

Check against delivery



**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

This is the last time I will address the Human Rights Council after six years on this mandate. I would like to take this opportunity to reflect on my last visit but also provide an overview of the current situation of human rights in Myanmar.

Let me start with the ongoing efforts to secure peace and national reconciliation between the State and Myanmar's ethnic minority communities. Positive progress towards a national ceasefire accord continues, with 14 individual ceasefire agreements now signed with the ethnic armed groups and only two outstanding. I continue to commend and support this progress and hope to see a national ceasefire accord in the near future.

However, this is still a great challenge due to the complexity of the situation in ethnic border areas, including a long history of fighting and exclusion and lack of access to fundamental economic and social rights. The displacement of hundreds of thousands of people within Myanmar and also across national borders adds to this complexity. Therefore, what is needed is trust building between the state and the ethnic armed groups and their people. Trust will come from the implementation of agreements, which requires the establishment of a system of monitoring, and the greater participation of local communities and women.

It is also important not to underestimate the critical role of the military towards progress on ceasefire and peace agreements. Throughout my six years on this mandate, I have never been able to meet the Commander-in-Chief, a fundamental player in the process towards national reconciliation. In my last mission, the Kachin Independence Organisation (KIO) told me that while the Union Government negotiates a ceasefire agreement, the army continues to push forward towards Kachin Independence Army (KIA) positions. I therefore hope that the military strengthens their commitment to the extraordinary efforts of the Government and the ethnic minority groups to stop the decades of fighting in their country.

The people of Myanmar and especially the ethnic minority communities know all too well the terrible consequences of decades of internal armed conflict which bring with it gross human rights violations. During my last visit to Laiza in Kachin State, I received allegations of ongoing human rights violations by the military as well as reports of the continuing recruitment of child soldiers by ethnic armed groups.

For all these reasons, it is crucial that this transition focuses on securing ceasefires and sustainable peace, which will also require inclusive political dialogue on how to reframe the Constitution and redistribute power so that Myanmar can become a peaceful multi-religious and multi-ethnic country.

Ladies and gentlemen,

During my first mission to Myanmar back in 2008, I could not access the internet while in the country. I also could not access a free press. The people I met with spoke to me in fear. The development of a freer media has been an important feature of the reform process. Previously exiled media groups such as Irrawaddy and Mizzima have now set up offices in country and are providing important news reporting. Human rights issues and the missions

of this mandate holder have been on the front pages of newspapers. Civil society groups are operating more freely and openly. Human rights activists who had been struggling from abroad for decades have returned to Myanmar to work for a better future.

However, during my last mission, I saw new attempts to restrict these evolving freedoms. I met journalists who described a prevailing climate of uncertainty and fear of arrest. While I was there, five journalists had been recently detained in relation to stories they were investigating. We have to be aware of steps back to a recent past where the military sought to control freedom of expression and association. We need to keep an eye on this and continue to push for a change of the controlling military mind-set and encourage further reforms. For instance, the draft Associations Law represents a real threat to the development of a healthy civil society. Inputs from Myanmar civil society are fundamental to this democratic transition.

A particular challenge is the right to peaceful assembly. Some people who have been exercising their right to peacefully demonstrate have been arrested and prosecuted, while others demonstrating for causes that are more closely aligned to the authorities' interests have been able to demonstrate openly and on a large scale. The authorisation process for assemblies in section 18 of the Peaceful Assembly and Peaceful Procession Act needs to be amended to get rid of this system of arbitrary denial and granting of permits.

I believe that the release of prisoners of conscience is one of the most significant achievements of the Government. Since May 2011, there have been 15 presidential amnesties resulting in the release of over 1,100 prisoners of conscience. I was glad to meet with many of those now in freedom and to see that they have the chance to be a part of this transition. However, I should highlight that around 33 prisoners of conscience remain in detention, including Dr. Tun Aung, Kyaw Hla Aung and three international non-governmental organisation (INGO) workers in Rakhine State. I commend the work of the Prisoner Review Committee, and urge the Government to continue to convene meetings of this Committee to ensure the release of all prisoners of conscience.

Distinguished delegates,

While the transition is generally moving in the right direction, the complex situation in Rakhine State remains dire. I have been to Rakhine State five times, and have visited Sittwe, Maungdaw, Buthidaung, Pauk Taw and Myebon. I have been to IDP camps, interviewed prisoners, met hospital patients, visited monasteries and mosques and discussed with State and Union Officials and local community leaders the situation there. I am of the view that the Rohingya community in Myanmar are continuing to suffer systematic discrimination and human rights violations. The violations of the right to freedom of movement, access to healthcare, education, livelihoods and places of worship continue for the 140,000 still in IDP camps and the 36,000 living in crisis affected villages. The environment for international humanitarian workers in Rakhine State is becoming increasingly hostile and threatening, which the Government has been unable to address.

