THE ARAKAN PROJECT

KEY ISSUES CONCERNING THE SITUATION OF STATELESS ROHINGYA WOMEN AND GIRLS IN RAKHINE STATE, MYANMAR

SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

For the Examination of the combined 4th and 5th periodic State Party Reports (CEDAW/C/MMR/4-5)

- MYANMAR -

10 June 2016

SUBMISSION TO THE COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN (CEDAW)

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The Arakan Project, June 2016

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The Arakan Project

The Arakan Project is a human rights organisation based in the Asian region which, since 1999, has specialized in monitoring and documenting the situation of the Rohingya Muslims, an ethnic, religious and linguistic minority in Rakhine State of Myanmar. The Arakan Project regularly submits its findings to relevant UN Treaty Bodies and UN Special Procedures, including the Special Rapporteur on the human rights situation in Myanmar and other thematic experts.

All photographs of Rohingya women and girls have been taken in northern Rakhine State and in internally displaced people's camps in Sittwe.

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KEY ISSUES CONCERNING THE SITUATION OF ROHINGYA WOMEN AND GIRLS IN MYANMAR

For the examination of Myanmar's combined fourth and fifth periodic reports to CEDAW, The Arakan Project highlights **four priority issues** affecting Rohingya women and girls in Rakhine State: **citizenship and birth registration**; **freedom of movement**; **access to livelihood, food and basic services**; and, **violence against women and access to justice**.

THE ROHINGYA: TOWARD TOTAL EXCLUSION

The Rohingya constitute an ethnic, linguistic and religious minority group in Rakhine State, Myanmar – professing Islam and sharing cultural features with the Chittagonian population in Bangladesh. In Rakhine State, the Myanmar Government estimates the Rohingya population at 1,090,000[1], of which about 750,000 reside in northern Rakhine State adjacent to the Bangladesh border (where they represent a majority population in Maungdaw and Buthidaung Townships). The rest live elsewhere across the State, of whom 120,000 are today internally displaced.

The Rohingya have been subject to long-standing State-sponsored policies of discrimination and exclusion on the basis of their ethnic and religion identity. Rendered stateless, severe restrictions have been imposed on them through local orders, and gross human rights abuses are perpetrated by the authorities with impunity, which have resulted in hundreds of thousands fleeing to Bangladesh and other countries over the past decades.

Sectarian violence against the Rohingya and the Government's response

In 2012, two outbreaks of sectarian violence mostly targeted the Rohingya, in which more than 200 people were killed, dozens of Rohingya women raped and 140,000 Muslims (Rohingya and Kaman) were transferred to segregated displacement camps. A massive maritime exodus towards Malaysia ensued.

In August 2012, the Thein Sein Government set up a 'Rakhine Inquiry Commission on the Sectarian Violence in Rakhine State' whose report was released in April 2013[2], and later established a Rakhine State Peace and Development Committee to implement the report's recommendations. A draft Action Plan[3] prepared by this Committee was leaked to the media in October 2014, which Human Rights Watch described as a blueprint for 'permanent segregation and statelessness'[4]. Although the Government claimed that the Plan was being revised[5], no updated version has

[1] Myanmar Ministry of Immigration and Population, Department of Population, 'The 2014 Population and Housing Census', "The Union Report", May 2015, page 12. The Rohingya were not counted during the 2014 Census, but the Government estimate that 1,090,000 persons (536,700 male and 553,300 female) were not enumerated in Rakhine State. However, some Rohingya reportedly agreed to participate without listing their ethnicity as Rohingya.

[2] Final report of Inquiry Commission on Sectarian Violence in Rakhine State, English translation published on 8 July 2013 (the original version in Burmese was published on 22 April 2013).

[3] Rakhine State Action Plan, Draft summary in English dated 7 July 2014.

[4] Human Rights Watch, 'Burma: Government Plan Would Segregate Rohingya - Forced Resettlement, Discriminatory Citizenship Creates Dangers', 3 October 2014.

[5] *Myanmar Times*, 'Action plan being reviewed: Government', 9 January 2015

been made publicly available. In its replies to CEDAW questions, the NLD-led government confirmed its implementation of the plan on 3 May 2016[6].

Exclusion from the 2014 population census and the 2015 elections

In response to protests by extremists and attacks against humanitarian agencies in Sittwe in March 2014, the Government prohibited self-identification as Rohingya in the national population census. As Rohingya refused to be enumerated as Bengali, they were not counted in the census[7]. Again bowing to pressure from hardliners, President Thein Sein declared the cancellation of the temporary ID card (white cards) on 11 February 2015[8], which disenfranchised the Rohingya, denying them the right to vote in the 2015 elections, but also leaving them without identity documents issued under the Myanmar legal framework.

NLD-led government initial response

Previous Myanmar governments consistently referred to the Rohingya as Bengali, implying they are illegal migrants from Bangladesh. State Counsellor Daw Aung San Suu Kyi requested the US Ambassador to refrain from using the term "Rohingya" but she also instructed her government not to use the term "Bengali" in May 2016.

