



Plenary sitting

B8-0380/2018

11.9.2018

MOTION FOR A RESOLUTION

with request for inclusion in the agenda for a debate on cases of breaches of human rights, democracy and the rule of law

pursuant to Rule 135 of the Rules of Procedure

on Myanmar, notably the case of journalists Wa Lone and Kyaw Soe Oo (2018/2841(RSP))

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on behalf of the GUE/NGL Group

B8-0380/2018

European Parliament resolution on Myanmar, notably the case of journalists Wa Lone and Kyaw Soe Oo (2018/2841(RSP))

The European Parliament,

- having regard to its previous resolutions on Myanmar and on the situation of the Rohingya,
- having regard to Council Decisions 2018/900 and 2018/898 of 25 June 2018 amending Decision 2013/184/CFSP concerning restrictive measures against Myanmar/Burma,
- having regard to the Report of the Independent International Fact-Finding Mission on Myanmar released on 27 August 2018,
- having regard to the Statement by the Spokesperson on the Preliminary Report of the United Nations International Fact-Finding Mission on Myanmar on 30 August 2018,
- having regard to the Statement of U.N. High Commissioner for Human Rights Michelle Bachelet on 3 September 2018,
- having regard to the decision of the Pre-Trial Chamber I of the International Criminal Court ruled on the 6 September 2018,
- having regard to its reports of 13 June 2017 on statelessness in South and South East Asia,
- having regard to the Universal Declaration of Human Rights,
- having regard to the 1966 International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights,
- having regard to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol thereto,
- having regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,
- having regard to the New York Convention relating to the Status of Stateless Persons,
- having regard to the Convention on the Rights of the Child,
- having regard to the United Nations Convention against Transnational Organised Crime,
- having regard to the Convention on the Elimination of All Forms of Discrimination against Women,

- having regard to United Nations Security Council Resolution 1325 on women and peace and security,
 - having regard to the Global Action Plan to End Statelessness 2014-2024 of the United Nations High Commissioner for Refugees (UNHCR),
 - having regard to the Declaration on Human Rights Defenders,
 - having regard to the Report of the Secretary-General on conflict-related sexual violence released on 23 March 2018,
 - having regard to EU Commissioner for Humanitarian Aid and Crisis Management, Christos Stylianides, press release following his visit to northern Rakhine State in May 2017,
 - having regard to EU Commissioner for Humanitarian Aid and Crisis Management, Christos Stylianides, press release following his visit to northern Rakhine State in May 2017,
 - having regard to the EU-Myanmar/Burma investment protection agreement in neogotiation,
 - having regard to the recurrent reports by NGOs on the human rights situation in Myanmar/Burma, and in particular on the Rohingya, June 2018 Amnesty International report ‘We Will Destroy Everything’,
 - having regard to Rule 123(2) of its Rules of Procedure,
- A. whereas the Rohingya constitute the world’s largest group of stateless persons; whereas the persecution, violence and discrimination against this Muslim minority continue to intensify in Myanmar/Burma;
 - B. whereas journalists Wa Lone and Kyaw Soe Oo have been condemned to 7 years in jail after being found guilty of breaching Myanmar’s Official Secrets Act on 3 September ; whereas they have been arrested and detained since 12 December 2017 following their investigations on Rohingyas slaughters;
 - C. whereas the two Reuters journalists notably covered the violent assault of the 25 August 2017 following the attacks on police and army posts in the northern Rakhine ; whereas they also investigated the case of 10 murdered rohingyas in a village, Inn Din, by the Army and some radical Buddhist civilians ; whereas Wa Lone also worked on military land grabs and won an honorable mention from the Society of Publishers in Asia for Reuters coverage of the Rakhine crisis in 2016 ;
 - D. whereas these recent two condemnations sends a stark warning to other journalists and activists ; whereas this landmark case further undermines freedom of expression, democracy and rule of law in Myanmar ;

