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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 General Assembly the report of the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews, in accordance with Human Rights Council resolution [43/26](#).

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\* [A/75/150](#).

\*\* The present report was submitted after the deadline in order to reflect the most recent developments.



## **Report of the Special Rapporteur on the situation of human rights in Myanmar**

### *Summary*

In the present report, the Special Rapporteur on the situation of human rights in Myanmar, Thomas H. Andrews, provides an update on the situation of human rights since he took up his mandate on 1 May 2020.

## I. Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in Myanmar has been extended since its establishment pursuant to Commission on Human Rights resolution 1992/58. In its latest resolution 43/26, the Human Rights Council called upon the Government of Myanmar to resume its cooperation with the Special Rapporteur and to develop a work plan and time frame for the swift implementation of the proposed joint benchmarks identified by the previous mandate holder.
2. The present report primarily covers developments in Myanmar since 10 March 2020.
3. Upon taking up his functions on 1 May 2020, the new Special Rapporteur, Thomas H. Andrews, sent a letter to the Government of Myanmar requesting engagement at the highest levels of government. The Special Rapporteur proposed, in the light of travel restrictions imposed owing to coronavirus disease (COVID-19), that he meet with government leaders by teleconference. He engaged in a series of telephone discussions with the Permanent Representative of Myanmar to the United Nations Office and other International Organizations in Geneva, who provided information and perspective on the Government's views on human rights issues. The Special Rapporteur is grateful for the Permanent Representative's assistance.
4. The mandate holder held teleconferences with representatives of United Nations agencies, concerned Member States, multilateral organizations, non-governmental organizations (NGOs) and private companies, as well as individual human rights defenders. The Special Rapporteur is grateful for the invaluable support that he has received from these stakeholders.
5. Given the time limits and the restrictions of a global pandemic, the present report reflects a first step in the Special Rapporteur's process of engagement and reporting. He looks forward to providing additional information and recommendations.
6. The present report is issued on the eve of national elections in Myanmar. The Special Rapporteur urges the Government to create the conditions necessary for genuinely inclusive, free, competitive, transparent and fair elections in compliance with international standards.

## II. Noteworthy developments

7. The Special Rapporteur commends the State Counsellor of Myanmar, Aung San Suu Kyi, the National League for Democracy and others for seeking to create a democracy where the citizens of Myanmar elect a government that they can hold accountable and that has responsibility for all government functions, including national defence as well as a democratically elected civilian parliament. He regrets that, while constitutional reforms that would enable these changes generated majority support in the Parliament, the majority was unable to overcome opposition by the Myanmar military, or Tatmadaw. The current constitution allows the Tatmadaw to appoint the requisite number of unelected military representatives to the Parliament to effectively block constitutional reforms that it does not support.
8. On 8 April 2020, the Office of the President issued two directives with regard to the crime of genocide: directive No. 1/2020, ordering all Ministries and all regional and state governments to ensure that their staff and others under their control do not commit acts prohibited in the Convention on the Prevention and Punishment of the Crime of Genocide, and directive No. 2/2020 prohibiting "all Ministries and the Rakhine State government" from destroying or removing evidence of genocide.

9. In Parliament, the Amyotha Hluttaw (upper house of the Parliament) citizen's fundamental rights, democracy affairs and human rights committee has reportedly carried out inspections in prisons to investigate detention settings and report its findings. Additionally, some Myanmar regional parliaments conducted their first parliamentary committee inquiries into matters of public concern through inclusive and consultative processes, including site visits and public hearings at the village level. These inquiries enabled the public to share their experiences and knowledge with parliamentarians as part of the evidence-gathering process.

10. On July 30, the People's Alliance for Credible Elections, a local election monitor, received a letter from the Union Election Commission rejecting its application to monitor the November elections; however, the Commission reportedly reversed its decision and will allow the Alliance to monitor the elections.

### **III. Situation of human rights**

#### **Democratic space**

11. Fundamental rights, including freedom of expression and association and a free press, are the lifeblood of a democracy. The Special Rapporteur regrets that laws undermining these core freedoms remain in the legal framework of Myanmar and continue to be enforced. They have been used to violate the rights of human rights defenders, journalists and citizens seeking to freely express their views. Amending or repealing these laws does not require the constitution to be amended, and they could therefore be amended or repealed by a majority of members of Parliament. Unfortunately, Parliament has failed to do so. Laws that continue to infringe these fundamental rights include the Telecommunications Law, the Penal Code, the Peaceful Assembly and Peaceful Procession Law and the Unlawful Associations Act, among others.

#### **General elections**

12. The Permanent Representative of Myanmar in Geneva told the Human Rights Council in July that five principles had been established for the 2020 national elections, namely that they be free, fair, credible and transparent and that the results reflect the will of the people. The Special Rapporteur commends the Government for establishing these laudable principles and also for announcing that international election observers will be welcome.

13. It is impossible for an election to be free and fair, however, and for the results to reflect the will of the people, if the right to vote is based on one's race, ethnicity or religion. At the time of writing, it appears that voting-age Rohingya will continue to be excluded from the electoral process and denied the right to vote as they were in 2015. The Government is ostensibly rejecting Rohingya voters on technical grounds, but the wholesale disenfranchisement of the Rohingya people appears grounded in their ethnic identity. This constitutes a step backward for democracy in Myanmar, where, in the 2010 elections, voting-age Rohingya had the right to vote.

14. At the time of writing, it also appears that election officials will deny Rohingya the right to stand for election. On 11 August 2020, for example, the Sittwe Election Commission rejected the candidacy application of Rohingya candidate Abdul Rasheed. The Commission rejected his candidacy on the grounds that his parents "were not citizens [of Myanmar] when he was born." The Commission cited section 8 (b) of Myanmar's lower house of Parliament election law, which requires an applicant to be born of two parents who are citizens of Myanmar, and section 27 (C/2)

of its by-law, which refers to the disqualification of candidates who do not meet that standard. The qualification standard for candidates is onerous, but the application of standards is also problematic. The Special Rapporteur has seen documentation of Abdul Rasheed's parents' citizenship status at the time of his birth, which includes documentation that his father was a Myanmar Government civil servant for more than 30 years. Abdul Rasheed appealed the decision, and the Special Rapporteur encourages the Election Commission to carefully consider the facts of the case, as well as the candidacy applications of other Rohingya who, at the time of writing, had been similarly rejected.

15. The Special Rapporteur commends the efforts of the Government to hold general elections on 8 November despite the COVID-19 pandemic. Notwithstanding the regressive provisions mentioned above, which undermine free and fair elections, some measures have been put in place that promote competitive elections, such as a prohibition on polling stations in military camps.

16. The Special Rapporteur notes that voter lists have been displayed in wards and villages for voters to verify the information and seek changes if necessary and that electronic voter registries are also being employed. Those residing in areas where Internet speed is limited to 2G, or restricted entirely, may require additional outreach to ensure their free and fair participation in the elections.

