Kofi Annan
FOUNDATION

Towards a fairer, more peacefull world

Advisory Commission on Rakhine State: Lessons Learned

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Executive Summary

The Advisory Commission on Rakhine State was convened in September 2016 and tasked with providing recommendations to the Government of Myanmar to achieve lasting peace in Rakhine State. A joint initiative of the Office of the State Counsellor of Myanmar and the Kofi Annan Foundation, the Commission was composed of six local and three international experts and chaired by Kofi Annan. A small office in Yangon was established to support the Commission in the pursuit of its mandate.

The Commission achieved its central objective in presenting a series of frank, honest and constructive recommendations. The Commission worked cohesively, despite its heterogeneous composition, and through a comprehensive consultation process with relevant stakeholders, followed by thorough internal discussions, reached a full consensus on its interim and final reports.

The Commission's reports sought to present a progressive and constructive roadmap to peace, development and inter-communal cohesion in Rakhine, and were widely welcomed by various key actors. This included the Government of Myanmar, which pledged to implement the Commission's recommendations, as well the vast majority of international partners. In October 2017, the Commission's final report was endorsed by all fifteen members of the United Nations Security Council, in effect becoming the main framework for international efforts in Rakhine.

Several aspects of the Commission, including its mixed composition and its establishment as a joint initiative between the Office of the State Counsellor and a foreign foundation, were unique. As such, it represented an innovative approach to peace building in a country undergoing a challenging national peace and reconciliation process.

Despite its efforts, the Commission was unable to secure the buy-in from some key domestic constituencies, including parts of the Rakhine community and the Myanmar Army. Moreover, as the Commission's work progressed, the situation on the ground deteriorated. In the immediate aftermath of the release of the Commission's final report, attacks by the Arakan Rohingya Salvation Army (ARSA) on government positions were followed by a comprehensive "clearance operation" by Myanmar authorities. Violence and destruction of private property forced more than 600,000 Muslims to flee across the border to Bangladesh. Reports of serious human rights violations carried out by security forces and Rakhine vigilante groups abounded.

In December 2017, the Kofi Annan Foundation initiated an internal "lessons learned" process in order to assess the strengths and weaknesses of the Commission's work. This report sums up the main findings of the evaluation process, which was primarily based on some 50 interviews with key stakeholders with intimate knowledge of the Commission, including Government representatives, analysts, diplomats, UN officials, representatives of the Kofi Annan Foundation, as well as the commissioners themselves. The interviews were carried out in Yangon, Naypyidaw, Bangkok and Geneva.

The report presents an outline of the Commission's work, and examines its mandate, structure and modus operandi. It also assesses the political opportunities and constraints provided by the political context in which the Commission operated, and – most fundamentally – looks at the outcome and legacy of the Commission's work. The scope of the report is limited to activities of the Commission and developments over the

course of its mandate, and thus it does not seek to track or assess the implementation of the Commission's recommendations by the government of Myanmar.

The "lessons learned" from the Commission's work may potentially be of use and interest beyond Myanmar. Through this report, the Kofi Annan Foundation seeks to share these lessons in a way that is accessible and instructive for policy makers, academics, and practitioners alike.

Part 1 of the report gives an overview of the political context in which the Commission was conceived; Part 2 presents the Commission's mandate and structure; Part 3 presents an overview of the Commission's work, including the consultation process, the preparation of the interim and final reports, domestic and international reactions to the Commission's work, and the new political dynamics generated by the deteriorating security situation in northern Rakhine State; Part 4 presents **"lessons learned"** and reflections on the various technical aspects of the Commission's work; and Part 5 considers the political lessons from the initiative, including the degree to which the Commission achieved its objectives.

Part I:

The Political Context

When Aung San Suu Kyi took over the reins of Myanmar's civilian government in April 2016, she inherited a fragmented state. A significant part of the country's territory remained beyond the control of central government, and the country's peace process – seeking to end the conflict between the Government and various ethnic armed groups – showed few signs of progress. After decades of military dictatorship, Myanmar was marked by poverty, weak institutions, rampant government corruption, and a general lack of rule-of-law. Despite the recent political and economic reforms, the Armed Forces – domestically known as the Tatmadaw – continued to play a major role in politics, in line with its prerogatives defined by the 2008 Constitution. As such, the country's governance system was – and remains – highly dualistic, complicating efforts to create uniform government policies.

Of all the challenges inherited by Aung San Suu Kyi, few were as complex as the conflict in Rakhine. The state has long suffered from a mix of under-development, lingering centre-periphery grievances, and inter-communal conflicts between the Rakhine majority and the Muslim minority. Since the outbreak of violence in 2012 – during which 130,000 Muslims were forced into squalid camps for internally displaced persons (IDPs) – the situation in the state has been under intense scrutiny by the international media.

First, Rakhine is a development crisis: the state's economy is marked by stagnation, under-investment and government neglect, and all communities suffer from chronic poverty. Although the state is rich in natural resources, the development of extractive industries has largely failed to provide new opportunities and benefits for local residents. Second, Rakhine represents a human rights crisis: while all communities have suffered abuse, protracted statelessness

and profound discrimination have made the Muslim community particularly vulnerable to human rights violations. Since 2015, the community has been denied political representation, and is generally excluded from Myanmar's body politic. Third, Rakhine is also a security crisis: the government has largely failed to provide adequate security, and many local communities harbor deep-seated fears of the intentions of other groups.

In its relations with the international community, the Myanmar government's handling of the crisis in Rakhine has gradually become the main point of contention. This represents a break with the past: For decades, international criticism of Myanmar focused on the military dictatorship's brutal repression of the country's democratic opposition. Yet, since the deterioration of the situation in Rakhine in 2012 – which coincided with positive developments in other sectors, including the democratization process – various international actors have come to view the conflict in Rakhine as the most pressing human rights issue in the country.

The United Nations, the United States, the European Union and the Organization for Islamic Cooperation have frequently criticized Naypyidaw for its handling of the issue. A series of UN General Assembly resolutions have – inter alia – urged Myanmar to ensure "equal access to full citizenship for the Rohingya minority",[1] to facilitate "the voluntary return of internally displaced persons and refugees to their communities of origin",[2] and allow the Muslim community in Rakhine to self-identify as "Rohingyas".[3] The former UN Special Rapporteur on the Situation of Human Rights in Myanmar stated in March 2014 that the systematic nature of human rights violations against the Rohingyas "may constitute crimes against humanity".[4]

When Aung San Suu Kyi took over Myanmar's civilian government in April 2016, she was aware that Rakhine was likely to constitute a major political obstacle. On the one side, many of her long-standing international partners – who for decades had supported her quest for democracy – would expect

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her to restore the rights of the Muslim community in Rakhine. On the other side, such a step would be unpopular with domestic constituencies – including supporters of her own party – as most people in Myanmar consider the Muslims in Rakhine to be foreign interlopers. Essentially, she was going to be pulled in diametrically opposite directions by the international community and key domestic constituencies.

The State Counsellor also knew that the conflict in Rakhine State had taken its toll on the government of her predecessor, former President Thein Sein. While receiving international praise for his democratic reforms, economic liberalization and the launch of a comprehensive peace process, Thein Sein was heavily criticized for his policies on Rakhine. Within the UN system, the situation in Rakhine served as the main justification for maintaining the special mechanisms pertaining to Myanmar (in particular through resolutions in the General Assembly's Third Committee).

From mid-2012 onwards, the crisis in Rakhine had forced Thein Sein's cabinet to spend a great amount of time and effort on Rakhine. Yet, he rarely managed to steer events, and had to resort instead to a series of reactive measures. His main initiatives – including the Rakhine Commission of 2013 and the Rakhine State Action Plan of 2014 – managed neither to solve the problem, nor stem international criticism. As noted by an independent analyst, Thein Sein's government seemed **"frozen in the headlights of an intractable problem with international popularity or election votes to lose whichever way it trie[d] to solve it"**.[5]

In this context, Aung San Suu Kyi decided to seek help to address the issue. In May 2016, during her second month in office, she approached Mr. Kofi Annan, asking him to lead a commission tasked to analyze the situation in Rakhine and provide recommendations to the Government of Myanmar. After careful consideration – and after the Kofi Annan Foundation carried out an exploratory visit to Myanmar in June 2016 – Mr. Annan accepted the request.

Part II:

The Commission's Mandate and Structure

From June to August 2016, the Myanmar Government and the Kofi Annan Foundation negotiated the content of the Commission's Terms of Reference (ToR), which was signed in late August 2016. According to the ToR, the overall objective of the Commission was "to provide recommendations to the Government of Myanmar on measures for finding lasting solutions to the complex and delicate issues in the Rakhine State, in accordance with established international standards".

