

**Statement of the Special Rapporteur on the Situation of Human Rights in Myanmar
By Tomás Ojea Quintana, 4 August 2012, Yangon International Airport, Myanmar**

I have just concluded my six-day mission to Myanmar - my sixth visit to the country since I was appointed Special Rapporteur in March 2008. I would like to express my appreciation to the Government of Myanmar for its invitation, and for the cooperation and flexibility shown during my visit, in particular for my visit to Rakhine State.

In Nay Pyi Taw, I met with the Minister of Home Affairs, the Minister of Social Welfare, Relief and Resettlement (also the Minister of Labour), the Minister of Immigration and Population, the Deputy Minister of Health, the Deputy Minister of Education, the Attorney General, the Chief Justice of the Supreme Court, the Vice-Speaker of the Pyithu Hluttaw and members of several parliamentary committees.

In Yangon, I met with the Minister of Foreign Affairs, the Minister of Border Affairs, as well as members of the National Human Rights Commission, members of the 88 Generation Students Group, and representatives of civil society organizations. I discussed a broad range of human rights issues with Daw Aung San Suu Kyi. Also, in Yangon, I met with three prisoners of conscience in Insein Prison, including a staff member of the United Nations who has been detained in connection with the events in Rakhine State, as well as a prisoner in Insein Hospital, Phyo Wai Aung, who was granted amnesty yesterday and released. And, I met with members of the United Nations Country Team and briefed the diplomatic community. I would like to thank the Resident Coordinator and the Country Team for the support provided to me during my mission.

In Rakhine State, I accompanied a visit organized by the Government for members of the diplomatic community and the United Nations Country Team. In Maungdaw, I met with state and local authorities, and members of the Muslim community. I visited burned Rakhine villages and observed the construction of new shelters. In addition, my team and I visited camps for internally displaced persons for both Rakhine Buddhist and Muslim communities in Sittwe and Maungdaw. I also interviewed five United Nations staff in Buthidaung Prison who have been detained in connection with the events in Rakhine State, and met a lawyer who was considering representing one of the staff. I would like to thank the Government for the access granted to my team and myself to areas where tensions remain high.

My mission took place against the backdrop of continuing change and transition in Myanmar, which have had a dramatic impact on the country and its people. I welcome recent achievements, such as the adoption of a joint strategy with the International Labour Organization for the elimination of all forms of forced labour by 2015 and the signing of an action plan with the United Nations to prevent the recruitment and use of children by Myanmar's armed forces. I am encouraged to see the increasing engagement of civil society, political parties and other stakeholders in the reform process. During my mission, there was greater openness in discussing human rights issues and more critical debate and analysis on the direction, pace and scope of reforms, in particular on the challenges and risks. State and national institutions that have important roles in furthering democratic transition and ensuring respect for human rights, such as Parliament and the National Human Rights Commission, have continued to develop. In this respect, I see that the National Human Rights Commission has continued to undertake important activities, such as the review of complaints and the conduct of missions to investigate allegations of human rights violations, including most recently to Kachin State. While there is a long way to go before this body is fully compliant with the Paris Principles and independent, it seems to have embraced its important role in promoting and protecting human rights and is trying to address its shortcomings in order to enhance its credibility and effectiveness.

I also acknowledge efforts towards building a society based on the rule of law. Central to this is the continuing review and reform of legislation and the adoption of new laws. I am encouraged that relevant stakeholders, such as civil society and international organizations, are being consulted on some of the draft laws being prepared. More time should be given to enable broader consultation and proper consideration of draft laws. I am also encouraged that draft laws are now being published in the media prior to their consideration by Parliament. At the same time, given the scope and pace of the legislative reforms, it is vital that equal attention be paid to implementation as well as to raising awareness of new laws amongst the general public. Additionally, greater coordination, priority-setting and clarity in the timetable for legislative reform is needed, particularly with respect to the laws that I have previously identified as not being in full compliance with international human rights standards, such as the State Protection Law, the Electronic Transactions Law and the Unlawful Associations Act.

