting the breasts of women. I saw it with my own eyes. They killed one woman and her son and husband too. Her name was

Solima Khartu. Her native village is Zoya Parang but she was married in our village. Her husband was a mullah.

The soldiers carried guns. They also had knives hanging on their waists.

The man whose head was cut off was Mullah Sayed Alam. And Sha Dullah. He is also a mullah. And another Dil Mohammed. Another is Nomon. Another is Ayup, he is the son of Mohammed.

In front of us, the soldier shot them and then they were cut. Some were burned, some were burned, and some were beheaded. More than 600 people are missing. Some of the heads were still on the bodies, some were separated.

We performed funerals for 185 people. The next day we collected the dead bodies and counted 185 people. We buried them, putting 3 or 5 or 6 in each grave. It was in Aura Para. We performed the funerals after counting the bodies. I was there. There were five people from my own family killed. One of my brothers, two of my nephews, and my sister in law, and my grandmother.

My brother was killed—they burned him with the group. The others we found in the fields. They had marks on their bodies from bullets and some had cuts. My two nephews, their heads were off. One is six years old and the other is nine years old. My sister in law was shot with a gun.

My grandmother was inside a house, burned.

In front of the house, there was dirt. Their bodies were in front of the house. We didn't have time to take pictures. We couldn't even take of ourselves.

The next day, the military left. There was no army when we went to collect the bodies. It was on Monday. Yesterday we went to collect the bodies.

We could collect the dead bodies until 4pm. And then the military came again to the village. When they saw us collecting dead bodies, they starting shooting at us. We ran away. There were around 20 of us [collecting bodies]. All men.

The name of former [Rakhine] village administrator is Maung Thaung Mya. The other two Rakhine is Maung Maung Soe, the son in law of the village administrator. I just know the others by face. I don't know their names. The military base is only a five minute walk away. I don't know the army [battalion] numbers. It's a small camp, not a big one. It's a small camp, I don't know how many soldiers are there. There are also border guard police with them. On the first day, there were many people. They were not just from that camp.

We wrapped some bodies with blankets and we carried them on our shoulders. This was in Show Prang, Rathedaung Township.

There were no people who tried to fight back against them. There were no attacks against any police near us.

Right now I am in [redacted]. There were 289 households in my village. There were more than 1400 people. But now we know 596 people from the village are with us. All the houses were burned down. Not even a single house.

We want to flee somewhere but there is nowhere to go. We are blocked. There are military on the roads.
They are walking along the roads now. We want to run away but we can't. There are some villages that are not yet burned. We go there and ask for charity.

I am over 40 years old now. I am day laborer. I have [redacted] children. My wife was burned and killed. My kids are alive. When the village was burning down, the children were outside playing but my wife was inside the house. It was 2pm when the army first arrived. Monday at 2pm. That's when they started shooting. First they shot the people. And at the same time, some others were shooting the launchers at the houses.

We would be so grateful if you can help us get out of this area. Our only request is to get out of here now. There is no way to go back to or village. It's gone. We just need to get out of here now. We have no food and no water.

ENDS

#6
Name: [Unknown]
Age: 40s
Gender: Male
Ethnicity:
Religion:
Occupation:
Village: Lilam Ba Para, [Rathedaung Township?]
Date: August 30, 2017
Note:
Number: +[redacted]

We don't want anything. We just need to get out of this area. We are surrounded. I am in Lilam Ba Para. I am from here. Right now we are not in a good situation. We cannot speak for a long time. Rathedaung, Maungdaw, and Buthidaung will be finished. We must get out. I am the mobile phone owner, so if the government knows these people are speaking with you, we will be in trouble.

ENDS

#8
Name: [redacted]

Age: 58
Gender: Male
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Kun Thi Pyin
Date: August 30, 2017
Note:

I am from Kun Thi Pyin. Taung Pyo subtownship, Maungdaw Township.

I am [redacted]. I am 58 years. I have been here for two days. The military came into our village and they were shooting at us and burning our houses. It was on Saturday [August 26]. I was at home. I saw the military, as soon as they came into the village, they started firing on the people and they were also setting fire to houses. When the military came, they surrounded it from every side. They provided long swords to the Rakhine. The military were shooting from outside the village and the Rakhine people who were holding the long swords were chasing people and cutting them.

There were around 200 households in the village, around 3000 people.

They used heavy weapons. They shot them on the houses and the houses burned. I have eight members of my family in total. I could bring only four here. The other four were killed. One of my sons was shot dead in front of me. Only I was able to run away from the house. He was 15-years old. His name was [redacted]. My other two daughters and my wife were also killed. I only saw my son get shot but the rest, I have no information about them. First I saw the army set fire to around seven or eight houses and people ran away. I don't know how many houses have been burned.

These people came into houses and they took property and if they found people, they hurt them. These Rakhine people who were holding swords are mostly from Bangladesh. They are Rakhine from Bangladesh. The government provided them swords and also some guns. It was long ago that they armed them. It was very close. I could see them training them. It was maybe seven months ago. They taught them how to fire the guns. It looked like they were teaching them how to kill. The Rakhine village is close to mine. They had some schools and long shelters and they were gathering them in those places. The name of the village is Nan Thar Taung village. It's about a 20 minutes walk. We could hear the sounds of the guns shooting. They would shoot towards the jungle. It was Lon Thein [BGP].

The military came the whole day on Saturday [August 26] until the helicopter came over the village. They also shot from the helicopter. It was around 7am early morning. All members of my family were inside the house. When they started shooting, everyone ran.

[Victims:]
[redacted], daughter, 12
[redacted], daughter 8 years old

[redacted], my wife, 45 years old.

There were around 90 soldiers. No one was fighting back. [Denied anything about militants]

The BGB blocked us for two nights on the border. It took two days to come here. There were around 1,200 people gathering on the border and the BGB blocked us. After two nights it was getting difficult. The children were crying for food. The women were crying. The BGB told us to go anywhere we like.

Our village was only fifteen minutes walk to the border. We could see the army was firing. We were sitting on the embankment of the small dam. We could see the military shooting. We couldn't see but we could hear.

No one tried to take photos We were running.

Some young people hold phones.

They attack us because we are Rohingya, because we claim our identity. This happened before but in another place. I had to leave everything. We have no shelter. No food. And it's the rainy season. It is so difficult here. I cannot. Rohingya have no way of defending ourselves. There is no way to return.

I'm staying now with a family in [redacted]. In a refugee house.

ENDS

#9
Name: [redacted]
Age: 40
Gender: Female
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Kun Thi Pyin
Date: August 30, 2017
Note:

My name is [redacted] I am from Kun Thi Pyin. I lost two sons. [redacted] age 22. He was shot dead. [redacted] was 12-years old. When the military was shooting, [redacted] jumped into the river and was taken away. It was the day before yesterday.

We were sitting on the [Naf river] embankment and the military shot toward where we were sitting. My elder son was hit with a bullet and my other son jumped into the water. There were eight of us—three daughters, I have six sons and three daughters. Two of my sons are gone. The rest of my family is here.

It was the Naf river.

They weren't that far away. Many people died. All the people came out of the villages and we were standing on the bank of the river, and the military was shooting at us. People were falling down. Around 20 people were shot. There were many soldiers shooting. They threw a bomb with their hand and when it hit the ground, there was a large explosion. Even small children died from that bomb. One more person from my village, he had bomb pieces in his leg. He is still alive. He is here now.

Among four hit with the bomb, one was my son. I saw the bomb. I can't say what hit him exactly, the bomb pieces or the gun, but I saw him fall down. [weeping].

There were some small bushes along the bank of the rover. We sat behind the bushes. Many people were killed. I didn't have time to see my son [after he was killed], I just had to move. The dead bodies were lying there. Nobody could give them a funeral.

People were running out of fear from the military. We were sitting in groups. There was a fence. Everyone came to cross the river, and at the same time the army was shooting.

When we were coming out of our house, I saw one young man. The military caught him and cut his ears and nose and they sliced his body with knives. Sahad is his name. The young man was holding his young sister. When the military came, he was going toward the fence. They caught him.

I knew already the military was coming. Then we just ran toward the river bank. There were eight military and three ladies. We could see them raping the women. We could hear their screaming, crying for help. It was on the same day. When the helicopter came over our village, the people from our village said not to be in groups in case the helicopter throws a bomb. We already crossed into the Bangladesh border and we saw another heavy weapon fall on another village.

There are around 250 households in the village. I don't know how many people.
On the day I was crossing the border, many were left behind. People were being shot and cut. I don't know what is left.

It was on Saturday [August 26]. On the first day when the military came into the village, we went into the forest and held the children. We spent one day hiding in the forest. No we didn't go to the village.

Right now, people are still coming in. They say there is still firing happening.

I want to go back to conduct my sons funeral but I cannot go back. If I go back, I would be killed.

The first day we stayed in the forest, and the second day, when the military went to eat their food, we walked around the forest and came to the riverside. We were saved by the jungle. If there was no jungle, we'd all be gone.

In the camp, many were crying. No, no. If we could fight back, they wouldn't have killed so many people. We had some knives but the government came and seized them two months ago. I don't want to tell a lie. The government came to take the knives. They ordered the village authority to hand over the knives. They want to create violence against us. This was about one month ago. They were knives to cut the fish and chicken. If the government found any long knives or swords, the people would be killed. We could only keep very small knives. They took all the long ones. The military used to come in groups in front of the houses, and some would enter the house and check the cupboard or boxes. They would demand the keys and check. This happened about every week or ten days.

We are very close to Bangladesh and our children go for fishing and when they come to sell the fish, sometimes the customer gives taka instead of kyats. If we have some left and if the military finds it, then we would be badly beaten and pay fines. Like 100k or 200k kyat. It didn't happen to me but happened to my close neighbor.

I was inside the house when the army first arrived. We knew that when the military comes, they rape the women. So when the military comes, we take all the girls and put them in a group in front of the houses. When the military came and started firing, people were running everywhere. Some were hiding in the jungle, some in the bushes. It was around 10 or 11 am on Saturday [August 26].

The first day, they just shot into the village and then left. And then they left. They didn't burn anything on the first day. On the next day [August 27], they started burning the houses. The next day, my son was shot. When we crossed into the border, we could see a small sentry house made of bamboo. The soldiers set fire to it so they could say we did it.

I am Rohingya. Everyone in my village is Rohingya. I am 40. I have been in my village since my birth. I don't know how long my parents lived there. I was old my parents lived there since before independence. My mother had the citizenship card, same as Burmese people.

Some people supported us with tarpaulin. We are staying on the roadside. Some women were kept in the madrassa. The men are by the roadside.

ENDS

#10
Name: [redacted]
Age: 16
Gender: Male
Ethnicity: Rohingya
Religion: Islam
Village: Kun Thi Pyin

Date: August 30, 2017
Note:

I am [redacted]. I come from Kun Thi Pyin. I am 16 years old. In my village, the military came and fired at us. The rakhien also came with them and they were cutting people in the village. I was at home. When the military came, they started shooting and marching towards our village. We started running away to the jungle. We hid in the forest. It was on Friday. It was around 8am. Our village identifies as RohingyaSo when the military came and started firing, we stayed in the jungle for two days. We went to the jungle to hide and when the military was firing heavily, so we came here.

When the military were coming, all along the road they set up mines. When the military came, they set mines on the road and then went another way. When someone stepped on the mines, There were around twenty people running on the road. One of the people who were hit by the mine, their legs were damaged. After one mine exploded, four people died. One was my brother. It was on a small road. It's a road that goes through the land. We call it Kun Thi Pyin road. When the military started firing, we just ran into the jungle.

When the military fired, we fled. The mine exploded on Saturday.

I know two people who were killed: Doloaya, 19 or 20 years. He just got married two years ago. Another is [redacted]. He is my brother. He has one child and is maybe 24 years. I don't know what happened with those bodies. We kept running and jumped into the river to escape.

At the same bomb blast, there were others who were injured. Those who were lying down after the blast. And those who escaped, escaped.

I didn't see or hear anything about that [Al Yaqin]. We are farmers. I heard after i came here that some police were attacked. Only after coming here, we heard some Muslim people attacked the police.

I didn't see anything else.

The soldiers set fires in the village. I saw it myself. The military were throwing the launchers and at the same time they were chasing people along with Rakhine , cutting people. I could see it from far away. If there were 100 military, they held guns and they had knives. They wore the knives on their waist.

I didn't see the military set the mine, but the same road they traveled on, that's the road we left on.

ENDS

#11
Name:

Age: 30
Gender: Female
Ethnicity:
Religion:
Occupation:
Village: Kyet Yoe Pyin, Maungdaw Township
Date: August 30, 2017
Note:

I have been here for four days. I come form Kyet Yoe Pyin. The military came to the village and they were beheading, cutting, and chopping people. My husband and father were killed. I could come only with my two children. I had five family members. It was around 1am when the military first came to the village.

When the people were talking about the military coming, all the men escaped and all the women gathered in one house. The military took some women and raped them. This was four days ago. We were sitting in one house all together and the military came in and took some women in front of us. The rest of us just ran away however we could. I have some injuries because we ran through some thorny jungles, so I have cuts.

The women from the whole village gathered. There were about 100. It was a big two story house, downstairs and upstairs. HIs name is Ayatullah.

I saw the military beheading and cutting and shooting people in the daytime. After seeing that, we just tried to come over. On the first day when the violence took place, they came at 1am. Friday night. I could see that they cut the people. It was just outside the village in the field. It was around 4pm

When our husbands and children and fathers were gone, we decided to leave. It was before the sunset. After coming here, we don't know what happened in the village.

The military were still on the eastern part of the village. We were very cautious to see where they were coming.

At sunset, the army started firing again.

Te military were firing from the eastern part of the village, so we just fled toward the western part. We went into water up to our knecks in a dam project.

It was very noisy from gunfire. We could see the military shooting into the village and we could see the dead bodies. There were women, men, children. When we were leaving, we saw some flesh, cut into pieces. And we saw some dead bodies were lying around, scattered in different places. It was in the field. There were around 20 dead bodies, scattered. We waited, we spent the night and by 4pm we left the village. It would've been on Satuday.

The children were may 8 years, 10 years.

There is no information about my son. When we were about to run away, my son was sleeping inside the house. And so was my husband. So I could only take my my seven and four years old.

How could we take a photo. Everyone was saving their lives.

The same violence took place last year. Many people came to the camp because of the violence. We did not come, hoping the situation would be calm and peaceful. The last time, the military locked people in houses and set fire to them. The women were raped and men were shot. I know because they seized our kitchen supplies saying we were providing food to RSO.

Some people tried to attack the military. Not last time, this time. When the military were coming into the village, we heard some people were trying to attack the military. The people from different villages had a discussion to attack the military. I heard about this. The night the military came, some people had meetings to disvuss fighting back against the military. People said we will die either way. I don't have any information about my husband and son.

I heard that the people were blocked from coming here.

We are in a difficult situation here. I couldnt bring anything with me. These clothes were donated. The BGB fromBangladesh said they had to block and warn us, but they told us not to listen to them ,and to just go. They said for us just to go. One of the police even provided some snack yo my sons.

ENDS

#12
Name: [redacted]
Age: 22
Gender: Female
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Lar Gwa Para, near Khun Thi Pyin, Maungdaw
Date: August 30, 2017
Note:

I have been here two days. The military were killing us and setting fire to houses. I was at home. When the military came and started firing, we fled to Mehdi Para, the neighboring village. When they were shooting, they also touched and abused the women [Late she says "I heard people saying this."]. The people couldn't escape and just tried to attack against them. They were persecuting, and they couldn't escape any more, so they just tried to attack. Five people were killed from a bomb blast in the village we went to, Mehdi Para. Around ten to 12 people were injured. When the military was abussing the women, the men tried to attack them, and when they tried, they stepped on mines. The military set the mine on the road. I saw them setting the mines on the road. It was on Saturday.

They didn't have any weapons. They just tried to attack them. That's when the army started firing. They started shoooting before then. I didn't see it but the people were shouting that they would go fight.

When the military left the village, that's when we left the village. The military also came to Mehdi Para. When we were in Mehdi Para, we gathered in one house. The military couldn't attack us because some villagers prevented them. When the military heard people shouting back, they just left the village. When the military went back to the village, we went to the border. Then we saw a helicopter. They shot from the

I have two children. My eldest child was lost at the border. I didn't see the helicopter drop any weapons. It just fled overhead. When the military were shooting towards us, some jumped into the river. My eldest son jumped in the water. He was three years old. I couldn't find him. There were five or six hundred by the river. The army was shooting. We heard that people also

I saw a dead body floating on the water. It was in the middle of the river. We had no problems crossing into Bangladesh.

No [Havent heard of ARSA]. I heard some people saying that people from outside the country were coming to fight. If it were true the military couldnt abuse us so much.

ENDS

#13
Name: [redacted]
Age: 13
Gender: Female
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Diyol Toli, northern Maungdaw, near Ching Chong village
Date: August 30, 2017
Note:

We just crossed the river around 2am the night before last [Monday August 28].

There were some narrow places through the mountains, so we passed through to come here. It took one day and one night.

My village was burned down and we were being killed. The military were killing and burning and we had to leave.

Some injured who were known as Al Yaqin were brought from Buthidaung to our village, to bury them. There were three injured people. They were going to bring them to Bangladesh for medical treatments. I heard there were many Al Yaqin people there, bringing Rohingya people.

Two of the injured people brought from the Buthudau side, and one of the members of Al Yqin was buried in the graveyard in our village. Our villagers buried this man and the military came and dug up the grave again. They came and dug it up and my parents were beaten very badly and they took their photos. They dug up the dead body and then they made some people stand behind it, and then they took a photo. There were men and women together. The Lon Thein took the photo.

The military told the women to show them the dead body, and they forced them to dig it up. After discovering the dead body, they beat the women and sent them home, and then they left. After two days, the military came back and took the village administer and one other man. They were taken to the Kyein Chaung camp. After they were taken, the military came and arresting others, so we couldn't sleep in the village.

Some people were beheaded in the village. I saw this. I did not see while they were cutting, but after they cut them, the bodies were lying around. I saw three men—three fathers and sons.

One in the photo was Fatima, an aged woman. Gulsayr is another. And another Anuara. And Asina. And another Fatima. And Noor Asha. And Arzol. And Sira Zul Haque. All women who were in the photo. It was on Thursday at 4pm.

On Friday [Aug 25], our villagers buried this dead body on the same day it was dug up. And then it was taken to the station police camp. And then the body was sent back to be buried on Monday. We heard he was a member of Al Yaqin, the Muslim people told us that. He was alive when he was brought from Buthidaung. But after he arrived, he died. He had injuries on his back. He had small injuries on his back shoulder but in his side, his intestines were coning out.

Another was cut on the head. And the third one had a bullet wound on his forehead. I heard it was from an attack on the Buthidaung side.

Many military came together with the ruck. They just threw the dead body on the ground from a truck and then the villagers buried him. All the houses located near the road were burned down. They used a weapon to burn to the houses. When they were launching the weapon, we all ran into the jungle, the western side of the village. I was separated from my family and now I don't know where the rest of the family is.

We had five family members in Myanmar. I have one brother, two sisters, and my parents.

On Monday, the body was dropped off around 4pm and the houses were burned down around 7am the next day. On that day, we went to the forest and then came here.

Some people arranged some tarpaulin.

I had never heard of Al Yaqin. Those who have mobile phones, they knew. Not me. It's been more than one month I have been hearing about this Al Yaqin.

ENDS

#14
Name: [redacted]
Age: 26
Gender: Male
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Tone Chaung
Date: August 30, 2017
Note: [redacted]

If my photo is not published anywhere, then it is fine. I am from Tone Chaung, Hlaing Thi village tract, northern Maungdaw Township.

I left three days ago. It had to take more time to get here. My village is maybe 20 miles to border. It took three days.

The government is burning our houses and killing

Before i left i heard the southern part of Mayngdaw was burned down. Though i heard that, we still stayed in our village, hoping nothing would happen. I'm not sure if it was Friday or Saturday, but the helicopter arrived and then they set fire to three villages: Shaab Bazar, Ngan Yant Chaung, and Karontu. After burning these villages, the military arrived in our village, Shiddar Para [aka Tone Change in Burmese].

When the military was firing at our village, we moved to a safe place in the forest. And the next day we came here. They came around 4pm. Since the day I was coming from the village, six villagers were detained by BGP sector number two. Two women and four men. They were accused of providing food to the insurgent group. We heard that two of them were already killed in the station but i didn't know about it.

When we werte crossing the mountain to come here, the BGP [Lon Thein] and military were mixed together. They opened fire and the bullet hit one of the women in the forest. We had to bury her in the forest. She died right then. She was shot in the stomach.

The soldiers were maybe one mile away. I don't know if it was a gunshot or a bomb, but she just fell over. After hitting her stomach, her whole body was burned. She was pregnant. The people told me.

Maybe 15 days ago, Lon Thein and military and police arrived and took the knives from the houses. They took chickens and money too. They also beat the people. When they came, they ordered us to remove the fences from around our houses and they told us to hand over knives and iron rods and other things. This happened a long time ago but lately it was more frequent.

I was at home when the military arrived but they didn't harm me. I saw the military beating people. When they found knives and iron rods, they would just beat them on the spot. If they find any black t-shirts, they also beat people.

First they started burning two or three houses and when people fled, they burned twenty or thirty houses. When i was fleeing, they were still burning. Some were burning when i left. I think around 40 houses were burned down. They used launcher.

I didn't see anyone killed.

It was around ten days before I left, people were arrested. I saw that they were taken away on the motorbike. I don't know why they thought they were supporting fighters, but they were mainly arresting the rich people from the village. One year ago, the people arrested now were forced to accept the NVC cards. They were forced to do it to convince the other villagers, but they refused, so the authorities had a grudge against them.

Two people arrested were: [redacted] and [redacted].

There was no one who tried to fight back. Everyone just ran. I heard about Al Yaqin. I have seen them on Facebook. We saw them holding some sticks and weapons and uniforms. Our bad luck started when these photos and videos appeared. Nobody knows.

In another village, around 12 days ago. there was a big bomb. The military came with a truck and they fired at the village. 12 military came. Done Pike village. Yes I go there often. I don't know why they fired but all of the sudden, they took a position near the pond and starting shooting. After the helicopter arrived to our village, three started burning. I'm not sure whether they were set fire by the helpfipter.

My village was set fire by military. Two times the helicopter landed in the BGP camp.

ENDS

#15
Name: [redacted]
Age: [redacted]
Gender: Female
Family: two daughters; husband-mullah killed
Ethnicity: Rohingya
Religion: Islam
Village: Nyaung Chaung, Buthidaung
Date: August 30, 2017
Note:

[redacted]. I am from Nyaung Chaung [southern Buthidaung]. My husband is a mullah. 12 days ago before i cam there, my husband was killed. The Rakhine killed my husband. First the

Rakhine people came and they were followed by the military. My husband was killed on his way to the mosque. Just after he left the house, he was killed. It was between 8 and 9 pm. He has a job in the mosque for the prayers. I have inly two daughters so I came here with them. I had been here around ten says.

