



General Assembly

Distr.: Limited
25 September 2019

Original: English

Human Rights Council

Forty-second session

9–27 September 2019

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the
High Commissioner and the Secretary-General**

**Australia, Austria, Belgium,* Bulgaria, Canada,* Croatia, Cyprus,* Czechia,
Denmark, Estonia,* Finland,* France,* Germany,* Greece,* Hungary, Iceland,
Ireland,* Italy, Latvia,* Lithuania,* Luxembourg,* Malta,* Monaco,* Montenegro,*
Netherlands,* New Zealand,* North Macedonia,* Norway,* Pakistan,** Peru,
Poland,* Portugal,* Romania,* Slovakia, Slovenia,* Spain, Sweden,* United Kingdom
of Great Britain and Northern Ireland and State of Palestine:* draft resolution**

42/... Situation of human rights of Rohingya Muslims and other minorities in Myanmar

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and recalling the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Right of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, and other relevant international human rights law,

Recalling relevant resolutions of the General Assembly and the Human Rights Council, the most recent being Assembly resolution 73/264 of 22 December 2018 and Council resolutions 40/29 of 22 March 2019, 39/2 of 27 September 2018, 37/32 of 23 March 2018, 34/22 of 24 March 2017, 29/21 of 3 July 2015, S-27/1 of 5 December 2017 and Council decision 36/115 of 29 September 2017,

Welcoming the work and the reports of the Special Rapporteur on the situation of human rights in Myanmar, while deeply regretting the decision of the Government of Myanmar to discontinue cooperation with the Special Rapporteur and to deny her access to the country since January 2018,

Welcoming also the work of the Special Envoy on Myanmar, and encouraging her further engagement and dialogue with the Government of Myanmar,

* State not a member of the Human Rights Council.

** On behalf of the States Members of the United Nations that are members of the Organization of Islamic Cooperation.



Welcoming further the work of the independent international fact-finding mission on Myanmar, including its final report,¹ the detailed findings of the independent international fact-finding mission on Myanmar,² its paper on the economic interests of the Myanmar military³ and its paper on sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts,⁴ and appreciating its important work to ensure that the large and continually increasing amount of evidence of human rights violations and abuses it has collected is fully documented, verified, consolidated and preserved in order for the material to be effectively shared, accessed and used by the ongoing independent mechanism established by the Human Rights Council in its resolution 39/2, referred to as the Independent Investigative Mechanism for Myanmar by the Secretary-General in his terms of reference for the Mechanism,⁵ and deeply regretting that the Government of Myanmar did not cooperate with the fact-finding mission,

Welcoming the first report of the Mechanism,⁶

Recognizing the ongoing remarkable humanitarian efforts and commitments that the Government of Bangladesh has extended to those fleeing human rights violations and abuses in Myanmar, in cooperation with United Nations agencies and the international community,

Condemning all violations and abuses of human rights in Myanmar, including against Rohingya Muslims and other minorities, and expressing deep concern at the reports of ongoing human rights violations, as also noted by the United Nations High Commissioner for Human Rights in her oral update on 10 July 2019, as well as at the ongoing non-cooperation of the Government of Myanmar and the denial of access to United Nations mechanisms, including for the Special Rapporteur on the situation of human rights in Myanmar and the independent international fact-finding mission on Myanmar,

Noting the steps taken by the Government of Myanmar towards establishing a national strategy for the sustainable closure of camps for internally displaced persons in Myanmar, and emphasizing the need for the Government to consult with United Nations agencies, humanitarian and development actors and displaced persons to ensure its durable implementation, in accordance with international standards on safe, voluntary, dignified and sustainable return, by guaranteeing citizenship, the reassertion of those persons' control over their original land and safety and security, freedom of movement, unimpeded access to livelihoods and essential services, including health services, education and shelter, and compensation for all losses,

Recalling the establishment of the Independent Commission of Enquiry on 30 July 2018 by the Government of Myanmar, stressing the importance of the need to demonstrate its independence, transparency, objectivity and credibility while ensuring witness protection and confidentiality, and encouraging the Commission to cooperate with all relevant United Nations mandate holders, as appropriate,

Recalling that States have the primary responsibility to respect, protect and fulfil human rights, and have the responsibility to comply with their relevant obligations to prosecute those responsible for violations of international law, including international humanitarian law and international human rights law, and for abuses of human rights law, and to provide an effective remedy to any person whose rights have been violated, such as restitution, compensation, rehabilitation, satisfaction and guarantees of non-recurrence, with a view to ending impunity and ensuring accountability and justice,

¹ A/HRC/42/50.

