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Situation of human rights in Myanmar

Report of the Secretary-General

Summary

The present report is submitted pursuant to General Assembly resolution [73/264](#) and covers the period from 22 December 2018 to 13 August 2019. It focuses on the role of the Secretary-General and his good offices towards alleviating the multifaceted crisis affecting mostly the Rohingya, but also other marginalized groups in Myanmar. In his report, the Secretary-General highlights the activities of his Special Envoy and her engagements with various stakeholders on a range of key areas such as the urgent need to address the underlying issues in Rakhine State, including through durable solutions and a credible accountability process. He also highlights that bilateral efforts between Bangladesh and Myanmar on voluntary, safe, dignified and sustainable repatriation efforts need to be supported by the implementation of the recommendations of the Advisory Commission on Rakhine State and of the tripartite memorandum of understanding of 6 June 2018 between the Government of Myanmar and the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme. The important role of the Association of Southeast Asian Nations in supplementing these efforts at the regional level is also underscored. In his report, the Secretary-General also refers to the challenges facing national reconciliation efforts with ethnic groups and civilian protection concerns, as well as the need for unimpeded access for the United Nations and its partners to affected areas throughout the country, including in Rakhine. In addition, the Secretary-General, while highlighting efforts towards advancing the democratic transition in Myanmar, including in the area of rule of law, urges greater action on the part of all leaders against incitement and hatred. Ahead of the general elections scheduled for November 2020, the Secretary-General stresses the importance of promoting an electoral process that is widely inclusive, transparent and accessible so that it can serve as a nationally unifying event. He also highlights that freedom of speech is essential. Lastly, the Secretary-General notes that the continued role of the military in the political sphere in Myanmar remains an obstacle to democratic consolidation and encourages strengthened coordination between Myanmar and the United Nations.

* [A/74/150](#).



I. Introduction

1. The present report is submitted pursuant to General Assembly resolution [73/264](#), in which the Assembly requested me to continue to provide my good offices and to pursue discussions relating to Myanmar, involving all relevant stakeholders, and to offer assistance to the Government of Myanmar, as well as to report to the Assembly at its seventy-fourth session on the progress made in the implementation of all relevant issues addressed in the resolution. This report covers the period from 22 December 2018 to 13 August 2019.

2. In response to the violence and rapid displacement following coordinated attacks by the Arakan Rohingya Salvation Army on 25 August 2017 against Myanmar police in Rakhine State and the ensuing security operations, I engaged the Security Council through my letter dated 2 September 2017, to express my deep concern about the security, humanitarian and human rights situation. I have repeatedly stressed that it is ultimately the responsibility of the leaders of Myanmar to demonstrate greater resolve in ensuring accountability for this violence, upholding the principles of equality and non-discrimination and countering incitement to racial hatred and violence. Addressing systematic discrimination and the root causes of the violence, including through a pathway to citizenship and freedom of movement, is also vital.

3. My visit to Bangladesh from 1 to 3 July 2018, together with the then President of the World Bank Group, Jim Yong Kim, highlighted the generosity of Bangladesh in hosting one of the world's largest refugee influxes and the need for the international community to provide stronger financial support and continue to advocate a political solution. The visit laid the groundwork for further dialogue with the Government of Bangladesh on medium-term planning for the refugee situation and underscored the support of the United Nations and the World Bank for finding comprehensive solutions to the situation of the Rohingya people.

4. During our tour of what is now the world's largest refugee camp, in Cox's Bazar, Bangladesh, I heard first-hand accounts of excessive violence and serious violations of human rights, including the indiscriminate firing of weapons, the presence of landmines and sexual violence. Some refugees described, in vivid terms, a climate of fear, while others outlined the continuing restrictions on freedom of movement and the lack of access to services imposed on them by the Government of Myanmar.

5. A delegation of the Security Council also visited Bangladesh and Myanmar from 28 April to 1 May 2018 as part of the efforts of the Council to address the crisis since 25 August 2017 and urge the implementation of the statement of the President of the Council dated 6 November 2017.

6. My Special Envoy, Christine Schraner Burgener, has been working tirelessly in pursuit of her mandate, with a focus on resolving the humanitarian crisis, promoting the safe, dignified, voluntary and sustainable return of Rohingya refugees and forcibly displaced persons and ensuring accountability for human rights violations. The intensifying violence since January in Rakhine State between the Tatmadaw (the armed forces of Myanmar) and the Arakan Army has not only further complicated the prospects of voluntary, safe, dignified and sustainable returns, but also exacerbated an already precarious humanitarian and human rights situation.

7. My Special Envoy has visited Myanmar on seven occasions and Bangladesh five times since her appointment in April 2018. She has also undertaken visits to several other countries, especially in the region. In keeping with my commitment to enhancing cooperation with regional organizations to prevent conflict, she has held regular consultations with regional organizations, including the Organization of Islamic Cooperation, the European Union and, in particular, the Association of

Southeast Asian Nations (ASEAN), which can play an essential role in terms of supporting Myanmar in providing humanitarian assistance, facilitating the repatriation process and promoting sustainable development. Recently, my Special Envoy visited Indonesia, where she had bilateral engagements with Indonesian authorities and met the ASEAN Secretary-General, Dato Lim Jock Hoi, and the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management. She also visited Thailand, the current Chair of ASEAN, as well as the Lao People's Democratic Republic, Malaysia and Singapore.

