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Statement to the 74th session of the General Assembly
Marzuki Darusman, Chair of the Independent International Fact-Finding Mission on Myanmar
22 October 2019

Mr. President,
Excellencies, ladies and gentlemen,

On behalf of the Independent International Fact-Finding Mission on Myanmar, it is my honour to report to this Assembly as requested by the Human Rights Council.

Over the last year, we consolidated and updated our findings. We found that many of the same serious crimes under international law that we reported on last October, continue to be committed by Myanmar’s military, throughout the country impacting all the main ethnic communities. The near complete absence of accountability for past grave human rights violations, also confirms our previous conclusion that the cycle of impunity enables, and indeed, fuels, this reprehensible conduct on the part of the security forces.

Mr. President,

The blatant persecution of the Rohingya community in Myanmar continues unabated. The situation of some 600,000 Rohingya remaining in Rakhine State
is largely unchanged. The underlying persecutory structural and systemic policies and practices continue.

We conclude that there is a strong inference of continued genocidal intent on the part of the State in relation to the Rohingya and there is a serious risk of genocide recurring. 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.

This finding is based on the fact that the policies, laws, individuals and institutions that laid the groundwork for the brutal “clearance operations” in 2016 and 2017 remain in place and strong.

In complete disregard for the 2017 Rakhine Advisory Commission’s recommendations, also known as the “Kofi Annan Commission”, 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. Instead of leading to inclusion through citizenship, these cards further exclude the Rohingya, many of whom historically were accepted as citizens of Myanmar and should again be recognized as such.

The situation of the internally displaced Rohingya population remains of utmost concern. 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 including segregation 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.

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 clearly inadequate.

Mr. President,

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 in the context of the conflict between the Tatmadaw and the Arakan Army. Civilians, mostly ethnic minorities are suffering the brunt of this latest conflict. The Tatmadaw and the Arakan Army must stop the violence.

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 August. 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.

Mr. President,

Last year this Assembly welcomed the Human Rights Council’s historic decision to mandate an Independent Investigative Mechanism for Myanmar. 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.

Mr. President,

The Government of Myanmar bears the primary responsibility to protect its people from human rights violations. However, our findings have shown that it has failed in its duty to do so.

For this reason, the international community must remain seized of the situation in Myanmar. The Human Rights Council, the General Assembly and the
Security Council must act to stop continued violations and prevent their re-occurrence. Taking this final opportunity to report to this Assembly, I therefore come with the following three requests:

First, this Mission firmly believes that international monitoring and public reporting are essential to ensure fact-based advocacy. In order to act effectively, the international community must have reliable and verified information. For this reason, first, the Human Rights Council must mandate properly resourced, regular, robust and independent monitoring, investigations and reporting and the General Assembly should grant the necessary political and financial support to ensure the effectiveness of such public reporting mandates. This includes independent monitoring of the implementation of all recommendations.

Second, this Assembly should continue to monitor progress on accountability and recommend action in the absence of tangible results, in line with its mandate. There are a number of accountability initiatives underway at the international level that require support, including the investigation by the Office of the Prosecutor of the International Criminal Court and plans for The Gambia on behalf of the Organisation for Islamic Cooperation, to pursue a case against Myanmar before the International Court of Justice for breaching the 1948 Genocide Convention. In the absence of a referral of the situation of Myanmar to the International Criminal Court by the Security Council, these initiatives are all the more important.
However, more is needed, as neither can address the full spectrum of the accountability deficit. For this reason, this Mission calls on Member States in this Assembly to consider additional measures, including pursuing the creation of an ad hoc tribunal. I also take this opportunity to call on Governments to indicate their willingness to exercise jurisdiction over the crimes under international law identified by this Mission. Member States should avail themselves of the work on the Myanmar Mechanism to support such endeavors.

Third, the Mission reiterates its view that in the absence of accountability at the domestic level, alternative avenues should be explored to deter human rights violations, including through targeted sanctions, financial and political disengagement from the Tatmadaw and a moratorium on investment and development in Rakhine State. The Mission’s reports, in particular its report on the Myanmar military’s economic interests provides a solid roadmap and guidance in this regard. I am pleased to note that our report, issued in August has already resulted in disengagement by Governments and businesses and I encourage more to follow suit. This Assembly should consider endorsing such disengagement, while recommending targeted sanctions and an arms embargo by the Security Council.

Mr. President,

The human rights catastrophe in Myanmar has not ended. The Government of Myanmar is defiant, and at best unconcerned. This is not the time for complacency. The situation remains urgent. Hundreds of thousands of victims
rightfully expect no less than the continued commitment by the international community to bring about accountability and justice.

Thank you.