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*Permanent Representative
No. 114 / 3-27/ 91*

11 April 2017

Dear Special Representative,

I would like to refer your letter, AL MMR 5/2016 of 16 December 2017, with regard to the allegation of measures that may amount to systematic discrimination against religious minorities.

I have received the following information from the authorities as follows:

1. Legal basis of the curfew order and Magistrate' decision

- After the violent attacks occurred in Maungtau Township, the northern part of Rakhine State, on 8 June 2012, a curfew order has been imposed to maintain law and order and stability of the communities. The order has been extended for every two months with the approval of Rakhine State Government. According to Article 144 of the Code of the Criminal Procedure, the curfew may be imposed by Township administrator from the General Administrative Department.

2. Restriction on the gathering of five or more people since 2012

- The curfew order, which bans gatherings of five or more people in public places, is issued to prohibit actions that can lead to disrupting the stability of the State and prevalence of law and order. However, people are allowed to gather for religious festivals in various wards/villages without any restriction. Markets, restaurants and religious activities are operating as usual. As the Peaceful Assembly and Peaceful Procession Law was amended on 4 October 2016, the permissions for peaceful assembly and procession had been granted according to the law.

3. Arrests in relation to breaching the curfew order and illegal teaching or illegal construction of buildings

- Although the curfew order was imposed in 2012 due to violent acts, the duration had been reduced over time. As a result of violent incident happened again on 9 October 2016, it has been

re-imposed from 7 pm to 6 am and banned gatherings of five or more people in public places. It does not imply on daily activities and life of markets and schools.

- However, in April 2017, a less-strict curfew in Maungtau, Rakhine State has been issued by the Maungtau District administration for the next two months and it is effective between 9 p.m. and 5 a.m. Those who breach the curfew will be charged by Section 188 of the Penal Code.
- Teaching of Arabic education or the construction or extension of buildings without permission can be charged with existing laws. However, there is no arrest with such cases in Maungtau.

4. Legal provisions applicable to declare the teaching of Arabic education in mosques, madrassas and houses

- In Rakhine State, some mosques are built without permission from authorities and Arabic education facilities from kindergartens to universities are being set up and operated by Mullahs without permission. However, authorities did not demolished mosques and Arabic schools.
- In any place in the country, permanent structures for residential and commercial purposes need prior permission from the city authorities. In order to determine the number of illegal buildings, Housing Management and Illegal Buildings Assessment Committee has been formed in accordance with the instruction of Rakhine State Government on 12 September 2016. However, no action has been taken yet. Therefore, the allegation of demolishing illegal houses is not true.
- The Ministry of Religious and Culture is a focal ministry for the approval of construction for any religious buildings.
- Some legal actions will be taken against those who build constructions of Buddha religious buildings

5. Applicable law, policy or guidelines to determine illegal buildings

- The laws and policies to determine whether buildings are “illegally” constructed or not are based on the Law of Rakhine State Development Committee as amended by State Parliament on September 13, 2013, 2012 Farmland Law, Vacant, Fallow and Virgin Lands Management Law, and also on Instructions

for management of grazing ground. The Ministries which are involved in the process of determination of illegal buildings are Ministry of Rakhine Municipal Affairs, Ministry of Agriculture, Livestock and Irrigation, Ministry of Home Affairs and Ministry of Forest and Soil Conservation.

6. Follow-up process for illegal buildings

- In Rakhine State, measures are in place to prevent illegal cross-border constructions. There is an opportunity to redress local illegal constructions. Anyone who has built or renovated without permission can still apply for permission with supporting documents such as household members list (66/6), draft blue print, location map, land history, recommendations from wards/villages administrators and Fire Service department, to the Township Municipality.

7. Implementation of the plan to demolish “illegal constructed buildings”

- As reported by the local immigration authorities in 2016, there are 2,270 illegal buildings in Maungtaw and 1,056 in Buthidaung Townships which are constructed in farm and grazing lands and in forest reserve area. A committee on Management and Verifying Illegal Buildings has been established by the State Government in September 2016. However, no illegal house has been demolished yet and families continue to stay there.

8. Ban against using zinc sheets

- Some population in Rakhine State use zinc sheets to conceal and fortify their houses. Most of the time, they are connected each other with small passages. If police come to houses for a search or apprehending someone, these passages are used as escape route creating difficulties for law enforcers.
- As more and more houses are using such kind of evading from law enforcers, local authorities have regulated that everyone in Rakhine State requires prior permit for such a fencing.

9. Legal and administrative recourse options

- Please see paragraph 4 and 7.

10. Information on guarantees in place to safeguard the rights of minorities

- Out of over (8) million population in Maungtaw Township, about (7) million are non-Rakhine population. Measures in economic, education, health, religious and other social issues have been taken equally on both communities living at there, without any discrimination. In Maungtaw Township, the higher numbers of shops at markets were owned by non-Rakhine than Rakhine people. Furthermore, the local municipal department has been issuing working license annually to both communities without any discrimination.

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. Boly Barry Koumbou

Special Rapporteur on the right to education

Mr. Maina Kiai

Special Rapporteur on the rights to freedom of peaceful assembly and of association

Ms. Leilani Farha

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in the context

Ms. Rita Izsák-Ndiaye

Special Rapporteur on minority issues

Mr. Mutuma Ruteere

Special Rapporteur on Contemporary forms of racism, racial discrimination, xenophobia and related intolerance