



Reference: B1833

Federica Mogherini
High Representative of the Union for Foreign
Affairs and Security Policy

3 October 2017

Dear High Representative Mogherini,

EU MUST TAKE DECISIVE ACTION FOR HUMAN RIGHTS IN MYANMAR

Amnesty International is writing to urge you to exercise leadership of the European Union (EU) and its member states to take immediate steps to address the human rights abuses, crimes against humanity and humanitarian catastrophe engulfing Myanmar's Rakhine State.

As you will have seen, UN Secretary-General António Guterres, UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein, Amnesty International and others have described the Myanmar security forces' ongoing campaign against the Rohingya in northern Rakhine State as ethnic cleansing. In legal terms, the systematic attacks on the Rohingya population amount to crimes against humanity that include murder and deportation or forcible transfer of population.

As you know, until last year, the EU was the chief sponsor of an annual resolution on the situation of human rights in Myanmar at the UN General Assembly (UNGA). Last year, the EU decided to discontinue the effort citing progress by the Myanmar authorities. At the time, Amnesty International along with other international human rights organisations publicly opposed the move.¹

Since then, the situation has deteriorated rapidly in Myanmar. In addition to the crisis in Rakhine State, we are also deeply concerned about the serious human rights situation in Kachin and northern Shan States, where Amnesty International has documented wide-ranging violations of international humanitarian law and human rights law by the Myanmar security forces, including extrajudicial executions, enforced disappearances, indiscriminate shelling, arbitrary detentions, torture and forced labour.²

Humanitarian access is the most limited it has been in recent years, as humanitarian organisations report severe and arbitrary restrictions on their operations across the country. Meanwhile space for freedom of expression remains under threat and those who speak out about or report on security forces violations face arrest, prosecution, intimidation and harassment. The UN Special Rapporteur on the situation of human rights in Myanmar expressed similar concerns during her last visit to the country.³

Urgent action is required to address the situation in Myanmar and to prevent it from deteriorating still further. To this end, we urge the EU and its member states to **pro-actively revive the UNGA resolution in response to the gravity of the crisis in Rakhine State and the deteriorating human rights and humanitarian situation in the country as a whole.** The resolution

¹ Amnesty International, Myanmar: Why an UNGA resolution is still needed (Index: ASA 16/4745/2016), 1 September 2016, available at <https://www.amnesty.org/en/documents/asa16/4745/2016/en/>

² Amnesty International, "All the civilians suffer": Conflict, displacement, and abuse in northern Myanmar (Index: ASA 16/6429/2017), 14 June 2017, available at: <https://www.amnesty.org/en/documents/asa16/6429/2017/en/>

³ See *End of Mission Statement by Special Rapporteur on the situation of human rights in Myanmar*, 20 January 2017, available at: <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21107&LangID=E>

would be a means of pursuing decisive action by the UNGA to ensure international scrutiny and monitoring of the situation, and increased pressure to press for solutions anchored in international human rights law. It is important that such a resolution is comprehensive and not only looks at the situation of the Rohingya and Rakhine State but encompasses all serious human rights concerns in the country which are all interlinked. Please find below detailed recommendations that Amnesty International believes should be in a UNGA resolution on Myanmar.

In addition to action at the UN level, and noting that the primary responsibility for the appalling abuses and crimes in Rakhine State and other parts of the country rests with the Myanmar military, we also are calling on the EU and its member states to **extend the existing EU arms embargo against Myanmar to include all forms of military assistance, and to impose targeted financial sanctions against individuals responsible for international crimes.**

The EU and its member states must send a clear message to the Myanmar authorities that failure to address the current crisis will be met with strong action. To this end, we also call for **a unified and unequivocal stance on the situation in Myanmar in the forthcoming Foreign Affairs Council (FAC) by issuing strong Council Conclusions** reflecting the concerns below and undertaking a joint commitment to lead on a renewed UNGA resolution on the human rights situation in Myanmar.

Thank you in advance for your attention to this urgent situation.

Yours sincerely,



Ivana McGowan
Director
Amnesty International, European Institutions Office

WHAT SHOULD BE IN A UNGA RESOLUTION ON THE HUMAN RIGHTS SITUATION IN MYANMAR?

Amnesty International

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The UNGA at its 72nd session should adopt a resolution on the deteriorating human rights situation in Myanmar in response to the gravity of the situation in Rakhine State as well as the intensification of conflicts in northern Myanmar. Such resolution would be an important tool for the community of nations to pursue decisive action in light of the unfolding human rights and humanitarian crisis, offer ways to ensure international scrutiny and monitoring of the situation and press for solutions anchored in international human rights law.

