



# ASIAN CENTRE FOR HUMAN RIGHTS

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ACHR has Special Consultative Status with the United Nations Economic and Social Council (ECOSOC)

8<sup>th</sup> September 2017

H.E. Joaquín Alexander Maza Martelli  
President  
UN Human Rights Council  
C/o-Office of the United Nations High Commissioner for Human Rights (OHCHR)  
Palais des Nations  
CH-1211 Geneva 10, Switzerland  
Email: [hrcpresidency@unog.ch](mailto:hrcpresidency@unog.ch)

Subject: Seeking your urgent intervention for the removal of UN Special Rapporteur on the situation of human rights in Myanmar Professor Yanghee Lee for blatant violations of the “5/2. Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council”

Excellency,

The Asian Centre for Human Rights (ACHR) is writing to seek your interventions for the removal of Professor Yanghee Lee as UN Special Rapporteur on the situation of human rights in Myanmar for blatant violations of the “5/2. Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council”, in particular, Article 3 - General principles of conduct and Your Excellency’s recent action with respect to the Chairperson of the Fact Finding Missions on Myanmar. While grave human rights violations in Myanmar must be addressed, the same must not be undermined by the bias of the Special Rapporteur.

Your Excellency is fully aware “universality, impartiality, objectivity, and non-selectivity, and the elimination of double standards and politicization” are non-negotiable cornerstones for functioning of the UN Human Rights Council and its mechanisms including the Special Procedures. Once these principles are blatantly violated by a particular mandate holder, continuation becomes untenable.

In this regard, kindly allow the ACHR highlight the standard set by Your Excellency with respect to former Chairperson of the Fact Finding Mission on Myanmar Ms Indira

Jaisingh and the need to uphold the same standard with respect to the on the situation of human rights in Myanmar Professor Yanghee Lee.

## **1. Standard set by Your Excellency with respect to the Chairperson of the Fact Finding Mission on Myanmar**

The Human Rights Council through its resolution A/HRC/RES/34/22 dated 24 March 2017 decided to dispatch urgently an independent international fact-finding mission, to be appointed by the President of the Human Rights Council, to establish the facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State.

On 30 May 2017, Your Excellency had appointed Ms. Indira Jaising to serve as Chair of the Fact Finding Mission.

A copy of the Your Excellency's Statement is appended as **Annex-I**.

On 27 July 2017, Your Excellency announced new composition of the Fact-finding Mission on Myanmar and appointed Mr. Marzuki Darusman (Indonesia) to serve as a member and Chair instead of Ms Jaisingh.

A copy of the Your Excellency's Statement is appended as **Annex-II**.

Though Your Excellency had not provided any reason for the removal of Ms Indira Jaisingh, a U.N. official told Reuters "*Jaising agreed to step down after the council president raised concerns about public comments she made that could be seen as indicating bias.*" Ms Jaisingh in an interview to Al Jazeera said, "*The situation of the Rohingya community in Myanmar is especially deplorable because they face the risk of a genocide.*"

A copy the news story, *New chairman appointed to U.N. mission probing Myanmar abuses*, of Reuters dated 27 July 2017 is appended as **Annex-III**.

A copy of the news story, *UN appoints team to probe crackdown against Rohingyas*, of Aljazeera dated 30.05.2017 that carried the interview of Ms Jaisingh is appended as **Annex-IV**.

## **2. The case for removal of UN SR on Myanmar based on the standard set by Your Excellency with respect to Chairperson of the Fact Finding Mission on Myanmar**

Asian Centre for Human Rights request Your Excellency and the Human Rights Council to examine the blatant violations of the "universality, impartiality, objectivity, and non-

selectivity, and the elimination of double standards and politicization” by the UNSR on Myanmar as highlighted below:

### **2.1. Failure to name and condemn the armed opposition groups of the Rohingyas for killing of ethnic Mros on 3 August 2017**

On 3 August 2017, six Mro villagers were killed by the Rohingya armed opposition groups in Rakhine state of Myanmar. It was widely reported that the ethnic Mros who are indigenous peoples and distinctly different from the ethnic Rakhine were killed by the Arakan Rohingya Salvation Army (ARSA).

A copy of the press report is appended as **Annex-V**.

On 11 August 2017, Prof Lee issued a statement calling upon the Myanmar Government to “must ensure that security forces exercise restraint in all circumstances and respect human rights in addressing the security situation in Rakhine State”. She further stated, “There have been increasing reports of incidents affecting the local population, including the killings of six Mro villagers on 3 August...I share the concern of the Myanmar Government and its people regarding the safety and security of those living in Rakhine State in the light of these incidents.”

Please refer to **Annex-VIII** for the statement.

It is deeply regrettable that the Special Rapporteur failed to name even the armed opposition groups for the killing of the ethnic Mros. Her statement was so ambiguous that it is impossible to identify whether the ethnic Mros were killed by the Myanmar government forces or the armed opposition groups.

### **2.2. Failure to name the communities attacked by the armed opposition groups of the Rohingyas since 25<sup>th</sup> August 2017**

This failure to condemn the perpetrators not only emboldened the armed opposition groups.

Asian Centre for Human Rights believes that the failure on the part of Professor Yanghee Lee to condemn the Rohingya armed group the killing of six Mros on 3<sup>rd</sup> August 2017 led to the killing of five ethnic Daingnets on 26 August near Kyaungdoe village in Rakhine state and another seven Mro ethnic people during an attack on Khon-Taing Village in Maungtaw Township on 28 August.

Asian Centre for Human Rights sent a communication to the Special Rapporteur on 28<sup>th</sup> August 2017 requesting specific public statement against the Arakan Rohingya Salvation

Army (ARSA) for the attacks on ethnic and religious minorities in Rakhine province of Myanmar and other issues related to the Rohingya crisis.

A copy of ACHR's email is appended as **Annex-VI**.

Special Rapporteur Lee issued a statement on 31 August 2017 expressing "alarm at the deteriorating situation in Myanmar's Rakhine State, affecting not just the Rakhine and Muslim populations but also other communities."

The failure to name "other communities" i.e. Daignets and Mros is part of the de-recognition of the violations on the ethnic minorities by the Special Rapporteur to highlight only the grave human rights violations on the Rohingyas.

### **2.3. The pattern of failure to name the armed opposition groups of the Rohingyas by the Special Rapporteur**

**The following are statements of facts:**

- On 9 October 2016, the members of the armed opposition groups launched a surprise attack on the No.1 Border Guard Police Command Headquarters (Kyikanpyin), police outpost at Kotankauk and the Ngakhuya local administrative office. In that incident, 9 policemen were killed and 48 assorted arms, 6624 bullets, 47 bayonets, and 164 bullet cartridges seized by the armed opposition groups.
- On 25 August 2017, members of the armed opposition groups belonging to the Rohingya community launched sneak attacks on 30 police outposts in Maungtau, Buthidaung and Yathedaung townships as well as against the Regiment Headquarters in Taungthazar village. The Government of Myanmar stated that 10 police officers, one soldier and one immigration officer were killed while nine security officers and a number of civilians were wounded; and six firearms were lost.

Yet, UN Special Rapporteur on the situation of human rights in Myanmar Professor Yanghee Lee has intentionally and purposely failed to name the armed groups formed by members of the Rohingya community in her statements.

The tabular chart below exposes the failure of the Special Rapporteur Professor Yanghee Lee to condemn the Rohingya armed opposition groups and selective approach to other armed opposition groups:

Title	Date of the Statement	Statement of Ms Yanghee Lee	ACHR's remarks on preference for the Rohingya
Myanmar: Worsening cycle of violence in Rakhine must be broken urgently, UN expert warns	31.08.2017	The Special Rapporteur noted concerns over both the extremist attacks which followed the release of the final report by the Rakhine Advisory Commission, led by former UN Secretary-General Kofi Annan, and the major security operations undertaken in response to the attacks. (Annex-VII)	The Special Rapporteur purposely refused to name the origin/community of the "extremist" groups. The reference to "extremist" as made only after Asian Centre for Human Rights questioned her independence and impartiality in an email dated 28 August 2017.
Myanmar: UN rights expert urges restraint in security operation in Rakhine State	11.08.2017	<p>"I am particularly reminded of the allegations of serious human rights violations which followed security force operations in the aftermath of attacks against three border guard police facilities in Maungdaw and Rathedaung in October and further clashes in November."</p> <p>"There have been increasing reports of incidents affecting the local population, including the killings of six Mro villagers on 3 August. I share the concern of the Myanmar Government and its people regarding the safety and security of those living in Rakhine State in the light of these incidents." (Annex-VIII)</p>	<p>The Special Rapporteur purposely does not mention who carried out "attacks against three border guard police facilities in Maungdaw and Rathedaung in October". This is despite the fact that it is universally known that the Rohingya armed groups carried out the attack.</p> <p>The failure to name the perpetrators by the Special Rapporteur is an injustice to the victims. It creates an impression that Mros were killed by the security forces. This is despite the fact that members of the Rohingya armed groups killed ethnic Mros.</p>
Myanmar: UN expert lists catalogue of concerns as human rights slide in worsening conflict	24.07.2017	"I was particularly dismayed to learn that the situation in northern Shan State is deteriorating, with reports of more conflict, more alleged rights violations by security forces and armed groups, and inadequate assistance for civilians." (Annex-IX)	The Special Rapporteur refused to name "armed groups" in the Rakhine State. The Special Rapporteur never named the armed groups of the Rohingyas for alleged human rights violations as she did for the armed groups in the Shan State.

End of Mission Statement by Special Rapporteur on the situation of human rights in Myanmar	21.07.2017	“However, there is also a reported increase in forced recruitment and abductions by the several Ethnic Armed Groups operating in the region as well as various militias. Civilians are caught between parties to the conflict facing abuses, risks from mines and clashes while less able to access assistance” (with respect to Tatmadaw). (Annex-X)	The Special Rapporteur has no hesitation to name “Ethnic Armed Groups”. She has consistently refused to use the term armed groups with respect to the Rohingyas.
Statement by Ms. Yanghee LEE, Special Rapporteur on the Situation of Human Rights in Myanmar at the 35th session of the Human Rights Council	15.06.2017	In Shan and Kachin States, unacceptable reports of serious human rights violations allegedly committed by several parties to the conflict including the Tatmadaw and ethnic armed groups have continued to arise. (Annex-XI)	Once again, the Special Rapporteur has no hesitation to name “Ethnic Armed Groups”. She has consistently refused to use the term armed groups with respect to the Rohingyas.
Statement by Ms. Yanghee LEE, Special Rapporteur on the Situation of Human Rights in Myanmar at the 34th session of the Human Rights Council	13.03.2017	As you are all likely aware the situation in the state took on new dimensions on 9 October, when three Border Guard Police facilities were reportedly attacked, by groups of armed men in a coordinated manner, killing 9 members of the Myanmar Police Force. (Annex-XII)	The Special Rapporteur always uses “ethnic” before the armed groups of the ethnic communities. However, with respect to the Rohingya, the Special Rapporteur (i) does not use “armed group” but “armed men in a coordinated manner” to insinuate that there is no armed group of the Rohingyas and (ii) of course does not use term like “ethnic” to describe the armed groups of the Rohingyas.
UN expert urges action to protect Rohingya population in Myanmar	27.02.2017	Speaking at the end of a four-day visit to Dhaka and Cox’s Bazar Yanghee Lee said: “the magnitude of violence that these families have witnessed	There is no reference to who carried out the attacks on 9 October.

