



**Economic and Social
Council**

Distr.
GENERAL

E/CN.4/2004/30
3 March 2004

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Sixtieth session
Item 9 of the provisional agenda

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

Situation of human rights in Myanmar

Report of the Secretary-General

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 58/247. The events of 30 May 2003, which resulted in the arrest and subsequent detention of Daw Aung San Suu Kyi and other members of the National League for Democracy (NLD), as well as the death of at least four people, jeopardized earlier progress towards democratization and national reconciliation in Myanmar. While many of those detained in connection with the 30 May incident have since been released, Daw Aung San Suu Kyi and three other top members of the NLD Central Executive Committee (CEC) remain under house arrest. NLD offices across the country remain closed. Large numbers of political detainees also remain in prison. There are credible reports that politically motivated arrests continue. In August 2003 the State Peace and Development Council (SPDC) announced a seven-step road map for democratic transition. The road map has the potential to be a positive step forward, provided that it is implemented with the participation of all interested parties and is conducted in a transparent and free fashion from the beginning. To ensure credibility, it is essential that the National Convention phase of the road map, which the Government has promised to reconvene to draft a new constitution in 2004, includes representatives of NLD, other political parties and ethnic nationality groups, as well as other strata of society. All those involved in the National Convention must also be allowed to speak freely, openly and without restriction on the matters at hand. In furtherance of this goal, the Secretary-General calls again on the Government to restore, without delay, freedom of movement and political activity for Daw Aung San Suu Kyi as well as the party's other senior leaders. Moreover, he calls on all parties in Myanmar to set aside their differences, unite for the larger cause of national reconciliation and start their political dialogue as soon as possible. It is the Secretary-General's firm belief that only by working together can the proposed seven-step road map for transition to democracy be implemented in a genuinely transparent, all-inclusive and credible manner.

I. INTRODUCTION

1. The present report is submitted pursuant to General Assembly resolution 58/247.
2. As indicated in previous reports, I view the role entrusted to me by the General Assembly to be one of good offices, as distinct from the fact-finding mandate assigned by the Commission on Human Rights to the Special Rapporteur on the situation of human rights in Myanmar.
3. Since the submission of my last report, my Special Envoy for Myanmar, Razali Ismail, has visited Myanmar twice: from 6 to 10 June and from 30 September to 2 October 2003. His primary interlocutors on the Government side included Prime Minister General Khin Nyunt, Foreign Minister U Win Aung and Deputy Foreign Minister U Khin Maung Win. During his last visit, my Special Envoy also met with Senior General Than Shwe and Vice-Senior General Maung Aye, Chairman and Vice-Chairman, respectively, of the State Peace and Development Council (SPDC).
4. During each of his visits, he met separately with the General Secretary of the National League for Democracy (NLD), Daw Aung San Suu Kyi. Under normal circumstances, he would have also met with members of the NLD Central Executive Committee (CEC), including its Chairman, U Aung Shwe, its Vice-Chairman, U Tin Oo, and its spokesperson, U Lwin. However, owing to the 30 May incident, such meetings were not possible during his last two visits. At the time of writing this report, Daw Aung San Suu Kyi and these three NLD/CEC members are still being kept under house arrest. In addition to government officials and Daw Aung San Suu Kyi, my Special Envoy exchanged views with representatives of the ethnic nationalities, the diplomatic corps, the United Nations Country Team, international non-governmental organizations in Myanmar and the International Committee of the Red Cross (ICRC).

II. CONTENT OF THE DISCUSSIONS

5. The 30 May incident necessitated modifying the focus that my Special Envoy maintained during his last two missions from facilitating dialogue between the Government and Daw Aung San Suu Kyi for national reconciliation, to primarily securing access to and the immediate release of those NLD leaders and members detained in relation to that incident.
6. My Special Envoy was allowed to meet with Daw Aung San Suu Kyi briefly on 10 June 2003 in Yangon's Insein Jail, during which he confirmed that she was "well and in good spirits". He met her again at her residence on 1 October. While still recovering from surgery, she remained mentally and spiritually strong, although she was concerned about the health and safety of those NLD members who had been with her on 30 May. Unfortunately, my Special Envoy's request that the Government restore her freedom of movement and political activity was not heeded. For her part, Daw Aung San Suu Kyi insisted that before considering her own "status" or entering into discussions with the Government, all those NLD members detained in connection with the 30 May incident should be released. (Of those identified at that meeting, only the three NLD leaders named in paragraph 4 remain under house arrest.)