On 31 May 2016, President Htin Kyaw announced the formation of a Central Committee on Implementation of Peace, Stability and Development of Rakhine State[9], with 27 members led by State Counsellor Daw Aung San Suu Kyi, and four Working Committees[10]. It includes ministers but no Rohingya representative. Details of the mandate and tasks of this senior-level Rakhine State Committee have not been published.

PRIORITY ISSUES

1. CITIZENSHIP AND BIRTH REGISTRATION

1.1 - Legal Framework

The 1982 Citizenship Law[11], essentially based on *jus sanguinis* criteria, identifies three categories of citizens: *(Full*) citizens, *Associate* citizens and *Naturalized* citizens, who are issued with colour-coded ID cards, carrying different sets of rights. *(Full) citizens* are citizens by birth (section 3) belonging to one of 135 'national races' settled in Burma/ Myanmar before 1823, the start of the British colonisation of Arakan, as well as those already recognised as citizens under the previous "1948 Union Citizenship Act" (section 6). *Associate citizens* were those whose application to citizenship under the 1948 Act was still pending when the 1982 Law entered in force. Access to *naturalized citizenship* requires two sets of qualifying criteria:

[6] CEDAW List of issues and questions in relation to the combined fourth and fifth periodic reports of Myanmar, Addendum, Replies of Myanmar, ref. CEDAW/C/MMR/Q/4-5/Add.1 dated 3 May 2016
[7] UNFPA statement, 'UNFPA Concerned about Decision Not to Allow Census Respondents to Self-Identify as Rohingya', 1 April 2014
[8] Myanmar President's Office, Notification 19/2015 dated 11 February 2015
[9] Myanmar President's Office, Notification 23/2016 dated 30 May 2016
[10] Myanmar President's Office, Notification 24/2016 dated 30 May 2016
[11] The 1982 Burma Citizenship Law can be accessed at: http://www.refworld.org/docid/3ae6b4f71b.html

evidence of long term residence in Myanmar since 4 January 1948 (section 42) or descent from, or marriage to, a person who held or holds a form of Myanmar citizenship (section 45), and fulfilling stringent requirements such as fluency in one of the recognised national languages, to be of sound mind and of good character (section 44). The Government can also limit rights to which naturalised citizens are entitled (section 53(c)) through various laws and regulations – for example, naturalised citizens are not allowed to stand for election, form or lead a political party, or to study medicine and other subjects.

In addition, Section 8(b) of the 1982 Law stated that all forms of citizenship, except citizenship by birth, can be revoked at any time. Although it does not provide for differential treatment based on gender, the 1982 Citizenship Law does not conform to international standards due to its discriminatory content based on ethnicity, its provisions for arbitrary deprivation of citizenship; and it does not comply with Myanmar's obligations under Article 7 of the Convention on the Rights of the Child guaranteeing the right to a nationality to every child born in Myanmar.

A proposal to reform the 1982 Citizenship Law in line with international standards was submitted to the Parliament on 6 November 2012 but was turned down and, in July 2013, President Thein Sein confirmed that there would be no amendment to the Citizenship Law. The new NLD-led Government has yet to indicate whether it would review this Law in line with international principles.

Even so, under its current form, the 1982 Citizenship Law does provide two paths for Rohingyas to access citizenship: under Section 6, stating that those already granted citizenship under the previous 1948 Citizenship Act remain citizens, or through application for naturalised citizenship. These two avenues, however, could leave behind a significant proportion of the Rohingya population unable to submit documentary evidence and/or meet language requirements necessary to qualify.

Until the promulgation of the 1982 Citizenship Law, the Rohingya, as all Burmese citizens, were issued National Registration Cards (NRCs) under the 1949 Burma Residents Registration Act. When the 1982 Law and its 1983 rules were implemented, most NRC holders had their card replaced by a Citizens Scrutiny Card (CSC) but, in Rakhine State, the Rohingyas were issued with temporary ID cards[12] (white cards) from 1995. While these white cards constitute a proof of identity and residence, they do not confirm citizenship. White card holders were nevertheless allowed to vote in the 2008 Constitutional Referendum and the 2010 National Elections.

However, on 11 February 2015, bowing to protests opposing voting rights for the Rohingyas, President Thein Sein announced that the white cards would expire on 31 March 2015, and must be handed over by 31 May 2015[13]. According to Rakhine officials, 392,259 temporary cards were surrendered in Rakhine State[14]. In

[12] Temporary Registration Certificates (TRCs) were also issued under provisions of the 1949 Burma Residents Registration Act and its 1951 rules.
[13] Myanmar President's Office, Notification 19/2015 dated 11 February 2015. The cancellation of TRCs referred to rules 13(3) and 13(4) of the 1951 Burma Residents Registration Rules.
[14] *Myanmar Times*, 'Rakhine officials collect nearly 400,000 'white cards' by deadline', 1 June 2015

exchange, holders were issued with a receipt and expected to apply for citizenship under a Citizenship Verification process.

