

BN 2017/2014: 7 March 2017

### **BURMA/MYANMAR: FLAWED DOMESTIC INVESTIGATIONS NECESSITATE UN COMMISSION OF INQUIRY ON SERIOUS CRIMES**

Since 2012, the governments led by former general President Thein Sein (2011-2015) and President Htin Kyaw (2016-present) have mandated four major official investigations into the situation in Arakan/Rakhine State. Three additional inquiry teams have been tasked to investigate the violence that erupted in Maungdaw since 9 October 2016. All initiatives have contradicted international human rights standards and have been flawed in terms of mandate, composition, process and outcomes:

- ✓ Lack of independence and impartiality.
- ✓ Lack of victim and witness protection.
- ✓ Rohingya exclusion from membership of the investigation commissions.
- ✓ Failure to acknowledge discriminatory laws and practices amongst the root causes of the violence.
- ✓ Fueling of discrimination: Denial of Rohingyas' right to identify themselves; recommendations of segregation and discriminatory practices (e.g. controversial citizenship verification process and institutionalization of statelessness).
- ✓ Dismissal of reports of serious human rights violations as fabricated rumors and fake news to discredit the government.

These fatally flawed official domestic investigations have resulted in the perpetuation of discrimination, impunity, animosity between communities, denial of human rights protections, increased vulnerability of marginalized communities, and significant loss of local and international trust in the authorities' will and ability to develop and implement sustainable solutions.

Meanwhile, serious crimes continue to persist in other regions of the country, particularly in Kachin and Shan states, where security forces have targeted civilians with extrajudicial killings, rape and sexual violence, arbitrary detention and forced displacement. It is important to note that the authorities have refused to engage in any investigation of the widely documented human rights violations there.

It is therefore in the collective interests of all affected communities (including the Rakhine Buddhist community), the government, and international community that a UN-mandated Commission of Inquiry is established to independently and impartially investigate these critical situations and produce recommendations for sustainable solutions consistent with international human rights standards. Such a process is urgently needed to strengthen the country's fragile transition.

### **NATIONAL-LEVEL INVESTIGATIONS**

<b>2012 Commission on Sectarian Violence in Rakhine State</b>	
<p>Main flaws:</p> <ul style="list-style-type: none"> <li>✓ Allegations of HRs violations constantly rejected as part of a "smear campaign" against the regime.</li> <li>✓ Independent reports dismissed as false evidence fabricated by national and international organizations.</li> <li>✓ No investigation of human rights abuses.</li> <li>✓ Included members with extremist Buddhist views. Two Muslim members were purged.</li> </ul>	<p>Main recommendations:</p> <ul style="list-style-type: none"> <li>✓ Increasing military presence.</li> <li>✓ Implementing discriminatory Muslim birth control programs.</li> <li>✓ Segregating the Muslim communities – forcibly resettling them</li> <li>✓ Using controversial citizenship verification process – targeting Muslims and institutionalizing statelessness of ethnic minorities.</li> </ul>

<b>2014 Inquiry Commission for Duu-Chee-Yar-Tan incident and related events</b>	
<b>Main flaws:</b> <ul style="list-style-type: none"> <li>✓ Reports of violence rejected as false allegations to destabilize Burma. UN and Medicine Sans Frontiers (MSF) blamed, with temporary suspension of MSF activities.</li> <li>✓ Denial of killings based on broad and pre-baked assumptions (e.g. No evidence of Rohingya deaths because their names did not match the immigration records).</li> <li>✓ No investigation of human rights abuses.</li> </ul>	<b>Main recommendations:</b> <ul style="list-style-type: none"> <li>✓ Increasing police weapons capacity.</li> <li>✓ Adopting measures to counter the “false” allegations by the media.</li> <li>✓ Implementing controversial Rakhine State Action Plan (segregation and discrimination of Muslims).</li> </ul>
<b>2016 Advisory Commission on Rakhine State (headed by Kofi Annan)</b>	
<b>Main flaws:</b> <ul style="list-style-type: none"> <li>✓ No investigation powers.</li> <li>✓ Mandate: Only humanitarian and development issues, access to basic services, and security.</li> </ul>	<b>Main recommendations:</b> <ul style="list-style-type: none"> <li>✓ Final report due in the second half of 2017.</li> </ul>
<b>2016 Investigation Commission on violence in Maungdaw</b>	
<b>Main flaws:</b> <ul style="list-style-type: none"> <li>✓ Composition: Former military general-led commission tasked with investigating the military. Former army Gen Aung Kyi and police chief Gen Zaw Win also members.</li> <li>✓ Human rights violations continuously rejected as “fabricated rumors and news” to discredit the government.</li> <li>✓ No witness protection, manipulation of witness accounts (state media broadcasted witness interview).</li> </ul>	<b>Main recommendations:</b> <ul style="list-style-type: none"> <li>✓ 3 Jan 2017, interim report: Dismissal of rape allegations due to “lack of evidence”; rejection of genocide/persecution as well as malnutrition.</li> <li>✓ 21 Feb 2017, response to UN report: “... the OHCHR report (was) far from the situation on the ground”.</li> <li>✓ Interim report methodologically flawed: based on broad half-baked assumptions, rather than accurate investigation (e.g. No genocide because there were still mosques in area).</li> </ul>

**OTHER INVESTIGATIONS ON VIOLENCE IN MAUNGDAW**

<b>24 Oct 2016 State-level Committee:</b>	<b>9 Feb 2017 Military Inquiry Board:</b>	<b>11 Feb 2017 Police Departmental Inquiry:</b>
<ul style="list-style-type: none"> <li>✓ Chair Aung Win said it was impossible that soldiers had raped Rohingya women because “they are very dirty... They are not attractive.”</li> <li>✓ Human rights violations denied. Violence blamed exclusively on Rohingya.</li> <li>✓ Recommended increasing security.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Military to investigate the military.</li> <li>✓ Sr Gen Min Aung Hlaing: “accusations are much wrong in comparison with the ground situation”.</li> <li>✓ As of 7 March, no final report yet.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Police to investigate the police.</li> <li>✓ Policemen caught beating defenseless villagers sentenced to only 2 months imprisonment – Police Disciplinary Law.</li> <li>✓ As of 7 March, no final report yet.</li> </ul>

***I want to say that I am very sad because of this kind of reckless accusations and neglect of the good things that the government and the military have done for them (Rohingya residents).***

- Gen Mya Tun Oo at military press conference, 28 Feb 2017.

NOTE: A more detailed version of this factsheet will appear in a larger joint publication with FIDH and other organizations.