More specifically, the Commission was tasked with analysing the present situation of all communities in Rakhine State and identifying the factors that have resulted in violence, displacement and underdevelopment. In doing so, the Commission would consider humanitarian issues (such as living conditions, health, water, sanitation, food security, education and livelihoods); questions relating to citizenship, documentation and freedom of movement; and the assurance of basic rights, dignity and security to individuals of all communities. The Commission would report to the Government of Myanmar and submit its final report no later than one year after the initiation of the mandate period. Despite the inclusion of international commissioners, the Commission was essentially a national initiative.

The ToR mandated the Commission to develop recommendations within five thematic areas: **Conflict prevention** (including return and relocation of IDPs, citizenship, security, freedom of movement, speech and association); **humanitarian assistance** (including living conditions in camps and villages, access to basic services and food security);

reconciliation (including restoration of inter-communal trust and ways to combat hate speech); **institution building** (including the strengthening of local institutions and rule of law, and adherence to international standards for human rights); and **development** (including poverty alleviation, the generation of livelihood opportunities, and infrastructure development).

In general, the formulation of the mandate was broad and flexible, allowing the Commission to address the crisis in Rakhine from a variety of different angles. While limiting the Commission's geographical focus to Rakhine State itself, the ToR also requested the Commission to "examine international aspects of the situation," including "possible bilateral and regional approaches" and "international perceptions of the situation in Rakhine State".

On 3 September 2016, the Myanmar Government and Kofi Annan Foundation also signed a Memorandum of Understanding (MoU), regulating the nature of the cooperation and detailing the respective responsibilities of the two parties. For instance, the Foundation would facilitate Mr. Annan's participation in the Commission, provide management services, and secure international funding to cover operational costs. The Government, on its side, would provide office facilities, ground transportation, and security in accordance with needs. It would also ensure full access to all groups and individuals with whom the Commission wished to meet.

With regard to the selection of commissioners, the State Counsellor had originally envisioned that the Commission would consist entirely of Myanmar experts, in addition to Mr. Annan himself. However, Mr. Annan and the Foundation insisted that the Commission would need to include two additional foreign commissioners, thus creating a better balance between the national and international elements of the Commission. The parties eventually agreed on a 6/3 formula, with six national and three international commissioners.

As stated by the MoU, the Foundation would be responsible for the recruitment of the two international commissioners in addition to Mr. Annan, while the Government would appoint the six national members. During the recruitment period, names of potential candidates were shared openly between the two parties, giving each side the opportunity to object – if necessary – to the selection of a particular candidate. However, neither side made use of this opinion.

By mid-August, all members of the Commission were identified:

- Kofi Annan, former Secretary General of the United Nations, and Chairman of the Kofi Annan Foundation.
- Ghassan Salamé, Dean of the Paris School of International Affairs, and former Lebanese Minister of Culture.

- Laetitia van den Assum, former Dutch Ambassador to the United Kingdom and Thailand.
- U Win Mra, Head of the National Human Rights Commission of Myanmar, and former Myanmar Ambassador to the United Nations.
- Al Haj U Aye Lwin, the chief convener of the Islamic Centre of Myanmar, and a founding member of Religions for Peace, Myanmar.
- Dr. Tha Hla Shwe, former President of the Myanmar Red Cross Society
- Dr. Mya Thida, the President of the Obstetrical and Gynecological Society of the Myanmar Medical Association.
- Daw Saw Khin Tint, the Chairperson of the Rakhine Literature and Cultural Association, and Chairperson for Saving Arakan Committee.
- U Khin Maung Lay, member of the National Human Rights Commission of Myanmar, and former Director of the Department of Labour at the Research and Planning Division of the Ministry of Labour.

The international element of the Commission included commissioners from three different parts of the world – Africa, Europe and the Middle East. The national contingent to the Commission included two ethnic Rakhines, two Muslims and two government-associated medical doctors. No Rohingya was included.

In accordance with the MoU, the Commission established a Secretariat in Yangon, managed by an internationally recruited Director. The Secretariat – which reported directly to the Chairman – was responsible for the day-to-day running of the Commission.

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Part III:

The Work of the Commission

The Launch of the Commission

On 23 August 2016, the establishment of the Commission was made public through a statement issued by the Office of the State Counsellor.[6] The statement presented the nine commissioners and gave an outline of the Commission's mandate. Prior to the announcement, the Government had already reached out to a range of local stakeholders: From 16 to 18 August 2017, three of the national commissioners – accompanied by the Minister of Border Affairs and the Chief Minister of Rakhine – held preparatory meetings in five different areas of the state, informing local stakeholders about the imminent establishment of the Commission.

On 5 September 2016, the Commission was officially launched at the National Reconciliation and Peace Center (NRPC) in Yangon, which was also the first time all nine commissioners were gathered. During the event – parts of which were open to national and international media – speeches were given by the State Counsellor and the Commission's Chairman. In her address, the State Counsellor urged the commissioners **"to be bold"** in their recommendations, a statement which became a guiding principle for the Commission.

Over the next three days, the Commission held introductory meetings with a variety of stakeholders, including the Union President and the Commander-in-Chief in Naypyidaw. The commissioners also visited Sittwe, where they met with the State Government, the State Parliament and local villagers and IDPs from both communities. On 8 September, the Commission held a press conference in Yangon, during which Mr. Annan presented the mandate and priorities of the Commission and shared his impressions from that first visit to Rakhine.

Internationally, the reception of the Commission was positive. A variety of key international partners – including the EU, the US and the UN – were quick to indicate their political support to the initiative. UN Secretary General Ban Ki-moon characterized the establishing of the Commission as an **"encouraging step"** taken by the Government of Myanmar.[7] The Commission was also welcomed by various international rights-based NGOs working on Rakhine. Amnesty International stated that the newly established body "appears to be the most credible and independent attempt yet to address longstanding human rights violations in Rakhine state"[8]. However, several organizations criticized the selection of commissioners, as no Rohingya representative was included.

Domestically, the reception of the Commission was mixed. One the one side, the National League for Democracy (NLD) and its political allies were positive, not least since the project was commissioned by the State Counsellor herself. Myanmar Muslims – including Rohingya organizations in diaspora – were also cautiously enthusiastic. Khin Maung Myint of the National Democratic Party for Development, a Yangon-based Rohingya political party, regretted the "absence of an ethnic-Rohingya commissioner", but also stated that his party would **"cooperate fully to help ensure the commission will make a positive impact"**.[9] The UK-based Arakan Rohingya National Organization (ARNO) "cautiously welcomed" the Commission, but expressed concern about the Commission's membership.[10]

Conversely, significant segments of the Rakhine community – including the Arakan National Party (ANP) and parts of civil society – rejected the Commission from the outset. So too did the main country-wide ultra-nationalist groups, such as MaBaTha, which called on the Government

to dissolve the Commission.[11] On 16 September 2016, eleven political parties – including the Union Solidarity and Development Party (USDP), the party of the former regime – issued a joint statement calling for the disbandment of the "illegitimate" new body.[12] A USDP representative argued that the Commission represented an infringement on national sovereignty, which **"could harm security and national matters".**[13] Similar concerns were also expressed by Tatmadaw officials, although the Commander-in-Chief assured the Chairman that he would assist the Commission's work.

On 6 September 2016, a motion in the national parliament sought to abolish the Commission. While the motion eventually failed, it was supported by the Arakan National Party (ANP), the Union Solidarity and Development Party (USDP) and all military-appointed lawmakers. On 14 September 2016, a similar motion in the Rakhine State Parliament was successful, leading to an official boycott by the state legislature.[14]

The Consultation Process

While the ToR did not specify the details of the Commission's modus operandi, it was decided early on that its work would be based on a series of consultations with relevant stakeholders. The development of recommendations would subsequently be informed by the outcome of these consultations, which would constitute a common platform of information for all commissioners. In total, the Commission eventually carried out some 155 consultation meetings in Sittwe, Mrauk U, Myebon, Kyawktaw, Thandwe, Kyawkpyuh, Ramree, Maungdaw, Buthidaung, Yangon and Naypyitaw – as well as in Bangkok, Dhaka, Cox's Bazar and Geneva. During these meetings, the commissioners met with approximately 1,100 representatives of various stakeholders. Additionally, individual commissioners reached out to a variety of other actors.

In terms of the selection of stakeholders, priority was given to communities living in Rakhine. In order to give the two main communities an equal opportunity to present their narratives, grievances and concerns, the Commission consulted an equal number of Rakhine and Muslim stakeholders. The Commission also made special efforts to include youth, women, and small minority groups in its consultations. With regard to the field visits to Rakhine, the Commission sought to ensure a good geographical spread in order to get a solid understanding of the situation on the ground.

