



TOWARDS A PEACEFUL, FAIR AND PROSPEROUS FUTURE FOR THE PEOPLE OF RAKHINE

Final Report of the Advisory
Commission on Rakhine State



ADVISORY COMMISSION ON
RAKHINE STATE

AUGUST 2017



The English version of this report is the original.

CONTENTS

| | |
|---|----|
| FOREWORD BY THE CHAIRMAN OF THE COMMISSION | 6 |
| INTRODUCTION | 9 |
| 1. MANDATE AND CONTEXT OF THE COMMISSION | 12 |
| (a) The mandate, structure and composition of the Rakhine Advisory Commission | 12 |
| (b) Nomenclature | 12 |
| (c) The scope of the report | 13 |
| (d) The Commission’s modus operandi: A short overview of the consultation process | 13 |
| (e) Context of the Commission’s work | 14 |
| (f) Acknowledgements | 17 |
| 2. HISTORICAL BACKGROUND | 18 |
| 3. MAIN FINDINGS AND RECOMMENDATIONS | 20 |
| THE ECONOMIC AND SOCIAL DEVELOPMENT OF RAKHINE STATE | 20 |
| CITIZENSHIP | 26 |
| 1. Citizenship Verification | 26 |
| 2. 1982 Citizenship Law | 29 |
| FREEDOM OF MOVEMENT | 33 |
| INTERNALLY DISPLACED PERSONS (IDPS) | 35 |
| HUMANITARIAN ACCESS | 38 |
| MEDIA ACCESS | 39 |
| EDUCATION | 40 |
| HEALTH | 42 |
| DRUGS | 45 |
| COMMUNAL PARTICIPATION AND REPRESENTATION | 46 |
| INTER-COMMUNAL COHESION | 50 |
| THE SECURITY SECTOR | 53 |
| ACCESS TO JUSTICE | 56 |
| CULTURAL DEVELOPMENT | 58 |
| BORDER ISSUES AND THE BILATERAL RELATIONSHIP WITH BANGLADESH | 59 |
| REGIONAL RELATIONS | 61 |
| IMPLEMENTATION OF THE COMMISSION’S RECOMMENDATIONS | 62 |

FOREWORD BY THE CHAIRMAN OF THE COMMISSION

Rakhine State in western Myanmar has a long and proud history and a rich cultural tradition. Once a thriving trading hub and a major producer of rice in Asia, Rakhine today is one of the poorest states in Myanmar, plagued by inter-communal tension and conflict, and the subject of intense international debate and scrutiny. The vast potential of the state remains largely unexploited for the benefit and welfare of the people of Rakhine.

In September 2016, following a request from Daw Aung San Suu Kyi, the State Counsellor of Myanmar, the Kofi Annan Foundation and the Office of the State Counsellor established an Advisory Commission on Rakhine State. The Commission is a national entity and the majority of its members are from Myanmar. It was mandated to examine the complex challenges facing Rakhine State and to propose responses to those challenges.

Over the past twelve months, my fellow commissioners and I have travelled and consulted widely. We met with political leaders and communities across Rakhine State as well as with Government ministers and officials in Naypyitaw, with civil society and religious leaders, with Myanmar's international and regional partners and individual experts. Those consultations are the basis for the analysis, ideas, concerns and recommendations of the final report of the Commission.

The importance of our task was both underlined and complicated by the attacks on security personnel that took place in northern Rakhine State in October 2016. While those attacks, and the subsequent security operations, greatly increased tensions, they also reinforced our determination to find durable solutions to the instability and insecurity that continue to blight the prospects of Rakhine State.

In March 2017, the Commission issued a set of interim recommendations, and I welcome the initial steps the government has taken to implement these recommendations. However, as this final report of the Commission makes clear, there is still a long road to travel before we can be confident that the peace and prosperity of Rakhine State are assured.

At the inauguration of the Commission, the State Counsellor urged us to be bold in our recommendations. We have followed that advice. We have endeavoured

to listen and learn; to carry out our mandate with rigorous impartiality; and to focus on the future. If adopted and implemented in the spirit in which they were conceived, I firmly believe that our recommendations, along with those of our interim report, can trace a path to lasting peace in Rakhine State. They address the suffering and frustrations of the people of Rakhine State, including those who feel especially vulnerable because they are deprived of documentation and the freedom of movement. We are deeply conscious of the obstacles that lie ahead. History casts a long shadow. But we are equally convinced that the people of Rakhine can grasp this opportunity to reclaim their future.

With the presentation of our final report, the Advisory Commission on Rakhine has fulfilled its mandate. Responsibility for the implementation of our recommendations now lies with Myanmar's leaders and institutions: The Union and Rakhine State governments; the national and state parliaments; religious and community leaders; and above all the people of Rakhine. We have suggested that the Government establish a mechanism to facilitate and track that process. Guidance from the Union level must be matched by action at the state level, by local authorities, and the security services, whose powers confer upon them the responsibility and capacity to be a force for positive change in Rakhine State.

As we complete our task, I would like to acknowledge the great dedication and tireless efforts of my fellow commissioners. They have done much of the work on the ground, including many consultations in Rakhine State. I sincerely hope that their firm resolve will be matched by all those leaders, officials and communities who must now take forward our recommendations and implement them in good faith.

I would like especially to express my deep appreciation to the State Counsellor, Daw Aung San Suu Kyi for her leadership in setting up the Commission and her readiness to meet and consult with me whenever needed. My hope is that the work and recommendations of the Commission will assist the Government in its search for solutions to the Rakhine crisis.

My thanks extend as well to the State Counsellor's staff led by Minister Kyaw Tint Swe who has ably facilitated the work of the Commission, enabling it to complete its tasks as planned.

On the occasion of my visits to Myanmar, I was graciously received by the President of the Union U Htin Kyaw who offered the Commission valuable advice for which we are grateful.

Clearly, the military and other security services have a critical role to play in building a better future for Rakhine State. This is why I consulted the Commander-in-Chief, Senior General Min Aung Hlaing and other senior officers of the Tatmadaw on several occasions. I thank them for their cooperation and encourage them to

work harmoniously and constructively with other branches of the government to ensure the well-being of all the people of Rakhine State.

We established a small secretariat in Yangon to assist the Commission. I extend my gratitude to Andreas Indregard and the staff for their invaluable support over the past twelve months.

There are too many people from the international community who engaged openly and frankly with the Commission to name individually. Suffice it to say that they provided the Commission with very insightful perspectives on Rakhine State.

Most importantly, I would like to convey my sincere appreciation to the people of Rakhine who have engaged so positively with the Commission. Ultimately, this is their report; they stand to gain the most from its recommendations, and it is their responsibility, together with the authorities, to work together to bring about the changes that are needed to overcome the painful legacy of the past and construct a dynamic and optimistic Rakhine of the future.



Kofi A Annan
Chair
Advisory Commission on Rakhine State
August 2017

INTRODUCTION

Rakhine State has a long and proud history. This report, however, looks primarily to the future and asks how Rakhine State can make the best use of its enormous but underutilised potential. Rakhine enjoys fertile soils, an abundance of natural resources and is strategically located for regional trade. Yet, today, Rakhine State suffers from a pernicious mix of underdevelopment, inter-communal conflict, and lingering grievances towards the central government. The Rakhine Advisory Commission recognizes the complexity of the problems in the state, and cautions that there are no “quick fix” solutions to these challenges. Yet, finding a path to move forward is an urgent task. The status quo is not tenable.

On one level, Rakhine represents a **development crisis**. The state is marked by chronic poverty from which all communities suffer, and lags behind the national average in virtually every area. Protracted conflict, insecure land tenure and lack of livelihood opportunities have resulted in significant migration out of the state, reducing the size of the work force and undermining prospects of development and economic growth. Movement restrictions on the Muslim population hurt the economy. The failure to improve inter-communal relations, enforced segregation and the simmering threat of violence and instability continue to deter private sector investment. Although Rakhine is rich in natural resources, the development of extractive industries – such as oil and gas-related investments in Kyawkpyuh – have not generated a significant number of new jobs nor other benefits for local residents. Both Rakhine and Muslim communities feel marginalised and disempowered by decisions taken in Naypyitaw.

Rakhine also represents a **human rights crisis**. While all communities have suffered from violence and abuse, protracted statelessness and profound discrimination have made the Muslim community particularly vulnerable to human rights violations. Some ten percent of the world’s stateless people live in Myanmar, and the Muslims in Rakhine constitute the single biggest stateless community in the world. The community faces a number of restrictions which affect basic rights and many aspects of their daily lives. Approximately 120,000 people are still left in camps for Internally Displaced People (IDPs). The community has been denied political representation, and is generally excluded from Myanmar’s body politic. Efforts by the Government to verify citizenship claims have failed to win the confidence of either Muslim or Rakhine communities.

Finally, Rakhine is also a **security crisis**. As witnessed by the Commission during its many consultations across Rakhine State, all communities harbour deep-seated fears, with the legacy of the violence of 2012 fresh in many minds. While Muslims resent continued exclusion, the Rakhine community worry about becoming a minority in the state in the future. Segregation has worsened the prospects for mutual understanding. The Government has to step up its efforts to ensure that all communities feel safe and in doing so, restore inter-communal cohesion. Time alone will not heal Rakhine.

Unless current challenges are addressed promptly, further radicalization within both communities is a real risk. The situation is particularly urgent in northern Rakhine State, where an emerging militant group attacked three Border Police posts on 9 October 2016, and where subsequent military and police operations led to tens of thousands of Muslims fleeing across the border to Bangladesh. While Myanmar has every right to defend its own territory, a highly militarised response is unlikely to bring peace to the area. What is needed is a calibrated approach – 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 the legitimate grievances of local populations are ignored, they will become more vulnerable to recruitment by extremists. Addressing the development and human rights crises will help address the security crisis.

Solving these three, interrelated crises would be a challenge for any Government. It is important to recognise that Rakhine is one of several ongoing conflicts in Myanmar, and that the Government is simultaneously attempting to carry out far-reaching reforms across various sectors. As such, the Government is often stretched to its limits. It is also important to acknowledge the initiatives that this Government and its predecessors have already taken to address the issues in Rakhine.

On 16 March 2017, the Rakhine Advisory Commission submitted its interim report, addressing some of the most urgent challenges facing the state. The Commission commends the Government for its public endorsement of the report, and its expressed willingness to implement “the large majority” of the recommendations. Some positive steps have already been taken. While acknowledging the difficult context in which the Government works – with limited financial and technical resources, as well as active resistance from some stakeholders within both communities – much more needs to be done. Above all else, political and military leaders need to chart a positive vision for the future of Rakhine State: Economically prosperous, safe and secure, where all communities enjoy the rights and freedoms they deserve. A broader vision of national identity, that finds strength in diversity, must be projected. Development in Rakhine is not a zero-sum-game, and the state will only prosper through inclusivity and integration. The question should not be

whether Rakhines and Muslims will live together, but rather how they will live together. Reintegration, not segregation, is the best path to long-term stability and development in Rakhine State.

The people of Myanmar rightly take great pride in their history and culture, which is characterized by its rich diversity. However, in order to move forward together the past must give way to a renewed vision for a dynamic future.

Realizing such a vision will not only depend on sustained political will from the Government, but also require the support of local communities, to whom this vision must be clearly communicated. The vast majority of people the Commission has met with want a peaceful, economically prosperous future. Inevitably, there will be a minority who oppose change. Yet, while every effort should be made to understand their concerns, they should not be allowed to thwart progress. Through open dialogue and sustained engagement, and the implementation of its agenda for the rule of law, the government can win the trust of both communities.

