

**Human Rights Council
Thirteenth session
Agenda Item 4**

13/... Situation of human rights in Myanmar

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the International Covenants on Human Rights, and reaffirming also previous resolutions **of the Commission on Human Rights, the Human Rights Council and the General Assembly on the situation of human rights in Myanmar, including Council resolutions 10/27 of March 20 2009 and 12/20 of 2 October 2009, and General Assembly resolution 64/238 of 29 October 2009,**

Welcoming the report of the Special Rapporteur on the human rights situation in Myanmar [*ref to be updated with forthcoming report*], urging the implementation of the recommendations contained therein and those within previous reports, and welcoming the agreement by the Government of Myanmar to the visit of the Special Rapporteur from **15 to 19 February 2010,**

Being increasingly concerned that the urgent calls contained in the above-mentioned resolutions and reports and of other United Nations bodies concerning the human rights situation in Myanmar have **still** not been met, and further emphasizing the **urgent** need for significant progress towards meeting these calls of the international community,

Recalling Council resolutions 5/1 on institution-building of the United Nations Human Rights Council and 5/2 on the Code of Conduct for special procedures mandate holders of the Human Rights Council, of 18 June 2007, and stressing that the mandate holder shall discharge his/her duties in accordance with these resolutions and annexes thereto,

Reaffirming that it is the responsibility of the Government of Myanmar to ensure the full enjoyment of all human rights and fundamental freedoms of its entire population, as stated in the Charter, the Universal Declaration of Human Rights and other applicable human rights instruments,

Being particularly concerned at continuing restrictions **on** the representatives of the National League for Democracy and other political parties and other relevant stakeholders, including a number of ethnic groups, **thus preventing** a genuine process of dialogue, national reconciliation and transition to democracy,

Expressing extremely grave concern at the trial, conviction and continued arbitrary house arrest of the General Secretary of the National League for Democracy, Daw Aung San Suu Kyi, **and rejection of her judicial appeal by the Myanmar Supreme Court;**

Recalling that the drafting process of the Constitution and the constitutional referendum did not meet the expectations that the political process would be free and fair, and reiterating its

calls to the Government of Myanmar to ensure that the country's political processes are transparent, inclusive, free and fair,

1. *Strongly condemns* the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar;

2. **Calls upon the Government of Myanmar to ensure a free, transparent, fair and inclusive electoral process including by enacting the necessary electoral laws early enough to permit a reasonable campaign period to allow for the participation of all voters, all political parties, and all other relevant stakeholders in the electoral process in a manner of their choosing;**

3. *Strongly calls upon* the Government of Myanmar to cooperate with the international community in order to achieve concrete progress as regards human rights and fundamental freedoms, and political processes;

4. **While noting the recent release from house arrest of U Tin Oo, the Vice Chairman of the National League for Democracy, strongly urges** the Government of Myanmar to desist from further politically motivated arrests, **and** to release without delay and without condition all political prisoners, **estimated around 2,100**, including the General Secretary of the National League for Democracy, Daw Aung San Suu Kyi, the Chairman of the Shan Nationalities League for Democracy, U Khun Tun Oo, the leader of the 88 Generation Students Group, U Min Ko Naing **and one of the founders of the 88 Generation Students Group, Ko Ko Gyi, and allow their full participation in the political process;**

5. *Reaffirms* the essential importance of a **meaningful** process of dialogue and national reconciliation for a transition to democracy, **and notes recent contacts between the Government of Myanmar and National League of Democracy leader Daw Aung San Suu Kyi;**

6. Calls on the Government of Myanmar to take immediate measures to undertake a **meaningful and substantive** dialogue with all **opposition** parties and ethnic groups, including Daw Aung San Suu Kyi, and to permit her **unrestricted** contact with the National League for Democracy, **including all members of the Central Executive Committee**, and other domestic stakeholders;

7. *Strongly calls upon* the Government of Myanmar to lift restrictions on the freedom of assembly, association, movement and expression, including for free and independent media, through the openly available and accessible use of Internet and mobile telephone services, and ending the use of censorship, **including the use of the Electronics Act to prevent the reporting of views critical of the government;**

8. *Further calls upon* the Government of Myanmar to undertake a transparent, inclusive and comprehensive review of compliance of the Constitution and all national legislation with international human rights law, while fully engaging with democratic opposition and ethnic groups, recalling that the procedures established for the drafting of the Constitution resulted in a de facto exclusion of the opposition from the process;

9. *Urges* the Government of Myanmar to ensure the independence and impartiality of the judiciary, to guarantee due process of law, and **to fulfil earlier assurances** given by the authorities of Myanmar to the Special Rapporteur to begin a dialogue on judicial reform;

10. *Expresses concern about the conditions in prisons and other detention facilities, and consistent reports of ill-treatment of political prisoners, including torture, and about the dispersal of political prisoners to isolated prisons far from their families where they cannot receive regular visits or deliveries of supplementary supplies, including food and medicine;*

11. *Calls upon the Government of Myanmar to undertake* a full, transparent, effective, impartial and independent investigation into all reports of human rights violations, including enforced disappearances, arbitrary detentions, rape and other forms of sexual violence, torture and other forms of ill-treatment, and for bringing those responsible to justice in order to end impunity for violations of human rights;

