



**Stakeholder report by the Internal Displacement Monitoring Centre (IDMC)
to the Universal Periodic Review mechanism established by the Human Rights Council
in Resolution 5/1 of 18 June 2007**

For consideration at the 23rd session of the UPR Working Group (2-13 November 2015)
(Second Cycle)

Myanmar

23 March 2015

About the Internal Displacement Monitoring Centre

The Internal Displacement Monitoring Centre (IDMC) is the leading source of information and analysis on internal displacement. For the millions of people worldwide displaced within their own country, IDMC plays a unique role as a global monitor and evidence-based advocate to influence policy and action by governments, UN agencies, donors, international organisations and NGOs.

IDMC was established in 1998 at the request of the Interagency Standing Committee on humanitarian assistance. Since then, IDMC's unique global function has been recognised and reiterated in annual UN General Assembly resolutions.

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I. Methodology

This report draws on IDMC's report on internal displacement in Myanmar published in July 2014¹ and also uses information collected since then. It is based on documents published by international organisations, national and international NGOs and media, and interviews with key informants.

The 10th session of the UPR Working Group, which reviewed Myanmar as part of the First Cycle, predated the beginning of several new internal displacement situations resulting from armed conflict in Kachin/northern Shan and Kayin states and from inter-communal violence in Rakhine state and Mandalay region. The present submission covers these situations in addition to protracted internal displacement in south-eastern Myanmar. It focuses on the human rights of IDPs and their access to durable solutions.

II. Internal displacement in Myanmar

IDMC estimates that there were up to 645,000 IDPs as a result of conflict and violence in Myanmar as of 31 December 2014. Among them, 145,600 were in Rakhine state²; 98,400 in Kachin and northern Shan states³; 3,300 in Mandalay region⁴; and up to 398,000 in the south-east (southern Shan, Kayah, Kayin, Mon states and Bago and Tanintharyi regions), including 2,000 forced to flee in Kayin in September and October 2014⁵. In addition, more than 16,250 people were newly displaced in Kachin and northern Shan between January and early March 2015.⁶

Inter-communal violence

Displacement in Rakhine state, among the poorest in Myanmar, is the result of inter-communal violence between Rakhine Buddhists on the one hand and Rohingyas and other Muslims on the other, which happened in June and October 2012.⁷

IDPs remaining in Mandalay region were displaced by inter-communal violence between Buddhists and Muslims in March 2013 in the context of increasing anti-Muslim rhetoric from the 969 Movement, a nationalist Buddhist organisation.⁸

Internal armed conflict

In Kachin and northern Shan states, armed conflict between Myanmar's armed forces, referred to officially as *Tatmadaw*, and non-state armed groups (NSAGs) including the Kachin Independence Army

¹ IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014

² Shelter/NFI/CCCM cluster, [Rakhine cluster analysis report](#), 1 November 2014

³ Shelter/NFI/CCCM cluster, [Kachin and Northern Shan Cluster Analysis Report](#), 1 January 2015; OCHA, [Humanitarian Bulletin Myanmar, Issue 4: 1 – 30 April 2014](#), 30 April 2014, p.1

⁴ [OCHA](#), 31 October 2014, p.3

⁵ TBC, [Myanmar: IDPs by Township](#), 4 February 2014; TBC, [Protection and Security concerns in South East Burma / Myanmar](#), 6 November 2014, p.1; TBC, [Changing Realities, Poverty and Displacement in South East Burma/Myanmar](#), 31 October 2012, p.2; Karen Rivers Watch, [Afraid to Go Home: Recent Violent Conflict and Human Rights Abuses in Karen State](#), 6 November 2014, pp.2, 7, 11-12; UNHCR, [Myanmar SE operation: Return assessments](#), 1 January 2015, p.1

⁶ OCHA, [Myanmar: New displacement in Kachin and northern Shan states](#), 27 February 2015; Irrawaddy, [Hundreds of Villagers Still Displaced in Hpakant](#), 10 February 2015; Irrawaddy, [350 Displaced Civilians Arrive in Shan Border Town](#), 5 March 2015

