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## Myanmar: Urgent action needed to address deteriorating human rights situation

### Amnesty International's written statement to the 34<sup>th</sup> session of the UN Human Rights Council (27 February-24 March 2017)

One year after the National League for Democracy (NLD)-led government took office, the deterioration in the human rights situation in Myanmar requires immediate and urgent action from the UN Human Rights Council (the Council).

In Rakhine State, state security forces have responded to attacks by armed groups on police posts with a campaign of violence against the Rohingya civilian population, which may amount to crimes against humanity. In northern Myanmar fighting between the Army and armed ethnic groups has escalated leading to fresh violations of international humanitarian and human rights law against the ethnic civilian population. The UN Office for the Coordination of Humanitarian Affairs (UNOCHA) estimates over 100,000 people have been displaced in Rakhine State and northern Myanmar in the last five months.<sup>1</sup> The limited space for freedom of expression nationwide has closed down even further following a surge of “online defamation” cases.

The international community cannot adopt a “wait and see” attitude in the face of increasing violations. The continuing power of the military to violate rights with impunity and the unwillingness or inability of the new administration to counter discrimination and impunity require immediate action. The Council should adopt a strengthened resolution on the human rights situation in Myanmar under agenda item 4, extending the mandate of the Special Rapporteur and requesting her to provide more regular reporting to the Council on the resolution's implementation, including on meeting the reform benchmarks requested by HRC Resolution 31/24. It should also mandate an independent international investigation into human rights violations and possible crimes against humanity committed in Rakhine State since October 2016, to avoid impunity, ensure justice to victims and survivors and identify causes of violence.

#### GRAVE VIOLATIONS IN RAKHINE STATE

The Myanmar security forces have engaged in a deliberate and indiscriminate campaign of violence against the Rohingya in northern Rakhine State after attacks by armed groups on border police posts killed nine police officers on 9 October. Amnesty International and the UN Office of the High Commissioner on Human Rights (OHCHR) have chronicled extensive human rights violations by the security forces, including unlawful killings, arbitrary arrests, enforced disappearances, rape and other crimes of sexual violence, other forms of torture and ill-treatment, destruction of property and denial of humanitarian access. According to UNOCHA, the violence has displaced over 92,000 Rohingya, 69,000 of whom have fled to Bangladesh.<sup>2</sup> Evidence

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<sup>1</sup> UNOCHA, Myanmar: Humanitarian Bulletin, Issue 4, October 2016-January 2017: <http://reliefweb.int/report/myanmar/myanmar-humanitarian-bulletin-issue-4-october-2016-january-2017>

<sup>2</sup> *Ibid.*

collected by Amnesty International<sup>3</sup> and OHCHR<sup>4</sup> suggests these violations may be widespread and systematic and therefore may amount to crimes against humanity.

The authorities have largely responded to allegations of human rights violations with denials, while barring independent journalists and human rights monitors from freely accessing the area. On 1 December the President established a commission to probe the 9 October attacks and their aftermath. This commission is neither independent nor credible: it is comprised of former and current government and security forces officials and has allowed the broadcast of interviews with eyewitnesses and possible victims on state media thereby compromising their anonymity and confidentiality. In its interim report the commission claimed to have found insufficient evidence of abuse. Its final report, due initially to be published on 31 January, has been postponed indefinitely.

We note the establishment of the Rakhine State Advisory Commission led by Mr. Kofi Annan, but stress that it is not mandated to investigate human rights violations, and is limited to making recommendations to secure “peace and prosperity” in Rakhine State.

Amnesty International recalls that crimes against humanity are crimes of such serious magnitude that they affect humanity as a whole. We consider that the gravity of the violations in Rakhine State and the government’s ongoing failure to independently and effectively investigate them justify the ongoing involvement of the international community in investigating them.

It should be stressed that the recent violence takes place against decades of persecution of the Rohingya and discrimination against ethnic Rakhines and other minorities in Myanmar. Failure to investigate the violence adequately will send a message that security forces can commit such crimes with impunity; this will undermine efforts to tackle wider concerns in Rakhine State and beyond.