1.2 - Citizenship Verification Process

The Government first attempted to collect data and assess Rohingyas' citizenship in late 2012 and again in 2013, encountering widespread resistance. On 15 June 2014, the Government launched a Citizenship Verification[15] programme in Rakhine State based on the 1982 Citizenship Law and requiring the Rohingya to self-identify as Bengali to apply.

A draft Rakhine State Action Plan dated 7 July 2014 leaked to the media stipulated that those who refuse to participate in the verification process as well as those who do not meet required criteria would be relocated to camps or deported elsewhere.

Pilot Citizenship Verification in Myebon

In June 2014, a pilot citizenship verification exercise started in Taung Paw IDP camp in Myebon, where displaced Rohingyas survive in a particularly hostile environment and where they had accepted to self-identify as Bengali during the 2014 population census. The Immigration team encountered protests by local Rakhine. Applicants were not required to submit documentary evidence. Based on a 3-generation family tree verification of descent back to the grandparents in government records was sufficient to establish 'full citizenship'[16]. Out of 1,280 initial applications, 105 were granted full citizenship and 459 naturalised citizenship as of July 2015[17], but at least 14 were rejected, 8 for being mentally unsound and 6 on language grounds. Children of those issued with citizenship documents were also granted citizenship, making a total of over 1,000 individuals. Remaining applications are still pending a decision on eligibility.

Successful applicants were included in the voter list for the 2015 election. However, their citizenship has not improved their situation as they remain confined to the IDP camp for "security reasons", without any freedom of movement. Similar constraints on movement also apply to displaced Kamans, a Muslim group among the 135 ethnic groups recognised as citizens by the Government.

On 1 January 2015, the Government announced that the Citizenship Verification was extended nationwide.

Citizenship Verification after the annulment of white cards

As of 5 June 2015, those who had surrendered their expired white cards were told to exchange the receipt for a turquoise (green/blue) card called "Identity Card for Nationality Verification" (ICNV) and fill in an application form for citizenship at the same time. The ICNV does not display ethnicity and religion, but does not provide any legal status to the holder. It is only the first step[18] permitting holders to later

[15] *Myanmar Times*, 'Citizenship program reinforces divisions in Rakhine State', 27 June 2015
[16] International Crisis Group, 'Myanmar: The Politics of Rakhine State', 22 October 2014
[17] These figures were based on the voter list published in July 2015. No recent information has been made available to The Arakan Project.
[18] The ICNV is a replacement of the now cancelled white card with the difference that the TRC/TIC was issued under the 1949 Burma Residents Registration Law whereas the ICNV does not appear to have any legal basis.

participate in the citizenship verification process. The application form, however, did require self-identification as Bengali. As a result, most Rohingyas declined to accept the ICNV and apply. Reportedly, just over 1,000 Rohingyas in Rakhine State had volunteered by the end of 2015.

Stalled temporarily around the 2015 elections, the Citizenship Verification process resumed under the new Rakhine State Committee led by Daw Aung San Suu Kyi established on 31 May. The new Government already confirmed that the process will continue to be based on the 1982 Citizenship Law. On 7 June 2016, a new pilot exercise was conducted in isolated Rohingya communities in three townships – a village in Ponnagyun and two IDP camps in Kyaukphyu and again in Myebon. This pilot project was not much different from the earlier exercise, except that the application form for citizenship no longer requires self-identification as Bengali (but does not allow Rohingya either) in line with Aung San Suu Kyi's instructions. However, the process lacks transparency as well as trust-building with both Rohingya and Rakhine communities about the process and its expected outcome. In Kar Di village in Ponnagyun, Rohingya refused to participate. This exercise will remain futile if the Rohingya are not guaranteed any benefits from applying and as long as trust-building and open communication strategies are not implemented.

1.3 - Birth certificate

Since the mid-1990s, Rohingyas have not been issued with a birth certificate. However, according to Rohingya sources, a few Rohingyas have recently obtained a Myanmar birth certificate but only in Maungdaw and Buthidaung Towns, possibly in the context of a UNICEF campaign for universal birth registration. Details on the circumstances under which such certificates have been delivered are still unclear.

1.4 – Child registration in household list and marriage authorisations

The Rakhine Inquiry Commission roughly estimated that about 60,000 children were unregistered in Rakhine State in 2013[19].

In northern Rakhine State, local orders have been issued targeting the Rohingya community since the mid-1990s. Pursuant to such orders, Rohingya couples must apply for official permission to marry and newly married couples have to sign a declaration that they will not have more than two children. The NaSaKa (former border security forces) supervised implementation. Couples engaged in a relationship without official marriage authorisation could be prosecuted and sentenced to up to 5 years imprisonment. A third or fourth child or a child born out of wedlock was often either blacklisted or left unregistered. Blacklisted babies are those recorded by the authorities without their names being added to their family list.