17. The Special Rapporteur received reports of missing voter lists in many areas of Rakhine State, reinforcing the idea that Muslim communities remain at risk of disenfranchisement. Reports indicate that many voters have not been able to verify their data on the voter lists.

18. Several women candidates are contesting in the general elections with various political parties; however, their candidacies represent a small percentage as compared with men. Moving forward, the Government and political parties should provide greater and more deliberate institutional support to ensure women's involvement in elections. The Special Rapporteur calls on political parties to voluntarily assign gender quotas in leadership positions to encourage women candidates and ensure adequate training and capacity-building to expand the pool of women candidates for top positions.

19. The Special Rapporteur recommends urgent changes to ensure the right to freedom of expression ahead of the elections. While the Union Election Commission should be acknowledged for allowing equal participation of political parties in State-owned media and television, the Special Rapporteur is alarmed by provisions contained in the new directive of the Union Election Commission of 23 July 2020 regarding permission for broadcast campaigns of political parties (138/2020). Under the directive, speech that "can harm dignity and morality", questions or "disrespects" existing legislation, criticizes the Tatmadaw, "defames" the nation or "tarnishes" the image of the country, tarnishes the Union's sovereignty and territorial integrity or incites civil servants to oppose the Government is prohibited. Moreover, under the Commission's rules, political parties are required to submit to the Commission a script of all political messages prior to broadcast, and those scripts are subject to approval. These overly broad and arbitrary provisions are inconsistent with the rights to freedom of opinion or expression, and to self-determination, and should be amended without delay.

20. Freedom of association is an essential component of the functioning of democracy. Everyone should be free to decide whether or not to be a member of a political party, and no one should be compelled to belong to a political party. The Special Rapporteur notes with concern information indicating that the Arakan National Party's own rules do not allow for its members to freely resign unless they obtain the party's explicit approval.

21. The Special Rapporteur commends the Government of Myanmar for seeking to mitigate the impact of COVID-19 on the election by organizing alternatives to in-person voting, such as absentee and advance voting for out-of-country citizens. There are more than 1 million Rohingya refugees in Bangladesh and well over 100,000 in Malaysia, including voting-age Rohingya. However, there is no indication that the Government of Myanmar is taking measures to ensure that voting-age Rohingya in refugee camps in Bangladesh or in Malaysia will be able to participate in the elections. The Special Rapporteur notes that there are global precedents for mass-scale absentee voting from refugee camps and he encourages the Government of Myanmar to make arrangements with the Bangladesh and Malaysian authorities to ensure the participation of Rohingya refugees in the elections. While the Government of Myanmar is offering verbal assurances that Rohingya are free to return to Myanmar from refugee camps in Bangladesh, it is simultaneously denying them the right to vote.

22. Additionally, the Special Rapporteur is concerned at reports that eligible voters in conflict zones, such as in Rakhine, Chin, Shan and Kachin States, and hundreds of thousands of others in internally displaced person camps, will not be accounted for on voter lists, in part because of restrictions on travelling to those areas. Myanmar has an international obligation to ensure that its ethnic nationalities, including the Rohingya, the Rakhine and all eligible voters living in areas affected by armed conflict, have the ability to participate in decisions that may affect them either directly or through their democratically elected representatives. Urgent and transparent efforts should be made to ensure voting rights for residents of areas affected by armed conflict.

23. It was reported to the Special Rapporteur that nationalist groups continue to use social media platforms, in particular Facebook, to post hate speech that targets State Counsellor Aung San Suu Kyi and members of the Government, as well as Muslims, Rohingya and political parties deemed supportive of freedom of religion. Dangerous speech, hate speech and disinformation reportedly continue unabated on Facebook in Myanmar, posing significant challenges for upcoming elections and beyond.

## **Fundamental rights and freedoms**

### **Right to freedom of expression**

24. Several laws in Myanmar continue to infringe the right to freedom of expression, inhibiting free expression among the people of Myanmar, as well as the ability of journalists, human rights defenders and others to carry out their work professionally and without fear. Problematic laws include colonial-era provisions in the Penal Code, the Official Secrets Act and Unlawful Associations Act, as well as newer legislation such as the 2013 Telecommunications Law, the 2017 Law on Protecting the Privacy and Security of Citizens, the 2004 Electronic Transactions Law and the 2014 News Media Law.

25. The Special Rapporteur is aware of cases of violence against and imprisonment of journalists and human rights defenders for their legitimate work. For instance, in Kyauktada Township, police arrested two ethnic Karen human rights defenders on 12 August 2020 at a scheduled event to commemorate Karen Martyr's Day. The pair face up to one month's imprisonment and fines under section 20 of the Peaceful Assembly and Peaceful Procession Law for allegedly violating conditions set by the authorities for the gathering. Similarly, an ethnic Rakhine, or Arakanese, journalist is in hiding owing to threats and violence that he faces in relation to his work.

26. Article 19 of the Universal Declaration of Human Rights protects the right to freedom of expression, including the right to "receive and impart information and ideas through any media and regardless of frontiers." The Special Rapporteur received information that, in June 2019, the Government instituted a shutdown of

mobile data in eight townships in Rakhine State and one in Chin State. On 1 September 2019, the mobile data ban was lifted in some townships, but it was reimposed in February 2020. On 1 August 2020, the Government reportedly lifted the Internet ban in the eight affected townships, namely, Buthidaung, Kyauktaw, Mrauk-oo, Minbya, Myebon, Paletwa, Ponnagyun and Rathedaung. However, when the ban was lifted, 2G internet speeds were reinstated, and residents, as well as Rakhine legislators, report that they are still unable to access mobile internet.

27. For restrictions on the right to freedom of expression to be lawful, they must be provided for in law, applied only in specific circumstances to protect the rights and reputation of others or to ensure national security, public order, public health or public morals and be necessary and proportionate. Proportionality should be interpreted to mean, in part, the least restrictive means to achieve any of the above legitimate aims. The Special Rapporteur notes that the broad-based Internet bans in Rakhine State do not appear to meet these tests.

28. The restrictions on Internet access in Rakhine State continue to adversely affect businesses and the local economy and delay or complicate outreach with communities, internally displaced person camp-management committees, as well as civil society organizations in areas where humanitarian access has already been restricted. In areas affected by internet shutdowns, the ability of voters to obtain the information that they need is limited. Reports show that the ban affects the ability of farmers to use digital payments, cash remittances and access to market data.

29. In March 2020, Government authorities blocked access to more than 221 ethnic news websites in Rakhine State under section 77 of the Telecommunications Law. Few of the banned news agencies reported on COVID-19 but several had been reporting consistently on allegations of human rights violations. The Ministry of Transport and Communications appears to be using the spectre of “fake news” or misinformation in the age of COVID-19 as an excuse to curtail the right to freedom of expression, in particular in ethnic areas.

30. A SIM card reregistration exercise that the Government launched in March 2020 for all mobile phones poses a threat to freedom of expression. There is a significant risk that people without adequate identity documents will be unable to register their SIM cards, which will prevent them from using their phones or accessing the Internet.