- E. whereas U.N. High Commissioner for Human Rights Michelle Bachelet called on Myanmar to free the two Reuters journalists as well as all other journalists detained for exercising their freedom of expression ;
- F. whereas the two journalists allegedly collected and obtained secret documents pertaining to the security forces with the intention to harm national security ; whereas the Official Secrets Act under which they are charged is one of a number of repressive laws in Myanmar ; whereas the Act dates back to the colonial government in 1923 and is extensively used to repress freedom of expression and information ;
- G. whereas the Captain Moe Yan Naing, cited as a witness by the prosecution, admitted during the trial that one of his officers ordered him to deliver the incriminating documents to the journalists and that it is true that it was a rigged arrest; whereas after his testimony, Moe Yan Naing was sentenced to one year in prison for violating the police disciplinary code;
- H. whereas this landmark case is not the first case of intimidation and restriction of the freedom of expression ; whereas former child soldier Aung Ko Htwe is serving a two-year, six-month prison sentence for an interview with a media outlet in which he spoke about his experiences in the Myanmar Army ; whereas he faces three more years of imprisonment for protesting his condemnation ; whereas Article 505 (b) of the Myanmar Criminal Code represses anyone who gives, publishes or circulates information that may frighten or alarm the population or any part of the population and incite a person to commit an offense affecting the state or public tranquility;
- I. whereas last 23 August was the sad anniversary of the Myanmar security forces' assault on hundreds of Rohingya villages in 2017; whereas this anniversary was the occasion for international community to be remembered the continued failure to hold to account those responsible for slaughters, rapes, torched villages and repression of Rohingya civilians ;
- J. whereas the United Nations Fact-Finding Mission on Myanmar (FFM) released an early report on 27 August 2018 bringing yet more damning evidence of the Myanmar security forces' atrocity crimes against the Rohingya and against ethnic minorities in northern Myanmar underlining that it undoubtedly amount to the gravest crimes under international law; whereas it proves military tactics are consistently and grossly disproportionate to actual security threats, with killings indiscriminately, gang raping women, assaulting children, and burning entire villages ; whereas the Report collected sufficient information to warrant the investigation and prosecution of senior officials in the Tatmadaw (army) chain of command, so that a competent court can determine their liability for genocide in relation to the situation in Rakhine State; whereas this document constitutes therefore a crucial input ahead of the 39th UN Human Rights Council Session ;
- K. whereas Myanmar refused to recognize the legitimacy of the FFM established by the UN Human Rights Council in March 2017 ; whereas the State Counsellor, Daw Aung San

Suu Kyi, has not used her de facto position as Head of Government, nor her moral authority, to stem or prevent the unfolding events in Rakhine State ; whereas, on the contrary, the former Sakharov and Nobel Prize has again chosen to focus on terrorism when addressing the topic of Rohingya at a speech in Singapore last month ;

- L. whereas, following a request submitted by the Prosecutor, the Pre-Trial Chamber I of the International Criminal Court ruled on the 6 September that the Court may exercise jurisdiction over the alleged forcible transfer and deportation of the Rohingya people from Myanmar to Bangladesh ; whereas the Chamber considered the element of this crime that legally occurred on the territory of Bangladesh which is a State party to the Statute ;
- M. whereas if no international mechanism is established quickly to collect and preserve evidence for use in future criminal proceedings, vital evidence risks disappearing or being destroyed;
- N. whereas on 26 April 2018, EU Council extended and strengthened the EU's arms embargo on Myanmar and prohibited the provision of military training to, and military cooperation with, the Myanmar army;
- O. whereas late June, EU has added 7 senior military figures to Myanmar sanctions on behalf of their involvement in or association with atrocities and serious human rights violations committed against the Rohingya population in Rakhine State in the second half of 2017 ; **whereas** following those asset freeze and travel bans, the Myanmar/Burma army (Tatmadaw) announced that Maung Maung Soe, Myanmar's former Major-General had been permanently removed from his post ;
- P. whereas the Council keeps its decisions under constant review pending the evolution on ground ; whereas the list can sanctions individuals responsible for serious human rights violations as well as obstruction to independent investigations or to the passage of humanitarian assistance for civilians in need ;
- Q. whereas in its June 2018 report, 'We Will Destroy Everything', Amnesty International named 13 individuals while UN High Commissioner for Human Rights holds a longer list of names to the attention of any competent and credible body pursuing accountability in line with international norms and standards ;
- R. whereas the systematic repression has forced more than 700 000 Rohingya women, men, and children to flee from northern Rakhine State to neighbouring Bangladesh ; whereas, following monsoon rains season and subsequent additional international help, Rohingya remain in dire need of further humanitarian support ;
- S. **whereas in June 2018, UN agencies and the government of Myanmar signed a Memorandum of Understanding, described as a 'first step' towards the repatriation of Rohingya refugees from Bangladesh ; whereas although a near-final draft has been leaked, the final agreement has never been made public ;**

