



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2005/130
7 March 2005

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixty-first session
Item 9 of the provisional agenda

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

Report of the Secretary-General on the situation of human rights in Myanmar

Summary

The present report is based upon the good offices efforts undertaken by the Secretary-General and his Special Envoy, Razali Ismail, in facilitating national reconciliation and democratization in Myanmar, in accordance with General Assembly resolution 59/263 of 23 December 2004.

The Secretary-General has maintained from the very beginning that the National Convention and subsequent stages in the seven-step road map for transition to democracy put forth by the Government of Myanmar in 2003 has the potential to be a positive step forward. He has stressed that to ensure credibility it is essential that the National Convention phase of the road map, which the Government reconvened in May 2004 to lay the foundations on which a new constitution is drafted, includes representatives of the National League for Democracy (NLD), other political parties and ethnic nationality groups, as well as other strata of society. The Secretary-General has similarly made it clear that all those involved in the National Convention must also be allowed to speak freely, openly and without restriction on the matters at hand. To date, however, the National Convention has regrettably fallen short of satisfying these basic requirements.

On 17 February 2005, the Convention was again reconvened without the participation of representatives of the NLD and other political parties. Furthermore, Daw Aung San Suu Kyi not only remains under house arrest, but along with her deputy has also had her detention extended for a further year. Other political and ethnic leaders have also been arrested or detained, causing one ceasefire group to boycott the Convention.

Most regrettably, it therefore remains the Secretary-General's view that the National Convention, in its present format, does not adhere to the recommendations made by the General Assembly in successive resolutions. He thus reiterates his call on the Myanmar authorities, even at this late stage, to take the necessary steps to make the road map process more inclusive and credible. The Secretary-General also encourages the authorities to ensure that the third phase of the road map, the drafting of the constitution, is fully inclusive. A national referendum will be held after that. It is his considered view that unless this poll adheres to internationally accepted standards of conduct and participation, it may be difficult for the international community, including the countries of the region, to endorse the result.

In furtherance of this objective, the Secretary-General once again appeals to the Myanmar authorities to resume without delay a substantive political dialogue with the representatives of all ethnic nationality groups and political leaders, including Daw Aung San Suu Kyi, to help achieve a genuine process of national reconciliation. He reiterates the need for the remaining constraints on all political leaders to be lifted, NLD offices to be allowed to reopen and political prisoners, including elected officials, to be released. In this context, the Secretary-General renews his readiness to facilitate national reconciliation efforts among all parties concerned. At the same time, however, he wishes to articulate his deep concern at the Myanmar authorities' continued unwillingness to cooperate with his Special Envoy over the past year. The present situation casts serious doubt on the prospects for the United Nations to play an effective role as a facilitator in furtherance of the relevant resolutions of the General Assembly. He urges the authorities to demonstrate their commitment to a credible process of democratization and national reconciliation by allowing his Special Envoy to return to Myanmar to continue his facilitation efforts.

Introduction

1. The present report is submitted pursuant to paragraph 4 of General Assembly resolution 59/263 of 23 December 2004, in which the Assembly requested the Secretary-General to continue to provide his good offices and to pursue his discussions on the situation of human rights and the restoration of democracy with the Government and people of Myanmar, including all relevant parties to the national reconciliation process in Myanmar, and to report to the Assembly at its sixtieth session and to the Commission on Human Rights at its sixty-first session on the progress made in the implementation of the resolution.

2. It is a matter of serious concern to the Secretary-General that, since the submission of the last report, his Special Envoy, Razali Ismail, has visited Myanmar only once: in March 2004. Despite repeated requests by the United Nations, he has not been allowed to return to play his facilitation role since then. Mr. Paulo Sérgio Pinheiro, Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar, has also been denied access to the country since November 2003. The change in the Myanmar leadership, most importantly the removal of Prime Minister General Khin Nyunt in fall 2004, further reduced political contacts between the Government of Myanmar and the United Nations.

