

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on extreme poverty and human rights; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the 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 this context; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on minority issues and the Special Rapporteur on the human rights to safe drinking water and sanitation

REFERENCE:
UA MMR 6/2016

9 January 2017

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 extreme poverty and human rights; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; 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 this context; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on minority issues and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 28/23, 26/3, 22/9, 33/9, 31/9, 32/11, 25/5 and 24/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **deteriorating humanitarian situation in northern Rakhine State**. We had already raised concerns regarding allegations of human rights violations occurring in relation to the 9 October attacks in northern Rakhine, including the impact of limited access to humanitarian workers to reach the populations in need as well as interrupted delivery of basic services, in an Urgent Appeal sent on 21 October 2016 (UA MMR 4/2016).

According to the information received:

Myanmar security forces had designated large parts of northern Rakhine as 'clearance operations' zones in the aftermath of the 9 October 2016 attacks on three Border Guard Police posts which occurred in three locations in Maungdaw and Rathedaung townships. The said clearance operations reportedly had the objective of searching for the attackers of the Border Guard Police posts as well as recovering State weaponry that had been taken during the attacks. The conduct of these operations consequently led to the blockage by the Government of access to independent media and observers as well as humanitarian access and activities in the majority of the north of Rakhine State having largely been suspended by the authorities.

The Rohingya population living in northern Rakhine, estimated at 800,000, has been particularly affected by these security operations. Coupled with heightened freedom of movement restrictions, access to basic services for the population has been severely curtailed. It has been estimated by the United Nations that approximately 30,000 Rohingya are displaced and many thousands more have been affected, although this cannot be verified due to the current access constraints. It has been further estimated that the total number of people who have crossed the border into Bangladesh since the 9 October attacks stands at approximately 27,000 as of 30 December 2016.

According to further information received, during the security operations, certain villages in the operation zones had been targeted and 'cleared' resulting in the burning and destruction of houses and personal property, displacement and numerous allegations of human rights violations. Additionally, there are acute needs in the areas of food, access to health care, shelter and housing, water, and sanitation. A significant proportion of the population who were not on the pre-existing humanitarian caseload are now cut off from accessing basic services, including health care and from accessing livelihoods and markets. Given the lack of humanitarian access, new, unassessed and unmet needs of the population within and outside the security operation zone and the exact number of displaced persons and their needs, remain difficult to quantify and address. A full assessment of the human rights, protection and humanitarian situation of internally displaced persons who may be particularly vulnerable is urgently required. According to information received, the suspension of humanitarian services since 9 October has directly affected some 150,000 people who normally receive cash, food and nutrition assistance. Only a limited number of pre-existing humanitarian activities were resumed and there has been almost no access to the northern part of Maungdaw, with the exception of a few one-off deliveries of food supplies to a small number of villages in Maungdaw district on 8-10 November and again on 9-10 and 19-20 December. Although there was a gradual resumption of a limited

number of pre-existing food and cash assistance services in Buthidaung towards the end of November, only a fraction of those people already in need before 9 October has been reached and virtually none of those newly displaced. However, despite recent commitments by the Government to allow UN and INGOs access to northern Rakhine including those made at the meeting of ASEAN in December, all access for humanitarian assistance in the three northern townships in Rakhine has since ceased from 28 December due to new security concerns cited by the authorities. Agencies (UN and INGO) have been advised to suspend humanitarian activities in these locations for security reasons until further notice.

The capacity to produce or obtain food as a livelihood has reportedly largely been cut off given the on-going security operations and restrictions on freedom of movement. Access to land, markets, livelihoods and cultivation of paddy fields has reportedly been prevented and local supplies of basic commodities and food are scarce raising concerns regarding people's coping mechanisms and resilience. Allegedly, marketplaces and food stores were further destroyed or significantly damaged during the security operations. The current food situation is likely to continue to deteriorate while security operations are ongoing. Longer term food security is further jeopardised given that the population are not able to conduct the rice harvest as normally.

According to information received, the health of the affected population is under severe pressure due to health service suspension and tightened movement restrictions impacting on access to primary healthcare services and emergency referrals. The majority of the population living outside the main town centres have not been able to access primary healthcare services or emergency referrals since 9 October. There are some 7,600 pregnant women in Maungdaw and Buthidaung who have not been able to access any medical care since security operations began. Prior to the October 9 attacks, the under-five Mortality Ratio and Maternity Mortality Rate in Maungdaw were both four times higher than the national average. Reports have also been received of alleged cases of rape and other forms of sexual and gender based violence perpetrated by the security forces. The suspension of health services and lack of access to health care facilities also prevents alleged sexual and gender-based violence survivors from accessing post-exposure prophylaxis, post-rape treatments and other medical and psychosocial support.

According to further information received, the townships in the north of Rakhine are among the poorest in the country and characterized by protracted high rates of acute and chronic malnutrition. The Myanmar Ministry of Health and Sports 2015-2016 daily household survey shows that Rakhine State has the highest rate of Global Acute Malnutrition (13.9%) and Severe Acute Malnutrition (3.7%) in the country. However, it is alleged that the survey does not capture the townships

in the north of Rakhine where the Global Acute Malnutrition and Severe Acute Malnutrition prevalence is higher. Prior to the 9 October attacks, the malnutrition situation in northern Rakhine was reportedly above the World Health Organization emergency threshold of 15% requiring urgent life-saving nutrition interventions. The Global Acute Malnutrition prevalence rate stood at 19% in Maungdaw and 15.1% in Buthidaung Township.