In total, the Commission carried out seven rounds of consultations (excluding the launch), which typically included meetings in Yangon, Naypyidaw and Sittwe and/or other areas of Rakhine State. While some activities were either cancelled or postponed due to unforeseen political developments, most consultations were carried out as scheduled.

The Chairman visited Myanmar three times – during the launch of the Commission in September 2016, in November/December 2016 and during the presentation of the final report in August 2017. During all of Mr. Annan's visits, the Commission met with the President, the State Counsellor and the Commander-in-Chief. In addition, the Foundation's Executive Director and Project Coordinator made several visits in which they held similar meetings with the government, Commission members, and other stakeholders.

The Shifting Political Context

One month after the launch of the Commission, the security situation in Rakhine State deteriorated sharply. On 9 October 2016, three separate armed attacks against the Border Guard Police in Maungdaw Township resulted in the loss of life of members of the security forces. The attacks

were purportedly carried out by an emerging Muslim armed group called *Harakat al-Yaqin*, which later was renamed *Arakan Rohingya Salvation Army* (ARSA). In one of the attacks, the armed group – which according to some analysts has ties to Rakhine Muslim émigrés residing in Saudi Arabia[15] – overran a security post north of Maungdaw Town, seizing weapons and ammunition.

During the subsequent military and police operation, violence and destruction of private property forced tens of thousands of Muslims to flee across the border to Bangladesh. Some members of the Rakhine community in northern Rakhine State were also forced to flee to Rakhine-majority areas to the south. By February 2017, the UN estimated that approximately 74,000 Muslims refugees had entered Bangladesh.[16] Refugees interviewed by the UN recounted harrowing stories of extrajudicial killings, torture and rape.[17] Satellite imagery provided by Human Rights Watch in December 2016 suggested that at least 1,500 Muslim houses were destroyed by arson.[18]

The violence represented a transformation of the conflict in Rakhine. For the first time in nearly a generation, elements within the Muslim community in Rakhine were able to launch well-organized armed attacks against Tatmadaw and the Border Guard Police. New dynamics triggered by the developments in northern Rakhine State seriously complicated the work of the Commission, but also highlighted its importance.

First, the Government – including both its military and civilian branches – increasingly came to view the conflict in Rakhine through the lens of "terrorism" and "counter-terrorism". This invited a "securitized" response to the events, allowing short-term military efforts to combat ARSA to dominate the Government's agenda. The political space to address long-term structural challenges – including the under-development and economic marginalization of all communities in Rakhine, as well as

the deep-rooted discrimination of the state's Muslim minority – shrunk significantly.

Second, although violence did not spread to other parts of Rakhine, communal relations between the two main communities worsened significantly across the state. Efforts to reverse the communal segregation generated by the violent upheaval in 2012 were effectively cancelled out. Increased polarization complicated the Commission's efforts to find political solutions to which all communities could subscribe and made it harder to get the necessary buy-in from all stakeholders for the Commission's recommendations.

Third, the Myanmar Government's relationship with various international partners, including the UN, worsened considerably. In March 2017, a resolution at the United Nations Human Rights Council in Geneva called for the establishment of an international fact-finding commission to examine, inter alia, allegations of human rights violations committed by Myanmar's security forces in Rakhine. The commission was rejected by the Myanmar Government, and not allowed to enter the country. At that time, the Government had already established a domestic commission to investigate the violence in northern Rakhine State, headed by Vice President U Myint Swe. When it submitted its final report in early August 2017, it largely exonerated the Government's handling of the crisis In Rakhine.[19]

Moreover, the national and international interpretations of the situation in Rakhine – which had always differed – grew even further apart during the Commission's mandate period. Such polarization posed a particular challenge for the Commission, as it had hoped to bridge national and international narratives.

The Interim Report

On 16 March 2017, the Commission presented its interim report. The decision to publish the report was made in light of the deteriorating security situation in Rakhine State, which necessitated urgent action from the Government and other stakeholders. In the report, the Commission presented 29 recommendations to the Government, many of which addressed the situation on the ground in norther Rakhine State. In particular, the Commission called for full humanitarian and media access to the areas of conflict, independent and impartial investigation of alleged human rights violations carried out by security personnel, and the establishment of new mechanisms to strengthen the bilateral cooperation between Myanmar and Bangladesh.

The interim report also addressed issues that were not directly linked to the recent violence. For instance, the report called on the Government to prepare a comprehensive strategy towards closing all IDP camps in state; denounce all forms of hate speech, and hold perpetrators accountable; establish consultative mechanisms which give voice to the Rakhine's Muslim inhabitants; carry out a comprehensive mapping of all existing restrictions on freedom of movement; increase the provision and quality of vocational training; expand primary education and primary health care services; and establish a clear strategy and timeline for the citizenship verification process.[20]

Immediately after its release, the interim report was publicly endorsed by the Office of the State Counsellor. According to the statement, the Government concurred with the report's findings, and would ensure that "the large majority of the recommendations" would be implemented "promptly with a view to maximum effectiveness".[21] The interim report was also welcomed by various international partners – including the US, the EU and the UN – who offered to support the Government's efforts to implement the recommendations.[22]

Over the next five months – i.e. the period between the Commission's interim report in March 2017 and its final report in August 2017 – the Government took steps to implement some of the recommendations. Although the Secretariat did not establish a comprehensive monitoring system, it followed the process closely through its regular dialogue with the Government, the UN and various field-based organizations. While not being in a position to give "score cards" to the Government, it was important for the Commission to keep track of the implementation process, not least since the degree of implementation would inform the formulation of the final report.

Broadly speaking, the Government only implemented a handful of recommendations during the period in question, and implementation was often partial. Although humanitarian access to northern Rakhine State improved in April and May 2017, various restrictions remained in place. And while the Government organized two media trips to northern Rakhine State, the trips were highly choreographed, and only a selected number of national and international media outlets were invited to participate. Some minor positive developments were registered within the areas of health, education and vocational training. In line with the recommendations, the Government also cooperated with UNESCO to prepare the eligibility of Mrauk U as a world heritage site.

The interim report urged the Government to facilitate the return/relocation of three specific IDP communities. The Government acted quickly to implement this recommendation, but the outcome was mixed. While Rakhine IDPs from Ka Nyin Taw were successfully moved to an already identified relocation site, efforts to facilitate the return of

Muslim households from Min That Phar village failed, mainly due to active resistance from Rakhine neighbours. Moreover, while the Commission recommended the return of displaced Kaman Muslim households in Ramree, the Government eventually facilitated their relocation to Yangon. Although the closure of the camp represented a positive step in itself, the way it was managed was problematic, as it served to sustain the gradual exodus of the Kaman community from Rakhine.

Final Report

On 24 August 2017, the Commission launched its final report at a press conference in Yangon. The report – which contained the Commission's full analysis of the situation in Rakhine, accompanied by 88 recommendations to the Government – had already been shared with the State Counsellor and the Commander-in-Chief. While the interim report primarily addressed issues requiring urgent Government action in the wake of the violence in northern Rakhine State, the final report addressed all areas covered by the Commission's mandate.

The report called on the Government to provide full humanitarian and media access to the areas of conflict; accelerate the citizenship verification process; initiate a review process of the 1982 Citizenship Law, aiming to bring it in line with international standards; ensure freedom of movement for all people in the state, irrespective of religion, ethnicity, or citizenship status; prepare a comprehensive strategy towards closing all IDP camps in accordance with international standards; ensure communal representation and participation for underrepresented groups, including ethnic minorities, stateless and displaced communities, and women; combat hate speech and ensure that inter-communal dialogue is held at all levels of society; simplify the security infrastructure in Rakhine and establish robust mechanisms to monitor the performance of security forces; and increase bilateral cooperation with Bangladesh on issues such as border security, trade, and people-to-people contact.

The report also provided various other recommendations related to economic development, infrastructure, health, education, rule-of-law, and cultural development. In its final chapter, the Commission urged the Government to make a ministerial level appointment with the sole function of coordinating policy on Rakhine State and ensuring the effective implementation of the Commission's recommendations. The Commission recommended that the new position would be supported by a permanently staffed secretariat.

The report was immediately endorsed by the State Counsellor, stating that the Government would give the report its "full consideration with a view to carrying out the recommendations to the fullest extent, and within the shortest timeframe possible, in line with the situation on the ground".[23] The report was also welcomed by a variety of international partners – including the United Nations,[24] the European Union[25] and the United States[26] – which all offered to support the government's implementation efforts. Various international rights-based organizations also endorsed the report,[27] which some considered to be stronger than anticipated. While Rohingya diaspora organizations voiced strong support for the report's recommendations, they also questioned the Government's sincerity with regard to their implementation.[28]

The reaction from the Tatmadaw was mixed, at best. In a statement on 25 August 2017, the Commander-in-Chief stated that the report contained "some flaws and shortcomings".[29] The criticism was as anticipated. During the ten days prior to the launch, the Commission met several times with representatives of the Armed Forces – including once with the Commander-in-Chief – to discuss the draft report. The Tatmadaw raised several concerns, in particular related to the report's narrative, and

criticized the report for insufficiently recognizing the complexity of the security situation and the threat posed by ARSA.