8. Although the Government of Myanmar has repeatedly voted against the recent resolutions of the General Assembly in which the Assembly mandated the appointment of a Special Envoy, authorities in Nay Pyi Taw have cooperated closely with my Special Envoy and her Office. I welcome this cooperation and their agreement, for the first time, to establish an Office of my Special Envoy in Nay Pyi Taw. This Office became functional as of January 2019.

9. Meanwhile, other United Nations senior officials also engaged with the Myanmar authorities through coordinated visits to the country. During the reporting period, such visits included ones by my Special Representative on Sexual Violence in Conflict, Pramila Patten, in February 2019; the Executive Director of the United Nations Children's Fund, Henrietta Fore, in April; the Assistant Secretary-General of the Office for the Coordination of Humanitarian Affairs, Ursula Mueller, in May; and the United Nations High Commissioner for Refugees (UNHCR), Filippo Grandi, also in May. Those visits were in addition to numerous visits by the same officials and others to the refugee camps in Bangladesh. My Special Envoy will continue to help to promote a coherent system-wide engagement based on close cooperation with these and other senior United Nations officials, including my Special Representative for Children and Armed Conflict, Virginia Gamba.

10. Regrettably, Myanmar has refused to cooperate with United Nations human rights entities and mechanisms, notwithstanding repeated calls to do so. Access to Myanmar continued to be problematic for the Special Rapporteur on the situation of human rights in Myanmar, Yanghee Lee, and for members of the independent international fact-finding mission on Myanmar. My Special Envoy has been in contact with them and will continue to encourage Myanmar to cooperate with the various human rights mechanisms, including with the Independent Investigative Mechanism for Myanmar that is headed by Nicholas Koumjian.

II. Context and developments

A. Political situation and developments

11. After more than six decades of political rule by the military, the democratically elected Government led by the National League for Democracy is struggling to overcome a legacy of policies that have marginalized ethnic groups and deprived people of access to basic services, with no respect for their fundamental rights, including freedom of expression and freedom of movement. The democratic transition in Myanmar has yet to deliver the necessary capacity-building reforms, including economic liberalization and basic service delivery outside urban areas, especially to ethnic minority groups. The faltering infrastructure has exacerbated these shortcomings.

12. The increase in mobile phone penetration from less than 10 per cent to more than 90 per cent of the population in the past six years has resulted in the almost exclusive use of social media as the primary source of information in Myanmar. The downside has been the virulent and rapid spread of false news, hate speech and

inflammatory rhetoric, heightening the urgency of genuine reconciliation throughout the country.

13. The general elections scheduled for 2020 will be an important moment for the continuing democratic transition in Myanmar. Ultrationalists could further galvanize their constituencies in the run-up to the polls, and it is critical for all leaders in the country to take a unified stance against incitement and hatred. Building on the legacy of the landmark 2015 vote, it will be important to promote an electoral process that is widely inclusive, transparent and accessible so that it can serve as a nationally unifying event. Following a request for United Nations electoral assistance received from the Myanmar Union Election Commission in 2018, the Organization is exploring modalities and funding options to provide technical support to the process.

14. The preponderant role of the military in the political sphere in Myanmar remains an obstacle to the democratic transition, notably through its constitutionally mandated 25 per cent of seats in Parliament and majority in the National Defence Council and the National Security Council. Nevertheless, in December 2018, the General Administration Department was transferred from the Ministry of Home Affairs (one of three ministries overseen by the Commander-in-Chief of the Tatmadaw, Min Aung Hlaing) to the newly formed Ministry of the Office of the Union Government, under the direct control of the civilian government.

15. The approval on 6 February 2019 by the Union Parliament of the emergency proposal of the National League for Democracy for a multi-party review committee to amend the military-drafted 2008 Constitution also signalled the desire of the Government for progress in democratic reforms. Since then, the Charter Amendment Committee of Parliament was established and submitted, on 17 July, more than 3,700 recommendations for debate and adoption. Notwithstanding initial objections from the military-backed Union Solidarity and Development Party, Parliament voted in favour of forming that body. The Committee comprises 45 members, including representatives of 14 political parties, independents and members of the military's bloc in Parliament. Committee seats were allocated in proportion to representation in Parliament. There have been peaceful protests in support of amending the Constitution and in opposition to the process and especially against any potential reform of provision 59 (f) barring the State Counsellor from becoming President. This is in addition to recent demonstrations in support of the military.

16. The amendment to the Vacant, Fallow and Virgin Land Management Law, which came into force in April 2019, could exacerbate the economic and social marginalization of vulnerable groups, raising concern that its implementation would threaten pre-existing land tenure, facilitate land-grabbing and cause land conflicts to increase. Some 50 million acres qualify as vacant, fallow and virgin land according to the Government, equalling approximately one third of all land in Myanmar, with more than 80 per cent in the ethnic-minority states.

