

# Lawyers' Rights Watch Canada

*NGO in Special Consultative Status with the Economic and Social Council of the United Nations*

*Video Intervention: Check against delivery*

Organization: Lawyers' Rights Watch Canada

Item: Item 4: Interactive Dialogue, Special Rapporteur on the situation of human rights in Myanmar

Date: 22 September 2020

Speaker: Joseph Doyle

## **Oral Statement to the 45th Session of the UN Human Rights Council from Lawyers' Rights Watch Canada (LRWC), NGO in special consultative status**

Mme. President,

Lawyers' Rights Watch Canada thanks the Special Rapporteur for his report.

We reiterate our concerns raised during the 44<sup>th</sup> session about Myanmar's failure to ensure the independence of the judicial system and the legal profession.<sup>1</sup> We deplore the ongoing impunity for attacks or surveillance against lawyers and defenders<sup>2</sup> as well as abuse of laws to criminalize them.<sup>3</sup>

A free and fair election in November 2020 is of paramount concern. We deplore Myanmar's discriminatory refusal to allow Rohingya people to vote or run as candidates.<sup>4</sup>

We condemn the Tatmadaw's continued impunity for rights violations and atrocity crimes throughout Myanmar, particularly against minorities in Rakhine, Shan, and Kachin States.<sup>5</sup> Myanmar continues its refusal to cooperate with Special Procedures.<sup>6</sup> Myanmar has refused to publicly release its May 2020 report to indicate how it is fulfilling the Provisional Measures Order of the International Court of Justice to prevent genocide and ensure the preservation of evidence of alleged acts of genocide.<sup>7</sup>

We ask the Council to urge Myanmar to fulfil its international human rights obligations and to:

- Ensure a free and fair election, including full participation by all of Myanmar's minorities, including Rohingya people;
- Fully cooperate with the Council including the upcoming Universal Period Review (UPR),<sup>8</sup> and Special Procedures including the Special Rapporteur and the Independent Investigative Mechanism for Myanmar (IIMM), ensuring full access to all areas of Myanmar.<sup>9</sup>

Thank you.

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<sup>1</sup> Lawyers' Rights Watch Canada and Lawyers for Lawyers, Myanmar must ensure the independence of the legal profession, Oral Statement at the 44th Session of the Human Rights Council, 13 July 2020, <https://www.lrwc.org/myanmar-must-ensure-the-independence-of-the-legal-profession-oral-statement-at-the-44th-session-of-the-human-rights-council/>

<sup>2</sup> Human Rights Watch, Myanmar: Drop Charges Against Free-Speech Activist: Repeal Laws Criminalizing Peaceful Protest, Expression, 20 August 2020, <https://www.hrw.org/news/2020/08/20/myanmar-drop-charges-against-free-speech-activist>; Amnesty International, Myanmar: "I will not surrender": The criminalization of human rights defenders and activists in Myanmar, 13 April 2020, <https://www.amnesty.org/en/documents/asa16/2041/2020/en/>

<sup>3</sup> Impunity for the 2017 murder of human rights lawyer **U Ko Ni** continues, as the suspected intellectual author of the killing remains at large, and investigations to date have lacked the effectiveness, independence, and impartiality required by UN standards. **Mr. Robert Sann Aung** has received death threats and has been subjected to monitoring by security forces. See Amnesty International statement at:

<https://www.amnesty.org/download/Documents/ASA1660032017ENGLISH.pdf>; **U Kyi Myint** is being prosecuted for defaming the military during 2019 remarks at an assembly on Constitutional amendment. **U Khin Maung Zaw** and **Daw Su Darli Aung** are being subjected to threats and judicial harassment while representing a suspect they believe to be innocent of a serious criminal offence.

<sup>4</sup> E.g. refusal to allow Rohingya citizens and human rights defenders **Abdul Rasheed** and **Abu Tahay** to run as candidates. See Rohingya politicians excluded from Myanmar's upcoming election: Authorities disqualify at least six Rohingya politicians from contesting the elections for lack of ID documents, Aljazeera, 25 August 2020, <https://www.aljazeera.com/news/2020/08/rohingya-politicians-excluded-myanmar-upcoming-election-200825100603397.html>; Election Authorities Reject Four More Rohingya Candidates in Rakhine State, RFA, 17 August 2020, <https://www.rfa.org/english/news/myanmar/rohingya-candidates-08172020190932.html>

<sup>5</sup> There is little evidence of Myanmar's willingness to investigate and prosecute atrocity crimes in accordance with international human rights standards, i.e., The Minnesota Protocol on the Investigation of Potentially Unlawful Death (2016), Office of the United Nations High Commissioner for Human Rights, New York/Geneva, 2017. Also see UN Human Rights Council, Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, A/HRC/26/36, 1 April 2014, para. 42,

[http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-36\\_en.doc](http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A-HRC-26-36_en.doc).

<sup>6</sup> UN Human Rights Council, Report of the Independent Investigative Mechanism for Myanmar, A/HRC/45/60, 7 July 2020, paras 6, 18, 59, <https://iimm.un.org/wp-content/uploads/2020/08/G2016493.pdf>

<sup>7</sup> International Court of Justice, Application of the Convention on the Prevention and Punishment of the Crime of Genocide (The Gambia v. Myanmar), Order of 23 January 2020, Request for the indication of provisional measures, <https://www.icj-cij.org/en/case/178/orders>.

<sup>8</sup> Joint Submission to the UN Universal Periodic Review by Lawyers for Lawyers and Lawyers' Rights Watch Canada, Joint Submission to the United Nations Universal Periodic Review, Thirty-seventh Session of the Working Group on the UPR, January/February 2020, <https://www.lrwc.org/ws/wp-content/uploads/2020/07/Joint-UPR-submission-Myanmar-L4L-LRWC-July-2020.pdf>

<sup>9</sup> Human Rights Council, Report of the Independent Investigative Mechanism for Myanmar, A/HRC/45/60, 17 July 2020, para 6, 31, 59, <https://undocs.org/en/A/HRC/45/60>.

<sup>9</sup> UN General Assembly, Human rights defenders in the context of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms : resolution / adopted by the General Assembly, 10 February 2016, A/RES/70/161, available at: <https://www.refworld.org/docid/56dd31954.html>. Also see International Service for Human Rights (ISHR) Model National Law on the Recognition and Protection of Human Rights Defenders, 2017, available at: [https://www.ishr.ch/sites/default/files/documents/model\\_law\\_english\\_january2017\\_screenversion.pdf](https://www.ishr.ch/sites/default/files/documents/model_law_english_january2017_screenversion.pdf).