

ASEAN'S RAKHINE CRISIS

Assessing the regional response to atrocities in Myanmar's Rakhine State



**ASEAN PARLIAMENTARIANS
FOR HUMAN RIGHTS**





ASEAN PARLIAMENTARIANS FOR HUMAN RIGHTS

APHR is a regional network of current and former parliamentarians who use their unique positions to advance human rights and democracy in Southeast Asia. We seek to help create a region where people can express themselves without fear, live free from all forms of discrimination and violence, and where development takes place with human rights at the forefront.

Our members use their mandate to advocate for human rights inside and outside of parliaments, regionally and globally. They work closely with civil society, conduct fact-finding missions, and publish recommendations and opinions on the important issues affecting the region.

APHR was born out of the recognition that human rights issues in Southeast Asia are interconnected, and from the desire of progressive legislators to work together across borders to promote and protect human rights.

First published in 2020 by ASEAN Parliamentarians for Human Rights (APHR)
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Cover page: Myanmar's State Counselor Aung San Suu Kyi at the 35th ASEAN Summit in Bangkok. ©EPA-EFE.

TABLE OF CONTENTS

About APHR	3
List of Acronyms	4
Asean Bodies	5
Timeline of Key Events	6
Executive Summary	8
Methodology	12
1. Background	13
1.1 The Establishment of Asean and the “Asean Way”	13
1.2 Asean and Myanmar	15
2. The Evolution of the Crisis in Rakhine State	17
2.1 A History of Discrimination and Violence	17
2.2 Maritime Movements	18
2.3 2016 “Clearance Operations”	19
2.4 2017 Atrocities and Aftermath	20
2.5 Rakhine State Today	22
3. Asean’s Response: A Critical Assessment	24
3.1 Absence of Cohesive and Strategic Leadership	25
3.2 A Myopic Approach	30
3.3 Need for Transparency and Engagement	41
3.4 Institutional Weaknesses	44
4. The Way Forward	48
Recommendations	49
To Asean and Asean Member States	51
To the Government of Myanmar	52
To Parliamentarians in Southeast Asia	52
To National, Regional, and International Non-Governmental, Humanitarian, Development, and Civil Society Organizations	53
To Asean Partners, in Particular Japan, South Korea, Australia, New Zealand, India, Canada, The US and the EU	53
Annex	54

LIST OF ACRONYMS

AA	Arakan Army
AADMER	ASEAN Agreement on Disaster Management and Emergency Response
APHR	ASEAN Parliamentarians for Human Rights
ASEAN	Association of Southeast Asian Nations
AHA Centre	ASEAN Coordinating Centre for Humanitarian Assistance
AHAST	Ad-hoc Support Team
AICHR	ASEAN Intergovernmental Commission on Human Rights
APG	AADMER Partnership Group
ARSA	Arakan Rohingya Salvation Army
ASEAN-ERAT	ASEAN-Emergency Response and Assessment Team
ASEAN-IPR	ASEAN Institute for Peace and Reconciliation
ASG	ASEAN Secretary General
CNA	Comprehensive Needs Assessment
ICC	International Criminal Court
ICJ	International Court of Justice
ICOE	Independent Commission of Enquiry
IIFFMM	Independent International Fact-Finding Mission on Myanmar
IIMM	International Investigative Mechanism for Myanmar
NLD	National League for Democracy
NVC	National Verification Card
OIC	Organization of Islamic Cooperation
PNA	Preliminary Needs Assessment
UEHRD	Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine State

ASEAN BODIES

AMM

ASEAN Foreign Ministers Meeting

The annual AMM is responsible for political-security cooperation and external relations in ASEAN. ASEAN Foreign ministers also meet informally on the sidelines of the UN General Assembly in New York, and under the ASEAN Charter, meetings may be convened when necessary.

AHA Centre

ASEAN Coordinating Centre for Humanitarian Assistance

An inter-governmental organisation established in 2011 to facilitate cooperation and coordination of disaster management and emergency response in the region. The AHA Centre reports to the ASEAN Committee on Disaster Management (ACDM) and the AHA Centre's Governing Board, which consists of representatives of all ASEAN Member States.

AHAST

Ad-hoc Support Team

A team of the ASEAN Secretariat to strengthen the role of the ASEAN Secretary-General on Rakhine State, including through implementation of the recommendations of the Preliminary Needs Assessment (PNA). ASEAN leaders agreed to establish the team at the 35th ASEAN Summit in November 2019.

AICHR

ASEAN Intergovernmental Commission on Human Rights

A consultative body established in 2009 to promote human rights in the ASEAN region. AICHR Representatives are appointed by their respective governments. Although the primary body tasked with monitoring human rights in the region, the body lacks a full protection and promotion mandate.

ASEAN-ERAT

ASEAN-Emergency Response and Assessment Team

ASEAN-ERAT supports ASEAN Member States affected by disasters by conducting rapid assessments, coordinating disaster management and providing humanitarian assistance support. The team is managed by the AHA Centre.

ASEAN-IPR

ASEAN Institute for Peace and Reconciliation

ASEAN institution for research and capacity building activities supporting ASEAN bodies on peace, reconciliation, conflict management and conflict resolution in the ASEAN region. The Institute was established in 2012.

ASEAN Secretariat

The ASEAN Secretariat provides coordination of ASEAN organs and implementation of ASEAN projects and activities. It is based in Jakarta, Indonesia, and headed by the ASEAN Secretary-General.

ASEAN Summit

The highest policy-making body of ASEAN. The biannual meeting is attended by the leaders of all ASEAN governments. The Chair of ASEAN (rotated alphabetically on an annual basis) chairs the ASEAN Summit.

