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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

**Written statement* submitted by Amnesty International (AI), a non-governmental
organization in special consultative status**

The Secretary-General has received the following written statement which is
circulated in accordance with Economic and Social Council resolution 1996/31.

[30 May 2008]

* This written statement is issued, unedited, in the language(s) received from the
submitting non-governmental organization(s).

The human rights situation in Myanmar

The current humanitarian crisis in Myanmar, exacerbated by the government's intransigence, is occurring against a backdrop of grave and longstanding human rights violations. Moreover, those violations have amplified the gravity of the humanitarian crisis.

In this context, the failure by the Myanmar government – the State Peace and Development Council (SPDC) – to implement Resolution S-5/1, adopted at the 5th Special Session of the Human Rights Council in October 2007, clearly demonstrates its continued disregard for human rights. Not only has the SPDC refused to release prisoners of conscience and bring to justice those responsible for human rights violations during the September 2007 crackdown, it has also continued its suppression of peaceful political dissent.

Arrests of people who took part in mass protests in August and September 2007 have continued into 2008. In the period November 2007 to January 2008 alone, the SPDC arrested 96 people. At least 700 prisoners of conscience arrested during the crackdown on protests remain detained, as do more than 1,150 other political prisoners held from before the crackdown. Around 70 people remain unaccounted for and it is highly likely that they are victims of enforced disappearance.

By May 2008, at least 40 protesters were sentenced to prison terms after blatantly unfair trials. Now nearly all key political activists are behind bars or in hiding. The detention order of the National League for Democracy (NLD) leader Daw Aung San Suu Kyi was renewed for another year on 27 May, violating both international and domestic law. The 1975 State Protection Law provides for a maximum of five years' detention after which the person must either be charged or released. Daw Aung San Suu Kyi was placed under house arrest in May 2003, and has completed this five-year period. Also on 27 May reports emerged that police arrested around 15 of her supporters demonstrating for her release.

Human rights violations in the wake of Cyclone Nargis

Resolution S-5/1 called on the SPDC to ensure full, safe and unhindered access of humanitarian assistance to all persons in need. However, after Cyclone Nargis struck Myanmar on 2 and 3 May 2008, the natural disaster has evolved into a humanitarian and human rights catastrophe. Survivors of the cyclone remain at high risk as a direct consequence of the SPDC's three week delay in allowing greater access for international aid workers to provide the necessary relief effort. According to government figures, 77,738 people died, 55,917 are missing and over 19,000 were injured in the cyclone. Other sources have said that the number of deaths is higher. The UN estimates that 2.4 million people were severely affected, and that only 40 percent had been provided with any international assistance nearly four weeks after the cyclone.

Although the SPDC has now made a commitment to the UN Secretary-General to permit all aid efforts, it remains to be seen if this promise will be fulfilled. Even before the disaster, the SPDC had tightened restrictions on international aid agencies, making it difficult for them to operate at the grassroots level. In the run-up to the May 2008 constitutional referendum, health education and counselling projects were halted unless overseen by SPDC officials. Despite the devastation of Cyclone Nargis, the SPDC devoted large resources to holding the referendum on the new constitution on 10 May, except for in the worst affected areas, where the poll was delayed to 24 May.

Human rights violations in the context of the constitutional referendum

Since the Special Session on Myanmar in October 2007, the SPDC has stepped up restrictions on the rights to freedom of expression, association, and assembly in the context of the constitutional referendum. After promulgating a new law effectively criminalizing public criticism of the referendum in February 2008, the SPDC arrested over 70 “Vote no” activists in April. Moreover, the security forces arrested at least 11 NLD members on 22 May, reportedly for their criticism of the SPDC and their active support for cyclone victims.

In February 2008, the SPDC announced that, pursuant to its seven-step ‘Road Map to Democracy’, the new constitution had been finalised. The drafting process was characterised by a lack of transparency, accountability and participation. Rather than permitting the Myanmar people to exercise their rights to freedom of expression and assembly, the SPDC intimidated, harassed, and arrested critics of the constitutional process. Amnesty International considers that both the content of the constitution and procedural aspects of its drafting were deeply flawed.

