

Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar

By Tomas Ojea Quintana, 25 August 2011, Yangon International Airport, Myanmar

I have just concluded my five-day mission to Myanmar - my fourth visit to the country since I was appointed in March 2008 and my first since February 2010. I would like to thank the Government of Myanmar for its invitation and hospitality, and for the cooperation and flexibility shown during my visit.

During the mission, I met with the Minister of Foreign Affairs, the Minister of Home Affairs, the Minister of Defence, the Deputy Chief of Police, the Minister of Social Welfare, Relief and Resettlement, who also holds the position of the Minister of Labour, the Attorney-General, the Chief Justice of the Supreme Court, the Union Election Commission and with some of the Presidential Advisors. I also met with the Speakers and members of the Pyi Thu and Amyotha Hluttaws, including representatives of ethnic political parties, and had the privilege to observe the second regular session of the Pyi Thu Hluttaw.

In Yangon, I held fruitful discussions on a range of important human rights issues with Daw Aung San Suu Kyi. I also conducted a visit to Insein Prison where I met with seven prisoners of conscience. Also in Yangon, I met with representatives of civil society organizations, former prisoners of conscience, and members of the United Nations Country Team, whom I thank for the support provided to me during my mission. I also briefed the diplomatic community and held a meeting with all director-generals of different ministries at the conclusion of my mission.

It is evident that since its formation earlier this year, the Government has taken a number of steps that have the potential to bring about an improvement in the human rights situation of Myanmar. I welcome the Government's stated commitments to reform and the priorities set out by President Thein Sein, which includes the protection of social and economic rights, the protection of fundamental human rights and freedoms, including through the amendment and revocation of existing laws, good governance, as well as respect for the rule of law and an independent and transparent judiciary. I also welcome President Thein Sein's emphasis on the need for peace talks with armed groups and the open door for exiles to return.

I am encouraged that Parliament has begun exercising its powers within the framework of the Constitution. For instance, Government ministers appeared before it to answer questions. Parliamentary debates were covered by the official media. Further various committees were formed, including notably the Fundamental Rights, Democracy and Human Rights Committee. Substantively, Parliament has considered a host of important issues relevant to the promotion and protection of human rights, including land tenure rights and issues of land confiscation, the issue of registering associations and other local organizations, the need for registration of trade unions, discrimination against ethnic minorities in civil service recruitment, the need for teaching of ethnic minority languages in schools in minority areas, the question of amnesty to Shan political prisoners, and the issue of granting national identification cards to the Rohingyas. I note issues were also debated in this current session of Parliament, including the provision of medicines to hospitals, the rebuilding of primary schools in certain constituencies, a private school registration bill, and environmental conservation.

I welcome what seems to be an opening of space for different actors and parties to engage in the political process. I emphasized to the Speakers and members of Parliament the importance of holding open and inclusive debates on issues of national importance that are essential for Myanmar's transition to democracy.

At the same time, I note the strong need to enhance the capacity and functioning of this new institution and of its members. Many interlocutors from all sectors highlighted this need as well. Accordingly, I strongly encourage the Parliament to proactively seek cooperation and assistance from the international community in this regard. Also crucial is the need to clarify a number of the Parliament's internal rules and procedures, including establishing clear rules governing parliamentary immunity.

I also met with the Union Election Commission where I was informed that by-elections for some 40 Pyithu Hluttaw, Amyotha Hluttaw and State or Regional Hluttaw seats will be held later this year. I emphasized the need to learn lessons from the November 2010 elections and called on the Election Commission to play an important role in ensuring that the upcoming by-elections are held in a more participatory and inclusive manner.

I believe that the effective functioning of state institutions is key to Myanmar's transition to democracy that should be anchored in important human rights principles such as participation, empowerment, transparency, accountability and non-discrimination.

I was pleased to have held a frank and fruitful exchange of views with some of the Presidential Advisors, whom I believe have played a key role in advising the President on the challenges facing Myanmar and the priorities for reform. I encourage the Presidential Advisors to continue their important functions and to provide suggestions on how to translate or implement commitments into concrete action.

