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تعزيز حقوق الإنسان وحمايتها: حالات حقوق الإنسان والتقارير المقدمة من المقررين والممثلين الخاصين

رسالة مؤرخة ١٩ تشرين الأول/أكتوبر ٢٠١٨ موجهة إلى الأمين العام من الممثل الدائم لميانمار لدى الأمم المتحدة

أتشرف بأن أحيل طيه وثيقة بعنوان ”مذكرة بشأن التحول الديمقراطي في ميانمار: التحديات وآفاق المستقبل“ (انظر المرفق).

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Memorandum on Myanmar's democratic transition: challenges and way forward

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1. Introduction

Myanmar's democratically elected civilian government, which took office in March 2016, is transforming the country from authoritarian to a democratic federal union. Myanmar had endured decades of armed conflict, suffering from years of underdevelopment, social and political stagnation. With this unbearable experiences and understanding the yearning of people for peace and security, for an end to unrest and strife, for material and emotional security, for a chance to contemplate the future of their children with tranquillity, the Government places national reconciliation and peace as its top priority together with aiming for prevailing rule of law, rebuilding the country's economy, opening up the nation to the world, improving social development for the entire people and paying continued attention to amendment of the Constitution.

Over 2 years in Office, the Government has been reforming public institutions and strengthening the rule of law to create a fair and just society for all people in the country. Significant progress has been made ranging from health and education sectors to tackling corruption. However, many challenges remain.

In her 43rd Singapore Lecture at the Institute of South East Asian Studies in August 2018, State Counsellor Daw Aung San SuuKyi pointed out that a transition is, put very simply, the process of going across from one point to another. The distance that must be covered and the nature of the terrain that must be travelled define the scope and complexity of the challenges that have to be faced and overcome. Myanmar is crossing over from a long established, authoritarian system to a democratic society.

The Myanmar Sustainable Development Plan was recently developed. It could also be seen as a roadmap for the nation's transition, identifies five goals under three pillars, namely Peace and Stability pillar, Prosperity and Partnership pillar and People and Planet pillar. The five goals are Peace, National Reconciliation, Security and Good Governance; Economic Stability and Strengthened Macroeconomic Management; Job Creation and Private Sector-led Growth; Human Resources and Social Development for 21st Century Society; and Natural Resources and the Environment for Prosperity of the Nation.

Human rights and inclusiveness are fundamental to the successful transformation of Myanmar into a democratic society. It is a supremely challenging task, particularly for a fledgling democracy. However, Myanmar is strong in its resolution to build the democratic society to which the people Myanmar aspire.

2. Fostering National reconciliation and Peace

Myanmar has experienced 70 years of internal armed conflicts since its independence. Naturally, Myanmar has always wanted to achieve peace and reconciliation. Bringing peace and establishing national reconciliation, none of these efforts are either easy or simple and it is a long-term process.

Myanmar is convinced that a country without peace and stability cannot achieve a prosperous, sustainable and durable peaceful federal union. In view of that the government has given priority to peace and national reconciliation.

2.1 National Ceasefire Agreement

To tackle ethnic strife and cease armed conflicts, successive Governments had attempted to achieve ceasefires with various armed groups to meet political agreements that are acceptable to different forces. The National Ceasefire Agreement (NCA) aims to consolidate existing bilateral ceasefire agreements between the

Military (Tatmadaw) and multiple ethnic armed groups. NCA was signed on 15 October 2015, and it is a merging equilibrium point where different forces come together to create a new political dialogue process for all ethnic groups. The NCA also includes an explicit commitment to 'establish a union based on the principles of democracy and federalism'.

Joining NCA by the two more ethnic armed groups made altogether 10 signatories so far to the NCA, and the Government is committed to continue its endeavours to bring all ethnic armed organizations under the NCA umbrella and to the conference table.

2.2 Union Peace Conference

To keep the momentum gained after signing of NCA, the Government has been striving with unrelenting moral force to create a stable and peaceful surrounding that is free from armed conflicts with the strong conviction that peace can be achieved only through understanding and trust.

In view of solving political problems through negotiations and narrowing the trust deficit among different institutions, ethnic groups and communities, the Union Peace Conference — the 21st Century Panglong has been held and brought all ethnic nationalities to present their positions and views openly and freely to formulate fundamental principles for a democratic federal union.

Three sessions of the Peace Conference — 21st Century (Panglong), held so far, have adopted fifty-one fundamental principles that cover the areas of political, economic, social, land and environment which will become part of the Union Peace Accord. Preparation works are underway for the Fourth Panglong Conference.

2.3 Principles for Democratic Federal Union

Establishing the federal Union and achieving the democratic standards is the ultimate goal of the Government of Myanmar. Despite the challenges, the government is undertaking to establish a Union based on democracy and federalism for the benefit of all its citizens.

The Government has spared no effort in nurturing democratic norms and practices among all its citizens. These efforts include the promotion of the rule of law, good governance and protection of human rights, and the fostering of vibrant civil society. All these are essential for the emergence of a democratic federal Union in which the security and prosperity of all citizens are assured.

