

MYANMAR: ACT IMMEDIATELY TO PROTECT DISPLACED PEOPLE'S RIGHTS

As Myanmar continues its renewed engagement with the international community, it must begin to address the serious violations of the rights of ethnic minorities that plague the country. Nearly two years after violence erupted in June 2012, almost 140,000 Muslims (primarily Rohingyas) remain displaced in Rakhine State in conditions of total segregation and marginalization from the Rakhine Buddhist majority. Like the hundreds of thousands of non-displaced Rohingyas in northern Rakhine State, they remain subject to extremely abusive restrictions on their freedom and exposed to violent attacks. At the same time, in Kachin State, nearly three years after a ceasefire between government and rebel forces was broken, civilians are not being protected and around 100,000 people are displaced with no imminent prospects of return. It is in this climate that the country will undergo a census at the end of this month. It is time for the international community to change its *ad hoc* approach to Myanmar. Key donors and the United Nations must coordinate their advocacy and use consistent messaging to push the Myanmar government to address the root causes of the abuses suffered by ethnic minorities.

BACKGROUND

While political reforms are taking place in Myanmar, serious concerns remain with regards to the country's respect for human rights. Many international donors have expressed their concerns about ongoing human rights

abuses, but they have been downplaying these concerns because of their support for the political transition process and their wish to declare Myanmar "a foreign policy success story." There is a lack of coordination of messages, and this has had a detrimental impact on the humanitarian and human rights response. So far, it is mainly the symptoms of

POLICY RECOMMENDATIONS

- The international community should engage in consistent and coherent advocacy on ethnic minority rights in Myanmar, which must be raised in all negotiations with the government in support of political and economic reforms.
- The United Nations system should consistently prioritize the defense of human rights in Myanmar in line with its "Rights Up Front" agenda, and it should adopt common positions across agencies to be backed up by statements from the UN Secretary General.
- Humanitarian agencies and donor governments should:
 - protect and assist all people displaced within the country as a result of violence or violations of human rights as internally displaced persons with equal rights;
 - increase livelihood assistance for Kachin IDPs and for all people affected by movement restrictions in Rakhine State, and implement cash-based alternatives to food distributions where possible;
 - support the provision of fuel and firewood for IDPs;
 - invest in capacity-building in technical areas for local non-governmental organizations.
- The largest donors to the March 2014 Myanmar census should set up a "crisis cell" to respond to any serious breaches of census rules or unrest occasioned by the census. Myanmar's minister of immigration and minister for the president's office, and the UN Resident Coordinator/Humanitarian Coordinator should take part in this cell.

the humanitarian crises, particularly in Rakhine State, that have been addressed by the international community. There have been some attempts to improve humanitarian conditions and access, but no concerted efforts to end the segregation of Muslim communities. At the same time, there has been near silence from members of the Association of Southeast Asian Nations. The international community should engage in consistent and coherent advocacy toward solving the key issues in Rakhine and Kachin States. They must take clear and strong stances on impunity, ending segregation, and the rights of the Muslim communities in Rakhine State to freedom of movement and to return. They must also be united on the protection of civilians in Kachin State, and the right of Kachin internally displaced people (IDPs) to make free and informed decisions about returns and relocation.

Despite progress in some areas of political reform, there has been significantly more forced displacement in Myanmar in the three years since the transition began than in the previous three. This is particularly the case in Rakhine and Kachin States, where hundreds of thousands of people have been displaced since the breakdown of the ceasefire in Kachin State in 2011 and the largely anti-Muslim sectarian violence in Rakhine State in 2012. The situation of the stateless Rohingya community – long considered by the UN to be one of the most persecuted minorities in the world – has also deteriorated since the political reform process began.

RAKHINE STATE

In February 2014, an RI team undertook a mission to Myanmar. The mission took place one month after an outbreak of violence against the Rohingya community in Maungdaw in northern Rakhine State. The Myanmar government is denying that any killings of Rohingyas took place. This is unsettling, given that the government acknowledged prior outbreaks of sectarian violence in Rakhine State in which Muslim groups were targeted and suffered disproportionate losses. After the non-governmental organization (NGO), Medecins Sans Frontieres (MSF) provided information about the numbers of victims it treated during the January 2014 violence, the Myanmar government suspended the agency's work in Rakhine State. Some Buddhist Rakhine leaders have led demonstrations demanding that all UN agencies and international NGOs leave the state.