While I welcome these and other positive developments, there are still serious and ongoing human rights concerns that need to be addressed. Of key concern to me and to the international community is the continuing detention of a large number of prisoners of conscience. I have, since the start of my mandate, consistently called for their immediate release and, in my meetings with Government interlocutors, I conveyed my firm belief that their release is a central and necessary step towards national reconciliation and would bring more benefit to Myanmar's efforts towards democracy. I reiterate that call now.

Another concern is the continuing allegations of torture and ill-treatment during interrogation, the use of prisoners as porters for the military, and the transfers of prisoners to prisons in remote areas where they are unable to receive family visits or packages of essential medicine and supplemental food. In Insein prison, I heard disturbing testimonies of prolonged sleep and food deprivation during interrogation, beatings, and the burning of bodily parts, including genital organs. I heard accounts of prisoners being confined in cells normally used for prison dogs as means of punishment. I also heard accounts of inadequate access to medical care, where prisoners had to pay for medication at their own cost.

Also of concern are the ongoing tensions in ethnic border areas and armed conflict with some armed ethnic groups, which continue to engender serious human rights violations, including attacks against civilian populations, extrajudicial killings, sexual violence, arbitrary arrest and detention, internal displacement, land confiscations, the recruitment of child soldiers, as well as forced labour and portering. I call on the authorities and all armed groups to ensure the protection of civilians in conflict-affected areas and to accelerate efforts towards finding a political solution to the conflict.

Many of my interlocutors underscored the extent of deprivation of economic, social cultural rights throughout the country, but particularly in the ethnic border areas. This is closely linked to the need to immediately address Myanmar's longstanding social, economic and development challenges. Concerns regarding the availability and accessibility of education and health care were specifically highlighted, as well as the need for the teaching of ethnic minority languages in schools in minority areas – issues I have raised in my previous reports. Other concerns highlighted addressed land and housing rights, particularly with respect to the impact of infrastructure projects, land confiscations by the military and

development-induced displacement. In this regard, I call on the Government to ensure not only the protection but also the realization of basic economic, social and cultural rights.

I observed that the capacity, independence and impartiality of the judiciary remain outstanding issues in Myanmar. Additionally, I noted that various laws and legal provisions that limit fundamental rights and contravene international human rights standards remain in existence. I am encouraged to hear that a process to review and possibly amend or revoke national legislation is underway, including during the current second regular session of Parliament. Given the Government's stated commitment to respect for the rule of law, and in line with my previous recommendations on this issue, I hope for such efforts to be accelerated. I also encourage the Government to implement my previous recommendations on the judiciary and to undertake the series of measures I have proposed in order to enhance its independence and impartiality. I further encourage that technical assistance be sought in the area of capacity-building and training of judges and lawyers.

Finally, I continue to hold the belief that justice and accountability measures, as well as measures to ensure access to the truth, are fundamental for Myanmar to face its past and current human rights challenges, and to move forward towards national reconciliation. I would again encourage the Government to demonstrate its willingness and commitment to address these concerns and to take the necessary measures for investigations of human rights violations to be conducted in an independent, impartial and credible manner, without delay.

I want to again thank the Government of Myanmar for its invitation and cooperation. I look forward to another visit to the country before my next report to the Human Rights Council in March 2012.

This is a key moment in Myanmar's history and there are real opportunities for positive and meaningful developments to improve the human rights situation and bring about a genuine transition to democracy. The new Government has taken a number of steps towards these ends. Yet, many serious human rights issues remain and they need to be addressed. I call on the Government to intensify its efforts to implement its own commitments and to fulfill its international human rights obligations. The international community needs to continue to remain engaged and to closely follow developments. The international community also needs to support and assist the Government during this important time. I reaffirm my willingness to work constructively and cooperatively with Myanmar to improve the human rights situation of its people.

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