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JOINT MOTION FOR A RESOLUTION

pursuant to Rule 115(5) of the Rules of Procedure, by

- Geoffrey Van Orden, Thomas Mann, Bernd Posselt, Charles Tannock and Simon Coveney, on behalf of the PPE-DE Group
- Pasqualina Napoletano, Glenys Kinnock and Marc Tarabella, on behalf of the PSE Group
- Frédérique Ries and Marios Matsakis, on behalf of the ALDE Group
- Raül Romeva i Rueda, on behalf of the Verts/ALE Group
- Vittorio Agnoletto and Luisa Morgantini, on behalf of the GUE/NGL Group
- Gintaras Didžiokas, on behalf of the UEN Group

replacing the motions by the following groups:

- PPE-DE (B6-0647/2006)
- GUE/NGL (B6-0651/2006)
- PSE (B6-0655/2006)
- ALDE (B6-0657/2006)
- UEN (B6-0658/2006)
- Verts/ALE (B6-0661/2006)

on the situation in Burma

European Parliament resolution on the situation in Burma

The European Parliament,

- having regard to the report of UN Special Rapporteur Pinheiro on human rights in Burma, of 21 September 2006,
 - having regard to the UN Security Council's decision of 15 September 2006 to place Burma on its formal agenda, the visit to Burma of UN Under Secretary General for Political Affairs Ibrahim Gambari from 9 to 12 November 2006 and his subsequent briefing of the Security Council,
 - having regard to its previous resolutions on Burma, in particular that of 17 November 2005,
 - having regard to Council Regulation (EC) No 817/2006 of 29 May 2006 renewing the restrictive measures in respect of Burma,
 - having regard to the Chairman's Statement of the Sixth Asia-Europe Meeting (ASEM) held in Finland on 10-11 September 2006,
 - having regard to Rule 115(5) of the Rules of Procedure,
- A. whereas the State Peace and Development Council (SPDC) continues to subject the people of Burma to appalling human rights abuses, such as forced labour, persecution of dissidents, conscription of child soldiers and forced relocation,
- B. whereas the National Convention, first convened in 1993 to draft a constitution and which has been suspended many times since then, resumed on 10 October 2006 but still lacks any credibility due to the absence of democratically elected representatives, most notably the National League for Democracy (NLD), as well as ethnic groups,
- C. whereas the NLD leader, Nobel Peace Prize Laureate and Sakharov Prize winner Aung San Suu Kyi has spent 10 out of the last 16 years under house arrest, an illegal measure that the military junta extends every year,
- D. whereas Burma's neighbours need to take a more robust stance against the abuses of the military regime in that country, and demand that Burma improves its human rights record and embraces democracy,
- E. whereas more than 30% of children under five suffer from malnutrition, mortality rates for malaria and tuberculosis remain very high, the HIV/AIDS epidemic has spread across the general population and nearly half of school-age children never enrol,
- F. Whereas the Government of Burma recently ordered the International Committee of the Red Cross (ICRC) to close its five field offices in the country, effectively making it impossible for the organisation to carry out most of its assistance and protection work benefiting civilians who live in difficult conditions in border areas,

- G. whereas, according to the International Narcotics Control Strategy Report for 2006, Burma is the world's second largest producer of illicit opium, accounting for more than ninety per cent of Southeast Asian heroin,
1. Condemns the SPDC for its relentless suppression of the Burmese people over 40 years and its total failure to make any significant move towards democracy;
 2. Refuses to recognise the legitimacy of any constitutional proposals produced by the National Convention so long as it does not include the NLD and other political parties; urges the National Convention to present a road map to democracy that genuinely reflects the wishes of the Burmese people instead of consolidating the military's stranglehold on power;
 3. Demands the immediate and unconditional release of Aung San Suu Kyi and all other political prisoners – estimated to number over 1 100 – held by the SPDC;
 4. Deplores the SPDC's recent closure of five International Committee of the Red Cross field offices (in Mandalay, Mawlamyine, Hpa-an, Taunggyi and Kyaing Tong), effectively making it impossible for the organisation to carry out its humanitarian work, and other measures designed to intimidate humanitarian relief NGOs; calls on the SPDC to allow these organisations to operate without interference and restrictions;
 5. Strongly condemns the regime's brutal crackdown on several large ethnic groups, including the Karen of eastern Burma, which has led to large scale suffering and internal displacement, with some 82,000 people forced to leave their homes in eastern Burma in 2006, bringing the number of internally displaced people within Burma to at least 500,000;
 6. Welcomes the fact-finding mission to Burma by the Malaysian Foreign Minister, Syed Hamid Albar, as a result of the position taken the previous year by the eleventh ASEAN summit, and trusts that this will now result in tougher measures by ASEAN nations against the military junta in Burma;
 7. Welcomes the International Labour Organisation's decision to take its concerns about the SPDC's abhorrent use of forced labour before the UN Security Council and the International Court of Justice, and hopes that this tougher course of action will prompt the SPDC to end this practice;
 8. Recognises that the EU's targeted sanctions have not focused on economic areas that earn the regime significant revenues and, as a result, have so far failed to achieve the desired impact on those directly responsible for the suffering of the Burmese people; calls on the Council to ensure that all Member States rigorously apply existing restrictive measures;
 9. Calls on the Council to expand the scope of the sanctions and to enlarge the list of those targeted, so that it includes all SPDC ministers, deputies, members, supporters and workers, in addition to their family members, and businessmen and other prominent individuals associated with the regime;
 10. Urges China, India and other countries that continue to supply weaponry and other support to the military junta to desist from this and to join the international community in its efforts to bring about change for the better in Burma;

11. Welcomes the decision by South Korean prosecutors to indict 14 people, working for seven South Korean companies, for allegedly providing technology and equipment to help the Burmese regime build a weapons factory in Pyay, central Burma;
12. Welcomes the UN's recent opening of the first of seven legal assistance centres, located at Ban Mae Nai Soi camp in north-western Thailand, for Burmese refugees living in neighbouring Thailand, and expects additional robust UN measures against the SPDC to be forthcoming;
13. Insists that all aid destined for Burma must be delivered through genuine non-governmental organisations and must reach the people for whom it is intended, with the least possible involvement of the SPDC;
14. Calls on the UN Security Council to pass a binding resolution requiring the restoration of democracy in Burma and the release of all political prisoners, including Aung San Suu Kyi;
15. Instructs its President to forward this resolution to the Council, the Commission, the governments of the Member States, the governments of the ASEAN nations, the National League for Democracy, the State Peace and Development Council and the Secretary-General of the United Nations.

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**IMPLEMENTATION OF GENERAL ASSEMBLY RESOLUTION 60/251
OF 15 MARCH 2006 ENTITLED “HUMAN RIGHTS COUNCIL”**

**Report of the Special Rapporteur on the situation of
human rights in Myanmar, Paulo Sérgio Pinheiro***

* This report was submitted after the deadline so as to include the most recent developments, including within the Human Rights Council.

Summary

The mandate of the Special Rapporteur on the situation of human rights in Myanmar was established by the Commission on Human Rights in its resolution 1992/58 and extended most recently by the Human Rights Council, in its decision 1/102, in which the Council decided to extend, exceptionally for one year, the mandates and mandate holders of the special procedures of the Commission on Human Rights.

The third holder of the mandate on Myanmar, Paulo Sérgio Pinheiro was appointed in December 2000 and has fulfilled his mandate to the best of his ability for the last six years, despite having been denied access to the country since November 2003.

The Special Rapporteur, in the present, final report on the situation of human rights in Myanmar to the Human Rights Council, reiterates the findings contained in his last report to the sixty-first session of the General Assembly (A/61/369 and Corr.1).

During the course of the mandate of the Special Rapporteur, the reform process proposed in the “seven-point road map for national reconciliation and democratic transition”, after showing some readiness to become open to various relevant actors, has been further strictly limited and delineated. As a result, the political space has been redefined in narrower terms. In addition, obstructions in the past couple of years have held back the pace and inclusiveness of the reforms that are required for democratization. The work of the National Convention has been adversely affected by this development.

Over the decades, the space for the establishment of civilian and democratic institutions has been seriously curtailed. The exercise of fundamental freedoms has been severely restricted. The house arrest of Aung Sang Suu Kyi, which was further prolonged for one year on 27 May 2006, illustrates well this state of affairs. As of 16 December 2006, the number of political prisoners was estimated to be 1,201. The Special Rapporteur has consistently indicated that national reconciliation requires meaningful and inclusive dialogue with and between political representatives. He firmly believes that the national reconciliation and the stability of Myanmar are not well served by the arrest and detention of several political leaders or by the severe and sustained restrictions on fundamental freedoms. The persecution of members of political parties in the opposition and human rights defenders shows that today, the road map for democracy faces too many obstacles to bring about a genuine transition. In the past, the Special Rapporteur has acknowledged that the road map could play a positive role in the political transition. Sadly, the positive momentum of the early years of his mandate has apparently stalled.

The capacity of law enforcement institutions and the independence and impartiality of the judiciary have been hampered by sustained impunity. This situation has contributed to reinforcing inequality and has increased the gap between the poorest and the richest.

The Special Rapporteur remains particularly concerned about impunity, which has become systematic and must be urgently addressed by the Government of Myanmar. It has become increasingly clear that impunity stems not only from a lack of institutional capacity. Impunity has allowed those who have oppressed voices that question existing policies and practices to avoid being held accountable. Several individuals and groups responsible for

committing serious violations of human rights, in particular members of the military, have not been prosecuted. There is also little evidence that these serious crimes have been investigated by relevant authorities.

Grave human rights violations are committed by persons within the established structures of the State Peace and Development Council and are not only perpetrated with impunity but authorized by law. In that respect, the Special Rapporteur is also very concerned about the continued misuse of the legal system, which denies the rule of law and represents a major obstacle to securing the effective and meaningful exercise of fundamental freedoms by citizens. He considers the criminalization of the exercise of fundamental freedoms by political opponents, human rights defenders and victims of human rights abuses to be a matter of particular concern.

During the course of his mandate, the Special Rapporteur has been very concerned about the 10 years of intensified military campaigns in ethnic areas of eastern Myanmar and its impact on the humanitarian and human rights situation, especially on civilians who have been targeted during the attacks. The situation should be considered in connection with the widespread practice of land confiscation throughout the country, which is seemingly aimed at anchoring military control, especially in ethnic areas. It has led to numerous forced evictions, relocations and resettlements, forced migration and internal displacement. Given the scale of the current military campaign, the situation may lead to a humanitarian crisis if it is not addressed immediately. The Special Rapporteur therefore welcomes the recent appointment of the Resident Coordinator as Humanitarian Coordinator. He believes that the formal engagement of the humanitarian sector of the United Nations Secretariat will provide stronger, essential support in ensuring the integrity and independence of ongoing efforts.

The Special Rapporteur takes note with great satisfaction of the recent release of political prisoners, including the five “88 generation” student leaders arrested last September. He expresses the hope that other prominent political prisoners will benefit from the amnesty granted in early January 2007. He therefore welcomes the statement made by the Secretary-General on 8 January 2007 on this issue and commends the work done by the United Nations within the “good offices” mission.

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I. INTRODUCTION

1. The mandate of the Special Rapporteur on the situation of human rights in Myanmar was established by the Commission on Human Rights in its resolution 1992/58 of 3 March 1992 and extended in resolution 2005/10. By its decision 1/102, the Human Rights Council decided to extend all mandates and mechanisms transferred to it by the Commission on Human Rights pursuant to resolution 60/251 of the General Assembly.

2. During the course of his mandate, which started in December 2000, the Special Rapporteur was authorized by the Government of Myanmar to visit the country on six occasions. However, the Special Rapporteur has not been allowed to conduct a fact-finding mission to Myanmar since November 2003. While he has not been granted access to the country during the period covered by this report, he has continued to fulfil his mandate to the best of his ability based on information collected from a variety of independent and reliable sources.

3. Throughout the six-year period of the Special Rapporteur's mandate, substantiated reports of grave human rights violations continued to be received on an ongoing basis. With the vast majority of his communications to the authorities not receiving a response, little evidence was available to the Special Rapporteur of a commitment by the Government to respond to these human rights violations.

4. The Special Rapporteur, however, takes note of recent replies by the Government to official communications by the special procedures of the Council. He finds this development encouraging and urges the Government to continue its dialogue with the Special Rapporteur and other special procedures.

5. Building on the Special Rapporteur's last report to the General Assembly (A/61/369 and Corr.1), the present and final report of the Special Rapporteur focuses on the main pattern of human rights violations he has identified in the course of his mandate. The report covers the period from February 2006 to 10 January 2007.

II. ACTIVITIES OF THE SPECIAL RAPPORTEUR

6. In view of the fact that he continued to be prevented from visiting Myanmar, the Special Rapporteur visited neighbouring countries in the region where he received the support of all United Nations country teams. From 11 to 26 February 2006, the Special Rapporteur visited India, Malaysia, Indonesia and Thailand where he conducted consultations with representatives of the Ministries of Foreign Affairs, diplomats, parliamentarians (in India), the Inter-Parliamentary Caucus of the Association of Southeast Asian Nations (ASEAN), as well as non-governmental actors.

7. In Jakarta, the Special Rapporteur held meetings with the Secretariat of ASEAN, the former Minister of Foreign Affairs of Indonesia and scholars. In Kuala Lumpur, he held a meeting with the former Special Envoy of the Secretary-General to Myanmar. In Bangkok,

consultations were also conducted with representatives of United Nations agencies operating in Myanmar and Thailand, members of the diplomatic community, and non-governmental organizations operating in Myanmar, Thailand, and on the Thai-Myanmar border.

8. In May 2006, the Special Rapporteur met with the United Nations High Commissioner for Refugees in Geneva and staff members from his Office.

9. The Special Rapporteur presented his report (E/CN.4/2006/34) to the Human Rights Council in September 2006. While in Geneva, he met with representatives of the Permanent Mission of Myanmar and held consultations with representatives of Member States, officials of United Nations agencies, representatives of civil society organizations and members of the academic community.

