

VIEW ON ASIA briefing series



Union of Myanmar (Burma) Capital: Yangon (Rangoon) Head of state: Sen. General Than Shwe Border countries: Thailand, Laos, China, India, Bangladesh

Myanmar/Burma¹ has had a spurt of foreign relations controversies ever since it abruptly adjourned its controversial 2004 National Convention to draft a new constitution. In August 2004, Myanmar/Burma was hit by renewed sanctions from the US, faced being banned from the upcoming Asia-Europe Meeting (ASEM) and its officials were barred from the 28th Olympic Games in Athens for its lack of human rights and democracy – a reminder that Myanmar/Burma still remains one of the most difficult foreign policy challenges in Asia for the international community.

Myanmar/Burma is situated east of the Andaman Sea and strategically buffers the world's two largest populations, China and India. The



¹ Since 1989 the authorities have promoted the name Myanmar instead of Burma as a conventional name for their state. The name change is recognised by the UN but not the US. Australia does not seem to have an official position on the choice of terminology. Burmese expatriates, including those residing in Australia, continue to use the old colonial name. This paper uses both names, attaching no political significance to either term.

country is rich in resources and diverse in its ethnic demography. A former pariah state in the region and to the world, the military government of Myanmar/Burma has in recent times opened up the country's economy and attempted to build friendly relations with its regional neighbours. The deepening of bilateral relations with China and the Association of South East Asian Nations (ASEAN) has been particularly significant, with China now one of Myanmar/Burma's staunchest political defenders and top weapons suppliers.

While Australia presently has very little economic interest in Myanmar/Burma itself, its interest in promoting human rights and good regional relations should in turn engage Australia's foreign policy priorities in the country. With its eyes firmly on the Asian economies, Australia also has an interest in a politically stable and confident region. As the military government of Myanmar/Burma attempts to woo its regional neighbours and prepares to take up the ASEAN chair in 2006, Australia should be keenly interested in the regime's earnestness in delivering democracy and human rights to its people, conditions which are fundamental for national unity and stability and therefore the prosperity of the region as a whole.

Historical overview

Myanmar/Burma's diverse ethnic mix with 8 major ethnic groups and over 100 spoken dialects - is a result of a long history of migration and conflict along its fluid frontiers. The Burmans are the ruling Burmese ethnic group that dominates the country's military and government.² Most of Myanmar/Burma's ethnic minorities inhabit areas along the country's mountainous frontiers. The largest of the minority groups are the Karen, who inhabit the lower Myanmar/Burma region; the Shan, a Thai-related hill people who lives along the Thai border; the Mon, who are concentrated in the southern part of Myanmar/Burma; the Chin, who live sideby-side with the Mizoram of India; and Kachin, a hill tribe people along the Chinese border. Under British colonial rule (which conquered and ruled Myanmar/Burma for more than a century) the diverse ethnic minority groups were administered as separate mini-states known as "Frontier Areas". British rule established a complex system of differing treatment for different ethnic groups, the consequences of which continues to resonate today.

The "divide and rule" strategy of the British Rai entrenched ethnic nationalist sentiments, which became an impediment to creating a unified sense of nationhood in Myanmar/Burma following independence in 1948. Although there were early attempts at creating a federal political framework for the newly independent Myanmar/Burma, such plans eventually gave way to a unitary model. The new central government faced almost immediate armed challenges from political faction groups and ethnic minorities. The conflict with ethnic groups continued almost uninterruptedly until cease-fire processes were initiated just over a decade ago. The Karen, demanding greater autonomy, was one of the first minority groups to take up arms against the central government. By the mid-1970s, nearly every major ethnic group was armed, so that from the birth of an independent Myanmar/Burma, the military has been engaged in suppressing an ongoing internal rebellion. The cost has been massive with tens of thousands dead, hundreds of thousands more displaced, a crumbling economy and a thriving narcotics trade used to fund the conflict.

The second seed of Myanmar/Burma's present troubles was sowed in 1962 when the country's first prime minister, U Nu, was ousted in a military coup led by

² In this paper, "Burmese" refers to the citizens and expatriates of Myanmar/Burma and to the official language of Myanmar/Burma. "Burman" refers to the dominant ethnic group in Myanmar/Burma.

