

Mandates of the Special Rapporteur on the situation of human rights in Myanmar; the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on violence against women, its causes and consequences

REFERENCE:
AL MMR 11/2020

9 September 2020

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the situation of human rights in Myanmar; Special Rapporteur on extrajudicial, summary or arbitrary executions and Special Rapporteur on violence against women, its causes and consequences, pursuant to Human Rights Council resolutions 40/29, 35/15 and 41/17.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the robbery and killing of Ms. [REDACTED], an ethnic Karen woman by two Myanmar Defense Services' soldiers in Poh Loh Hta village, Dwe Lo Township (Papun District, Karen State).

According to the information received:

On 16 July 2020, two soldiers from the Myanmar Defense Services arrived at Po Lo Hta village, Ku Thu Hta village Tract, Dwe Lo Township at around noon and had lunch at the village's Monastery.

The two soldiers asked local residents for Mr. [REDACTED] house (husband of Ms. [REDACTED] and former village head). Mr. [REDACTED] was absent, and the two soldiers reached his shop located on the edge of the village, at the base of a hill and near the Poh Loh stream. Soldiers sat down at the shop and drank alcohol. Two villagers sat near them until the soldiers left the village. Shortly after, the two soldiers returned to the shop and asked for a plastic bag to take djenkol beans back with them.

The two soldiers left the shop and approached Mr. [REDACTED] house. A neighbor heard Ms. [REDACTED] scream, followed by three gunshots. It is reported that one of the soldiers shot her three times with a MA-1 assault rifle (believed to be used by the Tatmadaw). Two bullets hit the back of the victim through her upper chest and mouth. The other bullet hit her on the back of the head through her left eye. The two perpetrators then stole a necklace and one of her earrings. Ms. [REDACTED] was 38 years of age, and was the mother of three young children.

On 21 July, the Tatmadaw vowed to punish the killers of Ms. [REDACTED]. However, about a week later, it is reported that one of the perpetrators continued to be on duty.

Local residents have reportedly protested as farmers and villagers are unable to move freely in their vicinity due to the close presence of the Myanmar's army.

While we do not wish to prejudge the accuracy of these allegations, we express grave concern for the killing of Ms. [REDACTED] and for the physical and psychological integrity of her family members.

While we appreciate the statement by the Tatmadaw regarding this incident, we are concerned at reports indicating that there has been no investigation or prosecution on either of the perpetrators, or any compensation afforded to the family. We are also seriously concerned that [REDACTED] family remain at serious risk of violence and intimidation by the Tatmadaw.

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 provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide a detailed description of the circumstances that resulted in the killing of Ms. [REDACTED], in particular with regard to the imminent risk to life or security allegedly posed by Ms. [REDACTED] and her husband to the Myanmar Defense Services.
3. Please provide information on the status of any criminal proceedings against the two alleged perpetrators, and on any steps taken to ensure the arrest of the individuals responsible for the killing of Ms. [REDACTED].
4. Please provide information about the measures taken by your Excellency's Government to protect Ms. [REDACTED] family from further violence, intimidation, harassment or pressure and to ensure their safety.
5. Please provide information about the measures taken by your Excellency's Government to protect the life and security of the people of Myanmar, including ethnic minorities, in accordance with international human rights and humanitarian law.

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.

Thomas Andrews
Special Rapporteur on the situation of human rights in Myanmar

Agnes Callamard
Special Rapporteur on extrajudicial, summary or arbitrary executions

Dubravka Šimonovic
Special Rapporteur on violence against women, its causes and consequences

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We call to the attention of your Excellency's Government the international standards regarding the right to life, as enshrined in article 6(1) of the International Convention the International Covenant on Civil and Political Rights (ICCPR) and a preemptory norm of international law. The Human Rights Committee highlights that the right to life should not be interpreted narrowly. To protect this integral right, States are required to adopt positive measures (General Comment No. 36, para 5) and refrain from acts and omissions that are intended or may be expected to cause unnatural or premature death. This applies to all without any distinction, including persons suspected or convicted for crimes (Ibid, para 3). Moreover, the Committee confirms in its General Comment No.36, paragraph 12 that the deprivation of life "must represent a method of last resort after other alternatives have been exhausted or deemed inadequate." Paragraph 12 further stresses "the use of potentially lethal force for law enforcement purposes is an extreme measure. It should be resorted to only when strictly necessary in order to protect life or prevent serious injury from an imminent threat."