The international community should strive to fully understand the sensitivities that prevail in Rakhine State and work with the Government to achieve a positive vision for the future. Myanmar should be open to advice and support from the international community, recognising that what it does or does not do has ramifications far beyond the borders of the country. To the extent that the Government wishes to treat Rakhine as “a domestic issue”, as the Commission has often heard, then it should at least declare its readiness to aid all people residing in Rakhine State, irrespective of ethnicity, religion and citizenship status, on the basis of fairness and equity.

The scope of the challenges in Rakhine State may seem immense. The Commission hopes that the ideas presented in this report will be a modest contribution to charting a way forward. But ultimately this is a task for the Government together with the communities in Rakhine State, civil society and religious and political leaders. The Advisory Commission resolutely believes that with the right vision and political will, Rakhine State can fulfil its potential and reclaim its historical greatness.

1. MANDATE AND CONTEXT OF THE COMMISSION

(a) The mandate, structure and composition of the Rakhine 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 underdevelopment. 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 was mandated to 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). Although the Commission includes three international commissioners, the Commission is essentially a national mechanism: It was established by the Government of Myanmar, and reports to the national authorities in Naypyitaw.

(b) 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”.

(c) The scope of the report

This report contains the final recommendations of the Rakhine Advisory Commission, submitted to the Government of Myanmar at the end of the Commission's mandate. As far as possible, the Commission has sought to keep the report short and concise.

First and foremost, the report is a reflection of the Commission's extensive consultation process, and the input and advice received from a variety of different stakeholders. Secondly, the report builds on the Commission's interim report, published on 16 March 2017. While the interim report was limited to addressing urgent issues necessitating immediate government action, the final report addresses all issues covered by the Commission's mandate. As such, some of the recommendations provided in this report represent a continuation or expansion of the Commission's interim recommendations, while others – in particular those related to more long-term and structural issues – have been added.

The Commission is not mandated to investigate specific cases of 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.

(d) The Commission's modus operandi: A short overview of the consultation process

The Commission has sought input and advice from a wide range of stakeholders. It 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, women, and small minority groups in its consultations.

In Rakhine State, the Commission met with the Rakhine State Government, the Rakhine Parliament (on the Commission's first visit to Rakhine in September 2016), political parties, religious institutions, civil society organizations, village elders, private sector representatives, and residents of various villages and Internally Displaced People (IDP) camps. Beyond the two main communities in the state, the Commission has also consulted representatives of smaller ethnic and religious

communities, including Kamans, Chins, Hindus and Mros. At the Union level, the Commission has met with political and military leaders, including the President, the State Counsellor, the Commander-in-Chief and the Central Committee for the Implementation of Peace, Stability and Development in Rakhine State.

The Commission has also consulted countries in the region. In Bangladesh, the Commission met with Government officials in Dhaka, and visited various refugee camps in Cox's Bazar. The Commission has met with the Thai Minister of Foreign Affairs in Bangkok, and the Commission's chair has also met the President and Foreign Minister of Indonesia. The Commission has held discussions with representatives of India, China and Malaysia, and consulted various other international actors, including UN officials, Myanmar-based diplomats, representatives of International Non-Governmental Organisations (INGOs), regional organizations, and independent analysts.

Since the Commission was inaugurated on 5 September 2016, it has carried out 155 consultation meetings in Sittwe, Mrauk U, Myebon, Kyawktaw, Thandwe, Kyawkpyuh, Ramree, Maungdaw, Buthidaung, Yangon and Naypyitaw – as well as in Bangkok, Dhaka, Cox's Bazar and Geneva. During these meetings, the commissioners have met with approximately 1,100 representatives of various stakeholders. Additionally, individual commissioners have reached out to a variety of other actors.

(e) Context of the Commission's work

The context in which the Commission has operated is a highly challenging one. Rakhine State represents a complex mixture of poverty, under-development, inter-communal tension, and political and economic marginalisation. 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 wanting. The Commission recognizes the complex nature of the challenges in Rakhine, and the lack of instant solutions.

During the period of the Commission's mandate (September 2016 – August 2017), various developments have occurred that have seriously affected, and sometimes complicated, its work:

- The security situation in Rakhine State deteriorated sharply after

9 October 2016, when armed attacks on the Border Guard Police in Maungdaw Township resulted in the loss of life of members of the security forces. The attacks were purportedly carried out by a Muslim armed group called Harakat al-Yaqin (later renamed Arakan Rohingya Salvation Army), which, according to some analysts, has ties to Rakhine Muslim émigrés residing in Saudi Arabia.¹ The group overran a security post north of Maungdaw Town, seizing weapons and ammunition. During the subsequent military and police operation, violence and destruction of private property led to a significant number of Muslims fleeing across the border to Bangladesh. Some members of the Rakhine community were also forced to flee. Violence seemed to peak in mid-November, when clashes allegedly left 69 insurgents and 17 security forces dead.

- The security forces have been accused of serious human rights violations during the operations. This led the Commission to recommend in its interim report that an impartial and independent investigation should be carried out.
- While military operations were scaled down in the beginning of 2017 – leading many refugees and IDPs to return – 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 properly addressed – and if the population remain politically and economically marginalized – northern Rakhine State 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.
- The situation in northern Rakhine State remains volatile. Muslim militants have allegedly killed a number of Muslim leaders, apparently in an attempt to undermine cooperation with the government. The Arakan Army (AA) also remains a serious threat to stability in parts of the state.

1 *Myanmar: A New Muslim Insurgency in Rakhine State*, International Crisis Group (ICG), December 2016.

- Although violence did not spread to other parts of Rakhine, inter-communal relations suffered a major setback across the state. Increased political polarization and a shrinking of the political space may complicate efforts to find political solutions to which all communities can subscribe. It may also be harder to achieve the necessary buy-in from all stakeholders for the Commission's recommendations.
- Some stakeholders rejected the Commission from the very beginning, and in early September 2016, a motion in the national parliament sought to abolish the Commission. Although the motion eventually failed, it was supported by the Arakan National Party (ANP), the Union Solidarity and Development Party (USDP) and all military-appointed lawmakers. However, a similar motion in the Rakhine State Parliament in mid-September was successful, leading to an official boycott by some Rakhine stakeholders (including the parliament, ANP and parts of civil society). Although the Commission has managed to meet most of these actors anyhow, the sustained boycott has to some extent complicated the Commission's efforts to get buy-in from all communities in the state.
- Myanmar's governance structure – which, in line with the 2008 Constitution, provides for a high degree of autonomy for the military part of the government – makes the search for and implementation of a coherent and harmonized policy to the complex problems of Rakhine State more challenging. During the course of its work, the Commission has consulted the Commander-in-Chief and other senior officers in the Tatmadaw, as well as those officers serving in ministerial line functions that concern Rakhine State. Obviously, the support of the armed forces is vital for the implementation of the Commission's recommendations. All arms of the governmental structure will need to work closely together in a coordinated and cohesive manner to implement the Commission's recommendations.
- In November 2016, the Myanmar Government established an investigation commission to look into 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, which gave rise to some public confusion over the mandates of the respective commissions.
- In March 2017, a resolution at the United Nations Human Rights

Council in Geneva called for the establishment of an international fact-finding mission to examine, inter alia, allegations of human rights violations committed by Myanmar's security forces in Rakhine. The mission is scheduled to give an oral update to the Human Rights Council in September 2017 and a final report in March 2018. The fact-finding mission's mandate differs from that of the Rakhine Advisory Commission, which has a much broader mandate, and does not investigate specific cases of alleged human rights abuses.

- After the recent violence in northern Rakhine State, the international discourse on Rakhine has become more heated and confrontational. Essentially, domestic and international actors have sought to pull the Myanmar Government in opposite directions. Such polarization has been challenging for the Commission, as it seeks to bridge national and international interpretations of the conflict, to address as objectively as possible the causes of tension and violence in Rakhine State and to recommend practical steps that can be taken to deal with these fundamental problems.
- The Commission's recommendations would have been more precise if relevant statistical and other data on Rakhine State and its individual communities, including the smaller minorities, had been available.

(f) Acknowledgements

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 Commander-in-Chief and the Tatmadaw, and 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, Malaysia and Indonesia; other international organisations, such as ASEAN, OIC, and the EU.

The Kofi Annan Foundation in Geneva led by the Executive Director, Alan Doss provided extensive support to the Commission in liaison with the Commission secretariat in Yangon headed by Andreas Indregard.

2. HISTORICAL BACKGROUND

While the Rakhine Advisory Commission is forward-looking – and strongly emphasises the need for all communities to move beyond entrenched historical narratives – the Commission was also mandated to explore the historical background of Rakhine’s current challenges. Two recurring themes of conflict dominate that narrative: First, the conflicted relationship between the people of Rakhine and the central government; and second, the tense and sometimes violent relations between Rakhine and Muslim communities. The Commission recognizes that both the Rakhine and Muslim communities harbour deep-rooted historical grievances, shaped by the experience of violence, injustice and neglect. The Commission also acknowledges that history is highly contested, and that Muslim and Rakhine communities have different – and sometimes mutually exclusive – historical narratives.

Rakhine State – separated from the rest of Myanmar by a rugged chain of mountains – has for most of its history been a distinct political entity. While there are records of independent kingdoms since antiquity, the final Rakhine kingdom was established in 1430, with its capital in Mrauk U. Situated on the border between Buddhist and Muslim Asia, the kingdom had strong economic, trade and other relations with the Sultanate of Bengal. For the next 350 years, Mrauk U thrived as a prosperous trading hub, until it came under Burmese control in 1784-85. The annexation of Rakhine was short-lived, as the First Anglo-Burmese War (1824-1826) brought the area under British control and subsequent incorporation into British India.

While there has been a Muslim community in Rakhine since before the Burmese invasion, its size increased rapidly during colonial times. British colonial policies to expand rice cultivation in Rakhine required significant labour, a need which was largely filled by Muslim workers from Bengal. While many came on a seasonal basis, some settled down permanently – altering the ethnic and religious mix of the area. From the 1880s to the 1930s, the size of the Muslim community (as part of the total population of the state) seems to have doubled, increasing from about 13 to 25 percent.² Since then, the relative increase of the Muslim population has slowed down significantly, and is now estimated to be around a third of the state’s total population.

For sustained periods, Rakhines and Muslims have lived peacefully together in Rakhine. Yet, since the mid-19th century, periods of Buddhist-Muslim

² *Report on the Census of British Burma, Part I: The Enumeration and Compilation of Results, 1881; Census of India 1931, Vol XI: Burma, Part I: Report, 1933.*

cooperation and cohabitation have repeatedly been interrupted by communal tension and armed upheavals. In 1942-43, during the chaotic circumstances of the Anglo-Japanese war, both communities suffered from violence and widespread displacement. More recently, in June and October 2012, the state was again marked by large-scale inter-communal violence, during which at least 192 people were killed (134 Muslims and 58 Rakhines). While both communities were hit hard by the violence, destruction to private property was highly asymmetric, as 7,422 out of 8,614 destroyed houses (about 86 percent) belonged to Muslims.³ Moreover, more than 95 percent of the approximately 140,000 IDPs generated by the conflict were Muslims, of which around 120,000 still remain in squalid IDP camps. In several areas – including the centre of Sittwe and Kyawkpyuh – most Muslims were forced to leave.