Central to upholding the rule of law is an independent, impartial and effective judiciary. I was encouraged to see that the Supreme Court has engaged with and sought capacity-building and technical assistance from the international community, which goes some way towards addressing my previous recommendations on this issue.

Despite these positive developments, Myanmar continues to grapple with serious human rights challenges which, as the events in Rakhine State demonstrate, need to be addressed for democratic transition and national reconciliation to properly take hold.

The human rights situation in Rakhine state is serious. I witnessed the widespread suffering of people who have lost their homes and livelihoods as a result of the violence and express my sympathy to the victims from both communities. I note the actions taken by the Government to restore law and order, including the deployment of additional security forces to the area, and the establishment of a commission to investigate the incidents that sparked the communal violence. I am concerned, however, at the allegations I have received of serious human rights violations committed as part of measures to restore law and order. These include the excessive use of force by security and police personnel, arbitrary arrest and detention, killings, the denial of due process guarantees and the use of torture in places of detention. While I am in no position to be able to verify these allegations at this point in time, they are of grave concern. It is therefore of fundamental importance to clearly establish what has happened in Rakhine State and to ensure accountability. Reconciliation will not be possible without this, and exaggerations and distortions will fill the vacuum to further fuel distrust and tensions between communities. Therefore, I join the calls of others for an independent and credible investigation into these allegations of human rights violations as a matter of urgency. And I offer my assistance in this regard.

I welcome the actions taken by the Government and international organizations to attend to the immediate needs of the displaced and provide humanitarian assistance. But the situation still requires urgent attention to address concerns of access to food, water, sanitation and health care for those displaced, particularly in the larger camps. I therefore encourage the international community to respond to the Myanmar authorities' appeal for increased humanitarian assistance. I am also concerned at the sentiments against the United Nations and international non-governmental organizations, particularly regarding perceptions amongst the Rakhine Buddhist community that humanitarian assistance is not being provided according to the principles of impartiality and neutrality. I encourage the international organizations involved to work jointly with the Government authorities to counter these perceptions.

Further, while the Government is clearly trying to respond to the immediate humanitarian needs and has a medium-term plan for the resettlement for those displaced, attention must be paid to the development of a longer-term strategy for rehabilitation and reconciliation – one that is based on

integration and not separation of the two communities. This strategy should be anchored in ensuring that the fundamental rights of all are respected and address the underlying causes of the violence. I am extremely concerned about the deep-seated animosity and distrust which exists between the communities in Rakhine State. The situation will only further deteriorate unless brave steps are taken by the Government.

In this respect, I have, throughout my mandate, consistently highlighted concerns regarding systematic discrimination against the Rohingya community. Such concerns include the denial of citizenship or legal status to Rohingyas, restrictions on their freedom of movement, marriage restrictions, and other discriminatory policies. I hope that steps will be taken to address these issues, including a review of the 1982 Citizenship Act to ensure that it is in line with international human rights standards.

The international community also has a role to play in helping to identify durable solutions, premised on human rights principles, to the statelessness of the Rohingyas. I urge Myanmar's neighbours and States across the region to recognize that they have an obligation under international law to protect the human rights of all persons within their borders regardless of whether or not they are recognized as citizens of that country and to guarantee respect for the international principle of non-refoulement.

During my mission, I interviewed six United Nations staff members, in Insein and Buthidaung prisons, who have been detained in connection with the events in Rakhine State. I have also received information that a number of staff of international non-governmental organizations have been similarly detained. Based on my interviews, I have serious concerns about the treatment of these individuals during detention. I am of the view that the charges against them are unfounded and that their due process rights have been denied. This is reminiscent of the experiences of prisoners of conscience whom I interviewed in Insein Prison. I therefore call for the immediate release of these individuals and a review of their cases. I have also received information that the lawyer I met has received threats to deter him from representing one of the United Nations staff. I call on the authorities to guarantee that the individuals I met do not face reprisals and to ensure their protection and that of their families at this time.