The violence has affected all communities, but disproportionately the Rohingya community, with the beating and killing of villagers, rape and other forms of sexual violence, and arbitrary detention and torture. The police, security forces and state authorities have not

prevented the violence or protected the communities and I have also received allegations of their involvement in some incidences.

It is imperative for the Government to recognise the seriousness of the problem and develop a comprehensive plan for Rakhine State, which includes the issue of accountability and the need for independent and credible investigations into violent incidents. The recent violence in Du Chee Yar Tan represents an opportunity for the Government to work with the international community in this regard. The recent Presidential Commission's report includes some constructive recommendations to address the situation, and recognises the complexity of the situation in Rakhine State. However, in terms of investigating a specific incident to establish the facts, there are major methodological deficiencies. And substantively, the report did not look into issues such as the credible allegations of rape. Although the report recommends engagement with Bangladesh on issues concerned with the border areas, unfortunately it does not encourage the Government to engage with the wider international community. I recommend the Human Rights Council works with the Government on this latest incident to uncover the truth and hold anyone responsible for human rights violations to account.

A comprehensive plan for Rakhine State will also need to address the return of populations to their land, humanitarian access and the review of the 1982 Citizenship Law in line with international standards. Also, the grievances of the Rakhine Buddhist communities need be heard. After years of neglect, their economic, social and cultural rights must be respected, promoted and protected.

Myanmar should not be left alone in addressing the human rights situation in Rakhine State. Some initiatives have been undertaken by the Government, but the international community, including ASEAN countries, has a crucial role to play, particularly when considering the spread of religious violence outside of Rakhine State and outside of Myanmar to neighbouring countries.

Distinguished delegates,

It has been over three years since Myanmar began its shift from a military government to a democratic form of governance. The executive and the legislative branches of the State have been playing a visible role in this transition. The judiciary has not, largely because of its lack of independence from the executive. The challenge to establish an independent judiciary able to uphold the rule of law and protect fundamental rights is integral to a successful democratic transition.

There are currently no mechanisms to hold perpetrators of human rights violations to account. The police are not being held to account for ongoing practices of torture in places of detention or the excessive use of force in dealing with peaceful protests. The military are also not being held to account for ongoing violations of human rights and humanitarian law in areas of conflict, including in Kachin and Northern Shan State. A number of laws remain in place from the military era which require amendment to bring them into line with international human rights standards.

Although the Constitution has some positive human rights provisions, it will require amendments which include bringing the military under civilian control and oversight. As

part of establishing the rule of law, the issue of access to justice is also crucial, where people know their rights and have access to legal counsel. An example is the issue of land confiscation, where those who have been forcibly evicted do not have access to legal remedies to claim their rights.

Rule of law will also be crucial for the process of economic development, not only to protect the interests of investors but more importantly to ensure that the rights of the people affected are upheld.

An important indication of how this democratic transition is progressing will be the 2015 general election. We all hope to see it conducted freely and fairly and free from violence.

Distinguished Delegates,

I believe that my six-years on this mandate have been useful in highlighting the human rights issues that need to be addressed in Myanmar, and have supported the development of solutions.

Throughout these years, I have heard terrible stories of human rights abuses suffered by people living all around the country; but fortunately, I have also had the opportunity to witness a transformation of a country which has experienced decades of military rule. We have to be supportive and continue engagement.

After nine visits to the country, I am aware of the value that the people place on this mandate. Careful consideration should be given to the benefits of this human rights mechanism which has, through engagement with the authorities and civil society, helped to secure improvements and keep human rights near the top of Myanmar's reform agenda.

Although I've had challenges to overcome, overall I praise the cooperation extended by the Government of Myanmar to this mandate. I believe that this cooperation represents a good example of how States can progress on human rights through engagement with the international community as envisioned in the United Nations Charter.

I would like to thank this honourable Human Rights Council for giving me the opportunity to contribute to this transition. I have to praise you for your persistence in seeking improvements to the human rights situation in Myanmar. I would like to express my gratitude to the High Commissioner for Human Rights and her team for the support they have provided me. I also thank the civil society organisations both from Myanmar and beyond for their sustained engagement with the mandate.

Ladies and gentlemen,

I believe that this mandate is a joint effort, bringing in a whole network of government and non-governmental actors to focus on achieving improvements to the human rights situation.

I started this mandate with little connection to Myanmar. I leave it now with strong ties to the people of a country who have struggled for decades seeking justice, democracy and human rights, and now have an opportunity to achieve their goals. Therefore, my last words go to the people of Myanmar.