

BURMA

Entrenchment or Reform?

Human Rights Developments and the Need for Continued Pressure

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I. SUMMARY

*"It is not yet the end. There is still a long way to go and the way might be very, very hard. So please stand by...Don't think we are there home and dry."*¹ - Aung San Suu Kyi

The release of Daw Aung San Suu Kyi on July 10, 1995, a day before the end of her period of detention under Burmese law, was a welcome move on the part of the State Law and Order Restoration Council (SLORC). Her release comes after years of international pressure on the SLORC, including five resolutions by the U.N. General Assembly and appeals from numerous governments, including the U.S., Japan and members of the European Union (EU). These governments, and the U.N. secretary-general, were quick to send messages applauding the release, though there were distinct differences in the response of Western countries, all of whom reacted in a spirit of "cautious optimism" – as Daw Aung San Suu Kyi herself put it – and Asian governments, including Japan and Thailand, who welcomed the move as "substantive progress." At the same time, diplomats in Rangoon were quick to point out that the release was a measure of SLORC's confidence in its strength in the country and its ability to hold down the lid on dissent. Indeed, it is difficult at this early stage to know whether the release of Daw Suu will lead to an improvement in the human rights situation in Burma, or whether it may only lead to further entrenchment as the SLORC achieves its main aim of increased international investment and economic aid and, as a result, finds less and less need to heed the calls from the international community for fundamental reform.²

It is perhaps too early to say which road it will take, but it is certainly far too early to reward the SLORC with further investment and bilateral or multilateral assistance. "Of course, in the long run I think we would need international investment, but I don't think we should rush into this...I want to study the situation carefully before I can say whether I truly believe that this is the right time for investment," said Daw Suu, speaking to the British Broadcasting Corporation (BBC) on July 12, 1995. The SLORC itself has highlighted the linkage between rising levels of international investment and the failure of international efforts to bring an end to abuses. David Abel, Burma's minister for planning and economic development, told reporters:

Although some western countries always cite human rights or democracy, these tools have not been effective because if you look at the amount of investment, the United Kingdom and the United States are the leading investors in our country.³

¹ Message to the international community from Daw Aung San Suu Kyi, British Broadcasting Corporation (BBC) World Service TV, July 12, 1995.

² The SLORC held the country in the balance between greater political freedom and further repression once before when it allowed a national election to be held in May 1990. Clearly expecting to win in the election, they did not disrupt it, but on realizing the scale of their defeat, they refused to hand over power and arrested many of the victors.

³ Brig. Gen David Abel, quoted by Kyodo news agency (Japan), June 10, 1995.

Indeed, while other members of the National League for Democracy (NLD)—the political party Daw Suu founded—have been free to meet with Daw Suu at her home, and the crowds gathering outside her house have thus far faced no harassment, no other political prisoners have been released. Human Rights Watch/Asia estimates that at least 1,000 political prisoners remain in Burmese jails, including sixteen members of parliament elected in 1990. Moreover, by July 18, there had been no contact between Daw Suu and ranking members of the SLORC. On July 7, just days before the release, secretary-1 of the SLORC, Gen. Khin Nyunt, gave a speech outlining the "political, social and economic objectives" of the government in which he implied that Daw Suu would not be released and that the military planned to continue running the country.⁴ The following day, the government-run newspaper, *The New Light of Myanmar*, carried an article titled "Destiny of the Nation - No.24," which was a scathing attack on Daw Suu and her husband, British scholar Michael Aris. The article alleged that Daw Suu had "slandered the Tatmadaw [the armed forces] her father had founded to the point of opposing it, which was not a happy augury. She even misled those who had been supporting her with their eyes shut." It also implied that in 1990, when the SLORC allowed the general election to take place without any interference, the NLD was "found to have resorted to unfair means to win the elections. Mobs coerced voters into casting their ballots to particular candidates. Whole communities were threatened to vote for party candidates if they did not want their homes to get burnt down." The article claimed that the fact that the NLD nevertheless remained a legally recognized party was "an illustration of generosity."⁵ These statements would suggest that Daw Suu and the NLD remain as threats in the eyes of the SLORC and that there is a long way to go before the human rights situation in Burma will improve.

Even though Daw Aung San Suu Kyi has been released, the overall human rights situation in Burma is worsening. On June 16, 1995, the International Committee of the Red Cross (ICRC) announced that it will close its office in Rangoon later in July after the failure of negotiations to allow the organization access to Burma's detention centers.⁶ Offensives have been renewed against ethnic minority groups, including the Karenni Nationalities People's Party, which had signed a cease-fire with the SLORC as recently as March 1995. In areas where fighting has resumed, tens of thousands of villagers have been forcibly taken from their homes and fields to work for the army. Many have died from beatings and exhaustion.⁷ After the fall of the Karen National Union headquarters in January 1995, a breakaway group of ethnic Karen Buddhists, called the Democratic Buddhist Karen Organization (DKBO), which has an informal alliance with the Burmese army, attacked refugee camps in Thailand, killing several refugees and Thai villagers and abducting scores of others. In a further sign of regression on the human rights front, discrimination against ethnic and religious minorities across Burma has increased during 1995. These communities have been forcibly relocated into government-controlled villages, while religious buildings and land have been confiscated. In Arakan State, from which 270,000 Muslims fled during 1991 and 1992, reports of forced labor and forced relocations of Muslims have continued. As the SLORC has moved to attract international investment, at least two million people have been forced to work for no pay under brutal conditions to rebuild Burma's long neglected infrastructure.

⁴ Kyodo news agency, July 7, 1995. The speech was also reported in full in *The New Light of Myanmar*, the Burmese government paper, on July 8 and 9, 1995.

⁵ Written under the pen name "Nawarhta," *The New Light of Myanmar*, July 8, 1995.

⁶ On June 20, 1995, the ICRC issued a press release stating that they would be closing their office in Burma having failed "to persuade the SLORC to reconsider its position"—that is, having failed to obtain an agreement from SLORC to visit prisons regularly and with the guarantees its work requires.

⁷ See Human Rights Watch/Asia, "Burma: Abuses Linked to the Fall of Manerplaw," Vol. 7, No.5 (New York: Human Rights Watch), March 27, 1995.

The international community has long recognized that the detention of Daw Aung San Suu Kyi was only one in a long list of abuses which the SLORC has been called on to address in successive U.N. resolutions. On December 13, 1994, at the United Nations, member countries passed by consensus the toughest resolution to date on Burma calling not only for the immediate release of Daw Suu and all political prisoners but demanding that SLORC undertake a series of other reforms.⁸ But there has also been an apparent softening in bilateral relations, with Western countries becoming the largest investors in Burma.⁹ The foreign minister of Japan announced on July 11 that he was willing to start talks with the Burmese government on the resumption of official loans and that he would visit Rangoon as early as August. Japan had already renewed aid to Burma and provided insurance credit for its companies investing there. China has continued its massive financial and diplomatic support to the SLORC, and Burma's other neighbors, anxious about China's dominance, have also sought closer relationships with the SLORC under a policy of "constructive engagement." This policy is aimed at increasing economic ties while occasionally calling for further economic and political reform.

Summary of Recommendations

Human Rights Watch/Asia believes that following the release of Daw Suu, there are several steps that the SLORC must take in order to improve the human rights situation in Burma. First, all political prisoners, including elected representatives, should be unconditionally released. Second, the ICRC should be granted unrestricted access to Burma's prisoners. Third, laws which restrict freedom of association, assembly and political participation must be repealed. In addition, forced labor in all its forms must be abolished and access by independent monitors permitted to verify this.

We urge the international community to respond to the release of Daw Suu by engaging in dialogue with SLORC about what specific steps they will take to implement the U.N.'s resolutions, while at the same time initiating direct, ongoing contacts with Daw Suu in order to discuss the human rights situation, and strongly supporting the efforts of the U.N. secretary-general.¹⁰ Any talks with SLORC should not take place without parallel discussions with Suu Kyi regarding the human rights situation in Burma. These diplomatic contacts must be accompanied by internationally coordinated measures to continue and increase pressure on SLORC to undertake fundamental human rights reforms. Some of these measures might be announced at the upcoming meeting of the Association of South East Asian Nations (ASEAN) in Brunei, beginning on July 29. Burmese foreign minister Ohn Gyaw has accepted an invitation to attend the meeting as a "guest" of the host country.

These measures should include, for example, a freeze on all future private investment until and unless forced labor in Burma has ended; continued suspension of bilateral assistance and a clear statement from the donor countries of the World Bank that multilateral assistance cannot be resumed until basic human rights and political reforms are undertaken and verified; a decision by the International Labor Organization (ILO) to conduct a Commission of Inquiry into forced labor; and a concerted effort to stigmatize China for its role as SLORC's major arms provider.

⁸For the full text of the recommendations, see Human Rights Watch/Asia, "Abuses Linked to the Fall of Manerplaw."

⁹ Figures published by the Burmese government on March 9, 1995, which show all investment in Burma since 1989, reveal France as the largest investor (equivalent to U.S. \$1.05 billion), followed by Singapore (\$293.4 million), Thailand (\$265 million), the U.S. (\$203 million) and Japan (\$101 million). Total SA, an oil company in which the French government and state-owned enterprises own 25 percent of the voting rights, accounts for almost all French investment. Singapore's investment increased on June 4, with the signing of a \$500 million contract to build a new airport in Mandalay.

¹⁰ The secretary-general's representative is expected to visit Rangoon again soon to follow up talks begun in November 1994.

In addition, the international community should closely monitor developments in Burma triggered by Daw Suu's release and should respond promptly and vigorously to any attempts by SLORC to intimidate, harass, detain or restrict the activities of Burmese citizens (including Daw Suu's party members and supporters) seeking to exercise their internationally recognized rights of freedom of association, expression and assembly. The U.N. Commission on Human Rights should urgently consider dispatching its Special Rapporteur for Burma to visit the country as soon as possible and should also explore the possibility of posting a continuing human rights monitoring presence in Burma.¹¹

II. THE PATTERN OF ABUSE

Since 1990 Human Rights Watch/Asia has documented an ongoing pattern of abuses in Burma, including arbitrary detention, denial of the right of freedom of expression and association as well as the right of citizens to participate in their government and choose their own leaders, forced labor, abuses of humanitarian law in the course of military operations against insurgents, and discrimination against ethnic minorities.¹² The United Nations Commission on Human Rights has also taken note of the nature and severity of these abuses. Since 1990, the U.N. Economic and Social Council has mandated a Special Rapporteur on Burma to investigate and report on allegations of human rights violations. In addition, other specialized U.N. human rights bodies have reported on a range of human rights violations in Burma.¹³ The International Labor Organization has also investigated and criticized Burma for violations of ILO Convention No. 29 (Forced or Compulsory Labor) and ILO Convention No. 87 (Freedom of Association).

This international scrutiny has achieved some results, most clearly in the release of Daw Suu and over 2,000 other political prisoners since 1992. Reports from the Special Rapporteur and U.S. Representative Bill Richardson, who were able to visit recently arrested political prisoners in 1994,¹⁴ would suggest that there has been a decrease in the torture of political prisoners in the first days and weeks of detention, at least in Rangoon. Interviews with refugees and escaped porters conducted by Human Rights Watch/Asia in early 1995 suggest that in the Karen State there has also been a decline in the use of women as porters for the military and a consequent reduction in the number of rapes committed by the armed forces on front-line duty. This is offset by reports of soldiers raping young women and girls on forced labor projects in Mon and Karenni States. However, so long as independent monitoring groups lack free access to the areas where abuses occur it is impossible to verify how widespread or long-term these possible improvements are.¹⁵

¹¹ Prof. Yozo Yokota, the Special Rapporteur for Burma, last visited the country in November 1994. His mandate was continued by the commission at its March 1995 meeting.

¹² See Asia Watch, "Worsening Repression," March 1990; Asia Watch, *Human Rights in Burma (Myanmar)* May 1990; Asia Watch, "Burma: Post-Election Abuses," August 1990; Asia Watch, "Burma: Time for Sanctions," February 1991; Asia Watch, "Human Rights Abuses in Burma (Myanmar) in 1991," Vol.4, No.3, January 1992; Asia Watch, "Burma: Rape, Forced Labor and Religious Persecution in Northern Arakan," Vol.4, No.1, May 1992; Asia Watch, "Changes in Burma?," Vol.4, No.24, September 1992; Human Rights Watch/Asia, "The Mon: Persecuted in Burma, Forced Back from Thailand," Vol.6, No.14, December 1994; Human Rights Watch/Asia, "Burma: Abuses Linked to the Fall of Manerplaw," Vol.7, No.5, March 1995, (New York: Human Rights Watch).

¹³ These are the Special Rapporteur on Religious Intolerance and Discrimination; the Special Rapporteur Concerning Extrajudicial, Summary, or Arbitrary Executions; the Special Rapporteur on Torture and other Cruel, Inhuman and Degrading Treatment or Punishment; the Special Rapporteur Concerning Persons Subjected to any Form of Detention or Imprisonment; and the Working Groups on Arbitrary Detention and Fundamental Freedoms.

¹⁴ In November 1993, the special rapporteur met with Dr. Aung Khin Sint, who was arrested in August 1993. While the interview was conducted with prison officials present, it was apparent that Aung Khin Sint had not been subjected to torture. In February 1994, Congressman Richardson met with Dr. Thida, among others, who was arrested in August 1993. All four prisoners he met were in poor health as a result of conditions in the prison, but Dr. Thida had not been subjected to torture during interrogation.

¹⁵ Human Rights Watch/Asia has been denied access to Burma, but we interviewed refugees in neighboring countries, and have received reports from independent sources within Burma. The obvious risks mean that all July 1995, Vol. 7, No. 10

Political Prisoners

"It seems anyone who has contact with diplomats is being arrested, and the only ones left now are the elderly." - Diplomat¹⁶

Daw Aung San Suu Kyi was the most prominent political prisoner in Burma, but she was by no means the only one. As the daughter of the independence hero Gen. Aung San, she became the leader of the pro-democracy movement in 1988 and secretary general of the opposition party, the National League for Democracy (NLD). She was detained in July 1989 under the 1975 State Protection Law, which then entitled the state to detain for three years without charge or trial any person "who has done, is doing, or is about to do any act which infringes the sovereignty and security of the State, or public peace and tranquility." This law, insofar as it allows for detention without trial, violates international standards of due process.¹⁷ In 1992, the SLORC retroactively amended the law to extend the period of detention by a further two years, once again in violation of international law, including the provisions established for times of emergency.¹⁸ In his statement to the U.N. Commission on Human Rights in February 1995, the Special Rapporteur on Burma, Prof. Yozo Yokota, said, "according to the Government's own interpretation of the law, applied to her with retroactive affect, she cannot be held beyond July 11, 1995."¹⁹ Thus, the announcement made by the deputy director of military intelligence, Lt. Col. Kyaw Win, that restrictions on her would be lifted, came the day before her legal detention ended.

