

MYANMAR HCT PROTECTION STRATEGY (2019-2020)

I. Introduction

Reflecting its responsibility and commitment to ensure that protection is central to all aspects of humanitarian action, the Myanmar Humanitarian Country Team (HCT) has developed this protection strategy to provide a vision and foundation for an operational approach to ensure the Centrality of Protection throughout the humanitarian response.

While acknowledging the primary responsibility of the Government of Myanmar to protect the population within its territory, the HCT commits to demonstrating the necessary leadership to fulfill the shared responsibility to protect civilian populations and their fundamental rights, in close collaboration with relevant actors – especially development and peace building actors. While the protection sector will provide technical support for the strategy, the strategy re-affirms that ***all humanitarian actors, led by the HCT, have roles to play in ensuring that protection is at the core of the response.*** In addition, the strategy includes the humanitarian obligations under the Human Rights up Front (HRuF) initiative regarding the collective responsibility to make efforts to monitor, prevent, and respond to serious violations of International Human Rights Law (IHRL) and International Humanitarian Law (IHL).¹

II. Protection Analysis²

The Independent International Fact-Finding Mission on Myanmar has characterized the conflicts in Rakhine, Shan, and Kachin states as non-international armed conflicts. As their August 27, 2018 report noted:

*In addition to non-international armed conflicts in Kachin and Shan States, the Mission considered that the violence in Rakhine State between the Arakan Rohingya Salvation Army (ARSA) and the Myanmar security forces constituted a non-international armed conflict, at least since 25 August 2017.*³

Serious violations of IHL and IHRL– including (but not limited to) the denial of humanitarian assistance, deliberate targeting, killing, persecution, violence against civilians, laying of landmines, denial of freedom of movement, discrimination, sexual and gender-based violence (SGBV), extortion, deprivation, arbitrary detention, and forced recruitment (including of children) and other grave child rights violations – continue to seriously impact civilians in Rakhine, Kachin, and northern Shan states⁴. These violations of international law have fuelled a humanitarian crisis in each of the aforementioned regions.

Affected populations displaced by fighting –or otherwise forcibly displaced – live in appalling conditions, without access to basic services, adequate shelter, are often denied humanitarian assistance and protection, and are subject to

¹<http://www.un.org/News/dh/pdf/english/2016/Human-Rights-up-Front.pdf> and https://interagencystandingcommittee.org/system/files/overview_of_human_rights_up_front_july_2015.pdf and [file:///Users/client/Downloads/Human%20Rights%20Up%20Front%20Briefing%20Note%20\(5Dec2014\).pdf](file:///Users/client/Downloads/Human%20Rights%20Up%20Front%20Briefing%20Note%20(5Dec2014).pdf)

² For more details on protection risks in Rakhine, see the Protection Sector's 2015 Protection Concerns and Risks Analysis, Rakhine State available at [Protection Risks Analysis Rakhine](#). For more details on protection risks in Kachin and northern Shan States, see the Protection Sector's 2015 Protection Concerns and Risks Analysis, Kachin and northern Shan States. For both also see <https://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/ReportoftheMyanmarFFM.aspx>

³ Report of the Independent International Fact-Finding Mission on Myanmar, A/HRC/39/64, 24 August 2018, page 4. https://www.ohchr.org/Documents/HRBodies/HRCouncil/FFM-Myanmar/A_HRC_39_64.pdf

⁴ From 1 January to 30 December 2018, reports have been received of 594 incidents affecting over 31,200 victims in Kachin, northern Shan and central Rakhine. The total figures for 2017 were 568 incidents and over 65,000 victims.

Centrality of Protection in Humanitarian Action

"[P]rotection of all persons affected and at risk must inform humanitarian decision-making and response, including engagement with States and non-State parties to conflict. It must be central to our preparedness efforts, as part of immediate and life-saving activities, and throughout the duration of humanitarian response and beyond."

Principals of the Inter-Agency Standing Committee (IASC), December 2013

violence, coercion, and deprivation. These humanitarian crises – largely brought on by violations of international law and armed conflict – are further exacerbated by chronic poverty underlying structural inequalities, and discrimination (including on the basis of age, gender, disability, ethnicity, and religion, as well as the stripping of and denial of citizenship), all of which increase the needs and vulnerability of affected civilians.

