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HUMAN RIGHTS SITUATIONS THAT REQUIRE THE COUNCIL'S ATTENTION

**Report of the Special Rapporteur on the situation of human rights
in Myanmar, Paulo Sérgio Pinheiro, mandated by resolution 6/33
of the Human Rights Council***

* The present report was submitted after the deadline to include the most recent information.

Summary

In its resolution S-5/1, of 2 October 2007, the Human Rights Council requested the Special Rapporteur on the situation of human rights in Myanmar to assess the current human rights situation and to monitor the implementation of that resolution, including by seeking an urgent visit to Myanmar, and to report to the resumed sixth session of the Council, and urged the Government of Myanmar to cooperate with the Special Rapporteur. Subsequently, the Special Rapporteur visited Myanmar from 11 to 15 November 2007 and submitted his report (A/HRC/6/14) to the Council on 7 December 2007.

In its resolution 6/33, the Council requested the Special Rapporteur to monitor the implementation of that resolution and to conduct a follow-up mission to Myanmar, and to report to the Council at its seventh session, and urged the Government of Myanmar to cooperate fully with the Special Rapporteur. Consequently, in a letter to the Government dated 30 January 2008, the Special Rapporteur expressed his wish to conduct a follow-up mission to the country. The Special Rapporteur regrets that, to date, he has not been granted access to the country for a follow-up mission as requested by the Council.

The present report is submitted pursuant to Council resolution 6/33. It is based on information gathered since the Special Rapporteur's report (A/HRC/6/14) on the human rights implications of the crackdown on the peaceful demonstrations in Myanmar in September 2007, its causes and consequences. The report covers the period from December 2007 to March 2008.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
I. INTRODUCTION	1 - 5	4
II. METHODOLOGY AND ACTIVITIES OF THE SPECIAL RAPPORTEUR	6 - 9	5
III. DEVELOPMENT SINCE THE FIRST MISSION RELATED TO THE EVENTS OF AUGUST AND SEPTEMBER	10 - 34	5
A. Releases, ongoing arrests and detentions	14 - 24	6
B. Trials and convictions	25 - 34	8
IV. INVESTIGATIONS OF KILLINGS AS A RESULT OF THE CRACKDOWN ON DEMONSTRATIONS: ACCOUNTABILITY FOR EXCESSIVE USE OF FORCE	35 - 37	10
V. DEVELOPMENTS REGARDING THE SITUATION OF THE DISAPPEARED	38 - 40	11
VI. CONDITIONS OF DETENTION AND ACCESS BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)	41 - 42	11
VII. CONCLUSIONS	43 - 46	12
VIII. RECOMMENDATIONS	47	12

I. INTRODUCTION

1. On 15 August 2007, the Government of Myanmar raised the retail price of fuel by 500 per cent, thereby affecting the livelihood of the population, which responded to that decision by demonstrating peacefully in August and early September. From 18 to 26 September, large, peaceful demonstrations were held across the country, in Yangon, Mandalay, Pakokku and Sittwe. The Government's crackdown on the demonstrators, mostly monks, took place from 26 to 29 September. During the crackdown, the security forces, comprising police and army or riot police (Lone Htein), as well as members of the Union Solidarity and Development Association and the Swan Ah Shin militia, used excessive force against civilians, including unnecessary and disproportionate lethal force. Following the crackdowns, several reports were received, among others, of killings, severe beatings, arrests, torture and deaths in custody.

2. In accordance with Council resolution S-5/1, the Special Rapporteur, at the invitation of the Government, conducted a visit to Myanmar, from 11 to 15 November 2007. The Special Rapporteur stressed that his mission could not be considered a fully fledged fact-finding mission, since the conditions for an independent and confidential investigation would have required a different framework. The Special Rapporteur therefore informed the Council that his mission should be seen as an initial step in a process, and that the authorities had expressed willingness for his follow-up missions.