### **Right to a nationality**

31. The right to a nationality is a fundamental human right, and it is denied to ethnic Rohingya. There are an estimated 600,000 Rohingya in Rakhine State, more than 1 million Rohingya refugees in camps in Bangladesh and more than 100,000 Rohingya refugees in Malaysia. The Government of Myanmar has long denied Rohingya access to full citizenship rights, most recently through the national verification card process. While national verification cards are not intended solely for Rohingya, they effectively identify Rohingya as foreigners and strip them of full citizenship rights. The Special Rapporteur received reports that various authorities continue to force or coerce Rohingya to accept the cards. Rohingya and human rights defenders have commented that this appears to be a systematic campaign to erase Rohingya identity. Additionally, the 1982 Citizenship Law, which hinges access to citizenship rights on race and ethnicity, continues to effectively deny Rohingya equal access to full citizenship rights, thus contributing to the problem of statelessness. The Special Rapporteur notes that the denial of citizenship is historically a common feature in the commission of the crime of genocide. In this regard, ensuring that the 1982 Citizenship Law is brought into line with international standards should be a matter of urgency.

**Right to return**

32. At the time of writing, the conditions for the voluntary, safe, dignified and sustainable return of Rohingya refugees to Myanmar are not in place. Despite select military tribunals, impunity for mass atrocity crimes against Rohingya civilians in 2016 and 2017 continues, and restrictions on freedom of movement, access to livelihoods, access to citizenship, health and education continue to be enforced against Rohingya and other Muslims in Rakhine State. Myanmar officials continue to deny the existence of Rohingya, and restrictions on freedom of movement in Rakhine State are imposed indefinitely, outside of domestic law, and in a discriminatory fashion, putting them in violation of international human rights law.

**Disability rights**

33. Persons with disabilities in Myanmar represent a vast untapped resource that is made inaccessible to many communities because of multiple barriers, including prejudice and discrimination. The Special Rapporteur commends Myanmar for having ratified the Convention on the Rights of Persons with Disabilities and for enacting the Law on the Rights of Persons with Disabilities, which provides the legal framework for implementing the Convention.

34. In 2019, the Myanmar Federation of Persons with Disabilities called on the Government to accelerate the implementation of the disability rights law, including provisions designed to provide greater access to employment opportunities, vocational training and health care. Persons with disabilities and domestic and international organizations of persons with disabilities are important sources of information and guidance on how to eliminate discrimination and other barriers to the human rights, dignity and quality of life of people with disabilities in Myanmar. The Special Rapporteur urges the Government to engage with them.

**Parliament and national institutions**

35. Parliaments have a fundamental role in protecting human rights. Human rights should permeate parliamentary activity, and specialized human rights bodies and committees should assess the compliance of bills with international law, adopt enabling legislation or conduct inquiries into matters of public concern.

36. The Special Rapporteur welcomes developments in the Myanmar bicameral Parliament (Pyidaungsu Hluttaw), which comprises the Amyotha Hluttaw (upper house) and the Pyithu Hluttaw (lower house), to address human rights protection issues. For example, the Amyotha Hluttaw citizen's fundamental rights, democracy affairs and human rights committee has reportedly carried out inspections in prisons to investigate detention settings and report on its findings. Some regional parliaments also conducted their first parliamentary committee inquiries into matters of public concern through inclusive and consultative processes, including site visits and public hearings at the village level, thereby permitting members of the public to share their experiences and knowledge with parliamentarians as part of the evidence-gathering process.

37. The Special Rapporteur notes that pivotal human rights legislation remains stagnant in Parliament, including legislation on violence against women and on hate speech, while other legislation is allegedly processed with few hurdles, including the amendments to article 123 of the Defence Act.

38. The prevention of violence against women law was drafted in 2013, and the latest draft of the law was submitted to Parliament in January 2020. Despite active engagement by civil society and the United Nations, the draft falls short of international standards as set out in the Convention on the Elimination of All Forms



of Discrimination against Women, as noted by the Committee on the Elimination of Discrimination against Women. Moreover, some Myanmar laws are not compatible with the Convention, as they incorporate restrictive gender stereotypes and are inconsistent with the promotion and protection of women's rights to equality and non-discrimination.

39. The Special Rapporteur was informed about a new draft bill, the prevention and control of communicable diseases law, which was recently introduced in the Pyithu Hluttaw and is intended to replace the 1995 Prevention and Control of Communicable Diseases Law. According to information received, the new legislation provides for heavy penalties for expressing information considered to cause "public panic." Section 20 would empower local authorities to ban speech, writing or the dissemination of information on contagious and communicable diseases that they claim could cause "panic." These broad and vague provisions could pose a threat to human rights. The Special Rapporteur echoes views expressed by stakeholders that freely receiving and imparting information is essential to combat the COVID-19 pandemic and other communicable diseases and is a vital component of the right to health.

40. The Special Rapporteur notes the importance of bringing the Myanmar National Human Rights Commission into full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles). In this regard, he welcomes steps taken with the international community and other stakeholders to strengthen the Commission and its institutional capacity. He commends the efforts of the Commission with regard to its recent visit to Insein Prison in Yangon Region, and he encourages it to conduct independent reporting related to other government sectors that may be responsible for human rights abuses. However, the Commission is legally required to inform prison and other responsible officials ahead of site visits, adversely affecting its protection mandate. Moreover, the Commission has failed to publicly address numerous human rights issues and problems, including in the context of COVID-19.

41. The Special Rapporteur regrets that the Myanmar National Human Rights Commission remains underfunded and has limited capacity to perform key functions, including handling complaints, public outreach and the conduct of human rights investigations. In this regard, the Special Rapporteur highlights the need to ensure that the Commission is brought into line with international standards so as to enhance its capacity to secure adequate institutional and technical support to carry out its important mandate.

## **Land rights, extractive industries, business and human rights**

### **Land rights**

42. The Vacant, Fallow and Virgin Lands Management Law, amended in 2019, fails to recognize shared land-ownership practices, such as customary tenure, and land belonging to internally displaced persons and refugees that has been left unattended. The Special Rapporteur is unaware of any plans to return land to those displaced by armed conflict and mass atrocity crimes. For instance, eight years after their initial displacement, Rohingya civilians confined to internment camps in Rakhine State are no closer to returning to their places of origin. Internally displaced persons in Kayah (Karen), Mon, Kachin and Shan States are similarly in a state of protracted displacement.

43. Land confiscation for military use has been a recurring practice in Myanmar for decades, and previous mandate holders and international human rights mechanisms have raised concerns about the practice, which appears to continue. In May, the Special Rapporteur was informed that the Tatmadaw confiscated approximately 2,000 acres of farmland by force in a Pa'O region in southern Shan State, along with farming

equipment. Seasonal crops were allegedly destroyed in and around surrounding areas as military troops confiscated land. Several farmers were subsequently charged under the Penal Code for trespassing on their own land.