The Aftermath

In the early hours of 25 August 2017 – just eight hours after the launch of the Commission's final report – ARSA purportedly carried out around 30 separate attacks on Myanmar security personnel in northern Rakhine State. The offensive involved hundreds of attackers, mostly Muslim villagers equipped with farm tools and some improvised explosive devices (IEDs).[30] Government forces retaliated immediately, and according to official figures released on 6 September 2017, the first week of fighting resulted in the death of fourteen members of the security forces and 371 militants.[31] The attacks did not come as a surprise: In the preceding months, ARSA had reportedly consolidated its presence in northern Rakhine State, killing dozens of Rohingya men considered to be loyal to the authorities. Towards the end of August 2017, Myanmar's security forces considered an attack to be imminent.[32]

The "clearance operation" – during which security personnel were sometimes accompanied by armed Rakhine villagers – left a trail of destruction. Satellite imagery indicated that at least 354 Muslim villages were partially or completely destroyed between August and November 2017.[33] While casualty rates were hard to establish due to the lack of access for independent observers, Médecins Sans Frontières (MSF) estimated by mid-December that at least 6,700 Muslims were killed.[34] The violence caused an exodus of refugees, and by October 2017, more than 500,000 Muslims had fled across the border to Bangladesh.[35] By February 2018, the figure had increased to 688,000,[36] turning the crisis in Rakhine into one the main refugee disasters in the world.

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The international community was alarmed. The UN High Commissioner for Human Rights characterized the situation in Rakhine as a "textbook example of ethnic cleansing",[37] an accusation echoed by US Secretary of State Rex Tillerson.[38] The relationship between the Myanmar Government and key international partners – including the UN, the US, the EU and the OIC – deteriorated, as international goodwill generated by Myanmar's democratic transition waned quickly. In December 2017, Myanmar informed the UN Special Rapporteur on the situation of Human Rights in Myanmar that she was no longer welcome to visit the country, and that all cooperation would be ended for the duration of her tenure.[39]

Myanmar's State Counsellor repeatedly dismissed the allegation of ethnic cleansing and other wrongdoings – a position strongly supported by the vast majority of domestic constituencies. However, in a speech on 19 September 2017, she assured that Myanmar was ready to welcome back all refugees who had left the country since the beginning of the violence.[40] Bilateral negotiations with Bangladesh eventually resulted in a repatriation agreement on 23 November 2017, partially based on the principles of a similar agreement from April 1992.

As northern Rakhine State descended into chaos after the ARSA attack on 25 August 2017, the launch of the Commission's final report was largely eclipsed. Yet, the State Counsellor never retracted her commitment to implement the Commission's recommendations, but rather made it a core component of her Rakhine policy. On 12 September 2017, the Government established the **"Committee for Implementation of the Recommendations on Rakhine State"**, headed by the Minister of

Social Welfare, Relief and Resettlement. The Committee was tasked to facilitate the implementation of the recommendations of the Commission, as well as those presented by the Maungdaw Investigation Commission, headed by Vice President U Myint Swe.[41] An advisory board – consisting of five national and five international members, headed by Mr. Surakiart Sathirathai, former Thai Minister of Foreign Affairs – was established on 14 December 2017, tasked to provide advice on the implementation process.[42]

Although political realities in Rakhine changed dramatically – and tragically – after the ARSA attack on 25 August 2017, the Commission's final report has remained relevant. Despite deteriorating relations between Myanmar and broad segments of the international community, there is virtually universal agreement on the importance of implementing the Commission's recommendations. At a meeting at the UN Security Council in mid-October 2017 – during which Mr. Annan was invited to present the Commission's findings – all fifteen members of the Council welcomed the Commission's recommendations. As such, the report is currently one of the very few areas of agreement between Myanmar and the broader international community with regard to the crisis in Rakhine.

Essentially, the violence and mass-exodus of refugees from Rakhine did not render the Commission's recommendations irrelevant. Rather, their implementation seems to be a prerequisite for a viable refugee return process. In the words of a Yangon-based Western ambassador: **"The Commission's final report is now the undisputed recipe for how to move forward in Rakhine. It is also what allows us to still have a meaningful dialogue with the Myanmar Government on Rakhine."**

Part IV:

Lessons Learned: Technical Considerations

The Mandate

The Commission's mandate was clear and robust, creating a good framework for the Commission's work. None of the commissioners considered the mandate to be overly restrictive. The mandate was also wide enough to allow the Commission to adjust to the changing political context. As such – while maintaining its overarching focus on the systemic challenges in Rakhine, as per the ToR – the Commission was also able to address the new challenges emanating from the escalation of tensions in northern Rakhine State. Without such flexibility, the Commission's relevance would have suffered.

Although the ToR contained references to human rights, it did not mandate the Commission to investigate specific human rights allegations. As noted by several commissioners and people with intimate knowledge of the Commission's work, this was a sensible exclusion. First, the Commission did not have the necessary technical competence and resources to carry out such investigations in any meaningful manner. Second, it was appropriate to maintain a clear division of labour between the Commission and other Rakhine-related mechanisms, such as the Investigation Commission on Maungdaw, headed by Vice President U Myint Swe, and the UN Fact-Finding Mission.

As noted by one commissioner, it was crucial that the mandate explicitly stated that the Commission's recommendations should be "in accordance with established international standards". This effectively meant that international norms would have precedence over

domestic laws, in cases of incongruity. While the Commission sought to include both national and international perspectives in its reports, it was clear to all that the recommendations – at the end of the day – would be in line with international standards. The explicit inclusion of this principle most probably saved the Commission from lengthy internal deliberations which potentially could have undermined the group's cohesion.

It was also important that the mandate stipulated that the Commission would report to the State Counsellor. This enabled the Commission to maintain a direct line of communication with the heart of the Myanmar Government throughout the mandate period, without having to go through subordinate ministries. Such access did not only make the Commission's work easier; it also elevated the standing of the Commission, and demonstrated the great importance attributed to the Commission by the Government.

Finally, the importance of finalizing the Commission's mandate prior to the launch cannot be overstated. As the Commission's modus operandi – as well as the working relationship between the Myanmar Government and the Kofi Annan Foundation – was agreed upon already by August 2016, the Commission was allowed to operate under a clear mandate from day one. As noted by one commissioner, the success of the Commission was in no small matter a result of the thorough preparations carried out from June to August 2016.

Lesson learned (1): The Commission's mandate was adequate, not least due to its flexible character, allowing the Commission to adjust to the changing political context. Without such flexibility, the Commission may quickly have been overtaken by events and rendered irrelevant.

Lesson learned (2): It was appropriate that the ToR did not mandate the Commission to investigate specific human rights allegations. Such

investigations were better left to other mechanisms with more adequate competencies.

Lesson learned (3): The ToR's inclusion of the term "international standards" served as an important reference point, clarifying to all commissioners that the Commission's recommendations would have to align with international norms and standards.

Lesson learned (4): It was critical that the Commission reported directly to the State Counsellor, thus ensuring direct and regular access to the head of the Myanmar Government.

Lesson learned (5): The fact that the Commission's mandate was finalized and agreed upon before the launch was crucial, allowing the commissioners to operate within a clearly defined framework from day one.

The Structure and Composition of the Commission

The Commission's structure – with a mix of national and international commissioners – was not only innovative, but also highly successful. Virtually all stakeholders interviewed in the context of the "lessons learned" exercise argued that the *mixed nature* of the Commission represented one of its greatest strengths. This reflected an implicit part of the Commission's rationale (which was not explicitly spelled out in its mandate): to serve as a bridge-building exercise, bringing together national and international interpretations of the conflict in Rakhine, thus seeking to increase the scope for mutual understanding and meaningful dialogue.

However, the Commission's diversity was not only a political advantage. It also served to strengthen the quality of the Commission's internal deliberations, as the commissioners represented such a vast range of backgrounds,

competencies and political and religious affiliations. As noted by one of the national commissioners: **"It was incredibly rewarding working with the international commissioners, and I think we all learned a lot from each other. At times, we were all confronted with information and arguments that forced us to rethink or modify our preconceived ideas. That certainly made the Commission stronger."** Similar views were also expressed by the international commissioners.

