



Myanmar: End impunity and violence against ethnic and religious minorities

(Geneva/Bangkok/Yangon, 11 March 2020) - The Asian Forum for Human Rights and Development (FORUM-ASIA), Action Committee for Democracy Development (ACDD), Kachin Women's Association Thailand (KWAT) and Progressive Voice (PV), call on the Member and Observer States to the UN Human Rights Council (“the Council”) to ensure an end to impunity and justice for victims and survivors of genocide, crimes against humanity and war crimes in Myanmar through international criminal accountability mechanisms. Justice is an essential step towards ending root causes of violence, violations and abuses against the Rohingya and other ethnic and religious minorities in Myanmar.

We welcome the report by the Special Rapporteur on the situation of human rights in Myanmar and the United Nations Office of the High Commissioner for Human Rights (OHCHR) on root causes of human rights violations and abuses against minorities in Myanmar. We thank the Special Rapporteur for her continued vigilance in reporting on the situation of human rights in Myanmar and remain deeply concerned at the ongoing crimes against humanity, war crimes and genocide perpetrated with impunity against ethnic and religious minorities by the Myanmar military, particularly in Rakhine State. We urge the Council to convene a High Level Panel Discussion, with participation of civil society at the Human Rights Council as a follow up to the High Commissioner’s report. Such a panel discussion is necessary to sustain the political discourse on addressing the root causes of ongoing violations against minorities in Myanmar.

The High Commissioner’s report clearly details the common and shared history of institutionalised oppression, systematic and systemic discrimination and marginalisation of not only the Rohingya but all ethnic and religious minorities by the State that has led them to endure racial and religious intolerance, xenophobia, and social and economic exclusion. For decades, the rights of minorities have been routinely and systematically violated. This must immediately be brought to an end by holding the perpetrators to account and bringing the Myanmar military under the control of the civilian government. To this end, it is imperative that efforts towards achieving international accountability, including at the International Court of Justice (ICJ), International Criminal Court (ICC) and Universal Jurisdiction case in Argentina as well as the Independent Investigative Mechanism for Myanmar (IIMM) are supported.

Many of the violations underscored in the High Commissioner’s report continue today. The escalation in conflict between the Arakan Army (AA) and the Myanmar military has forcibly displaced over 140,000 people who now live in nearly 100 predominantly makeshift camps. As the conflict continues to intensify, arbitrary arrest of civilians has risen along with torture and death during and after detention and interrogation. In February 2020 alone, 24 houses were burnt to ashes by heavy artillery shelling by the Myanmar military in Rathedaung Township in northern Rakhine; 21 children were injured due to artillery shelling at a school; at least 18 civilians were killed and 71 injured, with the actual numbers likely to be much higher, cloaked by the world’s longest government-imposed internet blackout, which has continued for the past 9 months in nine townships in Rakhine and Chin States. Civilians in Rakhine and Chin States are now bearing the brunt of the civil war, experiencing similar tactics used against the Rohingya since 2017.

Furthermore, despite the provisional order of the ICJ to protect the remaining Rohingya, 15 Rohingya were recently sentenced to two years in prison under Myanmar’s 1949 Immigration Act for attempting to flee the apartheid-like conditions, grinding poverty and insecurity in Rakhine State. At least 200 Rohingya have been charged under the same law, while those Rohingyas remaining in Rakhine State continue to risk their lives to flee the country by sea. Meanwhile, the Rohingya who are forced to remain in Rakhine State are caught in the ongoing fighting between the AA and the Myanmar military, which has claimed lives of many, including pregnant women and children.

In Kachin and northern Shan States, crimes against humanity and war crimes continue. Despite this, in Kachin State, the Myanmar military has initiated resettlement of IDPs in Nam San Yang village without consulting local organizations including the influential Kachin Baptist Convention that have been supporting IDPs. Such disregard for consultations with affected communities and local service providers as well as humanitarian and human rights workers have raised serious doubts about the voluntary, safe and sustainable return of IDP populations. The fact that this resettlement plan is led by the Myanmar military, who is responsible for the forcible displacement of these ethnic populations, adds to these doubts.

In addition, the villagers who have returned remain unable to access farmland due to concerns over landmines. Such concerns come at the heel of the government's National Strategy for Closure of IDP camps in Rakhine, Kachin, Karen and Shan States. Meanwhile, humanitarian support for the IDPs in the Kachin Independence Army-controlled areas have also decreased, along with growing concerns of IDPs over potential loss of their farmland amid influx of Chinese businesses. Resettlement of IDPs under these circumstances, absence of sustainable peace and other necessary preconditions is premature and threatens to further marginalize them.