- T. **whereas the Parliament has been clear that repatriations are not viable under current situation, unless serious reforms are implemented against Rohingya discrimination ;** whereas the UNHCR stated that that conditions are not yet conducive to voluntary returns ; whereas the conditions for return are the recognition of citizenship and the end of violence, as advised by the Advisory Commission led by former and defunt UN Secretary-General, Kofi Annan ;
- U. whereas the conditions in northern Rakhine State are still conducive, following the wave of military repression in the past months ; whereas access to this main muslim region of Myanmar remains largely restricted for NGOs, independent observers and journalists;
- V. whereas the authorities are demolishing the Rohingya villages that had previously burned and building bases for the army and border police; whereas new roads and structures are also being built on burned Rohingyas lands and villages, reducing the likelihood that refugees will return to their homes; whereas the destruction of the Rohingya villages and the environment may be contributing to the destruction of evidence of crimes against humanity committed against the Rohingya population, which could impede future investigations;
- W. **whereas deeply rooted and institutionalized discrimination and segregation against Rohingyas is amounting to apartheid; whereas reforms to address this are unlikely to happen while** the Burmese army still wields disproportionate power over the country's affairs; whereas certain articles of the Constitution enshrine impunity for military and civilian leaders;
- X. whereas according to recent revelations, a subsidiary of the Japanese multinational brewing giant Kirin made a donation to Myanmar's military and authorities at the height of an ethnic cleansing campaign against the Rohingya population in late 2017 ; in particular to Senior General Min Aung Hlaing; whereas such donation together with a donation ceremony next to Myanmar's top military leaders send a worrying message and could be interpreted by the Myanmar authorities as a political support to the internal repression; whereas, on the contrary, in-kind donation of rice and cooking oil are much welcomed ;

1. Strongly condemns once again the attacks in Myanmar against the Rohingya, which according to the UN High Commissioner for Human Rights amount to ethnic cleansing and urges the Government of Myanmar to end the excessive use of force and the discrimination and violence which devastate the Rohingya in Rakhine State;
2. Calls for the dropping of charges and immediate and unconditional release of Wa Lone and Kyaw Soe Oo and of all those detained solely for having revealed cases of repression against Rohingyas;

3. Is deeply worried by current clampdown on the freedom of expression and information and the rule of law in Myanmar ;
4. Calls on the Burmese authorities to guarantee full respect for the right to freedoms of expression, assembly, association and the media, to end arbitrary arrests and detentions and to stop imposing disproportionate sentences on those who exercise these rights, including civil society actors and journalists trying to protect the rights of minorities, who are regularly subjected to intimidation and harassment;
5. Recommends replacing the Official Secrets Act with a modern law that protects freedom of information and defines clearly official secrets with safeguards for publishing information that is in the public interest, according to international standards;
6. Commends the work of the UN Fact Finding Mission ; recommends the establishment of an international mechanism to collect and preserve evidence for use in future criminal proceedings ;
7. Strongly regrets Myanmar decision to stop cooperation with the Special Rapporteur on Human Rights and hopes the government will revert the decision ;
8. Highlights that discrimination, expulsions, abuse, mass killings and incitement to hatred against the Rohingya by the Burmese state are tantamount to a 'crime against humanity'; Recalls that genocide, crimes against humanity and war crimes must not go unpunished;
9. Takes note of the decision of the Chamber of the ICC over the crime of deportation of Rohingya from Myanmar to Bangladesh; urges EU Member States take the lead in the UN Security Council and table a dedicated resolution ;
10. Urges that the EU Member States take the lead in the UN General Assembly and the UN Human Rights Council and ensure the urgent establishment of an international, impartial, and independent mechanism to support investigations into alleged atrocity crimes;
11. Commends the agreement between UN and Myanmar and insists on the UNHCR being systematically involved in the work of the Joint Working Group ; supports the position of the High Commissioner for Refugees, who considers that, at present, the conditions are not in place to enable safe and sustainable returns from Bangladesh ; stresses the need to respect the principle of non-refoulement in all circumstances;
12. Draws to the attention to the authorities that accountability is a pre-condition for Rohingya to return to Myanmar ;
13. Underlines that Rohingyas are unlikely to return while their home towns are destroyed and repression and discrimination persists ; Supports the United Nations Development