TIMELINE OF KEY EVENTS

JUNE & OCTOBER 2012	Waves of violence erupt between Muslims and Buddhists, often supported by the security forces, across Rakhine State.	
MAY 2015	Thousands of refugee and migrants are stranded on boats following a crackdown on trafficking.	
23 AUGUST 2016	The NLD establishes the Advisory Commission on Rakhine State to provide recommendations for resolving the situation in Rakhine State.	
9 OCTOBER 2016	ARSA attacks three security posts in northern Rakhine State. Myanmar security forces respond by launching "clearance operations", which are accompanied by wide-ranging crimes.	
22 MARCH 2017	The UN Human Rights Council establishes the IIFFMM to investigate allegations of atrocities in Myanmar, including Rakhine State.	
24 AUGUST 2017	Launch of the Final Report of the Advisory Commission on Rakhine State.	
25 AUGUST 2017	ARSA launches coordinated attacks on security forces outposts. The military operation that follows forces 740,000 Rohingya to flee to Bangladesh.	
17 OCTOBER 2017	Facing international pressure, Aung San Suu Kyi establishes the UEHRD.	
23 NOVEMBER 2017	Myanmar and Bangladesh agree to the "Arrangement on return of displaced persons from Rakhine State".	
29 MAY 2015	In response to the refugee boat crisis, ASEAN States and others convene a Special Meeting on Irregular Migration in the Indian Ocean, in Bangkok.	
19 DECEMBER 2016	ASEAN Foreign Minister's Retreat on recent developments in Rakhine State. Aung San Suu Kyi tells her counterparts the government needs "time and space" to address the situation.	
26 OCTOBER 2017	AHA Centre delivers first humanitarian relief items to Rakhine State.	
13 NOVEMBER 2017	31st ASEAN Summit: ASEAN leaders call for increased humanitarian access.	
14 DECEMBER 2017	AHA Centre facilitates second humanitarian assistance in Rakhine State.	
15-31 JANUARY 2018	ASEAN-ERAT deploys to Myanmar to assess distribution of relief items.	
23 APRIL 2018	Joint Media Statement by two AICHR Representatives urging ASEAN to develop a 'whole-of ASEAN' approach ahead of the ASEAN summit.	

	30 MAY 2018	Myanmar establishes the ICOE.
	6 JUNE 2018	Myanmar, UNDP and UNHCR sign a Memorandum of Understanding to support the creation of conditions for the return of Rohingya refugees.
	SEPTEMBER 2018	The UN Human Rights Council establishes the IIMM in response to the final report of the IIFFMM, which accuses Myanmar's senior commanders of war crimes, crimes against humanity, and genocide.
	15 NOVEMBER 2018	First failed repatriation attempt.
	4 JANUARY 2019	AA attacks security posts in Rakhine State, sparking a new conflict in the area.
	27 MAY 2019	Extension of MOU by Myanmar, UNDP and UNHCR.
	21 JUNE 2019	Myanmar suspends mobile internet services to nine conflict-affected townships in Rakhine and Chin States.
	22 AUGUST 2019	Second failed repatriation attempt.
	11 NOVEMBER 2019	The Gambia files a complaint at the ICJ, accusing Myanmar of breaching the UN Genocide Convention.
	14 NOVEMBER 2019	The ICC opens an investigation into crimes against the Rohingya.
	20 JANUARY 2020	The ICOE submits its final report to the President of Myanmar.
	23 JANUARY 2020	The ICJ orders Myanmar to take provisional measures to protect the Rohingya.
	13 NOVEMBER 2018	33rd ASEAN Summit: ASEAN leaders agree to dispatch a needs assessment team to Rakhine State to facilitate the repatriation process.
	4-13 MARCH 2019	ASEAN-ERAT conducts a Preliminary Needs Assessment (PNA) for Repatriation in Rakhine State.
	8 JUNE 2019	ASEAN-ERAT report of the PNA is leaked to the media.
	27-29 JULY 2019	An ASEAN Delegation visits the refugee camps in Cox's Bazar, Bangladesh.
	3 NOVEMBER 2019	35th ASEAN Summit: ASEAN confirms " <i>a more visible and enhanced role of ASEAN</i> " and agrees to establish AHAST, a team operating under the ASEAN Secretary General, to implement the recommendations of the PNA.
	18-19 DECEMBER 2019	Another ASEAN Delegation visits the refugee camps in Cox's Bazar, Bangladesh.
	11-15 NOVEMBER 2020	37th ASEAN Summit.



ASEAN Leaders at the 34th ASEAN Summit in Bangkok. ©EPA-EFE.

EXECUTIVE SUMMARY

“The purposes of ASEAN are to ensure that the peoples of ASEAN live in peace... in a just, democratic, and harmonious environment.”

ASEAN Charter, Article 1(4).

“ASEAN has a responsibility to protect people in the region. They have a responsibility to protect Rohingya no matter where they are. Collectively ASEAN can be and should be stronger.”

Wai Wai Nu, Founder and Director of the Women’s Peace Network, Rohingya activist.¹

On 25 August 2017, Myanmar’s security forces launched a devastating attack on the Rohingya community living in Rakhine State, in the western part of Myanmar. In the weeks that followed, thousands were killed, women and girls were raped, hundreds of homes and entire villages burned to the ground, and more than 740,000 women, men and children forced to flee to neighboring Bangladesh. The attacks took place against a background of decades-long discrimination, persecution, and violence against the Rohingya, a situation that continues today.

This report examines the Association of Southeast Asian Nations’ (ASEAN) response to this crisis, from the initial outbreak of violence in August 2017 to the present day. It is based on 45 interviews with Rohingya representatives, NGO workers, diplomats, ASEAN Parliamentarians, political analysts, and current and former ASEAN officials. It also draws on extensive review of official statements and other documents, as well as NGO and media reports.

