

GENERAL ASSEMBLY

Special Rapporteur of the Commission on Human Rights

The Special Rapporteur's (SR) interim report on the situation of human rights in Burma (A/53/364) contains information on, *inter alia*: the exercise of civil and political rights; the impact of national law on human rights; rights pertaining to democratic governance; deaths in custody; forced labour; and minorities. The report is based on information received by the SR up to 30 August 1998.

The report notes the main concerns of the international community as being: failure of the government to complete the electoral process begun by the general elections of 27 May 1990 and to implement its commitments aimed at the establishment of a democratic order in the context of those elections; continuing deprivation of liberty of many political leaders; continuing extremely serious human rights violations; forced relocation and other violations of the rights of persons belonging to minorities, resulting in a flow of refugees to neighbouring countries; and continuing attacks by the military on ethnic groups. The report notes that, while the government has indicated that a visit by the SR "would be possible at an appropriate time", no authorization for such a visit has yet been given.

With regard to the impact of national law on human rights, the SR recalled that several laws criminalize, or adversely affect, freedom of thought, information, expression, association and assembly. The most commonly employed laws banning the enjoyment of civil and political rights and suppressing dissent against the regime have been the 1923 Official Secrets Act, the 1950 Emergency Provisions Act, the 1957 Unlawful Associations Act, the 1962 Printers' and Publishers' Registration Law, the 1975 State Protection Law (Law to Safeguard the State Against the Dangers of Destructive Elements) and Law No. 5/96 Protecting the Stable, Peaceful and Systematic Transfer of State Responsibility and the Successful Implementation of National Convention Tasks Free from Disruption and Opposition. Further, numerous Executive Orders criminalize many aspects of normal civilian conduct, prescribe grossly disproportionate penalties, and authorize arrest and detention without judicial review. The report provides case examples of the use of these laws and of orders to suppress the exercise of civil and political rights, involving: a Central Executive Committee member of the All Burma Federation of Students Unions; an 80-year-old man who had assisted in the writing of the history of the student movement; and a woman who was a Member of Parliament and had given an interview to the British Broadcasting Corporation in which she was critical of the military regime. The report provides extensive commentary on actions taken against a number of National League for Democracy (NLD) elected representatives, especially in May and June 1998, as well as the widely reported actions against Aung San Suu Kyi.

The SR continued to receive reports indicating that torture and ill treatment, including beatings, in prisons and interrogation centres are commonly practised. In addition, sanitary conditions are described as critical, and there is a lack of medical attention. The report notes that the authorities continue to refuse the International Committee of the Red Cross (ICRC) access to prisons and places of detention. Individual cases cited in this context included: the death of James Leander Nichols; a member of the Yangon Township Organizing Committee of the NLD, who died in hospital reportedly following physical and mental torture in Insein Prison; and U Thein, a former student of Yangon Institute of Technology.

Information also continued to be received, from a wide variety of sources, indicating that the practices of forced labour and forced recruitment of civilians for the purpose of portering remain widespread. Conditions for porters are described as brutal, with forced marches over mountains with heavy loads. The report recalls that, since 1955, Burma has been a party to ILO Convention No. 29 concerning forced labour. In June 1996 the ILO Committee on the Application of Standards noted the persistent failure of the government to implement the Convention. In March 1997, the ILO Governing Body decided to refer the complaint to a Commission of Inquiry. This Commission found, in August 1998, that the obligation to suppress the use of forced or compulsory labour was violated in national law, as well as in actual practice, in a widespread and systematic manner with total disregard for the human dignity, safety and health and basic needs of the people. The Commission concluded that the impunity with which governmental officials — in particular, the military — treated the civilian population as an unlimited pool of unpaid forced labourers and servants was part of a political system built on the use of force and intimidation. The Commission also concluded that any person who violated the prohibition of recourse to forced labour in international law bore an individual criminal responsibility. The SR stated that the attitude of the regime in Burma towards the ILO Commission was the same as that adopted towards the SR, the Commission on Human Rights and the General Assembly — viz. total non-cooperation, in violation of the obligations that Burma has freely undertaken under the UN Charter and relevant ILO Conventions.

Commentary on the situation of minorities refers to the unresolved conflicts between some of the 135 ethnic minorities of the country and the central authorities, giving rise to insurgencies in several regions. In connection with these conflicts, the SR continued to receive detailed reports on human rights violations committed by members of the armed forces (Tatmadaw), including: sexual violence against women, including rape, by members within the Tatmadaw hierarchy; forcible relocation without any compensation or assistance, to new towns, villages or relocation camps in which persons are essentially detained; forced conscription of civilians into compulsory labour for the military authorities, including the practice of forced recruitment of porters; and attacks on