⁷ ICG, [The Dark Side of Transition: Violence Against Muslims in Myanmar](#), 1 October 2013, p.7; HRW, ["The Government Could Have Stopped This": Sectarian Violence and Ensuing Abuses in Burma's Arakan State](#), 1 August 2012, pp.18-19

⁸ OCHA, [Myanmar: Humanitarian Bulletin, Issue: March 2013](#), 31 March 2013, p.1; IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014, p.6

(KIA) reignited in June 2011 after a 17-year-long ceasefire and has been ongoing since.⁹ Most recently, clashes in Kachin's Hpakant township in January 2015 displaced 2,000.¹⁰ New displacement in the Kokang special region of northern Shan is the result of fighting since February 2015 between the *Tatmadaw* on the one hand and two NSAGs, the Myanmar National Democratic Alliance Army (MNDAA) and the Ta'ang National Liberation Army (TNLA) on the other.¹¹

In south-eastern Myanmar, protracted armed conflict since 1962 came to a halt in most areas as a result of ceasefire agreements the government elected in 2010 concluded with many of the main NSAGs in 2011 and 2012.¹² In September and October 2014, however, there were several clashes in Kayin state's Hpa-an and Hpapun districts between the Democratic Karen Benevolent Army (DKBA), an NSAG, on the one hand and the *Tatmadaw* and Border Guard Force on the other, which have led to new displacement.¹³

III. Main issues of concern

1. Non-discrimination¹⁴

Discrimination as a factor contributing to internal displacement

Members of Myanmar's ethnic or religious minority groups including stateless persons constitute the overwhelming majority of people internally displaced as a result of conflict and violence. According to the UN Special Rapporteur on the situation of human rights in Myanmar, "[t]he displacement of minorities is one indicator of the degree to which their rights are respected, protected and fulfilled."¹⁵ Their displacement is in contradiction with the principle of non-discrimination, a fundamental principle in customary international law.¹⁶

The majority of IDPs in Rakhine state are Rohingyas, while some are Kaman Muslims. The remainder are of Buddhist faith and belong to the Rakhine and Maramargyi ethnic minority groups.¹⁷ While most

⁹ ICG, [A Tentative Peace in Myanmar's Kachin Conflict](#), 12 June 2013, p.6-8

¹⁰ Irrawaddy, [Hundreds of Villagers Still Displaced in Hpakant](#), 10 February 2015

¹¹ Irrawaddy, [Fighting Spreads Through Northern Shan State, Displacing Hundreds of Civilians](#), 25 February 2015

¹² ICG, [A Tentative Peace in Myanmar's Kachin Conflict](#), 12 June 2013, p.8; Myanmar Peace Monitor, [Armed Ethnic Groups](#); ICG Crisis Watch, 1 September 2013

¹³ Karen Rivers Watch, [Afraid to Go Home: Recent Violent Conflict and Human Rights Abuses in Karen State](#), 6 November 2014, pp.2, 7, 11-12

¹⁴ (UDHR Art. 2; Geneva Conventions (GC) Common Article 3(1); UN Charter Art. 1(3); Guiding Principles on Internal Displacement (GP) 1, 2, 4, 18, 22 and 29; Myanmar's Constitution, Chapter 8 Art. 348, 362 and 364(b))

¹⁵ UNGA, [Situation of human rights in Myanmar](#), A/69/398, 23 September 2014, p.10

¹⁶ The principle of non-discrimination is enshrined in Article 2 of the Universal Declaration of Human Rights (UDHR), Common Article 3(1) of the Geneva Conventions, Article 1(3) of the UN Charter, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), to both of which Myanmar is a party. Non-citizens, illegal migrants and stateless persons should all enjoy fundamental human rights under international law, including the right not to be discriminated against. OHCHR, *Minority Rights: International Standards and Guidance for Implementation*, http://www.ohchr.org/Documents/Publications/MinorityRights_en.pdf, pp.5-6, 8-12. Although Myanmar is not party to the International Covenant on Civil and Political Rights (ICCPR), the Human Rights Committee has made clear it its authoritative comments that the existence of minorities does not depend on state decisions but is to be established by objective criteria; and that non-citizens and even non-permanent residents qualify for protection under Article 27. The principle of non-discrimination in international human rights and humanitarian law does not preclude any distinctions between citizens and others. Rather, differentiation is permissible so long as this furthers a legitimate objective and sits within the bounds of proportionality, as in the case of States granting certain voting rights only to citizens, for example. However, this is not the case in Myanmar, where the 2008 Constitution restricts the principle of non-discrimination (chapter 8, article 348) to citizens only.