After the dissolution of the NaSaKa in July 2013, Village Administrators are now responsible for issuing marriage permission, which made the process easier. The 2-child policy is no longer implemented in practice, but **these local orders have not been abolished**. Children previously blacklisted or unregistered have still not been

[19] Rakhine State Inquiry Commission Report of 2013, English translation dated 8 July 2013, page 67 (see footnote 4). The report does not clearly state it but implies that these 60,000 are Rohingya children.

registered. Moreover, the Population Control Healthcare Bill enacted in 2015 as part of a legislative package of four 'race and religion' laws could lead to new restrictions targeting the Rohingya as it allows authorities to impose 3-year birth spacing in any region of the country[20].

Since January 2016, the MaKaPa, the Immigration team for the Prevention of Illegal Immigration of Foreigners, have been conducting an annual population check to update Rohingya family lists in NRS and have also announced a new procedure to insert new-born babies into the household list.

The new birth registration process requires the parents to initiate the procedure and approach the MaKaPa through the Village Administrator (VA). Parents have to submit a 5-page application form (GAD[21] Form 1/A) along with the birth certificate issued by a government health centre or a government-appointed midwife, the marriage authorisation and the family list (both father and mother must be registered on the same household list which is not always the case). This document must be accompanied by statements signed by two witnesses (neighbours or village elders), the VA and the local police/Border Guard Police (BGP). Two copies of the application set are to be submitted to the local MaKaPa and the local police and then forwarded to the BGP/MaKaPa Headquarters in Kyi Kan Pyin for approval. Once approved, the application will be returned to the local MaKaPa who will then insert the new-born child in the original family list.

Most poor families, particularly in rural areas, would be unable to satisfy these cumbersome requirements, including payment of associated costs and bribes, and their children are likely to remain unregistered, which in turn will further perpetuate statelessness.

Four years after the 2012 violence, the Government has yet to officially register the 120,000 Rohingyas currently displaced and confined to IDP camps. Consequently, no birth registration or family list updating has been conducted for displaced Rohingyas since 2012[22].

2. FREEDOM OF MOVEMENT

Since the mid-1990s, local orders have been issued to control movement of the Rohingyas, with penalties for non-compliance. These orders were strictly imposed in northern Rakhine State but, since the 2012 communal violence, severe restrictions of movement have been extended to Central Rakhine. Rohingyas' lack of mobility has devastating consequences, limiting their access to markets, livelihood opportunities, to health facilities and to higher education.

Travel authorisations (TAs) are required for Rohingyas, which include a Village Departure Certificate for travelling between villages within the same township and a

[20] Amnesty International and International Commission of Jurists, Joint Statement 'Myanmar: Parliament must reject discriminatory 'race and religion' laws, 3 March 2015.
[21] General Administration Department (GAD)
[22] The Arakan Project does not have information about birth registration processes in existing Rohingya villages beyond northern Rakhine State.

Form 4 to move between townships. Former TRC holders have so far been able to apply with the receipt issued in exchange of the white cards.

2.1 – Restrictions on movement in Northern Rakhine State

In northern Rakhine State, travel permission with a Form 4 is restricted between townships *within* NRS only. A Village Departure Certificate is required to travel between villages although this is not consistently applied. If a Rohingya stays overnight in a different village, the host has to report the guest with the authorities[23].

Furthermore, the establishment of many new road check-posts after the 2012 violence has led to an increase in arbitrary taxes, fines or arrests. A curfew imposed in Maungdaw and Buthidaung Townships (NRS) in June 2012 is extended every two months (from 11pm to 4am) and only applies to the Rohingya, not other communities. The curfew prevents them from fishing, going to their fields or seeking urgent medical treatment at night. Harassment at road check posts and curfew regulations has further reduced freedom of movement for the Rohingya community.

Rohingya women also reported that they could not obtain travel permission for their unregistered children, and they were thus forced to leave them behind with relatives or risk travelling with them without permission.

2.2 – Displacement, segregation and restriction of movement in Central Rakhine State

In conflict-affected areas of Central Rakhine, more than 120,000 Rohingyas (and Kamans) are strictly confined in segregated displacement camps, unable to access means of livelihood and basic services, making them dependent on international aid. Even those who are not displaced and still residing in their villages of origin do not enjoy any freedom of movement, ostensibly for security issues, which stems from a combination of instructions by authorities, harassment at check posts, threats from the Rakhine population and fear of being attacked. 25,000 internally displaced Rohingyas (IDPs) were relocated by the government in 2015, some involuntarily, and they also face similar restriction on their movements. In addition, for the past four years, the 4,000 residents of Aung Mingalar, a Muslim ghetto in Sittwe town, have been obliged to arrange a police escort to access a market in the Sittwe IDP camps. Sittwe town is off-limit and considered as a "Muslim-free area". The segregation only applies to Rohingya and Kaman -- Rakhine and other non-Muslim residents are allowed into the IDP camps where some engage in economic activities.

Travel to Yangon is sometimes authorised for emergency medical treatment. A special permission to travel beyond Rakhine State, usually valid for 45 days, is costly and requires two guarantors to ensure the person will return.