At different times – and with varying intensity – both Rakhines and Muslims have sought to advance their political agendas through armed struggle against the central government. Shortly after Myanmar's independence in 1948, a Muslim "mujahidin" rebellion erupted in Rakhine, demanding equal rights and an autonomous Muslim area in the north of the state. While the rebellion was eventually defeated, the Rohingya Solidarity Organization (RSO) revived the armed struggle in the 1980s, but lost its military potency in the late 1990s. When Harakat al-Yakin (later Arakan Rohingya Salvation Army (ARSA)) attacked Government security forces on 9 October 2016, it was one of the largest Muslim attacks on Government forces in living memory. On the Rakhine side, non-state armed groups of both nationalist and communist stripes have fought the Myanmar Army since independence. Today, the strongest Rakhine insurgency movement is the Arakan Army (AA), which was founded in Kachin in 2009, and which gradually has expanded its presence and operational capabilities in Rakhine. Over the past years, dozens of Myanmar security personnel have reportedly been killed by AA.

To some extent, inter-communal conflict in Rakhine is a clash of narratives. As noted by the Commission, both Rakhines and Muslims draw extensively on historical events to legitimize political claims and to demonstrate protracted victimhood and historical injustices. Regrettably, these narratives are often exclusive and irreconcilable, ignoring the fears and grievances of the other community.

3 *Final Report of Inquiry Commission on Sectarian Violence in Rakhine State*, July 2013.

3. MAIN FINDINGS AND RECOMMENDATIONS

THE ECONOMIC AND SOCIAL DEVELOPMENT OF RAKHINE STATE

Rakhine is fertile, relatively well-endowed with natural resources, and strategically located. Yet, its economy is marked by stagnation, under-investment and under-development. The state's poverty rate is 78 percent, almost double the national rate of 37.54 percent,⁴ which makes it one of the poorest parts of the country. All communities in Rakhine suffer from poverty, poor social services and a scarcity of livelihood opportunities.

The bulk of the Rakhine economy is made up of farmers, fishermen, and family-run business, and wages in the agricultural sector are low. Landlessness is more common in Rakhine than other parts of the country – especially in the northern part of the state, where 60 percent of households are landless.⁵ While other parts of Myanmar have seen rapid economic growth over the past years, Rakhine has fallen further behind. Current international perceptions of Rakhine as a place marked by unrest and frequent human rights violations, including enforced segregation, continue to discourage foreign investment.

Various factors serve to undermine the prospects for economic growth in the state, including frequent natural disasters, such as cyclones, and the impact of climate change. Yet, many obstacles to growth and development are man-made. The waves of inter-communal violence in 2012 significantly reduced trust between the communities, disrupting trade and commerce across the state, as well as cross-border trade with Bangladesh. As communities were disentangled, businesses relying on both Rakhine and Muslim labour have struggled to maintain their level of productivity. Some Rakhine employers have come under intense pressure from Rakhine nationalists to avoid hiring Muslims, thus disrupting the labour market and depriving the community of employment opportunities. While communal markets do continue in some areas, they are often under threat of disruption from hard-line elements within both communities seeking to undermine interaction between the communities.

4 *Myanmar Poverty and Living Conditions Survey*, World Bank, January 2015.

* Unlike the source stated, the correct source is, "World Bank. *Myanmar: Ending poverty and boosting shared prosperity in a time of transition. A Systematic Country Diagnostic, Report No. 93050-MM*. July 2014." The Commission notes that the Government's figure for the poverty rate in Rakhine is 43.5 percent, as compared with 25.6 percent nationally (*Integrated Household Living Condition Assessment Survey*, 2010).

5 *Food Security Assessment in Northern Rakhine State Myanmar*, World Food Program (WFP), February 2011.

Restrictions on freedom of movement for the Muslim community, including the confinement of approximately 120,000 people in IDP camps – most of whom rely entirely on foreign aid – have particularly detrimental effects on the level of economic activity in the state. Such restrictions have created prohibitive barriers for Muslim businesses and labourers to enter the economy, and increased incentives for engaging in illicit commercial activities. It has also nurtured a culture of unproductive rent-seeking, as the complex matrix of restrictions enables Government officials to take bribes in return for travel permits and commercial licenses. This, however, does not only affect Muslims: For all communities in Rakhine, acquiring government permissions is a costly and challenging endeavour, often discouraging entrepreneurs from starting or expanding businesses. They all have to deal with expensive licenses, inefficient bureaucracies and corruption. Fear and insecurity also impede entrepreneurship.

The threat of continued instability and violence – combined with a general lack of employment opportunities – has encouraged significant out-migration of both Rakhine and Muslims, resulting in labour shortage in various sectors. Some communities complain about “brain drain”, as the better educated and resourceful part of the work force has been the first to seek opportunities elsewhere. Within the Rakhine community, many unskilled labourers have also left, for instance for the jade mines in Kachin or the garment industry in Yangon. Moreover, poverty and discrimination have encouraged tens of thousands of Muslims to emigrate to other countries in the region, such as Malaysia and Indonesia. Most have relied on illegal trafficking networks, and many are believed to have died during the hazardous sea journeys.

Women workers in Rakhine State face additional challenges, and continue to suffer from uneven pay, not least in the agricultural sector. Within the Rakhine community, more women than men migrate to find employment outside the state. Migration of men also tends to increase the workload of women left behind. Barriers exist for women wanting loans and credit, especially for those who are unmarried or widowed, and the lack of women’s rights to inheritance in some communities poses serious problems for women’s livelihood opportunities. Opportunities in the manufacturing sector remain limited. Muslim women have even fewer choices. Their education levels are lower, while severe restrictions on their movement make it difficult to engage in livelihood activities other than in their immediate neighbourhood.

Rakhine has few comparative advantages in mass employment sectors, and even in a best-case scenario, it will take years to address the structural and political challenges currently holding back the state’s economic potential. Yet, the picture is not entirely bleak. Rakhine has a wealth of natural resources

– albeit mostly offshore – and an agricultural sector that could be significantly more productive and profitable if satisfactory government policies were put in place. With increased mechanisation – combined with robust extension services, skills development and the provision of better quality inputs to farmers – the productivity of agriculture could be significantly boosted over time. With improved infrastructure, there may also be a potential for agricultural exports to Bangladesh, India and other countries in the region. The state’s embryonic garment industry may also be expanded, providing new livelihood opportunities for all communities.

There may also be opportunities in the hospitality business, as Rakhine is home to some of Myanmar’s most picturesque beaches (including Ngapali) and impressive historical monuments (such as Mrauk U). With improved infrastructure, such sights may attract a significantly higher number of tourists than they do today. The Ministry of Hotels and Tourism requires any hotel that is registering to host foreigners to construct at least 10 rooms. Changing this regulation – which has allowed the industry to be dominated by larger, usually Burmese, businesses – may increase the number of local entrepreneurs benefitting from tourism.

Rakhine also has a couple of large-scale investment projects, which potentially may have a significant effect on the state’s economy. First, the “Kaladan Multi-Modal Transport Transit Project”, carried out jointly by India and Myanmar, aims to connect Mizoram State in northeast India to the Bay of Bengal through Chin and Rakhine State. The project consists of a new jetty in Sittwe, an inland water transport corridor to Paletwa in southern Chin State and a highway from Paletwa to the Indian border. If completed, the project could significantly improve connectivity in the area, and possibly improve Rakhine’s access to markets in India.

Second, Kyawkpyuh Township is the location of various on-going and planned industrial projects, including an oil and gas terminal at Madae Island, which already serves as the starting point for an oil and gas pipeline to Yunnan in China. The terminal receives gas from the fields off the coast of Rakhine, and functions as an offloading site for international oil tankers. Kyawkpyuh is also the site of a planned Special Economic Zone (SEZ) and deep seaport, expected to be developed mainly by a Chinese-led consortium. As currently planned, the SEZ would cover dozens of villages, and contain designated industrial parks for different industries.

Over time, the SEZ may potentially become a dynamic economic engine, generating jobs, growth and renewed optimism for communities in Rakhine – by itself and through spin-off industries enabled by the SEZ. Yet, there are reasons for concern. The history of previous investments in Kyawkpyuh, as

well as other SEZs in Myanmar, suggests that the risk of negative consequences will be significant and economic improvements for local communities limited. For instance, the construction of the oil and gas pipeline caused significant local tension related to land seizures, insufficient compensation for damages, environmental degradation, and an influx of foreign workers instead of increased employment opportunities for local communities. While the Government has publicly stated the SEZ will be undertaken in line with international standards on resettlements, there are concerns that it is already not following its own laws in cases of land acquisition.⁶

Large-scale investment projects in Rakhine have also served to nurture local resentment towards the central government. Local communities are largely excluded from the planning and execution of such projects. Profit tends to be shared between Naypyitaw and foreign companies, and as a consequence, local communities often perceive the Government as exploitative. During its many consultations in Rakhine, the Commission met with numerous villagers, community leaders and civil society representatives who accused the Government of exploiting the state's natural resources without giving the local communities their fair share.

In sum, creating growth and sustainable development in Rakhine is a formidable task. Ultimately, it will depend on improved inter-communal relations, increased freedom of movement for the Muslim community, closure of the IDP camps, removal of cumbersome bureaucratic practices pertaining to business licenses, sustained efforts to combat corruption, improved infrastructure, vocational training to meet the demands of tomorrow's economy, additional extension services to farmers, adherence to the rule-of-law and adoption of business regulations that safeguards local communities. It will also depend on the Government's willingness to allow local communities to have a greater say in the state's development, and allow Rakhine to harvest some of the benefits of large-scale industrial development projects.

Finally, the threat of climate change, to which Rakhine – with its long coastline – is exceptionally vulnerable, is already making itself felt. Much of the state's farmland is poorly adapted to the new challenges, including flooding, as much of the state has tidal waterways with high levels of salinity. Cyclones such as Nargis (2008), Giri (2010) and Komen (2015) exposed the state's agricultural areas to salt water intrusion that brought widespread devastation. The state's vulnerability has also increased as a result of other human interventions. Rakhine's mangrove cover has been devastated by

6 *Special Economic Zones in Myanmar and the State Duty to Protect Human Rights*, International Commission of Jurists (ICJ), February 2017.

unsustainable land and water management practices: Construction of dykes too far out on the tidal flats and adding shrimp ponds and rice fields in a manner that weakens the fragile ecosystem. Without additional sustained efforts to increase the state's disaster preparedness and to strengthen mitigation and adaptation measures, potential economic gains in some sectors may quickly be cancelled out by the adverse effects of climate change.

Recommendations:

1. The Commission acknowledges that the question of resource sharing between the Union and State Governments will be dealt with in the context of the national peace process and constitutional reform. Nevertheless, the Commission urges the Government to increase the participation of Rakhine's local communities in decision making affecting the development of the state, and find ways to ensure that local communities benefit from investments – including natural resource extraction – in Rakhine State.
2. The Government should ensure adequate compensation for appropriated land.
3. The Commission reiterates that the Government of Myanmar should carry out a comprehensive assessment (or a so-called strategic environment assessment) for Kyaukpuyh 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. Moreover, the Government should require foreign companies involved in the development of the SEZ to develop robust mechanisms for information sharing and consultation with local communities and civil society, in accordance with principles of corporate social responsibility.
4. The Government should carry out labour market assessments – as well as a mapping of anticipated labour needs generated by planned industrial development in Rakhine, including the SEZ – in order to design targeted vocational training. If vocational training is not market-linked, it will simply present incentives for migration.
5. The Government should be particularly sensitive to the needs of women whose labour force participation remains low. In labour market assessments, their potential and needs should be given special attention. In vocational training, women should be prioritized.

