

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	247
Land:	Myanmar
Kilde:	CEDAW
Titel:	Concluding observations on the exceptional report of Myanmar
Udgivet:	8. marts 2019
Optaget på baggrundsmaterialet:	26. juni 2019

Advance Unedited Version

Distr.: General
8 March 2019

Original: English

English, French and Spanish only

**Committee on the Elimination of Discrimination
against Women**

**Concluding observations on the exceptional report of
Myanmar^{*}, ^{**}**

1. The Committee considered the exceptional report of Myanmar (CEDAW/C/MMR/EP/1) at its 1668th meeting, on 22 February 2019 (CEDAW/C/SR.1668).

A. Introduction

2. Following the consideration of the combined fourth and fifth periodic reports of Myanmar (CEDAW/C/MMR/4-5) at its 1407th and 1408th meetings, on 7 July 2016 (CEDAW/C/SR.1407 and 1408), the Committee, in paragraph 54 of its concluding observations (CEDAW/C/MMR/CO/4-5), requested the State party to submit by July 2018 written information on the steps taken to implement the recommendations contained in paragraph 45 (d) and (f) to ensure birth registration of Rohingya and those of other ethnic groups and remove all obstacles faced by Rohingya women and girls with regard to citizenship, and to urgently establish an independent body to investigate allegations of violence against ethnic minority women and girls, including sexual and other forms of gender-based violence, and prosecute alleged perpetrators and, if convicted, punish them with appropriate sanctions. The Committee sent a reminder to the State party on 14 January 2019 to provide the additional information requested.

3. The Committee, in accordance with article 18 paragraph 1 (b) of the Convention, decided at its sixty-eighth session, on 17 November 2017, to request the Government of Myanmar to submit an exceptional report by May 2018, on the situation of Rohingya women and girls from Northern Rakhine State since the onset of the violence on 25 August 2017 (CEDAW/C/MMR/Q/4-5/add.2). The Committee expresses its appreciation to the State party for the exceptional report submitted on 1 February 2019 but regrets that it provided limited and vague information and did not address adequately all the questions posed by the Committee.

4. The Committee commends the State party's high level delegation, which was headed by H.E. Mr. Win Myat Aye, Union Minister, Ministry of Social Welfare, Relief and Resettlement, and included representatives from the Ministry of Defence, the Police Force from the Ministry of Home Affairs, the Ministry of Foreign Affairs and the Permanent Mission of the Republic of the Union of Myanmar to the United Nations and other international organisations in Geneva.

^{*} The present document is being issued without formal editing.

^{**} Adopted by the Committee at its seventy-second session (18 February – 8 March 2019).



B. Context

5. The Committee regrets the systematic and widespread acts of violence specifically targeting Rohingya women and girls during the military security “clearance operations” which followed the 25 August 2017 attacks on border posts in Northern Rakhine State and led to the mass displacements of over 745, 000 Rohingya to Bangladesh. It notes that sexual violence against women and girls included rape, gang rape, sexual slavery, forced nudity, sexual humiliation, mutilation and sexual assault and in some cases the subsequent killing of victims. The Committee is deeply concerned that similar patterns of abuses have been reported for at least three decades with no evidence of measures taken to effectively prevent and address the human rights violations committed. It also notes that authorities of the State party continue to deny that any sexual violence have been committed, which leads to the conclusion that no genuine efforts have been taken to hold perpetrators accountable. The Committee is also gravely concerned about the situation of about 596, 000 stateless Rohingya who remained in Northern Rakhine State, of which over 120,000 are newly internally displaced. Furthermore, the continuous arrival of Rohingya refugees in Bangladesh up to December 2018 and their testimonies lead the Committee to conclude that women and girls continue to be at risk of gender-based violence, including sexual violence.

6. The Committee notes that in recent decades, Rohingya women and girls have been victims of at least four incidences of mass violence with widespread killings, arrests, torture, rape, forced labour and other abuses resulting in waves of mass displacement. In 1977 the government programme Naga Min (Dragon King) resulted in 200,000 Rohingya seeking refuge from violence in Bangladesh; in 1991, 250, 000 Rohingya escaped once again to Bangladesh; in 2012, almost 200,000 Rohingya found themselves enclosed in internally displaced people’s (IDPs) camps in and around Sittwe; and in 2016 and 2017 military security “clearance operations” led to an influx of over 800,000 refugees to Bangladesh.

