



## Myanmar: Why a UNGA resolution is still needed

ALTSEAN-Burma, Amnesty International, Article 19, the Asian Forum for Human Rights and Development (FORUM-ASIA), Civil Rights Defenders (CRD), and the International Federation for Human Rights (FIDH) are concerned that the European Union (EU) may not introduce a new resolution on the situation of human rights in Myanmar at the upcoming 71<sup>st</sup> session of the United Nations General Assembly (UNGA). This is despite the fact that many human rights concerns raised in previous resolutions remain. Our organizations believe that ending the resolution at this time would be premature, and that strong human rights monitoring mechanisms must remain in place to ensure Myanmar continues to press forward with much needed reforms. We therefore call on the EU and its member states to maintain a resolution on the situation of human rights in Myanmar at the upcoming UNGA.

The new National League for Democracy (NLD)-led government, which took power at the end of March 2016, has inherited a legacy of human rights violations and abuses and faces a range of serious and protracted human rights challenges. Its capacity to address these challenges is also constrained by the broad political and economic power the Myanmar Army retains. While we note there have been initial efforts to address some of these challenges, the reality is that grave human rights violations continue to occur on the ground.

Below, our organizations assess to what extent some of the key recommendations made in last year's resolution (Resolution 70/233) have been implemented. Our analysis highlights that insufficient progress has been achieved in many key human rights areas, underscoring the need for sustained international monitoring and consistent engagement with the Myanmar government to address these concerns.

### **Has there been an end to violence and have violations of human rights and international humanitarian law ceased in conflict areas?**

Last year's resolution urged all parties to the conflict to end violence and to protect individuals against ongoing violations and abuses of human rights and violations of international humanitarian law. Our organizations welcome the fact that the new administration has made achieving peace and national reconciliation a top priority and note the holding of a major peace conference in August. However, fighting continues in Kachin, Shan, and Rakhine States with reports of renewed military offensives and air strikes conducted by the Myanmar Army. According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), at least 12,000 people have been newly displaced in Kachin and Shan States since the beginning of 2016. Another 1,900 people are now living in camps in Rakhine State after fighting broke out in April

between the Myanmar Army and the Arakan Army. In addition, our organizations continue to receive reports of abuses committed by both government and ethnic armed groups, including extra-judicial killings, rape and other forms of sexual violence, forced labour and portering, indiscriminate use of landmines, and recruitment of child soldiers.

### **Has the situation of the Rohingya improved?**

In recent years, the UNGA resolution has increasingly highlighted the deteriorating situation of the Rohingya, with last year's resolution expressing "serious concern." The resolution called on the Myanmar government to undertake a number of measures to improve the situation, including allowing the Rohingya to self-identify, ensuring equal access to full citizenship and related rights, ensuring freedom of movement, and providing for the safe and voluntary return of internally displaced persons (IDPs) to their communities of origin.

Our organizations note the establishment of two different committees to work on improving the situation in Rakhine State, including one headed by former UN Secretary General Kofi Annan. However, to date the detailed mandate and activities of these committees remain unclear. 120,000 people remain in IDP camps in Rakhine State, and restrictions on the Rohingya persist. These include restrictions on freedom of movement, the right to marry, and the right to freely practice their religion. These seriously impact Rohingya communities' access to healthcare, livelihood, and education. We also continue to receive reports of human rights violations by security forces in Rakhine State, including unlawful killings, acts of torture and other ill-treatment, and arbitrary arrests, in addition to widespread extortion of the Rohingya population. These abuses take place with almost total impunity. While we also note the announcement in May that a citizenship verification process had resumed in Rakhine State, we regret that it is based on Myanmar's discriminatory 1982 Citizenship Act, which prevents the Rohingya and other minorities from accessing full citizenship.

### **Do all people displaced by conflict have unhindered access to humanitarian aid?**

The UNGA has repeatedly called on the Myanmar government to grant safe, timely, full, and unhindered access to all areas of the country. Timely access to all areas affected by conflict is vital to ensure the needs of all displaced people are met. However, 220,000 people remain displaced throughout Myanmar and barriers to unhindered delivery of aid remain in place. According to OCHA, in 2016, access to populations in need has become increasingly challenging for international aid organizations in Kachin and Shan States. In a statement released in July 2016, the UN Special Rapporteur on the situation of human rights in Myanmar noted that in Kachin State "humanitarian access is shrinking particularly to non-government controlled areas." She also mentioned that in Rakhine State, international organizations continue to require travel authorization through cumbersome procedures.

