HUMAN RIGHTS PERSPECTIVES IN SOUTH EAST ASIA : BURMA - A CASE STUDY

Dissertation submitted to the Jawaharlal Nehru University
in partial fulfilment of the requirements
for the award of the Degree of
MASTER OF PHILOSOPHY

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1994

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CERTIFICATE

Certified that the dissertation entitled, **"HUMAN RIGHTS PERSPECTIVES IN SOUTH-EAST ASIA : BURMA -- A CASE STUDY"** submitted by Ms UPALA DEVI in partial fulfilment of the requirements of the award of the degree of MASTER OF PHILOSOPHY, has not been previously submitted for any other degree of this University or any other University and is her own work.

We recommend that this dissertation may be placed before the examiners for evaluation.

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PREFACE

This dissertation is the result of my observation of the human rights scenario in the South-East Asian nations in general, and of Burma, in particular. Here, I have tried to desribe the state of human rights obtaining in these nations, and more importantly, to describe and analyse the way of life of the Burmese people and their struggle for survival in an ambience scarcely conducive to the human development.

Since there are very few published articles on Burma and even fewer on the human rights situation, I have had to rely rather heavily on reports compiled by international human rights organisations for information. The paucity of media writing on Burma except during crises like the one in 1988, has also been a reason for increased reliance on human rights groups and Western Burma-watchers.

Clearly, such a task would be impossible to undertake - let alone finish - without extensive support from numerous people who have aided me at various stages of the endeavour. To them and to countless others not mentioned in these pages, I remain forever indebted.

First and foremost, I must thank my Supervisor, Professor Parimal Kumar Das, without whose guidance this task would never have been completed. From the very outset, his unstinting support and enthusiasm for the project was a constant source of encouragement and motivation. I remain deeply grateful to him.

I would like to thank Drs Ganganath Jha and B D Arora of the Division of South-East Asian and South-West Pacific Studies, for their timely comments at various stages of the work which enabled me to proceed in a far more organised manner than I could possibly have otherwise. Dr Jha, in particular, deserves a very special acknowledgement for the interest that he helped evoke through his lectures on South-East Asia in my post-graduate days.

Prof & Mrs Das and Dr & Mrs Jha have also overwhelmed through their immense kindness at all times and under trying circumstances.

I would like to thank Mr Ravi Nair, friend and Executive Director, South Asia Human Rights Documentation Centre for sharing his immense knowledge and expertise on the subject selflessly.

Heartfelt thanks are also due to my parents, Shri Pallab Roy and Smt Namita Roy and brother, Vishal, for the encouragement and unending support for me and my academic efforts over the years.

I owe special thanks to Niloy Banerjee, without whose encouragement, infinite patience, assistance, and immense logistical support, the completion of this project would be nearly impossible.

Last but not the least, I would like to express my solidarity with the people of Burma with the sincere hope that their crusade for the restoration of democracy and popular government ends in success in the very near future.

For all the shortcomings in this dissertation, I take sole responsibility.

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SOME ABBREVIATIONS USED IN THE TEXT

ABPO	All Burma People's Organisation
ABSDF	All Burma Student's Democratic Front
BBC	British Broadcasting Corporation
BSPP	Burma Socialist Programme Party
CPB	Communist Party of Burma
CPP	Cambodian People's Party
DAB	Democratic Alliance of Burma
FUNCINPEC	National Front for an Independent, Neutral, Peaceful Cambodia
ICCPR	International Covenant for Civil and Political Rights
ISA	Internal Security Act
KIO	Kachin Independence Organisation
KNU	Karen National Union
LDC	Least Developed Country
LDP	League for Democracy and Peace
LPDR	Lao People's Democratic Republic
LPRP	Lao People's Republican Party
MCA	Malaysian Chinese Association
MIS	Military Intelligence Service
MoI	Ministry of Interior
MP	Member of Parliament
NAM	Non-Aligned Movement
NDUP	National Democratic Unity Party
NEZ	New Economic Zone
NGO	Non-Governmental Organisation
NLD	National League for Democracy
NUP	National Unity Party
PDK	Party of Democratic Kampuchea
RHS	Rangoon Home Service
SLORC	State Law and Order Restoration Council
SoC	State of Cambodia
SRV	Socialist Republic of Vietnam
UMNO	United Malay National Organisation
UN	United Nations
UNDP	United Nations Development Programme
UNHCR	United Nations High Commissioner for Refugees
UNTAC	United Nations Transitional Authority in Cambodia
WPD	Working People's Daily