¹⁷ Shelter/NFI/CCCM cluster, [Rakhine cluster analysis report](#), 1 November 2014

Rohingyas are stateless, Kaman Muslims and the Buddhist groups are entitled to citizenship, but the central government has historically discriminated against them in terms of access to political representation and economic resources.¹⁸

Myanmar's Constitution provides for freedom of religion and "prohibit[s] [...] any advocacy of national, racial or religious hatred that constitutes an incitement to discrimination, hostility or violence".¹⁹ Inter-communal violence in both Rakhine state and Mandalay region, however, flared in the context of hate speech, leading to internal displacement.²⁰

IDPs in Kachin, northern Shan and the south-east belong to ethnic minority groups entitled to citizenship. The root causes of conflict and violence resulting in their disproportionate displacement as described in Section II above, as well as the violations of their fundamental human rights during displacement referred to in Section III, Subsections 2 to 6 below, are linked to grievances stemming from long-entrenched discrimination by the central authorities against such groups in relation to political power-sharing and economic development.

Background to discrimination against Rohingyas

Rohingyas are not recognised as one of Myanmar's 135 ethnic groups or national minorities.²¹ Under the 1982 citizenship law, full citizenship is dependent on a person's membership in a national ethnic group, which constitutes discrimination based on race against non-members.²² In spite of the fact that Rohingyas have been resident in the area that is now Rakhine state for generations, the government considers them illegal immigrants from Bangladesh, and the large majority are stateless. Refusing their right to self-identify as Rohingyas²³, it calls them "Bengalis".²⁴ Most recently, the government announced expiration of the Rohingyas' "white cards" by 31 March 2015. The cards, while keeping holders' freedom of movement restricted and barring them from certain jobs and university programmes, gave them the right to vote in the 2010 general elections as well as access to health and education services.²⁵ The UN General Assembly has repeatedly expressed concern about discrimination against Rohingyas and other ethnic minorities.²⁶

¹⁸ IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014, pp.5-6

¹⁹ UNGA, [National report submitted in accordance with paragraph 15\(a\) of the annex to Human Rights Council resolution 5/1: Myanmar](#), A/HRC/WG.6/10/MMR/1, 10 November 2010, p.7; Constitution of the Republic of the Union of Myanmar, Articles 362 and 364(b).

²⁰ In July 2014, moderate Buddhist and Muslim religious leaders managed to stop yet another incident of inter-communal violence ignited by hate speech in its early stages. IRIN, [Grassroots moves to quell Myanmar's communal violence](#), 15 July 2014

²¹ DVB, [Rohingya minority given ID cards](#), 9 April 2010; IDMC interview, May 2014; IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014, p.6; ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, p.10

²² ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, p.32

²³ UN HRC, [Report of the Special Rapporteur on the situation of human rights in Myanmar](#), Advance Unedited Version, A/HRC/28/72, p.14

²⁴ HRC, Report of the Special Rapporteur on the situation of human rights in Myanmar, A/HRC/25/64, 12 March 2014, p.12; IDMC interviews, May 2014; IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014, pp.5-6

²⁵ Reuters, [In Rohingya camp, tensions mount over Myanmar plan to revoke ID cards](#), 16 February 2015; Irrawaddy, [Winners and Losers of the White Card's Demise](#), 9 March 2015

²⁶ See for example UNGA, Situation of human rights in Myanmar, A/RES/66/230, 3 April 2012, p.4; UNGA, Situation of human rights in Myanmar, A/RES/68/242, 24 February 2014, p.3

Discrimination during displacement

In Rakhine state, IDPs belonging to the Rohingya and Maramargyi ethnic groups as well as displaced Kaman Muslims have also experienced discrimination during displacement, in contradiction with the Guiding Principles on Internal Displacement (GP).²⁷

Discrimination against displaced Rohingyas is a manifestation of the long-standing discrimination they have endured even prior to displacement.

