



## End of Mission Statement by APHR Delegation to Myanmar

14 September 2015

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ASEAN Parliamentarians for Human Rights (APHR) recently concluded our second fact-finding mission to Myanmar of 2015. The delegation, which included parliamentarians from Cambodia, Indonesia, and Malaysia, visited Yangon, Kachin State, and Rakhine State, and met with a variety of stakeholders in order to learn about key political and human rights issues facing the country.

As pivotal elections approach, our objective was to listen to a cross-section of voices and learn how ASEAN and members of parliament from around the region can support Myanmar at this crucial moment in its political development. We sought out a wide range of perspectives, including those from government, civil society, and various ethnic and religious communities, and deepened our understanding of their specific concerns.

Below is a summary of our observations from the visit and recommendations for how Myanmar can best address some of the main concerns raised.

### **Election preparations**

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The upcoming general election, scheduled for 8 November of this year, represents a pivotal moment for Myanmar's struggling democratic transition. Concerns about the degree to which the vote will be truly free and fair dominated discussions with stakeholders during our visit.

Many political parties and civil society organizations expressed skepticism about the government's commitment to a credible contest. Voter lists, initial versions of which contained numerous errors, were a particular area of concern, as was the potential for the ruling party to manipulate outcomes through fraud in advance voting.

We raised these issues during our meeting with the Union Election Commission, and were pleased to learn that some steps are being taken to address them. However, we urged the Commission to do more to ensure that campaigning and voting remains unmarred by fraud, which deeply undermined the credibility of the last general election in 2010.

The potential disenfranchisement of hundreds of thousands of voters also remains a key area of concern. The revocation of temporary identification documents (also known as

“white cards”) earlier this year left many without the voting rights they held in previous elections in 2010 and 2012. Rohingya Muslims in Rakhine State were disproportionately impacted by this decision, but it also revoked suffrage for numerous other residents, particularly those of Chinese and Indian descent, in states and regions around the country.

Along with this widespread disenfranchisement, we are particularly alarmed at the recent rejection of dozens of candidates based on what we deemed to be specious citizenship grounds. These rejections have primarily targeted the Muslim population, especially Rohingya candidates seeking to run for office in Rakhine State. One such candidate is APHR board member U Shwe Maung—currently a sitting member of the Lower House of Parliament—who had his appeal rejected by the Rakhine State Election Commission during our visit.

We raised these issues in multiple meetings with government officials, including the Chairman of the Union Election Commission. We reiterated that the rejection of these candidates and the disenfranchisement of multiple groups undermine the credibility of the upcoming vote and threaten Myanmar’s transition. We continue to urge the Union Election Commission and other relevant government ministries to take steps to ensure that the freedom to vote and to stand for election remains open to all, regardless of religion or ethnicity.

The threat of disenfranchisement also looms for other populations, including migrant workers and those impacted by conflict. Voting is unlikely to take place in areas experiencing ongoing fighting in Kachin and northern Shan States. The cancellation of voting in these areas without adequate benchmarks or explanation from the government threatens to breed distrust and undermine the credibility of elections overall.

Voter information and education also remains relatively limited. Many IDPs we spoke with had little knowledge or information about the parties running and had been approached by state officials to register them to vote. As a result, we are concerned that the ruling party has been effectively conducting unofficial campaigning in some IDP camps, particularly in Kachin State.

In addition, in certain areas of the country devastated by recent flooding, including Rakhine and Chin States, a necessary focus on relief efforts has further limited the degree to which civil society and political parties are able to conduct important voter education programs.

Overall, a lack of trust in the electoral process, particularly among ethnic minority populations, also threatens to damage both the legitimacy of the vote and that of the next government. In many ethnic minority areas, particularly in Kachin State, we observed a sense of apathy towards the elections, along with widespread doubt that the outcome will lead to any improvement in day-to-day lives.

## **Situation in Rakhine State**

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The situation in Rakhine State, especially the deprivation of human rights and the associated humanitarian crisis facing the Rohingya population there, remains a particular concern for

APHR. On a visit to the state capital, Sittwe, members of our delegation witnessed firsthand the conditions in IDP camps and Rohingya villages and had the opportunity to speak with IDPs from both Rohingya and Rakhine communities.

The situation for Rohingya throughout the state remains dire. On a fundamental level, Rohingya lack freedom of movement, which limits their access to livelihoods and perpetuates the cycle of poverty and dependence on international humanitarian support for basic survival. We learned that these restrictions are particularly acute in Maungdaw and Buthidaung Townships in the far north of the state, where individuals are not able to leave their villages without permission from the government. In discussions with state government officials, we learned that these restrictions are in place, in part, as a measure to ensure the security of both Muslim and Buddhist communities.

While the potential for more violence remains real, that threat does not justify the intense restrictions on freedom of movement and what we consider to be a deliberate government policy of segregation. Other means to provide adequate security and limit the potential for inter-communal violence exist, which would be less intrusive and less destructive to livelihoods and have a less disproportionate impact on the Muslim population. Forced segregation has also led to an entrenchment of divisions between Buddhist and Muslim communities and should be addressed immediately.

