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# Stateless and Desperate: The Plight of the Rohingya People

February 15, 2018

by Matthew Bienstock

In fall of 2017, hundreds of thousands of Rohingya fled to Bangladesh to avoid persecution in Myanmar precipitating an [historic migration crisis](#). After the UN and the international community warned that the Myanmar [military offensive](#) against the Rohingya was tantamount to [ethnic cleansing](#), Myanmar reached an agreement with Bangladesh to [repatriate](#) more than 650,000 Rohingya refugees over a period of two years beginning January 23, 2018.

Even after this agreement, there is still a [concern](#) that the repressive regime in Myanmar has not changed its view of the Rohingya and that persecution of them will resume. Human rights groups have condemned the violence as a crime against humanity, and the UN has described the exodus as a [“human rights nightmare.”](#) The UN Security Council must act and invoke sanctions against Myanmar if it fails to protect the Rohingya people upon their return.

The Muslim Rohingya are one of 135 ethnic groups in the predominately Buddhist Myanmar. Prior to the migration, approximately one million Rohingya lived in [Rakhine State](#), on the western coast of Myanmar, where they accounted for about [one-third of the population](#). The Rohingya are different [in ethnic origin and language](#) as well as religion. Since Myanmar’s independence from Britain in 1948, Myanmar has refuted claims and refused [to recognize](#) the Rohingya as a legitimate ethnic group. The International Crisis Group summarizes the situation in Rakhine State as a [“toxic mixture](#) of historical centre-periphery tensions, serious intercommunal and inter-religious conflict...and extreme poverty and under-development.” Buddhist [nationalists have prevented](#) the Rohingya from securing the right to vote and anti-Muslim sentiment throughout Myanmar inhibits the government from taking steps to counter the nationalists. Essentially, the Rohingya are [disenfranchised, stateless](#), and poor and are living in Myanmar’s least developed state with a [poverty rate](#) of 78 percent.

Rooted in this quagmire of human despair, the Rohingya exodus in August 2017 was precipitated when a militant faction of Rohingya known as the [Arakan Rohingya Salvation Army](#) (ARSA) claimed responsibility for attacks on police and army posts. Declaring [ARSA a terrorist organization](#), the Myanmar government’s response was brutal. In the first month after the attacks, at least [6,700](#) Rohingya were killed and among them 730 were children under the age of five. Migrating to Bangladesh was problematic; the Rohingya arrived [destitute](#) and [traumatized](#). The [settlement camps](#) were squalid. Under pressure from the UN and NGOs, Myanmar and Bangladesh signed a [repatriation agreement](#) in late November 2017. In the joint memorandum of understanding, Myanmar agreed that there would be [no limit](#) on the number of Rohingya allowed to return and that there would [be no legal consequences](#) for those Rohingya who wanted to return unless they had been involved with terrorists. The [agreement](#), however, covers only those Rohingya who fled to Bangladesh after the August 2017 incident and not the many who had migrated to Bangladesh prior to that event and who had suffered persecution and discrimination in the prior years.

Bangladesh and Myanmar agreed that repatriation will be [voluntary](#) but the Rohingya wanted their [safety](#) assured and the [discrimination](#) against them to stop. While Myanmar has begun to build [transit camps](#) for the returning Rohingya, none of the conditions that would assure their protection are in place. A UN spokesperson from the High Commissioner for Refugees (UNHCR) has urged Myanmar to address the [underlying causes of the crisis](#). However, Myanmar and Bangladesh have not consulted the UNHCR on the agreement even though it calls for the significant [involvement of the UNHCR in its execution](#). UN Secretary General Antonio Guterres and the UNHCR have expressed their concern about forcible repatriation of the Rohingya, and Guterres cautioned that reconciliation is needed for the proper implementation of the agreement. Myanmar responded that it needed [preventive measures](#) against Rohingya attacks and prepared a list of 1,000 alleged militants. In short, despite UN urgings to Myanmar to [address grievances](#) of the Rohingya, there has been no reconciliation.