Displaced Maramargyi Buddhists have faced challenges obtaining identity documents because they physically resemble Rohingyas.²⁸ Displaced Rohingyas, Kaman Muslims and Maramargyi Buddhists have been worse off than displaced Rakhine Buddhists also in terms of freedom of movement, access to basic services, and durable solutions (see Section III, Subsections 2 to 6).

2. Right to life, liberty and security of person²⁹

IDPs experience threats to their life and physical security. In Rakhine, members of the security forces killed five IDPs and injured six in two separate incidents in June 2013.³⁰ In Kachin and northern Shan, IDPs are repeatedly forced to flee fighting close to their areas of refuge.³¹ Anti-personnel mines and unexploded ordnance (UXO) further threaten IDPs' security, as do human trafficking, forced recruitment and sexual violence.³² In January 2015, the *Tatmadaw* was reported to forcibly conscript IDPs and use them as human shields, in violation of the prohibition of the use of human shields under Customary IHL Rule 97.³³ In February 2015, two attacks on Myanmar Red Cross convoys during fighting between the *Tatmadaw* and the MNDA injured humanitarian staff and endangered the provision of assistance to IDPs.³⁴

3. Freedom of movement³⁵

According to UDHR Art. 13(1), “[e]veryone has the right to freedom of movement and residence within the borders of each state”.³⁶ In Rakhine state, Muslim IDPs – including Rohingyas, most of whom are stateless, and Kaman Muslims, who do hold Myanmar citizenship – are confined to camps or villages in areas separate from those where Buddhists live. Local authorities do not allow them to leave except for

²⁷ GP 1, 2, 4, 18, 22 and 29

²⁸ Reuters, [Persecution of Muslims in Myanmar's Rakhine state traps Buddhist minority in limbo](#), 7 July 2014; UNGA, [Situation of human rights in Myanmar](#), A/69/398, 23 September 2014, p.13; IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014, p.6

²⁹ (UDHR Art. 3; GC Common Article 3(1); GP 10 (1), 11 (1))

³⁰ [VOA](#), 5 June 2013; ICG Crisis Watch, 1 July 2013; [Mizzima News](#), 5 July 2013

³¹ OCHA, [Humanitarian situation deteriorates in Myanmar's southern Kachin state and northern Shan state](#), 16 May 2014; OCHA, [Humanitarian Bulletin Myanmar, Issue 8, 1-30 August 2014](#), 31 August 2014, p.2

³² OCHA, [Myanmar: Humanitarian Bulletin, Issue 10: 1 – 31 December 2013](#), 31 December 2013, pp.4, 5; [WLB](#), [Same impunity, same pattern: Report of systematic sexual violence in Burma's ethnic areas](#), January 2014, p.1

³³ Irrawaddy, [Supplies Dwindling for Trapped Hpakant Villagers](#), 23 January 2015; ICRC, [Rule 97. Human Shields](#), no date

³⁴ AFP, [Five wounded in second attack on aid vehicle in Myanmar](#), 22 February 2015

³⁵ (UDHR Art. 13(1); GP 14(2))

³⁶ This right can be limited for persons unlawfully present on a territory as far as the qualification of their stay as unlawful complies with international standards. This, however, is not the case for the qualification of Rohingya as illegal migrants in Myanmar.

medical emergencies.³⁷ Many had previously worked in Buddhist or mixed areas, but the violence and displacement of June and October 2012 and their subsequent confinement cut them off from markets and other livelihood opportunities.³⁸ This policy contradicts UDHR Art. 13(1) as well as GP 14(2), which provides that IDPs “have the right to move freely in and out of camps or other settlements.”³⁹

During 2014 the government drafted the Rakhine State Action Plan, which includes measures to assist IDPs in camps, while providing also for their permanent relocation to new sites and the delivery of relief in relocation sites. It is not clear if the IDPs’ right to freedom of movement will be respected in case of relocation, as the Plan potentially discriminates against Muslim IDPs and enforces a permanent separation of the Buddhist and Muslim communities.⁴⁰ As it is based on citizenship rights, the Plan further discriminates against most IDPs in Rakhine state since they are stateless, leaving them once again in a legal limbo.

