



## Assemblée générale

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### Conseil des droits de l'homme

#### Dix-neuvième session

Point 4 de l'ordre du jour

#### Situations des droits de l'homme qui appellent l'attention du Conseil

### **Note verbale datée du 12 avril 2012, adressée au secrétariat du Conseil des droits de l'homme par la Mission du Myanmar auprès de l'Office des Nations Unies et des autres organisations internationales à Genève**

La Mission permanente de l'Union du Myanmar auprès de l'Office des Nations Unies et des autres organisations internationales à Genève présente ses compliments au secrétariat du Conseil des droits de l'homme, et a l'honneur de se référer à sa note verbale datée du 23 mars 2012 (A/HRC/19/G/17), contenant les observations du Myanmar au sujet du rapport du Rapporteur spécial sur la situation des droits de l'homme au Myanmar (A/HRC/19/67).

La Mission permanente a l'honneur de saisir cette occasion pour faire tenir ci-joint au secrétariat du Conseil des droits de l'homme la réponse transmise par le Ministère de la défense de l'Union du Myanmar\* et lui saurait gré de bien vouloir la faire distribuer aux États membres du Conseil des droits de l'homme et aux États observateurs, et de l'inclure dans la liste des documents de la dix-neuvième session du Conseil.

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\* La réponse est reproduite en annexe telle qu'elle a été reçue, dans la langue originale seulement.

## **Annexe**

### **Response provided by the Ministry of Defence of the Republic of the Union of Myanmar on the report of the Special Rapporteur on the situation of human rights in Myanmar to the 19th Session of the Human Rights Council**

#### **Response to Para 21**

Personnel of the Tatmadaw (Armed Forces) are required to abide by the laws prescribed by the State as well as the Tatmadaw Act. The Commander-in-Chief of the Armed Forces, in his speech on the occasion of the 67<sup>th</sup> Anniversary of the Armed Forces Day, reminded the personnel of the Armed Forces about the importance of abiding by both the Military Acts and the Civil Acts.

Military courts are not separate from the civilian judicial mechanism. There always exists a linkage between the two.

Article 343 (b) of the State Constitution (2008) provides that, in the adjudication of military justice, the decision of the Commander-in-Chief of the Defence Services is final and conclusive.

In exercise of the powers vested in him under Article 343 of the State Constitution, the Commander-in-Chief of the Armed Forces administers military justice fairly and in accordance with the laws, rules and regulations. The State Constitution was affirmatively approved by 92.48 percent of the votes in the national referendum held in 2008.

#### **Response to Para 21**

During the Special Rapporteur's last mission to Myanmar, the Union Minister for Defence briefed him on the existing practice of taking effective, dual action (not only under the Tatmadaw Act but by the civilian justice mechanism as well) against the Tatmadaw personnel who commits any offence tantamount to the violation of human rights. The Minister further explained to the Special Rapporteur that offences committed against civilians and the violence against women were being dealt with more severely. In this connection, records of the penalties meted out to the perpetrators are kept systematically. These records are further explainable, if necessary.

#### **Response to Para 31**

The Myanmar National Human Rights Commission was formed by the President of Myanmar. With a view to improving prison conditions, the Commission not only inspects prisons, but also conducts interviews with prisoners. Its findings, together with appropriate advice and suggestions, are conveyed to the authorities concerned for their consideration.

The allegations of torture and ill-treatment during interrogation, the use of prisoners as porters or "human shields" for the military are unfounded. These allegations originate with the insurgent groups. They fabricated photographs and video footages of the so-called porters and human shields in the areas under their control, and circulated them to the foreign media aimed at undermining the image of the Tatmadaw.

The emergence of the Myanmar National Human Rights Commission and the signing of the MOU with the ILO on the elimination of forced labour by 2015 lend credence to our genuine commitment to the promotion and protection of human rights, invalidating the aforementioned allegations.

**Response to Para 59**

Hostilities are decreasing day by day in the Shan State and the Kayin State, as a result of the successful peace talks launched by the Union Government. In the Kachan State, the Shan State and the Kayin State, where the peace talks are still in progress, cases of serious human rights violations, including attacks against civilian populations, sexual violence and arbitrary arrest, are non-existent. All military personnel are being effectively imparted with the awareness about the military rules of engagement.

Myanmar is accelerating its endeavours to effectively prevent the military recruitment of underage children. This is clearly reflected in the on-going cooperative efforts between the Government of Myanmar and the United Nations to materialize a joint plan of action towards that end.

Even though Myanmar is not a state party to the International Convention on the Use of Anti-Personnel Mines, it participated actively in the workshop which was held in Bali, Indonesia, in February 2008, to promote universal adherence to the Convention, and other meetings. The insurgent groups use mines wantonly. An objective assessment of the situation on the ground and the various mine incidents show that the personnel of the Armed Forces and the local people are the ones who actually suffer the consequences of the mines planted by the insurgents. The Government is striving to achieve a permanent peace in the country. When the internal insurgency comes to an end, so will the use of landmines.

**Response to Para 60**

The allegations that as many as 32 women and girls throughout Kachin State were raped by the military between June and August 2011 are groundless. There was only one case committed by a Tatmadawman during the said period. Effective action has been taken against him.

The Armed Forces always practise an effective system of administrative supervision at different levels. Like in other countries, rape cases by Tatmadawmen are only isolated ones. These cases are very rare. It is not system-wide. If it occurs, it would be only due to the individual character and behaviour of the serviceman concerned.

The allegations of rape are not based on the facts and the reliable information received from the Government and the UN Agencies. These one-sided accusations originate with the anti-State organizations and are purposely aimed at undermining, politically and militarily, the dignity of the Government and the Armed Forces.

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