Most commissioners, as well as other stakeholders, also believed that the 6/3 ratio – i.e. the inclusion of six national and three international commissioners – represented a sensible balance. The fact that the majority of commissioners were Myanmar nationals strengthened the claim that the Commission was essentially a national initiative. This was important, as much domestic criticism portrayed the Commission as **"foreign interference"** undermining Myanmar's sovereignty.

Yet, the 6/3 ratio also caused some practical challenges, which in reality skewed the balanced between the national and the international component of the Commission: during most consultation rounds, at least one – and sometimes two – international commissioners were unable to attend. Consequently, almost half the Commission's meetings were carried out with only one international commissioner present, typically resulting in a ratio of 6/1 or 5/1. For this reason, one international commissioner argued that the ratio should have been 5/4 instead of 3/6, thereby creating a greater de facto balance during the consultation rounds.

With regard to the selection of the commissioners, the Commission faced criticism from both Muslim leaders and international human rights organizations for its failure to include at least one Rohingya commissioner. Such criticism was highly pertinent, and correctly pointed out one of the main structural deficiencies of the Commission. Yet, in Myanmar's existing political climate, the inclusion of a Rohingya commissioner would have

been virtually impossible, and most certainly undermined the domestic credibility of the initiative. It seems highly likely that domestic opposition would have been so great that the Commission would neither have been able to carry out its consultation process as planned, nor secured a meaningful degree of domestic buy-in for its recommendations. The Commission sought to offset the lack of a Rohingya commissioner by at least ensuring thorough consultation with the Rohingya community, thus ensuring that its voice was adequately represented in the reports.

However, other aspects of the Commission's composition may indeed be worth questioning. While the Commission included two career diplomats, two senior UN officials and two medical doctors, it lacked expertise in some key areas. Most notably, not a single commissioner had a military background. While the Commission spent a significant amount of time and energy to engage the Tatmadaw – and recognized in its final report that **"the support of the armed forces is vital for the implementation of the Commission's recommendations"**[43] – it lacked the expertise to engage the army on more technical grounds.

Some stakeholders also pointed out that the Commission should have included at least one commissioner from an ASEAN country. While the international component of the Commission had a good geographical spread (Ghana, Lebanon and the Netherlands), it lacked representatives from Myanmar's own neighbourhood.

Finally, it may be argued that the average age of the commissioners was too high. While the Commission did consist of an impressive group of highly respected elders – with decades of relevant experience – it may also have benefitted from the inclusion of some younger members as well. However, the pressure and scrutiny to which the Commission was subjected over a prolonged period must be taken into consideration and may have proved difficult for less experienced individuals. Ultimately, a

nine-member body would never have been able to represent all of society, hence the importance of the extensive consultation process and the use of expert consultants.

Lesson learned (6): In a context with significant discrepancies between national and international interpretations of a specific conflict, a mixed national/international commission may be an excellent way to bridge the gap.

Lesson learned (7): The Commission may either have sought to ensure that at least two international commissioners were present during all consultancy rounds or changed the ratio between national and international commissioners from 6/3 to 5/4.

Lesson learned (8): The inclusion in the Commission of a member from an ASEAN country should have been considered.

The Consultation Process

In general, the Commission's decision to adopt a consultation-centred approach was successful, not least since it allowed the commissioners to engage actively and frequently with a broad range of relevant stakeholders on the ground. It gave the Commission a distinct field-oriented focus, encouraging the commissioners to provide implementable – and not just theoretical – solutions to Rakhine's many challenges. It also created a joint platform of information for the commissioners, as well as a shared set of experiences from the field. As noted by several commissioners, this was important in order to bolster internal cohesion.

Moreover, the consultation-centred approach also demonstrated the Commission's openness, as it actively sought input and advice from all

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relevant stakeholders. The Commission took great pains to include marginalized segments of Rakhine's population, including women, youth and small ethnic and religious minorities, such as the Chin, Daing-Net, Mro, Mramagyi, Khamwee, Thet and Hindus. The Commission also frequently sought to engage actors who boycotted the initiative, including the Arakan National Party (ANP), the Rakhine State Parliament and parts of Rakhine civil society. Prior to most visits to Rakhine, the Secretariat requested meetings with these actors, emphasizing that the Commission was always ready and willing to meet. Occasionally, this outreach yielded results: On at least four occasions, ANP representatives agreed to meet with the Commission behind closed doors. Towards the end of the mandate period, some of the Rakhine civil society groups that initially boycotted the Commission also agreed to meet.

In terms of its engagement with the two main communities in Rakhine, the Commission maintained a good balance. Despite the boycott from some Rakhine actors, the Commission managed to meet an equal number of Rakhine and Muslim stakeholders. This was managed quite strictly, as both the length of each meeting and the number of participants were regulated in accordance with the need to create parity. Maintaining such a balance was not only important in order to demonstrate impartiality, but also to shield the national commissioners – some of whom were under pressure from local constituencies to provide access to the Commission.

While reaching out to a broad range of stakeholders, the Commission deliberately excluded armed groups, such as ARSA and the Arakan Army. During the course of the "lessons learned" exercise, some international stakeholders questioned this decision, arguing that the Commission might have benefitted from establishing a secret communication channel with ARSA. Through such a channel, the Chairman could have sought to persuade the militant group to refrain from further attacks in Rakhine.

In reality, this was never a realistic course of action: if a communication channel had been established, and ARSA – for some reason – had decided to publicly expose it, this would have represented a deathblow to the Commission. The Government would most probably have perceived it as betrayal, and public opinion in Myanmar would surely have turned against the Commission. This, in turn, would have put the national commissioners in a precarious position. As such, the decision to exclude armed groups was not only appropriate, but highly necessary.

From a technical point of view, certain aspects of the consultation process may have been improved. The fact that the consultations often took the shape of "hearings" – where stakeholders were invited to present their views in front of the entire Commission – may, at least on some occasions, have reduced the depth of the conversation. If the commissioners had been divided into smaller groups, the Commission would not only have been able to engage an even higher number of stakeholders, but also created a less formal environment which would have been more suitable for an in-depth exchange of opinions.

The Commission could also have created formal thematic sub-groups, where each group (consisting of two to three commissioners) would focus on specific issues, such as health, education, citizenship etc. This could have improved the quality of the consultations and increased the degree to which each commissioner was directly involved in the technical aspects of the Commission's recommendations. It is true – as pointed out by some national commissioners – that such sub-groups could also have entailed a certain risk, including unequal access to information within the Commission. Yet, such suspicions could have been mitigated, for instance through the establishment of robust information-sharing mechanisms between the subgroups, including regular written and oral briefings.

Geographically, the consultations in Rakhine had a good spread. Over the year, the Commission visited most key areas of the state, including Sittwe, Mrauk U, Myebon, Kyawktaw, Thandwe, Kyawkpyuh, Ramree, Maungdaw, and Buthidaung. However, the Commission only managed to visit northern Rakhine State on one occasion – in early December 2016 – and spent a total of only nine hours in the conflict-affected areas. As the visit was facilitated by the Government of Myanmar, and due to the volatile security situation in the area, the Commission's interaction with local communities was limited. As noted by one commissioner, the Commission should have insisted on at least one more visit to northern Rakhine, for instance during its May or June consultations.

While the Commission always stayed together as one group when carrying out its consultations inside Myanmar, the commissioners were divided into three groups when the Commission decided to visit Bangladesh, Thailand and Malaysia in early 2017. The Chair decided that Ghassan Salamé, U Win Mra and U Aye Lwin should visit Bangladesh; Laetitia van den Assum, U Tha Hla Shwe and Daw Saw Khin Tint were to travel to Thailand; and Ghassan Salame, Dr. Mya Thida and U Khin Maung Lay should visit Malaysia.[44]

The visit to Bangladesh – which included meetings with government officials in Dhaka and visits to various refugee camps in Cox's Bazar – was the most important visit since tens of thousands of Muslims from Rakhine had recently fled across the border. Although all commissioners were thoroughly briefed about the findings from the visit, it was unfortunate that only three commissioners were able to go. As noted by some commissioners during the "lessons learned" exercise, a second trip to Bangladesh should have been facilitated, giving all the commissioners the chance to partake. However, it should be noted that some national commissioners opposed such an idea, not least due to security concerns. It is also not clear that the absence of a second trip had a major impact on the Commission's work.

Lesson learned (10): A consultation-centred approach served the Commission well, as it secured frequent interaction with local stakeholders, and geared the Commission towards practical and implementable solutions. It also created a joint platform of information for the commissioners, thus strengthening internal cohesion.

Lessons learned (11): Maintaining parity between Rakhine and Muslim stakeholders in the consultation process was important – not just to demonstrate the Commission's neutrality, but also to shield some of the national commissioners from pressure from their constituencies.