On the occasion of the third anniversary of signing the NCA, a special meeting between the Union Government and leaders of 10 NCA signatory Ethnic Armed Organizations (EAO) was successfully held in Nay Pyi Taw on 15–16 October 2018. As a result, the Union Government and the EAOs agreed a number of important matters, inter alia, setting up a timetable and priority work processes required for important basic principles related to democracy and federal union in the forthcoming three sessions of the conference to be held before 2020, starting coordination and discussion of security related reintegration matters.

3. Social and Economic Development

3.1 Myanmar Sustainable Development Plan-MSDP 2018–2030

The Government of Myanmar has developed Myanmar Sustainable Development Plan-MSDP (2018–2030) that finds resonance in the global sustainable development agenda and provides a unifying and coherent roadmap for the nation's future reforms.

The MSDP recognizes three pillars-peace and stability, prosperity and partnership and people and the planet. The pillars are supported by the five goals — the first MSDP goal focuses on peace and national reconciliation, key elements for achieving political stability; the second goal emphasizes macroeconomic management, with a focus on achieving and then maintaining economic stability; the third goal relates to job creation and private sector growth; the fourth goal focuses on human capacity and social development, including expanding access to quality education and healthcare; and the fifth goal highlights on natural resources management and environmental protection.

3.2 Health Care

Myanmar attaches great importance of the public health care development and there has been an increase in the health budget in the tenure of the incumbent government. The health budget for 2017–18 fiscal-year is over Kyat 1077 billion, higher than the Kyat 850 billion allocated in 2016–17 that makes up 5.16 percent of the total budget for 2017–18.

Together with the budget rise in the health sector, health care services have also been increased in terms of upgrading hospitals, building new regional hospitals, rural sub clinics, appointing public health supervisors, doctors, midwives, nurses and health workers as well as cooperation with international and regional partners in expending mobile clinic programmes to outreached areas and affected people by natural and manmade disaster. The Myanmar National Health Plan (2017–2021) has been drawn up to provide the best health care to the public. The ultimate goal of the plan is to be able to provide health care services, which is essentially basic health care for the people, at less expense in any places in 2020–2021 fiscal-year.

3.3 Education

In order to access quality and equity in the education sector, the Government of Myanmar has developed a national education strategic plan (NESP). The plan spells out the key challenges that the sector faces, and provides a roadmap for sector-wide reforms for the period 2016 to 2021.

The education budget has been gradually increased between 2016 to 2019. In the 2016/17 fiscal-year, the budget was Kyat 1,726 billion; in the 2017/18 fiscal-year, the education budget was Kyat 1,756 billion; and in the 2018/19 fiscal-year, there will be an increase to Kyat 2,175 billion in expenditure.

The NESP focuses on 9 areas; preschool and kindergarten education, basic education, basic education curriculum, student assessments and examination, teacher education and management, alternative education, Technical and vocational education and training (TVET), higher education, management, capacity development and quality assurance. The plan is expected to contribute to improved teaching and learning, vocational education and training, research and innovation leading to measurable improvements in student achievement in all schools and educational institutions.

4. Promotion and protection of human rights

Human rights and inclusiveness are fundamental to the successful transformation into a democratic society. Therefore, the Government of Myanmar is committed to establish a democratic federal Union which will guarantee the security and prosperity for all people while promoting and protecting human rights.

4.1 Press freedom

Since the beginning of the democratic transition, Myanmar has undertaken a series of socioeconomic and political reforms including the media reforms. The enactment of the Media Law and the Printing and Publishing Enterprise Law (PPEL) made improvement in media sector and abolishing past prior censorship, and allowed newspapers to become editorially independent.

The new Broadcasting Law was adopted enabling private, public and community media to flourish. The Myanmar News Media Council was established in October 2015, to act as a media self-regulatory body.

Anti-hate Speech Law and Right to Information Law were drafted. They are now before the parliament and open for public scrutiny.

These significant improvements in the media sector contributed to the democratic transition serving as a platform for democratic discourse, increasing transparency and strengthening good governance of the Government. At the same time, it is also imperative that every individual respects the existing laws of the land, does not infringe others' privacy and does not defame others while exposing news.

4.2 Women's rights

Since becoming a state party to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1997, Myanmar has strived to achieve gender equality and helped women fully enjoy their rights. Myanmar adopted the National Strategic Plan for the Advancement of Women (2013–2022), aligning it with the 12 areas of the Beijing Platform for Action, for the advancement of women, and promotion and protection of their rights.

In order to protect women from all forms of violence, including domestic abuse, marital rape, sexual violence, harassment by stalking, harassment in work place and public place and violence through tradition and customary practices, the Government submitted a draft law relating to violence against women to the parliament for deliberation and adoption.

There are significant progress made in the role of women in politics, civil service, business, education and health care in the past years but much remains to be done.

4.3 Forced labour

The Government pays attention to elimination of forced labour. The Government signed the Memorandum of Understanding to a new Action Plan for the Elimination of all Forms of Forced Labour and the Agreement for the Extension to the Supplementary Understanding with the International Labour Organization (ILO) in January 2018. The Action Plan provides operating a complaint mechanism and undertaking training and awareness raising activities on forced labour.

With the progress made in the elimination of forced labour, Memorandum of Understanding on Decent Work Country Program (2018–2021) was signed between Myanmar and ILO on 21 September 2018 to promote and advance decent work in Myanmar. The development of Myanmar's first DWCP represents a major step for ILO's engagement in Myanmar in support of the tripartite partners.

