



# General Assembly

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## Human Rights Council

### Nineteenth session

#### Agenda item 4

#### Human rights situations that require the Council's attention

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

### 19/... The 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 previous resolutions of the Commission on Human Rights, the Human Rights Council and the General Assembly on the situation of human rights in Myanmar, the most recent being Council resolution 16/24 of 25 March 2011 and Assembly resolution 66/230 of 24 December 2011,

*Welcoming* the work and reports<sup>1</sup> of the Special Rapporteur on the situation of human rights in Myanmar, as well as the cooperation of the Government of Myanmar with the Special Rapporteur, including the facilitation of his visits to the country from 21 to 25 August 2011 and from 31 January to 5 February 2012,

*Reaffirming* that it is the responsibility of the Government of Myanmar to ensure the full enjoyment of all human rights and fundamental freedoms of the people of Myanmar, reiterating that many serious human rights concerns remain and should be addressed, and acknowledging the publicly stated commitment of the President of Myanmar in this regard,

*Recalling* Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the code of conduct for special procedures mandate holders of the Council, of 18 June 2007, and stressing that the mandate holder shall discharge his or her duties in accordance with those resolutions and the annexes thereto,

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\* Non-Member State of the Human Rights Council.

<sup>1</sup> A/66/365 and A/HRC/19/67.

1. *Welcomes* the recent positive developments in Myanmar and acknowledges the stated commitment of the Government of Myanmar to continue democratization and national reconciliation processes, while emphasizing that those processes should aim at the achievement of the full restoration of democracy, enjoyment of human rights and fundamental freedoms for all, and accountability for all violations of human rights;

2. *Also welcomes* the engagement of the Government of Myanmar with Daw Aung San Suu Kyi and opposition parties, including through the amendment of relevant electoral laws, as an important step towards enabling wider participation of political parties, including the National League for Democracy, in the by-elections of 1 April 2012, and urges the Government to work towards establishing a credible, inclusive and sustained process of close and ongoing dialogue with the democratic opposition and political, ethnic and civil society groups and actors leading to national reconciliation and lasting peace in Myanmar;

3. *Expresses continued grave concern* about remaining serious human rights violations, and strongly calls upon the Government of Myanmar to put an end to grave violations of international human rights and humanitarian law, including attacks against the civilian population, extrajudicial killings, internal displacement, the use of human shields and forced labour, confiscation and destruction of property, and conflict-related sexual violence, to undertake, without delay and with appropriate attention from the United Nations, a full, transparent, and independent investigation into all reports of such violations, and to bring to justice those responsible in order to end impunity for such acts, while continuing to express concern that previous calls to end impunity have not been heeded;

4. *Welcomes* the release of a substantial number of prisoners of conscience, while expressing concern over reports on the conditions attached to some of the releases, and strongly urges the Government of Myanmar to desist from further politically motivated arrests, to establish a dialogue with all relevant stakeholders, including the Special Rapporteur, in order to clarify the status and the number of the remaining prisoners of conscience, and to release such prisoners, without delay or conditions, and allow their full participation in the political process;

5. *Urges* the Government of Myanmar to ensure that the by-elections of 1 April are free, transparent and fair, from the campaign period and the advance voting stage through to vote-counting and the announcement of results, including by seeking technical cooperation and the presence of international election observers and drawing lessons from the 2010 elections;

6. *Welcomes* the increasing space for political activity, assembly, speech and the press and the stated intention of the Government of Myanmar to carry out media reform and open up space for the media, and strongly calls upon the Government to take further steps to ensure the freedom of assembly, association, movement and expression for all people in Myanmar;

7. *Also welcomes* the invitation extended to the International Committee of the Red Cross to provide technical assistance in three prisons, and urges the Government of Myanmar to allow it to expand activities in accordance with its mandate, in particular by granting access to persons detained and to areas of internal armed conflict;

8. *Expresses its serious concern* at the continuing discrimination, human rights violations, violence, displacement and economic deprivation affecting numerous ethnic and religious minorities, and calls upon the Government of Myanmar to take immediate action to bring about an improvement in their respective situations, and in particular to recognize the right of members of the Rohingya ethnic minority in Northern Rakhine State to nationality and to protect all of their human rights;