Lesson learned (12): By actively reaching out to the Rakhine groups that officially refused to meet, the Commission demonstrated openness. Occasionally, these efforts also yielded results, as some members of ANP and representatives of Rakhine civil society organizations eventually decided to engage positively with the Commission.

Lessons learned (13): The Commission may have benefitted from the establishment of small sub-groups, each with a specific thematic focus. To avoid unequal access to information, the Commission should have established robust internal reporting mechanisms between the sub-groups, including regular written and oral presentations.

Lesson learned (14): During the mandate period, the key developments in the state took place in the north. As such, the Commission should have sought to carry out at least one additional visit to Maungdaw and Buthidaung.

The Interim Report

From the very beginning, the Commission discussed internally whether or not to release an interim report. Some commissioners – as well as other stakeholders – argued that the Commission should present some interim recommendations which were easy to implement immediately by the Government, thus generating a sense of momentum. When the security situation in northern Rakhine State deteriorated rapidly after 9 October 2016, these discussions were intensified. As the political context in which the Commission operated was changing, several commissioners felt it was untenable to wait an entire year before the Commission would release its findings. By December 2016, two main options were considered: either to release an interim report half way through the mandate period, or to speed up the work of the Commission and publish the final report significantly ahead of time, for instance in May/June 2017. At the end, the Commission opted to release an interim report in mid-March 2017 but otherwise stick to the original schedule.

Virtually all actors interviewed in the context of the "lesson learned" exercise – including the commissioners themselves – supported this decision. First, by sticking to the original time schedule (i.e. making use of the full year provided by the mandate), the Commission was able to carry out a sufficient number of consultations, thus laying a solid foundation for the final report. Second – and perhaps more important – by releasing an interim report, the Commission sought to address some of the immediate concerns in northern Rakhine State in a timely manner, and hoped that this might contribute to reducing tensions in Rakhine.

Possibly, the publication of the interim report may have also have expedited the Myanmar government's response to the crisis, as the State Counsellor quickly endorsed the report and pledged to implement **"the large majority"** of its recommendations. Moreover, as noted by several

Yangon-based diplomats, the interim report served as a useful reference point for Myanmar's international partners, and a baseline for their efforts to assist Myanmar in addressing the crisis.

The Commission decided to keep the interim report relatively short, primarily addressing the most urgent challenges necessitating immediate government action. Consequently, long-term and structural issues – including the question of citizenship for the state's Muslim population – were mostly left for the final report. This choice was advantageous: first, it minimized the overlap between the interim and final reports. Second, it allowed the Commission to postpone some of the most divisive issues, where further internal deliberations were necessary for a consensus to be reached.

Lesson learned (15): It would have been untenable for the Commission to wait a full year before it issued its first findings and recommendations. The decision to issue an interim report was appropriate particularly in light of the hope that such a step might provide an opportunity for the Commission to help lower tensions in Rakhine.

Lesson learned (16): It was a pertinent decision to keep the interim report short, and focused mainly on urgent issues requiring immediate government attention. By doing so, the overlap between the interim and final reports were minimized, and the Commission got more time to build internal consensus on the most challenging issues, such as citizenship.

The Final Report

The Commission's final report provided recommendations pertaining to all the thematic areas covered by the mandate. As such, the Commission successfully completed its mandate as defined by the ToR. In the report, the Commission presented its analysis of the key challenges in Rakhine,

accompanied by 88 recommendations to the Myanmar Government.

Compared with the interim report, the development of the final report was far more demanding. As the interim report had primarily addressed immediate concerns generated by the conflict in northern Rakhine State, some key issues had effectively been postponed to the final report. In particular, this included the issue of citizenship, which constituted the main point of contention within the Commission. While all commissioners recognized that the 1982 Citizenship Law contained elements that were not congruent with international standards, there were different opinions about the most appropriate way to address them. While some commissioners wanted the Commission to advocate radical changes to the law, others warned against "rocking the boat", arguing that the time was not ripe for a full overhaul of the law.

After lengthy deliberations – which extended beyond the final workshop in Geneva – the Chairman eventually managed to forge a compromise. The Commission would neither push for immediate far-reaching changes to the law, nor leave the issue unaddressed. Rather, it would urge the Government to establish a review process of the law, aiming to bring the law in line with international standards. In many ways, such a compromise made sense: changes to the law would in any case have to be addressed by the Myanmar Parliament, and an adequate way to initiate such a process would be to establish a legal review process.

As for the technical aspects of the report – including its scope and level of detail – the vast majority of stakeholders considered it appropriate. First, the recommendations were generally seen as feasible and implementable: instead of listing theoretical principles, the report focused on concrete steps forward. Second, the narrative was considered to be concise and fair, providing a balanced perspective on Rakhine's many challenges. True, the

Tatmadaw reacted negatively to the report's history section, and urged the Commission to avoid any mentioning of the dual nature of Myanmar's governance structure. Yet, most stakeholders interviewed during the "lessons learned" process described the narrative as adequate.

A few representatives of international organizations operating in Rakhine argued that the recommendations should have been more specific, providing clear timelines and specifying which government agencies would be responsible for the implementation of each recommendation. However – while such advice should not be dismissed out of hand – it may have been inappropriate for the Commission to dictate the details of the implementation process. Essentially, the Commission was a national initiative, and it was up to the Myanmar Government to find the most appropriate way to implement the recommendations. As noted by a government official, if the final report had tied each recommendation to a specific government agency, this may indeed have complicated the Government's effort to implement. It may also have been perceived as far exceeding the advisory nature of the Commission's mandate.

Others argued that the number of recommendations was too large. In part, this criticism derived from the experiences of the Rakhine Commission of 2013, which provided more than sixty recommendations,[45] out of which very few were eventually implemented. Instead of inundating the Government with an almost unmanageable number of recommendations, some argued that the Commission should have limited itself to a dozen key messages, listed in order of priority. However, such an approach would not have worked for the Commission: the mandate explicitly tasked the Commission to address a wide range of specific issues, which almost by necessity resulted in a high number of recommendations. Moreover, it is unlikely that the sheer number of recommendations would affect implementation to any significant degree. At the end of the day, it fully rests on the Government's commitment.

Lesson learned (17): In general, the recommendations of the final report were practical and implementable. This represented one the strengths of the Commission's work.

Lesson learned (18): It was appropriate that the Commission's recommendations neither provided exact timelines nor defined which Government agency would be responsible for each recommendation. It was up to the Government to find the most appropriate way to implement the recommendations.

Lesson learned (19): The scope of the report and the number of recommendations were adequate.

The Workshops in Geneva

In preparation of the interim and final reports, the Commission organized two workshops in Geneva (27 February to 2 March 2017 and 17 to 21 July 2017). During these workshops, the commissioners reviewed the draft reports presented by the Secretariat and negotiated the final text. They also met with a variety of international partners, including the High Commissioner for Human Rights, the High Commissioner for Refugees, the President of the International Committee of the Red Cross and the Director General of the International Organization for Migration.

The workshops were highly successful. First, the meetings with international partners exposed the commissioners to key outside perspectives on the situation in Rakhine, which in turn informed the Commission's internal deliberations and provided a good context for the preparation of the reports. Second, it was wise to organize the workshops outside of Myanmar, thus shielding the commissioners from eventual pressure from domestic stakeholders.

Lesson learned (20): Bringing all commissioners to Geneva prior to the launch of the interim and final reports was advantageous, exposing the commissioners to key international perspectives on Rakhine, and shielding them from domestic distractions.

The Question of Monitoring

The Commission's MoU stated that the Commission would **"undertake continuous monitoring and provide analysis to Mr. Annan and fellow Commissioners on developments in Myanmar pertinent to the work of the Commission".** After the presentation of the Commission's interim recommendations in March 2017, some international actors urged the Secretariat to establish a formal monitoring mechanism to follow the Government's implementation in detail. The Chairman, however, opted for a less ambitious approach. He instructed the Secretariat to follow the general aspects of the implementation process – through the Secretariat's regular dialogue with the Government, the UN and various field-based NGOs – but otherwise refrain from systematic monitoring.

This was an appropriate decision. First, the Commission was not sufficiently equipped or staffed to carry out proper monitoring. Second, while it was important for the Commission to have a general overview of the implementation process – as this would inform the formulation of the Commission's final report – a complete overview of all the aspects of the implementation process was unnecessary. Third, the establishment of a formal monitoring mechanism would potentially have given the impression that the Commission was "inspecting" the Government's performance and providing "score cards" to evaluate its performance. This may quickly have complicated the relationship between the Commission and the Government.

