

INTERIM REPORT AND RECOMMENDATIONS



ADVISORY COMMISSION ON
RAKHINE STATE

MARCH 2017

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Introduction

Mandate of the Advisory Commission

The Advisory Commission on Rakhine State - chaired by Mr Kofi Annan - was established on 5 September 2016 at the behest of Myanmar's State Counsellor Daw Aung San Suu Kyi. According to the Commission's Terms of Reference - agreed by the Government of Myanmar and the Kofi Annan Foundation - the Commission will analyse the present situation of all communities in Rakhine State, and seek to identify the factors that have resulted in violence, displacement and under-development. In doing so, the Commission will consider humanitarian issues, living conditions, access to health, education and livelihoods, the question of citizenship and freedom of movement, and the assurance of basic rights. In accordance with established international standards, the Commission will develop recommendations within five thematic areas: conflict prevention, humanitarian assistance, reconciliation, institution building and development.

The Commission is composed of six national members (U Win Mra, U Aye Lwin, Dr. Tha Hla Shwe, Dr. Mya Thida, Daw Saw Khin Tint and U Khin Maung Lay) and three international members (Mr Ghassan Salamé, Ms Laetitia van den Assum and Mr Kofi Annan).

Purpose of this report

The main body of recommendations will be presented in the Commission's final report towards the end of August 2017. However, pending the publication of the final report, the Commission has decided - in line with its mandate - to present a set of interim recommendations. This decision was made in light of the recent developments in northern Rakhine State, which necessitate urgent action from the government and other stakeholders, in order to ward off any further violence while also laying the groundwork for a more peaceful and prosperous future. While the final report will address all issues covered by the Commission's mandate, this interim report addresses issues where urgent action is required. Implementation of the interim recommendations will inform and inspire the content of the final report.

The Commission is not mandated to investigate specific alleged human rights violations. Rather, it seeks to address institutional and structural issues which undermine the prospects for peace, justice and development in Rakhine, and to propose concrete steps that may contribute to improving the well-being of all communities in the state.

Nomenclature

In line with the request of the State Counsellor, the Commission uses neither the term “Bengali” nor “Rohingya”, who are referred to as “Muslims” or “the Muslim community in Rakhine”. This does not include the Kaman Muslims, who will simply be referred to as “Kaman”.

Modus operandi

The Commission has sought input and advice from a wide range of stakeholders. In Rakhine state these include the State government, the Rakhine parliament, political parties, religious institutions, civil society organizations, village elders, private sector representatives and residents of various villages and Internally Displaced People (IDP) camps. At the Union level, the Commission has met with political and military leaders, including the President, the State Counsellor and the Commander-in-Chief. In Bangladesh, the Commission has met with government officials in Dhaka, and visited various refugee camps in Cox’s Bazar. The Commission has also consulted international actors, including UN officials, representatives from International Non-Governmental Organisations (INGO’s), and independent analysts. The Commission has sought to ensure full participation of the Rakhine and Muslim communities, and has consulted an equal number of Rakhine and Muslim stakeholders. The Commission has also made special efforts to include youth and women in its consultations.

Since 5 September 2016 when the Commission was inaugurated, it has carried out 115 consultation meetings in Sittwe, Mrauk U, Myebon, Kyawkpyuh, Ramree, Maungdaw, Buthidaung, Yangon and Naypyidaw - as well as in Dhaka and Cox’s Bazar in Bangladesh. During these meetings, the commissioners have met with approximately 760 representatives of various stakeholders. Additionally, individual commissioners have reached out to a variety of other actors.

Context of the Commission

The context in which the Commission operates is a highly challenging one. Rakhine State represents a complex mixture of poverty, under-development, inter-communal tension, and centre-periphery grievances. In many parts of Rakhine, local communities harbour deep-rooted fears of the intentions of other groups, and trust in government institutions is limited. In particular, the government’s ability to provide services - including protection - to all communities has for long been suboptimal. The Commission recognizes the complex nature of the challenges in Rakhine, and the lack of available “quick fix solutions”.