		<p>and experienced is far more extensive than I had originally speculated.”</p> <p>During her visit, she met members of the Rohingya population who had fled to Bangladesh after 9 October 2016 when the Myanmar Border Guard Police facilities were attacked and reprisals followed.</p> <p>“We all owe it to those I have met and their fellow community members to do everything in our power to ensure this is done and to give the Rohingya people reason to hope again,” she concluded. (Annex-XIII)</p>	
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In addition to the above tabular chart, the Special Rapporteur further issued “End of Mission Statement by Special Rapporteur on the situation of human rights in Myanmar” on 24 February 2017, press statement “Cox’s Bazar: UN Special Rapporteur on Myanmar to visit Bangladesh – 20 to 23 February on 17 February 2017, “End of Mission Statement by Special Rapporteur on the situation of human rights in Myanmar” on 23.01.2017, press statement “Myanmar: UN expert warns of worsening rights situation after “lockdown” in Rakhine State” on 18 November 2016, press statement “International community must not lose sight of Myanmar challenges, UN expert warns” on 28 October 2016 and press statement “UN experts urge Myanmar to address serious violations of human rights in northern Rakhine State” on 24 October 2016. All these statements can be accessed at:

[http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR\\_Myanmar](http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Myanmar)

**In none of these Statements Special Rapporteur Lee mentioned “armed groups” or “armed opposition groups” of the Rohingyas. The failure to mention “armed groups” or “armed opposition groups” of the Rohingyas in all the statements is not a mere co-incidence but an informed decision arising out of the biases of the Special Rapporteur.**

ACHR states that the bias of the Special Rapporteur towards the armed opposition groups of the Rohingyas has emboldened the Rohingya armed groups to attack non-Rakhine ethnic minorities like Mros and Diagnets who are also known as the Chakmas. This bias of the Special Rapporteur indeed encourages terrorism which the UN Security Council has been grappling with and indeed, causes serious damage to the suffering of the Rohingyas. The fact that Rohingya armed groups do exist as the ethnic armed groups cannot be denied.

### **3. Request for actions for removal of the Special Rapporteur on the situation of human rights in Myanmar Professor Yanghee Lee**

The State (Myanmar) undoubtedly has the responsibility to ensure the respect for human rights for all people under its jurisdiction. It does not necessarily mean that the Special Rapporteur shall condone, overlook and undermine the human rights abuses by the non-State actors including those formed by persons belonging to the Rohingya community.

If Indira Jaising's statement was considered as "*indicating bias*" for having made the same prior to the investigation, the failure to condemn the Rohingya armed opposition groups even after repeated visits and credible reports by Special Rapporteur Ms Lee too must be considered as "*bias*".

The United Nations Human Rights Council simply cannot allow continuation of a Special Rapporteur who refuses to name the armed opposition group and effectively treats them so piously that they cannot be named for the human rights abuses. The UN mechanisms condemned violations the Islamic State, Taliban and other armed opposition groups based on the primary and secondary sources of information. It is only in the case of the Rohingya armed opposition groups that the Special Rapporteur has refused to name the armed opposition against the evidence on record – the attacks and killings of Myanmar security forces and innocent non-Rohingya civilians.

The UN Human Rights Council must continue to examine human rights violations by the Burmese security forces. However, it must be borne in mind that a Rapporteur who has proven biases does not add credence in any manner.

In the light of the incontrovertible facts placed on record through this communication and standards set by Your Excellency with respect to Chairperson of the Fact Finding Mission on Myanmar, Asian Centre for Human Rights fervently requests Your Excellency to take all necessary measures to remove Ms Yanghee Lee as the Special Rapporteur on the situation of human rights in Myanmar during the forthcoming 36<sup>th</sup> Session of the UN Human Rights Council.




In our considered view, the Special Rapporteur has brought disrepute to the mandate, caused enormous harm to the reputation of the United Nations Human Rights Council and of course, harmed the suffering of the Rohingyas who have nothing to do with armed opposition groups formed by the members from their community.

The Special Procedures mandate holders must not selectively address the issue of terrorism and terrorist organizations.

With kind regards,

Yours sincerely



Paritosh Chakma  
Director

Encl: As above

Copy to:

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4. Observer Member States of the UN Human Rights Council
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## President of Human Rights Council appoints Members of Fact-finding Mission on Myanmar

**Geneva, 30 May 2017** -- The President of the Human Rights Council, Ambassador Joaquín Alexander Maza Martelli (El Salvador), announced today the appointment of Ms. Indira Jaising (India), Ms. Radhika Coomaraswamy (Sri Lanka) and Mr. Christopher Dominic Sidoti (Australia) to serve as the three members of the Fact-finding Mission on Myanmar. Ms. Jaising will serve as Chair of the three-person mission.

On 24 March 2017, at its thirty-fourth session, the Council decided to urgently dispatch an independent international fact-finding mission, to be appointed by the President of the Council, to “establish facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State”.

Through Human Rights Council resolution [34/22](#), the 47-member body mandated the members of the mission to look into, *inter alia*, allegations of arbitrary detention, torture and inhuman treatment, rape and other forms of sexual violence, extrajudicial, summary or arbitrary killings, enforced disappearances, forced displacement and unlawful destruction of property. The mission members, who will serve in their personal capacities, are also mandated to carry out their work with a view to ensuring full accountability for the perpetrators of these acts and justice for the victims.

The Council also encouraged the Government of Myanmar to fully cooperate with the fact-finding mission by making available the findings of their domestic investigations and by granting full, unrestricted and unmonitored access to all areas and interlocutors. The Council also stressed the need for the mission to be provided with all necessary resources and expertise necessary to carry out its mandate.

The fact-finding mission is scheduled to present an oral update to the Human Rights Council at its thirty-sixth session in September this year and a full report at its thirty-seventh session in March 2018.

The members of the Mission are expected to meet in Geneva in the coming weeks to plan their agenda and work for the months ahead.

### Biographies of the members of the Fact-finding Mission on Myanmar

**Ms. Indira Jaising (India)** is an advocate of the Supreme Court of India, and former CEDAW member (2009-2012). She co-founded the Lawyers Collective in 1981, an NGO devoted to the defence of human rights and women’s rights. She was India’s first woman to be designated a Senior Advocate by the High Court of Bombay in 1986, and first female Additional Solicitor General of the country from 2009 until 2014. She drafted India’s first domestic violence act, allowing women to bring civil and criminal suits against attackers for the first time. She graduated in law with an LLB degree in 1964. Ms. Jaising holds a post graduate degree in law from University of Bombay and received a fellowship from the Institute of Advanced Legal studies of the University of London in 1970. She has been a Visiting Scholar at Columbia University New York, and Bok Visiting International Professor at University of Pennsylvania (2015).

**Ms. Radhika Coomaraswamy (Sri Lanka)** is a lawyer by training and a civil society member of the Constitutional Council, formerly the Chairperson of the Sri Lanka Human Rights Commission (2003-2006) and the Director of the International Centre for Ethnic Studies (1984-2006). She has worked as the UN Special Rapporteur on Violence against Women (1994-2003), and as Under-Secretary-General and Special Representative for Children and Armed Conflict (2006-2012). In 2014, Ms. Coomaraswamy was appointed by the UN Secretary-General Ban Ki-Moon as lead author on the Global Study on the implementation of UNSC Resolution 1325, on Women, Peace and Security. As an academic, she is a Global Professor of Law at the New York University School of Law. She received her B.A. from Yale University, her J.D. from Columbia University, an LL.M. from Harvard University and honorary PhDs from Amherst College, the Katholieke Universiteit Leuven, the University of Edinburgh, University of Ulster, the University of Essex and the CUNY School of Law, amongst others.

**Mr. Christopher Dominic Sidoti (Australia)** is an international human rights consultant, specializing in the international human rights system and in national human rights institutions who, since 2000, has provided consultancy services on human rights law and practices to the Office of the High Commissioner for Human Rights, UNDP, UNICEF, the Asia Pacific Forum of National Human Rights Institutions and several national human rights institutions. He was director of the International Service for Human Rights (ISHR; 2003-2007), served as Australian Human Rights Commissioner (1995-2000), Australian Law Reform Commissioner (1992-1995) and Foundation Director of the Australian Human Rights and Equal Opportunity Commission (1987-1992). From 1999 to 2013 he was principal facilitator and interlocutor in a human rights initiative between the Government of Australia and the Government of Myanmar. He is an Adjunct Professor at the University of Western Sydney, Griffith University (Queensland), University of the Sunshine Coast (Queensland) and the Australian Catholic University. Mr. Sidoti holds a Bachelor of Arts, major in government, and a Bachelor of Laws.

*For information about the Fact-finding Mission please visit:*

<http://www.ohchr.org/EN/HRBodies/HRC/MyanmarFFM/Pages/Index.aspx>

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## Human Rights Council President announces appointment of Marzuki Darusman as Chair of Myanmar Fact-finding Mission

GENEVA (27 July 2017) - The President of the Human Rights Council, Ambassador Joaquín Alexander Maza Martelli (El Salvador), has decided to establish a new composition of the Fact-finding Mission on Myanmar and appoint Mr. Marzuki Darusman (Indonesia) to serve as a member and its Chair. Mr. Darusman will join Ms. Radhika Coomaraswamy (Sri Lanka) and Mr. Christopher Dominic Sidoti (Australia) whose appointments were announced in May.

The Mission will serve in an independent and objective manner and will be supported by a team of human rights specialists in Geneva with various expertise pertinent to their mandate set out by the Human Rights Council in its resolution [34/22](#), adopted on 24 March 2017, to "establish facts and circumstances of the alleged recent human rights violations by military and security forces, and abuses, in Myanmar, in particular in Rakhine State".

The Mission members will be meeting in Geneva in August to discuss the approach they will employ in discharging their mandate.

As in all such cases, the Mission will make it a priority to reach out to and engage constructively with the Government and other relevant interlocutors. The Human Rights Council reiterates its hope that the Government of Myanmar will grant the Mission unfettered access to affected areas.

The Mission will present an oral update to the Council in September and submit a written report to the Council in March 2018.

### **Biographies of the members of the Fact-finding Mission on Myanmar**

**Mr. Marzuki Darusman (Indonesia)** is a lawyer and human rights campaigner who served as Special Rapporteur on the situation of human rights in the DPRK (2010-2016) and member of the Commission of Inquiry on Human Rights in North Korea (2013 to 2014). Prior to that he served as a member of the International Independent Group of Eminent Persons for Sri Lanka, and has served as Chair of the Indonesian National Human Rights Commission as well as Attorney General of the Republic of Indonesia 1999 to 2001. In 2010, he was assigned to serve as Chair of the UN Secretary General's Panel of Experts on Sri Lanka and in 2009 he was appointed by UN Secretary General Ban Ki-Moon to a three-member UN Commission of Inquiry to investigate the assassination of former Pakistani Prime Minister Benazir Bhutto.

**Ms. Radhika Coomaraswamy (Sri Lanka)** is a lawyer by training and a civil society member of the Constitutional Council, formerly the Chairperson of the Sri Lanka Human Rights Commission (2003-2006) and the Director of the International Centre for Ethnic Studies (1984-2006). She has worked as the UN Special Rapporteur on Violence against Women (1994-2003), and as Under-Secretary-General and Special Representative for Children and Armed Conflict (2006-2012). In 2014, Ms. Coomaraswamy was appointed by the UN Secretary-General Ban Ki-Moon as lead author on the Global Study on the implementation of UNSC Resolution 1325, on Women, Peace and Security. As an academic, she is a Global Professor of Law at the New York University School of Law.

**Mr. Christopher Dominic Sidoti (Australia)** is an international human rights consultant who, since 2000, has provided consultancy services on human rights law and practices to the Office of the High Commissioner for Human Rights, UNDP, UNICEF, the Asia Pacific Forum of National Human Rights Institutions and several national human rights institutions. He was director of the International Service for Human Rights (ISHR; 2003-2007), served as Australian Human Rights Commissioner (1995-2000), Australian Law Reform Commissioner (1992-1995) and Foundation Director of the Australian Human Rights and Equal Opportunity Commission (1987-1992). From 1999 to 2013 he was principal facilitator and interlocutor in a human rights initiative between the Government of Australia and the Government of Myanmar.

