



## **Myanmar: International Community Must Ensure Justice and Accountability**

(Geneva, 3 July 2019) The Asian Forum for Human Rights and Development (FORUM-ASIA), Progressive Voice and Myanmar Alliance for Transparency and Accountability (MATA) call on the international community to expedite the full operationalisation of the independent investigative mechanism for Myanmar (IIM) established by the UN Human Rights Council (Council) in September 2018. They made the call following the update by UN Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, during the 41<sup>st</sup> regular session of the Council.

The Special Rapporteur expressed disappointment and concern over the slow pace of the operationalisation of the IIM, which, nine months after the Council's decision to establish the mechanism, is still not functional. As the IIM is expected to succeed the work of the Fact-Finding Mission, any delay in its operationalisation risks gaps in investigations into the most serious international crimes under international law. The Council in September 2018 established the IIM following the historic report of the Council-mandated Fact-Finding Mission on Myanmar which found credible evidence of genocide in Rakhine State against Rohingya, and war crimes and crimes against humanity in Kachin, Rakhine and Shan States committed by the Myanmar military.

We echo the Special Rapporteur's repeated calls to refer Myanmar to the International Criminal Court, or alternatively to try the perpetrators of international crimes in an independent tribunal. Given Myanmar is not a State party to the Rome Statute of the International Criminal Court, only a UN Security Council resolution could refer Myanmar to the International Criminal Court. In her update, the Special Rapporteur stated that "it is incumbent on the Security Council to find a way to put differences aside and unite in relation to Myanmar by coming out with a strong resolution." Current stumbling blocks at the UN Security Council should not give perpetrators of grave crimes a free pass and relieve the Security Council from its duty to end impunity for some of the worst crimes the world has observed in recent times.

In her update to the Council, the Special Rapporteur highlighted the human rights violations and negative environmental impacts linked to large-scale industrial projects and business activities. The approximately 12,000 villagers living around the Tigyit coal power plant in Shan State - currently operated by Wuxi Huagaung Electric Power Engineering - have been suffering from serious health impacts caused by high levels of pollutants and toxic heavy metals in the air and water. The pollution has contaminated the main reservoir and has had irreversible adverse impacts on the agriculture and health of surrounding communities. Hair samples from children in the area have shown high levels of a heavy metal and cadmium - levels that equate to a serious public health crisis. The Myanmar government has ratified the UN Convention on the Rights of the Child (UNCRC) and ignoring such health impacts on children is in contravention of the UNCRC.

We call on the government to immediately close down the Tigyit coal mine and coal-fired power plant and provide remedies to affected children and communities. There must also be an investigation into potential misuse of funds by government officials and companies as questions of transparency and accountability regarding the use of public funds to fulfil obligations in the opaque contracts between the government and those operating the coal mine supply, as well as Wuxi Huagaung, remain.

The situation of human rights continues to deteriorate as police used excessive force to disperse local villagers protesting the serious harms to health, the environment and to livelihoods that may be caused by expansion of coal-powered Alpha Cement Factory in Mandalay. A villager who was arrested in the May protest later died in police custody with signs of torture. In April, 54 jade miners were killed in the mudslide in Hpakant due to the failure to enforce environmental regulations.

The Myanmar government and companies must uphold its duty to ensure that environmental safeguards are strong enough and adequately followed according to international standards, including the UN Guiding Principles on Business and Human Rights, while local communities must have avenues to seek redress without fear of reprisal for any concerns they may have.

The Myanmar military's control of the economy has provided it off-budget funding used to continue committing the gravest international crimes with impunity and to support ultranationalist Buddhist groups' campaigns that incite hatred and violence against minorities. Coordinated international action on these military controlled conglomerates is necessary to hold Myanmar military accountable for these crimes. We welcome the UN Fact-Finding Mission's call on the international community to cut off all financial and other support to the Myanmar military. International investors must not be complicit in perpetuating Myanmar military's crimes against civilians and ethnic and religious minorities.

While we recently observed the release of *Reuters* journalists, Wa Lone and Kyaw Soe Oo, and the case against Ko Swe Win - the editor of *Myanmar Now* - dropped, the Special Rapporteur lamented the continuous stifling of freedom of expression through draconian laws used to suppress criticism of the Myanmar military. In addition, according to numbers of political prisoners documented by the Assistance Association for Political Prisoners, the numbers of political prisoners have only increased over the past months. As of June 2019, there are 466 political prisoners in Myanmar, 34 of whom are serving sentences while 161 are in prison awaiting trials, and 271 outside prison facing trials.

We further join the Special Rapporteur in expressing concern at the continuing escalation of conflict in northern Rakhine State and southern Chin State displacing over 35,000 people and forcing over 95,000 to survive without access to basic and essential services due to restrictions on movement. Eight townships in Rakhine State and Paletwa Township in Chin State continue to face a blackout of information due to the recent internet shutdown which is currently in its 13th day.

Nearly two years after the genocide, Rohingya community awaits justice. Nearly a million Rohingya refugees languish in dire conditions in refugee camps in Cox's Bazaar, Bangladesh. The UN Human Rights Council and the international community have a responsibility to ensure justice and accountability for genocide against Rohingya in Rakhine State, and war crimes and crimes against humanity in Shan, Rakhine and Kachin States reported in September 2018 by the UN Fact-Finding Mission. We reiterate the Special Rapporteur's call on UN Member States to demonstrate their commitment to human rights in Myanmar, and to ensure that all efforts to address the issue are underpinned by the principles of human rights. International inaction will only delay the justice owed to the people of Myanmar.

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