### **Extractive industries**

44. Myanmar is endowed with vast natural resources, including gas, minerals, gemstones, forests and rivers. Instead of supporting sustainable development, these resources, many of which are located in ethnic minority states, have historically fuelled conflict, corruption, abuse and environmental problems. The country's extractives sector officially accounts for 35 per cent of all exports, 4.8 per cent of gross domestic product and 5.3 per cent of State revenues and is expected to grow significantly in the coming years. However, owing to high levels of illicit trade, in particular in gemstones and timber, official statistics do not reflect the true scale of the sector.

45. The Government of Myanmar has taken steps to reform the extractive industries, including through its participation in the Extractive Industries Transparency Initiative. Notable progress in 2019 included the establishment of a public beneficial ownership database; initial efforts to reform troubled State-owned enterprises and their "other accounts"; progress on developing a mineral cadastre; and nascent efforts on contract transparency.

46. Despite these achievements, significant governance weakness remains, and extractive projects continue to exacerbate armed conflict and tensions with local and ethnic communities.

47. The Tatmadaw remains intimately involved in the jade mining sector. Subsidiaries of the military-owned conglomerate Myanmar Economic Holdings Limited, in particular the Myanmar Imperial Jade Company, held the largest number of jade extraction permits when the Government suspended the issuing of new licences in 2016. The ownership structure and revenues of these military conglomerates remain hidden, making it unclear to what extent senior members of the military are directly profiting from resource extraction in conflict areas.

48. Conflict over resource extraction rights are at the heart of some of Myanmar's longest and most intractable armed conflicts. Multiple ethnic armed organizations rely at least in part on revenues from extractive industries to fund their operations. Mining areas have long been the site of conflict: for example, the Tatmadaw launched an offensive in 2017, reportedly to gain control of the world's largest amber mining region in Tanai Township in Kachin State, an operation that displaced hundreds of local villagers.

### **Natural disasters and mining**

49. The irresponsible extraction of natural resources has led to tragic incidents, including the loss of human life and environmental contamination, as well as significant economic losses to the people of Myanmar.

50. Jade mines concentrated in northern Myanmar states account for an estimated 70 per cent of all the world's jade extraction, and reports indicate that up to 80 per cent of all jade mined in Myanmar is smuggled to China. The mines continue to be controlled by the Tatmadaw and ethnic armed organizations, fuelling conflict, while the central Government continues to exercise limited control of the mining areas. Local civil society has called for the suspension of destructive large-scale mining operations.

51. In July, a fatal landslide in Hpakant Township, Kachin State, took the lives of an estimated 174 mine workers and injured approximately 50 others. Companies linked to ethnic armed organizations dumped mining waste into massive piles which became

unstable and collapsed during heavy monsoon rains, causing the landslide. An ethnic armed organization had also reportedly given informal miners permission to mine in the area. While the Government established an investigative unit, and purportedly fired two officers for their role in the landslide, the Special Rapporteur was informed that the unit failed to consult local people who understood the source of the landslide and could provide information on preventive measures. Reports indicate that the investigative unit provided 500,000 kyats (approximately \$364) to families of victims who died, and 300,000 kyats (approximately \$218) to families of injured miners.

52. The Special Rapporteur is disappointed that this tragedy has failed to spark consideration of legislative changes, such as the adoption of a draft gemstone policy or through proposed amendments to the 2019 Gemstone Law. Flaws in the Gemstone law, including loose restrictions for licensing criteria, and its lack of provisions addressing transparency by companies, encourages the continuation of a corrupt and mismanaged system resulting in human rights violations and environmental degradation.

53. The Special Rapporteur received reports regarding the environmental and social impact of projects associated with the Belt and Road Initiative. They included reports of arbitrary land-grabbing by the military that impacted more than 30 villages that depend on farming, and communities were forced to relocate without compensation or access to essential livelihoods. Communities reported that they were not properly consulted or adequately protected from displacement and did not receive restitution and/or compensation in line with international standards.

### **Garment factories and labour rights**

54. The Special Rapporteur notes the negative socioeconomic impacts of COVID-19 on the estimated 500,000 garment-factory workers in Myanmar, a majority of whom are women. The economic downturn has led to many women losing their jobs and livelihoods and has reportedly coincided with increased reports of gender-based violence. Since April, reports indicate that as many as 60,000 garment-factory workers in Myanmar have lost their jobs. Workers have reported that factory owners are using the context of COVID-19 to target union member employees and to justify the prohibition of union meetings.

55. Although several European brands have reportedly started investigations into the targeting of unions in factories producing their garments, the Special Rapporteur calls on the broader domestic and international corporate community to analyse their contract chains and ensure their adherence to the Guiding Principles on Business and Human Rights implementing the United Nations “Protect, Respect and Remedy” Framework. Similarly, the Government must honour its commitments under the International Covenant on Economic, Social and Cultural Rights, which ensures workers’ rights to assemble, form and join trade unions and guarantees them the right to safe and just working conditions. These obligations were further enshrined by the Government’s ratification of several International Labour Organization Conventions, which reinforce workers’ rights to assemble and protest.

56. The Special Rapporteur commends the establishment by the European Union of its Myan Ku (“Quick Assistance”) Fund, an emergency cash fund that has assisted in providing 45,061 laid-off or suspended garment workers with cash allowances.

### **Situation of armed conflict and the protection of civilians**

57. The Special Rapporteur has noted that hostilities between the Tatmadaw and ethnic armed organizations continue to intensify. Conflict intensified in particular in

Rakhine and Chin States, while clashes also occurred in at least Kayin (Karen) and northern Shan States. At the time of writing, the Tatmadaw has not abided by the Secretary-General's call for unilateral humanitarian ceasefires amid the COVID-19 pandemic, and to guarantee conditions for the safe delivery of food and essential humanitarian items.

### **Protection of civilians in armed conflict**

58. Hostilities between the Tatmadaw and the Arakan Army continue across much of Rakhine State, as well as in Paletwa, Chin State, resulting in civilian casualties, damage to infrastructure and forced displacement. Local monitors reported evidence of targeted killings, enforced disappearances, torture, forced labour and other violations against civilians. The Special Rapporteur was unable to independently verify all of the reports received owing to timing and access challenges, but available information raises grave concerns that war crimes are ongoing.

59. There were from 36 to 45 armed clashes reported every month in Rakhine State from March to June 2020, and clashes continue at the time of writing, including the use of airstrikes and heavy artillery. Since May 2020, an average of 30 civilians have reportedly been killed or injured every month in the armed conflict in Rakhine State. Overall, more than 500 civilians have reportedly been either killed or injured since the beginning of 2020, including ethnic Rakhine, Rohingya, Chin and members of other communities, as a result of shelling, airstrikes, heavy artillery and small-arms fire, as well as landmine and explosive-hazard contamination.

60. Notable incidents include an artillery shell explosion in Kyauktaw Township on 10 March 2020, which reportedly killed a civilian and injured seven others, including five children; shelling in Minbya Township on 23 March, which reportedly killed a child and injured at least 14 civilians; and airstrikes in Hnan Chaung Wa village in Paletwa Township in Chin State, which reportedly killed seven civilians, including two children, and injured eight others, including four children.

