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RIGHTS IN MYANMAR

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Mr. President, Excellencies, Distinguished Delegates, Ladies and Gentlemen,

This is my first address to the General Assembly in my capacity as the new Special Rapporteur on the human rights situation in Myanmar following my appointment by the Human Rights Council in June this year. Human Rights Council Resolution 25/26 adopted on 15 April 2014, has broadened the scope of my mandate to report on the progress in the electoral process and reform in the run-up to the 2015 election.

I would like to acknowledge the work of my predecessor, Mr Tomás Ojea Quintana, and thank the Government of Myanmar for the cooperation extended to me since my appointment, particularly during my visit to Myanmar in July 2014.

We are at a critical juncture in the history of Myanmar. It is the moment to assess progress so far and to objectively set the path towards a future that all people of Myanmar aspire to. The integration of international human rights standards into the developing democratic process is crucial if gains are to be genuine, sustainable and win the support of all people of Myanmar.

In my report I recognize the important gains made through Myanmar's reform process to date. I commend the initial reforms that have undoubtedly improved the political, economic, social and human rights landscape in the three years since the establishment of the new Government. Yet, there are signs of possible backtracking which, if not addressed, could undermine Myanmar's efforts to take its rightful place as a responsible member of the international community that respects and protects human rights. I urge the Government of Myanmar to continue its partnership with the international community to ensure that human rights lie at the foundation of its democratic transition.

In relation to the ongoing peace process, I commend continuing efforts by all sides to reach a nationwide ceasefire agreement. I believe that abiding by human rights principles will foster greater confidence in, and shared ownership of, the peace process and subsequent political dialogue. I also reiterate the importance of women participating in the peace process. The absence of women in peace negotiations renders invisible the gender based violence that has been committed by state officials and which requires urgent attention.

Several conflicts continue to cause terrible suffering to local communities. As a matter of urgency, better access is required by international organizations to non-government controlled areas for humanitarian purposes. I welcome efforts by the Government to prevent the use of child soldiers and to work towards the discharge and rehabilitation of those previously involved in combat. I acknowledge the 91 children discharged on 1 August and a further 109 released on 25 September this year. This brings to a total of 472 the number of children released since the signing of the Joint Action Plan in 2012. Yet reports suggest that there are still cases of children being recruited by state military and non-state armed groups. I urge a renewed focus on measures to ensure the release, rehabilitation, recovery, and reintegration of child soldiers, as well as more robust measures to prevent further recruitment.

I continue to receive allegations of arbitrary arrest and torture in detention of young men in ethnic border areas to extract confessions of membership to ethnic armed groups, including from areas where ceasefires have been signed, such as Chin State. This practice continues despite positive progress with the ceasefire negotiations, and I emphasize the need for investigation and accountability mechanisms to tackle the ongoing impunity of the military. It is essential that accountability for human rights violations is included in ceasefire and peace agreements.

My visit to Rakhine State in July, including to two camps for internally displaced persons around Sittwe, left me with a profound impression of the deplorable conditions and suffering of those affected by the conflict. The conditions of both Buddhist camps and the Rohingya Muslim camps, as well as the overall situation of these communities, must be accurately acknowledged. However, I note that conditions for Rohingyas are exacerbated by the fact that this community lacks legal status and thereby continues to face systemic discrimination. Restrictions on the freedom of movement severely affect basic rights, in particular access to health services, livelihoods, food, water and sanitation and education. Immediate steps must be taken to address the critical health situation in the camps for internally displaced persons and for those in isolated locations.

I am acutely aware of the sensitivity around the use of the term “Rohingya” which is not recognized by the Government. In this regard, I note that the rights of minorities to self-identify on the basis of their national, ethnic, religious and linguistic characteristics is related to the obligation of States to ensure non-discrimination against individuals and groups. I am therefore concerned that the Rohingyas are being required to identify themselves as "Bengali" and if they do not, they are unable to participate in the citizenship application process that is being rolled out in Rakhine State.

During my visit, I was provided a brief overview of the Rakhine State Action Plan but was unable to study the document in depth. I understand that a draft version has been informally shared with UN agencies in country. I welcome Government efforts to develop a comprehensive solution that addresses both humanitarian and development aspects of the problems in Rakhine State. However, I must highlight that addressing the underlying human rights issues in the Rakhine State must be at the centre of the response and proposed solutions. In particular, the plan should not result in the permanent segregation of the two communities, nor allow for a long-term internment of those who do not pass the citizenship verification.

The grievances of the Rakhine Buddhist community must be heard and taken into account when addressing intercommunal violence. In my report, I have noted that the growing antagonism against Muslim and other minority communities must be proactively addressed. For this, political leaders, public officials and religious leaders have a particular responsibility. I welcome President Thein Sein’s clear and public call against hate speech and incitement in early July this year and encourage others in positions of influence to do the same.

