

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on minority issues; and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the situation of human rights in Myanmar; Special Rapporteur on minority issues; and Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance pursuant to Human Rights Council resolutions 28/23, 25/5, and 25/32:

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **instances of direct and public incitement to the killing of the Rohingya population.**

According to information received:

Mr. [REDACTED], [REDACTED] addressed a rally, where he called for the "killing and burial" of the Rohingyas. The rally is reported to have been organised by PDP and the Organization for the Protection of Race and Religion (MaBaTha) on 27 May 2015 in Bo Sein Menn football ground in Bahan township, Yangon. The video was made public on 28 May 2015 on the Internet. Mr. [REDACTED] appears in the video with a megaphone making the alleged following statements (subtitles provided in the video):

"I won't say much, I will make it short and direct. Number one, shoot and kill them! (the Rohingyas). Number two, kill and shoot them! (the Rohingyas). Number three, shoot and bury them! (the Rohingyas). Number four, bury and shoot them! (the Rohingyas). If we do not kill, shoot, and bury them, they will keep sneaking into our country!"

The crowd can be heard cheering in support and repeating some of the statements.

In another related incident, Mr. [REDACTED] is reported to have addressed an anti-Muslim gathering on 23 May 2015 organised by ultra-nationalist parties and MaBaTha. In this gathering, Mr. [REDACTED] allegedly demanded to the authorities to *"shoot boat people at sight"*. He added that the public should demand that they be *"shot whenever sighted on the sea and border"*.

These two interventions are taking place in a context of proliferation of negative stereotyping, discrimination, as well as hate speech and incitement to hatred and violence, mainly against the Muslims, especially the Rohingyas. This trend takes place in the media, particularly online on social media, in cartoons and articles published in religious journals, as well as in videos and leaflets.

It is alleged that this contributes to the fuelling of inter-communal tensions.

It is reported that anti-Muslim campaigns were launched in 2012 by Buddhist nationalist movements, including 969 and MaBaTha. The 969 movement has reportedly called for a boycott of Muslim businesses in favour of 'buying Buddhist' and circulated DVDs and other materials, including religious journals, containing anti-Muslim images and messages.

[REDACTED], one of the leading monks in the 969 movement, disseminates strong anti-Muslim messages in sermons, which are posted online and disseminated through social media.

The Penal Code of Myanmar (1957) contains various provisions prohibiting hate speech or incitement. Section 153 (a) prohibits any expression "that promotes or attempts to promote feelings of enmity or hatred between persons" – a crime punishable by up to two years in prison or with a fine. Section 505 provides that whoever makes, publishes or circulates any statement, rumour or report with: (b) "intent to cause, or which is likely to cause, fear or alarm to the public or to any section of the public whereby any person may be induced to commit an offence against the State or against the public tranquility," or (d) "intent to incite, or which is likely to incite, any class or community of persons to commit any offence against any class or community," shall be punished with up to two years imprisonment and/or a fine.

We express serious concern at the allegations of direct and public advocacy of racial and religious hatred by the [REDACTED], Mr. [REDACTED]. While we do not wish to prejudice the accuracy of the above-mentioned allegations, the facts as alleged could amount to advocacy of national, racial or religious hatred that

constitutes incitement to discrimination, hostility or violence targeting the Rohingya population. Considering the public nature of the speeches and the fact that they emanate from a prominent public figure, we are seriously concerned that they can contribute to fuelling inter-communal tensions and incite violence against the Rohingya.

Acts of incitement to discrimination, hostility and violence must be publicly condemned. In all cases, they should be investigated and prosecuted by independent judicial authorities, providing all the guarantees of the rule of law in accordance with international human rights standards and norms.

We are also concerned at signals of increasing discrimination, based on motives of race or religion, against Muslims, including anti-Muslim campaigns launched by Buddhist nationalist movements, including 969 and MaBaTha.