National reconciliation issues

17. Conflict and violence continued in a number of areas in Myanmar, affecting tens of thousands of people, most notably in Shan and Rakhine States. A sustainable end to the conflicts must be found to ensure that communities can escape cycles of violence and displacement. In all areas, parties to the armed conflict must respect their obligations under international humanitarian law, including the principles of distinction, proportionality and necessity and the prohibition of superfluous injury and unnecessary suffering. This entails taking constant care to spare civilians and civilian objects, including internally displaced persons on the move or in camps, humanitarian and medical personnel and assets, and critical infrastructure, in the conduct of military operations.

18. Notwithstanding the signing on 15 October 2015 of the Nationwide Ceasefire Agreement by 8 of the 18 main ethnic armed groups in Myanmar, peace efforts have stalled, with continued mistrust on all sides. Three Union Peace Conferences held since 2016 have not yielded any meaningful progress in political negotiations towards a federal union based on democracy, equality and self-determination. The peace process appears to have reached an impasse, including on issues of power-sharing, territorial demarcation and disarmament. Meanwhile, tensions have grown between the Myanmar authorities and the non-signatory groups. Furthermore, the recent decision of two major ethnic armed organization signatories to the Agreement – the Karen National Union and the Restoration Council of Shan State/Shan State Army – to suspend their participation in the political talks and in the military ceasefire monitoring bodies has not been rescinded, notwithstanding some informal engagement. Neither the Union Peace Dialogue Joint Committee nor the Union Joint Monitoring Committee have had formal meetings since July 2018.

19. Although two additional groups, namely, the New Mon State Party and the Lahu Democratic Union, signed on to the Nationwide Ceasefire Agreement in February 2018, a majority of ethnic combatants belong to groups that have not yet signed. Most of these non-signatory ethnic armed organizations are based in the north-eastern periphery, bordering China. In December 2018, the Commander-in-Chief of the Tatmadaw, Min Aung Hlaing, pronounced a unilateral ceasefire declaration in Kachin and Shan States. The ceasefire was extended until the end of June 2019 and again until the end of August. As a direct neighbour with mutual security interests in the border area, China has remained actively engaged as the sole international observer to the peace process. The ceasefire has yielded some respite in Kachin, which experienced relative calm, in stark contrast to the first half of 2018. For more than 97,000 internally displaced persons in Kachin, however, challenges around land rights, lack of security, landmines and the limited availability of key services continue to inhibit voluntary returns and durable solutions. Nevertheless, some small-scale efforts in support of return, local integration or resettlement have taken place. A continuation of the ceasefire and a commitment to durable solutions for the internally displaced population, including by facilitating access and ensuring an enabling environment for humanitarian and development programming, are critical.

20. Ongoing violence between ethnic groups in Shan State has highlighted the complexities of one of the world's longest-running civil wars, although a ceasefire in May 2019 between the Restoration Council of Shan State and the Shan State Progressive Party is encouraging. Notwithstanding the ceasefire, a significant number of civilians in northern Shan were affected by armed conflict during the first half of 2019, resulting in the mainly short-term displacement of some 11,000 people, in addition to the 9,000 internally displaced persons who remain in situations of protracted displacement.

21. The most recent violence in Rakhine State has further aggravated prospects for broader reconciliation and the fragile situation in the region. Fighting in Rakhine and Chin States has been intensifying since late 2018 and most notably since the attacks on 4 January 2019 by the Arakan Army on four police outposts in northern Rakhine, killing at least 13 police officers. Since then, there have been daily clashes in townships in the central and northern parts of Rakhine between the Tatmadaw and the Arakan Army, which has a Rakhine nationalist agenda that includes “self-determination, safe-guarding identity and cultural heritage and the development of the state”. It has also indicated its wish to establish a military base in Rakhine, which contributed to tensions with the Union Government. In the ongoing conflict between the Arakan Army and the Myanmar military, civilians continue to be disproportionately affected by the fighting. There are numerous reports of civilian casualties and damage to religious and sacred sites, and more than 33,000 people are

estimated to have been displaced since the beginning of 2019, with some 28,000 remaining displaced as of early August. Serious violations have been reported on both sides, and the violence has affected all communities. There have been allegations of government officials receiving death threats, villages and schools being used as shields by both sides and several reports of arbitrary detention and extrajudicial killings. Of deep concern is the increased use of landmines, causing new displacement and reducing the ability of villagers to continue with their agricultural activities, which could exacerbate food insecurity in the future.

22. In this environment, recent restrictions imposed on humanitarian access in Rakhine State have deprived more than 100,000 people in rural communities of access to key services. The reported temporary suspension of Internet services in Rakhine casts further doubt on the commitment of the authorities to freedom of expression and to creating conditions that allow people to feel that they can live in safety and security.

23. Continued tensions between Arakan nationalists and the Union Government have highlighted the complexities in Rakhine State, which are not limited to the plight of the Rohingya. In addition, the fighting between the Arakan Army and the Tatmadaw has detracted from efforts to create conducive conditions for returns and exacerbated pre-existing issues. The lack of meaningful access for the United Nations and its partners, added to the increased presence of the Tatmadaw in Rakhine, raises fresh concerns about serious human rights violations and will not help to build confidence among the refugees who fled brutal security operations after 25 August 2017.

