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WORLD REPORT 2019 - MYANMAR

Myanmar security forces continued to commit grave abuses against Rohingya Muslims throughout 2018, deepening the humanitarian and human rights catastrophe in Rakhine State. More than 730,000 Rohingya have fled to neighboring Bangladesh since the military campaign of ethnic cleansing began in August 2017. The government denied extensive evidence of atrocities, refused to allow independent investigators access to Rakhine State, and punished local journalists for reporting on military abuses.

In August, a United Nations-mandated fact-finding mission found that the military abuses committed in Kachin, Rakhine, and Shan States since 2011 “undoubtedly amount to the gravest crimes under international law,” and called for senior military officials, including Commander-in-Chief Sr. Gen. Min Aung Hlaing, to face investigation and prosecution for genocide, crimes against humanity, and war crimes.

The ruling National League for Democracy (NLD) under de facto leader Aung San Suu Kyi increasingly stifled dissent using a slew of repressive laws. Democratic space diminished, with the NLD doing little to address the country’s weak rule of law, corrupt judiciary, or impunity for security force abuses. The 2008 constitution places the Ministries of Defense, Home Affairs, and Border Affairs under the control of the military.

Over 30,000 civilians were newly displaced by fighting in Kachin and Shan States in 2018, and left increasingly vulnerable by government restrictions on humanitarian access.

GRAVE CRIMES AGAINST ROHINGYA

More than 14,500 Rohingya fled to Bangladesh between January and November 2018 to escape ongoing persecution and violence in Myanmar, joining almost 1 million others from 2017 and previous years in precarious, overcrowded camps. Conditions remain dire for the estimated 500,000-600,000 Rohingya still in Rakhine State. Refugees who arrived in Bangladesh in 2018 reported continuing abuses by Myanmar security forces, including killings, arson, enforced disappearances, extortion, severe restrictions on movement, and lack of food and health care. They also reported sexual violence and abductions of women and girls in villages and at checkpoints along the route to Bangladesh. Returnees to Myanmar faced arrest and torture by authorities. Over 4,500 Rohingya remained stuck in the Bangladesh-Myanmar border “no-man’s land,” subject to harassment by Myanmar officials and regular threats via loudspeaker to induce them to cross into Bangladesh.

Rohingya refugees who fled in 2018 reported that Myanmar authorities had ordered them to accept the National Verification Card (NVC)—which does not provide citizenship—or leave Myanmar. Successive governments have for decades deprived Rohingya of nationality through systematic and institutionalized marginalization, rendering them stateless.

From January to March 2018, at least 34 villages in Myanmar were completely or partially destroyed, bringing the total number of predominantly Rohingya villages destroyed between August 2017 and March 2018 to 392, most by fire. The government also seized and bulldozed dozens of Rohingya villages, destroying evidence of crimes. Authorities began construction over the demolished villages, including new security force bases.

More than 128,000 Muslims—about 125,000 Rohingya and 3,000 Kaman—remain in detention camps in central Rakhine State, where they have been confined since 2012, arbitrarily deprived of their liberty. The government announced several camp “closures” in 2018, but its plans entail constructing permanent structures in the current camp locations, further entrenching segregation and denying Rohingya the right to return to their original areas of residence or move elsewhere.

The government barred the UN fact-finding mission and special rapporteur on Myanmar from the country. Authorities have repeatedly denied that significant security force abuses took place, setting up successive investigations that lacked independence or credibility. A commission of inquiry with international members was established in July, which the fact-finding mission determined “will not and cannot provide a real avenue for accountability.”

Myanmar claimed throughout 2018 that it was ready to accept repatriated refugees, yet showed no willingness to create conditions for safe and dignified returns or address the root causes of the crisis. The government built two “reception centers” and a “transit camp,” surrounded by perimeter fences, to process and house returnees, based on a November 2017 agreement with Bangladesh.

In June 2018, UNHCR, the UN Development Programme, and the Myanmar government signed a memorandum of understanding on returns which lacked guarantees of citizenship. The UN agencies began limited assessments in Rakhine State in September.

Bangladesh and Myanmar announced in October that the first round of repatriation of 2,260 Rohingya refugees would begin in mid-November, a proposal opposed by the UN refugee agency (UNHCR) and Rohingya refugee community, neither of which had been consulted. Returns were suspended following widespread opposition; no official repatriations had taken place at time of writing.

