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**Internal Report on the findings of OHCHR's rapid response
deployment in support of the humanitarian response in
Rakhine State, Myanmar:
Human rights issues**

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Map of Myanmar



Map No. 4168 Rev. 3 UNITED NATIONS, June 2012

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I. Executive Summary¹

In support of the humanitarian response in Myanmar's Rakhine State following the June and October 2012 violence, the Office of the United Nations High Commissioner for Human Rights, at the request of the Resident Coordinator and in coordination with the main UN humanitarian agencies, deployed a team of three officers to Rakhine State from mid-February to early April 2013, in accordance with the terms of reference shared with the Government. The deployment focused on: supporting the humanitarian response; advising the UN Resident Coordinator, the UN Country and Humanitarian Teams and Protection Working Group on mainstreaming human rights into the humanitarian response; and monitoring and reporting on protection issues.

Long suppressed grievances and tensions between the Muslim and ethnic Rakhine communities have periodically surfaced. Successive Special Rapporteurs on human rights in Myanmar have documented a number of aspects of institutionalised, long-standing discrimination and racism against the Muslims in Rakhine State. During the conflict in 2012, according to Government figures, 167 people were killed, 223 were injured during the two periods of violence, and 10,100 private, public and religious buildings were burned or destroyed. A state of emergency was imposed. As of mid-April, the number of internally displaced persons (IDPs) may have reached around 140,000. The majority of those affected by the conflict belong to Muslim communities. Concerns have been raised about lack of humanitarian and human rights protection, and continuing abuses in particular against 'Rohingya' Muslims, most of whom do not have full citizenship.

On the basis of the findings of the deployment, it is clear that Rakhine State is facing a severe human rights crisis. The root causes of the 2012 violence remain to be addressed. Progress towards durable solutions for IDPs has been slow and weighted almost exclusively in favour of the Rakhine community. The Muslim population is segregated and confined to villages and IDP camps. Law enforcement and security officials have often deepened the crisis through their involvement in the violence and through broad spread and on-going violations since the violence, operating with impunity and supported by a judicial and administrative system that lacks independence and fairness.

OHCHR officers found that an ongoing blanket policy and practice of segregation and severe restrictions on freedom of movement of Muslims, confining them to camps and villages, have serious human rights and humanitarian implications. State security forces are imposing severe restrictions on freedom of movement, or, at times, are failing to provide protection to allow freedom of movement when Rakhine communities threaten the security of Muslims if they move out of their camps or villages. These restrictions immediately and negatively impact access to livelihoods, the right to food, water, health and education. Deaths caused by preventable illness due to lack of access to medical services were also

¹ Over [REDACTED] discussions and interviews were held in [REDACTED] locations in [REDACTED] with both Rakhines and Muslims, in communities and Internally Displaced Persons (IDPs) camps. Interlocutors were IDPs and those otherwise affected by the conflict, State officials, businessmen, school teachers, students, medical professionals, religious, political and community leaders, activists, representatives of humanitarian relief organizations, and UN partners. Focus group discussions were conducted with women.

reported. Restrictions have been imposed in a blanket and discriminatory manner, which authorities seek to justify on security grounds. They have not helped to reconcile, but instead have further divided communities, and potentially serve as a catalyst for further conflict.

In relation to the violence, reports related not only to killings, bodily harm, destruction of property and threats committed by private individuals or mobs, as had been widely reported, but also to serious violations by state security forces and other officials - disproving assertions that characterise the 2012 events as solely inter-communal violence. Officers received credible reports and documented ongoing, widespread and systematic human rights violations against the Rohingya Muslim community by state security forces, including the military, the border forces ██████████ and the police, during and after the main incidents in June and October. Violations include extrajudicial killings, rape and sexual violence, arbitrary detention and torture and ill-treatment in detention. While the 2012 violence affected both communities and both Muslim and Rakhine communities committed serious acts of violence, the Muslim population bore the brunt of the violence. Testimony was gathered implicating security, political and religious representatives in the planning and perpetration of the violence, and indicating that authorities and security forces failed to intervene to prevent violence carried out by private individuals. Testimony was gathered implicating security, political and religious representatives in the planning and perpetration of the violence, and indicating that authorities and security forces failed to intervene to prevent violence carried out by private individuals.

OHCHR officers received credible and consistent reports of 347 deaths, 292 were Muslims, 54 Rakhine and 1 Hindu, as a result of the 2012 violence, which is larger than the 167 deaths reported by the Government;. Following the June and October violence, consistent evidence indicated that security forces carried out large scale sweeps, mainly in northern Rakhine State, resulting in large numbers of arbitrary arrests of Muslim men and boys. OHCHR officers documented credible reports of arbitrary arrests of 425 Muslim men and one Muslim woman. Due process, including access to legal counsel, and fair trial rights for accused persons has reportedly been systematically denied. All men interviewed who had been detained reported torture and ill-treatment, such as prolonged beatings, stress positions, burning of beards, denial of food and verbal abuse. Credible accounts of at least 47 deaths in custody since June 2012 were received. Officers documented 100 credible allegations of rape by security forces during and after the conflict, as well as allegations that 15-20 women and girls had been abducted and were being kept in sexual slavery by a military regiment in Rakhine State. Elders who had reported a rape ██████████ were said to have been arrested, detained, beaten and forced to pay bribes for their release. Given that it was not possible to cover the entire territory of Rakhine state, the figures above are believed to only represent a proportion of allegations of human rights violations..

Interviews, including with family members, revealed in most cases that killings and other abuses had not been adequately investigated or the perpetrators held to account. The Rakhine Investigation Commission released its recommendations in English on 29 April and appears to have failed to address the role played by law enforcement and other state authorities during the violence, or issues of accountability of law enforcement authorities. Thus, there remains a need for the establishment of an independent investigation into the conflict, including investigation of the role played by state officials.

A humanitarian crisis is now looming in Rakhine State with the onset of the rainy season in May. Tens of thousands of Muslim IDPs both in registered and unregistered camps are currently living on flood prone land in inadequate shelters with unsanitary conditions. The rainy season brings with it a risk of serious increases in water borne diseases and resulting deaths. It could also lead to unrest and further crackdowns by law enforcement authorities. Planned expansion of ██████████ into Sittwe and other parts of the south of Rakhine are particularly concerning, given the level of abuses carried out by that force. The failure of state authorities to ensure the provision of essential services due to obstruction and threats by some local Rakhine communities against humanitarian workers attempting to access the Muslim camps and areas, can only worsen the crisis when the rains come, if not addressed.

All communities look to the Government for solutions to the current crisis and durable solutions for IDPs. However, communities report no obvious attempts to foster community cohesion and promote peaceful coexistence. Steps are being taken to provide more durable solutions, at least as far as housing is concerned, for the Rakhine community, but not yet for the Muslim communities. Plans for dealing with the crisis have been announced by the Central Committee for Peace and Development in Rakhine State established by the Union-level Government in March. It is yet to be seen whether this will assist in speeding up the responses needed for durable solutions and peace building. A key test will also be the ability and willingness to address the long-standing human rights concerns over impunity and discrimination.

The report recommends that the United Nations, including the Resident Coordinator, the UN Humanitarian Country Team, and senior UN political, humanitarian and development representatives, implement a coherent strategy to engage the Government of Myanmar through advocacy, technical cooperation, policy development, and programming with the aim that Government authorities at all relevant levels improve the human rights situation in Rakhine State. In particular, the UN needs to find a range of strategies to address issues of discrimination, statelessness, support to peace building, accountability for perpetrators of abuses and prevention of further abuses, rule of law and strengthening engagement with the international human rights system. It also needs to find ways to strengthen the humanitarian response, particularly in light of the approaching rainy season.

For the full recommendations, see section IV.

II. Background

1. Methodology

In support of the humanitarian response in Myanmar's Rakhine State following the June and October 2012 violence, the Office of the United Nations High Commissioner for Human Rights, at the request of the Resident Coordinator and in coordination with the main UN humanitarian agencies, deployed a team of human rights/protection officers to Rakhine State for an initial period of two months from mid-February to mid-April 2013. This deployment took place in accordance with the terms of reference shared with the

Government. The focus of the deployment was on: supporting the humanitarian response; advising the UN Resident Coordinator, the UN Country Team/Humanitarian Team as well as the Protection Working Group on mainstreaming human rights into the humanitarian response; and monitoring and reporting on protection issues in Rakhine State. This report has been prepared based on information gathered by OHCHR.

In order to achieve the objectives of the deployment, the officers undertook [REDACTED] to affected areas to monitor the situation on the ground during a six week period in Rakhine State. Officers visited [REDACTED]

[REDACTED] These consultations were held with both Rakhine and Muslim communities on the premise that a sustainable solution based on respect for the human rights of all communities requires the legitimate grievances, aspirations and desires of all communities to be heard and considered. For group discussions, a participatory approach factoring in gender and age representation was adopted. Due to cultural differences, Rakhine women frequently participated in group discussions with Rakhine communities, while Muslim women did not actively participate in discussions which included men. In order to ensure that the voices of Muslim women could be heard, exclusive female focus group discussions were organised in Maungdaw and Sittwe by two OHCHR female staff in private and secure locations.

Interviews were also conducted with State Government authorities [REDACTED] as well as high ranking officials [REDACTED]. Additionally, OHCHR officers also held discussions with religious leaders, activists, members of political parties, teachers, students, medical professionals, community leaders, and business people in order to solicit their opinions and views including on the causes of the conflict, the impact of the conflict on all communities as well as ways to foster peaceful coexistence. Numerous meetings and interviews were also held with members of the international community including the diplomatic corps, international organisations, I/NGOs and UN agencies.

Throughout this report, the terms 'Rakhine' and 'Muslim' are used to refer to the two main communities residing in Rakhine State. Rakhine refers to communities who follow Buddhism. The term 'Rohingya' is used when referring specifically to the group who self-

² Muslims of Rakhine State who identify themselves as an ethnic group, 'Rohingya', do not have citizenship rights or are stateless based on Myanmar's 1982 Citizenship Act. By law, full citizens are persons who belong to one of the enumerated 'national races' or those whose ancestors settled in the country before 1823.

³ A distinct group of Muslims, who are officially recognised as an ethnic group in Myanmar, are descendants of Muslims who arrived in what is now Myanmar in the 17th century.

identifies as 'Rohingya' and where the issues are relevant to only them and not to other Muslims in Rakhine State.

The identity of contacts, sources and the many people who provided information and recounted their experiences of violence, suffering and gross violations of human rights have been withheld in order to ensure the protection of victims and witnesses. Despite numerous measures taken to ensure the safety and security of all victims and witnesses was not compromised, concerns remain of possible reprisals against individuals who cooperated or provided information.



2. Context

The Republic of the Union of Myanmar has been undergoing a rapid reform process towards a democratic system since the elections in 2010. While there have been human rights gains, the transition remains fragile, including in Rakhine State, one of the least developed parts of Myanmar. It suffers from a number of chronic challenges including high population density, malnutrition, low income poverty, weak infrastructure and exposure to extreme weather events.⁴

Long suppressed grievances and tensions between the Muslim and ethnic Rakhine communities have periodically surfaced over the past decades. Successive Special Rapporteurs on the situation of human rights in Myanmar have documented a number of aspects of long-standing, institutionalised discrimination and racism against the Muslims in Rakhine State.

Many Muslims in Rakhine State self-identify as 'Rohingya' based on a distinct ethnic, religious and linguistic identity and history in Myanmar over generations. Estimates put the population of those who claim to be Rohingya at up to 800,000 people in Rakhine State. Most do not have full citizenship, and claims to citizenship have been rejected by the Government of Myanmar, including on the basis of the 1982 Citizenship Law. The violence in June and October 2012 between Buddhist and Muslim communities needs to be analysed in the context of these long-term issues of discrimination and intolerance in Rakhine State, fuelled by discriminatory laws, policies and practices.