CHAPTER 1 : HUMAN RIGHTS PERSPECTIVES IN SOUTH-EAST ASIA

Twentieth century has been witness to many a display of unabashed lust for power and dominance, destroying, in the process, eternal human values and respect for human beings. The untold atrocities committed on political and ethnic minorities by the Axis Powers during the World War shocked the conscience of the planet and the Allies hurriedly grouped together with a resolve to usher in a world order that would promote respect for and observance of human rights and fundamental freedoms. The halting and tentative steps initiated by the League of Nations were transformed into an agenda for international cooperation in promoting and fostering human rights and basic freedoms by the United Nations Organisation.

In fact, recognition of human rights internationally is one of the most characteristic features of post-war international relations and represents a significant development. Worldwide concern for human rights which germinated with the inception of the United Nations, has not only stimulated a host of regional organisations dealing with the subject of human rights and institutionalized their support for the cause, but also has motivated them to establish an effective mechanism to supervise the protection of human rights in their respective regions. As a result, the term "human rights" has become a "catch-word" in contemporary international politics.[1]

The United Nations (UN) Charter, in its preamble, declared :

"We the people of the United Nations determined .....to reaffirm faith in fundamental human rights, in the dignity and worth of persons, in the equal rights of men and women and of the Nations large and small....."

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[1] Abdulrahim P. Vijapur, Essays on International Human Rights, (Delhi, 1993) p.7

The Charter also declared that the purpose of the United Nations is

> "to achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion".[2]

The United Nations set about this task with single-minded devotion and came out with the International Bill of Rights consisting of :

a) Universal Declaration of Human Rights (1948)

b) The International Covenant of Economic, Social and Cultural Rights (1966)

c) The International Covenant on Civil and Political Rights (1966), and,

d) The Optional Protocol (1966) providing for the right of individuals to petition international agencies.

The significance of the above are :

a) All human beings without distinction, have been brought within the scope of human rights instruments,

b) Equality of application without distinction as to race, sex, language or religion,

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[2] United Nations, Human Rights : A Compilation of International Instruments, (1992), p.1

c) Emphasis is on international cooperation for their implementation.[3]

The United Nations Organisation held that all human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights.

Human Rights is a compendium of rights and previleges which can be broadly classified as under:

a. Civil and Political Rights : The rights pertaining to life, integrity, liberty and security of human beings; the rights with respect to administration of justice; the right to privacy; the rights to freedom of religion or belief and to freedom of opinion and expression; freedom of movement; the right to assembly and association; and the right to political participation are among the Civil and Political rights.[4]

b. Economic, Social and Cultural Rights : The right to work and trade union freedoms; the right to adequate standard of living, including food, clothing and housing; the right to health care; the right to education; and the right to take part in cultural life are among the Economic, Social and Cultural rights.[5]

The United Nations has been endeavouring to relate human rights to global issues and has been strenuously working to find solutions for human rights concerns affecting the millions of deprived, dispossessed, discriminated-against and marginalised people. This approach of the United Nations, formulated in the Proclamation of Tehran (1968), is known as the structural approach. The ceaseless efforts of the United Nations in the human rights field

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[3] *Ibid*, p.38

[4] *Ibid*, p.7

[5] *Ibid*, p.7

can be understood from the fact that there are nearly 70 international covenants, declarations and other documents pertaining to these issues. These are known as the "Instruments of Human Rights" and are covered under the categories of general instruments, special instruments and legal instruments (treaties etc). These embody political commitments by member states and also provide for the conduct of international relations in the field of human rights and elicit a commitment to bring sundry domestic policies in line with the international code of ethics.

There are elaborate prescribed procedures in the field of human rights. Broadly, these procedures serve advisory assistance, corrective, relief and remedial and preventive functions. At times, to deal with an individual country or special situations, extraordinary procedures are also adopted. It may be borne in mind that the actual realisation of human rights by the people is dependent upon the commitment of the member-state in question to human rights. The role of the United Nations is moral in nature. In the ultimate analysis, human rights implementation is to be done at the national and sub-national level.