POLICY RECOMMENDATIONS

In Rakhine State, the UN and the international community at the highest levels should press Myanmar's central government to:

- facilitate humanitarian access by creating conditions in which humanitarians can operate and countering hate speech;
- end impunity for individuals who have committed human rights abuses;
- present its plan of action for Rakhine State;
- collaborate with donors to identify pilot areas where freedom of movement for Muslim communities can be restored;
- take steps to address the issue of citizenship for stateless populations.

Human Rights: Learning Lessons From Sri Lanka

The crisis facing Muslim communities in Rakhine State is a result of fundamental abuses of their human rights by the Myanmar government. Any response to this crisis must consequently prioritize this issue. The humanitarian conditions in many IDP camps around the state capital, Sittwe, have improved over the past year through interventions by humanitarian agencies to provide better shelter, water, and sanitation. But as one humanitarian official told RI, "it is not our role to build long-term concentration camps."

There has been no improvement in the freedom of movement of the Muslim population (both Rohingyas and Kamans), and its total segregation from the Rakhine Buddhist population has been consolidated in recent months. The Rakhine State government has built shelters, clinics, and school buildings in the Muslim camps, but it has not yet provided any plan for peaceful co-existence between the communities – despite the recommendations of the central government-appointed Rakhine Investigation Commission. The Rakhine Buddhist community's position appears to be hardening, with some calling for the deportation of most Rohingyas.

In northern Rakhine State (NRS), where the majority of Rohingyas live, an increase in extortion and arbitrary arrests has been reported since the June 2012 violence. Rohingyas in NRS have lived under movement restrictions for many years, but there is now increased use of checkpoints by the authorities, further limiting the Rohingyas' access to livelihoods and essential services such as healthcare. Many people are in detention for breaking the restrictions on movement.

The disbanding of the notoriously abusive NaSaKa border force has not led to improvements in the human rights situation for Rohingyas in NRS, because predominantly Rakhine local police forces have consolidated their power. The only benefits that the Rohingya population in NRS have felt are the less restrictive application of some local orders imposed by NaSaKa (such as marriage permissions) and the suspension of a “two-child policy.”

The central government is suspected by sections of both the Muslim and Rakhine Buddhist communities of fomenting conflict in Rakhine State. Despite this, the central government must lead any conflict resolution efforts. Leaving this matter to Rakhine State authorities (some of whom are openly hostile to Rohingyas) would be very dangerous.

The United Nations and the international community should push the central government to protect all residents in Rakhine State and set out its plan of action for ending the current crisis. The UN and some donors have raised these issues with the government, but thus far they have only succeeded in gaining temporary resolutions of limited issues. They should urge the government to re-establish freedom of movement for Muslim communities and work with the government to identify pilot areas (such as locations where there are already commercial interactions taking place between the communities). The government must provide appropriate security to enable this.

It should be noted that provision of security in this context does not just mean the presence of security services, but also means a serious attempt to reduce the power of anti-Muslim extremists. This requires the government to speak out against extremism, and to impose consequences for hate speech and incitement.

Too often, President Thein Sein has made public statements against extremism that have not been followed by action, or have been followed by contradictory actions, such as submitting laws against “mixed marriages” and suspending MSF’s work. President Thein Sein and the central government should be urged to make public statements confirming they will end impunity in Rakhine State by prosecuting individuals involved in human rights abuses.

The roles of the international community and the UN are vital in defending the human rights of the Rohingya and Kaman communities. After it failed to defend human rights during the 2009 Sri Lanka crisis, the UN developed its “Rights Up Front” agenda, which aims to “make human rights awareness and knowledge permeate the UN system” and requires the UN to take preventive action with regard to

human rights violations. This is highly relevant to Myanmar, and the new UN Resident Coordinator/Humanitarian Coordinator (RC/HC) should be encouraged to actively pursue it. For example, clear public statements by the UN Secretary General and consistent messaging from all UN agencies about the need to address the human rights and humanitarian issues in Myanmar would be helpful.

