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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America: revised draft resolution

Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,¹ and recalling the International Covenants on Human Rights² and other relevant 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 this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 64/238 of 24 December 2009,³ those of the Commission on Human Rights, and the resolutions of the Human Rights Council, the most recent of which are 12/20 of 2 October 2009,⁴ and 13/25 of 26 March 2010,⁵

¹ Resolution 217 A (III).

² See resolution 2200 A (XXI), annex.

³ See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53* (A/64/53), chap. II, sect. A.

⁴ See A/HRC/12/50, part one, chap. I.

⁵ See HRC/13/L.10, part one, chap. I.



Welcoming the statements made by the President of the Security Council on 11 October 2007 and 2 May 2008,⁶ and the Security Council statements to the press of 22 May 2009 and 13 August 2009,⁷

Welcoming also the report of the Secretary-General on the situation of human rights in Myanmar and the observations contained therein,⁸ and recalling his visit to the country on 3 and 4 July 2009, and the visits of his Special Adviser on Myanmar from 31 January to 3 February and on 26 and 27 June 2009, respectively, while regretting that no further visits have been allowed to take place in the course of the past year for the purpose of the good offices mission,

Welcoming further the reports of the Special Rapporteur on the situation of human rights in Myanmar and urging the implementation of the recommendations contained therein⁹ and those in previous reports, while regretting that a request by the Special Rapporteur for a follow-up visit has been rejected by the Government of Myanmar,

Deeply concerned that the urgent calls contained in the above-mentioned resolutions, as well as the statements of other United Nations bodies concerning the situation of human rights in Myanmar, have not been met, and emphasizing that, without significant progress towards meeting these calls of the international community, the situation of human rights in Myanmar will continue to deteriorate,

Deeply concerned also at restrictions to effective and genuine participation of the representatives of the National League for Democracy, other political parties, pro-democracy actors, ethnic minorities and other relevant stakeholders in a genuine process of dialogue, national reconciliation and transition to democracy,

Calling upon the Government of Myanmar to cooperate with the international community in order to achieve concrete progress with regard to human rights and fundamental freedoms, and political processes,

Deeply regretting that the Government of Myanmar did not take the necessary steps to ensure a free, fair, transparent and inclusive electoral process, noting in particular in this respect the restrictions imposed by the electoral laws as enacted and implemented by the Government, including those placed on the registration of voters, parties and candidates, as well as the detention of political activists, the restrictions on free reporting and on freedom of assembly, the limited access to media, funding and campaigning possibilities, the reported incidents of official intimidation, the cancellation of elections in certain ethnic areas, and the lack of independence of the electoral commission, and expressing serious concern about reports of fraud, including through advance voting arrangements,

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

2. *Welcomes* the release of Daw Aung San Suu Kyi following the most recent period of her arbitrary house arrest, and, noting that her release is unconditional, calls on the Government of Myanmar to ensure that no restrictions

⁶ S/PRST/2007/37 and S/PRST/2008/13; see Resolutions and Decisions of the Security Council, 1 August 2007-31 July 2008.

⁷ SC/9662 and SC/9731.

⁸ A/65/367.

⁹ A/65/368 and A/HRC/13/48.

are placed on the exercise of all her human rights and fundamental freedoms in the future;

3. *Strongly urges* the Government of Myanmar, while also noting the earlier release from house arrest of U Tin Oo, the Vice-Chairman of the National League for Democracy, to release all other prisoners of conscience, currently estimated at more than 2,100, including the Chairman of the Shan Nationalities League for Democracy, U Hkun Htun 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, without delay and without conditions, and to allow their full participation in the political process, and strongly calls upon the Government of Myanmar to reveal the whereabouts of persons who are detained or have been subjected to enforced disappearance and to desist from further politically motivated arrests;

4. *Reaffirms* the essential importance of a genuine process of dialogue and national reconciliation for a transition to democracy, regrets, in this regard, that the Government of Myanmar did not seize the opportunity to develop a substantive and meaningful dialogue with Daw Aung San Suu Kyi, and calls on the new Government of Myanmar to take immediate measures to undertake a genuine dialogue with Daw Aung San Suu Kyi and all other concerned parties, civil society groups and ethnic groups, and to permit them to consult freely among each other and with other domestic stakeholders;

5. *Strongly regrets* that the Government of Myanmar did not hold free, fair, transparent and inclusive elections and refused to allow international election observers and independent foreign or local journalists to freely monitor or report on the voting, and calls on the Government to begin an inclusive post-election phase, including through meaningful dialogue and the participation of representatives of all groups in the political life of the country, within the framework of a transition to a civilian, legitimate and accountable system of government, based on the rule of law and respect for human rights and fundamental freedoms;

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

7. *Expresses grave concern* at the continuing practice of arbitrary detentions, enforced disappearances, rape and other forms of sexual violence, torture and cruel, inhuman or degrading treatment or punishment, and urges the Government of Myanmar to undertake without further delay a full, transparent, effective, impartial and independent investigation into all reports of human rights violations, and to bring to justice those responsible in order to end impunity for violations of human rights, and, regretting that previous calls to that effect have not been heeded, calls on the Government to do so as a matter of priority and, if necessary, drawing on the assistance of the United Nations;