In order to eliminate child labour, the Ministry concerned is drafting a National Action Plan on the Elimination of Child Labour.

4.4 Disability rights

Myanmar acceded to the Convention on the Rights of Persons with Disabilities (CRPD) in 2011. A milestone was achieved in June 2015 when the Law on Protection and Promotion of the Rights of Disabilities was enacted which ensured the empowerment of the persons with disabilities in Myanmar to be able to take part in all spheres of social, economic, political and professional life.

Subsequently in 2016, the Government adopted the National Strategy for the Development of Persons with Disabilities. The Myanmar National Social Protection Strategic Plan, developed in 2014, provides social protection and socioeconomic needs of the citizens especially children, women, elderly and persons with disabilities.

In addition, the Government has been working in partnership with a number of regional and international organizations to protect and promote the rights of the disabled with a view to contributing towards the full implementation of the 2030 Agenda.

In 2017, the Early Childhood Intervention Strategy was launched in collaboration with UNICEF and the Leprosy Mission Myanmar to help safeguard the welfare of disabled children.

4.5 Child rights

Myanmar became a state party to the UN Convention on the Rights of the Child in 1991 and ratified the Optional Protocol, the Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (no 182/1999) in 2013.

Accordingly, Myanmar enacted the National Child Law in 1993. Currently the Parliament is in the final stage of adopting a revised Child Law drafted to be in conformity with prevailing international norms. The revised Law is stipulated to be the most comprehensive child law in Myanmar with extensive provisions on the rights of children and prevention from all forms of violence.

4.6 Human rights in drugs control

Myanmar adopted a new drug policy in February 2018 with the support of the UNODC Regional Office. In addition to law enforcement and criminal justice efforts, the policy includes health and social policy responses, outlining a path to promoting sustainable alternative development for opium farmers, and international cooperation.

The new policy adopted a harm reduction approach to users which decriminalizes the drug users. It entails increasing compliance with human rights as a cross-cutting issue.

Myanmar is also a signatory to the Global Call to Action on the World Drug Problem which was adopted in September this year. The Government will be hosting a regional conference in November this year with the support of UNODC, focusing on prevention of the precursors flow and regional collaboration.

5. International treaties and cooperation with the United Nations

Cooperation with the United Nations is a cornerstone of Myanmar’s foreign policy. In this spirit, Myanmar has consistently cooperated with the United Nations in various fields, including in the area of human rights. Myanmar provides necessary information and responds to communications sought by the United Nations bodies. It also submits reports to the relevant United Nations treaty bodies.

In expressing Myanmar's strong commitment to the promotion and protection of human rights and respecting fundamental rights of individuals, Myanmar has become state party to some core international human rights treaties such as Convention on the Rights of the Child (CRC), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), Convention on the Rights of the Persons with Disabilities (CRPD), the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (OPSC), the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), International Covenant on Economic, Social and Cultural Rights (ICESCR).

5.1 Visit of the Special Representative of the Secretary-General (SRSG) for Children and Armed Conflict

The Special Representative of the Secretary-General (SRSG) for Children and Armed Conflict, Ms. Virginia Gamba visited Myanmar from 27–29 May 2018 and held fruitful discussions with high-level officials.

Myanmar has made significant progress in its efforts to ending and preventing violations and abuses against children. Myanmar signed a Joint Action Plan with United Nations in June 2012 to prevent recruitment and use of Children in the Tatmadaw (Military), and since then 924 children and young people have been released. The Optional Protocol to the Convention on the Rights of Child on the involvement of children in armed conflict was signed in 2015 and the Paris Principles for the reintegration of children who have been associated with armed groups or forces, into civilian life was signed in 2017.

5.2 Special Representative of the Secretary-General for Sexual Violence in Conflict

Ms. Pramila Patten, Special Representative of the Secretary-General for Sexual Violence in Conflict visited Myanmar from 14 to 17 December 2017. After her visit, SRSG office has made a proposal to sign a Joint Communique between the UN and the Government of the Republic of the Union of Myanmar in order to prevent and respond to conflict-related sexual violence. Myanmar and the Office of SRSG for Sexual Violence in Conflict are coordinating to sign the Joint Communiqué in the near future.

5.3 Special Envoy of the Secretary-General on Myanmar

As cooperation with the UN is cornerstone of Myanmar's Foreign Policy, Myanmar accepted the visits of Secretary-General's Special Envoy Ms. Christine SchranerBurgener though Myanmar rejected the resolution which mandated the Secretary-General to appoint his special envoy. Myanmar extended full cooperation for the visit of the Special Envoy for three times on 12–21 June, 11–13 July, and 11–21 October 2018 respectively. During her visits, Myanmar has arranged series of meetings with the relevant authorities and stakeholders from various communities and visits to the Rakhine and Shan states to see and understand the situation on ground. The Government of Myanmar has already informed the Special Envoy its agreement for her proposal to open the office in Nay Pyi Taw since her first visit to Myanmar.

6. The Situation in Rakhine State

The Rakhine issue is one of the colonial legacies. It began when people from Chittagong were brought to Myanmar to do agriculture and plantation works operated by colonialists. Over the years, their number multiplied due to various reasons —

expansion of families, weak border enforcement and corruption that lead to illegal migration, human smuggling and trafficking.