General Ne Win. The coup occurred shortly after elections that saw the return of the U Nu government after 2 years of Ne Win's "caretaker" government. The military feared that a challenge for constitutional reform by ethnic minority groups and U Nu's sympathy towards their could undermine concerns Burman influence in the frontier areas and could lead to the breakup of the Union.

The Ne Win regime adopted a policy of economic and political isolation from the international political economy. This policy enabled Ne Win to consolidate his political rule and tighten oppression without scrutiny from the international community. Ne Win dominated the government until he was forced to step down in 1988 following widespread riots and student-led prodemocracy demonstrations that grew out of the government's sudden devaluation of the national currency. The military assumed power, declared martial law and brutally suppressed the demonstrations. Despite this, multiparty elections were held in 1990 resulting in a decisive victory for the main opposition National League for Democracy (NLD), led by Daw Aung San Suu Kyi, the daughter of independence hero Aung San. However, the results were never accepted and despite strong international pressure, the military junta, now called the State Peace and Development Council (SPDC), continues its grip on power.

The political and human rights situation

Aung San Suu Kyi, NLD Vice-President Tin Oo, and other opposition members have had various restrictions placed on their activities since 1989. In 2000 for the second time since the election, she was placed under house arrest. There were positive signals coming from the regime by the end of 2001 however, including the restoration in May 2002 of Aung San Suu Kyi's freedom of movement, the continued release of political prisoners and the relaxation of some of the constraints on the lawful political activities of NLD and other legal political parties. These gestures followed "confidence-building talks" between Aung San Suu Kyi and the junta, as the generals attempted to develop greater cooperation with neighbouring powers and the international community. Bodies like the International Labour Organisation (ILO), the United Nations (UN) and Amnesty International were granted various opportunities to engage the SPDC on its democratic and human rights record. The SPDC even permitted the UN Secretary-General's Special Envoy to Myanmar/Burma, Razali Ismail, and the UN Special Rapporteur on Human Rights in Myanmar/Burma, Professor Paulo Sergio Pinheiro, to visit the country on numerous occasions.

However, these positive movements were short lived and a year after her release Aung San Suu Kyi was rearrested as part of another major crackdown on the NLD. The SPDC's latest campaign against its main opposition followed an incident on 30 May 2003 in which at least a hundred people were killed when a government-affiliated group brutally attacked Aung San Suu Kyi's motorcade in Depayin.³ The international community including ASEAN members swiftly condemned the human rights violations. Other countries took punitive measures. The EU and US renewed sanctions, including arms embargo, trade sanctions, and travel restrictions on senior junta officials. Japan - Myanmar/Burma's largest aid donor suspended new economic aid, while

³ The Burmese opposition refers to this incident as the "Depayin Massacre" or "Black Friday". The Ad Hoc Commission on Depayin Massacre convened by the National Council of Union of Burma (NCUB) estimated the number killed could be as high as 282. Affidavits collected for the Commission hinted at the premeditated and well-organised nature of the attack. "It appeared that the attackers were systematically trained", one witness observed. "They mainly aimed and struck on the head. Even when I was at a hundred yards, I heard with anguishing pain, the popping sounds of heads being broken by savage blows."

Australia shelved its human rights workshops for middle-ranking Burmese officials.

Despite the international community's reactions, the SPDC remained defiant, perhaps keen to show Western nations that the leadership had not been affected by criticisms or punishment. Unwilling to restore Aung San Suu Kyi's freedom, the SPDC instead responded to international and regional pressure with the appointment of General Khin Nyunt, the head of intelligence who is considered a moderate, as Prime Minister. Within days the new Prime Minister flagged a seven-step "road map" towards democracy, which includes reconvening its "National Convention" to discuss а new constitution for Myanmar/Burma, the adoption of the constitution through a national referendum, the holding of elections for legislative bodies, and the convening of legislative bodies under the new constitution. The Convention was eventually convened but abruptly adjourned, without the participation of the NLD, while Aung San Suu Kyi remained under house arrest. The SPDC continue to ignore its major domestic opponents and international calls for Aung San Suu Kyi's release and genuine dialogue with her party.