¹⁶A diplomat talking about the arrest of the National League for Democracy member of parliament, seventy-seven-year-old U Kyi Maung and three others on June 2, quoted by Reuters on June 7, 1995. The men were released on June 8.

¹⁷ Article 9 of the International Convention on Civil and Political Rights (ICCPR) states: "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other offices...and shall be entitled to trial within a reasonable time or to release."

¹⁸ Article 4 of the ICCPR specifies which articles of the convention are not derogable during times of public emergency. This includes Article 15, which prohibits the retroactive application of new or altered laws or penalties.

¹⁹ Yozo Yokota, "Final Report on the Situation of Human Rights in Myanmar," (Geneva: United Nations Commission on Human Rights), February 23, 1995.

There are many other political prisoners in Burma, detained under equally draconian laws in violation of international human rights and legal standards.²⁰ Human Rights Watch/Asia estimates that as of July 1995 there are at least 1,000 political prisoners in Burma's jails arrested for exercising their rights to freedom of expression and association and the right to take part in the government of the country.²¹ In an interview with the BBC on July 13, 1995, the ICRC representative to Burma, Freidrun Medert, said that the ICRC was "more concerned with the fate of the other prisoners who are nameless and are being detained in prisons upcountry."²² No international observers have ever had access to these prisons. Some of the political prisoners have been in jail since 1988, possibly earlier, but others were arrested more recently.²³ Between April 1992 and July 1995, the SLORC released 2,246 political prisoners under Order 11/92 of April 1992 which stated, "Those detained for political reasons, other than those which will affect national security, will be released as soon as possible." In February and March 1995, a further 108 prisoners were released under Section 401 (1) of the Code of Criminal Procedures.²⁴ Many of those released were at the end of their sentences, and the vast majority were people charged and tried between 1988 and 1992 by military tribunals under martial law provisions, in violation of their right to a fair trial.²⁵

Even as these releases occurred, there have been more arrests. On February 20, 1995 several students were arrested during the funeral of U Nu, who was prime minister until the military coup of 1962.²⁶ The students are believed to have started singing the pro-democracy anthem, *Kaba ma kye bu* ("The world won't forgive," a pun on the national anthem) during the funeral procession and were immediately arrested. On April 28, nine of those arrested, including three female students, were sentenced to seven years in prison under Section 5 (j) of the Emergency Provisions Act.²⁷ Two of them were previously imprisoned in July 1989 at Aung San Suu Kyi's house, where they were

²⁰ The laws most commonly used to detain political activists are the 1950 Emergency Provisions Act, which allows for imprisonment for up to seven years of any one who "infringes upon the integrity, health, conduct and respect of state or military organizations...or spreads false news about the government"; the 1957 Unlawful Associations Act, which allows for imprisonment of up to five years for anyone has been a member of, or assisted, any association "(a) which encourages or aids persons to commit acts of violence or intimidation...or (b) which has been declared unlawful by the President"; Sections 121, 122-1 and 124 of the 1957 Penal Code, which allow for death, life or seven years' imprisonment for anyone committing high treason, or misprision of high treason; the 1962 Printers' and Publishers' Registration Act (amended in 1989) which allows for imprisonment for up to five years for anyone with a permit for printing who publishes material which "opposes the SLORC...insults, slanders or attempts to divide the Defense Forces;" and the 1975 State Protection Law.

²¹ Such rights are protected under Articles 19, 22 and 25 of the ICCPR.

²² BBC World Service, July 13, 1995. Ms. Medert added that she hoped the release of Aung San Suu Kyi might mean that the SLORC would reconsider its position and allow the ICRC access to prisons in Burma.

²³ Human Rights Watch/Asia is particularly concerned about the lawyer U Nay Min, who was arrested for giving information to the BBC in November 1988. Nay Min was sentenced to fourteen years in jail and was reported to have been badly beaten at the time of his arrest and during a hunger strike at Rangoon's Insein jail in 1991. His health remains poor.

²⁴ This section states that "the President may at any time, without conditions or upon any conditions which the person sentenced to accepts, suspend the execution of his sentence or remit the whole or any part of the punishment to which he has been sentenced."

²⁵ Article 10 of the Universal Declaration of Human Rights states, "Everyone is entitled in full equality to a fair public hearing by an independent and impartial tribunal". See Amnesty International, "Myanmar (Burma): Unfair political trials," ASA 16/06/91, September 1991.

²⁶ During the 1988 demonstrations, U Nu claimed that since the coup of 1962 was an illegal seizure of power, he was still prime minister. He was arrested soon after the military regained their authority in September 1989 and held under house arrest until 1992. U Nu was eighty-two years old.

²⁷ They are: Ma Moe Kalayar, Ma Aye Moe, Ma Cho Nwe Oo, Ko Moe Maung Maung, Ko Moe Myat Thu, Ko Maung

working as part of the NLD's youth group, and had been released in 1992. A further six students were arrested on March 24 in Rangoon, where they had allegedly obstructed soldiers preparing a route to the Shwedagon Pagoda three days before Armed Forces Day. It is not known if the students have been sentenced.

Many of those still in detention are believed to have been sentenced under Article 17/1 of the 1957 Unlawful Associations Act.²⁸ Under this article, any association or group can be declared unlawful by the government, including not only the armed ethnic opposition but also political parties, student unions, professional groups and Buddhist monk associations. In November 1989, the SLORC published a list of some associations considered unlawful, which included the Kachin Independence Organization (KIO), the Karen National Union (KNU), the New Mon State Party (NMSP) and the Karenni Nationalities Progressive Party (KNPP). While cease-fires have been agreed between the SLORC and the KIO (February 1994) and the KNPP (March 1995), bringing them into "the legal fold," there has been no formal revocation of their status as unlawful associations, and their members and supporters continue to face arrest. By contrast, eight groups representing the ethnic Kokang, Wa, Shan, Kachin, Pao and Palaung who signed cease-fire agreements between March 1989 and April 1991 were legalized by a SLORC decree in May 1991.²⁹

The Political Process

Shortly after taking power on September 18, 1988, the SLORC announced, under considerable international pressure, that it would allow political parties to form and would hold an all-party general election. The then chairman of the SLORC, Gen. Saw Maung, promised that the army would transfer power to the elected government. By 1990 a total of 233 parties had registered, though the largest by far was the National League for Democracy (NLD) chaired by U Tin Oo and with Aung San Suu Kyi as secretary general.³⁰ These two, along with many other leaders of the NLD, were already in detention by the time the election was finally held on May 27, 1990. Nevertheless, the NLD was the clear victor, taking 82 percent of the seats in the People's Assembly. Since then, the international community has repeatedly called for a transfer of power to those elected freely and fairly. The SLORC however, declared in July 1990 that "it can be seen that the wish of the majority of political parties that contested in the...elections is to draw up a new constitution...Therefore, in today's situation, the representatives elected by the people are responsible for drafting a constitution for the future democratic state."³¹ All MPs and members of political parties were required to sign their agreement to this declaration, and between July 1990 and the end of 1991 many were arrested for refusing to do so.³²

²⁸ The U.N. Special Rapporteur on Burma's report of February 1995 lists seventy-eight people released under Order 11/92 who had been arrested for being in contact with the Karen National Union (KNU) under the terms of this law. Most of these were villagers from the Irrawaddy Delta area arrested in mass round-ups after a KNU offensive in November 1991.

²⁹ SLORC Notification 2/91, May 14, 1991. The groups were: Myanmar National Democratic Army (Kokang); Myanmar Solidarity Democracy Alliance (Wa, former members of the Communist Party of Burma cadres); National Democracy Alliance Army (Shan); Shan State Army; New Democratic Army (Kachin, former Communist Party of Burma cadres); Kachin Defense Army (KIO's Fourth Brigade); Pao National Organization; Palaung State Liberation Party.

³⁰ Many parties were declared illegal before the election, in which twenty-seven parties won seats. By 1992 all but seven of these parties had been declared illegal.

³¹ SLORC Announcement No. 1/90, July 27, 1990. No evidence was ever given to support their claim that this was the wish of the elected representatives.

³² See Amnesty International, "Myanmar: No Law At All: Human Rights Violations under Military Rule," ASA 16/11/93 (London: Amnesty International), November 1992.

Sixteen members of parliament elected in 1990 remain in detention.³³ All of them were elected to represent the NLD and its allied parties, and are among a total of eighty-three elected representatives who have been detained in Burma since 1990. The majority were arrested in late 1990 and charged under Sections 122, 122-1 and 124 of the Penal Code (high treason) for their part in attempting to force the SLORC to transfer power by establishing a parallel government. They were tried and sentenced in summary trials in closed courts, often inside prisons, under martial law provisions in violation of their right to a fair trial. Having been sentenced, in July 1991 the MPs were stripped of their positions by SLORC Order 4/91, which states that anyone convicted of "moral turpitude" or offenses relating to law and order "ha[s] no right to continue to be a People's Assembly representative."³⁴ Furthermore, a second decree was issued on the same day stating that anyone convicted of those offenses "shall have no right to stand for election as a People's Assembly candidate in elections to be held in the future".³⁵

By means of these laws, Burma's most able politicians, many of whom were members of the NLD, have been denied the right to participate as actors in the political process. In addition to the eighty-three elected representatives, there are the hundreds of students, teachers, lawyers, doctors, peasant leaders and others arrested for their political beliefs since 1988 who will not be permitted to stand for election in the future. In a further move to restrict political freedom, many of those political prisoners who were released since April 1992 under Order 11/92, and all of those released under Section 104 (1) of the Code of Criminal Procedures were forced to sign papers saying that they would not take part in politics. Since being released, three MPs-elect have been re-arrested. Two of them, U Khin Maung Swe and U Sein Hla Oo, were arrested in August 1994. Two months later they were sentenced to seven years' imprisonment under Section 5(e) of the Emergency Provisions Act for "writing and distributing false news that could jeopardize the security of the state." Three other political activists arrested at the same time received sentences of between seven and fifteen years.³⁶ The third MP, U Kyi Maung, was released in March after spending five years in jail. He was taken in for questioning on June 2, along with five others, but was reported to have been released on June 8. Press reports of his detention suggested that he was arrested for meeting with foreign diplomats.³⁷

The National Convention

"[I]t is difficult to assume that, in the National Convention, open and free exchange of views and opinions are taking place in order to produce a truly democratic constitution." - U.N. Special Rapporteur.³⁸

The ongoing National Convention has been billed by the SLORC as a representative body to draw up the principles of a new constitution, under a which a new election will be held and the military will then transfer power to the new government. Despite repeated calls in U.N. resolutions for the SLORC to give a timetable for the convention, there is still no sign of the convention coming to an end, two and a half years after the process began. It appears that

³³U Ohn Kyaing, MP-elect for Mandalay Southeast-2; U Tin Htut, MP-elect for Einme-1; U Win Hlaing, MP-elect for Tatkon-2; Saw Naing Naing, MP-elect for Pazundaung; U Tin Aung Aung, MP-elect for Mandalay Northwest-1; Dr. Zaw Myint Aung, MP-elect for Amarapura-1; Dr. Myint Aung, MP-elect for Kanbalu-2; U Kyi Myint, MP-elect for Latha; Dr. Zaw Myint, MP-elect for Henzada-2; U Mya Win, MP-elect for Ingapu-1; U Hla Than, MP-elect for Coco Islands; U Tin Soe, MP-elect for Kyauktada; U Saw Win, MP-elect for Htilin; U Hla Tun, MP-elect for Kyimyindine; U Khin Maung Swe (re-arrested August 1994); U Sein Hla Oo (re-arrested August 1994).

³⁴ Radio Rangoon, July 10, 1991.

³⁵ SLORC Order 10/91, Radio Rangoon, July 10, 1991. Under this amendment, people convicted of offenses other than moral turpitude and breaches of law and order are prevented from standing for election for ten years.

³⁶ The others are: Dr. Khin Zaw Win, Daw San San Nwe and her daughter, Ma Myat Moe Moe Tun.

³⁷ Kyodo news agency, June 7, 1995.

³⁸ U.N. Special Rapporteur on Burma, "Report on the Situation..." February 1995, paragraph 149.

the SLORC may prolong the convention until it has secured cease-fire agreements with all the armed ethnic rebels and has gained some popularity at home through improvements in the standard of living of the small but influential middle class. The proceedings of the convention reveal how closely it is controlled by the SLORC and how it is in fact the SLORC that is writing the constitution.

In May 1992, exactly two years after the election, the SLORC announced the formation of the Coordination Meeting for the Convening of the National Convention, to be guided by a steering committee headed by a SLORC member and Rangoon division army commander, Myo Nyunt. For two months this committee discussed how the National Convention would work and who would attend. In January 1993 the convention finally opened with 702 delegates, of whom only 106 were elected representatives. All of the rest were either hand-picked by the SLORC to "represent" workers, peasants, intellectuals, national races and service personnel or were "specially invited persons." In accordance with Announcement No.1/90, the SLORC stated that the convention would only be drawing up the "principles" of a new constitution, and the final draft would still be written, as promised, by the elected representatives. Moreover, the principles discussed by the delegates had to conform with the "objectives" of the convention, as defined by the SLORC, which included the "participation of the Tatmadaw [armed forces] in the national political leadership role of the State in the future."³⁹

To further control the process of the convention, the SLORC established strict rules for delegates to the convention which effectively prevent free discussion, even within the convention hall. All papers presented at the convention are censored by the National Convention Convening Committee (NCCC)⁴⁰ and the discussions which take place within the convention on a day-to-day basis are not reported to the public. While the convention is in session, the delegates have to live in dormitories and are only allowed to leave the Kyaikkasan compound with official permission. The political parties have complained that they are also not allowed to discuss the proceedings and their own party policy with other members of their parties.⁴¹ While some of the martial law provisions of 1988 and 1989 have been repealed,⁴² there has been no formal repeal of paragraph (b) of SLORC Order 2/88 which forbids gatherings of more than five people. In August 1993 an NLD representative, Dr. Aung Khin Sint, and his colleague U Than Hla were arrested for disseminating speeches delivered to the convention. They were sentenced to twenty and fifteen years' imprisonment respectively, though Dr. Aung Khin Sint has since been released.⁴³ Others have reported harassment and obstruction of NLD delegates; in one case a delegate was prevented from buying a train ticket from the Shan State to attend a session and had to make his way on foot and by bus.⁴⁴

Given these restrictions on discussion within the convention, it is not surprising that a clear pattern has emerged from the four full sessions that have been held since January 1993. Each session has opened with a speech by a member

³⁹ SLORC Order 13/02, "The Formation of the Commission for Holding the National Convention," October 2, 1992.