During the Commission's first six months, various issues have complicated its work:

- The security situation in Rakhine has sharply deteriorated. Armed attacks on the Border Guard Police in Maungdaw on 9 October, 2016 resulting in the loss of life of members of the security forces, were followed by an extensive military and police operation. Violence and destruction of private property led to a significant number of Muslim residents fleeing across the border to Bangladesh. Although violence did not spread to other parts of Rakhine, inter-communal relations have suffered a major setback across the state. Moreover, while military operations were scaled down in the beginning of 2017, a significant risk of renewed violence remains. While the first months after the 9 October attacks were characterized by a strongly securitised response, the situation now urgently requires an integrated and calibrated response - one that combines political, developmental, security and human rights responses to ensure that violence does not escalate and inter-communal tensions are kept under control. If human rights concerns are not included - and people's rights and voices are ignored - this may provide fertile ground for radicalization, as local communities may become increasingly vulnerable to recruitment by extremists. If not addressed properly, this may not only undermine prospects for development and inter-communal cohesion, but also the overall security of the state.
- From the very beginning, some stakeholders have fully or partially refused to engage with the Commission. In early September 2016, a motion in the national parliament sought to dissolve the Commission due to its international component. While the motion eventually failed, a similar motion in the Rakhine State parliament in mid-September was successful, leading to a boycott by some Rakhine stakeholders (including the parliament and the Arakan National Party). Although the Commission has managed to engage directly with some of these actors, the boycott has to some extent hampered the Commission's efforts to get buy-in from all relevant communities in the state.
- In November 2016, the Myanmar government established an investigation commission to investigate the violent attacks in Maungdaw, headed by Vice President U Myint Swe. Although the mandates of the two commissions are different, they nevertheless have some over-lapping aspects. The fact that both bodies were commissioned by the Government of Myanmar has at times generated some public confusion with regard to the roles and responsibilities of the respective commissions. While the second commission was established in order to investigate the attack in Maungdaw on 9 October, the Rakhine Advisory Commission - which was established prior to these events - has a different mandate, addressing the long-term and structural challenges in the state.

- The Commission was established by the State Counsellor but the security agencies - which must play a key role in the management and resolution of the conflict in Rakhine State - have a separate line of authority. However, the Commander in Chief assured the Chairman of the Commission that the security forces would cooperate with the Commission in its work.
- Following the recent violence in northern Rakhine State, the international discourse on Rakhine has become more heated and confrontational. Domestic and international actors have sought to influence the Myanmar government in opposite directions. Such polarization has obviously made the work of the Commission more complex and difficult, as it seeks to understand the origins of the state's challenges and reach agreed findings and recommendations.

Acknowledgments

The Commission would like to express its appreciation for the invaluable support and input provided by a wide range of stakeholders, before and after its establishment. These include: the President of the Republic, the State Counsellor and other members of the Myanmar government; upper and lower houses of Parliament, the Tatmadaw, the Rakhine State government; Rakhine and Muslim political parties, religious associations and civil society organizations; town elders and residents of villages, IDP camps and refugee camps; UN officials, INGO representatives, academics and analysts; accredited diplomats in Yangon, and officials from other countries in the region, including Bangladesh, Thailand and Indonesia. The Commission looks forward to continuing this cooperation, including with other countries in the region.

Interim Recommendations

1) HUMANITARIAN ACCESS

Context: Since the beginning of the military operations carried out by Myanmar security forces in the wake of the armed attack against the Border Guard Police on 9 October 2016, parts of Maungdaw Township have been largely inaccessible to humanitarian actors. With a limited number of exceptions, aid organizations have not been allowed to enter the area to provide their usual range of services and assistance to the local population or carry out needs assessments. The Commission was informed by the army leadership that the military operations were ended on 1 February 2017.

Recommendations:

- The Myanmar government and the Rakhine State government should allow full and unimpeded humanitarian access to all areas affected by recent

violence. The government, assisted by international partners, should ensure adequate assistance to all communities affected by the violence.

2) MEDIA ACCESS

Context: Since the beginning of the military operations in northern Rakhine State, media access to the area of operation has been highly restricted. The Commission believes that such restrictions, which inhibit the flow of information, are detrimental to the government's efforts to develop an effective and transparent policy to respond to the crisis in northern Rakhine State.

Recommendation:

- Myanmar authorities should provide full and regular access for domestic and international media to all areas affected by recent violence.