The capsize of a boat due to bad weather on 19 April 2016, in which at least 21 drowned, including women and children, illustrates the deadly consequences of restrictions on movement. The boat carried IDPs, travelling with permission, from

[23] A bill removing overnight guest registration requirements from the Ward and Village Tract Administration Law was approved by the Amyotha Hluttaw on 3 June 2016 and will be sent to the Pyithu Hluttaw (*The Global New Light of Myanmar*, 4 June 2016)

Pauktaw to buy basic supplies in the Sittwe camps through the open seas in the absence of safer travel alternatives.

Rohingyas from Rakhine State have no legal option to travel abroad.

2.3 – Penalties and prosecution for unauthorised travel

Unauthorised travel can lead to arrest, detention and prosecution under the 1949 Burma Residents Registration Act with prescribed penalties of up to 2 years imprisonment or under Section 13(1) the 1947 Burma Immigration (Emergency Provisions) Act and its 1990 amendment, punishable with a minimum of 6 months to a maximum of 5 years imprisonment. Although the Immigration Act applies to unauthorised travel outside Myanmar, a number of Rohingya were sentenced for violating the Immigration Act for travelling without permission *within* Myanmar. In northern Rakhine State, such Court verdicts have been based on the assumption that the accused had been to Bangladesh illegally, even when this was not the case.

On 1 September 2013, two women from Buthidaung Township were sentenced to 6 months in jail. They failed to produce a travel permit (Form 4) and were arrested on 21 August in Ywet Nyoe Taung Village Tract, Maungdaw North.

Travel permission is also used as a tactic for extortion. On 25 January 2015, a woman and her son were held by the Anti-Trafficking police in Alel Than Kyaw for travelling to Bangladesh illegally, even though she had an official border pass. The police confiscated her documents and threatened to charge her unless she paid 800,000 Kyat (about US$800) to be released.

Similarly, Rohingya women were threatened with arrest on the grounds that their husbands had left the country by boat without informing the authorities. On 19 November 2014, four women from Uo Daung Village, Maungdaw South, were summoned for these reasons and forced to pay 450,000 Kyat to avoid detention.

However, after the Myanmar Navy rescued two boatloads of Rohingyas and Bangladeshis abandoned by smugglers during the May 2015 crisis, all Rohingyas residing in Rakhine State were ultimately allowed to return to their village without punishment, as they were deemed to be victims of trafficking.

3. ACCESS TO LIVELIHOOD, FOOD AND BASIC SERVICES

As a direct consequence of severe constraints on movement, stateless Rohingya face enormous difficulties to access income, food, health care and education, whether in northern Rakhine or in IDP camps elsewhere –- conditions that further deteriorated following the 2012 sectarian conflict.

3.1– Access to livelihood and malnutrition

Lack of access to livelihood is the primary driver behind the maritime exodus of Rohingyas. Scarcity of employment options and poverty are further aggravated by physical restrictions enforced by local orders. In northern Rakhine State, restrictions on fishing, official prohibition to gather firewood and other forest resources, and the

imposition of informal taxes, combined with constraints on movement, have a dramatic economic impact on already impoverished communities. Restricting their access to livelihood and draining their assets through institutionalised extortion appear to be deliberate strategies to persuade Rohingyas to leave their homeland.

In displacement camps, access to food was cited at the No. 1 problem cited by IDP women. Confinement and segregation have made Rohingya IDPs largely dependent on international aid. Alternative income available within camp perimeters is far too little to maintain a family. Food rations provided by the World Food Programme only consist of rice, pulses, cooking oil and salt, and are distributed unevenly as some IDP households are not recorded in the official distribution list. Moreover, families often sell part of their food allowance in order to purchase other essential items.

Food insecurity has a lasting impact on nutrition and health. Action Contre la Faim (ACF) conducted a SMART[24] Nutrition Survey in Maungdaw and Buthidaung Townships in September/October 2015 and found high prevalence of Global Acute Malnutrition (GAM) and Global Chronic Malnutrition (stunting) well above the WHO emergency thresholds of 15% and 40%, slightly lower than in nutrition surveys undertaken over the past decade. The national stunting rate in Myanmar is 35%.

Prevalence of malnutrition for children aged 6 to 59 months

Indicator	Maungdaw	Buthidaung	WHO threshold
Global Acute Malnutrition (GAM)	19%	15.1%	15%
Severe Acute Malnutrition (SAM)	3.9%	2%	2%
Global Chronic Malnutrition	45.7%	46.6%	40%
Severe Chronic Malnutrition	21%	19.1%	

Source: Action against Hunger (ACF), Preliminary Report, SMART Nutrition Survey in Maungdaw and Buthidaung Townships in September and October 2015.

In the IDP camps outside Sittwe and Pauktaw, Save the Children International (SCI) carried out a SMART survey in January 2015 and found an improved rate of acute malnutrition, but a high prevalence of chronic malnutrition (stunting).

Prevalence of malnutrition for children aged 6 to 59 months

Indicator	Sittwe IDP camps	Pauktaw IDP camps
Global Acute Malnutrition (GAM)	8.6%	11.8%
Severe Acute Malnutrition (SAM)	1.3%	1.5%
Global Chronic Malnutrition	46.4%	51.7%

Source: Save The Children International (SCI), Survey and Barrier Analysis for Infant and Young Child Feeding Practices, Sittwe and Pauktaw Townships, May and June 2015.

