



OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS



1995/72. Situation of human rights in Myanmar

The Commission on Human Rights,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and as elaborated in the Universal Declaration of Human Rights, the International Covenants on Human Rights and other applicable human rights instruments,

Aware that, in accordance with the Charter, the United Nations promotes and encourages respect for human rights and fundamental freedoms for all and that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government,

Noting with particular concern in this regard that the electoral process initiated in Myanmar by the general elections of 27 May 1990 has not yet reached its conclusion and that the Government still has not implemented its commitments to take all necessary steps towards democracy in the light of those elections,

Deploring that many political leaders, in particular elected representatives, remain deprived of their liberty and that Daw Aung San Suu Kyi, a Nobel Peace Prize winner, is still under house arrest, which has recently been extended, and, while acknowledging the recent release of a substantial number of political prisoners, noting with dismay that in many cases their release was on condition that they not resume political activity,

Noting the measures taken by the Government of Myanmar, including its accession to the Geneva Conventions of 12 August 1949 for the protection of war victims, the concluding of cease-fire agreements with ethnic groups, the withdrawal of several reservations it had entered concerning the Convention on the Rights of the Child and the freeing of a certain number of political prisoners, in response to the concerns repeatedly expressed by the international community,

Gravely concerned by the recent offensive against the Karen National Union, Burmese student activists and other groups of the political opposition, and by the resulting exodus of refugees into Thailand,

Commending the Government of Thailand for its humanitarian action in receiving the refugees fleeing from the fighting, and encouraging the Government of Thailand to work closely with the Office of the United Nations High Commissioner for Refugees,

Gravely concerned at the violations of human rights in Myanmar, which remain extremely serious, in particular the practice of torture, summary and arbitrary executions, forced labour, including forced portering for the military, abuse of women, politically motivated arrests and detention, forced displacement of the population, the existence of important restrictions on the exercise of fundamental freedoms, including the freedom of expression and association, and the imposition of oppressive measures directed, in particular, at ethnic and religious minority groups,

Noting that many violations directly affect women, in particular women belonging to minorities, who have suffered ill-treatment, especially at the hands of the military, as stated by the Special Rapporteur,

Noting also that these violations have resulted in flows of refugees towards neighbouring countries,

Commending, however, the existing cooperation between the Government of Myanmar and the United Nations High Commissioner for Refugees on the free and voluntary repatriation of refugees located in Bangladesh, and their rehabilitation and reintegration, and encouraging the Government of Myanmar to pursue this cooperation,

Having examined the reports of the Working Group on Arbitrary Detention (E/CN.4/1995/31 and Add.1-2), the Special Rapporteur on the question of religious intolerance (E/CN.4/1995/91) and the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/1995/61),

Recalling its resolution 1992/58 of 3 March 1992, in which it decided to nominate a special rapporteur to establish direct contacts with the Government and people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers, with a view to examining the situation of human rights in Myanmar and following any progress made towards the transfer of power to a civilian government and the drafting of a new constitution, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar,

Recalling also its resolution 1994/85 of 9 March 1994,

Taking note of General Assembly resolution 49/197 of 23 December 1994,

Noting that the Special Rapporteur visited Myanmar in November 1994 at the invitation of the Government of Myanmar,

Deploring, however, that in spite of resolution 1993/73 requesting the Myanmar authorities to extend their full and unreserved cooperation to the Special Rapporteur, he has been denied access to Daw Aung San Suu Kyi,

Taking note of the request by the General Assembly to the Secretary-General to continue his discussions with the Government of Myanmar in order to assist in the implementation of Assembly resolution 49/197 of 23 December 1994, as well as in efforts by the Government to achieve national reconciliation,

Welcoming the discussions held to date between the representatives of the Government of Myanmar and the representatives of the Secretary-General,

Regretting that the representatives of the Secretary-General have not been given access to Daw Aung San Suu Kyi,

Reaffirming that Daw Aung San Suu Kyi, a Nobel Peace Prize winner, must be released immediately and unconditionally along with all other persons detained for political reasons,

1. Expresses its thanks to the Special Rapporteur for his report (E/CN.4/1995/65 and Corr.1) and the conclusions and recommendations contained therein;
2. Expresses its appreciation to the Secretary-General for his report on his mission of good offices in Myanmar (E/CN.4/1995/150);
3. Deplores the continuing serious violations of human rights in Myanmar and, in particular, the fact that a number of political leaders, including Daw Aung San Suu Kyi and other leaders of the National League for Democracy, remain deprived of their liberty;
4. Strongly urges the Government of Myanmar to release immediately and unconditionally the Nobel Peace Prize winner Daw Aung San Suu Kyi, detained without trial for more than five years, as well as other detained political leaders and all political prisoners, to ensure their physical integrity and to permit them to participate in the process of national reconciliation;
5. Commends the recent meetings between Myanmar government representatives and the Nobel Peace Prize winner, Daw Aung San Suu Kyi, and urges the Government of Myanmar to open a substantial political dialogue with her and with other political leaders, including representatives of ethnic groups, as the best means to arrive at national reconciliation and the complete and rapid installation of democracy;
6. Deplores, in consequence, the military offensive carried out by the Government of Myanmar against the Karen National Union, Burmese student activists, and other groups of the political opposition, which is incompatible with the Government's declared policy of national reconciliation;

