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**Statement by Tomás Ojea Quintana
SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN
RIGHTS IN MYANMAR**

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Mr. Chair,
Distinguished Delegates,
Ladies and Gentlemen

Thank you for this opportunity to address you at a time of continuing transition in Myanmar. Reforms continue to move at a rapid pace and considerable progress has been made, including in the area of human rights. And there is no doubt that Myanmar will continue to experience many dramatic changes in the months and years ahead. Going forward, however, and at each step of the way, it is vital to have a clear sense of the human rights situation, so as to ensure that ongoing reforms build on positive developments and effectively tackle remaining challenges. And it will be a missed opportunity if we do not ensure that human rights principles and standards lie at the heart of the process of reform underway.

As Special Rapporteur, I hope to continue to help inform, guide and shape the process of reform and transition taking place in Myanmar, particularly through encouraging and supporting the Government to build on positive developments, identifying any gaps and any remaining human rights concerns that should be addressed, as well as the human rights standards and principles that should be applied.

Mr. Chair,

We should all acknowledge and commend the Government of Myanmar for what has been achieved thus far, which I have previously stated has improved the country's human rights situation. Yet, recent developments highlight that Myanmar continues to grapple with ongoing human rights concerns that could pose risks to the reform process.

This has been demonstrated no more clearly than with the recent violence and continuing tensions in Rakhine State in which all communities have suffered. I am concerned that the violence has continued and that more people have lost their lives and homes in recent days. It is vital for the Government and all concerned to prevent further violence and to defuse tensions between the two communities. Also, I remain concerned at the exaggerations, misinformation and distortions in the media and in social media sites. All concerned parties must work together to counter the use of inflammatory images and language that incite hatred or promulgate discriminatory views and prejudice.

I note that the investigation committee established by the President has progressed in its work and, given its broad mandate, I hope that this committee will investigate allegations of human rights violations in relation to the violence in Rakhine State as a step towards holding those responsible to account. However, I have been informed that the committee is facing obstacles in conducting its work, including accessing individuals and communities affected by the violence in Rakhine State. Also, as called for in my report, I hope that the committee will address the underlying causes of the conflict; in particular the impact of deep-rooted prejudices and discriminatory attitudes based on ethnicity and religion. In this respect, the Government should take measures to address the endemic discrimination against the Rohingya community and ensure respect for their human rights, which should include a review of the 1982 Citizenship Act. The Government should also develop a policy of integration and not segregation between Buddhist and Muslim communities. I encourage the committee to continue with its important work and, following the completion of its report scheduled for 17 November, I look forward to studying the committee's findings.

I am also concerned that a staff member of the United Nations (UNHCR), whom I met in Insein Prison during my last visit, and four international non-governmental organization staff members remain in detention in connection with the violence that occurred in Rakhine State and I again call for their release.

Distinguished delegates,

I note the important progress that has been made to negotiate ceasefire agreements with ethnic armed groups and other achievements, such as the signing of the Joint Action Plan to end the recruitment and use of child soldiers. However, I remain concerned at continuing allegations of human rights violations in conflict-affected ethnic border areas. This includes Kachin State, where a ceasefire agreement has yet to be secured and where I have received allegations of attacks against civilian populations, extrajudicial killings, sexual violence, internal displacement, torture, forced labour and portering. I have also received allegations of the ongoing use of landmines and the recruitment of child soldiers committed by all parties to the conflict. I reiterate that the Government needs to address these ongoing allegations as a priority.

The Government must also provide the United Nations and its partners with regular, independent and predictable access to all in need of humanitarian assistance, both in Government and non-Government controlled areas. With a new civilian Government that is undergoing democratic transition there is, in my view, no justification to continue to prohibit access to communities affected by conflict and in need of assistance. This is clearly a human rights issue. In addition, the Government should continue to engage ethnic groups in serious dialogue to resolve long-standing and deep-rooted concerns to forge durable political solutions.

Ladies and Gentlemen,

My report reminds us of the gaps in the reforms and of the human rights issues that remain unresolved in Myanmar.

Take, for instance, the new Peaceful Demonstration and Gathering Law. The Government has rightly been praised for making a break from the past by passing legislation which allows for peaceful protests. Yet, equal attention needs to be paid to the gaps in this law, such as disproportionate restrictions that may be placed on peaceful demonstration or burdensome procedural requirements. Attention should also be paid to the seemingly arbitrary application of this law in denying some demonstrations and allowing others.

