

AMICUS CURIAE

Original: English

Letter No. (-)

Date: (-)

PRE-TRIAL CHAMBER (I)

Before

Judge Péter Kovács, Presiding Judge

Judge Marc Perrin de Brichaubaut

Judge Reine Adélaïde Sophie Alapini-
Gansou

ICC-RoC46(3)-01/18-31

Pursuant to Rule 103 (1)

Amicus Curiae basis, ass per Rule 103

“At any stage of proceedings, a Chamber May, it if considers it desirable of the proper determination of the case invite or grant leave to a State, organization or person to submit, in writing or orally, any observation on any issue that the Chamber deems appropriate.”
(Rulesprocedureevidenceeng.pdf)

Source:

Thayninga Institute for Strategic Studies

I. INTRODUCTION

1. On 9 April 2018, the Office of The Prosecutor (OTP) at the International Criminal Court (ICC) sought a ruling on a question of jurisdiction, concerning whether the Court “*may exercise jurisdiction over the alleged deportation of the Rohingya people from Myanmar to Bangladesh*”.
2. On 9 April 2018, the Prosecution submitted an application to the President of the Pre-Trial Division under regulation 46(3) (“Request”) and requested a ruling on jurisdiction under article 19 (3) of the Rome Statute in relation to the alleged crime of deportation.
3. On 11 April 2018, the President of the Pre-Trial Division issued a decision assigning Pre-Trial Chamber I to adjudicate the Request.
4. On 7 May 2018, Pre-Trial Chamber I issued a decision inviting the competent authorities of the People’s Republic of Bangladesh to submit observations pursuant to Rule 103(1) of the Rules of Procedure and Evidence on the “Prosecution’s Request for a Ruling on Jurisdiction under Article 19(3) of the Statute.”
5. On 11 May 2018, Pre-Trial Chamber I decided to convene a status conference on 20 June 2018. The Court has ordered that the status conference will consider the Request in closed session, in the presence of the Prosecutor only.
6. On 21 June 2018, Pre-Trial Chamber I issued a decision inviting the competent authorities of the Government of Myanmar to submit observations on the Request pursuant to rule 103(1) of the Rules of Procedure and Evidence (“RPE”).
7. With regard to the above position, THAYNINGA INSTITUTE FOR STRATEGIC STUDIES and its anonymous partners, seek leave to file submissions on an *amicus curiae* basis, as per Rule 103(1) of the Rules of Procedure and Evidence.
8. In particular, reference is drawn to the ‘Decision on “Motion for leave to File proposed Amicus Curiae Submission of the International Criminal Bar Pursuant to Rule 103 of the Rules of Procedure and Evidence.”’

II. THAYNINGA INSTITUTE FOR STRATEGIC STUDIES

9. Leave to adduce an Amicus brief is sought by THAYNINGA INSTITUTE FOR STRATEGIC STUDIES, a Yangon based independent research group and think-tank.
10. The application for leave, is supported by specific civil society organisations in Myanmar, however, through fear of reprisal, such groups are not in a position to publicly endorse.

III. SUBJECT TO JURISDICTION

11. Myanmar is not a party to the ICC.
12. Over 600,000 Bengalis left voluntarily Myanmar since coordinated attacked orchestrated by Arakan Rohingya Salvation Army (ARSA) in August 2017.
13. Myanmar is not a party to ICC therefore, the jurisdiction under crime of deportation under article 7(1)(d) and other crimes, namely persecution under article 7(1)(h), apartheid under article 7(1)(j) and genocide under article 6(c) does not apply to this case.
14. As a member of international communities and neighboring country of the Republic of Bangladesh, the Government of Myanmar has been working to resolve the problems peacefully and diplomatically.

IV. IDENTITY AND INTEREST OF AMICUS CURIAE

15. Thayninga Institute for Strategic Studies (TISS) was established by like-minded people who interested in strategic studies in 2015. TISS is located at

16. The aims and objectives of the TISS are as follows –

- a. To establish a private and non-profit research organization on national security and defence issues
- b. To prepare series of updated research papers regarding with armed forces across the region and world
- c. To publish a research paper on military and security issues of Myanmar in every three months
- d. To establish an information and data centre/library regarding security, defence and military matters
- e. To provide strategic insights and policy solutions to people
- f. To produce researchers and experts in the field of defence and security

17. Activities

TISS organized the forum and discussions with foreign and local experts such as “the Forum on Strengthening Cooperation of Peace” in January, 2017 at Melia Hotel, Yangon, “National Security Discussion in November, 2017 at Chatrium Hotel Royal Lake, Yangon and “Rakhine Affairs: International Norms and Security Perspectives” in June, 2018 at Hotel Yangon, Yangon. TISS stakeholders and partners include key civil society representatives familiar with the Myanmar Government’s ongoing peace process and the Rakhine issue.

18. Publications

TISS published “Thayninga Weapons and International Warfare Magazine”, only Strategic and military technology in Myanmar quarterly. TISS also published “Defence, Security and Peace Affairs Brief” monthly. The activities and articles published by TISS can be studied in www.thayninga.org.

19. TISS wrote the Amicus Curiae observations as a private and non-profit research organization. TISS is located at: # 907, Building (12+1), Parami Condominium, Ward (14), Parami Road, Hlaing Township, Yangon 11051.

V. SUMMARY OF ARGUMENT

V.1 Migration of Bengalis to Rakhine state

20. After being defeated during the First Anglo-Burmese war in 1824, Myanmar had to give up Rakhine and Tanintharyi regions to Great Britain. In 1839, a grant law known as Gran-Gyi Law, was issued in Rakhine state and the landlords came to own large tracts of land. Consequently, farm labour was needed. To benefit the colonial economy, the British colonial administration brought in Bengalis as indentured labourers into Rakhine state; this group came largely from the neighbouring East Bengal state of India (Chittagong area in present-day Bangladesh). Agriculture was expanded in Rakhine state, accompanied by a massive influx of Bengali workers.¹

21. Again in 1879, Bengalis came into Kyauktaw, Buthidaung and Maungtaung townships. In 1916, while constructing the Buthidaung-Maungtaung railroad, the inflow of Bengalis reached a new high as Bengali labourers entered and resided in the region.

22. In 1942, during the Second World War, the British retreated from the advancing Japanese, and the country's governing systems were effectively non-functional. The retreating British left their weapons with the Bengalis, whom they considered their loyal subjects, ostensibly for the purpose of forming border security guards in order to repel the Japanese troops. It was then that the Bengalis attacked Rakhine indigenous villages in Maungtaung, Buthidaung and Alei-Thankyaw with the weapons provided by the British. A total of 152 Rakhine villages were destroyed and nearly 20,000 of Rakhine ethnics were killed. Over 100,000 of the local ethnic groups became homeless. Kyainchaung, Khamaung Seik, Ngachuya, Taungpyoe Letwe, Taungpyoe Letya, Myothugyi, Wethali and U Shaykya villages which were originally resided by Rakhine ethnics were occupied by Bengalis.² From that time on, up until the present, those areas have been dominated by Bengalis. This event irrevocably destroyed whatever trust there had been between the two communities. The mistrust has persisted to the present day. The Rakhine perception is that the Bengalis took advantage of the vacuum in government to kill and take over Rakhine land. Today, over 90% of the population of Maungtaung and Buthidaung townships are Bengali.

¹ Tatmadaw True News Information Team, Statement on terrorist attacks by extremist Bengalis in Buthidaung and Maungtaung, 24th October 2017. See Appendix (1)

² Rathedaung township history, History Compilation Team, Rathedaung, 1981, pg-22

V.2 Addressing the illegal migration of Bengalis into Rakhine state

23. Rakhine state's population density is 235 persons per square mile (90.78 per square kilometre). In contrast, neighbouring Bangladesh has a population density some ten times greater. In the post-war years, much illegal migration took place from crowded and poor Bengal into the fertile and sparsely populated state of Rakhine. Accordingly, from 1966 onwards, the Government conducted a series of registration operations, during which the authorities recorded and compiled existing Bengali household lists³ in the following townships and dates: (i) Operation Kyee Gan, conducted in Sittway, Myaepon, Kyauktaw, and Thandwe⁴ townships from 22 October to 18 December 1966; (ii) Operation Shwe Kyi, conducted in Sittway and Maungtaw⁵ townships from 8 to 31 October 1966; and (iii) Operation Myat Mon, conducted in Sittway and Kyaukphyu districts from 10 February 1969 to 26 January 1971.⁶

24. From 11 February to 17 March 1978, legal measures in accordance with Myanmar's National Identification Law were taken through Operation Naga Min in Sittway, Buthidaung and Maungtaw. During this Operation, a total of 25,905 Bengali households (comprising around 156,630 people) fled to Bangladesh.⁷ In any country, providing citizenship is only possible after completing an identification process in accordance with the existing national law at the time. It was well recognized by even the diplomatic community in Yangon that the Bengalis who had fled to Bangladesh were illegal immigrants.⁸ Myanmar has consistently urged the Bengalis in Rakhine to be identified in accordance with the existing national laws. The majority have consistently refused the existing national laws governing citizenship processes for all ethnic groups and religions in Myanmar.