7. The multiple and credible reports by United Nations human rights mechanisms, including the Office of the High Commissioner for Human Rights, the International Fact Finding mission on Myanmar, the Special Rapporteur on human rights in Myanmar, the Special Representative of the Secretary General for Children and Armed Conflict (SRSG CAAC), and the Special Representative of the Secretary General for Sexual Violence in Conflict (SRSG SVC), among others have documented a pattern of widespread atrocities against Rohingya women and girls, who have been systematically targeted due to their ethnicity and religion. Evidence indicates that sexual violence was commanded, orchestrated and perpetrated by the Myanmar armed forces, with the involvement of the Border Guard Police and militias.

8. The Committee is concerned about the government structures specific to Northern Rakhine State, with the Border Guard Police holding both security and administrative authority over the predominantly Rohingya townships. This unique arrangement in the State party has resulted in a myriad of local orders restricting freedom of movement, access to health, including sexual and reproductive, services, education, and housing as well as to places of livelihood to Rohingya women and girls. The Committee recalls that the State party’s accountability with respect to implementing its obligations under article 2 is engaged through acts of commission and omission of all branches of Government. The decentralization of power does not absolve the State party of its responsibility to fulfil its obligations to all women within its jurisdiction.

9. The Committee notes the State party’s establishment of a series of national commissions to address the situation in Northern Rakhine State, among which the Commission on Sectarian Violence in Rakhine State (August 2012); the Inquiry Commission for Du-Chee-Yar-Tan incident and related events (2014); the Advisory Commission on Rakhine State chaired by Kofi Annan (September 2016); the State-level Committee on violence in Maungdaw (October 2016); the Maungdaw Region Investigation Commission (December 2016); the Military Inquiry Board on violence in Maungdaw led by Lieutenant-General Aye Whin (February 2017); the Police Departmental Inquiry on

violence in Maungdaw (February 2017); and the Independent Commission of Enquiry in 2018 chaired by Ambassador Rosario Manalo, from the Philippines. The Committee deeply regrets that all the investigative commissions found that no human rights violations took place and consequently no one has been held accountable, and regrets the absence of independent and credible national justice institutions.

10. In its general recommendation No. 35 (2017), updating general recommendation No. 19 (1992) on gender-based violence against women, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. The Committee recommends specific punitive, rehabilitative, preventive and protective measures that States parties should introduce to fulfil this obligation.

C. Positive aspects

11. The Committee welcomes the steps taken towards the adoption of the draft Prevention and Protection of Violence against Women (PPVA) Law and the technical cooperation established between the government and UN agencies to ensure its compliance with the Convention.

12. The Committee welcomes the signature by the State party of a Joint Communiqué with the Special Representative of the Secretary-General on sexual violence in conflict, in the context of the United Nations Security Council resolution 2106 (2013) on 7 December 2018, identifying six priority areas for cooperation including legal reforms to respond to sexual violence, training and capacity-building of justice and security sector, assistance to survivors of sexual violence, ensuring that prevention of sexual violence is included in peace agreements and transitional justice and that perpetrators are excluded from amnesty, and mitigating conflict-related trafficking for the purpose of sexual exploitation.

D. Legal reform

13. The Committee is concerned that the Constitution of Myanmar of 2008 affords immunity to government officials and guarantees the autonomy of the military, which perpetuates impunity, as it, inter alia,

(a) Grants the Defence Services the right to independently administer and adjudicate all affairs of the armed forces” under Chapter I, article 20(b);

(b) Exempts the Commander-in-Chief from legal constraints under Chapter XI, article 419;

(c) Prohibits proceedings against “any member of the Government, in respect of any act done in the execution of their respective duties” under Chapter XIV, article 445; and

(d) Confers on the President “the power to grant amnesty in accord with the recommendation of the National Defence and Security Council” under Chapter V, article 204(b).

14. The Committee recommends that the State party take the measures necessary to amend the provisions of the Constitution that grant government officials, including military and security officers, immunity for human rights abuses and establish civilian jurisdiction over human rights violations.

15. The Committee remains concerned that the Penal Code of 1861 does not establish adequate provisions and sanctions to protect women and girls against violence, including rape, sexual assault, other forms of gender-based violence, and human trafficking.