ETHNIC CONFLICTS AND FORCED DISPLACEMENT

Armed conflicts between the Myanmar military and ethnic armed groups intensified over the course of 2018 in Kachin, Shan, and Karen States, stoked by large-scale development projects and disputes over natural resources. Civilians were endangered by the military’s indiscriminate attacks, forced displacement, and aid blockages. Reports emerged of the military using civilians as human shields. The UN fact-finding mission determined that the military’s actions in Shan and Kachin States since 2011 amounted to war crimes and crimes against humanity.

In January 2018, clashes broke out between the military and the Kachin Independence Army (KIA) in several townships in Kachin State, with the military employing aerial bombing and heavy artillery shelling. More than 3,500 civilians attempting to flee the fighting were trapped, some for over two weeks, without access to adequate food or basic supplies. Hostilities in Kachin State resumed in April. Government shelling and airstrikes killed at least 10 civilians and forced approximately 2,000 to flee into the jungle, where they were stranded for nearly a month without access to aid, in dire conditions.

An estimated 106,000 civilians remain in long-term displacement camps in Kachin and northern Shan States, many near areas of active conflict, while more than 30,000 were temporarily displaced in 2018. Thousands were also displaced by fighting in Karen State in March, and in Chin State in May.

Authorities continued throughout 2018 to bar the UN and international organizations from delivering aid in areas controlled by ethnic armed groups. Access was also restricted in government-controlled areas and for local organizations. The resulting shortages of food, medicine, and shelter have had a ruinous effect on displaced populations, contributing to a rise in exploitative practices including portering and trafficking. Aid workers who traveled to a non-government-controlled area in 2018 to provide humanitarian support were threatened with arrest under the Unlawful Associations Act.

In July, following clashes in northern Shan State, the military allegedly detained six female medics from the Ta’ang National Liberation Army (TNLA), who were found dead from gunshot and stab wounds shortly thereafter.

Ongoing fighting has fostered conflict-related sexual violence, with internally displaced women and girls especially vulnerable to sexual exploitation and abuse.

Trafficking of women and girls remains a serious problem in Kachin and northern Shan States, where conflict and economic desperation has made them vulnerable to being lured to China under false promises and sold as “brides.” The Myanmar government has failed to take sufficient steps to prevent trafficking, recover victims, bring perpetrators to justice, or assist survivors.

In February, authorities in Muse township, Shan State, issued an announcement that wounded ethnic armed group soldiers found by the army should be brought immediately to the nearest military base and not be provided medical treatment, a practice that amounts to torture.

In July, Aung San Suu Kyi presided over the third session of the 21st Century Panglong Conference, the government's peace process forum, which has largely stagnated, failing to gain trust or traction among ethnic armed groups.

FREEDOM OF SPEECH

The government in 2018 increased its use of overly broad and vaguely worded laws to arrest and imprison individuals for peaceful expression deemed critical of the government or military. Journalists' ability to cover conflict areas steadily declined, while the rise in prosecutions had a chilling effect on the country's media. A September UN report on legal and judicial harassment of reporters in Myanmar concluded that it had become "impossible for journalists to do their job without fear or favour."

In September, a Yangon court sentenced Reuters journalists Wa Lone and Kyaw Soe Oo to seven years in prison under the colonial-era Official Secrets Act for their reporting on a military massacre of Rohingya in Rakhine State's Inn Din village. They were arrested in December 2017, in what witness accounts revealed to be a police setup, held incommunicado for two weeks, and subjected to mistreatment during interrogation. The prosecution's case was marked by evidence of police misconduct and conflicting official accounts.

Prosecutions for criminal defamation increased in 2018, particularly under section 66(d) of the 2013 Telecommunications Act, with most complainants state, military, or political party officials; over 60 percent of defendants were journalists, activists, or others addressing matters of public interest. Acquittals were rare. In May, a human rights defender from the Ayeyarwady Region was sentenced to three months in prison under 66(d) for broadcasting a video of a satirical play about armed conflict on Facebook.

In March, authorities sentenced Aung Ko Htwe, a former child soldier, to two years in prison with hard labor for an interview he gave to journalists detailing his forced recruitment into the army at age 14. Two supporters who protested his case were sentenced to one year in prison in September.

Authorities began using section 8(f) of the Privacy Law, enacted in March 2017, to prosecute critics for criminal defamation. In January, a Mon State official sued a man in Thaton under the new law for social media posts deemed critical of the Mon State chief minister; he was sentenced to one year in prison in September.

More than 45 activists were charged in April and May for peaceful protests held throughout the country calling for the protection of civilians displaced by military offensives in Kachin State. Authorities in Yangon attempted to ban a May 12 anti-war protest, citing a November 2017 order prohibiting protests in 11 Yangon townships, even though organizers had notified authorities in advance. Police in riot gear violently dispersed the protest and arrested 17 demonstrators. In Kachin State, a lieutenant colonel filed criminal defamation complaints against three Kachin human rights defenders who had helped organize protests in Myitkyina. The three activists were officially charged in September and sentenced to six months in prison in December.