25. During the period between 31 July 1978 and 5 January 1988, the Myanmar Government accepted some Bengalis for return through Operation Hinthar. The accepted number of households reached 31,508, comprising 186,968 people, a number substantially

³ Note that during that time during the Socialist Government of General Ne Win, it was mandatory for all households in the country to be registered with local authorities. The authorities were naturally stricter in border areas, including the border with China.

⁴ Mhaw Wonn Tharr U Khin Nyunt (former general) *The Problem of Western Gate*, 2016, pg-15

⁵ Mhaw Wonn Tharr U Khin Nyunt (former general) *The Problem of Western Gate*, 2016, pg-16

⁶ Mhaw Wonn Tharr U Khin Nyunt (former general) *The Problem of Western Gate*, 2016, pg-16

⁷ Mhaw Wonn Tharr U Khin Nyunt (former general) *The Problem of Western Gate*, 2016, pg-23-25

⁸ Internal minutes by the British Ambassador O'Brien on his conversation with the Bangladesh Ambassador in Yangon, 23 December 1975. From Leider, J., 2012. 'The Muslims in Rakhine and the political project of the Rohingyas'. Page 15.

Available from: http://www.burmalibrary.org/docs21/Jacques-P-Leider-2012-The_Muslims_in_Rakhine_and_the_political_project_of_the_Rohingyas-en.pdf Accessed 17 July 2018.

higher than the record of those who had fled, meaning that Bangladesh had returned, and Myanmar had accepted an additional 5,603 households with 30,338 people, on top of the 25,905 Bengali households that had fled.⁹

26. In order to prevent further Bengali migration into Myanmar, the Government established the Central Department of Border Immigration Control Kyigan Pyin, and in Buthidaung, Maungtaw and Rathetaung townships, placed 26 border security gates in nine areas. On 23 April 1992, Myanmar and Bangladesh foreign ministers met in Dhaka, Bangladesh and discussed the further repatriation of Bengalis to Myanmar. During the discussion, the following points were agreed on:

- a. The returnees must be former Myanmar residents.
- b. The returnees must personally consent to return.
- c. Separated families must have a recommendation from central level court of Bangladesh.
- d. Parents of children who were born in Bangladesh must be former Myanmar residents.¹⁰

27. Further repatriation of Bengalis was then according to the 1992 agreement from 22 September 1992 to 31 August 2005. A total of 10 transition camps were established on the Bangladesh side while on the Myanmar side, five reception centres were established in Taungpyoe Letwe, Ngakhuya, Pyinphyu, Kayin Chaung and Magyi Chaung. Myanmar then accepted a total of 46,885 households comprising 236,495 people (of which 116,284 were males and 120,211 were females).

V.3 Outbreaks of violence

28. The 1942 violence committed by Bengalis when they attacked and drove Rakhine indigenous groups from their land with the weapons provided by the British has already been mentioned in an earlier section. There are various records on the deaths of Rakhine indigenous ethnic people. According to a report published by the British after the war, a total of 204 Rakhine villages in Buthidaung and Maungtaw areas were completely destroyed and just 60 villages were left for the Rakhine indigenous people to reside. The Bengalis now claim that it was the Rakhine who killed them in a highly successful international campaign. However, interviews conducted in 2012 by the First Rakhine Commission with families who

⁹ Inquiry Commission, Final Report of Inquiry Commission on Sectarian Violence in Rakhine Stat, July 2013, pp.24, Mhaw Wonn Tharr U Khin Nyunt (former general)The Problem of Western Gate, 2016, pg-29

¹⁰ Joint Statement by the Foreign Ministers of Bangladesh and Myanmar issued at the Conclusion of official visit of the Myanmar Foreign Minister to Bangladesh from 23-28 April, 1992. See Appendix (2)

still had memories of the 1942 violence show otherwise. One of the proofs that the Bengali expelled the Rakhine from their traditional land is seen by the fact that villages in the Buthidaung and Maungtaw areas all have traditional Rakhine names but are all Bengali villages.

29. After Myanmar's independence in 1948, violence by the Bengalis began, with the demand to designate Buthidaung area as a Muslim state. In the period 1948 to 1954, armed Mujahedeen insurgents fought against government forces to have the now Muslim-dominated region secede from Myanmar so that it could join with East Pakistan (now Bangladesh). During that time, the Rakhine indigenous ethnic people had to flee their own lands and state. Moreover, the mujahedeen conducted terrorist attacks with the goal of separatism. The mujahedeen grew rapidly since it lured and recruited men based on race (Bengali) and religion (Muslim). The Myanmar Armed Forces (the "Tatmadaw") successfully conducted military operations to crack down on the mujahedeen insurgency in Rakhine state.

30. On 28 May 2012, Ma Thida Htwe, a Rakhine ethnic girl, was robbed, raped and killed by three young Bengali men and the case triggered sectarian violence. That violence caused 119 episodes of sectarian conflict between the indigenous Rakhine people and the Bengalis in Sittway, Buthidaung, Maungtaw, Rathedaung, Kyauktaw, Mrauk U, Pauktaw, Minbya and Yanbye townships. Overall, in the Rakhine State sectarian conflicts of 2012, a total of 192 people perished in the violence, more than 265 were injured and 8,614 houses were destroyed. In the first phase of violence, the 98 deaths comprised 66 from the Bengali community and 32 from the Rakhine community, the injured comprised 72 Bengali and 51 Rakhine, and the destroyed houses comprised 4,188 belonging to the Bengalis and 1,150 belonging to the Rakhine. The toll from the second phase of violence led to 68 Bengali and 26 Rakhine deaths, 45 Bengalis and 97 Rakhine injured, and 42 Rakhine and 2,371 Bengali houses destroyed. The Bengali mobs destroyed 22 monasteries, 7 power stations, 7 Ministry of Education buildings, 4 schools, 3 health clinics, 2 police outposts, 2 Buddhist temples and congregation hall, 2 government meeting rooms and 1 Department of Forestry building. The Rakhine mobs destroyed 32 mosques.¹¹ Events then settled into an uneasy calm, with sporadic outbreaks of sectarian violence from time to time, until 30 June 2014, when President U Thein Sein's government replaced the civilian Chief Minister of Rakhine State (U Hla Maung Tin) with an experienced senior military officer, Major General Maung

¹¹ Inquiry Commission, Final Report of Inquiry Commission on Sectarian Violence in Rakhine State, July 2013. See Appendix (3)

Maung Ohn.¹² Major General Maung Maung Ohn prevented sectarian violence between the two communities. In April 2016, Daw Aung San Suu Kyi's government took over and appointed a civilian Chief Minister, U Nyi Pu.¹³

V.4 The terrorist group ARSA takes advantage of the new civilian government

31. In June 2016, *Ata Ullah or* Harfis Tohar, who was originally from Kauk Pyin Seik in Rakhine state, had formed Aqual Mul Mujahidin-AMM with 12 others in *Kutupalong refugee camp (in Cox's Bazar, Bangladesh)*. They entered Myanmar to recruit and train Bengalis from Buthidaung, Maungtaw and Rathedaung townships. Then they opened terrorist training camps along Mayu mountain range and inside Bengali villages to train those from Buthidaung, Maungtaw and Rathedaung townships.¹⁴

32. On 9 October 2016, Bengali terrorists simultaneously attacked Kyee Kan Pyin, Ngakhuya, Koe Tan Kauk police stations and outposts in a clearly pre-planned, deliberate and coordinated attack. They killed 9 police officers, injured 5 and looted 68 small guns, bullets and other weapons. The Bengali extremist militant group, ARSA (Arakan Rohingya Salvation Army) claimed responsibility for these terrorist acts.¹⁵