However, in many nations around the world, serious human rights violations continue under the pretext of preserving national or internal security. A host of arbitrary laws sometimes pretend to protect people from terrorists' attacks. But, considering the draconian characteristics of national security legislations, one can infer that the real purpose of these laws is not to ensure national security and thereby protect human rights of the people. but to check and restrict the basic rights of the people, especially if they are seen to be unsympathetic to those in power or the established political, economic and social structures of the country.[6]

It is absurd and surprising that many of the existing national security laws are based on the

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[6] Report of the Korean NGOs Network for the World Conference on Human Rights - Human Rights Violations Under the National Security Laws in Asian Countries, (Geneva, 1993) p.95

model of similar laws in colonial states, laws which have been used as tools for depriving the people of basic freedoms. Considering this, one can see that the issue of purging the remnants of colonialism or imperial militarism is related to the issue of eradicating draconian national security laws.

It can be seen, in the light of the above, that many South-East Asian nations are showing a blatant disregard for human rights in their own countries. This can be traced to the fact that all the present-day South-East Asian countries (with the exception of Thailand) had been under some form or the other of colonial domination. During the long years of colonial rule, the ruling powers promulagated various legislations in order to suppress political dissent under colonialism. After independence, these South-East Asian countries witnessed a similar kind of diminution of democratic space. At the same time, ethnic conflicts due to arbitary demarcation of boundaries during partition, political suppression and violent protest against the state in many parts of the region saw the introduction of various draconian laws in clear violation of the internationally recognised standards of human rights. The typical modern South-East Asian state has dealt with political opposition in a way similar to the colonial regime preceding it. All the South-East Asian countries - Malaysia, Indonesia, the Phillipines, Burma, Thailand, Vietnam, Cambodia, Laos and Singapore - are constantly indulging in gross human rights violations and have their own share of human rights abuses. Killings, long detentions, torture, summary trials, imposition of stiff sentences, etc. are prevalent in all South-East Asian countries in varying degrees. This chapter will document the human rights issues facing the South-East Asian countries at present, with an emphasis on the more important issues.

MALAYSIA

The issues that are causing grave concern in Malaysian politics today are electoral gerrymandering on an unheard of scale; the powerlessness of the mainstream print and broadcasting media; the furore over an independent election monitoring group in which the Commonwealth Secretariat is now embroiled and the uncertainity over the imposition of Islamic law in the state. All these are serving to derail fundamental liberties in the country.

Malaysia, a federation of 13 states, is a multi-ethnic, multi-lingual and multi-religious society. Some 53 percent of the population of 17 million are Malays, 35 percent are Chinese, 10 percent are Indian and 2 percent are of other ethnic origin. The national language is *Bahasa Malaya* (based on Malay). In addition, Mandarin and other Chinese dialects, Tamil, Hindi, Punjabi, Urdu and a number of aboriginal and East Malaysian tongues are spoken. Ethnic Malays are Muslims and Islam is the dominant religion.[7]

Malaysia has seen the development of increasing authoritarianism of an unprecedented nature. There are a litany of new laws - Internal Security Act, Seditions Act, Official Secrets Act, Printing Act, Societies Act, Industrial Relations Act, Trade Unions Ordinance, Employment Act, the Police Act, Broadcasting Act, Universities and University Colleges Act, Standing Orders for Government Servants and the Conduct of Parliamentary Debate - all of which have contributed to a restriction of civil liberties.

The Internal Security Act : The Internal Security Act (ISA) of 1960 is regarded as repressive of press freedom and freedom of expression, association and assembly. A relic of British colonial contingency legislation which allowed detention without trial for long periods, the ISA has been used to suppress opposition views and political opponents. The Act gives the government unlimited powers in the name of state security and is used by the Malaysian

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[7] Amnesty International Yearly Report, (London, 1993), p.214

Special Branch whose activities include monitoring, surveillance, telephone tapping and harassment of suspected "subversives".

