

COUNCIL MONITOR

International Service for Human Rights



Human Rights Monitor Series

HUMAN RIGHTS COUNCIL, 5TH SPECIAL SESSION SITUATION IN MYANMAR, 2 OCTOBER 2007

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Overview

The 5th special session of the Human Rights Council (the Council) addressed the present situation of human rights in Myanmar.¹ In the weeks before the 6th session of the Council that took place from 10 to 28 September, Myanmar had witnessed large-scale public protests, initially led by Buddhist monks but increasingly supported by the general public. The immediate trigger for the protests was a significant increase in fuel prices, which led to a sharp increase in food prices. During the last week of the 6th session of the Council, media reports of increasingly violent reactions to the protest by the military and security forces dominated the headlines around the world. Portugal, on behalf of the European Union (EU), then called for a special session of the Human Rights Council, which received cross-regional support.

The special session was dominated by many States and non-governmental organisations (NGOs) expressing grave concern at the ongoing situation. A number of personal testimonies added a sense of urgency to the debate. The presence of human rights defenders from Myanmar, alongside an increased media presence,

¹ In their oral statements, States used 'Burma', 'Myanmar' or 'Burma/Myanmar', sometimes interchangeably. ISHR is using 'Myanmar' for this report, as this is used by the United Nations.

raised expectations that the Council could meaningfully contribute to changing the situation on the ground. Notably, a number of Asian States appeared to be losing their patience with the Government of Myanmar, and seemed to start using their influence.

After a day's deliberations, the Council adopted a resolution by consensus, in which it 'strongly deplores the continued violent repression of peaceful demonstrations'. It also encourages the Government of Myanmar to cooperate with the UN and requests the Special Rapporteur on the situation of human rights in Myanmar to assess the situation and monitor the implementation of the resolution. Whether the Government of Myanmar will cooperate with the Council and allow the Special Rapporteur to visit remains to be seen. This will be the test to see if the Council has done enough to address the situation and fulfil its mandate.

Presentation by the High Commissioner

Ms Louise Arbour, the High Commissioner for Human Rights (the High Commissioner), began her speech by welcoming the initiative of the special session.² She stated that the shocking response to peaceful protests by the authorities in Myanmar was only the most recent manifestation of nearly 20 years of repression of fundamental rights and freedoms. She emphasised that the authorities should no longer expect that their self-imposed isolation would shield them from accountability, as modern media and information technology now gave an unprecedented access to what was happening in the streets of Yangon, the capital of Myanmar.

The High Commissioner then expressed her concern on the 'deafening silence' that now came from Myanmar, as protesters had become invisible. She urged the Government of Myanmar to give full account for its actions during and after the protests, including precise and verifiable information on the number of killed and injured and on the whereabouts and conditions of those who were arrested. Also, a matter of importance was to give human rights organisations full access to detainees and facilitate international monitoring. She emphasised this particularly in the light of recent allegations of night-time raids and the general climate of intimidation.

The High Commissioner highlighted the unique position of Myanmar's regional neighbours to exercise their individual and collective influence. In that regard she welcomed the statement by the foreign ministers of the Association of South-East Asian Nations (ASEAN) urging the Government of Myanmar to desist from the use of violence and seek a political solution. She finished her speech stressing the importance of unified action from the Council. She also reminded the members that during the discussions in the Security Council in January, several States had expressed the view that the Human Rights Council was the right forum to deal with human right concerns. Finally she impressed upon the Government of Myanmar that it should implement its human rights obligations and account for past and ongoing violations.

Presentation by the Special Rapporteur

Following the statement by the High Commissioner, Mr Paulo Sergio Pinheiro, the Special Rapporteur on the situation of human rights in Myanmar, addressed the Council. He expressed shock and sadness at the recent brutal response of the Government and strongly condemned the use of deadly force against peaceful protesters. Mr Pinheiro added his voice to that of the High Commissioner in calling for an immediate end to

² Oral statements made at the Council are available on the OHCHR extranet, which can be accessed at www.ohchr.org/english/bodies/hrcouncil/form.htm (fill out the form on the page to receive the user name and password). The special session was also webcast; the archive of video and audio files is available at <http://www.un.org/webcast/unhrc/index.asp>.

the violence. He noted that it is the Council's duty to ask questions of the military authorities and put forth a number 'objective questions'.³ The Rapporteur pointed out that answers to these questions require a full account from the Government of actions during and after the protests, forensic examination of fatalities, and access to hospitals and detention facilities.

Mr Pinheiro asserted that a solution to the conflict could only be reached through a coordinated approach by the international community, and emphasised the role that neighbouring States and other regional actors must play in supporting a transition to democracy. He welcomed the access granted to the Secretary-General's special advisor on Myanmar, Mr Ibrahim Gambari, and hoped that this would open a space for dialogue. Despite the fact that he has not been granted access to the country since November 2003 he assured the Council that he stands ready to conduct an urgent assessment with the help of the Office of the High Commissioner for Human Rights (OHCHR). He urged the Myanmar authorities to accept his mandate. In this context, he insisted that his obligation to report verified human rights violations does not prevent him from engaging in an open dialogue with the regime. Mr Pinheiro concluded by calling for meaningful and inclusive dialogue between all parties to the conflict and by urging domestic, regional, and international actors to work alongside UN mechanisms to find a solution.

