



SECURITY COUNCIL REPORT UPDATE REPORT



23 March 2010 No. 3

MYANMAR

Expected Council Action

Council members on 23 March discussed the need for a briefing on Myanmar and requested a briefing in informal consultations on 24 March. At press time it was unclear how the Secretariat was preparing to respond to the request from the Council. Some members were expecting to hear from Vijay Nambiar, the Secretary-General's Chief of Staff as he has been acting as a temporary advisor to the Secretary-General on Myanmar since Ibrahim Gambari left the position at the end of December 2009. This will be the first briefing since August 2009.

Myanmar's new election laws published earlier this month are expected to be the focus of the briefing and subsequent discussion. At this stage no Council decision is expected.

The Secretary-General's Group of Friends on Myanmar, which is made up of the five permanent members of the Council plus Australia, the president of the EU, India, Indonesia, Japan, Norway, Republic of Korea, Russia, Singapore, Thailand and Viet Nam is expected to meet on 25 March with the Secretary-General.

Key Recent Developments

On 8 March Myanmar's government approved five new laws relating to the elections. They were published on 9 March. The laws relate to the election commission, two new houses of parliament, the process for polls for regional and state elections and the rules for registration of political parties.

The political-parties registration law is seen by some as a recipe for future instability. It prohibits persons currently serving a prison term as a result of a conviction in a court of law from voting or being a member of a political party, which subsequently bans the person from contesting the election expected later this year. The law effectively prevents detained opposition leader Aung San Suu Kyi from participating in the elections (and even from voting), unless she were freed from house arrest. Members of religious orders are also banned from taking part thus continuing to disenfranchise one of the most important segments of society.

The law concerning the election commission has also sparked criticism as the commission will be hand-picked by the military government and its decision will be final. There is concern that a commission staffed by those loyal to the military cannot be a credible and impartial overseer of an election.

The Myanmar government also announced that the new election laws also invalidated the results of the 1990 elections which were won by the National League for Democracy (NLD).

The Secretary-General said the new election laws did not meet “international expectations of what is required for an inclusive political process”. In February he had sent a letter to Myanmar’s leader, Senior General Than Shwe emphasising the importance of the election being credible, inclusive and transparent. He also stressed that all political prisoners, including Aung San Suu Kyi, should be released so that they can take part in the elections.

The US said it was deeply disappointed. The UK expressed regret that under the new election laws Aung San Suu Kyi faced expulsion from her party and would be unable to run. The Philippines, which together with Myanmar, belongs to the Association of Southeast Asian Nations, said that unless Aung San Suu Kyi is released and allowed to participate, the elections would be a farce.

Aung San Suu Kyi’s lawyer said on 23 March that she hoped that her party, NLD, would not register for the elections as the new election laws are unfair but that it was up to the NLD to decide how to proceed. The NLD had earlier indicated that it would make a decision on whether to contest the elections on 29 March. On 23 March the NLD asked the Supreme Court to take legal action against the government over the new laws but the application was rejected.

On 25 February Myanmar’s Supreme Court turned down an appeal to free Aung San Suu Kyi who has been detained for 14 of the last twenty years. Last November a lower court upheld a decision to sentence her to an additional 18 months of house arrest after she was convicted in August 2009 for violating the terms of her house arrest by sheltering an American who had swam to her lakeside home. She now has the option of making one final appeal to Myanmar’s Chief Justice. The Secretary-General said in a statement that he was disappointed that Aung San Suu Kyi’s appeal was rejected.

Press reports indicate that Myanmar’s military is moving troops to the border regions near China and Thailand in anticipation of increased clashes with insurgent groups there in the lead-up to the election.

Human Rights-Related Developments

UN Special Rapporteur on the situation of Human Rights in Myanmar Tomas Ojea Quintana, visited Myanmar from 15 to 20 February. His report to the Human Rights Council indicated that there were systematic and gross violations of human rights in Myanmar which was a result of state policy and suggested that some of these human rights violations could be seen as categories of crimes against humanity or war crimes that could be reported to the International Criminal Court. Among the crimes he cited were recruitment of child soldiers and discrimination against the Muslim minority in northern Rakhine state. He recommended that the UN establish a commission of inquiry.

Key Issues

The immediate issue for the Council is how to react to the new election laws.

A connected issue is whether there is anything more the Council can do to persuade the Myanmar government of the importance of inclusive, fair and credible elections.

Another related issue is how best to engage Myanmar. With the recent developments there are questions by some as to whether a softer approach is working.

A related issue is whether the UN should focus more closely on Myanmar in the lead-up to the elections. Related to this is the question of whether and when the Secretary-General intends to appoint his new Secretary-General’s Special Envoy for Myanmar.

An issue of continuing concern is potential security risks arising from likely unrest among ethnic groups. Given the closed nature of the political regime it is difficult to get information on the true situation in the border regions.

Options

If the briefing takes place, the most likely option for the Council is initially to listen to the briefing from the Secretariat but not to take any action at the 24 March briefing.

A possible option is to issue a statement supporting the Secretary-General's statement stressing the need for inclusive, free and fair elections and reiterating what the Council has said before that it expects of the Myanmar government, including the need for genuine dialogue and the release of all political prisoners.

Council Dynamics

All Council members supported the idea of a briefing proposed by the UK on 22 March. Questions were raised over whether it would be better to have the briefing before or after the Secretary-General's Group of Friends on Myanmar meeting scheduled for 25 March. Another consideration was whether to wait till after 29 March when the NLD is expected to announce whether it will contest the elections. There also seems to be agreement that there will be no immediate action taken following the briefing.

The UK feels strongly, together with members like France, Austria and the US, that having this briefing is important as a signal of the Council's continued interest in seeing a credible process for the elections.

China is generally not keen to have Myanmar discussed by the Council but appears to have agreed to this briefing as long as there was no outcome. It has continued to hold firm the position that the issue is principally Myanmar's internal affairs and does not pose a threat to international peace and security. China is therefore reluctant for the Council to take any coercive action against Myanmar. However, there are questions about whether its concerns over the stability of China-Myanmar border, particularly after the large influx of refugees into China last September, might eventually lead to a more flexible position.

Japan has a nuanced position on Myanmar stressing the importance of dialogue but bilaterally encouraging Myanmar to move from military to civilian rule.

At press time it was unclear if any members would raise any of the human rights issues flagged in Quintana's report.

UN Documents

Presidential Statements
<ul style="list-style-type: none">• S/PRST/2008/13 (2 May 2008) noted the commitment of the Myanmar government that the referendum would be free and fair and underlined the need for the Government of Myanmar to "establish the conditions and create an atmosphere conducive to an inclusive and credible process".• S/PRST/2007/37 (11 October 2007) deplored the use of violence against demonstrations and emphasised the importance of early release of prisoners.
Selected Press Statements
<ul style="list-style-type: none">• SC/9731 (13 August 2009) reiterated the importance of the release of all political prisoners and expressed serious concern at the conviction and sentencing of Aung San Suu Kyi.• SC/9662 (22 May 2009) expressed the Council's concern about the political impact of recent developments in Myanmar following Aung San Suu Kyi's imprisonment.

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- SC/9228 (17 January 2008) affirmed the Council's support for the objectives set out in its October presidential statement and regretted the slow progress on meeting those objectives.
- SC/9171 (14 November 2007) was a press statement on Myanmar.

Other

- A/HRC/13/48 (10 March 2010) was the report from the Special Rapporteur on the situation of Human Rights in Myanmar.
- S/PV.5753 (5 October 2007) was the record of the discussion following the crackdown in Myanmar.

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