In July, police violently quelled a demonstration in Karenni State, tasing and baton-charging protesters who were marching against plans to erect a statue of Myanmar's independence leader, General Aung San. Ten Karenni youth activists were arrested and charged with alarming the public and incitement.

In January, police shot and killed seven ethnic Rakhine protesters in Mrauk U, Rakhine State, among a crowd that had converged at a local government building after authorities shut down an annual event.

An estimated 36 political prisoners were serving prison sentences and 269 facing trial in Myanmar as of November 2018.

LAND RIGHTS

While the NLD government has made efforts to address the military's legacy of land grabbing, thousands of land claims remain unresolved. Farmers continue to face threats and arrests for protesting unresolved confiscation claims and for farming the land

they claim. In May 2018, 33 farmers were found guilty of criminal trespass for farming land near a special economic zone that had been seized in 1996. In September, parliament passed amendments to the Vacant, Fallow and Virgin Lands Management Law requiring anyone occupying land classified as “vacant, fallow, or virgin” to apply for permits or face up to two years in prison. The government issued a March 2019 deadline for permit applications.

KEY INTERNATIONAL ACTORS

Myanmar faced international condemnation in 2018 for military atrocities against the Rohingya. In June, the European Union and Canada sanctioned seven military officials for their involvement in the Rakhine State operations. In August, the United States imposed financial and travel sanctions against four security force commanders and two military units.

The UN Human Rights Council adopted a resolution in September, drafted by the EU and Organisation of Islamic Cooperation (OIC), establishing a mechanism to collect, preserve, and analyze evidence of grave crimes committed in Myanmar, and prepare case files for prosecution. The UN General Assembly passed a resolution on Myanmar in November affirming the establishment of the mechanism and calling for its prompt initiation.

In September, the International Criminal Court (ICC) prosecutor launched a full preliminary examination into Myanmar’s deportation of the Rohingya, following a panel ruling affirming the court’s jurisdiction over the crime on the grounds that it was completed in Bangladesh, an ICC member state. Several countries voiced support for a UN Security Council referral to the ICC, including council members Sweden and the Netherlands, to address the full range of alleged international crimes in Kachin, Rakhine, and Shan States.

Myanmar and Bangladesh continued repatriation discussions in 2018 following their November 2017 agreement. Tensions between the countries grew, with repatriation delays and mounting challenges in Bangladesh from the mass influx of refugees. Bangladesh Prime Minister Sheikh Hasina urged international actors, including the Security Council and Islamic Development Bank, to exert pressure on Myanmar.

Facebook was criticized by the UN fact-finding mission and other investigations for its failure to prevent the spread of anti-Muslim hate speech and incitement to violence. In response, the company announced new measures to review Myanmar language content and identify abusive posts. Facebook banned 20 individuals and organizations in August, including Sr. Gen. Min Aung Hlaing, and removed a further 10 accounts in October. The company commissioned an assessment of its human rights impact in Myanmar, which found that it had failed to prevent use of the platform to “foment division and incite offline violence.”

China continued to shield Myanmar from accountability and scrutiny, obstructing international action and weakening UN measures. While many foreign governments cut funding to Myanmar in 2017 and 2018, China expanded its investment in the country. In September, the two countries signed an agreement on the China-Myanmar Economic Corridor, a development project under China’s “One Belt, One Road” initiative linking Yunnan Province to the Indian Ocean. Attempting to compete with China for influence, Japan broke with other democracies and called for the international community to avoid criticizing the Myanmar government.

The UN Committee on the Elimination of Discrimination against Women requested in November 2017 that the Myanmar government submit a report on violence against Rohingya women and girls by May 2018—only the fourth time the committee had made an “exceptional report” request—to which the government did not respond. The UN secretary-general included the Myanmar military for the first time in his annual list of parties that have committed sexual violence in armed conflict. Myanmar also remains on the UN’s list of parties that use and recruit child soldiers.

In September, the US State Department quietly released the findings from its \$1.4 million investigation into the crackdown on the Rohingya, which detailed the military’s atrocities but did not reach legal conclusions about the abuses committed. Members of Congress followed up with a call for a legal determination to be made. The State Department downgraded Myanmar in its 2018 Trafficking in Persons report to Tier 3, the lowest tier. It also restored Myanmar to its annual list of governments using child soldiers, following its removal in 2017.