10. At the request of the Special Rapporteur, the desk officer for Myanmar of the Office of the High Commissioner for Human Rights (OHCHR), who assists the mandate, conducted a mission to the region from 22 August to 3 September 2006 to collect updated information, with the support of the OHCHR Regional Office, United Nations agencies, civil society organizations and experts.

11. In September 2006, the Special Rapporteur met with the officials of the European Union (EU) in Brussels. He had consultations in Strasbourg, France, with representatives of the member States of the Council of Europe and the Deputy Secretary-General of the Council and addressed the Committee of Ministers. He also had a discussion with directors of the EU Council Working Party on Human Rights (COHOM) and made a presentation to the EU Asia-Oceania Working Party (COASI).

12. The Special Rapporteur presented his last report to the General Assembly on 21 October 2006. While in the United States, he met representatives of the Government of Myanmar and held consultations with representatives of States Members of the United Nations and of ASEAN, officials of United Nations agencies, civil society organizations and members of the academic community.

13. During the reporting period, the Special Rapporteur continued to have regular contacts with the Permanent Mission of Myanmar to the United Nations Office at Geneva. He also continued to share his findings with the High Commissioner for Human Rights in Geneva, the Executive Office of the Secretary-General, the Department of Political Affairs of the Secretariat and the Special Adviser to the Secretary-General on the Prevention of Genocide and his team.

14. Following the submission of this report, the Special Rapporteur, after the one-year extension of his mandate until June 2007, will be stepping down, in accordance with the six-year term limit. He wishes to thank very warmly all the Member States, resident coordinators and United Nations country teams, in particular the United Nations Country Team in Myanmar, civil society organizations and scholars who have supported his mandate and shared with him their observations on the situation of human rights in Myanmar.

III. OVERVIEW OF THE SIX-YEAR MANDATE OF THE SPECIAL RAPPORTEUR

15. The Special Rapporteur in his previous report to the Human Rights Council (E/CN.4/2006/34, paras. 9-22) presented an overview of his activities during his six-year term which he does not wish to reiterate in the present report. In this last precious opportunity to address the Council as Special Rapporteur on the situation of human rights in Myanmar, he prefers to share some reflections on his experiences during the last six years.

16. At the time he was appointed in December 2000, the Special Rapporteur decided to propose to the Government that he undertake a three-day visit to prepare his first official mission. This was somewhat unconventional, but the political situation in the country was already very tense. For five years, his predecessor, Rajsoomer Lallah, had not been allowed to visit the country, and the Special Rapporteur thought that this would be a way to engage with the Government in a new form of dialogue on human rights.

17. The Government of Myanmar has affirmed - and the Special Rapporteur agrees - that the five missions which followed that first visit were an important indicator of its cooperation with the Commission on Human Rights. The Special Rapporteur regrets that the same kind of cooperation has not taken place during the last three years and two months, seriously curtailing his ability to report. The Special Rapporteur has tried to explain to the Government of Myanmar that official visits would give an opportunity to the Special Rapporteur to verify allegations of human rights violations and would allow the Government to have its views reflected in the report. Since his last mission to Myanmar in November 2003, the Special Rapporteur has written on many occasions to the Government seeking an invitation to visit the country, without success. He has not even received a written reply.

18. During the course of his mandate, the Special Rapporteur has maintained regular contacts with representatives of Myanmar in Geneva and New York, and with its ambassadors in many capitals. The Special Rapporteur has made every effort, particularly in the last three years, to convince the Government of Myanmar to work towards the protection and promotion of human rights and to fulfil its international obligation of cooperation in the field of human rights. The representatives of Myanmar - despite their urbane treatment of the Special Rapporteur, which it is only fair to acknowledge - have preferred to denounce the Special Rapporteur's findings as inaccurate, biased or politically motivated instead of simply investigating the allegations reported by the Special Rapporteur.

19. The Special Rapporteur reaffirms that he has maintained his independence, impartiality and objectivity in weighing the information provided by various sources. During his 11 years of association with the United Nations human rights mechanisms, the Special Rapporteur has done his best to report honestly on the progress made and obstacles faced by Governments in promoting and protecting human rights. At this end of his endeavours, the Special Rapporteur is distressed to conclude that the Government of Myanmar has decided to refuse to cooperate with the mandate and with the Human Rights Council.

20. The duties of the Special Rapporteur include analysing problems and trying to find solutions. Constructive criticism is more easily accepted than tongue-lashing, especially when such criticism is accompanied by concrete gestures of cooperation. Achieving progress in a

particular human rights situation requires that responsibility be shared between the special rapporteur, the Government, opposition forces and civil society. Special rapporteurs expect reciprocal cooperation, openness, and a serious commitment manifested by deeds and not merely words; special rapporteurs can only report progress backed by hard evidence.

21. Throughout the six years of his mandate, the Special Rapporteur has maintained a constant dialogue within the diplomatic community. In Asia, he has systematically sought the views of Myanmar's neighbours in order to verify his own impressions and analyses. He has reflected on their perspectives in his reports, having held consultations in Bangkok, Beijing, Jakarta, Kuala Lumpur, Singapore and Tokyo with Governments, parliamentarians, the Secretariat of ASEAN, research centres and civil society organizations.

IV. MAJOR DEVELOPMENTS AND HUMAN RIGHTS ISSUES OF CONCERN

A. Political developments

22. In the past two years, the reform process proposed in the "seven-point road map for national reconciliation and democratic transition" - whose potential for political transition the Special Rapporteur had recognized at the outset - has been strictly limited and delineated. The work of the National Convention has been adversely affected by this development. First convened in 1993, the National Convention was adjourned in May 1996 until it was reconvened for an eight-week period from 17 May to 9 July 2004. Having again been suspended for a further nine months following its 17 February-31 March 2005 session, the National Convention reconvened on 5 December 2005. On 31 January 2006, after having met for nearly two months without significant progress, the National Convention adjourned once more. It resumed its activities on 10 October and recessed on 29 December 2006 after more than 10 weeks of deliberations which were not genuinely open to all political parties and ethnic groups. The Special Rapporteur remains convinced that the announcement of a timetable for the implementation of the road map would be a clear demonstration of a commitment to the realization of a political transition.

23. The Special Rapporteur regrettably notes that the recommendations put forward on several occasions by the General Assembly and the Commission on Human Rights calling for the National Convention to be placed on a solid democratic foundation have been disregarded by the Government. The National League for Democracy (NLD) and ethnic parties have not been effectively and meaningfully associated with the National Convention. The drafting process of the Constitution has been marked by a lack of transparency.

24. In that regard, the Special Rapporteur takes note of the resolution adopted by consensus on 18 October 2006 at the 179th session of the Inter-Parliamentary Union Governing Council convened in Geneva, which stated: "the National Convention, in its present form, is designed to prolong and legitimize military rule against the will of the people as expressed in the 1990 elections, and that any transition towards democracy will fail so long as it is not genuinely free, transparent and reflective of the people's will, and preceded by the unconditional release of all political prisoners and the lifting of all restrictions on human rights and political activity".

25. Persecution and harassment of members of NLD continue. On 16 December 2006, the number of political prisoners was estimated to be 1,201, a figure that does not include prisoners reportedly detained in ethnic areas and secret jails. The Special Rapporteur took note with satisfaction of the decision by the Government of Myanmar on 3 January 2007 to grant amnesty to 2,831 prisoners and, further, of the release of more than 40 political prisoners the same month, including the 5 “88 generation” student leaders (Min Kop Naing, Ko Ko Gyi, Pyone Cho, Min Zeya and Htay Kywe) who were arbitrarily arrested last September. On 10 January 2007, the Special Rapporteur requested the Government to provide a detailed list of prisoners who had been released following this announcement.

26. The house arrest of NLD Secretary-General Aung Sang Suu Kyi was further prolonged by 12 months on 27 May 2006 in spite of various appeals. The terms of detention of other prominent NLD leaders, including Tin Oo, Than Nyein and May Win Myint, were also extended. Several leaders of ethnic political parties, including the Chairperson of the Shan State NLD, have been detained and given extraordinarily severe prison terms of 100 years or more. A report, “Eight Seconds of Silence”, released in May 2006 by the Assistance Association of Political Prisoners documents allegations of the deaths of 127 democracy advocates and human rights defenders since 1988 while in detention or shortly after their release.

27. While NLD members in Myanmar had been subjected to serious harassment, the Union Solidarity and Development Association (USDA), established by the State Peace and Development Council (SPDC) in 1993, recently announced its intention to become a political party and field candidates in the next election. The Special Rapporteur believes this development to be a matter of grave concern. Over the years, the Special Rapporteur has received various allegations of involvement by USDA in acts of political and criminal violence. There is a perception among many observers that USDA may be used to legitimize a transition from a military regime to a civilian Government which could be not genuine. These allegations also seriously question the political will of the Government to work towards a legitimate democratization process in Myanmar.

28. In spite of the severe restrictions imposed on communities and their representatives, the Special Rapporteur has noted with great appreciation the strong democratic aspirations among various groups who continue to struggle to exercise their fundamental freedoms. For example, last December, the “88 generation” student group initiated a new campaign to urge the people of Myanmar to speak up about the political and social problems facing the nation. The campaign, called “Open Heart”, is scheduled to run from 4 January to 4 February and will call on all citizens of Myanmar to write to their government leaders urging reform in politics, the economy and social affairs.

29. Some countries of the region have reacted to the current state of the political process and human rights situation in Myanmar. Unprecedented pressure from ASEAN compelled Myanmar to decline its first opportunity to chair ASEAN in 2006. When the ASEAN envoy was finally authorized to visit the country in March 2006, he interrupted his mission when the Government refused to allow him to meet with Aung San Suu Kyi. Several ASEAN members afterwards issued very critical public statements highlighting the significant absence of progress in terms of democracy and human rights.

30. In May and November 2006, the United Nations Under-Secretary-General for Political Affairs, Mr. Ibrahim Gambari, visited Myanmar as an emissary of the Secretary-General within the context of the “good offices” mission entrusted to him by the General Assembly and at the invitation of the Government. Democratization and human rights were part of the terms of reference of his mission. He briefed the Secretary-General and the Security Council three times on the outcome of his two visits, which were seen as a positive step for the resumption of a dialogue with Myanmar. The Special Rapporteur commends the important work of the Under-Secretary-General within the framework of the Secretary-General’s “good offices” mission.

31. In early September, the United States formally requested the Security Council to put Myanmar on its agenda. On 15 September, the Council voted, by 10 votes in favour, 4 against and 1 abstention, to do so. The Special Rapporteur viewed this decision as a step that may allow Security Council members, individually or collectively, to formally discuss the issue of Myanmar and to request regular reports on the situation in the country from the United Nations Secretariat, including from OHCHR.

32. On 12 January 2007 a draft resolution on the situation of human and political rights in Myanmar (S/2007/14) was tabled by the United States of America and the United Kingdom of Great Britain and Northern Ireland.

33. The Special Rapporteur hopes that the debate on Myanmar in the Security Council will provide an opportunity to facilitate the transition process towards democracy. It can contribute to finding ways to promote convergence among the different approaches of the members of the Council towards the country, building an effective and authentic partnership with the countries of the region, tackling protection issues while improving the level of humanitarian action, including humanitarian access, and ensuring the realization of economic, social and cultural rights.

34. The Special Rapporteur takes note that at its 297th session, held in November 2006, the Governing Body of the International Labour Organization (ILO), as a result of the lack of political commitment by the Government of Myanmar to comply with its international obligations, stated in its Conclusions that “the Myanmar authorities should, as a matter of utmost urgency and in good faith, conclude with the [International Labour Office] an agreement on a mechanism to deal with complaints of forced labour”. In addition, the Governing Body said that a specific item would be placed on the agenda of its March 2007 session to enable it to move on legal options, which would include requesting an advisory opinion from the International Court of Justice. The Special Rapporteur would like to commend this decision as an important step towards fighting the culture of impunity in Myanmar.

35. In November 2006 the Special Rapporteur welcomed some progress in the area of forced labour. He noted that three cases concerning people who had been arrested after filing complaints of forced labour practices were recently resolved by the Government in collaboration with ILO. He also welcomed as a positive development the six-month moratorium declared by the Government on prosecuting people who lodge complaints of forced labour. The Special Rapporteur was informed by representatives of Myanmar that further negotiations with ILO were in progress with a view to establishing a mechanism in the area of forced labour and that a new ILO mission was being considered for the near future.

B. Systematic human rights violations and impunity

36. In his last report to the General Assembly, the Special Rapporteur noted that “the culture of impunity remains the main obstacle to the efforts in view to safeguarding and securing respect for human rights in Myanmar and creating a favourable environment for their realization” (A/61/369, para. 27).

37. During the course of his mandate, the Special Rapporteur has received reports of widespread and systematic human rights violations, including summary executions, torture, forced labour practices, sexual violence and recruitment of child soldiers. These violations have not been investigated and their authors have not been prosecuted. Victims have not been in a position to assert their rights and receive a fair and effective remedy.

38. The Special Rapporteur regrets that in the discussions in the Commission on Human Rights and in the General Assembly the Myanmar authorities have preferred to deny the allegations and to denounce the accuracy of the Special Rapporteur’s findings. As the Government has not invited the Special Rapporteur to visit Myanmar, he cannot be blamed for not having been able to verify the accuracy of these allegations.

39. As the Special Rapporteur noted: “The mob attack targeting Aung San Suu Kyi in November 1996 and the brutal Depayin massacre in May 2003 are striking examples of the culture of impunity prevailing in the country. In spite of several appeals, including by the Special Rapporteur, the Government of Myanmar did not investigate these cases and have not brought those responsible to justice” (ibid., para. 28).

40. Under international law, Myanmar has an obligation to thoroughly investigate grave violations of human rights, to prosecute those responsible for their perpetration and, if their guilt is established, to punish them. This means that those responsible for human rights violations must stand trial and that victims must obtain reparations.