Access to basic necessities for Rohingya IDPs, including food and shelter, remains severely limited. Food security was noted as a particularly pressing problem, as IDPs we spoke with had received rations late for the month of August, which did not include necessary staples. Restrictions on freedom of movement also limit Rohingya's access to adequate healthcare services and educational opportunities.

Poor conditions in Rohingya camps and villages have led many to try to flee the country by sea. Significant numbers, including several individuals we spoke with, have fallen into the hands of human traffickers and experienced unspeakable horrors. This situation dominated global media headlines during the regional migrant crisis in May of this year. While the immediate problem of stranded boat people was temporarily addressed at that time by decisions by Indonesia and Malaysia to admit some of the asylum seekers, the core drivers of the outflow of migrants from Rakhine State have not been resolved.

Another regional migrant crisis looms if nothing is done to address the dire situation on the ground for Rohingya and other Muslims in Rakhine State and the political crisis that contributes to these conditions and promotes feelings of despair and hopelessness among affected populations.

The aforementioned disenfranchisement of Rohingya is one component of this political crisis, as is the lack of adequate pathways to full citizenship and rights for Muslims in Rakhine State. The implementation of 1982 Citizenship Law effectively denies Rohingya access to full citizenship, and addressing this barrier must be a component of a long-term response to the situation.

We were pleased to hear that state government officials are prioritizing economic development, which will be necessary to improve the lives and livelihoods of Rakhine and

Rohingya communities. However, without a focus on human rights and the political crisis that currently hampers the reintegration of communities, no amount of economic development will lead to improved conditions for all residents of Rakhine State or alleviate inter-communal tensions.

## **Ethnic conflict and peace process**

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Members of the delegation had the opportunity to visit Myitkyina, Kachin State, and meet with a variety of stakeholders involved in ceasefire negotiations, in addition to those impacted by ongoing violence in the area. The impact of the fighting on these individuals remains significant, and more needs to be done to address their concerns.

Tens of thousands of IDPs remain unable to return to their homes and livelihoods due to the ongoing conflict. Many have been displaced for over four years now, and conditions in many camps remain far from satisfactory. New IDPs are still being created, with the most recent group displaced due to fighting in June. The UN has been unable to provide a proper needs assessment or deliver humanitarian aid to this newest group.

UN agencies are still being prevented by the government from delivering much-needed humanitarian aid to IDPs in areas controlled by the Kachin Independence Army (KIA). All convoys must be approved by Naypyitaw, and we understand that no approval has been given to any aid convoy since April of this year. The Myanmar government must allow unfettered access of humanitarian aid to all IDPs and those affected by the conflict, in both KIA- and government-controlled areas. We also urge both sides to enter into genuine dialogue and step back from military positions to allow IDPs to return to their homes.

During meetings around the country, leaders of ethnic political parties voiced their concerns about the government's efforts to limit their decision-making power. Federalism remains a key priority of ethnic political parties, and we urge the government of Myanmar to make an earnest effort to move toward a political system that embraces the rights of all and promotes decentralization as a means of empowering ethnic minorities and addressing past grievances. The government should allow for fully democratic elections for state parliaments as a component of this effort.

We also urge all parties to take greater strides to include women in the peace process and discussions about how to resolve related issues. Women have been the victims of some of the worst rights abuses in the course of the conflict, including sexual violence, and their voices are important to the conversation on how to bring about a sustainable political resolution and end impunity.

## **Freedom of expression, assembly, and the press**

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In meetings throughout the country, concerns about government backsliding on human rights protections were voiced. In particular, freedom of expression and assembly seem to be increasingly under threat. Human rights defenders (HRDs) we spoke with expressed concerns that they are being targeted, while purveyors of hate speech and incitement to violence are being given free reign.

The stifling environment for media professionals also remains a concern. At least ten media professionals have been imprisoned since the start of 2014, and new election-related restrictions on social media threaten free expression.

The success of the upcoming elections depends on the existence of a free and open environment for media professionals, activists, and HRDs. In our meetings with government officials, including the Myanmar National Human Rights Commission, we communicated the need to protect the rights of all individuals to free assembly, association, and expression.

## **Freedom of religion and belief**

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In discussions with numerous stakeholders, including faith leaders from many of the country's diverse religious communities, it was apparent that religious freedom is under threat in Myanmar. Rising anti-Muslim sentiment around the country, driven in many cases by intensifying religious nationalism, threatens the rights of Muslim citizens and risks the outbreak of new violence targeting Muslim communities.

Of particular concern is a set of four recently passed laws, collectively known as the 'Race and Religion Protection' package. The laws regulate interfaith marriage, religious conversion, and birthrates, and include burdensome restrictions that violate the fundamental rights of women and ethnic and religious minorities.

While Muslims have been the primary targets of recent religious persecution, all minority faith communities, including Christians, Hindus, and Baha'is, are impacted by such discriminatory policies.

In ethnic states with sizeable religious minority populations, including Kachin and Rakhine States, where our delegation visited, restrictions on freedom of worship and persecution on the basis of religion were among the top concerns we heard voiced.