Following the January violence in Maungdaw, the RC/HC did not back down when the government denied that the killings had taken place. This was a positive development. However, RI was informed of many serious protection incidents that had not yet been raised with the government by the UN Refugee Agency (UNHCR), which should have taken the lead on this in its role as the lead agency in the local protection working group.

Returns and Relocations

Although the return of displaced people is not currently possible in all areas because of ongoing security concerns, it is important that the Myanmar government steps up its effort to facilitate genuine inter-communal dialogue and building confidence towards safe and sustainable return of IDPs. There are areas where return of IDPs poses lesser physical challenges such as distance. The government should work with the UN and the international community to identify these areas and work on further inter-communal confidence building and area-based assistance to facilitate return of IDPs.

However, in some cases, returns have taken place. Kamans displaced by the October 2013 violence in Thandwe in southern Rakhine State were able to return, thanks to the political will that was employed by the central government. (The Thandwe violence took place during President Thein Sein’s visit to the area.)

The approximately 4,000 people living in Aung Mingala – the only Muslim section of Sittwe town that was not destroyed in the June 2012 violence – are trapped in ghetto-like conditions, not permitted to leave, and with assistance to them severely restricted. In August 2013, the Rakhine State government forced thousands of people whose houses had been destroyed in the violence to move out of Aung Mingala and into the camps. They were not given a choice, making this a forced relocation. Fears were expressed by both IDPs and humanitarian agencies that the authorities may force the rest of the population of Aung Mingala into the camps.

There are still a small number of Rakhine Buddhist IDPs. RI visited one of their two camps, where the residents are

living in individual houses with access to most services. However, the camp is very far from Sittwe town center, thereby making it difficult for the IDPs to establish sustainable livelihoods.

Although they are living in much better conditions than the Muslim IDPs and have freedom of movement, the Rakhine Buddhist IDPs are still traumatized by what they experienced during the June 2012 violence. Even if some did not want to return to their original home areas, there appears to be no reason why they cannot be resettled. RI spoke with a Rakhine Buddhist community organization which believes that the Rakhine Buddhist IDP camps are likely to become permanent. This does not bode well in terms of plans for the Muslim camps.

Humanitarian Access

There has been a disturbing increase in demonstrations by Rakhine Buddhist communities against the provision of assistance to Muslim communities. Demonstrations in Myanmar require government permission, and such permits increasingly appear to allow protests to take place in the vicinity of NGO offices.

These demonstrations are well organized. Community leaders are persuading people to form local committees for the purpose of setting up demonstrations against the UN and NGOs. There are some reports of people being paid to attend demonstrations. Rakhines who provide services to the UN and NGOs also report intimidation. This pressure is making it more difficult for humanitarian agencies to provide essential services and to engage in development activities that assist Buddhist communities. Three humanitarian workers who were detained during the June 2012 violence are also still being held.

The large, multi-donor Livelihoods and Food Security Trust Fund (LIFT) program was set up after Cyclone Giri to assist predominantly Rakhine Buddhist communities, but its effectiveness is being seriously undermined by the actions of some Buddhist extremist leaders, who seem willing to sacrifice development support for their own community in order to reduce humanitarian assistance to Muslims.

Despite the limitations that these demonstrations impose on humanitarian action, assistance does reach most of the Muslim IDP camps most of the time. Food distributions come quite regularly to the camps and nutrition levels have improved. However, preliminary nutrition survey results show that the Global Acute Malnutrition rate for IDPs in Pauk Taw is still above the World Health Organization's emergency threshold.

Although food is distributed, fuel and firewood for cooking are not. This is creating major problems and has resulted in many clashes with local communities when IDPs have gone to look for wood.

The need to purchase firewood also forces IDPs to sell off the minimal resources they have available, including food rations. IDPs have even been dismantling parts of their camps, such as walkways, and using them for firewood. Attempts to solve this problem, such as a pilot by the International Committee of the Red Cross to distribute compressed rice husks, should be supported. Donors and humanitarian agencies must come together to seek solutions to this problem, particularly in isolated communities such as Myebon.