3.2- Access to health care

Access to adequate health care is abysmal. As non-citizens, Rohingyas are barred from employment in the government health sector and have to rely on Buddhist medical practitioners who regularly discriminate against Rohingya patients.

[24] SMART: Standardized Monitoring and Assessment of Relief and Transition is a methodology used to assess the severity of a humanitarian crisis.

In northern Rakhine State, township hospitals are neglected and ill-equipped and rural villages have very few public health facilities and services. Medication has to be paid for. Moreover, travel permission and bribes demanded at checkpoints further complicate access to medical facilities, especially in case of emergency. Access to reproductive health care is minimal for Rohingya women. Those who can afford it prefer to seek treatment in Bangladesh. Several INGOs provide primary health care services but their national staff are also restricted in their movements.

In displacement camps, medical care is even more problematic. In March 2014, Médecins sans Frontières (MSF) and Malteser International were expelled following attacks by Rakhine extremists on UN and INGO premises. Ten mobile clinics and just one station hospital with 8 beds in Thet Kay Pyin Village, staffed by four nurses and attended by two medical doctors during weekdays, provide basic health services to 100,000 Rohingyas in Sittwe IDP camps and surrounding villages. Other IDP camps in Pauktaw, Myebon and other IDP camps rely uniquely on mobile medical teams organized by INGOs.

For emergency referrals, Sittwe Hospital has a 14-bed ward allocated to Rohingya patients which is under police supervision. Patients have to be transferred under police escort and can only be accompanied by one relative. Attendance and medical treatment is inadequate. Rohingyas are generally too scared to be referred to Sittwe Hospital and often accept a transfer when it is too late. Most Rohingya patients receiving treatment in Sittwe Hospital are women with complicated pregnancies and severely malnourished children. Emergency medical treatment in Yangon is occasionally granted for 45 days at high cost but, since April 2016, permission first requires a recommendation from Sittwe Hospital[25].

In Pauktaw and Myebon, even though a hospital is situated nearby, Rakhine hardliners continue to prevent access to Rohingya patients, and a time-consuming emergency evacuation has to be arranged by car and boat to Sittwe Hospital. This situation has resulted in many preventable deaths, including of pregnant women.

3.3- Access to education

Since June 2012, Rohingya youths and children have had little access to education. Moreover, socio-religious practices traditionally keep girls out of school once they reach puberty. Girls' education is not valued.

In northern Rakhine State, teachers are generally Rakhine Buddhists, as stateless Rohingya cannot be employed in the government education sector. Education for Rohingyas has always been neglected, with a lack of qualified teachers and school buildings, overcrowded classrooms, absenteeism among teaching staff and shortage of school materials. Discrimination against Rohingya students has been widely reported.

Following the violence in 2012, many government teachers fled, concerned for their security, and did not return to their posts, and the authorities shut down all Muslim religious education institutions, even *maktabs* where young children learn the basic

[25] *The Irrawaddy*, 'New Travel Restrictions Limit Rohingya Access to Healthcare', 27 April 2016

tenets of Islam. Today, government schools rely heavily on community-paid and mostly untrained Rohingya teachers, who represent 43% of the teaching staff. Classes often run in several shifts due to overcrowding. The teacher-student ratio in Maungdaw Township rose to 1:123 and 1:83 in Buthidaung Township[26]. *Maktabs* restarted operating clandestinely in villagers' houses whereas many *madrassahs* are still closed.

An estimated 60,000 displaced Rohingya children aged 3 to 17 are deprived of formal education. Learning centres have been established in displacement camps by UNICEF and other INGOs but face a severe shortage of qualified teachers. Schools in hosting communities are under enormous pressure.

University education is now off-limit to all Rohingyas. In 2014, only about 150 Rohingya students successfully passed high school matriculation in Maungdaw and Buthidaung Townships (out of a total population of more than 750,000) but they cannot pursue higher studies as Muslim students are barred from Sittwe University and are not allowed to travel to and enrol anywhere else in the country. Only distance learning is available but Rohingya are not issued with university diplomas.

4. VIOLENCE AGAINST WOMEN AND ACCESS TO JUSTICE

Rohingya women and girls are exposed to multiple forms of gender-based violence perpetrated by State agents and some Rakhine individuals, but also within their community and the domestic realm. Cases are widely under-reported as the issue is taboo and women do not have access to any judicial remedies. Perpetrators can act in total impunity.

Rohingya women and girls experience harmful gender-based traditional practices generally approved by conservative socio-religious norms in a male-dominated society. Women and adolescent girls are often isolated to their homes, excluded from the economic sphere and from decision-making in community matters. Arranged marriages often work out positively among Rohingyas, but forced marriages are also common, sometimes for the purpose of trafficking. Some young unmarried women and girls who sailed prior to the 2015 maritime crisis were sent by their parents for marriage in Malaysia in deal negotiated by their parents through brokers, putting them at risk of being trafficking during the journey or upon arrival.