According to the Revised Rakhine Response Plan, as of early November 2012, the number of people displaced in Rakhine State following the violence "has surpassed 115,000, of whom about 75,000 individuals have remained displaced since June and over 36,000 people were displaced following a resurgence of violence in late October 2012. Others continue living in tents close to their places of origin while their houses are being rebuilt, or with host families." According to [REDACTED]

[REDACTED] Figures provided by camp management in early April indicate the number of IDPs may have reached 140,000.⁵ According to the Government, 167 people were killed, and a further 223 were injured during the two periods of violence; and 10,100 private, public and religious buildings were burned or destroyed.

A state of emergency was imposed, but concerns have been raised about the impartiality and performance of security forces in protecting the Muslim minority, including allegations of military abuses. Special Adviser to the UN Secretary-General, Mr Vijay Nambiar, and the Special Rapporteur on Myanmar, Mr Tomás Ojea Quintana separately visited the region and called for an independent inquiry. The Government set up a commission to investigate the violence. There is criticism that the commission is not sufficiently representative, does not include any Rohingya Muslims as members, and is limited in its ability to impartially and fully investigate the events that unfolded in Rakhine State. The commission has postponed

⁴ Rakhine Community Crisis Needs Assessment Mission – 13-25 January 2013, Alexander Jones, Investment Center Division and U Hla Aung, National Consultant, FAO.

⁵ Inter-Agency Preparedness/Contingency Plan – Rakhine State, March 2013

the submission of its report several times; it announced that its final report was provided to the President on 22 April and held a press conference on 29 April at which the report was presented and English summaries of the report and its recommendations were distributed.

There are also misperceptions about the impartiality of UN assistance: many in the Buddhist community hold the view that assistance and development programmes have historically only benefited the Muslim population in Rakhine State and that current assistance continues to be one-sided and biased. These factors have consequently hindered humanitarian access to some areas, with some communities preventing the conduct of assessments and blocking the delivery of assistance. Some Rakhine communities have also impeded Muslims from accessing assistance and lifesaving services, and reportedly threatened, intimidated and harassed humanitarian workers, including UN national staff, who have also been subjected, in some cases, to detention of more than six months and trials based on groundless charges, which violate a number of other due process rights.

3. Legal Framework – National and International Law

OHCHR's monitoring, reporting and advocacy rests on the body of international human rights law that respects, protects, and promotes the rights of all individuals. These human rights obligations commit States to protect the rights of all persons, including those who are rendered 'stateless'.

Myanmar's Constitution of 2008 guarantees a range of civil and political rights (for example, it protects against unlawful detention and retrospective application of criminal laws] and also provides for economic, social and cultural rights. The Constitution, however, repeatedly refers to the rights and duties of 'citizens' and 'national races'. In a few articles the rights of 'any person' are referred to.⁶

Myanmar is State party to three core international human rights treaties: the Convention on the Rights of the Child, and its Optional Protocol on the Sale of Children; the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention on the Rights of Persons with Disabilities.⁷ In addition, Myanmar is bound by the Universal

⁶ Article 376, for example, states that "No person shall, except matters on precautionary measures taken for the security of the Union or prevalence of law and order, peace and tranquillity in accord with the law in the interest of the public, or the matters permitted according to an existing law, be held in custody for more than 24 hours without the remand of a competent magistrate." Article 364 of the Constitution is also worth mentioning given its significance to the situation in Rakhine State as well as more recently in central Myanmar: "[t]he abuse of religion for political purposes is forbidden. Moreover, any act which is intended or is likely to promote feelings of hatred, enmity or discord between racial or religious communities or sects is contrary to this Constitution."

⁷ Myanmar acceded to the CRC in July 1991, to CEDAW in July 1997 and to the CRPD in December 2011. Aside from these three conventions, Myanmar is party to the CRC Optional Protocol on the Sale of Children since December 2011, and to two protocols of the Convention on Transnational Organized Crime: Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime – both acceded to in March 2004.

Declaration of Human Rights, which forms part of customary international human rights law. This includes the prohibition against torture, freedom from slavery, the prohibition of arbitrary detention, the right to recognition everywhere as a person before the law, the right to life, right to freedom of thought, conscience and religion, the prohibition of advocacy of national, racial or religious hatred that constituted incitement to discrimination, hostility or violence.⁸ It also includes the fundamental principle of non-discrimination, according to which discrimination on the grounds of race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria is prohibited. When there is credible evidence of serious violations, international human rights law obliges the state to carry out prompt, impartial and thorough investigations.

Myanmar should also take into account the UN Guiding Principles on Displacement, the UN Principles on the use of Force and Firearms by Law Enforcement Officials and the UN Code of Conduct for Law Enforcement Officials.⁹

III. Main findings

4. Violence and Displacement, including killings and missing persons

OHCHR officers interviewed Rakhine and Muslim communities regarding their experiences of violence and displacement and heard numerous individual accounts that provided consistent reports, highlighting patterns of human rights violations. Both communities commonly described previously good relations prior to the outbreak of violence. They often lived in mixed or neighbouring communities in which they would interact in economic and social life. There was rarely one clear trigger for violence identified by either the Rakhine or Muslim communities. People frequently stated that they did not know the reason for violence, or spoke of wider social or political factors and grievances. Muslims stated that motivations for attacks against them could include: religious or ethnic hatred, nationalist Rakhine political movements and political factors, and attempts to remove Muslims from land and property. Rakhine communities described unprovoked attacks which were ascribed to factors including attempts by Muslims to take over land and property. Some made

⁸ See: Human Rights Committee, General Comment No. 29: States of Emergency [Article 4], 31/08/2001. CCPR/C/21/Rev.1/Add.11. The *UN Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live* also reiterates that fundamental human rights guarantees stipulated in international human rights covenants are guaranteed to non-citizens. Non-citizens have the right to: life and security of the person, including freedom from arbitrary arrest or detention, protection against arbitrary or unlawful interference with privacy, family, home or correspondence; equality before the courts, including the free assistance of an interpreter; the right to choose a spouse, to marry, and to found a family; freedom of thought, opinion, conscience and religion; the right to retain language, culture and tradition. Non-citizens must also be the rights to: leave the country; freedom of expression; peaceful assembly; own property individually or in association with others; liberty of movement and freedom to choose their place of residence within the borders of the country – so long as these rights do not interfere with national security, public safety, public order, public health or morals or the rights and freedoms of others. The 1954 Convention relating to the Status of Stateless Persons also reaffirms that with respect to the freedom of religion and access to courts – States must accord to stateless persons treatment comparable to that enjoyed by nationals.

⁹ The provisions of these documents reflect international human rights customary law and general principles of international law.

reference to wider Islamist movements or agendas while others spoke of incidents of abuse and rape of Rakhine women by Muslims which had caused anger in communities.

Both Rakhine and Muslim communities described their experiences in detail; accounts differed markedly regarding who had instigated and perpetrated violence. It was evident that frequently members of both communities had suffered violence, loss of property and deaths or serious injuries. Evidently groups from both communities participated in incidents of violence, either in acts of aggression or in self-defense. Many hundreds of properties, businesses and mosques were destroyed by fire. In some mixed residential areas, homes belonging to Muslims and Rakhine were destroyed, frequently deliberately, but in some cases due to proximity and the spreading of fires.

From 15 February to 31 March 2013, through visits to townships referred to above, credible reports were received of 347 deaths as a result of the violence that began in 2012. Of the 347 reported deaths, 54 are reportedly Rakhine, one Hindu and 292 Muslims (including Rohingya and Kaman). In several cases, lists of named victims were provided by the Muslim communities as well as some Rakhine communities.

Muslim communities commonly described unprovoked attacks by large, well-armed Rakhine groups and consistently stated their belief that attacks were organised in advance. ██████████ ██████████ claim leaflets were distributed among Rakhine, allegedly calling upon Rakhine to join action against Muslim communities or face social boycotts (no copies of such leaflets were obtained). Some noted that meetings were held, prior to the violence, including in monasteries. In some areas Muslims described an increase in abuse or beatings in the periods before the violence leading to fears of imminent attack. Some individuals stated that weapons had been stock-piled and indicated that Rakhine community members were armed with identical “swords” and had stocks of petrol bombs prepared. Consistent accounts from Sittwe and other areas highlighted that Rakhine from other areas were brought in to reinforce local communities prior to attacks.

Testimony gathered from Muslims from several townships, ██████████ ██████████ implicated senior public, security and political figures in the planning and perpetration of violence. Community leaders frequently described seeking help or protection from township-level authorities or security forces prior to or during the violence and noted a consistent failure of those authorities to act. In some cases, township authorities reportedly met with Muslim community leaders to reassure them of their security immediately prior to attacks taking place. In other cases¹⁰, Muslims were reportedly advised to leave their neighbourhoods by public and security officials who allegedly stated that they could not protect them. Some individuals asserted that Rakhine political and religious figures were present at attacks and seemed to have a leadership role. Monks were also alleged to have been actively involved in violence or in supporting violence in some incidents.

On occasions the police reportedly failed to protect Muslims or took an active role in the attacks. Through interviews and numerous witness reports, it was established that in many

¹⁰ including Pauktaw town

instances police personnel failed to take action to prevent attacks on Muslims; actively supported or engaged in attacks; prevented Muslims from extinguishing fires and/or assisted in setting fire to properties; held Muslims back while allowing Rakhine to move into their villages/areas; and fired their weapons at Muslims allegedly with the intent to injure or kill. Some senior police officers were also implicated in acts of violence.

In some cases the military did provide protection and assistance to Muslims. However, the military were also frequently said to have failed to provide adequate protection or to have stopped Muslims from fleeing an area. Some accounts, including [REDACTED] accused military personnel of having fired on Muslims causing death or serious injury. Reports of security forces firing on Muslims or allowing Rakhine to burn villages were also received [REDACTED] military were implicated in the destruction of the village in June 2012 as well as the alleged beating of Muslims over more than a month following the violence.

On 23 October 2012, Muslims [REDACTED] described a coordinated attack by over 20,000 Rakhine forcing them to flee to a hill outside the town where they remained through the night and next day while Muslim houses and five mosques were burned. In several areas it is considered likely that fighting took place and that property loss and injury were sustained by both Rakhine and Muslim communities.

OHCHR was not able to verify individual reports of killings, but based on consistent reports was able to identify clear patterns of abuse. Villagers from [REDACTED] provided lists and consistent estimates of numbers of people, including children, killed. In one particularly disturbing incident when Muslim villagers from [REDACTED] were fleeing in boats, they were reportedly attacked by Rakhine boats that overturned their vessels resulting in around 100 people forcibly entering the water. Survivors stated that Rakhine attacked those people in the water, killing all but three. In numerous interviews, Muslim communities reported deaths and serious injuries commonly inflicted by knives or "swords", spears, petrol bombs, catapults or gunfire. Rakhine communities also reported deaths or injuries during violent incidents including in [REDACTED]

[REDACTED] Thirty seven Kaman Muslims were reported to have been killed during violence mostly [REDACTED]

Some level of communal violence has continued outside of the peak periods of violence in June and October. Information was provided, for example, relating to the killing of four men who disappeared while fishing from [REDACTED] in September 2012. Following their failure to return home, police conducted a search and the men's bodies were found buried in mud with their hands tied and with knife wounds in a location near Rakhine villages. The bodies were taken [REDACTED] for medical examination before being released for burial. The family was allegedly informed that police were unable to identify the perpetrators and believe that no significant investigation was conducted. A number of similar cases of killing and people having gone missing were reported to OHCHR and continued to occur periodically in 2013. In most cases, according to families adequate investigations of reported deaths and alleged killings have not been conducted by state authorities.