41. Another noteworthy illustration of the consistent and continuing pattern of impunity is the high number of allegations of sexual violence against women and girls committed by members of the military that have been regularly documented since 2002. In 2006, the Special Rapporteur received information about 30 cases of rape of Chin women. In late November 2006, he received additional reports of abuses by the military, including sexual abuses, and their impact in Kayin State. As noted by the Special Rapporteur: “This trend of sexual violence is particularly alarming, bearing in mind that the figures provided are likely to be far lower than the reality as many women do not report incidents of sexual violence because of the trauma attached to it. Moreover, some reports may also not have reached the Special Rapporteur, as information on human rights abuses in these areas is mainly collected from refugees arriving at the Thai-Myanmar border” (ibid., para. 30). The Special Rapporteur is not aware of any initiatives by the Government of Myanmar to look into these serious human rights abuses with a view to identifying the perpetrators and bringing them to justice. The failure to investigate, prosecute and punish those responsible for rape and sexual violence has contributed to an environment conducive to the perpetuation of violence against women and girls in Myanmar. As the Government has denied the Special Rapporteur access to Myanmar, he was not in a position to verify these allegations.

42. Cases of forced labour represent another manifestation of the culture of impunity. The Government of Myanmar has acceded to the ILO Forced Labour Convention, 1930 (No. 29) and in 2000 it issued an order outlawing the practice. However, there have been serious shortcomings when it comes to effective implementation.

43. Following a damning 1998 report on forced labour in Myanmar by an ILO Commission of Inquiry, a process of dialogue commenced between ILO and the Myanmar authorities in 2000 on ways to address the problem. This led to a visit by a high-level team to the country in 2001 to provide a detailed assessment of recent developments on the ground and of the obstacles to the elimination of forced labour - the first time such an assessment was able to be carried out on the territory of Myanmar (the Commission of Inquiry having been denied access to the country). Two key recommendations of the team were the establishment of a permanent ILO presence in the country and the development of a mechanism for credibly and effectively dealing with complaints from victims of forced labour. In 2002 the Myanmar authorities agreed to the appointment of an ILO liaison officer in Yangon. Discussions then began on a concrete plan of action to address forced labour, including the establishment of a complaint mechanism for victims. Although negotiations initially made reasonable progress, there were a number of obstacles which prevented the plan of action from being implemented, including death sentences pronounced against three people for alleged contacts with ILO (all were eventually released). Following the removal from office of then Prime Minister Khin Nyunt together with a number of key ministers, with whom the plan of action had been negotiated, the Myanmar authorities indicated that they would no longer consider the plan. Despite intensive negotiations since that time, the Myanmar authorities have demonstrated little concrete cooperation with ILO, and have not so far agreed to any alternative formulations. This has led ILO to resort increasingly to other measures to try to secure Myanmar's compliance with its obligations, including calls for ILO members to review their relations with Myanmar, as well as various international legal measures.

44. As regards developments in the practice of forced labour, the assessment of the high-level team and subsequent evaluations by the ILO liaison officer have been that there has been only a very moderate positive evolution in the situation since the Commission of Inquiry. The main significant development has been that the authorities are apparently no longer requisitioning labour for major national infrastructure projects. However, forced labour continues to be widely imposed by local authorities for smaller-scale infrastructure work. The situation remains most serious in border areas, where there is ongoing insecurity and a large Army presence. In these areas, the Army continues to impose forced labour on a widespread and systematic basis for a range of military and infrastructure-related purposes, including the use of civilians as porters for the Army during patrols and military operations. In addition to the very dangerous and arduous nature of the tasks, forced labour imposed by the Army is routinely accompanied by other forms of serious human rights abuse. Major obstacles to the elimination of forced labour include the apparent lack of political will to seriously address the problem or to develop acceptable alternatives, and the continued impunity for the government officials and Army officers responsible.

45. In 2005 the Government announced a policy of prosecuting people who lodged what it considered to be "false complaints" of forced labour, leading to a situation where it is the victims rather than the perpetrators who are punished. The State-controlled press has also published articles attacking the ILO. The effect of this has been to strengthen the impunity enjoyed by those government officials who continue to impose forced labour.

46. The recruitment of child soldiers is another human rights abuse committed within the culture of impunity. The Special Rapporteur has received various reports of the Army continuing to recruit child soldiers at an alarming rate. These reports allege that child recruitment continues even after the Government created a high-level committee that promised to address the problem. The Committee for Prevention of Military Recruitment of Under-Age Children was formed in January 2004 after the Secretary-General reported to the Security Council that Myanmar was violating international law prohibiting the recruitment and use of children as soldiers. The report of the Secretary-General on children and armed conflict confirms this development. It says that “there are reliable reports of continued forcible recruitment and training of children for the Government armed forces (Tatmadaw Kyi) and non-State armed groups. However, owing to access limitations, the United Nations country team has not been able to systematically verify these allegations”. (A/61/529-S/2006/826, para. 57).

47. As noted by the Special Rapporteur in his previous reports, the serious human rights violations described above have been widespread and systematic over the last decade, suggesting that they are not simply isolated acts of individual misconduct of middle- or low-ranking officers, but rather the result of a system under which individuals and groups have been allowed to breach the law and violate human rights without being called to account.

48. The Special Rapporteur also believes that impunity is one of the main underlying causes of the degrading economic and social conditions of rural farmers, who represent the majority of the population of Myanmar. The militarization of rural areas has created a vicious circle of impoverishment of villagers. The military rely on local labour and other resources as the result of the incapacity of the Government to deliver any form of support for their activities (the self-reliance policy). The Special Rapporteur has received many allegations of villagers being severely punished outside the framework of the law because they refused to perform forced labour and of the unlawful appropriation of their land, livestock, harvest and other property. While Myanmar has increased the number of its battalions nationwide since 1988, the implementation of self-reliance policies by the local military during the past decade has contributed to undermining the rule of law and damaging the livelihoods of local communities.

49. Grave human rights violations meet with impunity and are even authorized by law. In that respect, the Special Rapporteur is seriously concerned at the continued misuse of the legal system, which denies the rule of law and represents a major obstacle to securing the effective and meaningful exercise of fundamental freedoms. The Special Rapporteur regrets to observe that the lack of independence of the judiciary has provided a “legal” basis for abuses of power, arbitrary decision-making and exonerating those responsible for serious human rights violations. The Special Rapporteur has also repeatedly expressed concern to the Government of Myanmar about the abuse of due process in political trials and the denial of basic rights in detention. For the last six years, the Special Rapporteur has received numerous reports concerning arbitrary arrests without warrants, incommunicado detention, torture or ill-treatment in pretrial detention, deaths in custody and very poor conditions of detention without access to adequate food and medical treatment. He has also received reports of defendants who have been denied the right to legal counsel and reports of political trials often being held in camera.

50. The Special Rapporteur considers the criminalization of the exercise of fundamental freedoms by political opponents, human rights defenders and victims of human rights abuses to be a matter of especially grave concern.

51. The authorities have continued to impose severe restrictions on freedom of movement, freedom of expression, freedom of association and freedom of assembly. The Special Rapporteur has received several reports alleging the Government's involvement in crackdowns on several initiatives by people to organize themselves even for non-political purposes, such as fighting HIV/AIDS.

52. The Special Rapporteur has also received reports of allegations concerning the prosecution of individuals who have communicated information that should belong in the public domain to organizations and individuals inside and outside the country.

53. The Special Rapporteur is also very much concerned about the strict restrictions on freedom of movement that prevail in general in the country, and in particular about those imposed on specific groups, such as the Muslim minority.

C. Military operations in ethnic areas

54. Since 1948, millions of people have been uprooted and thousands have died every year, mostly from preventable diseases, in the country's conflict areas. The situation has become critical. The Army has approximately doubled the number of battalions deployed across eastern Myanmar since 1995. The attacks on villages in ethnic areas have led to extensive forced displacements. This is true for Kayin State but also other ethnic states in eastern Myanmar (Mon, Shan and Kaya) and in northern Rakhine State. Reliable and independent sources estimate that between 1996 and 2006, 3,077 separate incidents of destruction, relocation or abandonment of villages have been documented in eastern Myanmar. Over a million people are understood to have been displaced from their homes during this time. As of November 2006, the total number of internally displaced persons (IDPs) who have been forced or obliged to leave their homes and have not been able to return or resettle and reintegrate into society is estimated to be at least 500,000. The Government does not recognize the existence of IDPs within its borders and severely restricts access to them by United Nations agencies and other humanitarian actors.

55. Widespread violence continued to spiral upwards during the last year in mountain areas outside of military control in the Toungoo, Nyaunglebin and Papun Districts of Kayin State and in eastern Bago Division. For many independent and reliable observers, this is the worst humanitarian situation since the 1996-1997 military campaign.

56. Among the most appalling features of the military campaign in ethnic areas is the disproportionate effect on civilian populations. In addition to the heightened risks posed by the widespread availability of small arms and light weapons and anti-personnel mines, the killing, terrorizing or displacement of civilians is often part of a deliberate strategy to separate ethnic armed groups from their civilian populations. It has been considered by various observers to be a concerted policy aimed at denying people their livelihoods and food or forcing them to risk their lives when they attempt to return to their villages after having been forcibly evicted.

57. The Special Rapporteur has received reports from reliable and independent sources alleging that the militarization of refugee camps at the border has put the safety of civilians at

risk. In that regard, the Special Rapporteur would like to welcome the opening of legal assistance centres for promoting legal awareness and providing legal services to refugees in camps along the Thai-Myanmar border.

58. Violence against unarmed civilians by the Myanmar military is a very serious concern. The Government of Myanmar has a positive obligation under international humanitarian law to protect civilians from the effects of armed conflict and, therefore, needs to take the appropriate measures to end the targeting of civilians during military operations.

59. In western Myanmar, the Muslim minority has long been discriminated against, and is denied citizenship under the 1982 Citizenship Law. Muslim minority asylum-seekers continue to flee to Bangladesh. They are subject to serious abuses, especially forced labour (e.g. construction of roads, bridges, model villages and military facilities, camp maintenance, portering) and arbitrary taxation. They also suffer skyrocketing rice prices. Since January 2006, the government-imposed policy of cultivating physic nut plantations is causing new hardships, including forced labour, extortion and land confiscation. New developments have been observed in recent months, including increased restrictions on movement as it became very difficult to obtain a travel pass after the new village-level administration was put in place, and the closing of a number of mosques which had been repaired or enlarged without permission. The Special Rapporteur praises the international humanitarian organizations and their expatriate staff in northern Rakhine State who have been very helpful in protecting the Muslim minority from the Myanmar military and border security forces.

D. Land confiscation

60. Access to and control over land and natural resources has long been central to the political economy of Myanmar. In many ethnic minority-populated areas, repeated incidents of forced displacement - interspersed with occasional periods of relative stability - have been a fact of life for generations. Some 75 per cent of the population is engaged in agriculture (including fisheries, forestry and livestock), which accounts for 40 per cent of the gross domestic product. Land and natural resource issues therefore lie at the heart of livelihoods in Myanmar.

61. A large-scale and effectively arbitrary land confiscation policy prevails throughout the country. These confiscations appear to have several aims, including relocating civilian populations deemed to be sympathetic to the armed opposition; anchoring a military presence in disputed areas through the deployment or support of new Army battalions; opening the way for infrastructure development projects, including the Lawpita dam, the three proposed Salween dams and the Day Loh dam in Toungoo District; the extraction of natural resources, notably offshore gas; and providing various interest groups, including the military and foreign groups, with business opportunities, e.g. economic concessions, including for logging and mining. This policy has led to numerous forced evictions, relocations and resettlements, especially in rural areas but also in urban areas, most notably in connection with the move of the capital from Yangon to Pyinmana.

62. The Land Nationalization Act of 26 October 1953 confers land ownership on the State. Legal practice in Myanmar today generally refers to this Law, which recognizes some private ownership of agricultural land, although it restricts land sales or transfers. However, the Law

allows the State to confiscate land that is left fallow. The current legislation on land offers little protection to farmers. In addition, victims of land confiscations are not likely to lodge complaints because of fear of reprisals and lack of confidence in the judiciary.

63. The Special Rapporteur is not aware of any specific provisions of the draft Constitution which would provide for secure land and housing rights of citizens, protect the rights to fair and just compensation as a result of legal or illegal land or property expropriation, or guarantee traditional practices of ethnic minorities in relation to land and natural resource management, such as collective property rights and swidden agriculture (an important element of sustainable livelihood strategies).

64. The Special Rapporteur views the ongoing large-scale confiscation of land as a matter of grave concern that will continue to impact dramatically on the political and economic stability of the country if it is not addressed. The Special Rapporteur notes the increasing recognition among human rights, humanitarian and development groups of the need to document issues related to land and natural resource management in Myanmar.

65. The Special Rapporteur believes there is a need to recognize that Myanmar's ethnic nationalities enjoy a special relationship with the land. The issue of housing, land and property rights in Myanmar is inextricably linked to the struggle for justice and democracy in the country. For ethnic minorities, this includes the right to reside on their ancestral land and to participate in decisions regarding its use.

66. Protection from land confiscation depends on settlement of the conflicts which have wracked the country for more than half a century. Unfortunately, efforts at conflict resolution have thus far met with only very limited success. Nevertheless, some inspiring projects have been implemented by civil society groups in Myanmar. These examples show that it is not necessary to wait for fundamental democratic reform before addressing the issue of land confiscation and paving the way to transitional justice.

E. Humanitarian situation

67. According to numerous and consistent reports, there have been marked signs of deterioration in the economic and social sectors, which could aggravate the humanitarian situation. Even if the International Monetary Fund estimates that the Myanmar economy has grown 7 per cent in 2006, owing largely to rising revenues from exports of offshore gas fields, the hardships that the population have to face continue to be very serious. There is a need to address, adequately and urgently, the needs of the population.