The 2004 National Convention represents the third attempt by the junta to draft a new constitution to replace the 1974 constitution suspended since 1988. The National Convention began on 17 May 2004 with the participation of delegates handpicked by the junta and a few representatives from those ethnic groups that had entered into ceasefire agreements with the junta. The junta left little doubt about its intentions to remain in national politics.⁴ One of the six objectives of the Convention is "for the Tatmadaw [the military] to be able to participate in the national political leadership role of the state".⁵ The Convention was adjourned at a time when opposition to the Convention had been growing, domestically and internationally.

As the overall political situation in Myanmar/Burma worsened after the Depayin incident, so too did its human rights standing. For the military regime, stability and development have been its primary obsession. The regime justifies its security measures and its role in national politics as necessary to maintain national unity and internal order. The generals are also morally content to draw on remnants of "Asian values" - the idea that supposed East Asian cultural values prioritise the interests of the community over the One individual. of the junta's Memorandums the 2003 UN to Commission on Human Rights notes that, "The most fundamental and essential requirement for country like a Myanmar/Burma is to fulfil [the] basic needs of the people ... and also to raise their standard of living. Other aspects of cannot be effectively human rights implemented without fulfilling these basic rights."⁶

Asian values arguments are habitually delivered as a catchall defence for actual past or present violations of civil and political rights. Myanmar/Burma continues to be the focus of scrutiny by the international community for a number of human rights violations associated with the unruly behaviour of the security forces and the junta's reluctance to reform. In the 2004 resolution on Myanmar/Burma's human rights records, the UN Commission on Human Rights expressed its grave "the ongoing concern at systematic violation of human rights" and listed,

⁴ "A milestone leading the nation to a new age," *The New light of Myanmar*, 11 July 2004, http://www.myanmar.com/nlm/article/July11.htm

⁵ Ibid.

⁶ UN, "Memorandum of the Situation of Human Rights in Myanmar," Note verbale from the Permanent Mission of Myanmar to the UN Office at Geneva, 21 March 2003, UN Doc E/CN.4/2003/G/47, para.92.

among other things, the crackdown on the NLD and other political arrests and detention, extrajudicial killings and sexual violence against women, the use of forced labour including child labour, and violations against religious and ethnic minorities, especially in areas not under cease-fire agreements.⁷

Suppressing dissent

The issue of political prisoners tops the list of criticisms against Myanmar/Burma. Before the Depayin incident, the Home Minister reported that there remained only a hundred political prisoners but this draws on a limited definition of political prisoners as those who are members of a political party. However as Pinheiro points out, the majority of them are students. professionals and other individual dissidents arrested arbitrarily under security laws and subjected to unfair trials and due process. Human rights groups continue to estimate the number of such persons to be between 1200-1300 with continued arrests and incidents of intimidation, particularly following the events at Depayin. The latest figures from the government list 153 people arrested following the Depayin incident, including Aung San Suu Kyi and other NLD leaders, in connection with the Depayin incident.⁸ Pinheiro, however, believes that the real figure could be much higher.

Another consequence of the Depayin incident has been increased censorship in an already heavily controlled media environment. Myanmar/Burma continues to be one of the few countries in the world that censors every publication through the Literary Works Scrutinising Committee (LWSC). For added measure, the penalties for accessing unauthorised information are also severe. According to the International Centre for Human Rights and Democratic Development (ICHRDD), ownership of fax machines and computers as well as access to the internet without government approval is punishable by a prison term of 7 to 15 years.⁹ The SPDC's vigilance has made Myanmar/Burma third only to communist North Korea and Cuba in the number of journalists it holds behind bars.¹⁰

Conflict with ethnic minorities

While the international community remains focused on the conflict between the government and its opposition over the 1990 election, the problem of ethnic separatism represents an equally pressing challenge for Myanmar/Burma's move towards democracy and respect of human rights.¹¹ While a series of cease-fire agreements have brought some relief to the junta, fighting still continues. The need to unify the country remains a powerful argument for the generals in their hold on power, while armed conflict between the junta and ethnic rebels remains a principle of human rights abuse in cause Myanmar/Burma.