5. Policy of Segregation and Denial of Freedom of Movement

A curfew was imposed in Rakhine State following the declaration of a state of emergency on 10 June 2012¹¹ which is still in place for the entire population. From June onwards, in many areas Muslim communities found that their freedom of movement was severely restricted, either by threats from Rakhine communities or by state security officials. An example can be found [REDACTED] where Muslims reported movement restrictions imposed on them by Rakhine following violent incidents in other Townships. From 10 June 2012, they were reportedly not able to access public spaces, the jetty and their fishing boats, hospitals and schools, and noted heightened levels of tensions, and experienced harassment as well as beatings. Following violence in October, the restrictions increased, with the Muslim community fenced into an IDP camp, guarded by armed state security forces.

Since June and October 2013, in most townships in Rakhine State, the situation for IDPs and conflict-affected communities is one of segregation and for the Muslim communities of containment.¹² Movement restrictions are discriminatively targeted towards the Muslim population, ostensibly for their own protection. In practice, however, these blanket restrictions have meant that Muslims are confined to an area, while the Rakhine population is free to move.

[REDACTED] are confined to one area outside of the town. In this area, some 80,000 IDPs live amongst local Muslim 'host communities'. Stress on the area, in terms of space, and access to pasture and paddy land for host communities was clearly visible. In areas where Muslims have remained in or close to their original locations, such as [REDACTED] and in townships such as [REDACTED] the Muslim community is also segregated and experiences severe restrictions on freedom of movement, impacting their rights to access education, healthcare, food and livelihoods.

In some areas [REDACTED] the restrictions on the Muslim communities are such that OHCHR officers assessed the locations as being akin to a ghetto or a detention camp. The policy of segregation has resulted in the denial of freedom of movement to Muslim communities who are in many situations unable to move beyond a short distance from their camps or villages or in extreme cases are totally confined.

Restrictions on movement are often enforced through the use of armed military or police based at the entrance of villages, such as [REDACTED] and communities reported soldiers stopping them from moving. In some areas villagers also reported fear of violence if they move outside their villages or certain specified areas.

¹¹ Fearing that unrest would spread beyond Rakhine State President Thein Sein announced a state of emergency on 10 June 2012. This enabled the transfer of civilian power to the army in affected areas of the State. All people are required to be home between the hours of 10pm and 4am.

¹² According to numerous discussions with both Muslim and Rakhine communities, a campaign was undertaken to promote and advocate for the separation of communities. Buddhist monks, for example, are alleged to have initiated a campaign of exclusion and called on the local Buddhist population to distance themselves from Muslims, including in the area of business and trade.

In some areas, such as [REDACTED] camp [REDACTED] in Minbya¹³ it is equally clear that the scope for restoration of relations is extremely limited and tensions are such that the safety of communities is at stake. In such situations, the Government needs to provide strengthened security to affected communities who chose to remain in these locations, or look at the possible voluntary relocation of affected communities following consultations with them and with their due consent. The situation as it currently stands, with severe restrictions on freedom of movement, represents a serious denial of basic human rights, including to security and liberty of the person.

Linked to the issue of freedom of movement, is the fact that in some instances, IDPs were prevented from seeking shelter and protection in places of their choice. [REDACTED] for example, fled to Sittwe for their safety and security following the burning of their villages. According to villagers, the Government had plans to send them to [REDACTED]. The IDPs refused to go there, feeling more secure in Sittwe, and consequently were not registered by the Government and thus, as at the time of writing, were not receiving food assistance.¹⁴ The denial of registration and consequent denial of food assistance appears to be a punishment for staying in a place of their choice. OHCHR also received information of IDPs being forcibly relocated to other areas, for example away from Sittwe to camps with inferior levels of services.

Discussions with Rakhine villagers, in various townships, including [REDACTED] including IDPs whose homes were burnt during the violence, revealed that the Rakhine population feel vulnerable and exposed and they also spoke of restrictions on their freedom of movement. This, however, was due to fear relating to their proximity to Muslim communities, not Government imposed restrictions.

Restrictions on freedom of movement for the Muslim population were cited as a major concern throughout Maungdaw in northern Rakhine – where movement restrictions were in place prior to the violence. The situation, however, is worse since the conflict and is compounded by widespread extortion by state forces. In addition to the previous requirement for travel authorisation to travel to another township, since June 2012, Muslims are required to obtain approval for any travel from their local village administrator

¹³ OHCHR staff visited [REDACTED]. The situation in the village was extremely tense, the village was previously a mixed Rakhine/Muslim village but since the violence a fence has been constructed separating the Muslim and Rakhine sides of the village. Police and army guard the area and control entry and exist into the Muslim side of the village. The Muslims are thus totally cut off and living in situation that can be described as a 'detention camp'. The restrictions on movement have consequently impacted access to essential and life-saving services as well as access to livelihoods. Similarly OHCHR undertook [REDACTED] movement restrictions are severe and township administrators /security forces have fixed a boundary around the camp beyond which IDPs cannot move and which thus encloses them in the immediate camp area preventing livelihood activities. The community is entirely reliant on external aid. Some medical NGOs were reported to have been prevented from providing healthcare in the camp by the local Rakhine community. Twenty nine people have allegedly died since the crisis due to lack of health care. The Special Rapporteur, following [REDACTED] stated that "it felt more like a prison than an IDP camps" – see: Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar, Tomás Ojea Quintana, 16 February 2013, Yangon International Airport, Myanmar.

¹⁴ Discussion with [REDACTED] who currently reside with host communities in [REDACTED] 28 February 2013.

– a fee of around 500 kyat is usually involved, and more payments are required for greater distances, including, as was consistently reported to OHCHR, bribes and extortion at the hands of state law enforcement authorities. No person is allowed to spend the night in another village without prior permission.

It is clear that the Government has employed a blanket policy of segregation and severe restrictions on freedom of movement for the Muslims of Rakhine State, citing security concerns and possible renewed violence as the main rationale. Visits to IDP camps, communities and villages throughout Rakhine State however clearly highlighted that the conflict and its aftermath is very much a localised issue. Local dynamics and therefore the required solutions, vary from place to place. A blanket restriction on the movement of one community cannot be justified and clearly breaches international human rights standards.

Rakhine who have continued to collaborate with Muslims reportedly faced the wrath of the local community. Based on visits to IDP camps and Muslim and Rakhine villages, there was a thawing of relations in some areas – where the resumption of business and trade was clearly visible. Rebuilding trust between communities requires interaction; people therefore need greater freedom of movement to engage in economic and livelihood activities as well as access essential and life-saving services. A number of observers, service providers, and conflict-affected communities stated that the current IDP camp scenario with the imposed restrictions of freedom of movement, consequent denial of essential and lifesaving services and access to livelihoods, as well as the policy of containment and segregation not only violate human rights but could, if it continues, serve as a catalyst for more conflict.

The blanket policy of segregation and the resulting confinement of Muslims to camps and villages also feeds into the rhetoric of Rakhine extremists who call for Muslims to be held in “detention camps” pending the removal of “illegal Bengalis” to other countries. The policy can thus be viewed as having served to further divide and isolate communities. It is not based on an assessment of local realities and dynamics and, moreover, has served to deny the Muslim population in particular their fundamental right to freedom of movement and associated rights such as access to adequate healthcare, education and livelihoods.

Independent assessments, preferably joint UN/NGO/Government assessments should be undertaken of each area to inform a strategy or plan focused on sustainable solutions based on communities’ needs, rights, and desires. Moreover, the UN and international community should object to the discriminatory blanket policy of segregation and containment and call for independent assessments and easing of restrictions.

6. Humanitarian Concerns and Economic, Social and Cultural Rights: Access to Essential and Lifesaving Services

Humanitarian service providers are providing urgent and essential assistance to families displaced by the 2012 violence. People are thus heavily reliant on continuing humanitarian assistance operations in the provision of food, shelter, water, sanitation and hygiene (WASH) and healthcare. The humanitarian situation remains severe for many IDPs and particular concerns exist to urgently implement contingency plans before the beginning of the rainy season. Humanitarian service providers face the dilemma of the need to provide urgent assistance to IDP communities based on humanitarian principles and at the same

time not reinforcing the discriminatory policy of segregation in any way, for example, through the provision of overly durable, high quality shelters.

The blanket policy of segregation and confinement, referred to above, has in turn impacted the enjoyment of economic and social rights within the humanitarian context, including access to essential and lifesaving services and livelihoods.

6.1 Right to health

Rakhine IDP communities visited generally stated that they had adequate access to medical services. Clinics are provided within Rakhine IDP camps and people have access to urgent medical treatment and hospital treatment in their townships. Conversely, access to healthcare is an urgent concern for Muslim IDP communities and those whose movement is restricted, including in [REDACTED] and other townships visited. There is inadequate provision of even basic healthcare services. While some government health clinics have been established, they are frequently poorly resourced and equipped and function in makeshift camp locations where health workers visit only for short periods. In some camps [REDACTED] for example, “clinics” consist only of tented or covered areas in which medicine and basic treatment can be dispensed. The [REDACTED] in the Muslim camps area in Sittwe has better, but still basic medical, child-delivery and treatment facilities. It has inadequate medical supplies and insufficient number of doctors, as well as a lack of capacity to serve a large population of both Muslim villager and IDPs. There are few Muslim doctors or trained medical staff due to restrictions on professional training or appointments. Rakhine medical staff, citing security concerns, and possible retaliation from Rakhine communities, are reluctant to work in Muslim areas.

As a result, there is a heavy reliance on NGO healthcare provision throughout affected areas. NGO providers are therefore essential and yet are commonly over-stretched and under-resourced. Some have faced persistent resistance, including aggression, from local Rakhine communities which has restricted their access in some cases.

Interviews conducted with IDPs and other Muslim communities revealed that deaths were occurring regularly as a result of preventable illness and lack of access to basic medical services. In [REDACTED] Muslim community leaders stated that 29 illness-related deaths had occurred in the camp since the displacement of the community in October 2012. Concerns were frequently expressed regarding acute malnutrition, particularly affecting children, and diarrhoea. Nutritional assessments conducted in December 2012 and 2013¹⁵ indicated worrying levels of malnutrition in rural camps in Sittwe and around 36 per cent prevalence of diarrhoea. Some camps [REDACTED] reported severe outbreaks of diarrhoea in March 2013 leading to up to thirty deaths according to community leaders.¹⁶

Referrals of urgent medical cases to hospital facilities are frequently problematic and only possible with the support of the international community, often following a lengthy bureaucratic procedure. Hostility from some local Rakhine communities continues to obstruct the transfer of some Muslim patients. [REDACTED] severe movement restrictions

¹⁵ provided by OCHA

¹⁶ These numbers remain unverified.

affecting the [REDACTED] and local hostility resulted in the suspension of some urgently needed NGO medical activities and there is currently no possibility for hospital referral for urgent cases which have to be treated in the camp. In [REDACTED] townships, referral of Muslims to hospital facilities is reportedly also suspended due to local hostility. In these cases, the state appears to be failing to provide the required security to ensure the right to health and right to life of the Muslim population.

While referral of Muslim patients [REDACTED] is now functioning in some cases, only [REDACTED] in a separate area are available for the Muslim population, and the situation remains acute. In [REDACTED] concerns include obstruction of Muslim patients arriving at the Sittwe jetty, security of patients and relatives, and the ability to provide non-medical support such as food to Muslim patients. An individual who had recently spent time in [REDACTED] described difficult circumstances but adequate treatment for Muslims who share one ward.¹⁷ Food is not provided and Muslims have to request police guarding the ward to buy food for them. Other Muslims interviewed described incidents of verbal and physical abuse of patients by the mainly Rakhine staff and noted concerns in Muslim communities regarding the treatment of Muslims in the hospital. OHCHR staff requested access to [REDACTED] along with an interview with [REDACTED] of the hospital but were denied this. The reason cited was that there was no official authorisation from the Union Government.

