Statement by Tomás Ojea Quintana
SPECIAL RAPPORTEUR ON THE SITUATION OF HUMAN
RIGHTS IN MYANMAR

68th session of the General Assembly
Third Committee
Item 69 (c)

24 October 2013
New York
Mr. Chair,
Distinguished Delegates,
Ladies and Gentlemen

This is the last time I will address the General Assembly in my capacity as the Special Rapporteur on the human rights situation in Myanmar as my term will come to an end next year, with the next Rapporteur due to be appointed by the Human Rights Council in March. I would like to thank you for the opportunity to provide an update on the current situation of human rights. A clearer understanding within the international community about the reality of the situation on the ground continues to help inform decision-making and bring improvements for the people in Myanmar. I believe this is what the mandate established by member states is here for.

I would like to begin with the ongoing peace negotiations in Myanmar. The ceasefire agreements secured by the Government and the thirteen ethnic armed groups are significant achievements, with the prospect of a national ceasefire accord in November. It is important to acknowledge the critical relevance of these ceasefire agreements and support a process which holds the prospect of bringing to an end the most entrenched conflicts within Myanmar. This would be a starting point from which to build a culture of acceptance and tolerance between all ethnic groups in Myanmar and help pave the way for national reconciliation. It will be a significant step towards bringing peace and stability to Myanmar and its border areas.

For the ceasefire to be sustainable and for the process to start addressing underlying grievances, negotiations need to become more inclusive and transparent. Up to this point, the voices of women, local villagers, internally displaced persons and refugees outside of the country have not been heard. Now is the time to include these voices and to address the issues that they raise. There needs to be greater transparency in the discussions taking place and agreements being reached, including business and investment deals. Only then will the communities have confidence that these deals have their best interests at heart. There also needs to be more attention to monitoring the implementation of agreements made, including humanitarian access to non-government controlled areas.

The fighting that continues in parts of Kachin and Northern Shan State acts as a reminder of the suffering these conflicts have brought to the people of Myanmar. The end of fighting in itself brings immediate improvements to the human rights situation, following decades of serious and widespread violations committed by the military for which there has been no accountability. The military needs to be fully on board with these agreements endorsed by a civilian government and, once agreed, begin a demilitarisation of ethnic border areas.

While this transition moves forward, a number of prisoners of conscience remain behind bars. I commend the President of Myanmar for his pledge to release all political prisoners by the end of the year. I hope to see included in this the four INGO workers who continue to be detained in Buthidaung Prison, and whom I visited during my August mission, as well as Dr. Tun Aung and U Kyaw Hla Aung. Furthermore, I am concerned about the ongoing arrest of persons involved in peaceful protests, who should also be released. I urge the government to address these new arrests and convictions, which could include expanding the terms of reference of the committee set up last February to identify remaining political prisoners in
Myanmar. Parliament could also establish a committee to review arrests being made under Article 18 of the Peaceful Assembly and Peaceful Procession Act as well as other laws.

Many of these arrests of peaceful protesters are in relation to protests concerning land issues. The increase of large-scale development projects, combined with the past injustices of land expropriation by the military, make land issues particularly sensitive for the Government. The issue is directly associated with the absence of the rule of law in Myanmar and access to judicial remedies. I urge the Government to listen to the local people affected, and to establish a system of individual titling and tenure rights to protect people against land appropriation, as well as a communal tenure system to protect the access of local communities to common goods.

The development of a freer media and public space for people to express their views has been an important feature of the reform process. However, freedom of expression, assembly and association continues to be affected by a controlling military mind-set that is pursuing a system of permits with criminal sanctions. Instead, a system of voluntary notification needs to be developed to support an environment where people are free and protected in exercising their rights. Key pieces of draft and current legislation need to be amended to set the framework for such a society to take shape, which will then drive the reform process forward. These include the Printing and Publishing Enterprise Bill, the Peaceful Assembly and Peaceful Procession Act and the Association Bill, and I note the efforts of Myanmar’s parliamentary committees, NGOs and the UN in this regard.

I encourage the Government to continue with their efforts towards the establishment of a truly independent and effective national human rights institution that would work in accordance with the Paris Principles. The legislation currently before the parliament is a step towards this.