*For information about the Fact-finding Mission please visit:*

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#WORLD NEWS

JULY 27, 2017 / 4:43 PM / A MONTH AGO

# New chairman appointed to U.N. mission probing Myanmar abuses



Rohingya villagers watch as international media visit Maung Hna Ma village, Buthidaung township, northern Rakhine state, Myanmar July 14, 2017. Picture taken July 14, 2017. REUTERS/Simon Lewis

Simon Lewis



YANGON (Reuters) - The United Nations' Human Rights Council has replaced the chairwoman of a team investigating allegations of killings and rape by Myanmar's security

forces, it said on Thursday, amid concerns over her perceived bias.

Indian Supreme Court advocate Indira Jaising was initially named to chair the fact-finding mission, which has a focus on the western state of Rakhine that is home to the stateless Rohingya Muslim minority.

Council president Joaquín Alexander Maza Martelli had decided to replace Jaising with Marzuki Darusman, a former attorney-general of Indonesia who has previously conducted rights investigations on North Korea, the council said in a statement from its headquarters in Geneva.

Jaising was appointed to lead the panel in May, after a resolution passed by the Human Rights Council in March calling for a team to be sent to look into the abuse claims.

The panel's two other members, Harvard-trained Sri Lankan lawyer Radhika Coomaraswamy and Australian consultant Christopher Dominic Sidoti, remain in place.

Myanmar has said it will refuse visas to the commissioners, arguing the mission would aggravate tension in Rakhine.

“As in all such cases, the mission will make it a priority to reach out to and engage constructively with the government and other relevant interlocutors,” the council said.

“The Human Rights Council reiterates its hope that the government of Myanmar will grant the mission unfettered access to affected areas.”

The statement did not give any reason for the change of personnel, but a U.N. official told Reuters Jaising agreed to step down after the council president raised concerns about public comments she made that could be seen as indicating bias.

The official requested anonymity, in the absence of authorization to speak to reporters.

The panel was formed after the U.N. High Commissioner on Human Rights said Myanmar security forces probably committed crimes against humanity, and possibly, ethnic cleansing of Rohingya civilians.



Rohingya militants killed nine border guards in October, sparking a response in which the army was accused of raping Rohingya women, shooting villagers on sight and burning down homes, sending an estimated 75,000 people fleeing to Bangladesh.

Many in Myanmar see the Rohingya as illegal immigrants from Bangladesh, although about 1.1 million of them live in Rakhine and say their roots in the region go back generations.

#### 'PERCEIVED BIAS'

The U.N official and a human rights advocate familiar with discussions around the mission told Reuters that Jaising's comments had stirred concern among U.N. officials in Geneva that she would not be considered impartial.

After her appointment, Jaising was quoted by broadcaster Al Jazeera as saying the Rohingyas' situation in Myanmar "is especially deplorable because they face the risk of genocide".

"If there's any perceived bias...it undermines the credibility of the mission before it has started," said the U.N. official.

Jaising declined to comment when contacted by telephone on Thursday.

The panel will meet in Geneva in August, the statement said, and is expected to give a verbal update on its progress to the Human Rights Council in September before a final report in March.

Darusman is a veteran U.N. human rights investigator, having served as special rapporteur on human rights in North Korea and taken part in a landmark Commission of Inquiry on the North.

He also chaired a U.N. panel of experts on war crimes committed in the final months of Sri Lanka's long civil war.

Reporting by Simon Lewis; additional reporting by Stephanie Nebehay in GENEVA and Krishna N. Das in NEW DELHI; Editing by Clarence Fernandez

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NEWS | MYANMAR 30 MAY 2017

# UN appoints team to probe crackdown against Rohingyas

*The UN is sending a fact-finding team to investigate alleged human rights abuses against Rohingya Muslims in Myanmar.*



Around 75,000 have fled Rakhine state since the military began a security operation last October [Turjoy Chowdhury/NurPhoto via Getty Images]

The UN on Tuesday appointed a three-member team to investigate alleged abuses by security forces against [Rohingya](#) Muslims in Myanmar.

The fact-finding mission will be led by prominent Indian lawyer Indira Jaising, Sri Lankan lawyer Radhika





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Rohingya Muslims, a persecuted minority group, in a crackdown in Northern Rakhine state in western Myanmar last year.

"We expect the mission members to meet in Geneva in the coming weeks to determine their initial course of action – the strategy, methodology and fact-finding approach they will employ in discharging their mandate," Rolando Gomez, a HRC spokesperson, told Al Jazeera via email.

"The three members will be supported by a team of human rights specialists in Geneva."

The mission will present an oral mandate to the UN in September and a full report in March 2018.

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[READ MORE: UN to probe alleged crimes against Rohingya in Myanmar](#)

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The UN adopted a resolution to set up an independent, international mission in March. It was brought by the European Union and supported by other countries including the US to "ensure full accountability for perpetrators and justice for victims".

Some countries including Myanmar, China, India, and Cuba did not support the resolution.

## 'Much to hide'

Rohingya Muslims, stripped of their citizenship in 1982, are often referred to as "illegal" immigrants by Myanmar's leaders. About 1.1 million Rohingya are denied citizenship and their movement is severely restricted, with tens of thousands confined to camps in Bangladesh since violence drove them from their homes in 2012 and more recently.

Around 75,000 people have fled Rakhine state since the military began a security operation last October in response to what it claims was an attack by Rohingya armed men on border posts, in which nine police officers were killed.





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mission members will make it a priority to reach out to and engage constructively with [Myanmar's] government and other relevant



Myanmar army chief rules out Rohingya citizenship

interlocutors. It remains the hope of the HRC that the mission will be facilitated by the government through unfettered access to the affected areas," Gomez said.

In February, a UN [report](#), based on interviews with Rohingya refugees, accused Myanmar's security forces of carrying out mass rapes and killings, possibility amounting to crimes against humanity.

"Minorities all over the world are facing persecution. The situation of the Rohingya community in Myanmar is especially deplorable because they face the risk of a genocide," Indira Jaising, heading the UN mission, told Al Jazeera by telephone.

"We are hoping that our recommendations will make an impact and awaken the conscience of the international community," she said.

The UN team will also look into allegations of arbitrary detention, torture and inhuman treatment, enforced disappearances, forced displacement and unlawful destruction of property by security forces, according to the UN's statement.

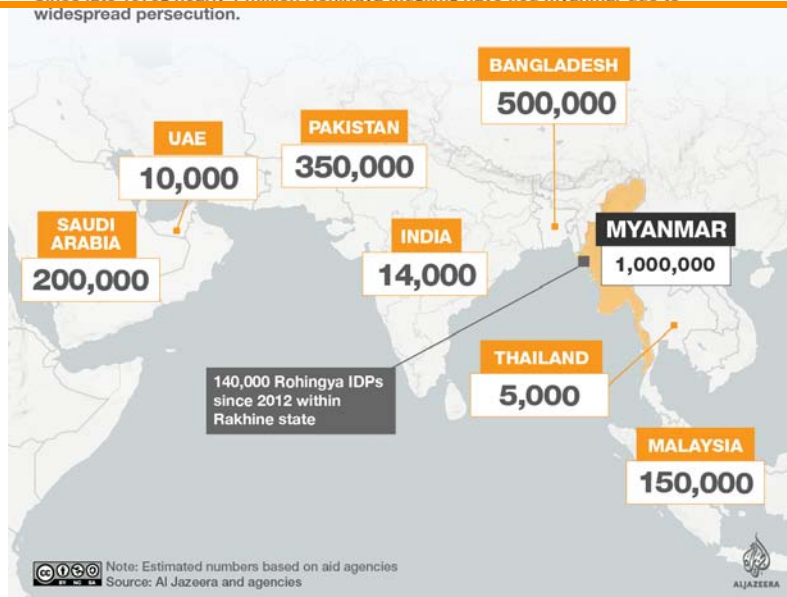
A widely discredited army-led report on the crackdown published earlier this month found no abuses had been committed.

"It is unsurprising that Myanmar has rejected a UN probe. Criminals rarely wish for scrutiny of what they have been doing and what is going on in Myanmar is criminal state-led bloodshed on a gargantuan scale," said Priyamvada Gopal, an author and academic who has written about Rohingya Muslims, via an email to Al Jazeera.





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## Western door of Myanmar with high alarming for ethnics

Submitted by Eleven on Tue, 08/08/2017 - 18:51

**Writer:** Thar Shwe Oo

Alarming for the security of western door of Myanmar has been highly increased.

It all began when border guard police offices in western Rakhine State including Kyeekanpyin Headquarters, Koetankauk and Ngakhura posts were attacked by terrorists on October 9, 2016. The attack was said to have been carried out by a terrorist group led by Aqa Mul Mujahidin. It was six months after the National League for Democracy took office.

The conflict between Rakhine ethnic and Bengalis (those come from Bangladesh) were triggered after several Bengalis groups were said to have initially come to the Rakhine villages in Maungdaw during the tenure of former President Thein Sein back in 2012. These groups set fire the villages and murdered the villagers of Rakhine ethnic.

From community conflicts expanded seemly to land grabbing as the Bengalis attacked the border guard police posts and kill the native Rakhine ethnics. Rakhine ethnics gradually flee their villages for safety.

On August 3, a horrific killing of eight ingenuous villagers of Mro ethnic by the Bengali terrorists took place. Photos of the dead bodies spread on the Facebook shocked viewers. A four months pregnant woman was among those murderers. Villagers found her body near river without her pants. Another 40 years old woman is still missing.

Bengalis were said to have first attacked the border guard posts, and then they attacked those who are closely related with the local administrators. Now, they have murdered innocent villagers. Rakhine ethnic villagers have been subject to frequently threats. Some were murdered and some had their houses set on fire.

At least 14 Rakhine villagers were killed and two went missing (bodies were not found) after the October 2016 terrorist attack by Bengalis.

On May 9 in Maungdaw district, approximately 20 Bengalis stole crops in the field owned by the Rakhines and they murdered a villager and the village administrator who tried to stop them from stealing. There was another incidence on February 24. Two Khami people went into the forest of Mayu mountain range looking for food. Three terrorists attacked them with knives and axes. One Khami man was killed.

A villager from Pha Wat Chaung Village of Northern Maungdaw is still missing since October 12, 2016 when he went to another village by motorbike. Another villagers who went into May Yu Hill for food searching were murdered. On July 27, another villager Than Htay was missed when he went into May Yu Hill. Again, he hasn't been found till now.

Because of such incidences, Rakhine ethnic live in fear. Government's announcement on June 20, 2017 that terrorists are hiding in Mayu mountain range between Buthidaung and Maungdaw was triggering high anxiety among the residents. Security forces found a tunnel, guns, huts, warehouses, foods and other staff. Three terrorists who attacked the security forces in the tunnel were arrested.

The Office of the State Counselor has released news about Maungdaw on a daily basis. However, the public remains indignant that the State Counselor Office says only terrorists but has not mentioning which organizations they came. Notwithstanding, the Rakhine State government confirmed that they are Rohingya Solidarity Organisation and Arakan Rohingya Salvation Army (ARSA). The ARSA was found by Aqa Mul Mujahidin – AMM and Rohingya National Security Committee – RNSC on March 15, 2017.

On July 30, when the security forces and the military searched for the missing persons in Mayu mountain range, it was found that High Energy Biscuits aided by the World Food Programme and humanitarian goods aided by the United Nations, rice, oil, new blue tent and coffee mix were found in the hats of Bengalis terrorists in Mayu mountain range.

Resident Than Tun said: "International humanitarian goods were found in the hidden huts of Bengali terrorists. The international humanitarian goods were found where they should not be. The union government should investigate how such aids were reached the terrorists."

Regarding with the findings, Minister of Border and Security Col. Phone Tint said: "We have reported all findings with photos to the union level government. We have questions if the INGOs and NGOs are supporting the terrorists directly or indirectly."