3. In an effort to facilitate national reconciliation and democratization in Myanmar, the Secretary-General convened and chaired a high-level consultative meeting of interested Member States on 29 September 2004, during the fifty-ninth session of the General Assembly. Representatives of a dozen Member States, both in and outside the region, as well as his Special Envoy attended the one-day meeting. The Secretary-General, together with his Special Envoy, then met with the head of the Myanmar delegation to the General Assembly, U Tin Winn, then Minister in the Prime Minister's Office and Labour Minister, and the new Foreign Minister, U Nyan Win, to brief them on the outcomes of the high-level meeting. U Tin Winn, along with other senior government officials, including Home Minister Col. Tin Hlaing, was "allowed to retire" upon his return to the capital. Separately, the Special Envoy met with the new Foreign Minister on the occasion of the tenth summit of the Association of South-East Asian States (ASEAN) held in Vientiane on 29 November 2004.

I. CONTENT OF THE DISCUSSIONS

4. During his March 2004 visit, the Special Envoy met with then Prime Minister General Khin Nyunt and other senior government officials, Daw Aung San Suu Kyi and other leaders of the National League for Democracy (NLD) as well as with members of the National Unity Party and the United Nationalities Alliance, a group of eight ethnic nationality political parties. The Special Envoy stressed to all the parties that, in order to be credible, the road map process for a democratic transition announced by the Government of Myanmar in August 2003 should be all-inclusive, open and transparent.

5. Despite the assurances from the Prime Minister that the Government would implement the road map in "good faith", and Daw Aung San Suu Kyi's expressed readiness to "turn a new page", the restrictions on the movement and political freedom of Daw Aung San Suu Kyi and NLD Vice-Chairman U Tin Oo were not lifted, and NLD offices, except for its headquarters in

Yangon, were not allowed to reopen. Subsequently, the NLD and some other ethnic nationality political parties, including the Shan National League for Democracy, which won the second largest number of seats in the 1990 elections, decided not to participate in the National Convention, which reconvened on 17 May 2004.

6. While the absence of the NLD and some other political parties made the National Convention a less complete and credible forum for democratization and national reconciliation in Myanmar, the Convention process nevertheless appeared to provide the ethnic nationality ceasefire groups with a potential venue at which to meet and discuss some issues of common concern amongst themselves.

7. In his statements of 17 August 2004 and 18 February 2005, the Secretary-General elaborated the expectations of the United Nations for the Government's road map process beginning with the reconvening of the National Convention process. These were as follows:

(a) The Secretary-General accepted that Myanmar faced complex and difficult challenges in its transition to democracy and its quest for national reconciliation, and acknowledged the potential role that a body such as the National Convention, if correctly configured, could play in this process;

(b) The Secretary-General stressed that unless and until the views of the NLD and other political parties were sought and considered, the National Convention and the road map process would be incomplete, lacking in credibility, and therefore unable to gain the full support of the international community, including the countries of the region;

(c) The Secretary-General noted that the statements and submissions reflecting on the rights and powers to be exercised and shared at the Union and region/state level reportedly made by some ethnic nationality ceasefire groups were a positive development, and stressed the need for a mutually acceptable agreement to be reached between the Government and the ethnic nationality ceasefire groups;

(d) The Secretary-General called on the Myanmar authorities to make full use of the National Convention's adjournment by immediately releasing Daw Aung San Suu Kyi and engaging the NLD and other political parties in a substantive dialogue on how they could work together for the benefit of the people of Myanmar;

(e) The Secretary-General urged the authorities to allow his Special Envoy to return to Myanmar as soon as possible to continue his facilitation efforts.

8. The expectations of the United Nations, as stipulated by the Secretary-General, remain unfulfilled. The National Convention was reconvened on 17 February 2005, again without the participation of the representatives of the NLD and other political parties. The Secretary-General regrets that the repeated calls for dialogue from the NLD since December 2004 have not been heeded by the Government. He is also deeply concerned at the authorities' decision to extend for a further year the detention of Daw Aung San Suu Kyi and her deputy, U Tin Oo, and the withdrawal of Daw Aung San Suu Kyi's security detail. He is

similarly concerned at the fact that several Shan leaders, including the President of the Shan State Peace Council and the Chairman of the Shan NLD, were arrested or detained in early 2005, leading to the boycotting of the opening ceremony of the National Convention by the Shan State Army (North) on 17 February 2005. The Secretary-General also notes that the peace talks that resumed between the Government and the Karen National Union (KNU) in 2004 have yet to produce tangible progress either, and there has lately been sporadic fighting reported along the Thai-Myanmar border between the Government and the KNU, as well as the Karenni National Progressive Party.

