



Joint Public Statement:

No more “business as usual”: Scale of ongoing Myanmar human rights crisis demands an urgent, strong and unified EU response

The deteriorating human rights and humanitarian situation in Myanmar warrants a strong and unified response from the European Union (EU) and its member states at several crucial opportunities in the coming weeks.

Since October 2016, more than 750,000 Rohingya women, men and children have fled from Myanmar to Bangladesh as a result of unjustified and grossly disproportionate attacks by security forces in northern Rakhine State. Security forces are believed to have killed thousands of Rohingya,¹ have raped Rohingya women and girls and burned their villages to the ground in a devastating campaign of ethnic cleansing that amounts to crimes against humanity. The violations and crimes continue to this day, as Myanmar security forces starve, abduct and rob Rohingya in an attempt to force even more of them to flee the country.

Meanwhile, in Kachin and Shan States, fighting between the Myanmar military and ethnic armed groups has intensified in recent weeks, with reports of civilian casualties and further displacement. Across Myanmar, there has also been a worrying erosion of the space for freedom of expression, and journalists and other media workers have faced arrest and prosecution for their work.

Our organisations strongly urge the EU and its member states to respond in a way that is proportionate to the massive scale and serious nature of the violations being committed, and send an unequivocal message to the Myanmar authorities – both civilian and military – that ongoing violations and impunity will not be tolerated.

The EU must also continue to express its full support to United Nations (UN) Special Procedures – in particular the UN Special Rapporteur for Myanmar and the UN Fact-Finding Mission (FFM). Since March 2017, the Myanmar government has refused to cooperate with, or allow access to, the FFM – the only viable body currently working towards accountability for violations in Myanmar – and has also publicly declared its intention to stop cooperating with the Special Rapporteur, who has been barred from accessing the country.

At the same time, the EU and its member states must act to ensure that any return of Myanmar refugees from Bangladesh are safe, voluntary, and dignified as required under international law – and not coerced, which would amount to *refoulement*. This rules out any state-organised, massive and time-constrained returns such as those envisaged in the agreements reached between Myanmar and Bangladesh last year. The EU’s

¹ Surveys conducted by Médecins Sans Frontières (MSF) in refugee settlement camps in Bangladesh estimate that at least 9,000 Rohingya died in Rakhine State between 25 August and 24 September. As 71.7% of the reported deaths were caused by violence, at least 6,700 Rohingya, in MSF’s most conservative estimations, have been killed, including at least 730 children below the age of five years. <http://www.msf.org/en/article/myanmarbangladesh-msf-surveys-estimate-least-6700-rohingya-were-killed-during-attacks>

endorsement of this plan – despite serious concerns by UN agencies and others – was both irresponsible and premature.

At the Foreign Affairs Council (FAC) meets on 25 February, we urge the EU and its member states to issue strong Conclusions that:

- Condemn, in the strongest possible terms, the serious violations and abuses committed in Rakhine State, and explicitly acknowledge the commission of crimes against humanity by the Myanmar security forces
- Condemn, and call for the dismantling of, the state-sponsored system of segregation and discrimination against the Rohingya in Rakhine State
- Address specifically the violations of international humanitarian and human rights law committed in Kachin and Shan States, including extrajudicial executions, torture, forced labour, and indiscriminate shelling which has killed civilians
- Extend the existing EU arms embargo against Myanmar, ensuring that it applies to all forms of military assistance, including the provision of military or Border Guard Police (BGP) training and other military assistance
- Impose targeted financial sanctions on senior military officials responsible for international crimes
- Use all instruments available to engage with the Myanmar authorities on the HR situation including through the Everything but Arms (EBA) scheme
- Commit to exercise universal jurisdiction in investigating and prosecuting or extraditing for prosecution any person under their jurisdiction who may reasonably be suspected of committing crimes against humanity or other crimes under international law in Myanmar
- Reiterate that any return of Rohingya refugees to Myanmar should be safe, voluntary and dignified; be developed in dialogue with the refugees, in partnership with, and under the supervision of, the UN High Commissioner for Refugees (UNHCR) and OHCHR; and be fully respectful of international law, including the principle of *non-refoulement*
- Ensure that any international aid (including development and financial assistance) in Rakhine State are explicitly and specifically conditioned on non-discrimination, non-segregation and equality and that measures are in place to ensure this is condition respected in practice. In particular, any ongoing or planned police or security assistance to Myanmar must be fully human rights compliant
- Express concern about the failure to respect the right to freedom of expression, including the recent arrest and detention of journalists, and call for the immediate and unconditional release of all prisoners of conscience in the country
- Call on the Myanmar government to:
 - Immediately cease all human rights violations, including those constituting crimes against humanity and war crimes, in Rakhine, Kachin and Shan States as well as other parts of the country
 - Allow full, unfettered access to the UN-Mandated FFM to carry out its mandate of conducting investigations into human rights violations and abuses in Myanmar
 - Ensure that prompt, impartial, independent and effective investigations are carried out into all credible allegations of violations and abuses of international human rights law and crimes under international law
 - Immediately allow full and unfettered access to all parts of the country for humanitarian organisations
 - Take immediate action to address the long-standing and systematic discrimination and segregation of the Rohingya and other Muslims in Myanmar, including by: ensuring equal access to citizenship on a

non-discriminatory basis; removing arbitrary and discriminatory restrictions on freedom of movement and freedom of religion; ensuring access to healthcare, education and other services

- Condemn unequivocally all advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and take effective measures to tackle and counter it
- Immediately and unconditionally release all individuals deprived of liberty solely for the peaceful exercise of their human rights
- Amend or repeal all laws which arbitrarily restrict the rights to freedom of expression, association, and peaceful assembly to bring them in to line with international human rights law and standards
- End all pending criminal proceedings against peaceful activists, journalists, and human rights defenders and ensuring their freedom to pursue their activities without hindrance or fear of reprisals
- Fully cooperate with the UN Special Rapporteur on the situation of human rights in Myanmar, the Office of the High Commissioner for Human Rights (OHCHR).

In addition, we urge the EU and its member states to put forward a strong, robust and comprehensive resolution on Myanmar at the 37th session of the UN Human Rights Council, which is fully reflective of the situation on the ground and incorporates the above recommendations. The EU and member states should likewise act to renew the mandate of the Special Rapporteur under Item 4.

Finally, the EU must ensure that any human rights dialogue with Myanmar is used to push for concrete and meaningful progress on human rights, and not simply conducted “business as usual” given the scope and scale of the human rights violations in Myanmar. For the upcoming human rights dialogue to be meaningful, the EU must raise the concerns above in the strongest possible terms, and make clear the requirement for progress. In order to ensure a robust and meaningful dialogue, the EU should set clear benchmarks for its engagement in the process. It should further commit to transparency and accountability by publishing a written statement after the dialogue, setting on record the issues raised and recommendations made by the EU delegation, in addition to details of any responses or concrete commitments made by the Myanmar authorities.