Of particular concern is the situation of IDP Muslim women, particularly in terms of maternal health. The restrictions of movement imposed on populations prevent pregnant women from accessing hospital treatment during difficult pregnancies or deliveries. A shortage of facilities and midwives was also reported by some communities visited who reported higher levels of child and maternal mortality and concerns over the possibility of further deaths. Additionally, birth control measures are restricted. This situation has reportedly led to an increasing number of unsafe abortions without proper medical supervision, which in various cases have also resulted in deaths.

Communities and NGOs expressed repeated concern that the onset of the rainy season will exacerbate medical problems particularly for those with poor shelter and water sanitation and hygiene facilities and those currently living where flooding and pollution of water sources is possible.

6.2 Right to education

The situation of Rakhine IDPs was found to be generally positive with children able to access all levels of education and to sit examinations. Many Rakhine schools had re-opened shortly after the violence. Nevertheless, living conditions in some Rakhine IDP camps may impact on the short-term education outcomes of some children.

In contrast, the situation for Muslim communities remains highly problematic with some Muslim communities lacking any viable education facilities and teachers and many children and adolescents having no access to education. In many IDP camps in Sittwe and other townships, communities have at best only basic primary-level education in temporary, makeshift classrooms with few facilities. Rakhine teachers who would previously have

¹⁷ The ward is a wing of the hospital that was formerly used for prisoners.

taught Muslim children will no longer travel to Muslim areas. Equally, there are few qualified Muslim teachers due to long-standing restrictions on non-citizens holding professional posts or becoming Government employees.¹⁸ Consequently Muslim IDP and village communities currently rely on very few qualified teachers in the community as well as unqualified, volunteer teachers who frequently work without salaries or rely on contributions from the communities that they serve.

Movement restrictions mean that Muslims in several townships cannot travel outside of prescribed IDP or village areas to attend schools and would, nonetheless, be excluded from Rakhine schools. Community leaders have attempted to organise what education they can within IDP camps but have reported a lack of response to their requests for support from responsible state authorities. The prospects of Rakhine teachers returning to Muslim areas or Muslims gaining access to schools are low in the short to medium term due to factors including perceived security threats, and hostility within Rakhine communities to those providing services to Muslims.

While enrolment of Muslims particularly at middle and high school levels was relatively low in some places prior to displacement, the provision of post-primary education is now severely restricted for Muslims throughout Rakhine State. Most students have already lost an entire academic year of study. In townships including [REDACTED] and [REDACTED] no Muslim students were able to sit the matriculation examinations in March 2013. The State Department of Education supplied information that indicated that in the whole State a total of 1,029 Muslims registered for the matriculation exam compared to 23,540 Rakhine students. Only one post-primary education facility exists in the Muslim area of [REDACTED] which has limited capacity, poor facilities, and few qualified teachers. Teachers at this school spoke of very basic needs. Reportedly, requests made to the State authorities, for example for books, had not been responded to.

Muslims cannot attend Sittwe University due to movement restrictions and purported security issues, a situation which some estimate to affect 300 to 500 Muslim students who were previously enrolled in the University. One [REDACTED] student reportedly attempted to attend University following the violence and was allegedly severely beaten. An interview with the University rector was sought but not provided. A Rakhine University lecturer indicated that he could not envisage Muslims returning to the University in the foreseeable future despite the University being located very close to the Muslim area of Sittwe IDP camps. The Minister of Social Affairs who has State-level responsibility for education, emphasized that the situation remains unusual and that temporary measures are being put in place that include identification and funding of Muslims to provide teaching within communities.

There are currently few national or international partners working in the field of education. UNICEF has a key role and is undertaking an emergency education programme in several of the most affected townships including Sittwe with priorities including: establishing temporary learning spaces; training of primary level teachers; mainstreaming children in rural camps in the nearest school for the new school year; and provision of support to

¹⁸ Under regulations prior to the 1990s, Muslims were able to become teachers, however, after this period Muslims without citizenship could not undertake professional training and could not qualify as teachers.

children in host communities. Based on interviews conducted with the Ministry for Social Affairs and other actors and service providers in the education field, including Muslim teachers, the prospects for significantly improving access to education for Muslim IDPs and other Muslim communities in the State remain bleak, particularly prospects for improving provision of post-primary education for the academic year starting in June 2013, unless the state undertakes urgent measures to remedy the situation.

6.3 Right to food

In many IDP camps and villages there remains a heavy reliance on external food provision, including WFP rations. Basic rations provided are rice, beans, oil, salt and nutrient powder. In camps and villages experiencing severe movement restrictions WFP rations constitute almost the only available food; consequently food security is heavily dependent on the continuation of such provision. Factors impacting food security for Muslim communities include movement restrictions, which impact on income and access to markets, access to farming and fishing activities, as well as social boycotts on the sale of provisions to Muslim communities. In some cases, it is apparent that reliance on food rations is having an impact on health and levels of malnutrition. Also of concern is the situation of unregistered IDP communities that are currently excluded from assistance mechanisms, including in the Sittwe area, who are not provided with food assistance.

Concerns also exist around policies to provide assistance only to communities who are considered IDPs, and not to others who are also substantially affected. In [REDACTED] [REDACTED] for example, over half of the houses were burnt; the community continues to reside on the site of the original village, living in UNHCR provided tents, while the other half continues to live in their original homes. Families in tents are considered to be IDPs and thus receive food assistance, while those in their original homes receive no assistance. The entire village, however, faces the same restrictions of movement and therefore lack of access to livelihoods and food.

6.4 Access to livelihoods

While the Muslim population has been largely affected by the conflict, the Rakhine community is in some areas also suffering. One of the main concerns expressed by the Rakhine IDP community refers to the limited access to their previous livelihoods. The unemployment rate in Rakhine State is high, which results in irregular incomes for Rakhine families. Most of the Rakhine IDP population lost their former employment as carpenters, shopkeepers, traders and fishermen. However, due to their enjoyment of full freedom of movement, they are undertaking income generating activities where needed. Additionally, reports were received from some Rakhine IDP families that the Government provided them with 50,000 kyats following the June 2012 violence. No Muslim communities interviewed reported receiving financial support from the Government.

Muslim communities, unlike Rakhine communities, are confined to specific areas and face movement restrictions. This affects access to livelihoods, which remains extremely poor for Muslims in both IDP camps and villages. A major concern in [REDACTED] example, is severe restrictions on movement for Muslims to the immediate vicinity of their villages, which limits access to farmland and to fishing. Cultivation must be undertaken close to villages. This limitation on freedom of movement has resulted in the denial of access to

land which impacts farming activities, as well as access to fisheries and markets. Given that the Muslim community is one of the main generators of farming and fishing commodities in Rakhine State, impeding such access may potentially result in the reduction of food production and an increase in prices. As a consequence, the cost of living may rise in a State which is already defined by social poverty and under development.

On access to land, although the majority of Muslims are unable to get to their lands due to movement restrictions, a limited number of Muslim farmers had access to their fields within curfew times and upon approval from authorities. However, in many instances, Muslim farming communities were reluctant to go to their lands located near Rakhine villages due to risks of reprisal and intimidation by Rakhine neighbours. Therefore, crops have not been planted and harvests have been lost due to displacement and conflict, particularly in places such as [REDACTED]

Fishery has similarly been severely affected. During discussions with the Muslim communities, including Rohingya and Kaman people, accounts were received of impeded access to fishing areas. Reports were received from communities, including from [REDACTED] whose main economic activity was based on fishing. For instance, [REDACTED] of the 7,500 people displaced during the violence, 4,000 people fled [REDACTED] by fishing boats and 3,500 remained in [REDACTED]. Although both communities are currently in IDP camps, the former has access to fishing while the latter is completely deprived of freedom of movement beyond the camps. It is also worth noting that a large number of boats, nets and other fishing equipment were destroyed during and after the violence. Furthermore, reports were received of Muslim fishermen allegedly attacked by Rakhine community members while fishing [REDACTED] resulting in killings and missing persons. In other areas such as [REDACTED] the military reportedly restricts fishing by Muslim fishermen to certain hours during the daytime, which are not good fishing times. Community members reported that the best time for fishing was in the evening or very early in the morning.

Due to limited freedom of movement, access to the main city markets by the Muslim community remains restricted. This has resulted in the growth of local Muslim markets in IDP areas and villages, such as in the Muslim IDP camps area in Sittwe and Muslim villages in northern Rakhine State. It was noted that Muslim market stalls and shops had been burned or destroyed during and after the violence or closed down due to the lack of access by the Muslim owners. Some accounts indicated that the trade [REDACTED] main market was reduced by almost 80 per cent and that affected Muslim shopkeepers transferred their businesses to Muslim villages. Similarly, Sittwe market has been negatively affected by the conflict and subject to a reduction in trade and business.

In general, during discussions with Muslim communities, the main issues raised concerned their day-to-day survival, including their ability to provide independently for their own food and other basic needs. Although humanitarian assistance is provided, most of the affected population believes that the situation they face is unsustainable and that action must follow to enable their secure return. Government action towards the Muslim population enabling greater access to livelihoods, would serve as a confidence-building measure. Moreover, opportunities for engagement between all communities at the economic level should be further explored and promoted.

6.4 Shelter

Standards of shelter vary for IDP communities. Most Muslim IDPs have since June or October 2012 lived in UNHCR or Government provided tents. Some unregistered IDP communities do not qualify for shelter provision due to Government restrictions and consequently live in temporary, crudely constructed makeshift shelters. In many cases shelters fall below standards considered adequate for human habitation. Shelter conditions in [REDACTED] are in critical need of improvement or people need to be relocated, particularly in view of the upcoming rainy season. Humanitarian service providers are planning shelter improvement and community relocation in several priority IDP camps. However, unless the Government immediately takes action in coordination with the UN and international humanitarian donor community and NGOs, at the time of writing it remained likely that vulnerable IDP communities, comprising of thousands of people, will find their shelters flooded and unsanitary, and risk serious increases in water borne diseases. It was noted that the construction of permanent homes for Rakhine communities is underway in Sittwe to house Rakhine from all current IDP locations.

6.5 Water sanitation and hygiene

Many IDP communities have been provided with water pumps, latrines and basic hygiene facilities, however, several challenges persist. Shortage of potable water in some Muslim camps including [REDACTED] have required daily transport of water by boat to these communities. The incidence of illness due to water borne diseases may have increased. Delivery of water by boat presents challenges due to the location of the camps and difficult transportation conditions. In several IDP camps, including those [REDACTED] communities currently occupy land that will flood, there is, consequently, a high possibility that latrine pits will flood and that camp locations will become inundated with polluted water, resulting in the contamination of groundwater. As indicated above, WASH and shelter partners are urgently developing solutions, however, at the time of writing serious concerns remain regarding how effectively these could be implemented prior to the onset of rains. Again the situation of unregistered IDPs, including in several camps in Sittwe remains of particular concern.

6.6 Unregistered IDPs

The number of IDPs continues to increase due to internal movement as a consequence of the policies of segregation and restrictions on freedom of movement. This stretches further the capacity of humanitarian partners. Statistics provided by UNHCR on 1 April 2013 state that the total IDP population has risen to 139,107. Lack of a proper registration system in Sittwe has left some IDP communities vulnerable and not receiving rations or shelter. Humanitarian actors report concern regarding an increase in unregistered IDPs who are not receiving assistance. For example, the Protection Working Group highlighted particular concerns relating to the situation of almost 13,000 IDPs who originate from [REDACTED] who are currently residing in IDP camps in Sittwe. While many are living with host communities, some of these IDPs are reportedly living in

¹⁹ OHCHR found some IDPs in Maungdaw and Sittwe living in temporary shelters constructed from straw on the beach. The situation of these communities was extremely precarious, particularly with the looming raining season when the whole area would be under water.

makeshift structures at the shore and some are restricted from joining other IDP communities and are not receiving needed assistance.