61. The Tatmadaw reportedly burned houses in Rakhine and Chin States, mostly abandoned owing to the conflict, by shelling or arson from March to May, according to media and field reports. Satellite imagery shows more than 200 civilian homes were destroyed by fire on 16 May 2020, in Let Kar, Mrauk-oo Township, Rakhine State.

62. Landmines and explosive remnants of war continue to kill and maim civilians, including children, in different parts of the country. From January to August, at least 40 separate incidents of landmine explosions reportedly killed 20 civilians, including 5 children, and injured 43 others, including 14 children. According to recent data, at least 3,667 casualties involving mines have been reported since 2007: Myanmar has the second highest number of antipersonnel landmine casualties in Asia.

63. Landmines remain a significant obstacle for the return of displaced persons. A 2018 study found that the majority of displaced Kachin civilians identified landmines as one of the top three obstacles preventing them from returning to their home of origin. The Special Rapporteur welcomes the Government's strategic plan for resettling internally displaced persons and closing internally displaced person camps in December 2019. In the strategic plan, the Government calls for the closure of internally displaced person camps and the enhancement of security arrangements, including through coordination for humanitarian demining where necessary. However, the Special Rapporteur remains concerned that landmine clearance is not being conducted in a systematic and widespread manner or in accordance with international mine-action standards. He reiterates his call for any internally displaced person camp closures to fully comply with international standards, respect the rights of internally displaced persons and ensure that internally displaced persons can safely

return to their place of origin or choice, and he further calls on the Government to clear landmines according to international mine-action standards.

64. The Special Rapporteur received reports that the Government of Myanmar has imposed disproportionate travel restrictions on humanitarian organizations providing aid to victims of landmine explosions. In northern Shan State, for example, travel restrictions imposed because of both armed conflict and COVID-19 prevented humanitarian groups from accessing victims of landmine explosions. The Special Rapporteur reminds the Government of Myanmar that travel restrictions must meet the tests of proportionality and necessity and be the least intrusive means of achieving the desired result. Blanket travel restrictions that do not account for the disproportionate impact that they may have on specific populations may be considered arbitrary under international law.

### **People on the move**

65. The Special Rapporteur notes with grave concern ongoing forced displacement in central and northern Rakhine State and southern areas of Chin State. According to Rakhine State Government figures as at 25 July 2020, 77,825 persons are displaced across 151 sites, mostly in Rathedaung, Mrauk-oo, Kyauktaw and Buthidaung townships. Local organizations report upwards of 200,000 people displaced. In Paletwa Township of southern Chin State, an additional 8,320 people are displaced, according to a local humanitarian group. These figures are in addition to more than 130,000 people in Rakhine State, mostly stateless Rohingya, whom the Government has confined to a constellation of internment camps located in five townships since 2012.

66. Arakanese civilians in Rakhine State report that displacement is driven by armed conflict, fear of arbitrary arrests and harassment by Tatmadaw soldiers, as well as a lack of access to food.

67. In late June, the Tatmadaw announced a “clearance operation” (later renamed a “counter-terrorism operation”) in Rathedaung Township, which led to an increased presence of security forces and clashes in the area of Kyauk Tan village tract, forcing some 10,000 people to flee their homes, according to reports. Approximately 14,600 people were already displaced in Rathedaung Township owing to the current conflict before the operation.

68. While villagers began to return in the days after the order to conduct the “operation” was revoked, ongoing armed clashes in Rathedaung Township continued to displace civilians in July, according to field reports. For example, approximately 1,000 people may have been displaced since 12 July owing to incidents around Koe Tan Kauk and Done Paik village tracts in Rathedaung and Sittwe. Additionally, the General Administration Department reported that more than 3,000 people from five villages in Rathedaung Township fled their homes on 14 July. Civilians fled in fear of ongoing armed clashes and the presence of the Tatmadaw in the area, although most returned to their areas of origin after a few days.

69. On 4 May, approximately 4,000 people from several villages in Minbya Township fled to other villages and urban areas in fear of being interrogated by Tatmadaw soldiers, after an estimated 100 Tatmadaw soldiers entered the villages and searched houses at will. Additionally, some 5,000 persons were reportedly temporarily displaced for several days in Mrauk-oo Township in early July, owing to the fear of abuse from Tatmadaw soldiers in the area.

70. In Ann Township, Rakhine State, an estimated 6,700 persons have been displaced since May 2020 owing to shortages of food and other essential items. Most internally displaced persons in the township are in Dar Let village tract, which has been cut off by the Tatmadaw since February, reportedly to prevent essential commodities such as

food from getting into the hands of the Arakan Army. Humanitarian access has been limited to Ann town, and commercial transportation via boat and road into Dar Let has been cut off: food shortages have been reported since February. Intermittent access was granted to humanitarian organizations in Ann town, and, in July, food assistance was provided to approximately 1,000 internally displaced persons in and around Ann town. As many as 4,500 internally displaced persons may not have received any form of humanitarian assistance since February 2020.

71. The Special Rapporteur received reports of an increased presence of Tatmadaw troops in northern Shan State, as well as reports of arbitrary arrest and detention, torture and forced portering. In Shan State, clashes in late June between the Tatmadaw and the Restoration Council of Shan State-Shan State Army in Kyaukme Township forced more than 700 people from 10 villages to temporarily flee their homes; they returned after a few days when the clashes subsided. A similar incident on 23 June in Namtu Township reportedly forced some 240 people to flee their villages temporarily.

72. On 22 July, some 260 people were displaced in Hsipaw Township, Shan State, owing to the presence of the Tatmadaw in the area and in anticipation of fighting between the Tatmadaw and the Shan State Progress Party-Shan State Army. Similar incidents were reported in February, although northern Shan State has seen an overall reduction in conflict-related displacement since 2019, when an estimated 26,000 people were temporarily displaced owing to clashes between the Tatmadaw and ethnic armed organizations and among ethnic armed organizations.

73. The monsoon and cyclone season may lead to further internal displacement in conflict-affected areas. At least 5,000 people were temporarily displaced by floods in Kachin State in July. Weather conditions have not stopped increased boat movements carrying refugees and victims of human trafficking in the Bay of Bengal. The Special Rapporteur condemns Governments that put desperate refugees in even greater peril by refusing to allow their safe disembarkation.

### **Humanitarian access**

74. Active armed conflict, explosive hazard contamination and travel restrictions imposed by the Government continue to prevent humanitarian actors from reaching civilians with assistance and protection services. The Government has issued broad restrictions on the grounds of insecurity in eight townships in Rakhine State since 2019. Humanitarian partners have extremely limited and highly unpredictable access to more than half a million people in those eight townships, mainly in rural areas of central and northern Rakhine State and Paletwa in Chin State. Restrictions impeding humanitarian aid to internally displaced persons were also reported in Kayin (Karen), Mon and Kachin states.