Myanmar must be held accountable by the UN. As a party to the Universal Declaration of Human Rights, it is [obligated to recognize](#) “the inherent dignity” to all human beings, including the Rohingya, and to secure their “right to life, liberty, and security.” As the [guardian](#) of the 1951 Refugee Convention protocol, the UNHCR must assure that Myanmar follows the core principle of [non-refoulement](#) for returning Rohingya. The UNHCR can take a [leading role](#) with international human rights organizations to protect the returning Rohingya. In December 2017, Human Rights Watch and eighty other NGOs urged the UN Security Council to [take prompt, concerted and effective international action](#) against Myanmar. Noting that prior “words of condemnation” by the Council had not resulted in an end to abuses or had not held those responsible to account, the NGOs endorsed an [arms embargo](#) against the Myanmar military, [sanctions](#) on senior officers for crimes against humanity, and financial sanctions on those who ordered criminal acts in the line of command. Finally, their appeal urged the Security Council to turn to the [international courts](#) if necessary to assure accountability.

# Racial Discrimination Costs Indigenous Woman Her Job

May 4, 2018  
by Abbey Reynolds

[Samantha Cooper](#), an indigenous Australian woman from Queensland, alleged that she was [fired](#) from her job as an advocate against domestic violence after she filed a complaint about racism. Cooper had only worked for the Centre Against Domestic Abuse (CADA) for around eight months and alleged multiple occurrences of [racist comments](#) directed at her. These comments [included](#) statements that she was “quite pretty for an Aboriginal” and questions about what percentage Aboriginal she was. CADA explained in Cooper’s termination letter that she was being let go due to cuts in funding. A spokesman, however, for the Department of Child Safety, Youth and Women [denied](#) that funding for Cooper’s program was cut. Cooper is taking the [case](#) to Australia’s Fair Work Commission.

Australia has a [history](#) of abusing its Aboriginal population. When Europeans first came to the continent, their [settlement](#) conflicted directly with Aboriginal traditions of land ownership and led to the desecration of sacred sites. Although Aboriginal people had been the undisputed possessors of the continent, Europeans viewed them as [parasites](#), defining their culture in wholly negative terms. The Aboriginal people were subjected to terrible abuse without any recognition of their suffering by the Australian government until 2008, when Prime Minister Kevin Rudd issued a formal [apology](#) for past mistreatment. In spite of this, the biases that led to this abuse are still implicit in Australian society. Indigenous Australian adults of Aboriginal descent are [thirteen times](#) more likely to be imprisoned than non-indigenous Australian adults. Aboriginals are also [disproportionately](#) detained or imprisoned for minor offenses or poverty-related offenses. In October 2017, the government [instructed](#) the Australian Law Reform Commission to investigate and report on this disproportionate representation of incarcerated indigenous Australians. George Brandis, the Federal Attorney-General, has [called](#) the phenomenon a “national tragedy.”

[Australia’s Racial Discrimination Act \(RDA\) of 1975](#) makes it [unlawful](#) to discriminate based on race in specific areas of public life, including employment. The RDA also prohibits racial hatred, which is [defined](#) as public acts likely to “offend, insult, humiliate, or intimidate on the basis of race.” The RDA operates at a federal level and creates statutory [responsibilities](#) for the Australian Human Rights Commission (AHRC). The [AHRC](#) was established in 1986 to investigate and remedy human rights violations in Australia. Part of this responsibility includes [enforcement](#) of previous legislation regarding discrimination, such as the RDA. The government of Australia has a statutory [duty](#) to protect all of the country’s inhabitants, including Aboriginals, from discrimination based on race. Based on the statutory prohibitions on the type of discrimination [alleged](#) by Cooper, the Australian government has breached this duty if the allegations are proven.