33. There is no doubt that the terrorist attacks were highly coordinated and deliberately launched against Myanmar security forces and non-Muslims. Led by *Ata Ullah/* Harfis Tohar terrorists formed fighter teams. Around 100 people led by Mabuya from Maungnama village attacked Kyee Kan Pyin police headquarters, 50 people led by Khalid and Abudaman from Ngakhuya village attacked Ngakhuya local police force, and 12 people led by Abu Kuma from Dhone Paik village attacked Koe Tan Kauk local police force.¹⁶

34. The toll on civilians was high. Bengali terrorists killed 75 local non-Muslim indigenous people; injured 12 and another 37 were found to be missing. Local people became homeless and displaced. During these attacks, Bengalis set fire to houses in their own communities, killing innocent civilian Muslims, after accusing them of being government

¹² See <http://archive-3.mizzima.com/culture/life/item/11625-appointment-of-general-maung-maung-ohn-as-chief-minister-of-rakhine-state-unanimously-approved-by-rakhine-state-assembly-on-monday/11625-appointment-of-general-maung-maung-ohn-as-chief-minister-of-rakhine-state-unanimously-approved-by-rakhine-state-assembly-on-monday> and <https://frontieryanmar.net/en/maung-maung-ohn-conflicts-like-2012-should-never-happen-again>

¹³ See <https://frontieryanmar.net/en/maung-maung-ohn-conflicts-like-2012-should-never-happen-again>

¹⁴ Republic of the Union of Myanmar, Investigation Commission on Maungtaw, Interim Report of the Investigation Commission on Maungtaw, 3 January 2017 <https://web.facebook.com/639456206227489/posts/665265300313246/> See Appendix (4)

¹⁵ The Republic of the Union of Myanmar, State Counsellor Office Information Committee, "Statement on Final Situation of Maungtaw District, Rakhine State

¹⁶ Republic of the Union of Myanmar, Investigation Commission on Maungtaw, Interim Report of the Investigation Commission on Maungtaw, 3rd January 2017. See Appendix (4)

informers. A total of 389 houses, 236 shops, two mosques, three buildings for teachers, three police guard posts and one Arabic kindergarten were set on fire during these attacks. The extremist Bengali terrorist group ARSA claimed responsibility for these terrorist acts.¹⁷

35. On 9 October 2016, the Tatmadaw sought permission from the President's Office to designate Maungtaw, Buthidaung and Yathetaung Townships as military operations areas. Military units were quickly mobilized to comb the region, find the perpetrators who had killed Myanmar's police officers and citizens, and recover the police weapons from the terrorists. After peace and stability were restored through the military operations, the Tatmadaw halted its operations on 2 February 2017, when the restoration of peace and stability was judged to be adequate. Following this the Myanmar Police Force again took over full responsibility for peace and stability and the rule of law in the region.¹⁸

V.5 2017: the situation worsens

36. On 4 January 2017, four Bengalis were arrested with 14 handmade guns at Maunggyi Taung village.¹⁹ On 31 May 2017, 40 walkie-talkies were found at Chaung Kala village.²⁰ On 15 June 2017, temporary huts used by terrorists were uncovered in Mayu mountain range while food rations, including World Food Programme biscuits in their original packing, were found in the cave.²¹ Since the World Food Programme distributes food aid to civilian communities, this discovery was taken by many in Myanmar as an indication that these communities included radicalized elements who had joined the terrorists.

37. On 29 March 2017, Aqal Mul Mujahidin-AMM re-invented itself to become the Arakan Rohingya Salvation Army (ARSA). Harfis Tohar aimed at being the founder of "Arakanistan State" which would be made of Buthidaung, Maungtaw and Yathetaung townships. On 25 August 2017, on behalf of the Union Government, the Central Committee of Counter-terrorism officially labelled ARSA as a terrorist group.²²

¹⁷ (The Republic of the Union of Myanmar, State Counsellor Office Information Committee, "Statement on Final Situation of Maungtaw District, Rakhine State)17th February 2017

¹⁸ Myawady Literature House, "Myanmar Politics and the Tatmadaw", July 2017, pp. 33

¹⁹ State Counsellor Office Information Committee, Four suspects with 14 hand-made guns seized in Maunggyi Taung Village, Buthidaung, January 5, 2017

²⁰ State Counsellor Office Information Committee, 40 walkie-talkies found in Maungtaw township

²¹ State Counsellor Office Information Committee, Terrorist training camps, guns uncovered in Mayu Mountains, 2017 June 21

²² The Republic of the Union of Myanmar, *Anti-Terrorism Central Committee*, Order-1/2017, Declaring ARSA as Terrorist group, 25th August 2017. See Appendix (5)

38. On 23 August 2017, the “Advisory Commission on Rakhine State” chaired by Kofi Annan submitted its final report to national authorities and issued its press release on 24 August 2017.²³

39. On 25 August 2017, at 1 a.m., Bengali terrorists staged another highly coordinated attack in massive numbers— this time on 30 police outposts and an army base, and exploded four bridges on public transportation routes.²⁴ The terrorist groups attacking each of the Myanmar police outputs and the army base comprised an estimated 500 to 700 Bengalis holding small arms, improvised explosive devices, staves, spears and swords. A total of 38 clashes erupted and two members of the Tatmadaw, 10 policemen, and one civilian staff from Department of Immigration were killed. Six small arms were looted, and 86 local people were killed, 86 injured and 182 went missing.²⁵

40. On the same date (25 August 2017), the Bengali terrorists abducted villagers practising the Hindu faith - including 52 villagers from Yebawkya village and another 53 from South Khamaungseik village. The terrorists looted their houses and properties, burned their identification cards and desecrated and despoiled the holy statues and images of the Hindu Gods. About 800 Bengali terrorists led by Norulauk from Bawtala village descended on the two Hindu communities to abduct the 105 Hindus, including children and women. They tortured these 105 Hindus with inhuman ways near Bawtala village and killed most of them by slitting their throats. The Bengali terrorists compelled nine young Hindu women, one from Yebawkya and eight from Khamaungseik villages respectively, to watch their friends and families being tortured. The Bengali terrorists then forced these women to convert to Islam and upon leaving the scene of the killings, the terrorists took the young Hindu women back to the Bengali refugee camp in Bangladesh.²⁶ To date, 45 dead bodies of the Hindu community have been discovered and 60 are still missing.²⁷ The survivors were repatriated to Myanmar in October 2017 with the support of the Bangladeshi and Myanmar authorities. It is ironic that while ARSA Bengali terrorists carried out these acts of barbaric cruelty to the local ethnic minorities in Buthidaung and Maungtaw areas (to which there are independent

²³ http://www.rakhinecommission.org/app/uploads/2017/08/final_report-20170822-news-release_For-Web.pdf and <http://www.rakhinecommission.org/the-final-report/>

²⁴ State Counsellor Office Information, Breaking News 1 - Many police outposts and police stations in Maungtaw attacked by extremist terrorists, August 25, 2017

²⁵ State Counsellor Office, Breaking News 3 - Extremist terrorists torch their homes, August 25, 2017

²⁶ Office of the Commander-in Chief of Defence Services, Video record on the accounts of survived witnesses from Hindu massacre committed by Bengali terrorists in Yebawkya village

²⁷ State Counsellor Office Information Committee, Dead bodies found in the north-west of Yebawkya village, Maungtaw township, Northern Rakhine State, September 25, 2017

eye witnesses), they had coached their own Bengali communities to make accusations against the Myanmar Tatmadaw for committing “mass rapes, genocide and ethnic cleansing” to international media and diplomats who came to visit the refugee camps.

41. The fabrication of falsehoods by the Bengalis in Rakhine state to elicit international sympathy is not a new phenomenon. For example, on 13 January 2014, Police Sergeant Aung Kyaw Thein from Khayay-Myaing police post in Du-Chee-Yar-Tan Village was murdered by Bengali villagers while on patrol. Muslim Internet sites, such as RB news (Rohingya Blogger), provided the numbers and names of Bengalis purportedly killed by the Rakhine community and security forces in the related events. But all these accusations were disproved as the government found that those reported as being killed were detained in the Maungdaw police station, or they were names of long-dead villagers. The Bengalis told the international media that Myanmar security forces had started the fire in West Du-Chee-Yar-Tan village, but photo evidence shows that the police and local authorities had contributed to extinguishing the fire and there was no basis for the allegations that the police force was involved in starting the fire. In June 2014, the Myanmar Government held a briefing for media and diplomats, including the then US Ambassador, HE Mr Derek Mitchell, in Yangon to explain these events. Some of the photos submitted by the Bengalis purporting violence by the Myanmar police and the Rakhine were found to be fake.

