



To Permanent Representatives of Member and Observer States of the UN Human Rights Council

Geneva, 10 February 2016,

Re: Call for the extension of the mandate of the UN Special Rapporteur on Myanmar

Excellencies,

We, the undersigned non-governmental organizations, urge your delegation to support the extension of the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar for a period of at least one year, under item 4 of the Human Rights Council's agenda.

While working with the Government of Myanmar to improve the human rights situation in the country, it is also crucial for the Human Rights Council to maintain its ability to monitor and document the serious human rights violations that continue to be committed in Myanmar, especially at this important juncture in the country's history. The absence of a full-fledged permanent presence of the Office of the UN High Commissioner for Human Rights (OHCHR) in the country adds to this necessity, and indeed makes continued involvement of the Human Rights Council essential. Despite holding a successful and historic general election in November 2015, Myanmar remains mired in serious human rights issues and challenges that have yet to be adequately addressed and resolved. Extending the existing full-scope special procedure mandate under the Council's agenda item 4 is a crucial step towards addressing human rights violations, ensuring that accountability is established, and helping Myanmar transition to a rights-respecting country.

At its upcoming 31st session, the Human Rights Council should adopt a resolution that *inter alia*:

- ***Extends the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar for a period of at least one year, under its agenda item 4;***
- ***Requests the Special Rapporteur to prepare a report to be presented at the Council's 34th session (March 2017), followed by an interactive dialogue, and invites the Special Rapporteur to include in her next report recommendations for reform to address ongoing human rights violations with a time-bound action plan for their implementation and benchmarks to objectively assess progress;***
- ***Recalls the commitment of the Government of Myanmar to open a country office of the OHCHR and calls upon the Government to promptly establish the office with a full mandate, including technical assistance, monitoring of and public reporting on the human rights situation, and to specify a process for the opening of the office;***
- ***Reiterates its serious concern about the situation of persons belonging to the Rohingya community and other ethnic and religious minorities, including instances of violence, discrimination and other abuses;***

- Urges the Government of Myanmar to step up its efforts to end arbitrary arrests and detentions, forced displacement, attacks against civilians in ethnic minority areas, including rape and other forms of sexual violence, torture and other cruel, inhuman or degrading treatment or punishment, arbitrary deprivation of property, and violations of international humanitarian law, and reiterates its call upon the Government to take all necessary measures to end impunity for human rights violations and to create and maintain a safe and enabling environment for civil society and human rights defenders; and

- Urges the Government of Myanmar to ensure that the judiciary exists as a separate and independent branch from the executive, create a specialized, independent mechanism mandated to promptly and effectively investigate allegations of corruption, commit resources to improving legal education and court facilities to tackle structural problems, and significantly reform the Bar Council to ensure that lawyers have an independent self-governing professional body to defend their profession's interests and integrity.

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Key human rights concerns include the following:

- Many repressive laws that are contrary to international human rights standards are still in force and continue to be used by the authorities to prosecute activists, human rights defenders and journalists, and systemic obstacles remain, such as constitutional impediments to human rights reform, including those related to the role of the military.
- About 80 political prisoners remain behind bars. More than 400 activists are awaiting trial on various trumped-up charges. Such detainees often have no effective means of challenging the lawfulness of their detention.
- Authorities continue to imprison activists for the peaceful expression of their views. In December and January, two activists were sentenced to six months in prison each under the Telecommunications Law over satirical posts on Facebook, and one is in serious ill-health, exacerbated by his incarceration.
- Blasphemy laws, such as section 295(a) of the Penal Code have been applied arbitrarily, and accused people have been punished often after unfair trials. These laws are inconsistent with human rights, including freedom of opinion and expression; freedom of thought, conscience and religion; the right to liberty; and the right to equality before the law without discrimination.
- Dozens of student activists remain arbitrarily detained in connection with demonstrations against the National Education Law in 2015. Many face severe health problems, including tuberculosis, gastrointestinal diseases, and kidney problems.
- Recently adopted legislation perpetuates impunity. On 28 January, the outgoing Parliament approved the Former Presidents' Security Law, which would grant Myanmar's former presidents immunity from prosecution for all crimes committed in office.
- The discriminatory 1982 Nationality Act effectively prevents ethnic Rohingya from becoming citizens of Myanmar. Authorities continue to fail to address religious intolerance and discrimination against religious minorities, including Muslim Rohingya. In November, five men were charged under the Printing and Publishing Law and Article 505(b) of the Criminal Code because they printed a calendar that referred to Rohingya as an ethnic group in Myanmar. The "Organization for the Protection of Race and Religion" (known by its Burmese acronym Ma Ba Tha) had pressured police to take action against the five. Ma Ba Tha leaders have also continued to post hate messages and videos on social media.
- Armed conflict between the Myanmar Army (Tatmadaw) and several non-state armed groups continues to result in abuses against civilians in ethnic states. Since the 8 November election, there have been several reports of civilians shot, tortured, and forced to perform labor. Reports of forced recruitment by both ethnic armed groups and the Tatmadaw persist, as well as allegations of use of indiscriminate anti-personnel landmines by all sides. Many civilians have been arbitrarily detained and, in some cases, tortured.
- Throughout October and November 2015 in central Shan State, fighting between government forces

and the Shan State Army-North, including the use of air and artillery strikes by the Tatmadaw, displaced over 10,000 people, destroyed or damaged numerous schools, and sparked widespread food shortages and dire health conditions that included outbreaks of cholera.

- In Rakhine State, ongoing fighting between the Tatmadaw and the ethnic armed group Arakan Army (AA) has displaced hundreds of people. In addition, Tatmadaw soldiers have detained several civilians without charge under the Unlawful Association Act for their alleged ties to the AA. The Arakan Army has allegedly been using Chin and Arakanese civilians as forced labor, and subjecting some to ill-treatment to extract information or supplies.

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Our organizations believe that as long as ongoing and systemic human rights issues have not been addressed by the Government of Myanmar, the Human Rights Council should maintain its ability to monitor the human rights situation in the country, work with the country's authorities on a concrete reform agenda, and work towards the establishment of an OHCHR country office with a full mandate. Acting under its agenda item 4, the Council should therefore, at a minimum, extend the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar, request her to report on benchmarks needed for systemic change, and continue to review the situation of human rights in the country. Any failure on the part of the Council in this regard may seriously compromise and derail what has been achieved so far since the beginning of the reform process in 2010.

We thank you for your attention to these important issues and remain available to provide your delegation with further information as required.

Sincerely,

International Federation for Human Rights (FIDH)
Alternative ASEAN Network on Burma (ALTSEAN-Burma)
Asian Forum for Human Rights and Development (Forum-Asia)
Human Rights Watch
International Commission of Jurists
International Service for Human Rights