Rakhine State

In Rakhine State some 596,000 stateless Rohingya continue to bear the consequences of discriminatory policies and practices, including segregation, deprivation of citizenship, severe movement restrictions, denial of rights and, in some areas, hostility from the local population. Kaman experience similar discrimination, segregation, movement restrictions, hostility, and unequal access to services, despite being officially recognized as one of the 135 ethnic groups of Myanmar. As of December 2018, some 128,000 persons remain displaced in the state. The combination of protracted displacement, isolation, systematic deprivation of rights, and lack of access to livelihood opportunities and quality basic services (such as health and education) continue to subject affected communities to SGBV, human trafficking/irregular migration, family separation, physical insecurity, and severe psychological distress.⁵ The movement restrictions have left thousands vulnerable and heavily dependent on humanitarian assistance, and exposed to extortion, not only in camps, but also in villages where many remain confined.

In August 2017, the Advisory Commission on Rakhine State (“the Commission”) released its final report.⁶ Amongst the 88 recommendations, the Commission called upon the Government of Myanmar, with support from international partners, to improve living conditions in the camps in Rakhine *pending the realization of sustainable solutions for the displaced*, and to develop a comprehensive strategy for the closure of camps *in accordance with international standards*. While the Government has taken steps towards the implementation of the Commission’s recommendations on “closure of camps,” these have not been in line with international human rights standards and raise many concerns, the greatest of which is the risk of permanent segregation of the Rohingya and Kaman communities in Rakhine State and denial of their human rights. Unless concrete measures are put in place by the Government to address freedom of movement, including promoting peaceful coexistence between communities, whatever improvements are made to the living conditions in camps, will not create sustainable solutions but rather perpetuate the denial of fundamental rights, and solidify segregation.

Kachin and Northern Shan States

The year 2018 saw a dramatic intensification of fighting in Kachin and northern Shan states causing both new and secondary displacement, with reports of civilians stranded in conflict areas and denied adequate protection as per international humanitarian law. The conflict temporarily displaced some 60,000 civilians in Kachin and northern Shan in 2018. Protection of civilians remains a major concern because of the on-going conflict raging in close vicinity to villages or IDP sites, with civilians killed or injured in the fighting and shelling of villages, as well as frequent reports of human rights violations, including arbitrary arrest and intimidation when fleeing to safety out of conflict-affected areas, forced recruitment (including of children), SGBV, family separation, human trafficking, restrictions on freedom of movement, as well as exploitation and abuse.⁷ The presence of landmines and explosive remnants of war also continue to pose a major threat to civilians and seriously hinders the resumption of normal livelihoods activities in agricultural areas. Beyond threats to physical safety, the loss of land and property in areas of origin and the lack of livelihoods opportunities pose serious challenges to the attainment of durable solutions for those displaced. Lacking a strategy for sustainable solutions, the Government’s pressure on IDPs to return to unsafe areas, as well as pressure on them to resettle, without meaningful consultations with them is deeply concerning.

⁵ Protection concerns including intimidation, harassment, extortion, and abuse continue to be reported across the state. In 2018, 204 incidents affecting over 5,600 victims were reported in central Rakhine through the PIMS.

⁶ The Report of the Advisory Commission on Rakhine State is available at <http://www.rakhinecommission.org/the-final-report/>

⁷ In 2018, 390 incidents affecting more than 25,800 victims were reported in Kachin and northern Shan through the PIMS.

Kachin State

As of December 2018, 97,000 people remain displaced across 139 sites resulting from the resumption of the conflict between the Myanmar Army (Tatmadaw) and the Kachin Independence Army (KIA), following the breakout of a 27-year ceasefire in 2011.⁸ Armed actors have paid little heed to the principle of distinction, killing civilians in fighting as well as targeting them, including engaging in torture and rape. In April 2018 fighting intensified with conflict intensifying in five townships, Tanai, Hpakant, Injangyang, Sumprabum, and Waingmaw. Escalation of military operations and the use of airstrikes and heavy artillery in close proximity to displacement camps and populated areas, as well as landmines, have increased civilian casualties, injuries, and displacement, as well as intensified fear. Concurrently, there has been a significant deterioration in humanitarian access in Kachin state over the past two years, particularly to areas beyond Government control.⁹ In Government controlled areas too, international humanitarian organizations have experienced unprecedented delays in obtaining travel authorizations and areas to which they can travel are increasingly restricted, all of which has deprived some civilians from accessing humanitarian assistance.