In Kachin State, we learned that as many as 60 churches have been destroyed since fighting began in 2011, and existing government restrictions make building new churches prohibitively difficult. In Rakhine State, many Muslims we spoke with believed religion to be the key factor driving discriminatory policies, including freedom of movement restrictions and disenfranchisement of Rohingya.

Hate speech remains a major problem as well. Multiple stakeholders expressed concerns about the growth of extreme religious nationalism, which has been used by some political and religious leaders as a means to galvanize public support for discriminatory policies. Such hate speech has also been a driver of anti-Muslim violence in the past and continues to be a threat in this regard moving forward.

Many of the faith leaders and community members we met with around the country warned of "hidden hands" driving religious conflict and inter-communal violence. In particular, we fear that religious extremists and their partners within government are pushing anti-Muslim and other nationalist narratives in order to strengthen their own precarious positions and retain their political and economic privileges. At the very least,

the government's failure to curb anti-Muslim hate speech has been a key factor in its spread into the mainstream, threatening the entire democratization process.

## **Post-election outlook**

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Regardless of the outcome of elections, Myanmar's potential for a successful transition into a rights-respecting democracy rests on the willingness of the military to relinquish its control over the political system. This was the assessment of the vast majority of political parties and civil society representatives with whom we met, and we agree that it represents the defining challenge of Myanmar's political development.

The military-drafted 2008 constitution remains a key barrier to a full democratic transition, as provisions included within it give the military inordinate power, in addition to an effective veto over changes to the existing problematic political system. Constitutional amendments must be part of the conversation moving forward. In particular, amending Article 436, which gives the military veto power over changes to the charter itself, represents a first step toward that goal. Based on developments earlier this year, including the failure of the parliament to pass a constitutional reform bill, APHR is concerned that the prospect of real, durable democratic change remains far off.

A variety of other issues will still need to be addressed following elections in November. High on this list is the problem of land confiscation, which was repeatedly brought up by a wide variety of stakeholders with whom we met. In our meeting with the Myanmar National Human Rights Commission, we discussed efforts to resolve hundreds of outstanding complaints related to land grabbing. However, we are concerned that the bureaucratic and judicial mechanisms for resolving such disputes remain ill equipped to deal with them in a fair and timely manner.

## **Conclusion**

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Myanmar's democratic prospects are promising. But core issues must be addressed if the country is to remain on a path toward democracy. The upcoming elections are an important moment, but they represent only one step in a much longer journey that will hopefully lead Myanmar to a democratic and prosperous future.

Respect for fundamental rights and a genuine commitment to democratic competition among all stakeholders, including military leaders, must remain top priorities. Without such a focus, Myanmar's transition runs the risk of stalling and backsliding further. Myanmar's military rulers have so far failed to win the trust of the majority of the population and key stakeholders, presenting a major barrier to the transition process. The military must take strides to demonstrate its genuine commitment to handing over power and embracing full civilian rule.

Particularly in the context of a region in which democracy and human rights protections appear to be eroding across the board, the success of Myanmar's attempted move to democracy will be critical.

APHR as an organization, along with its individual parliamentary members throughout the region, stands ready to support Myanmar in its effort to achieve real democratic reform. A vital step in that effort will be free and fair elections this November, in which all stakeholders have equal space to participate. Anything short of this benchmark could undermine that process.

We reiterate that a democratic Myanmar, where human rights are respected and protected and all people are treated fairly and equally under the law regardless of ethnicity, religion, or gender, is pivotal to the development of a mutually beneficial and truly people-centered ASEAN community.

## **Annex I – Participants**

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*Hon. Charles Santiago*, APHR Chairperson, Malaysian Member of Parliament

*Hon. Son Chhay*, APHR Board Member, Cambodian Member of Parliament

*Hon. Mu Sochua*, APHR Member, Cambodian Member of Parliament

*Hon. Henky Kurniadi*, APHR Member, Indonesian Member of Parliament

*Hon. Akbar Faizal*, APHR Member, Indonesian Member of Parliament

## **Annex II – List of Meetings**

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### Government officials

- U Tin Aye, Chairman, Union Election Commission
- U Win Mra, Chairman, Myanmar National Human Rights Commission
- H.E. U Lajon Ngan Seng, Chief Minister, Kachin State, & other ministers
- Col. Htein Lin, Security and Border Affairs Minister, Rakhine State, & other ministers

### Political parties

- National League for Democracy (NLD)
- United Nationalities Alliance (UNA)
- Arakan National Party (ANP)
- Democracy and Human Rights Party (DHRP)

### Civil society

- Actors working on: peace building; land rights issues; women's rights and gender issues; elections; human rights; interfaith dialogue
- Religious leaders
- Business leaders
- Lawyers

### Others

- Rohingya and Rakhine IDPs and community members in Sittwe, Rakhine State
- IDPs near Myitkyina, Kachin State
- Union- and state-level parliamentarians
- Candidates for Union- and state-level elections
- INGOs
- UN agencies