¹ Interview with Wai Wai Nu on 17 June 2020.

The findings show how, caught between respect for its key principles of consensus and non-interference on the one hand, and international and domestic outcry on the other, the regional bloc has struggled to respond to the crisis and articulate a clear vision and strategy that would help end the cycle of violence and displacement. The report examines some of the reasons behind ASEAN's so far weak response. These include a lack of leadership both within the Secretariat and among Member States, giving space for the Myanmar government to set the parameters of ASEAN's engagement. ASEAN's reluctance to acknowledge the underlying human rights dimensions of the crisis has also meant that the bloc has focused only on the "less controversial" issues, risking being at best counter-productive and at worst actively contributing to human rights abuses. ASEAN's lack of transparency, reluctance to engage with actors other than the Myanmar government, and the weaknesses inherent in its own institutions have further undermined its response.

Leadership

Initially the crisis exposed significant divisions among ASEAN Member States, which were exacerbated by a lack of leadership at the ASEAN Secretariat, and led some States to take individual action. "Domestic politics so clearly trumped a regional ASEAN approach," noted one analyst. Fears about the role of China, which has used the crisis to expand its influence over Myanmar, have also meant the bloc has been reluctant to take a confrontational approach, and has placed a strong emphasis on maintaining engagement with the Myanmar authorities.

This lack of cohesion and long-term vision for ASEAN in Rakhine State, coupled with its unwavering commitment to consensus among its members, has allowed the Myanmar authorities to step-in, control the ASEAN narrative, and dictate what the ASEAN officials engage on, how and with whom. The result is that ASEAN's interventions have often focused on "low-hanging fruit", and failed to address fundamental issues. "Instead of ASEAN lifting up the region, it's being dragged down by its members," said an NGO worker.

However, as the crisis continued and the regional and international outcry showed no sign of abating, ASEAN's own credibility was increasingly being questioned, and leaders realized they had to take action. As a result, it embarked on a series of initiatives, which it hoped would help address the situation.

Understanding and addressing root causes

Unfortunately, when ASEAN has been proactive, it has focused on specific issues only, in particular the repatriation of refugees and humanitarian assistance, limiting itself to those the Myanmar government has agreed upon and leaving out politically sensitive issues such as the restoration of citizenship rights, restrictions on movement, enforced ethnic segregation, or the intensifying conflict between the Myanmar military and the Arakan Army. As one interviewee noted, "How can you talk about repatriation when [Rakhine] is a war zone?".

In some cases, ASEAN has also appeared, at least in principle, to support some of Myanmar's policies of segregation and persecution against the Rohingya. For instance, ASEAN's Preliminary Needs Assessment for Repatriation (PNA) in Rakhine State appears to legitimize continuing restrictions on the movement of the Rohingya. When ASEAN delegations visited the refugee camps in Cox's Bazar, Bangladesh, in 2019, they promoted the National Verification Card (NVC), which is viewed by the Rohingya as a tool of their persecution. ASEAN and its Member States are also providing financial aid and assistance in Rakhine State for infrastructure projects, such as schools and hospitals, seemingly without ensuring that all communities can access them.

Ultimately, if ASEAN wants to have an impact and be effective in Rakhine State, it needs to properly understand and acknowledge all aspects of the crisis, whether human rights, political, humanitarian, social, or economic. Otherwise, its attempts at intervening will be counter-productive, and risk contributing to entrenching segregation, perpetuating serious human rights violations, and pushing more Rohingya to seek safety in neighboring countries.

Transparency and engagement

ASEAN's response has also been characterized by a lack of transparency and engagement with civil society groups, humanitarian organizations and, crucially, Rohingya themselves. The extreme sensitivity around the Rakhine crisis, in particular as a result of the Myanmar government's refusal to even recognize the Rohingya as citizens, has meant that ASEAN has been unwilling to provide information about its discussions and activities. Illustrative of this is the failure of multiple ASEAN bodies and entities to respond to APHR's requests for interviews and information for this report.

Another key weakness with ASEAN's response has been its failure to meaningfully engage with civil society, and in particular with Rohingya themselves. While there have been efforts to meet with the Rohingya refugees and their representatives, many felt that they were not meaningfully consulted, and that ASEAN representatives were simply echoing Myanmar's government narratives. For many people APHR interviewed, whether Rohingya refugees, their representatives or non-governmental actors, accessing ASEAN officials also presents serious challenges. "*We have tried, but there are not many opportunities to access [ASEAN]. Everything is closed-door and behind the scenes,*" explained one Rohingya activist.

These criticisms are not new, nor are they limited to the Rakhine crisis. For years civil society actors and others have complained about a lack of information and feedback from official ASEAN meetings and challenges in accessing and engaging with ASEAN representatives.

Weak institutions

ASEAN'S response has also been hampered by a lack of institutions with the mandate and expertise to respond to a crisis like the one in Rakhine State. Its focus on humanitarian assistance led to the mobilization of the ASEAN Coordinating Centre for Humanitarian Assistance (AHA Centre), however it is primarily a humanitarian response and disaster management agency, which is ill-equipped to handle a so-called "*man-made*" disaster like the one in Rakhine State. The AHA Centre also lacks independence and there are serious concerns about its ability to adhere to the key humanitarian principle of "*do no harm*". Despite being the main regional body tasked with protecting and promoting human rights, the ASEAN Intergovernmental Human Rights Commission (AICHR) also lacks the mandate to respond to the crisis, and has also been hampered by a lack of independence and the need to ensure consensus among members.

Many of the institutional weaknesses in ASEAN's response are not isolated to the situation in Rakhine State, and reflect wider institutional deficiencies, which are embedded within and intrinsic to the structure of ASEAN, and which need to be addressed for the grouping to become truly people-centered.