Statement by Myanmar

Myanmar as the concerned country was given the floor to respond to the special session in general, and the statements by the High Commissioner and the Special Rapporteur. U Nyunt Swe, Chargé d'Affaires a.i. of Myanmar gave a detailed presentation of the history of the country and the background to the current crisis. He did not respond to the questions asked by the Mr Pinheiro.

According to the representative it was only under the present Government, which had pursued a 'policy of national reconciliation', that protracted armed conflict was overcome. He highlighted that Myanmar is a multi ethnic country and that it is crucial to the Government to include all ethnic nationalities and peasants in the Constitution. To this end, a 'National Convention' was convened in 1993 to consider basic principles of a new Constitution with the participation of all ethnic nationalities and all political parties including the National League for Democracy (NLD). However, according to the Government, in 1995 the NLD boycotted the process and withdrew its participation. On 30 August 2003 the Government of Myanmar adopted a seven-step 'Roadmap for transition to democracy'. The representative reported that on 3 September 2007, the National Convention had adopted basic principles of the Constitution, and that a new Constitution would be adopted on the base of these principles after which a free and fair election would be held.

Turning to the recent protests, the representative stated that 'internal and external destructive elements' did not wish to see the completion of the National Convention, and took advantage of the increase in fuel prices to initiate protests in Yangon and other places. He said they 'persuaded the Buddhist monks to join the protest'. Myanmar therefore felt that seeing the protests as a reflection of grievances would 'constitute naivety at its height'.

He went on to say that the protests were now being exploited by foreign governments to interfere with the domestic affairs of Myanmar. The representative said the Government had firm evidence the protests were

³ How many deaths occurred during the crackdown? How many civilians were injured? How many civilians received treatment in hospitals? What is the fate of the monks who began the protests? How many security agents were injured? How many people were detained after the protests? How many have been released? In what facilities are detainees being held? Are monasteries occupied by security forces? Are there large numbers of students among the detainees? Where is Aung San Suu Kyi? Have other leaders of the democracy movement been arrested?

fuelled 'financially and materially by internal and external antigovernment elements'. Recalling that there has been 'an attempt at the UN Security Council to deal with the Myanmar situation', he claimed that the protests are 'the long-awaited chance for some western countries to initiate an action to intervene in the country.' The international media, that 'blew the situation out of proportion', allegedly supported this attempt. This, in Myanmar's reading, led to other western countries 'jumping on the bandwagon of attacks on Myanmar', which in turn made the protests 'gradually more violent, defiant and even provocative'. Myanmar claimed that the objective of the protest was to create a situation that would eventually escalate to a mass rally on the scale of the 1988 unrests. This would then make a valid justification for outside intervention.

However, he assured the Council that the Government could not 'accept the situation getting out of control'. While emphasising that the authorities 'exercised the utmost restraint', he said everyone was 'aware that things have calmed down' and the Government was 'able to bring normalization to the situation'. He also claimed that the Government was fully aware of its responsibility to lead Myanmar towards a 'disciplined democracy'.

Myanmar concluded its statement by emphasising that a cornerstone of its foreign policy was cooperation with of the UN. This was reflected in the visit of Mr Ibrahim Gambari, who was well received by the acting Prime Minister. He ensured that the Government would continue to work closely and cooperate with the UN. There was no mention whether this cooperation would include allowing a visit of the Special Rapporteur. Finally, the Chargé d'Affaires urged the international community to 'show greater understanding' and to begin doing so 'by refraining from measures which would result in adding fuel to the fire'.

Reactions by members, observers, and NGOs

Many States welcomed the holding of the special session.⁴ Brazil expressed its hope that the special session would be a way to establish dialogue between the Council and Myanmar. Cuba said that by holding the special session, States assumed their 'responsibility as members of the family of nations'. In Liechtenstein's view, the cross-regional support for the holding of the session was vital, and a proof of the seriousness of the situation.⁵

Portugal (on behalf of the EU), stressed that 'urgent situations require urgent action'. In its view, the Council had a responsibility to respond to the situation in Myanmar by deciding on 'concrete and operational measures' for alleviating the situation and guaranteeing the protection of citizens, if it is to fulfil its mandate. The Republic of Korea said it was 'high time' for the Council to act. Italy stressed that 'silence is not an option'.

Egypt (on behalf of the African Group) commented on the **outcome of special sessions in general**. It agreed with the EU that special sessions are a reflection of the 'desire to fulfil the mandate of the Council'. However, it stressed that for the Council to 'establish and reinforce' its credibility, all resolutions and in particular those emanating from a special session must be implemented. Pakistan, on behalf of the Organization of the Islamic Conference (OIC), asked the Council to recall how the outcome of earlier special sessions had been

⁴ The session was convened at the request of Portugal (on behalf of the EU), supported by the following States: Members: Japan, Republic of Korea, Bosnia-Herzegovina, Romania, Slovenia, Ukraine, Guatemala, Mexico, Peru, Uruguay, Canada, France, Germany, Italy, Netherlands, Switzerland, United Kingdom. Observers: Cote d'Ivoire, Guinea, Cyprus, Albania, Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Former Yugoslav Republic of Macedonia, Argentina, Chile, Australia, Austria, Belgium, Denmark, Finland, Greece, Iceland, Ireland, Liechtenstein, Luxembourg, Malta, Monaco, Montenegro, New Zealand, Norway, Spain, Sweden, Turkey, United States of America (USA).

