

January 11, 2012

Mr. Alain Juppé
Minister of Foreign and European Affairs
Ministry of foreign and European affairs
France

Re: Justice and accountability and democratic reform in Burma

Dear Mr Minister,

I have the honour of writing to you before your upcoming visit to Burma. I urge you to use this valuable opportunity to press the Burmese authorities to:

- release all political prisoners and ensure their freedom to participate in the political transition;
- repeal oppressive legislation;
- cease military offensives in ethnic areas and grant greater unfettered access to humanitarian groups; and
- prioritize justice and accountability for past and on-going human rights abuses in the country

It has been over a year since the seriously flawed elections of November 2010 which was followed by the release of Aung San Suu Kyi. During this period, the international community has been mesmerized by seemingly reformist steps taken by the military-backed government in Naypyidaw, including meetings with Daw Aung San Suu Kyi, the re-registration of her party, the National League for Democracy (NLD) and approaches to rebuild ceasefires with a number of ethnic rebel groups.

Political prisoners

Despite the euphoria over these developments, as many as 1,500 political prisoners remain imprisoned, many serving long sentences of 60 years or more, in harsh conditions, for peacefully advocating for political freedoms and democracy. The three 'amnesty' or 'clemency' orders since November 2010 have only resulted in freedom for a tiny fraction of the total number of prisoners released. There have been new arbitrary detentions: in November 2011, the government arrested at least 11 activists. On 16 December 2011, Karen leader Nyein Maung was sentenced to 17 years in prison for having ties to the Karen National Union, an organization that the government is apparently having peace talks with.

The international community's demand for the release of all political prisoners is long-standing. The limited releases of political prisoners seem to be timed and calculated to relieve international pressure. If the intention to carry out democratic reform is genuine, the Burmese government has no reason to use political prisoners as pawns in its public relations campaigns and should immediately and unconditionally release them with full restoration of their civil rights.

Oppressive laws

Many political prisoners have been arrested, charged and jailed on the basis of a range of oppressive laws. Eleven laws were identified in 2008 by the UN Special Rapporteur on human rights in Burma, Tomás Ojea Quintana, as non-compliant with international standards, including the Unlawful

Associations Act, Emergency Provision Act, and Electronics Transactions Law Act. The government itself admitted that 380 domestic laws required review for compliance with the human rights provisions of the 2008 constitution. In February 2010 the regime told Quintana that 50 laws would be repealed. Despite this promise, the USDP-dominated Parliament has refused to repeal these draconian laws.

While the recently passed “Peaceful Gathering and Demonstration Law” and “Labor Organizations Law” appear progressive, they are rendered irrelevant by the oppressive laws that grant the regime the power to restrict fundamental freedoms under the guise of blanket “security” provisions.

Attacks on civilians in ethnic areas

Despite the government’s rhetoric of peace and reconciliation, the Burmese military continues its offensives in ethnic areas. In June 2011, the army launched a war in Kachin State, ending a 17 year ceasefire with the Kachin Independence Army. As many as 50,000 people have been displaced by this conflict, so far. On 10 December, President Thein Sein ordered the army to cease offensive operations in Kachin State. However, attacks continue, resulting in serious human rights violations, including documented cases of rape as a weapon of war, forced labour, deliberate targeting of civilians, and looting. The regime has also limited humanitarian aid to the affected areas. Only in mid-December, after six months of heavy fighting, was the UN allowed some access to internally displaced persons in areas controlled by the Kachin Independence Organization. Military attacks targeting civilians have also continued in Shan state.

I call on you to urge the Burmese government to announce and enforce an immediate nation-wide ceasefire, grant full access to humanitarian agencies and independent human rights monitors, enter into a comprehensive dialogue with all ethnic opposition groups, and publically commit to observe international humanitarian laws and hold military personnel to account for violations thereof.

Justice and accountability

The tragic abuses taking place in Kachin State are the latest examples of the widespread and systematic human rights violations by the Burmese authorities. No steps have been taken by the ‘new’ government to implement the repeated recommendations made by the UN General Assembly and the UN Special Rapporteur on Human Rights in Burma for impartial investigations into all allegations of human rights abuses, let alone bringing perpetrators to justice.

I strongly believe that ending impunity and ensuring the continuation of democratic reforms are not mutually exclusive objectives. No democratic transition in history has been successful without an adequate accounting of past human rights abuses, which in addition to being a legal obligation under international human rights law, would also deter future abuses. Sacrificing accountability for fear of somehow undermining political opportunities is a serious misjudgment and a dangerously short-sighted policy. Considering the lack of effective domestic accountability mechanisms, the Burmese government should welcome international assistance and the international community should be ready to provide and support such assistance, including through a UN Commission of Inquiry.

Finally, I strongly encourage France to maintain a firmly rights-based approach in its bilateral engagement with Burma in all sectors. I call upon France to use its influence within the European Union to maintain the current EU Common Position and refrain from any unjustified relaxation of sanctions until substantive steps are taken by the Burmese to fully meet the key benchmarks identified by the UN Special Rapporteur and the international community. This is particularly critical, as economic engagement without reforms may directly and indirectly cause more human

rights violations amounting to serious crimes to be committed against communities in Burma.

The decision of Daw Aung San Suu Kyi and the NLD to engage in a dialogue with the government and to participate in the political process is a clarion call for the international community to step up, not back away from, its long-standing support for human rights in Burma. Robust international pressure is now more crucial than ever to end impunity and to ensure that the Burmese government does not backslide on its promises of genuine and irreversible progressive reforms in Burma.

I thank you for your consideration of our recommendations. Please be reassured of our highest regards.

Sincerely yours,

William Nicholas Gomes

William's Desk

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