In addition, the Plan provides for a programme to verify the citizenship of Rohingyas, requiring them to identify as “Bengalis” or “Kaman”, with no possibility to identify as “Rohingyas”.⁴¹ But even the 209 displaced households who received either full or naturalised citizenship during the piloting of the programme in Myebon township in September 2014 were still not allowed to leave their camp as of December.⁴² Furthermore, should this programme be carried out throughout Rakhine state, it remains unclear whether IDPs and others refusing to identify as “Bengalis” or who do not meet the conditions of the 1982 citizenship law will be moved to detention camps and/or be deported from Myanmar, as provided for in an earlier draft of the Rakhine State Action Plan.⁴³

In the south-east, IDPs who were previously confined to government-controlled relocation sites now enjoy their right to freedom of movement in some areas since bilateral ceasefires have been concluded, which has also opened up the possibility for return.⁴⁴

4. The right to an adequate standard of living⁴⁵

In Rakhine state, Muslim IDPs are living in dilapidated and overcrowded shelters. The situation is particularly urgent in advance of the rainy season, which starts in late May. These IDPs also have very

³⁷ RI, [Myanmar: Act Immediately to Protect Displaced People's Rights](#), 17 March 2014; IDMC interview, June 2014; UNGA, Situation of human rights in Myanmar, A/69/398, 23 September 2014, p.13; ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, p.23; UN HRC, [Report of the Special Rapporteur on the situation of human rights in Myanmar](#), Advance Unedited Version, A/HRC/28/72, pp.12, 13

³⁸ OCHA, [Myanmar: Humanitarian Bulletin, Issue 08: 1 – 30 September 2013](#), 30 September 2013, p.2; OCHA, [Myanmar: Humanitarian Bulletin, Issue 10: 1 – 31 December 2013](#), 31 December 2013, p.1; IDMC interview, March 2014

³⁹ It also constitutes discrimination because it is based on IDPs’ collective identity as Muslims, in contradiction to UDHR Art. 2.

⁴⁰ ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, pp.34-35; Myanmar Times, [Action Plan being ‘reviewed’: government](#), 9 January 2015

⁴¹ ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, p.34

⁴² ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, pp.21, 22, 32; Myanmar Times, [Citizenship pilot postponed in Myebon](#), 31 October 2014; DVB, [Citizenship verification programme pilots in Arakan displacement camps](#), 16 June 2014; Mizzima, [‘I have not been able to leave the camp since the ceremony’](#), 2 December 2014

⁴³ ICG, [Myanmar: The Politics of Rakhine State](#), 22 October 2014, p.34

⁴⁴ UNHCR, [Forced Migration and the Myanmar Peace Process](#), 28 February 2015, p.20

⁴⁵ Including access to food (UDHR Art. 25(1); CRC Art. 24 (2c); GP 18(2a)); water and sanitation (UDHR Art. 25(1); CRC Art. 24 (2c); CEDAW Art. 14 (2h); GP 18(1), 18(2a)); healthcare (UDHR Art. 25.1; CRC Art. 24(1); CEDAW Art. 12; GP 18(2d), 19); housing (UDHR Art. 25.1; CRC Art. 27(3); CEDAW Art. 14(2h); GP 18(2b); Principles on Housing and Property Restitution for Refugees and Displaced Persons (“Pinheiro Principles”), Principle 8).