After the murder of eight ethnic villagers in southern Maungdaw by the Bengali terrorists on August 3, border guard police forces tried to arrest those who are closely related to the terrorists in Yathaedaung on August 4. However, approximately 600 Bengalis attacked the police forces.

Due to the terrorist attacks by Bengalis, native Rakhine people have been leaving their lands and moved to safer places.

Translated by Thet Mon Tun

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28th August 2017

Ms. Yanghee LEE  
United Nations Special Rapporteur on the situation of human rights in Myanmar  
Email: [sr-myanmar@ohchr.org](mailto:sr-myanmar@ohchr.org), [apetra@ohchr.org](mailto:apetra@ohchr.org)

Dear Prof. Lee,

Asian Centre for Human Rights (ACHR) is writing to request to you in cooperation with other relevant Special Procedures mandate holders to issue (i) specific public statement against the Arakan Rohingya Salvation Army (ARSA) for the killing of three Chakmas, who are known as Daignet in the Rakhine province on 26th August 2017, the killing of six Hindus on 26th August 2017, and eight ethnic Mro people on 3 August 2017; (2) request the Government of Myanmar to undertake necessary security measures to rescue 21 Chakmas/Diagnets still missing following attacks by the ARSA cadres on 26 August 2017; and (3) call upon the Government of Bangladesh, among others, to document/register the Rohingya refugees and keep them in proper camps to ensure that they can be repatriated to Myanmar.

It is pertinent to mention that Diagent/Chakmas and Mros are ethnic minorities not related to the ethnic Rakhines and their communities are also indigenous peoples in the Chittagong Hill Tracts (CHTs) of Bangladesh while the Hindus are religious minorities in the Rakhine province.

ACHR has noted your statement[1] dated 11 August 2017 in which you have, among others, stated the following: "There have been increasing reports of incidents affecting the local population, including the killings of six Mro villagers on 3 August...I share the concern of the Myanmar Government and its people regarding the safety and security of those living in Rakhine State in the light of these incidents."

The statement, in the opinion of ACHR, falls far short of condemning the ARSA or least the armed opposition groups if your mandate has not been able to verify the perpetrators. This inability to condemn the armed groups emboldens them to perpetrate more violations of the Common Article 3 of the Geneva Conventions and Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

This is not the only issue that your mandate has failed to address. In our submission, "Rohingya refugees of Myanmar: Bangladesh is facilitating ethnic cleansing of the Rohingyas in Arakan and indigenous Jumma peoples in the CHTs by using the fleeing Rohingyas[2]" dated 20 February 2017 shared with many of the recipients of this submission but in your report to the UN Human Rights Council[3] dated 14 March 2017, you have failed to incorporate a single sentence on the issue.

ACHR believes that both these issues have come back to haunt after the series of attacks by the ARSA on 25th August 2017. In this regard, a number of statements issued by UN High Commissioner for Human Rights Zeid Ra'ad Al Hussein condemning the violence by the armed groups in various conflicts raging across the world may be instructive.

Contrarily, ACHR has no hesitation to state unequivocally that the failure to specifically condemn the Rohingya armed opposition groups in the statement on 11 August 2017 raises serious questions about your independence and impartiality, emboldens the armed opposition groups to perpetrate more atrocities human rights abuses against the ethnic and religious minorities and ultimately harms the Rohingya cause.

## I. KILLING OF ETHNIC AND RELIGIOUS MINORITIES BY THE ARSA

There have been a series of attacks on the ethnic and religious minorities including the killing of 10 Mros on 3rd August 2017 allegedly by the ARSA. You have already issued a statement on 11 August 2017 on which we have expressed our opinion above.

ACHR draws your attention to the following attacks on the ethnic and religious minorities by the ARSA:

### A. KILLING OF THREE DIAGNETS/CHAKMAS ON 26TH AUGUST 2017 AND MISSING OF 210 OTHERS

As the conflict intensified following the attacks by the ARSA, previously known as Harakat al-Yaqin, on 25 August 2017, minorities living near to the Rohingyas have been fleeing.

On 26th August, the ARSA terrorists killed three Chakmas (Daignets) in Rakhine province. The Chakmas were fleeing from their village, Aungthapyi, to Rangarzeti village when they were attacked by the terrorists in northern Maungdaw Township. The dead bodies of the three Chakmas provided to us are being shared with you.

Part of this information was published by The Irrawaddy[4] which can be accessed at: <https://www.irrawaddy.com/news/civilians-targeted-rohingya-militants-violence-continues-rakhine.html>

However, the ACHR has obtained this information from its research contacts based at Maungdaw.

At least 21 Chakmas including women and children are still missing and could not be rescued as yet by the Burmese security forces.

As the roads and other communication facilities have been blocked, the research contacts of ACHR have not been able to obtain further details about the missing Chakmas.

### B. KILLING OF SIX HINDU RELIGIOUS MINORITIES

The Irrawaddy reported the following on the killing of six Hindus on 26 August 2017:

“The 12-member family, who live in No. 4 Quarter of downtown Maungdaw, were returning home from working as casual laborers in Myin Hlut village in southern Maungdaw at 11 p.m. on Saturday when they were caught in clashes between Rohingya militants and the Myanmar Army, according to a statement released on the Facebook page of the State Counselor Office Information Committee on Sunday.

The family sought refuge in a construction site between Myo Thu Gyi village and downtown Maungdaw on the Maungdaw-Buthidaung road when they were discovered by Muslim militants who allegedly shot dead two men, one woman, and three children, the statement read.

Two women were severely injured and four children managed to escape to a neighboring village where security personnel were deployed.

On Sunday, the six bodies were taken to Maungdaw General Hospital and the surviving family members traveled to Buthidaung. The Irrawaddy was unable to independently verify the account.”

The report of the Irrawaddy can be accessed at:

<https://www.irrawaddy.com/news/civilians-targeted-rohingya-militants-violence-continues-rakhine.html>

The photos of the six Hindus killed can be found at the official facebook of the State Counsellor's office of Myanmar:  
<https://www.facebook.com/MyanmarSCOInfoCom/posts/786231624883279>

ACHR is yet to fully analyse the possible linkages of the attacks on the ethnic and religious minorities by the ARSA and attacks on the Myanmar Police on Friday, 25th August with the ideology of the ARSA and its links with Jihadi movement.

## II. SETTLEMENT OF THE ROHINGYA REFUGEES ONLY IN THE CHITTAGONG HILL TRACTS OF BANGLADESH – HOW THE ROHINGYA ISSUE CONTRIBUTING TO REGIONAL INSTABILITY IN THE CHTS

ACHR has its researchers placed in the Bandarban district of the



Chittagong Hill Tracts (CHTs) region at present. ACHR researchers informed that the Government of Bangladesh has not been allowing the Rohingya refugees to enter Bangladesh from the Cox's Bazar side but they are being allowed to enter from Nakkyangchari area of the Bandarban district of the CHTs inhabited by the Marmas/Mogs. Hundreds of the Rohingya refugees have already entered Bandarban district in the last three days.

That Rohingya refugees are not being allowed to enter Cox's Bazaar but the Chittagong Hill Tracts only has also been confirmed by the local media in Bangladesh.

The Daily Star[5] reported that the Rohingyas are being denied entry from the Cox's Bazaar side. On the other hand, The Daily Star[6], also reported that hundreds of refugees are pouring in and waiting to enter the CHTs.

As ACHR in its submission to you on 20 February, 2017 stated as per the reports of the United Nations High Commissioner for Refugees (UNHCR), upto 500,000 undocumented Rohingya refugees have been living outside the official camps while 32,000 Rohingya refugees have been living in the Nayapara and Kutupalong camps in Cox's Bazar district. Since October 2016, 85,000 Rohingya refugees entered Bangladesh while Myanmar offered to accept the return of fewer than 2,500 Rohingyas from Bangladesh. Majority of these 600,000 refugees had been settling mainly the Cox's Bazar district and the Chittagong Hill Tracts region having three districts i.e. Bandarban, Rangamati, and Khagrachari which is home to indigenous peoples and share border with Arakan province of Myanmar. Indigenous Marma people of Bandarban district who are of ethnic Rakhine origin and follow Buddhism have already been reduced to a minority in their own land by the Rohingya refugees since 1992.

The Rohingya conflict in the Rakhine province actually has spread to the Chittagong Hill Tracts where the Government of Bangladesh has been implementing the policy of implantation of majority Muslim populations with the sole aim to make indigenous peoples of the CHTs a minority in their own land. The arrival of the Rohingya refugees into Bangladesh meets the objective of the Government of Bangladesh to make indigenous peoples a minority in their own land while settlement in Bandarban district also serves the purpose of providing logistical support to the Rohingya armed opposition groups by intelligence agencies of the Government of Bangladesh and the Islamic fundamentalist forces.

The failure to highlight how the Rohingya conflict is turning into a regional conflict, not necessarily through military means, in our view is a disservice to the mandate of the Special Rapporteur on the situation of human rights in Myanmar who is required to take the holistic view of the problems in order to find solutions.

In the light of this submission, Asian Centre for Human Rights urges the following:

1. Issue a public statement specifically condemning the Rohingya armed opposition groups in the Rakhine State for the attacks on the ethnic minorities like the Chakmas/Daignet and Mros and Hindus, if your mandate has any objection/reservation to condemn the Arakan Rohingya Salvation Army, despite blatant violations of the Common Article 3 of the Geneva Conventions and Protocol Additional to the Geneva Conventions of 12 August 1949 relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

In this regard, ACHR asserts that your statement dated 11 August 2017 - "There have been increasing reports of incidents affecting the local population, including the killings of six Mro villagers on 3 August..I share the concern of the Myanmar Government and its people regarding the safety and security of those living in Rakhine State in the light of these incidents." - falls short of naming the perpetrators and this raises legitimate questions about your impartiality and objectivity which is unexpected from the mandate holders.

2. Request the Government of Myanmar to undertake necessary security measures to rescue 21 Chakma/Diagnets still missing following attacks by the ARSA cadres on 26 August 2017;

3. Call upon the Government of Bangladesh not to settle the Rohingya refugees in the Chittagong Hill Tracts and further that the Government of Bangladesh must be asked to document/register the Rohingya refugees and keep them in proper camps to ensure that they

can be repatriated to Myanmar. In the absence of such documentation, the Government of Bangladesh ends up providing grounds to the Government of Myanmar to question the origin of the Rohingya refugees who end up permanently settling in the Chittagong Hill Tracts, and in the process have made indigenous peoples of Bandarban into a minority since 1992. On this ACHR regrets that none of the successive UN Special Rapporteurs on the situation of human rights in Myanmar has ever focused.

Looking forward to your statement on these issues.

With kind regards,

Yours sincerely

Paritosh Chakma  
Director

Encl: As above.



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## Myanmar: Worsening cycle of violence in Rakhine must be broken urgently, UN expert warns

GENEVA (31 August 2017) – A United Nations human rights expert has expressed alarm at the deteriorating situation in Myanmar’s Rakhine State, affecting not just the Rakhine and Muslim populations but also other communities. Tens of thousands of Rohingya Muslims are now reported to be fleeing towards Bangladesh.

“The humanitarian situation is deteriorating rapidly and I am concerned that many thousands of people are increasingly at risk of grave violations of their human rights,” said the UN Special Rapporteur on the human rights situation in Myanmar, Yanghee Lee.

“The worsening cycle of violence is of grave concern and must be broken urgently.”

Ms. Lee said the suffering of the Rohingya was particularly poignant this week, while the world’s Muslim communities celebrated Eid al-Adha on 1 September but the Rohingya remained in a precarious situation, not knowing their future or the fate of their relatives.

Latest estimates from UN sources suggest more than 27,000 people have crossed into Bangladesh in the area around Cox’s Bazar, while 20,000 more remain stranded between the two countries. The number continues to grow.

