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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Myanmar

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the members of the General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, in accordance with Assembly resolution [68/242](#).

V. Conclusions

76. Myanmar is undergoing an important transition, and the far-reaching reforms have dramatically transformed the political, economic, social and human rights landscape in the three years since the establishment of the new Government. This must be recognized and commended. Yet, there are signs of possible backtracking, which, if not addressed, could undermine Myanmar's efforts to take its rightful place as a member of the international community that respects and protects human rights. Thus, human rights should be fully mainstreamed into Myanmar's institutional, legal and policy framework, and a culture of respect of human rights must be engendered among all State institutions and the public at large. Myanmar needs further encouragement and understanding in order to address these challenges and continue on the path of reform. It also needs the continued engagement of the international community, including through policy dialogue, concrete programmes and practical action. The Special Rapporteur's observations and recommendations will, it is to be hoped, be taken in this spirit and contribute to the efforts Myanmar has undertaken in its path towards respecting, protecting and promoting human rights and achieving democratization, national reconciliation and development.

VI. Recommendations

77. The following recommendations are in line with the Special Rapporteur's preliminary key areas of focus.

78. To ensure that elections are transparent, inclusive, participatory, free and fair, the Government should implement an electoral framework and process in line with international standards, with guarantees for the rights to freedom of expression and opinion and of assembly and association; and amend relevant laws and regulations affecting the rights to vote, campaign and stand for elections, ensuring no discrimination between different citizenship categories and using objective and reasonable criteria for candidates running for public office.

79. To ensure an enabling environment for civil society and the freedoms of expression, assembly and association, the Government should:

(a) Promptly investigate and redress threats, acts of intimidation and harassment against media and civil society actors;

(b) Cease the arbitrary arrests and detention as well as disproportionate sentences against civil society actors, farmers and other human rights defenders and activists as well as media professionals;

(c) Resolve disputes relating to the media through the Interim Press Council;

(d) Review and further amend the Peaceful Assembly and Peaceful Procession Act and revise the draft Law relating to Registration of Organizations in line with international norms and standards;

(e) Immediately and unconditionally release all political prisoners and those arbitrarily detained, including U Tun Aung and U Kyaw Hla Aung, ensuring that they are not subject to conditions that make it difficult for them to find work, receive benefits and reintegrate into society.

80. Ending discrimination against and ensuring the protection of the rights of minorities is essential for national reconciliation. This includes ensuring respect for the freedom of religion or belief and the enjoyment of cultural rights.

81. Regarding conflict-related and other human rights concerns in ethnic areas, the Government should:

(a) Ensure greater consultation with and the full and effective participation of civil society, women and affected communities, notably representatives of internally displaced persons and refugees, in the peace process and any subsequent political dialogue;

(b) Ensure that any national ceasefire agreement and future peace processes include monitoring aimed at the protection of human rights;

(c) Establish a national process and mechanism for internally displaced persons/refugee returns, ensuring close cooperation and meaningful consultation with all relevant stakeholders so that initiatives for return to places of origin are carried out with their free, prior and informed consent and ensure their safety and dignity and their reintegration into local communities;

(d) Ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction; and finalize the national mine action strategy in full consultation with concerned stakeholders and with the assistance of the international community;

(e) Promptly investigate and prosecute alleged human rights violations committed by the military and other armed groups; and make information on cases and outcomes publicly available;

(f) Investigate all allegations of the recruitment or use of child soldiers; continue and intensify the implementation of existing action plans, including the release of child soldiers and their reintegration; and ratify the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

82. Regarding Rakhine State, the Government should:

(a) Immediately address the critical health situation in camps for internally displaced person and isolated locations, in particular for those comparatively underserved, namely, the Rohingya, including by increasing the authorities' capacity to provide adequate health services;

(b) Provide adequate basic services, including in camps for internally displaced persons, and remove any restrictions against the Rohingya on freedom of movement and other rights so as to ensure access to livelihoods, food, water and sanitation, and education;

(c) Investigate and prosecute those responsible for human rights violations perpetrated against the Rohingya community;

(d) Respect the Rohingyas' as well as other minorities' right to self-identification in compliance with international human rights standards, including by refraining from directing international actors to adopt positions that run counter to such standards;

(e) Immediately release the international NGO staff members imprisoned in connection with the violence of June 2012;

(f) Address the long-standing social and economic development challenges in Rakhine State through a human-rights-based approach, ensuring the participation of affected communities, including through greater cooperation with the international community;

(g) Develop reconciliation measures as a necessary step to rebuild integrated communities for inclusion in the Rakhine State Action Plan.

83. More broadly, the Government should utilize the Rabat Plan of Action to develop a holistic set of measures to address the root causes of discrimination against racial and religious minorities, as well as intercommunal tensions and violence, and prevent and respond to incidents of incitement to hatred while upholding internationally recognized human rights.

84. To ensure a rights-based and people-centred form of sustainable development and the protection of economic, social and cultural rights, the Government should:

(a) Ensure that environmental and social impact assessments of large-scale development projects are always undertaken, implement their recommendations and make all relevant information publicly accessible;

(b) Undertake further reforms of legislation and institutional frameworks governing land use and management, resource management and -sharing, and land tenure, in line with international standards.

85. In order to strengthen the rule of law, the Government and Parliament should:

(a) Continue to review and revise legislation to be in compliance with international human rights standards;

(b) Establish a national legislative reform process with clear timelines and greater coordination, transparency, consistency and clarity in the review, consultation and drafting of laws;

(c) Ensure greater involvement by civil society and relevant stakeholders in the development of legislation, including through inclusive public consultation processes; and develop greater awareness-raising measures for draft and newly promulgated laws.

86. In addition, Parliament should amend the Constitution to ensure that human rights are appropriately accorded to all persons in Myanmar, provide for the prohibition of torture, inhuman or degrading treatment or punishment and the presumption of innocence until proven guilty, and ensure that the military is subject to civilian rule and to the rule of law.

87. The Government should further:

(a) Effectively and promptly investigate allegations of torture and ill-treatment in detention; and ensure respect for the rights of those accused, including due process and fair trial rights;

(b) Expedite the ratification of the Convention against Torture and the Optional Protocol thereto;

(c) Ensure that no individual who cooperates with the United Nations suffers reprisals and that any allegations are promptly investigated and redress is provided;

(d) Engage closely with the human rights system, including the treaty bodies, the universal periodic review and thematic special procedures;

(e) Expedite the establishment of an OHCHR office in Myanmar with a full mandate.

88. The international community should remain constructively and critically engaged on the human rights situation and support Myanmar, including through policy dialogue and technical assistance, in further reforms that fulfil its human rights obligations.