⁴⁰ The NCCC is led by its chairman, Maj. Gen. Myo Nyunt (member of the SLORC, minister for religious affairs and Rangoon divisional commander); and vice-chairmen Maj. Gen. Maung Thint (SLORC member and minister for border areas); Brig. Gen. Myo Thant (SLORC member) and Brig. Gen Aung Thein (SLORC member and secretary of the defense services public relations and psychological warfare).

⁴¹ See U.N. Special Rapporteur, "Report on the Situation..." February 1995, p. 32.

⁴² In September 1992, paragraph (a) of SLORC Order 2/88, which established a nationwide curfew from 11P.M. to 4A.M.; Order 1/89 which granted martial law powers to regional commanders; and Order 2/89 relating to procedures for military tribunals were all "deleted." As far as Human Rights Watch/Asia is aware, no other SLORC Orders have been officially revoked.

⁴³ They were sentenced under the 1950 Emergency Provisions Act and the Printers and Publishers Law. Dr. Aung Khin Sint was released on February 4, 1995 under Section 401(1) of the Code of Criminal Procedures.

⁴⁴ Personal communication to Human Rights Watch/Asia, April 1994.

of the NCCC in which "suggestions" have been made about the particular chapter under discussion. This speech is reported in the government-controlled media, and the delegates then meet in their respective groups to discuss the suggestions.⁴⁵ Some weeks or even months later, the chairman of the NCCC, Myo Nyunt, presides over a plenary session. In three out of the four sessions, the summing-up speech by the chairman, which purports to be the "agreed" principles, has been identical to the opening speech. The only issue which the SLORC failed to push through was the suggestion in June 1993 that the names of the ethnic states which reflect the majority ethnic population in that state (Mon, Karen, Shan, Kachin, Chin and Arakan) be changed to historical Pali or Burmese names.

Underscoring the SLORC's control of the process, Myo Nyunt explained the SLORC's involvement in the convention in April 1995:

⁴⁵ Censorship laws in Burma mean that there is no free press. See Article 19, "Censorship Prevails: Political Deadlock and Economic Transition in Burma," (London: Article 19) March 1995.

To explain the activities of the National Convention, the National Convention Convening Work Committee compiled the proposals presented by the National Convention delegates, scrutinized them, and has always presented them to the National Convention Convening Committee (NCCC) for confirmation. *The NCCC in turn will also have to seek the approval of SLORC. The SLORC, which has taken the leadership role and is responsible for the state, will take the appropriate action as deemed necessary to be included in the constitution if the basic principles are in compliance with the policies.*⁴⁶ (emphasis added)

To date, the "principles" decided on at the convention would create a bi-cameral legislature with a House of Representatives and a House of Nationalities. In both houses, representatives from the armed forces would have a quarter of the seats (110 of the 440 seats in the House of Representatives, fifty-six of the 224 seats in the House of Nationalities). However, it is unclear what powers the two houses will have, as the president of the Union, who must have served active duty as a member of the armed forces, would have ultimate authority on all decisions.

At the session of the convention which began in September 1994, the topic of discussion was the status of ethnic minorities that had no representation under the 1974 and 1947 constitutions.⁴⁷ The session continued for six months, an indication of the difficulty of reaching consensus on this issue. On December 8, 1994, the Wa, Kokang and Palaung, who had signed cease-fire agreements with the SLORC in 1989 and who are represented at the convention, formed a new alliance, called the Peace and Democratic Front, in order to press for their common political and economic demands. In a clear challenge to the SLORC, they also agreed to cooperate militarily. Despite this open opposition to the proposals, the concluding remarks of the chairman of the National Convention Convening Work Committee U Aung Toe, in March 1995, were again identical to his opening speech. Groups with more than 0.1 percent of the population in any one area would have "self-administered zones." The Wa, who had called for the creation of a Wa State, would have a larger "self-administered area." In both cases, this designation entitles the groups to one representative in the House of Nationalities. Reports in the government media show that in speeches to the convention, representatives of the minorities to be given "zones" and "areas" voiced dissatisfaction with the proposal, while representatives of political parties called for a population census to take place before proposals could be made which should then be put to a national referendum.⁴⁸

⁴⁶ *New Light of Myanmar*, Rangoon. April 7, 1995.

⁴⁷ These groups are minorities in the seven ethnic states and the seven ethnic Burman divisions. ("Burmese refers to all the citizens of the country of Burma or the languages of the dominant ethnic "Burman" population.)

⁴⁸ The United Wa State Party, the Shan State Kokang Democratic Party, the Shan National League for Democracy and the National League for Democracy were particularly outspoken. An NLD representative, U Khin Maung, said "it is not appropriate for this National Convention to prescribe self-administered areas without soliciting the wishes of the local people of the regions concerned." *Rangoon Radio*. March 30, 1995.

The SLORC claims that the National Convention is a truly representative assembly. But while groups which signed cease-fires after the convention opened have been invited to attend under the "specially invited persons" category, the degree to which they can participate is not clear. The KIO represents a large population in the Kachin State and has an armed force of some 7,000 soldiers, and has refused even to send observers. Others, like the Karen National Union, which have not signed cease-fire agreements, are not invited, and the Muslim Rohingyas, who are a significant minority in the Arakan State, are not recognized by the SLORC as an ethnic group and therefore also have no representation at the convention.⁴⁹ Any groups that sign cease-fires in the future, including the New Mon State Party which agreed to a cease-fire on June 29, will have no opportunity to discuss the principles which have been already "agreed" on.

On April 8, 1995, the convention was adjourned by the NCCC; it will not resume until October 24. When it does reconvene, the SLORC is likely to push through the last chapters of the constitution so that a new election can be held. Now that Aung San Suu Kyi has been released, it is unclear what role she and her fellow members of the NLD will be able to play in the writing of the constitution. While the SLORC Announcement 1/90 is still in effect, in the past two years, the SLORC has dropped all reference to the principle that the elected representatives would ultimately be the authors of the new constitution.

In a further move to ensure its political control, the SLORC formed the Union Solidarity and Development Association (USDA) on September 15, 1993. The aims of USDA are those of the SLORC: "1. nondisintegration of the union; 2. nondisintegration of national unity; 3. perpetuation of national sovereignty," with the additions of "4. commission and vitalization of national pride," and "5. emergence of a prosperous, peaceful and modern union." Within months, USDA offices opened across the country, many of them in town halls and government offices. Within a year, USDA officials at the annual general meeting declared that 833,022 people had become members.⁵⁰ A large part of this membership came in the form of mass rallies held in January 1994, which civil servants, school children, peasants and others were forced to attend. The objectives of the national convention were presented and "passed" at these rallies by a show of hands, although participants said they did not understand the implications of the "voting."⁵¹

It is clear from these developments that the SLORC has used every means possible to manipulate the political process and deny the citizens of Burma their right, as expressed in Article 25 of the ICCPR, to "take part in the conduct of public affairs, directly or through freely elected representatives." In doing so they have not only violated the most basic of international human rights standards but also their own laws. Thousands of people have been arrested for trying to exercise this right and the right to freedom of association and expression. In order for those rights to be restored, and for the release of Aung San Suu Kyi to have any impact on the political impasse, many of the laws which are currently in place, including SLORC Order 4/91 and 10/91, must be repealed.

Forced Labor

"[B]asic rights and democracy must be in harmony with the nature of the country and the people... Thus we are giving priority to create firm infrastructure of basic rights, such as food, clothing and shelter needs. As long as the infrastructure is firm, a super structure of human rights can be built stage by stage."
- Sr. Gen. Than Shwe⁵²

⁴⁹ Between 1961 and 1969 Burmese Radio had a "Rohingya" program, which was stopped "in the interests of national unity." In 1991 some 270,000 Rohingyas fled from Arakan to Bangladesh with reports of appalling abuses by the Burmese army, including killings and rape. In June 1995 most had been repatriated and only 50,000 remained in refugee camps.

⁵⁰ Radio Rangoon, September 15, 1994. Quoted in the BBC Survey of World Broadcasts (SWB).

⁵¹ BBC World Service, January 18, 1994.

⁵² Quoted by SLORC Secretary-1 Khin Nyunt in a speech given in his role as chairman of the Myanmar Education Committee at a "refresher" course for primary school teachers, Rangoon Radio, April 2, 1995.

Forced labor is endemic in Burma. As the SLORC has opened up the economy to international investors, it has forced civilians and prisoners to rebuild the country's infrastructure, which was badly neglected by the previous government. The SLORC claims that these "development projects" are designed for the long-term benefit of all, because they will create the infrastructure for improvements in the standards of living of their people. Human Rights Watch/Asia estimates that since 1992 at least two million people have been forced to work without pay on the construction of roads, railways and bridges across the country. Hundreds have died from beatings, exhaustion, accidents and lack of medical care. The use of unpaid civilians on these development projects is a violation of the 1930 International Labor Organization (ILO) Convention, to which Burma is a signatory. In violation of Common Article 3 of the Geneva Conventions, forced labor has also been used for overtly military practices. This includes the use of civilians as porters for the army, to construct army barracks, and to stand watch on roads and railways in areas where ethnic rebels are active.

The SLORC continues to insist, in the face of all evidence to the contrary, that such labor is "donated" voluntarily by the people as a "noble act of charity." SLORC officials have claimed to be proud of the spirit of the people who are "voluntarily cooperating in the various development projects across the country. These citizens did not even ask for money because they would consider it an insult."⁵³ It should be noted that the main reason given for this spirit of voluntarism is their common Buddhist culture, in which "the giving of labor is a noble deed and...the merit attained from it contributes to better personal well-being and spiritual strength."⁵⁴ However, the 20 percent of the population in ethnic minority areas who are not Buddhist bear the burden of this labor. The SLORC publishes figures of the numbers who have contributed to individual projects. On December 15, 1993 the *New Light of Myanmar* reported that 921,753 people had contributed to the building of the Pakokku-Monywa railway. More recently, in their submission to the ILO, the SLORC said that "799,447 working people...contributed voluntary labor" on the Aungban-Loikaw railway.⁵⁵

The pattern of forced labor has been documented by Human Rights Watch/Asia since 1990.⁵⁶ From the testimony of people who have worked on such projects, it is abundantly clear that coercion and force have been used to make them work. Typically, the local army commander contacts the village headman, or in urban areas the council chairman, who is told to supply labor for a certain section of the road or railway. It is then usually left to the headman to choose which families will work at which times, on a rotating basis. There is no option to choose not to go; the only alternatives to going are to pay heavy fines ("porter tax") or to flee the area. As one woman from the Karen State interviewed by Human Rights Watch/Asia in January 1995 said, "Sometimes we didn't go because we were tired, and they came at night and dragged us from our house. My children were screaming and crying, but I just had to leave them there." Families have to work until the job is finished, which can be up to a month, but most jobs take between ten days and two weeks. In some areas, families have to work on such a basis every month, leaving them little time to earn their living.

Laborers are often subject to further abuse from the soldiers who control the project sites. The old and infirm are particularly vulnerable and have been beaten when they take rests or are thought to be working too slowly. Human Rights Watch/Asia learned from reliable sources in Burma that an old man died from being beaten by an army captain on February 22, 1995, while working on the Rangoon - Kyaukpyu road in Arakan State in southwest Burma. At the same site, twelve others died during December 1994 and January 1995 from fevers that were not treated. Sources in the Kachin State, in northern Burma, in late 1994 reported that some 3,000 people were taken from Putao to work in a very

⁵³ Foreign Minister U Ohn Gyaw, quoted in U.N. Special Rapporteur "Report on the Situation...", February 1995.

⁵⁴ Government statement of May 1993, quoted in ILO "Report of the Committee of Experts," APPL\149-3.E95 (Geneva: International Labor Organization) June 1995.

⁵⁵ *Ibid.* The SLORC also said that it had generously given a total of 20 million kyats to the volunteers: less than 25 kyats per person, roughly U.S. \$0.20 at the market rate of exchange.

⁵⁶ See Human Rights Watch/Asia "Burma: Abuses Linked to..." March 1995; "The Mon..." December 1994; "Burma: Rape, Forced Labor..." May, 1992, "Human Rights in Burma", May 1990.

remote area on the Putao-Sumprabum road. After walking for six days to reach the site, they found that the rice supplies which had been promised by the army had not arrived, and they had to walk back. Scores of people died on the journey from malaria and other diseases, exacerbated by a lack of food. Nevertheless, the project has continued, and thousands of people were still working there in May 1995. In the northwest, a recent visitor to the Chin State reported that a woman was killed while working on the Pakokku-Kalemyo railway line after she had stopped working twice to feed her young baby. The woman had been forced to take her baby with her to the site as all her relatives were also working on the railway. In the south, refugee relief workers from the Burma Border Consortium report that two to three families a week continue to arrive at the Thai border in June 1995, escaping forced labor on the Ye-Tavoy railway.

The ILO has investigated the practice of forced labor in Burma under Convention 29.⁵⁷ In November 1994 a committee of the ILO found: "[T]he exaction of labor and services, in particular portage service, under the Village Act and the Towns Act is contrary to the Forced Labor Convention, 1930 (No. 29), ratified by the government of Myanmar in 1955." The committee called on the SLORC to "ensure that the formal repeal of the powers to impose compulsory labor be followed up in practice and that those resorting to coercion in the recruitment of labor be punished."⁵⁸ In June 1995, the report of the ILO's Committee of Experts on the Application of Conventions and Recommendations investigated the case further and threw out the SLORC's attempts to justify forced labor under the criteria of the convention.