B. Rakhine State and durable solutions

24. Notwithstanding the ongoing democratization process in Myanmar, entrenched discrimination and social tensions linger throughout the country, in different forms. This remains most acutely pronounced in Rakhine State, the country's second poorest, where the United Nations has been promoting a whole-of-society approach to addressing challenges that are deep-rooted and multifaceted, combining legal, historic, ethnic and religious factors. The key question of the citizenship and legal status of the Rohingya remains unaddressed, as do their political, economic and human rights grievances, along with the grievances of the ethnic Rakhine, themselves a struggling minority group.

25. The international community needs to be mindful of the sheer scale of violence and egregious crimes targeted against the Rohingya, culminating in the forced displacement of more than 740,000 refugees to Bangladesh since 25 August 2017. This is in addition to some 128,000 internally displaced Rohingya and Kaman Muslims, who remain in camps or camp-like settings in central Rakhine State, most of them since 2012, while another 470,000 stateless, non-displaced Rohingya have limited freedom of movement or access to basic services and livelihoods in 10 townships throughout Rakhine. In their relevant reports, the Office of the United Nations High Commissioner for Human Rights ([A/HRC/40/37](#)) and the independent international fact-finding mission on Myanmar ([A/HRC/39/64](#)) have documented serious abuses and violations of international human rights law and international humanitarian law committed against the Rohingya.

26. The drafting by the Government of a national strategy on the closure of camps for internally displaced persons is a critical step towards finding durable solutions for the more than 250,000 internally displaced persons throughout Myanmar. Considerable international support will now be necessary to enable delivery against the vision set out in the draft strategy, which incorporates key international standards and principles and reflects a consultative and right-based approach.

27. Concurrent with the development of the national strategy, however, the Government has also continued to close camps for internally displaced persons in Rakhine State in ways that are not consistent with international norms and standards and without having taken steps to address fundamental issues identified in the report of Advisory Commission on Rakhine State, including freedom of movement and the equal access of displaced persons to livelihoods and non-segregated basic services. As a result, occupants of “closed” camps still do not have access to mainstream education, markets or health services, nor are their issues of freedom of movement addressed, leading to widespread concern that this approach could further entrench the segregation and marginalization of Muslim communities. For their part, Myanmar authorities have expressed concern that granting freedom of movement while communal tensions continue to run high could spark renewed violence.

28. The approach to camp closures being pursued in central Rakhine State risks undermining the stated objectives outlined in the draft national strategy if it is not part of a broader effort to seek durable solutions that address the recommendations of the Advisory Commission on Rakhine State, including on reconciliation. In the absence of concrete measures in this regard, the prospects for durable solutions for internally displaced persons and other marginalized communities in Rakhine appeared dim during the reporting period, while the need to improve humanitarian conditions in existing camps remained acute.

C. Voluntary, safe, dignified and sustainable repatriation

29. On 23 November 2017, Bangladesh and Myanmar signed a bilateral arrangement for the repatriation of refugees to Rakhine State. A bilateral joint working group was subsequently established and, to date, has met four times, and the two countries also entered into an agreement on the physical arrangements for repatriation. Both Governments have expressed their desire for refugees to return soon. Although the Government of Myanmar has implemented a number of preparatory infrastructure measures to support potential refugee returns, there remains a significant trust deficit between the refugee community and Myanmar authorities. My Special Envoy has repeatedly called for direct communication between the refugees and the Myanmar authorities in order to enhance mutual understanding and build trust. She has also called for greater cooperation on the part of Myanmar with UNHCR and the broader international community. From 26 to 28 July 2019, the joint working group, together with ASEAN representatives, visited Bangladesh, including Cox’s Bazar, where they engaged in dialogue with the refugees. Such iterative dialogue efforts are essential to building trust and addressing the many concerns of the refugees.

30. From the outset of the displacement of Rohingya from northern Rakhine State to Bangladesh in 2017, the United Nations has repeatedly called for the root causes to be addressed to allow the refugees to return to Myanmar and stated that the ultimate responsibility for this rests with the Myanmar authorities. After two years, no official return has yet taken place, and the situation in Rakhine is not yet conducive to safe, dignified and voluntary returns, a point raised not only by some refugees themselves, but also reflected in the assessments of senior United Nations officials.

31. Overall, many refugees, the United Nations and international observers continue to voice their concerns that not enough has been done to improve the systematic mistreatment of the Rohingya in Myanmar. Accordingly, there has not been any structural or fundamental change to the situation in Rakhine State from the time that the refugees were forced to flee. Land belonging to some refugees has been cleared since their departure, and the living conditions of internally displaced persons who have been displaced since 2012 have not improved. In the central part of Rakhine,

departures of the Rohingya by boat and by land were witnessed during the reporting period. Since January 2019, there has been a limited number of departures, which is attributed to heightened measures taken by the Government to prevent unauthorized departures. There has been a notable increase in reported instances of Rohingya being detained for unauthorized domestic travel by land.