Most human rights NGOs continue to violations and widespread report discriminatory practices in the context of the Tatmadaw's counter-insurgency activities directed against ethnic and religious minorities. Pinheiro's report in 2003 notes. "Serious human rights violations have undoubtedly occurred and continue to occur in the areas where armed groups operate." One of the most serious reports, License to Rape released in May 2002 bv the Shan Human Rights Foundation (SHRF) and the Shan Women's

⁷ UN HRC, Situation of Human Rights in Myanmar, Resolution E/CN.4/2004/L.34, 9 April 2004.

⁸ Paulo Sergio Pinheiro, Statement to the 16th session of the Commission on Human Rights, Geneva, 26 March 2004.

⁹ ICHRDD, Submission to the 58th session of the UN Human Rights Commission, Item 9,

http://www.ichrdd.ca/english/prog/intHRadvocacy/5 8CommissionMyanmarEng.html.

¹⁰ Reporters Without Borders, Second World Press Freedom Ranking, 2003,

http://www.rsf.org/IMG/pdf/World_press_ranking.p df.

¹¹ ICG, "Myanmar Backgrounder: Ethnic Minority Politics", Asia Report No.52, 7 May 2003.

Action Network (SWAN), alleges systematic and widespread use by the Tatmadaw of rape and sexual violence as a weapon against the Shan ethnic minority. The central government continues to deny allegations as fabrications but such concedes that out of the 173 allegations raised in the report, 5 were found to be true.¹² Pinheiro had previously questioned the objectivity and methodology by which the junta had investigated the allegations.

The use of child soldiers

In the military campaign between the government and ethnic rebels, both sides are reportedly recruiting child soldiers. The SPDC strongly denies the use of child Its statement at the 2004 UN soldiers. Commission on Human Rights claimed that: "Myanmar armed forces is an allvolunteer force, and those entering military service do so of their own free will. A person can enlist in the armed forces only on attainment of the age of 18."¹³ The junta's sensitivities came in light of the Human Rights Watch (HRW)'s 2002 report.¹⁴ which alleges that Myanmar/Burma's Tatmadaw has more child soldiers than any other country in the world with as many as 70,000 soldiers under the age of 18. HRW's investigation found that the overwhelming majority of Myanmar/Burma's child soldiers are in the national army, the Tatmadaw Kyi, which forcibly recruits children as young as eleven. Once deployed, they are expected to "engage in combat, participate in human rights abuses against civilians, and are frequently beaten and abused by their commanders.¹⁵ Children are also found in rebel groups, although in far smaller

numbers. While some children were forcibly conscripted, others joined rebel groups to avenge past abuses by the government against members of their families or community.

In a report to the Security Council made under resolution 1379, the UN Secretary-General notes that "testimonies received by UNICEF [UN Children's Fund] confirm [HRW's allegations].¹⁶ Pinheiro similarly reports that he was able to collect some information during the 2002 mission "reflecting the existence of child soldiers in Myanmar" but was hesitant to speculate on the extent of the problem.

The use of forced labour

In 1930 the ILO established the Forced Labour Convention (ILO Convention 29). In 1957 this convention was reinforced with Convention 109, the Abolition of Forced Labour Convention. Myanmar/Burma is a signatory to this convention. An enquiry carried out by the ILO released in early July found "abundant evidence" of 1998 pervasive use of forced civilian labour for portering, logging, agriculture and construction and other work in support of the military.¹⁷ The ILO report also notes that the Towns Act (1907) and Villages Act (1908) introduced under British colonial rule made it legal for the army and police to force people to work. As a result of international pressures however, Order No.1/99 was issued under the directive of the SPDC banning forced labour.¹⁸

¹² Myanmar, Statement by the Myanmar Observer Delegation to the 16th session of the Commission on Human Rights on Agenda item 12(a) "Violence against Women", Geneva, 5 April 2004.
¹³ UN, Statement by the Myanmar Observer

 ¹⁵ UN, Statement by the Myanmar Observer
 Delegation to the sixt ieth session of the Commission on Human Rights, agenda 13, 7 April 2004.
 ¹⁴ HRW, *My Gun was as Tall as Me*, New York,

^{2002,} http://hrw.org/reports/2002/burma.

¹⁵ Ibid.