Programme (UNDP) and the Office of the United Nations High Commissioner for Refugees (UNHCR) in need of effective access and streamlined procedures to accessing entire tracts of Myanmar villages and undertaking area-based programmes that will help to create conditions suitable for voluntary returns and build social cohesion;

14. Reminds its support to the full implementation of the recommendations of the Advisory Commission on Rakhine State, notably on citizenship ;
15. Considers that the 1982 citizenship law provides fertile ground for division by introducing the iniquitous concept of different citizenship 'statuses' rendering Rohingya de facto stateless, as well as selective application, with multiple levels of bureaucracy and endemic corruption;
16. Welcomes the UN campaign to end statelessness by 2024 ; Recalls that the Rohingya are an integral part of the Burmese population and that they must therefore be recognized as such by law as recommended by the Advisory Commission;
17. **Condemns Aung San Suu Kyi recent declarations and clear lack of commitment to protect Rohingya, an integral part of the Burmese population, and to step up to put an end to the abuses committed by the military, police forces or radicalised groups of civilians ;**
18. Recommends, in view of that long-last challenge, increasing EU resettlement quotas for Rohingya refugees who have been chronically displaced from Myanmar for decades in other parts of Southeast Asia;
19. Commands the EU Council decision following its recommendation for the extension to the existing embargo on arms and equipment on Myanmar ; remains vigilante to make sure cooperation is strictly limited to Human Right training, including with police forces and Border Guard Police (BGP) ;
20. Urges the Council to match its list of individual sanctions with the one of UN High Commissioner for Human Rights ;
21. Appreciates the constructive role played by Bangladesh under difficult circumstances; stresses that freedom of movement and the refugee statute are key to allowing access to basic services and education opportunities; recommends therefore the signing of the Convention Relating to the Status of Refugees (Geneva Convention) and the 1967 Protocol thereto, and the New York Convention relating to the Status of Stateless Persons ;
22. Reiterates its call on the Commission to consider consequences in the context of the trade preferences Myanmar enjoys and recommends the launch of an investigation under the mechanisms provided for in the Everything But Arms provision; urges the Council to consider this measure;

23. Calls on Myanmar/Burma to ratify five of the eight key agreements already signed, in particular the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child ;
24. Invites Japanese authorities to investigate into the Kirin case to attest the full respect of the clause that explicitly prohibits the use of Myanmar Brewery funds for military purposes and the United Nations Guiding Principles on Business and Human Rights ; reminds that companies must identify and assess their potential or actual human rights impacts by undertaking a risk-based due diligence analysis ;
25. Calls on all companies on ground to act responsibly and disclose the steps they take to avoid contributing to human rights violations in a high-risk environment;
26. Supports the work of the United Nations Intergovernmental Working Group "to develop an international legally binding instrument that regulates, within the framework of international human rights law, the activities of transnational corporations and other companies"; urges the EU institutions and the Member States to work fully towards this objective, in particular its binding nature;
27. Instructs its President to forward this resolution to the Council, the Commission, the Vice President of the Commission / High Representative of the Union for Foreign Affairs and Security Policy, the governments and parliaments of the Member States, the Government of Myanmar/Burma, the ASEAN Member States, the Secretary-General of the United Nations and the General Assembly of the United Nations.