They cut his neck. When the people in the mosque came to see what happened, the military started shooting. I was inside the house about to pray. People were shouting. The mullah has been killed! and i realized it was him. It was maybe 15 feet from my house. No I didn't see the Rakhine people. People told me he was killed by Rakhine. The military kept watch over the body, preventing us from taking him. He was killed around 9pm and the military watched him until around 2am. When the military was watching the body, we heard another gunfire on the mountain and the military ran away from the dead body.

Other villagers saw what happened.

We can't even keep a small knife at home. They came and took all the knives away. It was around two weeks ago. When they came to tale the knives they also took the chickens and eggs and they even took the vegetables.

Only god knows who fired the gun [that made the soldiers run away]. When the military left, the villagers came and watched, and then soon after the body was buried.

I am from Buthidaung. After my husband was killed, we moved to another village called Mostaw Bis Para. We were there one week.

Then we went to Gudar Pyin and Sein Nyin Pya. They were surrounded by the military. One of the big mullahs was arrested from Sein Nyin Pya. He was taken to the camp and locked up, and then people collected money around the village. By paying 800,000 Kyat to the military, he was released.

There is another Rakhine village near mine and the military usually stays there. The Rakhine village is also called Nyaung Chaung—one for Muslims and one for Rakhine. When the military come yo the village, it's like ants coming out of the hole. Sometimes after one month they come, sometimes 15 days. They arrived wearing a red headbands.

Any person who comes i front of them, they just beat them. They are ready to sacrificed their lives, thats what people say.

He was killed for no reason. The Muslims get killed for no reason.

My husband was killed and then they set fire to the village. The first time they set fire to my village. It was maybe one month ago. My husband was killed after they burned the villages. First they set fire to the Nyaung Chaung market, Half the market was gone. The villagers tried to move forward and march toward the Rakhine people, and the military started shooting. No one was killed. They would've kept firing, but then someone shot from the mountain and the military left. I don't now who it was. Maybe god sent the angels to protect us.

The military were really afraid to walk along the mountainous side. Now they no longer walk along the mountainous part. I heard many homes now have been burned down.

The Rakhine people burned down the market.

The Hindu and the Mra Mar Gyi joined with the Rakhine. I don't exactly how many there are but in every group there are a few of them. When they come to attack, they all come together.

I only saw the flames. It was some distance from

No one spoke to me [about the death of my husband]. They didn't want him buried because they know he's a big mullah. They kept watching the body because they knew we'd do a funeral, and they didn't want him buried in a religious way.

It took me around 6 or 7 days to get here. I also have two daughters, age [redacted] and [redacted]. [redacted] is [redacted]. And [redacted], [redacted].

I don't know anything about the fighters. I heard from other people that were some people in the mountain, but i didn't see them. I just came to know this from others. Many people were arrested from other villages. The men were taken to a paddy field and they ordered the people to sit down in the filled, in a circle, and then they put the hay of the paddy over the people and then burned them. It was the military. They said they had to investigate them. The army told them, they have to be checked. If anyone refused they'd be hit with the gun. I heard from other people.

ENDS

#16
Name: [redacted]
Age: 60
Gender: Female
Family: Six (2 daughters 4 sons): two sons married in another village; one son w/ her now
Ethnicity: Rohingya
Religion: Islam
Occupation: Elder woman
Village: Yae Khet Chang Gwa Son
Date: August 30, 2017
Note:

Om Friday night at 1am I left my house. I was scared of being killed by the military. Also one of my daughters were taken away by the military. All together, four people were taken. One is my daughter. She is 12 years old. He name is [redacted]. My daughter in law, [redacted], was taken. She is 25. And two grandchildren—two boys, 8 and 6 years old. I saw it. I was at home. The soldiers came inside the house. They were taken from within the house and i ran away out of the back of

the house. The violence took place on thursday and these people were taken on Friday and i left on Saturday.

Around midnight or 1am, the military surrounded our village. The villagers unfastened the cows so they would scatter, for protection. My son was unfastening the cattle because he already saw the other villages were burning. When these four people were taken, I just ran away.

I didn't see myself that these people were taken. My son saw it. He was coming from the barn where he unfastened the cattle. My son and I went to a nipa palm garden to hide. The other houses were being burned while we were running out. I don't know if they were burned or killed. I don't know. My son carried me on his shoulders and walking on the muddy road.

Many people were with us. When i was coming with other people some people were lying down and shouting and screaming about injuries. Some people were brought to Kutapaplong hospital. During the nighttime we arrived at the birder. The border guards didn't let us come inside. The BGB asked us to sit until the daytime comes.

I am from Bro Gozi Bil [Yae Khet Chang Gwa Son]. There was violence there, more than five or six months ago. I went for religious practice to another village when that violence happened. I was in another village.

I don't know anything about fighters. They attack us and then accuse us of violence. They say we burn our own houses.

The police and military cut our people and then they accuse us of cutting our own people. These Buddhists have no kindness. No sympathy to the Muslims.

I am staying with a family in Kutapalong. They said I can make a small shelter. We are still waiting for my grandchildren to come.

We learned from the first violence that we had to unfasten the cows when the military came, to protect them. No, we didn't lose any cows the first time. I was in Buthidaung side that time. Some were burned down. Some they came and ate. Some they took with them. We couldn't harvest because of the violence. This time, the paddy was ready to harvest again and we had to flee. We had to leave it.

ENDS

#17
Name: [redacted]
Age: Unknown
Gender: Male
Family: Unknown
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]

Village: Kin Yin Tan
Date: August 30, 2017
Note: Contacted through [redacted].

Now I am in Maungdaw. [redacted]. At night the situation is ok for the last three nights. But during the daytime we can see burning villages and these kinds of things. During the night theydont do anything. During the day we see them burning. We get information that there is fighting and fires.

This village is still safe. We are on the right side of the road. But on the left side of the road there are so many Muslim houses burned down. Now the situation is fidderent. Before the villages, the military burned the villages, But now this time we Rakhine and military burning the villages. They are with the military together. They set fires and anyone who defends them, they shoot them. We saw it in Myo Thu Gyi. It is not very far. Myo Thu Gyi is completely burned down. It along the Buthinday-Maungdaw road.

I work here. I have been here since last year. I have been here Monday through Friday. And on the weekend i go home to Buthidaung and Monday I come back.

Everybody fears the military. If they see anyone going on the roads or in the villages, they are shooting at them. Most of the time they shoot on sight now. I haven't seen with my eyes but. We have been hearing gunshots continuously, everyday.

It could be around 1,000 by now, between Buthidaung and Maungdaw. We have a group of friends. We are always contacting people in other villages. When villages are set on fire, we contact each other. Numbeers could go higher. This could be less than the actual number.

There are a lot of people who are waiting to cross the border. Some militants won't let the men go. They only let the women cross. This is happening here. They threaten people and say that if they try to cross the border, they will kill them. I myself want to cross the border. I have a friend who can arrange it and I called him and asked him, how can i cross the border? He said I cannot cross now, because the militants will not allow it. He said the militants won't allow the men to cross the border.

Now they are not hurting any civilians yet. But they don't let the men because they want people to join them.

My family is in Buthidaung and they are ok. They are worrying about me.

In this village there would be around 9-10,000. There are other people here from other villages.

We are still hopeful that we will be safe in this village, unless bad incidents happen. We think this village will be safe.

The only thing os the clearance operation the government so doing here. They have been shooting people and attacjog people and this is horrible. They have been setting fire to villages,

one after one. This is really ad to see and people are really afraid here. There are lots of people trying to cross he border but they can't cross yet because Bangladesh won't allow them in, and from this side, only women are allowed. There are people who can cross from Maungdaw North. From Maungdaw south people can't cross the border now. People are at high risk of their lives. We hope the situation gets better. Unless it gets better, more people are going to die here.

Now in Maungdaw we calculated the afternoon 25 villages already burned down. We estimate around 6,000 houses. That is just Maungdaw Township. I will need to collect the data from Buthidaung also.

I can check a contact from Buthidaung. I will send the contact to you.

One more thing I would like to share, from Buthudaung, Taung Bazaar village tract, around 80,000 people started walking to the border. It will take them around 4 days to reach the border. They started walking and it will take them four days. Many will die. There will be more people coming in the next few days. It's a village tract, there are so many hamlets. All of their houses have been burned down and they don't want to stay there. I spoke to them yesterday evening and they said they will walk to the border.

ENDS

#18
Name: [redacted]
Age: 36
Gender: Male
Family: 3 chilrend, one wife
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted].
Village: Yay Nauk Nga Thar (home village) and Ta Man Thar villages
Date: August 31, 2017
Note: In [redacted]

I am from Yay Nauk Nga Thar in northern Maungdaw. I do [redacted]. On the night of the 25th, we heard the noise of shooting around 3 a.m. When dawn came [August 26], I saw some young men in black uniforms moving around and holding sticks. The people from the village couldn't move anywhere. We couldn't stay in our own village. We formed some small groups to watch over the village. The small children and women were in the village and the young men were watching over the village.

All of a sudden, two people were hit, maybe a gun or a launcher, I don't know. Two people were hit. One person was hit behind their head and the other on their shoulder. I am not sure if they died or not. Hi same is [redacted], age 45, son of [redacted]. [redacted], not sure his age. They were on the top of the hill and I was on the bottom of the hill. I saw myself. The people who were running around with the uniforms put some [herbal medicine] on them. They had some bandages and some alcohol. When i saw this incident, we started to flee.

Everyone started to leave the village. Those who were injured, the uniformed people didn't let them come with us.

The villagers were asking them, with what are you going to attack the military? They said, we don't have anything, but we have god and sticks and knives. Just before the firing took place, a big mullah was arrested and accused of being a member of this group. Three more people were arrested with this mullah and there is no information about them. They were from this village. Later, after some day [before the violence] more people were arrested and they were beaten badly. Three people were arrested. This mullah and six others were arrested but only four were taken. The BGP came on motorbike with the help of Daignet ethnicity people, the informer. He informed the BGP where the mullah was at that time. And then he was arrested by the BGP and badly beaten.

When villagers tried to save the mullah and couldn't do anything. The mullah asked for help, shouting, "help me! help me!" but the villagers couldn't do anything because the BGP shot four times in the sky.

Another one, I didn't see with my eyes, I heard some people were crossing the rover in Ta Man Thar village. There was a small stream they were crossing and were shot. Three died.

[On August 26] The military surrounded the whole village, on every side. Since the 25th, the military kept surrounding the village. We couldn't go to the market, the forest, or walk anywhere. The cattle were released to the forest. One cow was cut on the leg.

Two days before the military surrounded the village, these [two] people were shot. There were two cars sent from Maundaw to Ta Man Thar for the immunization camp, from [redacted]. The drovers were [redacted] and [redacted]. The BGP came to the field base of [redacted] and took these two drivers away. When we came to know this, we felt there was no way for us to save our lives. That's why we fled. After we left, the two cars were bombed. People who arrived yesterday told us. There is one security guard who was on duty at that time. They were taken by the BGP, not the military.

When the BGP could come and arrested them, we felt we could be arrested anytime.

After that, the next day the men were better and in ok health, but they were swollen where the gunshot them. The unformed people treated their wounds. They tried to block the people, saying, "why are you running away? What's wrong with you?" I spoke to them and they didn't want me to leave. I am a well-off person in my village, so if I leave, everyone will follow me. "Don't leave, god will solve our problem," they said. They were all under 30 years old. Maybe 18 to 30.

When we were coming here, some of these people stopped some and said not to come here. They also beat some women and children. All the people were along the riverside. Some of th boat people came to the people, saying that if you leave the country, then the whole community will leave. When we came here, the al Yaqin, they announced to the villages to send the women and the children to here. They said for the women nd children, and told the rest of us to be alert because the military will come soon to burn the village. They told the men and boys to stay. I

heard this. They had bottles they filled half with petrol, and then they put cloth inside, and they made a bomb out of this. They also had slingshots. And they had some sticks. And they had one knife. There were e12 to 13 people. These people are from the village. They all wore the same uniform. A black uniform. They wore black shirts, short sleeve and long sleeve, and black pants. They all wore this.

These people spoke strongly but they had no weapons.

I didn't see them use the bomb [molotov]. When they were walking around the village, some of the people were holding the bottles.

I think they would light the fire and throw them somewhere.

I was in the village when the military surrounded it. The military surrounded the village, and we tried to escape, running from one house to another. When we were there, the military didn't come into the village. We moved from my home village to the forest for two days, hoping the situation would improve. When we moved to the forest and stayed for two nights, but when we saw the [redacted] staff were arrested from the field base, we feared and fled.

My family, together with my children, moved to Ta Man Thar village. I have three children two boys and one girl. There were mountains and forests, and we moved there with the other villagers. There were about 3000 of us. Some of the Al Yqin peppe in black uniforms came to us and said, don't leave the country If you leave the country, the community will be destroyed. They said they would protect us. They only had sticks and small knives. When they were talking like this, the people had to be quiet and listen, otherwise they'd get beaten. I didn't see them beat anyone but i heard they did.

I just heard that those people working with the government as informants, they were beaten. Since the violence started, they haven't killed anyone. They just try to warn and threaten people now. I hard some informants were killed. There are some people who were beaten by these people, and if someone asks, who beat you, they'd say, I don't know them, they were in the black uniform.

I know two or three people were warned and beaten by these people. They were informants who were beaten. It happened in the village. Those three people were just informing the government with false allegations, making trouble for innocent people. That's why they beat them. They had a bruise on their arm. When the people asked them who beat them, they wouldn't say. One person complained to the village chair, saying they were beaten by these people. This person told everything to the chairman. He said many others had been beaten.

No killings [by militants].

Those five Mro people who were killed in southern Maungdaw in Kan Pyin. One of the Rakhine people wa jailed and he was doing yaba business. He usually crosses through the Mro village with the tablets. The Mro people realized this is a very valuable tablet. They tried to attack him and seize the tablet from him. All the tablets were taken by the Mro. He tried to convince them to

give them back, but they didn't give them back. Then he went and killed these Mro people but the government announced that the Al Yaqin people killed them. I think if it was really Al Yaqin killed them, they'd have killed all the villagers. I went to Maungdaw to our main office. People there were saying it.

It was only temporarily that they blocked the villagers.

When we arrived at this border, we were robbed and looted by some Bangladeshi people. There were many people, but we chased them and caught two of them. We beat them and tied their hands. The people handed them over to the BGP. We had a group in the forest. They came and disturbed one group and stole some property. Then we recognize what they were doing. One villagers was stabbed in the back. She had some gold and it was stolen.

It took three three nights from ta Man Thar to here. There were no major problems but the BGP stopped us for a while before coming.

I want to know whether the world recognize the Rohingya people as a human in the word. We don't want to deal with such persecution anymore. We want to die. If there is any opportunity for a job, then we can also work here. I'm not sure what my office will think because we fled here. There is an urgent need for food.

Many people died on the way while coming. Whatever the problem is, we can fix later. The urgent need is to provide aid for the situation here now.

#19
Name:
Age:
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Kha Maung Seik
Date: August 31, 2017
Note: In Kutapalong

I am from Kha Maung Seik. In Rohingya, it is called Faw Kira Baza. It is northern Maungdaw. I am a [redacted].

There is a group called Al Yaqin. Those who are members of this group, they are all illiterate people. None of the members are educated. Those who try to convince them that this is not a good job—they tried to kill them. This happened in my village.

His name is [redacted], son of [redacted]. [redacted] was released from prison three months ago. The reason why this group killed him is that he went to the BGP sector two or three times, so the group thinks he is an informant. That's why they killed him.

He was taken from the village to the forest, and we think they killed him there. The incident was on the day the violence started, on Friday. We saw him on the road, and then we heard he was taken and killed by these people. The villagers said it. One of my brothers also told me about this. My brother saw him with his own eyes that these people took him. He was taken to the forest—they tied his hands together and took him away. He was also blindfolded.

Many of these people [Al Yaquin] are already here. But they won't say anything because they will be killed here. The Al Yaqin are here. Nobody will disclose these things because they are very afraid. I have to find out who these people are. I am not sure where he is now. Even some of the air workers don't want to share because they are really afraid now.

Would you like to speak to one of these men?

[redacted] was charged with burning another person's house, and that's why he was in prison. He was sentenced to five years, but they let him out after three and a half years.

We were stopped when we were trying to come here. They said: "Don't leave the country. We are ready to die to save these people."

[Before we fled] I told one guy, this is not good work, just wait for the Kofi Annan recommendations. We have to follow the law. They said "no, no." When we were coming, a guide was showing us the way. They didn't beat us but they beat our guide who was showing us the way. They said we all had to go back and fight against the government. I said, "how can you fight back against the military. If you bring the guns, we will fight, if not, don't speak like this."

It happened in front of me. We were blocked for two hours there. As a weapon, they had only sticks and knives. They had some bombs with some positive and negative wires. It was maybe this size. [motions about 12 inches wide; IED land mine]. They tried to blast it—they went some distance and blasted it, and then the military started firing on the village. They set some bombs on the road, near the bridge or on the road. I saw this. It was for the military. When they set the bomb on the road, they hid some distance and watched it. The villages were warned, "there are bombs don't go there," they said.

The violence started at 1:20 a.m. On that night, all the Al Yaqin group split in different groups and moved around the villages. They were requesting people to come out of the villages to join with them. The people were afraid and going into the forest.

I was looking at Facebook inside my house. They were blasting some bombs loudly. It was very loud. Some hit my village. If they blast one bomb, the military would start shooting. They [military] also threw the launcher onto the houses. My house was burned. They aimed at the big houses. There were also Rakhine people together with the military. They were from the neighboring village, called Min Kha Maung. It's a model village. A natala village. These

Rakhine people instructed the military to target the village. When they used to come to the market, the Rakhine would say: "what are you doing here? You can't stay in this country. This is ours."

The military surrounded three sides of the village. The person [who was injured] was from another village, but he was brought to my village. He was being brought to Bangladesh for medical treatment but he died in my village. He was shot in the stomach and it went out his back. It was on Saturday. He was hit on Friday and was brought on Saturday. His relatives brought him.

The violence didn't take place in my village but in a neighboring village. They blasted one bomb and the military started firing continuously. It was on Friday. They started firing around 1:20am on Thursday and it went to 12noon on Friday. It was very close to my village. I saw two injured people. One was hit by a bullet in his arm, and the other was burned all over his body. Both are elderly people, both men. They were brought here for medical treatment. They are from East Kha Maung Seik.

When the violence started, the Al Yaqin are claiming for freedom of movement for the people, citizenship, and rights and the government got angry and burned the villages and we realized we couldn't stay. The military doesn't differentiate between the good people and the bad people. They just fight everyone. So we had to leave.

We left with 300 people, all Rohingya.

On Friday morning, they [Al Yaqin] were carrying these bombs in front of us. The Al Yaqin couldn't persuaded the people of the village, but they could persuade the wayward people, the goons, to participate in their mission. There were around seven fighters. I saw only one bomb. They wore the same clothes as villagers. They are useless people from the village.

They may die but they would never burn their own homes.

The Al Yaqin people disturbed us on our way to Bangladesh. On the way, we were in the forest, and around 12 of them blocked us from coming here. They blocked us for two hours in the mountain. They said: "Don't go there. To get justice, we are here for you."

With the group, me and three other people and the ex-village administrator were trying to convince them that they can't win anything with a stick and knife. "You can see the army coming," we said, "they will burn down everything. Don't you see the helicopter dropping bombs?"

At that time there were another 300 who arrived. We became a big group. They [fighters] became afraid and ran away.

I also convinced them that I am a [redacted]. The other was a village headmaster. We said, don't block us. The situation is very bad. We convinced them. There were some people who even had citizenship cards. Even they had to flee.

The border guard police blocked us at the border. We were warned and told to go back to our country. It was around 2 a.m. when the BGB fell asleep and we went another direction. We crossed at milepost 41. It was a very high mountain.

When we crossed, on the Myanmar side there was a check post close by. We had to crawl on the ground, under a barbed wire fence.

Later, we heard the security force shot some people from my village. This happened yesterday. They shot many times but only hit one person. [redacted] is his name. He is over 50 years old.

Only my house was burned down. The big houses, the better-off people, were burned down. Some others from my village came later and told me. They said my house was burned down.

There are a lot of people coming here. We are like refugees now. If you can provide food and some shelter for us... Many more are coming. I am sleeping with a familiar family.

There were some Hindu people near our village. They also came here. Around 300 Hindus, from Gwa Son village.

ENDS

#20
Name:
Age:
Gender:
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: Air
Village:
Date: August 31, 2017
Note: [redacted]

I come from Ta Man Thar village [Shaab Bazar in Rohingya]. I was a [redacted]. The military were firing at the village. I saw some people who were shot dead. First time, we heard that the BGP checkpost was attacked. After hearing that, we moved out of the village and went to the forest, expecting the military would retaliate on us. We went to the mountain to escape. It was on the way to Bangladesh. We stayed three days in the mountain forest. We also cooked and ate. Not only me, but many people.

I was close to them when they were shot. When the check post was attacked, people were frightened and fleeing, and on the way there was a small river. We were crossing in a small row boat. There were four people on th boat. Some military came to the location and they aimed and

shot them. There were around 20 people. There were six or seven military. Their uniforms were the color of the forest trees.

We heard some rumors there were some Rakhine militia armed by the government.

Those who were shot dead. There was one person who buried those people. I know one of the four who were killed. he was my neighbor. These four were from three villages. His name was [redacted], around 30 years. His father's name was [redacted].

The village and the market were closed. When the vioence took place and the BGP broke down shops and took the materials from the shops. It was on Friday. After praying on Friday, the people from three neighboring villages came out of the houses, shouting. It was like a demonstration. They went to the market and took the materials from their respective shops. When they were coming back from taking their materials from the shops, the Lon Thein started shooting at the people. One of th people was shot here [in the stomach] and died. He was killed. He was the only son of the family. I saw him get shot. His cousin is here. His stepbrother is here too.

There is one more person who was shot in the calf. I know some first aid and took care of him. I put some bandages on him and washed it. [redacted] is his name. When the people were coming back from the market, they were shouting and running with their materials, and the soldiers shot them. Three were hit. One died on the spot and two were injured. On that day, there was no military arrived. It was on Friday. It was 2:30pm after Friday prayers. People went to the market starting at 2:30 and it took them about a half hour to get their belongings. Even after the people ran, the Lon Thein kept firing. Everyone ran.

I went to my house. We were panicking. The government is killing these people, regardless of who they are—NGO staff, mullah, rich and poor, young and old. Then I tried contact people to find out what was going on.

I was thinking that we couldn't goto other places, and the government is restricting all of our rights, and people were being shot, so we though it wasn't possible to stay in the country anymore. On Friday night, we went to leave the house, but we didn't leave because there was an explosion. It was on the main road and the Al Yaqin group who did th blast, one of them died. It was very loud.

The guy who set up the bomb on the road, he was close by, and when the Lon Thein got close, he planned to switch the bomb, but the soldiers called him and the shot him. He died from the gunshots but the bomb also went off. I heard it happened in the middle village. His body was brought back to our village. Around 8:30pm on Friday night, after that man was shot dead. There was a message spread through the village that the military had surrounded the village. We all fled and crossed the river. Its called the Ta Man Thar river. We can cross it on foot. Then we entered into the mountain.