32. On 6 June 2018, a tripartite memorandum of understanding was signed between the Government of Myanmar and UNHCR and the United Nations Development Programme (UNDP), which is aimed at creating conditions conducive for the voluntary, safe, dignified and sustainable repatriation of refugees to their places of origin or choosing. Extended on 28 May 2019 for a one-year period, the memorandum of understanding is an important step to support the efforts of the Government to improve conditions for those Rohingya remaining in Rakhine State, foster social cohesion and support recovery and resilience-based development for the benefit of all communities. Progress on the operationalization of the memorandum of understanding, however, has been slow. While UNHCR and UNDP have had some access to affected communities and were able to conduct assessments and initiate a number of quick-impact projects, access has been granted to only a small fraction of the locations covered under the memorandum of understanding. The limited duration and unpredictability of access authorizations remain key impediments to timely and effective implementation. Security developments linked to clashes between the Arakan Army and the Tatmadaw have slowed implementation even further.

33. Efforts to complement the tripartite memorandum of understanding, especially at the regional level by ASEAN, will be crucial. In Singapore in November 2018, ASEAN proposed to Myanmar that it would engage on issues relating to Rakhine State to assist in the repatriation of the refugees from Bangladesh. To that end, a preliminary needs assessment of the readiness of Myanmar was undertaken in March by an ASEAN emergency response and assistance team, comprising members of the Coordinating Centre for Humanitarian Assistance on Disaster Management, Indonesia, Malaysia, Myanmar, Singapore and Thailand. Further collaboration between ASEAN and the Government of Myanmar in three areas was recommended as part of the assessment: (a) enhancing the capacity of reception and transit centres; (b) strengthening information dissemination, including dialogue meetings between the refugees and the Governments of Bangladesh and of Myanmar; and (c) support for the provision of basic services. Foundational human rights issues, including on the question of citizenship or freedom of movement were not addressed as part of the assessment, and it will be vital for future ASEAN engagements to do so.

34. At their ministerial meeting in July 2019, ASEAN foreign ministers agreed to proceed further with the recommendations arising from the preliminary needs assessment, underscoring the usefulness of exploring cooperation with ASEAN dialogue partners on possible support. They also stressed the need to find a comprehensive and durable solution to address the root causes of the conflict and to create a conducive environment so that affected communities could rebuild their lives, in line with the final report of the Advisory Commission on Rakhine State. The foreign ministers also welcomed the extension of the tripartite memorandum of understanding and looked forward to its full implementation. My Special Envoy and her office will remain in close contact with the ASEAN member States, the ASEAN secretariat and the Coordinating Centre for Humanitarian Assistance on Disaster Management.

D. Accountability

35. I have underscored that accountability in Myanmar is essential for genuine reconciliation among all ethnic groups and is a prerequisite for national and regional

security and stability. Victims have a right to have access to justice and seek an effective remedy for the human rights violations that they have endured.

36. The independent international fact-finding mission on Myanmar found evidence of “gross human rights violations and abuses” suffered by Rohingya at the hands of the Tatmadaw and other security forces, which it said “undoubtedly amount to the gravest crimes under international law” (A/HRC/39/64). It will present its final report to the General Assembly at its seventy-fourth session. Steps are being taken to secure the full operationalization and effective functioning of the Independent Investigative Mechanism for Myanmar, established by the Human Rights Council in its resolution 39/2 and welcomed by the General Assembly in its resolution 73/264. The Mechanism is mandated to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011. It will also prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes. Meanwhile, on 4 July 2019, the Prosecutor of the International Criminal Court, Fatou Bensouda, requested judicial authorization to commence an investigation of alleged crimes against humanity, namely, deportation, other inhumane acts and persecution committed against the Rohingya people from Myanmar, in which at least one element occurred on the territory of Bangladesh. In March, the Office of the Prosecutor undertook a week-long visit to Bangladesh to engage with relevant stakeholders, explain the preliminary examination process and travel to the refugee camps, with a view to informing the Office’s ongoing assessment of the Rome Statute criteria to decide whether an investigation into the situation at hand was warranted. For its part, in March 2019, the Organization for Islamic Cooperation adopted a resolution on the situation of the Muslim community in Myanmar, in which it called upon all member States to bring perpetrators of atrocities, crimes against humanity and genocide before all possible international legal and juridical institutions, and opened the possibility of bringing the case of Myanmar to the International Court of Justice under article IX of the Convention on the Prevention and Punishment of the Crime of Genocide.

37. In the context of Myanmar, accountability should not be limited to processes of criminal justice. The Government of Myanmar should pursue other transitional justice measures, including taking steps to prevent the recurrence of international crimes. The Advisory Commission on Rakhine State has also provided relevant recommendations as a guiding framework, which consider the needs of the victims and address root causes, including discrimination, persecution and the lack of legal status and of a pathway to citizenship.