limited access to food, water, sanitation and healthcare, in particular emergency medical care and treatment of preventable diseases. Lack of freedom of movement and restrictions on humanitarian access have made this situation worse.⁴⁶ Displaced Maramargyi Buddhists also continue to live in temporary shelters damaged by wear and tear.⁴⁷

In Kachin and northern Shan states, IDPs, especially those in areas under rebel control, have difficulty accessing food, water and sanitation as well as healthcare, as humanitarian access for international organisations is limited and local actors have little support capacity.⁴⁸ Shelter is a major concern, as many dwellings are more than two years old and are in need of repair, while makeshift shelters in areas out of reach for humanitarian actors are at risk of collapsing. Overcrowding is also a problem.⁴⁹

5. Children's rights⁵⁰

CRC Art. 7(1) obliges the State party to ensure that children are registered immediately after birth and provides for newborn children's right to have a nationality. Art. 7(2) states that the State party has a particular obligation to implement this provision in cases where newborn children are at risk of becoming stateless.⁵¹ However, Rohingya children including those born to displaced parents are not granted Myanmar citizenship. What is more, having imposed a limit of two children per family for stateless Rohingya in Rakhine state, Myanmar authorities only register as temporary residents the first two children in each family, and this under the discriminatory label "Bengali", leaving any additional children not only stateless, but also without registration.⁵²

Under CRC Art. 27(3) the State party has a secondary obligation to make sure children under its jurisdiction enjoy the right to an adequate standard of living, in particular in terms of nutrition, clothing and housing, if their parents are unable to do so. Given that displaced parents in Rakhine as well as Kachin/northern Shan lack access to nutritious food, chronic malnutrition is widespread among displaced children in these areas, increasing their risk of infection and impeding their physical and cognitive development.⁵³

⁴⁶ OCHA, [UN deputy humanitarian chief calls for greater humanitarian access to people affected by conflict and inter-communal violence in Myanmar](#), 13 June 2014, p.1; HRC, [Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana \(A/HRC/25/64\)](#), 12 March 2014, p.12; UNGA, Situation of human rights in Myanmar, A/69/398, 23 September 2014, pp.12-13

⁴⁷ Reuters, [Persecution of Muslims in Myanmar's Rakhine state traps Buddhist minority in limbo](#), 7 July 2014; UNGA, [Situation of human rights in Myanmar](#)

⁴⁸ IDMC, [Myanmar: comprehensive solutions needed for recent and long-term IDPs alike](#), 1 July 2014, pp.12, 14

⁴⁹ OCHA, [Myanmar: Cross-line aid mission reaches isolated communities in Kachin](#), 13 March 2014; IRIN, [Bleak outlook for 96,000 Kachin IDPs three years on](#), 27 May 2014

⁵⁰ Including the rights to birth registration and prevention of statelessness (CRC Art. 7(1) and (2)); an adequate standard of living (CRC Art. 27); and to education (UDHR Art. 26; CRC Art. 28(1); CEDAW Art. 10; GP 23).

⁵¹ See also UN HRC, [Report of the Special Rapporteur on the situation of human rights in Myanmar](#), Advance Unedited Version, A/HRC/28/72, p.15

⁵² IRIN, [Activists call for review of Myanmar's citizenship law](#), 3 May 2013

⁵³ UNICEF, [Myanmar Appeal](#), 24 January 2015; OCHA, [Myanmar Humanitarian Response Plan 2015](#), 12 December 2014, p.22; Irrawaddy, [Rohingya Children in Burma Camps Going Hungry](#), 9 August 2014; Irrawaddy, [Unicef Highlights Plight of Burma's IDPs, Vulnerable Children](#), 2 April 2014; Plan International, [Chronic malnutrition among displaced children in Myanmar](#), 21 February 2014

Nor are internally displaced children in Rakhine, Kachin and northern Shan able to fully enjoy their right to education. Displaced Muslim children and youth in Rakhine have little or no access to formal education, since they are not allowed to leave the camps. In 2013, only seven per cent of displaced children of secondary school age were attending school.⁵⁴