6.7 Access to affected populations, obstruction and harassment of UN and INGO personnel

The Union-level and Rakhine State Governments have for the most part facilitated humanitarian access; UN and other partners generally reported good cooperation from authorities. However, the humanitarian response is still obstructed by restricted access to some affected areas and the ability to provide assistance to some population groups. Authorities impose overly burdensome administrative permissions and other requirements, including internal travel authorisations, while at the same time, do not provide sufficient security to ensure access for humanitarian workers when local populations are hostile.

Humanitarian actors continue to report administrative barriers in providing services to some unregistered IDP communities, including in the Sittwe area. Delivery of assistance to some Muslim IDP camps, for example, [REDACTED] is restricted due to the hostility of local Rakhine communities and the lack of action by Government authorities to ensure safe delivery of aid. In some cases, NGOs have been forced to cease their assistance, such as [REDACTED]

Lengthy administrative procedures, relating to hospital referrals, for example, create delays in the provision of essential and lifesaving services. In some cases, as reported above, healthcare provision is not possible due to actual or threatened obstruction of access by the local community, and the lack of action of Government authorities to ensure access and prevent such obstructions.

Moreover, international NGOs need to leave the country every 70 days in order to obtain visas – disrupting service delivery and creating additional and unnecessary costs for humanitarian service providers.

Access to [REDACTED] the only Muslim residential area remaining in downtown Sittwe, is completely restricted. Police have control over movement in and out of the area, which is surrounded by barbed wire. It is not an IDP area and so authorities have not given permission to humanitarian actors to provide aid. However, reports indicate concerns relating to access to food and healthcare due to movement restrictions on that community.

National staff of UN and other independent humanitarian agencies have been subjected to arrests, threats, and intimidation; several UN staff have been tried in reportedly unfair trials, and one held in pre-trial detention for over six months until her eventual release in December 2012. However, the prosecution has reportedly appealed the court decision ordering the release and is pressing new charges against one of these staff and a former staff, which should prompt a strong reaction by the UN system. Some INGO staff-members remain in detention as of April 2013.²⁰

There has also been a recent report of verbal threats against international UN staff by police authorities in a public location, which serves to not only intimidate them but also

²⁰ At the time of writing, four INGO workers remain detained since June 2012 in Buthidaung prison, including two from MSF.

undermine their ability to function effectively with full confidence of the local population they are meant to serve. It is essential that the Government allows and ensures UN and other independent humanitarian bodies unimpeded and unfettered access to all affected regions and populations, and actively provides security, freedom of movement and freedom from harassment and other types of obstruction of their humanitarian work. Furthermore, immunity guarantees for international and local staff must be fully respected.

7. Arbitrary Arrest and Detention, Torture and Ill-treatment, Extrajudicial Killings [1] and Deaths in Custody

Arrests and detentions

Following the violence in June, security forces, particularly in [REDACTED] carried out large scale sweeps, arresting boys and men arbitrarily. Reports indicated that local authorities collected lists of men and boys from villages and then periodically came to villages to check on their whereabouts and arrest them. Arbitrary arrests and detentions on the basis of unfounded suspicions of promoting violence or related crimes were consistently reported in interviews and discussions with Muslim communities. It was found that since June 2012, Muslims represent the vast majority of those arrested and detained. From 15 February to 31 March 2012, information was received about 426 arrests (425 men and one woman) from [REDACTED]. No reports were received of conflict-related arrests or detention of Rakhine people.

Further information was provided about the number of detentions in Buthidaung prison. Based on an official list, 856 people were arrested in northern Rakhine State from June 2012 to March 2013, including four women and 77 children (under 18), 53 were sentenced, and 557 are on the list as currently detained in Buthidaung prison, including 27 children. This figure is believed to represent a small number of those arrested and detained in the post-violence period.

While both Muslim and the Rakhine communities committed serious acts of violence during June 2012, it is clear that the Muslim population bore the brunt of the violence. Muslims however comprise the majority of the victims of the violence, but represent the majority of those arrested and prosecuted for crimes committed during the period of violence. OHCHR is concerned that without transparent information and clear evidence to the contrary, law enforcement bodies have given unequal priority to investigate alleged crimes committed against Rakhine and not those against the Muslim population. In most instances, OHCHR was informed that a mere suspicion or an accusation from a Rakhine 'witness' was enough to arrest and charge a Muslim.

The situation has not changed nine months later. Numerous credible reports highlight that law enforcement bodies continue to arrest Muslims based on groundless accusations and usually without warrants. As a result, in many Muslim villages, men reported that at night they hide and sleep in the fields due to fears of arrest during random searches by the military, police and Nasaka forces.²¹ Direct accounts further indicate that upon arrest, law

²¹ In 1992, the Nay-Sat Kut-kwey Ye [Nasaka] was established. It is a border security force consisting of members of the police, military intelligence, the internal security or riot police [known as Lon Htein], customs officials, and the Immigration and Manpower Department. It operates in northern Rakhine State, but since the

enforcement bodies keep the individuals arrested in custody for several days, including in police stations and Nasaka camps before transfer to prison.

Information was received that around 76 people were released between June 2012 and March 2013. However, some of those released reported that their release was only possible upon payment of huge sums of money to authorities. Most of the released, as well as families of those currently detained, reported that families are often not allowed or are unable, due to movement restrictions, to visit detainees in prison and are thus forced to pay bribes to prison guards in order to send medicines, food and other basic goods to those deprived of their liberty.²²

Torture and ill-treatment

Without exception, all the men interviewed who had been subject to deprivation of liberty, reported torture and ill-treatment while in custody, including prolonged beatings, burning of beards, stress positions, denial of food and verbal abuse. Reports were also received of torture and ill-treatment of mentally disabled persons and children aged under 18. All reports received were consistent, credible and indicated patterns of abuse.

As highlighted above, security forces kept individuals in custody for several days, including police stations and Nasaka camps, before taking them to prisons. Torture and ill-treatment was reportedly acute during this time period. Reports were also received of continuous torture and ill-treatment [REDACTED]

Based on multiple, consistent, credible reports, it is possible to conclude that systematic torture took place [REDACTED]

In many instances, former detainees stated that while in custody (usually prior to being transferred to prison), torture and ill-treatment was perpetrated not only by law enforcement officers but also by State officials, including Township Administrators and Rakhine men from neighbouring villages. In some cases, former Muslim detainees also reported beatings by Rakhine inmates, [REDACTED]

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Many consistent and credible accounts of torture were received. As one former detainee stated:

“On 4 July 2012, 300 police, military and Nasaka officers arrived in my village in Maungdaw. I was arrested together with 41 other men and taken to Maungdaw Police Station, where we were kept for two days. During that time, we were forced to be naked. We were continuously beaten by the officers with sticks and guns while our hands were handcuffed behind our backs. The officers placed the food on the floor

violence has also maintained a presence in Sittwe with planned expansion of the force in both Sittwe and Pauktaw.

²² Arbitrary arrests and detentions and other abuses, particularly by the Nasaka, of Muslims in northern Rakhine State have been a long standing issue prior to the June 2012 violence. However, following June 2012, the large-scale sweeps targeting Muslim men allegedly increased the numbers of arbitrary arrests and detentions.

forcing us to eat like animals as our hands were still tied. Some of the arrested men also had their beards burned. We were subject to on-going verbal abuse. On 6 July 2012, we were taken to Buthidaung prison, where we remained naked for about a month. Torture continued not only by the prison guards but also by Rakhine villagers who came to the prison to beat us; they carried their own wooden sticks. We were asked to confess that we had participated in the violence, but none of us did.”²³

Extrajudicial Killings

██████████ a number of credible reports were received of extrajudicial killings at the hands of state forces in recent months. Soldiers, reportedly accompanied by Rakhine villagers, allegedly shot and killed one man in January 2013 when he refused to hand over a cow the soldiers demanded.²⁵ Similarly, in February 2013, two men were reportedly shot and killed by soldiers, who were accompanied by local Rakhine men. The men were part of a group of six who had gone to the forest to collect firewood. Four of the men managed to escape.²⁶ In yet another case, a man was reportedly beaten to death by a mix of soldiers and local Rakhine men.²⁷ This killing was also reported to the police ██████████ as well as to the Nasaka. Villagers informed that authorities came to the scene but no further action was taken. The view that, “if any Muslim is killed, there is never any action by the authorities” or that “no case is opened against a Buddhist” was frequently communicated during discussions.

Local communities stated that these killings are linked to the June 2012 violence in ██████████. Many people reiterated the view that prior to the violence there were many problems but that relations with the authorities were manageable

Deaths in custody

Credible accounts of 47 deaths in custody since June 2012 were received. All reported deaths occurred in ██████████. A child reportedly died ██████████ in December 2012, as a result of

²³ Extract of interview conducted ██████████

²⁴ Although easily identifiable to local authorities based on the incidents documented, the name of the village is withheld due to on-going concerns around the security and safety of villagers along with possible reprisal attacks.

²⁵ The man was reportedly shot in the chest on 29 January 2013 by one of the soldiers. Witnesses were interviewed and OHCHR also saw photographs of the dead man as well as the spent shell from the bullet, which the villagers said they retrieved. Villagers claimed that the soldiers came from ██████████ which is under the command of ██████████. Three Rakhine men accompanied the soldiers and reportedly carried knives. The men were known to the community, names were provided. No post mortem results, death certificate were provided to the family of the victim. Villagers stated that they informed ██████████ of the incident in person; however no action was taken.

²⁶ According to villagers, the two men were killed by the military – five soldiers, three of whom were the same three soldiers implicated in the killing of the man shot for refusing to hand over his cow. The soldiers are reported to have come from ██████████ under the command of ██████████. The soldiers were allegedly accompanied by five Rakhine men, whose names were provided. The incident was reported to Command ██████████. Command ██████████ came to the village to investigate the case on 21 February 2013 but no further action was taken.

²⁷ On the evening of 3 March 2013, the man went to his beetle nut garden, and around 12 military and local Rakhine men reportedly tuned up. Villagers heard the man cry out; some men went to the location but had to hide when they saw the military – in the morning they found the man dead. He had been beaten all over. Photographs were shown of the dead man, which bore clearly visible signs of prolonged beating.

serious ill-treatment. Each report presents a worrying picture of conditions and treatment in detention. Although the causes of these deaths are unknown due to the lack of independent forensic examinations, reports of witnesses refer to signs of ill-treatment on victims' corpses, some with broken bones, bruises and wounds.

Consistent information was received that supplies of food and medicines in detention facilities are largely inadequate and insufficient. In this context, reports indicate that a prison medical doctor has refused to treat Muslims in urgent need of medical assistance on the basis of discrimination. In view of the findings described in this section, the number of deaths in custody is alarming. The authorities should therefore adopt swift measures to prevent any further deaths in custody, including full and independent investigations into all deaths in custody since June 2012. The findings of the investigation should be made public, and perpetrators brought to justice.

8. Women's rights and allegations of sexual violence

Sexual violence

Credible accounts were received, directly from victims, of rape by state forces following the period of conflict in Rakhine State. These allegations could not be independently verified, however, consistent and credible allegations, implicating state officials were documented. In total over 100 allegations of rape by security forces, during the conflict and after, were reported.