II. OBSERVATIONS

9. **The Secretary-General accepts that Myanmar faces complex and difficult challenges in its transition to democracy and its quest for national reconciliation. For that reason, he cautiously welcomed the announcement by the Government of its seven-stage road map, and acknowledged the potential role that the National Convention could play in the transition to democracy. However, the Secretary-General has consistently advised that for the process to be credible, it has to be all-inclusive and democratic, permitting views to be expressed freely and openly.**

10. **The Secretary-General believes that the National Convention, as currently configured, does not adhere to the recommendations made by successive resolutions of the General Assembly and the Commission on Human Rights. He is firmly of the view that the continued detention of Daw Aung San Suu Kyi and other members of her party, the detention and arrest of other ethnic nationality leaders, the continued imposition of restrictions on the activities of the country's political parties, and the continued presence of large numbers of people in prison for expressing their political views are wholly incompatible with a process of democratization and national reconciliation, however defined. The Secretary-General is further disappointed that the Myanmar authorities have not yet responded to efforts by certain ethnic nationality ceasefire groups that are in the National Convention, or by the NLD and other parties who are outside it, to discuss the pre-set and proposed constitutional principles. He is also mindful that the National Convention has not taken into account the views of the Karen National Union and other non-ceasefire groups. This is a necessary step if order, unity and stability are to prevail in Myanmar.**

11. **It is the Secretary-General's firm position that, unless the views of the NLD, other political parties, and all the country's ethnic nationality groups on Myanmar's future are sought, considered and taken into account, the National Convention and the road map process will be incomplete, lacking in credibility. As this is not currently being done, it remains the Secretary-General's judgement that the National Convention does not adhere to the recommendations made by him or by the General Assembly in successive resolutions. He thus reiterates his call on the Myanmar authorities, even at this late stage, to take the necessary steps to make the road map process more inclusive and credible. Specifically, the Secretary-General appeals to the Myanmar authorities to resume without delay a substantive political dialogue with the representatives of all ethnic nationality**

groups and political leaders, including Daw Aung San Suu Kyi, to help achieve a genuine process of national reconciliation. He reiterates the need for the remaining constraints on all political and ethnic leaders to be lifted, for NLD offices to be allowed to reopen and for political prisoners, including elected officials, to be released.

12. Furthermore, the Secretary-General encourages the authorities to ensure that the third phase of the road map, the drafting of the constitution, is fully inclusive. A national referendum will be held after that, and it is also his considered view that unless this poll adheres to internationally accepted standards of conduct and participation it may be difficult for the international community, including the countries of the region, to endorse the result.

13. The Secretary-General further urges the authorities to demonstrate their commitment to a genuine and credible process of democratization and national reconciliation by allowing his Special Envoy to resume the normal rhythm of his visits to Myanmar as soon as possible in order to continue his facilitation efforts, and to discuss ways to enhance Myanmar's cooperation with the good offices efforts of the United Nations. The refusal to allow his Special Envoy to visit Myanmar for more than a year casts serious doubt on the prospects for the United Nations to play an effective role as a facilitator in furtherance of the relevant resolutions of the General Assembly.

14. The Secretary-General further hopes that countries of the region, especially Myanmar's neighbours, will take a leading role in actively counselling the Myanmar authorities to deliver on the expressed commitments that it has made to ASEAN, the ASEAN Regional Forum and the Asia Europe Meeting by releasing Daw Aung San Suu Kyi from detention, accelerating the process of democratization and national reconciliation in the country, and allowing his Special Envoy to return to Myanmar to resume his facilitation role in a substantive manner.

15. Finally, the Secretary-General reiterates his belief that the Government of Myanmar has an obligation to ensure that its people derive the same benefits of economic, social and political development as elsewhere in the region. Myanmar's citizens have endured unnecessary social and economic hardship because of the absence of an all-inclusive process of democratization and national reconciliation in their country. Their predicament has been compounded by economic policies that have prevented the majority of them from improving their livelihoods. The Secretary-General is firmly of the view that Myanmar's citizens are unfortunate casualties of the prevailing situation. In this context, he wishes to take this opportunity to underscore the parallel commitment of the United Nations system to investing in Myanmar's long-term future, within the existing constraints, by enhancing the scale and scope of its social and humanitarian engagement with the people and communities across the country. In the event that sustainable progress towards democratization and national reconciliation occurs, the Secretary-General remains committed to taking further, appropriate steps to underpin progress, in partnership with the international community.
