



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2001/L.20
12 April 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Agenda item 9

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

**Albania*, Australia*, Austria*, Belgium, Bulgaria*, Canada, Cyprus*,
Czech Republic, Denmark*, Estonia*, Finland*, France, Germany,
Greece*, Hungary*, Iceland*, Ireland*, Latvia, Lithuania*, Luxembourg*,
Malta*, Netherlands*, New Zealand*, Norway, Poland, Portugal, Romania,
San Marino*, Slovak Republic*, Slovenia*, Spain, Switzerland*, Turkey*,
United Kingdom of Great Britain and Northern Ireland: draft resolution**

2001/... Situation of human rights in Myanmar

The Commission on Human Rights,

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

Recognizing that the systematic violations of civil, political, economic, social and cultural rights by the Government of Myanmar have had a significant adverse effect on the health and welfare of the people of Myanmar,

* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Welcoming the cooperation extended to the Special Envoy of the Secretary-General as well as to the newly appointed Special Rapporteur during their respective recent visits to Myanmar, while regretting the failure of the Government of Myanmar to cooperate fully with some of the relevant United Nations mechanisms, in particular the former Special Rapporteur,

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 former Special Rapporteur that the absence of respect for the rights pertaining to democratic governance is at the root of all the major violations of human rights in Myanmar,

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 war victims and the Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization,

Noting the resolution adopted by the International Labour Conference at its 87th session on the widespread use of forced labour in Myanmar, and also the resolution adopted by the International Labour Conference at its 88th session foreseeing a broad range of measures aimed at ensuring the observance by Myanmar of the recommendations of the Commission of Inquiry established to examine the application of the Forced Labour Convention, which came into effect on 30 November 2000,

Recalling previous resolutions of the General Assembly and the Commission on the subject, most recently Assembly resolution 55/112 of 4 December 2000 and Commission resolution 2000/23 of 18 April 2000,

1. *Welcomes:*

(a) The interim report of the former Special Rapporteur on the situation of human rights in Myanmar (A/55/359), the observations on the situation and the recommendations contained therein;

(b) The initial observations presented to the Commission by the newly appointed Special Rapporteur on the situation of human rights in Myanmar;

(c) The assistance of the Government of Myanmar in facilitating the recent exploratory visit by the newly appointed Special Rapporteur to Myanmar, and hopes that the Special Rapporteur soon will be able to return to Myanmar in order to discharge his mandate fully;

(d) The report of the Secretary-General on the visit of his Special Envoy to Myanmar (A/55/509), and endorses the appeal of the Special Envoy for the initiation of a process of dialogue that would lead to national reconciliation and supports his efforts to achieve such a dialogue;

(e) The initiation of 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 will facilitate broad-based and inclusive national reconciliation and the restoration of democracy;

(f) The release from detention of a number of democratic political activists;

(g) The continued cooperation with the International Committee of the Red Cross, allowing the Committee to communicate with and visit detainees in accordance with its modalities of work, and hopes that the programme will be pursued further;

(h) The reopening of some university courses, but remains concerned that the right to education continues to be a right that is exercised only by those willing to refrain from exercising their civil and political rights and concerned at the reduction in the length of the academic year, the division and separation of the student population to distant campuses, and inadequate allocation of resources;

2. *Notes* the establishment by the Government of Myanmar of a preparatory process for a human rights committee and encourages it to continue this process in conformity with the principles relating to the status of national institutions for the promotion and protection of human rights annexed to General Assembly resolution 48/134 of 28 December 1993;

3. *Expresses its grave concern:*

(a) At the systematic policy of the Government of Myanmar of persecuting the democratic opposition, National League for Democracy members and their families, as well as ethnic opposition parties, and at the use by the Government of intimidatory methods such as arbitrary arrest and detention, abuse of the legal system, including harsh long-term prison sentences, which has forced many to refrain from exercising their legitimate political rights;

(b) That the composition and working procedures of the National Convention 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 seek constructive means to promote national reconciliation and to restore democracy, including through the establishment of a time frame for action;