16. **Recalling its general recommendation No. 35 (2017) on gender-based violence against women, updating general recommendation No. 19, the Committee recommends that the State party amend the Penal Code of 1861 to adopt a definition of violence against women, including rape and other forms of sexual and gender-based violence, in accordance with the Convention and international standards, and ensure civilian courts have jurisdiction over the military for crimes of violence against women and girls.**

17. While welcoming the progress made towards the adoption of the draft PPVA Law, the Committee is concerned about delays in its adoption. In particular, it is concerned about the lack of information on:

(a) The scope of the criminal offences covered and the protection and support provided to victims and witnesses of sexual violence, including conflict-related sexual violence; and

(b) Whether it allows for security forces to be investigated and prosecuted for conflict-related sexual violence and, if so, under which jurisdiction.

18. **The Committee recommends that the State party adopt promptly the PPVA Law and ensure it covers conflict-related sexual violence, provides adequate protection and support to victims and witnesses of sexual violence, and establishes civilian jurisdiction over these crimes, including when perpetrated by military or other security forces. The Committee further recommends that the State party circulate it for public consultation and seek the technical cooperation of the United Nations, including the UNCT, SRSB SVC and SRSB CAAC, to ensure its compliance with the Convention and international standards.**

19. The Committee regrets the continuous absence of a comprehensive law guaranteeing protection against forced displacement and programmes focusing on women who are vulnerable to forced evictions, in particular those belonging to ethnic minority groups such as the Rohingya.

20. **The Committee reiterates its previous recommendation (CEDAW/C/MMR/CO/4-5 para. 15 (c)) and recommends that the State party enact comprehensive legislation that protects women from forced displacement, in particular women belonging to various ethnic minority groups such as the Rohingya.**

21. The Committee is concerned that while the State party has ratified the Genocide Convention of 1948, it has not yet incorporated the crime of genocide in its Penal Code. It is also concerned that the State party has not criminalized serious international crimes such as crimes against humanity and war crimes.

22. **The Committee recommends that the State party review promptly its Penal Code to criminalize serious international crimes including genocide, crimes against humanity and war crimes, such as conflict-related sexual violence, and establish civilian jurisdiction over these crimes.**

Nationality

23. The Committee remains deeply concerned that the State party has been repeatedly cautioned about the discriminatory and outdated provisions of the Citizenship Law of 1982 as well as the several citizenship verification exercises conducted in Northern Rakhine State which resulted in the arbitrary deprivation of nationality and statelessness of Rohingya women and girls. It is further concerned that members of the Rohingya ethnic group, including women and girls, who refused to identify as “Bengali” have been arbitrarily excluded from the verification process.

24. **The Committee recalls its previous recommendation (CEDAW/C/MMR/CO/4-5 para. 33) and recommends that the State party amend the Citizenship Law of 1982 to**

remove discriminatory provisions based on ethnicity, use objective criteria to determine citizenship, such as descent, and restore citizenship to Rohingya women and girls. It recommends that the State party ensure that Rohingya children are registered and provided with birth certificates and have the right to acquire a nationality where otherwise they would be stateless, in accordance with article 7 of the Convention on the Rights of the Child. It further recommends that the State party recognize the right of Rohingya to self-identity, ensure that any citizenship verification program is implemented in a non-arbitrary and non-discriminatory basis, and grant the Rohingya national citizenship documents within a reasonable time.

E. Accountability, investigation and judicial process

25. The Committee regrets that in its replies to the list of issues, the State party stated that “despite repeated accusations that Myanmar Security Forces committed a campaign of rape and violence against Muslim women and girls residing in Rakhine State, there is no evidence to support these wild claims.” and that “while there have been alleged cases and accusations against members of the security forces, there have been no evidence and sufficient grounds to convict anyone. Actions cannot be based on narratives and rumors of unreliable sources.” The Committee is concerned that the State party’s authorities have on multiple occasions denied allegations of violence, including rape and other forms of sexual violence against Rohingya women and girls by security forces, contradicting considerable evidence to the contrary, including photographic evidence and testimony of thousands of witnesses collected by UN human rights bodies and others. The Committee is deeply concerned at:

(a) The derogatory and humiliating statements made by senior officials against Rohingya women, such as those attributed to Colonel Phone Tint, the Rakhine State border security minister who on September 2017 said: “Look at those women who are making these claims—would anyone want to rape them”;

(b) The fact that there have been no meaningful, independent and impartial investigations into violence, including conflict-related sexual violence, committed by security forces in Northern Rakhine State, nor arrests, prosecutions, or convictions, in recent years and in particular since the massive security “clearance operations” of August 2017; and

(c) The lack of information about the measures taken to effectively implement the Joint Communiqué regarding the timely investigation of alleged crimes of sexual violence against Rohingya women and girls.

