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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS IN ANY PART OF THE WORLD**

Situation of human rights in Myanmar

Report of the Special Rapporteur, Paulo Sérgio Pinheiro

Summary

In its resolution 2005/10, the Commission requested the Special Rapporteur to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session. The Special Rapporteur thereby submitted an interim report to the Assembly in accordance with this request (A/60/221). The present report is also submitted in accordance with the above request and is based on information received by the Special Rapporteur up to 22 December 2005. It is to be read in conjunction with his last interim report.

Throughout the six-year period of his mandate, the Special Rapporteur received substantiated reports of grave human rights violations on an ongoing basis. Little evidence was available of the existence of a serious commitment by the Government to addressing the culture of impunity for State actors, with the vast majority of his communications to the authorities not receiving a response.

With regard to the transition process, the National Convention, having been suspended for a further nine months following its last session held from 17 February to 31 March 2005, was reconvened on 5 December 2005. The Special Rapporteur was deeply dismayed to learn that no progress towards instituting genuine democratic reform has been made since the previous session.

The Special Rapporteur regrets that, according to information received during the last reporting period, the situation regarding the exercise of fundamental human rights and freedoms remains grave. The intimidation, harassment, arbitrary arrest and imprisonment of civilians for peacefully exercising their civil and political rights and freedoms continue. Members of registered political parties, human rights defenders and pro-democracy advocates are particular targets.

The activities of political parties remain severely repressed and subject to scrutiny by government agents. The offices of the National League for Democracy (NLD), which won over 80 per cent of the seats in the 1990 election, have been shut down, with the sole exception of the headquarters in Yangon. Members of NLD and other political parties are susceptible to harassment and imprisonment on a continuous basis.

On 27 November, the Government issued a new executive order prolonging the detention of Daw Aung San Suu Kyi for a further six months. The General-Secretary of NLD and Nobel Peace Prize laureate has now been in detention for over 10 of the last 16 years. The Special Rapporteur is gravely disturbed that a legitimate political leader continues to be held hostage in solitary confinement.

To date, the total number of political prisoners in Myanmar is estimated to stand at 1,144. Amongst those behind bars are students, monks, teachers, journalists and elected members of parliament. The number of releases during the reporting period was negligible, while the number of civilians arrested continued to rise.

The Special Rapporteur draws attention to the marked decline in socio-economic conditions, which has resulted in increased poverty countrywide. Urgent reform is required to prevent any further degeneration of an already severely damaged economy.

The humanitarian situation in Myanmar, while not yet at the point of acute crisis, has shown marked signs of deterioration over the past year. In 2001, soon after the Special Rapporteur took up his mandate, the heads of eight United Nations agencies in Yangon expressed their concern over the “silent humanitarian crisis in the making”. The situation then was particularly serious in ethnic minority and conflict areas. It has since significantly deteriorated, affecting the population now on a wide scale.

The human rights concerns enumerated in the present report are largely the same as those which the Special Rapporteur highlighted when he commenced his mandate, six years ago. Despite early indications from the Government that it was willing to address these problems, he regrets that all such willingness appears to have disappeared.

The Special Rapporteur stressed that human development and economic reform must be prioritized in order to defeat the poverty that is at the root of Myanmar’s many problems. Rational management of the economy and substantially enhanced budgetary allocations for the protection of economic, social and cultural rights continue to be essential priorities for tackling those problems.

Any progress towards resolving ethnic conflict in Myanmar is unlikely to be possible or sustainable without tangible political reform. The ongoing armed conflict in several ethnic minority areas continues to underpin the most grave human rights abuses in the country and to exacerbate Myanmar’s humanitarian decline and long-standing state of socio-economic underachievement. Without an inclusive reform process, such urgent challenges for the country will not be addressed by the Government’s current road map process.

No transition process is worthy of the name as long as fundamental freedoms of assembly, expression and association are denied; voices advocating democratic reform are silenced; elected representatives are imprisoned; and human rights defenders are criminalized. No progress will be made towards national reconciliation as long as key political representatives are being locked behind bars, their constituents subject to grave and systematic human rights abuses and their political concerns disregarded.

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Introduction

1. The mandate of the Special Rapporteur on the situation of human rights in Myanmar was established by the Commission in its resolution 1992/58 of 3 March 1992 and extended most recently in resolution 2005/10.
2. In the latter resolution, the Commission requested the Special Rapporteur to report to the General Assembly at its sixtieth session and to the Commission at its sixty-second session. The Special Rapporteur thereby submitted an interim report to the General Assembly in accordance with this request (A/60/221). The present report is also submitted further to the above request and is based on information received by the Special Rapporteur up to 20 December 2005. It is to be read in conjunction with his last interim report.

I. ACTIVITIES OF THE SPECIAL RAPPORTEUR

3. The Special Rapporteur presented his interim report to the General Assembly on 27 October 2005. While in the United States of America, he met with representatives of the Government of Myanmar and held consultations with representatives of States Members of the United Nations and of the Association of South-East Asian Nations (ASEAN), officials from United Nations agencies, civil society organizations and members of the academic community.
4. During the course of his mandate, which commenced in December 2000, the Special Rapporteur has visited Myanmar on six occasions, as facilitated by the Government.
5. Since his last mission to Myanmar in November 2003, the Special Rapporteur has written on several occasions to the Government of Myanmar, seeking its cooperation. Notwithstanding his readiness to travel to the country at any time, the Government has not invited him to visit the country. The Special Rapporteur regrets that the Special Envoy of the Secretary-General for Myanmar has also been denied access to the country, since his last mission in March 2004, in spite of repeated requests to do so.
6. Throughout the six years of his mandate, the Special Rapporteur has made a particular effort to reflect in his reports the perspectives of the countries of the region, having held consultations in Bangkok, Beijing, Kuala Lumpur, Singapore and Tokyo. He has held regular consultations with the permanent members of the Security Council and representatives of all regional groups in New York and Geneva.
7. During the current reporting period he visited Brussels, London, Paris, Prague, Strasbourg, Sydney, Vienna and Washington. In November, he travelled to Thailand to meet with key local and regional actors in the diplomatic, parliamentary and non-governmental sectors, as well as representatives of United Nations agencies. He also met with senior officials from the Ministry of Foreign Affairs of the Government of Thailand, to whom he is most grateful for kindly facilitating this and previous visits. During his mission, he travelled to refugee camps along the Thai-Myanmar border, to meet with recent arrivals from Myanmar.

8. The Special Rapporteur will be stepping down from his mandate, further to the six-year term limit following the submission of the present report. He wishes to thank all the Member States and civil society organizations who have supported his mandate and shared with him their observations on the situation of human rights in Myanmar.

II. OVERVIEW OF SIX-YEAR TERM

9. The Special Rapporteur believes it is useful to give a brief overview of his previous reflections on the situation of human rights in Myanmar. These notes illustrate that the positive momentum evident in the early years of his mandate has dissipated and the present administration is far less inclined towards democratic change.

10. His terms of reference as ascribed by the Commission on Human Rights requested that he “establish direct contacts with the Government and with the people of Myanmar, including political leaders deprived of their liberty, their families and 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” (resolution 1992/58, para. 3).

11. In April 2001, he began his mandate by undertaking an exploratory visit to Myanmar, aimed at establishing dialogue with the Government and relevant interlocutors. Subsequently he undertook five missions to Myanmar, visiting Shan, Kachin, Kayin, Mon States, and Bago and Yangon Divisions. He regarded each mission as an expression of partnership with Myanmar, the Government, the opposition and civil society, to analyse problems together, discuss solutions and mobilize international support for their implementation, in order to advance the protection and promotion of human rights in Myanmar.