Three-fourths of the people went to the mountain but some remained. The military didn't attack the village but the next morning they were taking the information of the village. The next

morning, we heard the military was shooting at the market. We could hear the sounds of the shooting. The people who stayed in the village then came to where we were hiding. We came directly to Bangladesh. I was with them at the time. I was coming with them but then I changed my mind and stayed back. I thought I could stay there, thinking because i am an [redacted] After coming back, i stayed two more nights in the forest.

On the day after two nights, I was thinking about going back to my village but I saw the military shot a launcher and burned down two houses in the village. I saw two houses burn down in two separate villages. I saw the launchers firing on the village and got scared. We were still in the forest. We cooked chicken and rice in the forest but we couldn't eat, we just left the place, thinking they could fire on us. We heard many people were shot around the villages so we ran.

I heard that one of the people was shot dead.

There were many people coming here. They didn't know the right way. It was a short cut. We had to spend the night in the mountains. There was another short cut but we heard the military and Lon Thein set mines on the road, so we had to go another way. There were many small children, women, old men with me when we came. There was a pregnant woman. My own sister gave birth today [in the camp]; she just arrived. She delivered a boy today in the camps.

After crossing the Bangladesh side, we were still in the forest and some robbers came to us. This two men took some gold from old ladies, five rings, and the villagers surrounded these men and beat them badly and handed them over to the BGB. The next morning they came here.

The BGB tried to block us and told us to go back to our country. The guards were whistling to us, telling us to go back to our country. The children were crying a lot. Some had diarrhea, some were asking for water. Since we were working as aid workers, we didn't do hard work, so we were hurting on the way.

We were still moving forward. The BGB tried to hit our luggage, th things we were carrying. We had to wait and we cried for one hour because they wouldn't let us in. After one hour, the BGB told us to come two families at a time. We went two families at a time. I had no taka on me. We were unprepared for this. When we came to the main road to get in a car, i had no taka. I called my brother in the camp for the money. I have some Myanmar Kyats and I have a brother in the camps but there are thousands of people who have nothing. They had much more difficult troubles to come here.

On the day when they military attacked at the market, I saw two people holding long swords. This people also went with the villagers to the market. They went with the villagers as a guard. They were from another village. There may be many more but i only saw two. They wore the same clothing as everyone else. I am guessing—I can't tell if they were normal villagers or not, but they were the only ones with swords.

We spend less time walking around because we work [redacted]. [redacted]

I heard about this. It happened in my village. People were just beaten, not killed. There were some people who were working as informants, and they beat those people. And also some people who were committing adultery, they beat them, too. We all speak about this. One person had a big wound on his shoulder [bruise]. The people who were beaten also came here. I only heard about that person.

I don't know what is the point of this information. Whenever anyone talks about them, they are beaten. As a [redacted], it is like politics, so I did not involve myself in this.

I don't know the main objective of the Al Yaqin, so it's difficult for me to assess them. i heard the group was beating people who were committing adultery, being informants, not praying. From that perspective, I think they are good. Up to now, I can say these people have no weapons. I heard 30 check posts were attacked, but I didn't hear that they could kill a single soldier. From the northern part, though they attacked the check post, i heard the or 12 people were killed by Al Yaqin, but we only heard it from media. We've never seen an Al Yaqin member who could do this. We only heard some bomb blasts. Many of these group members have died, we heard. A lot of people died.

It is because of the imbalance. They go with sticks and knives to attack military check posts. That's why they were killed. They cannot win.

#21
Name: [redacted]
Age: 33
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted] [redacted]
Village:
Date: August 31, 2017
Note: [redacted]

I am [redacted] from Yae Nauk Nga Thar in northern Maungdaw Township. I am 33 years old. I work with [redacted] as a security guard. We were guarding, doing our duty in the office. It was Thursday night, before Friday. There was a camp of Lon Thein on the hillside, atop the mountain, close to our office. It was around 4am, suddenly the bullet hit, making a loud noise. It hit the office roof. I was very scared to hear it. There were two guards. It was my duty and there was another that night. When we heard the gunshot we just ran away from the field office to another place. When we went to another place to escape, the two drivers remained in the field office. When we went away, we heard the two drivers were taken by the BGP. They had their hands behind their heads. They were hit on their heads. I don't know if they are still alive or not. One is [redacted] and one is [redacted].

When we were crossing the river after escaping the office, there were seven people all together, and suddenly ten military appeared and shot at us. Four died on the spot, on the small boat crossing the river. One fell into the water.

We were not able to bury them. This happened on Friday around 4pm and the next day we buried them quickly in the mountain, not in line with the religious practice. We buried two in each grave. We saw the southern part of the village was burning down at that time.

The one who was rowing the boat, the bullet hit him in the middle of the stomach. He was in the middle, and then he fell down out of the boat. A piece of wood from the boat hit me.

They shot from head on. The soldiers were on the other side of the river. We were on the boat. After the shooting i fell into the water and just floated down with the current.

The river is called Purma River. It's not that wide but it has a strong current. I was falling and lying on the boat but they stopped firing. I then went into the water. They waited for awhile and then they left. There was another village alongside the mountainous village. I went into the village. On Sunday, we buried the dead bodies and then on Monday we left. I arrived just today here. I arrived around 7:30 this morning.

The village we went to was Ta Man Thar Paung Seik. I will send you the photos.

The victims were:
Iman Hosein, from Panisara village.
Khaled Hosein, from Panisara village.
Sayed, from Paung Seik village.
Abdul Rakhim, from Thay Gone.

We had a problem coming here because we had to climb the mountain up and down, and when we arrived to the border we were stopped by the border guards. We had to take the irregular way because we heard they set mines on the road. One of the border guards with a red beard warned us to stay away and not to come in. There were many people along with us. Thousands. When the BGB left, we tried to come in small groups. There were other casualties but I didn't see them.

They burned the villages. I couldn't see where they launched it from, but I saw it falling down. Huge explosions. We could hear until we arrived on the border. We saw them in the sky. I couldn't see where it came from but I saw it land on the houses. Two helicopters were flying overhead, one was red and one was black. I heard only from the southern side. I saw it hit Ta Man Thar village. It is close to my village. It would take on minute only to walk.

I saw the bombs hit after the soldiers shot. We were so panicked to see the bombs dropping. When we saw this, we were crawling on the ground, panicking. It was massive. Then it would stop for awhile, and then it would start agains shooting guns.

I heard that the fighters were shooting but I didn't see. People are only talking. I didn't see any of them. I heard some people were beaten because they were informers. Nobody saw them beaten, only afterwards.

I only heard from the people that one of these guys was beaten.

I have no contact since arriving here so i don't know [about [redacted] staff killed]. I heard one staff, he is from Buthidaung. His name is [redacted]. He was a [redacted].

ENDS

#22
Name: [redacted]
Age: 36
Gender: Male
Family: 3 kids: one boy and two girls
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Ta Man Thar
Date: August 31, 2017
Note: [redacted]

I am from Ta Man Thar, northern Mungdaw township. The last two days we heard the bomb blast. We waited. And in the early morning we heard information about the attacks by Al Yaquin. They were negotiated and discussing about the conflict. They attacked the BGP station and then on Friday, after prayers, we heard the Al YAquin group took some sticks and after ten or 15 minutes, the soldiers started shooting.

On the first night, we heard a huge noise of gunshot. We were frightened. When the sun rose, we heard that the BGP check posts were attacked by the Al Yaqin people, but that they didn't kill many soldiers. Before the prayer time on Friday, the Rakhine people came into the market and took the materials from the shops of the Muslim people. The villagers together with some Al Yaquin marched to the market. There was some kind of a conflict, with Rakhine and Muslims running around, and the BGP started shooting. The Rakhine people informed the BGP who were in the monastery. They came from the monastery and set fire to the market. Among these people, four had minor injuries and one died on the spot. His name was [redacted]. He was shot in the chest. After the shooting, he was brought to Bangladesh for treatment. And then the situation became stable. In the evening time, around 7:30 p.m. on Friday night, the BGP started firing again. One person, he is maybe 17 or 18, his name is [redacted]. The BGP fires and he was shot in the stomach. It went through his back. Another four persons brought him to another village and we went to see him. Two or three people carried him to Bangladesh. After two days, we heard he died.

The BGP came to realize these people had no guns, just sticks. The villagers fled. Everyone crossed the river and went into the forest. After 7pm, we were afraid of the BGP guns, so maybe half of the villagers cross the creek in the forest. After hearing that some people were shot when

crossing the river, we tried to move from the forest. We were with about 300 people when traveling here. We spent three days and three nights in the forest. There were children and pregnant women, and elderly people.

One person named [redacted], son of [redacted], was shot by BGP. It was on Friday night at 7pm. We were still in the village at home. After hearing about this we decided to flee. I saw his body when he was buried. He was found on the road. I am not sure if he is Al Yaquin or not.

From the group of people, two of the elderly people, a couple, we lost them. We have no information about them. [redacted] is one, he is a [redacted], and his wife.

We had to eat from banana trees and leaves from the forest and mountains. It was a three-hour walk to the border but we couldn't take the right way, that's why it took so much time. The Rakhine people from this area were watching us from the mountaintop, so we had to take the other way. The helicopter was also flying over the village trying to find the villagers.

The [state security forces] think the villagers and Al Yaqin are the same.

When we arrived here after facing so many problems and barbed wire, two of the BGB guards stopped us. We arrived before 6 p.m. on Monday. The BGB said we couldn't cross until it got dark. The children were crying. The BGB split us up into small groups, and released us one by one [into Bangladesh]. Since 6pm it took them until 11pm for everyone to enter.

We were not asked any questions but we faced some robbers on the road. Firstly, when they tried to stop us, we asked them to please let us in.

We arrived to the main road and there was a small shop, and a total group of people came in and the police stopped us. I was in the group, the last group. The police asked us how many people are coming, who is married, who is unmarried, how many children? By doing that, it took them many hours. It was a very muddy place. We had insect bites everywhere, even the small children.

After 2 p.m. we saw one member shot by BGP.

After releasing us, we stayed with some family. And then we came to Kutapalong.

We have 20 members in my family.

ENDS

#23

Name: [redacted]
Age: 28
Gender: Male
Family: Yes

Ethnicity: Rohingya
Religion: Islam
Occupation: Unknown
Village: Chut Pyin, Rathedaung Township
Date: September 1, 2017
Note: [redacted]; phone call: +[redacted]

I am in Aura Para. I am from Chut Pyin. The situation is very dangerous now. All villagers must stay in the jungle. Around 80 people were arrested. There are 285 dead bodies we discovered. More than 44 people were injured and they are still in the village. My house is close to the military camp and I was home when they arrived. First the military came into the village and chased some people, and when no one came out of their houses, they started shooting, and then they burned two houses. There were probably 500 people, including the military and the [Rakhine]. There were maybe 300 military and the rest were Rakhine. They started setting fires and people were running everywhere out of the village. They used some kind of gun to start fires. They killed whoever they could catch and the women and children were brought to the camp, and they looted things. I was very close to the camp. This is what I saw with my own eyes.

I was also among the women. When i was in the village, i was with the women, but when they took them, i jumped in the pond and hid.

They shot the women also. Many women were killed. They were looting the jewelry and taking property, and they were also shooting them.

One of the ladies was raped and they cut her breasts. The next day when the military left we went back to collect some belongings and we found a woman whose breasts were cut, in the southern part of the village. She was the wife of Mullah [redacted]. She was young, 22 years old. They cut both her breasts off. Her body was lying on the road.

The cattle left in the Chut Pyin and the Rakhine have taken them. There were Lon Thein, police, military, and Rakhine.

Some people were beheaded and many were cut. We were in the house hiding when they were beheading people. When we saw that, we just ran out the back of the house. Rakhine people were doing it. The military shot people and the Rakhine were cutting heads. Some of the people were shot by the military first and when they were lying down, the military came and beheaded then. Some people were not yet shot and the Rakhine came and cut their life away.

In the late evening, when the military and Rakhine left, we went back secretly. I myself saw 150 dead bodies. I couldn't go close to the camp—there were more there. Some had gunshot wounds on their bodies. Some were cut up. Some were beheaded. And some were cut into three pieces, three separate pieces. I saw this myself. It was near the mosque. We couldn’t bring all the dead bodies back. We could only bring seven bodies. We were unable to take them back because the military were coming. The military took some dead bodies and put them in a cow shed. The

place where they were burning these dead bodies, we could see it well. They piled them in the shed and then they just burned them, including the shed.

Nobody was able to approach the dead bodies. If they saw a single person, they would shoot.

Later, after, we compiled a list of the dead bodies and we check with others to determine how many people are missing and how many were killed. In the evening, we compiled the list. 285 are missing. We went to a place and counted who is missing from which families.

It was only this place where we could bury bodies. Only seven dead bodies could be buried in Aura Para, no where else. It is ten minutes walked one-way.

80 people were arrested and in the nearby military. I heard that half of the people arrested were burned down in the small camp and the remaining were taken to the big military battalion, which is in Kyan Taung. I cannot say exactly how many were alive.

I could see the lady taken from the house and raped. They were military soldiers. It was outside, beside a house. We watched from inside the house. After they raped her, they killed her. Only one person. And then she was taken on the road and they cut her neck and they cut her breasts off. We were still inside the house. We saw her get raped and we saw him take her to the road. We saw him cut her neck and breasts. After that, we left the house.

It started around 2 p.m. It was the fourth day of the moon. On Sunday [August 27] at 2 p.m. and it finished around 7 p.m. After 7 p.m. the military went back to the camp and we went to the village to pick up the dead bodies. We could take the dead bodies to the village that were in the field, but we couldn't take any from the village because the military was watching there.

At 7:30 p.m. we went to take the dead bodies. We could bury the bodies the next morning in Aura Para.

I don't know the number of the battalion but it is in the main Rathedaung area.

There were 1,403 people in our village. I cannot say how many are still alive because we can only make a dead list.

I lost two members of my family. We have 18 members total and now we have 16. One was my uncle and the other was my brother-in-law. My uncle is [redacted]. He was 50 years old. My brother in law is [redacted], 43 years old. They were burned down in the camp. We could see well that they were being taken to the camp. They were burned there.

It was a small camp, like a bamboo-wood hut. They put them all there. And the hut is gone. The military is staying now in the school. We made the list, so I can confirm it is 285 people. I can confirm it.

My name is [redacted]. I am 28 years old. I am from Chut Pyin. In the day time I can stay in Aura Para but in the nighttime I have to go to the forest.

ENDS

#24
Name: [redacted]
Age: 43
Gender: Male
Family: 2, killed
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Hlaing Thi
Date: September 1, 2017
Note: [redacted]

I come from Hlaing Thi village, northern Maungdaw Township. I have three family members [including himself]. I have only a wife and one son. They were killed. They were killed on Sunday. The villagers together with me went into the forest and when I arrived there, they told me my son and wife were killed. The military killed them. [redacted] was my wife and [redacted] was my son. He was six-years old. When my wife and son were crossing the passage of the mountain when they were killed by the military.

On August 25, the violence didn't take place in my village, but we heard about two bomb blasts in other villages. We didn't know which village but later found out it was Mizali Para.

It [the explosion] was due to the wires touching. The bombs were Al Yaqin's. I was with them for one month and two days only. I had to recruit. They threatened to kill me if I didn't join. The head of the group, Atta Ullah, threatened us. The lower ranking people threatened me, communicating the message from Ata Ullah. I didn't see the lower ranking people but there was a person in charge from Al Yaqin in my village. He handled the management of the group in the village. He threatened me to join. His name is [redacted]. He is 28-years old. He is also from my village. We were shown incentives. We were told we would receive some money. I was given 20,000 Kyat. I was provided with a stick and a knife. The person in charge gave them to me.

We have been persecuted for a long time. We have not been acknowledged as Rohingya people. And the Rakhine also persecute us.

He [[redacted]] said I would be beheaded if I didn't join. "If you join us, we will give you money, but if you don't, we will kill you," he said. He said he would behead me.

Yes, it is true [Al Yaqin killed government informants]. I know about one person who they killed. He wasn't beheaded but they cut his neck. His name is [redacted]. He was sentenced to jail for many years for burning a house. He came out of jail and was working as an informer of the government. This person, they thought, was informing the authorities about the Rohingya people with false allegations. He is from Leikya Para. He was killed in front of me. He was brought to the mountainside, at the edge of the mountain. There were six or seven members of the group

there. It wasn't last Friday but the Friday before [August 18]. It was around 3 p.m. His hands were tied. Another group tied him and took him away.

They tied his hands behind his back and blindfolded him. He didn't struggle to get away. He knew he would be killed.

I was not with them. I was maybe 100 feet away. They cut his neck. I didn't hear what they were saying to him. There were six or seven members around him. I don't know. He was buried there after after they killed him. It was not a religious burial—they just dug a hole. They dug the hole.

[redacted] had a family. I don't know [how many kids]. He was taken from his home during the daytime. He was taken from Leikya Para.

He was warned two times before he was killed. The group members told me. Long ago, the country was peaceful. Even then he was working as an informant.

The group leader decided who gets killed. When we heard of an informer, we informed Ata Ullah and then we took instruction about what to do. Ata Ullah instructs the groups. He decided [redacted] should be killed.

This is the only person we killed. Other than him, our group did not kill anyone else. Other groups killed other people. Many people were beaten up.

In my area, there is no person apart from him who was killed, but those who drink alcohol or do bad things were beaten up badly. For not praying, for using drugs, these sorts of things. I was helping with that. After they were beaten up, they changed their behavior. We would go as a group but only one member would beat them. We watched. Before we beat them up, we'd tied them so they couldn't move.

We would find them at home or on the roads of the village.

I didn't participate in the attacks on August 25. The whole of my group did not participate. It was very far—the camp was very far. Another group attacked. Not our group. Our group was not informed that this would happen. We were divided by areas—the camp in our area was not attacked. The Kha Maung Seik camp was not attacked. Our group, where we stayed, was very far from the camp. We didn't know it would be attacked.

Only the head of our group held the mobile phone and communicated on behalf of us to Atta Ullah. He communicates to the upper level and then he shared the instructions with us.

No, I didn't received training. We didn't receive any training so far but we were told we would be trained soon, but then the violence happened. We were told we would be trained with guns. We were told the guns would come soon. We also had a communication system, radios, so we could communicate within [two miles]. The head of the group had one.

We used material out of engines. Out of pistons, we made them. We weren't shown how to make bombs but we saw them. We heard there was one member who came from Pakistan who could make the bombs. He made all the bombs. There was only one bomb in my village. The head of our group brought the bomb to the village. They set off that bomb on the road. The head of the group did it by himself. He asked for help.

You dig a hole and put the bomb in the hole, he said. Others did it. I wanted to stay away from that. There are two cables, red and blue, and they lay the wires along the ground to someplace far away and then it can be detonated from there. I didn't hear about any other types of bombs. They were all like this.

We had no guns. Not even the head of our group had guns. We were told the guns would be coming soon.

I never met him [the bombmaker from Pakistan]. He is also Rohingya. Atta Ullah is also Rohingya. I heard he was born in Myanmar. I can't recall the village. He went to Pakistan and learned these things from Pakistan.

The head, Atta Ullah, picked the date and he instructed the groups about which date we would attack.

One man mistakenly touched the two wires and blasted the bomb. It happened in Mizzali Para [Maungdaw Township]. It happened on Thursday night. They had the bombs in front of a house and mistakenly detonated one. I heard about it around 4:30 a.m. on Thursday [August 24]. As soon as it was blasted, we came to know, because they were making noise [calling by telephone]. That group called us and told us what happened. At 4:30 a.m. they just marched to the BGP camp—the other attack hadn't happened. When they marched closer to the camp, the BGP fired in the air. And they moved back. And then the situation became stable.

The person in charge had communication with Atta Ullah, and I heard from him. On Thursday morning, we came to know that a mass attack would take place. We were instructed to get ready. We were told that there would be some more members coming from outside the country with guns, and that we had to go with them and support them. I don't know why they didn't come. I didn't see anyone with guns.

None of our group was killed. The military arrived at our village only on Sunday [August 27]. They came once to the village. The helicopter came once and unloaded some weapons and then left and then came again. It came to Kha Maung Seik BGP camp. The helicopter arrived around 4 p.m., and then we moved to Kha Maung Seik village. We went to see what the helicopter brought. Ten of our members came. Yes, we carried our sticks and knives.

We want justice. We want peace. We want to make our land Rohingya land. It should be a liberated land for Rohingya people. We were always under the gun and abuse, and we had to get out of this situation and liberate the Rohingya people.

We had 50 members in my village. I can say in Maungdaw there might be 10,000 members. If there are 50 per village, you can calculate it. There weren't many in Buthidaung. There weren't many in Rathedaung. None in Sittwe. Mostly we were active in Maungdaw Township.

We can't communicate with each other now. Some of them came here and some are still hiding over there. They are still hiding in the forest. I don't know how they are surviving. I don't think there will be another attack [by Al Yaqin]. I think that with the power and strength we are not in a position to attack now. They would need external support to do it. If they received guns from outside then they can do it.

We were the first to come here so we didn't see the army kill people. When we saw the helicopter unloading the weapons, we left.

When our leader left, we just followed him. There were about 20 or 25 people in our group. Some stayed behind.

Yes it is true [some are telling the men and boys to stay]. They were stopping the people so they would join the group. The head of my group instructed that we should not let people come here [Bangladesh]. I don't know who commanded this order.

I don't feel safe here. There is no problem terms of safety. Only problem is shelter and food.

ENDS

#25
Name: N/A
Age:
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Done Pike, Taung Bazar, northern Buthidaung
Date: September 1, 2017
Note: [redacted]

I am from Done Pike, Taung Bazar, northern Buthidaung. We left the village on Monday [August 28]. The Wednesday before last [before the August 25 violence], the Al Yaqin group blasted a bomb in Thin Ga Nat village. It was around 4 p.m. in the daytime. When it exploded it made a lot of noise and the other villagers went to see what happened there. At that time, the military came and arrested and beat people. They took away some people. When some military were taking the people to the camp, some of the military set fire to houses. I was working in the village at the time as a day laborer. My father in law is in that village. I was constructing a wall at a house.

They started to set fire to houses with a lighter and they were arrested and killing young people. Some ran away and entered into the forest. It happened very close to me. There was only a small creek between us. Some were arrested and some young children were killed. I saw my own children killed. My whole family came with me there. My three children and my mother were killed. They made them lie down on the ground and they cut the backs of their necks.

[His children]: A 10-year-old boy, a seven-year-old girl, and a six-year-old girl. Two girls and one boy. My wife was killed by beating with a stick. There were others lying on the ground, including the family of my father in law. I saw my three kids and three family members from my father in law's family, and two people from my sister in laws' family. And also one more old man from another house.

There were five or six military soldiers. They held [batons] and guns. They took the knives from our houses. They were big knives, three or four knives taken from the house and one military held a stick. It was taken from the ground somewhere. I couldn't understand what they were saying. I don't understand the language. My wife was also killed and my mother. I didn't see them take their lives, we ran away, but we came back two days later and all the bodies were there. We couldn't do anything with the bodies. We couldn't perform a funeral. We just came here. There were no people who took pictures. All the people fled. No no, I don't have a mobile. To use the mobile we would have to pay the government. Many people have them. Even my own uncle.