These concerns of premature return are exacerbated as the recent fighting between the Karen National Union (KNU) and the Myanmar military in eastern Myanmar displace over 2,000 people. Although the KNU and the Myanmar military have signed a Nationwide Ceasefire Agreement (NCA) in 2015, the recent breach of the NCA by the Myanmar military as it attempts to build a strategic road through KNU-controlled area has led to rising tensions resulting in the displacement of thousands of civilians. Such conflict not only casts serious doubts about the safe, voluntary, dignified and sustainable return of IDPs and refugees from the borderlands of Thailand but has eroded the little trust that existed between ethnic armed organizations and the Myanmar military.

Yet in Myanmar, those who speak against the military and the government risk arrest and imprisonment. According to the Assistance Association for Political Prisoners, the number of political prisoners has reached 642 in February 2020, with 74 of them serving prison sentences, 139 facing trial inside prison and 429 facing trial outside prison.

This is further demonstrated by the recent conviction of three members of the Peacock Generation – a traditional satirical performance troupe – for their performance pointing to the military's human rights violations. They have been sentenced to six months in prison for online defamation charges and face additional charges under the Penal Code and the 2013 Telecommunications Act. The list of youth who are charged under Myanmar's repressive laws continue to grow with nine Rakhine youth who are charged under Article 19 of the Peaceful Assembly and Peaceful Procession Law for calling for an end to the internet shutdown in Rakhine State. This is in addition to military's lawsuit against lawyer U Kyi Myint, poet U Saw Wai and the former Myanmar military captain Nay Myo Zin for their remarks on the country's constitutional amendment process and the role of the military. Even revered monks are not exempt from this growing list. Prominent monk Sayadaw Ashin Ariya Wun Tha Bhiwun Sa – better known as Myawaddy Sayadaw – is being sued by the Myanmar military for his comments questioning the financial relationship between ultranationalist movements and the Myanmar military. Finally, environmental activist Saw Tha Boe has been forced into hiding as the Myanmar police used excessive force to carry out a nighttime raid on his home. The General Administrated Department has filed a charge against him under Section 505(b) of the Penal Code for allegedly defaming the State following a traditional Karen prayer he conducted, which called attention to the negative effects of coal-power at a cement factory. Myanmar Alliance for Transparency and Accountability, together with 335 Myanmar civil society organizations have strongly condemned the charges brought against him.

This is the backdrop against which the 2020 general elections in Myanmar will take place. As was the case in 2015, 2020 general elections is likely to be another "Muslim-free" election without Muslim candidates or political parties to represent the plurality of religion, ethnicity and views in Myanmar. No doubt that the Rohingya will continue to be stripped of their right to vote as the government continues to deny them the

right to identify as Rohingya. Similarly, many Kaman and other Muslim minorities are unlikely to be able to vote or run for office in the upcoming elections.

As the High Commissioner's report states, the 2020 elections "present important opportunities to address the root causes of human rights violations against minorities and to shape a common vision for the future." However, this requires the Myanmar government and the military to cease all human rights violations, end impunity and ensure a genuine process of federal democratic reform that places the military firmly under civilian control. Justice and accountability are paramount for this process to take hold. The government must recognize and take responsibility to address the decades of violence, systematic discrimination and legacies of the Burman-Buddhist nation-building project at the expense of minority ethnic nationalities in order to create trust and clear pathways to peace. Ensuring the respect for the rights of ethnic and religious minorities requires a continuous human rights-centred engagement by the UN.

While the case in front of the ICJ has opened a new avenue to hold the Myanmar military accountable for its longstanding atrocities, the ever-increasing number of victims and survivors of its atrocity crimes makes concerted and effective efforts to hold perpetrators to account mandatory. For this, the international community must play a critical role. It must continue to support the civil society in Myanmar working to defend human rights and seek international justice and accountability as well as continue supporting the ongoing accountability processes. The UN and the international community must ensure that existing accountability mechanisms such as the IIMM and other monitoring mechanisms such as the Special Rapporteur are adequately resourced with flexibility to operate effectively and independently.

Finally, we reiterate our call on the UN Security Council to refer Myanmar to the ICC or to establish an ad-hoc tribunal to hold accountable those perpetrators of grave international crimes in Myanmar. The people of Myanmar, and the victims and survivors of human rights violations and abuses deserve nothing less. Myanmar cannot achieve durable peace and genuine federal democracy without ending impunity for these grave crimes and ongoing human rights violations.

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