12. Following his first visit, the Special Rapporteur was heartened by the fact that the then Secretary-1, Lieutenant-General Khin Nyunt, recognized the necessity and value of the political opposition and its potentially constructive role in the transition to democracy. The inclusion of all political representatives would be essential to building confidence in the transition process, a point the Special Rapporteur was to make repeatedly throughout his term. An enabling environment needed to be created, wherein the inherent rights of the people of Myanmar were no longer forcibly repressed but allowed their full expression, if progress towards national reconciliation and democracy was to be finally made.

13. The Special Rapporteur emphasized the long overdue need for the dynamic activation of the transition process, to which the Government had so fervently committed itself following its failure to transfer power to those democratically elected in 1990. He put forward basic recommendations which were essential first steps in instituting democratic governance. These would necessarily include, inter alia: the unrestricted participation of all political representatives in the transition process; the full and unconditional release of all political prisoners; increased military discipline and respect for international humanitarian law; the reform and development of a State bureaucracy capable of operating within professional norms; the enhancement of the country’s human rights capacity to address the prevention and monitoring of human rights violations, including the establishment of instituted mechanisms of accountability for State

actors; and the development of a legal culture supportive of constitutionalism and the rule of law. He also stressed the need to strengthen social capital and to encourage the development of a dynamic civil society, so instrumental in the laying of a solid foundation for democracy. These and related recommendations put forward by the Secretary-General of the United Nations were never implemented, but remain nonetheless imperative.

14. The seven-point road map for national reconciliation and democratic transition launched by Prime Minister Khin Nyunt in 2003, while it did not have democratic and human rights principles firmly entrenched therein, represented an acquiescence that the political life and future of Myanmar could no longer be held hostage to military rule. Its early promise has since then failed to deliver any tangible progress, as the political environment remains severely repressed and the inbuilt anti-democratic conditions of the National Convention remain firmly in place.

15. From the beginning, the Special Rapporteur has sought to acknowledge every positive development, such as the dissemination of human rights standards for public officials; the release of political detainees; the reopening of branches of NLD; the facilitation of a country visit by Amnesty International; and cooperation with the International Committee of the Red Cross (ICRC), the International Labour Organization (ILO) and other United Nations agencies. Unfortunately, many of these positive developments have been reversed in recent times. He welcomed the activities of the short-lived Human Rights Committee, which had been established in 2000, allegedly as an interim body leading to the establishment of a National Human Rights Commission, until its reported disbanding following the change of administration in 2004.

16. Throughout the six-year period of the Special Rapporteur's mandate, substantiated reports of grave human rights violations continued to be received on an ongoing basis. Little evidence was available of a commitment by the Government to addressing the culture of impunity for State actors, with the vast majority of his communications to the authorities not receiving a response.

17. The Special Rapporteur also highlighted abuses by non-State armed groups. He pleaded for the rights of the civilian population, caught up in the ongoing conflict, violated and victimized primarily by the military but also by non-State armed forces. Such violence was and continues to be largely arbitrary, summary and indiscriminate, resulting in substantial internal displacement within Myanmar, and outflows of refugees and forced migrants into neighbouring countries. In reporting on the situation in ethnic minority areas whose populations were particularly subject to systematic human rights abuses, he called attention to the perpetration of sexual violence against women by government personnel. His repeated offers to conduct an independent investigation into allegations of sexual violence against women in Shan State were never accepted by the Government.

18. Throughout his mandate, he reiterated his belief that Myanmar and its neighbouring countries had an obvious interest in resolving the matter of ongoing insecurity along their common borders with related transnational issues of forced migration, refugees, trafficking of persons and narcotics, and the spread of communicable diseases.

19. During his visits to Myanmar the Special Rapporteur met with the General Secretary of NLD whose steadfast commitment to the promotion of human rights and democracy in Myanmar in the face of her continued captivity by the authorities is a cause of shame within the

international community. The Special Rapporteur took her release from house arrest, in 2002, as a clear demonstration by the Government of its commitment to advancing confidence-building. Such positive momentum was ruptured, however, by the violent attack on her and her party colleagues at Depayin in May 2003, which he strongly condemned. His proposal to conduct an independent inquiry into the massacre was not taken up by the authorities, and those responsible for the attack have yet to be brought to justice. The rearrest of Daw Aung San Suu Kyi thereafter and the shutting of the offices of NLD represented a further regression in the human rights situation. Progress towards democratic reform deteriorated yet further, following the change of administration in October 2004.

20. The Special Rapporteur drew attention to many aspects of the humanitarian situation, stressing that only 0.17 per cent of the gross domestic product in 1999/2000 was understood to have been spent on health care and a similarly negligible amount on tertiary education. In 2002, he called attention to the alarming speed at which HIV/AIDS was spreading. He appealed to the Government to coordinate with the political opposition and the international community to plan the effective management of the humanitarian needs of Myanmar's most vulnerable groups.

21. Despite the lack of sustainable political or human rights developments in Myanmar during the last decade, there had been a minor expansion in the humanitarian space as a whole. Heightened engagement of government authorities by humanitarian agencies in policy-level dialogue was apparent. Positive indicators such as the official recognition of the HIV/AIDS epidemic, acknowledgement of the need to address the issue of recruitment of child soldiers into the military and the proclamation of a law prohibiting human trafficking are examples of the protection gains made during this period. Since October 2004, however, the positive trend towards addressing humanitarian exigencies has been largely reversed.

22. The Special Rapporteur stressed that human development and economic reform must be prioritized in order to defeat the poverty that is at the root of Myanmar's many problems. Rational management of the economy and substantially enhanced budgetary allocations for the protection of economic, social and cultural rights were highlighted as essential priorities for tackling those problems. In order to initiate and maintain the pace of economic and democratic reform, he reminded the Government that the assistance of the international community was readily available and contingent only upon the willingness of the Government to engage in addressing the situation of the people of Myanmar.

III. RECENT DEVELOPMENTS

A. National Convention

23. Having been suspended for a further nine months, following its last session (17 February-31 March 2005), the National Convention reconvened on 5 December 2005. The Special Rapporteur was deeply dismayed to learn that no progress towards instituting genuine democratic reform has been made since the previous session. Procedural conditions and restrictions remain, legitimate political representatives are not included and apparently the concerns of the ethnic parties have not been addressed. No deviation from the preordained agenda and defined principles set by the Government has been reportedly accepted.

24. The Special Rapporteur is particularly concerned over reports received from the recent session of the National Convention that “the President of State is to serve as the Head of State and the Head of the Union Government ... the President shall not be responsible for answering to any Hluttaw [legislative body] or to any court for the exercise or performance of the duties and functions vested in him by the Constitution or any of the existing laws or for any of his actions in the exercise and performance of these powers and functions”, as cited by the Alternate Chairperson of the Delegate Group to the National Convention.

25. Concern has also been expressed by some delegates that amendments to the Constitution may only be made with at least 75 per cent of votes from parliament. However, as the Government continues to stipulate that 25 per cent of the seats in parliament are to be reserved for military personnel, it appears that any proposed amendment to the Constitution will require military approval.

26. The Special Rapporteur has received reports of the mounting frustration of various ethnic political parties and ceasefire groups, that the constitutional proposals which they submitted for consideration to the National Convention have not been raised for open debate. Their concerns about the guaranteed role of the military in Government and the extent of devolution of legislative authority to states remain outstanding.