42. On 5 December 2017, Bengali terrorists brutally killed Shofil who was the acting village administrator at his home in Du Nyaungpin Gyi village, Maungdaw.²⁸ On 26 December 2017, U Laung Pyaw, of the Mro indigenous ethnic group, from Tayain (Mro) village of Saga Pinyin village group, Maungdaw, went out fishing together with 15 other Mro ethnic people, but he did not return home. He was then found dead by sword injuries near the Bengali village of Mro Michaung. On 4 April 2018, around noon, eight Mro people including three males and five females from Khamaungseik, on their way to gather vegetables for their daily meals, were accosted by three Bengalis holding swords near Bawtala village, Shwe Zan stream. The Mro people then ran back to their community. Two women fell behind, and one, Daw Saung Ywe, was found dead near Bawtala village and the another one, Daw Mwe Ywe, was found alive near Mingala Nyunt village, Maungdaw, and brought back home.²⁹

43. Altogether, ARSA-led Bengali terrorists carried out 56 attacks on police and security forces, 16 arson attacks against police outposts, 106 arson attacks against civilian

²⁸ State Counsellor Office Information Committee, supervisor of village tactic killed in South Du Nyaungpin Gyi village, Maungdaw, December 6, 2017

²⁹ State Counsellor Office Information Committee, One killed in terrorist attack on Mro ethnic villagers, April 4, 2018

communities and three attacks using explosive devices against security forces' vehicles. ARSA-led Bengali terrorists committed more than 248 acts of violence, including those involving explosive devices, those against security forces, and those against innocent civilians. By March 2018, Bengali terrorists had killed at least 88 people including two from the Myanmar Tatmadaw, 19 from the Myanmar Police Force, a civil servant from the immigration department, and around 66 innocent civilians.³⁰

44. *Ata Ullah or Harfis Tohar*, the man who appears on uploaded videos, is the key spokesperson and leader of ARSA. He was born in Karachi, Pakistan and raised in Mecca, Saudi Arabia and his father was a Bengali from Maungtaw. ARSA is receiving trainings and other support from international jihadist groups. Their ability to recruit people, systematically coordinate attacks, assault government troops and blow up roads and bridges indicate that they are a systematically trained deadly terrorist group.³¹

45. Al-Qaeda, Al-Qaeda in the Indian Subcontinent (AQIS), Tehrik e-Taliban Pakistan (TTP), Islamic State of Iraq and the Levant (ISIL) and other international terrorist organizations have made threats against Myanmar. The current terrorist attacks by ARSA may be connected with those international terrorist groups and could involve foreign terrorist fighters. As ARSA's acts were meant to establish a separate Muslim territory, it is aligned with the aim of jihadists everywhere to form an Islamic state. This situation, therefore, is not only a threat to Myanmar's integrity, national security and sovereignty, but also a regional threat linked with ISIL's attempt to gain a foothold in Southeast Asia.³²

V.6 Actions taken by Myanmar Government and the Tatmadaw against terrorism

46. The Government of the Republic of the Union of Myanmar has strongly condemned the terrorist attacks and has declared the extremist Bengalis and the Arakan Rohingya Salvation Army (ARSA) to be terrorists and a terrorist group. The Government has also announced that necessary measures would be taken in accordance with Myanmar's counter-terrorism law against any party or parties who support and encourage these extremist terrorist Bengalis whether through their actions or through media. Myanmar will cooperate with the

³⁰ Office of Commander-in-Chief of Defence Services, News release on the act of British MPs in connection with Rakhine issue and the decision of European Union Foreign Affairs Council meeting on Myanmar, 6 March 2018

³¹ Republic of the Union of Myanmar, Investigation Commission on Maungtaw, Interim Report of the Investigation Commission on Maungtaw, 3 January 2017. See Appendix (4)

³² Office of Commander-in-Chief of Defence Services, News release on the act of British MPs in connection with Rakhine issue and the decision of European Union Foreign Affairs Council meeting on Myanmar, 6 March 2018

International Criminal Police Organization (Interpol) if any involvement with international groups is found.

47. In the face of terrorist attacks, it was clearly impossible for the Myanmar Police Force alone to control the situation in Rakhine state during the periods of violence. The administrative systems in Buthidaung and Maungtaung were already weakened by the series of violent incidents and attacks committed by the terrorists. The Myanmar Police Force were outnumbered and not equipped to deal with fanatical terrorists bent on killing security forces and the civilians not cooperating with them. Thus, military aid to the civil authorities was clearly indicated. The Tatmadaw implemented area clearance operations in cooperation with the Myanmar Police Force, in order to restore and maintain security and rule of law in northern Rakhine. The area stabilized and rule of law was restored, following which area clearance operations came to an end in Buthidaung and Maungtaung on 5 September 2017. The Myanmar Police Force is now in charge of maintaining security and rule of law in Rakhine State.

48. Three investigations were separately conducted to determine whether the security troops conducted their operations in accordance with the Rules of Engagement, and with existing laws. The first investigation was conducted by the 12-member Rakhine Investigation Commission led by Vice-President U Myint Swe, which was formed on 1 December 2016. Second, Brigadier-General Win Tun from the Myanmar Police Force led an investigation team formed on 9 February 2017. Third, Lieutenant-General Aye Win from the Office of the Commander-in-Chief (Armed Forces) led the Tatmadaw investigation team, which was formed on 17 February 2017.³³

49. From 20 December 2017 to 2 January 2018, the Tatmadaw investigation team led by Lieutenant-General Aye Win conducted field investigations related to the discovery of unidentified bodies in the cemetery of Inn Din village. The team interviewed witnesses, including 21 military personnel, 16 police personnel, 6 villagers and 6 governmental staff. The results were released in public with full transparency and appropriate actions were taken against some members of the security forces found to be connected to the case. The military commander, Western Command, who had responsibility for Rakhine state's security, has been suspended from his position.

³³ Office of Commander-in-Chief of Defence Services, News release on the act of British MPs in connection with Rakhine issue and the decision of European Union Foreign Affairs Council meeting on Myanmar, 6 March 2018

50. The Tatmadaw investigation team interviewed 195 people from two indigenous ethnic villages, 205 Hindus from two Hindu villages, and 2,817 Bengalis from 54 Bengali villages. The team also collected the accounts of 804 witnesses. According to the accounts of witnesses, there were at least over 10,000 to 20,000 Bengalis who joined in the terrorist attacks on 25 August 2017. ARSA's terrorist leaders at different levels had pre-planned and deliberately synchronized the attacks led by hard-core ARSA Bengali terrorists, with many Bengali villagers and children joining in to attack and kill the security forces and non-Muslims. When the attacks failed to achieve their aim of defeating the Myanmar security forces, the Bengali terrorists burned down houses. They then coerced and threatened many Bengali villagers to leave their villages and go with them to Bangladesh.

51. The responses of 2,817 villagers from 54 Bengali villages during interviews and the statements of 362 villagers from 105 other villages show that the security forces did not commit unlawful killings of villagers or sexual violence and rape against women. Furthermore, the Myanmar security forces did not make unlawful arrests, and did not torture or kill civilians. They did not set fire to the mosques in Bengali villages.³⁴

52. During the 25 August 2017 terrorist attacks, 125 houses were burned down in West Ywathit K village group, Maungtau Township, while 3,610 people fled to Bangladesh. There were accusations that the Tatmadaw had bulldozed Bengali villages and replaced these with new buildings in order to destroy evidence. This is another falsehood. From 12 to 18 December 2017, the Maungtau District Committee for clearance and resettlement was assigned the task of resettlement of the affected areas in accordance with Article-17 of Natural Disaster Management Law. The Committee therefore implemented the clearance of the burned villages and replacement by new buildings. Currently, a total of 5,596 people are living in these new buildings.

53. Some media have reported that houses and mosques from burned-down areas were destroyed on 14 December 2017. During the coordinated attacks on 25 August 2017, ARSA also set fire to the villages, burning down 19 quarters and 218 villages. In accordance with the Natural Disaster Management law, a Committee was formed for clearance and resettlement. This Committee cleared 3 quarters and 15 villages. There were no mosques in the burned down areas. The news that mosques and religious buildings from Myothugyi

³⁴ Office of Commander-in-Chief of Defence Services, News release on the act of British MPs in connection with Rakhine issue and the decision of European Union Foreign Affairs Council meeting on Myanmar, 6 March 2018

village, Maungtau Township were demolished at the end of November 2017 after the terrorist attacks was also false.