Over the century, the ethnic Rakhine people and the Muslims have never integrated nor assimilated though they used to live in harmony. Conflicts did break out from time to time in the past but never to a scale of communal violence until in recent times where the confluence of many factors made it into one of the most politicized and publicized issues in democratic Myanmar. The division between the two communities is so deeply wedged that there seems to be a race to get an advantage against each other by turning the situation into more than what it should have been. For example, the situation sometimes has been characterized as religious conflicts between Buddhists and Muslims and at other times as human rights issue highlighting only the plight of so called "Rohingya" being trafficked, persecuted, forced to flee, or as an issue of racial identity. In reality, both groups are very much in the same situation.

The Rakhine people feel that they have no voice to stop what is happening in their region. They are indigenous to the area but now being overtaken by foreign illegal immigrants who are growing drastically in number. They have now becomes a minority in their hometown. They are being pressured to accept the situation. There is a fear that they risk being further marginalized. To them, the international community seemed to be discriminately paying more attention and giving more sympathies to the illegal migrants.

The government is being criticized as not doing enough and is partial to one or another. There are fears and mistrusts between the two groups incited by many internal and external factors while there was also a sense of urgency to take advantage of the current international and domestic political narratives and opportunities to push forward their cause.

Against this background, the complex challenges presented to the NLD Government call for sensitivities to understand and recognize the plights of both communities, to work towards building trust and allaying their fears, and to be mindful and careful at each and every step not to be seen as bias or indifference. At the same time paying attention to concerns and furor from domestic and international communities as well as to all other political elements who do not wish to see the Government succeeds. The Government is cognizant that it has a burden to prove its sincerity and commitment to finding a sustainable resolution to the issue; and that peace and stability will not last in the Rakhine region unless the resolution is obtained transparently, legitimately and justly for both communities.

6.1 First coordinated attack of ARSA in 2016

On 9 October 2016, a religious extremist terrorist group called AqaMul Mujahidin (later became Arakan Rohingya Salvation Army-ARSA) launched its first attack on three Border Police posts in northern Rakhine State. The attack was premeditated and well organized, causing death of 13 security personnel and other civilians. Their goal was clearly to incite violence and attract international attention of the issue at the time when the whole world was welcoming Myanmar's peaceful democratic transition. The terrorist attack took place in slightly over a month after the formation of Advisory Commission on Rakhine State headed by late Dr. Kofi Annan, former UN Secretary-General. The Commission was set up with an aim to finding a sustainable solution to the issue of Rakhine State.

6.2 Second coordinated attack of ARSA followed by Exodus

Just a few hours after Mr. Kofi Annan handed over the Advisory Commission's final report to the Government, ARSA launched premeditated, well planned and

coordinated simultaneous armed attacks in the early hour of 25 August 2017 on 30 Border Guard posts and one army Battalion headquarters in northern Rakhine. The attacks caused death of dozens of security personnel as well as many innocent civilians. ARSA claimed responsibility for the coordinated attacks.

Due to the planned and coordinated attacks on security forces and brutal killings of innocent people, the anti-terrorism Central Committee of the Government of Myanmar declared ARSA as a terrorist group, in accordance with Counter-Terrorism Law. The United Nations Counter Terrorism Committee has also been informed.

The highest Islamic organization in Myanmar, the "All Myanmar Islamic Religious Organization" as well as the "Interfaith Dialogue Group of Myanmar" issued statements condemning the acts of terror committed by ARSA and expressed their solidarity with the government. They stressed that no religion can condone violence that result in the loss of life and property. They expressed their support for the government's efforts to address the situation in Rakhine and its endeavours to promote national reconciliation and peace in the entire country.

ARSA has also brutally killed several non-Muslims ethnic minorities in northern Rakhine since October 2016, including massacre of a hundred Hindus.

The Hindu people, Rakhine and other smaller ethnic minorities such as Mro, Daingnet, Khami had to flee their homes towards the south such as Sittwe in fear of their lives while Muslim community to the north, towards the border with Bangladesh. In terms of percentage, these smaller ethnic minorities make up a significant number. Sadly, their plights have been overlooked by the many observers.

The exodus of Muslim refugees has several reasons. Prominent among them is the fear factor. As the fighting against ARSA terrorist groups broke out, many fled for fear factor. Most of the women and children were forced to flee and the men were forced to join ARSA in fighting against security forces and intimidating all villagers to flee from the affected area to attract international attention.

Terrorists were spreading seeds of terror among the populations by brutal and savage murders of those considered to be collaborating with the government. ARSA group and its members were threatening the Muslim villagers not to remain in villages to flee to Bangladesh side. Those who chose to stay peacefully were intimidated by violence including explosion of bombs in their villages.

All communities living in the area are affected by the acts of terror and suffered from psychological trauma.

6.3 Strategy of ARSA

The ARSA's attacks triggered predictable and logical response of Myanmar security forces to protect the life and property of every citizen, resulting in the subsequent mass displacement of people.

They also had anticipated exodus of people from northern Rakhine to Bangladesh. These events were no doubt well planned and executed with the support of foreign terrorist organizations and accomplices at international level.