² A/HRC/42/CRP.5, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/session42/Pages/ListReports.aspx.

³ A/HRC/42/CRP.3, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/session42/Pages/ListReports.aspx.

⁴ A/HRC/42/CRP.4, available at www.ohchr.org/EN/HRBodies/HRC/RegularSessions/session42/Pages/ListReports.aspx.

⁵ See A/73/716, annex.

⁶ A/HRC/42/66.

Noting the important role of regional organizations, and recognizing the efforts of the Association of Southeast Asian Nations to provide humanitarian assistance in Myanmar, supporting Myanmar in creating an environment that is conducive to the safe, voluntary and dignified return of displaced persons, and reiterating the need to work in close coordination and in full consultation with the Rohingya, as well as with all relevant United Nations agencies and international partners and to address the root causes of the conflict, so that affected communities can rebuild their lives there,

Acknowledging the efforts of the Organization of Islamic Cooperation, alongside relevant international efforts, aiming to bring peace and stability to Rakhine State, including through the appointment by the Organization of a special envoy to Myanmar,

1. *Expresses grave concern* at continuing reports of serious human rights violations and abuses in Myanmar, including against Rohingya Muslims and other minorities, including of arbitrary arrests, torture and other cruel, inhuman or degrading treatment or punishment, forced labour, the use of school buildings for military purposes, socioeconomic exploitation, the forced displacement of more than a million Rohingya Muslims to Bangladesh, and sexual and gender-based violence against women and children, as well as restrictions on exercising the rights to freedom of religion or belief, expression and assembly, in particular in Rakhine, Chin, Kachin and Shan States;

2. *Expresses serious concern* at the recent escalation of violence in Rakhine State causing the loss of lives, displacement and further human suffering, and calls upon all parties to show restraint, to respect their relevant obligations under international human rights law and international humanitarian law, to ensure the safety and protection of civilians and to show readiness to re-engage in dialogue;

3. *Reiterates* the urgent need to ensure that all those responsible for crimes relating to violations and abuses of international law, including international human rights law, international humanitarian law and international criminal law, are held to account through credible and independent national, regional or international criminal justice mechanisms, and therefore stresses the need for an urgent criminal investigation into alleged crimes against humanity and war crimes in all affected territories in Myanmar, recalls the authority of the Security Council, and welcomes ongoing efforts at the international level;

4. *Calls upon* Myanmar to end immediately all violence and all violations of international law in Myanmar, to ensure the protection of the human rights of all persons in Myanmar, including of Rohingya Muslims and persons belonging to other minorities, and to take all measures necessary to provide justice to victims, to ensure full accountability and to end impunity for all violations of human rights by undertaking a full, transparent and independent investigation into reports of all violations of international human rights law and international humanitarian law;

5. *Emphasizes* the importance of conducting international, independent, fair and transparent investigations into the gross human rights violations in Myanmar, including sexual and gender-based violence against women and children, and to hold accountable all those responsible for brutal acts and crimes against all persons, including the Rohingya, in order to deliver justice to victims using all legal instruments and international judicial mechanisms;

6. *Calls for* the immediate cessation of fighting and hostilities, of the targeting of civilians and of all violations and abuses of international human rights law and international humanitarian law, and the implementation of an inclusive and comprehensive national political dialogue and nationwide reconciliation process while ensuring the full, effective and meaningful participation of all ethnic groups, including Rohingya Muslims and other minorities, women and young people, and persons with disabilities, as well as civil society, with the objective of achieving lasting peace, and calls upon political and religious leaders in Myanmar to work for a peaceful resolution through dialogue towards national unity;

7. *Reiterates* the urgent call upon the Government of Myanmar to take the measures necessary to promote the inclusion, human rights and dignity of all people living

in Myanmar, to address the spread of discrimination and prejudice and to combat incitement to hatred against Rohingya Muslims and other minorities by publicly condemning such acts and enacting necessary anti-hate speech laws, in accordance with international human rights standards, and by promoting interfaith dialogue in cooperation with the international community, and encourages political and religious leaders in the country to work towards national unity through dialogue;

8. *Also reiterates* the urgent call upon the Government of Myanmar to sustain the democratic transition of Myanmar, in particular in view of the general elections in 2020 called by the Government, by bringing all national institutions, including the military, under the democratically elected civilian Government;

