



Security Council

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Letter dated 22 August 2019 from the Permanent Representative of Myanmar to the United Nations addressed to the President of the Security Council

I am writing to convey Myanmar's concern regarding the Arria-formula meeting of the Security Council, to be held on 23 August 2019, entitled "Mass atrocity crimes in Myanmar: where do we stand on accountability?" and co-hosted by Germany, Peru and Kuwait.

First and foremost, the title and the purpose of the meeting itself are grossly misleading and convey the erroneous message that "mass atrocity crimes" have actually been committed in Myanmar. Moreover, the choice of briefers indicates a serious imbalance. The individuals chosen include those who are advocating the prejudicial and foregone conclusion that the alleged atrocities had been committed by the Myanmar security forces, a conclusion based on unverified narratives without any attempt to acquire inclusive knowledge of the facts that relate to accountability issues in Rakhine State. The proposed severely biased briefing can only result in an unfair judgment of the issue by the members of the Security Council. The approach of the planned meeting is also contrary to the purpose of the United Nations, which is to foster cooperation between nations to find a peaceful solution to any conflict.

The Government of Myanmar is addressing the issue of accountability by setting up the Independent Commission of Enquiry. The Myanmar Armed Forces have also established their own Court of Inquiry to address the allegation of human rights violations in northern Rakhine. Sovereign nations have primary responsibility for protecting the human rights of their own people. Myanmar is willing to address accountability with regard to alleged violations, and capable of doing so. Therefore, we strongly reject any attempt to take the matter to any international judicial or legal body unless it is patently clear that national remedies have been exhausted.

The Independent Commission of Enquiry is a national initiative to address reconciliation, peace, stability and development in Rakhine State. The Commission is tasked with investigating allegations of human rights violations and related issues following the terrorist attacks by the Arakan Rohingya Salvation Army (ARSA) in Rakhine State, with a view to seeking accountability. The Commission is further tasked with the formulation of recommendations on steps that should be taken to ensure peace and stability in Rakhine State. It is a fact-finding commission with special investigative and judicial powers under the Investigation Committees Act 1950.

Members of the Independent Commission of Enquiry visited Bangladesh from 17 to 22 August to prepare the groundwork and seek the necessary approvals for the



dispatch of the Commission's Evidence Collection and Verification Team in Cox's Bazar, to interview and collect evidence from those who are residing in the camps.

Contrary to the objective of the Commission, the independent international fact-finding mission on Myanmar was established by the Human Rights Council with questionable intentions. The Council exceeded its mandate and contravened the terms and practices of international law. Therefore, Myanmar does not recognize the fact-finding mission or its reports, which were written with the clear intent to harm the interests of Myanmar.

In its politically motivated, biased reports, the fact-finding mission portrayed the Myanmar security forces as perpetrators of mass atrocity crimes, while deliberately ignoring or discounting, to say the least, the provocative and premeditated armed attacks of ARSA terrorists on various security posts in October 2016 and August 2017, which were the undeniable causes of the present humanitarian crisis. Most importantly, the mission neither blamed nor condemned the well-documented atrocity crimes committed by ARSA that resulted in the death of security personnel, as well as of hundreds of innocent people in Rakhine, including a hundred Hindu villagers, in August 2017.

The fact-finding mission reports and the recommendations therein will only inflame further existing tensions between different communities in Rakhine State. Moreover, the mission's reports prejudge the work of the Independent Commission of Enquiry, draw unwarranted conclusions and call for the involvement of the international community – a direct challenge to the sovereignty of a State.

The Government of Myanmar has adopted a holistic approach to the problems of Rakhine State, which include cross-border migration, poverty, the rule of law and security issues. Our most urgent priority is to resolve the humanitarian issue. We have been working relentlessly, in good faith, for the speedy repatriation of displaced people, based on the bilateral agreements reached with Bangladesh. We have also been working closely with the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Development Programme (UNDP) and the Association of Southeast Asian Nations (ASEAN) to facilitate the implementation of the bilateral agreements between Myanmar and Bangladesh on the repatriation, resettlement and development of returnees.

Since January 2019, Myanmar has sent lists of 3,450 verified persons, in seven batches, to Bangladesh, together with the resettlement sites for those prospective returnees. Both Myanmar and Bangladesh have agreed to commence the repatriation of the first group of 3,450 persons on 22 August 2019, through designated reception centres at the border. Necessary preparations have been made on both sides of the border, in accordance with bilateral agreements and arrangements. We have invited members of the ASEAN secretariat, the ASEAN Coordinating Centre for Humanitarian Assistance on Disaster Management and the ASEAN Emergency Response and Assessment Team to start their comprehensive assessment of the repatriation process. We have also requested that UNHCR and UNDP provide necessary assistance to Myanmar in facilitating the repatriation and resettlement of, and the provision of basic needs to, the returnees, in accordance with the trilateral memorandum of understanding between the two agencies and Myanmar.

While we have been doing our utmost to commence the repatriation process, ARSA terrorists in Cox's Bazar are threatening the lives of the people in the camps who wish to return to Myanmar. Some non-governmental organizations and international non-governmental organizations are also pressuring people not to go back. As a result, no one dares to express their willingness to return, and repatriation could not take place on the agreed date. The other reason for unsuccessful repatriation is the lack of adherence to the procedures set out in the bilateral agreement, which

require the agreed verification forms to be filled out and signed by displaced persons wishing to return voluntarily.

The stated aim of the Arria-formula meeting is to focus attention on accountability for the alleged mass atrocity crimes in Myanmar. A misconception of the true nature of the situation, combined with an arbitrary interpretation of accountability, will contribute nothing to the solution of the problems in Rakhine State. Unilateral coercive measures without regard to the objective situation in a country will derail positive efforts to overcome the challenges it is facing. It will further exacerbate mistrust and polarization among the different communities, not just in Rakhine State, but throughout Myanmar.

A meeting that is just another one-sided blaming and finger-pointing session, rather than a sharing of objective and balanced views from relevant stakeholders, cannot result in any positive outcome. It is the view of my delegation that the intention of the meeting is against the Security Council's own stated commitment to respect the sovereignty, political independence, territorial integrity and unity of Myanmar, as contained in the statement by the President of the Council of 6 November 2017.

We believe that the United Nations is mandated to help and assist its Members in their national efforts to address political, economic, social and human rights challenges. We do not believe that the upcoming Arria-formula meeting will contribute to building peace, harmony, national reconciliation and development in Myanmar, and in Rakhine State in particular.

Therefore, Myanmar will not participate in the said meeting. However, we will continue our constructive engagement with the members of the Security Council for the resolution of the complex issue of Rakhine State.

I would be grateful if you could have the present letter circulated as a document of the Security Council.

(Signed) Hau Do Suan
Permanent Representative