Discrimination Against Minorities

Peoples of different races and religions should not mix....[O]nly if there is one race and one religion will our country be prosperous and peaceful. - Lt. Gen. Myo Nyunt.⁵⁹

At least one-third of Burma's population, that is, about fifteen million people, belong to ethnic minorities. In addition to the large ethnic groups, the Mon, Karen, Shan, Kachin, Chin, and Rakhine, within which there are dozens of sub-groups, there are also significant populations of immigrants of Chinese and South Asian origin.⁶⁰ Whereas the ethnic Burman population is overwhelmingly Buddhist, the ethnic minorities, with the exception of the Shan, Mon and Rakhine, tend to have large Christian or Muslim minorities within them. The degree of integration of ethnic minorities differs greatly but in general depends on geographic location: those minorities based in remote highland areas (many sub-groups of the Karen, the Chin and Kachin) are least integrated and most Christian, whereas the lowland Karens as well as the Mon and the Shan tend to be more integrated. All the ethnic groups have had armed groups which claim to represent them. The coincidence of ethnicity, religion and armed insurgency has meant that allegations of religious persecution or racial discrimination are often combined. Since those ethnic minorities which are also religious minorities live in the remotest parts of Burma, it has also meant that there has been little information about the situation in their areas. Nevertheless, in his report of 1993, the U.N. Special Rapporteur on Religious Intolerance and Discrimination wrote: "[T]he concrete cases concerning the freedom of religion by the members of the Muslim and Christian faiths merits an investigation that would identify the persons, locations and situations concerned, which has not been carried out."⁶¹

⁵⁷ For a full discussion of the application of ILO Convention 29 in Burma, see Human Rights Watch/Asia, "The Mon..."

⁵⁸ International Labour Organization, "Report of the Committee set up to consider the representation made by the International Confederation of Free Trade Unions under article 24 of the ILO Constitution alleging non-observance by Myanmar of the Forced Labor Convention, 1930 (No. 29)" (Geneva: International Labour Organization) November 7, 1994.

⁵⁹ Article reporting a speech by Lt. Gen. Myo Nyunt, SLORC member and minister for religious affairs, speaking at a Buddhist novitiation ceremony for orphans in the *Myanma Alin*, the Burmese language government-controlled newspaper, April 10, 1995. This part of the story was not reproduced in the English-language version, *The New Light of Myanmar*.

⁶⁰ See Martin Smith, *Ethnic Groups in Burma* (London: Anti-Slavery International), 1994; Bertil Lintner, *Burma in Revolt: Opium and Insurgency Since 1948* (Boulder, Colo.: Westview Press), 1994.

⁶¹ Angelo Vidal d'Almeida Ribeiro, "Report of the Special Rapporteur on Religious Intolerance," (Geneva: United

Over the past three years there have been indications of an increasingly intolerant SLORC attitude towards the ethnic and religious minorities, albeit at a time when the government has professed a policy of "national reconciliation." Without going as far as calling Buddhism the state religion, the SLORC has enacted a clear policy to promote Buddhism in Burma, both in order to enhance the legitimacy of the military government and to forge "national solidarity." In response to the 1993 report of the Special Rapporteur on Religious Intolerance, the SLORC claimed that it "is prudent and careful in taking measures so that there is no discrimination against other religious faiths...For this reason, a separate Ministry of Religious Affairs...was established in 1992." The statement did not add that the religious affairs ministry is located in the grounds of the World Peace Pagoda (Kaba Aye) in Rangoon, a compound which also serves as the home of the most senior committee of Buddhist monks, the Sangha Maha Nayaka Committee. Nor did he mention that one of the main functions of the Ministry of Religious Affairs is the propagation of Buddhism, both nationally and internationally, through the publication of Buddhist scriptures and the establishment of Buddhist missionary schools in ethnic minority areas.⁶²

The SLORC policy of promoting Buddhism as an essential facet of being a "true" Burman, has led to discrimination on ethnic and religious grounds. Human Rights Watch/Asia has received information concerning incidents of discrimination against Christian ethnic minorities from the Chin State, northern Sagaing division, and Mandalay. The Chin State, north of Arakan State, is one of the poorest and most remote parts of Burma, bordering Mizoram in India and the Chittagong hills of Bangladesh. An estimated 70 percent of the one million Chin (also known as Zo) are Christian, with the remainder being animists or Buddhists. The local rebel front is the Chin National Front (CNF), which was formed in 1985. In May 1993, the head of the Sangha Maha Nayaka committee visited eight towns in the Chin State, opening new Buddhist missionary schools and urging the "people to practice meditation for mental and physical well-being."⁶³ In 1995, a visitor to the Chin state noted that several crosses had been knocked down over the past two years and that missionaries promoting "Chin Christianity in One Century" had been harassed and prevented from travelling freely within Chin State. In January 1995, a Christian evangelist, Pu Pum Khan Thang, was arrested in Tedim market, allegedly for having been the source of a Christian picture book found in the market.

In northern Sagaing division, there have been reports of forced conversions since the arrival of a particularly active army battalion, led by Maj. Khin Soe, in October 1994. The population of this area is largely Naga, the majority of whom are Christian. In December 1994, the people of Konkailon village were ordered to demolish their church and construct a Buddhist monastery in its place. The following month, villagers from Kokailon, Kuki, Nurnitmumpi and Pansat were forced to accept *asila* (Buddhist vows) from monks who had been brought in by the army to occupy church buildings.

In Mandalay, church-owned property, including cemeteries, has been confiscated by the government. A Danish tourist who visited the city in February 1995 spoke to a Christian woman who described how she had had to exhume the bodies of her father and other relatives from a cemetery on the road to Maymyo. "We had to dig up the graves and take all the bones to another place. Of course, we couldn't do this ourselves, for it is a sin, so we had to pay other people 2,500 kyats to have the bones...put in another place, a big tomb. Now there is a People's Park there. The old Protestant cemetery is a soccer field, and our Catholic cemetery is a park." The tourist, who wished to remain anonymous, went to see the site where the cemeteries had been and saw that the area was now a children's playground and football ground, both of which were deserted.

⁶² There is a Department for Propagation and Promotion of the *Sasana* (faith) to which both laymen and monks can apply to join these missionary course. The applications are processed through the township Law and Order Restoration Councils.

⁶³ Article in the *New Light of Myanmar*, May 12, 1995.

Of all the minority groups, Burma's Muslims of South Asian origin have probably suffered the worst discrimination. In Burma anyone of Indian origin is known as *Kala*, a label which is often used a term of racial abuse.⁶⁴ Under Burma's citizenship law, many Burmese of Indian origin are denied full citizenship rights.⁶⁵ The kinds of discrimination they face under this law are broad: their freedom of travel within Burma is restricted; they are ineligible for promotions in the civil service; and the kinds of abuses outlined above tend to be worse for Indians. For example, Human Rights Watch/Asia has noted a disproportionately high number of Burmese Indians among escaped porters we have interviewed since 1990. One man from an Indian quarter in Rangoon was taken from a popular Indian tea shop in January 1995 and made to work as a porter for the army. All the men sitting in the shop, all of whom were Indian, were also taken.⁶⁶ Whereas only an estimated one million of the forty-three million people in Burma are of Indian origin, six of the fifty porters interviewed by Human Rights Watch/Asia on that occasion were Indian.

While all Indians are likely to experience discrimination, the Muslims among them are particularly targeted.⁶⁷ In late 1994, the entire Muslim population of a village in Yamethin township, near Mandalay, was ordered to relocate. In March 1995, Muslims from the Three Pagodas Pass area opposite Thailand's Kanchanaburi district were reported to have been forbidden to hold religious gatherings under SLORC Order 2/88, which bans public meetings of more than five people.

Human Rights Watch/Asia has also received reports of continuing abuses against Muslims in Arakan State in 1994 and 1995. Forced relocations have increased, moving Muslims from other parts of Arakan to form enclaves in Buthidaung and Maungdaw townships, which already have majority Muslim populations.

- In July 1994, over 500 Muslims from Nga Let village tract in Minbya township, Akyab (Sittwe) division were woken early in the morning by the army and forced onto boats which took them close to the Bangladesh border in Maungdaw township.
- Between November 1994 and February 1995 over 1,500 Muslim villagers from four villages in Mrauk Oo township, Akyab division were similarly taken by boat to Maungdaw.
- In late 1994, 150 households from Min Pya and 350 households from Myo Haung townships were also moved to Maungdaw.⁶⁸

⁶⁴ This population in the main came to Burma in the (pre-partition) colonial period, encouraged by British officials who needed them to run the administration. They were thus seen by many Burmese as tools of the British government, and in the 1930s and 1940s there were several anti-Indian riots.

⁶⁵ The 1982 Nationalities Act requires that to be full citizen a person must prove family residency in Burma, for all ancestors, since 1826.

⁶⁶ See Human Rights Watch/Asia "Burma: Abuses Linked to...", p. 8.

⁶⁷ It should be noted that while there is a significant population of Chinese Muslims, known as "Panthays," they do not suffer the same discriminatory policies. A 1994 article noted that while the SLORC was pulling down an "Indian" mosque in Myawaddy, it was supporting the construction of a new Panthay mosque in Tachilek. Wilson and Henley, "The SLORC and Islam," *Bangkok Post*, September 4, 1995.

⁶⁸ These incidents were also reported by the Special Rapporteur to Burma in his January 1995 report, p.28.

- On March 17, 1995 the villagers of Upper and Lower Pike Thee villages were given orders to relocate to Buthidaung township. The order was signed by the Akyab district Law and Order Restoration Council (LORC) chairman and said that if the villagers did not move, they would be dealt with "according to the immigration law." The two villages comprised over 3,000 people, all of whom were Muslims but not necessarily Rohingyas,⁶⁹ and none of the villagers had fled to become refugees. On March 22, officials from the local LORC tried to start the relocation but faced resistance from the population who staged demonstrations, saying they would rather die than leave their village. Village elders sent petitions to the regional military commander, as well as to the local LORC, and held meetings to discuss the issue. According to the latest information we have received, as of May 1995, the issue had not been resolved and the village is virtually under siege by the military.

The continuing abuses against Muslims in the Arakan State are of great concern, coming at a time when the U.N. High Commissioner for Refugees (UNHCR) is repatriating and resettling the 270,000 Rohingyas who fled to Bangladesh in 1991 and 1992. In its June 1995 *Bulletin*, the UNHCR claimed that it is "satisfied that there is no discrimination against returnees in Myanmar, and that UNHCR's presence and access can ensure the safety of those who repatriate."⁷⁰ The reports from Arakan State outlined above would suggest that while the returnees may be safe at present, human rights abuses against Rohingyas who stayed in Burma and non-Rohingya Muslims in Arakan have continued. The *Bulletin* also commented on the use of forced ("compulsory") labor, which "continues to be a nationwide practice in Myanmar. The UNHCR has intervened repeatedly on the question of returnees being called for compulsory labor, and feels it has succeeded in reducing significantly the burden for the local population and the returnees. The authorities have agreed to limit compulsory labor in Rakhine State to a maximum of four days of work from every family per month." This is clearly a hard-won compromise, but it is one which is nevertheless unacceptable. The fact that forced labor takes place across the country does not justify the practice in any one area. Moreover, it was not only the onerous nature of forced labor in Arakan which provoked the flight of 270,000 Muslims, but the beatings, often resulting in deaths, and which were often racially motivated, by soldiers overseeing forced labor projects.⁷¹ With a heavy military presence in the area and the SLORC rushing to complete some 1,200 new miles of roads and several major bridges in Maungdaw and Buthidaung alone, there is every likelihood that Rohingyas and other residents of these townships will fall victim to further abuses.⁷² The UNHCR does not reveal how it will ensure that such mistreatment does not recur, given that it does not have free access to all parts of Buthidaung, nor how the periods of labor will be monitored. Human rights groups have not been allowed access to Arakan to monitor abuses; in October 1994 Human Rights Watch/Asia requested to send a mission to Arakan and to the refugee camps in Bangladesh. Neither SLORC nor the Bangladesh government responded to the request.

⁶⁹ The name "Rohingya" is a term used by some, but not all, Muslims from the Arakan State to distinguish themselves as a distinct ethnic group. Most of the Muslims in the two most westerly townships, Maungdaw and Buthidaung, are Rohingyas (roughly 500,000).

⁷⁰ UNHCR press office, "Return to Myanmar" *Information Bulletin*, (Geneva: UNHCR) June 1995

⁷¹ Refugees reported that the soldiers used racist terms of abuse and often told them to "go back to your own country." See Asia Watch, "Burma: Rape, Forced Labor...", May 1992 and Amnesty International, "Human Rights Violations against Muslims...", May 1992.

⁷² The military present in Arakan is the army supplemented by the "Na Sa Ka," a Burmese acronym for the border patrol police. There are at least 9,000 Na Sa Ka in Maungdaw and Buthidaung.

The Rohingyas and all other ethnic and religious minorities will remain vulnerable so long as they are not officially recognized as citizens of Burma. Burma introduced a new Citizenship Law in 1982, and all residents were required to apply for identity cards under this law. Travel restrictions on the Rohingyas and a lack of public awareness and education (an estimated 40 per cent of Rohingyas are illiterate) meant that only a small proportion of them registered between 1982 and 1988. According to government figures, by December 1992 only 845,000 people out of 2,400,000 in Arakan State had applied, by far the lowest percentage in the country. Of those, 227,000 had still not received identity cards, a figure second only to the Irrawaddy Division.⁷³ Those few Rohingyas who did receive ID cards were classed as naturalized citizens, the last of three types of citizenship (the others being full citizens and associate citizens). As naturalized citizens, residents of Burma face restrictions on freedom of travel and land ownership, and under the 1984 Burma Act, the Council of State may revoke the citizenship, associate citizenship or naturalized citizenship of anyone except a citizen by birth.⁷⁴

III. HUMAN RIGHTS ABUSES DURING COUNTERINSURGENCY OPERATIONS

*"I am gravely concerned at the continued reports of forced portering, forced labor, forced relocation, arbitrary killings, beatings, rapes and confiscation of property by the army soldiers" - U.N. Special Rapporteur.*⁷⁵

Undoubtedly the worst abuses against ethnic minorities have taken place in the context of Burma's ongoing insurgencies. Armed ethnic rebels have been fighting the Rangoon government since the first year after independence from Britain in 1948. In the 1970s the Burmese army intensified efforts to pressure the civilian population into ending their support for the rebels. Soldiers committed human rights abuses with impunity, and communities were constantly uprooted and forced to move into areas under government control, with devastating consequences for the economic and cultural life of the minorities. Since 1989, the SLORC has sought military cease-fires with some of the ethnic rebels, bringing a kind of peace to the areas under their control. By March 1995, when the Karenni Nationalities Peoples Party (KNPP) announced their cease-fire, only the Karen National Union (KNU), the Mong Tai Army (MTA), the Chin National Front (CNF), the New Mon State Party (NMSP), and the Burman All Burma Students Democratic Front (ABSDF) remained at war with the government. On June 29, it was announced that the NMSP had signed a cease-fire agreement. As this report goes to press, full details of the terms of this cease-fire have yet to emerge.⁷⁶ However, on July 3, the KNPP cease-fire collapsed, and by July 10, heavy fighting was still being reported in their area.