Northern Shan State

As of December 2018, over 9,000 people remain displaced across 33 sites due to intense fighting between multiple ethnic armed organizations, militias, and the Tatmadaw, which also contributed to eroding trust in the peace process¹⁰. Armed actors have targeted civilians, leaving them fearful and unprotected. Temporary displacement followed by spontaneous return to areas of origin once fighting subsides is a key characteristic of displacement patterns, which seriously affects IDPs' coping mechanisms and presents challenges for humanitarian planning and response, as well as for monitoring of the protection risks faced by returnees. Access to livelihoods, education, and food security remain major concerns of the affected population, as well as access to land which is often contaminated by landmines or occupied by armed groups.

III. Vision and Objectives of the Myanmar HCT Protection Strategy

In line with the IASC Policy on Protection in Humanitarian Action which observes,

In practice, for a humanitarian response to be protection-oriented, it is essential to understand and seek to prevent, mitigate or end actual and potential risks, including violations of international humanitarian and human rights law, producing the harm that affected persons experience during a conflict or disaster. This requires a continuous analysis of risks people face, of threats, vulnerabilities and capacities of affected persons, and of the commitment and capacities of duty bearers to address risk factors. It also requires the identification of measures to reduce those risks, avoid exacerbating risks, including to stop and prevent violations, avoid reinforcing existing patterns of violence, abuse, coercion, or deprivation and restoring safety and dignity to people's lives.¹¹

The over-arching protection vision for Myanmar is: **To ensure that stateless, displaced persons, and civilians in general in Myanmar are protected, able to enjoy their human rights – including the right to move freely and in safety - and can re-establish their lives and attain sustainable solutions without being discriminated against. In fulfilling this vision, the HCT will avoid reinforcing segregation, violence, abuse, coercion, and deprivation.**

In line with this vision, the HCT has created an Action Plan (Annex I) with three protection outcomes (and 7 outputs building towards these outcomes) requiring a whole of system approach:

- 1. Freedom of Movement and Access to Services and Assistance is improved**
- 2. Protection of civilians is improved**
- 3. Progress is made towards realizing sustainable solutions to internal displacement**

⁸ CCCM Cluster Analysis report for Kachin, December 2018.

⁹ International humanitarian organizations have been barred from delivering assistance and protection services by the Government and the military since June 2016.

¹⁰ CCCM Cluster Analysis report for northern Shan, December 2018.

¹¹ https://interagencystandingcommittee.org/system/files/iasc_policy_on_protection_in_humanitarian_action_0.pdf

While the protection concerns in Myanmar are numerous and stretch far beyond the parameters of this strategy, the focus on three key outcomes will allow the HCT to retain a clear protection vision, with objectives to work towards, and responsible actors. This in no way means other issues will not be addressed or continuously worked on, but these protection outcomes were chosen as the most urgent at this time, and will continuously be reviewed. All the activities and data collection exercise will be carried out in an age, gender and diversity-sensitive manner to assess all dimensions of protection issues and develop adequate responses and advocacy

IV. On-going Review and Monitoring

The Action Plan details lead responsibilities for the overall implementation and critical actions. The Myanmar HCT Protection Strategy is not static, it will adapt to the evolving situation, and require the support of all actors, as well as senior leadership to provide a regular and updated understanding and analysis of protection risks and violations across the response so that the HCT can identify the most appropriate way to address these and adapt the strategy accordingly. Discussion of this strategy and related progress and challenges and needed changes should be considered under the Standing Item on Protection on the HCT agenda. After one year, the HCT will commission an independent evaluation to assess progress and advise on course corrections to enhance progress on the strategy.