Many Rohingya women do not have control over their reproductive health, whether in accessing birth control or in terminating a pregnancy. Girls' education is not valued and they are often forced to interrupt schooling at puberty. Divorced women and widows are held in contempt, vulnerable to sexual harassment and abandoned with little community support.

4.1 – Rape

The 2012 communal riots started with an allegation of rape of a young Rakhine Buddhist woman by two Muslim men in Kyauk Ni Maw, Ramree Township, on 30 May 2012. False allegations were also used to incite violence in Mandalay.

[26] REACH and Plan International, Joint Education Sector Needs Assessment in North Rakhine State, Nov. 2015

In northern Rakhine State, although mostly committed on Rohingya women by powerful members of their own community, rape incidents increased from June 2012, perpetrated by State actors -- police or soldiers, sometimes along with Rakhine civilians. Researchers from the UN Office of the High Commissioner for Human Rights (OHCHR) received credible accounts of at least 100 rape cases that occurred in June and July 2012, which appeared to be committed as retaliation for the rape of the Buddhist woman on 30 May[27]. Furthermore, two other incidences of mass rape of Rohingya women, some gang-raped, took place in Maungdaw Township: 11 allegations in Doe Than village in February 2013 and, at least another 11 alleged cases during the attack on Du Chee Yar Tan village in January 2014.

None of the rape incidents have been investigated and prosecuted. The Rakhine Commission report[28] extensively cited the alleged rape of a Rakhine woman triggering communal riots, but did not allude to mass rape of Rohingya women that ensued in Maungdaw Township. Similarly, the report of the Presidential Commission appointed to investigate attacks and alleged killings in Du Chee Yar Tan Village in January 2014[29] made no reference at all to incidents of rape.

Since then, six rape cases were reported to The Arakan Project, of which five were committed by police and Border Guard Police (BGP) against a Rohingya woman in detention. One of these cases involved a girl child raped by a soldier in a field.

- On 25 March 2014, a woman aged 25 from Inn Din Village Tract (Maungdaw South) was arrested on allegations of illegally possessing a Bangladeshi SIM card to communicate with her husband who fled to Malaysia. She was detained overnight in the police camp and raped, and was released the following day after her relatives paid 200,000 Kyat (about US$200). She reportedly went to Maungdaw town to lodge a complaint.

- On 31 October 2014, BGP raided a house in Nga Kyin Tauk Village (Buthidaung). The head of household was arrested for having an unregistered guest. He and his 15-year daughter were detained in the BGP camp. The girl was separated from her father and raped overnight, which was the aim of arresting her. Upon her release she sought medical treatment for her injuries.

- On 23 December 2014, police arrested two Rohingya women in Hlaing Thi Village (Maungdaw North) on allegations that their absconding husbands had returned to the village and they had sheltered them without informing the authorities. They were raped for three nights until their release on 26 December after relatives paid a ransom of 4.5 million Kyat (about US$4,500).

- On 6 January 2015, a 12-year old girl was raped by a soldier while tending cows in Kha Maung Seik (Maungdaw North). Alerted by other children her parents found her later lying bleeding in bushes.

[27] OHCHR, 'Internal Report on the findings of OHCHR's rapid response deployment in support of the humanitarian response in Rakhine State, Myanmar', April 2013

[28] Final report of Inquiry Commission on Sectarian Violence in Rakhine State, English translation published on 8 July 2013 (the original version in Burmese was published on 22 April 2013).

[29] Summary Report of the Investigation Commission for the Du-Chee-Yar-Tan incident of January 2014 and related events, February 2014 (English translation)

- On 6 July 2015, BGP raided a house at night in Ta Man Thar Village (Maungdaw North). As the husband had fled they arrested his wife aged 25 on allegations of selling cannabis. She was raped in BGP custody. Upon her release the next day she sought medical treatment in Maungdaw Hospital.

These cases match similar patterns found by the Arakan Project in research on rape incidence in 2010, which identified three situations when women are particularly at risk of being raped: in detention by law-enforcement agencies (with arrest sometimes a setup with a village leader for the purpose of rape); during night-time house checks of women with absentee husbands or, in isolated locations in daytime when women or girls are out collecting firewood, grazing cows or tending their fields.

Rape in the IDP camps is not uncommon, however rarely reported as being perpetrated by State authorities, perhaps because of the presence of international humanitarian agencies or simply because women are afraid to report them.

4.2 – Domestic violence

Mostly cases of intimate partners' violence have come to the attention of humanitarian partners. While the concept of marital rape is alien to the Rohingya, beating an insubordinate wife is an accepted norm. However, spousal abuses are exacerbated by the stressful conditions and environment in which families have to survive. Alcohol and drug abuse among unemployed men contribute to gender-based violence.