3. During his visit, the Special Rapporteur found that, during the period from 26 to 29 September, the security forces, including the army and the riot police, had used excessive force against civilians. The Special Rapporteur concluded, after seriously considering a number of testimonies, reports and video and photo material provided, that there were solid grounds to believe that at least 31 persons had died as a result of the crackdown on the demonstrations in September and October, including the 15 individuals accounted for in the information provided by the Government on casualties. The Special Rapporteur believed that the participation of Union Solidarity Development Association members and the Swan Ah Shin militia largely contributed to the excessive use of force against peaceful demonstrators. According to reliable reports and accounts, it was estimated that some 3,000 to 4,000 people were arrested in September and October, and between 500 and 1,000 were still being detained in December. In his report, the Special Rapporteur brought to the attention of Government at least 74 cases of enforced disappearance that had been reported to him.

4. Subsequent to the Special Rapporteur's report (A/HRC/6/14), on 14 December 2007, the Council adopted resolution 6/33 in which it requested the Special Rapporteur to conduct a follow-up mission and to report to the Council at its seventh session. The Special Rapporteur transmitted a letter to the Government on 30 January 2008 in which he expressed his wish to conduct a follow-up mission prior to the seventh session of the Council in March 2008. At the time of the finalization of the present report, the Special Rapporteur had not been granted a visa by the Myanmar authorities.

5. In accordance with resolution 6/33, the Special Rapporteur presents a follow-up overview and assessment of the information collected in relation to the human rights implications of the crackdown on the demonstrations in September 2007 and the developments regarding the thematic areas addressed in his previous report to the Council. He deeply regrets not having been permitted to travel to Myanmar to assess the situation in situ.

II. METHODOLOGY AND ACTIVITIES OF THE SPECIAL RAPPORTEUR

6. After the Council adopted resolution 6/33, the Special Rapporteur included in his programme of work a plan for a follow-up visit to Myanmar and a programme to gather updated information regarding developments in the investigations of the disappeared; the reported killings during the crackdown; the depuration of responsibilities as a result of the excessive use of force; and the situation of detainees, including their detention conditions and the fairness of the trials and their outcomes. After evaluating the various constraints encountered during his mission in November 2007, the Special Rapporteur also communicated clearly to the Government the framework that would be required to ensure a constructive visit.

7. The Special Rapporteur wrote to the Government on 8 February 2008 with a detailed programme proposal aimed at continuing to identify the circumstances and obtain the Government's views on the actions taken during the major incidents reported, including meetings with, among others, the Minister for Home Affairs; the Minister for Foreign Affairs; the Minister for Labour; law enforcement officials, including riot commanders and police battalions; and military and infantry divisions in charge of law and order during the crackdown on the demonstrations in September 2007. He also proposed meetings with the Attorney General and the judicial authorities to gather information regarding the legal conditions of the detainees, the trials and convictions. The Special Rapporteur informed the Government that he also wished to focus on the incidents reported in Mandalay and Sittwe. As was the case during his visit in November 2007, the Special Rapporteur requested further private interviews with detainees, as well as unrestricted private access to the United Nations country team and civil society organizations.

8. Since the presentation of his report to the Council in December 2007, the Special Rapporteur has received and collected updated information from a number of reliable sources on the developments in the country in relation to the crackdown on the demonstrations held in September 2007. The Special Rapporteur has not had the opportunity to engage with the Government in situ on the new findings and to compare updated information gathered since December 2007. The information gathered during the period under review shows that the events in September 2007 and their consequences require systematic engagement and thorough investigation. This will be essential if the efforts of the Government to promote and protect human rights in the context of a democratic transition, as expressed to the Special Rapporteur by his Government interlocutors during his visit to the country in November 2007, are to be realized.

9. The Special Rapporteur would like to express his gratitude to the Office of the United Nations High Commissioner for Human Rights, and in particular to the Regional Office for South-East Asia for the support provided in the implementation of his mandate.

III. DEVELOPMENT SINCE THE FIRST MISSION RELATED TO THE EVENTS OF AUGUST AND SEPTEMBER

10. During the period under review, the Special Rapporteur continued to receive information regarding the arrest and detention of human rights activists and individuals in connection with the violent crackdown on the peaceful demonstrations held in September 2007.