Where fighting continues, abuses by the SLORC consist of arbitrary arrest and executions of suspected rebels or rebel sympathizers, attacks on civilian locations, detention of civilians to use as porters, and forced relocations. Forced portering is the most widespread of these abuses. In the period between November 1994 and June 1995, thousands of porters have been taken to the front line in the offensives against the KNU and the MTA, and hundreds have died.⁷⁷ Civilians fleeing the fighting in the Karen state have been attacked in refugee camps in Thailand by a group allied to the SLORC, reportedly accompanied by soldiers of the Burmese army. These abuses are violations of the 1948 Geneva Conventions, which the SLORC signed in 1992.⁷⁸

⁷³ Union of Myanmar, Department of Immigration and Manpower, December 11, 1992. The figures are not broken down into religious groups, but evidence from the refugees suggest that very few Rohingyas had ever had ID cards.

⁷⁴ See Prof. Yokota, "Report on the Situation of Human Rights in Myanmar" E/CN.4/1993/37, (Geneva: UN ECOSOC) February 17, 1993.

⁷⁵ "Introductory statement by the Special Rapporteur" February 23, 1995.

⁷⁶ See Human Rights Watch/Asia, "The Mon..." for a discussion of the history of the NMSP cease-fire negotiations.

⁷⁷ See Human Rights Watch/Asia, "Burma: Abuses Linked to..."; also Amnesty International, "No Place to Hide".

⁷⁸ See Human Rights Watch/Asia, "Burma: Abuses Linked to..." for a full discussion of the application of the Geneva

The Renewed Offensive in the Karen State

In December 1994, as SLORC representatives held discussions about national reconciliation at the U.N. with officials from the secretary-general's office, preparations were being made in the Karen State for a military offensive against the KNU. In mid-December, a breakaway group of Buddhist Karens from the KNU formed the Democratic Karen Buddhist Organization (DKBO), in protest against discrimination by the Christian leadership of the KNU and human rights abuses including killings and rape by a squad of the KNU's Seventh Brigade. From the first, the DKBO was supported in the SLORC-controlled media and on the ground by the local Burmese army.⁷⁹ Indeed, the headquarters of the DKBO at Myaing Gyi Ngu was just across a small river from a SLORC army camp. Escaped porters interviewed by Human Rights Watch/Asia in January and February 1995 in refugee camps in Thailand described how they had been taken from the towns and villages from October 1994 onwards, long before the DKBO was formed.⁸⁰ With the help of the DKBO, the SLORC took the KNU's northern strongholds at Manerplaw and Kawmura in just two months.

Since the fall of KNU bases in the north, abuses against civilians have continued. Porters described being subject to physical abuse and inhumane treatment from the moment of capture. All but one of the fifty porters interviewed by Human Rights Watch/Asia had been severely beaten by the soldiers when they slipped or fell from exhaustion, and all had witnessed the deaths of fellow porters. As the SLORC and DKBO (who were reported to number around 2,000 troops by June 1995) sought to consolidate their position and move further south to the territory of the KNU's Sixth Brigade, the taking of porters continued. According to a June 1995 Amnesty International report, porters taken in March and April 1995 described the same kinds of abusive treatment, and all had witnessed the killings of fellow porters along the way.⁸¹ On June 13, 1995 press reports from Thailand quoted Thai military authorities as saying that more than 200 Burmese civilians from the area around the town of Myawaddy had been rounded up to serve the Burmese army as porters in three days.⁸²

Refugees interviewed by Human Rights Watch/Asia in January also told of forced relocations to the headquarters of the DKBO at Myaing Gyi Ngu and forced recruitment into the DKBO. Because no human rights groups or reporters have been allowed access to the SLORC-controlled areas in the Karen State, there have been few reliable reports of the situation there. However, Human Rights Watch/Asia has learned that forced relocations have continued and have spread to a wider area in the northern part of the Karen State. While Christians were not expressly forbidden to join the DKBO, they were not encouraged.⁸³ In the first week of June, refugee relief workers reported that over 500 refugees had arrived in Thailand from Papun township in northern Karen State claiming to have fled forced recruitment.

⁷⁹ Myawaddy Radio which began transmission in December 1994 in the Karen area, was very active in SLORC's propaganda war against the KNU. On March 27, 1995, a sister television station, Myawaddy TV, was also established to be the voice of the armed forces.

⁸⁰ See Human Rights Watch/Asia, "Burma: Abuses Linked to..."

⁸¹ Amnesty International, "Myanmar: No Place to Hide" ASA 16/1/95 (London: Amnesty International), June 6, 1995. This report also documents in detail the attacks by the DKBO on refugee camps in Thailand.

⁸² Reuters, June 13, 1995.

⁸³ Leaflets published by the DKBO called for all Buddhist Karen "to rise up against the Christian leaders," suggesting that Christians would not be welcome.

The forcible relocation of civilians inside Burma has coincided with attacks on refugee camps in Thailand. Following the fall of the KNU bases, at least 8,000 refugees fled from KNU-held territory, crossing the Moei and Salween rivers which mark the border with Thailand and joining the 70,000 Karen and Mon villagers already in camps along the border. However, the SLORC and the DKBO made several incursions into Thailand on their heels. Between January and May 1995, eleven refugees and Thai citizens were killed, scores of refugees were abducted, and hundreds of others were forced back into Burma, and three camps were razed. There has been no news of the refugees who were abducted, many of whom were Buddhist members of the KNU, and Human Rights Watch/Asia remains concerned for their safety. In tactics not unlike those of the SLORC in rebel-held areas of the country, the attacks appear to have been designed to frighten the refugees into returning to Burma, specifically to Myaing Gyi Ngu. In the first and only interview by a DKBO member, Captain Tu Na told Thai journalists, "We have attacked and razed the camps. If we did not do so, then the refugees would not return home...We want them all to come back. All will have to return."⁸⁴ His words echoed leaflets distributed widely in the camps by the DKBO which had earlier threatened refugees with attacks if they did not return to Burma. Since the middle of May these incursions have ceased, as the Thai army has built up its presence in the area. At the same time, however, the SLORC and DKBO have added troops along the western banks of the Salween, in some areas just yards from refugee camps, and it has been reported that DKBO troops have joined the SLORC in their positions at Three Pagodas Pass and in the Tenasserim district where the KNU's Fourth and Sixth Brigades are based.

On June 14, 1995 the commander in charge of military operations in the northern Karen State, Maj. Gen. Maung Hla, was transferred from his post and given the office of minister in the newly-created Immigration and Population Ministry. Three other regional commanders were also changed on this day, and observers believe the moves, while technically constituting promotions, were made in order to curb their independence.⁸⁵ Maung Hla had commanded the offensive against the KNU in early 1993, during which thousands of porters, including women, girls, and prisoners, were held for up to three months in front-line positions. Scores of porters died in the cross-fire, and the women were frequently raped.⁸⁶ It was also Maung Hla who gave the order for a unilateral cease-fire in April 1993, following heavy losses on the government side. As far as Human Rights Watch/Asia is aware, no disciplinary action has been taken against Maung Hla.

The Offensive Against Khun Sa

⁸⁴ Yindee Letcharoenchok, *The Nation* (Bangkok), May 1, 1995.

⁸⁵ BBC World Service, June 16, 1995.

⁸⁶ See Amnesty International, "No Law At All..."

In January 1995, the SLORC vowed to crush the Muang Tai Army (MTA), led by the internationally notorious drug baron Khun Sa.⁸⁷ The announcement followed a failed attempt to crush Khun Sa the year before. Burmese state television described the offensive as the government "fighting the danger to all mankind—narcotic drugs—from all the directions by employing all kinds of methods...now the production of heroin, a danger for the world population, will be reduced by two-thirds because the Defense Services personnel sacrificed hundreds of lives."⁸⁸ Khun Sa has been indicted in the United States for drug trafficking activities, and the offensive against him has had the support of the U.S. State Department.⁸⁹ The SLORC has also been supported by Thailand, where authorities had kept the border closed since June 1994 in order to prevent food and supplies from reaching Khun Sa's headquarters at Ho Mong. The closure of the border has meant that villagers from the area fleeing the fighting have been prevented from entering Thailand, in contravention of international law.⁹⁰ Furthermore, the area's inaccessibility has made it very difficult to gain firsthand information about human rights abuses occurring in the course of this offensive.

As in other areas, there have been reports of the seizure of hundreds of men to work as porters for the Burmese army as the SLORC increased its military presence. In May 1994, when some villagers were able to escape into Thailand, they reported that up to 5,000 people from Keng Tung and Tachilek towns had been seized by the army to work as porters. In March 1995, an escaped prisoner told a journalist that he was one of a group of 500 inmates from Mandalay jail who had been taken, on the day they were supposed to be released, by helicopter to the Shan State and forced to carry weapons and ammunition for the army.⁹¹

Internally displaced people from villages between Tachilek and Kengtung, who were prevented from entering Thailand to seek refuge by the Thai authorities, were interviewed by a foreign aid worker on June 22, 1995.⁹² One man told how he and eight friends had been taken from their village to work as porters for the army in March 1995. They had to travel with the soldiers, carrying heavy mortar shells, for two months before they eventually escaped. He witnessed one of his friends kicked to death by soldiers when he could no longer carry his load.

There have also been reports of attacks on civilian villages near places where the MTA had attacked government positions. In January, aerial bombardment west of Kengtung resulted in entire villages fleeing to the border. One man interviewed by the aid worker showed scars on his arm and neck from shrapnel which hit his home. In March, the MTA launched a surprise attack on the Burmese army post just outside Tachilek, a town which is just the other side of the narrow Mae Sai river which marks the border between Burma and Thailand. As the MTA troops retreated, they went through a village, Pongthune, on the edge of the town. This village was targeted by the Burmese army, and several houses were razed. One woman, speaking to a journalist in Thailand after the fighting said, "Burmese soldiers attacked and burned down this village because most of the people living here are Shan." Thai intelligence

⁸⁷ BBC World Service, January 9, 1995.

⁸⁸ Quoted in the BBC SWB, May 6, 1995.

⁸⁹ A State Department spokeswoman told reporters, "We view [the closure of refineries] as a positive development, and would welcome similar developments that might result from the current offensive." Reuters, April 10, 1995. Other reports claim that it was pressure from China which was decisive in getting the SLORC to attack Khun Sa, for example an interview with Yunnanese officials in *The Vancouver Sun*, March 20, 1995.

⁹⁰ Refusing to admit refugees is tantamount to making them return, and is therefore a violation of the principle of non-refoulement, as expressed in Article 33 of the 1951 Convention Relating to the Status of Refugees. While Thailand has not ratified this convention, the principle of non-refoulement is part of customary international law.

⁹¹ *Bangkok Post*, March 17, 1995.

⁹² Because of the difficulties of access to these people, who were in great need of humanitarian aid, the aid worker wishes to remain anonymous.

sources told reporters that two men were executed during the incident, "because they were suspected of collaborating with the MTA."⁹³

Forced relocations also appear to have taken place throughout the Shan State. In January 1995, Human Rights Watch/Asia received reports from independent sources inside the Shan State about the relocation of more than thirty villages in the Loikham, Nam Khai, Man Lun, Man Mak and Bang Shau townships and forcibly moved into five large villages in government-controlled areas. While the move was intended to cut off aid to Khun Sa, the embargo affected the Kachin, Akha and Lisu ethnic minorities most. The move caused great hardship to those involved and increased the tension between the Shan and Kachin in the area. Some 700 villagers who fled from southwest Kengtung township, where the most intense fighting occurred in March, were able to reach the Thai border and reported that troops had raided their villages taking livestock, rice supplies and any valuables they found before razing all buildings.

Since May 1995 there has been a lull in the fighting in the Shan State. While the difficulty of access means that it is hard to determine the status of the offensive in July 1995, it appears that the government has not been as successful as it claimed it would be. While Khun Sa has lost considerable territory in the south, he has held on to his base at Ho Mong. As with the commander responsible for the Karen offensive, Eastern Commander Maj. Gen. Saw Tun was also removed from his post on June 15 and has become the minister for construction. Again, he has not been made accountable for abuses committed by the soldiers under his command.

In areas where the SLORC has attempted to forge "national reconciliation" by signing cease-fire agreements with fifteen ethnic rebel groups since 1989, human rights abuses have continued to be reported, and there has been no move on the part of the SLORC to engage in political discussions with these groups to reinforce the military cease-fire. Under the terms of the cease-fires, ethnic groups have been allowed to keep their arms and soldiers and in many cases have increased the number of soldiers under their command. These agreements do not represent a long-term solution to the conflict which has plagued the country since 1948. The Wa, Palaung and Kokang expressed their dissatisfaction with the agreements when they formed the Peace and Democratic Front; the Kachin Independence Organization has also issued several press releases since their cease-fire expressing dissatisfaction that the expected process of political dialogue has not begun. One of the most recent cease-fires only lasted three months; on June 28, 1995, the KNPP issued a statement alleging repeated violations of the cease-fire that they signed with the SLORC in March 1995. The statement says that the SLORC has continued to collect "porter fees" and arrest men to work as porters and has increased its military presence in the KNPP area by an additional 2,000 soldiers. Given these developments, "should SLORC continue breaking the cease-fire agreement, and should it refuse to withdraw the troops...it will be the SLORC, and not the KNPP that will have to assume the responsibility for the outbreak of hostilities." Two days later the BBC reported that fighting had broken out near one of the border posts from which the SLORC had ordered the KNPP to withdraw. Without a lasting political settlement, it is likely that the kinds of abuses which have occurred in the context of counterinsurgency operations will continue.

IV. THE INTERNATIONAL RESPONSE

The United Nations

⁹³ Reuters, "Fear of Rangoon forces drives Shan into Thailand." March 22, 1995.

The United Nations General Assembly and Commission on Human Rights have adopted increasingly strong resolutions on Burma by consensus. The resolutions have largely been based on the evidence submitted by the U.N. Special Rapporteur on Burma, Professor Yozo Yokota, who has conducted research missions in Burma every year since 1991.⁹⁴ The government of Burma has cooperated to the extent that since 1993 Professor Yokota has been able to visit some prisons and meet some political prisoners. The SLORC clearly wants to be seen as somewhat responsive to the U.N.'s concerns, while failing to implement most of its recommendations. Professor Yokota has complained that every meeting he has in Burma is attended by government representatives or otherwise monitored, and in his February 1995 report, he also criticized the government for harassing or otherwise threatening individuals who may have wished to meet him.⁹⁵ It will take further international pressure to ensure that the release of Aung San Suu Kyi does not become another gesture unsupported by genuine progress.