The physical conditions of the camps around Sittwe have significantly improved over the last year, but the more remote camps, such as those in Pauk Taw and Myebon, have seen little improvement. Most of the remote camps are surrounded by Rakhine Buddhist villages, and therefore the movements of camp residents are severely restricted. Further, these same villages often protest against the presence of humanitarian actors, making them inaccessible.

The situation in Myebon became so dire that in December 2013, some IDPs wrote a letter to the international community saying that they were "unduly afraid" and requesting to be transferred to a safer location. This resulted in targeted advocacy by the American, European Union, Swiss, and Turkish embassies, who issued a joint letter calling on the authorities to restore humanitarian access to the IDPs in Myebon.

This led to the authorities taking some action to improve the situation, and it demonstrated the important role of the international community in these issues. It also showed that the authorities can take effective action when they focus on the problems and demonstrate the necessary political will. Unfortunately, the improvements in Myebon were short-lived, and when the authorities lost focus two months later, humanitarian access deteriorated again.

The situation of IDPs in Myebon may be unsustainable if current conditions continue. Further, there are many Rohingya villagers living nearby who are trapped by movement restrictions and do not receive assistance because they were not displaced. Many of them are in worse situations than the IDPs in the camps.

Access to primary healthcare for IDPs improved to some extent during the last year, and there have been some steps forward towards resuming the routine immunization of

Muslim children. But if MSF is not permitted to resume its work in Rakhine State, there will be a serious health crisis. MSF currently provides a large percentage of all primary healthcare services in Rakhine State, as well as malaria, tuberculosis, and HIV/AIDS treatment; reproductive health services; and referral services. In NRS alone the agency provides medical facilities covering 500,000 people.

There has been little progress toward granting access to secondary healthcare for patients who need referrals to hospitals, resulting in unnecessary deaths amongst Muslims, particularly those living in more remote areas. The township hospitals continue to close their doors to Muslim patients due to security fears following threats by Buddhist community leaders, with only Sittwe hospital still providing a ward for Muslim patients.

Some steps have been taken to improve coordination of the limited health services that are available. One positive move has been the willingness of Rakhine midwives to resume their work with Muslim women in Kyok Taw. Any openings that this creates should be built upon, with the aim of restoring the midwifery system that existed before June 2012.

Many IDP children have been without access to education for nearly two years. The Rakhine State government has built some schools in the camps, and humanitarian agencies have built temporary learning spaces. Yet IDP children still do not have access to effective education as there is a lack of trained teachers and a reliance on volunteers.

Most IDP children now attend some form of instruction – which is important in terms of keeping them active and engaged and giving them a safe place to spend time. But humanitarian agencies acknowledge that the children who attend these schools are not receiving a real education and no curriculum is being followed. Rohingya students have not been permitted to attend university since June 2012, and they are asking to be moved to universities elsewhere in the country.

It is true that in NRS, the central government has imposed bureaucratic impediments that limit the work of humanitarian agencies. But in other parts of Rakhine State, the main limitation on humanitarian access has been hostility by Rakhine Buddhist communities and the government's failure to respond. The UN and the international community should therefore press the central government to take a public stand against any threats to humanitarian action.

A Third Wave of Displacement

In Rakhine State, the first two major waves of displacement came after the June and October 2012 violence. There is now a third wave of displacement taking place. It has happened not on a massive scale, but drip by drip, as movement restrictions force Muslims living in villages to exhaust their financial resources, sell off their houses, and move into the camps. For example, RI met with several women who used to work as housemaids in Sittwe, but now that they are not permitted into Sittwe they can no longer afford to feed their families.

These newly displaced people are not being registered as IDPs by the government. They are often referred to by humanitarian agencies as so-called “economic IDPs” and are treated differently. Yet the Guiding Principles on Internal Displacement state that “any person displaced...as a result of violence or violations of human rights...without crossing an international border” is an IDP.

Some IDPs in this situation whom the RI team met had been allocated shelters in the camps, but others were living in makeshift shelters or tents. None of them were receiving food rations from the World Food Program (WFP). However, there were some national NGOs assisting and filling some of the gaps.

There are also around 300 Rohingyas who were released from prison in a recent presidential amnesty, but for whom no provisions have been made. Many have had to move into IDP camps, but they are not registered.