⁵ Supported by Finland, Latvia,

implemented.⁶ It stressed that the Council should promote human rights in a non-selective manner. Pakistan seemed to suggest that this was not the case, and stated that ‘more innocent civilians have died in Palestine a few days ago in twenty four hours as a result of Israeli military action than in the whole of Myanmar but this has not received the same degree of attention from the media or this Council’.

Virtually all States thanked the High Commissioner and the Special Rapporteur for their presentation. A handful of States **thanked Myanmar for its update.**⁷ Indonesia said it had given more insight into the developments and situation in the country. Others were more critical of the statement by Myanmar. Japan was the first of a number of States to regret the statement,⁸ saying that it was not convincing enough, but ‘rather disappointing’. Italy said the statement by Myanmar was proof that the appeals by the international community had so far been in vain.

Comments on the situation

A large number of States and NGOs spoke on the situation in Myanmar. When Ambassador Doru Romulus Costea of Romania, President of the Council, opened the afternoon meeting of the special session he pointed out that this was a clear demonstration that the international community as a whole was concerned about the situation in Myanmar.

A number of States expressed grave concern about the situation.⁹ Belgium regretted that the situation had worsened since the convening of the special session and that the Government had not listened to the calls for restraint issued by various actors, including ASEAN, on earlier occasions. Malaysia expressed its ‘deep concern and dismay’ about the excessive use of force against peaceful protestors. Portugal (on behalf of the EU) was ‘deeply shocked’ about the use of force by the Government of Myanmar.¹⁰ It highlighted that the international community is listening to the protests of the people of Myanmar. Many States expressed their solidarity with the people of Myanmar.¹¹ The Philippines said it was concerned by the ‘sad picture that had emerged’ in the previous days.¹² Egypt (on behalf of the African Group) was concerned about the recent developments and regretted the human and material losses.

India expressed its hope to see peace, prosperity and stability return to Myanmar. Vietnam voiced its understanding for the ‘difficulties and challenges Myanmar faced in the process of implementation of national reconciliation and economic development.’ The Asian Legal Resource Center emphasised that ‘those advocating stability in Myanmar and the region must understand that the status quo will only lead to instability and mass rights abuses’.

Most delegations condemned the **use of force** against peaceful protestors, and rejected violence as a means of solving conflicts. Ireland stressed that the aspirations of people ‘cannot and will not be quelled by brute force’. The representative of Sweden, who had been in Myanmar during the protests, said that while violence might quench demonstrations, it would not divert the attention of the international community.

⁶ Some States supported this statement: Malaysia, Indonesia.

⁷ Pakistan (on behalf of the OIC), Malaysia, India, Indonesia. South Africa, Cambodia,

⁸ Germany, Italy.

⁹ States used ‘grave’, ‘very’, ‘deeply’ or ‘greatly’ to qualify their concern. Mauritius, Canada, Germany, Republic of Korea, Italy, Greece, Singapore, New Zealand, Ireland, Slovakia, Poland, Estonia,

¹⁰ Australia (‘appalled’), Denmark, United States of America (‘outraged’), Slovakia,

¹¹ Mauritius, France, United Kingdom, Romania, Australia, Slovakia, Poland, Estonia,

¹² Other States that were ‘concerned’ (without further qualifying their concern) by the situation included Egypt (on behalf of the African Group), Bangladesh, India, Thailand, Colombia,

A number of delegations commented on the need for a generally free political climate.¹³ Peru said that clearly the time had come to tackle the root causes of the situation, which in its view are the total absence of freedom of expression¹⁴ and the presence of a tyranny. Canada said the oppression of political opposition was of particular concern. The Republic of Korea emphasised the importance of creating a favourable environment for all opposition groups to participate in the national reconciliation process, an environment that would not be served by the arrest of political opponents.

The United Kingdom said that the recent crisis was the product of ‘deeper tragedy’.¹⁵ It added that the authorities of Myanmar had been systematically abusing fundamental human rights for four decades.¹⁶ Peru said that the current repression of human rights was taking place in the context of systematic violations occurring since 1991. Romania referred to its own history. It said that in Romania in December 1989 ‘the unwillingness of the political regime to understand and to respond in kind to the requests of its people’ also turned peaceful demonstrations into a bloody outcome. Like then, the current response by the Government of Myanmar was excessive.¹⁷

Portugal (on behalf of the EU) expressed its concern about the effect of the ‘dramatic events’ in Myanmar on neighbouring countries. The United States of America (United States) said the unrest caused by the actions of the junta undermined the fight against narcotics and against infectious diseases, and triggered refugee flows that threatened to destabilise the region.

