

COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

Statement 1 (2024)

Situation of Rohingya who fled Myanmar to India

The Committee on the Elimination of Racial Discrimination,

Acting under its early warning and urgent action procedure;

Recalling the Committee’s [letter](#) adopted under early warning and urgent action procedure on 14 December 2018 during its 97th session, under which the Committee expressed concerns about allegations that the Rohingya has been the target of hate speech and violence in India, including calls for deportation to Myanmar and about the conditions of detention camps for migrants. The Committee expressed concerns about the manifestations of racial discrimination against the Rohingya in India and that their return to Myanmar in violation of the principle of non-refoulement would infringe their rights protected under the International Convention on the Elimination of All Forms of Racial Discrimination (the Convention);

Regrets the lack of response by the State party to its abovementioned letter or information on measures to ensure sufficient capacity to replace detention camps by reception facilities, providing adequate shelter, basic services, and humanitarian assistance including effective access to health care services as well as to comply with the obligation of non-refoulement arising out of the international norms concerning refugees and human rights;

Reiterates its concerns about the order of the Ministry of Home Affairs, dated 8 August 2017, which considered Rohingya who fled Myanmar to India (thereafter “Rohingya”) as “illegal immigrants” and called upon all State Governments to “sensitize all the law enforcement and intelligence agencies for taking prompt steps in identifying the illegal migrants and initiate the deportation processes expeditiously and without delay”¹;

Alarmed about reports of racial discrimination and restrictions faced by the Rohingya following the adoption of the order in August 2017 preventing them from exercising their economic, social and cultural rights, in particular their rights of access to education, employment and health-care and reportedly the discontinuation of granting them long term visas;

Deeply concerned about reports on the spread of racist hate speech and the dissemination of negative stereotypes against Rohingya on the Internet and in social media, reports on the use of

¹ [Advisory no. 24013/29/Misc./2017-CSR.III\(i\)](#), Ministry of Home Affairs, 8 August 2017.

racist hate speech by politicians and public figures, and the lack of information on investigations, prosecutions and convictions of public figures and politicians for hate speech;

Concerned about reports of the prevalence of arbitrary mass detention of the Rohingya, including children, in inadequate conditions and in some cases without due process or access to legal representation, following the order of the Ministry of Home Affairs in August 2017;

Alarmed about reports of several cases of forcible deportation and returns of Rohingya to Myanmar between 2018 and 2022 as well as the ongoing risk of deportation of the remaining Rohingya in India, in violation of the principle of non-refoulement;

Concerned about reports that human rights defenders, lawyers, members of civil society organizations, and activists have increasingly become targets of intimidation, harassment and reprisals as a consequence of their work on the rights of the Rohingya in India;

Taking note that two Rohingya filed a writ petition in 2017 before the Supreme Court of India to release the detained refugees and halt their deportation from India;

Regrets the delay of the Supreme Court of India in considering the abovementioned petition, which was submitted six years ago;

Also taking note that the Supreme Court of India issued an Interim Order on 8 April 2021 and decided not to grant an interim measure to prevent the deportation of around 160 Rohingya detained in Jammu;²

Takes note of the report of the Special Rapporteur on the situation of human rights in Myanmar, submitted for the 78th session of the UN General Assembly, in which he noted that “six years after the genocidal attacks by the Myanmar military in Rakhine State, the Rohingya continue to face violence, persecution and neglect, regardless of their location. The situation in Rakhine State remains fundamentally unchanged since the violence in 2017, except for the additional misery wrought by Cyclone Mocha. Approximately 600,000 Rohingya remain under an apartheid regime, with 140,000 confined to de facto internment camps”;³

Also notes the report Special Rapporteur on the situation of human rights in Myanmar, submitted for the 52nd session of the UN Human Rights Council, in which he highlighted reports of Rohingya in India being subjected to pushback at land borders, forcible deportation to Myanmar and arbitrary detention;⁴

Notes that persons who had to flee Myanmar due to the currently prevailing situation of widespread human rights violations in the context of the conflict are likely to be in need of

² [Interlocutory application no.38048 of 2021 In writ petition \(Civil\) no.793 Of 2017](#) (Mohammad Salimullah and Anr. versus Union of India and ors.), Supreme Court of India, 8 April 2021.

³ [Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews](#), 78th session of the General Assembly, 12 October 2023.

⁴ [Report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews](#), 52nd session of the UN Human Rights Council, paras. 46, 53, 66, 75, 30 March 2023.

international refugee protection under Article 1 of the 1951 Convention Relating to the Status of Refugees (1951 Convention), in accordance with the Guidance Note on the International

Protection Needs of People Fleeing Myanmar by the Office of the United Nations High Commissioner for Refugees (UNHCR);⁵

Recalling the Committee's [general recommendation no. 30 \(2004\)](#) on discrimination against non-citizens and [general recommendation no. 31 \(2005\)](#) on the prevention of racial discrimination in the administration and functioning of the criminal justice system;

Calls upon the State party to fully respect its international obligations arising from the International Convention on the Elimination of All Forms of Racial Discrimination;

Calls upon India to ensure that legislative guarantees against racial discrimination apply to non-citizens regardless of their immigration status and that laws and policies relating to immigration, deportation, or other forms of removal of non-citizens do not discriminate—in purpose or effect—on the basis of race, colour or ethnic or national origin;

Further calls upon India to refrain from forcible deportation and returns of the Rohingya to Myanmar where they would be at risk of being subjected to serious human rights violations and abuses as well as to provide access to its territory for persons in need of international protection;

Urges the State party to ensure that the Rohingya have access to effective remedies, including the right to challenge deportation orders, and are allowed effectively to pursue such remedies as well as to ensure that the system of justice guarantees the victim a court judgement within a reasonable period, particularly in relation to the petition before the Supreme Court of India;

Calls India to end the arbitrary mass detention of the Rohingya, and ensure that immigration detention is applied only as a measure of last resort and for the shortest possible period, provide detained Rohingya with legal safeguards and ensure their access to legal counsel, and ensure that living conditions in places of detention are adequate and in accordance with international standards;

Urges the State party to end racial discrimination against Rohingya and to remove restrictions preventing them from enjoying their rights without discrimination, in particular with regard to access to employment, health and education, especially by ensuring the issuance of long term visas and other identity documents;

Urges the State party to combat the spread of racist hate speech in the media, on the Internet and in social media and to firmly condemn any form of hate speech and distance itself from racist hate speech expressed by politicians and public figures, including members of parliament and religious leaders, and ensure that such acts are investigated and adequately punished;

⁵ [Guidance Note on the international protection needs of people fleeing Myanmar](#), Office of the United Nations High Commissioner for Refugees, May 2024.

Also urges India to continue to collaborate with the mandate of the Special Rapporteur on the situation of human rights in Myanmar, including through facilitating a country visit to India from the Special Rapporteur.

29 June 2024