In one village tract²⁸ alone, credible reports of 86 incidents of rape, including of young girls, were reported. All of the alleged rapes took place between June and July 2012²⁹; the period following the first round of violence in Rakhine State, suggesting a pattern of punitive or reprisal action by state authorities against Muslim communities. Based on interviews with victims and community members, military present near the village tract since the June 2012 violence were implicated in the rapes. The soldiers were reportedly accompanied by Rakhine civilians. An 18 year-old survivor of rape recounted her ordeal:

"At 10 am many soldiers came to the village, all the men ran away. We, all the women were together in the compound. I was seized by eight men, including Rakhine civilians and soldiers, and was taken into the house. I tried to resist, my clothes were torn, but they beat me and held me down, two restrained me - my arms were held down, and three men raped me, they took turns... My life is ruined; no one will marry me now".

Another rape victim described how two men raped her, both were in uniform *"they had red handkerchiefs around their necks; this is part of the army uniform."*³⁰ Members of this community stated that none of the rapes were reported as *"anyone who goes there [to the authorities] would be arrested"*.

²⁸ The name of the village/village tract [six villages make up the village tract] has not been included as the safety and security of villagers is of concern, including possible reprisal attacks.

²⁹ The rapes reportedly occurred three or four times during June/July 2012.

³⁰ Interviews conducted by OHCHR – March 2013.

In a village [REDACTED] it was learnt that two girls were also allegedly raped by [REDACTED] forces in February 2013, when the men of the village slept away from the village fearing arbitrary arrest by state authorities. The women of the village were thus left exposed and vulnerable. A 14 year-old survivor said:

“After they [REDACTED] entered the house, we were taken into separate rooms and raped. I was raped twice. When I cried out I was beaten. I do not know who the men were, it was dark. I was held down by my neck and both arms, initially they shone a torch in my face I could see they wore [REDACTED] uniforms, but then it was dark... I couldn't see anything. I do not know which language they were using.”

Members of this community stated that the following morning community elders came and took the girls to the authorities, the sub-headquarters of [REDACTED] to complain. The [REDACTED] reportedly arrested the elders. The men were reportedly detained for three days and beaten. The community paid bribes for their release.³¹

The girls said: “we are scared... some people now hate us, elders came to heal our trauma and told others not to say bad things to us.” Following the interview with these girls the authorities took the father, mother and girls away for questioning.³²

In most cases, incidents of rape and other forms of sexual violence have been underreported. Victims and their families fearing reprisal by state forces were, in most cases, reluctant to report allegations of rape given that alleged perpetrators are part of the state law enforcement machinery and any accuser will thus face possible reprisal action. Underreporting to human rights groups was also attributed to notions of shame.

Reports of the abduction of 15-20 women and girls attempting to flee the June 2012 violence were also received. These women and girls have allegedly been kept in sexual servitude by the military ever since. Interviews were undertaken with witnesses who reported seeing and speaking to these women and girls, and with the father of one alleged victim. Two possible locations where these women are being kept have been identified. Follow-up action was recommended to UN partner organisations in a position to access the identified locations and conduct an independent investigation. Recent sightings indicate that the women continue to be held at the same location in the Sittwe area as of April 2013.

General observation on women's rights

On the issue of women's rights more generally, it was apparent during discussions/interviews with Muslim women, that they often live in highly conservative, isolated environments, particularly in rural areas [REDACTED] Many women, for example, do not speak Burmese or Rakhine – only the Rohingya language, and had very

³¹ The women/girls interviewed were not aware of the amount paid.

³² OHCHR took precautions to ensure that the security of people willing to share information would not be compromised in any way. In some instances people were brought to secure locations for interviews. In this case, following OHCHR's visit – the same day, the father of the girls was taken for questioning and was released the next day. Upon his release two girls and their mother, as well as the owner of the house where interviews were conducted were questioned and were later released. Authorities reportedly told villagers that they should not speak to any organisation about the issue.

limited education. Poverty is a causal factor, but even among such communities, Muslim men were far more educated and empowered compared to the women of the community. Traditional notions of the role of women along with cultural practices can be viewed as restricting women's rights. In a rural village in [REDACTED] when the community were asked who represents women's interests and how women can play an active role in fostering community cohesion, the response was that, "based on Islamic teachings, women stay at home".

There is a form of gender segregation underway in many rural areas of Rakhine State that inhibits women in all walks of life. This may be linked to the overall discrimination and human rights violations perpetrated against Muslims, which results in further social restrictions against women, however, it is clear that special attention, including targeted programming, needs to be aimed at the empowerment of Muslim women. This would not only serve to help Muslim women better assimilate into Myanmar society and thus foster broader integration as part of a strategy aimed at reconciliation and peaceful coexistence, but it would also enable women to be aware of their rights, access justice, as well as essential services, livelihoods and employment opportunities.

9. Role of Law Enforcement Authorities and Lack of Accountability

Officials from law enforcement authorities and local government have been implicated in a serious range of abuses from participating in attacks, rape, failing to protect against violence, arbitrary arrests, torture and ill-treatment, extortion and bribe taking. As highlighted in this report, consistent reports from Muslim communities from different areas in Rakhine State, support allegations that the police or military stopped Muslims from fleeing violence; assisted in setting fire to properties; held Muslims back while allowing Rakhine to move into their villages and wards; and fired their weapons at Muslims allegedly with the intent to injure or kill.

Information received indicates that law enforcement officials continue to operate with complete impunity and abuses by law enforcement officials have not been investigated or prosecuted. There have been no investigations into allegations of police misconduct and criminal activity. Further, the failure of law enforcement officials to protect all communities, in particular Muslims, has also not been investigated by the Union Government. Similarly, based on information received, there have been limited investigations or prosecutions of alleged Rakhine perpetrators of violence – including religious and public figures, who are accused of having participated in and/or incited violence.

The Rakhine Investigation Commission was established to investigate the violence in Rakhine State and has delayed its finding on several occasions, until finally releasing them publicly on 29 April 2013.³³ The Commission's final report appears to fail to address the role played by law enforcement and other state authorities during the violence, including recommendations aimed at ensuring greater accountability of all law enforcement authorities, and there may be strong grounds to call for the establishment of an

³³ In August 2012 the Government formed a 27-member investigation to probe into the violence in Rakhine State. At the time of writing, the Commission had yet to make public its findings.

independent investigation into the conflict, including investigation of the role played by all state officials.

In addition to accountability of state forces during the violence, accountability for their conduct in the aftermath of the conflict is also critical. As mentioned throughout this report, the overwhelming majority of individuals arrested and charged following the 2012 violence in Rakhine State have been Muslim. Arrests have often been arbitrary, carried out in mass sweeps during night searches in villages, particularly [REDACTED] an area heavily populated by Muslims, and have been followed by torture. A number of credible reports of deaths in custody have also been documented. The sweeps have been heavily prejudiced against Muslims, justified by a punitive notion of redress in the post-violence period. It was found that Muslims have been arrested on groundless charges, based on little or no evidence, where confessions obtained through the use of torture have been used to incriminate accused persons, in trials that fail to meet basic international fair trial standards. (See section 7 for more information on arbitrary arrests and torture and ill-treatment).

Lack of accountability of the [REDACTED] forces, particularly [REDACTED] presents a serious concern. Widespread extortion, arbitrary arrests and torture, are just some of the issues raised by people in areas where this force operates. Numerous interviews and discussions with Muslim communities in [REDACTED] highlighted consistent reports of the high degree of control and complete impunity that state forces in these areas enjoy. Many people informed that prior to the conflict they faced constant harassment from the [REDACTED] including widespread extortion, baseless accusations to extort money, such as accusations of association with illegal armed groups, involvement in human trafficking, transferring money, or possessing an illegal [Bangladeshi] SIM card. Consistent reports indicated that the level of intimidation and harassment significantly increased following the conflict.

Consistent reports also highlighted the [REDACTED] complicity in human smuggling – where [REDACTED] forces preyed on individuals desperate to leave Myanmar following years of discrimination and abuse, particularly following the 2012 violence when more Muslims attempted to flee Myanmar. It was reported that [REDACTED] commanders took money from human smugglers (around 100,000 kyat) and then allowed people to attempt to leave the country.³⁴ Muslims in [REDACTED] also informed of restrictions on marriage, the permitted number of children, and restrictions on movement that have been implemented by [REDACTED] forces [REDACTED] through procedures and regulations,³⁵

³⁴ One individual stated that he himself arranged for his younger brother to go to Thailand by sea – he paid the [REDACTED] 100,000 kyat, the broker 300,000 kyat; another 300,000 kyat for ‘transport tax’. Based on other reports received, in total it costs around 700,000 kyat to 800,000 kyat for a person to leave Myanmar through illicit means.

³⁵ Copies of four regulations/letters issued by Border Immigration Headquarters were obtained [unofficial translations]: Order No 1/2009 requires the BIHQ sector command to be informed of all movements ‘from one place to another’ within seven days. The Order lays down the requirements of marriage. Upon first reading it would seem that the requirements exist to protect individuals and enforce the law – i.e. it reiterates the legal age of marriage, the requirement of consent, but in practice the Order has been used to restrict the rights of Muslims, monitor movements, as well as extort large amounts of money by State forces, for example, a person wishing to marry an individual from another township is required to obtain prior permission – the amount of bribes/ extortion involved can reportedly cost a family around 100,000 kyat. Other regulations/letters obtained also detail the documentation required for travel by “foreigners and Bengali races residing in Rakhine State” - an instruction dated June 1997 includes requirements for “temporary travel permits to travel outside

the legality of which are questionable. The system of controls on everyday lives of Muslims [REDACTED] provides opportunities for state forces, particularly [REDACTED] to benefit from a major extortion racket, while violating the rights of individuals from the Muslim community.

Following the declaration of a state of emergency, some 1,000 [REDACTED] forces are present in Sittwe, in the IDP camp area. Officers were informed of an incident in [REDACTED] camp area on 28 February 2013, where [REDACTED] allegedly shot three men for resisting attempts to take them away. None of the men were killed, but all three were seriously injured. This was the first such reported incident involving the [REDACTED]. All the men were charged with attacking [REDACTED] forces and, at the time of writing, were in custody awaiting trial.³⁶ This case is an example of the [REDACTED] lack of accountability and highlights a consistent pattern of abuse where any complainant finds themselves arrested and prosecuted on false and baseless allegations.

The deployment of [REDACTED] forces to Sittwe as well as plans for a further increase in [REDACTED] forces [REDACTED] following reported parliamentary endorsement, is alarming. The [REDACTED] presence, far from protecting the Muslim population, presents a whole set of additional challenges, including major human rights concerns, as highlighted by their conduct in [REDACTED]. As recommended by the Special Rapporteur on Myanmar in his most recent report to the Human Rights Council³⁷, there is an urgent need for the suspension and reform of this force, as well as a suspension of the planned expansion of the [REDACTED] to [REDACTED].

10. Community Perceptions

OHCHR officers engaged in a process of dialogue and consultation with both Rakhine and Muslim communities in Rakhine State, on the premise that a sustainable solution based on respect for the human rights of all communities requires the legitimate grievances, aspirations and desires of all communities to be heard and considered.

Rakhine

Discussions with Rakhine Buddhist IDP communities, displaced as a result of the 2012 violence, highlighted that in many cases the wounds of the conflict are still very raw; Rakhine IDPs' views of the Muslims were often acrimonious. Many people, particularly where tensions were still very high, expressed the view that they cannot live with Muslims again and that the Muslims should be moved to another country. Other Rakhine

of their township" which is valid for the time specified, as well as other documentation if travelling beyond the State. Upon arrival the individual concerned is required to report to Immigration and National Registration Department. Violation of the instruction is punishable by section 188 of the penal code.