There were 800 Al Yaqin gathered near the forest, near the mountainside. There were more than 250 Al Yaqin members in the village when the bomb blasted. I didn't know they were Al Yaqin but they were introduced to me as Al Yaqin. They were making a plan. Almost each person had a bomb. I saw more than 200 people, each with one knife and one bomb. It was around 4pm when the explosion happened. When we heard that, we just went to see it. No one was injured.

It was nearby the village. Everyone went to see what happened. Then we saw the military was coming out of the barracks and everyone ran away. It is very close. It's ten-minutes walk to the barrack. The fighters took everything with them when they ran.

Then they [Myanmar Army soldiers] started beating and killing the people. Hundreds of the military came to the village. They just beat them. When they came out of the barrack they just beat people, but after one or two hours, they started killing people. The high officials came out and that's when the killing happened. They had stars on their shoulders.

They killed around ten people. I couldn't have any contact with anyone. My children were killed. My wife was killed. My mother was killed.

Some beautiful women were taken away by the military. Around eight to 10 military took four women—my relatives. [redacted], 18 years old. [redacted], age 20. [redacted], age 18. [redacted], 20. No, I didn't see what the soldiers did to them. They were taken to the forest.

I left and came here [Bangladesh]. I have been here three days. I had to stay in the forest for three days. There were around 400 or 500 people and I had my father with me in the forest.

That's when i saw the Al Yaqin members. They didn't say anything, they just left. I could see them in groups and then they left. They were in a circle. We couldn't see any weapons. They wore longyis and shirts, like normal people. I didn't see any black clothing.

I went into the deep forest so didn't encounter the military. Some of the people took their cows with them. When they were bringing the cows, some people on the Bangladesh side of the border seized the cows. They were people from Foliya Para [in Bangladesh] who seized the cows, near Ukhiah.

I didn't have any trouble coming here. Nobody stopped or blocked us.

I was afraid of them [Al Yaqin]. I didn't know who they are. No one asked me to join.

ENDS

#26
Name: [redacted]
Age: 38
Gender: Male
Family: Eight
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Thit Tona
Date: September 1, 2017
Note: [redacted]; Will be great for documentation project; lived with [redacted] in Maungdaw in the past

I am from Thit Tona in northern Maungdaw. The Myanmar military was shooting launchers at the houses and burning the houses. Eight people were killed from my village. Five others were injured from the bullets and they are still here in the camp. They are men. I can take you to them. Three children under five years old were killed.

On the first day, I heard the sound of firing. The BGP station was close to my house. When I heard them firing guns I just ran away from my house and crossed the river. The violence took place on Friday [August 25] but this happened on Monday [August 28]. On the night of Friday, at 3 a.m., they started shooting wherever, but during the day time they targeted the people.

At dawn, one of the mullahs was going to pray and the BGP shot him. He was the first person shot. It was Friday [August 25] morning. When [the mullah] was going to the mosque to pray, the BGP thought he was going towards them to fight and they shot him. When the villagers learned of his killing, everyone came out and gathered together. The Al Yaquin group also came out of the village and tried to fight with the BGP. They had homemade bombs but they couldn't explode them. They hid them under the ground and that probably affected them. We were about to run away. We were watching from a short distance. The Al Yaquin group was trying to blast

the bombs, and the BGP got really angry and they started shooting directly into the people. These BGP were in a formation, with their backs to each other, shooting, and then they went to the Rakhine village. They brought some bombs in plastic bags. They were throwing them with their hands. But no bomb blasted. They didn't harm anyone.

The BGP were shooting and they went to the Rakhine villages. When they went to the Rakhine village, the villagers went to burn down the BGP camps. The camp was empty and they burned it. They just used lighters. It was small, holding about eight people. It was a wooden house with a thatch roof.

Eight people died and three more young children died at the time. One was six and the other two were under five. This was all on Friday morning. The soldiers were 30 yards from the people and I was behind the people, in the back. We were about to run away.

They were scattered and left the village. We went to the forest with our family and spent three nights. The next day the military arrived. They were shooting launchers on the houses and burning them. At the same time, the neighboring Rakhine villagers were taking property from our houses. The Rakhine village is Min Galar Nyunt. It's a natala village [model village]. When the Rakhine people were looting, the military was shooting launchers. We were watching from the forest.

No one was left. [the village was empty]. When they were shooting everywhere and then went to the Rakhine village, some went back and picked up the dead bodies. I saw them go. We conducted a funeral for those dead bodies.

Victims:

1. Mullah Abdu Shukur, around 40 years old.
2. Ali Huson, 30 years old.
3. Eliyas, 35 years old.
4. Nozir Ahmed, 35 years old.

I don't know the children's names. Among the children and men killed, one was a father and one was a son. One of the children was the son of the Mullah. Their house was close to the BGP camp.

In terms of the activities by Al Yaqin, they had some bombs and tried to throw some bombs. They tried to make some guns out of wood and painted them black. This was just to trick the people. "If you people are not on our side, you will be killed," they said.

They didn't ask me to join. I disliked their activities, but we still had to praise them, otherwise we'd be harmed. The other villagers asked us why we didn't take the side of Al Yaqin, and I said they didn't have the capacity to fight the government.

I am a [redacted] for [redacted].

Some of the villagers came to us. Most were uneducated. People came and said to us, “Why aren’t you supporting Al Yaqin?" We said we couldn’t support them because they have no capacity to fight the government. We said many had already lost their lives. We didn’t accept it. And then some people informed about me and others saying that. They beat whomever they wanted to beat. They’d blindfold people at nighttime. The first time, they tried to warn us. They’d try to warn first by words. They said, be careful, if you don’t do the right thing it will be more difficult next time.

I was respected in the village but those joining Al Yaqin are the useless people.

They beat some people up. Afterwards, we could see the wounds and bruises. In the daytime, they all sleep. When the night comes, they’d move around holding sticks. They’d beat people up with their sticks. They didn’t kill anybody.

They [Al Yaqin] killed in some villages. In That Kha Ngyar, they killed [redacted], son of [redacted]. He was around 32-years old. It was around four months ago he was killed. He was accused of being an informer. He was taken to the forest and killed there. The dead body was never returned to the village. Some Al Yaqin villagers are normal young villagers who took sides with Al Yaqin, and they explained how he was killed. After they killed him, they warned other people, saying, “Don’t end up like him." There was another case in Kyein Chaung [pronounced “Chin Chaung”]. The people told us. His name was [redacted]. He was 38 years old. He was killed the same way, accused of being an informant. But the body wasn’t returned. After they were taken from the house, the family members told us who took them.

I have eight family members—including one girl and two boys. The eldest is a six-year old girl. The second is four and the third is two.

We had so many difficulties. We had to walk for three days to get to Bangladesh. The border guards from Bangladesh also stopped us for half a day, saying, “Why are you people coming into our country?” We said, "We would rather die here rather than go back to our country right now."

In the mountainous side, there is a narrow passage, and 49 people were killed last night. In the entrance of the narrow passage, the military and Rakhine people were waiting for them. They [displaced residents] were carrying as much as they could. The military shot first and the Rakhine grabbed them. Those who escaped took photos. It is called La Ba Wa passage [La Boi Dalaa in Rohingya].

It was a huge group coming together. Some people took photos while running away. One woman, after raping her, they cut her leg off and hung it on the fence. We have a photo. One photo is from Ng Yant Chaung. I think there will be more footage coming.

I will take footage from new arrivals.

ENDS

#27
Name: [redacted]
Age: 24
Gender: Male
Family: married; no kids
Ethnicity: Rohingya
Religion: Islam
Occupation: Day worker; also has paddy
Village: Nwa Nyon Taung, northern Maungdaw Township
Date: September 1, 2017
Note: [redacted]

I am from Nwa Nyon Taung, northern Maungdaw Township. On Thursday, last week, I heard some noise in the north of our village. I heard it start around 12:30 a.m. One of my uncles from my fathers' side was a member of the village administration. In the morning, we found that the military tracks were moving along the road. It was a loud noise from far away; not the truck noises.

We heard that the Rakhine and military were burning villages during the nighttime, in Kyet Yoe Pyin village. The trucks were moving around at around 10 a.m. We kept quiet, the villagers stayed inside their houses in fear of the military. The people were gathering in groups in the village but kept quiet in fear. At the northern edge of the village, the military stopped with the truck. It was a small gate, and the soldiers fired two or three times. We have a BGP camp in our village, and the military came into the camp. The military called my uncle and said, did you hear the sound of the firing? Just to threaten the people. They kept firing and went to another place, called Kollabanga village. It is in the Friday morning. The military reached to the village. We could see it; it's very close to our village.

There is a market in the village. When they were firing, they killed two persons. Two young women were killed. When the villagers saw these two young women killed, they just started marching. They couldn't tolerate the young children getting killed. I I was hiding in my village. I joined the funeral of the two young women. The funeral washed three hours after they were killed.

The people were shouting loudly and the military went back to the camp. When the people were marching toward them, they went into the BGP camp. For the first time, around 35 military arrived. I heard the sound of a helicopter. It landed in the Kyee Kan Pyin camp [the headquarter of the BGP]. It's 15 minutes only.

The helicopter landed there and then we saw a military truck coming to the village. There were also military trucks. They had full arms and launchers in the truck. Where we were hiding, we could see everything well. We were in the backside of the village and we could see everything well. No one was staying alone, we were gathered in groups. They started burning the village. The east village and the middle village were burned down first. It was on Friday [August 25]. During the night it was calm. The western village remained. The next day the military came again and started burning the western village. I could see it hit and then the fire would start. It

would make a loud noise and then there are flames. The east village and the middle villages are close to the main road. But the western village, they have to go farther from the road to burn the western village.

I saw two men shot in the legs while they burned the village, in the thigh and calf. A man was shot in the stomach but we was still alive. No, i didn't see them cutting anyone. I heard they beheaded many people [in other villages].

The whole village was burned down. Then we moved to Kha Ri Para [Habiywa; Hali para]. The other villagers stayed in that village while my village moved to Zamboinna. I have a sister in Lapa Gong and we went there. We thought it would be peaceful so we stayed two days there. There were two separate BGP camps in Kyauk Lay Gar. It's a big station. The main road goes direct to the BGP headquarter.

The helicopter was flying in the sky. I didn't see the helicopter drop weapons but i heard it did. There was another small BGP camp called Kut Khali. The military truck arrived to this camp. They set fire to Kut Khali, one house. I saw the flames but I heard from the villagers.

Khut Khali, Zim Pin Nyar were burned down. When we saw the villages burn down, we just kept moving through Naribil, Thu Oo Lar, Sali Prang, and then Kyet Yoe Pyin, and after that, Ngar Sar Kyu. We also crossed Laungdone. There are other villages. Kyauk Chaung. When we were crossing Kyet Yoe Pyin there is another village called Ngan Chaung and the military shot two young children and a young man. We heard the gunshots—the people in a long line, fleeing, speaking to each other, and the message spread fast about those gunshots. We couldn't move forward. We stayed in Sali Prang for one night. The next morning we came here [Bangladesh]. I don't know about the other side.

We also heard Myo Thu Gyi village was burned down.

Some of the young children were lost on the way here. It was so crowded, with so many people coming at the same time. And people were running, fearing the military was coming. I heard from many people, one woman was shouting that she lost her children. I heard many people died crossing the river. From Longdon village the road was very muddy. The people couldn't walk through the mud. We had to take rests along the way. The mud was up to our knees. Sometimes we had to cross creeks and rushing water.

It was a long queue, like at a market, but everyone was crying. We had no food to eat. The mud was up to our knees. It was very difficult.

When we arrived at Nayapara. Some of the villagers from Bangladesh came to support with some rice and bread and bananas. We crossed the river at 9 p.m. but it took us three hours to arrive at Nayapara. It took so much time, it was very difficult. I heard many more people are coming right now. I hurt my leg.

I have a wife—five members total. Me, my wife, my mother and two sisters. We have no kids. We have refugee relatives and we are staying there. It is very difficult for us to manage the space. We have ten people staying in one small space. We just arrived yesterday.

It took us three days to come here.

I don't know how many members Al Yaqin had but they were really useless. They were saying that if the military attacks, then all the villagers will defend. They all are the same. They know they won't win with the military. So we were struggling just for their rights only; they know they won't win. I heard in other villages that they killed people who were working as informers. They follow the Koranic law, they kill or beat base don the Sharia'ah law. They decided to judge based on Shariah'ah law, and to whom they should do what. One person was killed in Zulpara but I am not sure if he was

They just held wooden sticks. They had some bombs. Th bomb was made just to threaten the military when they came to the village.

One thing is that many people are on their way here. They are still burning the villages today, in Gora Khali village, southern Maungdaw. I heard from other people and also saw on Facebook. I heard every village will be burned down.

ENDS

#28
Name: [redacted]
Age: 48
Gender: Male
Family: 7 kids (5 boys, 2 girls), 1 wife
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Maung Nu Yaw; Sar Para
Date: September 2, 2017
Note: via telephone: [redacted]

I am from Maung Nu Yaw in Khin Tha Ma villact tract, northern Buthidaung. I am in Sar Para, same village tract. I came here to meet some people. When the BGP camp was attacked by the people, I don't remember the date, but since the first day of the attack the villagers left to escape. They attacked the BGP village in Hpaung Daw Pyin village, and then the people came to Maung Nu Yaw to escape. All the young children and women and old people came. At that time, the military has a big battalion near the village, and the military and BGP were both firing on Khin Tha Ma and Pale Taung villages. The battalion came on the eastern side and firing toward the village.

Soon the military started firing. In the daytime I was still in my village [Maung Nu Maw]. At around 6pm I moved from my village. I left my village and went to Sar Para. This is the western

part of the village, and from there we watched into our village. I could hear the gunfire. The military was firing into Khin Tha Ma and Maung Daw Pyin and Maung Nu Yaw.

I was near the river. It was only five minutes away. I could hear the gunfire and i could see the military trucks arriving on the road. We were preparing to be ready, keeping all the women and children in the house. It was close to the river, so if the military came to that village, we were ready to flee. It was Sar Para. When the military comes, those who can't swim will use a plastic gallon. Those who can swim will also jump into the river.

We were in Sar Para and we didn't sleep the whole night. Those who could escape, came to Sar Para but there are some people who remain in Maung Nu Yaw. We heard from the people who stayed in the village that they were hiding in the ceilings of the houses and in trees.

The next day, many people arrived to the villages. The military surrounded the village and entered the village. Those who entered the village, they went to the women and old people and children. They gathered them in a wood hut. They were taken out of the house, they were blindfolded, and made to lay down on the ground. And then they shot them. There was one child whose father was killed. He told me. All the men and adult people were all killed. Maybe some women escaped. You can talk to them.

There were some eyewitnesses who could escape. There are some still here. I will find them. [We can call back].

There is another witness, the son of a teacher who was hacked. He is attending class 7. His father was killed in front of him.

Th people from the village scattered. There were two children who were cut and their mother is still alive. I will try by this evening.

We can see some flames [now] but its far from us. Thin Ga Net village. Many military went there and then we could see the smoke coming out of the village.

ENDS

#29
Name: [redacted]
Age: [redacted]
Gender: Male
Family: [redacted]
Ethnicity: Rohingya
Religion: Islam
Occupation: Mullah
Village: Thit Tona Gwa Son
Date: September 2, 2017
Note: via telephone; SEE PHOTO, he came in person

I am in Kutupalong camp now. I am from Thit Tona Gwa Son. I am 30 years old. Our village is big. Near my village is another Rakhine village. There is a BGP camp in the middle of the village. It's a bit far, and there is another Rakhine village called Ywa Thit. It's not a natala village; it's a normal Rakhine village. On Thursday night at 3 a.m. we heard the sound of bombs and firing in the BGP camp.

In the early morning [the next day] we went to pray in the mosque and after praying we exited the mosque and the BGP fired from their camp to us. On elf the mullah, Abdul Shakur, was the first to fall. He had a gunshot wound in his stomach. Another one was Abdul Sattar. He was shot in the chest. They both died. Another was [redacted]. He was shot in the shoulder. A child of the mullah, Shakur, also died.

I was inside the mosque when they were being shot. I was shot in the shoulder. After coming here I went to the clinic and they took out the bullet. I am also a mullah. I came out of the mosque to see what happened to the Mullah who was shot. That's when I was shot. When I was hot with the bullet, i fell unconscious. Some villagers brought me into a house and gave me some medicine. Some cleaned and bandaged me. A piece of bullet they took out with a knife, so there was still some in there. They got the rest out here in Bangladesh. It is my left shoulder. It is the eastern side of the camp. The people were about to bring me to Bangladesh for treatment but we couldn't leave. The military was shooting into the village. We couldn't go anywhere.

My father in law took care of me, buying some medicine in the local shops. I felt a little better after getting some medicines, and two villagers held me on each side and we came here [to Bangladesh]. It took two and a half days. We had no food on the journey. We were passing the narrow passage of the mountain, we couldn't find any water.

It wouldn't take much time to come to Bangladesh, but we couldn't take the right way and we had to cut through the jungle. When the military saw us, they'd shoot.

Some people were shot, some were cut into pieces. The people later came and mentioned.

The BGP camp wasn't attacked but we heard the sound of firing [at 3 a.m.] I heard from the western part of the village. It was far away. It was maybe 10 to 15 miles away. This wasn't in my village.

I heard the gun firing around 3 a.m. but our village was shot at in the morning. We don't know why they shot at us. They just shot everywhere. It was BGP. There was also military in the camp. It was a mixed group, military and BGP. Both were shooting. They used a launcher and guns. They set fire to the village. The whole village is gone now. 15 people were injured because of the shooting. No [no one was fighting against them].

We had nothing to use fight against them. I heard there were some [al Yaqin] in the village but i don't know them.

Eight people were killed in total.

1. Abdul Shakur
2. Abdul Sattar
3. Harron

I don't know the young children who died.

The BGP fired towards the village and kept firing and then went to the Rakhine village. After the BGP went to the Rakhine village, they came back together to the middle point of the filed, and they starting shooting again. The Rakhine also had guns. The people were only harmed the first time. Although they tried to fire the second time, everyone fled.

The Rakhine were wearing pants and shirts. They had on black and white shirts and pants. They wore normal clothing, like villagers. All the Rakhine people were given guns by the government. I know because the government brought some guns with a truck and on the way the tire of the truck was punctured. The tire was broken and we opened the window of the car, and and looked through the window and saw piles of guns. This was more than two months ago. There was only one driver and a Rakhine lady in the front, and following them were Lon Tein guards. Three in the back and three in the front. It was a minibus. It was a white car. There were three Lon Tein following on motorbikes. There was only one driver and one Rakhine lady in the front of the van. They drove toward the Rakhine village. They went to Nga Yant Chaung village. And Min Galar Nyunt. When we saw this truck, we kept track of where it went. Maybe now my cousin is in Myanmar or here. We got separated.

When the military was firing and shooting launchers, we couldn't share information with each other, we had to escape. Even after being here for four days, I just now found my father. The guns looked the same as the ones held by the military. They were long. It was continuous sound [machin gun fire]. No one could move when they shot like that. We had to keep quiet.

I am worried. I still can't find any food. We don't have a tarpaulin or a mat to sit on. When we sit, we have to sit on the mud. Some of the young children got diseases and they are crying for food. I have tow children. A boy and girl. My real village is Yae Nawk Nga Thar in Maungdaw Township. Two years ago, my house was burned down in my village, and I couldn't afford to build another house in my compound, so I moved to my father in law's village Thit Tona Gwa Son. It was just a normal fire. 12 houses were burned down. Since then we have been living with my father in law.

My name is [redacted], age [redacted].

I can't find my brother and sister in law. This situation is bad.

ENDS

#30
Name: [redacted] brother of [redacted]
Age: 37

Gender: Male
Family: 7 (1 child)
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Buthidaung, downtown
Date: September 2, 2017
Note: via telephone: in contacts as [redacted] Call back Sept 4.

The total is 7 members of my family. I have only one child. My family is safe. I am in Buthidaung in the downtown area. There were two attacks on August 25 in two different places in northern Buthidaung. One is in Thin Ga Nat, the military battalion 552, and another BGP check post in Maung Daw Pyin village, by the armed group. It is around 15 miles from where I am now.

I was in downtown Buthidaung. We have some friends in those villages, and were in touch with them. On August 26 or 27, in another place called Maung Gyi Taung in northern Buthidaung, an attack took place. We could see the flames and smoke coming out of the village, and we could hear the gunfire.

The military went to that village and tried to arrest four or five people from the village, and when they arrested them, all the villagers tried to march to the military to take them back. This is not what i saw myself but we have been calling and finding out what the situation was, and they told me over the phone.

The military withdrew from the village and two hours later, they attacked the people with guns and heavy weapons. No one was killed but at least ten people were injured. The total number of 70 house were burned down.

The people from this village moved out of the village and went to the very northern part of Buthudaung. From the violence on the 25th, there has been no major problem in the downtown area. We can't go to the market to get things. The market is closed. We can't bring a whole bag of rice, but only like 10kg, not a whole bag. The market is only open from 8 to 11 a.m. It's not open the full day. It's not that the government is restricting, it's mainly because of fear from the people, that they could be harmed.

Not a single organization is able to help people since the violence took place. All the organizations, Malteser, WFP, ACF, and CARE have been closed and all the foreigners were evacuated. The people evacuated from the affected areas, they ran out of rations already. They are suffering many hardships. They can't get rations.

Since October, the same problem, we have been restricted. Only after January and February were we able to resume activities. WFP was able to work freely but not the other INGOs. They couldn't provide aid. Before the violence took place, the government banned the delivery of food for for the whole month of July. It started in early July. They reduced their activities because the government didn't provide the approval letter to deliver aid support. Some INGOs could provide

aid support because they already had approval letters. But after WFP's letter expired, it couldn't do anything. World Vision could do some support in ten to 12 villages, but that's it. Those are the villages affected by last October and November violence.

This is because of the military administration and the Rakhine parties. They were trying to suffocate the people by denying the UN and INGOs access. They were trying to create a crisis. We think this was well-planned by the military. Also the district commissioner from Maungdaw disseminated a message saying we don't know when the attack will break out in the region, basically suggesting there would be an attack. They were giving hints. He is the district commissioner. He called meetings, suggesting the idea that attacks would take place. Many people heard him say it. Not all the people would know this—it was in separate discussion. He is a Burmese guy. I think his name is Ye Htut.

The curfew is still in effect from 6 p.m. to 6 a.m. It mostly applies on the Rohingya people but not on Rakhine. We can see after 6 p.m. some people are moving around on motorbikes. We can see them moving around the city. There are seven wards in Buthidaung. Ward one is purely Muslim and ward six is purely Rakhine, and the others are mixed.

Most of the killings took place in Gu Dar Pyin. Violence happened there on August 26 and 27. Some armed groups attacked the BGP camps in Gu Dar Pyin village and while the BGP was coming on the road, the group attacked them. Some BGP got injured and then they withdrew. Then they came back later. The attack took place on the daytime. It was around 10 a.m. in the morning. Around 2 or 3 p.m. the military came to the village and surrounded it by all sides. They started shooting into the village and burned it down completely. At least 300 people were shot dead, according to what the people are telling me.