54. Following the coordinated Bengali terrorist attacks on 9 October 2016, the Tatmadaw was conducting legitimate area clearance operations to restore stability and security in the area, when Bengali terrorists ambushed and surrounded a column of the Tatmadaw in overwhelming numbers. The acting commanding officer was shot through the right jaw by a Bengali terrorist, with the bullet exiting from his left jaw, and he died on the way to hospital. To protect the remaining troops who were surrounded by the terrorists and to transfer injured troops to a safe place, the Tatmadaw then unavoidably used helicopters.

V.7 Humanitarian activities by the Government and the Tatmadaw

55. The Rakhine state government used helicopters 32 times and cars 57 times to deliver humanitarian supplies weighting some 226 tons to innocent civilians who had been displaced by terrorist attacks. The Tatmadaw delivered more than 281 tons of supplies, food and other necessary items to local communities by Tatmadaw helicopters (57 times), by ships and boats (13 times), and by car (81 times). Mobile medical teams from the Tatmadaw provided health care services to 39,914 patients from 55 Bengali villages (55 times) and 8,659 patients from 329 indigenous ethnic villages (211 times) across Maungtau, Buthidaung and Rathedaung townships.

56. The Commander-in-Chief of the Tatmadaw Senior General Min Aung Hlaing travelled to Rakhine from 9 to 21 September 2017 after the terrorist attacks. During his visit, he met with Bengali and indigenous communities displaced by terrorist attacks as well as affected civil servants, and provided reassurances, food and other support items. When the affected areas regained stability and security, the Tatmadaw helped 22,061 displaced people from 6,106 households to return to their original places.

VI. Conclusions

57. The Thayninga Institute as well as many other civil society organizations in Myanmar objects to the use of such words as “ethnic cleansing” and “genocide” in reference to the military aid provided to civil authorities to re-establish security and rule of law in Rakhine State. The Tatmadaw deployed forces in response to well-planned, coordinated and lethal attacks by terrorists against Myanmar security forces and Myanmar citizens, and furthermore, the attacks against the security forces were carried out by overwhelming numbers of Bengalis intent on killing. The rules of engagement by the military in anti-terrorist operations as aid to

the civil power are clear: the minimum force necessary to restore law and order can vary from the mere appearance of troops to the use of all the force at a commander's disposal.³⁵ A commander who is responsible for area clearance operations cannot wait until the terrorists are almost successful and the life of his troops are in danger. As these events have shown, the lives of Myanmar's security forces and its citizens were in acute danger, and the Tatmadaw responded to force with force without any legal violation.

58. The extremist Bengalis led by ARSA attacked and killed not only innocent civilians and the security forces of Myanmar but also destroyed important public infrastructure, buildings, vehicles and machinery with the use of illegal arms and explosive devices. As mentioned above, the ability of the Bengali extremists to systematically coordinate attacks, kill both military and police personnel, blow up roads and bridges, torture and slit the throats of non-Muslim villagers, all indicate that they are a well-trained and lethal terrorist force to be reckoned with. Moreover, jihadist forces from outside of Myanmar helped them in various ways, including escape to Bangladesh. The crimes committed by ARSA-led terrorists violate paragraphs-9, 10, 13, 15, 17 and 18 of Section-2, Article 3 in Myanmar's Counter Terrorism Law 2014.

59. Many Bengalis in Buthidaung and Maungtau fled to Bangladesh although they were neither threatened nor forced out by the Myanmar security forces. The Thayninga Institute emphasizes the fact that there are many other Bengalis who remain in their villages. It is known that ARSA tried to force those who wanted to stay in Rakhine by burning down their houses, and by threatening to kill them. The threat of ARSA terrorists remains today and Myanmar security forces have to remain vigilant.

60. ARSA and the Bengalis are supported by an extremely well-funded international network of sponsors who support the establishment of a separate Muslim state within Myanmar's borders. Their well-funded and well-advised media campaign has been highly successful in making the international community believe that the Bengalis pose no threat, that the Tatmadaw responded with "disproportionate force" and that the Tatmadaw committed atrocities. Thayninga Institute and many other groups in Myanmar believe that response of the Tatmadaw prevented further killings of local villagers and government personnel by extremist Bengalis. The international media readily believed the one-sided stories told by the Bengalis in the refugee camps in Bangladesh, without checking facts or without even talking to independent informed people inside Myanmar.

³⁵ Ewing, M.J., Brigadier, 1983. "Aid to the civil power - counter terrorism - legal aspects"
<http://www.austlii.edu.au/au/journals/AUCrimPCF/1983/2.pdf>

61. ARSA and its terrorists recruited and led extremist Bengalis who were not willing to be identified in accordance with 1982 Myanmar Citizenship Law. The 1982 Citizenship Law identifies the ethnic origin of all people residing in the country. Contrary to the biased reports in the international media, the use of the term “Bengali” is not meant to be pejorative or derogatory. Myanmar citizens who are of Chinese origin are called “Tayoke” (the Myanmar term for Chinese), meaning that they originate from China. All those who descended from Nepali communities who settled in Myanmar during the British colonial period are called Ne-Pawl, the Myanmar term for Nepali. Those who descended from various parts of India are called Ein-diya, the Myanmar term for Indian. Nearly all the indigenous ethnic groups living in Myanmar are all registered by the official Myanmar terms for these groups, not necessarily the same term in their own languages. There are Muslims who are recognized as indigenous groups in Myanmar, for example, the Kamang. Yet, the international media, without understanding that the Citizenship Law applies to every race and religion in Myanmar, accuses the country of persecuting the Bengalis. The reality is that there are many citizens in Yangon who are descendants of Bengalis, and who accept to be registered as “Bengali” citizens, just as the Myanmar Chinese are registered as “Chinese” or “Tayoke.”

62. Since 2011, the extremist Bengali groups have been trying to implement a 20-year plan to establish an Islamic “Arkistan” or “Arakanistan” state which will be based include Chittagong hills in Bangladesh and Maungdaw, Buthidaung, Rathedaung in Myanmar. According to the 20-year plan, the mullahs or Mawlawi (as they are called in the Bengali community in Rakhine) have to lead terrorist activities to drive out all of Myanmar’s indigenous ethnic groups in Buthidaung and Rathedaung regions. From 2011, Mawlawis from Rakhine have been attending terrorist and military trainings in other countries. In turn, these Mawlawis have retrained local Bengali youths. They have completed the training of half their youth and had aimed to reach 75 percent of youth in 2017. They believe that Buthidaung and Rathedaung areas are under their control at night although these are controlled by Myanmar security forces during daytime. It is known that this could help them receive more funding from international Muslim organizations and from Muslim merchants in Myanmar.³⁶

63. The Thayninga Institute wishes to underscore that the combat and preventive measures taken against terrorists were based on legitimacy, necessity, and proportionality in the use of force and firearms, in line with Myanmar’s existing laws, the Universal

³⁶ Office of Commander-in-Chief of Defence Services, News release on the act of British MPs in connection with Rakhine issue and the decision of European Union Foreign Affairs Council meeting on Myanmar, 6 March 2018

Declaration of Human Rights, and international humanitarian law. Throughout, the Tatmadaw has been continuously adjusting the level of its military operations to suit the level of threat. The Myanmar Police Force and township/ village administrative authorities have been the main actors working effectively to bring about regional stability, rule of law and regional development works, as well as to ensure the normal functioning of administrative mechanisms and public services such as hospitals and schools, with cooperation and support from Tatmadaw. The Tatmadaw has already demonstrated that it takes punitive actions in line with existing laws and the military code of conduct if security personnel are found to have gone against the law, including human rights violations in conducting area clearance operations.³⁷



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³⁷ Myawady Literature House, "Myanmar Politics and the Tatmadaw" July 2018, pp 64



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Appendix (1)

The stance on the terrorist attacks of the extremist Bengalis in Buthidaung-Maungtaw region in Rakhine State

1. As regards the terrorist attacks committed by some extremist Bengalis living in Rakhine State in Buthidaung-Maungtaw region of the state that started on 25 August 2017, in recent days some international organizations, some foreign countries and some foreign media have been releasing news and criticizing Myanmar based on false information. During the incident, about 4,000 extremist Bengalis led by ARSA launched synchronized terrorist attacks against 30 police outposts and one army unit headquarters using superior force under well-hatched plot. In fact the comprehensive knowledge of the incident and its much complicated background situation and historical facts is required.

