



Permanent Mission of the Republic of the Union of Myanmar to  
the United Nations Office and other International Organizations

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OHCHR REGISTRY

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*Dear Special Rapporteurs,* Recipients: *APS*  
*SRB*

Allow me to refer to your letter under reference UA MMR 4/2016 dated 21 October 2016, concerning alleged human rights violations in relation to recent attack on 9 October 2016 in northern Rakhine State.

Kindly accept my apology for not having responded to you earlier as I, in turn, have to seek information and observations from the capital as comprehensive as possible.

Based on the information received from the relevant authorities in Myanmar, I would like to response firstly in general to the allegations mentioned in your letter as follow:

- Reports on summary execution and arbitrary detention including children are not supported by the evidence. The Investigation Commission led by Vice President U Myint Swe is looking into any allegation on human rights violations. In any evident-based cases, perpetrators will be held accountable.
- Likewise, there is no evidence revealed to date to support the allegations of mass graves filled with persons killed during the operations.
- With regard to the reports on ill-treatment of the arrested, the authorities concerned reply that sufficient time is allowed for detainees to rest and eat. To prevent abuse by police and to protect the rights of persons being interrogated, photo and video records are made during the investigations.
- On the alleged death of a former United Nations employee, the Myanmar authorities have no information on such a case. It would only be possible to follow up on this allegation if further information is provided.
- On allegations of rape cases, Senior General Min Aung Hlaing during his meeting with Chair of the Advisory Commission on

Rakhine State Mr. Kofi Annan on 7 December 2016 responded to the allegations of human rights violations against the Tatmadaw. He said, among others, that there were no murder or rape cases according to the reports on the ground.

- On the alleged case of Noor Ayesha from Kyet Yoe Pyin Village, it was looked into by the Investigation Commission led by Vice-President U Myint Swe. The interim report of the Commission issued on 13 December 2016, stated that there was no such incident, and such person was not residing in the village.
- Additionally, I would like to bring your attention on factious information campaign against Myanmar. One person by the name of Ro Nay San Lwin has been posting fake photos and news about human rights abuses in Rakhine on social media to mislead the international community and to dishonor the security personnel and the Government as a whole. *Al Jazeera* has warned of fake pictures and news of Rakhine issue in their program on 22 November 2016. The Program is available at <https://www.youtube.com/watch?v=EBhXhOsbMJc>. Similar kind of scandal is exposed by *The Daily Star* of Bangladesh issued on 26 November 2016. The relevant website link is <http://www.the.dailystar.net/frontpage/fake-photos-trolling-1320613>.

Turning to your cases, the following is information and observation received from the relevant Myanmar authorities on cases brought to your attention as follow:

**1. Additional information and comments on allegation mentioned above**

- Safeguarding the civilian life and property is one of the measures strictly followed by security forces during operations. Use of force in operation is based on four criteria namely proportionality, lawfulness, responsibility and only as reasonable and necessity to effect.
- With regard to the actions taken by the Police, since the incident in October 9, and until December 9, 2016, investigation is continuing on 470 suspects while 88 have been sentenced; 10 have been released as there were not

sufficient evidence; 1 is under probation, and 49 have been released after the interrogation.

## **2. Legal framework**

- The government is dealing with the current issue of Rakhine State in exercising the rule of law so that the government can reach the most impartial solutions.
- The human rights complaints are being dealt with systematic investigation.
- Legal actions taken against any perpetrators are mostly by the provisions prescribed in the Penal Code.

## **3. Operational Framework**

- When the search operations for violent attackers and lost arms conducted in the villages, it is the Myanmar Police Force who takes the lead in searching while military takes responsibility for security of the personnel who involve in operations. The Police Force is equipped with only non-lethal weapons for crowd control and management.
- The military only takes the leading and primary role when the operations are conducted outside the village areas.
- Police and military are exercising maximum restraint and following strict code of conduct in their encounter with the violent attackers as to avoid excessive use of force, equipment and weapons. The security forces are also making sure that collateral damage on non-combatants such as civilians particularly women and children are avoided or minimized as much as possible.

## **4. Security operation lasting for 3 months**

- The security operation are being conducted to apprehend the attackers on police outposts of security personnel and to recover arms lost during the recent attacks on police outposts.

## **5. The number of civilians and law enforcement causality**

- Since the October 9 attacks, (7) soldiers including one commander of military column and (10) police men lost their lives during the operations. There is no civilian causality as a result of search operations by police and military personnel.

- However, it is important to mention that a number of civilians who cooperated with government officials or met with reporters were abducted or killed by the attackers. To date, (10) civilians were killed by violent attackers, and police investigation is on-going on such cases. The police force is doing its best to protect the population from such reprisals by the attackers within their own community.

