Statement to the 42nd session of the Human Rights Council
Marzuki Darusman, Chair of the Independent International Fact-Finding Mission on Myanmar
17 September 2019

Madame Vice President,
Excellencies, ladies and gentlemen,

Exactly one year ago, this Mission concluded that the Myanmar authorities, in particular the Tatmadaw, committed crimes against humanity and war crimes against ethnic communities in Myanmar. We found genocidal acts and the inference of genocidal intent, in the Tatmadaw’s 2017 “clearance operations” against the Rohingya population. For decades, Myanmar’s security forces have enjoyed impunity for their brutal crimes. We called on the Government of Myanmar and the international community to step up to their responsibility to ensure accountability for perpetrators and justice for victims. We recommended further investigation of these crimes to establish individual criminal responsibility as a basis for future prosecution.

I commend this Council for taking the historic decision to mandate an Independent Investigative Mechanism for Myanmar to do exactly that, and I am pleased to report that the Mission has completed the transfer of its materials to the Investigative Mechanism in full compliance with the mandate given to us. This includes 1,227 interviews with victims and witnesses from a total of
56,500 files. We are confident that the materials we have shared, including a list of over one hundred and fifty people suspected of involvement in numerous international crimes, will serve as an important foundation upon which potential prosecution cases can be prepared. We underline the time-sensitive nature of this information and we encourage the Myanmar Mechanism to make the best use of these files.

Over the last year, this Mission continued its investigations. It produced three additional thematic reports as conference room papers, one on the economic interests of Myanmar’s military, one on sexual and gender-based violence and the gendered impact of Myanmar’s ethnic conflicts, and one on conflict-related and other human rights violations.

Let me begin by highlighting some key findings in relation to our thematic research.

In mapping out the Tatmadaw’s vast economic interests in Myanmar, we sought to provide a roadmap for economic disengagement from the Tatmadaw aimed not only at States and inter-governmental organisations but also at the business community, including international and domestic investors. The purpose of this research is to deter continued and future violations, and ensure accountability for perpetrators. I am pleased to report that, following the publication of our research, a number of entities have already indicated that they will halt economic dealings with Tatmadaw businesses. I call on other businesses and States to follow suit. I also reiterate our recommendation regarding the need for
targeted sanctions against Tatmadaw leaders and their businesses and for investors to prioritise investing in non-military sectors of the Myanmar economy.

Regarding sexual and gender-based violence, the Mission presented a detailed and painful picture of grave patterns of rapes, gang rapes and other gender-based violence against ethnic communities in Myanmar, including with respect to men and boys and transgender people. These crimes leave lasting marks, which is why the report provided Member States with an understanding of the gendered impact of the ethnic conflicts. The Mission renews its call to action for accountability for these grave crimes, which has been highly inadequate so far.

Madame Vice President,

We looked at the pattern of commonalities in experiences of ethnic minorities in Rakhine, Chin, Shan, Kachin, and Kayin States.

With regard to the Rohingya, the situation of some 600,000 Rohingya remaining in Rakhine State is largely unchanged. The underlying persecutory structural and systemic policies and practices continue.

The discriminatory laws, including the 1982 Citizenship Law, remain in effect. The Government’s insistence on a citizenship process based on the national verification cards is disingenuous. They continue to be used as a tool of persecution, rather than leading to inclusion through citizenship, they further
exclude the Rohingya, many of whom historically were accepted as citizens of Myanmar and should again be recognized as such.

Contrary to the Government’s claims, camps for internally displaced persons have not been closed. Those who live in them continue to face daily hardships associated with living segregated from the rest of the communities. If anything, the situation of the Rohingya in Rakhine State has worsened, as they endure another year subjected to discrimination, segregation, movement restrictions and insecurity, without adequate access to livelihoods, land, basic services, including education and health care, or justice for past crimes committed against them by the Tatmadaw.

We conclude that there is a strong inference of continued genocidal intent on the part of the State in relation to the Rohingya, that there is a serious risk of genocide recurring and that Myanmar is failing in its obligations under the Genocide Convention to prevent genocide, to investigate genocide and to enact effective legislation criminalizing and punishing genocide. Let me be clear. The policies, laws, individuals and institutions that laid the groundwork for the brutal “clearance operations” in 2016 and 2017 remain in place and strong. Impunity continues. Discrimination continues. Hate speech continues. Persecution continues.

The return of close to one million Rohingya refugees to Rakhine State is simply impossible under the current circumstances. There is nowhere safe and viable for them to return to. Rohingya lands and villages have been destroyed, cleared,
confiscated and built on, including new structures that resemble camps, with Rohingya forced labour. The Government’s repatriation plans are inadequate. For this reason, we recommend a moratorium on domestic and international investment and development assistance in Rakhine State to ensure that investment and development assistance do not directly, indirectly or inadvertently consolidate the Tatmadaw’s persecution and genocidal intentions against the Rohingya population.

Madame Vice President,

Many of the hallmarks of the Tatmadaw’s operations, including its infamous “four cuts” strategy, aimed at cutting funding, food, recruits and intelligence of insurgent groups, are evident again in its recent conflict with the Arakan Army. Serious violations of human rights and humanitarian law have been committed in a series of Tatmadaw attacks in northern Rakhine State and southern Chin State in the past months. Civilians, mostly ethnic minorities, are suffering the brunt of this latest conflict. The Tatmadaw and the Arakan Army must stop the violence.

In the recent conflict between the Tatmadaw and the Arakan Army a “fifth cut” has come to the fore, in the form of “cutting information”. A clampdown on freedom of expression, association and information, through a series of legal actions against individual journalists, restrictions on journalists’ access to the conflict areas and an internet shutdown, have deprived the population of the ability to communicate with the outside world and prevented the outside world
from learning about the military operations in Rakhine. Notwithstanding the need to curb hate speech, this Tatmadaw strategy does not seem to have that legitimate objective and has been replicated in other parts of the country.

Regarding the situation in northern Myanmar, relative lulls in active hostilities in Kachin State are contrasted with intensified hostilities in Shan State, most notably since last month. A number of attacks by parties to the conflict that have led to death and injury to the civilian populations. They need to be further investigated to ascertain responsibility. Sexual and gender-based violence against women and girls in northern Myanmar continues. The situation is volatile and is at risk of spiraling out of control. This Mission calls for restraint by all parties in northern Myanmar to settle their differences through negotiated peace, with the participation of all ethnic groups affected.

Madame Vice President,


This Mission firmly believes that international monitoring and public reporting are essential to ensure fact-based advocacy. Myanmar continues its state of denial. It has declined all dialogue with us and this is deeply regrettable. It shows a lack of good faith towards human rights mechanisms, including this Mission.
That said, the Mission firmly believes that international advocacy works. The release of the two Reuters journalists, Wa Lone and Kyaw Soe Oo in May, is an example of that. In order to act effectively, the international community must have reliable and verified information. For this reason, the Human Rights Council must mandate properly resourced regular, robust, monitoring, investigations and reporting.

On behalf of the Mission and my fellow Experts, Radhika Coomaraswamy and Chris Sidoti, I take this opportunity to thank the Human Rights Council for entrusting us with the honour of serving on this Mission and the Office of the High Commissioner for Human Rights for its support. Most importantly, we also thank the hundreds of victims, witnesses, civil society organizations and other interlocutors who have assisted us, many at considerable personal risk. Lastly, we pay tribute to all victims and survivors as they await justice, which we are certain will come.

Madame Vice President,

We have completed the mandate you gave us, but the Human Rights Council cannot walk away from the people of Myanmar.

Thank you.