¹⁶ UN, Report of the Secretary-General on Children and Armed Conflict to the Security Council, UN Doc S/2002/1299, 26 November 2002.

¹⁷ ILO, *Forced Labour in Myanmar (Burma)*, Report of the Commission of Inquiry to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), 2 July 1998, http://www.ilo.org/public/english/standards/relm/gb/

docs/gb273/myanmar.htm. ¹⁸ See UN, "Memorandum of the Situation of Human Rights in Myanmar," Note verbale from the Permanent Mission of Myanmar to the UN Office at

Geneva, 57th session of the UN Commission on

In November 2000 the ILO issued a sanction on Myanmar – the first time the international body had done so under provisions in its constitution. Bowing again to international pressure, the junta agreed in May 2003 on a joint "plan of action" with the ILO to eliminate forced labour. That initiative, which was to have commenced the following month, was aborted following the Depayin incident. The ILO had repeatedly warned the junta over its tardiness in delivering on the pledge to stop using, what the ILO estimates, more than 800,000 conscripted labour. The ILO gave the junta "a final opportunity to give

practical effect to [their] assurances" before considering renewed sanctions.¹⁹

Myanmar/Burma and Australia's strategy

The human rights and political situation in Myanmar/Burma continues to fall well short of international law and norms. Many of the domestic laws and directives criminalise the exercise of certain human rights. On the other hand the government continues to participate in, or condone, or is unwilling or unable to guard against the contravention of certain basic human rights norms, particularly in relation to its campaign against ethnic insurgencies. The latest crackdown on the NLD further eroded Myanmar/Burma's human rights record. While the SPDC promised a seven-step "roadmap" towards democracy, there are few reasons for the international community and opposition forces to believe that the junta is serious about implementing even its own roadmap so long as Aung San Suu Kyi and other dissidents remain under detention.

There is international consensus that the junta needs to seriously engage with the domestic opposition and also discipline the behaviours of the Tatmadaw Kyi in its counter-insurgency activities. However, the junta appears to be dragging its feet in addressing both of these issues. In the context of Myanmar/Burma's political stalemate and human rights problems, the international community has devoted a great deal of energy and resources towards promoting change but with very little success. The junta has shown that it is remarkably resilient, even if it is not impenetrable by outside pressure. Commentators often agree that one of the reasons for the international main community's weakness is the lack of coordinated and concerted action. Currently. international strategies are divided and inconsistent.

Western nations, particularly the US and EU, advocate sanctions against the junta's human rights and democratic failures, as a way of delegitimising and, to a lesser extent, destabilising the regime. In contrast, China, India and ASEAN nations of "constructive advocate a policy engagement" through increased trade, diplomacy, and foreign linkages in the form of investment and humanitarian aid, which they argue will gradually encourage the generals towards the path of democracy. These strategies reflect the geopolitical differences of Western countries that have very little interest in Myanmar/Burma, and Asian countries harbouring postcolonial sensitivities over national sovereignty and geostrategic and economic ambitions in the resource-rich and underdeveloped country.

In contrast, Australia seems confused over where it stands in relations to Myanmar/Burma. Like other Western nations, Australia has often protested loudly about the human rights and political situation in Myanmar/Burma. However, unlike other Western nations, Australia is unwilling to take any real action against the

Human Rights, 21 March 2001, UN Doc E/CN.4/2001/140.

¹⁹ ILO, Conclusions on Myanmar Regarding Forced Labour, 18 June 2004,

http://www.ilo.org/public/english/region/asro/bangk ok/public/releases/yr2004/pr04_19.htm

junta when it fails in its responsibility to protect its citizens from human rights violations. Described as a "wait and see" attitude by Myint Cho,²⁰ director of the Burmese Members of Parliament Union (MPU). Australia does impose not economic or diplomatic sanctions on Myanmar/Burma and has taken a position of neither encouraging nor discouraging trade and investment there.²¹ Australia's self-styled "distinctive foreign policy" on Myanmar/Burma reflects little more than Asian constructive engagement flavoured with Western rhetoric.