⁹⁴ This first mission was conducted under the U.N.'s 1503 Procedure and the report was not made public. Mrs. Sadako Ogata had made the first mission under this procedure in 1990.

⁹⁵ See Professor Yokota, "Report on the Situation of Human Rights in Myanmar", E/CN.4/1995/65 (New York: United Nations), January 12, 1995 pp.28-29.

The most recent resolution at the General Assembly called on the U.N. secretary-general to "continue his discussions with the Government of Myanmar in order to assist in the implementation of the present resolution, as well as in its efforts to achieve national reconciliation."⁹⁶ In accordance with the wishes of all the member states of the United Nations, the Secretary General sent a team of negotiators from his political affairs department to Burma in February 1995.⁹⁷ The details of this mission were presented to the Commission on Human Rights in Geneva. Despite repeated requests, the representative, Mr. Alvaro de Soto, was not permitted to meet with Aung San Suu Kyi, and the report suggests that no progress was made in discussions about the political process. The government told the representative that there would be further talks with Aung San Suu Kyi and that "they saw no difficulty in agreeing to a memorandum of understanding with the ICRC."⁹⁸

There is no sign that discussions with Daw Suu have yet begun, and the ICRC announced recently that their negotiations had failed. Acknowledging the release of Aung San Suu Kyi, Boutros-Ghali said that, "this is an important step which I hope will be followed by many others, toward the establishment of a multi-party system in Myanmar."⁹⁹ However, it remains the case that the dialogue between SLORC and the secretary-general's office, conducted at the level of Boutros-Ghali's political staff, is unlikely to produce any tangible results absent greater pressure on SLORC from the U.N. member states, including Burma's regional neighbors and key trade and investment partners.

China

China is Burma's biggest ally and supplier of arms, soft loans and cross-border trade.¹⁰⁰ Since 1988, China has supplied at least \$1.4 billion worth of arms to Burma, including two deals in November 1994 worth \$440 million¹⁰¹. But Beijing has never revealed the precise details of its arms shipments to Burma. The relationship was enhanced by the visit to Rangoon of Chinese Premier Li Peng in December 1994, who said his trip was "aimed at further promoting mutual understanding and friendship to a new level, strengthening good neighborly relations, and boosting mutually beneficial cooperation."¹⁰² Li Peng did not bring up the detention of Aung San Suu Kyi or any other human rights abuses during his talks, saying that was an "internal affair of Burma. Unlike western countries, China doesn't interfere in the domestic affairs of others."¹⁰³ At Burma's 1995 Armed Forces Day celebrations in March, a troop of gymnasts and musicians from China's People's Liberation Army were the only international attraction.¹⁰⁴ On June 22, 1995, *The New Light of Myanmar* reported that no less than three separate delegations from Burma, including officials from the

⁹⁶ U.N. General Assembly Third Committee Resolution "Situation of Human Rights in Myanmar" A/C.3/49/197 (New York: United Nations), December 23, 1994.

⁹⁷ This was the second mission to Burma by a representative of the secretary-general, the first having been in November 1994.

⁹⁸ U.N. Economic and Social Council, "Report of the Secretary General on the Situation of Human Rights in Myanmar," E/CN.4/1995/150 (Geneva: United Nations), February 21, 1995.

⁹⁹ Press statement by secretary-general Boutros Boutros-Ghali, July 11, 1995.

¹⁰⁰ Trade between Burma and China is officially valued at \$550 million annually, but thought to be at least double that, according to Wang Jun-fu, China Association for International Friendly Contact, quoted in Radio Australia, June 7, 1995.

¹⁰¹ This comprised a \$400 million contract to buy helicopters, armored vehicles, assault rifles, parachutes and patrol boats and a \$40 million interest-free loan to buy Chinese naval vessels. *Jane's Defense Weekly*, November 30, 1994.

¹⁰² Burmese TV, December 27, 1994.

¹⁰³ Reuters, December 28, 1994.

¹⁰⁴ Reuters, March 27, 1995. This is believed to have been the first time that any foreign army has been present at Burma's Armed Forces Day.

Foreign and Defense Ministries, were on missions to China. These "good neighborly relations," however, have been disquieting for Burma's other neighbors, notably India, and have prompted the ASEAN countries and Japan to seek to increase their own influence in Burma.

The move towards a more hard-line stance by the SLORC seems to have coincided roughly with the visit by Li Peng, which may have led Burma's generals to conclude that they could afford to pay the price of U.N. condemnation so long as Beijing kept the arms and trade flowing. In addition, China's success in muting international criticism of its own human rights record by attracting Western trade and investment may have served as an encouraging object lesson to SLORC, which has enthusiastically embraced a similar strategy. The SLORC was reportedly elated by President Clinton's decision in May 1994 to "delink" human rights and China's Most Favored Nation trading status.¹⁰⁵

Chinese officials, including Li Peng, have repeatedly stressed that China is "opposed to hegemonism and will never engage in hegemonistic activities – actually have not stationed a single soldier abroad."¹⁰⁶ However, China has used its relationship with Burma to open up markets for Chinese goods in the region and a strategically important trade route through to the Indian Ocean. China is building a road network (with substantial soft loans to Burma) from Kunming to Mandalay and has broached the idea of a highway from Calcutta to Beijing. Local residents have told Human Rights Watch/Asia that Chinese engineers are working on bridges in Arakan State to build a highway connecting Dhaka and Rangoon. Despite the loans and technical assistance from China, these roads, like all others in Burma, are being constructed through the use of forced labor. There are also agreements with Thailand to build roads which would connect Chiang Mai to Kunming through Burma and Laos. Most worrying for India, are the persistent rumors of Chinese naval bases on the Burmese-owned Coco and Hainggyi Islands in the Andaman Sea, just thirty miles off India's coast.

Burma's relationship with China is also a source of disquiet within the SLORC leadership. Prior to 1988, Burma maintained a cordial but distant relationship with China, which was always considered a military threat, especially until 1978 when China ended its military and economic support to the Communist Party of Burma.¹⁰⁷ Even as the friendship has developed, alongside it there has been unease at the Chinese "takeover" of northern Burma as Chinese merchants have flooded into Mandalay. Locally, this is a cause of increasing tension, as land prices have soared and Burmese have been forced out into the suburbs. In August 1993, a car driven by a Chinese man ran over and killed a Burmese student on a bicycle; only a swift response by the Burmese army prevented a full-scale riot as locals attacked the Chinese "aggressor."¹⁰⁸ Three Burmese were arrested in the melee. Now most of the shops signs in Mandalay are in Chinese, there are Chinese-run karaoke bars and Chinese-run hotels with all-night bars and young Burmese "hospitality girls." There is also dissatisfaction in the quality of Chinese goods, from tea cups to weaponry and construction works. Some members of the SLORC, apparently led by Vice-Chairman Gen. Maung Aye and Secretary-2 Gen. Tin Oo, appear happy to continue the dependence on China, but others are more wary, fearing further popular unrest and China's intentions towards Burma as a "colony" state. Since the beginning of 1995, it would seem that the former group have been in the ascendancy within the SLORC.

¹⁰⁵ "SLORC is known to be elated at last week's decision by Washington to uncouple human rights from trade in renewing China's MFN status. The generals in Rangoon are expected to pursue a similar diplomatic offensive to China, dangling the carrot of its 45 million population as an emerging Asian market." *Australia Financial Review* (Australia), May 31, 1994.

¹⁰⁶ Li Peng in Rangoon, Reuters December 28, 1995.

¹⁰⁷ See Lintner, *Burma in Revolt*.

¹⁰⁸ In 1967 anti-Chinese riots in Rangoon, which included attacks on the Chinese embassy, resulted in several hundred Chinese dead and over 1,000 Chinese arrested. This action was influential in China's decision to support the Communist Party of Burma from 1968 - 1978.

China's deep and complex relationship with Burma has led other Asian governments, including Japan and the members of ASEAN, to emphasize the positive elements in their respective policies towards Burma in order to offset SLORC's growing reliance on Beijing. These governments also tend to downplay human rights concerns or policies that would exert serious pressure on SLORC. At the U.N., the prospect of a Chinese veto (as a permanent member of the Security Council) has discouraged governments from attempting to impose a mandated arms embargo against Burma.

India

India's response to this alleged threat has been to increase its commercial interests in Burma, while at the same time continuing behind-the-scenes support for exiled dissidents and the pro-democracy movement. The issue of Chinese naval presence became public in August 1994, when three Chinese trawlers, operating under license from Burma, were caught off the Indian coast with detailed charts and tracking equipment. The trawlers and their crew were released nearly four months later.¹⁰⁹ As they were being released, All India Radio announced that "relations between India and Burma are back on the right track" with the signing of an agreement to increase economic cooperation.¹¹⁰ This agreement was followed by others throughout 1995, the most significant being an agreement in April to reopen official border trade – for the first time in thirty-three years.¹¹¹ In an attempt to address Indian fears over the Andaman Sea, on May 25 1995, India, Burma and Thailand ratified an agreement to delineate their territorial waters there; ratification had been pending since 1993. As a result of this increased cooperation between the two countries, Burma provided limited assistance in May 1995 for three military operations against Assamese rebels seeking independence from India.¹¹² However, as these operations were underway, in a clear signal to the SLORC that India still supports democratic reform in Burma, on May 8 the Council for Cultural Relations, chaired by Vice-President K.R.Narayanan, awarded the coveted Jawaharlal Nehru Award for International Understanding to Aung San Suu Kyi. On July 10, as news spread of Aung San Suu Kyi's release, the Indian Foreign Ministry issued a statement saying that "India notes with great satisfaction the step taken by the SLORC."

The Association of South East Asian Nations (ASEAN)

ASEAN has had a long courtship with Burma, which has not run a smooth course. Following the coup in 1988, Thailand was the first country to send official delegations to Burma, sealing lucrative logging deals and setting the pace for the "constructive engagement" policy that all ASEAN countries have followed. Under this policy, the rapidly developing economies of the region took the opportunities arising under Burma's "open door" economic policy, claiming that this kind of economic support and diplomatic engagement would, eventually, bring about political change in Burma. Although Thailand initiated this policy, it has not been the main beneficiary, in terms of both political and economic relations. Indeed, as the SLORC's hard-line policy became apparent in 1995, there has been a distinct souring of relations between Thailand and Burma, and the SLORC has sought to forge a closer trade and diplomatic relationship with Singapore, Indonesia and Malaysia instead.

Abandoning a long-held policy of a "buffer zone" of ethnic rebels along its border in favor of potentially vast economic deals, Thailand has interpreted "constructive engagement" to mean that it would no longer support Burma's enemies. During 1993 these groups suddenly faced arrest, harassment, restrictions in travel, and the closure of all offices in Thailand. The crackdown on Burmese dissidents and ethnic rebels was seen as directly linked to economic deals, especially a lucrative natural gas pipeline which would supply Thailand with cheap energy from Burma's Andaman oil and gas fields. The pipeline would have to be built through territory which, in 1993, was still in the hands

¹⁰⁹ BBC World Service, October 5, 1994.

¹¹⁰ Quoted in BBC SWB October 18, 1994.

¹¹¹ All India Radio, quoted in BBC SWB, April 12, 1995.

¹¹² Sanjoy Hazarika, "India and Burma Join to Hunt Rebels by Border," *The New York Times*, June 7, 1995.

of the Mon and Karen rebel armies.¹¹³ Thai officials, especially representatives of the National Security Council, have been using these measures to "encourage" the rebel groups to enter into cease-fire agreements with the SLORC. However, by July 1995 it seemed that Thailand's efforts to prevent rebels getting arms and other support were insufficient to appease the SLORC.

¹¹³ The final contract for the pipeline between the Thai Electricity Generating Authority, the SLORC-owned Myanmar Oil and Gas Enterprise, Total (France) and UNOCAL (U.S.) was signed on January 28, 1995, the day after the fall of the KNU base at Manerplaw.

The greatest threat to Thai-Burmese relations came in January 1995, soon after the fall of Manerplaw, when armed groups of DKBO and SLORC soldiers crossed into Thailand to attack refugees. In the first incident to involve Thai citizens, on February 23, a group of twenty armed men stopped a truck transporting refugees from one camp close to the Burma border to a safer camp further inside Thailand. The men opened fire on the refugees, killing the Thai truck driver and two women. The Thai Foreign Ministry and local regional army commanders issued démarches and warnings, but the incursions continued. Two refugee camps, which housed nearly 6,000 refugees, were razed in March. In the northern town of Mae Sai, which was also a cause of Thai-Burmese friction, and where the SLORC accused Thailand of supporting retreated rebels from the MTA, a Thai citizen was shot in the back by Burmese soldiers on April 2. The commander in chief of the Thai army, Gen. Wimol Wongwanich, made a statement after the killing, saying that the man, Thawee, was carrying a toy gun and he "had mental problems. The Burmese military didn't know who he was...They performed their duty to the best of their ability."¹¹⁴ On May 3, 1995, three Thai Border Patrol Police were killed by DKBO troops who attacked their house in the middle of the night.

The Thai authorities reacted to these killings of innocent civilians, the attacks on refugees under their protection, and the constant incursions into their territory by Burmese and DKBO soldiers by continuing to try to appease the SLORC--a strategy which seemed only to encourage SLORC's aggression. In a hard-hitting attack at a press conference in Rangoon on May 9, 1995, a SLORC spokesman issued a threat: "The problems that have occurred on the Thai-Myanmar border are a consequence of Thailand having harbored...terrorists who seek to oppose Myanmar. Continued harboring of such elements will continue to precipitate similar problems."¹¹⁵ Six days later, Thai troops raided some of the Karen refugee camps, and the cache of weapons they found was the highlight of the evening TV news. When a bomb blast wrecked a bridge crossing the Sai river between Tachilek (Burma) and Mae Sai (Thailand), the Thai district chief immediately issued a statement "to tell [the Burmese] that Thailand had nothing to do with the incident."¹¹⁶ On May 28, SLORC Secretary-1 Gen. Khin Nyunt went on Burmese television to attack Thailand again. Criticizing Thailand for allowing MTA rebels to get medical treatment, he said, "I would say the country on the other side did not have a neighborly attitude like Myanmar."¹¹⁷ In a new move which suggests an awareness of the value of trade sanctions, posters believed to have been printed by Burmese officials were reported to have appeared on walls in the Burmese town of Myawaddy, urging Burmese citizens to boycott Thai goods.