12. *Strongly Urges* the Government of Myanmar to end all forms of discrimination and to protect civil, political, economic, social and cultural rights on the basis of the Universal Declaration of Human Rights and, in particular, to comply with its human rights obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child in this regard;

13. *Expresses its serious concern* about the continuing discrimination, human rights violations, violence, displacement and economic deprivation affecting numerous ethnic minorities, including, but not limited to, the Rohingya ethnic minority in Northern Rakhine State **and the Karen ethnic minority in the Eastern part of Myanmar**. *Calls* upon the Government of Myanmar to take immediate action to bring about an improvement in their respective situations, and to grant **full citizenship to the members of the Rohingya ethnic minority;**

14. *Strongly calls upon* the Government of Myanmar to take urgent measures to put an end to violations of international human rights and humanitarian law, including the targeting of persons belonging to particular ethnic groups, the targeting of civilians by military operations, **including in the Eastern part of Myanmar** and rape and other forms of sexual violence, and to end impunity for such acts;

15. *Also calls upon* the Government of Myanmar to resume its humanitarian dialogue with the International Committee of the Red Cross and allow it to carry out its activities according to its mandate, in particular by granting access to persons detained and to areas of internal armed conflict;

16. *Welcomes* the prolongation in **February 2010 of the Supplementary Understanding** between the International Labour Organization and the Government of Myanmar. **Welcomes also the Government's increased willingness to apply penalties against those perpetrating forced labour and welcomes the Government's decision to allow the publication of a leaflet in Myanmar language on ILO activities to be distributed to the people in order to increase awareness on ILO's activities and people's rights, but strongly condemns the continued and serious harassment of those complainants, who are currently in detention, as called for by the ILO Governing Body in November 2009**

and urgently calls for the release of three complainants that remain in detention as well as the ILO facilitator U Zaw Htay;

17. *Urges* the Government to intensify measures to end its practice of forced labour, **including through awareness raising activities, to put an end to harassment of those seeking redress and** to strengthen its **growing** cooperation with the liaison office of the ILO, **including through the facilitation of an additional staff member**

18. *Strongly calls upon* the Government of Myanmar to put an immediate end to the recruitment and use of child soldiers in violation of international law by all parties. **Welcomes recent Government engagement on this issue** and urges it to intensify measures to ensure the protection of children from armed conflict and to pursue its collaboration with the Special Representative of the Secretary-General for Children and **Armed Conflict, including by agreeing a Joint Action Plan as required under SC Resolution 1612 with the Country Task Force for Monitoring and Reporting, and facilitating its access to Non State Armed Groups to permit negotiation of joint action plans with these groups** for the purpose of halting this practice;

19. *Also urges* the Government of Myanmar to provide, in cooperation with the Office of the United Nations High Commissioner for Human Rights, adequate human rights and international humanitarian law training for its armed forces, police and prison personnel, to ensure their strict compliance with international human rights law and international humanitarian law and to hold them accountable for any violations thereof;

20. *Calls upon* the Government of Myanmar to ensure timely, safe, full and unhindered access to all parts of Myanmar, including conflict and border areas, for the United Nations, international humanitarian organizations and their partners, and to cooperate fully with those actors to ensure that humanitarian assistance is delivered to all persons in need throughout the country, including displaced persons;

21. *Calls upon* the Government of Myanmar to consider acceding to the remaining international core human rights treaties, **which would enable a dialogue with other human rights treaty bodies;**

22. *Further calls upon* the Government of Myanmar to allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

[23. Invites the Government of Myanmar to draw on the advice and assistance of the new ASEAN Intergovernmental Commission on Human Rights in order to review the full compliance of national legislation with international human rights law;]

24. *Decides* to extend for one year the mandate of the Special Rapporteur on the situation of human rights in Myanmar, in accordance with Commission on Human Rights resolutions 1992/58 and 2005/10, and Council resolutions 7/32 **and 10/27;**

25. *Urges* the Government of Myanmar to respond favourably **and on a more timely basis** to the Special Rapporteur's requests to visit the country, **to extend their full cooperation,** including by providing access to all relevant information, bodies, institutions and persons, so as to enable him to fulfil his mandate effectively, and to implement the recommendations

contained in his reports (A/HRC/6/14, A/HRC/7/18, A/HRC/7/24, A/HRC/8/12, A/HRC/10/19 and A/HRC/13/48) and in Council resolutions S-5/1, 6/33, 7/31, 8/14, **10/27 and 12/20**;

26. *Requests* the Special Rapporteur to submit a progress report to the General Assembly at its **sixty-fifth session** and to the Council in accordance with its annual programme of work;

27. *Calls upon* the Office of the High Commissioner to provide the Special Rapporteur with all necessary assistance and resources to enable him to discharge his mandate fully;

28. *Calls upon* the Government of Myanmar to continue to engage in a dialogue with the Office of the High Commissioner with a view to ensuring full respect for all human rights and fundamental freedoms;

29. *Expresses its strong support* for the good offices mission and commitment of the Secretary-General, and calls upon the Government of Myanmar to ensure full cooperation with the Secretary-General, and the Special Rapporteur.