68. Myanmar's ranking in the 2005 United Nations Development Programme (UNDP) Human Development Index was 129 out of 159 countries. Maternal mortality in Myanmar is among the highest in South-East Asia, and only 40 per cent of children complete five years of primary education (considerably fewer in conflict-affected border areas). Rates of HIV/AIDS and tuberculosis infection remain amongst the highest in Asia. Malaria is the leading cause of morbidity and mortality, and most commonly affects the poor and other groups at risk. The potential threat of a pandemic of H5N1 avian influenza remains of serious concern following the March/April 2006 outbreak, although there have been no human cases of H5N1 thus far in Myanmar.

69. Since 2005, new restrictions have been placed on actors in the humanitarian field. These restrictions, in the context of the complicated environment and pressure from outside lobbyists, have been used as a pretext for the withdrawal of the Global Fund to Fight AIDS, Tuberculosis and Malaria, which has been deeply deplored by the Special Rapporteur and the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The withdrawal of Médecins Sans Frontières (France) at the end of 2005, owing to access restrictions, has further complicated the humanitarian situation.

70. The Government of Myanmar in late November ordered the International Committee of the Red Cross (ICRC) to close its five field offices in the country. While the Government is reconsidering its decision to close the offices, ICRC is still not in a position to operate according to its standard modalities.

71. The restrictive guidelines for United Nations agencies and international organizations announced by the Government in February 2006 added to the current difficulty for humanitarian workers seeking access to project areas and to operate independently, in accordance with internationally accepted standards. Although the Special Rapporteur recently received information about some positive signs of progress, there is still an urgent need for the Government of Myanmar to demonstrate some flexibility. In that regard, the Special Rapporteur encourages the Government to ensure that humanitarian agencies can operate in a mutually agreeable environment, in accordance with the guiding principles provided by the United Nations Country Team on 7 March 2006.

72. The Special Rapporteur welcomes the launching of the Three-Disease Fund,¹ which will provide funding roughly equivalent to that of the Global Fund that should soon start flowing to implementing agencies. This shows that donors still have an important commitment to humanitarian aid in Myanmar. The Special Rapporteur encourages the provision of humanitarian assistance to Myanmar. He also believes that there must be transparency and accountability in the monitoring of the provision of humanitarian assistance to ensure that it is not misused for personal and individual gains. In addition, Myanmar nationals employed by agencies working in the country must be afforded protection from any form of threats and intimidation for their work on humanitarian assistance and development programmes.

73. The Special Rapporteur welcomed the recent appointment of the Resident Coordinator as Humanitarian Coordinator. He believes that the formal engagement of the humanitarian sector of the United Nations Secretariat will provide stronger essential support in ensuring the integrity and independence of ongoing efforts.

¹ See “Myanmar plans to launch substitute fund to fight TB, Malaria, HIV/AIDS after global fund grants suspended”, June 2006, at <http://www.medicalnewstoday.com>.

F. Myanmar's international human rights and humanitarian obligations

74. The Government of Myanmar has an obligation to cooperate for the advancement of human rights under the Charter of the United Nations, which provides for the promotion of “universal respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.

75. Myanmar is party to the four Geneva Conventions of 1949, the Convention on the Prevention and Punishment of the Crime of Genocide, the Slavery Convention, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the United Nations Convention against Transnational Organized Crime and the Convention Concerning the Protection of the World Cultural and Natural Heritage. It has not signed the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and the United Nations Convention against Corruption.

76. Myanmar submitted its initial report to the Committee on the Elimination of Discrimination against Women (CEDAW) in 1999, but its second periodic report has been overdue since August 2002. The Special Rapporteur believes that the Government of Myanmar would benefit from a dialogue with CEDAW in view of the widespread sexual violence against women and girls that prevails in the country. The initial and second periodic reports under the Convention on the Rights of the Child were submitted to the Committee on the Rights of the Child (CRC) and its next report, the combined third and fourth periodic report, is due in August 2008. The Special Rapporteur believes that this represents an opportunity for the Government of Myanmar, working with civil society, the United Nations system and CRC, to engage in a discussion on sexual violence against girls and on the recruitment of child soldiers with a view to submitting its report in the best possible conditions.

77. CEDAW and CRC have examined Myanmar's reports and issued recommendations and concluding observations providing guidance to the Government on how to fulfil its international human rights obligations. The Special Rapporteur would like to reiterate that recommendations made by treaty bodies for protecting and promoting human rights in Myanmar represent an important tool for policymakers and development practitioners. It is therefore important for the Government of Myanmar and its partners to follow up on these recommendations. They will help to measure political will, obstacles encountered and progress made, to identify new trends, and to complement the efforts made by the Government towards the protection and promotion of human rights.

78. Myanmar also acceded to a number of ILO conventions, including, as noted above, the Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), which are of particular importance from a human rights perspective. In June 2006, the ILO Committee of Experts on the Application of Conventions and Recommendations observed that the Government of Myanmar had been strongly criticized by various ILO bodies regarding the implementation of Convention No. 29.

The major focus of the criticisms related to the outcome of the 1997 Commission of Inquiry appointed by the Governing Body of ILO, which concluded that the Convention had been violated in national law and in practice “in a widespread and systematic manner”. The report of the Committee of Experts refers to material that purported to be from nearly every state and division of the country on several hundred cases of forced labour, including forced portering, repair and maintenance of army camps and villages for displaced people, cultivation of paddy and other fields, road construction, clearing of jungle areas, “human minesweeping”, patrolling and sentry duty.¹ The Special Rapporteur believes that the implementation by Myanmar of the important conclusions of the Committee published last June would help to prevent forced labour to a significant extent, as they identified practical steps that are required to put an end to these abuses.

V. CONCLUDING REMARKS

79. The human rights concerns enumerated in the present report are largely the same as those highlighted by the Special Rapporteur in his reports since 2001. The Special Rapporteur deplors the fact that, despite early indications from the Government that it was willing to address these problems when the Special Rapporteur first took up his mandate six years ago, this willingness has disappeared.

80. The current administration has not yet demonstrated any willingness to concede any space for a political opening of the kind that occurred during similar transitions in several countries in Asia, nor for the promised move towards democratization. Any voice questioning existing policies and practices has been harshly suppressed. Moreover, most individuals and groups responsible for committing serious violations, in particular members of the State apparatus, are not being arrested or prosecuted. Impunity has also impaired progress in the social and economic development of Myanmar for the benefit of the majority of the people.

81. Recommendations formulated by the General Assembly, the Commission on Human Rights, the Secretary-General of the United Nations and his former Special Envoy, as well as those advocated by the Special Rapporteur and relevant human rights treaty bodies, have not been implemented.

82. From the outset of his work on Myanmar, the Special Rapporteur has made a point of visiting and reporting regularly on the plight of political prisoners. Nothing is more revealing about the situation of human rights in a country than the existence of political prisoners. Moreover, the manner in which such persons are treated is a reflection of how a Government regards its own people. At least 1,201 citizens of Myanmar are behind bars without access to the guarantees of due process for the exercise of their political rights.

83. The Special Rapporteur has constantly repeated, to no avail, to the Government of Myanmar and its partners that Daw Aung San Su Kyi’s house arrest and her lack of access to NLD colleagues run counter to the spirit of national reconciliation. The release of the other

¹ Report of the ILO Committee of Experts on the Application of Conventions and Recommendations: Individual Observation concerning Convention No. 29, Forced Labour, 1930, Myanmar, June 2006, para. 6.

1,200 political prisoners and intellectuals, such as Win Tin, the 76-year-old poet and journalist who has been in prison since 4 July 1989, would also become assets for a meaningful political transition. As Nelson Mandela so eloquently said, “Only free men can negotiate; prisoners cannot enter into contracts. Your freedom and mine cannot be separated.”

84. The Special Rapporteur takes note with great satisfaction of the recent release of political prisoners, including the five “88 generation” student leaders arrested last September. He expresses the hope that other prominent political prisoners will benefit from the amnesty granted in early January 2007.

85. After six years serving this mandate, the Special Rapporteur believes it is important for Member States to support effective initiatives to deal with common concerns of society in Myanmar and in the region. Joint initiatives on issues of common concern such as the environment, economic growth and development, educational modernization, medical research and engineering and technology which could prove to be paths to progress should be explored. All these initiatives must have as their goals to encourage an effective democratic transition and to promote the improvement of the standards of living and the protection of human rights of the people of Myanmar.

86. The Special Rapporteur would like to conclude by reaffirming what he said to the Human Rights Council in September: humanitarian assistance cannot be made hostage to politics. Any decision on humanitarian assistance must be guided solely by the best interests of children, women, people living with disabilities, those affected by diseases and minority groups. It would be a terrible mistake to wait for the political normalization of Myanmar to help the population and to empower communities and their representatives.

VI. RECOMMENDATIONS

87. **The Special Rapporteur’s recommendations made in earlier sections of the present report, as well as in his previous reports, remain valid in view of the prevailing situation in Myanmar. For the last time, the Special Rapporteur would like:**

(a) To appeal to the Government of Myanmar to free all political prisoners and put an end to harassment and persecution of NLD members and representatives of ethnic groups;

(b) To encourage the Government of Myanmar to resume, without further delay, dialogue with all political actors, including NLD and representatives of ethnic groups, to complete the drafting of the Constitution;

(c) To recommend that, given the magnitude of human rights abuses, the Government of Myanmar subject all officials who commit these acts to strict disciplinary control and punishment and put an end to the culture of impunity that prevails throughout the country;

(d) To call upon the Government of Myanmar to put an end to the criminalization of the peaceful exercise of fundamental freedoms by human rights defenders, victims of human rights abuses and their representatives;

(e) To encourage the Government of Myanmar to seek international technical assistance with a view to establishing an independent and impartial judiciary that is consistent with international standards and principles;

(f) To urge the Government of Myanmar to take steps to improve conditions of detention;

(g) To urge the United Nations and the international community to respond to the situation of armed conflict in eastern Myanmar, where civilians are being targeted and where humanitarian assistance to civilians is being deliberately obstructed;

(h) To call on the Government of Myanmar to authorize access to the affected areas by the United Nations and associated personnel, as well as personnel of humanitarian organizations, and guarantee their safety, security and freedom of movement;

(i) To encourage the Government of Myanmar to ensure a mutually agreeable operating environment for humanitarian agencies in accordance with the guiding principles provided by the United Nations Country Team on 7 March 2006;

(j) To call on the Government of Myanmar to end illegal land confiscation in Myanmar and to urge the Government to ensure that land use and ownership issues are addressed in the Constitution;

(k) To call upon the Government of Myanmar to respect its obligation under international humanitarian law to protect civilians from armed conflicts;

(l) To urge the Government of Myanmar to implement ILO recommendations with a view to implementing practical measures to end forced labour;

(m) To encourage the Government of Myanmar to put an end to the recruitment of child soldiers;

(n) To encourage the Government of Myanmar to take steps to finalize its second periodic report to the Committee on the Elimination of Discrimination against Women that was due on 21 August 2002, and to work with civil society, the United Nations system and the Committee on the Rights of Child for the submission of its third and fourth periodic reports under the Convention on the Rights of the Child;

(o) To further encourage the Government of Myanmar to follow up on the recommendations and concluding observations adopted by the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child; and

(p) To urge the Government of Myanmar to continue to collaborate with the Secretary-General to support the exercise of his “good offices” mission.



**OFFICE OF THE HIGH COMMISSIONER FOR
HUMAN RIGHTS**



Situation of human rights in Myanmar

Human Rights Resolution 2005/10

The Commission on Human Rights,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenants on Human Rights and other human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in the field,

Aware that Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the Geneva Conventions, of 12 August 1949, on the protection of victims of war, as well as the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) and the Convention concerning Freedom of Association and Protection of the Right to Organize, 1948 (No. 87) of the International Labour Organization,

Recalling its previous resolutions on the subject, the most recent of which is resolution 2004/61 of 21 April 2004, and those of the General Assembly, the most recent of which is resolution 59/263 of 23 December 2004,

Bearing in mind Security Council resolution 1325 (2000) of 31 October 2000 on women, peace and security, 1265 (1999) of 17 September 1999 and 1296 (2000) of 19 April 2000 on the protection of civilians in armed conflict and 1539 (2004) of 22 April 2004 on children in armed conflict,

Bearing in mind the report of the Secretary-General on children and armed conflict (A/59/695-S/2005/72),

Recalling resolution I adopted by the International Labour Organization at its eighty-eighth session, on 14 June 2000, concerning the practice of forced or compulsory labour in Myanmar,

Affirming that the will of the people is the basis of the authority of government and that the will of the people of Myanmar was clearly expressed in the elections held in 1990,

Affirming also that the establishment of a genuine democratic government in Myanmar is essential for the realization of all human rights and fundamental freedoms,

Recognizing that good governance, democracy, the rule of law and respect for human rights are essential to achieve sustainable development and economic growth, and that good governance includes the idea of transparent, responsible, accountable and participatory government at all levels,

Taking note of the reconvening of the National Convention on 17 February 2005, without the participation of the democratic opposition, and the suspension of the Convention on 31 March, while recognizing that the Government of Myanmar has announced that it would reconvene at the end of 2005,

1. *Welcomes:*

(a) The reports of both the Special Rapporteur on the situation of human rights in Myanmar (E/CN.4/2005/36) and of the Secretary-General (A/59/269 and E/CN.4/2004/30);

(b) The personal engagement and statements of the Secretary-General with regard to the situation of Myanmar;

(c) The efforts by the Government of Myanmar to release prisoners, and takes note of the recent release of some 19,906 prisoners, while noting that only 110 of them were political prisoners, as indicated by the Special Rapporteur in his statement to the Commission on 29 March 2005;

(d) The establishment by the Government of a committee for the prevention of military recruitment of under-age soldiers and the adoption in November 2004 of an outline plan of action to address the issues of under-age recruitment and child soldiers;

(e) The ratification by Myanmar of the United Nations Convention against Transnational Organized Crime and two of its Protocols, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention on 30 March 2004;