A way forward

While ASEAN's response to the crisis has been weak and, in many respects, ineffective, it is important to acknowledge that the bloc has pushed internal boundaries, especially its founding principle of non-interference. By maintaining strict adherence to its other key principle of consensus among Members States, it has kept Myanmar at the table, maintaining access with and arguably gaining influence with the country's leaders.

The question now is whether ASEAN is able to capitalize and build on this to push for real and meaningful progress. With little change for the Rohingya in Myanmar, almost a million refugees stranded in Bangladesh, and a new conflict threatening the safety of all communities living in Rakhine State, there is an urgent need for a holistic, people-centered strategy. ASEAN has an important, and potentially positive, role to play and this report therefore concludes with a series of wide-ranging and detailed recommendations to ASEAN to ensure that its efforts do not cause further harm, but instead contribute to and promote lasting solutions.

What has happened to the Rohingya, and continues to occur to communities in Rakhine State, is a stain on the conscience of humanity. The crisis is not an internal one, despite what the Myanmar authorities say, and its impacts are felt far beyond Myanmar's shores. ASEAN has an obligation to serve and protect the people of the region, and has the potential to play a positive role in resolving the situation. However, it must examine and address its own weaknesses. Failure to do so will not only harm the bloc's credibility and legitimacy, but will likely cause further harm and suffering to the Rohingya and others who call Rakhine State, and indeed the ASEAN region, home.

KEY RECOMMENDATIONS:

- Recognize that the crisis in Rakhine State is not simply a humanitarian one, and instead develop a holistic strategy guided by the principles of “do no harm” and non-discrimination. Ensure that ASEAN’s interventions on Rakhine State address all aspects of the crisis, including its human rights dimensions, and take effective measures to ensure that all projects are subject to rigorous and ongoing human rights risk and mitigation assessments;
- Use all available political and diplomatic tools to push the Government of Myanmar to create conditions conducive to the safe, voluntary and dignified return of displaced communities, regardless of ethnic or religious identity, and request regular progress updates in this regard. Halt any steps to facilitate the repatriation of Rohingya refugees to Myanmar, unless and until violence in Rakhine State has ceased, and the conditions are conducive for a safe return in dignity; and
- Acknowledge the Rohingya’s identity, and ensure meaningful consultation with and participation of Rohingya in Myanmar, the refugee camps in Bangladesh, and their representatives in all decisions concerning their future. Take effective measures to ensure the inclusion of diverse voices, including in particular women, children, older people, and people with disabilities.

ANNEX

Responses from the Myanmar Ministry of Social Welfare, Relief and Resettlement to APHR's questions

1. Could you please describe what steps the Myanmar government has undertaken towards ending the conflict in Rakhine State and addressing its root causes including the systematic discrimination against the Rohingya?

Since the government came to power, emphasis was made on bringing peace, stability and socio-economic development in Rakhine State. However, the terrorist attacks from the ARSA in 2016 and 2017; and its consequences, and the armed clashes between Tatmadaw and the Arakan Army (AA) have hindered many of the government's efforts.

Barely one month after taking responsibility as the government, on 30th May 2016, the government established “Central Committee for the Implementation of Peace and Development in Rakhine State” to enhance peace and stability in Rakhine state and to facilitate development. The State Counsellor chaired that committee and it was composed with Union Ministers/ high level officials of the relevant ministries. There are four working committees, which are

1. Security, Peace and Stability and the Rule of Law Working Committee,
2. Immigration and Citizenship Scrutinizing Working Committee,
3. Settlement and Socio-economic Development Working Committee
4. Working Committee on Cooperation with UN Agencies and International Organizations.

For the better understanding of the local context and to find out underlying causes of conflicts in Rakhine State, “Advisory Commission on Rakhine State” was formed on 5th September 2016, led by former UN General Secretary, the late Mr. Kofi Annan with 9 national and international experts. The Commission submitted their final reports with 88 recommendations. “Maundaw Region Investigation Commission” was also formed on 1st December 2016 with 13 members, chaired by the Vice-President 1, U MyintSwe to carry out investigations.

To implement the recommendations of these two commissions, the committee for the implementation of the Recommendations on Rakhine State (CIRR Committee) was formed in September 2017. Union Minister for Social Welfare, Relief and Resettlement was assigned as a chair and the Chief Minister of Rakhine State as Co-Chair.

The Government of Myanmar strongly believes that development and peace are interrelated; and social cohesion plays indispensable role in peace process. The implementation of 88 recommendations of Kofi Annan Commission is one of the government efforts to solve the long-standing root causes.

In addition, the formation of ‘Union Enterprise for Humanitarian Assistance, Resettlement and Development (UEHRD)’ with the leadership of Her Excellency State Counsellor, Daw Aung San Suu Kyi has served as the implementation mechanism of Myanmar to be able to address the root-causes.

Aiming to effectively carry out humanitarian assistance, resettlement and development in Rakhine State, the UEHRD has envisioned:

- a) To carry out the effective provision of humanitarian aids,
- b) To coordinate the resettlement and rehabilitation efforts and
- c) To carry out regional development and work towards durable peace.

For the long term development, the ten task forces of UEHRD (i.e Construction and Infrastructure, Agriculture and Livestock, Development of Industrial Zones, Communication, Information and Media, Job Creation and Vocational Training, Healthcare, Financial Inclusion, Crowd-funding, Tourism Promotion and International Relations) was set up in collaboration with the officials from Union of Myanmar Federation of Chambers of Commerce and Industries (UMFCCI).

At present, UEHRD is coordinating with both private and public organizations and individuals in order to effectively implement recommendations of Kofi Annan Commission through short-term, medium term and long-term activities.