It is important to recognize that the government's policy of segregation is creating further displacement. And it is therefore vital that the UN, donors, and the government start unwinding this policy by identifying pilot areas where freedom of movement can be restored.

Moving From Food Distributions to Livelihood Support

In Rakhine State, most IDPs have now been in camps for nearly two years. And though the dangers of dependency on food assistance are looming, more sustainable approaches are possible. Recently, a more vibrant internal economy has developed in the Sittwe camps, and there are thriving markets in some of them (although not in the camps surrounded by hostile Rakhine communities, such as Myebon). Rakhine Buddhists are permitted free movement and can come into the camps to sell and buy.

Since Muslims are not permitted into the Rakhine Buddhist areas, there are obvious limitations on their market possibilities. (However, the police often accept bribes to escort Muslims out of their assigned areas, demonstrating that security can be provided for Muslims when it is convenient for the authorities). Although livelihood programs are inevitably limited by the lack of freedom of movement, there is room for expansion within those constraints. It appears that these IDP camps will not be dismantled any time soon, and it is necessary to enable people living in them to engage in meaningful, productive activities.

WFP is exploring the possibility of cash alternatives to food distributions in areas where markets function adequately, and this should be encouraged where possible. Furthermore, livelihood activities must be provided to support non-displaced Muslims who are subject to movement restrictions. Otherwise, they will feel compelled to move into camps or embark on dangerous journeys by sea to other countries.

Citizenship Issues

The Rohingya community was effectively stripped of citizenship by the 1982 Citizenship Law, which did not include them in the list of official races. The government's verification process in Rakhine State – which was purportedly aimed at updating “family lists,” but has been linked to determinations of legal residence and potentially citizenship – has totally stalled, and is on hold pending the census. No other processes are in place to move towards determining citizenship for Rohingyas.

The abuses and marginalization suffered by the Rohingya community are not solely due to its statelessness, as the ill treatment of the Muslim Kaman suggests. But statelessness increases the Rohingyas' vulnerability. In his August 2013 report, the UN Secretary General noted that in November 2012 President Thein Sein had proposed “a graduated framework” for meeting the citizenship-related concerns of Muslims in Rakhine State. Yet there has been no progress in relation to this.

The Census in Rakhine State

The donor governments and UN agencies providing technical support for the March 2014 census, particularly the United Nations Population Fund, insist that it is an apolitical process. Despite the risk monitoring that has been undertaken and the discussions they have had with the government about risk monitoring, they tend to

downplay the serious dangers associated with it, particularly when communities do not seem to really understand the process nor how results will be used. This will be Myanmar's first national census in 30 years, and it is intended to produce information for national planning and development. However, carrying out a census which includes the collection of information about ethnicity and religion at a time of complex transition poses enormous risks.

For the stateless Rohingya community, the census offers the possibility of being officially counted by the government for the first time. As one Rohingya leader in Yangon said to RI, “This is our chance to claim our ethnicity.”

Since they are not recognized as one of the official 135 races of Myanmar, there is no code on the census for “Rohingya.” The central government has announced that anyone can self-identify by using the code for “other” and telling an enumerator to write in whatever identity the person wishes to use – including “Rohingya.”

However, it will take 18 to 24 months to sub-code and tabulate the “other” box, unlike the rest of the census, for which initial results should be available within six months. Indeed, RI is concerned that the “other” box might never be tabulated.

RI's interviews with people in Rakhine State brought up a series of concerns about the census:

1. When RI interviewed Rohingya IDPs about the census, they were either unaware of it or conflated it with last year's verification process and linked it with the process of applying for citizenship. This is particularly worrying, since the verification process in 2013 resulted in some violence when verification teams used forms headed “Bengalis,” which the Rohingya community refused to sign. Rohingya leaders were arrested for allegedly opposing the verification process, and many are still in detention. This should raise fears about the safety of census enumerators. Rohingya leaders in Yangon have been permitted to select 1,406 Rohingya enumerators in Rakhine State. These enumerators are supposed to be selected from amongst the local teachers of each ethnic group. However, because they are stateless and cannot get government jobs, the Rohingya community does not have a pool of teachers from which to select. Rakhine leaders are now raising objections to any Rohingyas being permitted to act as enumerators.