2. After the end of the First Anglo-Myanmar War that broke out in 1824, a very large number of Bengalis of the Bengal region of India at that time settled in Rakhine State after they were taken into the area as agricultural labourers. Their population growth and their attempts to grab land by driving out the natives – Rakhine, Daingnet, Thet, Mro, Khami and Maramagyi ethnic people – from the region through violent attacks has led to the eruption of Rakhine-Bengali conflicts. During the Alethanyaw crisis in 1942 a large number of ethnic Rakhine villages were destroyed and thousands of Rakhines killed. The survivors had to flee their homes. The Bengalis are living in the villages which still have the Rakhine names. After the independence was regained, Mujahidin armed insurgency and Rohingya Liberation Party came into being and made attempts to turn Buthidaung, Maungtaw and Yathedaung regions into Arkistan or Rohingya state. In fact, a country can guarantee the citizenship rights only after the citizenship verification program has completed. Those Bengalis are still rejecting the national verification program under the nation's existing laws despite the numerous persuasions. They are also attempting to set up Buthidaung-Maungtaw region as their liberated area through the stages beginning from the organizational area and the basic area to the hardcore area. These are the true and undeniable history the Bengalis in Rakhine State.

3. Communal clashes broke out when Ma Thida Htwe, an ethnic Rakhine, was raped and murdered by four Bengalis on 8 June 2012 after the country has adopted the multiparty democracy. The clashes spread to Yangon, Mandalay, Meiktila, Lashio and Bago. On 9 October 2016, Bengali terrorists attacked Border Guard Police HQ and three police posts simultaneously. In the incident, ten members of Myanmar Police Force fell, five others were wounded and 68 arms and ammunition were seized. The Tatmadaw has been applying the approach that is under the approval of the government and within the

legal framework in dealing with the situation.

4. In the terror incident which happened on 25 August 2017, about 4,000 extremist Bengali terrorists, led by ARSA committed mine blasts and attacks under systematic control with the use of swords, spears, small arms and home-made mines and superior strength in synchronization. There were 38 times of engagements between the security troops and the terrorists the same day. In the incidents, one soldier, 10 policemen and one staff from Immigration Department, totalling 12 sacrificed lives for the State while some were injured. Extremist Bengali terrorists brought six small arms from the police outposts. In performing counter-attacks, two extremist Bengali terrorists were arrested alive and 77 bodies captured.

5. During the terrorist attack, the Commander-in-Chief of the Defence Services was on a visit to a foreign country. So, on behalf of the Commander-in-Chief, the Deputy Commander-in-Chief of the Defence Services met the President and the State Counsellor at their offices. The Deputy Commander-in-Chief presented measures for soonest restoration of regional peace and stability and the rule of law. The President's Office declared a military operation zone as of 25 August. The Commander-in-Chief and the President held a separate meeting on 4 September. The Commander-in-Chief received directives from the President. The President gave instruction to make reinforcements for having an adequate number of troops and to strengthen the border fence. Before such incident, some military units performed area clearance operations acting on tip-off that terrorists took training to do terror attacks and timely arrival of military forces could save lives of security forces and local people in Buthidaung-Maunglaw region. After 5 September 2017, no engagement happened and extremist Bengali terrorists fled into other country. From 25 August 2017 to 5 September, the security forces engaged with ARSA extremist Bengali terrorists 97 times. In the incidents, 13 members of security forces and two government service personnel died in action and 15 members of security forces and three government service personnel were wounded. A total of 371 extremist Bengali terrorists were captured dead and 38 arrested alive. In the terror attacks and killing of the terrorists, 14 local ethnic people, seven Hindu Bengalis and seven Islamic Bengalis, totalling 28 lost their lives and four local ethnic people were injured. According to the follow-up investigations, Bengali terrorists abducted more than 90 Hindus from Yebaukkya Village from Maunglaw Township and brutally killed them. A total of 45 dead bodies of murdered Hindus were excavated near Bawtalar Village on 24 and 25 September. Some of them were still missing and some were taken to other country.

6. With regard to the terrorist attacks of extremist Bengalis led by ARSA, security forces responsible for regional stability, rule of law and to protect the local people, are instructed and supervised to act

accordingly and differentiate armed violent attacks, adhere to proportionality and rule of engagement, rule of defensive engagement in case of attacks on security forces and innocent civilians, and to abide by code of criminal procedures when Tatmadaw had to intervene in dispersing unlawful assembly of mobs. Security forces took actions in accordance with the law, and did not overstep the law.

7. Concerning the 2016 October attacks, 12-member Rakhine State Investigation Commission led by Vice-President U Myint Swe was formed on 1 December 2016 to investigate if actions were taken in line with law. Another investigation team led by Tatmadaw Inspector-General Lt-Gen Aye Win was formed on 17 February, 2017, and investigation led by Police Brig-Gen Win Tun on 9 Feb, 2017 was also formed to investigate if the actions of security forces were in line with law. Legal actions were taken in three cases found out by the Tatmadaw investigation team. The team is also investigating if Tatmadaw discharged their duties in line with law in August, 2017 incident. If any wrongdoing is found, it will be dealt with the law.

8. The ARSA consisted of around 4,000 people carried out the terror attacks that launched on August 25, 2017, organizing local Bengalis. According to the testimonies of those involved in the terror attacks and witnesses, we got the list of names and villages of 2,222 people involved in the terror attacks. They have fled to Bangladesh where the people whose faith, race and culture are similar to those. Some ethnic Rakhines, some Bengali Hindus and some Muslims fled to Buthidaung, Maungdaw and Sittway which they assumed were safe places for them. Now they are returning to their homes because of the restoration of the regional peace. As regards the terrorist attacks, security forces and administrative bodies did not make any threats to force people out of their homes. In fact those who felt unsafe because of the terrorist attacks fled to the other country. In Buthidaung and Maungdaw regions, there remain Bengali villages which are not involved in the terror attacks and Bengali villages where only some villagers have fled. There are a lot of news that extremist Bengali terrorists set fire to houses, threaten those who remain in villages and persuade them to flee to Bangladesh and other countries. Myanmar government and Bangladeshi government are making negotiations to verify and accept the Bengalis who fled. The acceptance program will be conducted within the framework of the provisions stipulated in the Joint Declaration signed by the foreign ministers of both countries on 28 April 1992 and the 1982 Citizenship Law.

9. During the terrorist attacks the Tatmadaw helped in removing the ethnic natives whose lives are in danger to safe places without making any discrimination against race and religion, provided aids and other assistance for displaced persons, provided healthcare services through the Tatmadaw mobile health units, transported the relief aids donated by the people in the whole country right to the refugee

camps by military trucks, boats and aircraft in time. The provision of the humanitarian aid in Rakhine State must be fair and square. The Tatmadaw is helping the government, the Ministry of Social Welfare, Relief and Resettlement, and the Rakhine State government in distributing the aids.

10. One-sided statements and accusations against Myanmar and security members over the terror attacks of extremist Bengalis in the north of Rakhine State are totally untrue and the intentional acts done under the pretext of the facts such as human rights and humanitarians may hamper national security and national interest.

Tatmadaw True News Information Team

October 25, 2017

Appendix (2)

EBNT (FS) 46
RAH

JOINT STATEMENT BY THE FOREIGN MINISTERS
OF BANGLADESH AND MYANMAR ISSUED AT THE CONCLUSION
OF THE OFFICIAL VISIT OF THE MYANMAR FOREIGN MINISTER
TO BANGLADESH FROM 21 - 28 APRIL, 1992.

RSP DOCUMENTATION
CENTRE

At the invitation of His Excellency Mr. A.S.M. Mostafizur Rahman, Minister for Foreign Affairs of the Government of the People's Republic of Bangladesh, His Excellency U Ohn Gyaw, Minister for Foreign Affairs of the Union of Myanmar paid an official visit to Bangladesh from 21-28 April 1992 at the head of a 14-member delegation which included the Minister for Information of the Union of Myanmar His Excellency Brig. General Myo Thant as Alternate Leader.