6. The Government should continue to invest heavily in infrastructure, including roads, waterways, jetties, electricity, drinking water and internet provision. In order to boost tourism, the Government should ensure that the planned airport in Mrauk U is constructed.
7. In order to increase productivity, the Government should expand extension services to farmers, including mechanization, provision of quality seeds, and training in modern agricultural techniques.
8. The Government should address regulatory issues that currently constrain SMEs and family businesses. These include:
 - Reforms related to lending, such as ending 1-year maximum loan terms, introducing flexibility to interest rate fixation, and providing incentives for micro-finance providers to engage with businesses in Rakhine.
 - Expansion of access to agricultural credit for all communities.
 - Removal of the Ministry of Hotels and Tourism prohibition on guesthouses and B&Bs of less than ten rooms, that presents barriers to entry for family-owned enterprises.
9. The Government should seek to reduce red tape in order to promote business, and expand accepted documentation to receive business licenses, not least as a way to include more Muslim businesses within the formal economic sector and reduce barriers to entry.
10. To ensure that mitigation and adaptation measures are in place to counter the adverse effects of climate change, the Government should urgently step up its efforts to strengthen the capabilities of communities to adopt climate resilient options. Critical measures include the development and distribution of resilient seed varieties, crop diversification, increased water storage options, drip irrigation and strengthening the availability of climate-sensitive advisory services for farmers. The Government should also seek to improve the state's irrigation systems through the construction of embankments. To this end, the Government could subsidize contracted cash-for-work labour.

CITIZENSHIP

Myanmar's cultural diversity and pluralism deserve to be celebrated. A sense of identity, pride and belonging is important in all societies, particularly in times of rapid change. Yet, identity and ethnicity remain sensitive issues in Myanmar. The issue of citizenship rights remains a broad concern, and a major impediment to peace and prosperity in Rakhine.

The challenges associated with rights and citizenship in Myanmar was one of the most difficult issues with which the Commission was confronted, and was the subject of intense debate. While the Commission recognizes that the issue is contentious, it cannot be ignored. Myanmar harbours the largest community of stateless people in the world, and the Commission was specifically mandated to explore this issue and provide recommendations related to citizenship and documentation and propose actions to clarify questions of citizenship.

If this issue is not addressed it will continue to cause significant human suffering and insecurity, while also holding back the economic and social development of the entire state. In the short term, addressing this issue requires an acceleration of the citizenship verification process, and the Commission fully recognizes that such an exercise must be carried out under the 1982 Citizenship Law. Yet, there is also a need to revisit the law itself.

1. Citizenship Verification

Based on the 1982 Citizenship Law, a citizenship verification process has been advanced by both the former and current governments. According to government figures, approximately 4,000 Muslims (as well as 9,000 Kamans) have been recognized as citizens or naturalized citizens – out of a population of around one million stateless Muslims in the state. Around 10,000 Muslims have also received National Verification Cards (NVC), considered a preparatory step for applying for citizenship. For the benefit of all communities in Rakhine – and in order to provide clarity on the legal status of all – the verification process should be accelerated.

The process was first introduced in the shape of a pilot project in Myebon Township in 2014, where Temporary Resident Card (TRC)-holders were allowed to apply for citizenship on the condition that they listed their ethnicity as “Bengali”. The process was suspended following protests from both communities, but was restarted and expanded to all of Rakhine State in January 2015. After announcing the cancellation of the TRCs in February 2015, the Government started issuing its replacement – Identity Cards of

National Verification (ICNV) – in June 2015. To obtain this card, applicants were again required to register as “Bengali” in the application form. A year later, the NLD Government restarted the process, issuing National Verification Cards (a renaming of the ICNV), which no longer required applicants to indicate their ethnicity or religion in the application form (although the Commission has received complaints that ethnic references have still been included on some occasions).

The sporadic implementation of the process – as well as the general lack of communication, consultation and outreach from the Government – has undermined public trust in the exercise within both communities. On the Rakhine side, many fear that corrupt officials may allow a high number of unqualified Muslims to obtain citizenship – a fear strengthened by alleged reports of non-Kaman Muslims posing as Kamans in the verification process. Some fear that the Government may eventually succumb to pressure from the international community, which they see as biased in favour of Muslim citizenship.

Muslims, on the other hand, object to the NVC as an interim step that will subsequently qualify holders to apply for citizenship at some point in the future. They are worried that this procedure follows a familiar pattern of successive Myanmar governments issuing documents with a promise that citizenship will follow, with the latter repeatedly failing to materialize. Many are also reluctant to hand in their existing documents for fear of being left undocumented. Others have lost their previous identification documents, and are apprehensive that a process which is not based on bona fide will simply be used against them. Trust is also undermined by the lack of tangible benefits for those who successfully go through the process, as verified Muslim citizens continue to face travel restrictions and other forms of discrimination.

Recommendations:

In order to accelerate the verification process in line with the 1982 Citizenship Law, the following steps should be taken:

11. The Government should immediately ensure that those who are verified as citizens enjoy all benefits, rights and freedoms associated with citizenship. This will not only serve to strengthen the Government’s rule-of-law agenda, but also demonstrate immediate tangible benefits of the verification exercise.
12. The Government should 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. The process should also be made simpler, and enable individuals to apply for citizenship at the same time as they apply for NVC. To increase the accessibility of the process, the use of an uncle or aunt's documents (or other family members) should be permitted when the parent's documents are missing. The Government should ensure that the verification process is adequately resourced.

13. The Government should clarify the status of those whose citizenship application is not accepted.
14. Like all countries, Myanmar will need a status for those who reside in Myanmar without being citizens. The rights of non-citizens who live and work in Myanmar need to be regulated. The Government should clarify residency rights and provide associated documentation, which is a common practice around the world.
15. While urging Rakhine and Muslim communities to work constructively with the Government to revitalize the citizenship verification process, the Commission also urges the Government to ensure that the process is voluntary. The Government should create proper incentives to encourage people to participate.
16. 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.

2. 1982 Citizenship Law

Changes in the country over the past 35 years have highlighted some deficiencies in the citizenship law, which currently create tension between communities, lead to frustration for those who are not citizens, contradict recent laws, including the 2008 constitution, and fall short of international standards, including those which Myanmar has approved. The manner in which the law has been applied over the past decades has not done justice to the credible claims of communities who have been living in the country for generations. Of these the Muslims in Rakhine state are the largest but certainly not the only group. The developments described below show how, through a process of gradual disenfranchisement, these Muslims gradually became marginalized and particularly vulnerable.

Several aspects of the 1982 Citizenship Law are not in compliance with international standards and norms – such as the principle of non-discrimination under international law – as well as international treaties signed by Myanmar. Most notably, the Convention on the Rights of the Child (CRC) – ratified by Myanmar – requires states to respect, protect and fulfill the right of every child to acquire a nationality “in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.”⁷ Although granting a birth certificate does not guarantee citizenship in that particular country, the Committee on the Rights of the Child has concluded that the best interests of the child generally require the acquisition of citizenship as soon as possible after birth and, specifically, that children should not have to wait until they turn eighteen to apply for citizenship. States should endeavour to grant citizenship to children born in the state who would otherwise be stateless.⁸

Over the decades since independence, successive governments have adopted legal and administrative measures that progressively eroded the political and civil rights of the Muslim communities in Rakhine State. Prior to the military coup in 1962, the community enjoyed some degree of recognition, and was for a short while allotted a designated administrative area in northern Rakhine. The situation deteriorated during military rule, and in both 1978 and 1991, large-scale, heavy-handed government campaigns pushed more than 200,000 Muslims across the border into Bangladesh (on both

7 *Convention on the Rights of the Child*, 20 November 1989, which entered into force on 2 September 1990, and was ratified by Myanmar on 15 July 1991.

8 For a detailed analysis of the issues addressed under the CRC and the approach that the Committee on the Rights of the Child has taken to this issue, see *Addressing the Right to Nationality through the Convention on the Rights of the Child*, Institute on Statelessness and Inclusion, June 2016.

occasions, Myanmar accepted repatriation of a large majority of those who had fled).

The 1982 Citizenship Law explicitly states that those who prior to its enactment were already citizens would retain their citizenship rights. But the law – and the way it was implemented – significantly narrowed the prospects of citizenship for the Muslims in Rakhine. In 1989, a citizenship inspection process was carried out across Myanmar, and those found to meet the new requirements had their National Registration Cards (NRCs) replaced with new “Citizenship Scrutiny Cards” (CSCs). The majority of Muslims in Rakhine with NRCs surrendered their documents, but were never issued with CSCs, rendering them *de facto* stateless.

From 1995, the authorities began issuing Temporary Residency Card (TRCs, or “white cards”) to Muslims in Rakhine State who did not have identity documents, as well as to returning refugees. In early 2015, the Government invalidated all TRCs, and the Constitutional Tribunal ruled that TRC-holders were ineligible to vote. In the democratic elections in November 2015, Muslims from Rakhine were neither allowed to participate as candidates, nor as voters – unlike in all previous elections since independence in 1948.

Through this process of gradual marginalization, Muslims in Rakhine have ended up in a particularly vulnerable position, almost entirely deprived of political influence or representation and living under severe restrictions which affect basic rights and many aspects of their daily lives. While some of these restrictions are based on legislation, others derive from local orders and regulations, often issued by local security officials. Some 120,000 members of the community – including some who hold valid citizenship documents – remain confined to IDP camps.

The 1982 law and the accompanying 1983 procedures define a hierarchy of different categories of citizenship, where the most important distinction is that between “citizens” or “citizens by birth” on the one side, and “naturalised citizens” on the other. “Citizenship by birth” is limited to members of “national ethnic races”, defined as the Kachin, Kayah, Karen, Chin, Burman, Mon, Rakhine and Shan and ethnic groups which have been permanently settled in the territory of what is now Myanmar since before 1823⁹ (in 1990, an official list of 135 “ethnic races” was made public).

For both categories, the transmission of citizenship to a child depends on the status of both parents. However, while the child of a “citizen” automatically qualifies for “citizenship” unless the other parent is a foreigner, the child of a “naturalised citizen” only acquires “citizenship” if the other parent is

9 1982 *Citizenship Law*, Section 3.

a “citizen”, or if this parent is the child of two “naturalised citizens”. In all other circumstances, the child of a “naturalised citizen” will have to apply for “naturalised citizenship”, for which the applicant needs to fulfil the following criteria: being over the age of 18; being able to speak one of the national languages well; being of good character; and being of sound mind.¹⁰ However, children's names may be added to a parent’s naturalized citizenship certificate when the child’s birth is registered. Even with this possibility, the distinction remains that eligibility for “naturalized citizenship” is not automatic. Moreover, “naturalized citizenship” may be revoked more easily than “citizenship”, for instance for committing offences involving “moral turpitude” (such as theft, adultery, rape or drugs offences).¹¹

Although Myanmar is not the only country that has different categories of citizenship, in other countries more than one category is only allowed for very specific circumstances. Having just one citizenship category is generally preferable. It meets the important objective of equal rights for all citizens.

Unlike previous citizenship legislation, the law of 1982 provides limited possibilities of acquiring citizenship based on residence. Individuals who do not have at least one citizen parent can only acquire citizenship if they or their ancestors entered the country prior to 1948, or they were legal residents in Myanmar and married to a citizen before the law came into force.