2. Despite the risks that enumerators could face, there are no procedures in place for protecting them.

3. According to some Rohingya leaders, local Rakhine leaders have already made threats against enumerators, telling them they must not register too many people as Rohingyas.

4. While the government states that the census forms will be kept confidential, many Rohingyas doubt the ability of the system to ensure their confidentiality and will be scared to respond. They are particularly concerned that census information could be used to threaten or extort people whose details clash with pre-existing family lists. Another particularly sensitive census question is the number of children in each household, due to restrictions on the number of children Rohingyas have been allowed to have. Even though the names of respondents will not be scanned into the system, names will be included on the forms. There do not appear to be any processes in place to deal with situations of misuse or leakage of data.

5. Rakhine Buddhist IDPs told RI that they supported the census because it would show “who is illegal and who is legal” – another serious misunderstanding of the role of the census. Rakhine leaders told RI that they objected to the term “Rohingya” being permitted on the census form, since they do not accept the existence of a Rohingya identity.

With so many difficulties unresolved, the census has the potential to create serious conflict, particularly in Rakhine State. Conflict could erupt during the period of counting, and/or when the results are announced – particularly around sensitive issues like ethnicity and religion. Since the government (following advice it received from the UN) has rejected a proposal to simplify the census by deleting the more sensitive questions, it appears that the census will go ahead as planned despite all of these risks.

Given the central role they have played in providing funding and technical advice, key donors to the census and the UN must take more responsibility for its implementation. Initially, they demanded that a risk mitigation process be put in place before they would agree to fund the census, but they eventually moved ahead without it. To mitigate potential risks, they should form a “crisis cell” with key government ministers ahead of the census to respond to any serious breaches of census rules or unrest occasioned by the census. Further, the role of international observers during the census will be important, although they will have very limited coverage since only up to 60 are expected to be recruited.

The 2015 Elections

The elections scheduled for November 2015 present an even greater potential flashpoint for conflict than the census. Rakhine leaders are already calling for so-called “white card holders” (those with temporary resident status) to be stripped of voting rights ahead of the 2015 elections. Most Rohingyas hold white cards, but many other groups in the country also do. If this proposal is successful, they will all lose their right to vote in 2015, and the Rakhine State government will be controlled by Rakhine political parties, which have expressed their desire to expel most of the Rohingya community.

Steps must be taken urgently to undo the current situation of total segregation in Rakhine State before the 2015 polls, after which the risks and difficulties of achieving de-segregation could be even higher. In fact, if progress is to be made this year, then it must happen before the rainy season starts in May. Diplomatic pressure concerning the causes of this crisis and aimed at solutions is urgently needed.

There is a tacit acceptance by many that little or no progress on the rights of ethnic minorities, particularly the Rohingyas, will be made prior to the 2015 elections. But this cannot be accepted by the international community. The world must insist on progress now, not in two years' time.

KACHIN STATE

In Kachin State and northern Shan State, the breakdown of the ceasefire agreement in 2011 has resulted in IDPs being forced back into camps – many of them overcrowded and without access to land for cultivation – for nearly three years. In August 2012, China deported around 5,000 Kachin refugees.

A new round of displacement began in October and November 2013, when the Myanmar army attacked Mansi township and committed serious abuses against civilians, including torture, forced recruitment, looting, and the laying of landmines. Roughly 4,000 people have since fled.

The Kachin Independence Organization (KIO) has been seeking greater autonomy and increased control over local resources for decades. Kachin civilians caught between the government and the Kachin Independence Army (KIA) suffer abuses by both sides. The army is reported to have wiped out villages, and there are reports of forcible recruitment by the KIA, particularly of the Shan population.

Both the government and the KIO have been selling off concessions for land and mineral rights, causing major environmental damage and further fuelling the conflict. No additional concessions should be granted by either party to companies while the conflict continues.

Even if a peace agreement were signed imminently, most Kachin IDPs could not return to their home villages because no steps have been taken to remove landmines in their areas of origin and no agreement on this can currently be reached between the parties. There have been incidents when newly-displaced people stepped on landmines while returning to their villages to collect their belongings or cultivate the land.