In Kachin and northern Shan, schools in KIA-controlled areas lack funding and are overcrowded. Conflict has forced some to close, leaving those still open struggling to cope with the education needs of both local and displaced children. When fighting erupted again in June 2011, the central government stopped recognising exams taken at schools in KIA-controlled areas.⁵⁵

6. Durable solutions⁵⁶

Anecdotal evidence suggests that in the south-east, some IDPs have already achieved durable solutions by integrating locally or returning to their places of origin, and that others are in the process of doing so.⁵⁷ As local ceasefire agreements have been reached, the decreased fighting has given IDPs and others greater freedom of movement, making it easier for them to farm and sell their produce on local markets. In many areas, however, both *Tatmadaw* soldiers and armed members of NSAGs remain present, and in contested areas their presence has even increased.⁵⁸ In addition, new clashes in September 2014 in Kayin state between the Democratic Karen Benevolent Army (DKBA), an NSAG, on the one hand and the *Tatmadaw* and Border Guard Force on the other forced 2,000 people to flee.⁵⁹

In parallel with the implementation of local ceasefires, completion of the national ceasefire and peace process is a precondition for IDPs in Kachin, northern Shan and the south-east to reach durable solutions. Negotiations have progressed slowly, however, and it is unlikely that there will be a major breakthrough prior to nationwide elections later in 2015.⁶⁰

As fighting continues in Kachin and northern Shan, IDPs have been forced to flee repeatedly and are far from achieving durable solutions. Given the limited humanitarian assistance they receive, some have returned prematurely to insecure areas to tend to their land and livestock, or to pick up their

⁵⁴ OCHA, [Myanmar: Humanitarian Bulletin, Issue 08: 1 – 30 September 2013](#), 30 September 2013, p.3; OCHA OCHA, [Myanmar: Humanitarian Bulletin, Issue 10: 1 – 31 December 2013](#), 31 December 2013, p.3

⁵⁵ IRIN, [Education takes a hit in Myanmar's Kachin State](#), 23 April 2013

⁵⁶ GP 28

⁵⁷ Peace Donor Support Group, [Desktop Review of Needs and Gaps in Conflict-Affected Parts of Myanmar](#), 22 April 2013, pp.10, 13, 14, 37; IDMC interviews, May 2014

⁵⁸ TBC, [Protection and security concerns in South East Burma/Myanmar](#), 6 November 2014, p.1; TBC, [Poverty, displacement and local governance in South East Burma / Myanmar](#), 1 November 2013, pp.4, 10, 18; UNHCR, [Forced Migration and the Myanmar Peace Process](#), 28 February 2015, p.5

⁵⁹ Karen Rivers Watch, [Afraid to Go Home: Recent Violent Conflict and Human Rights Abuses in Karen State](#), 6 November 2014, pp.2, 7, 11-12

⁶⁰ On 12 February 2015, President Thein Sein and representatives of four NSAGs signed a Deed of Commitment for Peace and Reconciliation, which commits its signatories to sign the nationwide ceasefire agreement. Straits Times, [Peace talks amid doubts](#), 9 March 2015; UNHCR, [Forced Migration and the Myanmar Peace Process](#), 28 February 2015, p.11; Shan Herald Agency for News, [Deed of Commitment for Peace and Reconciliation](#), 18 February 2015

belongings. Many found that the *Tatmadaw* had destroyed or confiscated their property and possessions.⁶¹

In some areas of Kachin and northern Shan the *Tatmadaw* has given IDPs' land over to agribusinesses. As many IDPs do not have documentary proof of their ownership or tenancy rights, they have little chance of recovering it or obtaining compensation.⁶² Myanmar's 2012 laws on land unfortunately facilitate land grabbing as they do not recognise customary land ownership, which is common in IDPs' areas of origin in the south-east as well as Kachin and northern Shan.⁶³ The draft Land Use Policy currently on the table does not go far enough to remedy this.⁶⁴

Contamination with anti-personnel landmines and unexploded ordnance is an important obstacle to durable solutions in the south-east as well as Kachin and northern Shan, as it will likely prevent many IDPs and refugees from returning for a number of years.⁶⁵ Fewer landmines have reportedly been laid in recent years, but clearance has so far been slow.⁶⁶ In Kayah state, for example, clearance operations had still not begun as of July 2014.⁶⁷