2. During his stay the Myanmar Foreign Minister U Ohn Gyaw accompanied by Brig. General Myo Thant, Minister for Information called on His Excellency Mr. Abdur Rahman Biswas, President of the People's Republic of Bangladesh. The Myanmar Foreign Minister accompanied by Myanmar Information Minister called on Her Excellency Begum Khaleda Zia, Prime Minister of Bangladesh. H.E. Brig. General Myo Thant, Minister for Information called on Barrister Nazmul Huda, Minister for Information. The Minister of State for Relief and Rehabilitation of Bangladesh Mr. Lutfur Rahman Khan also called on His Excellency U Ohn Gyaw. Mr. Darloush Bayandor, Chief of Mission of UNHCR in Dhaka called on H.E. U Ohn Gyaw, Minister for Foreign Minister of the Union of Myanmar.

3. Besides extensive tete-a-tete the two Foreign Ministers held two rounds of extensive talks, assisted by their respective delegations. Lists of which are annexed.

4. At the opening session of the official talks, His Excellency the Foreign Minister of Bangladesh welcomed his counterpart and expressed the hope that his long awaited visit would help in resolving the



outstanding issues particularly the problem of Myanmar refugees not sheltered in Bangladesh. He briefly outlined the present situation of the Myanmar refugees now in Bangladesh and emphasized on four basic elements:

- a) the exodus of people from Myanmar to Bangladesh to stop immediately;
- b) repatriation of the refugees to their original place of residence in honour, safety and dignity;
- c) undertaking of certain confidence building measures such as withdrawal/retreat of troops from border areas/forward position; and
- d) lasting solution of the problem in the sense that there should be no recurrence of such or similar problems in future.

The Foreign Minister proposed the involvement of UNHCR to ensure the above. He mentioned that Bangladesh had all along had a peaceful border with Myanmar except on two occasions 1978-79 and 1991-92 when there were influxes of refugees from Myanmar into Bangladesh.

The Foreign Minister reiterated that Bangladesh was committed to maintain the traditional friendly and good neighbourly relations with Myanmar and was hopeful that through amicable negotiations a peaceful and lasting solution of the problem will be achieved. The Foreign Minister categorically mentioned that Bangladesh had no intention to interfere in the internal affairs of Myanmar. He added that Bangladesh and Myanmar were permanent neighbours which was of overriding consideration and it was in the interest of both the countries to remove the existing irritants through amicable negotiations. The Foreign Minister of Bangladesh then introduced the members of his delegation and handed over a draft agreement to his counterpart for examination. He then invited Myanmar counterpart to put forward their proposals.

5. In reply, the leader of the Myanmar Delegation expressed his gratitude for the warm welcome accorded to him and his delegation by the Bangladesh side and stated that he had brought along the goodwill of the Myanmar leaders and the people to the leaders and the people of Bangladesh. The size and composition of the Myanmar Delegation is indicative of this positive attitude to amicably resolve the issue. Both sides were acquainted with each other and understood what was required to be done. He also confirmed that there exist positive elements on which both sides need to undertake. In conclusion, he stated that Myanmar looked beyond resolving the current issue and expressed his desire that both sides would cooperate more closely in the future.

6. The two Foreign Ministers decided to form a Working Group consisting of senior members of the delegations for detailed discussion on the question of safe and voluntary repatriation of Myanmar refugees presently sheltered in Bangladesh and related issues, and to resolve the problem on a permanent and lasting basis.

7. In the light of the above, both sides exchanged views and agreed as follows :

- i) The two sides reiterated their firm conviction to resolve their problems amicably and peacefully through bilateral negotiations on the basis of mutual understanding, accommodation, trust and goodwill and maintain peace and tranquility on their borders.
- ii) The two sides agreed in full faith to abide by the Five Principles of Peaceful Co-existence.

- iii) The Government of the Union of Myanmar agreed to take all necessary measures that would halt the outflow of Myanmar residents to Bangladesh and encourage those who had left Myanmar to return voluntarily and safely to their homes.
- iv) The Government of the Union of Myanmar in a spirit of cooperation agreed to accept after scrutiny all those people who took shelter in Bangladesh and whose presence had been recorded through Refugee Registration Cards issued by the Government of Bangladesh at their point of entry into Bangladesh and which inter-alia listed available evidence of their residence in Myanmar. On the basis of the scrutiny of the lists provided by the Government of Bangladesh, the Government of the Union of Myanmar agreed to repatriate in batches all persons inter-alia: carrying Myanmar Citizenship Identity Cards / National Registration Cards; those able to present any other documents issued by relevant Myanmar authorities and; all those persons able to furnish evidence of their residence in Myanmar, such as addresses or any other relevant particulars. The Government of the Union Myanmar agreed that there would be no restriction on number of persons so long as they could establish bonafide evidence of their residence in Myanmar. They further assured that the lists provided by Bangladesh closely coincided with those persons verified by the Myanmar authorities.
- v) The two sides agreed that the residents of Myanmar identified in para (iv) above would be received at the borders by the authorities of the Government of the Union of Myanmar in batches from the authorities of the Government of the People's Republic of Bangladesh by a specific Mutual Agreement on physical

Government of the People's Republic of Bangladesh on the Demarcation of the Land Section of the Boundary North of the Naaf River signed at Dhaka on 21 May 1979. Pursuant to Article III of the said agreement, Myanmar side drafted the text of the boundary treaty which was transmitted to the Bangladesh side on 18 June, 1991. The two Governments hereby agree that the Boundary Treaty should be signed at the earliest possible opportunity..

8. The meeting was conducted in a friendly and cordial atmosphere reflecting the traditional friendship existing between Myanmar and Bangladesh. Both sides expressed their appreciation on the positive outcome of the discussions.

9. The leader of the Myanmar Delegation expressed his deep appreciation for the warm hospitality extended to his Delegation by the Government of the People's Republic of Bangladesh during its stay in Dhaka.

(A.S.M. Mostafizur Rahman)
Minister for Foreign Affairs
Leader of Bangladesh Delegation

(Ohn Gyaw)
Minister for Foreign Affairs
Leader of Myanmar Delegation

DHAKA, 28TH APRIL, 1992

- ix) After completion of the repatriation process from Bangladesh of the Myanmar residents, the two Governments agreed to cooperate for the prevention of illegal border crossings by persons from either side by appropriate controls.
- x) The two Governments agreed to take all necessary measures to enhance security and tranquillity in their borders in full compliance with the Agreement on Border Arrangements and Cooperation (Border Ground Rules) signed by the two countries in 1988. In this context they agreed to take necessary confidence building measures. The two sides agreed to keep regular contacts through flag meetings between the sector commanders of their respective border security forces towards this end.
- xi) Both Governments agreed that they would oppose any form of terrorism, insurgency or unfriendly acts such as smuggling, gun running or drug trafficking directed against their neighbours. They agreed that they would not harbour or support any terrorists or criminals involved in such activities. They also agreed that their respective law enforcing agencies would closely cooperate together to prevent such acts.
- xii) The land boundary North of the Naaf River Sector of the common boundary has been successfully demarcated jointly by the two Governments in accordance with the Agreement between the Government of the Socialist Republic of the Union of Myanmar and the

arrangements for repatriation of Myanmar residents to be agreed upon at the technical level which would include inter-alia time schedules, transport and logistic arrangements, reception procedures, communication systems. Both sides agreed that the process of repatriation should commence within two or three weeks at a mutually agreed date and be completed within six months from the date the first batch is received.

- vi) Both sides agreed that repatriation should be safe and voluntary, that the Myanmar returnees should be settled in their own households and original places of residence to enable them to carry on their livelihood as members of Myanmar society. It was agreed that the Government of Bangladesh would fully associate the representatives of the UNHCR to assist them in the process of safe and voluntary repatriation. The Government of the Union of Myanmar agreed that the services of the UNHCR could be drawn upon as needed at an appropriate time.
- vii) Both sides recognize the role of UNHCR in various stages of repatriation process, facilitating the reduction of international concern in the context of voluntary and safe return of the Myanmar residents. The Myanmar side also assured that on-ground work programme will be drawn up in full consideration of this aspect after consultation with relevant authorities in Myanmar.
- viii) The two Governments agreed to work for a comprehensive and permanent solution of the problem so as to prevent its recurrence in the future.

Appendix (3)

Republic of the Union of Myanmar

**Final Report of Inquiry Commission
on Sectarian Violence in
Rakhine State**

8 July 2013

Appendix (4)

2 NATIONAL

GLOBAL NEW LIGHT MYANMAR

8 January 2017

Investigation Commission on Maungtaw released its Interim Report on 3 January, 2017.