Recommendations:

17. While recognizing that the 1982 law is the current basis for citizenship, the Commission recommends the Government set in motion a process to review the law. As part of such a review, the Government might wish to consider the following:
 - Aligning the law with international standards and treaties to which Myanmar is a State Party, including Articles 7 and 8 of the Convention on the Rights of the Child;
 - Bringing the legislation into line with best practices, including the abolition of distinctions between different types of citizens;
 - That as a general rule, individuals will not lose their citizenship or have it revoked where this will leave them stateless;

¹⁰ 1982 Citizenship Law, Section 44.

¹¹ The full list of such offences is given in *Procedures on Naturalised Citizenship*, para.32 (A)(vi).

- Enabling individuals who have lost their citizenship or had their citizenship revoked to reacquire it, if failing to do so would leave them stateless;
- Finding a provision for individuals who reside permanently in Myanmar for the possibility of acquiring citizenship by naturalisation, particularly if they are stateless;
- Re-examining the current linkage between citizenship and ethnicity;
- Within a reasonable timeline, the Government should present a plan for the start of the process to review the citizenship law. The Government should also propose interim measures to ensure that – until new or amended legislation is in place – existing legislation is interpreted and applied in a manner that is non-discriminatory, in line with international obligations and standards and based on an assessment of how today's needs have changed compared to the conditions prevailing in 1982. The law should be reviewed to ensure the equitable treatment of all citizens.

FREEDOM OF MOVEMENT

Both Muslims and Rakhines face restrictions on movement. While 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 restrictions, ad hoc decisions by local officials, and exorbitant travel costs due to corrupt practices by government officials. Moreover, both communities face self-imposed restrictions emanating from the fear of neighbouring communities, limiting access to farmland, fishing areas and markets. While formal restrictions – such as legal orders – are more prevalent in northern Rakhine, informal and social restrictions constitute the main barrier to movement in the central and southern part of the state.

Freedom of movement is one of the most important issues hindering progress towards inter-communal harmony, economic growth and human development in Rakhine State. Movement restrictions have a wide range of detrimental effects, including reduced access to education, health and services, strengthened communal segregation, and reduced economic interaction. The Government's rationale for maintaining the status quo is largely related to fears of destabilization, especially as the Rakhine community is expected to protest greater movement of Muslims within the state. Yet, if carefully done, easing restrictions on freedom of movement could have far-reaching positive social and economic benefits.

The Commission welcomes recent government efforts to increase freedom of movement in northern Rakhine State. However, as the changes only affect those who already hold identification documentation, the impact was very limited. To have greater impact, freedom of movement should be delinked from the citizenship verification process, meaning that all individuals in Rakhine State should be able to move freely irrespective of whether they hold an NVC card, NRC card or citizenship documentation, consistent with the basic right of all people to free movement.

When removing restrictions on freedom of movement, the security concerns of both communities need to be proactively addressed. There is already precedent for police officers facilitating movement for Muslims, but currently only in a limited set of circumstances (for instance when Muslims need to appear before the court as a witness, or need medical care in a Rakhine-dominated area). This approach needs to be widened significantly and current corrupt practices – such as the payment of informal fees to the police – must be combatted vigorously.

Recommendations:

18. In general, the Government should ensure freedom of movement for all people in Rakhine State, irrespective of religion, ethnicity, or citizenship status. The freedom of movement and access to services are deeply interlinked, and therefore should be addressed in parallel. All communities should have access to education, health, livelihood opportunities and basic services.
19. The Commission reiterates that the Government should conduct a mapping exercise to identify all existing restrictions on movement in Rakhine, as recommended in the interim report. The mapping should include all formal, informal and social restrictions affecting all communities, and be conducted at the village and township level. Following the mapping, the Government should establish a road map for the lifting of restrictions – with clear timelines and milestones. The various steps of this process should be accompanied by well-developed and conflict-sensitive communications strategies to prepare all communities prior to initiation.
20. The Government should introduce measures to prohibit informal restrictions that include, among others, unofficial payments, arbitrary roadblocks, and requirements for the Muslim community to pay for security escorts. Perpetrators should be prosecuted in accordance with the law.
21. Pending the eventual lifting of all above-mentioned movement restrictions, the Government should immediately simplify the travel authorization system to allow movement across townships and outside the state.
22. The police should uphold the rule-of-law and ensure that anyone who obstructs movement – for instance by using violence or threats of violence as a means of preventing movement – is held accountable in accordance with the law.
23. To ensure equality before the law, the Government should undertake a mapping and legal review of all local regulations and orders in Rakhine State which restrict the rights and freedoms of minorities.

INTERNALLY DISPLACED PERSONS (IDPS)

Approximately 120,000 Muslims are confined to IDP camps throughout the state, a result of the violence in 2012 (a smaller number of Rakhines also became IDPs as a result of the violence). 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. In its interim report, the Commission encouraged the Government to develop a comprehensive strategy towards closing all IDP camps in Rakhine State – a strategy that should be developed through a consultation process with affected communities, contain clear timelines, and include plans for the provision of security and livelihood opportunities at the site of return/relocation.

In the interim report, the Commission also urged the Government to facilitate the return/relocation of three specific IDP communities. The Government is commended for acting swiftly on the recommendations. Yet, the outcome of the return/relocation process was mixed. While Rakhine IDPs from Ka Nyin Taw were successfully moved to an already identified relocation site, efforts to facilitate the return of Muslim households from Min That Phar village seem to have stalled, mainly due to resistance from Rakhine neighbours. Moreover, while the Commission recommended the return of displaced Kaman Muslim households in Ramree, the Government eventually facilitated their relocation to Yangon. Although the closure of the camp represents a positive step in itself, this process should not serve as a precedent for other camp closures in the future. Rather, it demonstrated the urgent need for a comprehensive strategy – as well as the need for a broad consultations process with affected communities.

In the meantime, living conditions in the camps remain poor, with overcrowded shelters and inadequate access to services and livelihood opportunities. When shelters were constructed in 2012, they were built to last 2-3 years, and many are now in urgent need of repair or replacement. While IDPs wait for the opportunity to return or relocate, the Government – assisted by international partners – must ensure adequate living conditions in the camps. For this purpose, greater investments are needed.

Recommendations:

24. The Commission reiterates that 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.

25. The Government should cooperate with international partners to ensure that return/relocation is carried out in accordance with international standards, including:
 - All returns or relocations must be voluntary, safe and take place in a dignified manner.
 - The aim should be to facilitate returns to places of origin as a matter of priority, or otherwise respect the choices of the displaced.
 - Ensure that IDPs participate actively in the planning and management of their return, relocation, or local integration.
 - Relocation/local integration should not confine IDPs to sub-standard areas without adequate access to basic services or livelihood – or to areas where the safety and security of the IDPs cannot be ensured.
 - The choice to relocate must not be regarded as a renunciation of the right to return in safety and with dignity to the original place of residence, should that choice become feasible later.
 - IDPs and host communities must be consulted in a thorough and meaningful manner.

26. In the interim – and without affecting the closure of the IDP camps – the Government should ensure dignified living conditions in camps, including:
 - Improved shelter: Address current overcrowding by building additional/larger longhouses or individual houses in line with international humanitarian standards. When additional land is needed, host communities should be adequately compensated for the use of their land.
 - Improved water and sanitation: Update infrastructure for water, sanitation and hygiene (WASH), particularly for solid waste management.
 - Improved education: Recognise Temporary Learning Spaces (TLS) as formal schools, work with international partners to

increase the number of TLS, and support and invest in teacher training, salaries, and teaching learning material.

- Improved livelihoods: Improve job opportunities for both men and women – thus reducing reliance on international aid – through vocational training and income-generating activities in the camps, and facilitate work outside the camps.

HUMANITARIAN ACCESS

Following the attack on the Border Guard Police on 9 October 2016, parts of Maungdaw Township were largely out-of-bounds to humanitarian actors. With a limited number of exceptions, international staff members of the UN and INGOs were prohibited from entering the areas affected by the conflict, and aid organizations were unable to provide their usual range of services and assistance. In its interim recommendations, the Commission encouraged the Government of Myanmar to allow full and unimpeded humanitarian access to the areas in question, and ensure – assisted by international partners – the provision of adequate assistance to all communities in need.

Since then, humanitarian access in northern Rakhine State has improved considerably. However, aid organizations continue to face certain limitations which were introduced following the violence in October 2016. For instance, international staff are given access to the field on the formal condition that they are accompanied by officials (from line ministries or from the District Commissioner's Office). Moreover, some programmatic activities have not been permitted to resume – such as cash-based interventions for shelter. The current arrangement, where all field access is dependent upon weekly travel authorization from the District Commissioner, is a time-consuming process, which adds an element of uncertainty in planning activities and visits.

Recommendations:

27. The Government of Myanmar should ensure full and unimpeded humanitarian access – for both national and international staff – at all times and to all communities in Rakhine State.
28. The Government, assisted by international partners, should ensure that humanitarian assistance is provided in accordance with international protection principles, including do-no-harm, impartiality, non-discrimination, protection from physical and psychological harm, and recognition of rights and access to remedies.
29. Reconsider the requirement for government officials to accompany international staff to the field, and simplify and standardize the travel authorization process for aid organizations (for instance by issuing three-month multiple entry permits to humanitarian project sites).
30. International humanitarian actors should seek to work closely with the Government, and consult and inform the Government about on-going and planned activities in a timely manner.

MEDIA ACCESS

Since 9 October 2016, media access to the areas of conflict in northern Rakhine State has been highly restricted. In its interim report, the Commission encouraged the Government to allow full access for domestic and international media to all areas affected by the recent violence, but improvements since March 2017 have only been limited, especially for foreign journalists. With a few exceptions, foreign journalists have been prohibited from entering the area.

The Commission recognizes the sensitive nature of the conflict in northern Rakhine State, and the Government's instinct to counter what it perceives to be unfounded rumours and biased narratives. However, policies based on media restriction, which inhibits the flow of information, are counter-productive. More than anything, they undermine trust in the Government, and give the impression that Myanmar's authorities have something to hide. The Commission believes that full transparency is the most effective way to dispel false and inaccurate representations of the situation on the ground.

Recommendation:

31. The Commission reiterates that the Government of Myanmar should provide full and regular access for domestic and international media to all areas affected by recent violence – as well as all other areas of the state.
32. At the same time, the Government should increase and improve its public communication related to developments in Rakhine State.

EDUCATION

Rakhine State's education sector performs poorly compared to the national average. The adult illiteracy rate is approximately 50 percent higher than the national average,¹² and primary school enrolment and completion rates are among the lowest in the country. Educational shortcomings stem from many interrelated issues, including high levels of poverty, shortage of adequate school facilities (including infrastructure and teaching materials), and limited teacher training opportunities. Many families struggle to cover education-related costs, which results in a high drop-out rate.

Following the wave of inter-communal violence in 2012, the lack of security has dissuaded many government teachers from working in rural areas – especially in Muslim villages – thus reducing the number of educational staff in areas that were already poorly covered. Many communities have come to rely on non-governmental institutions that also teach the government curriculum, such as community-funded schools, monastic schools, and temporary learning spaces organized by NGOs. There are also parallel education structures entirely separate from the Government, such as madrasas and church schools.