Given the lack of full access for humanitarian actors, therapeutic and supplementary feeding programmes along with functioning referral system for severely malnourished children and those with complications have been impacted. This has resulted in a suspension of life-saving treatment for 3,466 children suffering from Severe Acute Malnutrition. Furthermore, 42,000 people (including 37,000 children) with Moderate Acute Malnutrition are at high risk of becoming severely malnourished if interruptions to their treatment persist. It is also alleged that there are a further 3,203 children who have been cured of Severe Acute Malnutrition in Maungdaw and Buthidaung who need follow up treatment and face a high risk of relapsing. The reported 1,424 acutely malnourished pregnant and lactating women in Maungdaw and Buthidaung who are not receiving their normal treatment may result in the stunting of their babies with long-term effects on the child's development, growth and mental acuity.

According to information received, approximately 1,400 houses have been burned and damaged during the security clearance operations, with reports of entire villages including food stores being destroyed. Emergency shelter and longer term housing situation of approximately 30,000 displaced persons remains unclear and it is reported that many families are homeless, and are either staying with host families or currently living without adequate shelter. Unconfirmed reports of people living exposed to the elements including staying in paddy fields and along river banks due to the lack of shelter have also been received. Furthermore, buildings that had been erected without a necessary permit continue to be demolished and offers to provide emergency shelter materials such as tarpaulins and tents for those who were made homeless has been refused by government authorities as it is claimed that these people were hosted by their families and friends.

It is also reported that due to the ongoing security operations and the resulting displacement, there may be an increased likelihood of water-borne diseases and diarrheal infections due to reduced access available to clean water and sanitation facilities. Hygienic conditions may deteriorate due to reduced access to water for personal and domestic uses, including water for drinking, washing clothes, food preparation and personal and household hygiene, as well as crowding in host communities for an extended period.

Grave concern is expressed about the lack of a comprehensive assessment of needs, full access for humanitarian actors and urgent attention to lifesaving assistance, that heightens the vulnerability and acute risk facing the affected population. The potential suffering caused by the persistent lack of food and health care may cause serious injury to the physical and mental health of civilians caught in the operations zones. The Government of Myanmar is reminded of its obligations to ensure humanitarian access to internally displaced persons and other affected communities under international law and standards and humanitarian principles.

Without making any judgment, at this stage, as to the accuracy of the information made available to us, the situation described above appears to be in serious contravention of the rights of every individual to non-discrimination, life, freedom of movement, freedom of expression, health, food, adequate housing, and water and sanitation, as set out in articles 2, 3, 13, 19, and 25 of the Universal Declaration of Human Rights, and articles 6, 13, 24, and 27 of the Convention on the Rights of the Child, to which Myanmar acceded on 15 July 1991. We also call the Government's attention to the relevant articles set out in the Convention on the Elimination of All Forms of Discrimination of Women, to which Myanmar acceded on 22 July 1997, and the International Covenant on Economic, Social and Cultural Rights, which it signed on 16 July 2015. The rights of particularly vulnerable persons, such as children, pregnant women, survivors of sexual and gender-based violence, persons living with HIV/AIDS, or internally displaced persons, seem to be facing even higher risks of being violated.

Recognizing that some individuals affected are members of minorities in Myanmar, we would like to also refer your Excellency's Government 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).

In this connection, we would also like to draw the attention of your Excellency's Government to the report of the Special Rapporteur on minority issues to the General Assembly on "Minorities in situations of humanitarian crises" (A/71/254), in particular, though not limited to, paragraphs 59-69; 72-75; and 82-89.

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 all persons living in the areas mentioned above 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 comments you may have on the above-mentioned allegations.
2. Please clarify the population numbers of those receiving humanitarian assistance prior to 9 October and subsequently affected by the disruption and suspension of services and humanitarian assistance, including when possible disaggregated data.
3. Please clarify what measures were put in place to ensure that the population affected by the security operations and consequent suspension of services and humanitarian assistance has access to food, water, sanitation facilities, emergency shelter, and health.
4. Please clarify if any needs assessment have been carried out since the events of 9 October and the results of such assessments.
5. Please clarify the authorization process for resumption of services and assessment of needs in northern Rakhine State, including the clearance operations zones, and who has final authorization and decision making power, whether at the Union level or at the state level.
6. Please clarify the number and locations of internally displaced persons due to the security operations and provide an assessment of their needs and confirmation that humanitarian actors have full and unfettered access to IDPs and other affected communities as required under international standards and humanitarian principles.
7. Please clarify what measures are in place to ensure that children and lactating women who are malnourished, including those suffering from Global Acute Malnutrition and Severe Acute Malnutrition, have safe and timely access to treatment including but not limited to therapeutic and supplementary feeding.
8. Please clarify how maternal and child mortality is tracked in northern Rakhine State and how it has been recorded and tracked since 9 October.

9. Please clarify what systems are in place, including available treatment options, during the security operations to treat existing Severe Acute Malnutrition and Global Acute Malnutrition cases and identify new cases.
10. Please clarify the measures in place to ensure non-disruption for those receiving treatment for malnutrition, HIV/AIDS, tuberculosis, malaria and other services including measures to facilitate patients' ability to travel and access such services.
11. Please clarify what diseases surveillance measures are in place and operational in northern Rakhine State including in the security operations zone and what disease surveillance activities have been carried out since 9 October.
12. Please clarify what systems are in place to respond to a communicable disease outbreak given that health services are not fully operational.
13. Please clarify if there is any nutritional surveillance system in place for early warning and intervention established in northern Rakhine State.
14. Please clarify how the Ministry of Health officials, including township medical officers in the affected townships, are recording mortality data during the suspension of medical and other humanitarian services.
15. Please clarify if a retrospective mortality survey will be conducted in northern Rakhine State.
16. Please provide details of any measures taken to provide emergency shelter and longer term housing alternatives to people who are currently homeless as a result of the operations. Also please provide details on any measures taken to provide compensation for the destruction of homes and personal property in this region.

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.

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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