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Human rights situations that require the Council's attention

Written statement* submitted by the 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.

[13 February 2012]

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

The situation 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.

While IED/HLP have been gratified in recent months by the seeming shift towards democratic reform in Myanmar, we strongly encourage the UN Human Rights Council, its member states, and other actors in the international community to proceed with cautious hope rather than unbridled enthusiasm and haste. The ostensibly positive changes seen in this long-suffering country and its historically repressive governments are occurring in rapid succession and the international community needs to approach developments with immense care. We fear actions by numerous entities on the international stage are cultivating an atmosphere of permissibility when it comes to the new “civilian” government’s continued human rights violations and crimes against humanity occurring in its conflicts with ethnic nationalities.

The “democratic reforms” seen over the last year do not necessarily indicate a true philosophical shift by the new “civilian” government. While we echo the praise of many others in the international community for the limited reforms, the release of political prisoners and Daw Aung San Suu Kyi, and the permission given to the National League for Democracy to participate in the upcoming elections, we stress that the overwhelming majority in the new “civilian” government represents the Orwellian Union Solidarity and Development Party who are largely former members of the military leadership. Indeed, the BBC profile of current President U Thein Sein, himself a former general who served as Prime Minister under the notorious General Than, Shwe indicates his relationship with Than Shwe as one of “total obedience.”²

The new government still demonstrates that while it carries out some democratic reforms, there remains an enormous disconnect between its notion of human rights and that of the rest of the international community. The new government has spent most of the last year reigniting or escalating the conflicts with the ethnic nationalities. Despite much publicized ceasefires between the government and ethnic nationalities, in particular with the Karen National Union, it still remains unclear what the central government plans to do to resolve these conflicts. Some ethnic leaders suggest that the government’s individual ceasefires reflect an attempt to isolate each group from one another. In any case, no one is confident that any ceasefire will hold.

Resumed violence in Kachin territory near the Chinese border causes us to question the motives of such ceasefires, the army demonstrating once again its complete disregard for human rights in an onslaught of murder, rape, and pillaging. Some consider this offensive, which came after Thein Sein’s ceasefire order to the military, a power disconnect between the military and the civilian government. We do not believe that this is the case. Given the military background of the “civilian” government and the inextricable ties between the two

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

¹ Association of Humanitarian Lawyers researcher Timothy J. O’Sullivan assisted in the preparation of this document. IED/HLP 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.

² <http://www.bbc.co.uk/news/world-asia-pacific-12358204> (accessed 1/30/2012) (Published: Feb. 4, 2011) (no author listed)

bodies, 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 ethnic territories which are rich in both natural resources and important hydroelectric power opportunities of interest to many States, especially China in the Kachin area. Regardless of the intent, Michael Posner, Assistant Secretary of State for Human Rights, stated “...violence in the Kachin state has worsened with reports of serious human rights abuses and violations of international humanitarian law.”³

Thus far, however, the international response has affirmed the government’s current course and in some ways possibly sanitized its continuing grave violation of basic human rights. While US Secretary of State Hillary Clinton’s recent visit was intended to engage the new government and encourage democratic development and peace, we fear that it may have acted as an inadvertent indication to the rest of the world that it was time to “move on” from condemnation and sanctioning and in effect gave the government a clean slate.

In a similar fashion, the European Union praised the new government for its reforms, such as permitting trade union activity and in establishing a national human rights commission, and for the recent freeing of over 600 political prisoners, again drawing attention away from humanitarian law violations in the ethnic conflicts and painting a far rosier picture than the current reality. While also mentioning the Government’s efforts to seek peace with ethnic groups there is no mention of the increasing human rights abuses over the last year or the violent offensive into Kachin territory which has drew wide condemnation.

The newly-formed Human Rights Commission in Myanmar that the European Union was so quick to praise, however, has asserted that there have been no human rights violations or crimes against humanity for the Commission to investigate. At the previous session of UN Human Rights Council, Myanmar’s representatives again asserted categorically that there have been no human rights violations of any kind in their country. As reported in *The Irrawaddy*: “At a Universal Periodic Review (UPR) of Burma’s human rights situation by the United Nations Human Rights Council, Burmese representatives continued to deny reports of forced labor, sexual violence against women and other abuses perpetrated by the country’s military. At the UPR meeting in January, the Burmese delegation said that accusations of widespread rights violations, especially in ethnic areas, were ‘baseless and merely aimed at discrediting the Burmese armed forces.’”⁴

Further evidence of this willingness to ignore the galling human rights record of this government lies in recent attempts by international business lay claim to Myanmar’s untapped markets and resources. A group of European investors have approached the Thai government about using the country as a staging ground for development of European business interests in Myanmar which many investors view as ripe for the taking. The *Bangkok Post* reports that they are trying to pressure the Thai government to begin negotiations with the EU for a free trade agreement to facilitate the development of their economic interests in Myanmar.⁵ Indeed, the cooling off of international concern for human rights extends to respected Western media outlets such as *The New York Times*, which has gone so far as to include Myanmar in a list of the “Top 45 places to Go in

³ <http://www.bangkokpost.com/news/asia/278129/us-decries-worsened-burma-violence> (accessed 3/03/2012) (Feb. 2, 2012) (no author listed)

⁴ http://www.irrawaddy.org/article.php?art_id=22025 (Accessed 1/30/2012) (Published Sept. 6, 2011) (author: Ko Htwe)

⁵ <http://www.bangkokpost.com/business/economics/277406/europeans-see-thailand-as-gateway-for-push-into-myanmar> (accessed 1/30/2012) (published 1/30/2012) (author: Nareerat Wiriyapong)

2012.”⁶ Of course economic exploitation of the turmoil in this country will only serve to signal to the government that its current course is acceptable in foreign eyes, allowing the human rights violations and crimes against humanity to fall into the shadows and conceivably worsen.

The limited reforms seen over the last year, regardless of whether they are actual or merely an act, demonstrate that the years of sanctions and recrimination, particularly since Cyclone Nargis in 2008, made a significant impact on the authorities. This does not mean that it is time to remove sanctions: sanctions are a demonstrably effective tool and their removal would jeopardize further development and undermine the position of ethnic nationalities.

Recommendations:

- The Council should extend the mandate of Special Rapporteur Tomas Ojea Quintana.
- The Council should call upon the new “civilian” government of Myanmar to cease its military operations against all ethnic nationalities and to permit the Special Rapporteur and international and internal aid workers to enter the war ravaged territories.
- The United States should redouble its current efforts to pressure the government of Myanmar to resolve its conflicts with ethnic nationalities peaceably and with deference to each group’s sovereignty.
- The European Union should exercise more caution with regard to its engagement of with the new government of Myanmar and to make any aid or promises of economic development contingent upon demonstration of the country’s renewed commitment to human rights and peaceful resolution of its ethnic conflicts.
- The international community should maintain 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.

⁶ <http://travel.nytimes.com/2012/01/08/travel/45-places-to-go-in-2012.html?pagewanted=all> (accessed: 1/30/2012) (published: Jan. 6, 2012) (author: Ceil Miller-Bouchet)