26. The Committee urges the State party to promptly investigate and prosecute security personnel, including senior officials in the Tatmadaw chain of command for serious international crimes, crimes against humanity, war crimes and conflict-related sexual violence, taking into consideration the findings of the UN FFM providing sufficient information capable of constituting evidence in this regard.

27. The Committee is concerned at the State party’s unwillingness to identify military officers notwithstanding well-founded testimonies from victims and witnesses who have identified the presence in Northern Rakhine State, during the 2017 military “clearance operations”, of the Western Command, headed by Major Maung Maung Soe (until November 2017); the 33rd Light Infantry Division (LID) headed by Brigadier General Aung Aung, the 99th LID headed by General Than Oo, and the Border Guard Police commanded by Brigadier General Thura San Lwin, between October 2016 and October 2017, and since then by Brigadier General Myint Toe. The Committee notes reports that as of January 2019, the 99th LID returned to Northern Rakhine, accompanied by the 22nd LID.

28. The Committee recommends that the State party take the measures necessary to identify and record the military, police and border guard units, their elements and chain of command, that were or still are present in northern Rakhine State since the

August 2017 security “clearance operations” and make that information available to national and international, including human rights and international crimes, investigative bodies. The Committee further recommends that the State party ensure that victims and witnesses, in and outside the country, who participate in judicial procedures are given physical protection and protection from reprisals.

29. Regarding the Independent Commission of Enquiry (ICOE) established on 30 July 2018 to “investigate the allegations of human rights violations and related issues”, the Committee regrets the lack of information about how the State party will ensure its independence, impartiality and avoid conflict of interests; its mandate, terms of reference and timeframe; the procedure for the hearings and the steps following the investigations; the jurisdiction which will address its finding and recommendations; the mechanisms in place to ensure the protection of victims and witnesses; and how it will operate in accordance with international human rights standards. The Committee notes that a Committee member has accepted to chair the ICOE in her individual capacity.

30. **The Committee recommends that the State party take the measures necessary to ensure that the Independent Commission of Enquiry (ICOE) conducts its work in an independent and impartial manner and there are no conflict of interests of its commissioners; make information public available about the ICOE mandate, terms of reference, timeframe, methodology of investigations, and follow-up to findings and recommendations, including the eventual criminal investigations and prosecutions of alleged perpetrators; ensure it has a victim/survivor centred approach and provides guarantees for the protection of victims and witnesses from reprisals; and carries out its investigations in accordance with international human rights standards with a view to establishing accountability.**

31. The Committee deeply regrets that the State party did not cooperate with the FFM and other UN human rights mechanisms and refused access to Northern Rakhine State, indicating an unwillingness to allow scrutiny and ensure accountability.

32. **The Committee urges the State party to cooperate with and grant unrestricted access to United Nations human rights and accountability mechanisms, including OHCHR, the FFM, the Independent Investigative Mechanism, the SR Myanmar, the SRSG SVC and the SRSG CAAC, to investigate human rights violations in Northern Rakhine State.**

33. The Committee is very concerned that the State party’s national justice systems, both civilian and military, do not have the independence, impartiality and capacity necessary to investigate, prosecute and sanction perpetrators of serious human rights violations committed against Rohingya women and girls.

34. **The Committee recommends that the State party ratify the Rome Statute of the International Criminal Court and consider setting up a Special Tribunal under the auspices of an independent international authority to investigate and determine allegations of serious international crimes, crimes against humanity, war crimes and conflict-related sexual violence, committed by the Tatmadaw and others, against Rohingya women and girls. The Committee also recommends that such Special Tribunal be mandated to investigate the responsibility of civilian authorities, who through their acts and omissions may have contributed to such crimes.**

F. Conflict-related sexual violence

35. The Committee is deeply concerned about the pervasive use of conflict-related sexual violence by the Tatmadaw and other security forces against Rohingya women and girls during and after the August 2017 security “clearance operations” in Northern Rakhine State and the very limited protection and support services available to victims and survivors. The Committee regrets the State party’s failure to address adequately the

concerns raised in 2016 (CEDAW/C/MMR/CO/4-5 para. 26 (a)) regarding impunity of perpetrators which could have helped prevent this situation.