38. A critical component of accountability measures, including from the vantage point of the victims, is national ownership and the responsibility to conduct credible investigations and prosecutions. The Independent Commission of Enquiry was established in Myanmar in July 2018 and comprises international and national experts. It was mandated to investigate allegations of human rights violations and related issues following the terrorist attacks by the Arakan Rohingya Salvation Army in Rakhine State, with a view to seeking accountability and formulating recommendations on steps to be taken to ensure peace and stability in Rakhine. The Commission, initially due to have delivered a final report in July 2019, has not yet completed its independent inquiry and has been extended until 31 January 2020. Furthermore, the Tatmadaw has established a military commission to follow up on allegations of human rights violations relating to the incidents in northern Rakhine in 2017, scrutinizing, among other things, the findings of the independent international fact-finding mission on Myanmar and those of other international bodies, in addition to local testimonies. The reported release, after serving less than 1 year of their

10-year prison terms, of Myanmar soldiers convicted of the extrajudicial killings at Inn Din during security operations in Rakhine, while the Reuters journalists who reported on this were jailed for more than 500 days, further demonstrates the need to ensure more credible accountability processes in the country.

39. On 5 August, the independent international fact-finding mission on Myanmar released its final report on the Tatmadaw's economic interests to assist the Government of Myanmar in achieving long-term economic prosperity and stability for the people, including key findings and recommendations regarding the Tatmadaw's engagement with foreign and domestic businesses and the corporate responsibility of these businesses to protect human rights in Myanmar.

40. Effective international cooperation will be critical to ensuring that national accountability mechanisms are credible, independent and effective in delivering justice for victims. Even though the primary responsibility to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity lies with the Government of Myanmar, the international community, through the United Nations, should provide all means of assistance to ensure that Myanmar is meeting its responsibility in a manner that is consistent with international law and standards.

E. Countering incitement and hate speech

41. Hate speech is an attack on tolerance, inclusion, diversity and the very essence of our human rights norms and principles. It undermines social cohesion, erodes shared values and can lay the foundation for violence, setting back the cause of peace, stability, sustainable development and the fulfilment of human rights for all. While the Internet and social media in Myanmar have provided genuine civic space, they have also fuelled the proliferation of hate speech and the amplification of divisive messages, including by government officials.

42. Social media platforms have been criticized publicly for failing to prevent the dissemination of false information and for instigating hate in Myanmar, including around the period of 25 August 2017. In its efforts to counter the spread of misinformation and hate speech, the Government, through a committee established by the Ministry of Information, has undertaken public media and information literacy initiatives aimed at promoting responsible media consumption, engagement skills and critical thinking. The Ministry of Education has also included media and information literacy in the new curriculum for teacher education.

43. Together with the United Nations country team in Myanmar and other key partners, my Special Envoy has encouraged authorities in Nay Pyi Taw to launch a campaign to counter hate speech and discrimination, in line with the new United Nations Strategy and Plan of Action on Hate Speech.

44. It is important to support courageous local initiatives calling for unity in Rakhine State and elsewhere in Myanmar. At the community level, these important voices could help to expand narrow spaces for moderates. Religious leaders in Myanmar play a vital role and, since late 2018, have undertaken nationwide efforts, including on interfaith dialogue through the Religions for Peace advisory forum on national reconciliation and peace. Another positive example has been the "White Rose" campaign launched in May in Yangon, Myanmar's biggest city, in response to mobs that had forced the shutdown of several Muslim prayer houses. A Buddhist monk, popularly known as "Asia Light Sayadaw" and recognized for his leadership on interreligious and intercommunal peace, visited the affected sites and handed out white roses to affected Muslims, together with his supporters. That gesture of solidarity quickly spread through social media, and people of all faiths showed their

support for peaceful coexistence by handing out white roses to Muslims in other parts of the country.

F. Rule of law and human rights

45. Daw Aung San Suu Kyi has repeatedly stated that fairness and freedom could be restored to her country only under the rule of law and that genuine democracy required justice. Ahead of the elections in 2015, the National League for Democracy had campaigned for good governance, clean government, rule of law, peace and national reconciliation, and amendments to the Constitution.

46. Under its new Chair, the Anti-corruption Commission in Myanmar has taken steps to investigate and prosecute several government officials, including high-ranking ones, among them representatives of the judiciary, the attorney general's office, regional and local administrations, the police force and the customs department, as well as a regional Chief Minister. Notwithstanding the Commission's broad investigative powers, it does not have full independence in terms of funding or the nomination of its representatives. This, combined with the failure to prosecute military officials, notwithstanding the Commission's broad investigative powers, weakens its systemic impact.

47. In addition to the existing parliamentary Complaints Committee of the Amyotha Hluttaw (Upper House), in January 2019, the Pyithu Hluttaw (Lower House) established a 16-member committee to receive any public complaints about the government administration and its service delivery. Both committees received an increasing number of complaints as their presence and availability became known to the public. The public in Myanmar appears to prefer to seek remedies from trusted persons, such as their parliamentarians, rather than from courts, as reflected in the relatively high number of complaints that the new Lower House committee has received in its first six months of operation.

48. The ratification by Myanmar of the International Covenant on Economic, Social and Cultural Rights, together with its stated willingness to ratify both the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, provides opportunities for legislative reform. The Government of Myanmar has also passed children's rights legislation that criminalizes the six grave violations against children in armed conflict identified in Security Council resolution [1612 \(2005\)](#) and subsequent resolutions of the Council. In addition to previous releases, 32 children and young people were released from the Tatmadaw on 31 March for having been recruited under the age of 18, and further progress has been made in streamlining cases of alleged child recruitment.

