

Rohingya Genocide Webinar Event from London

Comment by Hon. David Kilgour, J.D.

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Today is Rohingya Genocide Remembrance Day. Since the intensification of Myanmar's violence against the Rohingya in August 2017, more than 700,000 Rohingya refugees have fled to Bangladesh; up to 43,000 have been killed; as many as 81,000 women and girls have been impregnated by rape; and more than 360 Rohingya villages have been fully or partially burned to the ground.

It is not only Myanmar's military that bears responsibility for these atrocities, but also civilian branches of the government under control of Aung San Suu Kyi for enabling them. The state of Myanmar has been made to suffer few consequences.

The Rohingya have been subjected to almost all the forms of treatment listed in the UN Genocide Convention: 1) killing; 2) serious bodily and mental harm; 3) infliction of conditions calculated to bring about their physical destruction as a group (tens of thousands of Rohingya have been confined in "internally displaced persons" camps in Myanmar, where they have been deprived of food, water, and medical care) ; and 4) imposition of measures intended to prevent births (for example, Myanmar's "Race and Religion Protection Laws" of 2015, which impose restrictions on Rohingya marriages and births).

Under international law, states are obligated not only to prosecute genocide after it has occurred, but also to prevent genocide as it is in process. According to the International Court of Justice, "a State's obligation to prevent, and the corresponding duty to act, arise at the instant that the State learns of, or should normally have learned of, the existence of a serious risk that genocide will be committed."

Canada should as the first country to recognize officially the violence perpetrated against the Rohingya as genocide and act commensurately by:

- using all political and economic means to pressure Myanmar to comply with international law in its treatment of the Rohingya, including through imposition of sanctions on all military and civilian authorities responsible for violations;

- re-evaluating all Canadian assistance to and investment in Myanmar, to confirm that individuals and institutions implicated in genocide are not receiving any downstream benefits;
- doing our share to ensure that the humanitarian relief effort for Rohingya refugees is fully funded; and
- supporting efforts to hold the Myanmar state and individuals responsible for genocide accountable.

For the past ten months, the global response to the Rohingya crisis has been in the judicial arena after Gambia - acting at the request of the Organization of Islamic Cooperation - filed a genocide case in front of the International Court of Justice (ICJ). Gambia accuses Myanmar of violating the U.N. 1948 Genocide Convention, a human rights treaty to which Canada is also a party, along with 151 other countries.

Last December, Canada and the Netherlands expressed their intention to “jointly explore all options to support and assist the Gambia in these efforts.”

The procedure at the ICJ allows for third states to intervene in the proceedings to make their views known to the court. Canada should not be content to merely watch from the sidelines. It should now avail itself of its right to intervene at the World Court. By making a formal intervention, it can play a central role in bringing justice to the Rohingyas.

The next phase of the ICJ proceedings is due to unfold over the next few years.

Canada, in keeping with its proactive policy, needs to send an important signal of universal solidarity with the Rohingyas. It is also an opportunity for Canada to advance its feminist foreign policy.

In its intervention, Canada could be unique by examining the concept of genocide through a gendered lens. It could address crucial, gendered features of the crime, given the evidence of widespread sexual violence against Rohingya women. It would also complement the Canadian government’s gender-responsive humanitarian approach to the Rohingya crisis. [source: international.gc.ca “Canada’s Strategy to Respond to the Rohingya Crisis in Myanmar and Bangladesh” 2018-05-23]

This case is not just of interest to the Muslim world. Genocide is a matter of concern to the international community as a whole. A coalition of Muslim and Western states has an important symbolic value. It would also help gather worldwide support to ensure compliance with any measures of reparation that might be ordered in the ICJ’s final judgement.