7. Welcomes the recent discussions between the representatives of the Government of Myanmar and the Secretary-General, and encourages the Government to continue to cooperate with the Secretary-General,

8. Again urges the Government of Myanmar to take, in conformity with the assurances given at various times, all necessary measures to guarantee democracy in full accordance with the will of the people as expressed in the democratic elections held in 1990, and to ensure that all political parties may freely exercise their activities;

9. Notes with concern that most of the representatives democratically elected in 1990 have been excluded from participating in the meetings of the National Convention, that severe restrictions have been imposed on delegates, including members of the National League for Democracy, who are unable to meet or distribute their literature, that one of the objectives of the Convention is to maintain the participation of the armed forces (Tatmadaw) in a leading role in the future political life of the State and that no timetable as yet exists for the completion of the work of the National Convention, and concludes that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

10. Strongly urges the Government of Myanmar to take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to the democratically-elected representatives, lifting restraining orders placed on a number of political leaders, releasing those who are detained and ensuring that all political parties can function freely;

11. Strongly urges the Government of Myanmar to guarantee full respect for human rights and fundamental freedoms, in particular the freedom of expression and opinion and the right of association and of assembly, to restore protection of persons belonging to minority groups, in particular against discrimination, especially in the framework of the citizenship laws, and to put an end to violations of the right to life and the integrity of the human being, to the practice of torture, abuse of women and forced labour, to enforced displacements of the population and to enforced disappearances and summary executions;

12. Reminds the Government of Myanmar of its obligations to put an end to the impunity of perpetrators of violations of human rights, including members of the military, and its responsibility to investigate alleged cases of human rights violations committed by its agents on its territory, to bring them to justice, prosecute them and punish those found guilty, in all circumstances;

13. Regrets the recent harsh sentences meted out to a number of dissidents, including persons voicing dissent in regard to the procedures of the National Convention, and persons condemned in particular for seeking to meet with the Special Rapporteur;

14. Welcomes the recent release of a certain number of political prisoners, but at the same time deeply regrets that many political leaders are still deprived of their freedom and their fundamental rights;

15. Calls upon the Government of Myanmar to consider becoming a party to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

16. Appeals to the Government of Myanmar to fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organise Convention 1948 (No. 87) of the International Labour Organisation;

17. Encourages the Government of Myanmar to continue to lift the remaining emergency measures;

18. Requests the Government of Myanmar to ensure that all persons, without discrimination, are afforded the minimum guarantees for a fair trial, according to due process of law and in conformity with applicable international standards, that laws are given due publicity and that the principle of non-retroactivity of laws is respected;

19. Encourages the Government of Myanmar to create the necessary conditions to facilitate the voluntary repatriation of refugees and their full reintegration, in conditions of safety and dignity, in close cooperation with the Office of the United Nations High Commissioner for Refugees;
20. Invites the Government of Myanmar to respect fully its obligations under the Geneva Conventions of 12 August 1949, and to avail itself of such services as may be offered by impartial humanitarian bodies;
21. Stresses that it is important for the Government of Myanmar to give particular attention to prison conditions in the country's jail and to allow international humanitarian organizations to communicate freely and confidentially with prisoners;
22. Welcomes the first measures taken by the Government of Myanmar to provide for the training of military personnel in international humanitarian law, and requests it to intensify its efforts in that regard and to extend them to police and prison personnel;
23. Decides to extend for one year the mandate of the Special Rapporteur to establish or continue direct contacts with the Government and people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers, and requests him to report to the General Assembly at its fiftieth session and to the Commission on Human Rights at its fifty-second session;
24. Requests the Secretary-General to give all necessary assistance to the Special Rapporteur;
25. Urges the Government of Myanmar to cooperate fully and unreservedly with the Commission and the Special Rapporteur and, to that end, to ensure that the Special Rapporteur effectively has free access to any person in Myanmar whom he may deem it appropriate to meet in the performance of his mandate, including Daw Aung San Suu Kyi;
26. Encourages the Secretary-General, in the discharge of his good offices mandate, to continue his discussions with the Government of Myanmar in order to assist in the implementation of General Assembly resolution 49/197, as well as in its efforts for national reconciliation and towards the resumption of democracy;
27. Decides to keep the matter under review at its fifty-second session under the agenda item entitled "Question of the violation of human rights and fundamental freedoms in any part of the world, with particular reference to colonial and other dependent countries and territories";
28. Recommends the following draft decision to the Economic and Social Council for adoption:

[For the text, see chap. I, sect. B, draft decision 25]

60th meeting
8 March 1995

[Adopted without a vote. See chap. XII. E/CN.4/1995/176]