9. *Welcomes* the restoration of Internet and data services in five townships in Rakhine and Chin States, but calls upon the Government of Myanmar to lift the shutdown in the remaining four townships in Rakhine State and to repeal article 77 of the Telecommunications Act in order to avoid any further cutting of Internet access and the stifling of the rights to freedom of opinion and expression and information, in accordance with international human rights law;

10. *Also welcomes* the adoption by the Government of Myanmar of a new law on children's rights allowing, inter alia, the registration at birth of all children, and the agreement by Parliament to the ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, but emphasizes the need for the Government to further protect the right of all children, including Rohingya children, to acquire citizenship in order to eliminate statelessness, in accordance with the obligations of Myanmar under the Convention on the Rights of the Child, and to ensure the protection of all children in armed conflict;

11. *Urges* the Government of Myanmar to cooperate fully with and to grant full, unrestricted and unmonitored access to all United Nations mandate holders and human rights mechanisms, including the Special Rapporteur, the ongoing independent mechanism established by the Human Rights Council in its resolution 39/2, referred to by the Secretary-General as the Independent Investigative Mechanism for Myanmar in his terms of reference for the Mechanism, relevant United Nations agencies and international and regional human rights bodies to independently monitor the situation of human rights, and to ensure that individuals can cooperate without hindrance with these mechanisms without fear of reprisal, intimidation or attack, and expresses deep concern that international access to affected areas of Northern Rakhine State remains severely restricted for the international community, including for United Nations agencies, humanitarian actors and international media;

12. *Welcomes* the entry into operation on 30 August 2019 of the Mechanism, with its mandate to collect, consolidate, preserve and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011, and to prepare files in order to facilitate and expedite fair and independent criminal proceedings, in accordance with international law standards, in national, regional or international courts or tribunals that have or may in the future have jurisdiction over these crimes, in accordance with international law, and urges the Mechanism to swiftly advance its work and to ensure the effective use of evidence of the most serious international crimes and violations of international law collected by the independent international fact-finding mission;

13. *Calls for* close cooperation between the Mechanism and any ongoing or future investigations pertaining to serious international crimes and violations of international law in Myanmar by national, regional or international courts or tribunals;

14. *Calls upon* the United Nations to ensure that the Mechanism is afforded the necessary support and resources it needs in terms of staffing, location and operational freedom so it can deliver as effectively as possible on its mandate, and urges Member States in the region to cooperate with the Mechanism, to grant it access and to provide it with every assistance in the execution of its mandate;

15. *Welcomes* the final report of the independent international fact-finding mission,¹ and urges the Government of Myanmar and the international community to give due consideration to the recommendations contained in the reports of the fact-finding mission;

16. *Reiterates* the importance of the full implementation of all recommendations of the Advisory Commission on Rakhine State to address the root causes of the crisis, including those on the right to a nationality and equal access to citizenship, freedom of movement, the elimination of systematic segregation and all forms of discrimination, and inclusive and equal access to health services and education, and birth registration, in full consultation with all ethnic and religious minorities and persons in vulnerable situations, as well as civil society;

17. *Calls upon* the Government of Myanmar to make efforts to eliminate statelessness and the systematic and institutionalized discrimination against members of ethnic and religious minorities, in particular relating to the Rohingya Muslims, by, inter alia, reviewing the 1982 Citizenship Law, which has led to the deprivation of human rights; by ensuring everyone's right to a nationality and equal access to full citizenship through a transparent, voluntary and accessible procedure and to all civil and political rights by allowing for self-identification; by amending or repealing all discriminatory legislation and policies, including discriminatory provisions of the set of "protection of race and religion laws" enacted in 2015 covering religious conversion, interfaith marriage, monogamy and population control; and by lifting all local orders restricting rights to freedom of movement and access to civil registration, health and education services and livelihoods;

18. *Urges* the Government of Myanmar to take all measures necessary to reverse and abandon policies, directives and practices that marginalize Rohingya Muslims and other minorities, to prevent the destruction of places of worship, cemeteries, infrastructure and commercial or residential buildings belonging to all peoples, to ensure that all displaced persons, including Rohingya Muslims and persons belonging to other minorities, in Rakhine State and throughout Myanmar, including the 128,000 Rohingya and Kaman Muslims who have been confined in camps in central Rakhine since 2012, can return to their homes and properties with freedom of movement and unimpeded access to livelihoods and essential services, to review relevant laws, and to address the root causes of their vulnerability and forced displacement;

