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Human rights situations that require the Council's attention

Written statement* submitted by the Jubilee Campaign, a non-governmental organization in special consultative status

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

[24 August 2011]

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

Human rights and religious freedom in Myanmar**

The Jubilee Campaign, together with Christian Solidarity Worldwide (CSW), seeks to draw the Council's attention to the domestic human rights and religious freedom situation in Myanmar.

Despite repeated calls for change there has been little evidence for progress in Myanmar which continues to be one of the foremost violators of human rights in the world. Since the elections in 2010 there has been a significant increase in the scale and severity of human rights violations, which include the systematic use of rape as a weapon of war, torture, forced labour, forced conscription of child soldiers, and extrajudicial killings. The Jubilee Campaign joins the UN Special Rapporteur for Human Rights in Myanmar in calling for a Commission of Inquiry into these crimes which amount to crimes against humanity and war crimes.

Whilst Myanmar's recent commitment to ratify and implement the Convention against Torture (CAT) and the International Covenant on Civil and Political Rights (ICCPR)¹ is welcomed, it is deeply concerning that Myanmar's obligations under existing human rights treaties are not respected. There are many examples of this disregard for international human rights law and since the elections in 2010 the situation has deteriorated. For example, even though Myanmar is legally bound by the Convention on the Rights of the Child it has the highest number of child soldiers in the world. Myanmar has failed to uphold the rights enshrined within the obligations of the treaty to protect children and instead wilfully violates these rights. The widespread forcible conscription of child soldiers is indicative of this.

Equally disturbing are reports of the army using rape as a weapon of war. Cases of rape continue to be reported alongside the army's targeted attacks on ethnic civilians in the border regions. According to the Kachin Women's Association Thailand, 32 Kachin women and girls were gang-raped by Myanmar soldiers during the first week of renewed fighting between Myanmar armed forces and the Kachin Independence Army (KIA), 13 of these victims were also killed². Even though cases have been described as widespread and prevalent there are many cases of sexual violence which have not been reported or documented. The failure of the government to investigate these cases and prosecute those responsible has allowed sexual violence to continue.

Disturbing reports have been received relating to the on-going attacks in Shan state where civilians have been targeted by the army forcing 3,000 villagers to flee from their homes³. Since the Myanmar army broke its 22 year ceasefire agreement with the Shan State Army-North (SSA-N) in March, there has been an increase in the number of reports of torture, arbitrary detention, forced labour and shooting of unarmed civilians including women and children. Reports of abuses also include the systematic use of rape as a weapon of war.

There has also been evidence of the killing of unarmed civilians in Kachin State where the longstanding ceasefire with the Kachin Independence Army (KIA) was recently broken resulting in the displacement of 20,000 civilians, and a further 32 cases of women and

** Christian Solidarity Worldwide, an NGO without consultative status, also shares the views expressed in this statement.

¹ Myanmar made this commitment as part of its review in the first cycle of the Universal Periodic Review

² http://www.kachinwomen.org/KWAT_press_release_19july2011.pdf

³ CSW Briefing on Burma: Visit to Burma and the Thailand-Burma Border 2011

girls being raped at the hands of the Myanmar armed forces⁴. In addition, there are multiple reports of villages being raided on a regular basis, with the villagers subjected to looting, torture, forced labour, point blank executions, rape and enslavement, including for use as human minesweepers.

Myanmar's present constitution allows these crimes to be committed with impunity. Article 445 of the 2008 Constitution stipulates that "no proceedings shall be instituted against the said Councils or any member thereof or any member of the government, in respect of any act done in the execution of their respective duties⁵." This clause effectively gives the perpetrators of these crimes immunity from justice. The government has also failed to ensure that there are prompt and impartial investigations into reports of crimes. If future violations are to be prevented then this deeply embedded culture of impunity amongst state and military personnel has to change. Since provisions of human rights treaties are not incorporated into Myanmar's constitution or laws; and the judiciary system benefits the perpetrators of abuses, intervention by the international community is a necessary step to restoring justice.

Although the government held elections in November 2010 these are believed to have been widely affected by vote rigging, voter intimidation and harassment. Freedom of expression and association was also severely curtailed. The new parliament formed as a result of the elections consists mainly of members from the previous military leadership. Although some seats were held by ethnic and democratic parties the USDP won over 80% of the seats⁶. Furthermore, the National League for Democracy (NLD) was disqualified from taking part in the elections when they refused to register in the polls; the party is now deemed illegal and unable to carry out its activities.

Similarly, although the release of Aung San Suu Kyi from house arrest is to be welcomed, there remain over 2,000 political prisoners held in detention in Myanmar, many of whom are serving harsh sentences of up to 65 years for taking part in peaceful political protest⁷. Those in detention are often held in appalling conditions which do not meet international standards. Many are denied access to medical treatment and are subject to ill treatment and even torture.

The urgency of the need for international action is further highlighted by the UN Special Rapporteur on the Situation of Human Rights in Myanmar. In his report, the UN Special Rapporteur found "a pattern of gross and systematic violation of human rights" which has been continuing "over a period of many years," and that these violations constitute crimes against humanity and "are the result of a state policy that involves authorities in the executive, military and judiciary at all levels." The Jubilee Campaign and CSW believe that this shows the urgency with which a full commission of inquiry is needed. The Special Rapporteur concluded that "failing to act on accountability in Myanmar will embolden the perpetrators of international crimes and further postpone long-overdue justice⁸."

The UN has a responsibility to protect the people of Myanmar and to hold the Myanmar government accountable for its actions. The Jubilee Campaign and CSW urge the Council to act upon the Special Rapporteur's recommendations. Failure to act risks sending a message to the Myanmar leadership and other states that international law can be ignored whilst violations of this magnitude can take place without consequence.

⁴ CSW Press Release <http://dynamic.csw.org.uk/article.asp?t=press&id=1212>

⁵ http://www.burmalibrary.org/docs5/Myanmar_Constitution-2008-en.pdf

⁶ <http://www.dvb.no/elections/usdp-wins-%E2%80%98percent-of-seats%E2%80%9912728>

⁷ CSW Stakeholder Submission on Myanmar to the 10th Session of the Universal Periodic Review

⁸ HRC Report of the Working Group on the Universal Periodic Review Myanmar, 2011

Recommendations to the Human Rights Council:

- To act upon the recommendations of the Special Rapporteur on the situation of human rights in Myanmar to establish a UN Commission of Inquiry into war crimes and crimes against humanity;
 - To call upon and aid the government of Myanmar to implement recommendations made in successive UN reports on Myanmar's domestic human rights situation;
 - To urge the Government of Myanmar to declare a nationwide ceasefire and an end to military attacks against ethnic civilians;
 - To urge the Government of Myanmar to halt violations of human rights law by security forces, including bringing to an end the widespread use of rape as a weapon of war, forced labour, torture and killings;
 - To urge the Government of Myanmar to ratify and implement core international human rights treaties;
 - To urge the Government of Myanmar to ensure domestic legislation is wholly reflective of the provisions of these treaties;
 - And to urge the Government of Myanmar to unconditionally release all prisoners of conscience.
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