11. The reports received indicate that there is an ongoing trend to arrest individuals who have any relation with the organization of the peaceful demonstrations in September or who were allegedly attempting to provide testimonies or visual information regarding the crackdown. A number of detainees have reportedly been under trial and received sentences for their involvement in the demonstrations.

12. It has been reported that State surveillance of monks and monasteries continued during the period under review. Since his mission in November 2007, the Special Rapporteur has gathered the direct testimonies of 23 monks who participated in the demonstrations. Asked for the motivation of their engagement in the demonstrations, all stated that the reason for their engagement was the harsh conditions imposed by the Government on the people and the worsening standards of living. These reasons were reflected in the Special Rapporteur's report (A/HRC/6/14). The monks indicated that the economic situation was also squeezing their already scarce resources for social assistance, which has been seen traditionally as a social safety net for many people in the country. On 29 November, the Special Rapporteur received information concerning the closing of a number of monasteries, including the Maggin monastery in Yangon, which had traditionally offered assistance to HIV/AIDS patients. The shutting down of monasteries was allegedly related to their alleged support for the demonstrations in September by senior abbots. In other major cities such as Mandalay, monasteries were surrounded by the security forces.

13. On 4 December, the Special Rapporteur transmitted a letter to the Government containing three lists of people allegedly detained, killed or disappeared and requested information on their cases. The Special Rapporteur regrets that he did not receive any information from the Government concerning these cases.

A. Releases, ongoing arrests and detentions

14. According to international human rights law, arrests and detentions must be carried out in compliance with formal and substantive rules of domestic and international law, including the principle of non-discrimination. Under the Universal Declaration of Human Rights, such arrests must not be arbitrary and may only be carried out by legally authorized persons. Moreover, a detainee's rights, including the right to be informed of the charges against him or her, to have access to legal counsel and medical care, to have his or her family informed of his or her whereabouts, and to have his or her arrest subjected to prompt judicial review, cannot be waived simply by renaming the arrest and detention an "investigation". Furthermore, principle 2 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment states that "arrest, detention or imprisonment shall only be carried out strictly in accordance with the provisions of the law and by competent officials or persons authorized for that purpose".

15. During the Special Rapporteur's mission in November 2007, the Government confirmed the detention of 93 individuals. On 4 December, the Special Rapporteur submitted a list of an additional 653 individuals who were believed to be still in detention at that time. The Special Rapporteur did not receive any response from the Government on the status of those reported detained, however, he did receive information from non-governmental sources regarding the release of some 100 people who had been arrested in connection with the demonstrations. The Special Rapporteur acknowledges the difficulties in keeping track of the releases due to the lack

of information regarding the exact release date and, in this context, deeply regrets not having had the opportunity to verify these positive developments with the authorities through a follow-up visit.

16. After he left the country on 15 November 2007, the Special Rapporteur continued to receive information on ongoing arrests and detentions. Since his departure, further arrests have been reported. Some 70 individuals were reportedly arrested between 15 November 2007 and 18 February 2008 in connection with their presumed participation in the demonstrations and for allegedly having reported outside of the country on the use of force by State agents during the crackdown. At time of the finalization of the present report, 62 of them were reportedly still being detained.

17. Khin Moe Aye, Kyaw Soe, Zaw Min, Htun Htun Win, Myo Yan Naung Thein - all former political prisoners and current members of the 88 Generation Students groups - were reportedly arrested from 16 to 18 December 2007. It is reported that they were arrested in relation to the filming of the September protest and the testimonies provided to the foreign media. Former political prisoners Aung Aung Gyi, Myat Hsan and Win Maw were reportedly arrested in December 2007 for trying to send video footage of the September demonstrations to international media.

18. Ye Thein (alias Ko Bo Naung), Myint Naing, U Khin Hla, Mon Min Soe, Htay Myint, Dr. Aung Moe Nyo, Sin Win, Nay Myo Kyaw, Htet Htet Aung and Kyaw Zin Win, self-identified as political activists, have also been arrested since the Special Rapporteur's mission.