49. Building on their positive cooperation with my Special Representative for Children and Armed Conflict, including her visit to Myanmar from 27 to 29 May 2018, authorities have also signalled that they will look favourably on the deepened engagement of my country task force on monitoring and reporting with non-State actors who are party to the Nationwide Ceasefire Agreement regarding grave violations against children. Documents of commitment on halting grave violations are expected to be signed with the Karen National Union/Karen National Liberation Army Peace Council, the Democratic Karen Benevolent Army and the Restoration Council of Shan State/Shan State Army in the near future. The Government has taken steps to accelerate its compliance with regard to recruitment and use in its joint action plan with my country task force on children and armed conflict. It has also begun work alongside my country task force on action plans on killing and maiming and grave sexual violence, in accordance with resolution [1612 \(2005\)](#).

50. Meanwhile, labour law reform continued with the adoption of a new Occupational Safety and Health Law and the amendment of the Labour Dispute Settlement Law. Challenges remain, however, in the implementation of the laws, and trade unions have complained about anti-union dismissals, impediments to the registration of trade unions and curbs on peaceful assembly. For example, a group of trade union leaders is currently under trial in Mandalay region on charges under the Peaceful Assembly Law relating to a reportedly peaceful demonstration held on labour law issues in March 2019.

51. Several other demonstrators have been imprisoned and many journalists, artists, writers and human rights defenders are facing judicial processes for defamation-related charges. Some of these journalists have been accused of violations of the Telecommunications Act. In preparation for the general elections in 2020, the Government should view freedom of speech and of the press as essential to the functioning of a genuine democratic society and should review existing legal frameworks that might restrict these freedoms. While the release on 6 May 2019 of Reuters journalists Wa Lone and Kyaw Soe was a relief, continued restrictions will stifle public debate and political discourse. Imprisoning those who speak out is inconsistent with a genuine democracy.

52. There has been a rise in organized criminal networks profiting from prevailing instability owing to armed conflict or protracted displacement, with consequences in the South-East Asia region and beyond. These destabilizing crimes, which range from the trafficking in human beings and in illicit commodities, arms and drugs, encourage corrupt activities and undermine the rule of law.

53. The commitment of the Government to addressing protection and conflict-related sexual violence has been underscored through the active engagement by the Ministry of Social Welfare, Relief and Resettlement in international forums, including at the conference on ending sexual and gender-based violence in humanitarian crises, held in Oslo in May 2019.

54. Following the signing in December 2018 of a joint communiqué between the Government of Myanmar and the United Nations to address conflict-related sexual violence in Myanmar and the visit to the country of my Special Representative on Sexual Violence in Conflict in February 2019, an interministerial committee on conflict-related sexual violence was established by way of presidential decree and is co-chaired by the Ministry of Social Welfare, Relief and Resettlement and the Ministry of Defence. An implementation plan for the joint communiqué has been drafted by the Government and could be finalized and realized through a consultative process with the United Nations country team. The United Nations and civil society organizations provided input to the draft law on the prevention of violence against women, the finalization and adoption of which I had recommended in my annual report on conflict-related sexual violence (S/2019/280). It is important that the final draft law be aligned with international standards. The Government also adopted a Beijing Platform for Action review report on women's rights and submitted it to the Economic and Social Commission for Asia and the Pacific in June.

III. Observations

55. In view of the general elections to be held in 2020, I urge the leaders of Myanmar to take a unified and decisive stance in combating hate speech and discrimination. Freedom of speech and expression must be a cornerstone of any democratic transition. While I welcome efforts to enhance media literacy in the country, I urge the Government to reform the practices and legislation that have narrowed spaces for public opinion-building and exchanges. The United Nations has the relevant expertise

and could provide technical assistance in helping to promote values firmly rooted in inclusivity, respect and tolerance and the protection of human rights for all.

56. In this critical period of transition in Myanmar, I urge all to ensure that sexual violence in armed conflict and all other aspects of the women and peace and security agenda continue to be addressed. As highlighted during the interaction on 4 June 2019 of my Special Envoy with the Security Council Informal Expert Group on Women and Peace and Security, stakeholders should redouble their efforts to ensure greater meaningful participation by women in the political process, including in decision-making roles. Building an inclusive, vibrant democracy in Myanmar depends on the active engagement of all stakeholders.

57. I welcome the work of the Anti-corruption Commission in Myanmar. Corruption and graft not only remain key factors in helping organized crime to permeate all levels of society, but, more pervasively, have a deeply corrosive effect on the capacity of citizens to trust and engage positively with the Government, while also fundamentally reducing the efficiency of the State. These factors represent a significant risk to the democratization process, to the rule of law and to economic development.

58. Ensuring accountability and providing justice and support for victims remains a priority. Accountability is central to reconciliation and stability and should be a nationally owned and nationally led process, taking into consideration the recommendations contained in the reports of the independent international fact-finding mission on Myanmar and other relevant international entities. I urge all authorities in Myanmar to cooperate with and seek the available support from the United Nations and United Nations human rights mechanisms, including the Independent Investigative Mechanism for Myanmar, to ensure a credible process and a focus on meeting the justice needs of victims and affected communities. The recommendations of the fact-finding mission need to be considered seriously. Targeted transitional justice measures should be pursued with the objectives of ensuring redress and reconciliation and preventing the recurrence of conflict and large-scale human rights violations.

