



MYANMAR

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Statement by His Excellency U Kyaw Tin, Union Minister for International Cooperation of the Republic of the Union of Myanmar at the High-Level Segment of the 40th Session of the Human Rights Council

(Geneva, 26 February 2019)

Mr. President,

Excellencies,

May I begin by joining the preceding speakers in congratulating you on your election as the President of the Human Rights Council this year.

This august body was created to serve as the main UN forum for dialogue and cooperation on human rights. Our goals for promotion and protection of human rights can be achieved through dialogue, constructive engagement and cooperation, instead of confrontation and condemnation which are always counterproductive and highly divisive.

The Council must strive to avoid recurrence of failure of its predecessor which was abolished for its shortcomings including bias against certain nations, application of double standards, selectivity and politicisation of human rights issue. We therefore need to make sure that every independent mandate holder or mechanism created by the Council strictly adheres to the principles of independence, impartiality and integrity. Everyone must also be held accountable for what they say or report, as they could have a far-reaching bearing on the image of the affected nations.

We must recognize the primary responsibility of a sovereign state in realisation of human rights for its own people. Human rights issue should not be seen in isolation. We must also take into consideration of each nation's particular circumstances such as its own historical and cultural background, capacity constraints as well as other challenges and complexities facing the individual country.

It is time for the Council to strive for bridging the gap that has grown between its guiding principles and its actual activities.

Mr. President,

Allow me to present you a true picture of Myanmar which will stand in stark contrast to the most narratives you have repeatedly heard in this Chamber.

The people of Myanmar have long been deprived of their inherent rights to peace, democracy and development due to prolonged internal armed conflicts and five-decade long military rule. Myanmar has started to enjoy greater freedom and democratic rights since the emergence of a democratically elected civilian government three years ago. There are visible improvements in many areas including health, education, and socio-economic sectors.

These positive changes will be reinforced by on-going implementation of the Myanmar Sustainable Development Plan-MSDP which provides a unifying and coherent roadmap for all future reforms.

But, our nascent democratic transition is still yet incomplete, struggling with numerous challenges including constitutional constraint, continued ethnic armed conflicts, old and new complex issues in Rakhine State and lagging behind in development.

As we are in need of a constitution that can truly protect the democratic rights of the people, the ruling party has recently taken a bold initiative to amend the undemocratic provisions of the 2008 Constitution. To that end, a joint parliamentary committee has been formed to amend the Constitution. Our democratic struggle and reforms are still very much alive.

In a multi-ethnic country like Myanmar, making unity out of diversity is a great challenge. Thus, the Government is striving for sustainable peace and genuine national reconciliation and all-round development while embracing democratic practices, human rights value and principle of inclusiveness.

As part of its agenda for peace, the government has already convened 3 sessions of Union Peace Conference or the 21st Century Panglong Conference and agreed on a total of 51 basic principles for building a Democratic Federal Union that will guarantee security and prosperity for all creating a peaceful and harmonious society. We are planning to convene 3 more sessions by 2020 to finalise those fundamental principles.

A total of ten Ethnic Armed Organisations (EAOs) have already signed the Nationwide Ceasefire Agreement (NCA). The Government is redoubling its efforts to bring all on board. Another progress is the announcement of three other EAOs to halt all combat-related movements, and participate in the peace dialogue. The Tatmataw has also announced a four month cessation of its region wise military operations in Kachin and Shan States since 21 December 2018.

The recent outbreak of fightings in northern Rakhine State ignited by the attacks of AA insurgents against three police outposts has even further complicated the situation. But it highlighted even more the urgent need to make the peace process a success. Ending of armed conflicts will not only pave the way for development, but also bring an end to conflict-related violation of human rights.

Mr. President,

Three years ago, the world welcomed Myanmar's peaceful democratic transition and the dramatic positive changes in its political, economic and social landscape. Today, Myanmar is still facing numerous challenges in its delicate democratic transition which needs

the continued support of the international community. Sadly, the world's attention is narrowly focused only on the negative aspects related to the issue in northern Rakhine State.

It was wrongfully portrayed as an issue of religious persecution by the massive media campaign launching against Myanmar. It is neither an issue of religious persecution nor inter-religious conflict. But it is, in fact, a political and economic issue involving prolonged cross-border illegal migration since colonial time, poverty and lack of rule of law and national security. Regardless of events of northern Rakhine State, Myanmar is a multi-religious country where different faiths including majority of Muslim population live in harmony throughout the country.