19. On 18 February 2008, U Thet Wia (alias Pauk Sa) the Chairman of the National League for Democracy (NLD) of Sanchaung township was reportedly arrested again after he had been arrested and released in September 2007 and in January 2008. When he was arrested in January, police allegedly conducted a body search and found a digital memory device with information on forced labour and children in armed conflict; he was informed that this was the reason for his arrest. The Special Rapporteur was informed on 5 March 2008 that U Thet Wia had been released on bail (for 100,000,000 kyats) after having been charged under Penal Code articles 186 and 353.

20. Freedom of expression has been further curtailed, as seen by the arrest of a number of journalists and the banning of a number of media. On 15 February 2008, Thet Zin, editor-in chief of *Myanmar Nation* (*Myo Myanmar*), and Sein With Maung (alias Ko Soe), office manager of the same newspaper, were said to have been arrested at their office in Yangon. Reportedly, police searched the office and confiscated a copy of the Special Rapporteur's report, several books, compact discs containing images of the street protests of August and September 2007, mobile phones and poems written by Sein Win Maung and critical of the military junta. The Government banned the publication and distribution of *Myanmar Nation* on 19 February 2008. Nay Phone Latt (alias Nay Myo Kyaw) was arrested on 29 January allegedly for posting articles on expressions of youth on his Internet blog pages. With regard to the case of Thet Sin and Sein With Maung, the Special Rapporteur, together with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression and the Special Representative of the Secretary-General on Human Rights Defenders, transmitted a joint urgent appeal to the Government on 21 February.

21. Furthermore the Special Rapporteur received detailed information regarding the arrest of artists and other activists. Saw Wai was reportedly arrested on 22 January 2008 for writing a poem criticizing the military junta leadership. Two other poets reportedly arrested in January were Ko Ko Maung alias (Zaw Lu Sein) and Ko Min Han. The artist-guitarist (Ko) Win Maw was reportedly arrested on 27 November 2007.

22. In 2007, the commemoration of International Human Rights Day on 10 December coincided with the global year-long campaign leading up to the sixtieth anniversary of the Universal Declaration of Human Rights. International Human Rights Day has traditionally been a date for commemorating the millions of human rights defenders around the world who struggle daily to protect and promote the rights of others as set up in the Universal Declaration. The Special Rapporteur deeply regrets that the human rights defenders in Myanmar were reportedly harassed for their preparations for the commemorations. The human rights defender Aung Zaw Oo, a member of the Human Rights Defenders and Promoters network, was reportedly arrested on 26 November 2007 while preparing materials for the commemoration. U Tin Hla, a member of the Federation of Trade Unions - Burma, was reportedly arrested with members of his family on 28 November for organizing and inciting the participation of railway workers in the September demonstrations. The Special Rapporteur was informed by the Government that Aung Zaw Oo had been charged under the Unlawful Association Act 1908 (17/1), Immigration (Emergency Provision) Act 1947 (13/1) and Penal Code section 505/B. The Government reported that U Tin Hla had been released on 25 October. He was reportedly rearrested on 28 November.

23. The Special Rapporteur is concerned about the numerous accounts of searching of political activists, human rights defenders and journalists and the reported reasons for their further detention, including allegations of possession of copies of his report to the Council.

24. At the time of finalization of the present report, the Special Rapporteur had received the names of 718 individuals arrested between August 2007 and February 2008 who were reportedly still being detained. That figure includes the 93 individuals confirmed by the Government during the Special Rapporteur's mission in November 2007. The Special Rapporteur submitted an updated version of the lists submitted in December 2007 and, in particular, requested information concerning the 718 individuals, including the circumstances of arrest, places of detention, the legal grounds for detention, the charges, and a detailed account of their trials and convictions.

B. Trials and convictions

25. At his meeting with the Attorney General in November 2007, the Special Rapporteur expressed his concern at long-term detentions without legal guarantees for the detainees. He also stressed that everyone had the right to a fair trial in both civil and criminal cases and that effective human rights protection depended on access to competent courts that could administer justice. The principle of equality before the law must be guaranteed throughout the pretrial and trial stages, and everyone must have equal access to the courts to claim their rights. During his meetings with government officials, the Special Rapporteur observed that there was real reason to believe that the right to be presumed innocent of detainees was in jeopardy.