There is an assumption by many diplomats in Yangon that the peace process is moving forward and that it is just a matter of time before a national peace agreement is signed, which would include armed groups in Kachin State. Yet local community leaders are much less optimistic, and many fear that the KIO may hold out and the government may decide to pursue a military solution to the conflict.

POLICY RECOMMENDATIONS

In Kachin State, the UN and the international community should press the central government to:

- facilitate unimpeded humanitarian access and allow the full-time presence of international humanitarian actors in non-government-controlled areas of the state;
- ensure that the protection of civilians during military operations is prioritized and that all steps are taken to mitigate civilian harm;
- respect the right of Kachin's internally displaced people (IDPs) to make free and informed decisions about their return and relocation.

Returns and Relocations

During the October 2013 peace talks, the government and the KIO agreed to jointly identify four pilot villages for returns, but this has not yet happened. The government is promising assistance for returns and is starting to push IDPs to sign up for them, saying that if they do not do so they will be excluded from the assistance program. But they are being urged to sign up without clear information about when and where returns will take place and with what type of return package.

Many IDPs told RI that they had signed up to a return list, but had stated on the form that they would not return until there was a peace agreement in place. Deep skepticism was expressed by IDPs about the prospects for peace in the upcoming round of negotiations. The IDPs pointed to the military build-up which they were witnessing in the state

despite the peace negotiations, and it appears that both sides are actually reinforcing their military capabilities.

Many IDPs told RI that, regardless of whether an agreement is signed, they had three conditions for return: the de-mining of their villages and their surroundings, no forced recruitment, and no fighting in and around their villages. There is no near-term prospect of achieving these conditions, particularly de-mining since mines are being laid by both parties as part of their military strategies.

RI met a number of IDPs who had been offered relocation to a site in Palana as an alternative to return. They were being offered financial incentives to accept this arrangement, on the condition that they gave up rights to their original land. Most IDPs who had gone to visit Palana expressed concerns that it was too far from town, that it had no access to agricultural land, and that it was vulnerable to serious flooding in the rainy season.

RI met a number of people who had changed their minds about relocation to Palana once they had gone to see it. They were hoping that they would be permitted to withdraw their consent to relocation. There are also concerns that NGOs and IDPs are coming under pressure to submit lists of those who agree to relocation to the authorities. Displaced people should be made fully aware of the conditions of return or relocation before they are asked to sign up. UNHCR should strongly oppose any pressure on IDPs to relocate or return unless and until they can make free and informed decisions.

A disturbing recent example of involuntary return is to be found in San Kin village. IDP families who were living in Wun Tho Monastery had each been required by the government to provide one male family member to take part in the village militia. The group decided it had no real option other than to return to San Kin, as it was difficult for the families to stay in the camp while the men had to participate in the militia.

Humanitarian Access

Humanitarian access in Kachin State has been used as a bargaining chip in the peace negotiations. As one humanitarian official told RI, "The assistance tap is turned on or off depending on the mood of the negotiations." The majority of IDPs in Kachin State live in non-government-controlled areas (NGCAs), and humanitarian access to these areas has been severely restricted. There are also large government-controlled areas (GCAs) where humanitarian actors have not been permitted access.

In GCAs where access is permitted, humanitarian agencies have been able to provide services and assistance to the camps. However, there are major gaps in services in many of the camps, for example in sanitation. Many of the camps are very overcrowded, since most are located on the grounds of churches or monasteries. In the NGCAs there are greater gaps in services and assistance provided.

There are also trapped communities surrounded by warring parties, such as those in Chipwi in the northeast of Kachin State. They are unable to access their land, and no international NGO has access to them. There are local NGOs that have taken great risks to provide them with assistance, but there are reports of children dying there due to lack of access to healthcare. Furthermore, as in Rakhine State, the lack of fuel and firewood distributions creates great difficulties and costs for IDPs.

Since September 2013 the government has permitted more UN missions to enter the NGCAs and provide assistance. However, even though these missions allow for some extra distributions on top of those which are provided by national NGOs, this method of assistance is not effective. These missions are not able to provide consistent aid to those camps that can be reached, and many camps cannot be reached at all.