9. *Welcomes* the continuation of peace talks between the Government of Myanmar and some ethnic groups and the establishment of ceasefires with a number of those, while expressing deep concern about the continuing armed conflict in some ethnic areas, especially in Kachin State and the northern Shan State, and calls upon the authorities and all armed groups to protect the civilian population, in particular children and women, in all parts of the country and to use political means to maintain or re-establish ceasefire agreements with a view to ending armed conflicts in the country, with an inclusive political process also being a vital step towards ensuring long-term peace and national reconciliation;

10. *Calls upon* the Government of Myanmar to continue to implement the recommendations of the Special Rapporteur and those received during the universal periodic review, as well as the calls contained in the above-mentioned Human Rights Council and General Assembly resolutions, in particular:

(a) To establish truth, justice and accountability measures for gross and systematic human rights violations, past and present;

(b) To accelerate efforts for an independent, inclusive and comprehensive review of compliance of the Constitution and all national legislation with international human rights law while engaging fully with all relevant stakeholders;

(c) To address, as a matter of urgency and through proper investigations, consistent reports of torture and ill-treatment of prisoners, and to improve detention and prison conditions;

(d) To allow human rights defenders to pursue safely, and in an unrestricted manner, activities consistent with the exercise of internationally recognized human rights and fundamental freedoms;

(e) To cooperate fully with humanitarian organizations in order to ensure full and unhindered humanitarian access to all parts of Myanmar, including conflict and border areas, as well as the delivery of humanitarian assistance to all persons in need, including displaced persons and refugees;

(f) To extend invitations to thematic special procedures, to continue acceding to the remaining international core human rights treaties, and to consolidate dialogue and cooperation 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;

11. *Strongly calls for* an immediate end to the continuing recruitment and use of child soldiers by all parties, welcomes the recent engagement of the Government of Myanmar on this issue, and urges the Government to intensify measures to ensure the protection of children from armed conflict, to give due regard to the recommendations of the Committee on the Rights of the Child, and to pursue full collaboration with the Special Representative of the Secretary-General for children and armed conflict, including by signing, without delay, a plan of action with the United Nations, facilitating dialogue with other parties listed in the annual report of the Secretary-General on children and armed conflict,<sup>2</sup> and granting unhindered access to all areas where children are recruited;

12. *Calls upon* the Government of Myanmar to ensure the independence and impartiality of the judiciary and the independence of lawyers, and to guarantee due process of law;

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<sup>2</sup> A/HRC/18/38.

13. *Notes with interest* the establishment of the Myanmar national human rights commission, and urges the Government of Myanmar to ensure the commission's independent, free, credible and effective functioning, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by seeking technical assistance from the Office of the High Commissioner and the international community;

14. *Welcomes* the prolongation, in January 2012, of the Supplementary Understanding between the International Labour Organization and the Government of Myanmar, their joint awareness-raising activities and the ongoing drafting of a joint plan of action on the elimination of forced labour, and other reported progress on changes in law and practice to eliminate the use of forced labour, including the repeal of the Village Act and the Towns Act and their replacement with the Ward and Village Tract Administration Act, and calls on the Government to explicitly make illegal the use of forced labour, noting that new legislation has not yet done so, and for the Government to intensify its cooperation with the International Labour Office, with a view to extending action throughout the country against the continued practice of forced labour and effectively prosecuting forced labour perpetrators;

15. *Also welcomes* the coming into force of the Labour Organizations Act and the prior constructive consultation thereon with the International Labour Organization, and encourages its full implementation, including by means of the reversal or removal of any existing legislation and orders that pose obstacles to the full enjoyment of internationally recognized labour rights;

16. *Encourages* the international community to continue to support the Government of Myanmar in the fulfilment of its international human rights obligations and commitments, the implementation of the democratic transitional process, and in its economic and social development;

17. *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 of 3 March 1992 and 2005/10 of 14 April 2005, and Human Rights Council resolutions 7/32 of 28 March 2008, 10/27 of 27 March 2009, 13/25 of 26 March 2010 and 16/24 of 25 March 2011, and, in addition, invites the Special Rapporteur to include in his next report, inter alia, further recommendations on the needs of Myanmar, including with regard to technical assistance and capacity-building;

18. *Calls upon* the Government of Myanmar to continue to cooperate with the Special Rapporteur in the exercise of his mandate, including by facilitating further visits, and calls upon the Office of the High Commissioner to provide the Special Rapporteur with all the assistance and resources necessary to enable him to discharge his mandate fully;

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

20. *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 his Special Adviser on Myanmar.