The Special Rapporteur noted concerns over both the extremist attacks which followed the release of the final report by the Rakhine Advisory Commission, led by former UN Secretary-General Kofi Annan, and the major security operations undertaken in response to the attacks.

“I am concerned that these events will derail efforts to address the root causes of the systematic discrimination and recurrent violence in Rakhine State,” said the Special Rapporteur.

“If human rights concerns are not properly addressed, and if people remain politically and economically marginalized, then northern Rakhine may provide fertile ground for radicalization, with people becoming increasingly vulnerable to recruitment by extremists,” said Ms. Lee. “These concerns were raised by the Advisory Commission and I share them fully.”

“I am saddened to receive reports that, while the authorities are helping Rakhine and other communities living in affected townships evacuate to safer locations, this assistance is not being extended to the Rohingya Muslims,” she added.

The situation had worsened considerably since extremist attacks on 25 August, with credible multiple sources reporting violations which include Rohingyas being indiscriminately killed and injured by military gunfire, even while fleeing, and helicopters and rocket-propelled grenades being used against the civilian population.

Ms. Lee reminded the authorities of their human rights obligations to give equal protection to people from all communities, whether from attacks by extremists or excessive action from the security forces. She has [previously expressed concern](#) over the military build-up in Rakhine State, urging the security forces to exercise restraint in all circumstances and to respect human rights.

"I express the strongest condemnation of the attacks carried out by militant extremists and urge them to immediately halt further violence against the innocent civilian population.

"I call on the Government to ensure the immediate provision of assistance to all affected communities in Rakhine State, and grant unfettered access to the United Nations to provide humanitarian assistance, including to address protection concerns, and to monitor the situation. Even before last Friday's attacks, access for humanitarian actors had been very limited in northern Rakhine, negatively impacting the support they provide."

This statement has been endorsed by the UN Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, and the Special Rapporteur on minority issues, Fernand de Varennes.

ENDS

*The [Special Rapporteur on situation of human rights in Myanmar](#), **Professor Yanghee Lee**, the [Special Rapporteur on freedom of religion or belief](#), **Mr. Ahmed Shaheed**, and the [Special Rapporteur on minority issues](#), **Dr. Fernand de Varennes**, are part of what is known as the [Special Procedures of the Human Rights Council](#). Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms. Special Procedures mandate-holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. They are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.*

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## Myanmar: UN rights expert urges restraint in security operation in Rakhine State

GENEVA (11 August 2017) – A United Nations human rights expert has expressed alarm over reports that an army battalion has flown into Rakhine State in western Myanmar to help local authorities boost security in the region.

“This development, which reportedly took place yesterday, is a cause for major concern,” said the UN Special Rapporteur on the human rights situation in Myanmar, Yanghee Lee. “The Government must ensure that security forces exercise restraint in all circumstances and respect human rights in addressing the security situation in Rakhine State.”

Ms. Lee added: “I am particularly reminded of the allegations of serious human rights violations which followed security force operations in the aftermath of attacks against three border guard police facilities in Maungdaw and Rathedaung in October and further clashes in November.”

“I have noted from the Summary Report of the Investigation Commission for Maungdaw in Rakhine State, publically released last Sunday, that many allegations of human rights violations are being investigated or have been recommended for further investigation,” the expert highlighted.

“The Presidential Commission admitted it was not able to verify many of these alleged violations or crimes including torture, rape and arson, and asked that these be properly addressed by the relevant authorities,” Ms. Lee said.

“There have been increasing reports of incidents affecting the local population, including the killings of six Mro villagers on 3 August,” she said. “I share the concern of the Myanmar Government and its people regarding the safety and security of those living in Rakhine State in the light of these incidents.”

The Special Rapporteur acknowledged the State’s responsibility to provide security and protect people from attacks by extremists, but said this responsibility had to cover all residents, and the authorities could not afford more security to some than others.

The expert reminded that the use force must always be in line with the principles of necessity and proportionality to ensure full respect for human live. “Any measures security forces take or any operations they undertake to secure the areas concerned must be carried out in line with international human rights norms and standards,” Ms. Lee stressed.

The expert’s call has been endorsed by the UN the Special Rapporteur on extrajudicial, summary or arbitrary executions, Agnes Callamard.

The [Special Rapporteur on situation of human rights in Myanmar](#), **Professor Yanghee Lee**, and the [Special Rapporteur on extrajudicial, summary or arbitrary executions](#), **Ms. Agnes Callamard**, are part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council’s independent fact-finding and monitoring mechanisms. Special Procedures mandate-holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. They are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.

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## Myanmar: UN expert lists catalogue of concerns as human rights slide in worsening conflict

GENEVA (24 July 2017) – A United Nations Special Rapporteur has issued a strongly worded statement accusing the Government of Myanmar of policies reminiscent of the previous military government, and of presiding over a worsening security and human rights situation.

Yanghee Lee, ending a 12-day visit to the country, listed a catalogue of concerns including reports of killings, torture, the use of human shields by security forces, deaths in custody and an ongoing humanitarian crisis for the Rohingya people and other minorities forced from their homes.

Her own movements had been severely restricted, she added, and access to crisis-hit areas remained off-limits even to international organizations. People who met her faced harassment, and the Government had sought to place unprecedented pre-conditions on her visit.

"I am disappointed to see the tactics applied by the previous Government still being used," said Ms. Lee, launching [her statement](#) as her visit drew to a close. "I understand the new Government wishes to normalize its relations with the United Nations, but Myanmar must first become a country that deserves less attention and scrutiny.

"We are told not to expect Myanmar to transition into a democracy overnight - that it needs time and space," she noted. "But in the same way, Myanmar should not expect to have its close scrutiny removed or its special monitoring mechanisms dismantled overnight. This cannot happen until there is real and discernible progress on human rights."

Ms. Lee said the situation of the Rohingya people from Rakhine State, many of whom have been forced from their homes amid reports of grave human rights violations, had hardly improved since her last visit in January.

"I continue to receive reports of violations allegedly committed by security forces during operations. There also appear to be incidents of Rohingya being targeted for applying to be verified as citizens, as well as village administrators and other Muslims targeted for being 'collaborators' for working with the authorities – leaving many Rohingya civilians terrified, and often caught between violence on both sides," she said, adding that she was severely concerned about the treatment of prisoners.

The Special Rapporteur noted that the authorities have already recognised that State protection and security must extend not only to the Rakhine but also the Muslim communities. However, she said, "the Government must take concrete steps in this regard, including investigating all alleged violations, ending discriminatory practices and restoring freedom of movement."

She said around 120,000 people from the area were still living in camps after fleeing their homes, and there was little prospect of a long-term solution. "Some people were told they would be in the camps for three days, but this has turned into five long years," she added.

Concern was growing over a worsening situation in Kachin and Shan states, the Special Rapporteur noted, with lack of access for international organizations a worsening feature in both.



"I was particularly dismayed to learn that the situation in northern Shan State is deteriorating, with reports of more conflict, more alleged rights violations by security forces and armed groups, and inadequate assistance for civilians.

"There have been numerous reports of killings, torture, even the use of human shields by the armed forces, allegedly in some cases accompanied by threats of further violence if incidents are reported," said Ms. Lee.

The Special Rapporteur, who visited Yangon and Nay Pyi Taw as well as parts of Rakhine, Shan and Kayin States, said she had been "astonished" at Government attempts to limit her activities and movements. She was not permitted to visit Hsipaw in Shan State, where three journalists are being held in prison, even though it is a tourist destination. Other areas of the country were also placed off-limits.

The Special Rapporteur also highlighted the confiscation of land to create so-called Special Economic Zones.

"Farmers and fishing communities described having their land confiscated with little or no consultation or compensation, with efforts to seek redress often gone unanswered," said Ms. Lee.

"In some cases farmers still have to pay tax on confiscated land. Others are told they can buy back their own land at an inflated price. I heard similar stories in a number of areas, showing this to be a truly nationwide problem."

During the visit, which took place from 10-21 July at the invitation of the Government, the Special Rapporteur met a broad range of officials including political and community leaders and civil society representatives, as well as victims of human rights violations. It was her sixth fact-finding mission to the country, and the third since the new Government came to power.

Ms. Lee will present a full report on her visit to the UN General Assembly in October 2017.

**Ms. Yanghee Lee** (Republic of Korea) was appointed by the UN Human Rights Council in 2014 as the [Special Rapporteur on situation of human rights in Myanmar](#). She is independent from any government or organization and serves in her individual capacity. Ms. Lee has served as the Chairperson of the Coordinating Committee of Special Procedures of the Human Rights Council (2016-2017). Ms. Lee served as member and chairperson of the UN Committee on the Rights of the Child (2003-2011). She is currently a professor at Sungkyunwan University, Seoul, and serves on the Advisory Committee of the National Human Rights Commission of Korea. Ms. Lee is the founding President of International Child Rights Center.

The Special Rapporteurs are part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms. Special Procedures mandate-holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. They are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.

UN Human Rights, country page: [Myanmar](#)

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## End of Mission Statement by Special Rapporteur on the situation of human rights in Myanmar

Yangon, 21 July 2017

Thank you for the opportunity to address you again this evening. I would like to start by expressing my sympathies to Myanmar at the damage recently caused by the Cyclone Mora, particularly in Rakhine and Chin States and Ayeyarwaddy Division. I understand the rebuilding effort is underway and hope the needs of all affected people can be addressed soon.

As you know I have just completed my 12-day visit to Myanmar. I would like to thank the Government as well as the United Nations Resident Coordinator for facilitating it. I have been to Yangon and Nay Pyi Taw as well as parts of Rakhine, Shan and Kayin States. In Rakhine, I went to Kyaukphyu, Sittwe, Buthidaung and Maungdaw. In Shan State, I was only able to visit Lashio; and in Kayin State, only Hpa-an. In Nay Pyi Taw, I met with the State Counsellor as well as other Government ministers and officials. I was not able to meet the Commander-in-Chief and representatives from the ministries for Defence, Home Affairs, Transport and Communication, and Religious Affairs and Culture. I also met with the Attorney General, as well as Governmental, Parliamentary, and statutory bodies.

In the past, I have acknowledged the good cooperation extended to me by the Myanmar Government for my visits to the country. And on a few occasions mentioned some difficulties of access. This time I want to speak a bit more on the issue of access particularly in light of the Government's recent decision to deny visas to the UN Fact-Finding Mission as well as a new condition that the Government tried to impose on me for this visit.

Let me first remind that two recommendations from my last report were for a Special Session of the Human Rights Council on the situation in the north of the country, specifically Kachin and Shan States; and for a Commission of Inquiry on the situation in Rakhine State. In its March resolution, the Human Rights Council extended my mandate for one more year while at the same time established the mandate of the Fact-Finding Mission.

Now these are two separate independent mandates. I am here concluding my visit to the country today as part of the mandate of the Special Rapporteur on the situation of human rights in Myanmar which was in fact first established in 1992 by the UN Commission on Human Rights.

Yet I was astonished when I was asked by the Government to give an assurance that I will not undertake any activities that are to do with the Fact-Finding Mission while conducting my visit. The Government delayed confirming the dates of my visit expecting me to give such an assurance which I found to be an affront to the independence of my mandate as Special Rapporteur.

The delay of the Government in confirming the dates of my visit also meant delay in confirming the places that I would be permitted to go. Usually, and this was the case this time, in order to maximise the limited time I have in the country, I would propose alternative options to the places I had been denied. Yet the Government would often, which was also the case here, use the excuse of short notice to not entertain any new proposals, in addition to reasons of security.

As well as increasing restrictions on my access, individuals who meet with me continue to face intimidation, including being photographed, questioned before and after meetings and in one case even followed. This is unacceptable.

This is my third visit under the new Government and I have to say I am disappointed to see the tactics applied by the previous Government still being used. I understand the new Government wishes to normalise its relations with the United Nations, including not having special mechanisms attached to it. Before these "special mechanisms" can be dismantled, Myanmar must first transition into a country that deserves less attention and scrutiny.