26. The arrests ongoing since September have reportedly not been carried out in accordance with the Criminal Procedure. A number of people were reportedly arrested without warrant and detained in unknown locations, in various interrogation centres. After interrogation, some were released without charges, while others were sent to Insein prison in Yangon. In the prison, the detainees were reportedly informed of the charges against them under various provisions of the Criminal Code. While most of the detainees were reportedly charged under Penal Code section 505/B for making, publishing or circulating statements, rumours or reports “with intent to cause, or which was likely to cause fear or alarm in the public” other laws, such as the Printer and Publisher Act, Emergency Provision Act and the Unlawful Association Act, were also cited.

27. The Special Rapporteur was informed that the police could detain suspects for a period of up to 24 hours, after which they were required to take the case to court and provide grounds for detention. The judge may issue remand order of a maximum of 14 days for the police to continue investigations, if required. After the 14-day period, the police must bring the suspect to court again and obtain another 14-day remand to construct the case completely. After 28 days, the police must take the case to court. If the police in their investigations have not found any evidence against the suspect, the suspect must be released, in accordance with Criminal Procedure section 6.

28. At the time of finalization of the present report, 145 detainees had allegedly been charged under various laws, while others were being unlawfully detained. According to the reports received, 40 detainees had been sentenced to 2 to 22 years of imprisonment. Reportedly, many detainees were not brought before the court; in other cases, judicial authorities delivered the orders or judgements to the prison. In a large number of cases, detainees reportedly did not have legal representation.

29. It is reported that Ye Myat Hein, a 17-year-old student, has been charged but never been brought before the court. He does not have access to a lawyer and cannot receive visits from his family. Another student, Sithu Maung (alias Ya pyeit) has not been brought before the court. The monks U kaw Vi da and Zaw Thi la were also not brought before the court and were charged under the Penal Code. Reportedly, Aung Min Naing was arrested on 23 October and his lawyer was not allowed to be present at the court hearing. In some cases, the detainees face trial in the Insein prison special court, which is situated inside the prison and is not an open court. According to sources, even family members and sometimes lawyers are not allowed access to this court.

30. The 88 Generation student group members Min Ze Ya, Paw U Tun (alias Min Ko Naing), Ko Ko Gyi, Pyone Cho (alias Htay Win Aung), Aung Thu, Kyaw Kyaw Htwe (alias Marky), Kyaw Min Yu (alias Jimmy), Mya Aye (alias Thu Ya) and Yin Htoo Aung, all arrested following the demonstrations, have been reportedly charged under section 17/20 of the Printers and Publishers Registration Act. A total of 33 monks, including the leader U Gambira, have been reportedly charged under the Penal Code, the Emergency Provision Act and the Unlawful Association Act.

31. The NLD members U Ba Myint, Kaw Maung, U Pe Sein, Aye Cho, Min Aung, U Nay Win, U Khin Hla and Thi Ha, arrested between September and October, were charged under the Penal Code and convicted to 2 to 22 years of imprisonment.

32. Thi Ha, a political and human rights activist and member of NLD and the Human Rights Defenders and Promoters, has been reportedly convicted to 22 years of imprisonment. It is reported that he was arrested on 8 September for possession of political leaflets containing messages such as “It’s time to get back on track” and “where there are students, there are student unions”. He was charged with sedition and incitement to offences against public peace under sections 124 (a) and 505 (b) of the Penal Code.

33. The human rights defenders Thet Oo, Zaw Tun (Htun) and (Ko) Shwe Pain (alias Htay Naing Linn), arrested on 15 September and 19 October respectively, were charged under Penal Code section 505/B and sentenced to two years of imprisonment. Sources state that Thet Oo was not brought to court; a judge is said to have come to Prome prison, where he issued the verdict. It is reported that the civilians Ya Zar, Zaw Kyi and Shwe Thwe, arrested in September 2007, were charged under the Penal Code and sentenced to two years of imprisonment for providing water to the monks during the demonstration. A 33-year-old male civilian, Aung Naing Soe, was arrested in October 2007 and was sentenced to three years and nine months, and is reportedly, in solitary confinement in Thandwe prison.