(f) The negotiations to conclude a ceasefire agreement between the Government of Myanmar and the Karen National Union, while noting that there have been a limited number of contacts since October 2004;

(g) The continued cooperation of Myanmar with the International Committee of the Red Cross;

(h) The access to the eastern part of Myanmar by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees;

2. *Takes note* of the efforts of the Government of Myanmar to meet the HIV/AIDS challenge, and calls upon it to enhance its efforts in this regard and to support the effective implementation of the Joint Plan of Action on HIV/AIDS in cooperation with the relevant international agencies;

3. *Expresses its grave concern at:*

(a) The ongoing systematic violation of human rights, including civil, political, economic, social and cultural rights, of the people of Myanmar, in particular discrimination and violations suffered by persons belonging to ethnic minorities, women and children, especially in non-ceasefire areas;

(b) The fact that the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar as well as the Special Envoy of the Secretary-General for Myanmar have been unable to visit the country for more than a year, despite repeated requests;

(c) The ongoing systematic and consistent harassment of members of the National League for Democracy and other opposition activists, in particular the events of May 2003, and the fact that no full and independent inquiry has been initiated despite repeated requests;

(d) The extension of the house arrest of National League for Democracy General Secretary Aung San Suu Kyi and her deputy, Tin Oo, for another year and the persistent denial of their human rights and fundamental freedoms, including freedom of movement and association, as well as the continued detention of other senior leaders of the National League for Democracy and of the leadership of other political parties or ethnic minorities, particularly the recent detention of Khun Htun Oo and Sao Nyunt Lwin, Chairman and General Secretary respectively of the Shan Nationalities League for Democracy, and Sao Hso Ten, Chairman of the Shan State Peace Council;

(e) The continuing restrictions placed on the National League for Democracy and other political parties which prevented them from participating in the recently reconvened National Convention;

(f) Extrajudicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces, continuing use of torture, renewed instances of political arrests and continuing imprisonment and other detentions, including of prisoners whose sentences have expired; prisoners held incommunicado while awaiting trial; forced relocation; destruction of livelihoods and confiscations of land by the armed forces; forced labour, including child labour; trafficking in persons; denial of freedom of assembly, association, expression and movement; discrimination and persecution on the basis of religious or ethnic background; wide disrespect for the rule of law and lack of independence of the judiciary; unsatisfactory conditions of detention; systematic use of child soldiers; and violations of the rights to education and to an adequate standard of living, including food and medical care;

(g) The situation of the large number of internally displaced persons and the flow of refugees to neighbouring countries, and recalls in this context the obligations of Myanmar under international law;

(h) The renewed attacks by military forces on ceasefire groups, in violation of ceasefire agreements, and the subsequent and continuing violations of human rights, in particular the deterioration of the enjoyment of human rights by the affected populations;

(i) The fact that the Government of Myanmar has not yet undertaken all the relevant measures to allow the Joint Government of the Union of Myanmar-International Labour Organization Plan of Action for the Elimination of Forced Labour Practices in Myanmar to come into force, and that the senior military leadership failed to meet the International Labour Organization very High-Level Team during their visit from 21 to 23 February 2005, despite its mandate to evaluate the attitude of the Myanmar authorities at the highest level towards forced labour;

4. *Calls upon* the Government of Myanmar:

(a) To end the systematic violations of human rights in Myanmar, to ensure full respect for all human rights and fundamental freedoms, to end impunity and to investigate and bring to justice any perpetrators of human rights violations, including members of the military and other Government agents in all circumstances;

(b) To lift all restraints on peaceful political activity of all persons, including former political prisoners, by, inter alia, guaranteeing freedom of association and freedom of expression, including freedom of the media, and to ensure unhindered access to information for the people of Myanmar;

(c) To restore democracy and respect the results of the 1990 elections by, inter alia, releasing immediately and unconditionally the leadership of the National League for Democracy, including General Secretary Aung San Suu Kyi and members of the National League for Democracy detained on or after 30 May 2003, as well as the recently arrested Shan leadership, and to allow them to play a full role in bringing about national reconciliation and the transition towards democracy, and in this regard draws attention to the recommendation of the Special Rapporteur that only the full and unconditional release of all political prisoners would play a positive role in the process of national reconciliation and democratization;

(d) To cease the ongoing harassment of the National League for Democracy and other political parties and allow the reopening of the offices of the National League for Democracy throughout the country;

(e) To initiate a full and independent inquiry, with international cooperation, into the Depayin incident of 30 May 2003, as called for by the General Assembly;

(f) To release unconditionally and immediately all political prisoners with particular emphasis on the elderly and the sick, and to desist from arresting and punishing persons for their peaceful political activities;

(g) To fulfil its obligations to restore the independence of the judiciary and due process of law, and to take further steps to reform the system of the administration of justice;

(h) To ensure that the National Convention is fully inclusive of all political parties and representatives elected in the last election and all major ethnic nationalities not represented by a political party, and is held in a democratic atmosphere that allows for freedom of expression and guarantees the safety of all participants, while recalling that an inclusive approach at the National Convention is an essential step in the democratization process, as well as in the process of genuine national reconciliation and establishment of the rule of law;

(i) To enter into a substantive and structured dialogue with Aung San Suu Kyi and other leaders of the National League for Democracy intended to lead towards democratization and national reconciliation and at an early stage to include other political leaders in these talks, including representatives of the ethnic groups;

(j) To consider as a matter of high priority becoming party to all relevant instruments of international human rights law and international humanitarian law;

(k) To establish a national human rights commission in accordance with the Principles relating to the establishment of national institutions for the promotion and protection of human rights (the Paris Principles);

(l) To ensure that any future referendum and elections are conducted according to international standards for free and fair elections with the full participation of all political parties;

5. *Also calls upon* the Government of Myanmar:

(a) To pursue through dialogue and peaceful means the immediate suspension and permanent end of conflict with all ethnic groups in Myanmar;

(b) To resume the negotiations to conclude a ceasefire agreement with the Karen National Union and to follow up the negotiations with substantial political dialogue in order to ensure that the rights of ethnic nationalities are fully respected;

(c) To put an immediate end to the recruitment and use of child soldiers and to extend full cooperation to relevant international organizations in order to ensure the demobilization of child soldiers, their return home and their rehabilitation in accordance with Security Council resolutions 1460 (2003) of 30 January 2003 and 1539 (2004) of 14 April 2004 by the Army, but stresses the need for full implementation of the plan and the need to maintain close dialogue with the United Nations Children's Fund, as well as to cooperate with the Special Representative of the Secretary-General on Children and Armed Conflict;

(d) To end widespread rape and other forms of sexual violence persistently carried out by members of the armed forces, in particular against women belonging to ethnic minorities, and to investigate and bring to justice any perpetrators in order to end impunity for these acts;

(e) To end the systematic enforced displacement of persons and other causes of refugee flows to neighbouring countries, to provide the necessary protection and assistance to internally displaced persons, in cooperation with the international community, and to respect the right of refugees to voluntary, safe and dignified return monitored by appropriate international agencies;

(f) To ensure immediately safe and unhindered access to all parts of Myanmar for the United Nations and international humanitarian organizations and to cooperate fully with all sectors of society, especially with the National League for Democracy and other relevant political, ethnic and community-based groups, to ensure the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population;

6. *Further calls upon* the Government of Myanmar:

(a) To cooperate fully with the Special Envoy of the Secretary-General for Myanmar and the Special Rapporteur in order to bring Myanmar towards a transition to civilian rule, and to ensure that they are both granted full, free and unimpeded access to Myanmar and that no person cooperating with the Special Envoy, the Special Rapporteur and any international organization is subjected to any form of intimidation, harassment or punishment, and to review as a matter of urgency the cases of those currently undergoing punishment in this regard;

(b) Without further delay to cooperate fully with the Special Rapporteur to facilitate an independent international investigation of continuing reports of sexual violence and other abuse of civilians carried out by members of the armed forces in Shan and other states;

(c) To take immediate action to implement fully concrete legislative, executive and administrative measures to eradicate the practice of forced labour by all organs of Government, including the armed forces, and to implement fully the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Convention concerning Forced or Compulsory Labour, 1930 (No. 29) of the International Labour Organization, and to take the action foreseen in the report of the very High-Level Team as presented to the Governing Body of the International Labour Office at its 292nd session in March 2005 in document GB.292/7/3, before the International Labour Conference of June 2005;

7. *Decides*:

(a) To extend the mandate of the Special Rapporteur, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year and requests the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session and to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work;

(b) To request the Secretary-General to continue to give all necessary assistance to the Special Rapporteur to enable him to discharge his mandate fully;

8. *Decides* to continue consideration of this question at its sixty-second session;

9. *Recommends* the following draft decision to the Economic and Social Council for adoption:

“The Economic and Social Council, taking note of Commission on Human Rights resolution 2005/10 of 14 April 2005, endorses the Commission’s decision to extend the mandate of the Special Rapporteur on the situation of human rights in

Myanmar, as contained in Commission resolution 1992/58 of 3 March 1992, for a further year, to request the Special Rapporteur to submit an interim report to the General Assembly at its sixtieth session, to report to the Commission at its sixty-second session and to integrate a gender perspective throughout his work.”

50th meeting

14 April 2005

[Adopted without a vote. See chap. IX, E/CN.4/2005/L.10/Add.9]

Burma News 12 March 2007

News Summary:

1. UN agency seeks solution for 6,000 Myanmar refugees facing eviction
2. Myanmar remains a thorn in the side of EU-Asean relations

UN agency seeks solution for 6,000 Myanmar refugees facing eviction

UN News Center - 8 March 2007

The United Nations refugee agency is working with the Bangladeshi government, donors and partners to find more permanent housing for some 6,000 Muslim refugees from Myanmar whose riverbed settlement is threatened by a crackdown on illegal structures.

"These people are of concern to us and we want to help them," UN High Commissioner for Refugees (UNHCR) country representative Pia Prytz Phiri said of the settlement, which perches perilously beside a busy road in Teknaf, 75 kilometres south of Cox's Bazar in south-east Bangladesh.

"It is hard to imagine human beings living in much more deplorable conditions than those in Teknaf. We understand why the government doesn't want them living there, but to move them without having prepared any solution in advance is not very humane," she added.

The refugees' homes are flimsy structures of bamboo, plastic sheets and flattened cement bags on muddy ground, where as many as 16 people crowd together in a room slightly larger than a garden shed. For fully half of each month, the refugees said, high tides flood nearly all shacks, bring disease, and some children have even drowned. Women spend much of their time repairing the mud foundations of the huts.

Ms. Phiri said a solution needed to be found but "what we don't want to do is to set up a formal camp." UNHCR agency already runs two official camps south of Cox's Bazar housing some 26,000 refugees and UNHCR sub-office head Jim Worrall suggested that the simplest step would be to allow the Teknaf refugees "just to go back to the villages where they were living peacefully with local people before 2004."

Myanmar remains a thorn in the side of EU-Asean relations

Borneo Bulletin - 12 March 2007

Nuremberg - When foreign ministers from the European Union and Southeast Asia gather in the German city of Nuremberg Wednesday, regional security will top the agenda.

The EU, after its successful job as a peacekeeper in Aceh, Indonesia, in 2005, is keen to play a bigger role in grappling with Asian security issues, such as North Korea and Myanmar.

"I think in many ways the Aceh mission could be considered by the region as an indication that we treasure the responsibility and are willing to give assistance as requested," said Friedrich Hamburger, head of the EU delegation to Bangkok.

But to show its seriousness in Asian security matters, the grouping must first join the Treaty of Amity and Cooperation, a loose framework set up by the Association of Southeast Asian Nations (Asean) that has already been signed by China, Japan, South Korea, India, Australia and New Zealand.

The EU, which has already expressed a desire to enter the treaty and is likely to make a declaration to that effect in Nuremberg.

There is not expected to be much political opposition within Asean to the entry, but there is a technical one.

The treaty was written with nation states in mind as members and will require an amendment to allow a grouping such as the EU to accede.

Getting a consensus on the amendment may take time, but the EU is hopeful that it will be pushed through in time for it to announce its membership by the next Asean Summit to be held in Singapore later this year.

A second item on the agenda is the possibility of talks on a free trade agreement between the two blocs.

The idea of launching an EU-Asean FTA has been mulled for several years, and has gathered momentum after the latest failed rounds of WTO talks, but there are obstacles, not the least of which is Myanmar's membership of Asean.

The junta-run state which has kept Nobel Peace Prize laureate Aung San Suu Kyi under house arrest for the past three and-a-half years.

It shows no sign of making way for a democratically-elected government and has become an increasing source of embarrassment for the other Asean members, who have in recent years become more critical of Myanmar's undemocratic ways.

Observers believe the EU would shy away from an FTA with Asean as long as Myanmar remains a member.

A more likely option will be that the EU will pursue FTAs with the different Asean members.

"This is a question that is widely debated, not only on our side but on the Asean side, and we don't have any clear outlook on this," Hamburger said.

Burma News 11 March 2007

News Summary:

1. HIV/AIDS services in Myanmar being pulled due to Government pressure
2. 300 Karen flee to Thailand after Myanmar offensive
3. Myanmar, Singapore and British Virgin Islands in oil deal

HIV/AIDS services in Myanmar being pulled due to Government pressure

News-Medical-Net - 08 March 2007

An increasing number of international organizations and health workers have stopped offering HIV/AIDS services in Myanmar because of pressure from the country's military government, the Washington Times reports.

The Global Fund To Fight AIDS, Tuberculosis and Malaria in 2005 suspended its grants to the country because restrictions from the government made it "nearly impossible" to provide services, the Times reports.

In addition, Medecins Sans Frontieres last year suspended programs in the states Karen and Mon.

The International Committee of the Red Cross in October 2006 was ordered by the junta to close its offices outside the capital, Yangon, after reporting widespread HIV cases among prison inmates.

The military in December 2006 indicated that ICRC might be permitted to reopen field offices but would not be allowed to visit prisons.