Yangon, 31 January 2019

ANNEX 1: MYANMAR HCT PROTECTION STRATEGY ACTION PLAN

VISION: To ensure that stateless, displaced persons, and other civilians in Myanmar are protected, able to enjoy their human rights – including the right to move freely in safety and dignity - and can re-establish their lives and attain sustainable solutions without being discriminated against. In fulfilling this vision, the HCT will avoid reinforcing segregation, violence, abuse, coercion, and deprivation.

Protection Outcome 1: Freedom of Movement and Access to Services and Assistance is Improved							
Outputs	Indicators	Activities	Indicators	Focal Point(s)	Other Responsible Actors	Status Update	Limitations and Assumptions
Output 1: Operational space is increased for all humanitarian actors	1.1 Number of humanitarian actors reporting un-restricted access to affected populations	1.1.1 Advocacy strategy, including stakeholders mapping analysis, to repeal legislative restrictions starting with the Unlawful Association Act developed	Advocacy strategy and stakeholders mapping analysis developed	Human Rights Theme Group	OHCHR, JST, in coordination with Myanmar civil society and affected persons		This requires political will, so while advocacy is necessary, it is dependent on good will of the government and a host of legislative procedures
		1.1.2 Advocacy for clearer/simplified/unified procedures for TAs obtention and longer validity period for TAs	Longer validity of TAs Procedure for obtaining TAs is simplified and faster	RC/HC, OCHA			

		1.1.3 Systematic data collection and analysis on impact of access restrictions on affected population (disaggregated by age and gender for the population)	Baseline data available and trends analysis created	ICCG, MIAG			Restrictions on humanitarian access will hamper quantitative/qualitative data collection Expansion of monitoring will potentially require more resource
Output 2: Access to non-segregated services is improved	2.1 Percentage of people (targeted in HRP) (SADD) with access to non-segregated services and assistance (humanitarian and Government)	2.1.1 Systematic data collection and analysis on access to non-segregated services	Baseline data and trends analysis created	ICCG, MIAG			This requires political will, unless concrete measures are put in place by the government to relax restrictions on freedom of movement, progress is unlikely to be achieved
	2.2 Number of Rohingya and other discriminated minorities with access to non-segregated schools, hospitals and other health facilities	2.2.1 Data collection (SADD) and trend analysis of area based barriers to movement (formal, informal and self-imposed)	Baseline data and trend analysis available disaggregated by age and gender	ICCG, MIAG			Freedom of movement requires political will. Evidence-based data on specific implications of movement restrictions informing targeted advocacy initiatives on compelling situations may yield some results

Output 3: Enable freedom of movement in Rakhine State (with an initial focus on education, health and livelihoods)	3.1 Area-based barriers to freedom of movement (formal, informal and self-imposed) are reduced	3.1.1 Periodic monitoring of the implementation by Government authorities of the RAC recommendations relating to freedom of movement and access to livelihoods and health and education services	Bi-annual monitoring report produced	HCT with inputs from ICCG (Protection and Education sectors and Health cluster), MIAG			Monitoring of progress on reduction of movement restrictions will require dedicated resources This should align with the vision in the Rakhine strategic framework in terms of all parties working toward the same aims
		3.1.2 Evidence-based advocacy at all levels of government through regular (quarterly) meetings and key messages prepared for CPG, PSG, HOMs and other influencers	Number of cases of denial of freedom of movement raised with the Coordination Committee	HCT working and advocating with partners in the Rakhine Strategic Framework	Clusters/ sectors, MIAG		

Protection Outcome 2: Protection of civilians is improved

Outputs	Indicators	Activities	Indicators	Focal Point(s)	Other Responsible Actors	Status Update	Limitations and Assumptions
Output 4: Compliance with IHL/HRL by all duty bearers is improved	4.1. Number and type of IHL/HR violations/abuses by duty bearers reported (SADD)	4.1.1 Expand monitoring, reporting and documenting behavior of combatants and	Number of actors/ organizations contributing to reporting mechanisms	CTFMR and Protection Sector	All humanitarian actors through sectors/ clusters as		Limited access to remote areas and reluctance to report on human rights violations (for various reasons) lead to under-reporting'