Racial discrimination is also prohibited on the state and territorial level. Queensland, where Samantha Cooper worked, [enacted](#) the Anti-Discrimination Act (ADA) in 1991. The ADA [prohibits](#) discrimination in employment based on race. The ADA also

expressly [prohibits](#) both direct and indirect discrimination and has the stated purpose of promoting “equality of opportunity for everyone by protecting them from unfair discrimination in certain areas of activity.” This creates a statutory [duty](#) on the local government of Queensland to combat the type of discrimination alleged by Cooper. Samantha Cooper should have been safeguarded from the discriminatory treatment she has alleged on the federal and local levels. Australia’s failure to protect one of its own citizens is further evidence of the country’s disregard and disrespect for its indigenous population.

# Cambodia's Actions Against Opposition Prior to National Elections

May 6, 2018  
by Page Monji

Leading up to the 2018 national elections in Cambodia, the government largely under the leadership of the Cambodian People's Party (CPP) has committed a series of controversial actions that have been met with international criticism. In 2017, [new amendments](#) to Cambodia's Law on Political Parties provided the Interior Ministry with authority to suspend entire parties and the Supreme Court with authority to dissolve them for vague offenses. Subsequently, the government filed a lawsuit against the opposition party, Cambodia National Rescue Party (CNRP), which resulted in the dissolution of CNRP and a thirty-year prison sentence for the CNRP leader, Kem Sokha, [for treason](#). Likewise, CNRP claims that 5,062 commune councilors and lawmakers lost [voting rights](#). In an effort to monitor political rhetoric, the government also took steps to limit independent [radio stations](#) and close independent news [outlets](#). These actions in 2017 suggest CPP led efforts to minimize the "[capacity of opposition parties](#) to win office, intentionally infringing on the civil liberties."

In light of these actions, recent voting metrics suggest CPP has thrived under the changes to the political and legal landscape. At the close of voter registration, two thirds of the voters remained [unregistered](#). In February 2018, CPP won fifty-eight of the sixty-two seats in the [Senate](#) by the vote of parliament and commune councilors. Critics suggest the CPP dominated Senate election outcomes may not reflect the desire of the Cambodian people and, instead, are a result of the dissolution of the opposition party. This outcome runs counter to the previous and recent 2017 commune council elections, in which [CNRP](#) received more than forty percent of total votes.

Recent challenges in Cambodia's election process are embedded within a complex political history. In 1991, [nineteen governments](#) signed the [Comprehensive Political Settlement of the Cambodian Conflict](#). Commonly known as the Paris Peace Agreement, this treaty promoted national reconciliation and the right of self-determination through free and fair elections. In 1993, the [UN Transitional Authority in Cambodia](#) administered elections amongst twenty parties forming the coalition government, including the CPP. By 1997, [clashes](#) between CPP and CPP's former partner, the *Front uni national pour un Cambodge indépendant, neutre, pacifique et coopérative* (FUNCINPEC) party, resulted in the dissolution of the coalition. Since 1993, five national elections have taken place with the sixth election scheduled for [July 2018](#). Amidst these efforts, Prime Minister Hun Sen has remained in office since [1985](#) with an immense political influence that is bolstered by his allies' and his interests in Cambodia's most lucrative industries including finance, energy, tourism, and logging.

Recent events contradict the language in [Cambodia's Constitution](#). [Article 1](#) asserts the principles of "liberal multi-party democracy." [Article 41](#) protects citizens' "freedom of expression of their ideas, freedom of information, freedom of publication and freedom of assembly." [Article 42](#) protects the "right to establish associations and political parties," including participation in

“mass organizations to work together to protect national achievement and social order.” [Article 51](#) asserts the country’s adoption of a multi-party democracy. [Article 31](#) also recognizes international obligations embodied in the [Universal Declaration on Human Rights](#) (UDHR) and “the covenants and conventions related to human rights, women’s rights and children’s rights,” which include the [International Covenant on Civil and Political Rights](#) (ICCPR). Both the UDHR and the ICCPR ensure human rights, which include the freedom of expression, assembly, press, and protection against discrimination.

The Office of the United Nations High Commissioner for Human Rights in Cambodia (UN OHCHR) issued an [analysis](#) following the amendment to Cambodia’s laws on political parties. This study questions whether political parties can maintain the multi-party democracy without the human rights protected within the UDHR and the ICCPR. Within a multi-party system, citizens have a political right to form opinions even if they are unpopular. The [analysis](#) also asserts that the unclear language for qualifying offenses in the amendment that authorize the suspension and dissolution of a political party violates international human rights standards in the ICCPR regarding certainty in law.