The military were trying to shoot the armed group but they opened fire on everyone. There are some villagers who were eyewitnesses of this. If we need, there could be some eyewitnesses. They already moved to other villages. I will try to find someone. I have to see. They scattered.

I've only heard from other people [about Al Yaqin]. The weapons they use are handmade bombs, some sticks and swords. Those are the weapons of ARSA people. Those who attacked in Gu Dar Pyin didn't have any guns. They didn't kill any military; they just harmed them by the hand bombs.

The killing by the ARSA is false. The government hasn't shown any proof. We know many Hindu people are trying to take side with the military. There are some Hindus here trying to take part with the military. Some Hindus homes were burned but it wasn't by ARSA. Their face resembles the Muslim people, and when he military shoots and fires, they can't differentiate, so sometimes by mistake they get killed. ARSA made a statement that they wouldn't harm civilians. The people think the informants are being killed by ARSA, but the head of ARSA never said they committed such killings.

They've trained some militias. I don't have any recent information but after the 2012 violence, they were trained. The leaders of the Rakhine community asked the government to form a militia

and arm and train them. After the 2012 violence they started forming these militias and arming people.

I saw them once in Zin Kha Ma village in southern Buthudang and I saw the military training them. I was passing by the village and I saw them training them. It was in 2013. They were showing them how to hold guns, how to shoot them, and how to march. I could tell they had real guns but they were empty. When I was passing by, the training was very close and we waited and watched. The military saw us and told us to leave and not to watch. It was the military. The village is mixed. There are Muslim people and the western side is solely Rakhine people. The training was happening there.

I have a death-toll and casualty list and a list of the houses burned. I can share it with you. From Taung Bazar to Gu Da Pyin village, I know the population list and the demographic data. We have the data by the government. I traveled to the affected areas and got the casualties. We know the affected areas. The villages were already burned, but some houses that remained were dismantled by the people. We know how many houses used to be in the villages. We have data of how men and women are in each village. From that profile, we can get the death. We confirmed the deaths over phone calls. We would ask how many people died in each village.

There are people trapped in northern Buthidaung. They can't pass the narrow passage along the mountain. They heard some people have been killed. Today they are trying to pass. They ran out of food. They have no choice. [[redacted]: It is called Da La, the narrow passageway]. Within two or three days they will arrive in Bangladesh; they will stop halfway, otherwise they'd arrive within one day.

—

[Call on September 4]

The township administrator and the tactical commander of the army and another official held a meeting today [September 4] about how they will disseminate the message to the village level. They plan to tell the groups they don't have to flee the village. This is a conspiracy against the international community. The international community is putting pressure on the government, so Min Aung Hlaing is trying to make a show for the international community. I don't think it will be helpful—it will be problem because this is a well-rooted problem from long ago. They are trying ethnically cleanse these people and will do so unless the international community takes strong action against this government. The international community expressing worry and condemning won't work. They must take string actions. They've already said this is a war zone and they've applied curfews. Even if the situation becomes stable, people will still be arrested arbitrarily, accused of supporting an insurgent group and it will continue.

The meeting was open. Everybody knows they are going to do this. If they go out to disseminate the real message, then it is better wait… Call me at 12noon tomorrow.

[NOTE: We agreed to only call him from my number].

ENDS

#31
Name:
Age:
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Ta Man Thar, Maungdaw Township
Date: September 2, 2017
Note: via telephone:

I am from Ta Man Thar village in northern Maungdaw Township. I am 35 years old. I've been with Al YAqin around one month. I am in Kutupalong refugee camp. I joined on my now. I don't know how many members are in my village. No I wasn't given anything. We had nothing. If some other people were given these things, i don't know.

I had some dealings with the Al Yaqin group. The members with whom i spoke are from my village. I spoke with two people. They warned us not to do bad things, not to participated in bad things, to pray regularly. They would say things like that. They only used to tell us to do the good things because doing the bad things is a sin. They were the same, like us [no sticks, no knives].

I didn't see them at night, only during the daytime. I don't think so. When they came to the village, they just instructed the people to do good things and to pray.

I don't know anything about that [people being punished for immoral behavior]. I don't know [about informants being killed]. The Rakhine people were killing and cutting people and burning the villages with the government. They burned my village the day before yesterday. Before our houses were burned down, the Rakhine and military came and were shooting at us. With the fear of the military, we fled, two or three days later they burned down the village. We watched from the forest as they shot the fire on the houses.

The military first arrived in the early evening, from the western part of the village. It was on Saturday [August 26]. It was light out—we could see. They just came on foot. All of them were holding guns. They also carried heavy weapons on their shoulders. We could see that. 50 to 60 military arrived. When they arrived, I just finished prayers and we heard gunshots, so we went to the edge of the mountain. They had big backpacks and some had handguns and some had heavy weapons on their shoulders. They continued shooting for a half hour continuously. They shot a heavy weapon and two men from my village were injured. We went to see what happened and they were lying on the ground. These two men were brought to the edge of the mountain and we provided some medicine to them. Their relatives carried them. One was hit on the shoulder and tore through his body. And one was hit on his back. I don't know where they are now. I don't know if they died. After that, we ran away out of fear of the shooting.

I didn't see any other killings. I know the village was burned down.

We stayed in the forest for six or seven days. We saw the military ybruning down our village. We went to the forest on Saturday [August 26] late evening and our houses were burned down the day before yesterday [August 31]. All the villagers were gone when they burned it down. I was maybe one and a half miles away.

The military were in black uniforms and the Rakhine people were in camouflage. They called Rakhine to be Lon Tein.
The military were Burmese and the Lon Tein were Rakhine. We could see them shooting the launchers on the houses.

More than 60 people were with me. Young children, old men, women, all types of people. I don't know [if there were Al Yaqin people there]. I am not a real member, but when they came to the village, then we used to deal with them. I don't know their objective [Al Yaqin]. I only know that when I met them, they used to instruct us to do the good things.

When we entered into the forest, we lost our way and we had to walk around on the mountain for a very long time. One night, we walked the whole night because we lost our way. It was raining. The next morning we started moving forward and after four days we arrived here [Bangladesh]. We had no food. There were many people, more than 10,000 people, coming to the border. All the people came to Bangladesh. All the people came to Kutupalong.

The BGB stopped us on the border. We were stopped and couldn't cross the border, so we had to tale a separate way. There were five or six BGB and they stopped us and pushed us away. They said, "Go back to where you came from." So we had to come here using a secret way.

There was a small creek, and we could go under the fence at that point. Some people came under the bridge, and some broke the fence. There wasn't much time.

We arrived with four members of my family. We lost my brother and my sister. My brother was killed by Rakhine. My brother was arrested and taken away on Monday before the attacks took place. It was the military and Lon Tein, they came to my house and said they had to investigate my brother. He was taken away by Lon Tein and military. We haven't heard anything about him since. First they came to our house and they hit him on his head with their guns at our house. They locked his wrists. I saw that when he was taken, his face was open [no blindfold]. Ten of the people from our village were arrested and taken away. Four were freed. The rest were not. We still don't what happened to the rest of them. My father went to the camp to see what happens. They didn't give him access. They said they didn't know anything about him of where he was.

When they tried to enter the [lockup in the BGP sector], the Lon Tein said they couldn't enter. It was sector number 2 a big BGP camp. It is in Shidda. My father didn't have access to see his son.

The nearby villagers said that he was taken out of the car and into the sector number 2. There is no information about my brother or the other people.

We are having so much difficulty with food and shelter. We are staying with many other people. It's raining. We have no place to sit.

It's getting much smaller. [Al Yaqin]. They are in a crisis now. Everybody is leaving. There will be no chance for them to grow bigger now.

ENDS

#32
Name: [redacted] (husband is [redacted])
Age: 27
Gender: Female
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: Mother
Village: Ta Min Thar
Date: September 2, 2017
Note: via telephone:

Ta Min Thar village, Maungdaw Township. My name is [redacted]. We had to stay for four days in the forest. I don't remember the date well but I have been here [Kutupalong refugee camp] for three days.

The military and Rakhine people and Mra Mar Gyi were killing and setting fire in the village. I was at home, inside my house when the military was shooting from the western side of the village, and then we fled. It was around 9 a.m. on Friday [August 25]. It went from 9 a.m. to 12 noon. They were shooting the whole time. I could see them. The military were firing from the Malteser International office. My house is just five houses away. The military burned down the Malteser office and there were two drivers. These two men were tied up and taken to the monastery. It was the Rakhine and Lon Tein. They shot a launcher at the Malteser office. There was a market, and there are some small hills. The military stood near the market on the hill and shot a launcher at the office.

There were two Malteser vehicles and I think they burned them, too.

It would take only five minutes to walk to the office from where they were.

First they burned peoples' houses. The first house they burned down is just three houses away from mine. And then they kept burning the houses. We were watching from near the Malteser office. They went into the office and took property out of it, and then we heard shouting from the office and we saw that soldiers were taking two drivers. They were being taken and beaten. They had their hands behind their heads. They [soldiers] were walking them. I know those two men.

They are the drivers who carried the polio vaccinations around the villages. One is [redacted] and one is [redacted]. [redacted] is around 35 years old. [redacted] is maybe 40.

First they arrested the drivers and then they started burning houses, and then they burned down the Malteser office. They were also shooting guns. Some people died. Four men died. The other villagers brought them back and they were buried [in the forest]. They were shot when we were running out of the village. When they were shooting the launchers and burning down the houses, that's when the bullets hit them. We were in the backside of the village. All the women from the village were with me. There were also small children with us. There were around 300 of us together. The men already escaped. We thought that the military would not harm us. We were sitting in the house, wondering where to go. On both sides there are rivers. When they were shooting launchers and firing and bombarding, the houses were burning and we knew we had to leave.

I didn't see anyone in our village [fighting back].

We saw some people working as lookout people to watch over the village. It might be in another village [where Al Yaqin was present] but not in ours.

The Rakhine and the Mra Mar Gyi came to the Malteser office. They came and took property away. Before the houses were burned, the Rakhine and Mara Mar Gyi entered homes and took property with them. We were hiding close by and could see them. They packed things in a bag. We were hiding behind the office. We could see them packing big bags and carrying them out. We couldn't see what was in the bags but we saw them carry them out. There were around 50 of them there. They had guns. The guns were long; longer than the military's. When we were hiding behind the office, we could hear them speaking. We could see their weapons. They went to their villages with the property. It is in the same village—Ta Min Thar—but it is the Mara Mar Gyi area.

The Rakhine village is the southern and easter part of the village. It takes just three minutes to walk there. It was just a little bit farther to the Mara Mar Gyi village. They had on normal clothing. The Rakhine people wore green uniforms. It was the color of grass. The Mara Mar Gyi wore normal clothes. Some of them wore pants and some wore longyis.

The government gave them guns. They moved around holding their guns starting two or three months ago. They held their guns sometimes in the daytime and nighttime. During the night the government gave them guns. The wives of the Mara Mar Gyi used to tell us. We are very close to the Mara Mar Gyi. They told us. Everyone, even Mara Mar Gyi, were given guns.

The military trained them every night in their village. I saw it. It was just beside the road, and we could see the training. One of the people was a trainer, showing the other people what to do. I couldn't tell who the trainer was. We could see them moving around but couldn't tell who the trainer was. They had only wore pants and no shirts. They were holding wooden guns. I could tell they weren't real guns.

It started five or six months ago. They did it every night.

I saw them after they got killed. Villagers pulled them into the forest. I know one person's name. His name was [redacted]. He was about 25 years old. I was taken as a daughter in law in this village so I don't know everyone.

Not a single Muslim family remains in the village. I could see all the villagers are here—no one stayed behind. It took three days walking in the forest to get here [Bangladesh]. We arrived to Kutupalong on the fourth day. The border guards stopped us when we were trying to come in. They asked us why we came here. We told them that our village was burned down and that's why we had to come here.

I didn't see anyone carrying them [swords, knives]. No one from my village got cut. There were no problems when we were coming—some people fell down but that's all. No, we didn't see the military. There were about 1,000 people with us. It was a long line of people. We crossed first but there are many more coming.

There were many children, old men, and pregnant women. We couldn't find the younger men, because they already escaped. Now we are finding them here.

I don't know how many people live in the village. I have a husband but i haven't seen him. We have two children, one is a girl and one is boy.

On the burning day, he [husband] ran away before me. I heard he has been living in a mosque somewhere in Kutupalong but I haven't found him. My husband arrived a day before us. He could walk faster.

We have many difficulties with food an shelter. We couldn't bring anything with us when we came. We have no money to buy a shelter. We are sleeping on the roadside under a thin tarpaulin.

ENDS

#33
Name: [redacted]
Age: 25
Gender: Male
Family: 2
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village:
Date: September 3, 2017
Note: [redacted]

I come from Min Gyi village. It is called Tolatoli in Rohingya alangye. It is northern Maungdaw near Kyein Chaung village. After the violence took place, the next day in the morning, at dawn,

very early, the military started shooting and we moved out of the village and gathered in one place. At that time, a helicopter landed in the Rakhine village. It's the same name but a different village. Before they shot, the military burned the village, and that's why we ran away. We were sitting and waiting in a sandy area at the bank of the river. It is the Purma river.

The young people were separated from us and they were shot by the military. Some beautiful women were taken to the forest and raped and they were cut there. Some who were taken there were shot. When the military came, I went into the forest but left my family in the group. My mother was killed. My brother. My father. When the military was burning the houses, i evacuated my wife and child, but I couldn't get the others. My wife and child were safe—I went back to get the others but couldn't.

First they burned the houses and then they started killing the people. At around 10 a.m. they stared burning the village. Around 11 a.m. they started killing people. It was Rakhine and Mro people with the military and Lon Tein. They [Rakhine and Mro] were from the neighboring village. They brought the Mro people from the hillside. Before the violence took place, the Rakhine and military took the Mro people and kept them in the Rakhine village. We know the Mro because we had some dealings with them in the mountainside—they have long hair and wear it in a knot behind their head. We know them. On the same day of the violence, they arrived. The violence started and the Mro arrived—all the Buddhist people came together in the village. They were given long swords. The Rakhine people and the government gave them the swords. I could see it—they were handing them swords. Even small Rakhine children were given long swords and they were moving them around with the swords hanging on their backs. When the violence took place, people gathered in the Rakhine village and they all held weapons.

The Rakhine people were provided with guns and training. They were taught how to shoot the guns. There were some people near the Rakhine village. We saw the training. After seeing these things, some people moved to our village. I didn't see the training myself but we heard all the Rakhine villages were being trained.

The Rakhine people were given swords, knifes, guns one month ago. They sometimes practiced shooting the guns. I could hear the sounds of the gunfire. We heard these things often. I don't know how long they trained because I couldn't enter the Rakhine village. Before, one month ago, we could go there, but then we were banned from entering the Rakhine [part of] village. When we tried to go, they tried to kill us, to cut us. Some people familiar and close with the Rakhine people, before the violence happened, they came to us and told us we couldn't go to they village.

[Military arrived at dawn; 10 a.m. they started burning]. They used a lighter to burn down houses. They lit the thatch roofs. It was the military. There were around 250 military. We counted them. Before burning the houses, the military tried to shoot the villages, and everyone ran out of their houses. When we ran out of our houses, then they started burning the houses. There was one old man who couldn't manage to escape and he was burned. I saw him. He couldn't manage to get out of the house.

The young kids, maybe 12 years old, the soldiers shot them. They took some women away and into the forest. They selected women and raped them. They cut them and they poured petrol on them and burned them. I could see them. Digging a hole will take time. There are two different types: some were burned after they were raped. Some women were raped in front of other people.

There were three to five soldiers raping one woman. Her name was [redacted]. I don't know the other women's names.

They made them lay on the ground and they cut them. The heads of some were separated. I saw them cutting the heads off.

We had two hamlets affected: Ziyoltoli, Waikyoung. The people I saw killed were from these hamlets. There were around 1,500 people in those two hamlets. There were some people who were safe, but most were killed. One person ran to me. After running away, that person told me we were all finished. I didn't go back. We came here [to Bangladesh].

We were in the group.

When our village was burned down, we were trying to flee to come here, and the military stopped us and told us we wouldn't be harmed. They said we could stay there. That's why we took refuge on the sandy shore. Some of the people could speak Rohingya language. There were some Bangaldeshi-Rakhine people who could speak Bengali. They said, "we will not do harm to you, we are just here to investigate." There were 800 to 900 people on the sandy shore. Not long after that, they started shooting at us. There were maybe 70 soldiers shooting us. It was a continuous noise, continuous bullets. Everyone died. They were trying to kill us all. There were four men who escaped from the group. We were finished. Everyone was gone. There was nothing left. People were shot in the chest, stomachs, legs, face, head, everywhere.

At least 800 would have been killed. The Muslims are finished. There are no Muslims there now. When they were shooting us, the Rakhine and Mro were taking things from the village—the cattle and other belongings.

They wanted to ask if we had bad people in the village. We didn't know. No, no, no—there were no Al Yaqin in the villagers. No I never met them. No [we had no sticks or knives].

Al Yaqin wasn't in my village. No one had any sticks or anything, but we heard Al Yaqin tried to attack in other villages, holding long swords and sticks. They couldn't bear the persecution so they tried to attack back.

The Rakhine village convinced the military [to attack us].

When they shot, they just tried to burn the bodies. I saw with my own eyes. They poured petrol on the bodies and burned them. I was not far away. I brought my child and wife to another

village and i came back to get my sisters and other family members. I couldn't go back, but I watched them from the hillside.

Its was on Thursday [August 31]. Before the violence happened, the military used to come and take chickens and goats and our belongings. Sometimes the military arrested people and accused them of communication with bad people, with fighters. And sometimes they'd kill them in the camp or take money and send them back.

I was arrested. It was after the October violence. In the last October, the military did the same thing. They shot some people and beat some people. I was beaten and I had to pay 200,000 Kyats to the military. When I was arrested, they told me that we were providing food and communicating with the insurgent groups. They said that if there is violence again, all you people will be finished. They said they would finish and kill all of us. It was three or four days after the October violence happened. 18 other people from my village were arrested.

On that day, they surrounded the village. Some people ran away into the forest, some ran into the field. No [they didn't kill anyone in our village]. I heard that in Dar Gyi Zar and in Yaw Khat Chae Gwa Son were killed, but not in my village.

The military came from Kyein Chaung village. It is a camp, not a battalion. No [I don't know battalion numbers]. They kept me up to 7 p.m. We had to carry their luggage. We had to go to Aung Seik Pyin carrying their luggage. They took the money from me [200k Kyat] but we still had to carry their luggage. There were 18 of us total. We carried baskets, some solar panels, and some weapons and food. The beat us. It took a half hour to walk the luggage. We were told that if we walked their things to the camp, then they'd release us. If we refused, we'd have been beaten badly.

I saw 12 heads. They were women and men, some children too. After burning bodies, they kept shooting, and when they stopped shooting, they were grabbing people and cutting them. I was hiding and watching. There is no one left in the area. Not a single person. Kyein Chaung, Aung Seik Pyin, and Myo Min Chaung. From the upper side of Maungdaw, not a single person remains. Only dogs are left, barking in the night. It took us four days to get here.

It took four days to get here [including the day of the violence]. I arrived yesterday. [Violence maybe August 30]

I am facing problems with food and shelter here. We have no place to sleep. I had no problem with the border guards, and some of the Bangladeshi people provided food or biscuits to the children.

My name is [redacted]. I am 25 years old. I have two children, a boy and a girl. I also brought my wife.My wife is from Kyein Chaung village. I could save her.

They will finish us. There will be nothing left. We are very thankful that we can take refuge in Bangladesh. We don't have food but at least we can save our lives here.

I have no idea [if Al Yaqin will get bigger or smaller]. There aren't many Muslims left in Myanmar. I heard there are many people from Buthudaung side waiting near the narrow passage but they can't cross and just went into the forest. The children were crying for food but they can't come here because the military is stopping them. I have some cousins remaining in some villages. Some people remain, only men. They called me and said they are coming soon. They worry they will be killed. They are helping people come from the Buthdaung side. They are hiding.

ENDS

#34
Name: [redacted]
Age: 50
Gender: Female
Family: 7 children (2 killed; 5 living)
Ethnicity: Rohingya
Religion: Islam
Village: Kha Maung Seik
Date: September 3, 2017
Note: [redacted]; HAVE PHOTO AND VIDEO OF HER.

We couldn't stay. We couldn't stay because of the Rakhine people [Lon Thein]. They were pulling us out of our houses.

I am from Kha Maung Seik, northern Maungdaw Township. They were killing everyone. The violence started on Sunday [August 27] around 10 a.m., the time the children were going to school. They were taking people out of the houses and killing them and shooting them and cutting them. We were inside the house. When we saw that people were being dragged out of houses, and they were burning the houses, we just escaped. We went to the riverbank. It is the Lekaya River. The whole village came to the riverbank. Those cut and killed didn't.

The Rakhine people, Lon Tein, were dragging people out of homes. They were cutting throats and bodies and arms. I watched it with my own eyes. More than 100 people were cut like this. From the age of eight to 15 and men and women too. Some women were pregnant with babies inside and they cut their stomachs.

I lost two family members—two sons were cut. Both were married. Both had two children. One is [redacted] and one is [redacted]. They were day laborers. They were taken from the house and dragged to the side of the road and cut. I was watching the whole time. They made them lay down on the ground and then they cut their necks. We were shouting and crying. [Soldiers] said to us, "would you convert to our religion?" The Rakhine said that. They could speak my language. They wore camouflage. The military colors were green. The Lon Tein was [camoflauge]. These were the main people causing us problems.

Their knives were long and curved [swords]. They were also holding guns. When they found a group of people, they shot at them. There was so much blood. I will never see my children again.

[At the riverbank], the village chairman explained to us that so far, he can defend us here, but soon I cannot and you have to go save yourself, he said. We managed to escape like cows. Those who couldn't escape were killed. They were also burning down the houses. My house was burned while I was there. They burned down the mosque, too. The roof was wet. They poured petrol on the homes and then lit them on fire.

Some of them were lying down. They wrapped some with tarpaulin and threw some bodies into the river. When their parents were killed and the children were standing alone, they threw the children in the river. It was on the other side of the river bank. We were watching. Even the newborns and the ones who could walk, they threw them in the river. It was not far from where we were hiding. They cut one woman's stomach.

The [Rakhine] were throwing the children, the Lon Tein. So many children. There were many people. Those who could run away were able to escape, those who remained were finished.

Some [dead bodies[were thrown in the river, some remained. There were many people cut up on the bank of the river. People were running from that bank to the other side, and they were cut.

It ended after the sunset. It was a huge village. I don't know the population figure. The name of the village is famous in the area, a big village.

We had no Rakhine villagers, but there was a Lon Tein camp.

Yes [there was violence before]. We stayed, enduring these abuses, always hoping it would improve. Some people were taken to the [BGP station], and then they'd never come back. They'd arrest people and take them to the camp, and they'd never return.

