

### Myanmar -Very High Risk/Ongoing Atrocity Crimes

Myanmar continues to be in very high risk of atrocity crimes due to the ongoing persecution and displacement of Rohingya, who continue to flee to Bangladesh more than six months since the August 2017 ARSA attacks in Rakhine State. More than 600,000 Rohingya have been forcibly displaced to Bangladesh. Médecins sans Frontières estimates that more than 6,000 civilians were killed by security forces during the opening stages of the campaign, and it is likely that the number may have risen to as many as 10,000. These casualties result from a widespread and systematic campaign of atrocity crimes including crimes against humanity and possibly genocide. Meanwhile, the country's security forces are also continuing to wage war against ethnic minorities in Shan and Kachin states, which has endangered civilian populations in these areas.

In February, the Associated Press reported on at least five mass grave sites in Rakhine based on accounts of Rohingya refugees in Bangladesh. One of which is in Inn Din that contained bodies of about 10 Rohingya men executed by security forces, which was acknowledged by the Tatmadaw as early as January.[1] A subsequent Reuters special report confirmed the mass graves in Inn Din based on interviews with local Buddhist villagers who claimed the participation of security forces in executing the 10 Rohingya men and the torching of Muslim homes during "clearing operations" by the military in August last year.[2] This is the first time that the Tatmadaw acknowledged the participation of its security forces in executing Rohingya men based on testimonies of local Buddhist villagers in Rakhine[3] although it also denied the existence of other mass graves documented by the Associated Press report.[4] Accordingly, the NLD government said that the seven soldiers, three policemen, and six villagers who were involved in the Inn Din massacre arrested even before the Reuters report was published and will be charged in accordance with the law.[5] For her part, NLD leader Aung San Suu Kyi said that the Tatmadaw's admission of the massacre and taking action is a "positive step".[6] On 11 April, the Tatmadaw sentenced seven soldiers to 10 years in prison and hard labour for participating in the Inn Din massacre of Rohingyas.[7] Meanwhile, in a thinly veiled attempt to shut down further investigations of this kind, the journalists responsible to the reporting were also arrested.

There are also clear signs that government forces have acted to destroy evidence of atrocity crimes and prevent the return of displaced Rohingya to their homes. Some 28 burned Rohingya villages within a 50-km radius in Maungdaw were bulldozed by the government between December and February, evidenced by satellite pictures obtained by Human Rights Watch. Although the Myanmar government claimed that clearing these villages were meant to build over 700 new houses and infrastructure for villagers including Hindus and Buddhists, only 22 houses were meant for Rohingyas. The government organised a two-day tour of northern Rakhine's Maungdaw village for local journalists in April where a district officer admitted that about 10 villages have been bulldozed to make way for construction of new settlements and border police regiments. Only 13 village tracts out of the 93 villages in Maungdaw remained intact following the campaign in August 2017, further evidence of just how widespread and systematic the government's campaign was.[8]

Yang Hee-lee, the UN's Special Rapporteur on Human Rights in Myanmar, was denied entry to the country by the government in January and reported to the Human Rights Council in March about the pattern of human rights violations that include sexual violence, extrajudicial killings, and burning and torching of buildings with intention to kill in the three major Rohingya villages in Rakhine following the military's clearing operations in August last year. She noted in particular that in villages where both Muslim Rohingya and Rakhine Buddhist people live, only the latter's homes and infrastructure stood intact after security forces and some local Rakhine villagers torched houses, business establishments, and houses of worship belonging to the Rohingyas.[9]

Meanwhile, Marzuki Darusman also reported to the Human Rights Council the initial findings of the three-member Fact Finding Mission pointed out that the response of the NLD government and the military to the overwhelming evidence of atrocities committed against the Rohingya people were “inadequate and is of grave concern.” He stressed that authorities Myanmar continue to accuse the international media of spreading “fake news” and still block unmonitored access to affected areas in Rakhine. He reported that the authorities had neither held any genuine consultation with the Rohingya population to address their needs and fears nor allowed the international community to play a role in their safe, voluntary, and dignified repatriation from Bangladesh.[10]

In April, the UN Secretary-General formally listed the armed forces of Myanmar among those armed groups responsible for perpetrating widespread and systematic sexual and gender based violence.[11] States are urged to consider steps they might take to ensure accountability for these crimes and stronger protection for affected communities.