27. The Special Rapporteur has consistently indicated that national reconciliation requires meaningful and inclusive dialogue with and between political representatives and is severely damaged by silencing representatives. He is firmly of the opinion that national reconciliation and the stability of Myanmar are not well served by the very heavy sentencing of several leading Shan representatives in November 2005. The sentences were handed down only days after the Shan State Army (North) had presented its list of delegates who would be participating in the National Convention, having boycotted the last session. Those sentenced also included leaders of the Shan Nationalities League for Democracy (SNLD), which won the second largest number of electoral constituencies in the 1990 general election and a majority of seats in Shan State. By imprisoning key ethnic representatives, the Government undermines its own commitment to promote national reconciliation and sends a message to ethnic groups whether party to a ceasefire agreement or not that their participation in the political future of the country is not guaranteed.

28. The New Mon State Party, an ethnic ceasefire group, although sending observers, took the decision not to formally participate in the recent meetings of the National Convention, dissatisfied that a joint proposal regarding legislative and judicial issues submitted by several ethnic ceasefire groups during the last session was not accepted by the military authorities. The procedural restrictions placed on the participants' right to free speech which prevents open and frank discussion on the formulation of a new constitution were reportedly another reason cited by the ceasefire group for its stance.

29. The concerns of the ceasefire groups are compounded by reports of increased militarization in ceasefire areas. Contrary to expectations that entering into a ceasefire agreement would result in a loosening of military control, the confiscation of lands, the continued construction of military camps in ceasefire areas and other activities which have a negative impact on the civilian population, including forced labour demands, are leading many to query the dividends to be gained from entering into ceasefire agreements.

30. The recommendations advanced on several occasions by the General Assembly and the Commission on Human Rights calling for the National Convention to be placed on a solid democratic footing, have been disregarded by the current administration. Repeated requests for inclusive dialogue proffered by NLD and various other political representatives also remain unheeded.

B. International developments

31. The Special Rapporteur regrets that the Government of Myanmar was not in a position to assume the chairmanship of ASEAN in July 2006. He also noted the statement issued by the Chairman of the ASEAN Regional Forum in July 2005, which gave voice to the regional concern at the pace of the democratization process in Myanmar, and called upon the Government to lift restrictions on political actors and to engage in effective dialogue with all parties.

32. On various occasions, the Special Rapporteur has alluded to the vital role that ASEAN member States can play in facilitating the political transition process in Myanmar. He has also stated that it is decisive that other concerned countries in other regions should coordinate their initiatives concerning Myanmar with ASEAN and neighbouring countries.

33. The Chairman's statement issued at the conclusion of the 11th ASEAN summit in Kuala Lumpur on 12 December 2005 calling on the Government of Myanmar to expedite democratic reforms and release political prisoners is to be warmly welcomed and supported. The Special Rapporteur believes the visit by a delegation of ASEAN representatives to Myanmar in January 2006 to assess the process of democratic reform represents a positive and constructive development.

34. The Special Rapporteur took note of the "Threat to the Peace" report commissioned by Archbishop Desmond Tutu and former President Václav Havel, published in September 2005, which calls for action to be taken by the Security Council, in the interest of regional peace and stability. He firmly believes that the report is a clear expression of the long-term frustration and grave concern of the international community at the lack of meaningful progress in the political transition and national reconciliation processes and the systematic human rights violations committed by the military authorities.

35. During its informal consultations on 2 December 2005, the Security Council decided to request a briefing by the Secretariat on the situation in Myanmar under "Other matters". Further to the proposal of the United Kingdom, presiding at the December meeting of the Security Council, the decision was taken by consensus on condition that no statement would be issued. The briefing took place during the meeting of the Security Council on 16 December 2005.

C. Relocation of the capital of Myanmar

36. In November 2005, the Government announced that it had commenced its relocation of several ministries from the capital in Yangon to what it purports to be a "command and control centre" currently under construction near Pyinmana, in southern Mandalay Division. The Special Rapporteur is concerned by reports of forced relocation of villages and the alleged use of

forced labour in the construction of this compound. It has also been brought to his attention that civil servants who refused to move might be criminally charged and that no resignations or retirements were reportedly permitted.

IV. CIVIL AND POLITICAL RIGHTS

A. General observations

37. The Special Rapporteur regrets that according to information received during the last reporting period, the situation regarding the exercise of fundamental human rights and freedoms remains grave. The intimidation, harassment, arbitrary arrest and imprisonment of civilians for peacefully exercising their civil and political rights and freedoms continue. Members of registered political parties, human rights defenders, pro-democracy advocates are particular targets.

38. The activities of political parties remain severely repressed and subject to scrutiny by government agents. The offices of NLD, the political party which won over 80 per cent of the seats in the 1990 election, have been shut down, with the sole exception of the headquarters in Yangon. Members of NLD and other political parties are susceptible to harassment and imprisonment, on a continuous basis.

39. The Special Rapporteur regrets that trial procedures of those detained on charges of a political nature fall far below international standards. Information on charges, trial dates, legal representation and the right of appeal are frequently not made available to political detainees; trials are often conducted in camera, and within prisons; and sentences are regularly handed down shortly after the trial has begun, with little or no opportunity for the defendants to call upon witnesses.

B. "Security" legislation

40. Political prisoners are detained under laws promulgated by the Government as "security" legislation, should they be considered to be acting in opposition to the policies of the authorities. Such legislation, which contravenes international legal standards by restricting the right to freedom of expression, association and assembly, includes:

(a) The Emergency Provisions Act (1950) is frequently applied to those who "threaten the stability of the Union". Section 5 (J) which carries a sentence of seven years' imprisonment is the charge on which most political prisoners are detained;

(b) The Unlawful Association Act (1908) is frequently invoked to arbitrarily arrest and detain activists who are associated with what the Government deems as "unlawful" organizations and allows for prison sentences of two to five years to be imposed;

(c) The Printers and Publishers Registration Law (1962) deems those who print, publish or circulate written materials without seeking and receiving prior permission by the Government liable to seven years' imprisonment;

(d) The State Protection Law (1975) is invoked by the Government to detain political activists without charge or trial for up to five years, should they be deemed by the authorities to constitute a “danger to the State”. It also allows for the extension of the detention of political prisoners whose sentences have already expired.

41. Political activists and human rights defenders are also susceptible to arbitrary arrest on criminal charges. In October 2005, Ma Su Su Nway, an NLD member was sued for a criminal offence after she won a lawsuit against the local authorities for forced labour practices. She was sentenced to 18 months’ imprisonment.

C. Recent arrests and convictions

42. Since July 2005, at least 44 people are believed to have been arrested and imprisoned for their political beliefs and activities. Many include members of registered political parties such as NLD members, U San Shwe Tun and U Aung Ban Tha. U Hla Aye and Thant Tin Myo, both NLD members, arrested in Yangon on 15 September were subsequently sentenced to two years’ imprisonment. U Aung Pe, who had been arrested in February for teaching students about the political figure U Aung San, father of Aung San Suu Kyi, was sentenced to three years’ imprisonment.

43. Following a secret trial set up by the authorities inside Insein Prison, former Prime Minister Khin Nyunt was handed a 44-year suspended sentence on 22 July, on charges which included bribery and corruption. He is being held under house arrest along with his wife. His two sons received sentences of 68 and 51 years’ imprisonment respectively, for alleged economic crimes. Information on the names, whereabouts and charges against those individuals associated with the former Prime Minister currently held in detention has yet to be fully disclosed.

44. U Kyaw Min, Muslim MP of the National Democratic Party for Human Rights from Rakhine State, his wife, his two daughters and one of his sons who had been arrested in March 2005, were sentenced on 29 July 2005 in a special court set up inside Insein Prison. Having being denied legal representation, they were tried under the Emergency Provisions Act. U Kyaw Min received a 47-year sentence, his wife and three of his children were each sentenced to 17 years in prison.

