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End of mission statement mission to Thailand and Malaysia

Special Rapporteur on the situation of human rights in Myanmar Kuala Lumpur, 18 July 2019

I have just completed my mission to Myanmar's neighbours Thailand and Malaysia. I thank the Governments of both countries for facilitating my visit.

Myanmar continues to deny my access; however as I am mandated by the Human Rights Council, I continue to collect information regarding the human rights situation in Myanmar, including from people on the ground. My meetings with different interlocutors in both Thailand and Malaysia have provided me with ample information for my update to the Human Rights Council in September and my report to the General Assembly in October, some of which I will share with you today.

Following my visit, it is extremely clear to me that the human rights situation of Myanmar has created and is continuing to create, serious regional issues for South and South East Asia. These issues include for example, the existence of nearly 1.5 million refugees from Myanmar in Bangladesh, India, Indonesia, Malaysia and Thailand; trafficking and smuggling of people from Myanmar through the region; and the drug trade within and outside the region. It is incumbent on Myanmar's neighbours to acknowledge these most serious issues, that Myanmar has produced them and that they continue to have significant impacts on countries in the region.

It is of great concern to me that Myanmar appears to be increasing pressure and engaging the Governments of neighbouring countries in its efforts to violate rights and avoid scrutiny. This includes obstructing me in carrying out my mandate. While I was in Thailand, I had to abort part of my visit due to interference. This is very serious and not to be taken lightly.

Additionally, while I was in Thailand, I was extremely disturbed to hear about Singapore's deportation of six Myanmar nationals whom they claim to have been supporting the Arakan Army (AA). The six were arrested upon their return to Myanmar, and I am told that they are now detained incommunicado. I am extremely concerned about their situation, in view of recent cases of deaths of Rakhine men while in custody on suspicion of association

with the Arakan Army in Rakhine State. I am also worried about the fate of their families and other Rakhine people living in Singapore. I urge Singapore to uphold its customary international law obligation not to return people to where they would be in danger of being subjected to torture.

The conflict between the Tatmadaw and the AA is raging on, and the reports I have received indicate that human rights violations and abuses against the civilian population are worsening. The Government ordered mobile internet shutdown in nine townships in northern Rakhine and southern Chin has been in place for nearly a month now – this is unprecedented and it is also unacceptable. As you know, it is now monsoon season in Myanmar and there have been terrible floods in three townships in Rakhine State. There is no access to mobile internet in any of those townships, meaning that people were not adequately prepared for or warned of the floods that occurred. This has resulted in displacement and houses being destroyed. Humanitarian actors and natural disaster responders, including Government actors, were impeded by the lack of internet access, rendering the Government's disaster preparedness planning ineffective. The question is, did the Myanmar Government impose the internet ban to inflict more harm on the people living in Rakhine?

The internet blackout has also prevented individuals wanting to engage with me from being able to make contact. It is challenging to get information on what is happening on the ground under these circumstances, but I have been told that three villages in Rakhine have been burned down by the Tatmadaw in the last two weeks. We have seen this before. We saw it happen to minorities in Shan and Kayin States in the 1990s and 2000s. We saw it happen to the Rohingya in 2016 and 2017. And we are seeing it happen to other minorities in Rakhine State now.

I have spoken to people from Chin State too, where villagers are also suffering from the effects of the conflict and military operations. Villagers are being forced to porter for the Tatmadaw and the AA, and the Tatmadaw is recruiting local men to act as guides. These abuses along with violent clashes between the Tatmadaw and AA near villagers are forcing people to flee their homes, and there are now an estimated 3,500 IDPs in southern Chin State alone. Some of these IDPs are from villages which lie in the potential flood site of the proposed Lemro dam, for which surveying has been carried out this year despite hydropower development being known to exacerbate conflict in Myanmar. The total number displaced by the conflict since January could now be as high as 55,000 across Chin and Rakhine States. The situation is urgent and deserves more attention from the international community.

While I was in Malaysia, I met with a number of refugees from different parts of Myanmar including Rakhine, Chin, Kayin, Shan and Kachin States and Yangon. Some of them have been here for over ten years – the problem of Myanmar being a significant refugee-

producing country is not new – and some have arrived more recently, as people continue to come here regularly. There are many refugees from Myanmar in Malaysia, which is a safe haven for these refugees, and none of them said that they felt they would be safe if they returned home. They shared with me their concerns about their desire for easier access to healthcare, education and work opportunities.

I thank the Government of Malaysia for the opportunity to visit an Alternative Learning Centre where I saw first-hand the steps being taken to improve the lives of Rohingya refugees in Malaysia. These centres provide children with basic education and skills; this is essential to ensure that they do not become a lost generation, as Rohingya children are largely denied education in Myanmar. I would like to take the opportunity to suggest to other states that host large numbers of refugees to follow Malaysia's lead in this area.

Refugees in Malaysia told me of their perilous journeys to get here. A farmer who came from Chin State in May told me that he left because he had been subject to forced portering and taxation by the Arakan Army, who had also taken money and his animals from him. He had come here via Thailand with the assistance of an agent, whom he is now indebted to, and had to sleep in the forest for a week before arriving in Malaysia. The journey that he undertook is similar to that of so many people who leave Myanmar to find safety elsewhere in the region, some of whom have died along the way.