As the State Counsellor repeatedly says, conflicts happened in Rakhine State has deeply rooted in the low level of socio-economic development in this area. Therefore, the Government is carrying out every possible measure to bring social and economic development in Rakhine State.

Among others, with regards to the development of Rakhine State, the Memorandum of Understanding (MoU) has signed between the Government of Myanmar and UNDP, UNHCR for conducting the socio-economic development, and creating conducive condition for the voluntary, safe, dignity of displaced persons in Rakhine State, and this MoU was already extended for one more year.

Through the collaborative efforts, on-ground assessments were undertaken and quick impact projects for the development in the pilot areas in Rakhine State were implemented. Those quick impact projects are intended to contribute to voluntary repatriation programme, reintegration, recovery and development in Rakhine State.

2. Could you please describe the steps taken by the Myanmar government towards ensuring that the Rohingya can go back to Myanmar in safety and dignity?

The Government of the Republic of the Union of Myanmar is committed to a voluntary, safe and dignified return of the displaced people from Rakhine State and it has made extensive efforts to achieve this in collaboration with both international and local authorities.

As for the bilateral cooperation with Bangladesh, Myanmar Government is also working very closely with the Government of Bangladesh to ensure safe, dignified and voluntary return of displaced persons to Rakhine State.

To complement the national efforts, in November 2017, a bilateral approach with the Government of Bangladesh was initiated by signing an Arrangement on Return of Displaced Persons from Rakhine State (the Arrangement) on 23rd November 2017 between the Government of Myanmar and the Government of Bangladesh.

Subsequently, Terms of Reference (TOR) for the Joint Working Group (JWG) on the Repatriation of Displaced Myanmar Residents from Bangladesh was signed on 19th December 2017 to ensure the prompt and safe process of repatriation. As per the Bilateral Agreement, the repatriation process would have commenced within 2 months.

The JWG of Myanmar and Bangladesh led by the respective Ministries of Foreign Affairs (MOFAs) convened its first meeting on 15 January 2018 to discuss the details of the verification process and the movement and physical arrangement for repatriation of displaced Myanmar residents from Bangladesh. According to the Physical Arrangement signed on 16 January 2018, the following procedures are agreed by both governments:

- a. Myanmar will receive the verified returnees who will travel by land route at Taung Pyo Letwe Reception Centre, and for those who will travel by river route at Nga Khu Ra Reception Centre;
- b. Myanmar will use Hla Pho Kaung as a Transit Centre for returnees;
- c. Bangladesh will establish five transit camps;
- d. Myanmar will receive returnees five days per week;
- e. Bangladesh will provide, in advance, the list of prospective returnees and duly filled verification forms to Myanmar for a smooth verification process;
- f. Myanmar will provide Bangladesh the detailed lists of 508 persons of Hindu faith, and 750 persons of Muslim faith who have been verified as Myanmar residents and will suggest to Bangladesh to include them in the first batch of repatriation; and
- g. The repatriation process will commence on 23 January 2018.

In compliance with agreed Physical Arrangement between Bangladesh and Myanmar, Myanmar is ready to repatriate through Two Reception Centers (Taung-phyo-latwel for land route access and Nga-khyu-ra for water way access) and One Transit Centre (Hla-phoe-khaung).

Upon reception, the returnees will receive the food and non-food items assistance from the government. (Preparation of 3 meals per day and other non-food items assistance such as family size mosquito nets, clothing, blankets and soap)

After having verification at reception centers, the returnees will move to the Transit Centre. Individual will have food ration for one month (rice, pulse, cooking oil, salt), non-food items assistance (kitchen set, stoves and fuel) and cash assistance to buy meat or vegetables.

When the returnees arrive at the Transit Centre, persons who have intact houses or already constructed house at the specific sites can move their destination shortly.

On the other hand, persons from the burnt villages have to be settled according to a new village plan. For those who want to participate in the cash-for-work program for rebuilding of their own houses. They otherwise may wait at transit centers until their own houses are fully constructed. And it will take less than a month. The Government will take all possible measures to ensure that the returnees will not stay in temporary places for a long period of time.

Myanmar has made preparations to receive the displaced persons from Rakhine as part of the bilateral agreement with Bangladesh. After the Foreign Ministry of Bangladesh accepted Myanmars proposal for the repatriation of displaced people from Bangladesh, the repatriation process was expected on 22nd August. The officials from the Government of Myanmar had been in a state of readiness at the Taungpyo Letwe Reception Centre along with the officials from ASEAN Secretariat and the ASEAN Coordination Centre for Humanitarian Assistance on disaster management (AHA) Centre, and the Emergency Rapid Assessment Team (ERAT) Team members. But no displaced persons returned on 22 August. This is the second time that the planned repatriation was not successful. On 15 November, 2018, officials were waiting to receive the returnees for the first time, but it did not happen either.

Following the recommendations of International communities and Preliminary Needs Assessment conducted by ASEAN ERAT, information dissemination about the repatriation process to the displaced people in Bangladesh side has been executed through two high-level visits to Cox's Bazar led by the Government representatives of Myanmar and joined by the delegates from ASEAN Member States, ASEAN Secretariat and AHA Centre on 27-29 July 2019 and on 18-19 December 2019.

3. Could you please explain how the National Verification Card process will ensure full citizenship rights for the Rohingya?

As other sovereignty countries in the world, Myanmar has Union Citizenship Act, Union Citizenship Act (Election) and the Citizenship law for national verification. A person, who lives in Myanmar without any identity, has to be verified according to these existing laws and acts.

The verification process usually starts with applying National Verification Card. Those who have NVC or National registration identity card are eligible to apply for the citizenship. The process of citizenship application may usually take less than six months to seek the decision of the Central Body. Then, the applicants will know his/her citizenship status as Citizen/ Associate citizen/ Naturalized citizen according to existing law, acts and standard operating procedures.