[redacted] was a very senior person in the village. He was arrested around eight or nine days before this violence. He was taken to the camp and never came back. I saw them take him. They put a blindfold on him and tied his hands behind his back. When the elder people were taken, the villagers would gather to see, and they'd attack the villagers. My brother in law was killed. He was taken by the military. When the village elder was taken, my brother in law went to try to stop it and he was shot. Lon Tein shot him. The bullet hit his chest. He was brought here for medical treatment but died. His name was [redacted]. He was 35 years old. He died yesterday. [redacted] was taken eight to nine days ago.

It took me three days to get here. We managed to come here, facing difficulties but no serious problems. I arrived yesterday. I had to stay two days in the forest. One family gave us some food. I haven't eaten today. We have been wet under the rain. I am now in Kutupalong camp. It is so crowded. It was late in the evening when I arrived here. The border guards didn't cause any problems. It was a long line of people. There was no distance between each person, no space. We were gathered in a football field and we were wet under the rain.

No, no [no fighters in the village].

All the Rakhine wore pants [and camouflage; no civilians]. They came in cars, big cars, in trucks. When we heard the truck engine, we were terrified and some people ran then.

We have to stay under the rain and we have nothing. We don't even have clothing to change.

If you can help provide some food and shelter. We are under the rain. We need some shelter. One family gave us some rice and that is all we have had.

ENDS

#35
Name: [redacted]
Age: [redacted]
Gender: Male
Family: 1 child
Ethnicity: Hindu
Religion: Hindu
Occupation: [redacted]
Village: Thit Tona Gwa Son
Date: September 3, 2017
Note: [redacted]

I am Hindu. I am from Thit Tona Gwa Son village, Oo Thay Wya hamlet, northern Maungdaw Township. There are 75 households in my village.

They were wearing long boots and long pants and black color uniforms and they had on black masks. We could only see their eyes. They had some guns. I couldn't tell who they were, whether they were Muslims or Rakhine or Burmese. This was around ten days ago. They didn't come to our hamlet, but I saw them inside the mosque. They stayed in the mosque for two days. It was around 200 people. I couldn't go in the mosque. I am Hindu. But I could see from the outside. They were less than half a kilometer away.

The Hindu and Muslim people are mixed in my village.

These people told us that they wouldn't harm any Hindus but that they only would attack the Rakhine people. We were mixed with the Muslim people. The Hindus and Muslims are like brothers. We didn't face any problem from these people. But we could see some houses were burning down. We couldn't see who was actually burning them down. The shops were closed, the market was closed. We couldn't do anything. The market was closed.

I saw them ten days ago. They stayed only two days and left. I didn't see them again after that. I saw four of these men, they all had guns.But I can only estimate how many were in the mosque.

The Lon Tein are two kilometers from the village. When the Lon Tein arrived, we just left an went to the Maungdaw side.

Three people were killed. Five days after I saw the fighters [men wearing black], three people were killed. We didn't see the dead bodies. We only heard they were killed. These three people were not killed in our village. Two men and one woman were killed. The woman is the daughter of one of he men. She was married in Kha Maung Seik village and her father and another man went to visit her house. They were killed in Kha Maung Seik village. Together with the two men and the woman's whole family were killed. I didn't hear who actually killed them, i just heard they were cut. It happened during the violence. I don't know the exact date. It was six or seven days since we learned of this.

Around 40 Hindus were killed.

Those who were in Kha Maung Seik, six to seven families.

When i heard about these people getting killed, then we came and we were very afraid. We thought we would also be killed. We came with the Muslim people. We are like brothers. We even stay on the land of a Muslim person in our village. We have many cows, land together.

I heard they were killed by Al Yaqin. I heard that. Many heard that. No one saw anything. There are no witnesses.

We thought the military and the BGP would come and safeguard us, but when they didn't come, then we fled. As soon as we came into the forest, we saw our houses burned down. We could see it. We were shouting and crying. We could only see the flame and the smoke. We were panicking. I have no idea if it was Al Yaqin or military burning the village. When we left, there were no people remaining. No [I didn't see any soldiers in the village or Al Yaqin]. It was a half hour after we left the village that the houses started burning. All th homes were burning. I could only see the flame and smoke. I didn't hear gunfire.

Yes [I hold a citizenship card]. It is green card. I got it around eight years ago. I am Hindu [not an ethnic group]. The Rakhine and the Burmese just call us Hindu.

We have idol worshipping. Killing the goat festival. We have two temples in the village. We don't have any kind of mullah. We have bon's [religious leader; performs marriages etc.] but we don't have a bon in our village; if we need one we have to go 18 kilometers away to another village.

The nearest Rakhine village is 2.5 kilometers away. It is Ywa Thit village. There was no violence in our village before this.

I am a [redacted]. I work in a village that is three kilometers away from my house. I work in Shaab Bazar market. [Rakhine came to look it; it's in The Min Thar].

There are around 350 Hindus in my village. No one is left there.There are more than 1200 Muslim households, population of five to six thousand. There were no problems in the past between the Hindu and Muslim people. We are now in the camp, [redacted].

We are having difficulty with food and shelter. We would like to request some support.

One of my brothers' couldn't come here. When the violence happened, he went to the market and couldn't join us. We got contact with him. He is in the Rakhine monastery now. It is in Ta Min Thar.

ENDS

#36

Name: [redacted]
Age: 19
Gender: Male
Family: 7 family members
Ethnicity: Hindu
Religion: Hindu
Occupation: [redacted]
Village: Thit Tona Gwa Son
Date: September 3, 2017
Note: [redacted]

My name is [redacted]. I am from Thit Tona Gwa Son. My father is [redacted]. I have fiver sisters and a brother and two parents. I am Hindu.

On Friday night, some people who could speak Rakhine and Burmese language and sometimes the Bengali language came to the village wearing black masks and black clothing. We didn't know who they were. On Thursday night [Friday morning], these people came into the village and tried to abuse the people and rape the women. We wanted to save our lives because we could not ensure it.

It started around 10 p.m. on August 25. That is why we came here.

When we heard about the killing in Kha Maung Seik village, the Hindu village, we heard 86 Hindus were killed. After hearing this news, we just left for Bangladesh.

Every night the men in masks came around 10 p.m. and stayed for five days. They started coming Friday night around 10 p.m. When the violence was happening, we all gathered in the temple and stayed together.

I heard the gunshots but I don't know who they were fighting. The bullets hit into the trees and the houses but not in the place we were hiding in the temple. It was around 10 a.m. The bullets came from the side of the village where the mosque is located. That was August 25.

In the moonlight, I peeped through the wall and I saw these people walking around. It was on Friday [August 25] during the nighttime, around 10 p.m. They stayed for ten to twenty minutes. They all wore masks. They wore all black. We didn't know who they were. They spoke Rakhine, Muslim [Rohingya] language, and Burmese language. We didn't know what they were saying.

I was inside the house. They didn't come in the house. They just walked around the houses and then left. I saw them only once.

I heard that some people were taken to the hospital. They beat up one man and injured his leg. I saw him in the morning. He is Hannuram. He is around 40 years old. They came to the house, beat him, and left. Everyone was scared.

I only saw that he was beat up and that's it. He was taken to the clinic.

We left the village on Thursday [August 31].

The gunfire came on Friday [August 25]. The bullets were on Friday around 10 a.m. and then I saw those people at 10 p.m. that night.

When we heard the sounds of gunfire, we all gathered in the temple. We didn't see any guns. It lasted around one hour. And then all the families went back to their houses. For five days, we stayed, and then we left. We couldn't go to the market, we couldn't get food. That is why we left. There were no problems with the Muslims. They are like brothers. I am a barber in the market. The market was closed so we couldn't work. I think it was closed because of the violence.

I don't know who closed it [the market]. I couldn't go. During these five days, we heard gunfire two or three times. They shot upward. If nothing was hit, we assumed they were shooting upwards. When we asked the Muslim people, they said they also don't know where the bullets came from.

We left out of fear. It took us two days to get here. There were ten to 12 people [soldiers in black masks] that i saw. When I saw those people, they didn't do anything, they just passed by.

Those who passed by, I didn't see guns, but the last guy I saw had a gun. It wasn't a long [gun], it was short. He carried it on a shoulder strap.

I can't say if Rohingya or Rakhine killed the Hindus because I didn't see it. I don't want to tell any lies. I am telling you what I know.

ENDS

#37
Name: [redacted]
Age:
Gender: Female
Family: 3 girls, 2 boys (all safe)
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Hathi Para, Kha Maung Sein village tract
Date: September 3, 2017
Note: [redacted]

I am from Hathi Para, Kha Maung Seik village tract, northern Maungdaw. I am [redacted], 25 years old. My husband is [redacted]. My husband was a hard worker, a day laborer. Last Thursday night [August 25], my husband was taken away by Lon Tein from our house. I was at home. It was around midnight and the Lon Tein came to our house, 20 to 25 soldiers. They tied his hands behind his back. When he was being tied up, he was told that he killed and cut people. My husband goes for work all day, he is innocent, I don't know why he was taken away. They just took him away. They didn't harm me. There were also other people arrested in my village, around 40 people arrested that night. It was after the violence. He was dragged out of the house and taken to the bank of the river. One of the soldiers cut him and threw him into the river. It was very close, right next to the house. My house in close to the river. It is the Lekkya River.

They used a long knife and cut his throat. I could see only my husband. He was in front of me. Two Lon Tein held him. He was shouting, asking for help. And then one of them cut his throat.

I saw a lot of this type of violence with my own eyes.

I saw it from my village. I don't go out of the house so I don't know the name of the people. The violence started on Friday [August 25]. It was around 9 or 10 a.m. when the helicopter arrived at the village. They dropped weapons on the houses. It [the helicopter] was shooting on the houses and the houses started burning, so we all ran to the forest to escape. I have five small children so I couldn't see many things. I had to take care of my children.

It was before the attacks, my husband was taken.

I heard many people have been killed.

I didn't hear about that. I didn't hear what other people said.

We face so many difficulties. We couldn't bring any clothing for the kids. I have three girls and two boys. I handed them to others while coming here, but now they are fine. When it rains we have to get wet. There is no shelter to sleep.

ENDS

Name:
Age:
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Kun Thee Pin, northern Maungdaw Township
Date: September 3, 2017
Note: [redacted]

I am from Kun Thee Pin in Maungdaw Township, northern. I am a farmer. I am a mullah as well. I have four kids. When we are suffering many abuses, we fled our place and arrived to Balukhali now. I left on the 27th. On the night of the 25th the violence started. The next day around 50 people from my village were taken by the military including men, women, and children. They were taken to the military camp in Taung Myo area—they were taken there.

The women were beaten and they made the children stand in the sun. The women were brought away. I saw them taken by the military. After the women were released, I saw them.

After 12 midnight [August 25] the violence took place. Nothing happened in the night. We just heard gunfire. The people were taken the next day. The military and the BGP were togther, mixed up in the camp.

I could see the houses were being burned down. It was said that the Burmese military was burning the houses. They were accompanied by the Buddhist Rakhine.

They [Lon Tein] wore camoflauge uniforms. The military wore green color. Most of the Rakhine people wore longyis. I just heard there were Rakhine accompanying them.

When we saw the military coming to the village, we organized the women and some others to gather together in a house. It was because of safety. If they are alone, then they would be tortured. I was with the group that ran away. I was watching from my hiding place. I saw them taking them out in a line. There were around 50 women and children. They took them to Taung Pyo camp. The camp is maybe 3 miles away. After three hours, they were released from the camp. They were detained there for just two hours. They came back to the village. I met them in the village. They said they were threatened and when the children asked for water and weren't provided water. They used bad language. No, no one was harmed.

When we arrived, we asked about the situation. We saw the burning of houses and just came here.

No, my village is a bit close to the camp, so I didn't see the fighters [Al Yaqin]. I heard about them, that there are some people like that in other villages.

Not a young men joined. Even when Rakhine people killed Rakhine people, they accused Al Yaqin. Now the attack is going between the Myanmar Army and the AA.

We faced no difficulties but the border guards stopped us from entering. We had to go another way because we couldn't go to the border guards, otherwise we couldn't come. It took 8 hours. There were around 500 people in our group.

We just heard all the villages were burning down.

Right now we can't think anything but Rakhine people causing us problems. We were were citizens of the country before. Now the government is trying to say we are from Bangladesh, if the UN and other countries can apply pressure eon them to let us go back, then we think the situation will be better for us .

In coordination with the UN and the international community, so the Myanmar will acknowledge the Rohingya people os we can return yo the country as Rohingya.

Please keep my identity confidential. I know this lesson. Some who tried to speak with the foreigners, and when they tried to explain their situation, the government has killed people. Whenever the UN and human rights people come, they arrest people when they leave. hat is why the people are afraid to communicate with outside people. They have committed violence and abuses, and if the people expose what they did, they'd face trouble. I have heard also this in the radio and the news.

ENDS

#39

Name: [redacted]
Age: 43
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Min Gyi
Date: September 4, 2017
Note: [redacted]

I come from Min Gyi, [Tulatoli], northern Maungdaw township. I left my village eight days ago. We left the village on Thursday [August 24 (25th?)] and went into the forest—we stayed for four hours and then went back to the village. There's a Rakhine village nearby, and we heard from them that on Friday they would burn down the Muslim villages. They started shooting from the

northern and southern side of the village. It was the military. We could see them. We have 22 family members. I ran away from the village while the military was shooting the people. Six members of my family fled with me.

We were taken to the sandy shore by the military. We were taken to the sandy shore of the river. The Purma River. The military took us all away from the village and they started burning all the houses. They gathered six to seven hundred people on the sandy shore. Most of the old men and old people were killed by shooting. Eight old men were shot dead inside the village. When we were running away, they couldn't run and they were shot and killed. There are two sides of the village—they shot us on one side, so we fled to the other side but the old men fled to empty houses. We saw they were killed. Then we ran on top of the hill and watched what was going on in the village.

There were 27 of us on top of the hill, including me. The military took six to seven hundred people to the sandy shore. After they burned down the houses, then they shot them dead. They poured petrol on the bodies and lit it on fire. In the group of people, the military together with the neighboring Rakhine people. They came to the group and they shot and beat with big sticks and cut some people. They threw children into the river. At least 480 people were killed. Some could escape. They acted like they were dead. There are five people injured here in the hospital. They arrived yesterday.

When we ran away, we counted how many people were on the sandy shore. Not all people were gunned down. Some were cut into pieces. Some were burned.

They [injured survivors] are in Kutupalong hospital. The hospital is beside the main road. Six people are already in this hospital. The other people are in the camp. One has a bullet on the back, one has a bullet in the thigh. Another was beaten badly and half his body is burned. Both the men were hit with bullets. Four women were cut and burned.

We have no food.

It was around 3 a.m. when we ran to the forest. Before then, the military came in groups and groups, and we were afraid they'd harm us. The Al Yaqin people told us to escape. We were told the situation seems bad and we should hide. They told me Wednesday evening [before the first attack by Al Yaqin] that we should plan to hide. The Al Yaqin people from my village told us it is better for us to escape because there will be an attack on the military. On Friday, around 8 a.m. the military started shooting the people. Those who could run away were ok. Those who couldn't were killed. At 3 a.m. we just went to the forest, and then when the sun came up we went back. The Al Yaqin people again sent a message, after the attack when the sun came up. They said no military came and they said we could come back to the village. There were 40 Al Yaqin in the village. There were 250 households in the village. 800 to 900 people.

There are about 180 Rakhine households. There are about 350 people. We had a good relationship. The land was seized long ago and provided to the Rakhine people. Now they possess many lands. Now they rent the land to us and we grow paddy on the land. The relationship is ok.

The Rakhine village is on the northern side of the Muslim village. It's an old village but there is a Rakhine natala village on the southern side called Maw Rawaddi. It was settled ten years ago. The people from Maw Rawaddi were more aggressive and killed people.

Al Yaqin instructed us not to rent the Rakhine peoples' land [from the Natala village] or to grow paddy on it because it originally was ours. We heard the other villages also didn't rent the land from the Rakhine.

The military was shooting at us.

I was at home and one of the Al Yaqin people informed me the military was coming. They called me. They had some sentry people in position to know. Then I saw for myself that the military arrived and was shooting and we ran. I saw them shooting people. When we saw some people were hit, we started running away. When we got to our hiding place we counted 93 soldiers. Yes, the Rakhine weren't holding guns but had long sticks and swords. I could see the military because they were in uniform. The Rakhine were in normal clothes but they held long swords.

When the military started shooting, even the Al Yaqin people ran away. They realized they couldn't beat the military and just ran away. Two of the [Al Yaqin] members were with me. The two members with me—one was holding a long sword and one was carrying something that was wrapped with a longyi, a circular thing.

When they [Army soldiers] got close to houses, when they were shooting, they used their lighters [to raze homes]. And sometimes they used launchers [RPGs]. Out of 22 people of my family, we could only save eight.

After the military left, we went to see the dead bodies. I could've brought my father but he couldn't walk. He stayed on the sandy shore.

My brother, my mother in law, my nephew. 14 people [in my family] were killed.

[Victims:

1. [redacted], my father.
2. [redacted], my mother.
3. [redacted], my sister in law.
4. [redacted], 10 years old, my nephew
5. [redacted], 6 years old, boy
6. [redacted], 4 years old, boy
7. [redacted], 2 years old, boy
8. [redacted], mother in law of my brother, 45
9. [redacted], 55 years, father in law of my brother.]

I have two brothers also—they are missing. I was including them [among his count of dead family members]. I heard they were alive but I didn't see them yet.

They didn't surround them [on the sandy shore], they just opened fire. These people were gathered by the military. The military [and the village administrator] said they wouldn't be harmed. I could hear them. Some of the people who jumped into the river were shot. Those who could escape, we heard from them.

We could see the people were shot and the Rakhine people were beating them with a big stick, and cutting also. It took one hour. Two of the military piled the bodies in one place. Then they poured petrol on them and burned it. We could see the flames and smoke. They made three or four piles and set them on fire. We couldn't see the exact piles because there was paddy around the shore. We could see them carrying bodies and dragging them into piles.

I didn't see them take the women away. We were in a rush. We heard rape took place but I didn't see it myself.

They entered the village at 8 a.m., and at 1:30 p.m. they started killing the people on the shore, and they finished burning by around 3 p.m. I couldn't see everything they were doing.

The whole village was burned down. All the houses were burned. After the village burned down, I don't know what they were doing.

It took us a half hour to go to the sandy shore. We stood there for a half hour, watching and crying and then went to the forest and then came here.

Some family we couldn't find. We just went to where the dead bodies were burned. We could see eight piles. We also saw some graves [holes with burnt bodies].

My wife is pregnant and I had to carry her for four days. And now her leg is very swollen. The children stayed with me while I was running—that's how they escaped. I told them, if you die, I will die together with you. I wouldn't leave them.

No [Al Yaqin didn't ask me to be in the group]. They couldn't fight because they didn't have any weapons. I want to fight back against the [Myanmar Army]. I have so much anger and bitterness.

When we were coming [to Bangladesh], we were under the rain. We were staying under the roofs of the shops and market in Kutupalong.

When I was crossing the fence, the Myanmar military beat me on my back. The Lon Tein don't have the red scarf on their forehead. The military has red on. The guns held by the military are smaller and the Lon Tein have longer weapons.

We were running anywhere we could [to escape the military at the border]. One of the women was shot in her thigh. When I was beaten I just fell in the water. Luckily it was shallow. It was

the Naf river. There were 42 soldiers. Before we crossed the river, we were taking refuge in the border village. Al Yaqin told us not to leave and to stay alert because the military were coming. But the military came and beat us. Some said there were 100 military were there.
I was in Lar Gwa Para, under Taung Pyo village tract.

I heard that it happened [some Al Yaqin killed informants]. One informer was killed from my village. That person met with the village administrator [ethnic Rakhine] and he didn't come back again. It was last month. He was called by the village administrator after Al Yaqin was formed. That person usually worked for the administrator, so the administrator asked him during the night to come to his house. When he went to see him and never came back. Before the village was calm and peaceful and the relationship was good between the Rakhine and Rohingya people.

The village administrator is [redacted]. He is Rakhine. After he was taken. I didn't see with my own eyes. The village administrator said it was Al Yaqin. The villagers blamed the administrator.

This happened in my village. I didn't see Al Yaqin beat people, but they warned people not to steal things, not to do adultery and have affairs with the women. They warned them. I am a day worker so I am usually gone all day.

No [I didn't see any heads separated from bodies]. Some were totally burned. I could see the bones. The piles were smoking.

There are some other people who went to see the bodies with me, and those whose families didn't get killed, they can share more.

We are really facing difficulties so if there is any support for us, we need shelter and food and kitchen wares.

ENDS

#40
Name: [redacted]
Age: 45
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Nwa Yon Taung
Date: September 4, 2017
Note: [redacted]

I come from Nwa Yon Taung in Maungdaw Township, northern. There are two types of village administrator. The real one is Rakhine. The lower one is Rohingya. [redacted] They

have to submit the selection process to the township administrator, and he assigns the winner as the person in-charge.

The violence started in southern Mayngdaw on Thursday night. Around 12 midnight, we heard the attack took place in the southern part of Maungdaw. We heard over the phone. We were alert and staying in our homes at that time. Some other people came to my house and waited with us. The next morning, we heard gunshots from other villages. We could see the military and lon twin trucks moving on the road. They started shooting the people. When they were passing on the road, they were shooting at the houses. If they saw anybody, they shot them. My house is beside the road and I had to escape. There were about 100 military in four trucks and one Lon Tein truck. The police truck was a bit bigger, the military trucks were a bit smaller. When I first saw them, I saw only small trucks, Later I saw big truck arrive.

There are three villages nearby. One is Ye Myat Taung and Nwa Yon Taung and the Rakhine village called Pyat Thar Yaw. These three hamlets are all under our village tract, our administration. Around 11 a.m. on Friday, they were shooting in ye Myat Taung, and after the military left, I went there to see what happened. I saw 18 people were shot dead and three villagers were missing. We think maybe they jumped into the river. The river is the Pyat Thar River.

It takes five minutes to walk there through a small field. When our village was being shot at, we just escaped. The village where the people were killed is beside the edge of mountain.

First the military opened fire on our village, and then we fled to Ye Myat Taung, which is by the hillside. There were already some military in the camp in our village. The military came from outside and joined them, and they opened fire on our village.. So we fled to Ye Myat Taung, hoping our village wouldn't be shot at. On the first day, when the military shot, two people were injured. When they started shooting, some people gathered, and the they shot at that group. Some people ran away—two were hit with bullets. When the military opened fire, all the villagers jumped into the river and cross to the other side of the bank. After shooting at the village, they just went back to they camp.

Normally the camp is a Lon Tein camp with 12 soldiers. But at least 40 military arrived from outside.

The two shot and injured were lying down, injured. And then the people enough them to another village. They are: 1) [redacted], 45, man and 2) [redacted], around 18.

The villagers, when they came to enter, they warned us not to enter. So I went to another village. After the military came, some young people went to Ye Myat Taung and saw 18 people had been killed. Those young people came back to the village after the military left. They found 18 were shot dead and three were missing. The villages were already empty. They didn't burn them at that time.

