



Indictment

TO: The Panel of Judges of the Permanent People's Tribunal on Myanmar's State Crimes

FROM: The Prosecution Team

DATE: August 2017

Whereas the Permanent Peoples' Tribunal is a public opinion tribunal¹ based on the Universal Declaration of the Rights of Peoples (Algiers, 1976), on all the instruments of international law, and on the inherent rights of people;

Whereas the various chapters of the Permanent Peoples' Tribunal have sought to struggle against impunity and to promote respect for human rights, access to justice and the re-appropriation of the human rights instruments;

Whereas the Permanent Peoples' Tribunal adjudicates flagrant, systemic and systematic violations of the rights of peoples, and of vulnerable individuals;

Whereas the mission of the Permanent Peoples' Tribunal is to promote universal and effective respect for the fundamental rights of peoples by determining if these rights have been violated, and in examining the causes of these violations as well as denouncing their authors before world public opinion.

¹ The Permanent Peoples' Tribunal was founded on June 24, 1979 in Bologna (Italy), through the initiative of Italian lawyer and senator, Lelio Basso, and was inspired by the work of philosopher Bertrand Russell and the tribunal of opinion on the war crimes in Vietnam (1966). The Permanent Peoples' Tribunal was initiated by committed jurists, human rights activists and recipients of the Nobel Peace Prize.

Whereas the Burma/Myanmar state sustains the military through the establishment of an institutional, political, financial and judicial system that favours military supremacy;

Whereas major obstacles exist in Myanmar for affected communities when seeking justice at the national and international level, which promotes impunity for human rights violations.

Having accepted the Rohingya complaint, filed November 2016, and the Kachin complaint filed March 2017, the Permanent People's Tribunal Opening Session on 6th March 2017 heard accusations by representatives of the Kachin and Rohingya groups of a range of state crimes committed by the Burma/Myanmar state. In support of those accusations the Panel of Judges heard a very wide range of victim and expert testimony from a variety of sources, leaving no doubt of the veracity of the claims behind the accusations. The Permanent People's Tribunal further accepted the Myanmar Muslim complaint, filed July 2017.

The Accused

The Myanmar State, which includes departments of government, the extensive military complex, the police, the border police, senior members of the ruling National League for Democracy Party, the President, Htin Kyaw and State Counsellor, Aung San Suu Kyi, stands accused of the following crimes with relation to Kachin and Rohingya ethnic groups, and the Muslim population:

State sponsored and state led massacres, extrajudicial executions, murders, disappearances, drownings, rape and sexual violence, the destruction of homes and of whole villages, the wholesale denial of civil rights, in the context of state terror. Gross, widespread and systematic violations of the right to life, economic, social and cultural rights particularly the right to health and livelihood, the right to food and food sovereignty and the right to freedom from interference with the family and home – all in the context of systematic and targeted state violence and terror. Furthermore, there is evidence of gross, widespread and systematic violations of civil and political rights, particularly the right to self-determination of peoples, the right to participation in political and social life and violations of women's and children's rights.

While not within the purview of this Indictment, the Prosecution recognises the significant role of Myanmar language media outlets, Rakhine ultra-nationalists and extremist anti-Muslim Buddhist organisations (including elements of the Burmese Sanga) in the dissemination of anti-Muslim and anti-Kachin propaganda,

hate speech and ideology in furtherance of, and to garner public support for, the state's persecution of these groups.

Furthermore, the Prosecution recognises the role of the international community and international organisations in negligently turning a blind eye to crime and human rights abuses against the victim groups in Myanmar and continuing to offer political support to the Myanmar military and NLD-led government despite their treaty obligations to act. The Prosecution accordingly reserves the right to continue to investigate and to prosecute these entities at a later date.

The Charges

International Crimes against Myanmar Muslims.

War Crimes and Crimes Against Humanity against the Kachin People of Northern Burma.

Genocide and Crimes Against Humanity against the Rohingya People.