Their objective was to undermine Myanmar Government's commitment and efforts to find lasting solution through the speedy implementation of the Advisory Commission's recommendations and to elicit maximum international pressure on Myanmar to achieve their political goals.

The intention of ARSA terrorists is ultimately to carve out a separate territory for themselves. To achieve this aim, they carried out the attacks with a clear strategy which was publicly declared: Firstly, killing security and government personnel;

Secondly, killing people who are believed to be collaborating with the government; Thirdly, killing ethnic people such as Rakhine, Mro, Daingnet and people from other religion; Fourthly, launching brutal attacks and threatening the remaining inhabitants to flee these areas through intimidation and fear.

6.4 Concerns for linkage with Foreign Terrorist Fighters — FTF

Foreign Terrorist Fighters — FTFs are capable to infuse existing domestic terrorist networks or create a new terrorist organization in a third country by relocating their members to radicalize the targeted community and recruit new followers.

The current crisis in Rakhine State of Myanmar was ignited by the unprovoked armed attacks of Arakan Rohingya Salvation Army (ARSA) Terrorist group aka Al Yaqin on 30 Border Guard Police posts in August 2017. According to the international intelligence sources, the group has been guided and supported by foreign terrorist groups such as Al-Qaeda, ISIL, and Tehrik-e-Taliban Pakistan (TTP) who have called for Jihad against Myanmar government. ARSA's leader Atta Ulla himself was born, raised and trained as a terrorist in foreign countries, and commanding terrorist acts from outside of Myanmar.

It is vital to formulate concerted multilateral response against transnational and multifaceted evolving threats of FTFs. The current global security situation demands the need for countries to establish operational partnership in finding practical solutions to deal with the threats of FTFs.

Myanmar is seriously concerned that the support of regional and international terrorist organizations would make ARSA part of regional terrorism-networks. Any support, including moral support to terrorists, wittingly or unwittingly, must be avoided.

Myanmar stresses the importance of monitoring ARSA's activities in the region and their possible links with FTFs.

7. International pressure and domestic concerns

Although the international community seems to accept that the Rakhine issue is a complex and deep rooted problem, the various bodies and mechanisms within the United Nations are being misused to put pressure on Myanmar under the pretext of defending human rights.

The Government of Myanmar rejected the Independent International Fact-Finding Mission (FFM) on Myanmar since its establishment by the Human Rights Council in March 2017. Since then, the Government has also made clear that it would not accept the results of its findings, as its establishment raised genuine concerns for lack of impartiality and will be a hindrance to the Government's efforts to find sustainable solution to the issue in Rakhine State. The report of the FFM has only served to strengthen the Government's concerns. Not only is this report detrimental to social cohesion in Rakhine State, it also undermines the Government's efforts to bring peace, national reconciliation and development to the entire nation. The FFM under tremendous pressure, reported the information they wanted to believe and jump to a dangerous conclusion that could derail the democratization process and disintegration of the national unity.

In addition to the annual resolution on the human rights situation in Myanmar adopted in the every March session, the Human Rights Council in its 39th session adopted with a vote a resolution titled "Situation of human rights of Rohingya Muslim

and other minorities in Myanmar" is yet another reflection of the FFM report. The resolution was based on serious, but unverified accusations and recommendation of the FFM that could even endanger the national unity of the country. Non-constructive measures and retributive actions will only lead to further polarization of the divided communities and institutions Myanmar wish to reconcile and worsen the already complicated situation and undermine the government's ongoing efforts to bring peace, national reconciliation and development in the entire nation.

The resolution contains intrusive languages and demands that will not contribute to finding lasting solution to the delicate and complex situation of Rakhine state. Some elements in the resolution make direct challenge to the sovereignty of a nation. A United Nations forum such as Human Rights Council should not be a platform for such an intrusive approach and it will be setting a bad precedence for other member states. Myanmar categorically rejected the resolution.

In addition, its references to the establishment of the independence mechanism to collect consolidate preserve and analyse evidence of the crimes and violations of international law committed in Myanmar since 2011 does not include in the Council's mandate. Even a cosponsor country of the resolution made a reservation on some paragraphs of the resolution including acting beyond mandate of the Human Rights Council.

The 72nd UNGA adopted with a vote a resolution entitled situation of human rights in Myanmar and it mandated the Secretary-General to appoint a special envoy on Myanmar.

Myanmar consistently opposes any politically motivated county specific resolution in the Third Committee of the General Assembly. Myanmar always upholds the principles of non-politicization, non-selectivity, objectivity, impartiality, respect for national sovereignty and non-interference in the internal affairs of other states in considering human rights situations.

The General Assembly resolution 60/251 of 15 March 2006 established the Human Rights Council and universal periodic review mechanism with the objective to build constructive engagement based on mutual respect and cooperation in promotion and protection of human rights. Myanmar believes that the universal periodic review process is the most appropriate mechanism for addressing human rights situations.

Myanmar believes that the resolutions on Myanmar as selective, unfair and discriminatory treatment of a member state in the United Nations system.

In addition to the discussion in the Human Rights Council and the Third Committee of the UN General Assembly, some member states of the United Nations Security Council occasionally request the issue of Myanmar to be discussed in the Council.