75. While unpredictable, some exceptions with regard to access have been made, including food and emergency delivery in certain locations. Some humanitarian agencies were exempted from restrictions but nevertheless continue to face challenges in reaching communities in those areas. Ongoing insecurity is another contributing factor. Of the 145 displacement sites in Rakhine State, 47 are understood to be inaccessible owing to security and access restrictions.

76. On the evening of 20 April, a World Health Organization staff member, Pyae Sone Win Maung was killed in the line of duty in Minbya Township. He was in a United Nations-marked vehicle and transporting COVID-19 samples. Further details of the incident are being sought.

77. The Government's onerous travel authorization processes for aid workers continue to disrupt critical humanitarian activities. Assessing needs, providing assistance to the most vulnerable and monitoring the impact of humanitarian

operations have become increasingly challenging, mainly owing to delays and the lack of a predictable travel authorization mechanism at the Union and State levels, as well as the geographic and temporal limitations of travel authorizations (limited to downtown and urban areas only and for inadequate periods of time).

78. The process of obtaining travel authorization for aid workers remains needlessly unpredictable. Several layers of bureaucracy were added in October 2019, when the Rakhine State government requested aid agencies to obtain “recommendation letters” from their respective line ministries at the Union level before proceeding with travel authorization reviews and approvals at the State level. Four more layers of review were added to the travel authorization process in May, including the required case-by-case agreement of the Tatmadaw Western Command. Another layer of military security scrutiny was added in early June for the transportation of items from Yangon to Sittwe by road. All humanitarian partners are now required to submit the details of the items to be transported and the names of drivers on a weekly basis to pass through a checkpoint in Ann Township without delays. Truck drivers are required to present the original permit documents issued by the Rakhine State Government at military checkpoints. Several humanitarian partners have reported that this measure is hindering efforts to restock warehouses.

79. There are nearly 100,000 displaced civilians in Kachin State, living in at least 140 internally displaced person camps. In Kachin State, despite limited active conflict since September 2018, sporadic security incidents, landmine contamination, military checkpoints, travel and administrative restrictions and curfews continue to hamper the delivery of vital humanitarian aid to displaced civilians. Poor infrastructure and poor road conditions during the monsoon season further limit access to hard-to-reach communities.

80. The Government continues to deny access to nearly all humanitarian organizations to areas in Kachin State beyond government control where there are at least 40,000 internally displaced persons in sites along the border with China. Local and national NGOs have found ways of operating in these areas, including delivering assistance via alternative supply routes. Most of the residents in these camps and others in Kachin State have been displaced since 2011.

81. Landmine contamination and military checkpoints, compounded by sporadic clashes in northern Shan State, hinder access to people in need in townships with poor road infrastructure. Additionally, similar to other areas, travel authorizations for international staff are generally limited to downtown and urban areas only. National staff are able to receive travel authorization; however, the process remains needlessly burdensome, unreliable and highly irregular.

### **Internet shutdown**

82. Internet shutdowns in eight townships of Rakhine State and one in Chin State adversely affected community outreach, camp management and other aspects of humanitarian work. Internet connectivity previously allowed humanitarian agencies and the Government to remain “virtually connected” with remote communities to exchange information on needs and challenges and maintain timely community input and feedback. Information about humanitarian needs that would otherwise be shared instantly via social media networks among local community members and civil society organizations has been either limited in scale or completely interrupted, even since 2G internet was restored.

83. With regard to COVID-19, the shutdown of the Internet in Rakhine State has inhibited humanitarian agencies and the Government’s capacity to deliver preventive and risk-communication messages, counter myths and disinformation and promote good hygiene. Similarly, the Internet shutdown affected the timely dissemination of

information on natural hazards, such as floods or cyclones. The Special Rapporteur also notes that the Internet is blocked in refugee camps in Cox's Bazar, Bangladesh, and that mobile phones have been confiscated from refugees in the camps as well as from those detained on Bhasan Char island.

### **Closure of Kyauk Ta Lone camp**

84. In November 2019, the Government launched a national strategy on resettlement of internally displaced persons and the closure of internally displaced person camps. The development of such a strategy was among the recommendations in the final report of the Advisory Commission on Rakhine State in August 2017. The national strategy references key international standards and has the potential to make a significant contribution towards durable solutions for internally displaced persons in Myanmar.

85. However, the first camp closure since the adoption of this national strategy, Kyauk Ta Lone internally displaced person camp in Kyaukpyu Township, formally announced in January 2020, is inconsistent with the standards embodied in the strategy. The national strategy provides for the right of internally displaced persons to return to their places of origin and for authorities to hold meaningful consultations with internally displaced persons. The internally displaced persons of the Kyauk Ta Lone camp maintain that they wish to return to their areas of origin in Kyaukpyu town and have noted that the relocation site currently under construction near the existing internally displaced person camp is prone to flooding and cut off from livelihood opportunities. Meaningful consultations with internally displaced persons have not taken place. Voluntary, safe and dignified returns are central to achieving durable solutions and can be ensured only through consultations and dialogue to identify the most suitable way forward. The Special Rapporteur notes that indications in Kyauk Ta Lone are that the Government plans to proceed with the closure process despite ongoing advocacy efforts to suspend the construction work in the relocation site until a comprehensive plan for Kyauk Ta Lone, consistent with the national strategy, is developed.

86. The Chief Minister of Rakhine State indicated in a meeting with United Nations agencies in Rakhine State in July that the Government would continue to facilitate closure of the camp "as planned in line with the national strategy" and stated that the current camp closure process "follows the report of the Rakhine Advisory Commission." The Chief Minister also noted that the tender process for the construction of a bus station had been finalized and that the Government's approach to camp closure encompasses reconstruction, education, electricity, shelter and livelihood activities, including for internally displaced persons and the host communities.

87. Internally displaced persons from three other camps in central Rakhine State that were declared closed prior to the adoption of the National Strategy remain subject to extensive restrictions on freedom of movement, with limited access to livelihoods and essential services, including education and health care. This situation falls short of durable solutions and the vision expressed in the national strategy.

### **Justice and accountability**

88. There has been limited domestic progress in addressing impunity for serious crimes under international law. This includes an overall failure to ensure prompt, effective, thorough, independent and impartial investigations; accountability for perpetrators in trials that meet international standards; and reparations for victims. Court martial proceedings have been sporadic and few and remained unreasonably secretive and inadequate to render justice to victims. The Tatmadaw has sole jurisdiction over crimes committed by military personnel and the ability to institute



pardons without civilian oversight. This highlights the need to ensure greater transparency and independence of the Myanmar judiciary.

89. The Special Rapporteur notes the convictions by court martial of three members of the Tatmadaw for the massacre of Rohingya civilians in the village of Gu Dar Pyin in August 2017. The proceedings were unreasonably secretive. The absence of credible, impartial and reasonably transparent prosecutions for such incidents underscores the need for the engagement of international justice mechanisms. The Special Rapporteur recommends that the international community increase its support for the Government of Myanmar to ensure civilian jurisdiction over alleged human rights violations by members of the military while also supporting international justice mechanisms.