59. To end the vicious cycle of violence in Rakhine State, there is an urgent need for increased efforts to implement the recommendations of the Advisory Commission on Rakhine State. If implemented holistically, this will be a significant step and a show of goodwill towards ensuring the rights, dignity and security of all communities in Rakhine. The recommendations account for the needs of the victims and provide a framework for addressing root causes, including discrimination, persecution and the lack of legal status of the Rohingya. In addition, the framework would provide a path towards durable solutions and a context in which the implementation of the national strategy on the closure of camps for internally displaced persons could make real and sustainable progress, including on freedom of movement. In doing so, the Government would be achieving two goals: first, it would help to end the protracted displacement that many internally displaced persons have suffered since 2012 and provide livelihoods and access to services to Muslim communities throughout the state; and second, it would serve as a clear signal for the refugees in Bangladesh and elsewhere that the conditions on the ground are becoming conducive for voluntary, safe, dignified and sustainable returns.

60. I call for the immediate cessation of fighting between the Tatmadaw and Arakan Army in Rakhine State and for all sides to resolve their differences peacefully without further delay. At the same time, there is an urgent need for the removal of legal and security barriers to movement imposed upon the Rohingya and other Muslims and for practical means to enhance freedom of movement so that all communities can gain access to critical services and livelihoods without fear. Basic rights for all communities need to be protected. Keeping internally displaced persons confined to

camps or Muslim communities restricted to their own villages further undermines the prospects for a more prosperous and stable future for the region. My Special Envoy will continue to encourage the Myanmar authorities to facilitate dialogue among the various communities in order to foster social cohesion. Inclusive development and reconstruction efforts that benefit all can also help to strengthen social cohesion in Rakhine, which is one of the country's poorest regions.

61. Bilateral efforts between Bangladesh and Myanmar on voluntary repatriation should be strengthened, and the United Nations stands ready to support the two countries in all stages of this important process, including through my Special Envoy, UNHCR and the implementation of the tripartite memorandum of understanding. For that memorandum to succeed, effective access will be critical to assess immediate needs and allow for more quick-impact projects, as well as to meet the medium-term needs of all communities in Rakhine State. I hope that the extension of the memorandum will allow the United Nations to operate unimpeded throughout Rakhine. Some of the quick-impact projects or microdevelopment initiatives in accordance with the memorandum are under way, and these activities have been appreciated by both the Rakhine and Rohingya communities. These initiatives should be accelerated. Complementary efforts, especially at the regional level by ASEAN, will be crucial.

62. While addressing the Rohingya crisis must remain a global priority, patterns of violations against ethnic and religious minorities beyond Rakhine State must also end for genuine democracy to take root. The plight of civilians throughout Myanmar, including those displaced in other ethnic areas such as Kachin and Shan States, must be closely followed, with strong advocacy for the protection of civilians. Myanmar authorities should fulfil their fundamental obligation to ensure the safety and security of all communities and uphold the rule of law without discrimination. In all areas affected by violence, full and unimpeded access is an essential prerequisite to effective humanitarian and development action, and parties to conflict have obligations under international humanitarian law to facilitate relief operations. Securing consistent and predictable travel authorizations from the authorities throughout Kachin, Shan and central and northern Rakhine has been extremely difficult. In some areas of Kachin, United Nations and international non-governmental organization personnel have been unable to reach camps for internally displaced persons hosting an estimated 40,000 people since mid-2016. In northern Rakhine, humanitarian access also remains highly challenging, although the recent extension of the tripartite memorandum of understanding was a relatively encouraging sign. Access is critical in order to assist those in need, in particular in circumstances in which the capability of people to move or gain access to services themselves has been restricted or denied. It is central to responding to needs, for protection analysis and to ensuring effective monitoring. I reiterate my numerous calls for unfettered humanitarian access.

63. Following the adoption of Human Rights Council resolution [39/2](#) and General Assembly resolution [73/264](#), I requested a member of my High-level Advisory Board on Mediation, Gert Rosenthal, to conduct an inquiry into the involvement of the United Nations in Myanmar from 2010 to 2018. His report was released on 29 May 2019. The assessment contained in the report is in line with my own efforts to put greater emphasis on prevention and to improve the performance and accountability of the Organization's presence at the country level by creating a new generation of resident coordinators and United Nations country teams and more adept structures at the Headquarters level. As the United Nations system adapts to these structural reforms, continued support from Member States will be vital.

64. As Myanmar continues to face challenges in its democratic transition, the United Nations will make available the comparative expertise and advantages that it can offer in helping to address the multifaceted issues throughout the country. I am determined to strengthen the Organization's partnership with Myanmar in this critical

period. It is fundamental that overall relations and trust between the United Nations and Myanmar be strengthened further. I welcome the confidence established during the first year of the tenure of my Special Envoy and encourage greater cooperation with her in pursuing progress in the follow-up and implementation of recommendations and agreed steps.
