



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2005/L.29
11 April 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Agenda item 9

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

**Albania*, Andorra*, Austria*, Belgium*, Bulgaria*, Canada, Croatia*,
Cyprus*, Czech Republic*, Denmark*, Estonia*, Finland, France,
Germany, Greece*, Hungary, Ireland, Italy, Latvia*, Lichtenstein*,
Lithuania*, Luxembourg*, Malta*, Monaco*, Morocco*, Netherlands,
New Zealand*, Norway*, Poland*, Portugal*, Republic of Korea,
Romania, Slovakia*, Slovenia*, Spain*, Sweden*, Switzerland*,
Turkey*, United Kingdom of Great Britain and Northern Ireland,
United States of America: draft resolution**

2005/... Situation of human rights in Myanmar

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,
the International Covenants on Human Rights and other human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human
rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken
under the various international instruments in the field,

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

Aware 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 Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, of 12 August 1949, on the protection of victims of war, as well as the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948 (No. 87) of the International Labour Organization,

Recalling its previous resolutions on the subject, the most recent of which is resolution 2004/61 of 21 April 2004, and those of the General Assembly, the most recent of which is resolution 59/263 of 23 December 2004,

Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security, 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict and 1539 (2004) of 22 April 2004 on children in armed conflict,

Bearing in mind the report of the Secretary-General on children and armed conflict (A/59/695-S/2005/72),

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

Affirming that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

Affirming also that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

Recognizing that good governance, democracy, the rule of law and respect for human rights are essential to achieve sustainable development and economic growth, and that good governance includes the idea of transparent, responsible, accountable and participatory government at all levels,

Taking note of the reconvening of the National Convention on 17 February 2005, without the participation of the democratic opposition, and the suspension of the Convention on 31 March, while recognizing that the Government of Myanmar has announced that it would reconvene at the end of 2005,

1. *Welcomes:*

(a) The reports of both the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2005/36) and of the Secretary-General (A/59/269 and E/CN.4/2004/30);

(b) The personal engagement and statements of the Secretary-General with regard to the situation of Myanmar;

(c) The efforts by the Government of Myanmar to release prisoners, and takes note of the recent release of some 19,906 prisoners, while noting that only 110 of them were political prisoners, as indicated by the Special Rapporteur in his statement to the Commission on 29 March 2005;

(d) The establishment by the Government of a committee for the prevention of military recruitment of under-age soldiers and the adoption in November 2004 of an outline plan of action to address the issues of under-age recruitment and child soldiers;

(e) The ratification by Myanmar of the United Nations Convention against Transnational Organized Crime and two of its Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention on 30 March 2004;

(f) The negotiations to conclude a ceasefire agreement between the Government of Myanmar and the Karen National Union, while noting that there have been a limited number of contacts since October 2004;

(g) The continued cooperation of Myanmar with the International Committee of the Red Cross;

(h) The access to the eastern part of Myanmar by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees;

2. *Takes note* of the efforts of the Government of Myanmar to meet the HIV/AIDS challenge, and calls upon it to enhance its efforts in this regard and to support the effective implementation of the Joint Plan of Action on HIV/AIDS in cooperation with the relevant international agencies;

3. *Expresses its grave concern at:*

(a) The ongoing systematic violation of human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, in particular discrimination and violations suffered by persons belonging to ethnic minorities, women and children, especially in non-ceasefire areas;

(b) The fact that the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar as well as the Special Envoy of the Secretary-General for Myanmar have been unable to visit the country for more than a year, despite repeated requests;

(c) The ongoing systematic and consistent harassment of members of the National League for Democracy and other opposition activists, in particular the events of May 2003, and the fact that no full and independent inquiry has been initiated despite repeated requests;

(d) The extension of the house arrest of National League for Democracy General Secretary Aung San Suu Kyi and her deputy, Tin Oo, for another year and the persistent denial of their human rights and fundamental freedoms, including freedom of movement and association, as well as the continued detention of other senior leaders of the National League for Democracy and of the leadership of other political parties or ethnic minorities, particularly the recent detention of Khun Htun Oo and Sao Nyunt Lwin, Chairman and General Secretary respectively of the Shan Nationalities League for Democracy, and Sao Hso Ten, Chairman of the Shan State Peace Council;

(e) The continuing restrictions placed on the National League for Democracy and other political parties which prevented them from participating in the recently reconvened National Convention;

(f) Extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, renewed instances of political arrests and continuing imprisonment and other detentions, including of prisoners whose sentences have expired; prisoners held incommunicado while awaiting trial; forced relocation; destruction of livelihoods and confiscations of land by the armed forces; forced labour, including child labour; trafficking in persons; denial of freedom of assembly, association, expression and movement; discrimination and persecution on the basis of religious or ethnic background; wide disrespect for the rule of law and lack of independence of the judiciary; unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the rights to education and to an adequate standard of living, including food and medical care;