³⁶ Officers visited the scene and interviewed witnesses. The men were reportedly involved in a project to construct IDP shelters and were meeting with the main contractor, following which [REDACTED] forces arrived and asked the men to accompany them; when the men refused the Nasaka reportedly attempted to grab them, the men resisted and the [REDACTED] fired their weapons, hitting one man in the foot, another in the chest while a bullet scraped the third man's head, injuring him. The men were taken to hospital but after two days were discharged, despite needing further medical treatment, and were taken into police custody, charged with attacking the [REDACTED] under article 333 of the penal code.

³⁷ A/HRC/22/58

communities accused Muslims of stealing their State and land. A number of people referred to a 'master plan' to occupy Rakhine State. A view echoed in many discussions was the fear that conflict could reignite if Buddhists had to live with Muslims again. People also stated that the Government cannot protect them.

In discussions, people stated that in the current climate they were unable to say anything positive about Muslims or profess a view during group discussions that peaceful coexistence with Muslims in the near future is possible. Individually, however, a number of people stressed that the conflict was the result of action taken by both Muslims and Buddhists and that relations could be gradually restored. During some discussions, Rakhine community members acknowledged that Muslims who have lived in Rakhine State for a long time should have citizenship and equal rights.³⁸ Others shared this view but stated that this means that only a limited number of Muslims who have lived in Rakhine State for generations should be entitled to citizenship.

Without exception, in all discussions, Rakhine communities acknowledged that they had a harmonious relationship with the Muslims prior to the conflict. People often stated that they jointly celebrated each other's festivals. Rakhine repeatedly emphasized, however, that since June 2012, they could no longer trust the Muslims. Opinions that the Muslims receive more assistance from international organisations than Rakhine communities were also expressed in a number of discussions.

Extremist views on the part of some influential members of the Rakhine community asserted that there has been a takeover of Rakhine State by "Bengalis". Their rhetoric focused on a population explosion on the Muslim side, where, they state, over the years the Rakhine have become a minority in their own State. Proponents of this view spoke of the need to implement the 1982 citizenship law but stated that there should be "detention camps" for those who are illegal in the country until a solution can be found, the solution they proposed was sending all "illegal" persons to another country. They claimed that only around 10,000 Muslims would thus be eligible for citizenship and consistently referred to all Muslims as 'Bengali's' stating that this clearly highlights where the Muslims came from.³⁹

Extreme positions were also often professed by Buddhist religious leaders, whose narrative rests on historical grievances with the Muslim community and the gradual rise of the Muslim population in Rakhine State – referring to the gradual reduction of Rakhine villages [REDACTED] for example. A view echoed during many discussions was that 'Bengalis' had arrived in Rakhine State after 1824 when Rakhine was colonized by the British and during the 'military intelligence age' when, they stated, Bengalis entered Myanmar illegally due to the large-scale corruption at the border in Maungdaw.⁴⁰ The narrative of many of the proponents of the more extremist position also rests on Muslim's alleged associations with 'terrorist' or 'mujahed' groups. It was stated that the motivation for the violence in Rakhine State was the creation of an Islamic state based on Sharia. Moreover, they also compared Myanmar's immigration policies with other countries, including the US,

³⁸ This view was expressed by women in [REDACTED] 27 February 2013. .

³⁹ View shared by a number of Rakhine activists, for example, clearly stated during discussion with community leader [REDACTED] 26 February 2013.

⁴⁰ This view was also reiterated by representatives of [REDACTED] 25 February 2013.

stating that even in other countries people who have resided there for years are only entitled to, for example, green cards.⁴¹ Often the views espoused were Rakhine nationalism cloaked with the legitimacy of Buddhism, which clearly resonates with the local Rakhine population.⁴²

The Rakhine political narrative was often contradictory: on the one hand activists referred to the equal treatment and opportunities Muslims in Rakhine State enjoy and the land and wealth they have accumulated; on the other, it was stated that: *“Bengali IDPs are in more of a comfortable situation than they used be in as they get aid from the international community, before the conflict Muslim’s life was too poor, it was not like ordinary humans, they were very poor and very destitute; their living standards were very low. Now [since the conflict] there is huge improvement due to the support from international agencies.”*⁴³

More moderate voices, including those of Rakhine activists, however, stressed that the Rakhine feel “doubly-colonised” by both the Burman on one side and the Muslims on the other, due to the size of the Muslim population and the perceived gradual erosion of Rakhine culture. While recognising the needs of the Muslim community, such opinion holders, in line with the more extremist position, stressed that Rakhine State is the second poorest state in the Union that has been neglected by the majority Burmese – the wealth and resources of the State, they claim, do not benefit the local population but the central Government and those in positions of power.⁴⁴ As one activist asserted, *“people in Rakhine State pay way more for electricity compared to people in Yangon; there are lots of resources in Rakhine State but we do not benefit from it. We have been neglected by the Government”*.⁴⁵

Some activists and community leaders also asked why Muslims in Rakhine State have been restricted to the State, and have thus become what they termed a “Rakhine problem”. One activist, for example, stated, *“all Muslims are kept here in Rakhine; Muslims from Yangon can come to Rakhine, but Rakhine Muslims cannot go to Yangon. We have had no choice in this but have not made any problems. Now the Government has a major headache on how to solve this issue. If the Muslims are given citizenship they can go anywhere in Burma – the Government fears this.”*⁴⁶

Moderate opinion holders also spoke of the need to implement the 1982 citizenship law, but claimed that it should be implemented in a uniform manner, throughout the county. One religious leader, while calling for the 1982 citizenship law to be implemented, stated that he would like to play a role in promoting peaceful coexistence and building trust

⁴¹ Ibid.

⁴² Interviews/discussions were undertaken by [REDACTED] for example the [REDACTED] Association in Sittwe. Often the most extreme views were articulated by religious leaders.

⁴³ Stated during interview with [REDACTED] 26 February 2013.

⁴⁴ Interview with Rakhine activist, [REDACTED] 7 March 2013.

⁴⁵ Interview with Rakhine activist/community leader, [REDACTED] 26 February 2013.

⁴⁶ Interview with Rakhine activist, [REDACTED] 7 March 2013. This activist was in favour of keeping illegal people in ‘refugee camps’ until another county accepts them or to give some of them citizenship so they can go anywhere and are not confined to Rakhine State.

between the 'legal' Muslims and the Buddhist Rakhine based on the "Buddhist doctrine of respect, peace and love."⁴⁷

Muslims

In all discussions with Muslim communities, Muslims stressed that they have faced extreme persecution and are targeted by the state, particularly by the security and law enforcement authorities, and recently the Rakhine population. They also emphasized the harassment and discrimination they face from some of the Rakhine community on a daily basis – in schools and when they are in the market. People also repeatedly stressed their legitimate and historical claim to citizenship, with many generations having lived in Myanmar. Some referred to the fact that in the past they had full citizenship but it was taken away from them,⁴⁸ thus demanding restoration of their citizenship rights. Muslims refer to the fact that they face discrimination; they cannot serve in public office, move freely and access essential services and employment opportunities.

Throughout interviews, people painted an extremely bleak picture in terms of the gross denial of human rights for Muslims, particularly in [REDACTED] where people stated that their rights are flouted on a daily basis (as detailed in other sections of this report) at the hands of the state law enforcement machinery. People repeatedly said that they can expect no justice or accountability and that "because we have no protection they [authorities] can do whatever they want."⁴⁹

As in discussions with Rakhine communities and leaders, Muslims also stated that prior to the violence their relations had been good with their Rakhine neighbours and communities, stressing that they celebrated and attended each other's festivals and shared meals together. In [REDACTED] communities stressed that no one wanted any violence and that there was, prior to the violence, no enmity between the Rakhine and Muslim communities.

Given the spread of the violence against Muslims to other parts of the country, Muslims expressed concerns around their safety and security. As stated during a discussion: *"it's nearly a year after the violence and we have violence against Muslims in another part of the country, this is nothing to do with Rakhine State, it is very far away. These Muslims lived with the Buddhists peacefully for a long long time, so why is it happening?"*⁵⁰ Many people expressed the view that the violence is thus not against the Rohingya Muslims but is part of a broader campaign to rid Myanmar of Muslims by what they termed "Buddhist extremists".

[REDACTED] whose entire villages were burnt during the 2012 violence stated that they believe that as the country moves towards democracy the Government is fostering conflict between groups so that the military has the upper hand. They said that the Government has controlled uprisings in the past and questioned why this was not the case this time. This group repeatedly stated that they have lived with the Rakhine people for so long and undertaken business with them. Many people stated: "I cannot believe this happened" or "I

⁴⁷ Discussion with [REDACTED] 5 March 2013 [REDACTED]
[REDACTED] are currently sheltered in the monastery.

⁴⁸ Interview with Muslim activist [REDACTED] 28 February 2013.

⁴⁹ Interview with Muslim community members, [REDACTED] 15 February 2013.

⁵⁰ Interview with Muslim community leaders/activists [REDACTED] 28 February 2013.

never thought this could happen”.⁵¹ [REDACTED] stated that restrictions for them, including movement restrictions, started in 1994, and over time there were more and more. [REDACTED] they said, “we want free movement, even Rakhine who have no citizenship cards, are free to move”.⁵²

In Sittwe, Muslims also stated that more and more Rakhine were coming to the area (IDP camps area) for business and trade, relations between these Rakhine and Muslims were thus deemed to be fine or improving. Many people were of the view therefore that it is the Government who does not want a solution to the crisis in Rakhine State.

Some Muslims stated that they want to return to their original villages or wards. Unlike Rakhine IDPs, most Muslims expressed the view that they can restore relations and live peacefully with the Rakhine. [REDACTED] members said that they would like to move elsewhere including in other parts of Myanmar as, following the violence, they fear for their safety and feel threatened.

During a discussion with a group of urban Muslim women, including [REDACTED] the women all were of the view that they want to return [REDACTED] but stressed that they need help with rebuilding their lives again as they have nothing. As one of the women stated: *“one thing is clear, it is not possible to stay here (in the camp) long-term we have no jobs, no schools for our children... we need help. If we stay here, no one needs to kill us, we will slowly die...”*⁵³

In [REDACTED] people referred to the level of abuses they have faced, *“The President said ‘send them [Rohingya] to a third country’, but they [the Government] are killing us, sending us to the cemetery; this is the third country for the Rohingya”*.⁵⁴

It was clear from discussions that calls from the Muslim population centred on the demand for equal rights. Every gradual step towards ensuring equal rights, such as lifting restrictions on freedom of movement, greater access to education, livelihoods, and healthcare would serve as confidence building measures and close the ever widening gap between the Government, Rakhine communities and the Muslim population.

11. Risk of Renewed Violence and Increased Human Rights Violations

The overall human rights and security situation remains fragile in Rakhine State. The following are key developments that require close monitoring by the international community, and which could potentially trigger an escalation in human rights violations in the next six months:

⁵¹ Discussion with [REDACTED] 28 February 2013.

⁵² Ibid.

⁵³ Discussion with [REDACTED] 20 March 2013.

⁵⁴ Discussion with Muslim community members, [REDACTED] 15 March 2013. Note: [REDACTED] imposed regulations mean that Muslims have to apply for permission to marry, such permission can take months and involves huge fees and payment of bribes, in some cases people reported paying up to 100,000 kyat – over 1,000 US dollars in order to obtain the permission to marry.