90. In January 2020, the office of the President of Myanmar released a 15-page summary of the final report of the Government-appointed Independent Commission of Enquiry, which was created in July 2018 to investigate allegations of crimes in Rakhine State from 25 August to 5 September 2017. The Government has not released the Commission's final report in full. The Special Rapporteur echoes concerns raised by others regarding the Commission's methodology, independence and impartiality and the factual elements leading to its assessment of the situation. For instance, the Commission failed to interview Rohingya victims or witnesses in Bangladesh, where they could speak freely.

91. The Special Rapporteur commends the Government of Myanmar for fully engaging in the proceedings of the International Court of Justice in the genocide trial brought by the Government of the Gambia. The Special Rapporteur notes the recognition by the Myanmar delegation to the Court that violations of international humanitarian law may have occurred in Rakhine State in 2016 and 2017, and their assurances that perpetrators would be brought to justice. Despite allegations received over time, the Special Rapporteur also notes that Myanmar representatives did not address the use of sexual and gender-based violence against women and girls and men and boys, despite the findings of the independent international fact-finding mission on Myanmar and others.

92. The Special Rapporteur welcomes the response by Myanmar to the provisional measures of protection for Rohingya issued by the International Court of Justice on 23 January 2020. The Special Rapporteur also welcomes the Government's directives on the prohibition of genocide and hate speech, and the instructions to avoid the destruction or removal of criminal evidence. On 8 April, the Office of the President issued directive No. 1/2020, ordering all ministries and all regional and state governments to ensure that their staff and others under their control "do not commit" acts prohibited in the Convention on the Prevention and Punishment of the Crime of Genocide. Directive No. 2/2020 prohibits "all Ministries and the Rakhine State government" from destroying or removing evidence of genocide.

93. To fully comply with its presidential directives on the prohibition of genocide, as well as the provisional measures of protection indicated by the International Court of Justice in January 2020, the Government should lift the draconian restrictions arbitrarily imposed and enforced on Rohingya, including restrictions on freedom of movement, health, education, livelihoods and equal access to citizenship. These systematic, severe, ongoing restrictions have devastating consequences on the Rohingya, threatening their very survival.

94. International monitors, prosecutors and humanitarian actors continue to be denied access to areas of northern Rakhine State affected by military "clearance operations" in 2016 and 2017. If granted access, such parties could assist the Government in ensuring the implementation of its directives on the prohibition of genocide in addition to carrying out other necessary work.

95. Moreover, the Special Rapporteur questions whether Myanmar's judicial system has the required normative framework at present that would ensure effective accountability for international crimes, ensure justice for such crimes and restore the rights of the victims.

96. Facebook possesses potential evidence of international crimes in Myanmar, including information from accounts and pages that the company removed and preserved for violating its terms of service or otherwise inciting hatred or violence against Rohingya. The Special Rapporteur commends the company for removing and preserving potential evidence of international crimes, but is dismayed by its failure to share such evidence with relevant accountability mechanisms. Despite its claims to be working with the Independent Investigative Mechanism for Myanmar – which is tasked with collecting and preserving evidence for future prosecutions of international crimes in Myanmar – Facebook has, at the time of writing, failed to share evidence with the Independent Investigative Mechanism. The Special Rapporteur is deeply concerned at the lack of cooperation from Facebook with the Independent Investigative Mechanism and other accountability mechanisms, including its opposition to reasonable and specific requests from the Gambia for information relevant to the proceedings at the International Court of Justice. The Special Rapporteur also regrets Facebook's lack of responsiveness to his oral and written inquiries and those of the previous mandate-holder.

97. The Special Rapporteur calls on Facebook to immediately cooperate with international justice and human rights mechanisms, including the Independent Investigative Mechanism for Myanmar and the International Court of Justice, and to respond without delay to questions submitted to the company by himself and the former Special Rapporteur.

#### **IV. Conclusions and recommendations**

98. **Consistent with Human Rights Council resolution 43/26, the Special Rapporteur notes that many of the recommendations of his predecessors have not yet been implemented. Similarly, many recommendations by the United Nations High Commissioner for Human Rights, the independent international fact-finding mission on Myanmar or the Advisory Commission on Rakhine State have also not yet been implemented, as reported by the High Commissioner in March 2019 (see A/HRC/40/37). The Special Rapporteur recommends that Myanmar implement these recommendations without further delay. In this regard, he reiterates recommendations contained in previous reports, and adds the following:**

99. **With regard to democratic space and in connection with the forthcoming general elections, the Special Rapporteur recommends that the Government of Myanmar:**

- (a) Amend the 2008 Constitution to bring it fully into line with democratic principles;**
- (b) Ratify all core international human rights instruments;**
- (c) Restore the right to vote and stand for elections for persons self-identifying as Rohingya and ensure that they can enjoy equal access to full citizenship rights so that elections are inclusive, participatory, free and fair;**
- (d) Take decisive steps to guarantee the civil and political rights of people living in areas affected by armed conflict, in particular during elections, and widen the space for unrestricted public debate on issues of public concern,**

including on armed conflict, existing legislative and policy measures and the Tatmadaw. Amend electoral measures that contravene human rights, including directive 138/2020 of the Union Election Commission;

(e) Ensure that the use of information technology that includes biometric data to register citizens for elections, and the use of new voting technologies, are established by law and in accordance with international standards, including the principle of non-discrimination, the right to privacy and the rights of ethnic minorities;

(f) Develop the legal framework required to ensure data protection through a transparent, inclusive and participatory consultative process with all stakeholders;

(g) Restore full Internet and mobile connectivity in Rakhine and Chin states, repeal provisions in the 2013 Telecommunications Law that allow for arbitrary disconnection, and ensure its compliance with international law;

(h) Ensure the rights to freedom of opinion and expression, peaceful assembly and association, and repeal any law that criminalizes or unduly restricts their enjoyment, online or offline, or that is used as an instrument of repression, including against land and environmental activists, artists, journalists, human rights defenders, civil servants, civil society organizations, ethnic nationalities and displaced people. Protect the right to information to ensure rapid and practical access to information of public interest;

(i) Undertake broad and comprehensive legal reform of laws and provisions that unduly restrict and criminalize legitimate activity, such as the Penal Code, the Official Secrets Act, the Unlawful Associations Act, the Telecommunications Law, the Law on Protecting the Privacy and Security of Citizens, the Electronic Transactions Law, the Counter-Terrorism Law and the News Media Law;

(j) Remove section 20 of the draft bill on the prevention and control of communicable diseases and ensure that its provisions are in line with international human rights law, in particular the right to freedom of expression and access to information, and the right to health;

(k) Urgently amend the Penal Code to include a definition of torture, violence against women and other forms of sexual and gender-based violence, and of serious international crimes, including genocide, crimes against humanity and war crimes, and include provisions for compensation and redress for victims and for protection of witnesses;