In Rakhine state, Rohingyas and other Muslims displaced by inter-communal violence in 2012 have not been allowed to leave their camps or villages, and have thus been unable to return and rebuild and their destroyed homes.⁶⁸

IV. Recommendations to the Government of Myanmar

To address immediate concerns:

- 1. Protect IDPs' physical security, including by prohibiting their forced recruitment and use as human shields, and – if reports of such acts are confirmed – by prosecuting those responsible.**
- 2. Lift all restrictions on the right to freedom of movement for IDPs, and ensure the unconditional respect for this right, including for all IDPs in Rakhine state.**

⁶¹ HRW, "[Untold Miseries: Wartime Abuses and Forced Displacement in Burma's Kachin State](#)", 20 March 2012, pp.10, 16

⁶² IDMC interviews, May 2014

⁶³ UNHCR, [Forced Migration and the Myanmar Peace Process](#), 28 February 2015, p.22-24

⁶⁴ TNI, [Customary Land tenure and rotation fallow Farming System must be Recognized and Protected Legally](#), 15 February 2015

⁶⁵ OCHA, [Myanmar: Humanitarian Bulletin, Issue 10: 1 – 31 December 2013](#), 31 December 2013, p.4; The Economist, [Politically explosive: The failure to clear landmines casts doubt on Myanmar's peace processes](#), 13 July 2013; [Landmine and Cluster Munition Monitor](#), last updated 17 November 2014; UPI, [Myanmar polluted with land mines](#), 3 April 2013

⁶⁶ Peace Donor Support Group, [Desktop Review of Needs and Gaps in Conflict-Affected Parts of Myanmar](#), 22 April 2013, pp.13, 28; IRIN, [Myanmar: Demining moves a step closer](#), 22 October 2012; IRIN, [Myanmar's landmines hinder return of displaced](#), 3 April 2013; [Landmine and Cluster Munition Monitor](#), last updated 17 November 2014; The Economist, [Politically explosive: The failure to clear landmines casts doubt on Myanmar's peace processes](#), 13 July 2013; HRC, [Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomás Ojea Quintana \(A/HRC/25/64\)](#), 12 March 2014, p.16

⁶⁷ IRIN, [Ceasefire but no demining in Myanmar's Kayah State](#), 25 July 2014

⁶⁸ IDMC interview, March 2014

3. Ensure IDPs' access to adequate food, drinking water, sanitation, healthcare, housing and education.

4. Grant international organisations unimpeded access to IDPs where there are gaps in the response to their needs.

To facilitate durable solutions and prevent new displacement:

5. Promote durable solutions for IDPs by eliminating obstacles to return, in particular by removing anti-personnel mines and UXO with the support of demining organisations, and refrain from laying them in the future.

6. Give IDPs a voluntary, safe and dignified settlement choice, and ensure their full participation in the planning and management of durable solutions for themselves.

7. Facilitate the participation and consultation of IDPs in the ongoing ceasefire and peace process to ensure that their needs and preferences, including in terms of durable solutions, are taken into account, as recommended by the UN Special Rapporteur on the situation of human rights in Myanmar⁶⁹.

8. To avoid future displacement, tackle the root causes of violence and conflict, in particular the discrimination against ethnic and religious minorities, by taking the following steps:

On the national level:

- a) Adopt effective measures that foster social cohesion, and, in keeping with the Constitution, prohibit and sanction hate speech which promotes and condones inter-communal violence, leading to displacement;**
- b) Focus on reconciliation between the Buddhist and Muslim communities.**

In Rakhine state:

- c) Revise the draft Rakhine State Action Plan to avoid further discrimination and physical separation of the Buddhist and Muslim communities;**
- d) Put an end of the socio-economic marginalisation of all of the state's inhabitants, including those who are stateless.**

⁶⁹ UNGA, [Situation of human rights in Myanmar](#), A/69/398, 23 September 2014, p.21