The new constitution undermines international human rights standards and enables impunity for perpetrators of human rights violations. For example, there are no provisions in the constitution to ensure freedom from torture and other ill-treatment, and crucial fair trial safeguards are missing. Other provisions on freedom of expression, association and assembly are restricted by vague provisos, and some provisions are discriminatory; for example, members of religious orders and “destitute” persons are not permitted to vote.

During the run-up to the referendum, the SPDC and its socio-political organization, the Union Solidarity and Development Association, sought to advance the “Vote Yes” campaign, while severely restricting the “Vote No” movement through cash incentives, monopolization and manipulation of the media, harassment, arrests, and violent attacks on individuals.

Human rights violations in eastern Myanmar

Away from the media and world attention, another human rights emergency continues in eastern Myanmar. For more than two years, the Myanmar army, known as the *tatmadaw*, has waged a military offensive against ethnic Karen civilians in Kayin (Karen) State and Bago (Pegu) Division, involving widespread and systematic violations of international human rights and humanitarian law. These violations constitute crimes against humanity. The current offensive is the largest in a decade, and in spite of the Cyclone Nargis disaster, the SPDC continues to devote resources to this campaign.

An estimated 147,800 people are internally displaced in Kayin State and eastern Bago Division as a result of the counter-insurgency campaign. The *tatmadaw* and its allies have subjected many Karen civilians to unlawful killings; torture and other ill-treatment; enforced disappearances and arbitrary arrests; the imposition of forced labour, including portering; the destruction of villages and homes; and the destruction or confiscation of crops and food-stocks and other forms of collective punishment.

Civilian Karen villagers told Amnesty International of living in fear for their lives, dignity and property. They described violations as directed at civilians, simply on account of their

Karen ethnicity or location in Karen majority areas, or retribution for activities by armed opposition groups. In some villages the *tatmadaw* prevented farmers from cultivating their land or purchasing food supplies, announcing a shoot-to-kill policy for those found outside their villages. *Tatmadaw* demands for forced labour and excessive food requisitioning have made it extremely difficult for civilian villagers to survive.

Amnesty International's recommendations to the Human Rights Council

For over 20 years Amnesty International has reported extensively on a wide range of persistent and grave human rights violations in Myanmar, including killings, torture, forced labour, food requisitioning, and forcible relocation of civilians in the context of the army's counter-insurgency activities against ethnic-based armed opposition groups. Although the Commission on Human Rights and then the Human Rights Council have adopted comprehensive annual resolutions on Myanmar since 1992, the government has ignored or rejected their recommendations.

The human rights situation in Myanmar continues to demand urgent attention by the UN, including both the Human Rights and Security Councils, and by individual member states, including Myanmar's donors and neighbours.

Amnesty International urges the Council to comprehensively address the serious human rights situation in all of the country, including the ongoing crisis in Kayin State and Bago Division and in the-Cyclone affected Irrawaddy Delta.

Amnesty International calls on the Council to urge the SPDC to:

- *End violations of international human rights and humanitarian law by government forces and its aligned militias in the Kayin State and Bago Division. This includes halting immediately the targeting of civilians, indiscriminate attacks, extrajudicial executions and other unlawful killings, enforced disappearances, torture other ill-treatment, destruction of houses and crops, and forced labour;*
- *lift restrictions on the distribution of aid and ensure that aid is distributed to all people affected by the cyclone, without reference to their ethnicity or political affiliation;*
- *immediately and unconditionally release all those arrested for peacefully exercising their right to freedom of expression and assembly;*
- *ensure that all reports of human rights violations, including killings, torture and other ill-treatment of detainees, unlawful arrests, and enforced disappearances are fully and promptly investigated by an independent and impartial body and that those responsible for the violations are brought to justice;*
- *comply fully with Human Rights Council Resolutions S-5/1 and 6/33, including by allowing full, unrestricted and regular access to the country by the Special Rapporteur on the Situation of Human Rights in Myanmar in conformity with the Terms of Reference for Fact-finding Missions by Special Procedures.*

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