A number of States raised the **difficult economic conditions** in general and the link between poverty and political repression in particular.¹⁸ Cuba said a long-term solution would require overcoming poverty and improving living conditions.¹⁹ Mexico suggested that the approach by the international community should focus on both civil and political rights, and on economic, social and cultural rights.²⁰ The United Kingdom was concerned about the use of natural resources by members of the Government for their own enrichment, which had led to aggravated poverty amongst the people of Myanmar. The International Federation of Human Rights Leagues (FIDH) said the exploitation of timber, oil and gas with the help of multinational corporations was an important source of revenue for the ruling junta, but did not benefit the people. New Zealand pointed out that not only was the protest an expression of the poverty in Myanmar, but that the poverty as such is a result of the absence of political reforms in general.

The United Kingdom expressed concern about the **lack of humanitarian** access by the World Food Programme and other humanitarian actors. The Russian Federation, however, claimed that the humanitarian situation was ‘far from catastrophic’.

Some State delegations gave **first hand accounts** of the situation in Myanmar.²¹ The Dutch representative said he had personally urged the Government to show restraint prior to the violent repression. The

¹³ Canada, Republic of Korea, Italy

¹⁴ Also mentioned by Slovakia, Colombia, as well as a number of States directly calling on the Government of Myanmar to guarantee political freedoms, see fn. 26.

¹⁵ Spain agreed that the brutal repression brought to the fore the realities in Myanmar.

¹⁶ The violations mentioned included forced labour, arbitrary killings, the use of child soldiers, and rape as a weapon of war, unlawful detention and displacement, discrimination against minority communities, severe restrictions of freedom of assembly, freedom of speech and freedom of religion. Amnesty International also mentioned that the violations had been going on for decades.

¹⁷ Echoed by Poland, also a member of the Eastern European group. .

¹⁸ Cuba, United Kingdom, Mexico, Bolivia, Switzerland, New Zealand, Finland, Czech Republic,

¹⁹ Switzerland supported this point. China called for more effective international assistance to overcome poverty.

²⁰ Bolivia supported this, referring to the ‘water war’ in Cochabamba

²¹ The Netherlands and Sweden representatives had both (independently from each other) visited Myanmar during the violent repression of the protests.

representative of Myanmar had assured him that the Government wanted a peaceful solution to the protests; a promise he now felt had not been kept. He added that clearly, the Government of Myanmar was not committed to democracy and human rights, but that he had experienced the climate of fear that was created by the violent crackdown. The representative of Sweden was also present in Yangon during the repression of demonstrations. In his personal testimony to the Council he reported seeing ‘heavily armed security forces and soldiers open fire at unarmed civilians after giving them just a few minutes to disperse’ and ‘witnessed people being chased down through alleys and shot at by military forces whilst fleeing’. In the analysis of Sweden, the regime in Myanmar was trying to ‘install complete and utter fear in yet another generation of citizens’.

Several **NGOs commented** on the general situation and mentioned specific violations. Amnesty International expressed its fear that the death toll was higher than the official figures published by the Government.²² The International Commission of Jurists said that the actions by the Government ‘might have included crimes under international law engaging individual criminal responsibility’. Human Rights Watch pointed out that so far, there had been no engagement with the opposition by the Government. Women’s International League for Peace and Freedom highlighted that women had suffered in specific ways from the situation. A number of NGOs highlighted the difficult situation of the population in terms of food security and health.²³

The role of the Government of Myanmar

Many States pointed out that the Government of Myanmar bears the primary responsibility to guarantee fundamental human rights and freedoms and the safety of its people.²⁴ A number of States called on the Government of Myanmar to take certain immediate steps to alleviate the situation. The Government was urged to:

- Show **restraint** and avoid the use of excessive force and violence in dealing with peaceful demonstrators.²⁵
- Guarantee all political freedoms, including the freedom of peaceful assembly, association, and protest, the freedom of opinion and expression, and allow free and independent media.²⁶ Many underscored that these **freedoms** are at the core of human rights. Some States called on Myanmar to allow unhindered access to information for the people of Myanmar.²⁷ Norway highlighted that the crackdown on the media was an attempt by the Government to hide its human rights violations from the world.
- Immediately free all political prisoners, including those arrested in the course of the recent events.²⁸ Many saw this as a first step on the road towards peaceful democratic change. A number of States also called for the immediate release of Daw Aung San Suu Kyi.²⁹ India said her release would be ‘helpful’ in the process of democratisation.³⁰

²² Also raised by Worldview International Foundation.

²³ Asian Legal Resource Center, Human Rights Watch

²⁴ Zambia, Australia, New Zealand,

²⁵ Philippines, Portugal (on behalf of the EU), Mauritius, Japan, Malaysia, France, United Kingdom, Canada, Russian Federation, Germany, Romania, Republic of Korea, Indonesia, Mexico, South Africa, Thailand, Morocco, Iceland, Finland, Chile, Amnesty International.