45. Donald Sao Oo Kya, a senior member of the Shan State Consultative Council, was arrested on 3 August 2005 on alleged charges of operating as a tour guide without a licence. While in detention, he gave a statement which the authorities deemed to have defamed the State. In September, he was sentenced to 13 years’ imprisonment.

46. On 28 August, the Government convened a press conference, announcing allegations against 10 individuals reported to have had contact with the Federation of Trade Unions of Burma (FTUB), an organization which it has outlawed. Notwithstanding reports that they were merely exercising their right to freedom of expression, nine were allegedly sentenced in November to between 8 and 25 years in prison. These were: Myint Lwin (aged 77), Win Myint, U Hla Myint Than, Daw Yin Kyi, Ye Myint, Wai Linn, Aye Thi Khaing, Ma Aye Chan and Thein Lwin Oo. The tenth person, Aung Myint Thein (son of Thein Lwin Oo) died in custody (see paragraph 58 below).

47. Seventeen youth members of NLD were arrested on 26 October 2005 in Yangon Division while preparing for the wedding of two friends. The reason for their detention was that they had not abided by what is commonly known as the “Courtesy Law”, which requires the permission of local authorities, should a person wish to stay overnight in the house of another. As the 17 NLD members did not allegedly obtain such permission, they were held in detention for over two weeks, pursuant to the above law.

48. In spite of the various calls from the international community for their release, the Special Rapporteur was deeply disturbed to learn of the inordinately severe sentences of the nine Shan leaders who had been arrested in February 2005, following their attendance at a political meeting in Shan State. On 3 November, all nine were convicted by a special court established within Insein prison, on charges of treason, for allegedly holding political discussions about the National Convention, which were described as “obstructing the successful completion of the National Convention”. General Hso Ten (Chairman, Shan State Peace Council) was sentenced to 106 years; Khun Htun Oo (Chairman, Shan Nationalities League for Democracy) to 93 years; Sai Nyunt Lwin (SNLD) to 85 years; Sai Hla Aung (SNLD) to 79 years; U Myint Than, Sai Myo Win Tun, Nyi Nyi Moe and U Tun Nyo, all members of the New Generation of Shan party, were each sentenced to 79 years; Sout Oo Kyar (SNLD) to 30 years; and Sout Tha Oo (SNLD) to 12 years. All were allegedly tried in camera within Insein Prison, without access to a legal counsel of their choosing. U Shwe Ohn, the 82-year-old Shan leader arrested in February remains under house arrest, without having been charged or tried.

49. On 27 November, the Government issued a new executive order prolonging the detention of Daw Aung San Suu Kyi, for a further six months. The General Secretary of the National League for Democracy and Nobel Peace Prize laureate has now been in detention for more than 10 of the last 16 years. The Special Rapporteur is gravely disturbed that a legitimate political leader continues to be held hostage in solitary confinement. The military authorities have refused her access to ICRC, which the Special Rapporteur finds deplorable.

50. To date, the total number of political prisoners in Myanmar is estimated to stand at 1,144. Amongst those behind bars are students, monks, teachers, journalists and elected members of parliament. In spite of repeated calls by the Secretary-General of the United Nations and the Special Rapporteur, the number of releases during the reporting period was negligible, while the number of civilians arrested continued to rise.

D. Conditions of detention

51. Conditions of detention and treatment of political prisoners remain a cause for serious concern. The Special Rapporteur notes with dismay that ICRC is facing increased difficulties in visiting places of detention in Myanmar, no longer enjoying the full privileges of access it enjoyed six months ago, prior to August 2005.

52. Incommunicado detention continues to be a common practice, whereby having been arrested, often without any warrant being shown or charges indicated, civilians are transported to an interrogation or detention centre, where they are held for significant periods of time, often several months, without the knowledge of their families.

53. The diet of prisoners is reported to be severely lacking in basic nutritional value, resulting in a number of cases of malnutrition. The substandard quality of prison food is such a common complaint that prisoners are allegedly reliant on their families to provide supplements. Those incarcerated in prisons far from home, as is the case for many political prisoners, are not in a position to benefit from such family visits. In September 2005, an outbreak of diarrhoea in Tharawaddy Prison allegedly resulted in the deaths of 12 prisoners and the hospitalization of at least 40 others, following the serving of rotting food and unclean water.

54. Credible reports received about the conditions in various prisons throughout Myanmar strongly indicate that health problems of prisoners are being generated or exacerbated by poor conditions of detention. Medical treatment for ill prisoners is reported to be inadequate and specialist medical treatment absent in several prisons. Malnutrition, heart disease, malaria, tuberculosis and mental illness are amongst the most common complaints.

55. The Special Rapporteur is seriously concerned about the continued detention of a number of severely ill political prisoners, who should be immediately released on humanitarian grounds (see annex below).

56. He is also deeply saddened at the continued incarceration of older political prisoners, some of whom are over 75 years of age. Amongst those who should be released on humanitarian grounds are: U Aung Khaing (Arakan Communist Party); U Aung Thu (People's Progressive Party); U Ba Chit (ex-captain); General Hso Ten (Chairman, Shan State Peace Council); U Hla Myint Than (NLD); U Khin Maung Swe (member of parliament, NLD); U Kyaw Khin (member of parliament, NLD); U Kyaw Min (member of parliament, NLD); U Kyaw San (member of parliament, NLD); U Maung Maung Oo (NLD); Saw Naing Naing (member of parliament, NLD); U Than Htay (member of parliament, NLD); Dr. Than Nyein (member of parliament, NLD); U Tin Oo (Vice-Chairperson, NLD); U Win Tin (Joint Secretary, NLD).

57. Reports of torture and ill-treatment of those held in pretrial detention and of political prisoners continue to be received. Allegations include food, water, sleep and light deprivation; harsh beatings; forced squatting for prolonged periods; shackling and solitary confinement.

58. The number of political prisoners who have died while in the custody of the military authorities since 1988 is currently reported to be over 90 persons. Between May and December 2005 alone, four deaths have been reported to the Special Rapporteur, allegedly as a consequence of torture, ill-treatment or inadequate medical attention. To date, no independent investigations are known to have been conducted into the recent deaths of the following persons:

(a) Aung Hlaing Win, a member of NLD, who died in May in an interrogation centre, 10 days after his arrest, was cremated without the knowledge of his family. While the autopsy indicated clearly that he had been tortured, Mayangone Township court handed down a decision, citing liver disease as the cause of death;

(b) Saw Stanford, a teacher who had been arrested on 7 July 2005 in Ayeryarwaddy Division, is alleged to have died as a result of electric shocks employed upon him during his interrogation. His family reportedly lodged a complaint about his death and requested that action be taken against those responsible. The authorities offered financial compensation to the family and allegedly requested that they not speak publicly about his death;

(c) Min Tun Wai, a 40-year-old NLD member from Mon State, was arrested in May 2005, with no grounds given by the authorities and sentenced to seven years' imprisonment. On 30 May, he was reported to have died in Moulmein Prison and to have subsequently been buried by the authorities, without any notice having been given to his family;

(d) Aung Myint Thein, a human rights defender based in Yangon, was arrested on 2 July on the grounds of having had contact with an "illegal" organization, the exiled FTUB. According to a press conference given by the Director-General of Police on 28 August, he had confessed to attending a training workshop on labour rights and to communicating news to opposition groups in exile. While subject to a closed-door trial, in Insein Prison, he died on 5 November. The authorities reportedly stated that he died as a result of dysentery and cholera, in spite of the fact that no autopsy was known to have been conducted. His family was not permitted to see his body or to bury him.