We have seen large anti-United Nations and anti-Rohingya demonstrations in recent months, yet other demonstrations have resulted in the detention and prosecution of organizers and demonstrators. For instance, activists who led a march through six townships in Yangon on International Peace Day on September 21 to voice their opposition over the ongoing war in Kachin State have been prosecuted under the Peaceful Demonstration and Gathering Law. And people in Mandalay and Bago have been detained and charged under the law following protests in May over the poor supply of electricity. These instances demonstrate the importance of the ongoing monitoring of reforms to ensure that, in reality, they protect people's human rights. The true test of the democratic reforms taking place will be the

Government's response to views expressed and gatherings organised which challenge Government policy.

I acknowledge that restrictions on the media and internet have eased and that work is continuing on a new media law. However, this is by no means the end of the process of reform, as my report highlights. Journals and publications still have to be submitted to the press regulatory body for review after publication, enabling the possible censorship and prosecution of journalists to continue, and prolonging an environment of self-censorship. Also, a number of laws remain on the books which can still be used to place unnecessary and disproportionate restrictions on freedom of expression, such as the Printers and Publishers Registration Act (1962), the Television and Video Law (1985) and the Electronic Transactions Law (2004).

Mr. Chair,

During my recent mission to Myanmar and throughout my mandate, visiting prisoners of conscience in detention has been a central part of my programme. While I welcome the latest releases of prisoners of conscience in July and September, I continue to urge the Government to work with relevant stakeholders to identify those who remain in detention. Furthermore, the release of prisoners of conscience must be without any conditions, and their rights and freedoms should be respected. Their rehabilitation and reintegration into society should also be assured.

My report highlights the ongoing allegations of torture and ill-treatment of detainees, in particular during interrogation by Special Branch officials. The serious attention of the Government is required to prohibit and prevent this practice immediately, including the necessary reform and training of the Prisons and Police Departments. I welcome the drafting of a new Prisons law and hope that it will help to combat the practice of torture and ill-treatment. In addition, I encourage the Government to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, which will provide the tools to address this practice.

Distinguished delegates,

As I have continuously highlighted in previous reports, the successful establishment of the rule of law is integral to and inseparable from the establishment of a democratic society that promotes and protects human rights. In my report, I recommend a comprehensive assessment of the current state of the rule of law in Myanmar involving relevant stakeholders and international organisations, which will provide a clear baseline from which reforms can be pursued. As well as specifying laws which need to be brought into line with international human rights standards, my report again pays particular attention to the judiciary and the specific steps needed to ensure the creation of an independent, impartial and effective judiciary.

Truth, justice and accountability measures also remain essential in ensuring that Myanmar's present and future do not repeat the pattern of past human rights violations. I have discussed with different stakeholders the possibility of establishing a truth commission. In my report, I recommend the initiation of broad consultations with all relevant stakeholders in order to get

their advice and views on the feasibility and desirability of such a measure, and how such a commission should be shaped as a first step towards reconciliation and accountability.

Ladies and Gentlemen,

In addition to these human rights concerns, my report also addresses important new developments that will require a human rights framework to be put in place by the authorities to mediate their effect. Myanmar is set to experience dramatic economic development over the coming years, and steps need to be taken now to ensure these developments contribute to the fulfilment of human rights, including economic, social and cultural rights. The international community also has a responsibility in this regard.

One issue requiring urgent attention by the Government relates to land and housing rights, involving legal and institutional reform specified in my report. In the face of infrastructure projects and natural resource exploitation, we now see an increase in land confiscations, land grabbing and forced evictions. And with the inevitable flood of foreign investment, embedding the principles of participation, non-discrimination, transparency, accountability and the rule of law in Myanmar's economic development needs to start now.

Let me end by expressing my appreciation for the Government of Myanmar's engagement and cooperation with my mandate, including my most recent visit to the country at the end of July and in particular for the access granted to Rakhine State. More generally, I would like to acknowledge the greater openness from the Government in discussing human rights issues and the more critical debate from all stakeholders on the direction, pace and scope of reforms. Such reflection and willingness to seek assistance in addressing capacity gaps bodes well for the future reform process.

I must also recognise President Thein Sein's important address to the General Assembly last month, which underscored the Government's commitment to continue with national reconciliation and democratic development.

I am encouraged by ongoing reforms in Myanmar and emphasise that human rights should lie at the heart of the process, driving it forward and keeping it focussed on improving the lives of the people in Myanmar. Human rights considerations need to shape the process of economic growth, legislative reform and institutional change, while also guiding responses to ongoing situations, including in Rakhine and Kachin States. To conclude, Myanmar must address its human rights challenges for democratic transition and national reconciliation to progress. The international community should also ensure that human rights considerations remain at the forefront of its engagement with Myanmar during this period of transition. As Special Rapporteur, I wish to again reaffirm my willingness to cooperate with and support the Government and the international community towards improving the human rights of the people in Myanmar.

Thank you for your attention.