Affairs Minister Alexander Foreign Downer once pointed out that sanctions would not work without the support of Myanmar/Burma's Asian neighbours. It has also been argued that the lack of regional support for sanctions is what distinguishes Myanmar/Burma from the anti-apartheid sanction experience in South Africa. While the imposition of sanctions may have limits in Myanmar/Burma's case, there is still no evidence to support the conclusion that constructive engagement is achieving more. The China/ASEAN approach has similarly been tried for years without substantive success. Events since Depayin have now stalled any progress this strategy had hoped to achieve.

Experts generally agree that there is no simple, risk-free solution to the political and human rights problems in Myanmar/Burma.²² As David Baldwin, a Columbia University academic puts it, "there is no all-purpose instrument that works better in all situations".²³ What is

sure is that the debate over sanctions has become a distraction from the real issue. What is more important than taking sides in this debate or embarking on unilateral foreign policy projects, is to pursue a strategy that is consistent and coordinated within a multilateral framework. "It is not that either sanctions or engagement is a more effective policy than the other", Aung San Suu Kyi is reported to have said. "What we need is concerted effort from the international community to synergise both strategies to have maximum influence on changes in Burma."²⁴

No matter what strategy Australia adopts, it could be more proactive in pursuing reform in Myanmar/Burma in cooperation with the EU, US and regional partners. As negotiations for free trade agreements with China and ASEAN looms over Australia's horizon, both Australia and its near neighbours need to be reminded that regional stability and prosperity are held at stake by the political impasse and human rights abuses in Myanmar/Burma. As demonstrated by the recent row between the ASEAN and the EU over Myanmar/Burma's participation in the October 2004 Europe-Asia summit in Vietnam, instability and the lack of reform in one country could potentially hurt the entire region.

View on Asia is a publication of the Uniya Jesuit Social Justice Centre, a research centre based in Sydney's Kings Cross, Australia. The views expressed in this report are those of the author. Thanks to Myint Cho and Jesuit ministries staff for their helpful comments. Please email comments or corrections to minh.nguyen@uniya.org. Download more country reports at: www.uniya.org.

²⁰ Myint Cho, personal communication to the author.
²¹ Frank Frost, "ASEAN at 30: Enlargement,

Consolidation and the Problems of Cambodia", 25 August 1997,

http://www.aph.gov.au/library/pubs/CIB/1997-98/98cib02.htm

²² Min Zin, "Sanctions Revisited" *Irrawaddy Magazine*, May 2001.

²³ David Baldwin, "Sanctions have gotten a bum rap:Pundits despise them, but they can be effective in

Myanmar and elsewhere" *Los Angeles Times*, 18 August 2004.

²⁴ Quoted in ibid.

Internet resources

Amnesty, Amnesty Annual International Report, http://www.amnesty.org/ailib/aireport

- Australian Department of Foreign Affairs and Trade, *Burma Brief*, August 2004, http://www.dfat.gov.au/geo/burma/burma_brief.html
- AusAID, Burma Program Details, 14 July 2004, http://www.ausaid.gov.au/country/cbrief.cfm?DCon=7603_3421_1124_2053_2981& CountryId=8493641
- BBC, Country Profile: Burma, http://news.bbc.co.uk/1/hi/world/asiapacific/country_profiles/1300003.stm
- Central Intelligence Agency, *The World Factbook: Burma*, http://www.odci.gov/cia/publications/factbook/geos/bm.html
- HRW, World Report 2003, http://hrw.org/wr2k3/asia2.html
- ILO, Forced Labour in Myanmar (Burma), Report of the Commission of Inquiry to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), 2 July 1998, http://www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanmar.htm

Irrawaddy Publishing Group, The Irrawaddy Online Edition, http://www.irrawaddy.org

Mizzima.com: Burma Related News and Issues, http://www.mizzima.com

Myanmar Information Committee, http://www.myanmar-information.net

Myanmar Embassy Canberra, http://www.myanmarembassycanberra.com

New Light of Myanmar, http://www.myanmar.com/nlm

Online Burma/Myanmar Library, http://www.ibiblio.org/obl

- Web Monitoring and Documentation of the 60th Session of the UN Commission on Human Rights, http://www.unchr.info
- UNHCHR, Status of Ratifications of Principal Human Rights Treaties, http://www.unhchr.ch/pdf/report.pdf