8. *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, civil society groups, ethnic groups and other stakeholders,

while recalling once more that the procedures established for the drafting of the Constitution resulted in a de facto exclusion of opposition groups from the process;

9. *Urges* the Government of Myanmar to ensure the independence and impartiality of the judiciary and to guarantee due process of law, and to fulfil earlier assurances made to the Special Rapporteur on the situation of human rights in Myanmar 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 prisoners of conscience, including torture, and about the moving of prisoners of conscience to isolated prisons far from their families where they cannot receive food and medicine;

11. *Expresses deep concern* about the risk of further armed conflict in some areas as a result of continued pressures imposed by the national authorities on certain ethnic groups and the exclusion of some key ethnic political parties from the election process, and calls upon the Government of Myanmar to protect the civilian population in all parts of the country and for all concerned to respect existing ceasefire agreements;

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

13. *Also strongly calls upon* the Government of Myanmar to end the practice of systematic forced displacement of large numbers of persons within their country and other causes of refugee flows into neighbouring countries;

14. *Expresses its 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 calls upon the Government of Myanmar to take immediate action to bring about an improvement in their respective situations, and to grant citizenship to the Rohingya ethnic minority;

15. *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;

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

17. *Also 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;

18. *Strongly calls upon* the Government of Myanmar to put an immediate end to the continuing recruitment and use of child soldiers in violation of international law by all parties, to intensify measures to ensure the protection of children from

armed conflict, to pursue its collaboration with the Special Representative of the Secretary-General for Children and Armed Conflict, to swiftly conclude and implement the new joint action plan for the national armed forces, to facilitate access for dialogue on action plans with other parties listed in the annual Secretary-General report on children and armed conflict, and to allow unrestricted access to all areas where children are recruited for these purposes;

19. *Notes with appreciation* the prolongation of the supplementary understanding between the International Labour Organization and the Government of Myanmar to eliminate the use of forced labour, and that some steps, particularly in relation to awareness-raising, have been taken with regard to it, but expresses grave concern at the continuing practice of forced labour, and calls on the Government to intensify its cooperation with the International Labour Organization on the basis of the understanding, with a view to extending action against forced labour as widely as possible throughout the country and to fully implementing with urgency the recommendations of the Commission of Inquiry of the International Labour Organization;

20. *Welcomes* the agreement between the Government of Myanmar and the United Nations on a two-year joint humanitarian initiative for Northern Rakhine State, and, in view of ongoing humanitarian needs throughout the country, encourages the Government to ensure that such cooperation is extended to other regions;

21. *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, taking into account the need for a swift facilitation of requests for visa and in country travel permission, encourages the Government to build on the experience of the Tripartite Core Group and to continue its cooperation to allow humanitarian assistance to reach all persons in need throughout the country, including displaced persons;

22. *Encourages* the Government of Myanmar to resume its humanitarian dialogue with the International Committee of the Red Cross and to 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;

23. *Encourages* the Government of Myanmar to continue to cooperate with international health entities on HIV/AIDS, malaria and tuberculosis;

24. *Reaffirms its full support* for the good offices of the Secretary-General pursued through his Special Adviser on Myanmar, consistent with the report of the Secretary-General on the situation of human rights in Myanmar,¹⁰ and urges the Government of Myanmar to cooperate fully with the good offices mission, including by facilitating the visits of the Special Adviser to the country and granting him unrestricted access to all relevant stakeholders, including the highest level of leadership within the army, political parties, human rights defenders, representatives of ethnic groups, student leaders and other opposition groups, and to respond substantively and without delay to the proposals of the Secretary-General, including

¹⁰ A/65/368.

the establishment of a United Nations office in support of the mandate of the good offices;

25. *Welcomes* the role played by countries neighbouring Myanmar and members of the Association of Southeast Asian Nations in support of the good offices mission of the Secretary-General;

26. *Welcomes also* the continued contribution of the Group of Friends of the Secretary-General on Myanmar in support of the work of the good offices mission;

27. *Urges* the Government of Myanmar to respond favourably to the Special Rapporteur's requests to visit the country, and to cooperate fully with him in the exercise of his work as mandated by the Human Rights Council, and to implement the four core human rights elements recommended by the Special Rapporteur;

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

29. *Welcomes* the recent workshop held in cooperation with the Office of the United Nations High Commissioner for Human Rights in view of the upcoming universal periodic review by the Human Rights Council, and encourages the Government of Myanmar to seek further technical cooperation in the preparation of the universal periodic review and to cooperate fully and constructively throughout the process;

30. *Requests* the Secretary-General:

(a) To continue to provide his good offices and to pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar, involving all relevant stakeholders, including democracy and human rights groups, and to offer technical assistance to the Government in this regard;

(b) To give all necessary assistance to enable the Special Adviser and the Special Rapporteur to discharge their mandates fully, effectively and in a coordinated manner;

(c) To report to the General Assembly at its sixty-sixth session, as well as to the Human Rights Council, on the progress made in the implementation of the present resolution;

31. *Decides* to continue the consideration of the question at its sixty-sixth session, on the basis of the reports of the Secretary-General and the Special Rapporteur.