- The role played by [REDACTED] and potentially [REDACTED] is of serious concern, particularly given persistent impunity for and commitment of human rights violations, including widespread extortion, arbitrary arrests, torture and sexual violence. The [REDACTED] presence and expansion [REDACTED] risks serious increases of violations in the south. The impact must be closely monitored.
- The discrimination suffered by the Muslim community is an underlying cause of the violence in Rakhine State and serves as an indication of the instability and conflict that could arise in other parts of the country. In the absence of any longer-term solution being proposed by the Government, it could be expected that further incidents of violence targeting members of the Muslim community could take place and could continue to spill-over to other States where Muslims reside, as in the recent violence in, Meiktila, Mandalay Division.
- There are fears that further violence could ensure. Reported gatherings of Rakhine men at night near [REDACTED] in the Sittwe IDP camps area; reported telephone threats of renewed violence against Muslim IDPs [REDACTED] following the March exam period and water festival; and numerous other similar reports are instilling fear amongst IDPs and other affected communities of a possible third wave of violence in Rakhine State. Although it is difficult to assess the probability of renewed violence, particularly given the number of rumours circulating, tensions are high and rumours may thus be all that is needed to ignite more violence.
- The situation concerning humanitarian issues, economic, social and cultural rights remains worrying, in particular with regard to access to livelihoods, food, education and health, particularly given possible increases in the restriction of movement, in response to prevailing insecurity. As a result, the ability of the local Muslim population to enjoy basic social and economic rights may continue to be seriously hampered. Additionally, the precarious situation in the IDP camps throughout Rakhine State, made worse by the onset of the rainy season, is unlikely to improve and could result in further humanitarian and human rights crises.

12. Government Policy/Plan to Foster Peaceful Coexistence

Visits to various townships in Rakhine State and discussions with a wide spectrum of people highlighted that no obvious attempt has been made to foster peaceful coexistence amongst communities. In some areas business and economic activity is promoting a degree of cooperation between communities but this has been an 'organic' development and is not due to any Government policy, plan or intervention. The Government had not, as of early April, communicated any plan to local populations, Muslims and Buddhists alike. Plans have recently been announced by the Central Committee for Peace and Development in Rakhine State established by the Government in March, but it is clear that more needs to be done to identify drivers of community cohesion and work with them urgently to promote peaceful coexistence.

All communities look to the Government for a solution to the current crisis. People spoke of individuals who can represent their interests, but stressed that the Government has to

come up with a plan to build relations and ensure sustainable return for all IDPs. The development of a plan to promote peaceful coexistence is linked to the need to undertake an independent assessment of each area to inform a strategy or plan focused on sustainable solutions based on communities' needs, rights, and desires.

IV. Conclusion and Recommendations

As this report highlights, there is currently a severe human rights deficit in Rakhine State. Human rights violations and abuses are widespread and continue unabated; there is widespread impunity and little accountability either for the large-scale violence perpetrated in 2012, for documented reports of sexual violence and rape, as well as the alleged arbitrary arrests, torture, extrajudicial killings and deaths in custody following large-scale 'sweeps' throughout the State, which targeted Muslims in the post-violence period.

The human rights situation is further compounded by the current humanitarian situation, where Muslims are denied the basic right to freedom of movement and are confined to IDP camps or villages and are in turn denied access to essential and lifesaving services, which impacts on their enjoyment of their rights to food, water, housing, work and other basic rights. A humanitarian crisis looms in Rakhine State with the upcoming rainy season, which will also put many people at risk of sickness or death from disease, endangering their rights to life and to health.

The gains made in Myanmar as part of the process of democratic reform are fragile and are undermined by situations such as in Rakhine State. Myanmar's promotion and respect for core human rights principles will not only lay sustainable foundations for the reform process but will also facilitate mutual understanding and respect and ultimately, peaceful coexistence. A key test of the ability and willingness to address the concerns raised by the violence in Rakhine state is how the Government will address long-standing impunity and discrimination. Without justice being done and seen to be done, resentment and tension between communities will only fester and worsen. Without establishing the facts, propaganda inciting hatred will increase and may lead the country down a path of further violence, destruction and yet more conflict.

Recommendations

The United Nations, including the Resident Coordinator, the UN Humanitarian Country Team, and senior UN political, humanitarian and development representatives, should have a coherent strategy to engage the Government of Myanmar through advocacy, technical cooperation, policy development, and programming with the aim that Government authorities at all relevant levels improve the human rights situation in Rakhine State. In particular, action needs to be taken to:

Discrimination

- Emphasize that there must be equal rights for all without discrimination: the Government has the duty to ensure absolute human rights guarantees for all people living in Myanmar – such as the prohibition against torture, freedom from slavery and servitude, the prohibition of prolonged arbitrary detention, the right to

recognition everywhere as a person before the law and the right to freedom from systematic racial discrimination. Fundamental rights, such as access to education, healthcare, livelihoods, are not dependent on citizenship or recognition; they are universally applicable irrespective of an individual's race, colour, sex, language, religion or belief, political or other opinion, national or social origin, birth or other status.

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- End the blanket policy of discriminatory segregation and confinement of Muslims. There needs to be independent and periodic assessments of local dynamics with a view towards lifting discriminatory restrictions on the right to freedom of movement of Muslims and finding durable solutions for affected communities.
- Revise or repeal discriminatory laws, policies, and practices– including all Border Immigration Headquarters orders and regulations that discriminate against Muslims and deny their fundamental human rights, including freedom of movement.
- Develop targeted media outreach to ensure messaging relating to the protection and promotion of human rights, and the need to address racial and religious discrimination.
- Support civil society and local NGO initiatives involved in the fight against racial and religious discrimination through appropriate means, and support inter-faith initiatives to address incitement to racial and religious violence and the promotion of mutual tolerance.

Statelessness

- Work towards the review and revision of the Citizenship Law in accordance with international human rights standards.
- Emphasise that any restrictions on the rights of non-citizens or stateless persons may concern only a very limited number of civil and political rights. Even under emergency rule, restrictions must be non-discriminatory, justified, clearly prescribed by law and absolutely necessary in a democratic society. Information on these justified restrictions in accordance with the rule of law must be transparent and easily accessible to concerned individuals and population groups.

Humanitarian Response and Peace Building

- Support the Government to foster durable solutions and peaceful coexistence in line with the UN Guiding Principles on Internal Displacement, by putting women and men at the centre of the process through dialogue and discussions on needs, grievances and aspirations – which in itself can serve to promote inter-community dialogue and participation.

- Ensure that all IDPs, registered and unregistered, have access to essential and lifesaving services including adequate food, shelter, water and access to adequate housing without discrimination.
- Support and advocate for access to adequate healthcare through improved provision of: medical facilities and access to medicines within all Muslim areas; additional trained doctors and nurses in all major IDP and conflict-affected areas; increased provision of infant and maternal healthcare; and urgent medical referrals in all affected townships.
- Promote access to education through the provision of: qualified teachers including at post-primary levels, adequate salaries for teachers, text books/materials and other teaching and learning aids, training for existing and new teachers, and improvements to school facilities, particularly in IDP camps. In addition, ensure that post-primary teaching facilities and teachers are in place prior to the June 2013 academic year, and take steps to enable Muslim students to sit matriculation exams and access university.
- Address the ongoing perception of the Rakhine community that the provision of humanitarian assistance is biased in favour of the Rohingya community, which is leading to ongoing threats and intimidation against those providing humanitarian assistance and will hinder efforts when the rains come; in this context, make use of the draft communications strategy/advocacy messages developed by UNIC and regional communications group.
- Seek unfettered access for the United Nations and all humanitarian service providers to all affected communities and stress that the Government has a responsibility to guarantee such access.
- Advocate for the lifting of onerous visa and other administrative requirements for international humanitarian staff.
- Ensure requests for regular visits by the humanitarian community and independent monitors to segregated, non-IDP areas such as ██████████ to assess the conditions and provide relevant support, including for the lifting of discriminatory restrictions on freedom of movement
- Ensure that protection sector representatives are fully involved in the humanitarian response and have the necessary resources to provide effective advocacy and protection; ensure their effective contribution to the Emergency Coordination Cell set up by UN and Government.
- Support targeted programming aimed at the empowerment of women, in particular Muslim women, including training, capacity building and awareness-raising on their rights.
- Support confidence-building measures involving inter-community meetings, local mediation, conflict resolution and other tools. Use human rights education and

outreach to communities to propagate messages relating to equal rights and non-discrimination.

Accountability and Prevention of Further Abuses

- Strongly advocate with Government to take steps to address accountability and justice in relation to those responsible, especially state officials, for instigating, ordering or participating in abuses, before, during and after the violence in Rakhine State. There must be full, impartial and prompt investigations, and prosecutions, based on internationally accepted fair trial guarantees.
- Advocate for immediate steps to reform [REDACTED] force and suspend the planned expansion of [REDACTED]
- Encourage the Government to reaffirm the absolute prohibition of extrajudicial killings and torture and publicly warn that anyone committing such acts or otherwise complicit or acquiescent in torture and extrajudicial killings will be held personally responsible before the law and will be subject to criminal prosecution and appropriate penalties.
- Encourage the Government to ensure that all military, police, Nasaka and other security forces operating in Rakhine state are clearly and publicly instructed about the prohibition on excessive use of violence against civilians in their operations; expressly prohibit large-scale sweeps of areas and arbitrary, indiscriminate arrests of suspects, harassment, intimidation and threats against persons.
- Remind the Government of its obligation to provide compensation to the families of the victims and ensure that the results of the investigations are made public
- Support the provision of sufficient resources to ensure that victims of sexual and gender-based violence have access to adequate medical and psychological care.
- Ensure human rights training for all security forces and law enforcement authorities including on their duties and obligations under national and international law, including on the UN Basic Principles on the Use of Force and Firearms and other democratic policing standards.
- Work with Union-level authorities towards civilian oversight over the military to address long-standing impunity not only in Rakhine state but elsewhere in Myanmar
- Ensure that detainees arriving at a detention facility undergo a routine medical examination that is put on the record, and that unfettered access to independent doctors is provided.

- Support regular and targeted prison visits by the ICRC and OHCHR in coordination with Government authorities and relevant UN bodies.
- Support the establishment of an independent national human rights institution, in accordance with the Paris Principles, with local sub-offices in Rakhine state and other parts of the country, which can accept complaints and thereby support local access to justice.

Rule of Law

- Advocate with the Government to review cases of prisoners detained in connection with the violence and immediately release all prisoners of conscience arrested on baseless charges, including those raised by the Special Rapporteur [REDACTED] and the [REDACTED] remain in custody..
- Address the issue of corruption and human rights in Rakhine with the Government, and the need to explicitly prohibit the taking and giving of bribes, and prosecute state officials suspected of taking bribes, in accordance with due process and fair trial guarantees.
- Support the provision of legal aid for detainees and victims.
- Ensure that steps are taken to address deficiencies in the protection of fair trial rights, including interference in judicial decision-making by the executive or senior judicial authorities.
- Raise the need for suspects to be informed of their rights upon arrest as well as reasons for their detention in a language they understand and guarantee the right to legal counsel during all stages of the judicial process.
- Support the Government to ensure independence throughout the justice process by bringing in lawyers, judges and prosecutors from outside Rakhine State to defend, investigate and adjudicate cases.
- Ensure that relevant officials are aware that confessions obtained through the use of torture may not be used to incriminate accused persons
- Promote the principle of the independence of the judiciary through independent trial monitoring, for example by inviting external experts to monitor trials.

Strengthening Engagement with International Human Rights System

- Support the implementation of the recommendations relating to the situation in Rakhine State previously made by the Special Rapporteur on Myanmar, by the

Committee on the Elimination of Discrimination against Women, by the Committee on the Rights of the Child, and by the Universal Periodic Review of the Human Rights Council.

- Support ratification of key international human rights treaties, including the Convention against Torture, the International Covenant on Civil and Political Rights, the International Covenant on Economic Social and Cultural Rights as well as their Optional Protocols, and the Convention on the Elimination of Racial Discrimination, ensuring national enabling legislation that is in line with international human rights law.
- Support the finalisation of an agreement with OHCHR to establish a Country Office in Myanmar without delay.

