

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on violence against women, its causes and consequences; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions**

REFERENCE: AL G/SO 214 (67-17) Assembly & Association (2010-1) G/SO 214 (107-9) G/SO 214/62-11 G/SO 214 (33-27) G/SO 214 (89-15) G/SO 214 (53-24)  
MMR 9/2013

11 June 2013

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Special Rapporteur on the rights to freedom of peaceful assembly and of association; Special Rapporteur on the situation of human rights defenders; Special Rapporteur on the situation of human rights in Myanmar; Special Rapporteur on violence against women, its causes and consequences; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on extrajudicial, summary or arbitrary executions pursuant to Human Rights Council resolution 22/14, 16/4, 15/21, 16/5, 16/7, 16/23, and 17/5.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the alleged excessive use of force by law enforcement officials against a Rohingya community protesting against the construction of new temporary housing in their village in Rakhine State.

According to information received:

On 4 June 2013, at approximately 15.30 hours police and military personnel came to Pa Rein village with some construction materials and workers for the construction of temporary long-houses. The village community had previously objected to the construction of the long-houses during several meetings with authorities, stating that they wished to construct their own houses on their original village location. The authorities arrived at the village in two boats together with about 30 workers from the neighbouring village of Led Mar. There were seven regular police and ten army personnel who accompanied the workers.

A crowd of approximately 40 to 50 people gathered to protest against the construction, most of whom were women. Men did not join the protest due to fears of the police, though four to five men were present. Reportedly, some of the women may have become angry and verbally confronted the workers for some time at the scene. However, the protestors did not have weapons and did not resort to violence. When verbal arguments started, the security forces told the women to move back but they did not do so. The stand-off lasted for approximately one hour, after which shots were fired by the security forces in the air and allegedly directly into the crowd of protestors. It is not clear whether any order to fire had been given or any prior warning given that the security forces would open fire.

When the shooting stopped, police and army personnel left the scene. When they had left, the villagers went forward to collect the injured and dead and took them to their houses. Three women were reportedly killed and five persons were reportedly injured (three men and two women), all by gunfire. All the dead and injured had bullet wounds. In some cases, individuals were struck by bullets while they were in their house compounds and away from the immediate scene of the shooting and protest.

Despite fatalities and serious injuries, the authorities, including the Township Administrator and Township Medical Officer, did not arrive in the village until 7.00 hours the following day (5 June). Two of the injured persons were taken to Sittwe hospital by an International Non-Governmental Organization. State medical staff reportedly saw the dead bodies and examined the wounds, but did not take the bodies for a post mortem examination. Furthermore, it is alleged that the authorities did not interview or ask any questions of the villagers. Access to the village was denied to some United Nations and other international actors by the authorities for some days following the incident.

Among those reportedly injured are a boy of 15 years who suffered a gunshot wound to his knee when walking with his friends on the road to see what was happening, and a 25 year old woman, who was wounded in the lower left leg by a bullet when near a house close to the main road.

While we do not wish to prejudge the accuracy of these allegations, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, and in particular articles 1 and 2 which state that "everyone has the right individually or in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels" and that "each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, inter alia, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under

its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice”.

Furthermore, we would like to bring to the attention of your Excellency’s Government the following provisions of the Declaration:

- article 5 point a) which establishes that for the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels, to meet or assemble peacefully.

- article 12 paras 2 and 3 of the Declaration which provide that the State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, de facto or de jure adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the Declaration. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

We would also like to refer your Excellency’s Government to article 19 of the Universal Declaration of Human Rights (UDHR), which provides that "Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice."

Similarly, we would like to refer your Excellency’s Government to article 20 of the UDHR which provides that “[e]veryone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.”

In this connection, we would also like to refer to Human Rights Council resolution 21/16, and in particular operative paragraph 1 that “reminds States of their obligation to respect and fully protect the rights of all individuals to assemble peacefully and associate freely, online as well as offline, including in the context of elections, and including persons espousing minority or dissenting views or beliefs, human rights defenders, trade unionists and others, including migrants, seeking to exercise or to promote these rights, and to take all necessary measures to ensure that any restrictions on the free exercise of the rights to freedom of peaceful assembly and of association are in accordance with their obligations under international human rights law.”

With regard to the information on the killing of the three women as a consequence of the use of force by the security officers, we would like to refer to article 3 of the UDHR, stipulating that “everyone has the right to life, liberty and security of person”.

The use of lethal force by law enforcement officials is strictly regulated under international law, according to which, when force is used excessively without strict compliance with the principles of necessity and proportionality, any loss of life that results is an arbitrary deprivation of life and therefore illegal. The principles of necessity and proportionality under international human rights law are interpreted to mean that lethal force may be used as a last resort, with the sole objective of saving life.

In this regard, we would like to draw the attention of your Excellency's Government to the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990). Principle 4 provides that, "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms." Furthermore, principle 5 provides that, "Whenever the use of force and firearms is unavoidable law enforcement officials shall, (a) Exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved; (b) Minimize damage and injury, and respect and preserve human life; (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment and (d) Ensure that relatives or close friends of the injured or affected person are notified at the earliest possible moment." Principle 12 also provides that everyone is allowed to participate in lawful and peaceful assemblies, in accordance with the principles embodied in the UDHR, and Governments and law enforcement agencies and officials shall recognize that force and firearms may be used only in accordance with principles 13 and 14. The provisions in principles 13 and 14 restrict the use of firearms to situations of violent assemblies only, and provide that force and firearms may only be used as a last resort when unavoidable and require exercising the utmost restraint.

We would like to further draw the attention of your Excellency's Government to the duty to investigate, prosecute and punish all violations of the right to life, in line with the Principles on Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions (adopted by the Economic and Social Council resolution 1989/65). In particular, principle 9 provides that "[t]here shall be thorough, prompt and impartial investigation of all suspected cases of extra-legal, arbitrary and summary executions, including cases where complaints by relatives or other reliable reports suggest unnatural death in the above circumstances". Principle 18 further requires Governments to "ensure that persons identified by the investigation as having participated in extra-legal, arbitrary or summary executions in any territory under their jurisdiction are brought to justice." We wish to recall also that the families and dependents of victims of extra-legal, arbitrary or summary executions shall be entitled to fair and adequate compensation within a reasonable period of time pursuant to principle 20.

We also recall Article 4 (b) of the United Nations Declaration on the Elimination of Violence against Women, which stipulates that States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should refrain from engaging in violence against women.

We would further like to bring to your Excellency's Government's attention Article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. To this end, states should develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to women who are subjected to violence. Women who are subjected to violence should be provided with access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies for the harm that they have suffered. States should, moreover, also inform women of their rights in seeking redress through such mechanisms.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the forementioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by the victims or on their behalf?
3. Where relevant, please indicate which branches of the security forces were involved in the alleged incidents and what instructions they have received or issued in relation to the aforementioned incidents. Kindly specify how the use of force in the alleged incidents complies with international standards set forth inter alia in the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
4. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries which may have been carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.
5. In the event that the alleged perpetrators are identified, please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?
6. Please indicate whether compensation has been provided to the victims or the families of the victims.

We would appreciate a response within sixty days. Your Excellency's Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Given earlier communications and concern about the lack of accountability in relation to alleged violations in Rakhine State, the Special Rapporteur on the situation of human rights in Myanmar intends to issue a related public statement shortly.

Please accept, Excellency, the assurances of our highest consideration.

Tomás Ojea Quintana  
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freedom of opinion and expression

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