Lessons learned (21): The decision to refrain from systematic monitoring of the implementation of the interim recommendations was appropriate. The alternative may unnecessarily have undermined trust between the Commission and the Government

The Organization of the Secretariat

The establishment of a permanently staffed Secretariat was critical in order to structure the Commission's work. As the nine commissioners were only engaged on a part-time basis, typically spending about one week per month on the Commission, a more permanent structure was necessary to manage the day-to-day running of the Commission. The office included an internationally recruited Director, managing the daily work of the Commission; a Principal Officer seconded by Myanmar's Ministry of Foreign Affairs, liaising between the Commission and the Myanmar Government; a Program Officer; a Media and Communication Officer; and a Finance and Logistics Officer (as well as some auxiliary staff).

The Secretariat carried out various functions: it organized the consultation meetings and managed logistical arrangements; it prepared notes from the meetings, facilitated internal information sharing, and managed the Commission's media relations: it liaised between the Commission's Chair and the other commissioners, as well as between the Commission and external actors, including the Government, the diplomatic community, the UN, NGOs, and various domestic stakeholders; and – most importantly – it drafted the interim and final reports.

The Secretariat's Director reported directly to the Commission's Chair. From an organizational point of view, this was a crucial point: while serving the entire Commission, the Secretariat took its directions only from the Chairman. This provided for a great degree of clarity and shielded the

Secretariat's work processes from external pressure. For instance, neither the Myanmar Government nor the commissioners sought to influence the Secretariat's recruitment processes, as everyone respected the Chairman's prerogative to manage his office as he saw fit. This gave the Secretariat the ability to operate independently and efficiently.

Overall, the Secretariat was adequately resourced. However in the beginning of the mandate period - in particular from September to November 2016 - the Secretariat suffered from a shortage of staff, as only the Director was recruited by the time of the Commission's launch. Despite some personnel support from the Kofi Annan Foundation the Secretariat was therefore initially over-stretched, reducing its ability to service the commissioners. Yet it is hard to see how the establishment of the Secretariat could have been done differently. Myanmar's State Counsellor wanted to launch the Commission as soon as possible and the Secretariat simply had to be built up in parallel with the Commission's first consultation rounds.

However, staff shortage also occurred immediately after the end of the mandate period, which should have been foreseen by both the Secretariat and the Kofi Annan Foundation. The contracts of the Secretariat's staff expired two to four weeks after the submission of the Commission's final report, which proved to be insufficient. The closure of the office in Yangon, as well as the preparation for the post-project audit process, required more time and effort than anticipated. As such, the Secretariat's core staff should have been retained for at least two additional months.

Lesson learned (22): The organizational set-up – and in particular the decision to let the Secretariat report directly to the Chairman – was successful. It provided clarity, shielding the Secretariat from external interference.

Lesson learned (23): Shortage of staff limited the capacity of the Secretariat during the first three months of the mandate period. However, this

was a result of particular political realities which could not be altered.

Lesson learned (24): The post-project closure of the Yangon office took longer time than anticipated. The Secretariat's staff – in particular the Director and the Finance and Logistics Officer – should have been retained for at least two additional months.

Media Relations

In general, the Secretariat – supported by the Foundation's communication staff – managed the Commission's media relations. Even before the launch, the Kofi Annan Foundation prepared a communication plan for the Commission, which served as an adequate reference point throughout the mandate period. The plan provided general guidelines for media engagement, identified relevant target groups, highlighted potential media-related risks, and sought to establish a common vocabulary on key issues. More concretely, the Secretariat's communication activities consisted of the following main elements: facilitating media interviews with the commissioners; drafting press statements; organizing press conferences (in September 2016, December 2016, March 2017 and August 2017); managing the Commission's webpage and Facebook account; maintaining a close dialogue with relevant key media outlets; and providing the commissioners with regular media updates.

Overall, the Commission's media handling seems to have been adequate, and – in the words of a commissioner – "the Commission managed to survive in a hostile media environment, despite the sensitive nature of its work." Throughout the year, the public discourse on the Commission remained relatively constructive and civil, and no constituency singled out the Commission as a main enemy. While some actors publicly opposed the Commission's work, they usually criticized the Government for establishing

the mechanism rather than attacking the Commission itself.

Yet, the Commission struggled to maintain internal media discipline. From the very beginning, the Chairman urged the other commissioners to refrain from speaking on behalf of the Commission in public. While recognizing that some of the national commissioners were frequently under pressure from local media to comment on the Commission's work, he requested them – as a minimum – to inform the Secretariat prior to all media engagements. This, however, was not always done. Some national commissioners repeatedly engaged with the media without notifying the Secretariat in advance. To their credit, these commissioners usually emphasized that they were not speaking on behalf of the entire Commission, and they did not divulge sensitive information. Yet, they undermined the Commission's media discipline, which occasionally was a source of frustration for other commissioners.

The Chairman and the Secretariat should possibly have redoubled their efforts to reduce the number of uncoordinated media appearances. However this might have proved counterproductive, as a degree of media *indiscipline* may actually have been the price to pay for internal cohesion. The national commissioners who engaged openly with the media were under pressure from their respective constituencies to explain the Commission's work. Through their media engagements, they may in fact have served the Commission well, explaining the work of the Commission to key segments of the Myanmar population. It may also have improved the Commission's public image, demonstrating openness and approachability.

Another media-related challenge came from the Myanmar Government. On some occasions, government officials gave public statements that undermined the work of the Commission. Most notably, when government spokesperson U Zaw Htay was asked about the rationale of the Commission during an interview in June 2017, he stated that it served to protect

the Government from international criticism: "Whenever there is an accusation from the international community, we say we are taking action in line with the recommendations of the Kofi Annan commission. The commission is serving as a shield for us."[46] Such statements cast doubts on the Government's sincerity in addressing the challenges in Rakhine and undermined the credibility of the Commission.

The Commission did not react publicly to U Zay Htay's statement but submitted a complaint to the Office of State Counsellor. This was an appropriate decision, as any public display of disagreement between the Commission and the Government would have amplified the news story. Instead of turning into a public shouting match, the story died out quickly.

Lastly, it should also be mentioned that the Commission never developed a full-fledged media strategy. While the initial communication plan provided a useful framework for media-related activities, the Commission never discussed whether such activities should be an integrated part of the Commission's over-arching purpose – such as strengthening inter-communal cohesion in Rakhine. In the words of a Kofi Annan Foundation official, the media approach represented a "bare minimum", as the Commission did not make any concerted efforts to influence the public discourse on Rakhine (beyond its reports, statements and press conferences). However, the Commission did share it findings at key moments, as promised, and more sustained media engagement may not have been appropriate in light of the Commission's advisory mandate.

Lesson learned (25): In general, the Commission's media handling was appropriate. Yet, the Commission may have benefitted from a broader internal debate on its media strategy, exploring the possibility for a more ambitious outreach – seeking to integrate its media-related work into its over-arching goals.

Lesson learned (26): When public statements from Government officials undermined the Commission's work, the Commission refrained from making any public comments. This was a sensible approach, minimizing the risk for public controversies.

Lesson learned (27): The lack of media discipline occasionally caused internal frustration. Yet, a more forceful implementation of the Commission's media regulations may have been counter-productive. While frustrating, a degree of media *indiscipline* may actually have served the Commission well, allowing some commissioners to manage their relationship with their respective constituencies.

Internal Information Management

In general, the Secretariat was responsible for internal information sharing. This included the distribution of minutes from the Commission's meetings, conveying messages between the Chairman and the other commissioners, and the distribution of internal work plans and draft reports. It also included the preparation and dissemination of various kinds of external information, such as Rakhine-related newspaper articles and relevant reports from the Myanmar Government, the UN, think tanks and national and international NGOs. On several occasions, the Secretariat received direct input from communities on the ground, including proposed recommendations. These were subsequently shared with all commissioners.

Transparent internal information sharing also proved challenging. Much of the information shared by the Secretariat was highly sensitive, and eventual leakages could have had far-reaching ramifications. As the Commission failed to achieve full media discipline, several members of the Commission – both national and international – considered the risk of leakage to be real. In this context, the Chairman instructed the Secretari-

at to adopt some restrictive measures with regard to the handling of the Commission's core documents.

As noted by several commissioners, this was problematic. While reducing the risk of leakage, it also limited the ability of the commissioners to properly review the drafts prior to the internal negotiations in Geneva. Although this affected all commissioners, it created particular challenges for those who were not completely fluent in English.

In hindsight, efforts to minimize leaks were appropriate. The fact that the Commission managed to avoid serious leaks throughout its mandate period – in particular with regard to the interim and final reports – may testify to the usefulness of the measures put in place. Some commissioners did however feel that more time should have been set aside to review the draft reports. For instance, the length of the workshops in Geneva could have been extended, and prior to initiating the internal negotiation process, the commissioners could have been given two or three days in Geneva to review the drafts.

