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Agenda items 2 and 4

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Human rights situations that require the Council's attention

Written statement* submitted by The Next Century Foundation, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[19 August 2020]

* Issued as received, in the language(s) of submission only.

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The protection of the electoral rights of the Rohingya population in Myanmar

The Next Century Foundation would like to express its concern at the lack of progress being made by the government of Myanmar in implementing proposals made by the International Court of Justice (ICJ) in the ruling on “Gambia vs. Myanmar (2020)”.

At present, some 600,000 Rohingya remain in the Rakhine State in Myanmar. The Citizenship Act of 1982 internalised the marginalisation of the Rohingya people, prohibiting them from acquiring legal status as a recognised ethnic minority.

This conflicts with the right to a nationality under the terms of the Universal Declaration of Human Rights (Article 15, UNDHR) and the right to acquire the nationality of the country in which a child is born under the Convention on the Rights of the Child (Article 7, CRC). Myanmar has acceded to the CRC, however has yet to ratify the UNDHR.

Additionally, the Next Century Foundation would like to note the four ‘Race and Religion Protection Laws’, adopted by the parliament of Myanmar in December 2014. Under this legislation, the Rohingya are prohibited from marrying without government permission, are limited to the number of children they may bear, and are banned from having government jobs.

In summation, current legislation lacks reasonable consideration for the Rohingya people; they are legally prevented from participating in the internal affairs of the state, in civil society and restricted in their lifestyle choices.

Since the Preliminary Ruling of the ICJ, issued 23 January 2020, the Government of Myanmar has issued two presidential directives (8 April) addressing the lack of accountability of the military towards the Genocide Convention, of which Myanmar is a signatory.

The Next Century Foundation recognises the efforts of the Government of Myanmar in introducing measures to increase the accountability of their military, after the ICJ’s support of the allegations of military brutality against the Rohingya.

However, the Next Century Foundation would endorse the United Nations (UN) Special Rapporteur on Myanmar’s statement at the 44th session of the UN Human Rights Council in July 2020, emphasising the need for the Myanmar government to implement reforms beyond that of the military. Specifically, this includes the need for free and fair elections on 8 November 2020, devoid of ethnic or religion-based discrimination.

The Rohingya have previously been partially enfranchised in the Myanmar electoral process, but at the cost of their ethnic identity. In 2010, the option of registering as ‘Benghali’ was made available to Rohingya, thus giving them temporary rights as citizens. However, this policy collapsed due to pressure by Buddhist nationalists, leaving the Rohingya a disenfranchised, stateless group within Myanmar.

The Next Century Foundation would reiterate the importance of UN Resolution 69/248 which called for ‘equal access to full citizenship for the Rohingya minority’ in 2015. Against a backdrop of subjection to crimes against humanity and genocide, it is fundamental that the Rohingya exercise their democratic procedural rights and draw upon the already existing systemic mechanisms to better insert their voice in Myanmar’s policies.

The utilisation of Rohingya’s electoral rights would aid the assimilation of this ethnic minority into Myanmar, in a gradual piecemeal process.

We acknowledge the existing internal Buddhist nationalist opposition to the government granting such electoral rights to the Rohingya, as shown by the reaction of Buddhist nationalists after the brief enfranchisement of the Rohingya in 2014. Consequently, the Myanmar government should adhere to the ICJ’s ruling, reducing the autonomy of the military and increasing their accountability towards the state.

The Next Century Foundation would ask delegates to consider the conclusions of UN Rapporteur on Minority Issues, Fernand De Vareness on March 13 2019, which stated that ‘without citizenship, people who are stateless become humans without rights’. Furthermore,

Mr De Vareness referred to the lack of future prospects of entire generations of stateless persons, who become ever more vulnerable and likely to experience a lower quality of life.

The Next Century Foundation requests that the Rohingya be re-enfranchised in time for the 8 November 2020 elections in Myanmar, thus validating their legal status as a legally recognised ethnic minority, in accordance with Article 21 of the Universal Declaration of Human Rights. Additionally, we would ask that Myanmar ratify the Convention relating to the Status of Stateless Persons.