Just as we are told not to expect Myanmar to transition into a democracy overnight - that it needs time and space, Myanmar should also not expect to have special mechanisms dismantled overnight - not until there are real and discernible progress in the human rights situation.

I will not at this time go into detail on the substance or issues that I looked into during my visit and will elaborate on them in my report to the General Assembly. But, for now, let me give you a brief overview.

I was particularly dismayed to learn that the situation in northern Shan is deteriorating. During my visit, I was not allowed to go to any of the places I had sought to visit beyond Lashio. I understand this applies to other international actors whose access to other areas is decreasing month on month. One of my requests was to visit Hsipaw Prison where the three journalists detained and charged under the Unlawful Associations Act are being held. However, despite Hsipaw being a tourist destination and frequented by foreigners, I was not allowed to go there.

In Lashio, I met representatives of the Shan State Government as well as civil society actors. I am concerned to hear from groups working on the ground they see more conflict, more cases of alleged human rights violations by different parties to the conflict and inadequate assistance for civilians. There have been numerous reports of killings, torture, even the use of human shields by the Tatmadaw, allegedly in some cases accompanied by threats of further violence if incidents are reported. In a few cases civilians, who are accused as collaborators or supporters of an ethnic armed group, are reportedly even forced to wear the uniform of that EAG before being subjected to ill treatment and torture.

I welcome information on the recent release of 67 children and young people from the Tatmadaw in June. However, there is also a reported increase in forced recruitment and abductions by the several Ethnic Armed Groups operating in the region as well as various militias. Civilians are caught between parties to the conflict facing abuses, risks from mines and clashes while less able to access assistance. While I was not able to visit this time, I understand the situation in Kachin State is also extremely serious, with no access for the UN to non-government controlled areas for over a year and concerning developments in Tanai township.

As you may know, my first site visit was to Kyaukphyu in Rakhine State. This was as part of my focus on business and human rights, particularly on the three Special Economic Zones - Kyaukphyu as well as Dawei and Thilawa. I met members of civil society working in this area and community members including farmers and fishers who were affected by these SEZs as well as past and ongoing mega-projects including on the Madei Island. These communities relayed experiences of land confiscation with little or no consultation or compensation, with efforts to seek redress often gone unanswered. Similar stories were to be repeated during my visits to other areas, showing this to be a truly nationwide problem.

In respect of Rakhine, I also sought to see progress on the Government's implementation of the Rakhine Advisory Commission's interim recommendations particularly the recommendation on the closure of three camps affecting three different communities. I was able to meet Kaman leaders as well as the displaced community members who were offered to move to Yangon instead of returning to their place of origin as recommended. I also visited Pyin Phyu Maw village where the displaced Rakhine community members were resettled from Ka Nyin Taw and met a few of them who also expressed their initial desire to return to their place of origin. I was however unable to meet the Rohingya community who still remain displaced in Kyein Ni Pyin camp. I am worried that these different and non-uniform re-settlement practices so far offer little prospect of a durable solution for the estimated 120,000 long-term IDPs still living in camps. On birth registration, I was informed of efforts to improve this in line with a recommendation from the Commission and welcome the issuance of over 20,000 birth certificates in Rakhine State.

The general situation for the Rohingya has hardly improved since my last visit in January, and has become further complicated in the north of Rakhine. I continue to receive reports of violations allegedly committed by security forces during operations. There also appear to be incidents of Rohingya being targeted by unknown assailants for applying to be verified as a citizen, as well as village administrators and other Muslims targeted for being collaborators for working with the authorities – leaving many Rohingya civilians terrified, and often caught between violence on both sides.

I note that officials at the State as well as Union level have stated that their duty to provide protection and security extends to not only the Rakhine but also the Muslim communities. Concrete actions including investigating all alleged violations must be undertaken. At the same time steps must be immediately taken to end discriminatory practices and restoring freedom of movement.

Members of the Rakhine community expressed to me their sadness at the current situation, their belief that the problems were caused by hardliners in both communities or even the Government and asked for the international community to be reminded that the Rakhine community as a whole should not be judged for the actions of its most extreme members. Similarly, the Kaman Muslims I met in Kyauk Ta Lone IDP camp stated that they have no problems with the Rakhine community living in Kyaukphyu town; however, they were being kept separated. I was saddened to learn that the IDPs were told that they would only stay in the camp for 3 days. The 3 days have turned into 5 long years.

I met a number of detainees in Buthidaung Prison arrested and charged in relation to the 9 October attacks – most of whom do not appear to have legal representation, do not fully understand the charges against them and are unable to put up a proper defence. I am particularly concerned by the detention of under-age individuals in general as well as specifically related to the 9 October attacks, and reported deaths in custody. Humanitarian access remains conditional, impeding the work of humanitarian actors in making the required assessment and delivering the necessary assistance and services. Moreover, it is also equally important that there is access for human rights monitoring and protection activities.

In Kayin State, I was not allowed to visit other places besides Hpa-an. Visiting the state for the first time, I met civil society groups working with communities across the state affected by land confiscation without due consultation and compensation as well as forced evictions. I was shocked to hear that in some cases farmers must still pay tax on land which was confiscated from them and in some other cases they are given the offer to buy back their own land at an inflated rate. I heard that domestic violence and violence against children is increasing both here and in other areas of the country with relevant ministries lacking the financial and human resources to roll out assistance projects across the country. Many of the tens of thousands of individuals displaced in the Thai-Myanmar border area are reportedly still afraid to return due to landmines and militarisation but face an increasingly precarious situation with assistance being reduced where they are now.

I also wanted to visit the Myaing Ka Lay cement factory area, but was denied, on the basis of the usual security issues. However, to my surprise, on the road from Hpa-an to Yangon, the cement factory was very visible, permitting me to see from afar the site which produces 4,000 tonnes of cement per day.

Concerns related to civil documentation were heard from communities living in several areas. I heard testimonies that obtaining identity cards in Kayin State is time consuming and frequently requires a bribe to speed up the process. I heard that in Kyaukphyu, the slow citizenship verification process is confining Kaman Muslims family members to Kyauk Ta Lone camp while their Buddhist family members have freedom to choose where to live. I also heard that in the north of Rakhine, the NVCs are being imposed on the Rohingya community in order to fish, get food assistance, have a job when the citizenship verification exercise is meant to be a voluntary one.

I also obtained updates on the worrying increase in prosecutions under Section 66(d) of the Telecommunications Act and ongoing efforts to amend the law as well as on the status of other laws that I have been following.

I will give more detail on these and other issues in my report to the UN General Assembly which I will present in October.

I recognise that for many individuals, albeit perhaps not many of those with whom I have spoken, there have been improvements. I welcome the clear commitment from some ministries such as the Ministry of Education that is making extensive efforts to improve access to quality schooling across the

country. The Ministry of Health's efforts in extending vaccination coverage are also to be commended as well as the Ministry of Natural Resources and Environmental Conservation's clear desire to tackle complex challenges in the resource sector.

In other, perhaps more sensitive areas, I sincerely hope that an equally strong commitment will become clear in the next few months that can be reflected in my report to the UN General Assembly – such as demonstrable steps towards humanitarian access being fully restored, towards preventing violations and assisting victims, towards the full implementation of the interim recommendations of the Rakhine State Advisory Commission and towards instituting systematic and genuine consultation as well as adequate compensation for those impacted by all new and continuing development projects in line with international standards.

I would also like to appeal to ASEAN to take a “non-indifference” stance to assist Myanmar in its journey to full transformation to a fully democratic society.

As ever, I stand ready to help in any way I can, to make Myanmar the rights respecting country I know it can be -- to make Myanmar a country where the rights of all people are respected, upheld, and protected.

Thank you!

### **Annex – List of Meetings Held/Requested & Areas Visited/Requested**

#### **Union Government Officials**

##### Meetings held

- State Counsellor, Union Minister for Foreign Affairs, Minister in the President's Office (with Union Minister, State Counsellor's Office)
- Union Minister of Border Affairs; Central Committee for the Implementation of Stability, Peace and Development of Rakhine State
- Union Minister of Information
- Union Minister for Natural Resources and Environmental Conservation
- Union Minister of Labour, Immigration and Population
- Minister for Commerce
- Minister for Health and Sports
- Permanent Secretary of Social Welfare, Relief and Resettlement; National Disaster Management Committee
- Union Minister of Education
- Union Attorney General

##### Meetings requested but not held

- Union Minister for Home Affairs
- Union Minister for Defense
- Union Minister for Religious Affairs and Culture
- Union Minister for Transport and Communications

#### **Parliament**

- Amyotha Hluttaw Bill Committee
- Legal Affairs and Special Cases Assessment Commission

#### **Other institutions/bodies**

- Myanmar National Human Rights Commission
- Myanmar Press Council
- Central Committee on Confiscated Farmlands and Other Lands
- Union Investigation Commission on Maungdaw

#### **Military (meetings requested but not held)**

- Commander-in-Chief
- North-Eastern Commander

#### **Rakhine State**

#### Meetings held and areas visited

- Chief Minister and representatives of the Rakhine State Government
- Resettled Rakhine community in Pyin Phyu Maw, Kyaukphyu
- Communities affected by the Kyaukphyu Special Economic Zone
- Affected community of Madei Island
- Community in Kyauk Ta Lone camp, Kyaukphyu
- Meeting with members of the Rakhine elders, Sittwe
- Muslim community in Aung Mingalar, Sittwe
- Muslim community in Thet Kae Pyin camp, Sittwe
- Members of the Kyaukphyu Special Economic Zone Management Committee

#### Visits requested but not held

- Kyein Ni Pyin IDP camp, Pauktaw

### **Shan State**

#### Meetings held

- Deputy State Administrator, Shan State Government
- Civil Society Actors working on IDPs and conflict

#### Visits requested but denied

- IDP camps in Kutkai, Muse and Namkhan areas
- IDP camps in Namtu town
- Hsipaw Prison

### **Kayin State**

#### Meetings held

- Acting Chief Minister and representatives of the Kayin State Government
- Civil society actors working on IDPs and refugee issues; land issues; natural resource issues; gender equality issues; cultural rights issues; rule of law issues

#### Visits requested but denied

- Myaing Ka Lay cement factory
- Wa Koke Taw, Hlaing Bwe Township

### **Persons met in prisons**

#### Buthidaung Prison

- Individuals detained in relation to the attacks on security forces

#### Lashio Prison

- Dumdaw Nawng Lat and Langjaw Gam Seng

### **Yangon**

- Meeting with Kaman representatives
- Lawyers
- Actors working on land rights issues; environmental issues; business and human rights issues; Special Economic Zone issues; women's rights and gender issues; children and youth issues; labour rights issues; peace process; freedom of religion; reform of the Telecommunications Act; judicial and legislative reform
- Representatives of international human rights non-governmental organizations

### **Others**

- Members of the United Nations Country Team
- Representatives of the diplomatic community

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## Statement by Ms. Yanghee LEE, Special Rapporteur on the Situation of Human Rights in Myanmar at the 35th session of the Human Rights Council

Agenda item 4  
Geneva, 15 June 2017

### **Distinguished Representatives, Ladies and Gentlemen,**

I thank you for the opportunity to once again allow me to address this Human Rights Council. This is the first time I am delivering a June oral update, and I will be covering some developments since March and will also look ahead to my next visit to the country which is scheduled to take place next month. I look forward to the Myanmar Government approving the dates, the length of my visit, and this time really provide access to the places I need to be in order to discharge my mandate appropriately.

I would like to take the opportunity at the outset to express my deepest sympathies to those affected by Cyclone Mora. My prayers are with all those who have suffered losses including their homes. I also express my sadness at the recent crash of a military plane carrying military personnel and their families which killed 122 people, including over a dozen children. My heart goes out to their families and friends at this difficult time.