34. Monks have also been sentenced to up to seven years of imprisonment. U Einthariya and U Wannathiri were arrested on 29 September, charged under Penal Code sections 143, 505/B and 295 and sentenced to seven years and six months of imprisonment, and two years, respectively. U Wikarmala (Kow Mala), arrested on 14 October 2007, was charged under Penal Code, sections 143 and 295/A and sentenced to two years and six months of imprisonment. According to sources, all three monks are in prisons in Rakhine State. The monk U Pannita (alias U Myint Ye) has been charged under the Penal Code and sentenced to two years of imprisonment without having been brought to court; the verdict was delivered by a judge in Prome prison where the monk was being detained.

IV. INVESTIGATIONS OF KILLINGS AS A RESULT OF THE CRACKDOWN ON DEMONSTRATIONS: ACCOUNTABILITY FOR EXCESSIVE USE OF FORCE

35. During his visit to the country and following his discussions with various authorities in Yangon who had provided him with material evidence regarding 15 individuals who had been killed, in December, the Special Rapporteur informed the authorities that he had received reliable information regarding 16 additional individuals who had been allegedly killed during the crackdown on the demonstrations in September.

36. The Special Rapporteur requested information from the Government regarding the investigations into the cause of death of the above-mentioned individuals and the responsibilities within the security forces, in the light of article 3 of the Code of Conduct for Law Enforcement Officials and its commentary. In his report (A/HRC/6/14), the Special Rapporteur also noted that he had received allegations of other people killed who had allegedly been taken to the Ye Way crematorium in Yangon and burnt during the night between 4 and 8 a.m from 27 to 30 September 2007.

37. The Special Rapporteur regrets that he has not received any concrete information regarding the investigation nor clarification of the responsibilities of any official or security branch involved in the killing of the 15 individuals acknowledged by the authorities as casualties from

the crackdown on the demonstrations held in September 2007. He also regrets the lack of information regarding the allegations of the killing of 16 additional individuals and the burning of a number of bodies at the Ye Way crematorium, as mentioned above, that could help him to provide a comprehensive picture of the reported events.

V. DEVELOPMENTS REGARDING THE SITUATION OF THE DISAPPEARED

38. Since the crackdown on the demonstrations, the Special Rapporteur has continued to receive information regarding people still unaccounted for. In the list he shared with the authorities coinciding with the preparations of his report (A/HRC/6/14), the Special Rapporteur took note of 74 people who were reported missing by a number of sources. Since December 2007, the Special Rapporteur has been updating the list as information from the sources were received. Some of the individuals included in the initial list of reported missing persons have been accounted for and are reportedly free (15) or reportedly in detention (8).

39. The Special Rapporteur, however, has also received reports of other individuals who are still reported missing and who were not included in his initial list. The Special Rapporteur regrets that the Government has failed to locate the whereabouts of the people missing since the crackdown and to provide any clarification on the list of 74 people missing as reported in December 2007.

40. At the time of finalization of the present report, there were 75 people still unaccounted for and whose cases had been brought to the attention of the Special Rapporteur. He shared with the Government an updated list and requested information regarding the whereabouts of the individuals reported missing.

VI. CONDITIONS OF DETENTION AND ACCESS BY THE INTERNATIONAL COMMITTEE OF THE RED CROSS (ICRC)

41. Reports received indicate that the detention conditions of detainees at Insein prison in Yangon remain appalling. Family members and relatives face a long list of obstacles including lengthy procedures to visit detainees in prison. As reported, most detainees rely on food and medicine provided by family members during prison visits for their well-being. To date, information concerning the situation of the detainees can only be obtained through contacts with the prisoners' families.

42. The Special Rapporteur would like to reiterate his concern at the lack of visible developments to give the International Committee of the Red Cross (ICRC) access to detainees in accordance with its mandate. He nonetheless commends the efforts to continue engaging with the authorities to ensure the resumption of visits in accordance with its mandate. The Special Rapporteur would further like to repeat his call to the authorities to re-engage with ICRC and allow free access to detention centres.