In order to provide effective assistance, the UN agencies and international NGOs must establish a permanent presence in the NGCAs. The international community should advocate for this to be permitted by the government. The KIO has thus far not blocked humanitarian assistance in the areas that they control, but the government still imposes very restrictive limits on humanitarian action by international agencies in the NGCAs. Prior diplomatic attention to access in Kachin State has paid dividends, and there is a need to push further on this issue.

Displaced Kachins

Many Kachin IDPs who previously lived in host communities but now wish to move into camps are not permitted to register by the government. There have also been difficulties in getting registration for people who fled during the most recent bouts of fighting. For example, many Kachin refugees who were deported from China in August 2012 have had to move into IDP camps but remain unregistered.

Unregistered IDPs do not receive WFP food rations. In some camps, local faith-based organizations are able to assist these unregistered IDPs. In others, they receive no assistance and registered IDPs feel obliged to share their food rations with them, thus reducing the minimal assistance that they receive.

In Kachin State, most IDPs have been living in camps for nearly three years with no immediate prospect of returns. There is consequently a pressing need for increased livelihood support. The lack of livelihood opportunities has already resulted in increased trafficking of young women into China and a growing number of forced early marriages. Many IDPs are also crossing into China without documents to look for work, where they find themselves exposed to many forms of exploitation.

There are some limited livelihood programs in place, but these need to be scaled up. Most of the IDPs in the camps were formerly farmers and they need access to land in order to sustain themselves. Most of the camps are on the property of churches and monasteries and do not provide access to land for cultivation or grazing.

The UN should advocate for access to land for the IDPs on a temporary basis for the purpose of livelihood activities. As in Rakhine State, WFP should move towards cash alternatives to food distributions where possible.

The host communities where IDPs reside in Kachin State have demonstrated great hospitality. However, there are limits to this, and the large IDP population is putting strain on already stretched local resources. Because of the growing number of children, for example, some schools are now forced to operate a shift system.

Some IDPs told RI that they felt resented by the host community and that this added to their stress. Some assistance to the host community – even small-scale projects that improve local facilities such as school buildings – would help maintain openness and hospitality towards the IDPs.

Kachin Civil Society Organizations

Kachin civil society organizations have played an essential role in reducing the scale of the humanitarian crisis in the state. National and local groups, many of them affiliated with Christian denominations, manage camps and provide services for IDPs in the GCAs, and, crucially, have enabled at least some ongoing services for IDPs in the NGCAs.

There has been an ongoing tension between international and national agencies in Kachin, summed up well by one international NGO staffer who told RI, “We come with international standards; they come with solidarity and decades of working with the communities.”

When access opened up for the UN in the NGCAs, the UN Office for the Coordination of Humanitarian Affairs (OCHA) organized UN convoys without sufficient

consultation or coordination with local NGOs that had been working for years in these areas. This led to a duplication of effort and great resentment by the local NGOs, who felt that their years of work and the personal risks they had taken were being ignored.

The issue of local-international agency relations came to a head after September 2013, and while there have been some improvements since that time, much remains to be done. The local NGOs have set up a joint strategy team, and there have been some changes in the approach of international agencies, which are now making more of an effort to involve local NGOs in strategic planning.

Coordination meetings with local NGOs now take place before cross-line missions. However, there is still no national NGO on the UN Humanitarian Country Team, and in Kachin State there is a need for the international agencies to further improve their partnerships with national NGOs. Providing translation during all coordination and cluster meetings would help. There is also a need for more capacity-building with national and local NGOs in areas such as project cycle management, financial management, procurement, administration, and human resource management.

The Census in Kachin State

Many IDPs in Kachin State told RI that they did not know about the census. Those who did were not sure whether they were supposed to use the code for Kachins or the code for their particular tribe of Kachins. One group of IDPs told RI that they had asked a local government official about this, and he had informed them that if they were confused they should use the “other” box – yet this is clearly not what the “other” box is intended for.

Many Kachins told RI they were seriously concerned that the confusion over codes would lead to Kachins being declared a minority in their own state. Further, they pointed out that the absence of a peace agreement means many people in the NGCAs will not be counted.

Michel Gabaudan and Melanie Teff assessed the humanitarian situation of displaced people in Rakhine State, and Melanie Teff assessed the humanitarian situation of displaced people in Kachin State, in Myanmar in February 2014.