36. The Committee recommends that the State party ensure that the Commander in Chief of the military issue an order to all security forces detailing a policy expressly prohibiting rape and all forms of sexual violence; and that reports of alleged violations will result in a credible investigation, fair trial, and appropriate sanctions, such as dismissal and a term of imprisonment. The Committee also recommends that the State party provide all security personnel with in-depth training regarding the new policy and methods for addressing and reporting possible human rights violations, and create an enabling climate for reporting.

37. The Committee is concerned about reports of 6,097 incidents of sexual and other forms of gender-based violence reported from late August 2017 through late March 2018, and that between 22 and 28 October 2017 alone, 306 cases of gender-based violence were reported, 96 percent of which included emergency medical care services. The Committee notes that these figures can only be indicative of the overall dire situation as many victims and survivors do not report these crimes. The Committee regrets that:

(a) Rohingya women and girls in refugee camps in Bangladesh did not have adequate access to post-rape care, including emergency contraception, HIV/AIDS post-exposure prophylaxis, safe abortion and counselling services;

(b) Access to sexual and reproductive health services and maternal health care support, including psychological counselling services remains inadequate, including to women and girls who gave birth to children after being raped; and

(c) There is an increased number of abandoned infants in refugee camps.

38. The Committee recommends that the State party cooperate with the government of Bangladesh, UN entities and other international and national partners to provide specialized, inclusive and accessible services to Rohingya women and girls victims and survivors of conflict-related sexual violence, including access to sexual and reproductive health services, maternal health care support and psychological counselling. It also recommends that the State party ensure that abandoned children have access to care services and to birth registration.

39. The Committee is concerned about Rohingya women and girls, including those in refugee camps in Bangladesh, who are at risk of other forms of gender-based violence, including child marriages, forced marriages and trafficking.

40. The Committee recommends that the State party cooperate with the government of Bangladesh, UN entities and other international and national partners to prevent child marriages and forced marriages and put in place risk mitigation measures against conflict-related trafficking, including awareness raising and training of the Border Guard Police and immigration officials, in line with UN SC resolution 2331 (2016).

41. The Committee is deeply concerned that given the prevalence of rape, sexual and other forms of gender-based violence experienced by Rohingya women and girls refugees, many survivors who remained in Northern Rakhine State, continue to be at risk of conflict-related sexual violence, and lack access to complaints and redress mechanisms as well as to sexual and reproductive health services, including emergency treatment.

42. The Committee recommends that the State party take the measures necessary to put an end to conflict-related sexual violence in Northern Rakhine State, and to:

(a) Establish an effective, accessible and safe mechanism to report incidents of rape and other forms of sexual and gender-based violence to appropriate authorities for investigation;

(b) Carry out community education programs aimed at empowering women who want to report violence and in a manner that does not jeopardize their safety; and

(c) Ensure the availability of sexual and reproductive health services as well as preventative and emergency healthcare, under the principles of inclusion and accessibility, to Rohingya women and girls, including obstetric, prenatal and postnatal care, contraceptive information and services, emergency contraception, HIV/AIDS post-exposure prophylaxis safe abortion and psychological health services for victims and survivors of rape and other forms of sexual and gender-based violence; and

(d) Ensure the participation of Rohingya women and girls in the development and implementation of programmes related to sexual and reproductive health services; set up monitoring mechanisms to ensure access to and quality of those services; and eliminate discriminatory and abusive practices by health care personnel.

43. The Committee regrets the limited information provided by the State party about the specific measures taken to implement the Joint Communiqué, including the timeframe for the establishment of the inter-ministerial committee, the scope of its responsibilities, the ministries involved, and the appointment of representative members.

44. **The Committee recommends that the State party establish promptly the inter-ministerial committee responsible for the implementation of the Joint Communiqué; ensure that all relevant ministries are adequately represented; inform the public about the scope of its responsibilities and its plan of action; and publish regularly information about its activities.**

G. Freedom of movement, humanitarian access and protection

45. The Committee is deeply concerned about the persistent denial of freedom of movement to Rohingya women and girls in Northern Rakhine State, which also severely limits access to health care, education and livelihood places such as markets, fields, and fishing areas. The Committee notes with concern that the military presence since 2012 restricted travel outside of Rohingya villages due to permit requirements, curfews and security checkpoints. It also notes that women and girls were also subjected to sexual violence, extortion, arbitrary arrests, and detention by security forces. The Committee further notes that these restrictions were compounded by self-imposed restrictions that kept Rohingya women and girls inside their homes for fear of military violence. It is concerned that the estimated 600,000 Rohingya remaining in Northern Rakhine State after the security “clearance operations” of 2016 and 2017, are reportedly experiencing conditions of forced starvation, with security forces denying access to the remaining rice fields and markets.