Under Section 73 of the Act, the Home Affairs Minister can order detention of upto 60 days for interrogation by the Special Branch of any person, on the suspicion that "he or she acted or is about to act in any manner prejudicial to the security of Malaysia or any part thereof". In July 1988 and June 1989, the Act was amended to limit the right of detainees to challenge the legality of their detentions in courts. As a result of the detentions, ISA detainees alleged to be a threat to national security may now turn to the courts on procedural matters only.[8]

The government also uses the Police Act to curtail the right of assembly and the Societies Act to limit the right of association. Both Acts have been used to harass members of social and human rights organisations.[9]

The Judiciary : There has also occurred the executive's direct assault on the formerly independent, though conservative judiciary. On one occasion, the Lord President and several other Supreme Court judges were removed.[10] With these developments, there is now a real danger that the judiciary, like the legislature, will become a mere rubber stamp of the executive rather than act as a check and balance to it.

Cultural Hegemony : Cultural hegemony is exerted via the state's virtual control of the education system. Malaysian school children have been socialized to become individuals who are disciplined, competitive, hard-working, obedient and respectful of authority. Students are taught not to question authority but to appreciate its efforts. Universities which were

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[8] *Ibid*, p.215

[9] *Ibid*, p.215

[10] US Country Report on Human Rights Practices, (Washington, 1993), p.684

autonomous, have come under the direct control of the state through the Universities and the University Colleges Act, 1971.[11] The dominant culture which prevails among graduates of the local universities and of the education system as a whole, is one that is generally supportive of government policies, its development strategies, and its vision of the kind of society desired. Thus, the task of introducing alternative ideas of development and especially the building of a popular movement based on challenges to the dominant culture is extremely difficult.

The Media : The Malaysian Constitution does not expressly guarantee freedom of the press but does provide for it in the "Fundamental Liberties" section (Art. 10), which allows citizens the right to free press and expression. Proposals for a Freedom of Information Act have been rebuffed. Following the 1987 invocation of the ISA, the closure of newspapers and the enhanced powers of the Minister of Information, the government gave clear indications that it intended to use every legal constraint at its disposal to curb the media.[12]

Newspapers : All major English and *Bahasa Malaya* dailies are owned by one or the other of the political leaders of the ruling Barisan National Party; the newspapers are expected to cooperate with the government in promoting official policy and campaigns. The English-language daily, the "New Strait Times", is the organ of UNMO (United Malays National Organisation); the other English-language daily, the "Star" is controlled by the MCA; and the largest Malay-language daily papers "*Utusan Malaysia*" and "*Berita Harian*" are owned and controlled by supporters of UNMO. In October 1987, the government closed down the "Star", "*Sin Chew Poh*" and "*Watan*", for actions said to be "prejudicial to public order and national security". In July 1988, after the Australian government had criticized Malaysia's domestic policies, the Ministry of Information issued a directive to all editors, asking them to discredit those foreign countries whose newspapers carried negative reports on the

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[11] Information, Freedom and Censhorship : Article 19, World Report (Washington 1991), p.194

[12] *Ibid*, p.194

Malaysian Government.[13]

News Agencies : The government-controlled national news agency, *Bernama*, was established by the 1967 Bernama Act and began operating as the sole national news agency providing local news and information to the press and the media. Since May 1984, it has also become the sole distributor of news and features from foreign news agencies. In June 1990, the Parliament approved an amendment to the 1967 Bernama Act, which gives Bernama exclusive rights to distribute news photographs, economic and financial data and features on "other material in whatever form or manner". It will also allow Bernama, currently a non-profit-making statutory body, to pursue profits and to cease being guided by the UN international conventions protecting freedom of information.[14]

Restrictions on the Press : On December 2 1987, the amended Printing Presses Publications Act was introduced, proscribing the malicious publishing of false news. Faced with such a charge, journalists may be forced to expose their sources. On conviction, journalists, publishers, printers and distributors may be sentenced to three years' imprisonment or fined RM 20,000 (US $ 8,000) or both.[15]

The Act prescribes that printers, distributors and publishers must apply annually for a license. Furthermore, the Act ends the right to a court appeal against a ministerial refusal, suspension or revocation of a license.