The situation is particularly worrisome in northern Rakhine State, where the absence of government teachers – primarily a result of security concerns – has led to widespread reliance on unqualified volunteers. This is not only problematic because of the low quality of education, but also because it undermines efforts to ensure that Muslim children are educated in Myanmar language – a prerequisite for successful integration. As such, it may further alienate the Muslim population from the rest of the country, and cement the cultural, economic and political segregation of the community.

One particular concern – primarily for the Muslim population – is lack of access to higher education. The Commission welcomes the Government's recent decision to allow Muslims in Rakhine to follow university correspondence courses, and it calls upon the Government to find ways and means to also permit their physical presence at university in Rakhine State. Many Muslims find it extremely difficult to attend university in or outside of Rakhine State because of discriminatory practices and practical limitations on freedom of movement – especially security concerns – which must be clearly addressed by the Government to ensure access for Muslim students and safety of all students.

12 *Population and Housing Census of Myanmar 2014*, Provisional Results, Department of Population, Ministry of Immigration and Population, August 2014.

Recommendations:

33. The Union Government and the Rakhine State Government should ensure – and publicly state – that all communities in Rakhine have equal access to education, irrespective of religion, ethnicity, race, gender, or citizenship status. The Government should remove movement restrictions that reduce access to education, and reverse discriminatory practices that inhibit students without citizenship from higher education.
34. To give the education sector in Rakhine a major lift, the Government should develop a comprehensive plan for the strengthening of the state's education sector, focusing on equal access, improved quality of education, and upgrading of physical facilities and teaching material. International partners should be ready to support Myanmar in these efforts both technically and financially.
35. The Government should immediately expand primary education to the communities in northern Rakhine State, and intensify efforts to ensure that teachers assigned to Muslim villages resume their work, including by providing adequate security when necessary. The Government should ensure that all children in the state have access to education in Myanmar language.
36. The Government should assess and address the indirect costs of schooling, such as costs related to transportation, food, uniforms, teaching materials and other equipment, which reduce access to education for the poorest segments of all communities.
37. The Government should expand access to post-primary education for children from all communities (including IDPs), and – for instance – explore the possibility of increased IT-based solutions, as well as government-matched pupil bursary schemes.

HEALTH

Access to health services in Rakhine is low, both for the Rakhine and Muslim population. The World Health Organization (WHO) has recommended that the minimum number of health workers to maintain a functional health system is 22 health workers per 10,000 inhabitants. Currently, there are only 5 health workers per 10,000 people in Rakhine, compared to the national average of 16 per 10,000 people. Rakhine has a higher child mortality rate than the national average, and only 19 percent of women give birth in professional health facilities (compared with 37 percent nationally).¹³ The immunization coverage is among the lowest in the country, and there have been multiple outbreaks of vaccine-preventable diseases over the recent years, predominantly in the northern part of the state. In a 2016 state-wide study, 52 percent of the respondents reported that they do not have access to adequate health care.¹⁴

The nutritional status of children in Rakhine State is the worst in the country, with 38 percent of children stunted and 34 percent underweight.¹⁵ Widespread poverty, exacerbated by conflict, has resulted in protracted trends of both acute and chronic malnutrition across the state.

The provision of healthcare is not standardized throughout the state. The result is a patchwork of inconsistent services. In some locations, only primary health care access is available, while in other locations secondary health care is offered. The disparity in equipment, medication and supplies available at different health facilities serves to undermine the general quality of services, which has particularly detrimental effects on marginalized populations. As of today, only Sittwe General Hospital has a blood bank, while all other hospitals rely on stand-by donors. Although the referral pathway has improved over time, there are inconsistencies in the way that medical authorities apply established protocols, which contributes to inequitable access and services.

Because Rakhine has an acute shortage of qualified medical staff, many villages lack full-time access to a health worker. Many health workers are hesitant to spend time in Muslim villages and hard-to-reach areas, especially when not assisted with transportation costs and per diem. Some health workers also avoid such areas due to real or perceived security risks. Retaining medical personnel in the state is a major challenge. There are no medical universities, which means that staff must be recruited from other parts of

13 *Myanmar Demographic and Health Survey 2015-16*, Myanmar Ministry of Health and Sports, March 2017.

14 *Rakhine State Needs Assessment II*, Center for Diversity and National Harmony (CDNH), January 2017.

15 *Myanmar Demographic and Health Survey 2015-16*, Myanmar Ministry of Health and Sports, March 2017.

the country. Another challenge is the poor condition of existing medical infrastructure in most areas of the state.

While all communities suffer from inadequate medical services, access to health is particularly low within the Muslim community in the northern and central parts of the state. In some areas, Muslims face discriminative obstacles that prevent available lifesaving services from being accessed. Movement restrictions, but also language difficulties, inability to pay, limited availability of services in IDP camps, as well as the refusal of some health facilities to treat Muslim patients all prevent ready access to health facilities. While IDP camps only have limited capacity for primary care, basic emergency obstetric care, and basic emergency services, the bureaucratic procedures for referral to the Sittwe General Hospital are cumbersome and time-consuming.

Recommendations:

38. The Commission reiterates that 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. Health facilities should be labelled as “protected zones”, providing a safe environment for those seeking care.
39. The Government should ensure that each village in Rakhine – as a minimum – has access to a full-time community health volunteer who is recognized by the state’s health system, and have referral capacity to the nearest health centre or station hospital. These volunteers should be trained in childhood diseases, maternal and child healthcare and undernutrition, and be able to support the birth registration process. The Government should also recruit one auxiliary midwife per village, and train and hire health staff from each community to be represented in the township level health work force (and provide support for transportation costs and per diems) to expand rural health coverage.
40. The Government should ensure the availability of a standardized list of equipment for each level of medical care, including township hospitals, sub-station hospitals, rural health centres and sub-health centres. The pharmaceutical supply chain management should be standardized according to facility level, and the blood bank system should be expanded.

41. The Government should increase health capacity by recruiting volunteers – from outside state or country – to ensure appropriate ratio between population and health personnel.
42. The Commission commends the Government for moving forward with the plans to expand and refurbish the Sittwe General Hospital, in line with the Commission’s interim recommendations. The Commission urges the Government to redouble its efforts to overcome remaining administrative hurdles, and urgently move to the implementation phase of the project. It also urges international donors to provide technical and financial support in accordance with needs.
43. The Government should roll out a comprehensive state-wide program to combat malnutrition.
44. The Government of Myanmar should accelerate efforts to implement a comprehensive immunization outreach campaign to cover all populations, regardless of citizenship status, with specific attention to those areas which were under prolonged lock-down. International partners should assist such efforts by providing technical and financial support in accordance with needs.
45. The Government should establish a complaint mechanism to report incidences of corruption, informal payments, exploitation or discriminatory practices in the health sector, and hold perpetrators to account.
46. The Commission reiterates that the Government should expand primary health care services through increased number of mobile health clinics.

DRUGS

Drug trafficking through Rakhine – typically following the route from eastern Myanmar, via Maungdaw and Buthidaung, to Cox’s Bazar in Bangladesh – seems to have increased significantly in recent years. In 2016, enormous quantities of drugs (mainly methamphetamine, or “yaba”) were confiscated by Myanmar officials along the border with Bangladesh. During the Commission’s visits to Rakhine State, people from all communities expressed serious concern about the growing problem – which significantly increases their vulnerability. Poverty and poor social services may serve as important drivers encouraging people to engage in drugs-related crime, or to use drugs themselves.

Drugs production and trafficking have fuelled violent conflict in Myanmar for many years. Also in Rakhine, drug smuggling is reportedly funding the activities of non-state armed groups, such as the Arakan Army (AA) and the Arakan Rohingya Salvation Army (ARSA). Even government officials are accused of facilitating drug trade, which further contributes to the sense of lawlessness along the border with Bangladesh.

The challenges posed by the trafficking and consumption of illicit drugs in Rakhine State are growing and warrant urgent national attention. The Commission therefore encourages the ongoing policy discussions as well as the debate on changes to the 1993 law on drugs and psychotropic substances.

Recommendations:

47. The Government of Myanmar should adopt a holistic anti-drugs approach based on public health, community safety, human rights and development. As illegal activities tend to thrive in areas of conflict, the Government should strive towards the social, economic and political inclusion of the Muslim community in northern Rakhine State. As such, the Government should seek to increase access to public services, and increase livelihood opportunities by removing restrictions on movement.
48. The Government should strengthen health and harm reduction services for drug users, and ensure that the use of such services is voluntary.
49. The Government should intensify its efforts to combat corruption within the security agencies operating along the Myanmar-Bangladeshi border.
50. In its law enforcement efforts, the Government should not only focus on users or low-level dealers, but rather concentrate its efforts on identifying and prosecuting major producers and drug barons.

COMMUNAL PARTICIPATION AND REPRESENTATION

Local communities from all ethnic groups in Rakhine State face barriers to participation in public life, and suffer from lack of political representation. As such, local communities are generally unable to influence political processes affecting their lives, and have few meaningful mechanisms to voice their grievances. Most fundamentally, these challenges derive from Myanmar's current political system, including the relationship between the central government and the states, as defined by the 2008 Constitution. The majority of key policy sectors fall under the jurisdiction of the Union level, and – as in other states and regions – the Rakhine State Parliament has minimal influence over the formulation or implementation of key policies, such as the management of natural resources.¹⁶ The Rakhine State Government is primarily tasked to implement policies decided by Naypyitaw.

The parliamentary elections in 2015 resulted in a state-level victory for the Arakan National Party (ANP), winning the majority of contested seats in the Rakhine parliament. Yet, the nomination of the state's chief minister remains the prerogative of the central government. The decision to appoint a chief minister who was not from the largest party in the state alienated parts of the ethnic Rakhine population, and reinforced deep-rooted sentiments of exclusion.

Under the 2008 constitution, the army controls a number of key ministerial posts, as well as the General Administration Department (GAD), responsible for executing the core functions of subnational administration. Much of the Government's daily work is carried out by civil servants and security agencies controlled by the three ministries directed by the Tatmadaw. Local officials typically receive only scant detail about the rationale behind a given policy, or about the plans for its implementation. This leaves them unable to answer questions from communities, and unable to effectively respond to complaints that arise.

While the military-nominated ministers function as part of the central government under the overall authority of the Union president, the civilian and military chains of command are separate. This ambiguity of authority makes it difficult to develop and implement holistic approaches that are needed to resolve the complex, multi-layered problems that face Rakhine State.

Civil society in the Rakhine community is young, and only a handful of CSOs in the state have dedicated staff, permanent office premises, sustainable funding and ongoing activities. Access to international funding is limited

¹⁶ *Constitution of the Republic of the Union of Myanmar*, Schedule 1 and 2. The Republic of the Union of Myanmar, 2008.

given stringent donor compliance requirements, and available funding is often disbursed through small grant mechanisms, which organizations implement in a patchwork manner. The lack of training opportunities for CSO staff reduces their ability to develop issue-specific technical expertise, which in turn is vital for their advocacy efforts. Most CSOs have infrequent contact with the authorities, and often complain that meetings with the Government tend to take the form of a one-way lecture on issues that have already been decided upon. Some organizations also struggle to obtain registration from the Government, a process which remains cumbersome.

Obstacles to participation and representation are particularly far-reaching for Muslims in Rakhine. In 2015, a decision by the Constitutional Tribunal disenfranchised Temporary Residency Card (TRC)-holders, effectively barring the vast majority of Muslims in the state from voting in the 2015 general elections. Moreover, as political parties must be founded, chaired and registered by citizens – and all members running for political office must be citizens¹⁷ – Muslims in Rakhine have been left entirely without political representation, both at Union and State level.