VII. CONCLUSIONS

43. The Special Rapporteur regrets that he has not been granted access to the country for a follow-up mission as requested by the Council. He acknowledges the initial cooperation by the Government of Myanmar in November 2007 and the provision of information concerning the causes of death of 15 individuals and the detention status of a number of individuals.

44. The lack of information concerning the investigation of the events of September 2007 is a compelling example of the challenges to the promotion and protection of human rights in Myanmar. The continued denial of basic civil and political rights and the worsening living conditions of the population make a difficult human rights situation even more acute. The Government continues to restrict, among others, the right to freedom of expression and the right to peaceful assembly, thereby jeopardizing the stable basis for a solid transition to democracy.

45. The Special Rapporteur shared with the Government an updated list of 718 persons believed to be in detention as a result of the crackdown on the demonstrations held in September 2007, a list of 16 people reported killed (in addition to the list of 15 dead provided by the authorities), and a list of 75 people reported missing, for comments and updated information. He would like to draw the attention of the Council to the fact that the lists transmitted to the Government only contained those incidents where the names of the people involved are cited and that they could not be seen as exhaustive, given the current constraints to verify the allegations received in situ.

46. The Special Rapporteur would like the Council to note that the lack of access for a follow-up mission is regrettable and reflects the lack of significant steps by the Government to implement the requirements set out in Council resolution S-5/1. The Special Rapporteur, however, considers that his initial visit in November 2007 opened an opportunity for a frank dialogue with the authorities on the human rights reforms needed to ensure the democratic transition aimed for in the constitutional process. In this context, the Special Rapporteur calls on the authorities to take genuine steps to engage with the Council in a thorough investigation on the crackdown of the demonstrations and to take measures anchored in international standards, which would prevent a repetition of the tragic events of September 2007.

VIII. RECOMMENDATIONS

47. The Special Rapporteur's recommendations made in his previous report (A/HRC/6/14) remain valid in view of the lack of information from the Government of Myanmar on the implementation of those recommendations. In the light of the objectives of his mission in November 2007 and of the recommendations already made in his previous report, the Special Rapporteur therefore calls on the Government of Myanmar to implement:

(i) Immediate measures

- (a) To secure the physical and psychological integrity of all persons kept in custody;**
- (b) To reveal the whereabouts of people who are still detained or missing;**

(c) To provide information to the families of the deceased regarding the cause of death and the whereabouts of their remains and to carry out a thorough investigation of the cause of death;

(d) To bring the perpetrators of human rights violations to justice and to provide the victims and their families with effective remedies;

(e) To ensure immediate access by ICRC and other independent humanitarian personnel to all detainees;

(f) To release unconditionally all persons who have been taken into custody for peaceful assembly or the peaceful expression of their political beliefs;

(g) To grant an unconditional amnesty to people who have been already sentenced, and to drop charges against those who are in the process of being prosecuted;

(h) To conduct an independent and thorough investigation into the cases of killings, beatings, hostage-taking, torture and disappearance;

(i) To ban militias as illegal groups, in accordance with the law of Myanmar;

(j) To effectively engage in a constructive and sustainable dialogue with the Human Rights Council and its special procedures, especially the mandate of the Special Rapporteur on the situation of human rights in Myanmar;

(k) To ensure a follow-up mission on the initial findings from the Special Rapporteur's mission of November 2007 and the present report through the invitation of an international commission of inquiry or fact-finding mission to investigate the September events in a more comprehensive manner;

(ii) Transitional measures

(a) To develop an effective channel for follow-up communications and cooperation with the mandate of the Special Rapporteur and provide for regular access to the country;

(b) To consider the implementation of the plan of action for the release of all political prisoners as suggested by the Special Rapporteur in his report to the General Assembly (A/62/223);

(c) To pursue dialogue with Daw Aung San Suu Kyi through the Minister for Labour and the Liaison Minister;

(d) To repeal or amend existing laws and regulations in relation to the right to peaceful assembly, the right to freedom of expression, the right to freedom of movement and all matters related to criminal and penal procedures and prison regulations;

(e) To seek technical assistance to repeal or amend the Penal Code and Code of Criminal Procedure and to review the rules that govern the policing of demonstrations.