### **Are human rights violators held to account?**

Last year the UNGA repeated its call for the government to "take necessary measures to ensure accountability and end impunity" and to "undertake full, transparent and independent investigations into all reports of human rights violations and abuses in order to ensure accountability and bring about reconciliation." While we note the significance of the Myanmar Army's recent admission that some of its soldiers were responsible for the killing of five people in Shan State and note that a court martial is underway, to date we are unaware of how many soldiers have been charged and what specifically they have been charged with. The case also highlights long-standing concerns about the administration of military justice, which is not subject to independent civilian oversight. In addition, impunity for human rights violations by state officials – both past and present – remains endemic with the vast majority of reported cases of human rights abuses committed by Myanmar Army soldiers going unpunished.

### **Have all prisoners of conscience and other political prisoners been released?**

Myanmar's government was previously asked by the UNGA "to fulfil its commitment to the unconditional release of all political prisoners." We note that this is the one area in which concrete progress has been made. We welcome the early steps taken by the new government to free scores of prisoners of conscience and to have charges against many activists dropped. Unfortunately, despite these releases, prisoners of conscience remain behind bars. Myanmar's repressive legal framework also means that human rights defenders and activists continue to risk arrest and imprisonment for peacefully exercising their rights. While

we welcome recent efforts to begin repealing and amending repressive laws, in some cases the process has regrettably been marred by a lack of transparency and consultation.

Human rights defenders and activists also continue to live under tight surveillance by the Special Branch police and local authorities. During her visit to Myanmar in June, the Special Rapporteur on the situation of human rights in Myanmar noted that her civil society interlocutors were photographed and questioned before and after their meetings. In a worrying echo of previous regime tactics, the Special Rapporteur also found a government-placed recording device in one of her meeting locations.

In addition, despite the UNGA's calls to "resume working with the political prisoner review committee" and "to provide for the full rehabilitation of former prisoners of conscience," the government of Myanmar has given no indication that it will reconstitute such a committee or design plans to provide for the rehabilitation of freed prisoners of conscience.

### **Is the government effectively tackling hatred and hate speech?**

Myanmar has seen a worrying rise in religious intolerance in recent years, particularly anti-Muslim sentiment. Last year, the UNGA resolution urged the Myanmar government "to counter incitement to hatred and hate speech leading to violence." Religious tensions remain high in the country. In June, two separate incidents led to the destruction of mosques in Bago Region and Kachin State by violent mobs. We are concerned by the announcement made by the Bago Region Chief Minister, following the incident, that no investigation or arrest would be made against the perpetrators. If the government is serious about countering hate speech and incitement to hatred, it must bring those responsible to justice and offer reparations to victims to show that such incidents will no longer be tolerated. Following these incidents, the government also established a new Emergency Management Central Committee, heavily dominated by the military, tasked with providing a rapid response in cases of religious violence. Our organizations are however, concerned that the Committee's terms of reference are vague and as such could open the door for potential illegal restrictions on the right to peaceful assembly.

### **Has an OHCHR office with a full mandate been established?**

Previous UNGA resolutions called on the government of Myanmar to fulfil its commitment to establish – "without further delay" – a country office of the Office of the United Nations High Commissioner for Human Rights (OHCHR) with a full mandate. To date, and despite the promise made by former President Thein Sein four years ago to establish an office, not only is there no OHCHR office in Myanmar, the new government has yet to make an official commitment that an office will be established. The EU must seek specific guarantees from the Myanmar government on the establishment of an OHCHR office with a full protection and promotion mandate. Furthermore, the international community must specifically commit to extending the mandate of the UN Special Rapporteur on the situation of human rights under item 4 of the UN Human Rights Council in March 2017.

### **In light of the above, should the EU introduce a draft resolution on the situation of human rights in Myanmar at the 71<sup>st</sup> session of the UNGA?**

Our organizations strongly believe that any decision not to introduce a new UNGA resolution must be based on an objective assessment of the human rights situation in the country, rather than on political considerations. Based on the factors outlined above, it is clear that none of the key recommendations in last year's resolution have been fully implemented, and major human rights concerns raised in past resolutions continue. While we recognize progress has been made in some areas, the Myanmar government's efforts to address long-standing human rights concerns have not gone nearly far enough. More action is needed to reform the legal and structural frameworks that allow human rights violations to occur.

The EU has shown its commitment to maintaining the spotlight on the human rights situation in Myanmar including by previously introducing resolutions at the UNGA. While the EU engages Myanmar on human rights at the country level, through diplomatic efforts and the annual human rights dialogue, the UNGA resolution forms a key opportunity for the whole international community to engage effectively on all human rights violations in the country. Maintaining a UNGA resolution would contribute to cementing recent political gains and provide the Myanmar government with clear benchmarks for human rights progress.

Failure to do so risks undermining past, current, and future efforts to improve the human rights situation in the country.