As civil service posts are only open to citizens, Muslims in Rakhine cannot access positions within the state's bureaucracy. Although some Muslims have recently been reinstated as Village Tract Administrators in areas populated exclusively by Muslims (albeit without salary) – the number of Muslim civil servants is negligible. In northern Rakhine State, those who cooperate with the Government also face challenges from within their own community. Over the recent months, the Arakan Rohingya Salvation Army (ARSA) is said to have assassinated a number of Muslim leaders, reportedly aiming to further reduce the level of cooperation between the Government and the Muslim community.

There are no Muslim CSOs in Rakhine, and applications for registration have been rejected by the Government even when the applicant organization has been headed by Muslim citizens. In Muslim-dominated areas, security imperatives have allowed the Ministry of Home Affairs to set out curfew orders and other directives which have restricted freedom of assembly, association and movement, generally preventing all forms of civic engagement and collective action. The scope for meaningful public participation is even more limited in IDP camps, where daily affairs are managed by Camp Management Committees (CMCs), which typically are appointed directly by the General Administrative Department, and which are often perceived to be unrepresentative by the camp population.

17 *Political Parties Registration Law*, Union Election Commission, the Republic of the Union of Myanmar, 2010.

Even the Kaman – despite being recognized as one of Myanmar’s 135 indigenous peoples – have been unable to register civil society organizations in Rakhine State, and the community finds it difficult to access many civil service posts and higher education. Other ethnic and religious groups – Chin, Daing-Net, Mro, Mramagyi, Khamwee, Thet and Hindus – also remain marginalized, and are underrepresented in the civil service. One mechanism which in theory could address such inequities is the post of Ethnic Affairs Minister, which may be elected by the members of any recognized ethnic group comprising more than 0.1 percent of the population of the state. While several minorities in Rakhine are above this threshold, only the Chin community has a designated minister.

Finally, women’s political representation and civic participation remains weak across all communities. No female parliamentarians were elected to the Rakhine State Parliament in 2015, and only three were elected from Rakhine State constituencies to the Union Parliament in Naypyitaw. There are currently no female administrators (i.e. Village Tract, Township or District Administrators) in the state, though women do sometimes hold more junior civil service positions. Some women-focused civil society groups – including the Rakhine Women’s Union and the Rakhine Women’s Network – have sought to address gaps in women’s empowerment, and increasingly managed to nurture a public discourse on women rights. However, while demonstrating some degree of influence, for instance to intervene on behalf of victims in high-profile rape cases, these organizations seem to have little impact on policymaking.

Recommendations:

51. In general, the Government of Myanmar should take steps to promote communal representation and participation for underrepresented groups, including ethnic minority groups, stateless and displaced communities, and women; increase government engagement with the public and build trust between the Government and communities at the local level; and improve civil society participation in policy design and implementation.
52. The Rakhine State Government and General Administration Department should increase access to civil service positions for individuals from ethnic and religious minorities in the state, with particular effort to incorporate women from those groups. The Commission also reiterates that the composition of the police force should reflect the population in all components, including women and minorities.

53. The Government should facilitate the registration process for civil society organizations from all ethnic and religious groups. The process should be simplified, entailing a reduced amount of required documentation and lowered application fees.
54. The Government should mandate regular (for instance quarterly) township-level civil society dialogue meetings, to be independently organized by civil society actors, and attended by representatives from local administration, relevant line ministries, and members of the State Parliament. These meetings should seek to gather detailed feedback from communities and civil society on the design of policies currently being considered at state level.
55. The Rakhine State Government should establish a mechanism which would serve as the focal point for information dissemination and feedback on government performance, and gather community and civil society feedback on policies under consideration. Such feedback should be conveyed to the Union Government along with recommendations for adaptations based on community input.
56. The Rakhine State Government and General Administration Department in Rakhine State should ensure that all 10- and 100-household leaders, Village Administrators and Village Tract Administrators are directly elected by the residents of each village/ village tract.
57. As for IDPs, in February 2017, international agencies in Rakhine submitted to the Rakhine State Government a revised Terms of Reference and Code of Conduct for the CMCs. The provisions seek to increase the representativeness of the CMCs and to curtail corruption. The Commission urges the Government to implement the plan.
58. In line with Myanmar law, the Government should consider establishing the post of Ethnic Affairs Minister for all ethnic minorities in Rakhine with more than 0.1 percent of the population.
59. A Women's Affairs Department should be established within the Rakhine State Government, responsible for coordinating women's empowerment initiatives, and providing technical support to line ministries and GAD offices on adapting implementation approaches to suit the needs of women and girls.

INTER-COMMUNAL COHESION

As witnessed by the Commission during its visits to Rakhine, many local communities are fearful. Both Rakhine and Muslim communities are anxious about the possibility of renewed inter-communal violence, and mutual distrust runs deep. While such sentiments can be found in all parts of the state, they are particularly prevalent in the north and the centre.

Inter-communal tension does not represent something inherently new to Rakhine. Since colonial times, cooperation and cohabitation have intermittently been disrupted by tension and rivalry. Yet, the waves of violence in 2012 represented a watershed. The upheaval, which affected all townships of the state – albeit with varying intensity – disrupted social and economic ties which were built up over decades. And although relations may have somewhat improved during the following years, positive developments were partially or fully cancelled out by the recent escalation of violence in northern Rakhine State in October 2016.

The events in 2012 represented a comprehensive disentanglement of the two communities. Muslims (including Kamans) were largely pushed out of the main cities of the state – including Sittwe, Kyawkpuyh, Myebon, Kyawktaw and Mrauk U – and more than 130,000 were confined to IDP camps (where around 120,000 remain). Moreover, restrictions on freedom of movement for Muslims outside the camps were intensified, reducing the scope of inter-communal interaction. The Government has actively supported this drive towards segregation, arguing that stability and security can only be achieved through the separation of the communities.

Yet, the picture is not all bleak. In some areas, local Rakhine and Muslim leaders have successfully managed to overcome the prevailing atmosphere of distrust, and found ways to live peacefully together. Often, they have done so despite agitation from hardliners within both communities, and with the risk of reprisals. It should also be noted that the recent violence in northern Rakhine State did not spread to other parts of Rakhine, unlike events in 2012. This should serve to inspire the Government, civil society and local communities to intensify their efforts to build bridges between the communities.

Some Township Administrators have already taken the initiative to facilitate interaction and engagement between Buddhist and Muslim communities. Such efforts have helped alleviate concerns surrounding interreligious events and issues, and have strengthened trust in the ability of the authorities to manage communal tensions. Nonetheless, these local efforts are only the beginning of a long journey towards conflict transformation. Many of the

initial dialogue efforts have not been sustained, and the objectives of the dialogues have not always been made clear to participants.

Finally, inter-communal tension in Rakhine should also be seen in the context of increased Buddhist-Muslim tension across the country. Over the past few years, several violent attacks have been carried out against minorities. Hate speech has too often remained unchecked and should be stopped. The Commission recognizes that the Government, for instance through the Ministry of Social Welfare, has taken several important steps to combat hate speech and xenophobia. Yet, more needs to be done. If Buddhist-Muslim tension is allowed to increase across Myanmar, this will serve to further undermine the potential for reconciliation in Rakhine.

Recommendations:

60. The Government of Myanmar should ensure that inter-communal dialogue is held at all levels of society – including township, state and union levels – and conducted in a systematic manner with a clearly stated purpose. The dialogue process should ensure grassroots participation, and include women, youth, minorities and civil society. Dialogue within communities should also be facilitated.
61. The Government of Myanmar should empower local Township Administrators in Rakhine to play a key role in facilitating dialogue by including this within the scope of their terms of reference, and by providing training on dialogue and mediation techniques. Rakhine and Muslim community leaders should also be provided with training in mediation and be exposed to lessons and best practices.
62. To support the reconciliation process, the Government should initiate activities that help create an environment conducive for dialogue. These may include:
 - Providing opportunities for Muslims and Rakhine to engage informally through joint activities, such as vocational training, infrastructure projects, or cultural events.
 - Fostering tolerance through cultural mediums, civic education, and awareness-raising activities to dispel misinformation about religion.
 - Establishing joint youth centres in areas accessible to both communities, which should promote joint activities such as sports, music, and arts.

63. The Government should actively combat all forms of hate speech, in particular when directed at ethnic or religious minorities. The Government is the guarantor of civic peace and should ensure that Myanmar has a robust legal framework to this end, and forcefully prosecute those who incite ethnic or religious hatred.
64. Religious leaders – Buddhist, Muslim, Christian and others – should actively support the Government’s agenda to combat hate speech and racial/religious discrimination. When acts of violence are committed by members of one ethnic/religious group, their religious leaders should promptly and publicly denounce such actions.

THE SECURITY SECTOR

Rakhine represents a complex environment for Myanmar's security forces. First, the state is marked by protracted inter-communal tension, which – as seen in 2012 – has the potential to develop into large-scale violent confrontations between the two communities. Second, anti-government sentiments have led elements within both communities to take up armed struggle against the Government. As such, Myanmar's security forces face challenges from both Rakhine and Muslim non-state armed groups, such as the Arakan Army (AA) and the Arakan Rohingya Salvation Army (ARSA).

Tension has risen after the attack on the Border Guard Police (BGP) in October 2016, which was followed by an extensive military and police operation. Alleged human rights violations carried out by the security forces have further strained relations between the authorities and the Muslim community, especially in the north. A new, dangerous dimension has been added by the killings of Muslims seen as linked to the authorities – allegedly carried out by militant Muslims – which may serve to further fragment the Muslim community. Except for the relative scarcity of weaponry accessible to non-state armed groups, all the main ingredients for more violent conflict are currently present in Rakhine – fear across communities, widespread anger, and a sense of victimization. Moreover, the northern part of the state has become a major transit hub for drugs smuggling, aggravating the sense of lawlessness and insecurity along the border with Bangladesh.

Public trust in Myanmar's security forces unfortunately remains low across the state. Both within the Rakhine and Muslim community, the security forces are often accused of being corrupt, and of failing to provide adequate protection in case of violent upheavals, such as in 2012. In a survey, a significant number of respondents from all communities in Rakhine identified the “lack of law enforcement” as a major reason for the deteriorating security situation in the state (rising from 24 percent in 2015 to 41 percent in 2016).¹⁸

To earn the trust and respect of Rakhine's population – a prerequisite for effective security provision in the state – Myanmar's security forces need to maintain the highest professional standards. As such, all security personnel will need to defend and act in accordance with the principles of recent democratic reforms and the rule-of-law. Effective security also depends on a clear definition of the roles and responsibilities of each security agency, and robust oversight mechanisms. As of today, however, public understanding

18 *Rakhine State Needs Assessment*, Center for Diversity and National Harmony (CDNH), October 2015; *Rakhine State Needs Assessment II*, Center for Diversity and National Harmony (CDNH), January 2017.

of the existing system of command and control, including the delineation between different organizational mandates, remains weak. This reflects the complicated security infrastructure in Rakhine, with an excessive number of security agencies, which has created a number of problems on the ground.

First, the responsibility for internal security is shared by the military, the BGP, and the police, and patrols often combine personnel from different agencies. Second, the BGP does not operate exclusively along the border, but also in Rathedaung, which has no international border. Third, the immigration cadre under the BGP performs functions additional to those of the immigration officers under the Ministry of Labour, Immigration and Population, with significant extra requirements imposed on the population in its area of operation. Fourth, it remains unclear how the authorities set the strategy for the BGP and the Myanmar Police, and whether these policing agencies are operationally independent. Finally, there is no clear, transparent system for oversight of professional standards.