(g) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries, and recalls in this context the obligations of Myanmar under international law;

(h) The renewed attacks by military forces on ceasefire groups, in violation of ceasefire agreements, and the subsequent and continuing violations of human rights, in particular the deterioration of the enjoyment of human rights by the affected populations;

(i) The fact that the Government of Myanmar has not yet undertaken all the relevant measures to allow the Joint Government of the Union of Myanmar-International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar to come into force, and that the senior military leadership failed to meet the International Labour Organization very High-Level Team during their visit from 21 to 23 February 2005, despite its mandate to evaluate the attitude of the Myanmar authorities at the highest level towards forced labour;

4. *Calls upon* the Government of Myanmar:

(a) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other Government agents in all circumstances;

(b) To lift all restraints on peaceful political activity of all persons, including former political prisoners, by, inter alia, guaranteeing freedom of association and freedom of expression, including freedom of the media, and to ensure unhindered access to information for the people of Myanmar;

(c) To restore democracy and respect the results of the 1990 elections by, inter alia, releasing immediately and unconditionally the leadership of the National League for Democracy, including General Secretary Aung San Suu Kyi and members of the National League for Democracy detained on or after 30 May 2003, as well as the recently arrested Shan leadership, and to allow them to play a full role in bringing about national reconciliation and the transition towards democracy, and in this regard draws attention to the recommendation of the Special Rapporteur that only the full and unconditional release of all political prisoners would play a positive role in the process of national reconciliation and democratization;

(d) To cease the ongoing harassment of the National League for Democracy and other political parties and allow the reopening of the offices of the National League for Democracy throughout the country;

(e) To initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003, as called for by the General Assembly;

(f) To release unconditionally and immediately all political prisoners with particular emphasis on the elderly and the sick, and to desist from arresting and punishing persons for their peaceful political activities;

(g) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

(h) To ensure that the National Convention is fully inclusive of all political parties and representatives elected in the last election and all major ethnic nationalities not represented by a political party, and is held in a democratic atmosphere that allows for freedom of expression and guarantees the safety of all participants, while recalling that an inclusive approach at the National Convention is an essential step in the democratization process, as well as in the process of genuine national reconciliation and establishment of the rule of law;

(i) To enter into a substantive and structured dialogue with Aung San Suu Kyi and other leaders of the National League for Democracy intended to lead towards democratization and national reconciliation and at an early stage to include other political leaders in these talks, including representatives of the ethnic groups;

(j) To consider as a matter of high priority becoming party to all relevant instruments of international human rights law and international humanitarian law;

(k) To establish a national human rights commission in accordance with the Principles relating to the establishment of national institutions for the promotion and protection of human rights (the Paris Principles);

(l) To ensure that any future referendum and elections are conducted according to international standards for free and fair elections with the full participation of all political parties;

5. *Also calls upon* the Government of Myanmar:

(a) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic groups in Myanmar;

(b) To resume the negotiations to conclude a ceasefire agreement with the Karen National Union and to follow up the negotiations with substantial political dialogue in order to ensure that the rights of ethnic nationalities are fully respected;

(c) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with Security Council resolutions 1460 (2003) of 30 January 2003 and 1539 (2004) of 14 April 2004 by the Army, but stresses the need for full implementation of the plan and the need to maintain close dialogue with the United Nations Children's Fund, as well as to cooperate with the Special Representative of the Secretary-General on Children and Armed Conflict;

(d) To end widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, in particular against women belonging to ethnic minorities, and to investigate and bring to justice any perpetrators in order to end impunity for these acts;

(e) To end the systematic enforced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(f) To ensure immediately safe and unhindered access to all parts of Myanmar for the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society, especially with the National League for Democracy and other relevant political, ethnic and community-based groups, to ensure the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population;

6. *Further calls upon the Government of Myanmar:*

(a) To cooperate fully with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur in order to bring Myanmar towards a transition to civilian rule, and to ensure that they are both granted full, free and unimpeded access to Myanmar and that no person cooperating with the Special Envoy, the Special Rapporteur and any international organization is subjected to any form of intimidation, harassment or punishment, and to review as a matter of urgency the cases of those currently undergoing punishment in this regard;

(b) Without further delay to cooperate fully with the Special Rapporteur to facilitate an independent international investigation of continuing reports of sexual violence and other abuse of civilians carried out by members of the armed forces in Shan and other states;

(c) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of Government, including the armed forces, and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) of the International Labour Organization, and to take the action foreseen in the report of the very High-Level Team as presented to the Governing Body of the International Labour Office at its 292nd session in March 2005 in document GB.292/7/3, before the International Labour Conference of June 2005;

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 sixtieth session and to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work;

(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;

8. *Decides* to continue consideration of this question at its sixty-second session;

9. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/... of ... April 2005, endorses the Commission’s decision to extend the mandate of the Special Rapporteur on the situation of human rights in Myanmar, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, to request the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session, to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work.”
