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Human rights situations that require the Council's attention

Written statement* submitted by the Society for Threatened Peoples, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[13 February 2017]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Ensuring the rights of all minorities in the Republic of the Union of Myanmar

One year after the first democratic elections in decades in the Republic of the Union of Myanmar and the victory of the National League for Democracy (NLD), human rights violations and massive displacement in Rakhine, Shan and Kachin states constitute an alarming trend. Despite the hopes brought by the accession of Nobel Peace Prize laureate Aung San Suu Kyi to the post of State Counsellor and the various efforts made to promote reconciliation between ethnic groups and the government, abuses committed in these regions could undermine Myanmar's democratic transition, stability and long-term development.

Rising inequality among inhabitants of Myanmar has been a continuous trend for decades. Regions inhabited by non-Bamars are marred by underdevelopment and poverty. Years of forced Bamarisation and forced assimilation have traumatized local populations, who struggle to obtain recognition of their traditions, their languages and their religious beliefs.

The Rohingya Muslim minority living in northern Rakhine State suffers from longstanding discrimination. Despite having settled in Myanmar for generations, Rohingya are not recognized as an ethnic minority by the 1982 Citizenship Law, and are thus denied the right to citizenship. Restrictions on their freedom of movement, right to marriage and access to basic services contribute to a further marginalization of the community.

Following attacks on Border Guard Police posts in Maungdaw and Buthidaung Townships in October 2016 by unknown insurgents, the army launched so-called "clearance operations" amounting to a campaign of collective punishment. While the need to restore security is legitimate, several human rights organizations and the Special Rapporteur on the situation of human rights in Myanmar have voiced concerns about systematic human rights violations. Numerous eyewitnesses and victims evoke unlawful killings, rapes and gang rapes, arbitrary arrests as well as destruction and looting of property. The government of Myanmar has repeatedly denied reports of abuses, becoming even less credible when a scientific analysis of satellite images showed clear evidence of the burning and destruction of houses or when a video showing Myanmar police officers beating Rohingya villagers surfaced. A flash report released on 03 February 2017 by the UN-OHCHR mission to Bangladesh sheds a light on the persecution of Rohingya, confirming suspicions that crimes against humanity are being committed in northern Rakhine State.

These events are unfolding in a region plagued by underdevelopment, interethnic and interreligious tensions. After the 2012 intercommunal violence, 120,000 Rohingya remained displaced in overcrowded camps with limited access to goods and services. The lockdown imposed on northern Rakhine State since October 2016 seriously hampers the work of aid organizations and aggravates the situation in a region where over 150,000 people were already dependent on humanitarian aid. Lack of access for human rights monitors and non-governmental organizations makes it almost impossible to verify allegations of human rights violations. Rohingya furthermore fear reprisals if they give testimonies about the events in northern Rakhine State, as the Special Rapporteur on the situation of human rights in Myanmar pointed out in her end-of-mission statement. Thus, perpetrators remain unpunished and Rohingya are left with no choice but to flee.

With tens of thousands who are reported to have crossed the border to Bangladesh, the obligation to address needs of newly arrived refugees becomes more pressing every day. Society for Threatened Peoples is extremely concerned about reports of pushbacks by Bangladeshi Border Guard Police and wishes to stress that such pushbacks are a violation of international customary law and of the "non-refoulement" principle. The criminalization of illegal crossings forces Rohingya refugees to hide and significantly puts a strain on their access to basic goods and services. This adds up to the fact that aid organizations face serious obstacles to their work as they are denied the authorization to provide relief aid for newly arrived refugees. Last, but not least, the plan to relocate Rohingya refugees to the island of Thengar Char in the Bay of Bengal is a great source of concern. Indeed, the island is uninhabited and lacks adequate infrastructure. Its location makes it vulnerable to typhoons and floods. Several locals have also pointed out to the presence of pirates in

the area. Society for Threatened Peoples fears that a plan aimed at relocating all Rohingya refugees against their will in that area is only likely to isolate the community more from the rest of the society and will not improve the situation of Rohingya in Bangladesh.

Society for Threatened Peoples is also deeply concerned about the situation in Kachin State and northern Shan State. As Myanmar security forces are fighting with ethnic armed groups, civilians are caught between two fires. Human rights abuses have reportedly been committed by both sides, causing waves of displacement. The lack of access for humanitarian organizations worsens the situation of the civilian population.

Decades of armed conflict between ethnic armed insurgents and the Tatmadaw have resulted in the destabilization of the Kachin and northern Shan states. A surge in fighting since 2011 was followed by the signing of a Nationwide Ceasefire Agreement (NCA), which constituted a step forward, but its endorsement and implementation remain limited. Renewed fighting since November 2016 resulted in a wave of abuses against the civilian population: enforced disappearances (including of religious leaders), unlawful killings and acts of sexual violence among other violations are now the daily life of local civilians. This triggered the displacement of tens of thousands of people. Internally displaced persons live in unsanitary camps with no access to basic services (as severe restrictions are imposed on relief organizations) and several instances of fighting near camps and civilian areas have been reported, causing further displacement. People attempting to flee to neighboring People's Republic of China are pushed back at the frontier, in violation of the *non-refoulement* principle.

The international community should put pressure on the government of Myanmar in order to ensure the preservation of human rights of all communities in the country. Relief organizations workers should be able to exercise their work without any restriction. As pointed out by the UN Special Adviser on the Prevention of Genocide and by the High Commissioner for Human Rights, an independent investigation into the events in northern Rakhine State is urgently needed. The United Nations could play a crucial role in assisting the government of Myanmar in this regard. All perpetrators of human rights violations should be brought before justice in order to guarantee that new violence will not be encouraged. Measures need to be taken to foster dialogue and reconciliation among the communities as well as between the government and the communities in the long term. This includes securing the equality of all citizens in Myanmar by repealing discriminatory laws.

Society for Threatened Peoples calls on the UN Human Rights Council:

- To urge the government of Myanmar to ensure humanitarian access for aid organizations to northern Rakhine State, Kachin State and northern Shan State,
- To call for an independent investigation into the events in northern Rakhine State, with the assistance of the United Nations and to ensure that people can testify without fearing reprisals,
- To urge the government of Myanmar to ensure access to impartial justice and reparations for victims of offences and their families,
- To urge the government of Myanmar to allow access for independent human rights monitors and journalists to northern Rakhine State,
- To urge the government of Myanmar to repeal discriminatory laws such as the four "Race and Religion Protection Laws" adopted in 2015,
- To urge the government of Myanmar to fight statelessness by repealing the 1982 Citizenship Law and ensure an adequate access to citizenship in line with international standards. Such a process should take the needs and concerns of all into account and be the product of a cooperation between the government and the communities (including civil society organizations),
- To urge the governments of the People's Republic of China and the People's Republic of Bangladesh to respect international customary law and halt unlawful pushbacks,
- To assist the governments of the People's Republic of China and Bangladesh in registering and accommodating refugees, in line with international standards. This should be done in cooperation with Rohingya refugee communities and with the objective of preserving human dignity.