Lesson learned (28): In general, internal mechanisms for information sharing were transparent and well-functioning.

Lesson learned (29): Efforts to minimize the exposure of the draft reports were warranted. Yet, the Commission should perhaps have extended the meetings in Geneva, providing the commissioners with two-three additional days to review the drafts.

Translation

Both the interim and final reports were translated into Myanmar language. For the sake of consistency, the two reports were translated by the same translator, who was carefully selected by the Secretariat due to the sensitive nature of the texts. When the draft translation was finalized, the six national commissioners – assisted by the Secretariat's Project Officer – reviewed the translation in order to ensure that all parts were congruent with the English original. Overall, feedback on the translations from domestic stakeholders was positive, both in terms of accuracy and the fluency of the language.

Two particular aspects of the translation process are worth highlighting. First, the process was far more cumbersome and time-consuming than originally anticipated. Due to stylistic differences between English and Myanmar language – and the fact that certain technical expressions in English necessitated lengthy explanations in Myanmar language – the translated version was more than double the length of the original. As the Commission did not set aside sufficient time for the translation process in the preparation of the interim report, the Myanmar version was not finalized in time for the Commission's press conference on 16 March 2017, during which only the English version was distributed to attending journalists. The Myanmar version was launched online roughly three hours later. Learning from this experience, significantly more time was provided for the translation of the final report in August 2017, which was finalized in time for the final press conference.

Second, the importance of the translation for the national commissioners cannot be overstated. Although the English version was the authoritative one, the national commissioners were equally concerned with the Myanmar translation, which was the version they would have to explain – or even defend – to domestic constituencies. As such, the direct involve-

ment of the national commissioners in the translation was crucial, not just to improve the quality of the translation, but also to increase their ownership of the document.

Lessons learned (30): The translation process was more time-consuming than originally anticipated. In particular, the Commission should have set aside more time for the translation of the interim report.

Lessons learned (31): As most commissioners were Myanmar nationals – and as the majority of relevant stakeholders were domestic – the importance of providing an accurate translation cannot be overstated. The active inclusion of the national commissioners in the translation process did not only improve its quality, but also increased their ownership of the text.

Security

According to the MoU, the Government was responsible for providing security to the Commission. Throughout the mandate period – and in particular during Mr. Annan's visits to the country – the Government spent significant resources on ensuring the safety and well-being of the commissioners. Some minor security challenges, such as anti-Commission demonstrations in Sittwe, Mrauk U and Buthidaung, were handled adequately by the Myanmar Police and other parts of the security apparatus.

The Secretariat also met regularly with a number of national and international security experts to stay abreast of the overall security situation in the country. Based on information obtained through such informal channels, the Secretariat regularly updated its internal security evaluation. On one occasion, the Secretariat received information from an international partner about a possible violent attack against the Commission. This information enabled the Commission to take the necessary precautions to mitigate the risk.

Advisory Commission on Rakhine State: Lessons Learned

Lesson learned (32): Although the Myanmar Government had the overall responsibility for the Commission's security, it was important for the Secretariat to regularly update its internal security evaluation and develop a strong network with national and international partners who could provide adequate analysis on the security situation.

Part V:

Lessons Learned: Political Considerations

Did the Commission achieve its goals?

The objective of the Commission – as defined by its ToR – was **"to provide recommendations to the Government of Myanmar on measures for finding lasting solutions to the complex and delicate issues in the Rakhine State, in accordance with established international standards".** Building on this framework, the broader goal of the Commission was to contribute to a *process of positive change* – assisting the Government and the people of Rakhine to overcome the destructive dynamics which for decades have undermined security, development and inter-communal cohesion in the state. To paraphrase the title of the final report, the Commission sought to assist the process **"towards a peaceful, fair and prosperous future for the people of Rakhine".**[47]

In one sense, the Commission succeeded. Its final report provided fair and actionable recommendations within all the thematic areas defined by the ToR. The recommendations were endorsed by a variety of key stakeholders, including the Myanmar Government and the vast majority of international partners. In mid-October 2017, the Commission's work was endorsed by all fifteen members of the UN Security Council, securing a greater degree of international buy-in and legitimacy than anyone could have expected at the onset. To this day, the implementation of the Commission's recommendations remains a core component of the Rakhine strategy of the Myanmar Government, the UN and a broad segment of the international community. While relations between the

Myanmar Government and its international partners have suffered major setbacks, the Commission's recommendations provide one of the few frameworks where they all agree.

However, during and immediately after the mandate period, the situation on the ground in Rakhine State deteriorated rapidly, and the conflict in the state developed into one of the main refugee disasters in the world. Inter-communal relations, which were already strained, have now been shattered. Prospects for economic development, social integration and the restoration of rights for marginalized communities, have suffered an immense setback.

It is true that despite the advice and recommendations provided by the Commission, the situation in Rakhine went from bad to worse. However, virtually all stakeholders interviewed in the context of the "lessons learned process" considered the Commission's contribution to be vital, some arguing that the situation would have been even worse without it.

It may be argued that the Commission had yet another objective, not explicitly mentioned in the ToR but arising for the hopes and expectations of various stakeholders: to bridge national and international interpretations of the conflict in Rakhine. This was no easy feat. For years, meaningful dialogue has been complicated by the lack of a shared understanding of the basic elements of the conflict. And with every eruption of violence, polarization has increased. As noted by the historian Thant Myint U, **"perceptions of the crisis have been veering in opposite directions for some time, but it's the violence of the past year, and the vastly different narratives around what actually happened, that's created an almost unbridgeable divide".**[48]

While this was beyond its mandate, the Commission may have successfully

demonstrated the *possibility* of bridging that divide. Its final report – a compromise based on input from both national and international members of the Commission – may serve as a blueprint for a joint narrative on Rakhine. It is true however that achieving consensus was not easy for the Commission, and some issues generated intense internal deliberations, occasionally threatening to undermine internal cohesion. The outbreak of violence in northern Rakhine State in October 2016 also served to accentuate internal divisions, as commissioners were pulled in opposite directions by their respective constituencies.

However, at the end, a compromise was reached, resulting in a text that all commissioners were ready to underwrite. According to an independent analyst interviewed during the "lessons learned" exercise, this was arguably the Commission's greatest success: despite a wide range of centrifugal forces, it managed to remain intact, achieve consensus, and jointly present a fair and meaningful vision for the future of Rakhine. It also managed to strike the right balance in its analysis and recommendations, enabling both the Myanmar Government and international partners to endorse its vision. As such, the Commission's bridge-building efforts may possibly become its main legacy.

Lesson learned (33): During and immediately after the Commission's mandate period, northern Rakhine State descended into violence, generating one the greatest refugee disasters in the world. This does not mean that the Commission's work was in vain: the Commission successfully carried out its mandate, presenting fair and implementable recommendations to the Myanmar Government. The final report was endorsed by the Government – which pledged to implement its recommendations – and the vast majority of international partners. Many actors contend that the situation could have been even worse without the Commission's report. While the relationship between Myanmar and its international partners has deteriorated sharply, the implementation

of the Commission's recommendations remains a unique platform for cooperation and mutual agreement.

Lesson learned (34): In a context where national and international narratives on Rakhine continue to drift apart, the Commission's greatest achievement was arguably to demonstrate the possibility of bridging the divide. Despite increasing polarization, the Commission managed to maintain its internal cohesion, and present a joint platform which all commissioners – despite vast differences in background and political affiliations – were able to agree upon. The Commission's bridge-building efforts may over time be its most lasting legacy.

Consultant's Background

From September 2016 to August 2017, Andreas Indregard directed the work of the Secretariat of the Advisory Commission on Rakhine State. In this capacity, he managed the day-to-day work of the Commission, and assisted the drafting process of the Commission's interim and final reports. Indregard has worked in Myanmar for five years, including as country director for Norwegian People's Aid (NPA). Prior to moving to Myanmar, he spent seven years in the Middle East, working as a senior analyst for International Crisis Group (ICG) and head of the Norwegian contingent to the Temporary International Presence in Hebron (TIPH). He has also worked for UN-OCHA, both in Israel/Palestine and Cote d'Ivoire.

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About the Advisory Commission on Rakhine State

At the behest of the Ministry of the Office of the State Counsellor of the Republic of the Union of Myanmar and in collaboration with the Kofi Annan Foundation, the Advisory Commission on Rakhine State was founded in September 2016 as a neutral and impartial body which aimed to propose concrete measures for improving the welfare of all people in Rakhine state. In August 2017, it presented its final report "Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine". The Commission was composed of six local and three international experts, and was chaired by Kofi Annan.

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