Mr. President,

We fully share the concern over the plight of all affected communities due to violence ignited by provocative coordinated attacks of ARSA against multiple security outposts in October 2016 and August 2017. In the months leading up to the attacks, ARSA had been carrying out a campaign of terror, targeting on ethnic minorities as well as pro-government Muslims. The seeds of fear sown by the ARSA led to massive displacement of people.

Some analysts believe that this humanitarian crisis was manipulated by ARSA to advance their long-pursued political agenda. Many conveniently overlook this fact and the sufferings, insecurity and fears of ethnic people in Rakhine State. We must condemn all unlawful violence committed by any side.

The Government is fully committed to find a sustainable solution that would lead to peace, stability and development for all people in Rakhine State. We have been implementing a vast majority of the recommendations of the Kofi Annan Advisory Commission which was set up voluntarily by the Government even before the ARSA's attacks took place.

To speed up the implementation process, we are working on an action plan to implement five priority areas covering issues of citizenship, freedom of movement, closure of IDP camps, education and health. We are also finalizing a strategy for closure of the remaining IDP camps.

The most pressing task today is to focus on nothing but commencing the repatriation process soonest to resolve the humanitarian situation. I wish to reiterate Myanmar's readiness to receive the verified returnees in a voluntary, safe and dignified manner in accordance with the bilateral arrangements reached with Bangladesh in November 2017. We must stop these movements in Cox's Bazar trying to impede the repatriation process.

Last week, we informed Bangladesh to resume the Joint Working Group Meeting in April to start repatriation of the verified displaced persons including 444 Hindus who are desperate to return on their volition. If both sides strictly follow the bilateral arrangements, our two neighbours can make the repatriation a success, as has been done before.

In order to create conducive environment for the returnees, we are working not only with UNDP and UNHCR, but also with our ASEAN friends and regional partners. In line with the MoU with the two UN agencies, we have already agreed to implement 35 Quick Impact Projects following the completion of the second assessment. The 3rd assessment will be resumed when the security situation improves.

We have also invited ASEAN to assist Myanmar in facilitating the repatriation process. Myanmar and ASEAN have agreed a TOR for AHA team to conduct preliminary needs assessment to identify areas of cooperation as well as to provide capacity building for aid workers. At the time of repatriation, ASEAN assessment team will be there to assess the repatriation process which will enhance trust and confidence of the returnees.

The Government also mobilizes funds from public, private and the people through the Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD). Recently, the Rakhine State Investment Fair was held to generate job opportunities, income and long term development. In addition, a number of projects have been implemented in order to strengthen social cohesion in Rakhine State. Development is the best recipe for ending the communal conflicts.

Mr. President,

As I listen to some statements made in this Chamber, it is regrettable to observe that the report of the Fact Finding Mission (FFM) on Myanmar, despite its flaws, has obscured the view of many countries and misled their judgement on this issue.

In this regard, I wish to reiterate our firm position that Myanmar has categorically objected FFM since its establishment, as well as its narrative-based report for a number of reasons.

Firstly, the FFM's report was clearly biased and one-sided as it excluded investigations on violations committed by ARSA. It was prepared mainly on the result of interviews, and information gathered from some INGOs and human rights groups.

Secondly, the report adhered fully to the stories of Muslim displaced persons while rejecting any contradicting evidence. The FFM also ignored the reports revealing the massacres by the ARSA and discounted its atrocities.

More importantly, the conclusions of the report are politically motivated and not supported by credible evidences.

Mr. President,

Regardless of the flaws of the FFM, Myanmar takes those alleged violations seriously and has set up an Independent Commission of Enquiry (ICOE), which includes two eminent diplomats from the Philippines and Japan to investigate into all alleged violation and related issues following the ARSA attacks on 25 August 2017. The Evidence Collection and Verification Team (ECVT) assigned by the Commission is collecting complaints and evidence. The ICOE has requested the Bangladesh side to allow a visit to Cox's Bazaar to meet with the alleged victims. The Commission's work will be evidence-based and not narrative-based like the FFM. Its final report will come out this year.