### **Mr. President,**

Since my last address to you, the Fact-Finding Mission has been established by the Council. I welcome their mandate to look into alleged recent human rights violations by military and security forces, and abuses, in Myanmar. Establishing the truth in these alleged cases is in the interests of all of Myanmar and I therefore encourage the Government to fully cooperate with the Mission.

### **Excellencies,**

In Shan and Kachin States, unacceptable reports of serious human rights violations allegedly committed by several parties to the conflict including the Tatmadaw and ethnic armed groups have continued to arise. I was particularly distressed to see an appalling 17-minute video posted on social media in May, apparently showing soldiers from the Myanmar army beating several bound and unarmed men. The incident apparently occurred in 2015 and the fate of those involved is still unknown. In another incident in Kachin State, three individuals were found dead, with their bodies reportedly showing signs of torture, a few days after supposedly being detained by the Tatmadaw. I note statements from the authorities that they will investigate both incidents. However, I am unaware of any investigations into another incident in November 2016, which I just learnt about, where 18 people from Nam Hkye Ho village in Shan State were reportedly detained by the army, and their burnt remains found in a grave a few weeks later.

I have reported to you on a regular basis similar incidents, and I fear a recurring pattern here. The Tatmadaw, or some elements of it, conduct themselves in violation of human rights. Some of these cases are reported but cannot be verified for lack of access. A couple of these cases get out, often

because they had been caught on tape and circulated. The authorities say they will investigate, and we, the international community, accept this as an adequate response and let it go. Until the next case comes out again into the public realm, and the cycle of events repeats itself. I must remind that investigations must be conducted into all allegations, not just those that are extensively picked up by the media. And I must also remind that all investigations must be carried out in line with international standards and with all perpetrators fully held to account. I will be following progress in the cases that I have highlighted and others closely in the coming months.

### **Friends and Colleagues,**

Sadly, the continuing conflict in Kachin, Shan and Chin States has caused more people to flee. Despite repeated requests from the United Nations agencies and their partners, and clear humanitarian needs, permission to travel to areas not under government control to assist those newly displaced has still not been granted. I am particularly concerned by recent reports that 1,500 civilians in Kachin State, who were instructed by the Tatmadaw to flee their homes, are stranded unable to travel further as the armed forces have blocked waterways normally used for transportation.

Clearly, sustainable peace and demilitarization are sorely needed across the country. I note that the most recent union peace conference was held from 24 to 29 May, which was attended by eight ethnic armed groups with seven others attending parts of the conference as special guests and some other groups choosing not to attend at all. I welcome the inclusion of a number of human rights issues in the 37 general points that were agreed on by all participants. I was also pleased to see an increase in the representation of women in this conference, and hope that renewed effort can be taken to ensure that the minimum 30% target of female participation is achieved across all delegations and the full inclusion of civil society organizations and young people in the process.

### **Ladies and Gentlemen,**

I welcome the release of a number of those imprisoned for simply exercising their rights in the amnesties of prisoners announced on 12 April and 24 May. This includes Hla Phone and Myo Yan Naung Thein whom I visited in prison in January. I note however that many such individuals still remain in jails, awaiting trial or serving sentences, including human rights defender Khaine Myo Tun, whom I visited in January and who also suffers from health conditions.

The increasing use of the vaguely worded defamation provision in section 66 (d) of the Telecommunications Act is particularly worrying. It is especially notable that each case has to be approved by the Ministry of Communications and Transport in order to be charged, and that an estimate of 66 cases have been reported since the new government came to power. Discussing issues of public interest, satirising the military or the President should not risk criminal charges with a maximum three-year sentence.

### **Mr. President,**

In my forthcoming visit to Myanmar in July, I will continue to look into business and human rights issues, including the rights of those affected by Special Economic Zones. Investment projects should translate into a positive transformation, and more must be done to ensure this is the case for all and to uphold the rights of local communities.

I am particularly concerned by the developments at Letpadaung copper mine where police fired rubber bullets at community members protesting an incident in March during which a truck hit a local villager. Ten villagers and six police officers were injured and 50 individuals were later charged with offences in relation to the protests. There also continue to be protests in various areas over land confiscations, including the case of ten farmers who were convicted in April in Shan State to 16 months in prison for refusing to vacate land which had been confiscated from them.

I congratulate Myanmar on its achievement of becoming a medium ranked country in the human development index. I encourage further efforts to improve access to education and life expectancy which form part of the indicators. This must include further tackling child labour. Another shocking case of child abuse has recently come to light of a girl who was working as a domestic servant and I call on the government to do more to protect all children, including those forced to work, from abuse and neglect.

### **Distinguished Representatives,**

There have been a number of alarming incidents of incitement of intercommunal tension and religious

violence since my last update. In April, extremist Buddhist nationalists reportedly pressured authorities to close two Islamic schools in Yangon that traditionally have served as a prayer site, with no consultation and investigation. That they remain closed through Ramadan, a sacred month for Muslims when they not only observe the fasting but are also encouraged to conduct additional prayers, has resulted in a sense of greater isolation amongst the community. Three individuals peacefully protesting the schools' closure through prayer outside the schools reportedly now face charges. These undue restrictions are in contravention of the Muslim community's basic right to religious freedom and right to manifest it through worship and observance.

I commend the Government's actions in pursuing the arrest of individuals involved in the Mingalar Taung Nyunt incident in Yangon where a mob of over a hundred Buddhist nationalists entered a Muslim home under the pretext of finding illegal residents, which later resulted in a clash breaking out on the streets. Many in the Muslim community are nonetheless worried that the Government is unable to counter the growing threat of extreme Buddhist nationalism. As I have said in the past, the Government must take more concerted, systematic efforts to curb hate speech and violence incited by such nationalist groups.

The situation in Rakhine State remains tense with incidents of alleged rape, torture, kidnapping and a village official being stabbed to death continue to be reported. The situation for many of those who fled following the attacks on Border Guard Police facilities on 9 October last year and the subsequent clearance operations remains difficult. While the estimated 20,000 Rohingya who were displaced within Myanmar have mostly returned to or near their places of origin, returnees face significant shelter needs due to the large number of burnt homes, a situation exacerbated by the impact of Cyclone Mora. I am further informed that 332 Rakhine, Dynet and Mro evacuees are still unable to return to their homes. Whilst some of the reported 74,000 Rohingya who fled to Bangladesh appear to have now returned, exact numbers are difficult to ascertain as people fear prosecution for illegal border crossing.

I am especially alarmed by the reported recent rise in the number of child brides amongst women and girls who fled Myanmar and live in neighbouring countries. As we are all aware, this perpetuates the cycle of violence and of poverty experienced by these young women.

I am also concerned by reports that at least 13 children have been detained by police in Rakhine State in relation to the October 9th attacks. According to a statement released by the State Counsellor's Office on 5 June, one of these children died on February 2nd due to health reasons. I remind the Government that children should be detained strictly as a last resort, for the shortest appropriate period of time, and must be treated with humanity and respect in a manner which takes into account their age. I urge the Government to take all necessary measures to guarantee the rights of these children not to be arbitrarily deprived of their liberty and to fair and timely proceedings as well as to adequate medical care. Further, I urge the Government to immediately conduct a full investigation into this child's death including why it was only reported four months later.

Please allow me at this point to highlight again Myanmar's international obligations, in particular, under the Convention on the Rights of the Child. As we all know, by being party to this treaty, the State has made a public commitment as to how it will treat everyone under the age of 18 within its jurisdiction. The provision that has particularly stuck in my mind is Article 2 of the CRC which, among others, reiterates the principle of non-discrimination, and requires appropriate measures to ensure that, "the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members." Myanmar has an obligation with respect to "each child within [its] jurisdiction" without discrimination of any kind. I repeat, within its jurisdiction. This includes all Rohingya children living in Rakhine. With your permission, Mr. President, I would like to ask the Government of Myanmar, if it really has respected and lived up to this promise? Now, I would also like to ask other distinguished representatives here if they have indeed made sure that Myanmar lived up to its promise? I ask this question because of the continuing dire, if not worsening situation of the Rohingyas.

**Mr President,**

During my last statement to you, I highlighted the shortcomings in the investigative mechanisms established by the Government to assess the situation in Rakhine State. Unfortunately, there have been no changes to address these concerns. In early March, the Maungdaw Investigation Commission conducted a three-day visit to Rakhine State, still without a robust methodology or witness protection policies in place. I remain unconvinced that the military investigation team, which recently announced

its findings dismissing practically all allegations against the security forces as wrong or false, is sufficiently independent or impartial.

I note the issuance of the interim report by the Advisory Commission on Rakhine State; and while Myanmar has said it “accepts totally” the interim recommendations therein, implementation has been tentative at best. Although the Government has been closing IDP camps as recommended, many individuals are not being permitted to return to their place of origin, despite their stated desire to do so. Muslims in Kyein Ni Pyin camp, most of who self-identify as Rohingya, were told that the Government would only provide housing in the location of their current displacement, whereas Kaman Muslims in Ramree were only offered transportation options to Yangon and financial support. In contrast, Rakhine Buddhists were offered re-settlement in a neighbouring area, in newly-built homes along with financial compensation, although they have raised concerns that the location is some distance from a school. I am worried that these different re-settlement practices offer little prospect of a durable solution for the 120,000 Rohingya still living in camps, and exacerbate the grievances between the Buddhist and Muslim communities. The Government has estimated that it will take five years to close all the camps, which means that some IDPs could spend as long as ten years confined in these camps. This is simply unacceptable.

### **Distinguished representatives,**

During my statement in March, I highlighted the proposed joint benchmarks which the Human Rights Council invited me to work with the Government to develop. In the months since then, I have still not seen significant developments on the majority of these benchmarks. In my next visit to Myanmar in July, I hope to discuss with my interlocutors how we can work together to develop a work plan and time frame for their swift implementation. I recognize the inherent difficulties in any democratic transition, and as always, I seek to work with Myanmar to address and overcome the challenges she faces. I stand ready to assist in any way I can to achieve a Myanmar where the rights and fundamental freedoms of all are respected and fully realized.

Thank you

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## Statement by Ms. Yanghee LEE, Special Rapporteur on the Situation of Human Rights in Myanmar at the 34th session of the Human Rights Council

Agenda item 4

Geneva, 13 March 2017

### Mr. President, distinguished representatives, ladies and gentlemen,

I am honoured to present today my third report to this Council in my capacity as the Special Rapporteur on the situation of human rights in Myanmar. I am conscious that this Government is only now nearing its first anniversary in power and that not only has it inherited formidable human rights challenges from the previous Government, it also has to meet with exceedingly high expectations from its people as well as the international community.

As I have conveyed to the Government of Myanmar, and to members of this Council, my approach to this mandate has always been as a friend to Myanmar. I have no agenda other than the realization of human rights in the country; the only bias and partiality is towards the promotion and protection of the rights of all people in Myanmar.

### Mr. President,

I have conducted two visits to Myanmar in the past year, in June 2016 and January 2017. I thank the Government of Myanmar for these invitations and its cooperation with my mandate, attempts at better engagement especially by the Permanent Mission here, and particularly in respecting my request to meet community members in Rakhine State without close monitoring of officials and security personnel during my most recent visit. Nevertheless, I regret that I was again unable to visit several areas I had requested in Kachin state and that these refusals were given at the last minute, preventing full optimization of the limited time I had available. I must confess that there were times that I had seriously questioned the nature of the cooperation.

The government has also yet to agree on the proposed joint benchmarks, which were called for by the last Council resolution, and which were shared with them several times before and during my recent visit.

### Excellencies,

One of the key tasks facing Myanmar will be reform and modernization of all three branches of government. The judiciary – vital arbiters of justice – need continuing strengthening and improvements to the appointments system. In the executive branch, administrative reform including on local levels will be vital. On legislative side, I remain of the view that legislative process requires further streamlining and increased transparency, and suggest a law on law-making be enacted similar to those adopted by several countries in the region. I have also welcomed the repeal of several outdated laws but dozens of problematic laws remain on the books and continue to be used.