3) JUSTICE AND RULE OF LAW

Context: In the wake of the fatal attack on the Border Guard Police on 9 October 2016 and the subsequent military operations carried out in northern Rakhine State, allegations have been made of serious violations of human rights law by the security forces during these operations.

Recommendation:

- In light of the allegations of serious violations of human rights law, the government should - based on independent and impartial investigation - ensure that perpetrators of serious human rights violations are held accountable.

4) BORDER ISSUES AND THE BILATERAL RELATIONSHIP WITH BANGLADESH

Context: The recent crisis in northern Rakhine State has underlined the importance of the Myanmar/Bangladesh relationship. Close cooperation is essential in order to: manage potential threats of cross-border terrorism and other dangers; the movement of people between the two countries, and to capitalise on the opportunities presented by increased cross-border trade.

Recommendations:

- The Governments of Myanmar and Bangladesh should strengthen bilateral ties by immediately activating a joint commission, consisting of senior political and security officials from both sides. The joint commission - which should meet at least every quarter - should address the following issues:

- Facilitate the voluntary return of refugees from Bangladesh to Myanmar through joint verification, in accordance with international standards.
 - Establish a joint mechanism to combat human trafficking, drugs smuggling and illicit trade - as well as illegal practices enabling such activities.
 - Develop a joint strategy to address the issue of illegal migration.
 - Promote a joint strategy to revive cross-border trade and investment, with private sector participation, and re-open all legal border crossings.
 - Strengthen intelligence sharing and cooperation to combat terrorism.
- When refugees from northern Rakhine State return from Bangladesh, the Government of Myanmar should help create a secure environment and, where necessary, assist with shelter construction for those whose homes have been destroyed.

5) SOCIOECONOMIC DEVELOPMENT

Context: Rakhine is the second poorest state in Myanmar; the economic environment is failing to provide adequate livelihood opportunities for the labour force, and the economy is marked by a deficit of skilled labour and a lack external investment in productive sectors. While access to basic health services is low for all communities, Muslims face particular obstacles due to movement restriction, language difficulties, inability to pay for treatment, and refusal by some health facilities to treat Muslim patients. There is a great need for long-term investment in medical facilities and infrastructure - both in Sittwe and other areas across the state - as well as the recruitment of additional qualified health personnel. As for education, the state lags behind the national average, with high illiteracy rates and low primary school completion rates. Of particular concern is the Muslim community's lack of access to higher education due to discriminatory policies and the lack of freedom of movement.

In mid-2016, the Rakhine State government - assisted by the UN - started to draw up the Rakhine State Socio-Economic Development Plan, a 5-year plan aiming to boost development in various sectors.

Recommendations:

- The Commission recommends that the Rakhine State government rapidly finalise and publicise the plan, which should be based on an inclusive approach that takes into consideration, and gives priority to, the needs of all local communities.
- The Union government should carry out a comprehensive assessment (or a so-called strategic environment assessment) for Kyawkpuyh and its environs to explore how the Special Economic Zone (SEZ) may affect local

communities and map how other economic sectors in the state may benefit (or possibly suffer) from the SEZ.

- The Commission recommends the fast-tracking of the following:
 - Vocational and technical training: The Government of Myanmar should develop a comprehensive plan for vocational and technical training in Rakhine, to be supported by international donors. The government should put special emphasis on skills training for women.
 - Education: Immediately expand primary education to the communities in the northern part of Rakhine State.
 - Health: The government should quickly finalize a plan for the expansion and refurbishment of Sittwe State Hospital, for the benefit of all communities and rapidly expand primary health care services in the southern and northern parts of Rakhine State (for instance through mobile health clinics).
- The Union government and the Rakhine State government should ensure - and publicly state - that all communities have equal access to education, irrespective of religion, ethnicity, race, gender, or citizenship status. As such, the government should also reverse discriminatory policies that bar Muslim students from higher education.
- The Union government and the Rakhine State government should ensure - and publicly state - that all communities have equal access to health treatment, irrespective of religion, ethnicity, race, gender, or citizenship status. The authorities should commence the removal of administrative obstacles that impede access to health care.
- Both the Union government and Rakhine State government should encourage companies investing in Rakhine to give preference in hiring to the people from Rakhine State. The Commission commends the government for consulting with civil society during the development of the Rakhine State Socio-Economic Development Plan (SEDP). However, the dialogue with civil society needs to continue during the implementation period of the SEDP, and the government should seek to establish formal mechanisms to ensure regular and structured input from civil society.