**6. Investigation into civilian deaths**

- Please see above paragraph 5.

**7. Numbers, charges and places of arrests**

- Until 21 November 2016, there are (36) cases involving (406) suspects. Fourteen are detained in Sittwe prison under the charges of murder, illegal possession of arms and prevention from Public Property Act 6 (1) (1) and causing death provisions.
- Forty-two suspects are detained in Buthitaung Prison under the charges of murder, illegal possession of arms, prevention from Public Property Act 6 (1) (1), causing death, obstructing public functioning and Illegal Organization Act 17 (1) (1).
- Three hundred and forty five suspects are detained in Buthitaung Prison and Maungtaw police station under the charges of murder, prevention from Public Property Act 6 (1) (1), causing death provisions and obstructing public functioning.
- Five suspects are detained in Maungtaw Police Station and Buthitaung Prison under the charges of murder and grievous hurt.
- Two suspects are detained at Buthitaung Prison under the charges of 1947 Immigration Act, section 13 (1) (1).
- There are (2) causing death cases were opened at Kyein Chaung Township police station.
- One detained in Buthitaung Prison under the Illegal Possession of Weapons Act, section 19 (e) (1).
- Seventy six suspects are detained at Kyikan Pyin Headquarter, 63 are detained at No.3 and No .4 Border Guard Police Station while requesting for extension of custody remand.

**8. Children arrested, detained and/or killed**

- There were no children arrested, detained and/or killed in the context of security operation.

**9/10. Action on two suspects handed over by Bangladesh**

- Two suspects handed over by Bangladesh are detained in Maungtaw Police Station under the charges of 1947 Immigration Act, Penal Code 302/307/333/324 (murder/ attempted murder/obstruction of public functioning/ grievous hurt/voluntarily causing hurt by dangerous weapons). They were sentenced to 5 years in prison on 7 November 2016 under the charges of 1947 Immigration Act. The other cases will be taken into action at a later stage.

**11. Procedures involve in identifying perpetrators**

- Please see Paragraph 3.

**12. Further information on burning houses and mosques**

There is no information on houses and mosques that have been burnt during security operation. However, some houses and shops at the markets are reported burnt as follow:

- On 12 October 2016, violent attackers set fire at Wapaik village and the military is pursuing them. Twenty-five houses were destroyed by this incident.
- On 30 October 2016, a shop was set fire at Ngakhuya village market. Narudein who set fire on his own shop ran away and the police opened the case under the Penal Code 436.
- On 7 November 2016, some attackers set fire at Myinlut Village, school teachers' quarter. The culprits were still at large.
- On 30 November 2016, a military column made search operation at Gwasone Village. Some violent attackers set fire on (50) houses.
- On 30 November 2016, the information received about (10) violent attackers with swords infiltrated into Wapeik Village, military and police coordination forces are in pursuit of them. Such incident caused (80) houses burnt and destroyed.

- On 17 November 2016, one school teacher's quarter and one administrative staff's quarter were set fired at Myinlut Village, Maungtaw Township. The investigation is on-going to find out the suspects.
- Burning of one's own house is a tactic widely used by one particular community there. They do so in a hope of getting new and better ones, and to gain sympathy by the international community.

### **13. Access for humanitarian assistance**

- As of 9 January 2017, WFP has been given access to a total of (43) village in northern part of Maungtaw Township.
- The aid from the Indonesian humanitarian organization Dompot Dhuafa reached the internally displaced persons (IDP) camps in Sittwe, Rakhine State on 10 December 2016. Together with local authorities, the Indonesian aid organization delivered (70) bags of rice to IDP Camp Aungminglar Ward and (71) bags of rice to Darpaing IDP camp and visited the IDP Camp in Mingan Ward. The aid group also donated Ks 3 million to the Khaymar Mandaing Parahita Monastery.
- A retreat of ASEAN Foreign Ministers was held on 19 December 2016 at the invitation of the State Counsellor and Minister for Foreign Minister and briefed on recent developments in Rakhine State. During the discussion, Myanmar provided information on its efforts to address the issue, including the provision of humanitarian assistance to both communities in Rakhine State in cooperation with UN agencies.
- The government of Myanmar reiterated its readiness to allow necessary humanitarian access and to keep ASEAN members informed of developments in the Rakhine State.

### **14. Measures to ensure delivery of basic services**

- The Government has made one of its priorities to ensure humanitarian aid to both affected communities in the area. The ministry of Social Welfare and Resettlement and the Rakhine State Government distributed rice, beans, clothing and tents for shelters to affected areas time to time.

- The UN Agencies and other INGOs delivered tons of rice, cooking oil, salt, biscuit and nourishment foods in consultation with relevant government ministries and agencies.