As a certified citizen of any types, he or she will be entitled to enjoy the rights prescribed by the laws of the State. At the same time, he or she must respect and abide by the laws of the State and have to discharge the duties prescribed by the laws of the State.

On the other hands, existing laws and acts only allow to give "Certificate of Identity" for those who apply for identity and have proper evidence of former residence in Myanmar. Such person, upon entering into Myanmar and without having any type of previous citizenship identity, shall undergo the same process through NVC application.

All the returnees, except who have National registration identity card, will receive NVC upon entry at the reception center. As soon as holding the NVC, they can enjoy the benefits of NV as follows:

- NVC holder can show it as an evidence of residing in Myanmar because of registered as resident of Myanmar.
- NVC holder is eligible to apply national verification process in accordance with Myanmar Citizenship Law.
- The decision of citizen or naturalized citizen is made in line with Myanmar Citizenship Law. The citizen or naturalized citizen shall be entitled to enjoy the rights prescribed by the laws of the State.
- Offspring born by parents of NVC holder are also eligible to apply national verification process in accordance with Myanmar Citizenship Law.
- If NVC holders want to go somewhere in Myanmar, they will travel in accordance with local orders and instructions issued by related local authority or State or Regional Government.
- NVC holders in Rakhine State can enter and depart border legally with Border Pass through border checkpoints to Bangladesh.
- NVC holders in Rakhine State can go freely within township. Travelling in Rakhine State is allowed in accordance with local orders and instructions issued by Rakhine State Government.
- NVC holders can go international water territory in line with the law like Myanmar identity card holders (including fishing). For fishery in international water territory, fishery license can be applied with identity card recognized by the State such as NVC.

4. Could you please describe what access humanitarian organisations have to Rakhine State and to all communities affected by the conflict?

Humanitarian assistance is continuously provided by the Union Government, Rakhine State Government, the public, UEHRD Youth Volunteer Program, Red Cross Movement 1 , ASEAN countries, partner countries and various UN, international and local organizations.

Particularly, the Ministry of Social Welfare, Relief and Resettlement in cooperation with World Food Programme has been supporting food rations to the displaced persons in IDP camps and temporary displaced sites.

Even in light of COVID-19 outbreak, the local staffs of UN and International Organizations are allowed to continue their activities in Rakhine State and travel authorization has been granted by the Coordination Committee of Rakhine State Government.

5. Could you please describe how you are engaging with ASEAN towards the above?

Regarding the ASEAN and Myanmar collaboration, in the 33rd ASEAN Summit held on 13th November 2018 in Singapore, Myanmar Government called for the support and cooperation of ASEAN in the repatriation process of displaced persons from Bangladesh to Myanmar.

With the concurrence of ASEAN Leaders for their readiness to support Myanmar in the ongoing efforts on the repatriation process, Government of Myanmar, the ASEAN Secretariat and the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA Centre) have initiated to deploy a need assessment team and to identify possible areas of cooperation in Rakhine State to facilitate the repatriation process.

As per the 1st High Level Coordination meeting between ASEAN and Myanmar, ToR for the Needs Assessment Team and assessment procedures and methodology were adopted.

1 Red Cross Movement comprises of the International Committee of the Red Cross (ICRC), the Myanmar Red Cross Society (MRCS) and the International Federation of the Red Cross and Red Crescent Societies (IFRC).

Accordingly, an ASEAN Emergency Response and Assessment Team (ASEAN-ERAT) composed of (10) members from Indonesia, Malaysia, Myanmar, Singapore, Thailand, the AHA Centre and the ASEAN Secretariat were deployed to conduct the need assessment process in Rakhine State on 4-13 March, 2019.

Upon the endorsement of the report by the Government, ASEAN Secretariat had disseminated the Preliminary Needs Assessment Report to the ASEAN Foreign Ministers and Myanmar side has also disseminated the report to AHA Centre's Governing Board Members, Embassies in Myanmar, and other in-country UN agencies. In addition, Ministry of Foreign Affairs, Myanmar also distributed the report to the permanent missions in the foreign countries.

Based on the findings of this report, Myanmar Government has formed a Technical Working Group (TWG) with the membership of counterpart Ministries, UEHRD, ASEAN Secretariat and AHA Centre.

With the guidance of High-level Strategic Coordination Group, TWG has worked on the development of tools and procedures for executing Comprehensive Needs Assessment and implementation of the PNA's recommendations.

6. Could you please describe the activities of ASEAN in Rakhine State and how they have improved the conditions for all communities in Rakhine?

In order to realize the recommended points spelt out in PNA Report, two times of TWG meeting were convened already and the prioritized projects were prepared.

Through a series of consultations, the (7) priority projects across three PNA's recommendations are identified to implement as the first step.

1) To enhance the capacity of transit and reception centres, two priority projects; (i) Provision of equipment (e.g. Biometric scanners) at the reception centres and (ii) Establishment of child friendly and women friendly spaces at transit centre will be implemented.

2) For strengthening the Information dissemination, another two projects, (i) Social media training for government officials and (ii) Distribution of FM Radios to Rakhine State communities including returnees will be carried out.

3) To achieve the improvement of the Provision of basic services, three more projects including (i) Infrastructure project focusing on roads access to essential services from transit and reception centres to livelihood facilities (e.g. Hospitals, market), (ii) Provisions of agricultural equipment to facilitate agriculture work (iii) Establishment of fish ponds to facilitate fisheries work are already proposed to the ASEAN Secretariat.

The Government of the Republic of Korea has contributed to implement the Distribution of FM Radios to the communities including returnees in Rakhine State.

Furthermore, with the support of the Government of Indonesia, an Ad Hoc Support Team of the ASEAN Secretariat has been set up and it has been working closely with MSWRR and line Ministries for finalizing the priority projects.

Another ASEAN Project on Enhancing the Readiness of Myanmar Government Local Capacity in Providing Humanitarian Assistance to Support the Repatriation Process with the support of the Government of Japan has been under implementation through ASEAN ERAT tools and methodology.

7. Could you please describe the access that ASEAN has to Rakhine State and what the conditions are?

In terms of ASEAN engagement in Rakhine State, Myanmar together with ASEAN deployed the ASEAN Emergency Response and Assessment Team (ASEAN ERAT) to the reception and transit centers to develop the Preliminary Needs Assessment (PNA) Report.

As the follow-up of the report, we invited ASEAN ERAT members to get involved in the repatriation process for three times, to join the High-level visits to Bangladesh in July and in December 2019 to disseminate the information about repatriation arrangements to the displaced people in Bangladesh side and to observe the repatriation process officially proposed by Bangladesh on 22 August 2019 in Taung Pyo Let We Reception Centre.

In addition, through the implementation of the Local Capacity Building Project, stakeholders in Rakhine State will be capacitated through the familiarization of ASEAN's practice and protocols and visits to ASEAN related institutions.

8. What assistance do you need from ASEAN leaders to improve the situation for all communities living in Rakhine State?

Since ASEAN is a trusted partner of Myanmar, the Government of Myanmar remains committed to cooperate with ASEAN Member States, ASEAN Secretariat and AHA Centre in the course of implementing PNA's recommendations and building socio-economic development in Rakhine State.

During the 36th ASEAN Summit, the leaders also reaffirmed ASEAN's continued support for Myanmar's efforts to bring peace, stability, the rule of law, and to promote harmony and reconciliation among the various communities as well as to ensure sustainable and equitable development in the Rakhine State.

Since, the issues happened in Rakhine State cannot be solved overnight, forward-looking visions and long-term investment for social and economic development will be needed for Rakhine State.

9. Could you please describe the steps taken by the government of Myanmar towards ensuring accountability for the human rights crimes and abuses committed in Rakhine State?

Myanmar has an independent body to investigate the complaints of possible human rights violation i.e. Myanmar National Human Rights Commission. In addition, Anti-corruption Committee of Myanmar is organized to receive information regarding corruption or unlawful acts. Myanmar plans to use these 2 mechanisms for collecting possible complaints and other information through their hot-line phone numbers.

Furthermore, Myanmar established the Independent Commission of Enquiry (ICOE) to investigate human rights violations and related issues following the terrorist attacks by the ARSA with a view to seeking accountability and formulating recommendations on steps to be taken to ensure peace and stability in Rakhine State. ICOE submitted its final report to the Government on 20 January, 2020. The Criminal Investigation and Prosecution Body was formed based on the report submitted by the Independent Commission of Inquiry (ICOE) in January 2020. Moreover, the Tatmataw is conducting its court of inquiry.

10. Could you please also describe how the Myanmar government is complying with international accountability mechanisms such as the International Court of Justice?

The case against Myanmar was brought before the International Court of Justice (ICJ) by Gambia, on behalf of the Organization of Islamic Corporation (OIC), although the conflicts in Myanmar do not directly affect Gambia. Gambia claims that Myanmar is directly or indirectly responsible for violations of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention 1948).

The ICJ's primary functions are to settle international legal disputes submitted by states and give advisory opinions on legal issues.

As a State party to the Genocide Convention, Myanmar appears at the ICJ with regards to the Application by Gambia, to prove that the country has no genocidal intent and it is strongly complying with the Genocide Convention 1948.

Government efforts in addressing the issue of Rakhine State

2016	May 31	Setting up of the Central Committee on Implementation of Peace, Stability and Development of Rakhine State
	August 23	Formation of the Advisory Commission on Rakhine State
	October 9	The violent attacks by ARSA against three police outposts occurred.
2017	January	Development of five-year Socio-economic Development Plan for Rakhine State
	August 24	Final report of the Advisory Commission on Rakhine State was submitted
	August 25	The outbreaks of violent attacks by ARSA against thirty Border Guard and Police outposts
	September 12	Formation of the Committee for Implementation of the Recommendations on Rakhine State
	October 17	Formation of the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD)
	November 23	The Government of Myanmar and Bangladesh signed “The Arrangement on the Return of Displaced Persons from Rakhine State “the Arrangement”.
	December 14	The Establishment of the Advisory Board for the “Committee for Implementation of the Recommendations on Rakhine State”
	December 19	Terms of Reference for the Joint Working Group (JWG) on the Repatriation of Displaced Persons from Bangladesh was signed in Dhaka, Bangladesh.
		First JWG meeting was convened in Yangon.
2018	January 16	The Physical Arrangement containing detailed procedures for repatriation was signed in Nay Pyi Taw.
	January 23	Myanmar’s side was ready to start the repatriation process according to the bilateral agreement. The Government opened two reception centres at Taung Pyo Latwe (land route) and Nga Khyu Ya (river route) and transit centre at Hla Phoe Khaung since 23 January, 2018.
	May	Second JWG meeting was conducted in Dhaka on 17 May, 2018.
	June 6	With a view to assisting the government in the implementation of the Arrangement for repatriation and resettlement, the Government of Myanmar signed a tripartite MoU with UNDP and UNHCR.
	July 30	Independent Commission on Enquiry (ICOE) was formed
	October 30	At the Third JWG meeting, both sides agreed to commence the first batch of 2261 verified displaced persons on 15 Nov, 2018.
	November 13	At the 33rd ASEAN Summit in Singapore, ASEAN leaders showed their readiness to support in the repatriation process.
	November 15	First attempt to start the repatriation process to receive the returnees from Bangladesh, but it did not happen.

	December 7	Joint Communiqué was signed between the Government of Myanmar and the United Nations (Office of the Special Representative to the Secretary General on Conflict Related Sexual Violence) to prevent and respond to conflict related sexual and gender based violence
	December 18	First coordination meeting held between the Government Representatives and the AHA Centre, and the Terms of Reference for conducting needs assessment was approved.
2019	January	Armed clashes with the Arakan Army started happening.
	January 7	National Committee formed to prevent grave violations against children in armed conflict.
	March	Preliminary Needs Assessment (PNA) conducted by ASEAN ERAT
	May	Report of PNA was disseminated
2019	May 23	MoSWRR signed MOU with UNHCR to facilitate the resettlement.
	May 27	High level coordination meeting to implement the recommendations in the PNA. Establishment of Technical Working Group (TWG) for the implementation of PNA's recommendation was agreed.
	July 24	Child Rights Law has been enacted.
	July 27 to 29	High level Myanmar delegation and representatives from ASEAN Secretariat and AHA went to Cox's Bazar. Factsheets distributed. Dialogues were made.
	August 22	Second attempt to start the repatriation which did not realize.
	August 30	First meeting of TWG held for implementation of PNA.
	September	Myanmar ratified the Optional Protocol to the CRC on Children in Armed Conflict. The results from the Rakhine Joint Assessment (RJA) jointly conducted with the UNDP and MoSWRR finally came out. The RJA was planned to conduct since 2017, but the outbreaks of August 25 attacks and the security conditions delayed the assessment. The RJA found out that the underdevelopment in Rakhine was the key issue for major conflicts.
	October 29	Second meeting of TWG. Seven priority projects were identified out of 38 proposed projects across the three recommendations of PNA. ASEAN Secretariat Office agreed to set up Ad-Hoc Support Group for implementation of PNA's recommendations.
	November 11	Gambia filed lawsuit against Myanmar at the ICJ for violations of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide. Together with the Application, a request for Provisional Measures was also filed by Gambia.
	November 19	National Strategy on the Resettlement of IDPs and Closure of the IDP Camps was launched.
	December 11	Public sitting of the ICJ was held, and Her Excellency State Counsellor led the Myanmar delegation and delivered the Statement.

	December 18-19	High level delegation and ASEAN ERAT went to Cox's Bazar. Continued dialogues were made.
2020	January 7	Displaced Persons Accepting and Resettlement Committee held the coordination meeting.
	January 17	Information session on the implementation of the Tripartite MoU was held at the MOFA.
	January 20	ICOE submitted its final report to the President. The Criminal Investigation and Prosecution Body was formed based on the report submitted by the Independent Commission of Inquiry (ICOE) in January 2020. Moreover, the Tatmataw is conducting its court of inquiry.
	January 23	Decision by the ICJ on provisional measures in the case brought by the Gambia against Myanmar.
	February 3	Professor Dr. Walter Kaelin, who has been assisting in the National Camp Closure Strategy, visited Kyaut Ta Lone Camp in Kyauk Phyu, together with Rakhine State Chief Minister, Rakhine State MPs, and Director General of Department of Disaster Management and officials from UEHRD, to observe situations on the ground for closure of the camp, and provide inputs for the localized action plan.
	February	National Committee for the implementation of the National Strategy on the Resettlement of IDPs and closure of IDP Camps was formed
	March 17-18	Community consultation at Kyauk Ta Lone camp continued
	March 23	First meeting of the National Committee for Camp Closure convened
	March 28	Action Plan for the Control of COVID-19 Outbreak in the IDP camps and temporary shelters adopted by the government. The government then financed 2.1 billion MMK (Est: USD 1.5 million) for the implementation of this action plan. COVID-19 prevention and response are being carried out in IDP camps and temporary shelters including in Rakhine State.
	May 11	The Ministry of Labour, Immigration and Population, on behalf of the Government of Myanmar, signed the exchange of letters with the UNDP and UNHCR to extend the MOU through June 2021. The MOU aims to assist the government's efforts to implement the bilateral agreements with Bangladesh to facilitate the voluntary, safe, dignified and sustainable repatriation of verified displaced persons from camps in Bangladesh.
	May 20	Dr. Tin Myo Win, Chairman of the Committee on Coordination and Cooperation with Ethnic Armed Organizations in relation to COVID- 19 Prevention, Control and Treatment, held a virtual meeting with the Arakan Liberation Party (ALP) to conduct COVID-19 measures in conflict affected areas.

As of July, 2020, the COVID-19 control and response measures along with humanitarian assistance provisions continue in Rakhine State in collaboration with international agencies. Meanwhile, community consultations continue for the closure of some camps, which will again provide inputs for development of localized action plan in accordance with the National Strategy.

ASEAN'S RAKHINE CRISIS

Assessing the regional response to atrocities in Myanmar's Rakhine State

It has been three years since the outbreak of violence in August 2017 in Myanmar's Rakhine State, which forced more than 740,000 Rohingya to flee to Bangladesh. Three years later, the situation for the Rohingya in Myanmar and Bangladesh remains dire, with a new conflict in Rakhine threatening the safety of all communities.

APHR's new report, ASEAN's Rakhine Crisis: Assessing the regional response to atrocities in Myanmar's Rakhine State, examines ASEAN's response to the protracted crisis. Although the regional bloc has clearly pushed the boundaries of its founding principle of non-interference, the report analyzes the reasons behind ASEAN's mostly ineffective actions, which include a lack of cohesive and strategic leadership, reluctance to acknowledge and address the human rights dimension of the crisis, a lack of transparency and engagement, in particular with Rohingya communities, and institutional weaknesses. The report further identifies recommendations for ASEAN to play a more positive and holistic role in promoting lasting and meaningful solutions for all people of Rakhine.