



# General Assembly

Distr.: General  
22 February 2011

English only

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## Human Rights Council

### Sixteenth session

Agenda item 4

### Human rights situations that require the Council's attention

## **Written statement\* submitted by International Educational Development, Inc., a non-governmental organization on the roster**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[14 February 2011]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## Human rights and the recognition of legitimately elected parties in Cote d'Ivoire and Myanmar\*\*

International Educational Development, Inc. and the Association of Humanitarian Lawyers fully support the recognition by the United Nations and the African Union of Cote d'Ivoire's president-elect Alassane Outattara. We fear that if the incumbent leader Laurent Gbagbo and his supporters remain in control of the country, and are recognised by members of the international community as a legitimate government, the situation in Cote d'Ivoire will come to resemble that of Myanmar since the election in that country in May 1990.

According to the Independent Electoral Commission and the United Nations, Mr. Ouattara won the poll in November by more than 8 percent.<sup>1</sup> The international community has expressed its support for Mr. Ouattara. However, since the announcement made by the Economic Community of West African States (ECOWAS) that it would be willing to use military force if necessary to make Mr. Gbagbo surrender the leadership, this support has appeared to waver on the part of some ECOWAS members. Ghana and Nigeria, the two ECOWAS members best equipped to lend troops to the proposed intervention force, are reluctant to do so. Ghana has to date refused to send troops and Nigeria is showing a lack of enthusiasm with the idea of sending troops, which would likely be unpopular with its citizens during Nigeria's own election year.<sup>2</sup> The president of Uganda has called for an investigation into the election and the heads of State African Union have decided to create a panel of leaders to find a way out of the crisis that could give Mr. Gbagbo at least another month as president.<sup>3</sup> The positions of African nations are becoming increasingly divided on the issue. In order to effectively address the issue, we feel that a united stance must be taken against Mr. Gbagbo for the gross violations of human rights that have occurred since the election, and the fact that, if he remains, the will of the people as the basis of governance, as provided for in Article 21(3) of the Universal Declaration of Human Rights, will be violated.

The 1990 election in what was then Burma had a similar outcome to that of Cote d'Ivoire. Despite a questionable election process where major opposition leaders were arrested and their campaign was greatly restricted by the then-provisional government, the National League for Democracy was able to win over 80 percent of the seats while the preferred parties of the provisional government won 2 percent. The remaining seats were taken by minor opposition parties or those representing ethnic nationalities.

Burma's provisional government, and its leader General Than Shwe, refused to hand power over to the legitimately - elected opposition parties. In 1991, in spite of efforts by the National League for Democracy and other parties who had won seats to prevent it, any support for the will of the people as the basis governance was shattered when the United Nations allowed the losing government to maintain its seat in the United Nations and

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\*\* The Association of Humanitarian Lawyers (AHL), an NGO without consultative status also shares the views expressed in this statement. AHL researcher Emily Pew assisted in the preparation of this document.

<sup>1</sup> John James, "Will deadlock see Ivory Coast shut up shop?" BBC News, 2 February 2011. <http://www.bbc.co.uk/news/world-africa-12346944>.

<sup>2</sup> Mark Doyle, "No rush to military intervention in Ivory Coast." BBC News 31 December 2010 <http://www.bbc.co.uk/news/world-africa-12096437>.

<sup>3</sup> Melissa Labonte, "Ivory Coast standoff: Hit Gbagbo where it hurts," *The Christian Science Monitor*, 13 January 2011. <http://www.csmonitor.com/Commentary/Opinion/2011/113/Ivory-Coast-standoffHitGbagbo-where-it-hurts-take-away-the-power-of-the-purse>.