46. **The Committee recalls its previous recommendation (CEDAW/C/MMR/CO/4-5 para. 45) and recommends that the State party repeal all local orders that unduly restrict freedom of movement end, including curfews, checkpoints and travel permit requirements, and ensure that Rohingya women and girls may travel safely and freely to access healthcare, education, and livelihoods.**

47. The Committee is deeply concerned that the State party continues to restrict humanitarian access and aid, including lifesaving medical care and food, to Northern Rakhine State, with only the World Food Programme (WFP) and the International Committee of the Red Cross allowed to carry out aid distribution but operating under significant access constraints.

48. **The Committee recommends that the State party grant the United Nations and other humanitarian organizations immediate and unrestricted access to Northern Rakhine State to conduct needs assessments; provide humanitarian assistance and protection to the affected population; and deliver life-saving services to women and girls affected by the conflict.**

H. Safe, voluntary and dignified return and resettlement

49. The Committee notes the information provided by the State party about the construction of reception centres in Taung Pyo Let We and Nga Khu Ya and the transit camp at Hla Phoe Khaung and its readiness since January 2018 to receive “verified returnees”. The Committee is seriously concerned that:

(a) The Memorandum of Understanding (MoU) between the State party, UNDP and UNHCR of June 2018, for the “safety, reception and reintegration of returnees and the “Arrangement on Return of Displaced Person from Rakhine State” signed between the State party and Bangladesh on 23 November 2017, to guide the coordination and implementation of the repatriation process are not publicly available documents, and it is unclear how they comply with human rights and refugee international law, in particular the principles of voluntary return in safety and dignity;

(b) The MoU and the “Arrangement” require the Rohingya to undergo a citizenship verification process under the same conditions which have led to the statelessness of the majority of the Rohingya community; and to submit documents proving their residence in Myanmar, such as citizenship identity cards, national registration cards or temporary registration cards, which they have not had access to, and that any other document that may prove residence is likely to have been lost during their escape;

(c) The construction of resident centres and transit camps enclosed by high barbed-wire perimeter fencing, resemble internment camps, and Rohingya may be at risk of remaining there indefinitely, in a situation reminiscent of the 2012 IDP camps in and around Sittwe where Rohingya women and girls have remained for years; and that the ones who remained may be forced into confined or segregated communities.

50. **The Committee recommends that the State party:**

(a) Ensure the voluntary return in safety and dignity of Rohingya women and girls and facilitate gender-inclusive consultations in refugee camps to ensure the full participation of women and girls in the repatriation process;

(b) Facilitate the repatriation process by not imposing on refugee Rohingya women and their families a discriminatory citizenship verification process and accept a variety of realistic forms of evidence of residence in Myanmar, including sworn statements;

(c) Ensure that refugee and displaced Rohingya women and girls are not forced into segregated camps, which could result in the forcible internment of the Rohingya population in the longer term and may freely choose where they are resettled. Special efforts should be made to ensure the full participation of returned Rohingya women and their families in the planning and management of resettlement programmes.

51. The Committee is concerned that refugee and internally displaced Rohingya women and girls may not be able to return to their places of origin if they wish to, following the security “clearance operations”, which resulted in the burning of an estimated 300 Rohingya villages, as the government announced it would confiscate the land in Rohingya villages under the Natural Disaster Management Law of 2013 which defines in article 2 (b) natural disaster as “natural or man-made accidents or negligence such as fire”, and provides that “burnt lands become... government managed lands”.

52. The Committee recommends that the State party protect Rohingya land from confiscation by any government entity or private actor; and ensure that affected Rohingya women and girls may return and resettle, on a voluntary basis, to their previously inhabited lands; and further refrain from implementing the Natural Disaster Management Law of 2013 in a way that dispossesses Rohingya women and girls of their property.

53. The Committee is concerned that providing protection to returning refugees and internally displaced persons will not be possible without access to Northern Rakhine State by the UN human rights and humanitarian personnel.