The vast majority of Myanmar people use social media, mainly Facebook. I spoke to a number of people who told me of their serious fears regarding hate speech and disinformation on social media, targeting religious and ethnic minorities and the LGBTI community. I was told of large-scale, coordinated anti-democracy, anti-rights and anti-equality campaigns waged on social media to manipulate public opinion on a variety of issues. And it appears that these campaigns are getting ever more sophisticated and are being coordinated and strategic in their action, using coded language to get around content restrictions to continue to spread hateful messages. Social media companies are taking inadequate and inconsistent action on this. I was personally affected by this recently – after I reported imposter accounts in my name and hateful posts on my page to Facebook, my own account was suspended. There are significant concerns that any further action social media companies take may amount to censorship or overregulation unless it is done in a transparent manner and in close consultation with the people who really understand what is happening. By that I mean, the brave civil society groups who are monitoring and documenting what happens online, as well as tech organisations who have an intimate understanding of the intricacies of what is needed technologically. The Government of Myanmar also needs to take action, but this should not be through enacting a new law that has criminal provisions with custodial sentences, that would no doubt result in being used against the very people who need the law's protection. Instead, I encourage the Government to take wide-ranging action in accordance with the Rabat Plan of Action, as I have said many times before. This would necessarily involve anti-

discrimination and equality laws and policies, as well as education and awareness campaigns.

People told me of their continuing frustration that incremental change in the justice sector is failing to bring about meaningful reform. This month we have seen thousands of ordinary people take to the street and thousands more online come together to demand justice for "Victoria", the pseudonym given to a two-year old girl who was allegedly raped at nursery school in May. The police handling of the case has caused outrage across the country. Last week one of the protest organisers was arrested and charged with defaming the police, and I am told the Government has responded to the people's demands for justice by warning that "now is not the time for such unrest." Well, I ask the Government: how long must victims wait for justice?

Land rights is another area that continues to be raised as a serious issue. People I spoke to told me there has been no progress on drafting the much-needed National Land Law in line with the National Land Use Policy. At the same time, I understand that there has been an increase in cases of companies using the deeply problematic Vacant, Fallow and Virgin Lands Management Law to evict people from their land since amendments to the Law were passed in March. For those sued under that Law, it is not just the threat of eviction from their lands to contend with, but the lengthy and crippling legal proceedings too. I have been informed that several villagers in Taungoo in Bago Region, are facing charges under the Vacant, Fallow and Virgin Lands Management Law after a company claimed their land. They have had to appear in Taungoo Township twice every month. The court appearances have caused the villagers financial, physical and emotional strain – meanwhile the company has continued to tap rubber from trees on their land.

Forcibly evicting people from their land is prohibited under international human rights law, and is a denial of many rights including rights to food, water, livelihood and shelter. The land insecurity caused to millions of people across Myanmar by the Vacant, Fallow and Virgin Lands Management Law will only entrench the cycle of poverty across the country. I once again call on the Government to repeal that Law and adopt a National Land Law that recognises the rich reality of communal, customary and traditional land use in Myanmar. As one villager said, "Our lands are not vacant, fallow and virgin land. This is our land, this is the fence, our village and our home."

I am distressed that on this mission I received reports of women and girls, some as young as nine, being trafficked from northern Myanmar to neighbouring countries for sex work. Years of conflict in northern Shan and Kachin States has left families in financial desperation, making women and girls vulnerable to human trafficking. Those displaced by fighting and living in IDP camps are particularly at risk. Women and girls from Shan, Kachin, Lahu, Pa-o and other ethnic minority communities are being taken by brokers to China where they are kept as "brides" and, shockingly, raped, impregnated and forced to

give birth. I heard a heart-breaking story of a woman who was trafficked and spent 20 years being kept at different locations in China, during which time she gave birth to 18 children, to different men. Each child was taken from her without her even having the chance to nurse them. It was only after 20 years that she was given assistance to return home. It terrifies me to think of how many other women may be in similar situations; treated as less than human, held captive for decades, and uncontactable by their families.

It appears to me that the peace process will not move forward while the conflict in Rakhine is ongoing. The purpose of the unilateral ceasefire in the five northern and eastern regional commands may have been to persuade the northern ethnic armed organisations to sign the Nationwide Ceasefire Agreement. However it is impossible for the Tatmadaw to build trust with them while simultaneously trying to [and I quote] "crush" the AA, which is allied with several of them in the Northern Alliance. I note that also during the ceasefire period, there were several clashes between the Tatmadaw and ethnic armed organisations in Shan. There was even an attack by the Tatmadaw against the Shan State Progressive Party immediately after the Peace Commission visited it for peace negotiations; this two-faced behaviour is indicative of the Tatmadaw's divide and rule tactics, showing that it is not really interested in doing what is necessary to create a lasting peace.

It has been accepted in many different contexts around the world that there can be no peace without justice. How could it be possible for Myanmar to reach a sustainable peace for a prosperous future without dealing with the damage done over so many decades? Criminal justice is essential, and as I have now said many times, it is incumbent on the international community to bring it about. However, victims equally need to receive reparations for the harm caused to them so that they can support themselves into the future. They have a right to know the truth about what happened to them, their family members and their communities. All people in Myanmar deserve solid guarantees that violations that have occurred in the past, and continue to occur now, will not happen again in the future. The first step for this to happen is for the Government and the military to reverse its stance of denial, and to recognise what the people of Myanmar have suffered at their hands. The countries in this region, and ASEAN, have a large role to play in persuading Myanmar to bring about this fundamental shift.

The continuing gross violations of human rights in Myanmar jeopardise the lives of people around that country and relentlessly impact Myanmar's neighbours in such a way that could threaten South and South East Asian peace and security. The situation of human rights in Myanmar is increasingly of serious regional concern and when states in this region engage with Myanmar, this issue should firmly be on the agenda. I therefore most strongly urge ASEAN to prioritise human rights in Myanmar, and to hold the Government of Myanmar to its obligations to respect, protect and fulfil human rights.

Lastly, I would like to take this opportunity to remind the Government of Myanmar that any harassment, reprisals and intimidation against people who cooperate with my mandate and other UN mechanisms is unacceptable and will not be tolerated.