



Special Advisory Council for MYANMAR

India must not deport Rohingya refugees to Myanmar

19 April 2021: The Special Advisory Council for Myanmar (SAC-M) is deeply concerned that a recent decision of the Supreme Court of India could lead to the forcible return of Rohingya refugees to Myanmar.

On 8 April 2021, the Supreme Court of India denied a petition against the arbitrary detention of Rohingya refugees in India and their deportation to Myanmar, paving the way for forcible returns. If returned to Myanmar, Rohingya refugees will be at acute risk of persecution and grave human rights violations.

As former UN Special Rapporteur on Myanmar and members of the UN Independent Fact-Finding Mission on Myanmar (FFM), SAC-M's founding members - Yanghee Lee, Marzuki Darusman and Chris Sidoti - reported extensively on the atrocities committed against the Rohingya in 2016 and 2017, as well the persecution experienced by Rohingya for decades. The atrocities reported included the most serious crimes under international law – genocide, crimes against humanity and war crimes.

The Myanmar military denies that gross violations of international human rights law have occurred, and continue to occur, in Myanmar, including the atrocities committed by the military and security forces against the Rohingya. There have been no credible steps towards ensuring accountability of the military for its actions. Military impunity continues, leading to the 1 February coup and subsequent brutal crackdown on the civilian population. The Myanmar military is waging a campaign of terror against the peoples of Myanmar, and the situation for Rohingya in the country, who were already experiencing persecution, has become even more precarious.

The decision comes in the context of a deteriorating situation for Rohingya refugees in India, with increasing numbers of detentions and harassment by police and other security forces. As well as Rohingya there are many ethnic Chin and other refugees from Myanmar living in India. Following the coup, more people have fled across the border, including defecting members of the Myanmar security forces, who are at particular risk. The gravity of the current situation in

Myanmar is such that *all* individuals from Myanmar seeking refuge anywhere outside the country must be granted protection, and none should be forced to return. To do so would be in violation of the international principle of *non-refoulement*. India's commitments under article 6 (right to life) and 7 (freedom from torture) of the International Covenant on Civil and Political Rights (ICCPR) also reinforce this principle and prohibit India from engaging in practices that result in refoulement of individuals to situations of torture or cruel, inhuman or degrading treatment.

SAC-M calls on the Government of India to immediately cease all attempts to deport or coercively return Rohingya and other Myanmar peoples to Myanmar. Under the current circumstances in Myanmar, forced returns would be a gross violation of international law. Indeterminate detention and restrictions of rights should not be used to coerce Rohingya and other Myanmar peoples into leaving India.

SAC-M commends the Mizoram Chief Minister and State Government for providing support to refugees from Myanmar who have recently crossed into Mizoram since the coup. It is vital during these deeply troubling times in Myanmar that all refugees are provided with protection, reassurance and security, with access to their fundamental human rights.

SAC-M calls on the Government of India to ensure that Rohingya and all refugees from Myanmar are given this protection, reassurance, security and access to their fundamental human rights, until such time as they can safely return home. The newly formed National Unity Government of Myanmar (NUG) should support this call.

The Government of India, and all governments around the world, should now recognise and work with the NUG to bring about federal democracy, an end to military impunity and lasting peace in Myanmar, which will lead to conditions for the voluntary, safe, dignified and durable return of refugees.

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