²⁶ Portugal (on behalf of the EU), Mauritius, Zambia, France, Germany, Republic of Korea, Switzerland, Australia, New Zealand, Thailand, Liechtenstein, Finland, Slovakia, Belgium, Estonia

²⁷ Portugal (on behalf of the EU), France

²⁸ Portugal (on behalf of the EU), Japan, Malaysia, France, Canada, Germany, Romania, Republic of Korea, Italy, Switzerland, Australia, Greece, Thailand, Norway, Morocco, Sweden, Iceland, Denmark, Ireland, Liechtenstein, USA, Chile, Slovakia, Spain, Belgium,

²⁹ Japan, Malaysia, Zambia, France, Canada, Germany, Romania, Republic of Korea, Italy, Bolivia, South Africa, New Zealand, Morocco, Sweden, Iceland, USA, Chile, Slovakia, Spain,

³⁰ South Africa.

- Guarantee all human rights, and immediately end various human rights violations, including extrajudicial killings,³¹ sexual violence,³² torture,³³ and forced labour.³⁴ The Netherlands urged the Government of Myanmar to guarantee civil and political rights and economic, social and cultural rights equally to its citizens.
- End impunity. Investigate promptly and impartially human rights violations and punish those responsible.³⁵ Canada highlighted that impunity was ‘systematic’ and remained a grave problem.³⁶ India suggested that the Government of Myanmar conduct an enquiry into the recent incidents and the use of force.³⁷
- Indonesia called on the authorities ‘to desist from any steps that may cause further violence and exacerbate the situation’.
- Peru stressed that the Government must guarantee access for humanitarian workers in general.³⁸
- Other delegations urged Myanmar to allow unhindered access for independent observers to all places of detention.³⁹ Amnesty International called on the Government to account for all those detained. The Asian Legal Resource Center called on the Council to ensure that the Government allows the UN to register detained persons, and provide detainees with access to family members, the UN, the ICRC, and lawyers.
- To cooperate fully with all UN mechanisms, including the Special Rapporteur on the situation of human rights in Myanmar.⁴⁰ Finland urged the Government to cooperate with the international community to convey details about who had been detained or killed, where these people are detained and why. Pakistan (on behalf of the OIC) merely asked Myanmar to cooperate with the Secretary-General’s Special Advisor Ibrahim Gambari.
- Morocco said the Government of Myanmar had to be convinced of the need to deal with the underlying causes of the situation.

Japan asked the Government of Myanmar to investigate the case of the Japanese journalist who was shot in Rangoon, and bring the perpetrators to justice. Romania regretted the death of the photographer.

A number of States urged the Government to clarify what had happened to the people killed or disappeared in the course of the demonstrations.⁴¹ The Philippines called on the Government of Myanmar to avoid further isolation, in its own best interest, and urged it to take ‘positive action to dispel the cloud of uncertainty’ that had arisen from the recent events.⁴²

Many called on the Government of Myanmar to generally **move towards democracy**.⁴³ Indonesia said that the recent events had ‘accentuated the urgent need to have real progress made in the democratisation process in Myanmar’. Zambia said failure to do so would continue civil strife. Latvia suggested as a first step the ‘renewal of the functioning of the Parliament’ and other possibilities to give a voice to the political

³¹ Portugal (on behalf of the EU), France, Finland, Czech Republic, Asian Legal Resource Center,

³² Portugal (on behalf of the EU).

³³ Portugal (on behalf of the EU).

³⁴ Portugal (on behalf of the EU).

³⁵ Portugal (on behalf of the EU), Canada, Iceland, Denmark, Finland, Belgium,

³⁶ Echoed by Spain.

³⁷ Supported by the Asian Legal Resource Center.

³⁸ Mexico.

³⁹ Portugal (on behalf of the EU), Switzerland (asking that the ICRC be allowed to resume its activities), Amnesty International (deploring secret places of detention).

⁴⁰ Portugal (on behalf of the EU), Egypt (on behalf of the African Group), Canada, Japan, Italy, Netherlands, New Zealand, Norway, Denmark, Sweden, Finland, Liechtenstein, Poland, Estonia, Asian Legal Resource Center,

⁴¹ Philippines, Sweden, Belgium,

⁴² Echoed by Spain.

⁴³ Zambia, Indonesia, Peru, Mexico, Australia, Thailand, Chile, Spain, Argentina,

opposition. Spain drew attention to the importance of the rule of law in the transition to democracy. Thailand spoke of its own recent experience, claiming that a ‘democratic form of government offers the best hope for fulfilling the needs and aspirations’ of the people. Belgium pointed out that only a genuine democratic process could improve the situation in a lasting way.

Virtually all States said that **national reconciliation** would be key to finding a way out of the situation.⁴⁴ Switzerland and Iceland added that national reconciliation also required improving living conditions for the population, and that the Government should take steps to address this. Latvia was of the view that democratic change would over time improve economic conditions.

In this respect, many States stressed the importance of peaceful dialogue between **all relevant parties, including minorities.**⁴⁵ South Africa invited the Government of Myanmar to take political steps in that direction. The Netherlands regretted that its hope that the protests might lead to just such a peaceful dialogue had not materialised, and urged the Government of Myanmar to do so now. Poland pointed out that democracy is dependent on dialogue. Malaysia pointed out that such a dialogue should be at the initiative of the Government of Myanmar.⁴⁶ Some explicitly said this dialogue should include the armed forces to lead to a long-term solution.⁴⁷ Japan highlighted that the promotion of democracy requires that the views of protesters be taken into account. A number of States underlined the role of the opposition leader Daw Aung San Suu Kyi in that process.⁴⁸

The Philippines supported the Government’s ‘**Roadmap to Democracy**’, but encouraged Myanmar to make greater and faster progress in that regard.⁴⁹ The Russian Federation was of the view that the implementation of the Roadmap to Democracy should be left to the Government of Myanmar, without any outside pressure. Germany emphasised that the implementation of the Roadmap to Democracy should include deadlines for each step.