Thailand has continued to support Burma diplomatically, and officials have stated that the policy towards Burma has not changed. For example, Bangkok went along with the decision by Brunei to invite Burma as a "guest" at the ASEAN meeting on July 29, 1995. But this support has been ignored by the SLORC; Thailand was noticeably absent from Sr. Gen. Than Shwe's itinerary when he toured ASEAN countries for the first time in June 1995. This followed the indefinite postponement of a planned visit to Thailand by Gen. Khin Nyunt in January. The SLORC seems set to continue pushing Thailand, demanding more cooperation in their war against the ethnic rebels, insisting that refugees are returned to Burma, and at the same time threatening further aggression. A press release issued by the KNPP on June 28, announcing that the SLORC was breaking the terms of their cease-fire, said that the SLORC officials had told them that the reason for the build up of troops in their area was that "the national election in Thailand was about to take place, and that SLORC foresaw troubles along the border once the election was over. As a result...it needed to move troops to the border for the security of the state." As of July 1995 there were at least 20,000 Burmese troops in position along the Thai border. In some areas, as in the south where the KNU Fourth and Sixth brigades are active, the rebel armies still act as a buffer, but increasingly SLORC is taking up positions on Thailand's border. In response, Thailand has posted more troops along the border, especially along the Mae Sot - Mae Sariang road where many of the incursions took place. On July 2, 1995 Thailand elected a new coalition government, which will be led by

¹¹⁴ *The Nation*, Bangkok, April 4, 1995.

¹¹⁵ Burmese TV, May 9, 1995. This contradicted previous claims by the SLORC that they had no control over the DKBO.

¹¹⁶ *The Nation*, May 23, 1995.

¹¹⁷ Burmese TV, May 28, 1995.

Banharn Silpa-archa of the Chart Thai party. Increased pressure on this new government could produce a new, tougher policy towards Burma.

Meanwhile, other ASEAN countries are capitalizing on Thailand's fall from grace and have dramatically increased their investment in Burma over the past six months. When he visited Jakarta in June 1995, Than Shwe obtained a commitment from President Suharto to help develop Burma's natural gas resources and to establish an agreement on investment guarantees. Indonesia also pledged to support SLORC in its bid to gain membership in ASEAN. In Singapore, Than Shwe signed an agreement to boost agribusiness and tourism, and a memorandum of understanding was signed awarding to a Singaporean firm a contract for a \$360 million feasibility study for an international airport in Mandalay. (The Chinese government lost out on its bid for the project.) According to Burma's foreign minister, the subject of Aung San Suu Kyi's detention did not come up in the talks between Than Shwe and Prime Minister Goh Chok Tong.

The trade and investment deals that ASEAN countries have signed, especially since January 1995, are proof that at least one of the aims of their "constructive engagement" policy is working. However, the policy is also intended to lead to political change and basic improvements in human rights conditions. On this level, the policy has failed miserably. After six years of engagement, it is now time for Burma's neighbors to set down some clear goals which would enable them to show that their policy is not just based on economic expediency. The release of Daw Aung San Suu Kyi was heralded by Thailand as indicating the success of constructive engagement. "Certainly the release responded to the pervasive effort on the part of the ASEAN organization to pursue constructive engagement," said acting Thai Foreign Minister Surin Pitsuwan.¹¹⁸ But there is no indication yet that the overall human rights situation will improve.

Japan

Japan's policy towards Burma has grown steadily warmer since December 1994. But the Japanese government is quick to point out that it still maintains a critical attitude and is attempting, through increased diplomatic contact and aid incentives, to bring about improvements in human rights and democratization in Burma. On paper, this policy is not unlike those of the European Union and Australia. However, the main difference is that whereas other countries have offered the possibility of increased assistance, Japan has actually given it; and whereas other countries make their condemnations of human rights violations more loudly and more regularly, Japan favors quiet diplomacy.

Japan suspended all new Official Development Assistance (ODA) to Burma following the 1988 crackdown. But pressure from the Japanese business community has been growing to resume ODA, and now that Aung San Suu Kyi has been released, that pressure is likely to increase. The powerful Japanese business organization Keidanren (Federation of Economic Organizations) set up a "study group" in January 1995 to examine aid policies and assess the prospects for economic cooperation with Burma, following a trade mission it sent to Burma in June 1994. A number of Japanese trading and construction companies have sent their own missions to Burma. In February 1995, Marubeni became the first Japanese trading company to sign a broad agreement with SLORC to promote joint ventures, act as a coordinator for various Burmese infrastructure projects, and assist with development of the oil, steel and gas industries.¹¹⁹

¹¹⁸ Reuters, July 11, 1995, Jakarta.

¹¹⁹ *The Financial Times* (London), February 21, 1995.

On March 18, 1995—as the SLORC-backed DKBO incursions into Thailand were at their height—Japan announced an agreement to give Burma an \$11 million grant for "agricultural development." Tokyo justified the decision on the grounds that the funds were to be used for humanitarian purposes to increase food production; also, that the grant was intended as a positive signal to "help promote the country's pro-democracy movements and human rights improvement efforts." Japan emphasized that a resumption of ODA loans was not "imminent."¹²⁰ While in Rangoon in April, Deputy Foreign Minister for Political Affairs Hiroshi Fukada urged the release of Aung San Suu Kyi, but his appeals were rebuffed by Gen. Khin Nyunt.¹²¹ At the same time, Japan also granted Burma debt relief worth \$4 million. U.S. government officials denounced the move, calling it "a mistake."¹²²

Japan has supported the donors' consensus at the World Bank maintaining a ban on international development loans to Burma imposed since 1988.

Daw Suu's release was immediately welcomed by Japanese Prime Minister Tomiichi Murayama, who added, "I hope democratization will proceed further."¹²³ Foreign Minister Yohei Kono announced that Tokyo was eager to begin discussions with SLORC regarding resumption of ODA "once they [Burma] are ready to do so," and later said he would visit Burma soon -- the highest ranking Japanese official to go to Rangoon since 1988. Foreign Ministry officials indicated that high priority ODA projects being considered include a \$287 million expansion of the Rangoon airport and aid to Burma's telecommunications system.¹²⁴ On July 14, a foreign ministry official said that full-scale ODA would not be resumed at least until a specific timetable is announced for transferring power from the current military government to a democracy. But in the meantime, some additional grant aid would likely be extended to reward SLORC for Daw Suu's release.

It remains to be seen how energetically the Japanese government will continue to push SLORC for further, meaningful change and whether any new economic assistance will be linked to specific human rights improvements. As a leading power in the region, Japan's policy towards Burma is crucial if consensus among the international community is to be maintained.

The United States

American policy towards Burma has remained in a virtual state of limbo since Deputy Assistant Secretary Tom Hubbard's visit to Rangoon in October 1994, except in the area of anti-narcotics assistance.

In the weeks leading up to Aung San Suu Kyi's release, the Clinton administration faced growing Congressional pressure to respond to the "further deterioration of human rights in Burma," as described by sixty-one members of the House of Representatives in a letter to President Clinton on June 1, 1995. The members urged Clinton "to intensify the current economic sanctions by discouraging new, private U.S. investments in Burma," acknowledging that to be effective such as policy should be coordinated with U.S. allies. But the Administration seemed extremely reluctant to enact such a policy on its own initiative.¹²⁵

¹²⁰ Kyodo, March 9, 1995.

¹²¹ Khin Nyunt said that political prisoners are released only on the condition they do not disturb society after their release. According to Fukada, Khin Nyunt said that Suu Kyi "still does not fully understand the Myanmar situation." *Jiji Press* (Japan), April 7, 1995.

¹²² Kyodo, April 5, 1995.

¹²³ Kyodo, July 11, 1995

¹²⁴ Reuters, Tokyo, July 11, 1995

¹²⁵ In a letter to Lane Kirkland, president of the AFL-CIO labor confederation, who wrote to the State Department urging a trade and investment embargo against Burma, U.S. Secretary of State Warren Christopher said on April 5, 1995, "We have

regularly explored whether there would be support for such an embargo with our allies, and with Burma's major trading and investment partners in Asia. We have found no interest in a U.N. embargo." In fact, the European Parliament, on June 15, 1995, adopted a resolution calling on the European Council and member government to "investigate possible cooperation between companies of the European Union in Burmese projects applying forced labor and examine the desirability of imposing economic sanctions."

Despite the lack of progress on human rights admitted by Hubbard, the administration announced at a Congressional hearing on June 21, 1995 that it would reward SLORC's cooperation in allowing the Drug Enforcement Administration (DEA) to undertake a joint opium yield survey in December 1994 by stepping up some forms of anti-narcotics assistance to Burma. This decision seemed to contradict the administration's earlier statements that without progress on all three fronts – human rights, democratization, and narcotics control – an upgrading of U.S. cooperation could not take place. (In March 1995, the administration again had denied counter-narcotics certification to Burma, as it had every year since 1989.) The announcement capped a prolonged interagency process in which the DEA, the International Narcotics and Law Enforcement Affairs bureau at the State Department, and the President's Office of National Drug Control Policy had argued for substantially increased anti-narcotics assistance, primarily aimed at curbing heroin production and trafficking. According to the State Department, heroin production in Burma has nearly tripled since SLORC took power in 1988.

In the end, the administration attempted to fashion a "compromise" between its human rights and counter-narcotics policies, saying it would hold discussions with SLORC officials on drug policies, provide in-country training to SLORC anti-drug enforcement units, exchange intelligence information (especially to assist SLORC's offensive against Khun Sa), and increase funding for the U.N. Drug Control Program's activities in ethnically-controlled areas of Burma. Initial Congressional reaction was negative. The House of Representatives firmly rejected the administration's compromise by adopting, by a decisive 359-38 vote, an amendment to the 1996 financial year appropriations bill prohibiting counter-narcotics funds to Burma and any increased cooperation on drugs.¹²⁶ As of mid-July, the Senate had yet to consider any appropriations legislation.

The administration reacted cautiously to word of Aung San Suu Kyi's release. President Clinton issued a statement welcoming the news but expressing "concern about a number of serious and unresolved human rights problems in Burma, including the continued detention of other political opponents, the failure to permit the Red Cross to visit prisoners, and the ongoing military campaign against a number of ethnic groups."¹²⁷ When asked if the U.S. would somehow reciprocate, in line with the message delivered in Rangoon by Assistant Secretary Hubbard, the State Department refused to comment, other than to say that before any decision was made, "we're going to have to ascertain to our satisfaction that the conditions of her release are consistent...with a genuine effort to improve the political situation in Burma and to permit a much greater measure of political expression."¹²⁸

V. RECOMMENDATIONS

Those countries in favor of increasing engagement in Burma, including ASEAN and Japan, express the hope that economic development will eventually lead to political change. However, neither investment nor trade is likely to lead to the development of civil society in Burma so long as the SLORC sees Aung San Suu Kyi and independent organizations of students, workers, professionals, and Christian communities as threats and prevents them from functioning through draconian laws and arbitrary detention orders. Moreover, with the dramatic increase in military personnel under SLORC from 180,000 in 1988 to more than 300,000 as of July 1995, and an administrative system based on a military command structure which allows for little or no initiative at the local level, the chances are slim that something approaching independent institutions could emerge as a natural outcome of economic growth. To the contrary: greater trade and investment seem only to be encouraging Burma's generals to believe they can resist pressure for basic reforms, as they concentrate on attracting foreign investment to sign joint venture deals with companies, banks and ministries in which the military owns the greatest share. Fundamental improvements in human rights – including an end to egregious abuses such as forced labor and portering, and protection of basic freedoms of assembly, press and association – are essential if Burma is going to be able to achieve sustainable growth and long-term stability.

¹²⁶ The Richardson-Rohrabacher amendment was voted by the House on June 28, 1995.

¹²⁷ *The Financial Times*, London July 12, 1994

¹²⁸ Nicholas Burns, State Department Briefing, July 10, 1995.

The SLORC's continued violations of international law and its refusal to fulfill U.N. resolutions should not be tolerated by the international community. But unless firm steps are taken to back up the U.N.'s resolutions and various governments' diplomatic appeals to Burma, massive human rights violations are likely to continue.

Human Rights Watch recommends:

To the State Law and Order Restoration Council

- Burma should immediately and unconditionally release all political prisoners.
- Burma should allow those meeting with Aung San Suu Kyi, including her party's leading members and supporters, to freely associate with her without suffering reprisals, and the government should take no action to detain, harass or punish Burmese citizens seeking to peacefully exercise their internationally-guaranteed rights of freedom of association, expression and assembly.
- All laws which prohibit freedom of association, expression and the right of citizens to participate freely in the political life of the country must be repealed or reformed to bring them into line with international standards. This includes SLORC Orders 2/88, 4/91, 10/91, 1950 Emergency Provisions Act, 1957 Unlawful Associations Act, 1962 Printers' and Publishers' Registration Act, 1975 State Protection Law and the 1908 Villages and Towns Act (which permits village councils to order civilians to work as forced laborers).
- Burma should resume negotiations with the International Committee of the Red Cross and sign a memorandum providing regular, confidential access to prisoners.
- Burma should take immediate steps to comply with the U.N. Economic and Social Council's resolution of March 8, 1995 (E/CN.4/1995/L1.01) and the U.N. General Assembly resolution of December 2, 1994 (A/C.3/49/L.43), especially "to put an end to violations of the right to life and the integrity of the human being, to put an end to torture, abuse of women and forced labor, to enforced displacements of the population and to enforced disappearance and summary execution" and "to allow all citizens to participate freely in the political process."
- Burma should meet without exception its obligations under Common Article 3 of the Geneva Conventions. The SLORC has a duty not only to protect civilians from violations of Common Article 3 but also to investigate, prosecute and punish government agents responsible for violations, including summary executions, cruel treatment and torture, and attacks against civilian populations, especially those populations which have taken refuge in other countries.
- In accordance with the International Labor Organization convention, the practice of forced labor and forced portering should be stopped immediately, and those found recruiting or employing villagers and others for this purpose should be prosecuted and punished.
- Burma should review its 1982 Citizenship Law and bring it into line with international standards in order to protect the internationally-guaranteed rights of ethnic minorities.

To the International Community

- The international community should closely monitor developments triggered by Aung San Suu Kyi's release and should respond immediately to any attempts by SLORC to restrict her movements or activities, or to punish or detain her supporters solely because of their peaceful activities. Members of the U.N. Human Rights Commission should consider dispatching the Special Rapporteur on Burma to visit the country as soon as possible, to assess recent developments and urge compliance with the commission's recommendations. The Rapporteur should also explore the possibility of posting a staff person from the U.N. Centre for Human Rights in an office in Rangoon to act as an ongoing monitoring presence, reporting directly to the Special Rapporteur.
- Governments should consider responding to the release of Aung San Suu Kyi by establishing direct, ongoing contact with her in order to discuss the human rights situation in Burma, and by engaging in dialogue with SLORC about what steps they now intend to take, to implement the other key provisions of the United Nations's resolutions. In any contacts with SLORC, governments should indicate their strong support for the

efforts of the U.N. secretary-general, and their expectations that talks with his representatives will lead to some tangible results before the next session of the U.N. General Assembly when he will present a report.