Temporary shelters in the IDP camps are bamboo long-houses, divided into 8 rooms, each room accommodating one family, and were constructed in 2012. They are overcrowded, with a total lack of privacy. At the time the international community was reluctant to build more permanent structures so as not to entrench segregation. But, 4 years later, the shelters are falling apart and are in urgent need of replacement. Latrines have sometimes been taken apart as some displaced Rohingyas dismantle them to procure building materials to fix their shelters, forcing women to wait for darkness in order to urinate or defecate in a nearby field, increasing their vulnerability to sexual harassment.

Rohingya women victims of marital assaults have few options and usually return to live with their abusive partner. In some cases, community leaders intervene by scolding the husband. Women have no recourse to file a legal complaint. Support afforded by NGOs is limited to medical care and psychosocial counselling, in addition to awareness-raising.

4.3 - Other forms of abuses against women

Rohingya women have also been victims to other types of abuses by State authorities pursuing male relatives. Women have been beaten, their valuables looted, and harassed by police to reveal the whereabouts of an absconding husband or son. Allegations of illegally using a Bangladesh SIM card and threats of arrest, even on fabricated charges, are often a means for extortion.

CONCLUSION

The election victory of the National League for Democracy on 8 November 2015 and the formation of a new government led by Daw Aung San Suu Kyi on 1 April 2016 provide hope for positive change and for a genuine transition to democracy in Myanmar, with respect for human rights at the core of policy, law and practice. The road ahead is, however, paved with numerous challenges but it offers opportunities to address key human rights issues in Rakhine State, with regard to the stateless Rohingyas. Rohingya women and children in particular, deserve to enjoy their fundamental human rights in a peaceful environment.

RECOMMENDATIONS TO CEDAW

The Committee should urge the Government of Myanmar:

- To take immediate steps to eradicate all discriminatory policies and practices against the Rohingya population;
- To combat all acts of incitement to discrimination, hostility or violence against religious and ethnic minorities, in particular against the Rohingya, condemn such acts publicly and take swift legal action against perpetrators;
- To take all necessary measures to establish the rule of law in Rakhine State, end impunity, and provide security and equal protection of the law to all, including Rohingya women;
- To engage in a confidence-building process with all communities in Rakhine State, inclusive of women, and to promote interfaith and intercommunal dialogue;
- To ensure that any Action Plan for Peace and Reconciliation in Rakhine State is in line with international human rights principles, especially those relating specifically to women ;

On Citizenship and birth registration:

- To review the 1982 Citizenship Law in accordance with international standards in order to prevent and eradicate statelessness in Myanmar, to bring Myanmar law into compliance with the universally respected prohibition of racial discrimination and with Myanmar's obligations under Article 7 of the Convention on the Rights of the Child (CRC) with the intention of granting citizenship and associated rights to the Rohingyas;
- To urgently resolve the legal status of Rohingyas through a transparent process that will provide incentives to all stakeholders to participate in the process in order to grant citizenship and associated rights to the Rohingyas;
- To issue birth certificates to all Rohingya children born in Myanmar in compliance with domestic law and Myanmar's obligations under the CRC (Article 7.1);
- To immediately register all Rohingya children by removing burdensome requirements which make it difficult to insert their names in their parents' family list.
- To abolish without delay all local orders restricting movement and marriage, and which seek to limit the number of children a family can have, orders which are exclusively applied on the Rohingya in Rakhine State

On freedom of movement:

- To revise and repeal all orders and regulations that restrict the freedom of movement of the Rohingya;
- To lift the curfew still in place in Maungdaw and Buthidaung Townships;
- To establish conditions conducive to the voluntary return of the displaced Rohingyas to their place of origin or to other places of voluntary resettlement in safety and dignity, and to ensure adequate reintegration and security;

On access to livelihood and basic services:

- To substantially improve access to quality health care and education services to Rohingya children, in IDP camps as well as in all other locations;
- To guarantee unhindered humanitarian access to all Rohingya communities in Rakhine State;
- To withdraw the Population Control Healthcare Bill in particular, as this law could result in new restrictions targeting Rohingya women as it allows authorities to impose 3-year birth spacing in any region of the country.
- in particular as it could further increase discrimination against Rohingya women;
- To conduct extensive teacher training among Rohingyas, including for women, and to restore access to higher education, including university education, to Rohingya students;
- To ensure access to food and eradicate malnutrition so that women and children can meet their physical and mental needs;

On violence against women and access to justice:

- To establish support mechanisms for women victims of all forms of violence, including sexual and gender-based abuses;
- To increase training, capacity-building and awareness-raising for all actors involved in assisting women subject to violence, including police forces, health practitioners and teachers, community volunteers and other service providers;
- To provide legal aid and effective access to justice to encourage women victims of violence to seek redress;
- Take legal action against perpetrators of sexual violence against women, and, in particular, investigate and prosecute members of State authorities committing rape and sexual harassment against Rohingya women.

On ratifying other international human rights treaties:

- To accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness;
- To become State Party to the Optional Protocol to the Convention on the Elimination of all forms of Discrimination against Women; and,
- To sign and ratify the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Convention on the Elimination of All forms of Racial Discrimination (ICERD) and other relevant human rights instruments.