E. Freedom of religion

59. The Special Rapporteur has been notified that restrictions continue to be imposed by the authorities on certain religious activities. Obtaining permission to repair or construct new churches, mosques and temples remains difficult for Myanmar's Christian, Muslim and Hindu communities.

60. Reports received from Rakhine State indicate that the Muslim minority continue to face discrimination on the basis of their ethnicity. The 1982 Citizenship Law as it currently stands does not consider the Rohingya minority an ethnic nationality of Myanmar, thus rendering them effectively stateless. The Special Rapporteur notes that the Government has yet to authorize the issuance of temporary resident's cards to those sections of the Muslim population in northern Rakhine State, who remain without formal identification papers. Discriminatory practices which they frequently face include imprisonment for travelling within or outside the State without an official travel permit; problems in obtaining permission to marry; difficulties in birth registration due to high fees and unauthorized marriages; difficulties in accessing education; and reported restrictions on taking up many civil service positions.

F. Freedom of expression

61. The Special Rapporteur notes that Myanmar's press continues to be tightly controlled by the State censorship board. Since October 2004, the Government has actively sought to regularize its control of the press. Every journal, newspaper and magazine must submit each edition to the censors for approval before publication. No publication may be issued without State approval. The process of official approval allegedly takes one week for weekly and monthly periodicals, within which period photographs and headlines are also scrutinized.

62. The Printers and Publishers Registration Law prohibits "anything detrimental to the State", "any incorrect ideas and opinions which do not accord with the times", "any descriptions which though factually correct, are unsuitable because of the time or circumstances of their writing" and "any criticism of a non-constructive type of the work of government departments". When writing about a government ministry, journalists are allegedly required to name their source and obliged to obtain a letter of authorization from the ministry concerned, which may or may not grant approval for publication.

63. The Special Rapporteur regrets to learn that access to information, especially to the foreign media, has allegedly become more difficult over the past year. In 2005, censorship was reportedly extended to cover death notices.

64. With regard to the Internet, State censorship is reportedly exercised through the surveillance of e-mail activity, and the use of software-based filtering techniques to block access to any website, whose content the Government deems as being contrary to the national interest and the Internet Regulations of 2000. The majority of websites of the political opposition, pro-democracy groups and human rights organizations are blocked.

65. While 30 new publishing licences were reportedly granted in the past 12 months, very few of them have resulted in the establishment of viable publications given the excessive restrictions and bureaucratic demands, insisted upon by the Government. The possession of fax machines, video cameras, modems and satellite antennas remains illegal and punishable with prison sentences of up to 15 years. All computers or networks, including fax machines, must be registered with the Ministry of Communications, Posts and Telegraphs, and a licence agreement obtained.

66. The Special Rapporteur has learnt that the Ministry of Information Press Scrutiny and Registration Division (PSRD) has in recent months promised a more “flexible” approach to the press in return for a more proactive approach by the press in supporting the policies of the Government. It was indicated that critical reports on government projects may be tolerated as long as criticisms are deemed “constructive”. Media coverage of natural disasters and poverty, previously banned, may be allowed on condition that it does not affect what the Government deems to be the “national interest”. This notwithstanding, in July, with the exception of the English-language *Myanmar Times*, none of the media outlets were allowed to report Myanmar’s decision to forgo its rotating chairmanship of ASEAN in 2006. According to PSRD, negative reports and commentaries about China, India and ASEAN will continue to be banned.

67. In August 2005, PSRD issued new publishing licence regulations, which further tighten control over the editorial teams of authorized publications. Under these new publishing rules, PSRD can also block the transfer of a publishing licence from one publisher to another.

68. The Government continues to tightly control access by international journalists to Myanmar. While a few select correspondents have been given reporting visas on an intermittent basis, many senior journalists and specialist writers have been consistently denied access to the country.

69. Amongst the political prisoners released in early July, to which the Special Rapporteur referred in his previous report (A/60/221, para. 42), there were several senior media figures, including Sein Hla Oo and documentary film-maker Aung Pwint. Seventy-year-old Sein Hla Oo was released from Myitkyina Prison after being held for nearly 11 years in harsh conditions. A freelance journalist, a former editor and an NLD member of parliament, he was arrested in 1994 and charged with “fabricating and sending anti-government reports” to foreign embassies, radio stations and journalists. Aung Pwint was arrested in 1999 and convicted on charges of “illegal possession of a fax machine” and of “transmitting information to banned publications”.

70. As at November 2005, at least 17 editors, journalists, writers and poets remain in captivity in Myanmar's prisons. The Special Rapporteur deeply regrets that Myanmar's longest serving political prisoner, now in poor health, U Win Tin, passed his seventy-fifth birthday and 16 years in prison in 2005, despite firm expectations that he was to be released in July.

V. ECONOMIC AND SOCIAL RIGHTS

A. General observations

71. The Special Rapporteur calls attention to the marked decline in socio-economic conditions which has resulted in increased poverty countrywide. He notes that during the reporting period, the value of the Kyat sharply declined as inflation soared, leading to substantially increased hardship of the population. Commodity prices and public transportation fares escalated, as the cost of motor fuel reportedly rose ninefold. Urgent reform is required to prevent any further deterioration in an already critical economy.

72. A quarter of the population is currently believed to live below the poverty line. It is estimated that 70 per cent of household expenditure is on food alone. The rising costs of food commodities in recent months have further eroded declining purchasing power. Government expenditure on health per person is believed to be the lowest in the world. Life expectancy is 60 years, 10 years less than in Thailand. Mortality rate among children under the age of 5 stands at 7 per cent, almost four times as high as in neighbouring Thailand. An estimated 34 per cent of the rural population has no access to clean water and for 43 per cent of that population there are no safe sanitation facilities available. There is concern that as a consequence of deteriorating socio-economic conditions, the stress on families and communities is contributing to the fragmentation of family and community networks and to the increased dependency of individuals on unregulated and illicit activities to assure their survival.

73. The Special Rapporteur firmly believes that State-sponsored practices such as the imposition of arbitrary taxes, extortion, land and crop confiscation, forced relocations, travel restrictions, financial penalties for non-compliance with orders and the looting of possessions of civilians by military authorities, all continue to have a devastating impact on livelihoods.

B. Forced labour

74. The Special Rapporteur continues to receive reports of widespread and systematic forced labour practices and forced recruitment, implemented by State actors, throughout Myanmar. Forced labour demands are particularly high in villages situated within the close vicinity of military camps and in relocation sites. Allegations of child labour have also been received.

75. Obliging civilians to work without pay is detrimentally impacting upon their ability to make a living. Rather than pursuing their own livelihoods, the citizens of Myanmar are being obliged by the Government to dedicate themselves to such activities as the construction of military camps, including digging of trenches and bunkers; the construction of hospitals and roads and portering of military supplies, including ammunition; the forced cultivation of tea plantations; and the breeding of livestock for army troops. In the case of forced labour for development projects, construction materials and food supplies are frequently demanded of civilians, who are allegedly told that it is their "civic duty" to comply with army orders.

76. The policy of the Government to prosecute those who are considered to have lodged false complaints about such practices dissuades victims from reporting cases, for fear of prosecution. In this connection, the recent case of Ma Su Su Nway, the human rights defender, exemplifies the possible fate awaiting those who do attempt to seek legal redress for forced labour. Having successfully brought a case against local authorities in Yangon Division in January 2005 for forced labour imposed on her and on fellow villagers in connection with a road construction project, she found herself subject to harassment and criminal charges. In October 2005 she was sentenced to 18 months' imprisonment in Insein Prison on charges of having defamed local authorities, following a trial which did not meet international standards of due process.