(l) Adopt legislation on the prevention of violence against women that covers conflict-related violence and accords adequate support to victims and witnesses. Amend or repeal laws that are not compatible with the Convention on the Elimination of All Forms of Discrimination against Women, including with regard to gender stereotypes inconsistent with the promotion and protection of women's rights to equality and non-discrimination. Take decisive steps to put an end to conflict-related sexual violence, including violations committed by the Tatmadaw and ethnic armed organizations, and develop policy measures to expressly prohibit rape and other forms of sexual violence and to bring perpetrators to justice through fair trials;

(m) Ensure that freedom of religion and belief can be exercised and guarantee that any advocacy of or incitement to hatred and violence is effectively addressed and countered, including in print, broadcast and social media, in line with Human Rights Council resolution [16/18](#) and the Rabat Plan of Action on the

prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. Publicly counter dangerous nationalist and populist narratives and actively promote pluralism, tolerance and inclusion;

(n) Immediately end the persecution of journalists, human rights defenders or others who exercise their right to freedom of expression, and release all persons held in detention for legitimate activities. Dismiss all politically motivated charges that contravene human rights, including the rights to freedom of expression, peaceful assembly and association. Ensure that redress is provided for any psychological or physical harm caused to them;

(o) End arbitrary detention, including incommunicado detention, of people suspected of being associates of ethnic armed organizations and ensure the right to a fair trial and judicial guarantees in all cases. Address torture or ill-treatment in prisons and detention settings and undertake independent and impartial investigations into any allegations of torture, ill-treatment and deaths in custody, including those during the riot in Shwebo prison in May 2020;

(p) Take decisive steps to improve and strengthen the justice system, including by countering political influence and corruption in the judiciary, guaranteeing civilian jurisdiction over crimes committed by the military and related personnel, and guaranteeing the independence of judges and prosecutors. Undertake reforms to strengthen justice-sector capacity and guarantee full access to justice and legal aid for all people, including ethnic nationalities;

(q) Implement the recommendations of the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions, and amend the founding law of the Myanmar National Human Rights Commission to bring it into line with the Paris Principles;

(r) Guarantee access to the country for international human rights and accountability mechanisms;

(s) Invite the Office of the United Nations High Commissioner for Human Rights to open an office in Myanmar with a broad mandate to monitor and investigate human rights violations and to provide technical support as needed.

100. With regard to the extractive industries and business and human rights, the Special Rapporteur recommends that the Government of Myanmar:

(a) Apply due diligence to ensure that business operations and development projects, including within the extractive industries, and in particular in areas affected by armed conflict, are consistent with the Guiding Principles on Business and Human Rights;

(b) Publicly share the beneficial ownership of all companies involved in the extractive industries, and be fully transparent with regard to the identity of politically affiliated persons and owners of extraction companies.

101. The Special Rapporteur further recommends that financial institutions, private investors and development agencies, as well as Governments of countries where businesses operating in Myanmar are domiciled, abide by their due diligence obligation to prevent human rights violations and to analyse their contract chains and ensure their adherence to the Guiding Principles on Business and Human Rights.

102. With regard to the protection of civilians in armed conflict, the Special Rapporteur recommends that the Government of Myanmar:

(a) Undertake prompt, independent, impartial and thorough investigations into all allegations of violations of human rights and international humanitarian law, and ensure that perpetrators are held accountable in trials that meet international fair-trial standards;

(b) Immediately lift curfews and restrictions on freedom of movement, livelihoods, health and education in Rakhine State and implement fully the recommendations of the Advisory Committee on Rakhine State and the independent international fact-finding mission on Myanmar;

(c) Ensure voluntary, safe, dignified and sustainable returns for refugees and displaced persons to their places of origin, and take the necessary steps to ensure that all persons returning will receive compensation for damaged property and assets and can freely access livelihoods;

(d) Take steps to ensure that any internally displaced person camp closures meet international standards and are undertaken in full consultation with the affected displaced community.

103. With regard to violence and hostilities, the Special Rapporteur recommends that the Government of Myanmar and Ethnic Armed Organizations:

(a) Enforce a unilateral, nationwide ceasefire;

(b) End violations against civilians, including targeted and indiscriminate killings, rape, arson, forced displacement, forced labour and damage to civilian objects and non-military targets;

(c) Guarantee full access to humanitarian actors providing lifesaving support to people in need, establish a more predictable and efficient travel authorization mechanism for humanitarian aid workers, and allow for media and human rights monitors to freely access areas affected by conflict and violence and report on their findings;

(d) Immediately stop laying landmines, ratify the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, clear landmines and unexploded ordnance from contaminated areas in accordance with international mine action standards, properly mark and fence contaminated areas prior to clearance activities, and carry out systematic mine-risk and education activities, and permit humanitarian mine-action organizations to engage in mine clearance activities.

104. With regard to accountability, the Special Rapporteur recommends that the Government of Myanmar:

(a) Ensure full cooperation with the proceedings at the International Court of Justice and other justice initiatives by international and domestic courts or tribunals, including the Office of the Prosecutor at the International Criminal Court, to address allegations of gross violations of international human rights and humanitarian law;

(b) Fully and consistently implement the provisional measures of protection for Rohingya as indicated unanimously by the International Court of Justice, and give due consideration to publishing the Government's six-monthly reports to the court. In accordance with the provisional measures, lift all restrictions arbitrarily imposed and enforced on Rohingya that, taken as a whole, create conditions that are destructive to Rohingya, including, but not limited to, restrictions on freedom of movement, health, education, livelihoods and equal access to citizenship;

(c) **Ratify the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.**

**105. With regard to disability rights, the Special Rapporteur urges the Government to:**

(a) **Fully implement the Law on the Rights of Persons with Disabilities, which provides the legal framework for implementing the Convention on the Rights of Persons with Disabilities, including provisions that are designed to provide greater access to employment opportunities, vocational training and health care;**

(b) **Seek even greater engagement with persons with disabilities, as well as domestic and international organizations of persons with disabilities, as resources to help eliminate discrimination and other barriers to the human rights, dignity and quality of life of people with disabilities in Myanmar.**

**106. The Special Rapporteur recommends that Facebook and other social media companies:**

(a) **Guarantee effective, transparent measures to regulate content in a manner consistent with international human rights law, and ensure that Facebook and other social media companies do not serve as a platform for the dissemination of hate speech and incitement to violence and discrimination;**

(b) **Cooperate fully with the United Nations, its bodies and specialized agencies, international courts and tribunals and international human rights mechanisms with regard to the situation in Myanmar, and apply the due diligence requirement set out in the Guiding Principles on Business and Human Rights;**

(c) **Cooperate fully with the International Court of Justice and proceedings related to the ongoing trial involving Myanmar. Provide relevant parties with information requested that may include possible evidence of international crimes. Respond without delay to requests for information from the Independent Investigative Mechanism for Myanmar and the Government of the Gambia, as well as the Special Rapporteur on the situation of human rights in Myanmar.**

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