Following is the full text of the interim report

Republic of the Union of Myanmar

Investigation Commission on Maungtaw

6th Waxing day of Pyatho 1378 ME

3rd January 2017

Interim Report of the Investigation Commission on Maungtaw

Introduction

1. This Maungtaw Region Investigation Commission was established with 13 members by Presidential Order No. 95/2016 dated 1-12-2016. It was tasked to investigate and find out the background situation and recover the truth about the terrorist attacks which occurred on 9th October, 2016 and 12th and 13th November, 2016 and also to make an assessment and give recommendations to prevent such incidents from occurring again in the future.

2. The Commission held three meetings, went on a field trip for the first time to the 38 villages and 4 Security Camps, and interviewed Security Police, Government Staff, Administrative Organizations, villagers from different community based organizations, and community elders. It also issued two Press Releases.

Incident on 9th October 2016

3. At about 1:30 am on 9th October, 2016, about 100 violent attackers carried out a surprise attack on No. 1 Border Checkpost Headquarters (Kyaukpada) in Maungtaw Township, Monywa. At 3:30 am, about 30 armed men attacked the Kinkawng Border Checkpost in Yethading Township and at 4:30 am, about 50 armed men attacked Ngathayya Border Checkpost along with gun, machine gun and rifle fire for shooting live projectiles. In the surprise attacks, nine police officers were killed and six police officers were injured, and arrested arms including 52 arms and ammunition were lost. Two violent attackers were captured with one hand-made weapon, and eight bodies of attackers were found.

Incident on 12 November 2016

4. At about 6:45 am on 12 November, 2016, when combined troops comprising members of the Tatmadaw and the Myanmar Police Force arrived near Myethawng Village, about 70 violent attackers armed with gun, machine gun and arms came out from hiding in the forest and ambushed the troops. In the fighting, one soldier was killed and six soldiers and another soldier were injured. Six violent attackers were found dead and one gun and some ammunition were seized in the

incident. Upon arrival at Pothayethawng Village at 10:30 am, the security forces found that some houses were on fire. At 10:55 am, violent attackers descended a slope on a valley bridge near Maungtaw Village attacking a convoy carrying police and employees of the Immigration and Population Department and also fired at the convoy. At 2:15 pm, about 800 violent attackers armed with gun, machine gun and arms came out of Gwason Village and nearby villages and attacked security forces, killing one commanding officer and injuring two soldiers. As the troops were under attack, two MD-2 helicopters fired on the violent attackers to disperse the attackers. At 3:20 pm, armed attackers carried out a surprise attack on a car carrying police at Pothayethawng Bridge. Violent attackers also carried out a surprise attack on a convoy carrying security forces at 4:50 pm.

Incident on 13 November 2016

5. At about 9 am on 13 November, border guard police and security forces conducted an area clearance operation in Gwason Village and found about 50 burnt houses. In the operation, seven attackers armed with machine guns carried out a surprise attack on the security forces and the security forces returned fire, killing six attackers. At 1:00 pm, an border guard force entered Gwathawng (Tawng) Village, they were ambushed by 25 attackers armed with rifles and machine guns and the security forces arrested the killing 19 violent attackers. About 4:30 pm, acting on a tip-off that about 10 violent attackers were in Wabak Village, security forces conducted an area clearance operation in the village. Violent attackers withdrew from the village and security forces found burning houses and ambushed them. In the incident, one corpse and several bodies were not found.

Persons who took a Leading Role in the Maungtaw Incident

6. Violent armed attacks in the Maungtaw region were conducted by Rohingya Solidarity Organization (RSO)-linked Abu Md. Majbuddin that operated in Maungtaw region. The leader of the group is David Tubar, alias Abu Hamed Zokani, 45, a religious and social education

in Maungtaw region. He is a village near Taba in Bangladesh as well, being anyone in a village who accepted monetary subsidies from organizations from Middle East countries. Those who cooperated with him were 12 people, including a Pakistani named Khalil, who resides in Bangladesh, who had been in Ngathayya village; Dushak, a car and Arab Tubar who are residing in the Kumpalong refugee camp in Bangladesh; Zibul and Ibrah, who are residing in a refugee camp. Starting from a while ago, they entered Maungtaw region under the arrangement of David Tubar. They conducted terrorist trainings to radicalized youths organized by David Tubar, according to the confessions of three men who were arrested — Hamed Nur, Hamed Sam and Phoebe Sam. After the armed attack, David Tubar posted propaganda video that at least ten down to join him in Maungtaw area.

7. Like to see, all Rohingya if you want to save our Rohingya brothers, residing in Rohingya State, come here, without living in your homes only. We will wage war. You are men. Never be afraid of death" they announced their statement in the

The significant things about the present incident in Maungtaw region



"David Tubar (a) Abu Hamed Zokani, the leader of terrorist group in Maungtaw region's propaganda first video file (10/10/2016). From: Jony Chinnawit

8. The present situation in Rohingya State is different from the previous armed attacks in that area. Previous incidents were confined among local people. The present situation is the kind of armed attacks bearing the sovereignty of the State, complicated systematically by terrorism since 2012. As they are found to have connections with overseas organizations, it is more complicated.

9. The present incidents have been found to be a conspiratorial terrorist attack designed so that the international community will take an interest in the matter that has been manipulated by extremist organizations at home and abroad and by war-affected persons subverted by destructive elements who wanted to instigate the people.

10. According to confessions of the arrested suspects, it was found that some people and organizations from abroad are

giving monetary aids with the intention of fanning riots and conflicts in the country.

Armed set on External Allegations

11. As regards the external allegations, the commission made special investigations. The Bengali population residing in Maungtaw region, the increasing population of Myanmar, economic and religious relations are good that there were no cases of genocide and religious persecution in the region.

12. The Commission made special investigations into the allegations that there were rape cases, illegal arrests, torture and abuse in Rohingya villages. Responsible security personnel performing their duties in those villages submitted that they have been ready to take legal action against those who committed crimes if there was sufficient evidence.

SEE PAGE 3-30



Security forces are trying to control the fire of a house in Wabak Village. From: Jony Chinnawit's Social Network Chinnawit

Appendix (5)*(Official Translation)*

The Republic of the Union of Myanmar
Anti-terrorism Central Committee

Order No. 1/2017

1379 MY 4 Waxing Day of Tawthalin
(25 August 2017)

**ARAKAN ROHINGYA SALVATION ARMY (ARSA) DECLARED AS
TERRORIST GROUP**

The Anti-Terrorism Central Committee has issued this Order with the approval of the Union Government in exercise of the Anti-Terrorism law Section-72 Sub-section (B).

1. The Government of the Republic of the Union of Myanmar has formed various committees to undertake the tasks to ensure security, stability and peace, rule of law and regional development in Rakhine State. It has also carried out regional security and development tasks and provided health care services fulfilling the requirements of the State.
2. On 9 October 2016, the terrorists launched a surprise attack on the No.1 Border Guard Police Command Headquarters (Kyikanpyin), police outpost at Kotankauk and the Ngakhuya local administrative office. In that incident, 9 policemen were killed and 48 assorted arms, 6624 bullets, 47 bayonets, and 164 bullet cartridges seized by the terrorists. Investigation reveals that terrorists had infiltrated the area where the majority of the residents were Muslims and organized violent attacks to escalate terrorist acts in that area.
3. In response to the situation, Border Guard Police Command No.1 reinforced troops and has been collaborating with the Tatmadaw to provide security in the region. The multiple killings, threats and propaganda have adversely affected the process for regional peace and rule of law. Clearance operations

in May Yu mountain range have also uncovered multiple terrorist training camps.

4. On 25 August, extremist terrorist groups again launched sneak attacks on 30 police outposts in Maungtau, Buthidaung and Yathedaung townships as well as against the Regiment Headquarters in Taungthazar village. 10 police officers, 1 soldier and 1 immigration officer were killed. 9 security officers and a number of civilians were wounded. 6 firearms were lost.
5. The Government of the Republic of the Union of Myanmar strongly condemns these terrorist acts and will do all in its power to prevent them from occurring again. It will strive to bring the perpetrators to justice.
6. The Union Government hereby declares that the Arakan Rohingya Salvation Army (ARSA) and its supporters, responsible for the acts of terrorism, as a terrorist group in accordance with the Counter-Terrorism Law Section 6, Sub-Section 5.

Chairman

Anti-Terrorism Central Committee