77. Having been released in January 2005 following a conviction for high treason for his contacts with ILO, U Aye Myint, a lawyer from Pegu Division, was sentenced on 31 October to seven years' imprisonment for "spreading false information", under the Emergency Provisions Act (1950). He was arrested on the grounds that he had submitted a letter of complaint to government authorities regarding a land confiscation case and had forwarded a copy to the ILO liaison officer.

C. Violence against women

78. Serious incidents of sexual violence against women continue to be reported throughout Myanmar. Women and girls in ethnic minority areas remain particularly susceptible to rape and harassment by State actors. As a consequence, their freedom of movement is unnecessarily restricted as they are often fearful of travelling unaccompanied.

79. The Special Rapporteur deeply regrets that the Government has not agreed to an independent investigation into allegations of systematic sexual violence in Shan State. Such a culture of impunity which continues to pervade in Myanmar, whereby State agents who perpetrate serious crimes are rarely prosecuted, is of grave concern to the Special Rapporteur. That those who lodge complaints to the authorities find no avenue of redress but, rather, are liable to reprisals is wholly unacceptable.

D. Drug control programmes: the need for alternative livelihoods

80. The Government has achieved notable progress in several areas of drug control over the past four years, with the assistance of the United Nations Office on Drugs and Crime (UNODC). According to a recent survey by UNODC, opium production in Myanmar declined by 29 per cent in 2004 from the 2003 level and by a further 26 per cent in 2005 from the 2004 level. However, eradication programmes, while achieving important successes, have also resulted in a number of undesirable consequences which have yet to be addressed, such as: out-migration as a result of the loss of livelihood, population drops, lower school enrolments and declining health services in affected areas. Approximately 2 million farmers and their households have either lost or are about to lose their primary income derived from opium poppy farming. Income-generating alternatives need to be developed, if the successes gained in the opium eradication programmes are not to be rapidly undermined.

81. While poppy-growing has dramatically declined, the production of synthetic drugs or amphetamine-type stimulants is steadily rising. A marked increase in heroin abuse amongst

Myanmar's youth remains of concern, as does the exacerbating effect it could have on transmission rates of HIV/AIDS. The presence of cross-border criminal groups involved in drug trafficking continues to affect drugs production and to aggravate the relative lawlessness in the border states.

VI. THE HUMANITARIAN SITUATION

A. Overview

82. The humanitarian situation in Myanmar, while not yet at the point of acute crisis, has shown marked signs of deterioration over the past year. In 2001, soon after the Special Rapporteur took up his mandate, the heads of eight United Nations agencies in Yangon expressed their concern over the "silent humanitarian crisis in the making". The situation then was particularly serious in ethnic minority and conflict areas. It has since significantly deteriorated, affecting the population now on a wide scale.

83. Particularly vulnerable groups with acute humanitarian needs include: those living in areas of ongoing armed conflict; those forcibly moved to relocation sites who have not had their livelihoods substituted; internally displaced persons, especially those in hiding; those living in the vicinity of military camps who are particularly susceptible to forced labour and extortion; female-headed households; children and young people deprived of an adequate education and subject to forced labour practices; and the elderly who are deprived of appropriate community care and support.

84. The Special Rapporteur is particularly concerned that during the reporting period, the access of ICRC to the states of eastern Myanmar has been further restricted. The work of ICRC in assisting and monitoring the welfare of the civilian population is a basic humanitarian necessity, which the Government has an international responsibility to facilitate.

B. Health

85. Many aspects of human suffering, most particularly HIV/AIDS, tuberculosis and malaria, undeniably constitute a high degree of humanitarian need which the Government should address with the close cooperation and assistance of the international community.

86. In direct contrast to neighbouring countries such as Thailand and Cambodia, the rate of HIV/AIDS infection in Myanmar is rapidly rising. It is understood that 31.4 per cent of sex workers and 37.9 per cent of intravenous drug users in Myanmar are infected with HIV/AIDS. There is serious concern that the disease is currently spreading from these high-risk groups into the general population (with 2 per cent of pregnant women in Myanmar already estimated to be HIV-positive).

87. According to UNAIDS, the number of people infected with HIV in Myanmar may be as high as 620,000. Northern Shan and Kachin States are reported to be particularly worst affected. The Government has acknowledged that the rapid spread of HIV/AIDS, perceived by the international community as presenting a significant regional threat, is a cause for concern and has indicated its willingness to take action. In this regard, the Special Rapporteur welcomes

reports that the implementation of the National Contraception Programme has been significantly stepped up by the Ministry of Health, with the assistance of the United Nations, from reaching only four townships in 2001 to covering almost one third of the country today.

88. The Special Rapporteur notes that the United Nations Children's Fund provides approximately 90 per cent of the vaccines used to inoculate children in Myanmar against seven major vaccine-preventable diseases, including tuberculosis (TB), polio and measles. Myanmar suffers from amongst the highest rates of TB in the world, with an estimated 97,000 new cases of the disease diagnosed annually. As is the case with HIV/AIDS, reports indicate that multi-drug-resistant TB is currently spreading to neighbouring countries.

89. Malaria is a leading cause of mortality in Myanmar. Eighty per cent of the population lives in areas where malaria is endemic. It is believed that 600,000 cases and at least 3,000 deaths are attributable to the disease each year. Such figures are conservative as less than 40 per cent of malaria suspects are understood to seek public health care. The under-five mortality rate as a result of malaria is allegedly twice the regional average. While neighbouring countries have achieved significant gains in malaria control, there is a risk that the situation in Myanmar, if not addressed, will negatively affect such positive regional developments. The combination drugs required to treat the widespread multi-drug-resistant strain of malaria are largely inaccessible for those sectors of the population most at risk.

C. Food security

90. The Special Rapporteur was disturbed to learn of impediments placed by the Government to the distribution of food supplies by the World Food Programme (WFP) to areas seriously affected by hunger in Rakhine State in July and August 2005. WFP, which is supporting the food needs of several hundred thousand people in Myanmar, found its programmes negatively affected by the reported delays in the issuance of permits for movement of food aid in Rakhine and Shan States, of up to three months. No reason had been given by the Government for the delays.

91. It has been also reported that there was an increase in the number of obstacles to the movement of rice within Myanmar in the past year, with special permission allegedly being insisted upon by the local authorities, both from where the procurement was being made and to its final destination. These increased restrictions have allegedly contributed to the rise in the price of rice.

92. As at the time of writing the present report, the Special Rapporteur is pleased to learn that access by the civilian population to food commodities provided by WFP and other humanitarian agencies has improved in the border states since September. However, delivery of food supplies to the Wa areas remains problematic and the imposition by the Government of a 10 per cent tax on the suppliers of WFP remains, despite appeals for its removal.

D. Government restrictions on humanitarian actors

93. The Special Rapporteur has become aware that in the second quarter of 2005, a number of international agencies faced increased restrictions on their access to and activities in remote areas of conflict, ceasefire areas and those populated by ethnic nationality groups. Some

international agencies have also been instructed that their expatriate employees may travel into rural and remote areas only in the company of officials from the relevant government department or ministry.

94. Bureaucratic restrictions placed by the Government on the movement and activities of humanitarian agencies and the resultant hampering of monitoring procedures are having a seriously negative effect. The decision taken by the Global Fund To Fight AIDS, Tuberculosis and Malaria in August to terminate grants to Myanmar due to travel and procurement procedures is deeply regrettable. This decision will undoubtedly have extremely serious, if not fatal, consequences for those sectors of the population most vulnerable to these three communicable diseases.