They couldn't bring the dead bodies but they told us. We already crossed the Pyat Thaung River. Some villagers went back to our village to collect belongings. On Sunday, we tried to go back to

get our belongings and some young people still had not left. They warned us not to come. We saw the military was shooting and firing at another village, called Koilabanga [‘Broken Hut”] in Burmese Phiho Chaung. There was a market and the military was shooting and setting fires. Some young people were still on the village and when they saw me, they warned me, don’t come here, you will lose your life. At that time, the military started burning the village. They used a launcher. We dared not get close. At the same time, the other village was getting burned as well. At the bank of the river was a nippy palm garden. We hid there. Both villages were burned down on Sunday [August 27].

My village is very close to the main road so there are no Al Yaqin there, but they were in other villages. The village amdinistaror is Rakhine so they were afraid to stay there. The other village burned down, the administrator was Rohingya Muslim.

The government says we are Bengali but we are Rohingya.

We stayed in a village called Havi Ywa village. We stayed for three days. When the village was burned down, there was nothing to go back to, so we just left and came here. As my village was located near the road, the military suspected Al Yaqin was there. SO they burned it down. They just think that if they burn the villages down, then Al Yaqin will run away.

It didn’t take place in my village but we heard from the southern and northern areas, we heard it happened. I heard the people who had close relationships with the government were being killed but I don’t know who they were.

The Rakhine villagers did not come to our village but we heard that in other villages, Rakhine went and took property and killed and cut people. All he Rakjne people were provided guns by the military. They brough tte guns to the Rakhine village. I saw this myself. [redacted] I know that our Rakhine village was provided ten guns. I heard that later, everyone was provided guns. In case any violence arises, they were given guns to kill Muslims.

[redacted] I always go around on the motorbike to see the villages. I saw the Rakhine people taking carte of the guns—they had become rusty and the people are trying to wipe them down take care of them. I have a good relationship the Rakhine people because I would visit them. It was around two months ago. After i came back here, I heard that now the Rakhine were killing and shooting people with guns.

Only the Rakhine people were there, cleaning the rust off the guns. My Rakhine friends told me the guns were received from the government, from the military. Some Bangladeshi Rakhine people were also there. They were provided some houses by the government and they know how to shoot guns. They trained them. Some retired military, Rakhine people, who know gun shooting, they were brought form lower townships. They were Rakhine people. They were formerly with a Rakhine insurgent group. The government brought them to train. The police brought them, but it was the township administer arranged it. His name is [redacted]. He is Burmese.

It is the AA peace party. Some of the members of AA were settled to my village. In this village, there are Rakhine people from Bangladesh, old Rakhine people, and the AA surrenders who came to light. It is Pyat Thar village. I didn't see them how to shoot guns but I saw them training them how to clean and take care of their guns. [redacted] I would move around, and they had alcohol and beer shop in the village. In one place, they did it openly. I could se them. They jokingly aimed the gun at me.

After I came here I heard some houses remained but my own administrator said now the military burned the entire village down. I heard from the villagers of Havi Ywa. I still have contact with them. They are still there and some are hiding. Some people are coming slowly. They are worried they will be attacked.

I heard only and didn't see that when the Al Yaqin went with villagers to attack the camps, some people died. But they weren't from my village. I heard the Al Yaqin took villagers to attack the camps holding sticks and knives. But they had only two or three guns in the whole group. They couldn't do it. The people from the camp, the government, had hundreds of guns. How could they attack them?

No [they didn't kill Hindus]. I heard they killed Muslim people but not Hindus.

I have been hearing now that the military went to burn houses and that they are taking beautiful women and taking them into the forests and raping and cutting them. The southern side of Maungdaw Township, in Myint Hlut. I heard hundreds of women were taken to the forest yesterday.

In that village, they gathered all the people in the field and some people were killed, and some women were taken to the forest, It was the military. I heard this today, this morning.

ENDS

#41
Name: [redacted] (husband's name is [redacted])
Age: 23
Gender: Female
Family: 3 girls
Ethnicity: Rohingya
Religion: Islam
Village: Maungdaw Ward 5
Date: September 4, 2017
Note: [redacted] (see photo)

I am from Ward 5 in Maungdaw city. We have five members—only I am hurt. Around 12 days ago I was cut by the military while running away from my house. I am from Ward 5 but i got married in Kyein Thaung village, but I went back to Ward 5 to visit my father's family. Around eight or nine days. It was around 3 days after the attacks [Al Yaqin].

All the houses in Ward 5 were burned down. Some people survived and ran away anywhere they could, and some came here. Some were killed. It was on Monday after the attacks, and the military was chasing us and shooting and cutting people. It was around 1 p.m. I was at home and started running when the military started shooting. A bullet hit a woman beside me. I was out of the house and running on the main road—the Rakhine and military and Hindu were mixed. The Hindu were taking properties of people. They weren't shooting at those people. Before the attack, this group of people—Rakhine and Hindu—were moving around and holding sticks everyday. They used to come in the daytime. It was happening for four days.

As soon as a soldier cut my leg, I fell down one of my brothers carried me away. I couldn't come here. I had to give my earring to someone to bring me here.

I can't feed breastmilk to the children because I myself can't eat. My children are crying for food. I have three children, all girls.

He had on a military uniform. It was [camouflage]. They spoke in Burmese. I could've been killed but i was taken away. Others around me were shot to death. I already came here but i heard one person went back to the village on Eid and he was shot dead.

He chased me. He took a knife from another house and chased me and cut me. He didn't have his own knife. The Hindu people had their own knives. I saw two women shot dead [by BGP]. I don't know their names but one is the sister of our village elder—the head of 10 households.They were shot in the back while they were running. My mother told me they didn't survive. The other one is my relative. Her mother's name is [redacted]. Her house is near the mosque.

I didn't hear about that [Hindus being killed].

The Hindus were all men holding knives and sticks and shovels. They were destroying the houses to finish us. They were saying, "you Muslim people are doing so many bad things." The Hindu people were saying that we were Al Yaqin, and that's why they were doing this to us. We had never had problems with the Hindus before.

When the Al Yaqin group was there in the village, the military came with the Hindu and Rakhine people. I didn't see myself but I heard they were coming to the village. They were fighting with them. I was told that the military fired the guns and that the fighters were throwing something with their hands. When they threw it, it spread fires. The other villagers told me. My mother and other relatives saw this. I don't know how.

The military were watching and the Hindu and Rakhine set fires. I think it was a piece of tire with petrol poured on it, and they threw them onto the roofs of the houses. Both Rakhine and Hindu were throwing them. All of Ward 5 was burned down in this way. If we go back one day, we can see it was all burned down.

There were around 150 households.

ENDS

#42
Name: [redacted]
Age: 23
Gender: Female
Family: 3 children
Ethnicity: Rohingya
Religion: Islam
Village: Auk Phyo Ma, northern Maungdaw Township
Date: September 4, 2017
Note: [redacted]

I come from Kasar Bil [Auk Phyo Ma in Burmese], northern Maungdaw Township. We went to the forest last Thursday. The violence started Monday night. The violence was like before.

Last Monday [August 28], around 3 a.m. we heard gunfire in our village. There is a Rakhine village with the same name, Auk Phyo Ma. The military was shooting at us from the Rakhine village. Lon Tein was there too. They started shooting. It was dark. It was dark but we could see the military. They came by boat. There is a road also but they came by boat. It was a speedboat, a big boat. Some also came on foot. There were around 200. There was no-one fighting back. Whenever they used to come to our village, we would run to the forest. They also tried to abuse the women.

My house was close to the road, so I ran to forest from my house. I ran away with my three children. My husband already left but I don't know where he went. When the people were coming here [Bangladesh], I went with them.

I went back to the village when the sun came up and the military went back to the Rakhine village. I saw two men who were injured—I don't know if they were alive or dead. I lost my sons and I didn't have time to look at their injuries, I just saw they were lying down. One was on the road with blood on his nose and one was in the bushes near the bank of the river. The homes were ok. I just went to see the situation. When I arrived, then the military came again and opened fire and burned the houses. That's when i left and took my children. I saw the military three houses away from me. They were shooting and killing people.

Two or three houses were left. No, I had no problems. I don't know, but they erected one post on the border but the people didn't listen to it and we just crossed on the paddy field. We were not harmed.

It wasn't only the military but also the Rakhine who threatened to kill us. The Rakhine people came once the military opened fire. They had guns, swords, sticks. The government gave them to them. There are some people who are very close with the Rakhine [That's how I know the government gave them arms].

When the Muslims have dealings with the Rakhine people, the Rakhine people who stay as a guard outside their village, those people hold guns. They don't sleep during the night. When they fall asleep, they lay their guns down. They had been doing this since the last violence.

ENDS

#43
Name: [redacted]
Age: 51
Gender: Male
Family: Six children
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village: Padagah Ywa Thit and Min Gyi
Date: September 4, 2017
Note: [redacted]

I am [redacted]. I used to work [redacted]. I am from Padagah Ywa Thit. Before the violence took place, on August 25, our village was surrounded by the military together with the BGP. They just opened fire into the village. Two people were killed and 12 more were injured. Since then, we spent more time hiding in the forest. There is a BGP camp in the village. That night [Agist 25], the BGP camp was attacked.

I took some photos of some bodies but my mobile fell into the water when coming here. All of the villagers went to the forest after they opened fire. After spending one night in the forest, we came back to the village to assess the situation. Nothing happened between the 25th and 28th. On the 28th, the military and the BGP shot heavy weapons. We were shocked. They kept firing smaller guns at other villages. It was a bit far. They kept firing and moving toward the village. We were preparing to leave. They stopped moving forward. We were thinking the military already left. From the southern side of the village suddenly they opened fire again. There was another group firing at us, from Wat Kyein. It is a Muslim village. A Rohingya village. Some went to see if villagers were still there and they were shot at. There were eight of them. They were killed. I couldn't see that. There were 30 people people who tried to get from the village to the forest, in order to see where the military was located. Eight were killed and 12 were injured. They brought the dead bodies back to me to show me.

It was between the two villages [the BGP camp], but we couldn't hear it. Seven members tried to attack the BGP post. They had some bombs and long swords and sticks. The real members were only seven, but the villagers supported them with their activities. There were around 50 people together with the villagers.

Yes [Al Yaqin killed some informants]. Two were killed in my village. One of the people who helped the BGP camp soldiers, he washed the laundry of the officers. He was killed. The other was a mullah and a brother of the other guy. He was killed. The mullah's brother was killed and

then the mullah spoke ill of the group, and that's why he was killed. One was in March and one was in June. They are: Romis, 27 years old. His brother was Nur Kamal, about 42 years old.

We don't know how they were killed. We know they were taken. They took them away in the daytime. I heard from other people that those taken by the members were cut into pieces and then packed in a bag and buried. Some of the members who committed these things shared it with others.

No [they never talked about joining the group].

I heard the Mro people were participating in the violence.

Our houses were burned down on the 29th of August—more than half the village. I was in a nearby village on the top of the hill, hiding, and I could see what was going on. First, the military shot the launchers on some houses, and when it was burning, they took flaming wood and touched it on houses, house to house. There were no people in the village. All had run away.

They opened fire and there were dead bodies. We had to escape. For a long time they have abused us.

Now we can't think. Our minds aren't working. We cannot think about the future.

From the mountain side, we were crossing on the 19th [confused about the date], we were crossing a river, the Purma River, and two children went missing. We found one but one was lost. When the mother and the child were crossing the rover, the water current took the child away from the mother.

I moved to another village together with my family. While I was staying there i could see that Tolatoli village [Min Gyi] was being burned. It was the other side of the stream. We were watching to see if the military would come to where we were as well. They kept burning the houses. First they tried to shoot the launcher in the village and then they tried to light the roofs by hand. They took some burning thatch and would toss it to other houses.

The military started shooting from the northern side and we all moved to the eastern side, to cross the Purma River.

When the military started shooting from the northern part of the village, then the villagers ran and gathered near the bank of the river. It was around 1,000 people. We couldn't count them. There were so many. While the military was burning the houses, one group of soldiers went to the village and were burning it down. The other group went to the river bank. Most of them went into the village. Two soldiers came to the group and then they called for something loudly, and then many military came to them. Maybe they were in charge. I don't know what he instructed. They suddenly started shooting the men. They were hiding in the bank of the river, sitting down. Whoever moved was shot. If they looked up or moved their heads, they were shot. Most of the young men were shot dead. There were up to 1,000 killed.

This was the first round. They tried to kill the men. They selectively killed them. The military was watching the people and some joined the military in the village but then they came back. They came again from the village and they opened fire again, regardless, women and children.

I was just on the other side of a creek. There was a big mango tree. I was hiding there, watching. Some survived. At that point they were just shooting. Those who still survived they let them swim across the river, and then they shot them. Small children were thrown away in the water.

Other people, they tried to bury those who were still a little alive. They cut people and stabbed them.

There is another ethnicity called Kamwe. They live in the mountains with the Mro people. They were stabbing and cutting people.

After the first shot the men and boys, they selected some women from the group and put the women on the top of the hill. Of the women taken to the cliff, while the soldiers were killing and cutting the others, these women were taken to the river bank. Groups of around ten soldiers took about six women three times. They took them to the bushes of the bank. And then they came again and took six more. I couldn't see what happened to them but they never came back.

I believe they were raped and killed.

Small children who were half alive, they cut them. They were breastfeeding-age children, two years, three years, five years.

There are two people watching with me.

The military then set fire to the dead bodies and that is when i left. It was raining and they couldn't easily burn them. I think they must have poured some gasoline on them. I can't tell you whether they were fully burned or not but we could see smoke and fire. They dragged some of the bodies. When they were dragging the people to the hole they dug. When someone moved around, they would cut them.

The Kamwe [Kum-yo] people dug the holes in the ground. I could see a big hole. Most of the people were cut by them. These are the people from the Natala village. We know them well. They are our neighing village. No, no, no [we had never had problems with them before]. They had long swords and the military had guns. Their uniforms were all wet so it was hard to tell who was BGP and who was military.

I could see the flames coming from the grave. That's when I ran away. There was one big hole. They were throwing the bodies in one place.

I myself took photos but it sunk in the river. I worked for [redacted] from 1994-2004.

This massacre place took place because the former village administrator gave hope to the Muslim people, saying they would not get harmed. They had hope. I don't recall his name. He promised the people that they would not be harmed. That's why they got killed. He wants to eliminate all the Rohingya.

Long ago, he used to say these types of things. The people who escaped this massacre were discussing that, saying how he used to say those things before.

I work with [redacted] as a [redacted]. I cannot get my salary. Is there a way to get it?

[redacted] was killed din Hpaung Daw Pyin. Both son and father were killed. [redacted]. The military went to his house, took them out of the house, and shot them. A friend form Maungdaw informed me. [redacted].

ENDS

#44

Name: N/A
Age:
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation: [redacted]
Village:
Date: September 4, 2017
Note: [redacted]

I come from Thit Tona Gwa Son, Daung hamlet, northern Maungdaw township. In my village, the senior member of the Al Yaqin group was telling me, "we have the same rights in this country and so you have to fight back against the government." To regain our rights, as we are trying to defend the people, you must also join us to get th rights back—this is what he told. We were encouraged to join. I joined around four months ago. When I was recruited by the senior members, we had to guard the village so that nobody could enter and so nobody did anything bad.

We weren't given anything. The Friday before last Friday [August 25], in the night, around 3:30 a.m. we were awoken by the senior members. These members told us we have to join in the attack. They said it already had started and we had to join. We asked them, with what will we join? They said, whatever you have, sticks or knives, whatever you have. It was the night of August 24 [morning of August 25]. We were ordered to safeguard our village in case the Rakhine people came to march to our village, and the senior members went to fight the BGP camp. But we didn't see what they had in their hands.

They didn't have any guns. In my village there was only one senior member. I heard about Al Yaqin since the last violence happened. But I first saw them four months. No [we received no training].

We never saw him [senior member] talking with Atta Ullah but our senior member told us he talked to him over the phone.

It wasn't in my village, but i heard they killed [informants] in other villages. I heard that those who inform about Al Yaqin to the government, they were taken in the nighttime and cut. I heard six to seven informants were killed.

I asked them about the killings and he replied: "We are working for our people to get our rights back and these people are informing against us—that's why we killed them."

The senior member is [redacted]. He is 25 years old. I am not sure if he has another name. Sometimes they have different names than than the ones on the family list. He came here as a refuge long ago and then went back from the camp. Both his parents died. His wife also stayed there but he sent his wife to Bangladesh before the fighting, around one month before the violence. Only he was there. We never discussed the fixed date of the attack. We only came to know the night of it.

He had a mobile phone. Apart from that, I didn't see anything.

I did not see what they brought, but when the sun came up we could hear many gunshots happening in the BGP camps. When the Rakhine were not coming to the village, I went to see the situation closer to the camp, and I saw that the BGP were firing. They were shooting toward the village in case the villager would march toward the camps.

At that time, the Al Yaqin members couldn't approach the BGP camp, so they announced to the villagers to march toward the camps, and when we were trying to march, they would be afraid, and they said that at that time they would go and kill all the BGP in their camp. They wanted their guns. But we couldn't approach because the BGP was continuously firing. When we were marching to the camp, we got closer, and one of my brothers was in the front and he was shot in the shoulder. He had a stick in his hand when he was shot.

[We view footage showing his brother's lifeless body]

He was brought here and died after crossing the mountain. He died on the way. He was buried in the camp.

When my brother was shot, I was behind him. I dragged him back to the village. We were preparing to send him here but the Al Yaqin senior member said, "no need to go there, he can be treated here." But there were no doctors, so finally they let us take him. When the villagers were hit, we didn't move forward. They just came back.

On the spot, three men died while marching toward the camp, and two of the men died while on the way here for treatment. The Lon Tein were shooting at everyone and then they retreated to the Rakhine village. The Rakhine villagers came to pick them up.

The Rakhine were given guns. I couldn't see if they were holding guns but I heard the government provided them with guns. Around eight Lon Tein came and one Rakhine came to take the fighting Lon Tein back to the village. There are two groups of Lon Tein, some are in the camp and some are in the village. There are ten usually in the village camp. They weren't provided any guns.

All the knives were seized by the government. It was around seven or eight months ago, Lon Tein ordered everyone to hand over their knives. It was around the same time they ordered everyone to remove any fences from the compound.

When the villagers were shot, the villagers did not move forward. I didn't go join them again. The senior members requested us to take my brother to the Al Yaqin member's house. After seeing my brother's condition, I was told to take him to Bangladesh for treatment. And then I came together with my brother but when I arrived at the border, my brother passed away.

After I came here, I went back again and knew the situation was getting worse. I called my parents and knew the villagers were fleeing the village. I told my parents to come here. I went to get them in the forest. I just got them and came back. I left at 11:30 a.m. and arrived here at 3:30 a.m. when the sun was coming up. And that's when he passed away.

My mother got so angry because of the pain of the passing of my brother. We have no shelter and no food. We want to get the rights and justice for the people.

The senior member [of ARSA] already came here. I have seen him here. When I saw the other members here, I didn't talk with them because I am upset with them. When we were encouraged to join, we thought they had guns and were well equipped. After the attack, we realized they had nothing. Because of them, we lost many lives. I don't want to speak with them. I don't want to see them. We didn't realize this many people would suffer. Now we have to leave our native land because of this. On my way back to pick up my parents in the narrow passage of the mountain, I found the senior member of my village coming here. I think he is here.

The whole village is gone. The neighboring village was already burned down, Ta Man Thar village, and everyone left my village. It was burned down on Sunday [August 27].

I think it [ARSA] will be smaller now. When they couldn't succeed, there is no way it will get bigger now.

ENDS

#45
Name: [redacted]
Age: 50

Gender: Male
Family: 6 kids + wife
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Min Gyi
Date: September 4, 2017
Note: [redacted]

I am [redacted] and I am from Tolatoli [Min Gyi]. I am 50. There was a village called Myawaddi, a Kamwe village and a Daignet village.

Last Tuesday [August 29], the military went to Myawaddi village and stayed the night there. The villagers were saying some military arrived in the village and to not come within the sight of the military. On the night of Wednesday [August 30] around 4 a.m., we heard about the military arrival and we all ran to the forest next to the village. We took as much as possible, children and women, so they would be safe from the guns. We told them to stay there and said we would go check to see if the military were coming. It was around 8 a.m. and some of the people went back to the village and sat in a shop that's close to my house. From the northern side of the village, there was a small hill and we could see the military coming. They stayed in the same place for a few minutes and then scattered in smaller groups. They started shooting toward the village. The three of us then ran to the forest. There's a mountain and if we went to the top. We could see everything [in the village] well.

Some of the villagers we helped to escape but there were many people in the village who didn't escape. One of my aunts, an aged woman, was hiding behind a big tree, trying to avoid the gunshots. She was shot and was leaning against the tree.

After the military burned the village, we went back to see what happened.

The military came to the village around 8 a.m. and then they left around 9 a.m. Another old man was shot dead but when we came to see after the military left, I was with his son. His son said he was inside the house when he left him, so he thinks they dragged him out and shot him in the street. His name was [redacted]. In my hamlet, there are about 60 households.

After my hamlet, there was another hamlet close by. Once they burned down my hamlet, they went to the next one. My hamlet is "north village." Then they moved to middle village. There is another one called Sar Para [Sandy Shore village].

When the military came to middle village, I was watching from the top of the mountain. At that time, some of the people remained in middle village. I saw more than 1,000 people on the sandy shore gathering. There were men, women, children. The military came to Sar Para and they took one big mullah, a powerful mullah, and he was taken out of his house and they started burning him from his feet up. He was standing. They lit the fire near his feet with a lighter. When he didn't die from the fire, they shot him. Just one shot to the chest. There were many people gathered nearby on the sandy shore. They killed him and then started killing the others.

The men and children were all gathering near the riverbank. There were more than 250 soldiers. They shot them all. They all died. I was on the hilltop.

We could only see them shooting. The soldiers entered the village at 8 a.m. and left the village at 11:30 a.m. and went to the Rakhine village. And then some of the young people returned only after the military left.

I went to the sandy shore. Some of the people were burned and some were cut up. We kept our fear in our hearts and counted the dead bodies as much as we could. We also had to look out for the military. We counted up to 340 dead bodies.

The bodies were all in the same area. Some were in piles and some were laying around. I saw some throats were cut. One head wasn't completely separated but the bone was sticking out.

They stomped on some small children with their feet. When the parents were holding children, they shot the parent and then the children fell down. The soldiers pick them up and threw them down on the ground. I saw a mother holding a baby, she fell down and didn't let go of her baby.

Most of the men were shot dead. I saw a big hole, and many bodies were burned, wrapped in hay. The children's bodies were burned. One hole I saw was mostly children. I don't think it was dug by them. It was already dug. Maybe it's where people get sand.

We couldn't spend much time. Yes [we saw soldiers take women away]. Some of the military took young women to a house. They took six at a time. We could see from the mountain. They took them inside the house. And then another group of soldiers took another group. There were three groups. All taken to three houses. They didn't come out. This was before the houses were burned. Some of the soldiers were killing and shooting people and some took women to the house.

