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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.

[10 February 2013]

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

Ethnic nationalities in Myanmar*

International Educational Development, Inc. (IED) and the Association of Humanitarian Lawyers (AHL) have monitored the situation in Myanmar for 23 years.¹ We have submitted written statements and made oral ones at many sessions and have been twice invited by the United States Congress to present testimony at hearings.

The past year has been transformative for Myanmar. Daw Aung San Suu Kyi, democratic champion of the ethnic Burmese, was elected to the parliament, an event symbolic of the significant democratic gains in the structure of the government of Myanmar. The National League for Democracy (NLD) is now the leading opposition party within the government, and while the Union Solidarity and Development Party still hold an illegitimately inflated representative majority in the parliament, the mere fact that the NLD has gained such a significant foothold is a positive sign of democratization.

These democratic reforms represent gains for the ethnic Burmese, but it is critical to recall that Myanmar is a “union” of ethnic nationalities, many of whom have suffered and continue to suffer in unequal power conflicts with the national government. We reject the use of the term “ethnic minorities” in reference to these ethnically distinct peoples. The Shan, Chin, Karen, Rakhine, Kachin, Karenni, and other groups form the basis for 32 percent of the estimated 60 million person population. When the Union of Burma was formed in 1947, many of these ethnic nationalities were not only guaranteed their own semi-autonomous states under a federal system but also the constitutional option to secede from that union after ten years. Conflict between these peoples and the Burmese-dominated national government has been the hallmark of the history of the Union of Myanmar reaching back to the earliest days of independence and stretching forward to the present.

In the past year President U Thein Sein has issued ceasefire orders to the military several times, which are completely at odds with the continued acts of war taken by the national army against the Kachin people. As we stated last year, IED and HLP do not consider this to indicate a power disconnect between the “civilian” government and the military. President U Thein Sein was himself a former general who served as Prime Minister under the notorious General Than Shwe. Many members of the Union Solidarity and Development Party boast military credentials. To suggest that there is a power gap between these individuals and the military would mean ignoring the shared military backgrounds as well as the interests of the national government.

Given the military ties between the army and government officials, it seems more likely that this represents a tactic to ingratiate the government with Western leadership and others in the international community, even as it continues its repressive goals in the Kachin State; this area is rich in both natural resources and important hydroelectric power opportunities of interest to China. This, coupled with the anticipated international fixation on democratic reforms for the ethnic Burmese, forms the basis for the national government smoke-screen tactic.

In recent weeks, the military has brought its full force to bear on the Kachin Independence Army (KIA), casting President U Thein Sein’s January 19th promises for peace in a new

* The Association of Humanitarian Lawyers, an NGO without consultative status, also shares the views expressed in this statement.

¹ Association of Humanitarian Lawyers researcher T.J. O’Sullivan assisted in the preparation of this document. IED and AHL use the term “Myanmar” under protest, as we have always viewed the government that renamed Burma as ultra vires and hence had no legal authority to do so.

light: “Our government will make genuine and lasting peace with the KIA.”² However, the military bombardment of Kachin strongholds seems to indicate that the national government seeks a “peace” imposed militarily rather than one established through ethnic reconciliation. This government’s capacity for doublespeak when it comes to ethnic conflicts has not lessened since the institution of reforms.

The military’s continued use of child soldiers was brought to the fore by a January report from Child Soldiers International (CSI) detailing results of its on-the-ground investigation. While CSI used under age 18 and we maintain that the Geneva Conventions allow soldiers at age 15, the age also used in by the international tribunals, there may be a considerable number of child soldiers under the age of 15 who have been recruited for both fighting and supporting roles. There are reports that some were sent to the front lines in the conflict with the Kachin. There is at least one reported case of a 13 year old child soldier.³

The military’s relentless assault on Kachin towns and KIA outposts has displaced thousands of Kachin. Many of these refugees have fled across the border to China, though their future presence there is very much in question.⁴

The international community has only nominally criticized the flagrant human rights abuses against the ethnic Kachin by the authorities. In the past year, sanctions have been rolled back, the United States joins other western States that have appointed ambassadors, and President Obama and former Secretary of State, Hillary Clinton, jointly visited the South Asian nation, lending its government more legitimacy than we think it deserves.

Internally, Daw Aung San Suu Kyi has remained silent on the issue of the governments’ bombardment of civilian towns in the Kachin state as well as its clear efforts to secure “peace” through repression and violence in the region. Indeed, in recent weeks, Suu Kyi has stated that she is “fond” of the national army.⁵ Ethnic nationalities do not have a champion in Suu Kyi and desperately need a representative voice. UN Special Rapporteur Tomas Ojea Quintana has been the most substantial international advocate for ethnic nationalities, calling attention to human rights abuses in his last report to the UN General Assembly: “The Special Rapporteur is particularly concerned at continuing serious human rights violations in conflict-affected ethnic border areas, which include attacks against civilian populations, extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers, forced labour and portering, and the use of landmines.”⁶

For the authorities of Myanmar, ethnic autonomy is bad for business, and they wish to capitalize on the ever-growing international interest in its resources and under-developed economy. While there have been democratic gains for the ethnic Burmese, the human rights of other ethnic nationalities, particularly those of the Kachin, have been violated continuously. Until these violations cease and the government demonstrates that ethnic

² <http://www.ibtimes.com/myanmar-crushes-kachin-rebels-americas-old-friends-world-war-ii-10730744> (Accessed: February 8, 2013) (Published: February 8, 2013) (Author: Richard Erlich).

³ http://articles.washingtonpost.com/2013-01-23/world/36499749_1_child-soldiers-army-recruitment-child-recruitment (Accessed: February 8, 2013) (Published: February 4, 2013) (Author: Associated Press).

⁴ <http://www.economist.com/news/asia/21571189-over-border-kachin-conflict-causes-headaches-china-kachin-dilemma> (Accessed: February 8, 2013) (Published: February 2, 2013) (Author: not listed).

⁵ <http://www.bbc.co.uk/news/uk-21217884> (Accessed: February 8, 2013) (Published: January 26, 2013) (Author: not listed).

⁶ Situation of human rights in Myanmar, Report of the Special Rapporteur to the United Nation General Assembly, A/67/383 of September 25, 2012.

nationalities will see the same positive gains that the Burmese have, it is essential that the UN Human Rights Council extend the mandate of the Special Rapporteur and more proactively push the government of Myanmar to cease its human rights violations.

Recommendations

- The Council should extend the mandate of Special Rapporteur Tomas Ojea Quintana.
 - The Council should call upon the government of Myanmar to demonstrate good faith in its peace talks with the Kachin.
 - The international community should engage in efforts to pressure the government of Myanmar to resolve its conflicts with ethnic nationalities peaceably and with deference to each group's sovereignty.
 - The international community should maintain current sanctions against Myanmar until such a time as the human rights violations have ceased and the country is more solidly on the path to democracy.
 - The Special Advisor to the Secretary-General on Children in Armed Conflict should investigate the use of child soldiers in the conflict with the Kachin.
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