19. *Welcomes* the recent extension for one year of the memorandum of understanding between the Government of Myanmar, the United Nations Development Programme and the Office of the United Nations High Commissioner for Refugees to associate them to the implementation of bilateral arrangements with Bangladesh on the return of displaced persons from Rakhine State, and emphasizes the need for the Government of Myanmar to continue to cooperate fully with the Government of Bangladesh and with the United Nations, in particular the Office of the United Nations High Commissioner for Refugees, and in consultation with the populations concerned to enable the safe, voluntary, dignified sustainable and well-informed return of all refugees and forcibly displaced persons, including internally displaced persons, to their places of origin in Myanmar, and to give returnees freedom of movement and unimpeded access to livelihoods, social services, including health services, education and shelter, and to compensate them for all losses;

20. *Calls upon* the Government of Myanmar, in line with the bilateral instruments on repatriation signed by Bangladesh and Myanmar, to take concrete steps towards the creation of a conducive environment for the voluntary safe, dignified and sustainable return of the forcibly displaced Rohingya residing in Bangladesh, and to disseminate authentic information, in partnership with the United Nations and other relevant actors, on the conditions in Rakhine State in order to reasonably address the core concerns of the Rohingya, thereby encouraging them to return to their places of origin;

21. *Expresses grave concern* at the continuing restrictions on humanitarian access, in particular in Rakhine, Chin, Kachin and Shan States, calls upon the Government of Myanmar to ensure full respect for international humanitarian law and to allow the full, safe and unhindered access of humanitarian personnel to all government-controlled and

non-government-controlled areas, and to provide humanitarian assistance, including age- and gender-responsive assistance, as well as the delivery of supplies and equipment, in order to allow such personnel to perform efficiently their tasks of assisting the affected civilian populations, including internally displaced persons, and encourages it to grant access to the diplomatic corps, independent observers and representatives of the national and international independent media, without fear of reprisals;

22. *Encourages* the international community, in the true spirit of interdependence and burden-sharing, to continue to assist Bangladesh in the provision of humanitarian assistance to forcibly displaced Rohingya Muslims and other minorities until their return to their places of origin in Myanmar, and to assist Myanmar in the provision of humanitarian assistance to all affected persons of all communities displaced internally in Myanmar, including in Rakhine State, taking into account the vulnerable situation of women, children, older persons and persons with disabilities;

23. *Calls upon* the United Nations and encourages other international agencies to provide all support necessary for the Governments of Bangladesh and Myanmar to expedite the safe, voluntary, dignified and sustainable return of forcibly displaced Rohingya Muslims and other minorities from Myanmar, including internally displaced persons, including through the early implementation of the memorandum of understanding signed by the Government of Myanmar, the Office of the United Nations High Commissioner for Refugees and the United Nations Development Programme;

24. *Encourages* all business enterprises, including transnational corporations and domestic enterprises, to respect human rights in accordance with the Guiding Principles on Business and Human Rights, and calls upon the home States of business enterprises operating in Myanmar to set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations;

25. *Requests* the United Nations High Commissioner for Human Rights to follow up on the implementation of the recommendations made by the independent international fact-finding mission, including those on accountability, and to continue to track progress in the situation of human rights in Myanmar, including of Rohingya Muslims and other minorities, and to present a written report thereon to the Human Rights Council at its forty-fifth session, to be followed by an enhanced interactive dialogue, and to the General Assembly at its seventy-fifth session;

26. *Decides* to transmit the reports of the independent international fact-finding mission on Myanmar to the General Assembly, and recommends that the Assembly transmit the reports to all relevant United Nations bodies, and requests the Chair of the independent international fact-finding mission to present the reports to the Assembly at its seventy-fourth session;

27. *Welcomes* the commitment of the Secretary-General to fully implement the recommendations contained in the report entitled "A brief and independent inquiry into the involvement of the United Nations in Myanmar from 2010 to 2018" dated 29 May 2019, and invites the Secretary-General to ensure a system-wide approach in implementing those recommendations, to ensure that all involvement with Myanmar takes into account and addresses human rights concerns, and also invites him to include an update on the implementation of the recommendations in his presentation to the Human Rights Council at its forty-third session, in accordance with Council resolution 40/29.