I also met with other prisoners of conscience at Insein Prison. While I commend the President for the recent release of an additional number of prisoners last month, I am concerned that there are remaining prisoners of conscience being held not only in Insein but also in other prisons; information which was also conveyed during my mission. I must therefore once again call for the release of all remaining prisoners of conscience without conditions or delay. National reconciliation and democratic transition cannot move forward without this necessary step. And the international community needs to remain engaged on this issue.

In this respect, while I am aware of continuing efforts to address discrepancies in the numbers of remaining prisoners of conscience from different sources, I believe that a comprehensive and thorough investigation is still needed to clarify records and determine accurate numbers. This must be done urgently and in consultation with relevant stakeholders, such as former prisoners of conscience and civil society. Regardless of these efforts, there are prisoners whose identities and cases are known and there is no reason why their release should be further delayed.

In Insein Hospital, I also met with Phyo Wai Aung, whom I had met on my two previous missions. I was informed yesterday that Phyo Wai Aung had been granted amnesty and was released. I welcome this news and commend the President and the Government for taking this positive step.

During my mission, I discussed developments and progress made in addressing the ongoing tensions and conflict with armed ethnic groups in border areas, particularly in Kachin State. I welcome the ceasefire agreements reached with 10 ethnic armed groups thus far and am aware of efforts to attend to post-ceasefire needs, dialogue with ethnic groups and progress ceasefire agreements into peace

agreements. Efforts towards finding a durable political solution to the conflict should be accelerated and should address long-standing grievances and deep-rooted concerns amongst ethnic groups.

Yet, as a result of ongoing conflict, particularly in Kachin State, I continue to receive allegations of serious human rights violations committed, including attacks against civilian populations, extrajudicial killings, sexual violence, internal displacement, and torture. Furthermore, I received allegations of the use of landmines, the recruitment of child soldiers, as well as forced labour and portering committed by all parties to the conflict. I must therefore reiterate that it is vital for these allegations to be addressed as a matter of priority. The Government and all armed groups must do more to ensure the protection of civilians during armed conflict. International human rights and humanitarian law must be respected.

I must also emphasize that the needs of those displaced and affected by the conflict, including in non-Government controlled areas, must be addressed as a matter of priority. The United Nations and its humanitarian partners must have regular, independent and predictable access to all individuals in need, regardless of whether they are in Government or non-Government controlled areas.

Finally, I remain of the opinion that addressing grievances from decades of human rights violations is crucial for democratic transition and national reconciliation. Acknowledging the suffering of victims and allowing them to heal will help to prevent future violations from occurring.

In this regard, I have discussed with different stakeholders, including ethnic groups, political party leaders, and members of Parliament, the establishment of a truth commission. I believe that Parliament, as the only multi-party and multi-ethnic public institution, is the most appropriate body for the creation of such a commission and for this difficult but necessary task. As a first step, there should be a process of consultation with all relevant stakeholders, including victims of human rights violations, in order to get their advice and views on how this truth commission should be shaped. Lessons should be learned from other countries that have experience in these processes. Assistance may be provided by the United Nations and other international organizations.

To conclude, as reforms deepen in Myanmar, my mandate can help to highlight the importance of placing human rights standards and principles at the very heart of this process. Take, for instance, the flood of foreign investment that is beginning to enter the country. Adopting a human rights-based approach ensures that the principles of participation, non-discrimination, transparency, accountability and the rule of law guide this process. With this guiding framework of human rights, investments will serve to create a more fair and just society, in which the human rights of the people of Myanmar are fulfilled. The time to firmly embed a human rights-based approach in economic and social development is now.

More generally, I believe that human rights should not fall off the agenda, and human rights concepts and principles need to be at the forefront of the entire reform process, driving it forward and keeping it focused on addressing the needs and aspirations of the people of Myanmar. It is my responsibility, as Special Rapporteur, to continue to emphasize this point.

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 2013. And I reaffirm my willingness to work constructively and cooperatively with Myanmar to improve the human rights situation of its people.

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