7. My Special Envoy tried to obtain more detailed information from his government interlocutors about the seven-step road map, which includes in this order, the reconvening of the National Convention to draft a new constitution; the adoption of the constitution through a national referendum; the holding of free and fair elections for legislative bodies according to the new constitution; and the convening of legislative bodies under the new constitution. In so doing, he urged the Government to ensure the early participation of all interested parties, including NLD, in the road map process so as to ensure that it will be truly productive and credible. Specifically, he encouraged the Government to include all interested parties in the preparatory processes leading to the reconvening of the National Convention and to provide a time frame for implementing the road map.

8. In response, all interlocutors on the government side stated that they were fully committed to implementing the road map. The Prime Minister promised to study my Special Envoy's specific suggestions. Furthermore, he outlined the steps his Government was taking to reconvene the National Convention. However, the Prime Minister stated that because of the complex ethnic situation facing the country, his Government could not provide any time frame for the road map's implementation. The Government also informed my Special Envoy of the existence of contacts (at the level of liaison officer) between the Government and Daw Aung San Suu Kyi. For her part, Daw Aung San Suu Kyi told my Special Envoy that NLD had not been consulted about the "road map", but that she was prepared to discuss it with the Prime Minister.

9. During their meetings with the Special Envoy, representatives of the ethnic nationality parties, ceasefire groups and other political parties were, in general, supportive of the reconvening of the National Convention if all the parties concerned were able to participate in a significant way, if freedom of speech were guaranteed and if they were allowed to select their own participants. The ethnic nationality representatives further expressed the hope that the National Convention could start constitutional discussions from the beginning, and provide a forum for tripartite dialogue.

10. My Special Envoy continued his discussions on the above points with the Myanmar authorities when he participated in the one-day Forum on International Support for National Reconciliation in Myanmar, a meeting of a small group of countries, including Myanmar, which the Government of Thailand hosted in Bangkok on 15 December 2003. During the meeting, Foreign Minister U Wing Aung informed my Special Envoy that the Myanmar authorities would implement their seven-step road map for the country's democratic transition in an "all-inclusive" manner and that the Government intended to reconvene the National Convention to draft a new constitution in 2004. The Foreign Minister clarified that, because they had left the National Convention in 1995, NLD would have to ask to rejoin. He nevertheless assured my Special Envoy that an application by NLD would not be rejected. I acknowledged the promise of progress that these commitments by the Myanmar authorities entailed in my statement of 19 December 2003.

11. Through the separate discussions I had with leaders of the Government of Myanmar, including the Prime Minister and the Foreign Minister, I emphasized that it was only through an all-inclusive dialogue that Myanmar would be able to ensure that its national reconciliation was durable, the transition to democracy smooth and its future as a stable, prosperous and multi-ethnic nation secure.

III. OBSERVATIONS

12. I have been closely monitoring the developments in Myanmar since the announcement by the Government of its seven-step road map for democratic transition. The Government's road map has the potential to be considered a positive step towards achieving national reconciliation in Myanmar. However, success will depend on how the road map is implemented. As I have stressed on numerous earlier occasions, for the road map process to be productive and credible it must involve all interested parties from the beginning and be conducted in a free, fair and transparent manner. All those detained for engaging in peaceful political activities should also be released. The United Nations acknowledges the ongoing discussions between the Government and various ceasefire groups about their participation in the National Convention, and the willingness of a number of these groups to participate. The United Nations also takes note of the peace talks that have been resumed between the Government and the Karen National Union. I hope that these talks will not only result in enhancing national reconciliation in Myanmar, but will also be paralleled by a process of genuine democratization.

13. It is high time for the Government, Daw Aung San Suu Kyi, and ethnic nationality representatives to set aside their differences, unite for the larger cause of national reconciliation and commence substantive dialogue on ways to achieve democratic transition in Myanmar. To that end, I appeal to the Government of Myanmar to complement its discussions with the various ceasefire groups by restoring the freedoms of movement and political activity for Daw Aung San Suu Kyi and NLD without further delay. Likewise, the Government should start dialogue with Daw Aung San Suu Kyi and NLD, and the representatives of Myanmar's other political parties, on ways to implement the road map in a credible fashion, starting with the reconvening of the National Convention. In this context, my Special Envoy should be allowed to visit the country as soon as possible, and as frequently as possible thereafter, so that he can play a role in "facilitating" discussions among the parties concerned.