Slovenia asked the Special Rapporteur if he thought the National Convention⁵⁰ could have a positive impact on national reconciliation, despite its shortcomings and its non-inclusive nature.⁵¹

Other States seemed to see the responsibility for the situation not only with the Government. The Russian Federation appealed to both sides to show restraint.⁵²

Regional context

⁴⁴ Philippines, Portugal (on behalf of the EU), Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC), Mauritius, France, United Kingdom, Germany, Romania, India, Republic of Korea, Italy, Indonesia, Switzerland, Australia, Greece, Singapore, New Zealand, Thailand, Morocco, Denmark, Ireland, Liechtenstein, Slovakia, Latvia, Poland, Spain, Belgium, Cambodia.

⁴⁵ Philippines, Portugal (on behalf of the EU), Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC), Mauritius, Japan, Malaysia, United Kingdom, Russian Federation, Germany, India, Peru, Republic of Korea, Mexico, South Africa, Netherlands, Greece, New Zealand, Thailand, Chile

⁴⁶ Supported by India.

⁴⁷ Philippines, Singapore,

⁴⁸ Zambia, United Kingdom, India.

⁴⁹ Republic of Korea, Thailand, Vietnam.

⁵⁰

⁵¹ The ‘National Convention’ is a national consultation process recently concluded and mentioned by Myanmar as its attempt to take into account different views on a new constitution for Myanmar. However, it also mentioned that the National League for Democracy, the main opposition force, did not participate in the National Convention.

⁵² Supported by Cuba, China.

Many Asian States commented on the situation in Myanmar. It seems significant that the region, and in particular the neighbouring countries, starts to openly use its influence on Myanmar. Some of them recalled the strong statement by the Minister for Foreign Affairs of Singapore, Chair of the ASEAN in New York, on 27 December 2007.⁵³ In the statement, the ASEAN foreign ministers expressed their ‘revulsion’ about the violent suppression of demonstrations. Singapore said the foreign ministers of the ASEAN had called on the Government of Myanmar not to use violence against the demonstrators, seek reconciliation and transition to democracy and release democratic leaders. It again acknowledged that the situation has implications for the entire region. Others referred to their membership in ASEAN when calling on Myanmar to show restraint.⁵⁴

China, as a neighbour that is widely believed to be influential in Myanmar, said it was following the situation closely. It expressed its hope that Myanmar would be fully devoted to the improvement of the situation, and tackle the ‘domestic social contradictions’.

A number of non-Asian States welcomed the clear statements by ASEAN.⁵⁵ Many underlined the particular responsibility of the region and neighbouring States in ameliorating the situation and welcomed their increased engagement.⁵⁶ France drew particular attention to the role China and India should play to ensure the Government of Myanmar heard the message. Ireland urged ‘those who wield influence with the regime’ to use that influence. The United States urged the neighbours of Myanmar to ‘use every effort to move towards a legitimate civilian government’. Egypt (on behalf of the African Group) simply asked the ‘concerned regional groupings’ to take a guiding role in addressing the situation. The Netherlands stressed that a peaceful solution to the present problems in Myanmar, would positively contribute to stability in the entire region.

Forum Asia in a joint statement⁵⁷ regretted that Asian States and in particular the ASEAN had not taken a firmer stand. It suggested that ‘the time for gentle encouragements’ to the Government of Myanmar was long gone.

The role of the Human Rights Council and other UN bodies

A large number of States spoke of the role of the international community and different parts of the UN system in relation to the situation in Myanmar.

Several States took note of the engagement by the Government with the UN system through the acceptance of the visit by the Secretary-General’s special advisor on Myanmar, Mr Ibrahim Gambari.⁵⁸ Almost all speakers welcomed the visit of the special advisor, to Myanmar.⁵⁹ Many States welcomed the Government’s cooperation with him, while others urged it to fully cooperate.⁶⁰ Singapore and Thailand were encouraged by the visit and stated that the special advisor had a key role as a neutral interlocutor with all sides. Many also expressed the hope that the visit would improve the human rights situation⁶¹ or at least avoid further

⁵³ Philippines, Singapore, Thailand, Cambodia. See <http://www.aseansec.org/20974.htm>.

⁵⁴ Indonesia.

⁵⁵ Portugal (on behalf of the EU), France, United Kingdom, Mexico, Australia, New Zealand, Sweden, Denmark, Ireland, USA, Chile,

⁵⁶ Portugal (on behalf of the EU). France, United Kingdom, Romania, Mexico, Morocco, Sweden, Denmark, Latvia

⁵⁷ On behalf of 15 NGOs. The statement was endorsed by 243 human rights organisations. Please check the extranet for a copy of the statement. See fn 2.

