

Burma/Myanmar: Serious Human Rights Challenges Require the Continued Attention of the Human Rights Council

Civil society organizations from Burma/Myanmar urge the United Nations Human Rights Council (Council) to remain seized of the serious and ongoing human rights abuses occurring in Burma/Myanmar. The government has undertaken a series of noteworthy developments in the past two years which have been important and necessary steps towards democratic reform, however such developments remain limited and fragile.

Human rights violations against ethnic and religious minorities in the country persist and are increasingly overlooked in favour of the political developments taking place in Naypyidaw and Rangoon/Yangon. Of particular concern is the grave situation in Kachin State, where the Burma/Myanmar Army has intensified its offensive since December 2012 by launching air strikes and firing cluster bombs in areas near Internally Displaced Persons (IDPs) camps and killing civilians.¹ The continued allegations of gross and systematic human rights violations committed by Burma/Myanmar Army against the Kachin people include sexual violence, torture, arbitrary arrest and extrajudicial killings, and may amount to crimes against humanity. The crisis in Kachin State also seriously threatens the strength of the preliminary ceasefire agreements reached with other ethnic opposition groups.

Meanwhile, in Arakan State, two serious outbreaks of communal violence between Arakanese Buddhists and Rohingya Muslims have occurred in recent months leaving at least 100 people dead and over 100,000 displaced. Those displaced from the violence are living in squalid camps with insufficient food and lack of access to other basic needs. Although the violence has been perpetrated by both communities, the government has failed to take any meaningful steps towards constructively addressing the systemic and institutionalized discrimination against the Muslim population.

The government's scant tolerance for dissent and the freedom of peaceful assembly has not seen a significant positive shift as it continues to suppress the activities of dissidents, including through arbitrary arrests and detentions, and judicial harassment.² There is an emerging trend in the use of Section 18 of the Peaceful Assembly and Peaceful Procession Law, a new law enacted in December 2011, which bars public gatherings without official permission, to criminalize the activities of human rights defenders and activists.³ In the context of protesting against endemic land grabbing and land confiscations across the country, resistance and dissent is occurring increasingly among the affected communities. In November 2012, riot police attacked a camp of demonstrators opposing the Letpadaung copper mine with water cannons,

¹ Burma Partnership, Burma Must End Offensives and Dialogue with Ethnic Armed Groups for a National Political Settlement, 14 January 2013, <http://www.burmapartnership.org/2013/01/8-14-january-burma-must-end-offensives-for-political-settlement/>

² ALTSEAN-Burma, Burma Bulletin, Issue 73, January 2013, <http://www.altsean.org/Reports/Burma%20Bulletin/BBJanuary13.php>

³ Burma Partnership, Burma Continues to Repress Critical Voices, 20 January 2013, <http://www.burmapartnership.org/2013/01/burma-continues-to-repress-critical-voices/>

tear gas and incendiary devices, resulting in injuries to at least 70 activists and monks.⁴ In addition, there are at least 200 political prisoners still behind bars.

These serious human rights violations are taking place in a context where there is still no rule of law or an independent and impartial justice system; oppressive laws long condemned by the international community are still on the books and the un-democratic 2008 Constitution enshrines impunity, and places the military above the law and civilian authority.

Positive changes have occurred in Burma/Myanmar but major challenges remain. The challenges are too great to be forgotten about. President Thein Sein's Government is sensitive to international attention and pressure. Therefore, enhanced scrutiny and monitoring is more essential than ever before. Both the Human Rights Council Resolution and the mandate of the Special Rapporteur on the Situation of Human Rights in Burma/Myanmar are crucial international tools to highlight the remaining challenges and ensure the reforms move in a positive direction.

Given the prevalent severity of the human rights situation in Burma/Myanmar, we urge the Council to:

- Maintain the resolution on the situation of human rights in Burma/Myanmar under item 4 as "Human rights situations that require the Council's attention" and renew the mandate of the Special Rapporteur on the Situation of Human Rights in Burma/Myanmar in this regard;
- While encouraging positive political developments, continue to highlight in the resolution as well as in oral statements to the Council the ongoing, systematic human rights challenges existing in Burma/Myanmar while outlining expectations for substantive reforms, and hold the Government to account for not complying with previous Resolutions' urgent calls;
- Support the establishment of an OHCHR office in Burma/Myanmar with a full protection and promotion of human rights' mandate and access throughout the territory, and urge the Government of Burma/Myanmar to sign the host country agreement to formalize their commitment.

We also urge the Human Rights Council to call on the Government of Burma/Myanmar to:

- Immediately cease violations of international human rights and humanitarian law against ethnic nationality civilians, both in conflict and ceasefire areas and in particular the widespread rape of ethnic women by the Burma/Myanmar Army;
- Allow and facilitate full, unrestricted and safe delivery of humanitarian assistance to all persons in need throughout the country;
- End all forms of discrimination in law and in practice;

⁴ List of monks and activists who received medical attention in hospitals as a result of the violent crackdown of the Letpadaung protests, as documented by the Assistance Association for Political Prisoners (Burma), available at: http://www.aappb.org/Injure_List_of_brutally_crack_down_in_Latt_Pa_Daung_Mountain_Copper_Mine.pdf

- Enter into a political dialogue that fully engages the democratic opposition, genuine representatives of all ethnic opposition groups, and civil society actors;
- Hold perpetrators of human rights violations accountable;
- Release immediately and unconditionally all political prisoners, including those charged and sentenced under the Unlawful Associations Act. Ensure that the political prisoner committee recently established is comprised of representatives of the United Nations and civil society to guarantee its independence, expertise and impartiality to investigate, verify and identify individuals currently imprisoned on politically-motivated charges;
- End immediately torture and other ill-treatment and punishment during interrogation and in prisons;
- Review all legislation, including the 2008 Constitution, with a view to amend or repeal those not consistent with international human rights standards and laws;
- Undertake judicial reforms to ensure the independence, impartiality and accountability of the judiciary, lawyers, and prosecutors;
- Respect freedoms of association, assembly and expression which include ceasing all forms of intimidation, including arbitrary detention and judicial harassment of human rights defenders; also ceasing restrictions and charges against peaceful protesters and repealing the NGO registration law;
- End all forced evictions and introduce a moratorium on evictions until a legal framework is in place to ensure that evictions are conducted only in accordance with international standards;
- Allow and facilitate access by the UN and other independent humanitarian organizations to non-state armed groups to facilitate the negotiation of action plans, to monitor and verify reports of child recruitment and use and to ensure the safe release and reintegration of children affected;
- Ratify and effectively implement core UN human rights treaties and their optional protocols;
- Agree to the establishment of an OHCHR office in Burma/Myanmar with a full protection and promotion of human rights' mandate and access throughout the territory.

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