According to international human rights law, "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" should be prohibited by law. International law provides that the following elements need to be taken into account when determining whether an expression constitutes incitement to hatred: real and imminent danger of violence resulting from the expression; intent of the speaker to incite discrimination, hostility or violence; and careful consideration by the judiciary of the context in which hatred was expressed. The context that needs to be taken into account includes the existence of patterns of tension between religious or racial communities, discrimination against the targeted group, the tone and content of the speech, the person inciting hatred and the means of disseminating the expression of hate, as described in the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, A/67/357 (paras 34-50).

We would also like to draw your Excellency Government's attention to the 2015 report of the Special Rapporteur on minority issues. The report focuses on hate speech and incitement to hatred against minorities in the media (A/HRC/28/64) and recalls how essential is the recognition that hate speech and incitement can endanger social cohesion and create or deepen communal divides and tensions. The Special Rapporteur recommends that States take specific measures, including specialized training of law enforcement bodies and prosecutors, on hate crimes and incitement to hatred on the internet, as well as non-legal measures, including public condemnation of hate speech by political leaders, parliamentarians, party members, other public figures and community leaders can shape public perceptions and contribute to unity and social cohesion.

The right to freedom of expression is a fundamental right enshrined in Article 19 of the Universal Declaration of Human Rights, but the promotion and protection of the right to freedom of expression must go hand in hand with efforts to combat intolerance, discrimination and incitement to hatred. As stated in the 2012 report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and

expression (A/67/357, para. 37), international human rights law recognises that the right to freedom of expression can be restricted where it presents a serious danger for others and for their enjoyment of human rights. In all cases, restrictions to the exercise of the right freedom of expression must be provided by law and necessary and proportionate to achieve one of these legitimate aims.

We recall the fundamental principles of dignity, equality and non-discrimination in law and practice as enshrined in articles 1 and 2 of the Universal Declaration of Human Rights (UDHR). In particular, article 7 of the UDHR provides that all persons should be protected against any discrimination and against any incitement to such discrimination. We also would like to refer to the international standards in relation to the protection of the rights to persons belonging to religious minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (Declaration on the Rights of Minorities). Article 1 of the Declaration establishes the obligation of States to protect the existence and identity of religious minorities within their territories and to adopt the appropriate measures to achieve this end. Article 2 states that persons belonging to religious minorities have the right to profess and practice their own religion without discrimination. Furthermore, States are required to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law (article 4.1).

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

In view of the seriousness of the matter, we urge your Excellency's Government to take the necessary measures to publicly condemn the statements of Mr. [REDACTED], to prevent further calls for violence against the Rohingya, by him or other public figures, and to initiate immediate investigations and judicial proceedings in all cases of incitement to discrimination, hostility or violence.

As it is, our responsibility, under the mandates provided to us by the Human Rights Council, to seek clarification on all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comments you may have on the above mentioned allegations.
2. Please provide information on the measures taken by the Government to publicly condemn the statements of Mr. [REDACTED]
3. Please indicate whether the Government has initiated legal actions against Mr. [REDACTED] for the statements made on 23 and 27 May 2015 that may

amount to incitement to discrimination, hostility or violence against the Rohingyas, in accordance to national and international law provisions that prohibit hate speech and incitement.

4. Please provide information on any other measures taken by the authorities to prevent acts of incitement to discrimination, hostility and violence and prevent further calls for violence against the Rohingyas.

5. Please provide information on the measures taken to monitor, prevent and redress acts of discrimination, in particular against Muslims, including the Rohingyas, including revising existing legislation, publicly condemning these acts, and disseminating messages promoting human rights and fundamental principles of dignity, equality and non-discrimination.

6. Please provide information on the measures taken to protect the existence and identity of religious or ethnic minorities in the territory, to ensure the right of the persons belonging to religious minorities to profess and practice their own religion without discrimination and to ensure that persons belonging to minorities, including religious minorities, may exercise their human rights without discrimination and in full equality before the law, as established by international human rights norms and standards.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

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

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discrimination, xenophobia and related intolerance