To be effective such resolution must be comprehensive and at a minimum:

- Express grave concerns regarding the unlawful and disproportionate response of the Myanmar security forces to attacks on its security forces which has forced hundreds of thousands of members of the Rohingya minority to seek refuge in Bangladesh and tens of thousands of Rohingya and other minorities to seek refuge elsewhere in Rakhine State. It should specifically express grave concerns over well-documented reports of unlawful killings; laying of landmines; widespread destruction of homes and other property; arbitrary arrests and looting, which amount to crimes against humanity;
- Recognise the duty of the Myanmar Government to protect the population, including officials, from attacks without distinction on grounds of ethnicity or religion, and to investigate and bring to justice those suspected of responsibility for conducting such attacks in proceedings that respect international human rights law;
- Urge the Myanmar authorities to immediately end the attacks on the civilian population in Rakhine State, call on all parties to refrain from further violence, and remind the Government of Myanmar that it must ensure that measures taken in response to the attacks are lawful, proportionate and do not involve human rights violations;
- Call upon the Government of Myanmar to ensure that all refugees and internally displaced people are able to return to their homes voluntarily, in safety and with dignity; without discrimination of any kind and in accordance with international human rights law, and with government support in rebuilding homes and infrastructure destroyed during the violence;
- Welcome the report of the Advisory Commission on Rakhine State, published on 24 August 2017, and the Government of Myanmar's commitment to implementing its recommendations, and call upon the Government of Myanmar to take immediate action to address the long-standing and systematic discrimination and segregation of the Rohingya and other Muslims in Rakhine State; including by ensuring that the right to a nationality, as enshrined in the Universal Declaration of Human Rights, is granted free of any discrimination, not least in for children born in Myanmar; and removing arbitrary and discriminatory restrictions on freedom of movement; access to healthcare, education and other services;
- Also express serious concern about reports of ongoing human rights violations and abuses in Kachin and northern Shan States, including indiscriminate shelling, extrajudicial killings, enforced disappearances, torture and other ill-treatment, arbitrary arrests and forced labour, and call for an immediate cessation of all violations of international human rights law and international humanitarian law in northern Myanmar;
- Call on the Government of Myanmar and ethnic armed groups to immediately end the use of antipersonnel landmines and improvised explosive device (IEDs) and to allow specialised demining teams access to northern Rakhine State, Kachin and northern Shan States in addition to other mined areas. In the meantime, take all necessary measures to warn civilians about areas with landmines or landmine-like devices, including through signs and public announcements in both Burmese and in the language of ethnic minorities in the area;
- Call on the Government of Myanmar to initiate prompt, impartial, independent and effective investigations into all credible allegations of violations of international human rights law. Where sufficient, admissible evidence is found of individuals, including those with command and other superior

responsibility, committing offences involving violations of international human rights law, and in particular crimes against humanity, ensure that such individuals are prosecuted, in fair proceedings before independent civilian courts and without the imposition of the death penalty;

- Urge the Government of Myanmar to provide full reparation, in accordance with international law and standards, to all those who have suffered violations of their human rights;
- Urge the Government of Myanmar to ensure that UN-affiliated and other international and local humanitarian organisations have full and unfettered access to all parts of the country, and that organisations whose humanitarian operations are currently suspended in Rakhine State are able to resume programs at the earliest opportunity;
- Call on the Myanmar Government to allow independent journalists, human rights monitors and other observers free and unimpeded access to all parts of the country;
- Call on the Government of Myanmar to condemn unequivocally all advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence and to take effective measures to tackle and counter it;
- Express concern at continuing restrictions on the human rights to freedom of expression, association and peaceful assembly, in addition to threats and other reprisals against human rights defenders, journalists and peaceful political activists. Call on the authorities in Myanmar to immediately and unconditionally release all prisoners of conscience, that is, individuals deprived of liberty solely for the peaceful exercise of their rights, revoke all pending criminal proceedings against such peaceful activists and review and amend laws which arbitrarily restrict the peaceful exercise of these rights. Further call on the Government of Myanmar to take appropriate steps to ensure the safety and security of journalists, civil society activists and human rights defenders and their freedom to pursue their activities without fear;
- Call on the Government of Myanmar to cooperate fully with the UN Fact-Finding Mission established by the UN Human Rights Council (A/HRC/RES/34/22), including by allowing its members full and unfettered access to all parts of the country, all individuals it may wish to speak to and all materials it deems necessary for its research, and emphasise the responsibility of Myanmar to prevent and seek accountability for any threats, retaliations or reprisals against individuals for engaging with the Fact-Finding Mission; and
- Call on the Government of Myanmar to facilitate the work of the Special Rapporteur of the Human Rights Council on the situation of human rights in Myanmar and to grant her full access to the country, and without delay, to facilitate the establishment of an OHCHR country office in Myanmar, ensuring that its staff are able to operate throughout the country with a full promotion and protection mandate.

The Resolution should also:

- Recommend that UN member states suspend all military supplies, assistance and cooperation to and with Myanmar, and call on the Security Council to impose an arms embargo on Myanmar, as well as consider further, targeted measures against individuals and institutions involved in gross human rights violations; and
- Call on UN member states and the Security Council to explore other possible avenues to bring perpetrators of crimes under international law to justice, unless the Myanmar authorities move swiftly to ensure accountability and justice.

The Resolution should also request the Secretary-General to provide his good offices and to pursue his discussions on human rights, democracy and reconciliation in Myanmar, involving all relevant stakeholders, and to offer technical assistance to the Government of Myanmar in this regard.

Ends