Two villages were burned down—my hamlet and the middle hamlet were burned down—but Sar Para was still remaining. Once all the people were killed, they set everything on fire. And then they left for the Rakhine village.

Everyone wore uniforms. It was the military, not BGP. I don't know the battalion.

After counting these dead bodies, we went back to our families. We explained what we saw and we had no houses, so we thought it was better to leave.

No [no one was fighting against the soldiers]. There were no Al Yaqin in the village. We are farmers and we have to work the whole day. We don't keep information on Al Yaqin. Only the Muslim houses.

The population was more than 2,000 people. 2,500. Not a single house remains. Apart from the Rakhine houses, there is nothing left. There are around 120 [Rakhine people], all in the same area.

The grandchild of the mullah who was killed. He took some photos from the other side of the river. I don't know where he is. He might still be there. He is not in any camp. There were no people. There were four of five people. There are no such photos. None of us had phones. We are farmers. No young people have photos.

It took two and a half days. We couldn't go the straight way because the military would shoot at us.

On the same night at 4 a.m. we departed to come here [Bangladesh] and at around 8 a.m we arrived at Turaing, a Rakhine village. And there are BGP camps there. And there were military there. When the military saw us, they started shooting. There were at least 10,000 to 15,000 people. They shot in the sky.

In my group, nobody got injured, but in other groups, some may have.

The only problem [on the journey to Bangladesh] is that we had to come through the jungle. It took us two and half days. Some had food and water, some didn't.

Nothing happened but when we were at Balukhali, the soldiers shot at us and we had to scatter. Some children got lost and we haven't found them.

We have a problem with food and shelter. Since coming here, these are the only clothes I have had. Nobody is providing food rations. We don't have a tarpaulin. When it rains we get wet. When the sun comes out we dry.

All are safe but my wife is sick.

ENDS

#46
Name: [redacted]
Age: 17
Gender: Male
Family: Parents, two siblings
Ethnicity: Rohingya
Religion: Islam
Village: Koila Banga ["Broken Heart"], in northern Maungdaw Township.
Date: September 4, 2017
Note: [redacted]

I am [redacted]. I come from Koila Banga ["Broken Heart"], in northern Maungdaw Township. Last Friday, I left the village. When I was coming, we faced many difficulties. We had to walk through mud up to our waists.

The military came to our village. They shot fire at the house and shot bullets at the people. Last Friday [August 25], the military came around 10 a.m., around five trucks of soldiers. They started firing a rocket on the houses. Once it shot, it burst into flames. We have a BGP camp in our village. There is one in our village and one nearby in another village. This is Nwa Taung village tract. There are two BGP camps. In the evening time, we moved to Havi Ywa village.

I was at home. The soldiers came with their trucks. The military already arrived at 10 a.m. in the camp. In the evening time, they started shooting and burned the houses. When we left the village and came to Havi Ywa, half the village was burned down. When we arrived to Saro Dil, we heard all the villages were burned down.

No [I didn't see anyone shot]. All the villagers moved to the other village. There is a river, I don't know the name. It is near Havi Ywa. We crossed that river. And we arrived at Saro Dil. Then we just continued to Chil Khali. The other people followed.

They shot the guns first. And then the next day they shot the launchers. Not all the villagers left the village, despite the gunfire. They told me the next day the fires started. The mosque was burned down. I heard that so many people died but I did not see.

In our village there were no Al Yaqin. I didn't hear anything.

There were some Rakhine who came to the village. They had long swords and guns. They were from the neighboring village. I heard the police gave them guns. I could see the Rakhine people holding guns, and they were close to the police station, Lon Tein.

On the day of the violence, when the Rakhine came to the village, that's the first time I saw them with guns. No [never saw them train].

It took two days on foot. No [no problems owing to Bangladesh].

I am 17. I have five family members. We are two boys and one sister and two parents.

ENDS

#47
Name: [redacted]
Age: 21
Gender: Male
Family: unmarried
Ethnicity: Rohingya
Religion: Islam
Occupation: Student
Village: Taung Pyu Let Wai
Date: September 4, 2017
Note: [redacted]

My name is [redacted] and I am from Taung Pyu Let Wai in Maungdaw Township. I am 21 years old. I have been here [Bangladesh] for three days. I left on Friday, just before Eid. I used to go to school in the village, high school. The military kills the educated people. One of my uncles was killed. His name is [redacted], on my father's side. He was 37 years old.

On the first of September, he was taken away by the military. He was a mullah. The BGP camp also included military soldiers. After my uncle was taken to the camp, I heard fro people who work in the camp that my uncle was killed in the camp and then his body was thrown away in the camp.

There were 600 military staying in the camp, but since the violence there were many more.

I saw them take him away. It happened in front of me. Our houses were very close. Two BGP entered my house. They arrested my uncle and at the time we tried to go out of the house to see what was happening. There were around 50 soldiers around the house. The house was surrounded but we didn't know that. Before my uncle was arrested, we didn't know that the house was surrounded. Suddenly two BGP entered the house and arrested my uncle.

On Wednesday night, around 4 a.m., the military started burning the houses in the village. I was still at home and the military was burning another part of the village, and my father told us that it was better to leave. My family came to the border and we crossed the fence but we had to stay for two days. We were eon the Myanmar side. The BGP from bangladesh, they didn't let us cross the border. They didn't let us come in. I saw one child, six years old, died because of the lack of food. I was close to the child when it was dying. We made a shelter, we were all under the shelter together. We all watched the child die. Some people had blankets and some had tarpaulin.

They came from Maungdaw side. When the child died, we asked the BGP to let us in. We said, "we are being killed in Myanmar and now you want to kill us here, denying us food!" They called a senior BGP person and he ordered us to go anywhere we could see with our eyes. When the BGP from Bangladesh let us in, we came first to Balukhali, and then we spent one night. When we saw that nobody was supporting the people, we moved here to Kutupalong. And now we are staying in a school constructed by the IOM. There are three rooms in the school. There are 12 families in each room. The room size would be three times bigger than this room.

The dead body of the child was brought to the Bangladesh side. We buried it in a graveyard. The Bangladeshi people helped us have a funeral for the child. I was there.

In Ward 2 within our village tract, one of my own sisters is living there. It is near a Natala village called Ward 4 [same village tract]. There would be 80 to 90 households. It was settled by the government eight years ago. Before the violence happened, when the sun was setting, the military accompanied by these Natala villagers holding swords and sticks, they went into the village. They took the cows, chickens, paddy. When I went to my sister's house at that time, the Natala villagers and the military wanted to take the rice bags from my sisters' house. I asked them, "why are you taking our rice? We have to eat this." Then i was kicked by the military when I spoke to the Rakhine man like that. They kicked me in the back. Then [redacted] came and

covered me and the Natala villagers and the military took as much as they could from the house and they left.

This was one day before the violence. It was on the day before the violence started. The incident at [redacted] happened one day before the violence. That night, the violence started.

The Natala village is Daignet, Mro, and Rakhine. I heard only our houses were burned down. One of my neighbors told me our houses were burned down. My sister came here [Bangladesh] before me. On the first day, before the violence, when they took the rice, she left that day, thinking there might violence.

ENDS

#48
Name: [redacted]
Age: 50
Gender: Female
Family: 5 boys, 5 girls [all safe]
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Maung Nu Ywa, Khin Tha Ma village tract, northern Buthidaung
Date: September 5, 2017
Note: By telephone: +95 (0) [Number emailed by [redacted] aka [redacted] Brother]

On Friday night, around 3:30 a.m., we heard gunfire and voices. I didn't know where it was coming from—I thought it was coming from the northern side of the village. I can't say if it was from the BGP camp of Thin Ga Nat village [there is a military battalion in that village]. My village is Maung Nu Ywa in Khin Tha Ma village tract. We were really afraid to hear the gunfire and all the people from Hpaung Daw Pyin village came to our village. Some of them gathered in my house and some in neighboring houses. The military went to Hpaung Daw Pyin village and they were beating whomever they found, and the son of the village administrator was arrested. That was on Friday. For two days they did this.

The village administrator's name is [redacted]. Another man was arrested but he wasn't from that village. He came to the market in Hpaung Daw Pyin to sell things at a shop. He was also arrested on Friday. Another man, the son of carpenter [redacted], named [redacted]. He too was arrested. I heard that these people were killed and thrown to the field by the military. [redacted], son of [redacted], was also arrested but he escaped. When they threw the bodies away, he didn't die and he escaped.

They beat them and threw them and he survived. The one who escaped, he told me. He arrived after four.

My house is a bit inside the village. It's not close to the village. It's a two storey building built with earth. It's a big house, so many people came for safety.

The people came to our village and my house, and then the situation remained quiet on Friday and Saturday. On Sunday [August 27], the military arrived. They came at 10 or 10:30 a.m. and surrounded three sides of the village. When we saw the military were coming, many more people came to my house and my neighbor's house and we sat inside, hiding. The people hiding in the neighboring houses also came to my house.

When they entered the village, they were shooting. Whoever they found in front of them, they grabbed them, as many as they could. Many who escaped came to my house. It was many people, around four to five hundred people, including children [in her house/compound, she claims]. My house is a big two-storey, two-family home. Many people came to hide. The military grabbed some people and detained them and they started shooting toward my house. At that time, all the men were upstairs and all the women and children were downstairs. They were shooting and telling us to come out. First the women and children who were downstairs were taken out. They grabbed the headscarves and grabbed all our jewelry. They took them to a separate house.

I was downstairs in my house. I didn't go out. They took the men out of the house, tied their hands behind their backs and made them lay down. Their faces were down toward the ground. I could see around 15 people were tied and forced to lay down on the ground in front of the house. They took the veils from the women and tied them over the mens' eyes. Some of the soldiers started beating them. They shot some of them dead and kicked the others, screaming and threatening them. When I was being taken out of the house, three soldiers pointed the guns at me. They were beating and shooting the men on the ground. I was taken to another house, and when I was being taken out, there were many men upstairs in my house. The soldiers were everywhere, inside and outside. I can't say how many soldiers entered the other family's home but three came into mine.

They had a Daignet person in the military who could speak Rohingya language. He came to our village before. We know he is Daignet. He wore a military uniform. His name is [redacted]. I know him because [redacted] works in a brick-making business with this military battalion. [redacted] used to come to [redacted].

He was telling everyone to come out of the house.

I was taken to another house. One of my son's was tied up and laying down on the ground. My son told [redacted], "I am the son of [redacted]!" and when he heard the name, he said, "Are you sure you're the son of [redacted]?" and then he let him go. My son is only 10 years old.

My brother-in-law and his two sons were taken out of the house and the soldiers shot them. We were taken into the next house and I could see them shot. His name is [redacted]. His son is [redacted]. He was 18-years old. His other son was [redacted], 16-years old [his name is only [redacted]]. They were taken from the house. The house is by the edge of the hill. Many people were taken like this from the house and to the edge of the hillside and shot. I was looking out from the house where I was being held.

There were no military inside the house [where I was held] but they kept all the children and women inside and they blocked the door. Around 300 young people and children and women. The children were crying for food and water. There were around 200 men arrested and taken away from the houses that day.

They shot and they cut some people. The soldiers were slashing them, and after that they wrapped the bodies in green tarpaulin and took them to their truck. The tarpaulin was the color of leaves. After killing them, they wrapped them in tarpaulin and put them in the truck.

The military were in green uniforms. I didn't see any Rakhine. Only the military. They were taking the bodies toward the battalion. It was [Myanmar Army] battalion 564. The Pale Taung battalion 564. Later when we ran away some small children went to see, and some of the dead bodies were seen in the brickfield. Some dead bodies were lying around.

No one could go see the dead bodies but the young kids went and they couldn't count them.

They shot them dead and also wrapped them in tarpaulin [the men killed by the hill].

My father in law was also killed. He was tied up and laying on the ground. He was a big mullah. He studied [redacted]. His name was [redacted]. He was more than [redacted]. He was sick at the time. I saw his dead body taken but I didn't see whether he was shot dead or cut. I heard from the small children that he was cut.

The knives they used weren't very large. They were short knives. I saw the soldiers cut some throats. I was panicking and I didn't watch the whole time. I was panicking.

They had most people lay down on the ground. I didn't see them stab anyone—they just slit throats. I could see people were cut and the blood was flowing like water. There were rivers of blood. It was everywhere.

The oldest man killed was [redacted] who was 90. There were boys too. There was a 12-year-old boy.

They didn't kill women in front of me. But some women are missing. Three women are missing. Their husbands are looking for their wives.

The man of the house where we were kept was also killed. His name was [redacted]. His children later found his head in the house. It was around 7 p.m. The military had left the village

The military still has not totally left the village.

When I didn't see the military anymore, I went out and went to my father-in-law's house to get water. The children were crying a lot for water. I took a jug of water and went back to the house to give it to th children. I checked inside the house. One of my daughter's who is pregnant and

my mother in law were missing. I went to my own house and found them hiding under the rice container.

It was around 7:30 or 8 p.m. and the military started shooting again. The soldiers were at the edge of the hill at the back of the village. I couldn't see them, we just heard the gunfire. We were hiding in my house, together with my daughter and mother in law. We weren't injured. I spent the whole night hiding with them in the house.

The next morning, we left the house. We went to the spot where the people were killed. [When asked about the 12-year-old killed] I could see one small child was dead in my brother-in-law's kitchen—it's part of my home. He was laying in the kitchen. He had been shot. He was around 12-years old. I didn't recognize him. His stomach intestines were on the floor.

The next morning I took my daughters and mother in law.

When the killing was over, the military came and shot their guns toward the sky and said everyone should come out and leave the village. We were still inside the house. They told us to come out and leave the village. They told everyone to come out and leave. At that time, they just shot toward the sky.

The killing lasted two hours. [The army arrived around 10 a.m.] They started killing around 12 noon and stopped around 4 or 5 p.m. [She's temporally confused: indicator of trauma; circling back on timeline questions now]. At that point, the gunshots stopped.

Around 7:30 p.m. I went to my father-in-law's house to get the water. There were also women inside that house. I then went back to the other house and gave water to the children. And then I went to my house to look for my daughter and mother in law. When I found them, we heard more gunfire from the area near the hill. We kept quiet, we laid down. I told them not to move at all and to stay completely quiet. We stayed quiet but we couldn't sleep the whole night. The other women from the other houses were trying to run away. I saw them running and trying to escape. We went to the hill and arrived at the river and crossed it. [Note: it is the Mayu River.]

We went to the Darbine Saya village tract. The hamlet was Zadi Pyin. When we arrived at that hamlet, we were told that the village administrator of the village tract said that they won't keep anyone from outside the village tract, because they feared the military. We still managed to stay there.

We had around 20 people in our group. At around 6 a.m. we crossed the river so we avoided the military on the road. I am now in Zadi Pyin.

[Victims she confirmed killed in her village]

1. Mullah [redacted]
2. Zahed Husain, 50
3. Mr. Solim [teacher], 45
4. Shamshu, 18

5. Mohammed, 16
6. Shunali, 50+
7. Mohammed Rafique, 50
8. [redacted] [father], 60
9. [redacted] [son of [redacted]], 25
10. [redacted] [“], 20
11. “Lailla” [nickname], 18
12. Mamu Rasheed, 30 [nephew of Zahed Hussain]
13. Hamim, [brother of Naeem], 20
14. Naeem, 18
15. Mohammed Jomil, 30
16. Haqim Ali, [brother of Jomil], 20
17. Abdul Aziz, 50
18. Alom Gir [son of Abdul Aziz], 20
19. Jani Alom, 25
20. Ashiq Ullah, 25 [son of clerk [redacted]]
21. Mullah Mujibullah, 45 [brother of clerk [redacted]]
22. Harom, [possibly 25]
23. Eunus Ahmed, [father of [redacted]] 70
24. [redacted] [he worked in Maungdaw for UNHCR] [redacted] was crying when I brought them water. He was also taken. He was taken from my house.
25. [redacted], 60 [working for UNHCR]
26. [redacted], 35 [son of [redacted]]
27. Imam of the mosque [redacted], 50+

We are still counting, including those missing, and the number now is around 190. Some were killed and some were taken and never came back. I didn’t see them all killed, but these people are all killed or missing.

I didn’t not see the UN staff get killed but their wives came to my house and they were crying saying that their husbands were taken by the military. There is no information about them yet.

When [redacted] [staff of [redacted]] was taken from the home, they [Myanmar Army soldiers] took 10 million kyats with them. His wife told me. She went her father’s house now in Thein Taung.

Some homes are still standing, some were burned down.

At my own village, Maung Nu Ywa, one third of the homes were burned down. Paung Daw Pyin village was completely burned down. My house was not burned down. I heard from other people. I could see the houses burning. I could see the flames and smoke.

They shot a weapon making a loud noise, and when it hit the houses it started burning. The other people told me they were called launchers. Once I escaped, I didn't go back.

The village where i am now is one mile away from my village.

I don't know the population [of my village]. I will have to ask from other people.

The battalion base is around [one and half miles] from my village. There might be other battalions from the bases at the battalion, I'm not sure. I heard from other people that more battalions arrived there.

No [I didn't see any Rakhine with weapons].

I didn't see any anyone fighting against the military. I don't have any information about Al Yaqin in my village. I heard other people talking about them, but I never saw them.

I left my village in the early morning. At my place, when I was leaving, in front of my house in the sand there was blood. Others saw blood in other places as well.

One of the ladies, the wife of [redacted], the military took the jewelry from her on the same day when the military came. She was not beaten. They just grabbed her jewelry. I didn't see myself if women were beaten. Almost all the women, they took the jewelry from their bodies. With god's blessing, they didn't take it from me.

When [redacted] [Daignet soldier] was there, the military asked my daughter whether she was the wife of [redacted] and she said she was the daughter of [redacted]. They did not harm her. They just told her to sit and they didn't take her jewelry.

[redacted] also asked one of my boys, are you the son of [redacted]? When he said yes, he was released. He also asked where his father was. He replied that he went to Buthidaung. And then [redacted] said, "Are you sure?" And then he let him go.

No [I did not see [redacted] kill anyone].

I heard about the township administration meeting yesterday and that the government is now requesting people to stay, saying there is no need to leave the village. And those who left can come back to their homes. This information was told to me by two teachers—[redacted] [redacted] and [redacted]. One of my boys and my husband are on the way to Bangladesh. I can't say what will happen with the government saying this. I cannot contact my husband. I don't know if this will be good or bad.

It is very difficult for me to say [if I will go back to the village]. We would face difficulties going to Bangladesh, so I think it is better to stay here.

I can see the smoke and fires in my village now and we can hear gunshots. Another village near my village—Maung Daw Pyin—more than 500 houses were burned down. Now I can see one of the rice mills was burned down. The rice mill belongs to the village administrator. He is Rohingya. His name is [redacted]. I can see smoke coming from there. Three days after I left the

village those fires started in that area. I can still see some smoke. These people already left and are on their way to Maungdaw now.

No one was killed in this village now.

Two people [I didn't mention] are missing still. One is [redacted] and is [redacted]. They are from Maung Nu Ywa. Their families are crying right now. They are with me.

ENDS

#49
Name: [redacted]
Age: 30
Gender: Male
Family:
Ethnicity: Rohingya
Religion: Islam
Occupation:
Village: Mee Kyang Gaung Swa, northern Buthidaung
Date: September 5, 2017
Note: By telephone: +95 (0)

Two informants were killed in Mee Kyang Gaung Swa in northern Burthidaung township. On the very first day of the fasting month, [redacted] was killed [in June]. And [redacted] was killed 15 days before the fasting started. Because of false information that these two men gave to the authorities, seven innocent villagers were arrested. Five were released and they [BGP] kept two. After six or seven days, the five people were released but then one of them was arrested again.

The two arrested are [redacted] and [redacted] from Maung Hla Ma hamlet in Mee Kyang Gaung Swa village tract.
Seven were arrested at the same time, they released five and two remained locked up, but one who was released was later arrested again, but I'm not sure who.

I have a sister living in this village.

[redacted] was killed while he was coming from the BGP camp near a bridge on the road near Uria Para. He was coming on a motorbike from the BGP camp in Taung Bazar and six or seven people with masks and knives slit his throat. I heard from other people.

[redacted] was killed and then thrown into the river. I saw [redacted] floating on the Nga Kyi Tauk River [small river]. [I am the house owner of where [redacted] [#48] is staying]. I have not seen [Al Yaqin fighters]. I only saw them on my mobile phone.

One one of her [redacted] children, a boy, was hiding under the rice container. We still can't find her husband and son.

These two men [husband and son of [redacted]], they came to my house after crossing the Mayu River. I am her son in law. When we heard that [redacted] was looking for these two men, they went to Bangladesh. I heard they are already near the border. I haven't heard from them since. My father in law told me that [redacted] was looking for him.

Yesterday there was a meeting by the township administration office. They are going to send two of the influential Rohingya, [redacted] and [redacted], to northern Buthidaung township to call people back to their villages. Two of the teachers—[redacted] and [redacted]—were sent by these two men to Maung Nu Ywa village to persuade people to come back. One of the villagers named [redacted] heard this and went back to the village, and then he was chased by the military. They are calling people to come back but they are still chasing them when they come. [redacted] saw him running from the military. They didn't shoot at him. They just chased him. He is 45 years old. This is happening right now. This happened today.

When the military surrounded the village [Paung Daw Pyin], then some of the Al Yaqin attacked them. That's why they are killing the people. This was in Paung Daw Pyin. I asked them [residents], "Why are you running away?" They told me that Al Yaqin attacked the military in the village. I don't know what weapons they [Al Yaqin] hold. They had only sticks and knives. I don't think they killed any soldiers [in Maung Daw Pyin].

I am the son-in-law of her [[redacted]] and before the attack took place, I was staying in my father in law's house with my five children and wife.

My wife was about to deliver a baby, that's why I brought her to my father-in-law's house. I want to visit to see my elder aunt in the same village.

There are no Al Yaqin in my village. I don't know whether BGP was attacked by Al Yaqin or someone else. We only heard the loud noise of the gunfire. It was around 3 a.m. The next day, the violence started. I just heard Al Yaqin attacked. The next day the village was burned down.

ENDS

#50, Villages affected August-September as reflected in our documentation; non-exhaustive

1. Kun Thi Pyin
2. Lilam Ba Para
3. Lwar Gar Para
4. Yet Yoe Pyin
5. Diya Toli
6. Tone Chaung
7. Nyaung Chaung
8. Yae Khet Chang Gwa Son
9. Maungdaw town
10. Yin May Kyaung Taung

11. Raza Bil
12. Chut Pyin
13. Kin Yin Tan
14. Yae Nauk Nga Thar
15. Kha Maung Seik
16. Ta Man Thar
17. Hlaing Thi
18. Done Pike
19. Thit Tona
20. Nwa Nyon Taung
21. Maung Nu Ywa
22. Sar Para
23. Buthidaung town
24. Min Gyi
25. Kha Maung Seik
26. Oo Thay Wya hamlet
27. Hati Para, Kha Maung Seik village tract
28. Auk Phyo Ma
29. Padagah Ywa Thit
30. Koila Banga [“Broken Heart”]
31. Taung Pyu Let Wai
32. Mee Kyang Gaung Swa

Annex 44

Annex not reproduced