Serious Violations of Human Rights of Myanmar Muslims, and the Kachin and Rohingya People.

We base these charges on the inherent rights of people, domestic Myanmar law and on international law².

We recognise that these crimes and human rights abuses are disproportionately perpetrated against and experienced by women and girls.

The indictment is not limited in its temporal scope and does not bar the inclusion of examining the culpability of other states or non-state actors (which could include, but is not limited to, corporations and civil society organisations). The tribunal remains open to participation from other groups alleged to have suffered crimes for which the accused may be responsible.

² In particular, the Universal Declaration of Human Rights (1948), International Convention on the Elimination of All Forms of Racial Discrimination (1965), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Universal Declaration of the Rights of Peoples (1976), the Convention on the Elimination of All Forms of Discrimination against Women (1979), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), the Indigenous and Tribal Peoples' Convention of the International Labour Organization (1989), The Universal Declaration of the Collective Rights of Peoples (1990), the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms (1998) and the Declaration of the United Nations on the Rights of Indigenous Peoples (2007).

Particulars

The indictment is not limited in its subject matter scope and does not bar the inclusion of examining other possible crimes for which the PPT may consider the accused responsible. Victim groups have requested the PPT to specifically investigate the following crimes:

Kachin

Charges against the Myanmar State for War Crimes and Crimes Against Humanity against the Kachin People of Northern Burma:

targeting of civilians, rape, the use of sexual violence as weapon of war, arbitrary detention, slavery, forced labour, restriction of provision of humanitarian assistance including healthcare and food to internally displaced people (IDPs).

1. The extermination or murder of Kachin civilians, including women, children and the elderly, by military forces.
2. Rape and other forms of sexual violence as a weapon of war by the Burma/Myanmar military.
3. Extrajudicial executions, torture, enslavement and arbitrary detention.
4. The destruction of cultural and religious monuments, including churches.
5. The wilful creation of over 120,000 IDPs.

Rohingya

The Burma/Myanmar state is responsible for Genocide and Crimes Against Humanity, including the targeting of civilians, rape, the use of sexual violence as weapon of war, arbitrary detention, forced labour, restriction of provision of humanitarian assistance to internally displaced people (IDPs). You heard specific testimony in relation to:

1. The extermination or murder of thousands of Rohingya Muslim civilians, including women, children and the elderly.
2. The prolonged detention of tens of thousands of Rohingya Muslims in camps, ghettos and villages within Rakhine State, Burma/Myanmar, under conditions of life calculated to bring about the partial physical destruction of those groups, namely through starvation, overcrowding, forced labour, inadequate medical care and constant physical and psychological assault.

3. The imposition of restrictive and discriminatory measures against Rohingya Muslims, such as, the restriction of freedom of movement; removal from positions of authority in local government institutions and the police; dismissal from jobs; arbitrary searches of their homes; denial of the right to citizenship, judicial process and the denial of the right of equal access to public services, including proper medical care and education.
4. The intentional and wanton destruction of homes, other public and private property belonging to Rohingya Muslims, their cultural and religious institutions, historical monuments and other sacred sites. Such destruction was employed as a means to compel Rohingya to flee their homes and communities and to prevent their subsequent return.
5. The obstruction of humanitarian aid, and in particular medical and food supplies.

Myanmar/Burmese Muslims

Myanmar Muslim victims' request for PPT to investigate the following charges of Myanmar international crimes and human rights abuses:

hate speech; racial-religious discrimination; hate crimes; anti-Myanmar Muslim riots; looting, burning of Muslim houses and places of worships and mass murders by successive Myanmar military governments in the whole of mainland Myanmar since 1962; widespread institutional discrimination; state sponsored hate crimes; mass killings; wholesale destruction of communities and neighbourhoods; massive forced displacement; apartheid structures of segregation; targeted population control; state denial of Myanmar Muslim identity; forced labour; systematic rape and other forms of sexual violence; denial of access to livelihood, healthcare, freedom of movement, and food.