

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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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 extrajudicial, summary or arbitrary executions; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 28/23, 26/12, 32/11, 25/5 and 25/13.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **alleged human rights violations occurring in relation to recent attacks on 9 October 2016 in northern Rakhine State.**

According to information received:

In the early hours of 9 October 2016, attacks on three Border Guard Police (BGP) posts occurred in three locations in two townships in Maungdaw and Rathedaung townships in northern Rakhine State. Reports on the number of attackers range from approximately 100 to up to 500-800 individuals. Official sources appear to suggest that the attackers are mostly of local origin. However, authorities are now casting doubt on their initial claims that the attacks were led by the Aqa Mul Mujahidin organization, an organization reportedly linked to the Rohingya Solidarity Organisation (RSO) armed organization.

Initial reports indicated the attackers were mostly employing rudimentary weapons such as spears, knives, and slingshots, and that subsequently the attackers managed to seize firearms and ammunitions from the BGP posts. Reportedly, the initial attacks left at least 17 dead, nine of them police and eight alleged perpetrators. A security operation is underway by the Myanmar Police Force and the military, Tatmadaw, in search of the perpetrators of the attacks. Immigration officials are reported to have been armed in the aftermath of the incident. According to an official statement, two alleged attackers that have been captured as well as two additional suspected attackers who were handed over to Myanmar from Bangladesh are being detained and interrogated. We have also received reports that starting from the 17 October 2016, security forces have

begun search operations in Sittwe IDP camps and host villages including; Phwe Ya Kone, Ohn Taw Gyi, Say Tha Mar Gyi and Baw Du Pa.

We are further informed that some 3,000 people from the Rakhine community have been displaced from northern Rakhine and now located in temporary shelters and camps in Sittwe, Buthidaung and Maungdaw townships. Unconfirmed reports indicate that up to 12,000 Rohingya have fled from their homes including many women, children and the elderly. They are said to be in a difficult situation since the host community is running short of food and lacks medical services as well as shelter. Sanitation is reported as rapidly deteriorating due to overcrowding.

Reports are further received regarding summary executions and arbitrary arrests of Rohingya, including children, suspected of being involved in the attack or of fleeing during sweeps through villages. There are also reports of recent mass graves filled with Rohingya men killed during the security operations. It is unclear where the arrested are being detained and whether they are being detained by military or civilian authorities. Furthermore no information is available regarding what charges have been laid and whether those arrested and detained have appeared before court. Reports have also been received regarding the ill-treatment of those arrested including during interrogations as well as extortion to avoid arrest. In one particular case, a former United Nations employee who had voluntarily gone to a Border Guard Police station to assist with the Government operations is now reported to be dead.

It is also reported that on 17 October 2016, the Deputy Home Affairs Minister Major-General Aung Soe said that 30 “terrorists” — 28 men and two women — had been killed so far. Muslim villages, homes and places of worship have reportedly been raided and burnt down for purposes of “clearing the area” within the context of security operations. House-to-house and door-to-door searches led by police and immigration officials, and supported by military troops continue in the areas of operations. Villagers have also reportedly been ordered to evacuate on short notice by security forces from public areas such as the central market in Buthidaung and failure to do so had apparently resulted in casualties. Rape cases have also been reported subsequent to the raids on houses and villages.

Grave concern is expressed regarding the allegations of summary executions of suspected perpetrators, arbitrary arrests, ill-treatment in detention as well as the raiding and burning of homes, mosques and villages in the conduct of security operations by the Myanmar Police Force and the military. Further concern is expressed at alleged reports of rape and casualties subsequent to said conduct of security operations as well as incidents of extortion. Additionally, there are concerns regarding the impact of limited access to humanitarian workers to reach the populations in need as well as interrupted delivery of basic services including through the evacuation of Government medical staff, teachers and primary health care providers.

Without making any judgment as to the accuracy of the information made available to us, the above allegations appear to be in contravention of the rights of every individual to life, liberty, and security, the right not to be deprived arbitrarily of life and liberty, and the right to fair proceedings before an independent and impartial tribunal as set out in articles 3, 9 and 10 of the Universal Declaration of Human Rights (UDHR).