#### DETERIORATING SITUATION IN KACHIN AND NORTHERN SHAN STATES

While fighting between the army and armed ethnic groups has been ongoing for several years, there has been an alarming escalation in the conflict in recent months, following co-ordinated attacks in November on security outposts by the Brotherhood of the Northern Alliance, a new coalition of four armed ethnic groups.

The army responded with intensified attacks, including airstrikes and shelling, killing and injuring civilians. Entire camps of displaced people were virtually emptied following nearby air strikes. Some of these people have now been displaced several times. Reports of abuses committed by both government and ethnic armed groups continue to be received, including arbitrary arrests, torture and other ill-treatment, forced labour and use of landmines.

The authorities have increased their restrictions on humanitarian assistance to displaced communities. Since April 2016 UN and humanitarian agencies have not been able to deliver aid to civilians displaced in non-government controlled areas. In a statement in January, the Special Rapporteur noted that humanitarian access is worse now than at any point in the last few years.

#### RESTRICTIONS ON FREEDOM OF EXPRESSION AND RISKS TO HRDs

Scores of prisoners of conscience have been released since Myanmar was last reviewed by the Council, but prisoners of conscience continue to be jailed. There has been a surge in the number of people investigated for “online defamation” under the vaguely worded 2013 Telecommunications Law, with individuals being arrested and charged for Facebook posts critical of the authorities. Early efforts to repeal and amend repressive laws appear to have stalled and the law reform process has been marked by a lack of transparency and consultation.

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<sup>3</sup> “*We are at breaking point*”: *Rohingya persecuted in Myanmar, neglected in Bangladesh* (Index: ASA 16/5362/2016), 19 December 2016.

<sup>4</sup> *Flash Report: Report of OHCHR mission to Bangladesh, Interviews with Rohingyas fleeing from Myanmar since 9 October 2016*, 3 February 2017: <http://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf>

There are continued reports of intimidation, harassment and surveillance of human rights defenders (HRDs), lawyers and journalists. The assassination of prominent lawyer U Ko Ni in January shocked the human rights community, and represented an appalling reminder of the risks faced by those who advocate for human rights and tolerance. In her latest statement, the Special Rapporteur also highlighted concerns about reprisals for those who speak against human rights abuses.

#### RECOMMENDATIONS:

##### **Amnesty International recommends the Council:**

- Extends the mandate of the Special Rapporteur and urges the government to co-operate fully with her, including by granting full and unfettered access to all parts of the country;
- Requests the Special Rapporteur to present an oral update to the Council at its 35<sup>th</sup> session, in addition to the regular progress report to the UNGA at its 72<sup>nd</sup> session and annual report to the Council at its 36<sup>th</sup> session; and
- Establishes an independent international investigation into human rights violations and possible crimes against humanity committed in Rakhine State since 9 October, to avoid impunity, ensure justice to victims and survivors and identify causes of violence.

##### **Amnesty International recommends that the Council calls on the Government of Myanmar to:**

- Immediately cease all violations of international human rights law and ensure that the Myanmar armed forces adhere to international humanitarian and human rights law;
- Provide humanitarian organizations with sustained and unimpeded access to populations in need of assistance, particularly in Rakhine, Kachin and Shan States;
- End all discrimination in law, policy and practice against ethnic and religious minorities, and ensure Rohingya have equal access to citizenship rights;
- Condemn all incitement to racial or religious hatred and take concrete steps to end it;
- Release immediately and unconditionally all prisoners of conscience and drop charges against all those facing criminal proceedings solely for the peaceful exercise of their human rights;
- Repeal or amend all laws that violate the human rights to freedom of expression, peaceful assembly and association, in compliance with international human rights law and standards. Pending the amendment of these laws, ensure that no one is arrested, detained or charged under their provisions;
- Ensure HRDs, journalists and activists can carry out their peaceful work without fear of reprisal;
- Ensure all those responsible for human rights violations and abuses – including those with command responsibility – are brought to justice in fair proceedings, without the imposition of the death penalty, and that victims can access effective remedies;
- Ratify and implement international human rights treaties, in particular the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights; and
- Facilitate the establishment of an OHCHR country office, able to operate throughout Myanmar with a full mandate to promote and protect human rights.