

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; 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 and the Special Rapporteur on minority issues

REFERENCE:
AL MMR 8/2020

23 June 2020

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 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 and Special Rapporteur on minority issues, pursuant to Human Rights Council resolutions 40/29, 34/9, 41/15 and 34/6.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **closure of Kyauk Ta Lone displacement camp, Kyaukphyu Township, Rakhine State**.

Following violence in Kyaukphyu town, Rakhine State, in October 2012, approximately 1,800 individuals from the Kaman and Rohingya ethnic and religious minorities sought safe refuge away from Kyaukphyu town. With the assistance of the military, they were relocated to camps that were intended to be temporary. They still remain there today.

Up to 1,000 people continue to live in Kyauk Ta Lone camp, located near to Kyaukphyu town. Reports received indicate that the camp is severely dilapidated, and residents live in extremely unsanitary and overcrowded conditions, with limited access to essential services, including education and healthcare, and experience restricted freedom of movement which severely impacts on their access to livelihoods.

In August 2017, the Advisory Commission on Rakhine State recommended that the Government of Myanmar prepare a comprehensive strategy towards closing all internally displaced person (IDP) camps in Rakhine State through consultation with affected communities and ensure that any return or relocation is carried out in accordance with international standards. The Commission said that the aim of the strategy should be "facilitated returns to places of origin as a matter of priority, or otherwise respect the choices of the displaced" and that relocation or local reintegration should not confine displaced persons to sub-standard areas without access to basic services or livelihoods. The Government accepted the Commission's recommendations and stated that it would implement them.

Since 2018, the Myanmar Government has been developing a national strategy to close internally displaced persons camps. The Government has engaged in some consultation with communities and the United Nations and finalized its strategy in December 2019. The strategy states it will facilitate the voluntary and sustainable return, relocation or local reintegration of IDPs, with the following objectives:

(a) Closing IDP camps and create conditions that enable former residents in IDP camps to resume their normal lives in safety and dignity and without further dependency;

(b) Ensuring that former residents in IDP camps and all the communities receiving them in areas of resettlement can have access to education, health and other basic services, as well housing and livelihood opportunities;

(c) Enabling former residents in IDP camps to live in a peaceful, free and socially cohesive society while being entitled to full enjoyment of their basic rights;

(d) Enabling former residents in IDP camps to contribute to nation-building in the pursuit of a free, safe tranquil and developed nation.

We understand that there have been plans to close Kyauk Ta Lone camp since 2017. Government officials have met with IDPs and discussed their relocation periodically since 2018. We also understand that IDPs in the camp have consistently expressed their wish to return to their original homes. In January 2020, the closure of the camp was announced and Government officials conducted a presentation to IDPs in which they showed a site where their relocation is proposed. We have been informed that the site is 600 metres away from the camp where they currently live, is on land that is prone to flooding during the rainy season and has no access to services, healthcare, education or livelihood opportunities. The Government has started construction at the relocation site.

We have been told that IDPs were not consulted in relation to the relocation site and have been pressured and intimidated into accepting the proposed relocation plan in meetings with Government officials. Camp leaders sent a letter to the Government in May 2020 outlining their objections and reiterating their wishes to return to their original homes in Kyaukphyu town. While some of camp residents were forced to sell their land in Kyaukphyu for low prices as a result of lack of income and ongoing food insecurity in the camp, many of them have retained their original land.