The 1982 Citizenship Law in particular appears to have a similar standing as the Constitution as to the

sensitivity surrounding its possible reform despite its clearly discriminatory provisions. Currently, a citizenship verification exercise under this discriminatory law is underway and despite understandings that the process should be voluntary, I receive continuing reports of Rohingya being coerced into undergoing the process as otherwise they are not allowed fishing licences, to carry out work as a national staff member of an international organization, sit for matriculation exams in schools or even receive food assistance.

As mentioned, Constitutional reform seems a distant goal at this time. And made even more onerous with the brutal killing of one of Myanmar's known Constitutional lawyers, U Ko Ni, as he was holding his grandchild. Despite this unexpected and seemingly insurmountable hurdle, I urge for progress towards Constitutional reform through potentially the establishment of a preparatory committee to study possible revision processes. Until the Constitution is reformed to provide for a truly civilian government, Myanmar cannot truly attain a full democracy.

### **Ladies and Gentlemen,**

The extent that human rights defenders as well as press members are monitored, surveilled, harassed, and intimidated is also a good barometer for measuring democratic space. Considering the number of former political prisoners in the ranks of Myanmar's Cabinet and Parliament, it is disappointing to see the continued misuse of laws such as section 505 of the Penal Code and increasingly section 66(d) of the Telecommunications Act to suppress voices of dissent, including through arrest and imprisonment. Of particular concern are multiple cases of killings of civil society actors for their involvement in human rights work and activism, including several in recent months, as well as cases which remain unresolved even after years of relatives of victims demanding justice. Many of these cases relate to vested commercial interests or the military.

Myanmar has rich natural resources, but it is important that efforts to extract this bounty benefit all. I am concerned that individuals who have lived on land for generations continue to face evictions without proper safeguards and that communities continue to face severe health impacts and livelihood difficulties from environmental degradation associated with large scale mineral extraction. It is important that, the recent Environmental Impact Assessment Procedures, are systematically implemented and enforced, and that full advantage is taken of the welcome decision to suspend the issuance of jade mining licenses, to reform the legislative and policy framework governing the mining industry to ensure strong protections against environmental and human rights abuses.

### **Mr. President,**

I am extremely concerned by the escalation in conflict in Kachin and Shan States which is having a dramatic impact on civilians in these areas. Just a week ago, fighting broke out in Kokang self-administered zone, reportedly causing over ten thousand people to flee to cross the Chinese border in search of safety. I say "reportedly" as we do not know exact conditions. Since May 2016, the United Nations and other international organizations have been systematically denied authorization to deliver vital and in some cases lifesaving assistance to over 40,000 IDPs including those recently displaced. Even in areas controlled by the government access is becoming more difficult – additional layers of approvals have recently been required – including from the military.

I also continue to receive reports of serious human rights violations committed by all parties to the conflict, including torture, inhumane and degrading treatment, sexual- and gender-based violence, arbitrary killings, and abductions, all of which frequently go uninvestigated. There has also been a worrying trend of reportedly indiscriminate attacks in or near civilian area. I condemn the apparent total disregard for civilian lives in the strongest terms and emphasize the need for all parties to take immediate steps to protect civilians, respect international human rights and humanitarian law and end the violence and for investigations into allegations to be conducted.

Peace will be vital to the future development of Myanmar, and the peace process represents an opportunity to transform the country. To have this transformative effect, discussions need to be inclusive and to address complex issues related to underlying root causes. I welcome the increasing representation of women in the discussions, but hope the level of representation will reach a minimum of 30% across all groups, in the next conference. Civil society organizations must also be seen as vital partners to the process. Unfortunately the peace process at the moment appears to be at a stalemate – I call on all parties to increase efforts to advance the process.

### **Distinguished Representatives,**

You may be aware that one of my main concerns during my visit to Myanmar in January was reprisals. I raised concerns earlier of voices of dissent being suppressed including through arrest and imprisonment. And never have I felt more anxiety over potential acts of retaliation and reprisals than in Rakhine State during my visit.

Myself and my predecessors have long raised concerns about Rakhine State, particularly the institutionalised discrimination faced by the Rohingya population and the inter-communal violence in 2012, as well as the general underdevelopment of the state and lack of opportunities for all communities. As you are all likely aware the situation in the state took on new dimensions on 9 October, when three Border Guard Police facilities were reportedly attacked, by groups of armed men in a coordinated manner, killing 9 members of the Myanmar Police Force. In response three townships were declared closed off with the launch of a security operation, with no access to independent media, and humanitarian programmes suspended. Following the launch of the security or clearance operations, reports began surfacing, increasingly and persistently regarding serious human rights violations, allegedly committed by the security forces.

Reprisals was the main reason why I had asked to make a visit to Bangladesh where tens of thousands of the Rohingya population have fled from Rakhine State, and where they might feel less threatened to give me their accounts of what had happened during the clearance operations. In Cox's Bazar, I met around 140 people from several villages in the north of Rakhine. I heard from them harrowing account after harrowing account. In my statement at the end of my mission to Bangladesh, I spoke about having been especially affected by a mother who repeatedly expressed regret for mistakenly thinking that her son had been brought out from their burning house. She heard him screaming for her and managed to save his life but burn scars have been seared onto him - scars which I saw with my own eyes. I wanted to share what I saw with you today.

I heard allegation after allegation of horrific events like these – slitting of throats, indiscriminate shootings, setting alight houses with people tied up inside and throwing very young children into the fire, as well as gang rapes and other sexual violence. Even men, young and old, broke down and cried in front of me telling me about what they went through and their losses.

Putting these experiences together with the institutionalized discrimination and long-standing persecution of the Rohingya population which I have reported on previously, as well as the continuing action by the authorities to make their lives even more difficult – even as the clearance operations are taking place – which include by dismantling their homes and conducting a household survey where those absent may be struck off the list that could be the only legal proof of their status in Myanmar - indicates the government may be trying to expel the Rohingya population from the country altogether. I sincerely hope that that is not the case.

### **Excellencies,**

Myanmar has established several commissions to review the situation in Rakhine State, however I believe they have yet to discharge their investigative obligations. In the case of the Advisory Commission on Rakhine State, chaired by former UN Secretary-General Kofi Annan, the alleged human rights violations are outside the scope of their mandate. For other commissions, there are questions about the extent to which their investigations are “prompt, thorough, independent and impartial”. In particular, for investigations to be truly independent – members should be independent of any institution or agency that may be the subject of the inquiry. However, the Maungdaw Investigation Commission, whose members I was able to meet during my January visit, includes former members of the military and the currently serving Chief of the Myanmar Police Force. The commission also does not appear to have a robust methodology or policies in place to address key issues such as witness protection or documentation of evidence.

The truth about whether all, or some, or any of these allegations are correct needs to be established. There is a need for a new set of investigations which are “prompt, thorough, independent and impartial”, and this needs to happen soon, before the evidence is compromised. In Myanmar's pursuit of a fully democratic society, no stones must be left unturned. The alleged victims, as well as all the people of Myanmar deserve to know the truth. The international community must come together in expressing a strong and single voice in this regard, regardless of varying interests of individual member states. This is why I called for a Commission of Inquiry to investigate the systematic, structural, and institutional discrimination in policy, law and practice, as well long-standing persecution, against the Rohingya and other minorities in Rakhine State.

Prompt, thorough, independent and impartial investigations are not only needed in Rakhine, but also

rompt, thorough, independent and impartial investigations are not only needed in Rakhine, but also in conflict affected areas such as Kachin and Shan which are often overlooked and where serious violations, of a similar type to those in Rakhine, have been reported for many years. Yet many of these violations have also gone uninvestigated, with the situation in these areas worsening and still receiving little attention. For this reason, I have repeatedly requested to travel to Laiza and other areas in Kachin and Shan to speak to community members and IDPs but have been repeatedly denied, including during my most recent visit. That is also the reason why I recommended for this Council to hold a dedicated and urgent discussion to address the human rights violations occurring in other parts of the country including in Kachin and northern Shan.

#### **Mr. President,**

Following my visit to Bangladesh, I was a bit disappointed to hear that the Government of Myanmar has started to claim that I am unfair and biased. But I have to point out that the focus of my Bangladesh visit and related observations was to meet those who had fled from the north of Rakhine subsequent to the conduct of clearance operations there – and all those I met who had fled were Rohingya.

#### **Excellencies,**

I would like to draw some attention to the joint benchmarks I have proposed as well as the suggested areas which remain to be explored for development of technical cooperation programmes. I remain convinced that Myanmar would highly benefit from establishing a fully-fledged OHCHR country office with proper resources and a full mandate to help with the provision of technical advice and assistance on human rights issues to the Government and people of Myanmar.

I want to end this statement by emphasizing that I have absolutely no reason whatsoever to present a biased, one-sided report. However, I have every reason to present the situation to reflect the reality, even if some may not like what I have to say.

I believe this Council expects me to do exactly that by entrusting me with this mandate.

As I have always done, I present myself, and my mandate, as a source for support and assistance towards Myanmar's aim of becoming a fully functioning democracy and aspiration to be respected in the international fora.

Thank you for your attention.

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## UN expert urges action to protect Rohingya population in Myanmar

GENEVA (27 February) – The Special Rapporteur on the situation of human rights in Myanmar is calling for urgent action by the Government there to end the suffering of the Rohingya population in the country.

Speaking at the end of a four-day visit to Dhaka and Cox's Bazar Yanghee Lee said: "the magnitude of violence that these families have witnessed and experienced is far more extensive than I had originally speculated."

During her visit, she met members of the Rohingya population who had fled to Bangladesh after 9 October 2016 when the Myanmar Border Guard Police facilities were attacked and reprisals followed.

The expert reported several allegations of horrific attacks including the slitting of some people's throats, indiscriminate shootings, houses being set alight with people tied up inside and very young children being thrown into the fire, as well as gang rapes and other sexual violence.

In addition to the alleged human rights violations occurring within the context of the security operations that followed the 9 October attacks, Ms. Lee also highlighted how the Government of Myanmar appears to have taken, and continues to take, actions which discriminate against the Rohingya and make their lives even more difficult.

The Special Rapporteur said: "I urge the Government of Myanmar to immediately cease the discrimination that the community continues to face, to act now to prevent any further serious rights violations and to conduct prompt, thorough, independent and impartial investigations into those already alleged to have occurred."

"We all owe it to those I have met and their fellow community members to do everything in our power to ensure this is done and to give the Rohingya people reason to hope again," she concluded.

The Special Rapporteur will present her full report to the UN Human Rights Council on 13 March 2017. The report will be available online here:

<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session34/Pages/ListReports.aspx>

ENDS

End of mission statement [here](#).

*Professor Yanghee Lee (Republic of Korea) was appointed by the UN Human Rights Council in 2014 as the [Special Rapporteur on situation of human rights in Myanmar](#). She is independent from any government or organization and serves in her individual capacity. Ms. Lee is currently serving as the Chairperson of the Coordinating Committee of Special Procedures of the Human Rights Council. Ms. Lee served as member and chairperson of the UN Committee on the Rights of the Child (2003-2011). She is currently a professor at Sungkyunwan University, Seoul, and serves on the Advisory Committee of the National Human Rights Commission of Korea. Ms. Lee is the founding President of International Child Rights Center.*

*The Special Rapporteurs are part of what is known as the [Special Procedures](#) of the Human Rights Council. Special Procedures, the largest body of independent experts in the UN Human Rights system, is the general name of the Council's independent fact-finding and monitoring mechanisms. Special Procedures mandate-holders are independent human rights experts appointed by the Human Rights Council to address either specific country situations or thematic issues in all parts of the world. They are not UN staff and are independent from any government or organization. They serve in their individual capacity and do not receive a salary for their work.*

UN Human Rights, country page: [Myanmar](#).

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