In light of the oppression of political opposition, it is doubtful that the upcoming election can be held with integrity. With the Prime Minister’s [public disregard](#) for international recognition of the upcoming elections, international and domestic responses express concern over the violation of civil liberties and human rights. The international community has responded to recent trends towards a single political party system by [defunding](#) Cambodia’s election commission. The European Union (EU) and the United States have recently [withdrawn funding](#) from Cambodia’s 2018 election commission due to concerns regarding the integrity of Cambodia’s election process. The United States also implemented [visa sanctions](#) to those involved in the government’s actions and the EU has suggested future action over duty-free access. The hope is for further international pressure and defunding efforts ahead of the national election.

# Fair Trial Standards in Thailand's Recent Human Trafficking Case

May 9, 2018  
by Page Monji

In July 2017, Thailand's criminal courts convicted [sixty-two people](#), including high ranking military officials and local administrative staff, for organizing a [human-trafficking ring](#). The case began when a [mass grave](#) of victims, believed to be Rohingya and Bangladeshi people, was discovered in Southern Thailand. With [strong pressure](#) from international partners, the junta, who seized power in 2014 through a military coup, prosecuted over a [hundred people](#) associated with the human trafficking operation. Amongst the convicted was a high ranking military official, [Lieutenant-General Manas Kongpan](#); prior to his arrest, he was Deputy of the International Security Operations Command, which intercepted illegal boats. Others prosecuted included a prominent businessman and politician, [Pajjuban Aungkachotephan](#). While the public trials suggest an enforcement of human trafficking crimes, the court proceedings also raise concerns regarding fair trial standards.

Human trafficking in Thailand has a complex history, but recent trends reflect efforts by the Thai government to improve protection and enforcement. In 2014, the U.S. State Department considered Thailand as having the lowest ranking in its [Trafficking in Persons \(TIP\) Report](#). In recent years, Thailand's [ranking improved](#) due to efforts to increase enforcement and protection from human trafficking. [Among these efforts](#) include developing a new Criminal Court Division for Human Trafficking, drafting a new criminal code, and increasing penalties for trafficking. Successive military coups in 2006 and 2014 [have also impacted](#) the enforcement and protection of trafficking activities.

Thailand is party to numerous international and regional anti-trafficking conventions including the [International Covenant on Civil and Political Rights](#) (ICCPR), which protects civil and political freedoms. Foremost, [Article 8](#) prohibits slavery. Additionally, concerns regarding violations to the Right to Liberty in [Article 9](#) are represented in the use of immigration detention centers (IDC) and government-run [shelters](#) for survivors of trafficking activities. The NGO, [Fortify Rights](#) reported cases of prolonged detention, disappearances, and deaths of detainees. The [U.S. State Department](#) noted that arrests and "soft deportation" of immigrant violators exacerbates the vulnerability and victimization of survivors of trafficking.

Furthermore, Thailand is party to the [Convention Against Torture](#), under which Article 13 protects complainants and witnesses against "ill-treatment or intimidation." [In 2016](#), the aforementioned Thai government took measures to automatically ensure witness protection; however, the trial also showed numerous threats against witnesses, interpreters, and [police investigators](#). In the human trafficking case, [Fortify Rights](#) reported not only instances of witnesses facing threats, but also cases of abductions by police officers in early 2016. Shortly after the trial began, the chief investigator, Major General Paween Pongsiring, fled Thailand, seeking asylum in Australia due to [death threats](#). Pongsiring also said that he was instructed to resign or remain [silent](#).

While the 2017 case is considered a “unprecedented effort by Thai authorities” against human trafficking, [Fortify Rights](#) suggests that further investigation should take place regarding prior mass human trafficking cases from 2012-2015. Furthermore, additional resources should be invested in order to ensure [fair trial standards](#) in concert with regional anti-trafficking conventions.