6) TRAINING OF SECURITY FORCES

Context: Given the complex security environment in Rakhine State, the capacity of the police and other security forces to anticipate and manage threats to law and order in conformity with the provisions of Myanmar law as well as internationally accepted standards, needs to be significantly enhanced.

Recommendations:

- The Government of Myanmar should - as an urgent measure - ensure comprehensive training for police and other security forces deployed in Rakhine, covering areas such as human rights and respect for cultural and religious diversity. International donors should support such efforts by providing technical and financial assistance.

- The composition of the police force should reflect the population in all components, including women and minorities.

7) CITIZENSHIP AND FREEDOM OF MOVEMENT

A. Citizenship

Context: Protracted statelessness has left the Muslim community in Rakhine vulnerable to discrimination and abuse, and the community faces restrictions on movement, pursuit of livelihood, ownership of land, and access to health and education. A citizenship verification process - advanced by both the former and the current government - has so far been unsuccessful, with only around 2,000 individuals being granted a form of citizenship to date. Many Muslims have refused to participate in the process due to a dearth of information, lack of tangible benefits for those who are eventually verified as citizens, or the rejection of self-identification. On the other hand, the process has also been rejected by parts of the Rakhine community, fearing that corruption will undermine the process and provide many ineligible Muslims with citizenship.

Recommendations:

- Those verified as citizens should enjoy all benefits, rights and freedoms associated with citizenship. Consequently - and in line with the government's rule-of-law agenda - all who have been identified as citizens should have full freedom of movement. This will demonstrate immediate tangible benefits of the verification exercise.
- The Government of Myanmar should immediately establish a clear strategy and timeline for the citizenship verification process. This strategy should be transparent, efficient, and with a solid basis in existing legislation. The strategy should be discussed with members of the Rakhine and Muslim communities, and communicated through a broad outreach campaign. The strategy should include a clear timeline for the different stages of the process.
- Complaints related to the on-going verification processes should be addressed swiftly by a government authority independent of the institutions responsible for the implementation of the verification processes.
- The Government of Myanmar should ensure that children and descendants of citizens do not have to go through the National Verification Card process (a preparatory step towards the citizenship process for undocumented people) but qualify automatically to apply for citizenship.
- The Rakhine and Muslim communities should work constructively with the government to revitalize the citizenship verification process.

B. Freedom of Movement:

Context: Both Muslims and Rakhines face restrictions on movement. While most Muslim IDPs are almost entirely deprived of freedom of movement, other Muslims - and to a certain extent some Rakhines - face limitations due to a patchwork of government-imposed restrictions, ad hoc decisions by local officials, and exorbitant travel costs due to corrupt practices. In effect, access to health, education and other services is reduced. Moreover, both communities face self-imposed restrictions related to fear of neighbouring communities, limiting access to farmland, fishing areas and markets.

Recommendation:

- The Government of Myanmar should initiate a process to map all existing restrictions on movement in Rakhine, covering all communities. Such an exercise should also investigate and determine additional travel costs generated by informal payments to allow passage.

C. Birth Certificates

Context: Birth registration of Muslim babies came to an almost complete halt after the violence in 2012. Today, the majority of Muslim children - as well as some Rakhine children - lack such documentation. While exact figures are scarce, estimates suggest that almost half of the children in Rakhine State do not have birth registration.

Recommendation:

- The Commission recommends that the Government of Myanmar roll out a comprehensive birth registration campaign - with door-to-door visits carried out by mobile teams - in order to reach all children. International actors (including the United Nations and donors) should assist such efforts technically and financially in accordance with needs.

8) CLOSURE OF IDP CAMPS

Context: More than 120,000 Muslims are confined to IDP camps throughout the state, a result of the violence in 2012. Efforts to facilitate the return or relocation of IDPs have shown little progress. In 2014, the former government sought to address this issue through the development of the Rakhine State Action Plan, which was only implemented to a limited extent. The current government has yet to develop a comprehensive plan to address the issue.

Recommendations:

- The Government of Myanmar should prepare a comprehensive strategy towards closing all IDP camps in Rakhine State. The strategy should be developed through a consultation process with affected communities, and

contain clear timelines. It should also contain plans for the provision of security and livelihood opportunities at the site of return/relocation.