We would like to draw your Excellency's Government's attention to the Principles on Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. Principle 9 recalls the duty to conduct thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

We would also like to remind your Excellency's Government of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of *jus cogens*.

We wish to draw your Excellency's Government's attention to the heightened level of diligence in protecting an individual's rights when that individual is detained or otherwise under the control of the State. In order to overcome the presumption of State responsibility there must be a 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 9 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, as reaffirmed in Human Rights Council in resolution 8/3).

Furthermore, we would like to draw your Excellency's Government's attention to the relevant international principles and norms governing the use of force by law enforcement authorities, mainly the Code of Conduct for Law Enforcement Officials and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. Under international law any loss of life that results from the excessive use of force without strict compliance with the principles of necessity and proportionality is an arbitrary deprivation of life and therefore illegal.

We would also like to draw your Excellency's Government attention to international standards relevant to the protection and promotion of the rights of minorities, in particular to the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Article 1 of the Declaration refers to the obligation of States to protect the existence and identity of national or ethnic, cultural, religious and linguistic minorities within their territories and to adopt the appropriate measures to achieve this end. Furthermore, States are required to ensure that persons belonging to minorities may exercise their human rights without discrimination and in full equality before the law (article 4.1), and to create favourable conditions to

enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs (article 4.2).

We also would like to draw your Excellency's Government attention to the recommendations of the seventh session of the Forum on Minority Issues on "Preventing and addressing violence and atrocity crimes targeted against minorities" (2014).

We further would like to draw the attention of your Excellency's Government to the Guiding Principles on Internal Displacement, especially to Principles 5, 6 and 9 relating to the prevention of displacement and to the specific protection against the displacement of minorities. In addition, Principle 18 further states that all internally displaced persons have the right to an adequate standard of living, including access to food and potable water, basic shelter and housing, and essential medical services and sanitation.

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 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 above-mentioned person(s) in compliance with international instruments.

As 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, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please clarify as to the legal framework within which the security operations are conducted in the Government's efforts to find alleged perpetrators of the 9 October attacks, including whether certain parts of northern Rakhine State are declared military operations zones.
3. Please also clarify as to the operational framework within which the security operations are conducted including what reinforcements from the Tatmadaw have been deployed, what reinforcements from the Myanmar Police Force have been deployed; and who has operational command of the security operations.
4. Please clarify the veracity of reports that the security operation will continue for three months and what assessment this is based on.

5. Please clarify the number of civilians and law enforcement persons killed and the date and location of when those persons were killed.
6. Please clarify whether an investigation into civilian deaths has been initiated.
7. Please clarify the numbers of person arrested, the charges laid against them, where they are detained and whether they have been detained by civilian or military authorities as well as their access to legal representation.
8. Please clarify if any children have been arrested, detained and/or killed in the context of the security operations.
9. Please clarify when the two persons on suspicion of involvement in the attacks were arrested, what date they were brought before court and what charges have been laid against them.
10. Please clarify whether the interrogations of the two suspects apprehended as well as two suspects handed over by Bangladesh were conducted by the Border Guard Police or by the military. Please also clarify where they are currently being detained.
11. Please explain what procedures are involved in identifying villages where alleged perpetrators could be hiding.
12. Please provide further information on reports that houses and mosques have been burnt during security operations causing destruction of property and displacement.
13. Given the limited access of humanitarian workers to the populations in need and interrupted delivery of basic services during the conduct of security operations, please provide further information on and whether contingency planning has taken place in addressing the potential impact of such restrictions and interruptions on affected populations and noting that it has been stated that the security operations will last three months.
14. Please clarify what measures are in place to ensure delivery of basic services, in particular lifesaving health care given the evacuation of healthcare staff.
15. Please provide information on steps taken, if any, to guarantee the physical and psychological integrity of all persons while in detention

16. Please clarify what measures are in place to assist both populations displaced subsequent to the attacks and security operations, and whether options for evacuation are also available for the Rohingya population.
17. Please clarify what measures were taken to prevent the recurrence of the above-mentioned allegations.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We intend to publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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.

Yanghee Lee
Special Rapporteur on the situation of human rights in Myanmar

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Chaloka Beyani
Special Rapporteur on the human rights of internally displaced persons

Rita Izsák-Ndiaye
Special Rapporteur on minority issues

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