⁵⁸ India, Morocco, USA, China.

⁵⁹ The visit took place from 29 September to 2 October 2007.

⁶⁰ UK, Japan, Germany, Mexico, Netherlands, Australia, USA, Chile, South Africa, Cambodia.

⁶¹ Philippines, Cuba, Vietnam, Luxembourg.

deterioration.⁶² The Philippines stated that it hoped the visit would diffuse tensions and ‘be a catalyst for national reconciliation’.⁶³ The Russian Federation believed that the visit would help resolve the situation while China hoped it would lead to a ‘better understanding of the situation’. Morocco recalled that a similar visit in 2006 had not yielded results.

Many States also urged Myanmar to cooperate with the Special Rapporteur on Myanmar.⁶⁴ In this regard, France recalled the duty of the Government to cooperate with the UN mechanisms.⁶⁵ The United Kingdom and Norway asked Myanmar to grant access to the Special Rapporteur and other special procedures. Mexico evoked the responsibility of all States to cooperate with the Council and all of its mechanisms.

A number of States highlighted the importance of continued cooperation by the Government with OHCHR.⁶⁶

Several States emphasised that the Council should address the situation based on constructive dialogue and cooperation.⁶⁷ The Philippines underlined that such dialogue should contribute to a peaceful solution to the crisis and not aggravate tensions. Egypt (on behalf of the African Group) stated the Council should help the Government of Myanmar overcome the difficult situation, while ‘steering away from any unhelpful politicization or unnecessary confrontation.’ India said the approach should be ‘non-condemnatory’. Pakistan (on behalf of the OIC) suggested the Council should ‘demonstrate what constructive engagement means for the promotion and protection of human rights’. It should ‘seek non-violent solutions’, ‘avoid steps that imperil the integrity of the country’ and ‘deescalate rhetoric hostility against the Government of Myanmar’. China stated that the Council should play a constructive role in ‘relaxing the situation’.

A number of States emphasised that the mandate of the Council to address human rights situations through special sessions should be implemented in a universal, equal and non-selective manner.⁶⁸ They warned that special sessions should not be used to criticise weak countries and ‘condone impunity’ for influential States. A number of States, on the other hand, commented on the broad mandate of the Council to address violations of human rights and urgent human rights situations.⁶⁹ Portugal (on behalf of the EU) noted that the ‘strong cross-regional support’ for this special session indicated the Council’s commitment to fulfilling its mandate in this regard.⁷⁰ Romania highlighted the role of the Council as an early warning mechanism in cases of human rights violations.

Some States argued that the situation in Myanmar affects the region’s peace and security⁷¹ and that the Security Council should address the situation. New Zealand stated that it supported continued discussion of the situation in Myanmar by the Security Council and Amnesty International argued that the Security Council should continue to be seized of the situation. Cuba noted that the failure to ensure follow up to the situation on the Security Council’s agenda demonstrated the vested interests by some.

Comments on the outcome

⁶² Thailand, Mexico.

⁶³ Republic of Korea.

⁶⁴ Brazil, Switzerland, Morocco, USA, Spain.

⁶⁵ Poland.

⁶⁶ Mexico, Brazil, Romania.

⁶⁷ The Philippines, Egypt (on behalf of the African Group).

⁶⁸ Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC).

⁶⁹ Portugal (on behalf of the EU), France, Morocco.

⁷⁰ Denmark, Liechtenstein.

⁷¹ USA, Zambia, Netherlands, ICJ, WILPF, Amnesty International.

Many States underlined that they wished the Council's response to be built on constructive international dialogue and cooperation. A number of States called for 'united action' or a 'unified stance' by the Council, and expressed hope that a decision could be taken by consensus.⁷² Japan stated that the Council should speak with one voice while Peru noted that the Council should make a clear statement. Forum Asia also emphasised the importance of the Council speaking with a unified voice. Mexico noted that while the Council should work on the basis of cooperation and dialogue it was not prevented from making a clear statement that all States must respect all human rights under all circumstances.

Portugal (on behalf of the EU) stressed that the Council must respond to the current situation and 'take concrete and operational measures' to alleviate it. Pakistan (on behalf of the OIC) stated that while the situation in Myanmar was serious and merited the Council's attention, the response should avoid 'naming and shaming' and punitive sanctions.⁷³ Instead it should invite the Government to 'engage with the international community'. Mauritius⁷⁴ stated that it was time to impose the 'most stringent sanctions' on the military junta and send a clear message that the international community would 'not tolerate gunning down people' that are demanding freedom and justice.⁷⁵ India stated that the Council should not be condemnatory in its response to the situation. Mexico underlined that the outcome should reflect the serious concerns expressed and the international condemnation of the violence but create a 'path for a realistic solution to the conflict'. Singapore noted that it could have co-sponsored the resolution if it had not been 'burdened' with simplistic and general statements.

A number of States recommended that the Council's action should be 'forward-looking'.⁷⁶ Pakistan (on behalf of the OIC) explained that this meant asking the Government to engage with the special advisor Mr Gambari. Malaysia stated that the outcome of the special session should complement the efforts of the UN special advisor and lead to improvements in the human rights situation on the ground.

