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

**Written statement* submitted by the International Federation for Human Rights (FIDH),
a non-governmental organization with special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

MYANMAR

The International Federation for Human Rights (FIDH) and Altsean Burma maintain their serious concerns regarding the institutionally entrenched, systematic and widespread violations of human rights occurring in Myanmar.

Burma's **National Convention** (NC) remains incapable of delivering neither democratisation nor improvements in the human rights situation. The NC appears to have been organised with the purpose of legitimising military rule. It has involved restrictions upon and violations of the rights of its civilian participants. As has been reiterated by the UN Special Rapporteur on the situation of human rights in Myanmar ('The Special Rapporteur'), the NC has no prospect of bringing democratic reforms in Burma unless the ruling State Peace and Development Council (SPDC) makes major changes to the process.

The National Convention was reopened in May 2004 (it was adjourned since 1996), but suspended in July 2004. The National League for Democracy (NLD) is one of nine political parties representing 91% of the parliamentary seats that boycotted the May 2004 NC. The NLD refused to participate in the process because its leaders, including Aung San Suu Kyi, were detained. The NLD, other political parties and ethnic nationality groups also wished to amend the objectives and principles imposed on the NC (known as the 'Six Objectives' and the '104 Principles') that aim to perpetuate military dominance.

The NC will remain illegitimate while the offices of the NLD remain closed (except its Rangoon headquarters) and while freedom from arbitrary detention, freedom of association, freedom of assembly and freedom of speech are not fully guaranteed. The NC proceedings must be made public. Restrictions on media coverage and the criminal penalties for delegates who disseminate material from the Convention should be immediately removed. Last but not least, the composition of the NC should reflect the result of the 1990 elections, as originally declared by the military authorities in 1990.

All possible efforts must be made by UN member states, especially those from South, Southeast and East Asia, to ensure that the National Convention that is scheduled to reconvene in February 2005 abides by the mutually complementary recommendations of the UNGA, the UNCHR as well as the NLD and ethnic political parties to ensure minimum democratic conditions.

The so-called trials of those arrested in association with Gen Khin Nyunt provide further proof of the lack of rule of law that affects the broader population of Burma: Defendants have no right to legal assistance, trials are held in closed courts inside Insein prison and heard by judges chosen by the SPDC. Like Daw Aung San Suu Kyi herself, who has spent more than 9 of the past 15 years in detention, Gen Khin Nyunt has become a subject of arbitrary detention since his purge in October 2004.

Between 21 November 2004 and 4 January 2005 the military regime freed 19,806 prisoners, however only 90 of them were political prisoners, including student leader Min Ko Naing. There are still over 1,300 political prisoners in Burma, many continue to be detained after completion of their sentences. Furthermore, detainees face unacceptable conditions, such as torture and inadequate access to health care.

The arrests and detention of individuals who have merely exercised their fundamental rights have continued and the leaders of the democratically elected NLD, Aung San Suu Kyi and U Tin Oo, are still under house arrest.

The occurrences of **forced labour** are of profound concern and its use continues to be entrenched in the practices of the military government. Some encouraging formal steps have been taken towards eradicating this practice, but Burma has yet to establish implementation processes under the Joint Government of Union-International Labour Organisation Plan of Action for the Elimination of Forced Labour Practices in Myanmar. There have been credible reports linking forced labour to junta-backed economic projects. For example, villagers in Arakan State have been forced to upgrade service roads and military facilities in preparation for the development of a gas pipeline in the area. The Asian Human Rights Commission reported that at least three individuals who had filed forced labour complaints against local officials in September 2004 have been imprisoned for periods of six months on conviction for criminal defamation.

More extensive military offensives in Karen and Karenni areas since Gen Khin Nyunt's ouster have displaced an estimated 8,181 villagers. These add to the suffering already caused by the attacks on villages in Mon, Shan, Karen and Karenni States since December 2003. Of particular concern are the clearing of villages and extensive militarisation along the Karen-Karenni border in expectation of infrastructure development. An estimated 525,000 Internally Displaced Persons remain inside Burma vulnerable to abuses by the military and deprived of adequate nutrition and services.

SPDC military personnel continue to rape women without fear of punishment, especially in ethnic areas. The regime's denial of state violence against women perpetuates and intensifies the climate of impunity surrounding rape and sexual harassment. Violence against women is used by the Burmese military to intimidate, control, and demoralise ethnic groups, even in areas where it is engaged in ceasefire talks. The SPDC must fulfil its obligations under the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) by implementing the necessary legislation and programmes.

The SPDC's policy of secrecy and the disregard of the welfare of the people of Burma was also apparent in its non-response to the Asian **tsunami disaster**. The SPDC was slow to react and slow to permit international access to most of the affected areas. The most harmed by the tsunami were Burmese migrant workers in Thailand, where as many as 3,000 of them may have died. The SPDC has completely ignored the plight of its migrant population, and failed to offer any support to the survivors.

Burma has also yet to implement the Concluding Observations of the **Committee on the Rights of the Child**, made after the Committee's examination of Burma's second periodic report under the Convention on the Rights of the Child (CRC) in May 2004.

In particular, the Committee has recommended that urgent action be taken to prevent the use of child soldiers (the Committee has noted that children aged between 14-16 years are recruited and enrolled by both State and rebel forces), the harmonisation of national legislation with the CRC (such as the treatment of minors under criminal justice legislation, in particular, the age of criminal responsibility of 7 years and the age of 16 years for the

use of the death penalty), to repeal the legislation 'On villages and towns' that permits the engagement of women and girls in forced labour and to repeal legislation that permits corporal punishment of children. The Committee also received information that children who have committed minor offences have been sent to work camps.

Furthermore, the military rulers have failed to cooperate with the mandate of the **UN Special Rapporteur**, by rejecting proposed visit dates on two occasions, limiting the capacity of the Special Rapporteur to collect information for his report to the fifty-ninth session of the General Assembly (September 2004) and the CHR.

Although no executions have been reported for several years in Burma, **death sentences** are regularly handed down. This is of particular concern as it has been employed against political opponents, as a means to quell political dissent. In addition, the insufficient guarantees related to the right to a fair trial and judicial independence add to those concerns, as evidenced by the sacking of two Supreme Court judges on 12 November after they refused to cooperate with the new junta leaders. In May 2004, the death sentences against nine persons condemned for high treason were commuted to prison terms. Three of them had been charged over contacts with the ILO.

Recommendations:

The FIDH and Altsean-Burma call on the international community to urge the Burmese authorities to take credible, immediate and concrete steps towards the full enjoyment of human rights in Burma.

We ask the CHR to adopt a resolution renewing the mandate of the UN Special Rapporteur on Myanmar. In particular, the resolution should urge the Burmese authorities to:

- **Take concrete steps towards establishing the integrity of the National Convention process by creating the necessary conditions conducive to active and meaningful participation. Political parties should be allowed to operate freely, and all political prisoners released. All fundamental freedoms must be guaranteed, and the 'Six Objectives' and the '104 Principles' abandoned.**
- **Fully cooperate with the UN Special Rapporteur on Myanmar as well as with the Special Envoy of the Secretary-General, and allow them to visit Burma without further delay**
- **Fully implement the recommendations of the Committee on the Rights of the Child**
- **Take immediate steps to eradicate the use of forced labour and duly protect victims bringing legal suits in forced labour cases against any retaliation**
- **Adopt a *de jure* moratorium on capital punishment as a first step towards the abolition of the death penalty**

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