According to UNAIDS, access to HIV/AIDS treatment is the most dire in western Myanmar, and the group recently said that no one living with HIV/AIDS has received access to no-cost antiretroviral drugs from the government.

UNAIDS estimates that 620,000 people in Myanmar ages 15 to 49 are HIV-positive, and about 80% of HIV-positive people in the country do not know their status, according to the Times (Washington Times, 3/3).

300 Karen flee to Thailand after Myanmar offensive

Associated Press - 11 March 2007

Clashes between the Myanmar military and ethnic Karen rebels killed 14 people and forced at least 300 civilians to flee into neighboring Thailand, a rebel spokesman and a Thai military official said Saturday.

The Myanmar military and the pro-junta Democratic Karen Buddhist Army launched attacks Thursday against the Karen National Union, said David Thaw, a spokesman in Thailand for the KNU, the largest group representing the Karen.

Thaw said 10 Myanmar troops and four rebel soldiers were killed in the clashes. He said the military was "trying to pressure the KNU into returning to the negotiating table."

Col. Phanu Wacharopas, a Thai military commander in charge of border districts in Tak province, said 300 people had fled across the border into Thailand.

Phanu said most of the refugees were staying in a Buddhist monastery in Umphang district near the border. He said the fighting had stopped and the refugees would probably return home soon.

The Thailand Burma Border Consortium, the main aid agency caring for tens of thousands of refugees along the Thai-Myanmar frontier, estimates that in 2006 alone the violence forced 82,000 people to leave their homes.

Myanmar, Singapore and British Virgin Islands in oil deal

Reuters -

Sun 11 Mar, 2007 07:43

YANGON State-owned Myanmar Oil and Gas Enterprise (MOGE) signed a deal with Rimbunan Petronas of the British Virgin Islands and Singapore's UNOG to jointly explore and produce oil and gas at a new offshore block in Myanmar.

"MOGE and the two companies will explore, drill and produce oil and natural gas at M-1 block in Mottama offshore," the state-owned New Light of Myanmar newspaper reported on Sunday, without giving further details.

It was the second production sharing agreement between the two firms and MOGE this year after a February 6 deal on the 4,074 square mile A-5 Block off the Rakhine Coast.

The A-5 block was the last offshore block off the western gas rich Rakhine Coast, where a consortium led by Daewoo International struck the biggest gas deposits in A-1 and A-3.

The A-1 and A-3 offshore fields have proven reserves of 5.7 to 10 trillion cubic feet (tcf) with up to 8.6 tcf recoverable, according to U.S.-based international certification agency GCA.

Myanmar has at least 90 tcf of gas reserves and 3.2 billion barrels of recoverable crude oil reserves in 19 onshore and three major offshore oil and gas fields, official data showed.

Altogether 25 offshore blocks are now under exploration, of which 12 are located in the gulf of Mottama, six off the Tanintharyi coast and seven off the Rakhine coast.

In the year to March 2006, Myanmar produced 404,357.05 mcf of natural gas and 7.962 million barrels of crude oil. It exported 322,722.3 mcf of natural gas worth over \$1 billion (517.7 million pounds), mainly to neighbouring Thailand, official data showed.

In the first four months of the current fiscal year (April-July 2006), Myanmar exported 167,392.9 mcf of natural gas worth \$688.89 million to Thailand, compared with 132,746 mcf valued at \$422.26 million in the same period a year earlier.

Oil and gas companies from Australia, Britain, Canada, China, Indonesia, India, Malaysia, Russia, South Korea and Thailand have also reached agreements with the ruling regime on exploration of gas and oil in Myanmar.

Myanmar has attracted foreign direct investment of \$14.4 billion for 408 projects as of January, of which 79 projects worth \$2.94 billion were in the oil and gas sector, official data showed.

Burma News - 06 March 2007

News Summary:

1. Mekong countries - of dams and other domestic woes
2. Singapore Foreign Minister talks on ASEAN Charter and policy on Myanmar

Mekong countries - of dams and other domestic woes

SEAPSNet News - 6 May 2006

Excluding Thailand, the countries along the Mekong River are among the poorest in Southeast Asia (and the world).

Together with poverty comes with it other various non-traditional security issues that need to be highlighted.

In the past weeks, a global campaign has been launched to dissuade the Thai government from building new dams along the Salween River. The Electrical Generating Authority of Thailand (Egat) is planning to construct five dams along the Salween River. As part of the campaign, peaceful protests were held in front of the Thai embassy in 10 cities including Washington, New York, Paris, Sydney, Jakarta and Manila. A petition with more than 1,500 people from 232 domestic and international organizations has also been organized.

At least 83,000 villagers from Shan, Karenni and Karen states of Myanmar are likely to be affected by the construction of the dams. Many of these villagers live along the Salween River Basin in order to hide from the Myanmar government. If the dams are built, the displaced villagers are likely to flee to Thailand, adding to the 140,000 registered refugees along the Thai-Myanmar borders.

In Myanmar, life is hard not only for those hiding from the government. Even for those living in Yangon, life is becoming unbearable. On Thursday 22 February, a group of about 25 people marched in Yangon, urging the government to improve health care, education and provide solutions to the rising costs of living. The protestors were arrested but freed without charge on Tuesday 27 February. They also had to sign an undertaking not to hold any future public demonstration without first obtaining official permission. One of the protestors, May Win, said, "I told the police that we have no intention to incite unrest but were honestly expressing concern over the hardship and rising consumer prices that we, housewives, are currently facing."

However, troubles are not confined to Myanmar. The subregion, as a whole, is facing the threat of the H5NI bird flu virus. Last week, the first case of bird-flu was reported in Myanmar. Since then a total of 1,300 chickens suspected of carrying the H5N1 virus have been culled as an initial response by the authorities to deal with the outbreak. On Monday, the Myanmar

government claimed that the 26 dead crows, quails, pigeons and sparrows found in Yangon did not test positive for bird flu. This outbreak of bird-flu comes six months after Myanmar declared itself bird-flu free in September 2006.

In both Laos and Vietnam, the problem is more serious. Laos has reported its first "probable" bird flu human casualty on Sunday (4 March 2007) afternoon. Earlier, on 27 February 2007, the Lao Health ministry and the WHO confirmed that a 15 year old girl from Vientiane had reported positive for H5N1 virus.

Singapore Foreign Minister talks on ASEAN Charter and policy on Myanmar

Channel NewsAsia - 05 March 2007

SINGAPORE: Prime Minister Lee Hsien Loong will be visiting Brunei to launch jointly with Sultan Hassanal Bolkiah a commemorative currency note to celebrate the 40th Anniversary of the Currency Interchangeability Agreement.

Foreign Minister George Yeo announced this in Parliament on Monday.

Mr Yeo, who also spoke extensively on the ASEAN Charter which is being drawn up, said it should contain provisions for the leaders to take action against a country that is in gross violation.

He was responding to questions from MPs as to whether the Charter would take a stronger position on Myanmar.

Mr Yeo explained it is important that this issue be separate from the Myanmar issue - and so the subject is being discussed without specific reference to Myanmar.

ASEAN members, he said, have agreed they should give Myanmar more space to work out its own internal problems.

On Singapore's ties with Myanmar, Mr Yeo said, "Bilaterally, we continue to maintain good relations with Myanmar and to wish the Myanmar people well. I will be making a bilateral visit to Myanmar next month.

"It is not for us to tell them what to do, but we support ASEAN's consensus position calling on the Myanmar government to adhere to its own Roadmap to Democracy and for the release of Ms Aung San Suu Kyi."

Burma

Country Reports on Human Rights Practices - [2006](#)
Released by the Bureau of Democracy, Human Rights, and Labor
March 6, 2007 - summary

Since 1962 Burma has been ruled by a succession of highly authoritarian military regimes dominated by the majority Burman ethnic group. The State Peace and Development Council (SPDC), led by Senior General Than Shwe was the country's de facto government, the human rights record of which government is very poor and is worsening. In the following, the recent situation of specific human rights in Burma is elaborated on.

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

At least six political prisoners died while in custody, some under suspicious circumstances. For instance, Saw Stin Pho of Ta Khun Seik Village died on July 19 from torture during interrogation by Military Security Affairs (MSA). Ko Than Htaik died in December after a severe beating by local peace and development council (PDC) authorities. Maung Aye died after being beaten while in police custody. The government did not punish officials responsible for the deaths.

The government furthermore persisted in its refusal to investigate or take responsibility for the 2003 attack by government affiliated forces on an NLD convoy led by party leader Aung San Suu Kyi near the village of Depeyin in which as many as 70 persons were killed. The fate of other persons, including 31 prodemocracy supporters from the convoy, remained unknown.

b. Disappearance

Private citizens and political activists continued to "disappear" for periods ranging from several hours to several weeks or more, and many persons never reappeared. Such disappearances generally were attributed to authorities detaining individuals for questioning and to the army's practice of seizing private citizens for portering or related duties.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

There are laws that prohibit torture; however, members of the security forces reportedly tortured, beat, and otherwise abused prisoners, detainees, and other citizens. They routinely subjected detainees to harsh interrogation techniques designed to intimidate and disorient.

There were reports by NGOs and community leaders that the armed forces continued to commit abuses against ethnic minorities, including beatings, rape, forced mine clearing, and forced labor against villagers in Bago Division, Chin State, Karen State, Mon State, Shan State, and Tanintharyi Division.

Prison and labor camp conditions generally remained harsh and life threatening. The Department of Prisons operated approximately 35 prisons and 70 labor camps. Food, clothing, and medical supplies reportedly were in very short supply in prisons and in some prisons prisoners are forced to pay for their food. During the year the health of several political prisoners deteriorated.

After failing to obtain government permission to maintain its international practice of unfettered access to prisoners, the ICRC did not visit prisons or labor camps during the year. The ICRC terminated some of its traditional services, such as providing medications and soap to detainees, because it could not verify that these supplies reached the prisoners.¹

d. Arbitrary Arrest or Detention

¹ ICRC reopened its five field offices in early January 2007.

There is no provision in the law for judicial determination of the legality of detention, and the government routinely used arbitrary arrest and incommunicado detention. The government continued to arrest and detain citizens for extended periods without charging them, as the law permits a court to detain a prisoner without charge for up to two weeks, with the possibility of a second two week extension. The law also allows authorities to extend sentences after prisoners have completed their original sentence, and the government regularly used this provision.

The police are auxiliary forces of the military and are under direct command of military officers. MSA and the police have special authority to conduct searches and make arrests at will. MSA officers and SB police officers are responsible for detaining persons suspected of "political crimes" that are perceived to threaten the government.

e. Denial of Fair Public Trial

The judiciary is not independent of the government, the SPDC appoints justices to the Supreme Court who in turn appoint lower court judges with the approval of the SPDC. The government continued to rule by decree and is not bound by any constitutional provisions providing for fair public trials or any other rights.

There is a fundamental difference between criminal and political trial procedures. Some basic due process rights, including the right to be represented by a defense attorney, were generally respected in criminal cases but not in political cases that the government deemed especially sensitive.

At year's end there were approximately 1,300 "security detainees," including political prisoners (approximately 1,150), arms merchants, violators of state security laws, and those accused of fostering religious disturbances. On February 7, a court sentenced NLD party members Ko Ko Myint and Thein Zaw to seven year prison terms for opium possession, allegedly planted by authorities. NLD members San Shwe Tun and Aung Ban Thar were also sentenced in March 2006 for foreign currency violations after authorities allegedly planted Bangladeshi currency in their homes. Nyein Maung, a former member of Madayar Township NLD Organizing Committee who had resigned under pressure from the USDA in June, was sentenced to one year in prison on charges of swearing at the husband of township judge Khin Mar Yi.

On September 27, police arrested Min Ko Naing, Ko Ko Gyi, and Htay Kywe, former political prisoners and activists in the 88 Generation Students group. On September 30, police arrested two more 88 Generation Students activists, Min Zeya and Phone Cho. Phone Cho's brother, Thet Win Aung, also a political prisoner, died in Mandalay Prison on October 16. At year's end the five activists remained in detention without charge.

Hkun Htun Oo and Sai Nyunt Lwin, chairman and secretary respectively of the Shan Nationalities League for Democracy (SNLD), and eight other Shan leaders arrested in February 2005 remained in remote prisons at the end of the year. NLD General Secretary Aung San Suu Kyi remained under house arrest without charge and without trial.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Neither the abrogated 1974 constitution nor subsequent legal measures provided for rights to privacy and authorities routinely infringed citizens' privacy.

Forced entry without a court order is legal. The law requires that any person who spends the night at a place other than his registered domicile must inform the police in advance.

Forced relocations in rural areas increased during the year, especially as a routine procedure used for decades against ethnic minority groups, who were replaced by ethnic Burmans. The forced relocations reportedly were accompanied by rapes, executions, and demands for forced labor to build infrastructure for military units. Forced relocations often generated large refugee flows to neighboring countries or to parts of the country not controlled by the government. In some areas, the government replaced the original occupants with ethnic Burmans.

g. Use of Excessive Force and Other Abuses in Internal Conflicts

Numerous acts of killing, injury and destruction committed against Karen communities occurred and there were no reports that the government investigated or otherwise attempted to identify and punish those responsible. The government claimed that the KNU, one of the ethnic insurgent groups that continued to battle for autonomy and independence, attacked Karen villages and forced them to flee. Later Karen refugees who fled to Thailand reported that it was government soldiers who shelled their villages.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The law permits the government to restrict freedom of speech and freedom of the press, and the government continued to restrict these freedoms severely and systematically. The government owned and controlled all domestic radio and television broadcasting facilities and controlled content in all print publications. All privately owned publications remained subject to prepublication censorship by state censorship boards. Imported publications remained subject to predistribution censorship by state censorship boards, and possession of publications not approved by the state censorship boards remained a serious offense. Foreign radio broadcasts, such as those of Radio Free Asia, the Voice of America, the BBC, and the Democratic Voice of Burma (DVB), remained the principal sources of uncensored information.