Pressuring Myanmar in different UN fora does not help Myanmar's efforts for solving the issue, but rather lead to further polarization and escalation of tensions among different religious communities in the country and beyond.

It has always been the cornerstone of its foreign policy to cooperate with the United Nations. Myanmar accepted the visit of the members of the UN Security Council in April 2018. Similarly, Myanmar has been cooperating with the Special Envoy of the Secretary-General.

Myanmar is not a party to the Rome Statute and the Court has no jurisdiction on Myanmar whatsoever. Regardless, the ICC's Prosecutor has made a Prosecution's

Request for a Ruling on Jurisdiction under Article 19(3) of the Statute ("the Request") to the ICC and has requested Myanmar to submit its opinion.

Myanmar has declined to engage with the ICC by way of a formal reply due to the reasons stated in the Press Release of the Office of the State Counsellor of Myanmar dated 9 August 2018.

The actions of the Prosecutor constitute an attempt to circumvent the spirit of article 34 of the Vienna Convention. By allowing such a contrived procedure, the ICC may set a dangerous precedent whereby future populistic causes and complaints against non-State Parties to the Rome Statute may be litigated at the urging of biased stakeholders and non-governmental organizations and even then, selectively based on the political current of the times.

8. Government's practical efforts to address the issue of Rakhine State

The issue of Rakhine State is extremely complex. Years of living separate communal lives, based on religious and social identities and increasing competition over limited economic resources have led to diminishing trust and harmony between communities in Rakhine State. The incidents in 2012 deteriorated and the terrorist attacks by ARSA in 2016 and 2017 further worsen the situation.

Recognizing the urgent need to find a lasting peace, harmony, and development for all communities in Rakhine, the Government places the issue of Rakhine State as top priority and puts all-out efforts to address it effectively and swiftly. The followings are national mechanisms to address the issue.

8.1 The Central Committee on the Implementation of Peace, Stability and Development of the Rakhine State

The Central Committee on the Implementation of Peace, Stability and Development of the Rakhine State, led by the State Counsellor, was established on 30 May 2016. The Central Committee laid down the necessary guidelines to synchronize the work of different government agencies in improving the lives of both communities in Rakhine State.

8.2 Advisory Commission on Rakhine State

In addition, Myanmar set up Advisory Commission on the Rakhine State chaired by the late former UN Secretary-General Dr. Kofi Annan on 5 September 2016 in order to accommodate the international perspective in seeking sustainable solutions to the complex issue for the peace, stability and development of all communities residing in Rakhine. The Advisory Commission released its final report, which includes 88 recommendations on 24 August 2017. The Government of Myanmar has been immediately implementing 57 recommendations which are in accordance with the situation on the ground. The Government is now expanding its implementation to 81 recommendations.

8.3 Investigation Commission on Maungtaw, Rakhine State

National-level Investigation Commission, headed by Vice President U MyintSwe, consisted of 13 eminent persons from various fields, was formed on 1 December 2016. The Commission was mandated to look into, inter alia, the incidents of violent attacks in Maungtaw, their background situations, root causes and allegations of human rights abuses. The Commission submitted its report directly to

the President with 49 recommendations to the government, including formation of high-level committee to implement its suggested actions.

8.4 Committee for the Implementation of the Recommendations on Rakhine State

The Committee for Implementation of the Recommendations on Rakhine State was formed on 12 September 2017 with 15 members led by Dr. Win Myat Aye, Union Minister for Social Welfare, Relief and Resettlement to implement the recommendations of the Advisory Commission on Rakhine State and Investigation Commission on Maungtaw. As the Committee is responsible for informing the progress to the public quarterly, the reports were released and reported in the state-owned newspapers in February, June and October 2018 respectively for public observation.

8.5 Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD)

The Union Enterprise for Humanitarian Assistance, Resettlement and Development in Rakhine (UEHRD) was launched on 17 October 2017 to enhance humanitarian assistance, resettlement and development of the State aiming to mobilize the participation of the people, volunteers, private sectors and the interested donor countries, UN agencies and local and regional NGOs.

The State Counsellor leads the UEHRD and the Union Minister for Social Welfare, Relief and Resettlement is Vice-Chairman. The UEHRD is working closely with the private sector as well as the civil society. It also collaborates with the Government organizations at the union and regional levels. International partners, donor agencies, United Nations Organizations are invited to participate in its process. Myanmar is ready and willing to receive verified returnees, and is also working towards beyond repatriation. Therefore, the 10 task forces are working together in this regard.

8.6 Advisory Board for the Committee for Implementation of the Recommendations on Rakhine State

In order to provide external perspectives and advices to the Committee for the Implementation of the Recommendations, the Advisory Board for the Committee for Implementation of the Recommendations on Rakhine State was formed on 14 December 2017, with eminent personalities from home and abroad aiming to scope both local and international dimensions on the issue. It was headed by Dr. SurakiatSathirathai, former Deputy Prime Minister and Foreign Minister of Thailand.

The Board provided 5 recommendations at its interim report and 7 recommendations in its final report. The Advisory Board completed its works after submitting the final report. The Board’s recommendations include matters related to promoting inter-communal dialogue, the pilot project for a model township and assistance to the health sector in Rakhine State. Therefore, some members of the Advisory Board, in their personal capacities, remain engaged with these issues. The Board also recommended setting up a nationally initiated independent commission of enquiry.