- At the ASEAN meetings in Brunei beginning on July 29, 1995, Burma should be urged to undertake basic human rights reforms to follow on Daw Suu's release. As essential first steps, the ASEAN governments and dialogue partners should urge SLORC to release all detained Members of Parliament, to permit the International Committee of the Red Cross confidential access to prisoners, and to repeal repressive laws (outlined above). In addition, the members of ASEAN should indicate that compliance with the U.N.'s key recommendations is a necessary prerequisite for any consideration of Burma's admission as a member of ASEAN.
- China should be stigmatized for its role as Burma's leading arms supplier. During bilateral discussions with the Chinese foreign minister at the ASEAN conference in Brunei, governments should express concern about China's arms transfers and ask for an accounting of arms supplied to the SLORC. For example, Japan should call on China to publicly reveal and explain the details of its arms supplies to Burma. It should take such action in accordance with provisions in its ODA Charter which stipulate that Tokyo will "pay full attention" to the export and import of arms by ODA-recipient countries. (Japan is currently China's number one aid donor, providing \$1.3 billion in loans in 1993, and has officially sought greater transparency in China's military affairs.¹²⁹)
- Under no circumstances should the World Bank, Asian Development Bank, International Monetary Fund or Burma's key donors resume bilateral or multilateral economic assistance – including debt relief – until and unless basic human rights are restored and can be monitored, and steps are taken to implement the results of the 1990 elections.¹³⁰ The Chairman's Statement at the G-7 summit in Halifax, Nova Scotia issued on June 17, 1995 called on Burma to "release Aung San Suu Kyi and other political prisoners, without conditions, and to engage in a dialogue of reconciliation aimed at the full and early realization of democracy and national unity." The World Bank donors should issue a statement as soon as possible reiterating these basic concerns in the context of the bank's "good governance" policy and its inability to fund viable development in Burma under current conditions.
- The International Labor Organization should initiate a commission of inquiry, under Article 26 of the ILO Constitution, into Burma's compliance with the ILO convention on forced labor. Such a commission should be established once a complaint has been filed by a member state that is also a party to the convention. The ILO member states should then press the SLORC to give its fullest cooperation to the commission of inquiry, including unrestricted access to areas to Burma to conduct any on-site investigations.
- Until there are verifiable guarantees that forced labor and forced portering have ceased, investment and export credits to companies seeking to operate in Burma should not be renewed. Those guarantees must include regular access by international human rights organizations. Governments should investigate possible cooperation between their nations' companies operating in Burma and projects using forced labor. There should be a freeze on all trade delegations to and from Burma, and a ban on further corporate investment until and unless forced labor in all forms (including forced portering) has ceased.
- There should be no increased anti-narcotics assistance or cooperation extended to the SLORC until there is a genuine improvement in the overall human rights situation and an end to abuses committed against ethnic minorities.

Human Rights Watch/Asia

Human Rights Watch is a nongovernmental organization established in 1978 to monitor and promote the observance of internationally recognized human rights in Africa, the Americas, Asia, the Middle East and among the signatories of the

¹²⁹ Japan's ODA Annual Report for 1994, published in March 1995, cites the ODA Charter in relation to China and notes that "serious concern has been expressed internationally over its [China's] rising defense expenditures and a trend toward the exporting and importing of arms. In light of such developments, Japan realizes that careful consideration should be given to the compliance of the ODA Charter's principles with regard to aid for China and has conveyed this to China."

¹³⁰ The Asian Development Bank is reportedly planning to send a mission to Burma in August, 1995. *The Financial Times*, July 12, 1995.

Helsinki accords. It is supported by contributions from private individuals and foundations worldwide. It accepts no government funds, directly or indirectly. The staff includes Kenneth Roth, executive director; Cynthia Brown, program director; Holly J. Burkhalter, advocacy director; Robert Kimzey, publications director; Jeri Laber, special advisor; Gara LaMarche, associate director; Lotte Leicht, Brussels Office Director; Juan Méndez, general counsel; Susan Osnos, communications director; Jemera Rone, counsel; Joanna Weschler, United Nations representative; and Derrick Wong, finance and administration director. Robert L. Bernstein is the chair of the board and Adrian W. DeWind is vice chair.

Its Asia division was established in 1985 to monitor and promote the observance of internationally recognized human rights in Asia. Sidney Jones is the executive director; Mike Jendrzejczyk is the Washington director; Robin Munro is the Hong Kong director; Jeannine Guthrie is NGO Liaison; Dinah PoKempner is Counsel; Patricia Gossman and Zunetta Liddell are research associates; Mark Girouard and Shu-Ju Ada Cheng are Henry R. Luce Fellows; Diana Tai-Feng Cheng and Jennifer Hyman are associates; Mickey Spiegel is a research consultant. Andrew J. Nathan is chair of the advisory committee and Orville Schell is vice chair.

APPENDIX I
PARTIAL LISTING OF EUROPEAN COMPANIES DOING BUSINESS IN BURMA¹³¹

Country & Company	Date of entry	Type of Business
Belgium		
Transurb Consultants	April 1994	<u>Transport</u> Railways upgrade, funded by UNDP
Denmark		
Maersk	September 1993	<u>Oil</u> Drilling contractor for Total
France		
Andaman Company	March 1992	<u>Trade</u> concrete pipe parts
Banque Nationale de Paris	January 1995	Office in Rangoon
Croisieres Paquet	1992	<u>Tourism</u> : luxury cruise ships
Elysee Investissements SA	August 1994	<u>Industry</u> : wood production factory, j/v ¹³² Myanmar Timber
Heli Union		<u>Oil and gas</u> Industry services
Setraco	January 1990	<u>Transport</u> Renault buses
Schlumberger	August 1992	<u>Oil and gas</u> Industry services
Soga	March 1991	Renovation of concrete pipe plant
Total	July 1992	<u>Oil and gas</u>
Germany		
Fritz Werner Myanmar	May 1991	<u>Industry</u> Machine tools
Siemens	December 1991	<u>Trade</u> j/v with MEHB for \$1.8million for Siemens goods
Theodore Nagel		<u>Trade</u> teak imports to Germany
Trans-Oceanic Tours	February 1991	<u>Tourism</u>
Netherlands		
ABN Ambro Bank	March 1995	Office in Rangoon

¹³¹Sources of Information: Asian American Free Labor Institute, *Burma Issues*, International Confederation of Free Trade Unions, Franklin Research and Development Corporation, Council on Economic Priorities, *New Light of Myanmar*, and *Burma Alert!*

¹³² j/v means joint-venture.

Fokker Aircraft	November 1991	Sale of F-27 planes
G. Van Den Brink	1988	Breeding rhesus monkeys for export (for experimentation)
Heineken	February 1995	j/v to produce beer through their Singaporean subsidiary
Royal Dutch Shell	October 1989	<u>Oil and gas</u>
Vanleeuwan B.V. Company	September 1994	<u>Trade</u> purchase of chrome
Portugal		
Industries Nacionias Defensa	November 1992	<u>Arms</u> mortars and shells
Sweden		
Bofors	October 1990	<u>Arms</u> cannons for patrol boats
FFV (via Chartered Industries)		<u>Arms</u> Carl Gustav rockets
Nobel Industries (via Allied Ordnance, Singapore)		<u>Arms</u>
Switzerland		
Karaweik SA	1962-	<u>Trade</u>
Samouri SA	1962-	<u>Trade</u> gems, diamonds, pearls.
United Kingdom		
UK Government	1994 & 1995	Sponsored two "British Weeks" to promote trade and culture
Binnie & Partners	March 1992	Water supply and drainage for Rangoon.
Cable and Wireless (via Asia Satellite)	April 1990	Leased transponders
Cherry Valley	1990	Duck breeding (ten year contract)
Eastern and Oriental Express Group	January 1995	<u>Tourism</u> : j/v with MEHB for tourism services
Glaxo Pharmaceuticals		<u>Trade</u>
Keppel	1995	Investment fund
Kirkland Oil		
Premier Oil	May 1990	<u>Oil and gas</u> blocks in Martaban and Tenasserim, j/v with Total, Unocal, PTTE (Thailand), MOGE (Burma)

Rolls Royce		Attended "British Week" in 1995
Specialist Services Int'l	October 1990	export advice.

APPENDIX II
PARTIAL LISTING OF UNITED STATES COMPANIES DOING BUSINESS IN BURMA¹³³

Company	Date of Entry	Type of Industry
America World Export Company		<u>Transport</u> : auto parts, farming implements
American Express	October 1974	<u>Tourism</u> : American Express Card agreement
American Standard	Discussions only	
Apex Development Co., Ltd.		Consultants
Apple MacCenter		Computer Training/Distributing
Arvin International		General Trading
Atlantic Richfield (ARCO)	Discussions only	Oil
Bates Myanmar		Advertising
Caltex Petroleum (Chevron/Texaco)		Oil
Carson Industrial		<u>Oil and Gas</u> : Industry services
Caterpillar		Trucks
Chase Manhattan Bank		financing
Coca-Cola	1992	<u>Trade</u> : sold in Rangoon
Dean Hardwoods		<u>Forestry</u> : teak purchases
Eastman Kodak (via Consumer Imaging Markets (CIM) in Indochina)	November 1993	Operates four Kodak Express Color Labs in Rangoon

¹³³Sources of Information: Asian American Free Labor Institute, *Burma Issues*, International Confederation of Free Trade Unions, Franklin Research and Development Corporation, Council on Economic Priorities, *New Light of Myanmar*, and *Burma Alert!*

General Electric (via G.E. Thailand)	December 1992	Trade, planning new markets
Grant Norpac	June 1991	<u>Oil and Gas</u> : industry services
Halliburton Co.	April 1991	<u>Oil and Gas</u> : industry services
Home Shopping Club	September 1993	<u>Gems</u> : Burmese ruby rings
Interdigital Communications Corp.		Wireless Communications
ITT Sheraton (via Bangkok)	September 1990	<u>Tourism</u> : hotel study
Maxus Energy		Oil and gas
Miriam Marshall Associates	July 1990	<u>Fisheries</u> : \$US 74 million
Myanmar Connection Resorts, Ltd		Tourism
Northwest/KLM		Airline service
P.A.E. (via Thailand and Singapore subsidiaries)	November 1990	<u>Oil and Gas</u> : industry services
Pan America Pharmaceutical, Ltd.	August 1990	Pharmaceutical, general trading, wood base products
Parker Drilling	June 1990	<u>Oil and Gas</u> : Drilling for, BHO, Idemitsu, Yukong
Pepsico	April 1990	<u>Trade</u> : 35% share bottling plant, \$US 1 million
Phoenix Engineering and Supply, Inc. (Chantha Construction & Services Co., Ltd.)		Building Materials
Pier One		Apparel
Raytheon (via Seismograph Services, UK)		<u>Oil and Gas</u> : Industry services
Schlumberger (via GECO-PRAKLER)	August 1992	<u>Oil and Gas</u> : Industry services
Sears Roebuck	August 1993	<u>Textile</u> : Clothing
SGS (Rangoon branch)		Surveyor
Teak Imports	October 1993	<u>Forestry</u> : Custom sculpture and furniture
Texaco	May 1990	<u>Oil and Gas</u> : 50% Premier-UK blocks M-13 & 14

	September 1992	<u>Oil and Gas</u> : share Premier-UK M-12 concession
Textron (via Bell Helicopter, Singapore)	October 1991	<u>Arms</u> : proposed repair facility
	July 1992	<u>Arms</u> : proposed Bell 206L-3 helicopters
The Limited	August 1993	<u>Textile</u> : clothing
Triton Energy Corp.	(discussions only)	Oil and Gas
United Parcel Service	June 1994	Package services to Burma. Local partner is Wah Wah Pte. Ltd.
Unocal	April 1993	<u>Oil and Gas</u> : 47.5% share Total blocks M-5 & 6 oil and gas concession pipeline.
Watana Trading Ltd.	May 1989	Mining, General trading
Wilson Sporting Goods		Sporting goods
Zin International, USA		Rice, beans, and pulses
Bolder Adventures	February 1994	Tours - tourism (Rangoon office only)
Cunard Ships Hotel Resort Co.	January 1995	<u>Cruise Ships</u> : <i>MS Sea Goddess</i> and <i>MS Mermoz</i> (Rangoon office only)
DeGolyer & MacNaughton		Petroleum Reservoir Engineers (Rangoon office only)
Disney	April 1994	<u>Trade</u> : Marketing Consumer Goods (Rangoon office only)
B.J. Service International	October 1991	<u>Oil and Gas</u> : Industry services (Rangoon office only)
Baker Hughes Inteq (Eastman Christensen Co)	May 1991	<u>Oil and Gas</u> : Industry services (Rangoon office only)
Devon (Myanmar) International	October 1991	<u>Oil and Gas</u> : Industry services (Rangoon office only)
Dowell Schlumberger Eastern	June 1990	<u>Oil and Gas</u> : Industry services (Rangoon office only)
Drilling Fluids, Inc (Milpark Drilling Fluids)	May 1991	<u>Oil and Gas</u> : Industry services (Rangoon office only)
Geco Geophysical Co., Ltd. (Geco-Prakler)	August 1990	<u>Oil and Gas</u> : Industry services (Rangoon office only)
Halliburton Geophysical Services	October 1990	<u>Oil and Gas</u> : Industry services (Rangoon office only)

I.B.M. World Trade Corp.	September 1989	(Rangoon office only)
Oiltools, Ltd.	March 1992	<u>Oil and Gas:</u> Industry services (Rangoon office only)
Poly Technologies One	March 1992	<u>Oil and Gas:</u> Industry services (Rangoon office only)
Pratt Ryan Oilfield Services Pte. Ltd.	October 1991	<u>Oil and Gas:</u> Industry services (Rangoon office only)
Smith International, Inc.	August 1991	<u>Oil and Gas:</u> Industry services (Rangoon office only)
Western Atlas International, Inc.	August 1990	<u>Oil and Gas:</u> Industry services (Rangoon office only)
Sprint	Discussions only	Telecommunications (Rangoon office only)
Caltex (Chevron/Texaco)		<u>Oil and Gas:</u> Industry Service