The government of Myanmar proposed to commence resettlement of Rohingya but this is opposed by both the government of Bangladesh and the UN because the government has not taken sufficient steps to assure the protection of people and fulfilment of their human rights. Moreover, humanitarian access remains highly restricted. For its part, ASEAN has called on the Myanmar government to ensure the speedy, voluntary, safe, and dignified repatriation of all displaced communities in Rakhine during an informal retreat of its foreign ministers in February.

Despite overwhelming evidence of atrocity crimes, the Myanmar government and Tatmadaw continue to deny that atrocity crimes have occurred. The government also continued to reject an impartial and independent fact-finding investigation of atrocity crimes in Rakhine. Meanwhile, the military continues to restrict access to media and humanitarian organizations in affected Rohingya villages where atrocity crimes were committed.

Elsewhere in the country, the Tatmadaw’s military assaults in Shan and Kachin state since the last quarter of 2017 have resulted in more civilian displacements in areas controlled by ethnic armed organizations. A major air and ground assault in late January in Kachin Independence Army (KIA) territories for example trapped some 3,000-5,000 civilians and migrant workers, particularly in the amber mining area of Tanai. Some civilians were forced to escape through land-mined forests as they face food shortage and strict checkpoints enforced by the military in order to limit humanitarian aid to civilian villages. [12] The UN Special Rapporteur on Human Rights Situation in Myanmar pointed out that the Tatmadaw is also committing war crimes in Kachin and Shan state “without so much murmur of disapproval from the international community.”[13] She also said that the peace process appears to be losing ground as both the military and the central government failed to earn the trust of stakeholders, even as the Tatmadaw also barred peace consultations being conducted by some ethnic armed organizations in their respective territories. [14]

### **Recommendations**

#### **The Myanmar government should:**

1. Take positive steps to fulfil its legal obligations by ending the commission of atrocity crimes by security forces and preventing their recurrence;
2. Uphold its primary responsibility to protect vulnerable populations in Rakhine, including the Rohingyas, from atrocity crimes;
3. Take tangible steps to implement the recommendations of the Advisory Committee on Rakhine State, chaired by Kofi Annan.
4. Ensure the full and prompt investigation of allegations of atrocity crimes, including sexual and gender based violence, against the Rohingyas and other communities and take urgent steps to ensure legal accountability;

5. Provide full and unfettered access to the UN-mandated fact-finding mission to conduct an independent investigation of atrocity crimes;
6. Ensure immediate, safe, and unhindered access of humanitarian assistance to all affected communities in Rakhine as required by international law;
7. Lift restrictions on journalists and access to and reporting of information with respect to affected communities in Rakhine, Shan, and Kachin states.
8. End systematic discrimination against the Rohingya by immediately repealing the Protection of Race and Religion laws and the 1982 Citizenship Law.

**The international community should:**

1. Support efforts to ensure that atrocity crimes are properly investigated, evidence collected, and alleged perpetrators held accountable for violations of international humanitarian and human rights law. Should the government of Myanmar continue to fail to properly investigate and prosecute alleged perpetrators of atrocity crimes, the UN Security Council should refer the matter to the International Criminal Court.
2. Utilize diplomatic means to demand that the Myanmar government and Tatmadaw fulfil their obligations to prevent atrocity crimes, grant humanitarian access, protect vulnerable populations, cooperate with the United Nations, and hold perpetrators accountable;
3. Employ targeted measures, including sanctions, travel bans and the withdrawal of cooperative arrangements, against institutions and individuals thought responsible for atrocity crimes, until legal accountability is achieved;
4. Suspend all military aid and training programs with the Myanmar armed forces;
5. Provide adequate and sustained humanitarian assistance to Rohingya refugees in Bangladesh and internally displaced persons in Rakhine;
6. Take steps to prepare for the resettlement of displaced Rohingya in Myanmar. This process should be overseen by the UNHCR;
7. Coordinate efforts in shaping an effective regional response with ASEAN;
8. ASEAN should take a more pro-active stance by using its diplomatic mechanisms to influence the Myanmar government, taking steps to ensure protection of all civilians and humanitarian access, and strongly encourage Myanmar to commit implement the Advisory Commission's recommendations in full.

References

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