While we do not wish to prejudge the accuracy of these allegations, we express our utmost concern that the proposed closure of the Kyauk Ta Lone camp and relocation of its Kaman and Rohingya minority residents is in violation of displaced persons right to participate in decisions affecting them, as well as their right to return to their place of origin. We also express our serious concern that forced evictions of the the displaced persons will constitute a grave violation of their right to adequate housing. Furthermore, we are concerned that the relocation site may consolidate the segregation of these people, on the basis of their ethnic and minority status, from other communities. We are further

concerned about the alleged lack of access to services, healthcare, education and livelihoods at the relocation site and that IDPs may continue to be dependent on humanitarian aid for survival and face ongoing deprivation of their rights including freedom of movement.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

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 confirm or deny and provide any further information about the above allegations.
2. Please explain how the closure of Kyauk Ta Lone camp and proposed IDP relocation meet the standards set out in the Guiding Principles on Internal Displacement. Furthermore and in General Comment No. 4 and No. 7 of the Committee on Economic, Social and Cultural Rights, please clarify how the closure of the camp will meet the stated goals of the governments own National Camp Closure Strategy, namely:
 - a. enable former residents of IDP camps to resume their normal lives in safety and dignity and without further dependency;
 - b. ensure that former residents of the camp will have access to food, water and sanitation, education, health and other basic services, as well as adequate housing and livelihood opportunities;
 - c. enable former residents of IDP camps to live in a peaceful, free and socially cohesive society while being entitled to full enjoyment of their basic rights;
 - d. enable former residents in IDP camps to contribute to nation-building in the pursuit of a free, safe tranquil and developed nation.
3. Please explain how the closure of Kyauk Ta Lone camp is in accordance with the recommendations of the Advisory Commission on Rakhine State.
4. Is it possible for IDPs in Kyauk Ta Lone camp to return to their place of origin? If not, why not?
5. Will the relocation to the proposed site be voluntary? How will that be ensured?
6. If IDPs are relocated to the proposed site, will they have full freedom of movement outside of that area?

We would appreciate receiving a response within 60 days. Passed this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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(s) responsible for the alleged violations.

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

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Special Rapporteur on the situation of human rights in Myanmar

Balakrishnan Rajagopal
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

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Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we make reference to the 1998 Guiding Principles on Internal Displacement, which reflect international human rights law and international humanitarian law. The Guiding Principles establish that all authorities shall respect their obligations under international law, including human rights and humanitarian law, to prevent and avoid conditions that might lead to displacement of persons. We moreover stress that according to the Guiding Principles, every human being shall have the right to be protected against being arbitrarily displaced from his or her home including due to gross human rights violations, discrimination and fear of persecution (Principle 6). We would particularly like to draw your attention to Principle 9, which highlights that States are under a particular obligation to protect against the displacement of minorities. Furthermore, Principle 18.2 and Principles 24-27 identify rights and guarantees relevant to the protection and assistance of IDPs during displacement as provided by international humanitarian law, such as the right to basic humanitarian assistance including food, medicine, shelter and housing. Internally displaced persons moreover have the right to assistance from competent authorities in voluntary, dignified and safe return, settlement elsewhere or local integration, including help in recovering lost property and possessions. When restitution is not possible, the Guiding Principles call for compensation or just reparation (Principles 28-30).

We would also like to refer to the attention of your Excellency's Government's attention General Comment No. 7 issued by the Committee on Economic, Social and Cultural Rights. In it, the Committee stated that forced evictions are *prima facie* incompatible with international law, also "in connection with forced population transfers, internal displacement, forced relocations in the context of armed conflict, mass exoduses and refugee movements". It also called on Governments to explore "all feasible alternatives" in consultation with affected persons and to provide them with effective remedies. According to the Committee, evictions cannot render affected persons homeless or vulnerable to other violations, and the State has the obligation to provide alternative housing, including productive land, that fits the criteria of adequacy.

The criteria of housing adequacy were defined in the Committee's General Comment No. 4: (1) in the alternative housing provided by the State, all affected persons need to possess security of tenure; (2) contain facilities essential for health, security, comfort and nutrition, including safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services; (3) be affordable; (4) be habitable in terms of protection from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors; (5) be accessible also for older persons, children, and persons with disabilities; (6) be located in a place that allows access to employment options, health-care services, schools, childcare centres and other social facilities; (7) be culturally appropriate for the affected persons.