The Government is fully committed to take legal action against the perpetrators if there is credible evidence of human rights violations. I stand here to reaffirm that the government is willing and able to address the accountability issue. Hence, we strongly reject any move to bring the issue to international judicial system.

Mr. President,

Myanmar has made significant steps in protecting and promoting human rights, especially for its children, women, persons with disabilities and other vulnerable groups.

Last week, Myanmar has submitted its Exceptional Report to CEDAW and had a constructive dialogue with the CEDAW Committee on the rights of Muslim women and girls in northern Rakhine.

Being a strong supporter for the UPR mechanism, Myanmar will be submitting the 3rd national report under the UPR process next year.

Myanmar has already ratified 4 international core human rights treaties, namely CRC, CEDAW, CRPD, and ICESCR and signed the OPAC—Optional Protocol to the CRC on the Involvement of Children in Armed Conflict. This year, we have set a target to ratify the OPAC and to sign the ICCPR -International Covenant on Civil and Political Rights.

We are also taking steps to enact legislations including the new Child Rights Law, and draft laws to address the issues of hate speech as well as violence against women.

Mr. President,

Over the years, we have welcomed the visits of the Special Envoy of the Secretary General, the Special Representative for Sexual Violence in Conflict, and the Special Representative for Children and Armed Conflicts. The office of the Special Envoy is up and running in our capital.

We have also established a National Committee in January to prevent the issue of 6 grave violations relating to the children and armed conflict. We will also set up a national committee and draw up a national action plan to implement the Joint Communiqué that Myanmar had signed with the Special Representative for Sexual Violence in Conflict last December.

Over the past two decades, Myanmar has consistently facilitated the visits of Human Rights Council's special mandate holders. However, we were obliged to discontinue our cooperation with the current Special Rapporteur due to her clear lack of impartiality. We look forward to cooperating with a new Special Rapporteur.

Also in the bilateral context, we are holding human rights dialogues with the European Union, Japan and the United States.

Mr. President,

We feel that despite these positive developments, Myanmar has been unfairly targeted and disproportionately put under special scrutiny by multiple mechanisms of the UN.

I wish to recall here that the main purpose of the UN is to keep peace throughout the world, and to be a centre for helping nations to find a peaceful solution to any conflict. Accordingly, we had placed high expectation on the United Nations to focus on assisting Myanmar in finding a sustainable solution.

The recent resolutions on Myanmar do not focus on finding a peaceful solution to the issue, but rather on taking retributive measures. This approach will only further polarise different communities in the country.

The planned establishment of Independent Investigative Mechanism (IIM) is yet another step to take a series of unprecedented discriminatory scrutinization on a member State. First and foremost, it was set up beyond the Council's mandate. Its ToRs is also very intrusive on our sovereignty. It would only serve political ambition of those who wish to exploit the Council for their political agenda. We have therefore rejected to these resolutions setting up this mechanism.

The funding arrangement which allow additional non-budgetary resources will severely affect independence and impartiality. A more than 26 million US Dollar budget allocation and recruitment of 62 staff headed by an ASG to monitor a country through this mechanism would be wasting the scarce resources of the United Nations.

These actions aimed at heaping mechanism upon mechanism can only serve to aggravate the situation and will not contribute to resolving the humanitarian challenges at time. There are ample precedents where intrusive measures without consent of the country concerned have upset delicate social, ethnic, tribal and sectarian balances maintained before.

Mr. President,

In our democratic transition, we have made a great deal of progress. But the journey is not over yet. The world was supportive to Myanmar over the decades when the country struggled for freedom and democracy. Now, Myanmar has entered a new era as it looks towards a peaceful and prosperous democratic federal union for all.

We are making every effort to further advance peace, democracy and development. Despite numerous challenges and constraints, Myanmar will do its best to take its primary responsibility to promote and protect the fundamental human rights of all people without losing sight of the country's future. In this regard, we are only seeking for fairness in the approach of the international community in addressing our challenges. We wish to urge the Council to make careful examination of the complete and objective information before taking any important judgment or policy decision on issues at hand.

We appreciate the support rendered to us by many friends and partners in various ways and welcome their constructive cooperation. Their sincere intention to help us solve this complex and delicate issue will contribute to our endeavors to lasting peace for all our future generations.

I thank you, Mr. President.