With regard to the Internet, no laws or regulations exist regarding monitoring communications or establishing penalties for the exercise of freedom of expression. However, in practice, the government banned all Web sites critical of the regime and its activities and blocked most Web sites containing words that it considered suspicious, such as Burma, drugs, military government, democracy, student movement, 8888, and human rights. Access to free e-mail services, such as Yahoo and Hotmail, were periodically banned, and so have been internet telephone services since June.

The government restricted academic freedom. University teachers and professors remained subject to the same restrictions on freedom of speech, political activities, and publications as other state employees. In recent years the government took a number of measures to limit the possibility of student unrest. The quality of education deteriorated.

b. Freedom of Peaceful Assembly and Association

The law limits freedom of assembly, and the government restricted it also in practice. An ordinance officially prohibits unauthorized outdoor assemblies of more than five persons.

In general, freedom of association existed only for government approved organizations. Particularly for NLD members, prodemocracy supporters, and those who contacted exile groups, freedom of association remains restricted.

c. Freedom of Religion

There is no official state religion, most registered religious adherents generally were free to worship as they chose. However, the government continued to show preference for Theravada Buddhism, the majority religion and it imposed restrictions on certain religious activities and promoted Buddhism over other religions.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The government carefully scrutinized prospective travel abroad for all passport holders and it frequently took several months to receive a passport, particularly if the applicant was unwilling to offer a bribe as incentive for speedier service.

Ethnic minority areas previously affected by conflict, such as the large Karen areas of Ayeyarwady Division, continued to experience tight controls on personal movement. In Rakhine State many controls and checkpoints applied only to the Muslim population.

Harassment, fear of repression, and deteriorating socioeconomic conditions continued to force many citizens to leave for neighboring countries and beyond. In addition, according to NGOs, there were more

than 500,000 internally displaced persons in the country at year's end. As far as the protection of refugees is concerned, the country is not party to the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol. The law does not provide for the granting of asylum or refugee status and the government has not established a system for providing protection to refugees. However, there were no reports that persons formally sought asylum in the country during the year, nor were there reports of forced repatriation.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Following the NLD's victory in the 1990 elections, the regime refused to implement the election results and barred the parliament elected from convening. In the 1990 election, 392 NLD members won seats. Of that number, 128 remained elected members. Self exiles (20), deaths (74), and forced resignations or barring (170) accounted for the balance. After recessing the National Convention on January 31, the regime reconvened it from October 10 to December 29, as part of its "democracy road map", in order to rewrite the constitution. However, all of the delegates were selected by the regime and they were prohibited from discussing the convention freely. Finally, the National Council was adjourned once again in January 2006. Women were excluded from political leadership. There were no female or ethnic minority members of the SPDC, cabinet, or Supreme Court. Corruption was systemic at all levels of the government and society.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government did not allow domestic human rights organizations to function independently, and it remained generally hostile to outside scrutiny of its human rights record. For instance, travel restrictions on foreign journalists, NGO staff, UN agency staff, and diplomats in some regions were maintained.

Despite repeated requests, the government persisted in its refusal to allow the UN special rapporteur for human rights to visit the country during the year.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The SPDC continued to rule by decree and was not bound by any constitutional provisions concerning discrimination.

Women are often subjected to domestic violence, which is not specifically prohibited by law. Also there are no laws against sexual harassment.

Children suffered from the government's severe neglect of health care and to public education minimal resourced were allocated as well. Child prostitution and trafficking in girls for the purpose of prostitution--especially Shan girls who were sent or lured to Thailand--persisted as a major problem. Despite the official age of enlistment in the army is 18 years, the army continued to use forced recruitment of child soldiers. Although there are laws specifically prohibiting child prostitution and child pornography, they were not enforced effectively.

Trafficking of women and girls to Thailand, China, Bangladesh, Malaysia, Korea, Japan, and countries in the Middle East for sexual exploitation, factory labor, and as household servants remained a problem. Officials recognized the importance of preventing cross border trafficking and prosecuting traffickers, but they did little to combat domestic trafficking and took no action on forced labor.

The government did not actively discriminate against persons with disabilities but there were few official resources to assist persons with disabilities. There were no laws mandating accessibility to buildings, public transportation, or government facilities, and persons with disabilities faced societal discrimination.

Wide ranging governmental and societal discrimination against minorities persisted. Only persons who were able to prove long familial links to the country were accorded full citizenship. Persons without full citizenship faced restrictions in domestic travel, and the government reserved secondary state schools for citizens. Those excluded were also ineligible for most civil service positions. Burmese remained the mandatory language of instruction in state schools.

Penal code provisions against "sexually abnormal" behavior were applied to charge gays and lesbians who drew unfavorable attention to themselves. HIV positive patients were discriminated against, although HIV activists reported that awareness campaigns helped to reduce discrimination and stigma.

Section 6 Worker Rights

a. The Right of Association

The law permits workers to form trade unions with the prior consent of the government; however, no free trade unions existed in the country. Domestic and internationally affiliated unions are not allowed, nor is individual membership in unions.

b. The Right to Organize and Bargain Collectively

The government does not allow workers to organize or bargain collectively. The government unilaterally set wages in the public sector. In the private sector, market forces generally set wages; however, the government pressured joint ventures to pay salaries no greater than those of ministers or other senior government employees. Labor strikes are prohibited.

c. Prohibition of Forced or Compulsory Labor

The law provides for the punishment of persons who impose forced labor on others. However, government and military use of forced or compulsory labor remained a widespread and serious problem, particularly targeting members of ethnic minority groups.

In recent years however the ILO and other international agencies have seen changes in the government's approach to conscripting forced labor. According to ILO reports, in some cases the government substituted demands for forced labor with demands for forced contributions of materials, provisions, or money. In addition, the government increasingly substituted prisoners not sentenced to hard labor for civilians as forced laborers, possibly due to international pressure against the use of civilians.

The government refused to pay compensation for the death of Win Lwin, who died while performing forced labor in Magway Division in 2004.

Some officials were convicted in January 2005 for forced labor violations, however, the ILO liaison officer stopped filing forced labor complaints, because the government stated that it would prosecute any person who made what the government deemed a "false" complaint.

d. Prohibition of Child Labor and Minimum Age for Employment

The law sets a minimum age of 13 for the employment of children, but in practice the law was not enforced. Child labor was prevalent and highly visible. The law does not prohibit compulsory labor by children, and children were subjected to forced labor.

e. Acceptable Conditions of Work

Only government employees and employees of a few traditional industries were covered by minimum wage provisions. A surplus of labor, a poor economy, and the lack of protection by the government continued to foster substandard conditions for workers.

Burma regime denies religious freedom violations as Chin and Kachin delegation complete visit to UK, EU and Washington 12/02/2007



Photo: The delegation meeting with Congressman Joseph Pitts

A delegation of Chin and Kachin activists from Burma will today finish a week-long visit to Washington, DC, where they briefed senior US Government officials on the continuing violations of human rights by Burma's military regime. The visit follows the launch of the Christian Solidarity Worldwide (CSW) report, *Carrying the Cross: the military regime's campaign of restriction, discrimination and persecution against Christians in Burma* and is the final phase of a tour which included visits to London, Brussels and Berlin.

On Wednesday 7 February, the *New Light of Myanmar* newspaper, considered the mouthpiece of the junta, carried statements from the Catholic Bishop's Conference of Myanmar, Myanmar Council of Churches and Yangon Young Men's Christian Association (YMCA) denouncing the findings of the report and claiming that it was designed to obstruct religious harmony in the country.

The delegation met the US Ambassador-at-Large for International Religious Freedom, Ambassador John Hanford, and senior policy advisers to the Secretary of State Condoleezza Rice, as well as the National Security Council at the White House and the US Commission on International Religious Freedom. The delegation also met with Congressional and Senate members and staff, including Congressman Joseph Pitts and the office of House of Representatives Speaker Nancy Pelosi.

In a briefing organised by the Congressional Human Rights Caucus Task Force for International Religious Freedom, the delegation highlighted violations of religious freedom in Burma, as well as human trafficking, sexual violence and forced labour. The group also met with church organisations and human rights groups during the week.

The delegation included representatives of the Chin Human Rights Organisation, the Women's League of Chinland and the Kachin Women's Association-Thailand.

The author of *Carrying the Cross*, CSW's Advocacy Officer for South Asia Benedict Rogers, who travelled with the delegation says: "This has been a truly historic opportunity to raise international awareness about the plight of the Chin and Kachin peoples in Burma, and to urge the international community to take action to bring an end to the suffering of all the people of

Burma. The findings in the report are based on the testimonies of Christians in Burma, as well as documentary evidence. This week's statements from the Myanmar Council of Churches and the Catholic Bishops Conference contradict statements made by these church bodies in the past, as cited in the report, suggesting the junta's reaction to the report is only a desperate attempt to divert attention from the truth of the findings. We will continue to do all we can to highlight the gross violations of human rights perpetrated by Burma's brutal military regime, including the violations of religious freedom, the use of rape as a weapon of war and other crimes against humanity."

Salai Bawi Lian Mang, Director of the Chin Human Rights Organisation, said: "This has been the first time the Chin and Kachin people have been able to raise a voice at very high levels politically in the United States and the European Union. We believe our cry has been heard and now the world must act."

NOTES TO EDITORS:

1. The report, *Carrying the Cross: the military regime's campaign of restriction, discrimination and persecution against Christians in Burma*, was launched in the UK on 23 January 2007.
2. Benedict Rogers, the author of the report, has travelled many times to Burma, including visits to the Karen, Karenni and Shan on the Thai-Burmese border, the Chin on the India-Burma border and inside Kachin State. He is the author of *A Land Without Evil: Stopping the Genocide of Burma's Karen People* (Monarch, 2004).
3. According to the report, the regime uses the media and other propaganda to try to generate hostility towards Christians, offers inducements and sometimes uses force to convert Christians to Buddhism, denies or restricts the promotion of Christians within government or military service, and destroys churches and crosses. Christians are denied promotion beyond the rank of Major in the army, and Burma Army soldiers have been offered incentives to marry Christian women from ethnic groups such as the Chin, Kachin, Karen or Karenni, to convert them to Buddhism and "Burmanise" them.
4. Burma is designated a 'Country of Particular Concern' by the US State Department for severe violations of religious freedom.
5. In Brussels the delegation briefed Members of the European Parliament and officials in the European Commission, and in Berlin they met the German Foreign Ministry and Members of Parliament. In London, the group briefed Lambeth Palace, met the Minister for Trade and Human Rights Ian McCartney MP, and addressed a meeting of the All Party Parliamentary Group for Democracy in Burma.

Vicky Bowman: How a study of pathology helps in an assessment of a sick nation's problems

Irawaddy Magazine, August 2006

When I was selected in 1989 to learn Burmese before going to serve as second secretary at the British Embassy in Rangoon, the then ambassador, on discovering that my degree was in pathology, commented that it was a better training for understanding the state of Burma than any political science PhD. As I leave Burma after three and a half years as ambassador, I can see what he meant. And sadly in 2006 the Burmese patient appears to ail as much as ever, after showing brief signs of recovery between 1989 and 1997. That followed some changes to the country's lifestyle, such as a brief flirtation with a market economy, before reverting to old central planning habits.

The job of a pathologist is to look at etiology (what causes a disease); pathogenesis (how it does it); morphologic changes to the structure of the cells, tissues and organs; and clinical significance: what the effect is of those changes, or the symptoms of the disease.

The symptoms of the Burmese patient have been well documented over the years. They include stunted development and a dysfunctional economy, in which cronyism means that a mobile phone costs 50 times as much as in neighboring countries, and a 25 year-old 'end-of-life' vehicle you'd have to pay to have taken away in Britain is worth US \$20,000. Artificially inflated transport costs have a knock-on effect all the way down to the poorest citizens. Even better documented symptoms are the lack of freedom and widespread human rights abuses, particularly in conflict zones, and ethnic discrimination.

On the other hand, there have been some improvements. Parts of the country that I could not visit during my first posting in 1990-1993, such as Hpa-an, Pangsang and Kachin State, are now easily accessible because of ceasefires and investment in transport infrastructure. The bridges and roads of which the government is so proud have had a genuinely significant and overall positive impact on former war zones and subsistence agricultural economies, stimulating new markets, and permitting development projects.

Yet despite this, Burma is still ailing. While the top leadership may publicly dispute this, and statistics are either lacking, contested or unreliable, the clearest symptom of the country's poor economic and political health that I have encountered in my travels is that almost everyone I have met either wants to leave the country themselves, or send their children abroad, to work or to study, where they can live in a climate of less insecurity and greater freedom. Even the minister responsible for announcing growth figures of 10-12 percent tells me proudly of his children working and studying in Singapore and Australia. Denied the opportunity to vote through a ballot box since 1990, people are voting with their feet. Although remittances from overseas workers to their families are a positive form of targeted aid, the social fabric and culture of the country is suffering from this emigration.

Yet the Burmese patient has not lacked advice from a concerned international community on how to get fit and healthy. Treatments have been endlessly prescribed, including by qualified "doctors" such as the IMF, Japanese economists, and Amnesty International, whose detailed and objective 2003 report Access to Justice was left unopened by the patient in the bathroom cupboard. Other advice has come from friends and family concerned by the worsening health of their loved ones. Some has been sensible; but some suggestions have arisen out of

desperation when no treatment appeared to be working, or have been based on incorrect information or diagnoses, or out-of-date medicines.

The patient has been exposed to quacks too, just like the omnipresent Burmese village “injector” who flogs a handful of multi-colored pills or herbs claiming they will cure HIV. Quacks have no interest in preventative care, and questionable interest in long-term recovery, since it could damage future business prospects. Some are prescribing Burma the equivalent of a blow to the head, or a starvation diet.

Regardless of the motivation or qualifications of those prescribing the medicine, the main thing to remember is that our goal should be the Burmese patient’s sustainable recovery. This was brought home to me by a presentation at a recent Burma Day conference in Brussels, where one activist produced graphs to show that the campaign objectives of his organization had been increasingly achieved year-on-year. Yet the rest of us at the conference, Burmese and non-Burmese alike, had been standing around the patient’s bed all day unanimously agreeing that he had never looked in a worse state of health.