95. The Special Rapporteur wishes to note that during the six years of his mandate, the United Nations Country Team, despite an increasingly difficult operational environment, has continued to provide essential assistance to people in need. Other agencies are also determined to address the needs of the most vulnerable, notwithstanding mounting difficulties. The Special Rapporteur is pleased to note the recent establishment of an office of the European Commission's humanitarian aid department (ECHO), which has more than tripled its humanitarian assistance in the past four years.

96. In his last report, the Special Rapporteur noted the severe restrictions placed by the authorities on the activities of the ILO liaison officer and the calls by government-affiliated organizations for Myanmar to withdraw from ILO (A/60/221, para. 69). Developments in recent months, however, indicate that the Government's cooperation with ILO has deteriorated significantly.

97. In June, July and August, several mass rallies were held by official and government-affiliated organizations, denouncing the activities of ILO and urging the Government to withdraw its membership. Disturbingly, the ILO liaison officer received 21 death threats, warning him to leave the country or else be killed. There has been no formal response from the Government of Myanmar to numerous expressions of concern by ILO, although verbal assurances about his security and indications that the matter was being investigated have been reportedly given to the liaison officer.

98. The Government's commitment to eradicating forced labour and to implementing the recommendations of ILO increasingly appeared minimal, if non-existent, when in October it alluded to the fact that it was giving serious consideration to withdrawing from the Organization. However, following discussions with ILO, the Special Rapporteur is pleased to note that the Government reasserted its commitment to cooperate with ILO in November 2005. A clear demonstration of the integrity of its pledge to cooperate with ILO is now required.

E. Refugees and internally displaced persons (IDPs)

99. The Special Rapporteur remains gravely concerned at the ongoing internal displacement and the exodus of civilian communities in Myanmar as a direct result of systematic human rights abuses and the conflict between the military authorities and non-State armed groups.

100. Myanmar produces the largest numbers of refugees in the region, which continue to leave the country for the neighbouring countries of Thailand, India, Bangladesh and elsewhere. While 150,000 persons have found refuge in camps on the Thai-Myanmar border, an estimated 1 million people originating from Myanmar are understood to be currently living in Thailand alone.

101. It is estimated that since October 2004, at least 87,000 people were obliged to leave their homes. As of late 2005, there were understood to be a total of 540,000 people displaced in eastern Myanmar alone, the area worst affected by armed conflict and systematic human rights abuses by government personnel.

102. In the ceasefire areas, there are believed to be 340,000 IDPs. Government troops have expanded their activities into these areas, in spite of ceasefire agreements, enforcing trade and travel restrictions on civilian communities. Pledges by the Government to provide economic aid to those administering ceasefire areas have faltered. One such example was the recent cut in aid from the Government to the New Mon State Party and the Karenni National People's Liberation Front. Such cuts are likely to result in outflows of IDPs from ceasefire areas. As long as the dividends accruing from ceasefire agreements remain negligible, their validity and sustainability will be questionable.

103. The total number of persons currently residing in relocation sites is understood to stand at 108,000. Since 2004, at least 30,000 people are understood to have been forcibly transferred to such sites, having been evicted from their homes by government forces. The loss of livelihoods for those forced to move to relocation sites is substantial, as the camps tend to be located on barren land close to military bases (the proximity to which leaves civilians susceptible to forced labour demands). Alternative income-generating options are rarely available and travel restrictions are invariably imposed.

104. Fear of attack and subjection to human rights violations by the military in their "counter-insurgency" activities mean civilians continue to flee their villages. It is understood that at least 92,000 civilians are hiding in those areas most affected by military conflict, in remote forests and mountainous regions. One such incident occurred on 26 November 2005, when 900 people fled Thandaung Township, Karen State, following an attack by government forces, which resulted in the burning of civilian dwellings and the laying of landmines. At the time of writing, those 900 civilians, many of whom are children, are in hiding, without adequate food or shelter. Southern Shan State has experienced the highest increases in the number of civilians fleeing into hiding, in the past year, largely as a result of the alleged harassment of civilians by the military over concerns that the Shan State National Army and Shan State Army South would constitute a full alliance.

105. In areas of conflict, there appears to be no diminution in the Government's so-called "Four Cuts Policy", which reportedly aims to eliminate the access of the armed opposition to new recruits, information, supplies and financial support, in order to extend its control over areas under the administration of ethnic nationality groups. The purposeful impoverishment and deprivation of civilians as a counter-insurgency strategy is exercised through severe travel restrictions, forced evictions, expropriation, the imposition of arbitrary taxes and the destruction of villages. Since 1996, an estimated 2,800 villages are understood to have been destroyed

(invariably burnt), relocated en masse or otherwise abandoned due to armed activities. While the populations of a certain number of these villages have since been resettled, most remain displaced.

106. The Special Rapporteur reminds the Government and non-State armed groups of their obligation to protect civilians from the effects of armed conflict. The current government strategy of targeting civilians in the course of its military operations represents a wilful abrogation of its responsibility under international humanitarian law.

107. He has also been notified of forced evictions due to State-sponsored development projects. The construction of the hydroelectric dam on the Salween River reportedly resulted in the forcible displacement of several villages in Shan and Karen States. Allegations regarding civilian land expropriation for natural resource extraction have also been received. Victims are rarely given compensation.

VII. CONCLUDING OBSERVATIONS AND RECOMMENDATIONS

108. **The human rights concerns enumerated in the present report are largely the same as those highlighted by the Special Rapporteur when he commenced his mandate, six years ago. Despite early indications from the Government that it was willing to address these problems, he regrets that all such willingness appears to have disappeared. Recommendations formulated by the Secretary-General of the United Nations and his Special Envoy as well as those advocated by the Special Rapporteur have not been implemented. Those detailed by the Special Rapporteur in his previous reports, therefore, remain valid, their implementation all the more essential given the stagnancy of the transition process, the lack of progress towards national reconciliation and the deteriorating humanitarian situation.**

109. **Meaningful political, economic, legislative and judicial reform is essential to moving Myanmar forward out of the current quagmire. The refusal of the Government to acknowledge and address the declining socio-economic conditions and mounting public dissatisfaction cannot be sustained in perpetuity. In a region which has experienced significant development in recent years, it is unacceptable that the people of Myanmar are denied their inherent rights.**

110. **The Special Rapporteur strongly supports the recent report of the Secretary-General to the General Assembly (A/60/422) requesting the Government of Myanmar to resume, without further delay, dialogue with all political actors, including NLD, and with all the representatives of the ethnic nationality groups. By June 2006, all political prisoners should be released; all constraints on political actors should be lifted; all offices of NLD should be permitted to reopen and all political representatives free to participate in the political transition process, without restrictions. These are the minimum steps required to establish confidence in the transition process.**

111. **The procedures and principles which govern the National Convention remain fundamentally anti-democratic. The Special Rapporteur wishes to emphasize that the framework of reference for his comments about the National Convention and the political**

situation has not been attributable to any individual or group of Member States but is firmly based upon the pledge repeatedly made since 1990 by the Government to the people of Myanmar and to the international community to institute a democratic Government.

112. The Special Rapporteur believes that it would be counterproductive to wait until the end of the political transition process to empower civil society. As in many similar humanitarian emergencies in nations undergoing political transition processes to democracy, the main challenge for the international community is to prevent social capital from being completely exhausted. As well as addressing the suffering of the people today, it is necessary to protect and strengthen the ability of communities and individuals to participate in the eventual political transition.