Several delegations supported the request in the draft resolution for the Special Rapporteur on Myanmar to monitor the situation and report back to the Council.⁷⁷ Bolivia stated that the report should examine the linkages between violations of economic, social and cultural rights and violations of other human rights. Norway stated that the Special Rapporteur should be given a strong mandate and be allowed to visit the country as 'a matter of urgency'.

Several NGOs went further and recommended that the Council should ask the Government to do more than it is already obliged to do. In a joint statement, Forum Asia noted that a visit of the Special Rapporteur was inadequate and that there was a need for a high-level fact finding mission led by the High Commissioner and a continuing human rights field presence in the country. Human Rights Watch stated that the Council should be prepared for non-cooperation by the Government and should in that case dispatch a commission of inquiry to examine all human rights violations committed since 1988 when the current military government came to power. The International Commission of Jurists suggested that the President of the Council should visit Myanmar with the Special Rapporteur and report back to a resumed meeting of the special session in late October 2007.

⁷² Philippines, Japan, Malaysia, United Kingdom, Cuba, Peru, Bolivia, Switzerland, Australia, New Zealand, Latvia.

⁷³ Cuba.

⁷⁴ Mauritius is a member of the OIC.

⁷⁵ The International Federation of Human Rights Leagues (FIDH) pointed out that sanctions must be carefully targeted to not harm the general populations. It added that the sectors of oil, gas and timber benefit exclusively the junta. FIDH recalled that the apartheid regime in South Africa had been weakened by multilateral sanctions, and suggested that Myanmar be viewed 'as today's generation South Africa'.

⁷⁶ India.

⁷⁷ FIDH, Amnesty International, Asian Legal Resource Center, Human Rights Watch.

The Philippines stated that the Council should take account of the challenges facing Myanmar and lend it ‘a helping hand’. Pakistan (on behalf of the OIC) stated that the international community should use its ‘full economic leverage’ to help the people of Myanmar. Mexico stated that it would be important for the Government to receive technical assistance by OHCHR from a special focus on vulnerable groups.

Australia stated that the need for democratic change and national reconciliation should be reflected in the outcome of the session. Vietnam also noted that a constructive outcome of the special session would contribute to the national reconciliation process.

Norway and Iceland stated that the Council should continue to be seized of the situation in Myanmar.⁷⁸

Replies by the Special Rapporteur

Mr Pinheiro noted that 58 countries had spoken out against the human rights abuses taking place in Myanmar. He expressed hope that the Government would listen to the concerns of the international community as well as those of the special advisor of the Secretary General. He once again called on the Government of Myanmar to allow him access to the country while making it clear that the Council could not simply continue asking him to monitor the situation without addressing the Government’s refusal to cooperate.

Adoption of the resolution

The President then invited the Council to consider the draft resolution put forward by Portugal on behalf of the EU and asked Portugal to introduce the text.

Portugal (on behalf of the EU) informed that it had held informal consultations on the draft resolution.⁷⁹ In its presentation, it made a few oral revisions to the text. It introduced somewhat softer language in reaction to the current situation in Myanmar stating that the Council ‘strongly deplores’ rather than ‘strongly condemns’ the violent repression of peaceful demonstrations. The second change was to urge the Government to enter into a ‘reinvigorated’ national dialogue.

Portugal (on behalf of the EU) further explained that the draft resolution aimed at sending a clear and strong message from the Council; preventing further human rights violations; calling on the Government to ensure respect for human rights; urging the Government to release political prisoners and engage in a national reconciliation process; encouraging the Government to continue to cooperate with the UN, including OHCHR and the Special Rapporteur; and finally requesting the Special Rapporteur to assess the situation and monitor the implementation of the resolution.

The Council adopted the resolution without a vote.

A few States made an explanation of vote after the vote. India re-emphasised that the Council should work on the basis of dialogue and cooperation. It wanted an outcome that was forward-looking and non-condemnatory and regretted that the resolution did not reflect this approach. It hoped that future engagement on the situation would be more positive. The Russian Federation explained that in its view the text was one-sided and unbalanced. It stated that the co-sponsors of the resolution had not wanted to reflect its views. It underlined

⁷⁸ Supported by Amnesty International.

⁷⁹ The text of the resolution is available on the OHCHR extranet.

that the Council should not condemn the authorities but should instead encourage democratic changes. The Philippines welcomed the consensual outcome as the most effective way of protecting human rights.

Myanmar was then, at its request, given the floor as a concerned country. It expressed its deep appreciation to the countries that had shown understanding for the current situation. It recalled that the Commission on Human Rights had been replaced and that the Council should not repeat the mistakes of naming and shaming of weak countries. It warned that the Council should not be used by powerful States for political exploitation. Finally, it rejected the 'politicised approach' chosen by holding the special session. It emphasised that the Council instead should take a constructive and non-condemnatory approach.

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The Council Monitor forms part of the Human Rights Monitor Series produced by ISHR. It provides you with information about all the key developments at the Human Rights Council, including Daily Updates during the session of the Council, an Overview of the session, briefings and updates on the major issues of concern in the transition from the Commission on Human Rights to the Council and other key reports. It is currently an online publication that can be found at www.ishr.ch/hrm/council

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