Mr. Chairperson

Development is the aspiration of the Government of Myanmar, and the dream of its citizens. However, development must be delivered through a human rights lens, otherwise it will exacerbate the root causes of poverty and lead to conflict. On my visit I saw first-hand the need to address land rights, in particular land-grabbing, land confiscation and forced eviction. These are complex issues requiring reforms to the legislative and institutional framework governing land use, the management and sharing of resources, as well as land tenure. This is also an opportunity for Government to proactively manage development and investment processes to ensure a rights-based and people-centred form of sustainable development.

Ladies and Gentlemen

With democratic reform comes the need to simultaneously build the rule of law and the administration of justice. I encourage efforts to ensure an independent judiciary, properly resourced and accountable. Under no circumstances should trials be conducted behind closed doors, without legal representation, and with defective evidence.

I welcome the recent release of U Kyaw Hla Aung and U La Ring, however remain concerned at the large number of political prisoners still in detention. There are estimated to be around 73 political prisoners, with around 122 persons facing politically motivated charges and awaiting trial, excluding the Rakhine State. I reiterate the call for the immediate and unconditional release of all political prisoners and those arbitrarily detained, including U Tun Aung and the 3 INGO workers in Rakhine State, as well as U Sein Than. I am concerned about the information of U Htin Kyaw who has attempted a hunger strike to protest against his solitary confinement at Insein Prison simply for exercising his rights to freedom of expression and peaceful assembly. I emphasize the need for the Government to continue to convene the Prisoner Review Committee to ensure that all remaining political prisoners are immediately released and politically motivated charges are dropped. I am disappointed to be informed that the Government had only convened three meetings of the Prisoner Review Committee this year and has not been able to consider new cases in 2014. I am further concerned at reports that the Government is planning to dissolve the current committee and replace it with less senior government representation and exclude some of the civil society members.

Attempts at constitutional reform present opportunities to address gaps in the current 2008 Constitution that provide the military with veto power over constitutional amendments; place limitations on human rights that are inconsistent with international law; entrench legal immunity for the President and the military; and distinguish between citizens and non-citizens in according rights. However, I am deeply concerned at the information of a decision not to amend the 2008 Constitution. I therefore urge the Government to reconsider this decision as a matter of priority. In relation to new laws, I had the opportunity to comment on the Religious Conversion Bill in June this year. I look forward to further engagement with the Government on three other related bills concerning interfaith marriages, polygamy and balancing the increasing population, to ensure their full compliance with international laws and standards.

Distinguished Delegates

The enabling framework for the upcoming 2015 election is taking shape and relevant authorities are preparing for this important event. This process should be monitored closely and assessed against international standards. This will be a central focus of my next visit to Myanmar proposed for January 2015.

For the effective exercise of the right to vote, the freedoms of expression, assembly and association must be fully protected. During my last visit I identified several areas that need to be addressed to ensure that the elections comply with international standards.

I am concerned about a number of existing restrictions that limit who can stand as a candidate and who can form or be members of political parties. In my report I have noted that both associate and naturalized citizens are disqualified from standing for election in the lower and upper houses. While I have been unable to access a copy of the amendment to the Political Parties Registration Law signed into effect by the President on 30 September, it reportedly

provides for only full citizens to form and become members of political parties. This means that not only temporary certificate holders, but also associate and naturalized citizens are deprived of the right to take part in the conduct of public affairs. Specific steps should also be taken to enhance women's political participation in the electoral process.

In July this year, the Union Election Commission introduced a 30-day campaign rule and required political parties to seek approval for all campaign activities 15 days in advance of campaign events. I understand that the 30 days may be extended to 60 days. However I strongly recommend that the rules be amended to remove unnecessary restrictions to campaigning. I am also concerned by recent announcements regarding possible changes to the electoral voting system. Sudden changes to electoral processes may produce confusion and affect information flows among voters.

Increased freedom of expression, in particular media freedom is considered a key achievement of the reform process. However, The Peaceful Assembly and Peaceful Procession Act as well as other laws, are being applied to criminalize and impede the activities of civil society and the media, which has increased the number of political prisoners and has led to disproportionately high sentences. I continue to receive reports of intimidation and harassment toward journalists. In particular, I was alarmed last week to hear of the alleged death of the journalist Aung Kyaw Naing, while in the custody of the Army.

I note the recent appointment of new members of the Myanmar National Human Rights Commission under the new law and encourage them to establish a credible, effective and independent national human rights institution which has the confidence of all including civil society, and in compliance with the Paris Principle.

In closing, I would like to highlight to the Government of Myanmar, and all international partners, the need to fully mainstream human rights into Myanmar's institutional, legal and policy framework. Much can be achieved at this critical moment by engendering a culture of respect for human rights amongst all state institutions and the public at large.

I thank you for your attention.