(c) That the Government of Myanmar has failed to cease its widespread and systematic use of forced labour of its own people and to meet all three recommendations of the International Labour Organization on that issue; this failure has compelled the International Labour Organization strictly to limit further cooperation with the Government and has prompted the International Labour Conference to adopt a resolution recommending that international organizations reconsider any cooperation with Myanmar and that Governments, employers and workers take appropriate measures to ensure that the Government of Myanmar cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry established to examine the observance of the Forced Labour Convention, 1930 (No. 29);

4. *Deploras:*

(a) The deterioration of the human rights situation and 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, mass arrests, forced labour, forced relocation and denial of freedom of assembly, association, expression and movement;

(b) The lack of independence of the judiciary from the executive and the wide disrespect of the rule of law, including of the basic guarantees of due process, especially in cases involving exercise of political and civil rights and freedoms, resulting in arbitrary arrests and detentions, non-existence 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 secrecy and without proper legal representation, want of knowledge by the family and counsel of the accused about the sentence and detentions beyond the end of prison sentences;

(c) The continued violations of the human rights of, and widespread discriminatory practices against, persons belonging to minorities, including extrajudicial executions, 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 Tennasserim Division, use of anti-personnel land mines, 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) The continuing violations of the human rights of women, in particular forced labour, trafficking, sexual violence and exploitation, 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;

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

(f) The severe restrictions on the freedoms of opinion, expression, assembly and association, the restrictions on citizens' access to information, including censorship controls on 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 or correspondence;

5. *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 or his representative and to implement their recommendations;

(c) To cooperate fully with all United Nations representatives, in particular to develop further the contacts established with the newly appointed Special Rapporteur, to allow him, without preconditions, to return to Myanmar in the near future and to conduct a field mission furthering his contacts with the Government and all other relevant sectors of society, and thus enable 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;

6. *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;

(c) In particular to ensure full respect for the freedoms of expression, 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, and 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 and to enforced disappearances and summary executions;

(d) To take urgent and concrete measures to ensure the establishment of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990 and, to this end, to extend the talks initiated with Aung San Suu Kyi, Secretary-General of the National League for Democracy, to a genuine and substantive dialogue with all the leaders of political parties and of ethnic minorities, with the aim of achieving national reconciliation and the restoration of democracy, and to ensure that political parties and non-governmental organizations can function freely;

(e) To take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to democratically elected representatives, the prevention of intimidation and repression of political opponents and enabling the building up of a pluralistic civil society with the active participation of its members;

(f) To release immediately and unconditionally those detained or imprisoned for political reasons, including those in "government guest houses", as well as journalists, and to ensure their physical integrity and to permit them to participate in a meaningful process of national reconciliation;

(g) To improve conditions of detention, in particular in the field of health protection, and to eliminate unnecessary restrictions imposed on the detainees;

(h) To ensure the safety and well-being and freedom of movement of all political leaders, including Aung San Suu Kyi, and to permit unrestricted communication with and physical access to Aung San Suu Kyi and other political leaders;

(i) To fulfil its obligations under the Convention on the Rights of the Child and under 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 Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts;

(j) 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;

(k) And all other 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, to end the use of children as soldiers and to avail themselves of services offered by impartial humanitarian bodies;

(l) To implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour, in conformity with the relevant recommendations of the Commission of Inquiry and to re-enter into a dialogue with the International Labour Organization and invite the organization to establish a presence in Myanmar in order to enable it to verify that such measures are taken;

(m) 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, as indicated in the report of the Commission of Inquiry;

(n) To end the enforced displacement of persons and other causes of internal displacement and refugee flows to neighbouring countries and to create conditions conducive to their voluntary return and full reintegration in safety and dignity, including returnees who have

not been granted rights of full citizenship, in close cooperation with the international community, through the United Nations system and its specialized agencies, governmental and intergovernmental organizations, as well as non-governmental organizations;

(o) To fulfil its obligations to restore the independence of the judiciary and due process and to end impunity of and bring to justice any 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;

7. *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-sixth session and to report to the Commission at its fifty-eighth 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 55/112 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-eighth session.