The Official Secrets Act, amended in December 1986, expands the classification of government documents and places the onus on journalists to prove information is not secret before it is published. Otherwise, they may be convicted. The Act deters journalists from

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[13] *Ibid*, p.199

[14] *Ibid*, p.196

[15] *Ibid*, p.196

investigating alleged malpractices within the public sector.[16]

Radio and Television : Under the Broadcasting Act of 1987, the Minister of Information is empowered to control and monitor all radio and television broadcasts and to revoke the license of any private company broadcasting material conflicting with "Malaysian" values.[17]

Prohibited Publications : Prohibited publications include offending articles and any "extract, precis or paraphrase" thereof. Offending articles include those which counsel "disobedience to the law", or which will promote "ill-will, hostility, hatred, disharmony or disunity". The word "publication" encompasses "anything which by any form, shape or in any manner is capable of suggesting words or ideas". It includes "audio recording", whether voice or music.[18]

Foreign Publications : The Control of Imported Publications Act regulates foreign publications circulating in the country (the Official Secrets Act is also used). Political and financial publications such as the Hong Kong-based "Far Eastern Economic Review" and the "Asian Wall Street Journal" are occasionally banned, especially when their coverage of Malaysia features sensitive topics such as ethnic problems or financial scandals tainting members of government.

Religious Freedom : Religious freedom is circumscribed by the unequal status accorded to different religions. This is apparent in Article 11 of the Constitution which states that though every person has the right to profess and practise his religion and propagate it, state law may restrict the propagation of any religious doctrine or policy among persons professing the Muslim religion. Thus, although cultural and political equality form the essential pillars under the Malaysian state, certain religious groups find their membership and participation

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[16] *Ibid*, p.196

[17] *Ibid*, p.196

[18] n.11, p.196

restricted by the dominant group that holds the reins of state power.

Ethnic Problems : The political, economic, social and religious differences between the ethnic communities have created a constant source of tension, sometimes resulting in open conflict. Tension continues till date, between the federal government, which is dominated by the United Malays National Organisation (UMNO) of the ruling National Front coalition and the state government of Sabah which is dominated by the *Parti Bersatu Sabah* (PBS) or the United Sabah Party. In August 1992, the Prime Minister, Mahathir Mohammad announced that a referendum to allow the people of Sabah to decide whether the state should secede from Malaysia would be unconstitutional. Hence, quite a large number of people suspected of advocating the secession of Sabah state from Malaysia remain in detention without charge or trial under the ISA.[19]

Thus, the essence of parliamentary democracy has slowly been eroded in Malaysia, the continued maintenance of its form notwithstanding. The laws enshrined in the Malaysian Constitution continue to bear upon the integrity of the nation and its people. The judiciary has stumbled, fallen and shattered under the crunch of executive power of the state merely to be endearing puppets to be manipulated and dominated at will. There seems to be no escape from the clutches of a state which is determined to attain, at whatever cost, developed-nation status by the year 2020.

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[19] n.7, p.216

SINGAPORE

Singapore is an economic success story, having among the highest per capita incomes in Asia. Since its independence from the British in 1959, it has emerged from being a Third World economy to the status of a newly industrialised nation. Since independence, Singapore has had a parliamentary democracy and the ruling People's Action Party (PAP) has been in power. Singapore is a multi-ethnic, multi-religious and multi-lingual country. Religions practised include Buddhism, Christianity, Hinduism, Islam and Taoism. The principal languages are Malay, Mandarin, Tamil and English. The Singapore government has used laws which allow indefinite detention without trial, restrictions on the rights of opposition groups to assemble freely and is known for its intolerance of criticism in the domestic or foreign press.

The Internal Security Act (ISA) : The Internal Security Act, which derives from the British colonial government's Preservation of Public Security Ordinance 1955, and which was extended to Singapore when it became part of the Federation of Malaysia in 1963, empowers the Minister of Home Affairs to prohibit any publication deemed to be "prejudicial to the national interest, public order, or security of Singapore" and order the indefinite detention without trial of critics of the government. The provisions of the article include restricting comment on race, language, religion or culture.

In January 1989, the government amended the ISA explicitly to deny courts the power to review the government's reasons for detentions under the ISA. In addition, the amendment denies detainees the right of appeal to the Judicial Committee of the Privy Council.