Recommendations:

65. The Commission welcomes the efforts already underway to extend training on human rights awareness to Myanmar security personnel as recommended in the Commission's interim recommendations. Such efforts should be intensified and become a permanent feature of the training of security personnel. Other kinds of training, including on protection of civilians and community policing should also be provided. International donors should support the Government by providing technical and financial assistance for this purpose.
66. The Government of Myanmar should take steps to improve the monitoring of the performance of security forces. One essential step is to ensure that all security personnel wear a visible name badge and identification number, which has become standard practice in modern policing around the world. Another step would be to install CCTV at all checkpoints in Rakhine to ensure that all security personnel respect the dignity of the members of the public, and do not abuse their power through extortion and/or violence. It will be essential to require all footage to be kept available for inspection.
67. To maintain the high standards expected of the security forces, the Government should establish a permanent mechanism for performance inspection. To harness the power of transparency, such a body should be constituted by a diverse group of experts (including from

outside the security forces), and report to the public.

68. The Government should establish a national complaint mechanism, through which individuals may seek redress in cases of abuse or neglect by security personnel. The body should be independent of the Government and report its findings publicly.
69. The Government should simplify the security infrastructure in Rakhine by creating a unified agency for all policing in the state, with a single chain of command reporting directly to the chief of Myanmar's Police Force. This could for instance be done by folding the BGP into the police. All police action, including arrest and detention, should be subject to clear operational procedures and robust scrutiny within a clear legal framework.
70. Security personnel assigned to Muslim majority areas in northern Rakhine State should be offered language training in order to reduce misunderstandings and improve relations with local communities. In the meantime, community liaison officers should be appointed to act as interpreters.
71. 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 human rights violations by the security forces during these operations. In light of such allegations, the Commission reiterates the recommendation in its interim report that the Government should ensure – based on independent and impartial investigation – that perpetrators of serious human rights violations are held accountable. The Commission noted the establishment of the Investigation Commission on the events in Maungdaw, and calls on the Government to release the full report as soon as possible.

ACCESS TO JUSTICE

All communities appear to believe that improvements in the rule-of-law are crucial for the state's positive development, and to prevent future inter-communal conflict. Yet, access to formal judicial mechanisms is limited, and public trust in the judiciary is low within all communities. During its consultation process, the Commission received numerous complaints about the Government's inability to enforce the law, and the prevalence of corrupt practices within the state's justice system. Abuse of authority seems to be pervasive, and local communities – both Rakhine and Muslim – are frequently faced by arbitrary conduct by officials. Such complaints seem to be particularly frequent in areas controlled by the BGP.

To mitigate the lack of a fair and well-functioning judiciary, the overwhelming majority of disputes are currently handled through local and informal mechanisms – typically involving community leaders, local administrators and religious leaders. In IDP camps, dispute resolution often involves representatives of the Camp Management Committees, which themselves are frequently accused of corruption. Within all communities, public understanding of the law is negligible because successive governments have generally failed to educate local communities about their rights. While most government officials seem to want to increase legal awareness, there are many obstacles – including a lack of capacity and funding.

Recommendations:

72. The Government of Myanmar should provide adequate training to members of Rakhine's judiciary, including on: Rule-of-law principles; fair trial and due process; accountability and transparency; mediation principles; gender sensitivity and gender equality; and international standards related to the judiciary.
73. The Government should facilitate the establishment of a rule-of-law centre in Sittwe, and provide its staff with full and unimpeded access to all parts of the state. This centre should provide training to members of the judiciary (see above), and carry out legal awareness campaigns to increase public understanding of the law.
74. The Government should make the following public:
 - Information on how administrative decisions are made, and which government agency is responsible.

- Overview of existing internal oversight mechanisms, and how the public may formally file complaints about abuse of authority.
 - Information on all relevant fees and processing time for government services.
75. Local authorities, members of the judiciary, and other bodies having a judicial role that are accused of bias or corruption, should incur disciplinary measures if found culpable.

CULTURAL DEVELOPMENT

Rakhine is home to a variety of sites of great historical, religious and cultural value. Among these, the temples of Mrauk U – widely considered the greatest manifestation of Rakhine’s rich history and culture – have been on UNESCO’s “tentative list” for becoming a world heritage site since 1996. In its interim report, the Commission encouraged the Government of Myanmar to declare Mrauk U as a candidate for such status, and take the necessary steps to ensure the site’s eligibility. Since then, the Government has engaged positively with UNESCO and other international partners to move the process forward.

Recommendations:

76. The Government of Myanmar should continue its collaboration with UNESCO and other international partners to ensure Mrauk U’s eligibility as a world heritage site.
77. The Government should list and protect historic, religious and cultural sites of all communities in Rakhine. This includes sites such as U Ye Kyaw Thu Monastery, St. Mark Anglican Church, Sri Moha Dev Bari Hindu Temple, the Badar Makkar Sufi Shrine and other cultural landmarks.

BORDER ISSUES AND THE BILATERAL RELATIONSHIP WITH BANGLADESH

Addressing the challenges in Rakhine State requires a strong bilateral relationship between Myanmar and Bangladesh. Events in one country have a profound effect on the other, as demonstrated by the thousands of Muslims from northern Rakhine State who sought refuge in Bangladesh after the violence in late 2016. There are profound developmental and humanitarian needs on both sides of the border, but also opportunities for cooperation that would benefit both countries.

The last year has seen some efforts to strengthen bilateral engagement. In September 2016, State Counsellor Aung San Suu Kyi and Bangladesh Prime Minister Sheikh Hasina met at the UN General Assembly in New York. In June 2016, the Bangladesh Prime Minister sent her Foreign Secretary Shahidul Haque as her Envoy to meet with Aung San Suu Kyi in Naypyitaw. In January 2017, the Myanmar Minister of State for Foreign Affairs U Kyaw Tin visited Dacca, and in July 2017, Myanmar's National Security Advisor U Thaung Tun also visited Bangladesh.

There is significant scope to strengthen the relationship through more regular, structured and substantive bilateral exchanges. The span of issues that both countries can cooperate on is wide: Infrastructure projects, trade promotion, the management of illegal migration, documentation of refugees and IDPs, voluntary return of refugees, preventing human trafficking and drug smuggling, climate change, and security cooperation to combat violent extremism. Existing offers from Bangladesh to work together with Myanmar on these issues should be taken up urgently.

Myanmar and Bangladesh have different narratives on the challenges along their shared border. Despite the large numbers who have fled from Myanmar to Bangladesh, the popular perception in Myanmar is that the problem is illegal immigration into Myanmar. There are also different historical narratives about the origin of communities and their population growth. These differences can only be narrowed by dialogue that promotes better mutual understanding, both at the level of the country's leaders and people-to-people ties.

Both countries have a clear mutual interest in cooperation. There are economic opportunities from increased trade. The flow of drugs needs to be stemmed. And, most crucially, joint action is required on security management of the border.

Recommendations:

78. The Commission welcomes the expressed intention of the Myanmar Government to establish a Joint Commission with Bangladesh, as recommended in the Commission's interim report, to discuss bilateral relations, challenges, and opportunities of mutual interest. The Joint Commission – which should meet at least every quarter – should address issues such trade promotion, infrastructure, people-to-people contact, the management of illegal migration, documentation of refugees and IDPs, voluntary return of refugees, combatting human trafficking and drug smuggling, and security cooperation to combat violent extremism.
79. The Governments of Myanmar and Bangladesh should facilitate the voluntary return of refugees from Bangladesh to Myanmar through joint verification, in accordance with international standards and with assistance from international partners.
80. 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.
81. Cooperation on security and border management requires urgent attention, particularly in light of the October 2016 attacks in Maungdaw. The Commission notes that substantial progress has been made since the interim report on security cooperation and border issues, including a clear willingness to finalise the three MoU's which will formalize a deepening of Myanmar-Bangladeshi security cooperation. The Commission is of the opinion that this effort should be continued and intensified, and the implementation of the MoU's started as soon as possible.
82. The Commission takes note of the work of the Joint Trade Commission and encourages both governments to rapidly increase their bilateral trade. The Governments of Myanmar and Bangladesh could actively encourage more exchanges between civil society, think tanks, academics and the private sector to promote mutual understanding and cooperation.

REGIONAL RELATIONS

The challenges in Rakhine State have traditionally been treated by Myanmar as a domestic issue. However, Myanmar's neighbouring countries have a close interest, given that many of them are hosting large numbers of people from Rakhine State. Irregular migration from Myanmar (as well as Bangladesh) has a destabilising effect in the region, and it is imperative to find regional solutions to complement Myanmar's domestic efforts. There are some recent positive examples of regional cooperation, most notably the ASEAN Foreign Ministers retreat initiated by Myanmar in December 2016. This initiative should be pursued by the Myanmar Government so that its policies and plans on Rakhine are better understood among ASEAN members.

Recommendations:

83. The Commission reiterates its recommendation that the Government of Myanmar 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.
84. The Government should recognize the interest of neighbouring countries in the situation in Rakhine State, and allow for full and frank discussion of the topic in regional fora.

IMPLEMENTATION OF THE COMMISSION'S RECOMMENDATIONS

A number of efforts have been made by the Myanmar Government to develop strategies, plans, and coordination mechanisms to address the unique needs in Rakhine State. The previous Government expended significant time and effort to develop the Rakhine State Action Plan. In May 2016, State Counsellor Daw Aung San Suu Kyi established the Central Committee on Implementation of Peace and Development in Rakhine State, under which four working committees operate.

When implementing the recommendations of the Rakhine Advisory Commission, it is important to reflect on the lessons learnt from the previous efforts at implanting policy changes in Rakhine State. Both the current Government and its predecessor relied on cross-ministerial committees as the primary means of coordinating and implementing policy. Yet, the challenge in Rakhine is so great that it may require a designated individual with the rank of minister to focus solely on the situation in Rakhine State. The disconnect between decisions taken at the Union level and their implementation by local officials suggests the need for a permanently staffed secretariat – for instance attached to the Central Committee on Implementation of Peace and Development in Rakhine State.

Consultation is also critical, particularly with representatives of the two major communities in Rakhine State. This has been done to a degree but would benefit from greater structure, planning, and consistency. Without community support, there will continue to be serious obstacles to the implementation of the Commission's recommendations.

Some international actors should also strive to better understand the sensitivities and constraints in Rakhine State. The Government, on its part, should seek to engage and broaden the range of its cooperation partners – including local NGOs, international organizations, and bilateral Governments.

Recommendations:

85. A ministerial level appointment should be made with the sole function of coordinating policy on Rakhine State and ensuring the effective implementation of the Rakhine Advisory Commission's recommendations. This should initially be a one-year appointment and the appointee should deliver public quarterly reports.
86. This one-year minister-level appointee should be supported by a

permanent and well-staffed secretariat, which will be an integral part of the Central Committee on Implementation of Peace and Development in Rakhine State and support its work. The secretariat should contain secondees from the civilian and military branches of the Government, as well as individuals who reflect the diversity of the social fabric of Rakhine State.

87. The secretariat's staff should be in permanent consultation with groups in Rakhine State in the implementation of its work.
88. The secretariat should also manage the coordination of technical and financial support for the implementation of the Commission's recommendations.



ADVISORY COMMISSION ON
RAKHINE STATE