



OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS



Situation of human rights in Myanmar

Commission on Human Rights resolution 2002/67

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,

Recognizing that the systematic violations of civil, political, economic, social and cultural rights by the Government of Myanmar have a significant adverse effect on the health and welfare of the people of Myanmar and are at the heart of a precarious humanitarian situation,

Aware that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government and therefore gravely concerned that the Government of Myanmar still has not implemented its commitment to take all necessary steps towards democracy in the light of the results of the elections held in 1990,

Recalling the observation made by the Special Rapporteur that only the full release of all political prisoners will pave the way to national reconciliation and the establishment of the rule of law leading to the democratization process,

Mindful that Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Geneva Conventions of 12 August 1949 on the protection of victims of war, as well as the 1930 Convention concerning forced or compulsory labour (No. 29) and the 1948 Convention concerning freedom of association and protection of the right to organize (No. 87) of the International Labour Organization,

Recalling resolution I adopted by the International Labour Conference at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

Recalling also previous resolutions of the General Assembly and the Commission on the subject, most recently Assembly resolution 56/231 of 24 December 2001 and Commission resolution 2001/15 of 18 April 2001,

Welcoming the cooperation extended to the Special Envoy of the Secretary-General as well as to the Special Rapporteur during their visits to Myanmar,

1. *Expresses its appreciation* for the assistance and collaboration that the Government of Myanmar has extended to the Special Rapporteur during his mission and urges it to continue cooperating with the Special Rapporteur and other relevant United Nations mechanisms, to allow them freely to carry out other missions on the ground and to implement their recommendations fully, especially those contained in the report of the Special Rapporteur (E/CN.4/2002/45);

2. *Welcomes:*

(a) The report of the Special Rapporteur on the situation of human rights in Myanmar, the observations on the situation and the recommendations contained therein;

(b) The report of the Secretary-General on the visit of his Special Envoy to Myanmar (A/56/505), his actions and good offices to facilitate the process of national reconciliation;

(c) The contacts between the Government and Aung San Suu Kyi, Secretary-General of the National League for Democracy, and hopes that such talks will be extended at an appropriate time to include, among others, representatives of ethnic minorities and thereby facilitate broad-based and inclusive national reconciliation and the restoration of democracy;

(d) The steps taken by the Government of Myanmar to allow some political functions to be resumed by the opposition, including the reopening of some branch offices of political parties and the cessation of the negative media campaign, but expresses deep concern at the unnecessary and discriminatory stringent restrictions that continue to hamper political parties' freedom of assembly, association, expression, information and movement, as noted by the Special Rapporteur;

(e) The release from detention of some political activists, and urges the Government of Myanmar to free all remaining political prisoners, to ensure their personal safety and allow them to take part in the process of national reconciliation;

(f) The ongoing ceasefires in some areas of the country, and calls upon the Government of Myanmar to formalize these agreements and pursue promises of political dialogue and urges the authorities and all parties in conflict to continue resolving their differences through political dialogue;

(g) Continued cooperation with the International Committee of the Red Cross in carrying out humanitarian missions involving visiting places of detention and communication with detainees, and expresses the hope that it will continue and develop further;

(h) The release from detention of some women with small children on humanitarian grounds;

(i) The reopening of all institutes of tertiary education, but remains concerned that enjoyment of the right to education continues to be limited, often for political reasons, by the reduction in the length of the academic year, the division of the student population and its dispersal to distant campuses, the lack of teachers, and inadequate material support from the Government, which seriously affects the future prospects for young people, and the inadequate allocation of resources;

(j) The dissemination of human rights standards for public officials through a series of human rights workshops, and encourages the Government of Myanmar to widen participation in these workshops to ensure that this information, and its practical implementation, can benefit all citizens of Myanmar;

(k) The understanding reached between the Government and the International Labour Organization concerning the appointment of an International Labour Organization liaison officer in Myanmar by June 2002, which will serve as a first step towards the establishment of a full and effective representation by the this organization in Myanmar;

(l) The launching of the United Nations joint plan of action on human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS) in Myanmar;

3. *Takes note* of the establishment of a committee on human rights, leading to the establishment of a national human rights commission, and urges that the Commission comply with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) annexed to General Assembly resolution 48/134 of 20 December 1993;

4. *Expresses its grave concern:*

(a) At the slow pace of the process of national reconciliation and democratization in Myanmar and urges greater momentum towards national reconciliation;

(b) At the persistence of a governmental policy based on the repression of all political activities of opposition and on the abuse of the legal system through arbitrary detention, imprisonment and systematic

surveillance of persons who try to exercise their freedom of thought, expression, assembly and association and harassment of their families, as well as the lack of respect for and protection of freedom, health, education and human development of the population;

(c) At the composition and working procedures of the National Convention that do not permit either members of Parliament-elect or representatives of the ethnic minorities to express their views freely and urges the Government of Myanmar to intensify political dialogue and the confidence-building measures, both with the opposition and with all the ethnic groups, to search for new procedures to allow the promotion of a real national reconciliation based on cooperation and the adoption of joint measures, and to establish a chronological framework for so doing;

(d) At the keeping of Aung San Suu Kyi under de facto house arrest and other members of the National League for Democracy in prison, and urges the Government of Myanmar to release them immediately and unconditionally and allow them to exercise their freedom of association, movement and expression;

(e) At the imprisonment of elected members of Parliament for peacefully exercising their freedom of assembly, association and expression;

(f) At the fact that there was only very modest improvement in the eradication of forced labour since, in spite of the official prohibition, there have been only uneven efforts to disseminate order 1/99 and the supplementary orders among the population, since the orders have not been observed by the military at the local level and since, in spite of widespread instances of forced labour, there have been no criminal prosecutions;

(g) At the persistence of grave and massive violations of human rights of civilians, especially in areas where the military conflict is still ongoing between the army and the armed groups in the States of Shan, Karen and Karenni, and urges all the parties to the hostilities in Myanmar to respect fully their obligations under international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian population, to protect all civilians, including children, women and persons belonging to ethnic or religious minorities, from violations of humanitarian law, and to avail themselves of services offered by impartial humanitarian bodies;

(h) At the ever-increasing impact of HIV/AIDS on the population of Myanmar and urges the Government of Myanmar to recognize further the gravity of the situation, the need to commit adequate resources and the need to take measures, in cooperation with the National League for Democracy, ethnic groups, non-governmental organizations and women's groups, in particular preventive measures, to fight this epidemic including through the effective implementation of the United Nations Joint Action Plan which must reach the communities that are most affected by HIV/AIDS and therefore more vulnerable to it;

(i) At the deeply unsatisfactory conditions which still exist in prisons, labour camps and other detention centres in Myanmar as reported by the Special Rapporteur, such as cruel and degrading treatment, lack of medical assistance, inadequate nutrition, prolonged solitary confinement and detention in excessively small cells, the discriminatory treatment of political prisoners, as well as the high mortality rate among labour camp inmates;

5. *Deplores:*

(a) The continuing pattern of gross and systematic violations of human rights in Myanmar, including extrajudicial, summary or arbitrary executions, enforced disappearances, rape, torture, inhuman treatment, forced labour, including the use of children, forced relocation and denial of freedom of assembly, association, expression, religion and movement;

(b) The lack of independence of the judiciary from the executive and the wide disrespect for the rule of law, including for the basic guarantees of due process, especially in cases involving the exercise of political and civil rights and freedoms resulting in arbitrary arrests and detentions, the absence of judicial control over detentions, sentences passed without trial, keeping the accused in ignorance of the legal basis of the charge brought against them, trials held in secret and without proper legal representation of the accused, continued instances of detention and sentencing of people for political offences, the failure to inform the family and counsel of the accused about the sentence, and arbitrary extension of completed sentences;

(c) The continued violations of the human rights of, and widespread discriminatory practices against, persons belonging to ethnic and religious minorities, including extrajudicial execution, rape, torture, ill-treatment and the systematic programmes of forced relocation directed against ethnic minorities, notably in Karen, Karenni, Rakhine, Chin and Shan States and in Tenasserim Division, destruction of places of worship, use of anti-personnel landmines, destruction of crops and fields and dispossession of land and property, which deprive these persons of all means of subsistence and result in large-scale displacement of persons and flows of refugees to neighbouring countries and an increasing number of internally displaced persons;

(d) Reports of restrictions on the exercise of freedom of religion, such as the restriction on the building of new mosques and churches and forced conversions, notably of Muslims in Rakhine State and Christians in Chin State;

(e) The continuing violations of the human rights of women, in particular forced labour, trafficking, sexual violence and exploitation and abuse in detention, often committed by military personnel and especially directed towards women who are returning refugees, internally displaced, or belong to ethnic minorities or the political opposition;

(f) The continuing violations of the rights of children in Myanmar, in particular through the lack of conformity of the existing legal framework with the Convention on the Rights of the Child, conscription of children into forced labour programmes, sexual exploitation of children and their recruitment and other forms of exploitation by the military, discrimination against children belonging to ethnic and religious minorities, and high rates of infant and maternal mortality and malnutrition;

(g) The severe restrictions on the freedoms of opinion, expression, assembly and association, the restrictions on citizens' access to information, including censorship of all forms of domestic media and many international publications, and the restrictions imposed on citizens wishing to travel within the country and abroad including the denial of passports on political grounds, and gross interference in private life, family, home and correspondence;

(h) The situation of the large number of internally displaced persons and reaffirms the need to give them the necessary protection and assistance and urges the Government to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

6. *Calls upon* the Government of Myanmar:

(a) To develop further a constructive dialogue with the United Nations system, including the human rights mechanisms, for the effective promotion and protection of human rights in the country;

(b) To continue to cooperate with the Secretary-General and his Special Envoy and to implement their recommendations fully;

(c) To cooperate fully with all United Nations representatives, in particular to develop further the contacts established with the Special Rapporteur, to allow him freely to return to Myanmar and to conduct field missions, thereby furthering his contacts with the Government and all other relevant sectors of society and enabling him fully to discharge his mandate;

(d) To consider becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention relating to the Status of Refugees and its Protocol;

7. *Strongly urges* the Government of Myanmar:

(a) To implement fully the recommendations made by the Special Rapporteur;

(b) To ensure full respect for all human rights and fundamental freedoms, including economic, social and cultural rights, in particular to ensure full respect for the freedoms of expression, religion, association, movement and assembly, the right to a fair trial by an independent and impartial judiciary, and the protection of the rights of persons belonging to ethnic and religious minorities;

(c) To put an end to violations of the right to life and integrity of the human being and to the practices of torture, abuse of women, forced labour and forced relocations, enforced disappearances and summary executions;

(d) To fulfil its obligations to restore the independence of the judiciary and due process of law, to end impunity and bring to justice all perpetrators of human rights violations, including members of the military, and to investigate and prosecute alleged breaches of international humanitarian and human rights law committed by government agents in all circumstances;

(e) To recognize the political rights of members of all political parties, to allow the National League for Democracy and all other political parties to participate in the democratic process and to enter into a substantive political dialogue with them in order to accelerate the democratic transition, to ensure the irreversibility of the process and to develop, as a matter of priority, an electoral system that allows the creation of a structure of democratic governance and guarantees the participation of all political forces including ethnic minorities;

(f) To fulfil its obligations under the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination against Women by bringing national legislation and practice into conformity with these conventions, and to consider signing and ratifying the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, as well as the Optional Protocols to the Convention on the Rights of the Child;

(g) To implement fully the recommendations made by the Committee on the Elimination of Discrimination against Women, in particular the request to prosecute and punish those who violate the human rights of women and to carry out human rights education and gender-sensitization training, in particular for military personnel;

(h) To release immediately and unconditionally those detained or imprisoned for political reasons, with special urgency with respect to those who are old, sick and imprisoned beyond the terms of their sentence, and to offer guarantees to released prisoners that they will not be arrested again or subjected to harassment and to allow them to participate freely in the political process;

(i) To apply the Body of Principles for the Protection of All Persons under any Form of Detention or Imprisonment adopted by the General Assembly in its resolution 43/173 of 9 December 1988 in order to improve conditions of detention, in particular in the field of health, and to eliminate unnecessary restrictions imposed on the detainees;

(j) To put an end to the causes of the systematic forced displacements of persons and the flow of refugees to neighbouring countries and create adequate conditions for their safe and voluntary return and complete reintegration, to allow humanitarian personnel safe and unhindered access to assist their return and reintegration, and to address the problems of trafficking of women and children, especially in the border area;

(k) To cease the laying of landmines, in particular as a means of ensuring forced relocation, and to desist from the forced conscription of civilians to serve as human minesweepers, and to consider becoming a party to the 1997 Convention on the Prohibition of the Use, Stockpiling and Transfer of Anti-personnel Mines and on Their Destruction;

(l) To implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour and to sanction those responsible;

(m) To implement fully the recommendations of the International Labour Organization Commission of Inquiry established to examine the observance of the 1930 Convention on forced or compulsory labour (No. 29) and the high-level team and to cooperate fully with the International Labour Organization in establishing, as soon as possible, a continued and effective representation of the Organization in Myanmar, in agreeing to the appointment of an independent ombudsman and in carrying out the other conclusions adopted by the Governing Body of the International Labour Office at its 282nd session in November 2001 and at its 283rd session in March 2002 concerning the observance by the Government of Myanmar of the Convention concerning forced or compulsory labour (No. 29);

(n) To cooperate fully with the United Nations international humanitarian organizations, and all sectors of the community through consultation, to facilitate the granting of authorization to work throughout the country to United Nations and international humanitarian personnel, to allow the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population, in cooperation with all relevant political and ethnic groups;

(o) To promote and protect the human rights of persons living with HIV/AIDS and guard against any marginalization and discrimination that they may experience;

(p) To ensure that sufficient funding is allocated to the health care system to enable health workers to provide the highest possible standard of health care for all in need;

(q) To enable the building up of a pluralist civil society by creating conditions for the full exercise of the freedoms of expression, association and assembly, including through the revision of relevant legislation, holding a constructive human rights dialogue with the organizations of civil society and finally allowing the creation of these organizations in all sectors of life;

8. *Decides:*

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, and requests the Special Rapporteur to submit an interim report to the General Assembly at its fifty-seventh session and to report to the Commission at its fifty-ninth session, and to keep a gender perspective in mind when seeking and analysing information;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

(c) To request the Secretary-General to continue his discussions with the Government on the situation of human rights and the restoration of democracy and with anyone he may consider appropriate in order to assist in the implementation of General Assembly resolution 56/231 and of the present resolution;

(d) To request the United Nations High Commissioner for Human Rights to cooperate with the Director-General of the International Labour Office with a view to identifying ways in which their offices might usefully collaborate for the improvement of the human rights situation in Myanmar;

(e) To request the Secretary-General to bring the present resolution to the attention of all relevant parts of the United Nations system;

(f) To continue its consideration of this question at its fifty-ninth session.

55th meeting

25 April 2002

[Adopted without a vote.]

E/2002/23 - E/CN.4/2002/200, see chap. IX.]