- More immediately, as a first step and sign of goodwill, the Government of Myanmar should facilitate the return and relocation of IDPs from the following three locations mentioned below, in view of the established feasibility and safety of their return. It should also establish a designated security unit to ensure the safety of returnees and the neighbouring communities.
 - 55 Kaman Muslim households still displaced in Ramree. The Government of Myanmar should support shelter reconstruction in their original villages, and inform and prepare the Rakhine community for their return.
 - 215 Muslim households from Min That Phar village, currently living in Kyein Ni Pyin camp. The government should support the construction of individual houses for the returnees, and take the appropriate measures to facilitate reintegration into local communities.
 - Approximately 65 Rakhine households from Ka Nyin Taw who are ready to move to an already identified relocation site. The government should provide additional funds to provide the necessary infrastructure.

9) CULTURAL ISSUES

Context: Mrauk U - arguably the greatest physical manifestation of Rakhine's rich history and culture - has been on UNESCO's tentative list for becoming a world heritage site since 1996. If such a status was granted, this could eventually serve to boost national and international tourism to Rakhine, and thus help strengthen the State's economy. From the government's side, much needs to be done to ensure Mrauk U's eligibility, including formally proposing the site for such a status.

Recommendation:

- As a first step, pending a comprehensive mapping of all cultural and historical sites in Rakhine, the Government of Myanmar should officially declare its intention to propose Mrauk U as candidate for the status as a UNESCO world heritage site. The government should work closely with UNESCO and local communities to ensure that formal criteria are fulfilled, with international donor support.

10) INTER-COMMUNAL DIALOGUE

Context:

Inter-communal cohesion was significantly weakened as a result of the violence in 2012. In general, willingness to reconcile seems to have increased within both communities over the following years, however positive developments were partially or fully cancelled out by the recent violence in Northern Rakhine. There

are various barriers to inter-communal dialogue, including deep-rooted fears towards the other community, active resistance from some quarters, as well as government-imposed restrictions on freedom of movement, limiting the degree of contact. Yet, levels of trust differ from area to area: in southern parts of the state, relations remain more positive than in the centre and the north. It should also be noted that the recent violence did not spread to other parts of Rakhine, unlike events in 2012. However, without reconciliation, prospects for development and peace in Rakhine State will be severely undermined.

Encouraging dialogue among young people is especially important and the final report of the Commission will develop specific recommendations to that end.

Recommendations:

- The Government of Myanmar - both at the Union and State level - should publicly encourage inter-communal harmony and encourage dialogue, and proactively dispel misinformation about different communities.
- The Government of Myanmar should forcefully denounce all kinds of hate speech, and hold perpetrators accountable. Political, religious and community leaders should be echoing this message.
- Rakhine and Muslims are encouraged to establish joint markets ("friendly bazars") - accessible to both Rakhines and Muslims - and the Government of Myanmar should proactively support and facilitate such efforts.

11) REPRESENTATION AND PARTICIPATION IN PUBLIC LIFE

Context: There is a fundamental lack of Muslim representation at all levels of Myanmar's political system. Muslims are represented neither in the national parliament, nor in the regional parliament in Sittwe. The Muslim community also face barriers to establishing civil society organizations, leaving the community without clear representative mechanisms. The Government of Myanmar should therefore look to strengthen Muslim political and civil society representation.

Recommendations:

- As an immediate step, the government should establish consultative mechanisms which give voice to the state's Muslim inhabitants.
- The government should allow Muslims in Muslim-majority villages and village tracts to become village administrators.

12) REGIONAL RELATIONS

Context: Viewing the challenges in Rakhine as a domestic issue, Myanmar has traditionally been reluctant to engage with its neighbours on the issue. However, on 19 December 2016, the State Counsellor invited ASEAN foreign ministers to Yangon to inform them about recent developments in Rakhine. In January, she

dispatched a special envoy to Dhaka to initiate high-level talks with Bangladesh on the recent refugee crisis.

Recommendations:

- The government should continue its initiative to brief ASEAN members on a regular basis on the broader dimensions and regional implications of the situation in Rakhine State. The Government of Myanmar should maintain a special envoy to engage with neighbouring countries on this issue.