8.7 Independent Commission of Enquiry

Upon the recommendation of the Advisory Board, the Government has established a 4-member Commission on 30 July 2018, led by Ambassador Rosario Manalo, former undersecretary of the Ministry of Foreign Affairs of the Philippines

and Former Chair and Current Representative of the Philippines to CEDAW. Another member of the Commission is Ambassador Kenzo Oshima, former Under-Secretary-General for Humanitarian Affairs of UN and former Permanent Representative of Japan to UN.

The Commission is tasked to investigate allegations of human rights violations and related issues following the terrorist attacks with a view to seeking accountability and reconciliation, and to formulate recommendations on steps to be taken to ensure peace and stability in Rakhine State. The Commission will submit its report to the President of Myanmar within a year, including its recommendations prepared on the basis of the outcomes of its investigation.

Since its establishment, ICoE has visited Myanmar 3 times and held meetings with relevant authorities as well as other stakeholders. They also visited Rakhine State met with various communities.

9. Repatriation

The Government of Myanmar shares deep sympathy and concern for all displaced persons especially women and children and pays high priority to the repatriation.

9.1 Bilateral approach

With regard to the repatriation of the displaced persons from Rakhine State, Myanmar is cooperating closely with Bangladesh and (3) documents have been signed between the two countries. In line with these bilateral arrangements, Myanmar has been making arrangements, with full momentum, for the repatriation of verified displaced persons. The process of repatriation was scheduled to have commenced on 23 January 2018. Since then, Myanmar has been ready to receive verified returnees.

9.2 Bilateral agreements between Myanmar and Bangladesh

Repatriation is put as one of the priorities among many recommendations on Rakhine State. The Governments of Myanmar and Bangladesh signed “Arrangement on Return of Displaced Persons from Rakhine State” on 23 November 2017, the Terms of Reference (ToR) for the Joint Working Group on the repatriation of displaced Myanmar residents from Bangladesh on 19 December 2017 and “The Physical Arrangement for Repatriation of Displaced Myanmar Residents from Bangladesh” on 16 January 2018 respectively.

As agreed in the Physical Arrangement, Myanmar has prepared to receive verified returnees at two reception centres, Taung PyoLetwe for land route returnees and Nga Khu Ya for sea route returnees, and will locate them at Hla Phoe Kaung transit camp before sending them back to their respective places.

9.3 Progress on providing lists of verified returnees

Myanmar side provided the Bangladesh side with the detailed list of 508 persons of Hindu faith, and 750 persons of Muslim faith who had been verified as residents in Myanmar and suggested the latter to include them in the first batch of repatriation at the First Joint Working Group Meeting held in Nay Pyi Taw in January 2018. On 19 March 2018, Myanmar has sent the revised list of verified persons of 444 Hindu faiths and 778 Islamic faiths to Bangladesh side through diplomatic channels.

On 17 February 2018, during the visit of the Union Minister for Home Affairs of Myanmar to Bangladesh, the Bangladesh side presented the forms of the list of

8,032 people from 1,673 households for verification. However, the forms provided were not the prescribed forms mutually agreed by both sides.

Therefore, the Ministry of Foreign Affairs informed and made a number of notifications to the Bangladesh side to comply with the agreement reached between the two countries and use the mutually agreed Verification Forms annexed to the Physical Arrangement.

Despite above-mentioned technical issues, the Department of Immigration has been making utmost efforts in verifying the people in the list, and as of 3 October 2018, Myanmar has provided Bangladesh with a list of a total of 6,472 verified persons out of 8,032. Among 6,472 verified persons, 4,654 were verified as the residents in Rakhine, 54 as terrorists and 1,764 as the persons not included in the registered List of Family Household in Myanmar.

The Second Joint Working Group meeting was held in Dhaka on 17 May 2018. During the meeting, the Bangladesh side proposed that they would send filled-up agreed verification forms with relevant data and information along with photographs of prospective returnees, but without signature and fingerprint.

The third Joint Working Group meeting is scheduled to hold in Dhaka on 28 October 2018.

Myanmar welcomes the recent announcement of the Foreign Minister of Bangladesh at the press briefing that the first batch of 6,000 Rohingya refugees would be sent back to Myanmar soon. Myanmar reiterates its readiness to receive the verified returnees soonest.

9.4 Exchange of visits between Myanmar and Bangladesh

A number of exchange visits have been conducted between the two countries, in order to enhance mutual understanding and bilateral cooperation. Such visits include the visit of Union Minister for International Cooperation U Kyaw Tin to Bangladesh on 10–13 January 2017, the visit of National Security Advisor U Thaung Tun to Bangladesh on 2–4 July 2017, the visit of Union Minister for the Office of the State Counsellor U Kyaw Tint Swe to Bangladesh on 1–3 Oct 2017, the visit of Union Minister for Home Affairs Lt. General Kyaw Swe to Bangladesh on 15–17 February 2018, the visit of Union Minister for Social Welfare, Relief and Resettlement Dr. Win Myat Aye to Bangladesh on 11–13 April 2018, and the visits of Minister for Home Affairs of Bangladesh to Myanmar on 23–25 October 2017.

