

## Myanmar's observations on the Interactive Dialogues on Myanmar at the 49<sup>th</sup> Session of the Human Rights Council

- The Permanent Mission of Myanmar in Geneva has observed that the enhanced interactive dialogue on the report of the Secretary-General on Myanmar and the interactive dialogue with the Special Rapporteur on the situation of human rights in Myanmar were conducted respectively on March 18, 2022 and March 21, 2022 during the 49<sup>th</sup> Session of the Human Rights Council.
- It is resource consuming, as the interactive dialogues sounded identical in exerting discriminatory scrutinization and political pressure with malicious intent.
- The report somehow indicates that the United Nations, under the banner of human rights, has attempted to interfere in the internal affairs of countries including Myanmar in an involuntary and non-transparent monitoring and reporting mechanisms.
- Myanmar views that consideration of human rights situation in all countries should be based on genuine cooperation and constructive dialogues with all stakeholders, particularly states concerned. With this in mind, Myanmar expects that the United Nations Country Team (UNCT) in Myanmar should carry out its mandates in a transparent, impartial and objective manner.
- While the approach pays much attention to the human rights and downplays other important aspects of development, there is no accountability mechanism to ensure independence and impartiality of the UNCT.
- More importantly, human rights related matters are prone to be politicized at all time. However, we do not see any necessary guarantee to ensure "Call to Action" is operationalized in an independent manner while there is no indication how the approach is being funded and how necessary human resources are properly allocated.
- Furthermore, the report of the Secretary-General is a follow-up to the findings and implementation of the recommendations of Mr. Rosenthal's review, in pursuant to self-devised mandate under its own political agenda. Since his initial report, Myanmar has categorically rejected it for the facts presented therein were

inaccurate, distorted and lacked professional objectivity. Therefore, the current report of the Secretary-General that echoed the Rosenthal's is considered technically flawed and highly biased based on pre-conceived ideas. Thus, Myanmar unreservedly objects it.

- It is also the case for the report of the Special Rapporteur on the situation of human rights in Myanmar. Herein, the issue of the integrity and professionalism of the Special Rapporteur itself raises so many questions.
- The Code of Conduct for special procedures mandate-holders of the HRC makes sure that the mandate-holders shall indicate fairly what responses were given by the concerned State and ensure that the concerned government authorities are the first recipients of their conclusions and recommendations. That is, however, disregarded by the special rapporteur as he has clearly failed to reflect the responses of the Myanmar Government throughout the reporting process. There raises question on his good faith whether the special rapporteur upholds the HRC's values of probity, impartiality, equity, honesty and good faith. Accordingly, his assessments with no adherence to the basic principle of the Code of Conduct cannot be considered as positive and reliable.
- It is affirmed in the Code of Conduct that in their information-gathering activities, the mandate-holders shall give representatives of the concerned State the opportunity on their assessment and of responding to the allegations made against this State, and annex the State's written summary responses to their reports. The special rapporteur's blatant failure to do so amounts to misuse of his mandate.
- Three eminent points, in general, about the issue of credibility on his report are cited, for examples, as follows:
  - Firstly, the Special Rapporteur seems to attach considerable importance to the quantitative aspect, because the figures he described on each occasion are significantly multiplied, doubling the figures of alleged deaths, displacement overnight. The figures he mentioned were not totally consistent even within the two reports he portrayed during the same HRC Session, while there is no real evidence of the numbers and relevance, easily referring to a

handful of sources without verification or even addressing the alternate explanation to constitute the serious allegations.

- Secondly, the report traditionally refers to the findings of FFM and the list of so-called AAPP and hastily concludes that “there is strong evidence of war crimes and crimes against humanity”, with no knowledge of its own assessment of the alleged facts and with no evidence that the Special Rapporteur himself evaluates the FFM’s evidence and the AAPP’s list of incidents, at the very least.
  - Thirdly, the Special Rapporteur alleges how the Myanmar military is actively committing “probable crimes against humanity and war crimes.” Mr. Thomas Andrews is a human rights activist, not an international lawyer. Except easy reference to dissident sources, there is not even any credible allegation and admissible evidence of the Special Rapporteur’s own that Myanmar is in breach of international law. Therefore, when the Special Rapporteur whatsoever alleged serious crimes on Myanmar, adding his remarks on legality, are of no relevance.
- Moreover, it is learnt that the Special Rapporteur submitted the supposed conference room paper entitled “Enabling Atrocities: UN Member States’ Arms Transfers to the Myanmar Military”, during the 49th session of the HRC. Let alone the outrageous contents in the supposed conference room paper, the mandate emanating from the country-specific resolution itself raised the issue of objectivity and non-selectivity. Actually, the Special Rapporteur invented the so-called conference room paper, adding that there will be a future paper. It is an unwarranted production of self-named papers rather than incorporating updates into the report as mandated by the HRC resolution 46/21. Therefore, the so-called paper does not fit with his mandate. Myanmar will not respond to the elements contained therein. In addition, it is worth nothing but naming and shaming when the special rapporteur points his finger at other states which is merely outside of his mandate. It is clearly the interfering act of the special rapporteur in the works of the sovereignty States.

- The above facts are proven that the report of the Special Rapporteur does not even meet the minimum standards of its credibility level. In this regard, Myanmar denounces the report of the Special Rapporteur and reaffirms its strong objection against the report and all its affiliates, either partially or totally.
- All duplicated mandates of the HRC have never created positive contribution to address the challenges that Myanmar has been facing. Rather, they become part of the problem like in many other countries that are usually targeted by main sponsors of the resolution under the name of the United Nations.
- The fact that the participation of Myanmar was denied during the 49<sup>th</sup> Session of the HRC was clearly a double standard practiced by the HRC, particularly in the Interactive Dialogues where the politically motivated agendas against the specific country were discussed in the absence of the country concerned. If the HRC excuses that the Myanmar delegation would not be represented in the HRC meetings in line with General Assembly resolution 396(V), the same practice should also be applied for every member state at UN's forums.
- Myanmar believes that human rights issues should not be approached in an aggressive '**naming and shaming**' exercise. Imposing unwarranted pressure has its limitation and it would only lead to division among member states of the UN into opposing camps and disunity. Hence, the members of the HRC are requested to differentiate motives behind the actions during this session: a good faith to protect and promote human rights or to exploit human rights issue for political tool.

**Permanent Mission of the Republic of the Union of Myanmar  
to the United Nations and other International Organizations  
Geneva.**

**Dated: 21 March 2022**

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