It would be a mistake to believe that there can be a miracle or rapid cure. Many other less developed and even better developed countries suffer from the same symptoms as Burma, such as poverty, corruption, inequality, unsustainable natural resource exploitation, lack of freedom, and a growing burden of HIV. Many countries are sicker than Burma on some or all of these counts. Treatment for systemic problems is never straightforward.

But we—government, activists and international community alike—would be helped by applying the principles of evidence-based medicine and clinical audit to policy and activities. Evidence-based medicine is the conscientious, explicit, and judicious use of current best evidence in making decisions about the care of individual patients. Audit is the systematic and critical analysis of the quality of care, including the procedures used for diagnosis and treatment, the associated use of resources and the effect of care on the outcome and quality of life for the patient.

So we need more research, and more evaluation. In particular, we should review how countries such as Chile, Vietnam, China, Thailand and Korea recovered (or are recovering) from military and one-party dictatorship, and consider the relevance of that experience to Burma. And policies, whether they are implemented by the Burmese government, the international community, opposition or exiles; whether mass planting of physic nut bodies, banking sanctions, or banning ethnic languages from the primary school curriculum, should be openly and honestly evaluated for their short and long-term impacts and effectiveness. Lack of accountability is a big problem inside the country, but it is also a problem with the opposition and exiles. Audit should also include lessons to be learned from success stories, such as the shift in government attitudes to HIV/AIDS, and the boom in beans and pulse exports which has benefited dry zone farmers. In the latter case, an unusually laissez faire approach by the government, which allowed farmers to grow crops freely and respond to market mechanisms and incentives, supported by a domestic banking infrastructure which facilitates the work of brokers across the country, were key factors promoting economic growth.

The political equivalent of physiotherapy and rehabilitation is also necessary. The different parts of the body politic need to be exercised and slowly learn to cooperate with one another, across political, ethnic and social divides. Healthy muscles are antagonistic; they pull against one another, in conflict. Yet together they result in movement.

Full organ transplantation is a risky last resort. So more needs to be done to heal and strengthen Burma's existing internal organs such as the education system, the judiciary and the police, through a diet of capacity-building. Unhealthily enlarged organs, such as the military, need to be reduced to the correct size so that they function more efficiently. And the backbone of civil society needs to be strengthened.

Pathology derives from the Greek word *pathos*, which means "suffering, feeling, emotion." These are common feelings for all who work to try and bring about change in Burma. But I believe we need to put emotions aside, and take a dispassionate look at the evidence, and draw appropriate conclusions.

Burma Special: Why we must talk to the generals

Maung Zarni

Published 14 August 2006

Focusing on Aung San Suu Kyi may not be the best way to bring democracy to Burma, argues Maung Zarni. Real change, he says, will require the co-operation of those now in power

Starting as one of the progressive political actors that drove out the fascist Japanese occupiers, the *tatmadaw* (combined armed forces) now stands accused of similar abuse. But we need to discard demonisation. It cannot be part of our solution. It has ill served our nation. Like it or not, the army has succeeded in inscribing its future role on our body politic. It is so deeply entrenched in our politics, economy and bureaucracy that engagement with the military regime is necessary if there is to be any chance for Burma's misery and isolation to end.

The *tatmadaw* is the same force that was founded by Bogyoke Aung San, the slain independence hero, army general and father of Aung San Suu Kyi. The generals are mainly drawn from the urban elite, but hundreds of thousands of Burmese families, of all ethnicities, have members of the army in their midst. However unpalatable the thought, both the leaders and the rank and file are unmistakably cut from the same existential fabric as the rest of us. They all embrace a xenophobic nationalism. They are family men who worship the same Buddha and believe in miracles and astrology. They all suffer from the anxieties and sense of insecurity that come with being at the centre of the vicious cycle of post-independence conflicts, both with their own citizens and now with the outside world.

For years, the west had no interest in Burma. During the cold war, there was no outcry when Karen insurgents blew up Rangoon-Mandalay passenger trains or when the *tatmadaw* burned down suspected guerrilla villages. Living behind the teak curtain of isolation imposed by the army, we heard about General Ne Win - who ended our parliamentary democracy in 1962 and gave us 26 years of one-party socialist rule - having tea with Her Majesty the Queen at Buckingham Palace while the CIA trained his deputies in counter-intelligence. Times have changed.

The post-cold war west has rediscovered human rights and no longer welcomes Ne Win's successors, nor tolerates their style of authoritarian governance. Yet the almost exclusive focus on Aung San Suu Kyi and her epic story has been unhelpful. Though well-intentioned, her endorsement of the tourist boycott, economic sanctions and political isolation has failed, and holds back the possibility of reform.

The army approaches politics as if it were a war, seeking unity at gunpoint. It suffers from a sense of being under siege by the west. It is the public that bears the enormous cost of the country's conflict. The record of the military governments since 1962 in public health, education, economy, human resource development, natural resource management, rural development and ethnic integration is abysmal. No improvement can be expected as long as the generals' priorities remain security, security and security.

But the military is capable of change from within, for better or worse. After all, despite decades of careful screening and intense propaganda aimed at ensuring ideological coherence, it still suffers chronic internal power struggles.

Change within the army, however, is slow and costly to those who initiate it. In 1976 Captain Ohn Kyaw Myint, an aide-de-camp to the then vice chief of staff, led an abortive coup to install a reformist government. The young ringleader was hanged and his co-conspirators, including the chief of staff, were all sacked. In 1983 Brigadier Tin Oo, then national security adviser, was ousted by the senior military leaders and his entire national intelligence network dissolved. The senior army leadership felt the spymaster was becoming too powerful. In 2004 General Khin Nyunt, who held executive posts as prime minister and chief of military intelligence, reached out to the Burmese opposition as well as the west. This overture by the third most powerful general was thwarted by inward-looking hardliners, who ousted him and dismantled his power base. Since then, these men have withdrawn from the international community and slammed shut the door to the opposition.

The army, controlled by hardliners, is absolutely unprepared to accept anyone as the country's leader who is not a battle-seasoned general, and least of all a civilian politician. So where is Burma heading? Oppressed under military rule and suffering quietly, the masses will continue to struggle to put food on the table while the country's heroine languishes under house arrest. Meanwhile, the junta trades with China, Thailand, India, Russia, Singapore and South Korea in the face of a Cuban-style economic blockade by the Americans.

Unfortunate as this is, the army is the only institution through which reform is possible. We have no choice but to talk to the generals. If the west and the opposition fail to invest in creating a capitalist class or supporting soldier-reformers, Burma's future will be bleak. As it is, finding reformers is like finding needles in a haystack.

10 February 2007

Whither Myanmar?

"The Security Council has thus concluded the present stage of its consideration of the item on its agenda" Council President Russian Ambassador Vitaly Churkin announced on 12 January 2007 at the conclusion of the session on "The Situation in Myanmar" when China and Russia vetoed a draft Resolution sponsored by the US and the UK. What next, I wonder? Who will be brave enough to pitch Myanmar into another Council session, or will this agenda item now join the scores of other issues with which the Council is supposedly "seized", but never discusses?

A close reading of the "Explanations of Vote" by participants at the 12 January meeting shows that it was not only China and Russia which doubted that Myanmar should be on the agenda, but that this view is shared by South Africa, Indonesia, Qatar, the Republic of Congo and possibly even by Panama which voted for the Resolution, while Peru wisely kept its counsel and Ghana failed to explain why they had chosen to abstain on the UN General Assembly vote on Myanmar on 22 December 2006, but had voted for the Resolution in the Security Council only three weeks later. We also have the bizarre situation that not a single country in the region has complained to the UN Secretary General or to the Security Council that they see Myanmar as a threat to their security and stability, a politically though not legally essential prerequisite for the Council to take action, while the only countries that do perceive Myanmar as a threat are several thousands of miles away and make this assertion over the heads of those supposedly at risk. No wonder both the Chinese and Russian Representatives queried the natural logic of such a remarkable stance. It is not one which any Ambassador would wish to be instructed to argue.

Discrimination against Christians, but does this amount to Persecution?

There has been something of a dead cat bounce from Christian Solidarity Worldwide (CSW), who have released a report "Carrying the Cross" which contains graphic reports of human rights abuses against Christians in Burma. The issue has been taken up by scores of British MPs who in an "Early Day Motion" have called for a "binding Resolution" - a popular mantra of political correctness these days on all matters Burmese - on the grounds, as CSW put it, that "cultural genocide" and "crimes against humanity" are so prevalent in Myanmar's ethnic regions that Myanmar could be in breach of Council Resolution 1674 on the protection of civilians in war zones which in certain circumstances "may constitute a threat to international peace and security". Dire as the situation in Myanmar may be, Lord Hannay, who was formerly our man in New York, expressed his personal view at a meeting in Oxford in May last year that Resolution 1674 would not be applicable to what is happening in Burma.

Indeed, if you look at the extent of State-sponsored persecution against Christians in many other countries, the discrimination which sadly exists in Burma is less than serious. This is not to suggest that the appalling incidents described may not in most cases be true. However, it is little wonder that the Catholic Bishops' Conference of Myanmar and the Myanmar Council of Churches have disputed the standing of CSW to speak in the name of Burma's Christians. Leading Muslim organisations in Myanmar have also criticised the CSW report, notably the allegation that the Ministry of Religious Affairs authored a scurrilous anti-Christian tract which was "widely circulated in Rangoon". This tract, of which what I assume to be an English translation of a Burmese original is reproduced on pages 17 and 18 of the report, is scarcely likely to have been circulated so prominently in Rangoon by the Ministry where it would have been bound to come to the attention of Christian organisations and diplomatic missions. The fact that the CSW report does not reproduce the original document leads me to treat the allegation with some scepticism.

The problems which have arisen between Buddhists and Christians in Burma need to be examined primarily in the context of the ethnic struggle for autonomy in Myanmar, for what is at stake is seen by the SPDC as the unity and integrity of the State on which they are not prepared to compromise.

The British unwittingly encouraged Burman hostility to Christianity by exiling to India in 1886 Burma's last monarch King Thibaw, who was also the head of the Buddhist religion in Burma, so that Christianity came to be seen as the religion of the colonial oppressor and Buddhism as a rallying point for freedom and independence. It is worth adding that Thibaw himself in his younger years attended Dr John Marks's Anglican mission school in Mandalay (and is said by former UN Secretary General U Thant's grandson, Thant Myint-U, in his recently published book "The River of Lost Footsteps" to have been "tolerably good with a cricket bat, being something of a slogger"). Matters in recent years have not been helped by aggressive proselytizing among Burmans by Korean and Filipino missionaries when Burma opened up after 1989. No such colonial hangovers affected Thailand where the King is Protector of all the Faiths and why so many middle-class Buddhist parents aspire to send their children in Bangkok to Christian foundations like Mater Dei School and Assumption University for a solid education as Buddhists in a Catholic environment.

One might well ask what purpose the Christian Right is pursuing by fanning the flames of the dying insurgencies along the Thai-Burmese border. Is it really all that necessary for one Chin Pastor to be appointed for every 10 Chin families, requiring the construction of so many new places of worship? Should we wonder that the military junta might ask themselves what on earth is going on? Christianity should not be used to exacerbate ethnic rivalries, nor to undermine a blossoming national consciousness and identity which General Aung San, the father of Burmese independence and of Daw Aung San Suu Kyi, worked so passionately to encourage. All CSW are doing is to increase tensions, which is very much against the interests of the Christian communities they say they want to support.

So what can be done: some practical suggestions

So what should be done about Myanmar (or Burma as I very much hope a democratically elected government will chose to call it, because "Myanmar" is difficult to pronounce correctly in English, and only seems to rhyme with "miasma" or pollution)? Here are some suggestions:

- The debate on Burma should cease to concentrate on moralising, ethnically-related judgements and look at the broader geo-political strategic importance of the country, set between the two dynamic power-houses of China and India.
- In any case, the EU should seek to break away from the isolating, sanctions-oriented policies of the United States whose decision to push for a premature vote in the Security Council, knowing that defeat was certain, has seriously disappointed the people of Burma who had mistakenly been led to believe that the Security Council might offer a way out of their affliction, although this was never on the cards. We need to avoid such fiascos in the future.
- A rethink of EU Policy would enable those countries which are able to engage Burma to offer something more than humanitarian aid, namely English language training, business management, personnel administration, educational reform, media development, not only through formal channels but also through workshops, seminars and exchange programmes, so that Burma can develop its own national expertise and prepare for the substantial economic restructuring which is a prerequisite for any eventual reconstruction programme by the international financial institutions.
- The sanctions issue is a debate which will simply run and run, and has become so unproductive that it is better to let it fade. The SPDC will neither bow to pressure, nor change its ways if sanctions are rescinded. The traditional carrot and stick approach simply will not work.... most EU countries will aspire to ensure that Burma's human resources, its younger men and women, are trained and encouraged to share in the prosperity which is now sweeping the Asian Pacific region.
- The EU should lay off pressing the countries of ASEAN, China and Russia (not forgetting South Korea, India, Pakistan, Japan, Bangladesh, Israel, Srilanka and the rest) with suggestions about what they ought to be doing over Burma and accept that the intrinsic interests of the

latter countries are considerably more important as regional neighbours than ever those of Britain are likely to be.

- It ought finally not to be forgotten that Burma was devastated as a result of World War II to an extent paralleled only by the Philippines, that the notion that after 1945 the country rapidly became a land flowing with milk and honey is a myth, that no cultural basis for democracy has ever existed, that it will take many years to develop this, and that there are worse evils than replacing an administration which is 100% military with a "disciplined democracy" dominated by the military in which 75% of the members of the National Assembly will at least be elected by the population, however contrived the political parties may be.

written by Derek Tonkin, former UK Ambassador to Yangon