		violations of international humanitarian and human rights law (SADD) to assess how the conflict differently impacts on women, men, boys, and girls of different ages and inform evidence-based and tailored advocacy			well as by engagement with local CSOs.		
		4.1.2 Targeted advocacy with duty bearers and key influencers on respect for IHL and IHRL based on patterns of violations resulting from available analysis (PIMS, MRM Fact Sheet, etc.)	Number of meetings held with relevant duty bearers and key influencers specifically on IHL/IHRL violations	RC/HC, OHCHR, Heads of UN agencies	Protection sector (Child Protection and GBV sub-sectors)		Very poor respect for IHL and IHRL and climate of impunity unlikely to change drastically in short term
		4.1.3 Undertake mapping of Tatmadaw and other key actors/influencers and identify strategic entry points to support engagement with the Tatmadaw	Stakeholders mapping analysis available	HCT Civil Military Coordination Working Group	CTFMR, National NGOs, donors in liaison with other actors (diplomatic missions, and Special Envoy)		Analysis is the first step, from there the activities and actions can be expanded

		4.1.4 Undertake mapping of non-state armed actors including non-signatories to NCA and identify strategic entry points to support engagement with non-state armed groups	Stakeholders mapping analysis available	HCT Civil Military Coordination Working Group	CTFMR, National NGOs, donors in liaison with other actors such as diplomatic missions, Geneva Call and Special Envoy.		Analysis is the first step, from there the activities and actions can be expanded
Output 5: Conflict affected communities are able to self-protect and mitigate protection threats	5.1 Number of protection incidents reported	5.1.1 Implementation of community based protection projects with focus on protection risk mitigation/positive coping strategies	Number of projects that have outputs aimed at increasing individuals and communities' positive coping strategies	Protection Sector, MIAG	Clusters/ sectors		

Protection Outcome 3: Progress is made towards realizing sustainable solutions to internal displacement

Outputs	Indicators	Activities	Indicators	Focal Point(s)	Other Responsible Actors	Status Update	Limitations and Assumptions
Output 6: Improved, Inclusive prevention and response services for people affected by landmines and other ERW	6.1. Number of people affected by landmine contamination and other explosive remnants of war that are provided with prevention and response services (SADD)	6.1.1 Mine action programme is developed and implemented including Mine Risk Education (MRE), Victim Assistance and community mapping	Number of project implemented including MRE, victim assistance and community mapping	MRWG	HCT to support with advocacy and donor support with funding and advocacy		High-level coordination needed to advocate for the Mine Action Centre
	6.2. Number of approvals granted or independent steps taken by government or EAO supporting activities contributing to mine action pillars	6.2.2. Development of advocacy strategy. Conducting awareness raising workshops or trainings for government and EAO and affected population	Advocacy strategy, Action plan, Number of government official trained	MRWG	HCT to support with advocacy and donor support with funding and advocacy		Participation of Ethnic Armed Organizations in any development in mine action is vital
Output 7: Sustainable solutions for IDPs are realized and IDP camps are closed in line with international protection	7.1 Number of IDPs assisted to return, resettle or locally integrate in line with international protection standards	7.1.1. Support the development of the Government's "National strategy on closure of camps" in line with international human rights standards and in close consultation with all affected communities	Government national Strategy developed in line with international protection standards (GPiD)	HCT with technical support from the Protection Sector	Clusters and sectors, donor to support with advocacy		The Government is yet to demonstrate political will to ensure adherence to international standards

standards (guiding principles on internal displacement and RAC report)		7.1.2. Review humanitarian engagement in IDP camps in Rakhine in light of the IASC policy on Centrality of Protection and responsibilities under human rights due diligence	HCT common position on engagement in sites declared closed by the Government in central Rakhine adopted	RC/HC, HCT	Clusters and Sectors		Consensus may not be reached: Advocacy will be needed, including perhaps (time-line to be decided) announcing public positions of humanitarian vs. those reinforcing segregation (i.e. denouncing)
		7.1.3 Coordination and advocacy with development actors, private sector, and donors to ensure engagement does not reinforce discrimination/ segregation	Separate operating principles developed. (humanitarian and development)	RC/HC, HCT	HCT in liaison with CPG, PSG, HOMs, humanitarian and development donors, including the World Bank		