At the invitation of the Myanmar side, Bangladeshi Foreign Minister Mr. Abul Hassan Mahmood Ali visited Myanmar on 22–23 November 2017 and also on 9−11 August 2018. He also visited Rakhine State to see preparations for reception of displaced persons.

The discussions resulted to reach (8) point-agreement to resolve the Rakhine issue amicably. Repatriation will be in a voluntary, safe and dignified manner. In this light, a hotline has been established between the Ministers to facilitate ease of discussions.

9.5 Matters related to Myanmar-Bangladesh border area

Myanmar-Bangladesh border forces held their meetings occasionally and discussed matters related to incidents along the border area, illegal border crossings, coordinated patrols along the border, information transfers, opening of a border liaison office (BLO). The BLO office will soon be opened in Taknaf, Cox’s Bazar district. The two sides will share information on security and the rule of law and will coordinate security measures.

Coordinated patrols along the land border of Myanmar and Bangladesh has been conducted 74 times, and coordinated patrols along the Naf River have been conducted 14 times from May to August 2018.

9.6 MoU between Myanmar, UNDP and UNHCR

The Government has invited UNDP and UNHCR to assist the government's efforts in repatriation process. Consequently, the Ministry of Labour, Immigration and Population of Myanmar and, UNDP and UNHCR signed the MoU on 6 June 2018.

The Technical Working Group (TWG) of the MoU has so far held coordinating meetings for five times and conducted first phase of field visit to 23 villages in northern Rakhine State on 21–23 July.

The UN team has been conducting second phase of assessment in 26 villages from 5 October to 5 November 2018.

9.7 Cooperation with ICRC

Humanitarian assistance is being provided to all affected communities in Rakhine State through Red Cross Movement. Myanmar also requested ICRC to provide humanitarian assistance to those residing in the boundary line area only from Myanmar side. In this regard, ICRC conducted preliminary assessment on 12-9-2018 in cooperation with the Myanmar Red Cross Society under the Red Cross Movement.

9.8 Cooperation with ASEAN

Myanmar as a member of ASEAN, is working closely with other members of ASEAN. Myanmar is receiving humanitarian assistance from the Coordinating Centre for Humanitarian Assistance on Disaster Management (AHA) and planning to expand its cooperation with ASEAN in resettlement and livelihood of the returnees. The Informal ASEAN Foreign Ministers' Meeting (IAMM) in New York held on during the current 73rd Session of the United Nations General Assembly discussed the Rakhine State issues and agreed to work together to find a solution.

9.9 Trilateral Informal Meeting

At the invitation of State Councilor and Foreign Minister of the People's Republic of China, Mr Wang Yi, Union Minister for Office of the State Counsellor U Kyaw Tint Swe paid a working visit to Beijing on 28 June, 2018. During the visit, a trilateral informal meeting was held between the Union Minister, Foreign Minister Mr. Abul Hassan Mahmood Ali and the State Councellor and Foreign Minister Mr. Wang Yi. The trilateral informal meeting reached consensus on a three-phased solution: "cessation of violence, repatriation and development".

During the high-level week of the current United Nations General Assembly in New York, China organized an informal trilateral meeting. The UN Secretary-General António Guterres and Special Envoy were also present at the meeting by invitation. The meeting was held in a friendly, candid and constructive atmosphere, with a three-point consensus reached. First, Myanmar and Bangladesh agreed to properly solve the Rakhine issue through friendly consultations. Second, the Bangladeshi side said it is prepared to repatriate the first group of displaced persons fled from Myanmar's Rakhine State to Bangladesh, while the Myanmar side said it is prepared to receive them. Third, Myanmar and Bangladesh agreed to hold a joint working group meeting as soon as possible so as to work out a roadmap and timetable for the repatriation and achieve the first repatriation as early as possible.

10. Conclusion

In Rakhine State, hundreds of new jobs and opportunities have been created for local people through public-private partnerships in recent years. An assessment has been made on the viability of a new Special Economic Zone that would bring new jobs and businesses to the region. In terms of new infrastructure, electrification has been expanded and new roads and bridges have been built, including a new highway connecting remote areas only accessible by boat previously.

Alongside the Rakhine Advisory Commission's recommendations, the work of the Independent Commission of Enquiry will become an important guiding light for the resolution of long out reached problems in Rakhine State. The challenges facing Myanmar are complex and multifaceted. The greatest strength of a democratic transition is the involvement of the people. To weld together the will and purpose of millions into a whole that allows the wonderful diversity of our country to shine through is a formidable undertaking.

Every country has an obligation to play two roles as member of the international community. One as a member of the international community and the other as sovereign independent nation to serve the interest of its people. Every country has to try to strike a balance between these two roles. The Government of Myanmar believes that the human rights can only be upheld by rule of law and by national reconciliation, particularly in Myanmar where there are over 130 different ethnic groups living together as a nation.

The Government of Myanmar will continue to stride with the unity and strength of its people for peace, national reconciliation, rule of law and social-economic development of the people despite all the formidable challenges it is facing. We are resolute to fulfil the ultimate aspiration of the people to build a democratic federal union where justice, freedom and equal opportunity for all its citizens are guaranteed. The international community can best assist Myanmar in realizing its democratic nation building by rendering constructive contribution towards Myanmar's endeavours based on mutual understanding and mutual respect.