Mr. Chairman,

Rakhine State remains in a situation of profound crisis. The underlying issue of discrimination against Muslim and particularly Rohingya populations remains unaddressed, and is currently being reflected in a policy of segregation of Muslim communities which is becoming increasingly permanent. There does appear to be a greater willingness from the Government to address the situation, with a recent visit by the President to Rakhine State, the disbanding of Nasaka and engagement with the OIC. There have been arrests of Rakhine Buddhists who have allegedly been involved in the violence in Thandwe, including members of the Rakhine Nationalist Development Party. In addition, the Government has worked with the international community to alleviate the humanitarian situation, though access to health care and education remains extremely limited. Developing solutions to address the issue of citizenship should also be a part of these positive initiatives, as it is integral to finding long term solutions to the situation there.

Serious concerns remain over the impunity in Rakhine State. Allegations of gross violations since the violence erupted last June, including by state security personnel, remains unaddressed. Addressing this is not only necessary to ensure justice, but also to deter such acts of indiscriminate violence from recurring in Rakhine State. The Government of Myanmar cannot renege on its obligations under international human rights law to conduct credible investigations and hold identified perpetrators to account.
The situation in Rakhine State has fed a wider anti-Muslim narrative in Myanmar, which is posing one of the most serious threats to the reform process. The President has made some commendable public speeches in which he has emphasised the need for trust, respect and compassion between people of different faiths and ethnic groups in Myanmar. However, more needs to be done by the Government to tackle the spread of discriminatory views and to protect vulnerable minority communities. In my report I have highlighted the importance of developing a police force with the capacity to protect people from intercommunal violence. Furthermore, clear instructions need to come from the political authorities at the state and central level to ensure that the police fulfil their duty in this regard. As part of this, accountability mechanisms need to be developed to address police inaction during the early stages of violence, as seen during the massacre of 43 people in Meiktila and the violence in Lashio. Accountability measures are the most important measures needed to tackle the spread of religious hatred and violence. Much of the violence has been perpetrated by organised mobs, the members and organisers of which need to be held to account. Firm measures need to be taken by the authorities regarding groups that are responsible for spreading hate speech and inciting violence, as occurred in Rakhine State and Meiktila. The media also has a responsibility not to intentionally misreport and further incite violence and hatred.

There are leaders within the community, including Buddhist monks, who are playing a positive role in addressing the discrimination and violence against religious and ethnic minorities. These important figures need to be empowered to help counter the stream of hatred and incitement coming from some sections of society.

Ladies and Gentlemen,

In July Parliament set up a 109-member committee to review the 2008 Constitution, and I look forward to the recommendations it will make to Parliament by 31 December 2013 and to the next steps after this. Reforms of some sections of the Constitution are imperative for democratic transition and national reconciliation to proceed. The path towards the 2015 general election will include the active participation of ethnic minority groups and leaders, so constitutional reform will be critical. This includes the amendment of provisions which allow for military appointees to occupy 25 per cent of seats in Parliament and which disqualify persons from being President on unfair grounds, and the inclusion of provisions to address the aspirations of ethnic minority groups.

I again encourage the Government to establish an OHCHR Country Office with a full mandate. This will allow for support to the Government in fulfilling its human rights obligations and commitments, and assistance in implementing recommendations made in my reports, and by the UPR and treaty bodies. The establishment of the Office will undoubtedly support improvements in the human rights situation of the people of Myanmar.

Distinguished Delegates,

I believe that my six-years on this mandate have been useful in highlighting the human rights issues that need to be addressed in Myanmar, and have supported the development of solutions in accordance with international standards. Careful consideration should be given to the benefits of this human rights mechanism which has, through engagement with the
authorities and civil society and people on the ground, helped to secure the establishment of a national human rights institution, the release of hundreds of prisoners of conscience, the reform of legislation, and has helped highlight the importance of establishing the rule of law and ensuring accountability, the need for security force reform, and the imperative of pursing a human rights based approach to development and investment.

The people of Myanmar are contemplating how to address the past, but I believe this mandate has also helped to stress the importance of dealing with this as a fundamental element in building a democracy that respects human rights.

I started with the mandate in 2008, and I visited Myanmar eight times. Throughout these years, I have heard terrible stories of human rights abuses suffered by people living all around the country, but fortunately I have also had the opportunity to witness the start of a transformation of a country which has experienced decades of military rule. This transformation has already brought improvements to the lives of the people of Myanmar, but it is just starting and is still fragile. We have to be supportive, which includes highlighting human rights issues that need to be addressed, for the transition to democracy and national reconciliation to be successful.

I have to thank the Government of Myanmar and the Third Committee for giving me the opportunity to contribute to this transition. But, more importantly, my gratitude goes to the people of Myanmar who have always engaged enthusiastically with me throughout the course of my mandate with the hope of seeing improvements to the situation of human rights.

Thank you for your attention.