#### **15. Physical and Physiological integrity of detainees**

- Reports on ill-treatment of the arrested are not true. There is no torture during the investigations and detainees are allowed sufficient time to rest and eat. To prevent abuse by police, photo and video records are made during the investigations.

#### **16. Measures to assist both populations**

- Following the violent coordinated attacks of 9 October and subsequent attacks in Maungtaw, the Ministry of Social Welfare, Relief and Resettlement and the Government of Rakhine State are providing humanitarian aid to the affected communities in the area.
- On 5 January 2017, the Government of Rakhine State distributed again humanitarian assistance such as rice, beans, clothes and canvas tents to Kyetyoepyin Ywama and Dargyizar villages in Maungtaw Township.
- From 6 to 11 January 2017, the Ministry of Social Welfare, Relief and Resettlement delivered rice and peas to (52) villages in Maungtaw Township.
- Likewise, the Ministry of Foreign Affairs working closely with the UN Country team and coordinating with the relevant authorities for further humanitarian access to all areas in Northern Rakhine State whenever security permits.
- In addition, the Ministry of Foreign Affairs has been coordinating with relevant Ministries and Government agencies in facilitating cash and in-kind support to the Rakhine State from the Government of ASEAN member states. In this regards, the Embassies of the ASEAN member states in Yangon have been informed of the proper procedure for providing humanitarian assistance to Rakhine State on 2 January.

- On 13 January 2017, the Government of Thailand donated US\$ 200,000/- to the Government of Myanmar to support Myanmar's humanitarian efforts in Rakhine State.
- The Government of Myanmar also accepted the proposal of the Government of Indonesia to donate 10 containers of humanitarian assistance to both communities in Rakhine State through the diplomatic channels. The Ministry of Social Welfare, Relief and Resettlement will receive those assistance through handover ceremony when they arrived.
- As of 9 January 2017, UN Agencies/INGOs/NGOs have also been allowed to access 43 villages in the north Maungdaw. No other State or Region has more presence of UN Agencies and NGOs than Rakhine State.

#### **17. Measures to prevent recurrence**

- In order to find sustainable solutions that are acceptable to the people of Myanmar and the international community at large, an Advisory Commission on Rakhine State led by former Secretary-General of the United Nations and Noble laureate Mr. Kofi Annan was formed on 23 August 2016.
- The Commission will interact with all relevant stakeholders in the country, international experts and foreign dignitaries with a view to providing recommendations to the Government of Myanmar on measures for finding lasting solutions to the complex and delicate issues in the Rakhine State, in accordance with established international standards. These include cross-cutting issues such as poverty alleviation and development, assurance of basic rights and the promotion of trust, harmony and reconciliation. The Commission will submit its findings and recommendations to the Government of Myanmar through the State Counsellor, and thereafter publish its report within twelve months of its establishment.
- The Central Committee on Implementation of Peace, Stability and Development of Rakhine State, chaired by State Counsellor Daw Aung San Suu Kyi, and consists of (21) Union Ministers, was formed on 30 May 2016. The Committee is working towards enhancing security, peace

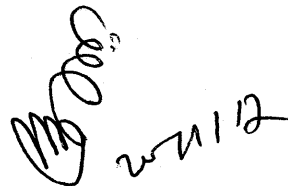


and stability and rule of law; scrutinizing immigration and citizenship; facilitating resettlements and implementing socio-economic development and coordinating and cooperating with the UN Agencies and international organizations for providing humanitarian assistance.

- According to the decision of the third Central Committee meeting, an investigation commission led by Vice President U Myint Swe has been formed to probe into the background situation that led to violent attacks occurred on 9 October and 12-13 of November 2016 in Maungdaw, Rakhine State. The Commission will look into and consequently make recommendations, among others, whether existing laws, rules and regulations were observed in taking measures to avoid similar incidents in the future, as well as on issues such as deaths, injuries, destruction and other damages caused by violent attacks; verification on outside allegations during area clearance operations; guarantee for security and human rights of the people, and conflict prevention and humanitarian aids.
- The interim report was issued on 3 January 2017 and the final report shall be submitted to the President by 31 January 2017.

Above mentioned information and observations are made available to you in good faith with a view to better understanding of the very complicated situation in Rakhine State. I earnestly hope that my response would be useful in discharging your respective mandates.

Please accept, Madams and Sirs, the assurances of my highest consideration.



(Htin Lynn)

Ambassador and Permanent Representative

✓ Ms. Yanghee Lee

Special Rapporteur on the situation of human rights in Myanmar

Ms. Agnes Callamard

Special Rapporteur on extrajudicial, summary or arbitrary executions

Mr. Chaloka Beyani

Special Rapporteur on the human rights of internally displaced persons

Ms. Rita Izsak-Ndiaye

Special Rapporteur on minority issues

Mr. Juan Ernesto Mendez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment