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Situation of human rights in Myanmar

Report of the Secretary-General

I. Introduction

1. The present report is submitted pursuant to paragraph 21 of General Assembly resolution 52/137 of 12 December 1997, entitled "Situation of human rights in Myanmar", in which the Assembly requested me to continue my discussions with the Government of Myanmar in order to assist in the implementation of that resolution, and to report to the Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fourth session.

2. As I have indicated in previous reports, I consider the role entrusted to me by the General Assembly, and reaffirmed by the Commission on Human Rights, as being essentially one of good offices, in contrast to the fact-finding mandate assigned by the Commission to the Special Rapporteur.

3. Member States will be aware from my report to the Commission on Human Rights at its fifty-fourth session (E/CN.4/1998/163) of the visit to Myanmar, as my Special Envoy, of Mr. Alvaro de Soto, Assistant Secretary-General for Political Affairs, which took place from 20 to 23 January 1998. During his visit, he held talks with the Chairman of the State Peace and Development Council (SPDC) and Prime Minister of the Union of Myanmar, Senior General Than Shwe; Secretary-1 of the SPDC, Lieutenant-General Khin Nyunt; and the Minister for Foreign Affairs, U Ohn Gyaw. He also held discussions with the National League for Democracy

(NLD), including its General Secretary, Daw Aung San Suu Kyi, and the National Unity Party (NUP).

4. In view of developments in Myanmar in July 1998, I wrote to Senior General Than Shwe on 7 August 1998 to convey to him my wish to send a special emissary, Tan Sri Razali Ismail, who was President of the General Assembly at its fifty-first session, to discuss matters of mutual concern at Yangon. In his reply of 9 August 1998, Senior General Than Shwe considered that the time was not appropriate for this visit to take place. Subsequently, in a meeting with Foreign Minister U Ohn Gyaw on the sidelines of the Non-Aligned Summit Meeting at Durban on 4 September 1998, I recommended more constant dialogue between the SPDC and the NLD, and I again proposed the visit of Tan Sri Razali. However, the Foreign Minister indicated that such a visit was not urgent given the progress being made to resolve the situation that had prompted my request in July 1998.

5. On 25 September 1998, Mr. de Soto met Foreign Minister U Ohn Gyaw at United Nations Headquarters in New York. During this meeting, in response to a proposal made in July, the Foreign Minister conveyed to Mr. de Soto his Government's willingness to receive him at Yangon as my Special Envoy. Accordingly, he visited Yangon from 27 to 30 October 1998. During his visit, Mr. de Soto held consultations with Secretary-1 of the SPDC, Lieutenant-General Khin Nyunt; Foreign Minister U Ohn

Gyaw; and Brigadier-General David Abel, Minister in the Office of the Prime Minister. He also held discussions with the NLD, including its General Secretary Daw Aung San Suu Kyi.

II. Discussions with the Government of Myanmar

6. In the course of his two visits to Yangon and at his meeting with the Minister of Foreign Affairs in New York, my Special Envoy discussed with his interlocutors a range of issues that have repeatedly been raised by the General Assembly and the Human Rights Commission in their annual resolutions, in particular progress towards the restoration of democracy in the light of the results of the 1990 elections; the opening of a substantive dialogue with political parties, particularly the NLD and its General Secretary, Daw Aung San Suu Kyi, and with representatives of the national races; restrictions on the functioning of the NLD and other political parties; and the situation of human rights and in this connection the need for the Special Rapporteur to visit Myanmar.

7. During his meetings with government officials, my Special Envoy stressed my desire to assist in bridging the differences that separate Myanmar from the international community and the consequent importance of addressing the concerns raised in the General Assembly. In particular, my Envoy encouraged the Government to open a genuine dialogue with the NLD as the party that had won the majority of votes and the overwhelming number of seats at the 1990 elections, and suggested that the dialogue which according to the Government it was holding with the national races should be intensified and made more transparent. My Envoy also suggested that since the Government was intent on promoting an inclusive approach towards the armed insurgent groups, some of whom had been fighting the central Government since independence, it should also adopt a similarly inclusive approach in the case of the NLD. In conclusion, my Envoy urged the Government to give visible signals that it was indeed moving towards democracy and a multiparty system, its declared goal.

8. My Envoy pointed out that the Secretary-General's mandate, being one of discreet good offices, did not include detailed reporting on the factual situation regarding human rights in Myanmar since that responsibility rested with the Special Rapporteur designated by the Commission of Human Rights for that purpose. My Envoy's visits should therefore not be considered a substitute for those of the Special Rapporteur, who if allowed to enter Myanmar would be able

to observe the situation in the country at first hand and report on it without having to rely largely on outside sources for his information and also taking into account the Government's views.

9. Following my Special Envoy's visit in February 1998, I wrote to the Chairman of the SPDC, requesting the Government to consider taking concrete steps of the kind suggested by Mr. de Soto, such as the renewal of a dialogue with the NLD, the amendment of laws restricting political rights and freedoms, the release of persons in detention or imprisoned for politically related offences and the setting of a date for a visit by the Special Rapporteur. In response, the Government, without addressing my suggestions, informed me that it would continue to move forward "in a systematic way towards [the] goal of a peaceful, prosperous, modern and developed State with a multi-party democratic system and a market-oriented economy".

10. On the question of opening a substantive dialogue with political parties, in particular the NLD and Daw Aung San Suu Kyi, the Government maintained that the negative approach of the NLD, and Aung San Suu Kyi in particular, towards the Government's actions made it difficult to establish contacts with that political party. The Government, however, drew attention to the meeting between Secretary-1 of the SPDC and U Aung Shwe, Chairman of the NLD, which had taken place on 18 August 1998, which it considered fruitful and which it had expected to be the first of a series of confidence-building talks between the Government and the NLD. However, this had not materialized because of the NLD's call, on 21 August 1998, for the convening of the national parliament, which the Government considered highly confrontational and potentially destabilizing, especially with the subsequent establishment on 17 September 1998 at the initiative of the NLD of the "Committee Representing the People's Parliament Elected by the 1990 Multiparty Democratic General Elections". The Government reiterated that it was not opposed to a dialogue with the NLD provided that there was a change in attitude on the part of the NLD and Daw Aung San Suu Kyi.

11. With regard to the detention of several hundred members of parliament and other NLD members, the Government explained that the attempt to convene the parliament had forced it to take preventive action, but that they were being released gradually and would be released immediately if the NLD renounced its call for the parliament to assemble.

12. On the issue of the freedom of political parties, the Government stated that the prevalence of peace and stability throughout the country was a prerequisite for

democratization, as was progress towards development. It pointed out that the NLD, in cooperation with some international actors, had tried to undermine the achievements of the Government and had attempted to incite unrest among the population with the objective of assuming power and that the Government could not tolerate such activities, which taken to the extreme might result in bloodshed.

13. As for the curtailment of Daw Aung San Suu Kyi's freedom of movement, the Government replied that her call for a boycott of investment and tourism and her support of sanctions had rendered her widely unpopular, and that the decision to restrict her movements had stemmed out of concerns for her own safety.

14. On the situation of the national races, the Government declared that its priority was to achieve "national reconsolidation" by bringing all the armed ethnic groups "into the legal fold". To date 17 armed groups had done so, and the Constitution being drafted, which would give important powers to the States, Divisions and self-autonomous areas and zones, would adequately reflect their views.

15. Regarding the visit of the Special Rapporteur, the Government reiterated that he would be invited to visit at an opportune time.

16. The NLD, for its part, reported an overall deterioration of the situation in the country, with continued and widespread harassment against its members and supporters, including forced resignations from the party, arbitrary arrests, torture, suppression of freedom of expression and association, and severe and enforced restrictions on movement, as well as on other normal political activities. Daw Aung San Suu Kyi, although not required any longer to inform the authorities about her movements, was prevented from leaving Yangon and meeting NLD members in the provinces. In addition, the general population were being denied the right to education and economic development, while forced relocation and labour continued in Myanmar on a large scale, particularly in the ethnic minority areas.

17. The NLD leadership considered that the meeting between its Chairman and Lieutenant-General Khin Nyunt in August 1998 had not amounted to the beginning of a dialogue, and that at any rate the composition of the delegation that would represent the NLD at such talks should be a matter to be decided by the Central Executive Committee and was not for the SPDC to dictate.

18. Regarding the party's call in June 1998 for the convening of parliament – the NLD stated that it was its responsibility, eight years after the failure of the People's Parliament (*Pyithu Hluttaaw*) elected in 1990 to convene –

to implement the will of the people and that its aim was neither confrontation nor an attempt to assume power but to accelerate the opening of a meaningful dialogue with the Government. The "Committee Representing the People's Parliament Elected by the 1990 Multiparty Democratic General Elections" had been empowered by 251 members of parliament, out of a total of 459 elected members still alive, to act on their behalf in view of their inability to meet due to their arrest, imprisonment or restrictions on their freedom of movement.

III. Observations

19. I must register my disappointment at my inability to report genuine, substantive progress on the part of the Myanmar Government in addressing the appeals to it in repeated General Assembly resolutions, notwithstanding my efforts. I am concerned at the deterioration in the situation and the tensions that have arisen. I believe such efforts should be intensified in the coming months.