113. At the conclusion of his mandate, the Special Rapporteur strongly commends the determined efforts of those civil society organizations based both inside and outside the country, who document human rights abuses inside Myanmar, assist internally displaced persons and provide essential support to and empower refugee and migrant communities. He wishes also to acknowledge the contribution made by international non-governmental organizations, which continue to operate in the country, under increasingly difficult circumstances, towards providing basic social needs and building the capacity of the people of Myanmar.

114. Deep-rooted and worsening poverty, the continued violation of economic rights and the lack of economic reform which is subjecting the population to unnecessary privation are moving the country towards a humanitarian crisis. This worsening situation is not beyond redress and must be addressed by the Government with the assistance available from the international community, which has a duty to ensure that humanitarian aid does not become hostage to politics. The increased scrutiny and excessive bureaucratic restrictions to which humanitarian organizations are being subjected should not deter the international community from its duty to respond to the humanitarian crisis within the country. There have been many other contexts where humanitarian action has been implemented in a hostile political environment.

115. The Special Rapporteur believes the Government's failure to engage in policy-level dialogue and cooperate with international humanitarian agencies to address the acute protection needs of forced migrants is exacerbating an already very serious humanitarian situation. Evidently, the most effective and fundamental form of protection from forced displacement in Myanmar would be the cessation of human rights abuses and the resolution of the armed conflict through inclusive dialogue.

116. There is also an urgent need to establish transparent mechanisms of accountability to ensure that acute humanitarian problems are promptly identified and addressed and to monitor the disbursement of financial assistance. In this connection, the Special Rapporteur calls upon the Government to deepen its dialogue with international humanitarian agencies, stakeholders and beneficiaries to articulate an effective and coordinated strategy for action in tackling the critical humanitarian exigencies in Myanmar. The statement issued in September by "The Student Generation Since 1988" Group encouraging the Government to work together with all stakeholders to ameliorate the humanitarian situation in the country was a welcome development.

117. The Special Rapporteur believes that the briefing to the members of the Security Council in December provided an opportunity to build a constructive and coordinated strategy towards Myanmar, in view of the urgent humanitarian needs of the population. He strongly hopes that such a positive step represents the beginning of a new momentum internationally, to proactively facilitate the long overdue transition from authoritarian to democratic rule in Myanmar. In this connection, he believes the instrumental role of ASEAN and of neighbouring countries in promoting the rights and fundamental freedoms of the people of Myanmar is of key importance in carrying this momentum forward.

118. The Special Rapporteur is convinced that any progress towards resolving the ethnic conflict in Myanmar is unlikely to be possible or sustainable without tangible political reform. The ongoing armed conflict in several ethnic minority areas continues to underpin the most grave human rights abuses in the country, to exacerbate Myanmar's humanitarian decline and to inhibit socio-economic development. Without an inclusive reform process, such urgent challenges for the country will not be addressed by the Government's current road map process.

119. No transition process is worthy of the name as long as fundamental freedoms of assembly, expression and association are denied; voices advocating democratic reform are silenced; elected representatives are imprisoned; and human rights defenders are criminalized. No progress will be made towards national reconciliation as long as key political representatives are being locked behind bars, their constituents subject to grave and systematic human rights abuses and their political concerns disregarded.

Annex

LIST OF SEVERELY ILL POLITICAL PRISONERS

<u>Name</u>	<u>Place of detention</u>	<u>Illness</u>
1. Aung Aung	Mandalay	Paralysis
2. Aung Naing	Mandalay	Hypertension
3. Aung Kyaw Oo	Tharawaddy	Liver and kidney complaints
4. Aung Shin	Insein	Asthma
5. Aung Soe Myint	Insein	Heart disease, diabetes, eye complaint
6. Aye Aung	Kale	Malaria, typhoid
7. Hla Win	Moulmein	Haemorrhoids
8. Hla Aye	Insein	Paralysis
9. Khin Khin Leh	Insein	Rheumatic arthritis
10. Khin Maung Lwin	Putta-O	Heart disease, hypertension, malaria
11. Kyaw Min	Insein	Rheumatic arthritis
12. Kyaw Mya*	Myaungmya	Gastric ulcer
13. Kyaw Soe Wai	Bassein	Chest pain
14. Kyaw Kyaw Tun	Myaungmya	Haemorrhoids, hernia
15. Lwin Nyein	Myaungmya	Hepatitis
16. May Win Myint, Dr.*	Insein	Rheumatic arthritis, gastric ulcer
17. Mu Tuu	Myaungmya	Neuropathy
18. Myo Chit	Tharawaddy	Asthma
19. Myo Thein	Myaungmya	Neuropathy

* The sentences of these prisoners have already expired, yet they remain in detention, further to the invocation of article 10 (A) of the 1975 State Protection Law.

<u>Name</u>	<u>Place of detention</u>	<u>Illness</u>
20. Naing Aung Mon	Tharawaddy	Gastric ulcer
21. Nanda Sit Aung	Pa-an	Migraine, inability to walk
22. Nay Kyaw	Pa-an	Severe weakness. Illness unknown
23. Nine Nine	Insein	Recovery from surgical activity
24. Nyi Nyi Oo	Taungoo	Paralysis
25. Phone Thet Paing	Myaungmya	Osteosclerosis
26. San Aye	Tharawaddy	Severe weakness, unable to stand
27. Saw Myint	Tharawaddy	Asthma, hypertension
28. Soe Han	Moulmein	Eye disease
29. San Hla Baw	Thayet	Paralysis
30. Soe Moe Naing	Taungoo	Mental illness
31. Soe Myint	Tharawaddy	Rheumatic arthritis, hypertension
32. Su Su Nway	Insein	Heart disease
33. Than Hteik	Myaungmya	Heart complaint
34. Than Maung	Myaungmya	Heart problem
35. Than Nyein, Dr.*	Insein	Cirrhosis of liver
36. Than Than Htay	Insein	Rheumatic arthritis
37. Than Win Hlaing	Tharawaddy	Diabetes, kidney complaints
38. Than Zaw Htwe	Taunggyi	Mental illness
39. Thet Naung Soe	Insein	Mental illness
40. Thet Win Aung	Mandalay	Mental illness, malaria
41. Thura Kyaw Zin	Myaungmya	Hypertension, gastric ulcer
42. Tin Cho	Mandalay	Hypertension
43. Tin Myint	Myaungmya	Malaria

	<u>Name</u>	<u>Place of detention</u>	<u>Illness</u>
44.	Tin San	Insein	Hypertension, heart disease
45.	Tun Linn Kyaw	Insein	Tuberculosis
46.	Tun Ngwe Thein	Tharawaddy	Fistula
47.	Tun Oo	Thayet	Gastric ulcer
48.	Win Naing	Moulmein	Heart ailment
49.	Win Tin	Insein	Osteosclerosis
50.	Win Maung	Moulmein	Hypertension, depression
51.	Yan Gyi Aung	Tharawaddy	Glaucoma
52.	Yan Naing Min	Mandalay	Hernia, mental illness
53.	Zaw Htoo	Myaungmya	Hypertension, gastric ulcer
54.	Zaw Min Oo	Insein	Coronary heart disease
55.	Zaw Min Tun	Myaungmya	Coronary heart disease
56.	Zaw Myint Maung, Dr.	Myitkyina	Depression
57.	Zaw Ye Win	Taungoo	Heart disease, hypertension, kidney ailments
58.	Zin Linn Tun	Insein	Heart disease, hypertension, gastric ailments