acquiesced to its intent to rewrite the nation's constitution.<sup>4</sup> By allowing the losing party to continue to occupy Burma's seat in the United Nations, the international community "legitimized" the status of the "illegitimate" government and played a major role in the continuance of human rights violations in Burma, now renamed Myanmar. We have documented many violations of human rights, especially of the ethnic nationalities, and have provided testimony at two hearings of the United States Congress in this regard. Violations include widespread ethnic cleansing of groups who have been fighting for greater autonomy or a return to their pre-colonial status, especially the Karen and Karenni peoples. We have testified about civilians used as forced labour to build pipelines and other infrastructure, torture, beatings, forced displacement and rape by Myanmar armed forces. Special Rapporteur Ojea Quintana concurs with many of our findings.<sup>5</sup>

On November 7, 2010, the Myanmar government held its first election since the election in 1990, and the third election since the country's independence over 60 years ago. There were many causes for concern before the election about how democratic it was. Freedom of expression and freedom of assembly and association were restricted by the laws and directives of Myanmar's Electoral Commission. There was no release of prisoners of conscience, which, of course prevented them from participating as candidates or voters. The National League for Democracy boycotted the election because of the continued detention of Nobel Peace Prize laureate Aung San Suu Kyi, the former General Secretary of the National League for Democracy during the election in 1990, and other serious concerns. The registration requirements for parties, high registration costs for each candidate, as well as time restrictions for parties to organize, constrained the activities of parties that were not supported by the Government.<sup>6</sup> The elections were even cancelled in 300 villages because of security concerns. In sum, the people of Myanmar were denied the opportunity to participate in a democratic election process. We feel that the resulting government cannot be considered to be a legitimate political representation of the people.

We are encouraged by the release of Aung San Suu Kyi. It is a meaningful step in the transition towards democracy but a step not taken until after the election. We very much hope that her release will be unconditional and that the authorities will also release its 2,100 other prisoners of conscience unconditionally and without delay. The release of Aung San Suu Kyi and actually holding an election is a small start to what could be the transformation of Myanmar into a democratic form of government. However, before there is democracy in Myanmar, the government must acknowledge the right of the people to form a government that represents the will of the people, expressed in genuine and fair elections inclusive of all peoples. This has not yet happened.

On October 10, 2010, in his statement to the 65<sup>th</sup> session of the General Assembly's Third Committee, Tomás Ojea Quintana commented that, "We have seen too many cases in the world of incomplete transitions that have sacrificed justice for the mistaken notion that this

<sup>4</sup> James F. Guyot, "Myanmar in 1990: The Unconsummated," *Asian Survey* 31 (Feb. 1991):205-211.

<sup>5</sup> Tomás Ojea Quintana, *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, A/HRC/13/48, 10 March 2010.

<sup>6</sup> Tomás Ojea Quintana, Statement by Special Rapporteur on the Situation of Human Rights in Myanmar (presented to the 65th session of the General Assembly, Third Committee, Item 68c, New York, 20 October 2010). We note that this was before the actual election, but is meant to support our view that the conditions of the elections fell far short of minimum requirements under international law.

would achieve peace and stability. Now is the time to end the widespread and systematic violations of human rights that have been occurring in Myanmar for decades."<sup>7</sup>

The transition in Myanmar that the rapporteur refers to is important to consider when observing the events currently unfolding in Cote d'Ivoire. As we can see in the case of Myanmar, allowing the incumbent governing power in Cote d'Ivoire to disregard election results may lead to the violation of human rights in that country for many years. We feel that it is imperative that members of the international community, and the United Nations and African Union in particular, do not recognise Mr. Gbagbo's government as legitimate and to ensure that it loses the right to be seated as the government of Cote d'Ivoire. If it were to be recognised by the United Nations, as was the voted-out government of Myanmar, it would only solidify its position and allow it to further violate the human rights of its citizens. The government of Myanmar still has not allowed for free democratic elections after being in control for over 20 years. If Mr. Gbagbo's government is acknowledged by the international community, we fear that the people of Cote d'Ivoire will experience the same pattern of human rights violations as in Myanmar, with no possibility of relief.

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<sup>7</sup> Tomás Ojea Quintana, Statement by Special Rapporteur on the Situation of Human Rights in Myanmar (presented to the 65th session of the General Assembly, Third Committee, Item 68c, New York, 20 October 2010).