54. **The Committee recommends that the State party grants unrestricted access to Northern Rakhine State to UN human rights mechanisms and humanitarian agencies, funds and programmes to conduct needs assessments and seeks their cooperation in the planning and implementation of the safe, voluntary and dignified return and resettlement of refugee and internally displaced Rohingya women and their families, in order to create a climate free from want and fear.**

I. Rehabilitation, adequate compensation and economic reintegration

55. The Committee notes that historical discrimination of the Rohingya community prevents the empowerment of Rohingya women and girls and is deeply concerned about the short, medium and long-term consequences of the violence and displacement endured by Rohingya women and girls and in particular the impact on the enjoyment of their human rights to health, education, property, participation in community life and access to economic opportunities, and about the lack of information on measures taken to assist their rehabilitation, including adequate compensation.

56. **The Committee urges the State party to take urgent measures to provide Rohingya women and girls with specialized, inclusive and accessible services for their rehabilitation, including access to medical, sexual and reproductive health care, psychological counselling, and access to education, entrepreneurship and livelihood opportunities.**

57. **The Committee urges the State party to assist Rohingya women and girls in recovering, to the extent possible, their property and possessions left behind or that they were dispossessed of, and when such recovery is not possible, to provide appropriate compensation or other forms of just reparation, including access to compensation schemes, such as crop and land compensation, and provide free legal aid in this regard.**

58. The Committee note the information provided by the State party about the implementation of development and economic plans in Rakhine State but regrets the absence of participation of Rohingya women and girls in the preparation and implementation of development and investment projects. It also notes the implementation of the Maternal and Child Cash Transfer Programme in Rakhine State, the establishment of the Case Management System and provision of cash assistance to survivors and the opening of the One Stop Women Support Centres for providing social, including psychological, support to survivors in all states and regions, but regrets the lack of information about how these social programmes will specifically benefit Rohingya women and girls, including refugees, internally displaced and those living in Northern Rakhine State.

59. **The Committee recommends that the State party, as part of its rehabilitation and economic reintegration efforts, ensure the full and meaningful participation of Rohingya women and girls in the planning and management of development and investment projects. It further recommends that the State party ensure that Rohingya women and girls, including those who took refuge in Bangladesh or were displaced from their places of residence and remain living in Northern Rakhine State have full access to the social programmes mentioned above, without discrimination.**

60. The Committee, bearing in mind the large number of Rohingya women and girls who are victims of conflict-related violence, and that in most cases this violence leads to disabilities, both visible such as physical or sensory disabilities, and invisible conditions like psychosocial disabilities as a result of mental illness, including post-traumatic disorder, is concerned about the lack of information on the measures taken by the State party to

identify cases of acquired disability among Rohingya women and girls and to ensure their rehabilitation.

61. **The Committee recommends that the State party develop and implement programmes specific for the detection of cases of disabilities among Rohingya women and girls and for access to adequate rehabilitation services.**

H. Women, peace and security

62. The Committee remains concerned about the absence of a national action plan for the implementation of Security Council resolution 1325 (2000) and subsequent resolutions on women and peace and security to guide conflict and post-conflict processes in the State party; and the enduring underrepresentation of women in the peace negotiations and post-conflict processes.

63. **The Committee recalls its previous recommendation (CEDAW/C/MMR/CO/4-5 para. 13) and recommends that the State party give due consideration to the Committee's general recommendation No. 30 (2013) on women in conflict prevention, conflict and post-conflict situations and:**

(a) **Develop a comprehensive national action plan for the implementation of Security Council's women and peace and security agenda, as reflected in its resolutions 1325 (2000), 1820 (2008), 1888 (2009), 1889 (2009), 2122 (2013) and 2242 (2015) to ensure durable peace in the State party; and**

(b) **Fully involve women and girls at all stages of the post-conflict reconstruction process, including in decision-making.**

I. Follow-up to the concluding observations

64. The Committee reminds the State party that its sixth periodic report under article 18 of the Convention is due in 2020. The Committee requests the State party to provide written information on the steps taken to implement the recommendations contained in paragraphs 16 (amendment of the Penal Code), 38 (support to Rohingya in refugee camps in Bangladesh), 50 (b) (repatriation) and 54 (access to Northern Rakhine State) either in a supplementary report to its sixth periodic report, or as a separate submission within one year at the latest, that is, by March 2020.