The Criminal Law (Temporary Provisions) Act : Under this law, a person suspected of criminal activities can be detained without trial indefinitely, with virtually no means of redress.

Maintenance of Religious Harmony Bill : On January 15, 1990, the government proposed the Maintenance of Religious Harmony Bill. When the Bill becomes law, it will empower the Minister of Home Affairs to restrict any individual judged to be engaged in political or subversive activities under a religious guise, or those who propagate ideas which may incite conflict between religious groups. The law will prohibit any individual judged to be engaged in such activities, from addressing congregations, publishing articles or from being a member of the editorial boards of publications. People found guilty of engaging in such activities after an initial warning would be imprisoned for two years or fined a maximum of S $ 10,000 (US $ 5,050), or both. Second offences will carry a sentence of three years' imprisonment or both. Singapore will be the first country in the world to have such legislation. It appears that the accused will have no right of appeal.[20]

Caning : Caning, which constitutes a cruel, inhuman and degrading form of punishment, remains mandatory redress for some 30 crimes including armed robbery, attempted murder, drug-trafficking, illegal immigration and rape.[21] The maximum number of strokes is 24. Over the years, several international and national human rights groups have urged the government to end caning, since it causes "grievous injury" to the offenders.

Arbitrary Interference with Privacy, Family, Home, or Correspondence : The Government does not hesitate to use its wide discretionary powers when it believes that the security of the nation is threatened. Law officers may search a person's home or property without a warrant if they believe that there is reasonable ground to do so. Judicial review of such searches can be undertaken by the courts at the request of the defendant, but is not automatic.

Trade Unions : Unions play an important role in labourers' relations with both management

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[20] The Bangkok Post, 15th February, 1990

[21] n.7, p.229

and government in Singapore. The Trade Union's Act, however, places restrictions on workers' rights, including a prohibition against unionization of uniformed employees and restrictions preventing persons with criminal records from holding a union office.

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights : There are no organisations in Singapore which actively and openly monitor human rights violations. Governmental bodies such as the Minority Rights Council monitor certain aspects of human rights in Singapore for domestic purposes. Representatives of Amnesty International and other human rights groups are not allowed to visit Singapore in an official capacity.[22]

The Media :

Newspapers : All newspaper enterprises must be public companies. The government has directly and indirectly controlled the privately-owned press and compulsory government scrutiny of newspaper management has been in operation since 1974. Journalists with affiliations to the opposition are liable to be imprisoned or exiled abroad. Critical foreign correspondents are simply expelled without explanation.[23]

Restrictions on the Press : The Newspaper and Printing Presses (Amendment) Act 1986 (NPPA) empowers the Minister of Communications and Information to restrict the circulation of foreign publications which have engaged in the criticism of "domestic policies of Singapore". Since early 1987, the Singapore Government has severely restricted the circulation of the "Far Eastern Economic Review", "Asiaweek" and the "Asian Wall Street Journal", all Hong Kong-based, for publishing "defamatory articles against the Singapore Government".[24]

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[22] *Ibid*, p.230

[23] n.11, p.218

[24] *Ibid*, p.219

Restrictions on Correspondents: Foreign correspondents based in Singapore who write critical articles about Singapore are often expelled or refused extended visas. During the past 12 years, five correspondents of the "Far Eastern Economic Review" have been expelled and during the 1988 general election, two of its journalists were refused temporary visas to cover the elections. Applications by "The Asian Wall Street Journal" and the "Far Eastern Economic Review" to cover the second Asia-Pacific Economic Co-operation conference held in Singapore on 30-31 July 1990, were refused by the government despite diplomatic interventions from other member nations.[25]

Radio and Television : The government-run Singapore Broadcasting Corporation (SBC) operates Singapore's three TV channels and five radio stations. During the 1988 general election, opposition candidates had little access to the broadcast media.[26]

The above account shows that parliamentary democracy in Singapore is characterised by blatant violations of basic fundamental rights of the citizens. The government should analyse where the faults lie and take steps towards speedy reforms aimed at redressing the grievances of the citizens.

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[25] *Ibid*, p.220

[26] *Ibid*, p.220

INDONESIA

In Indonesia, the political structure was reconstructed after 1965 in order to guarantee the continuation of the New Order State, which meant the domination of the military over the state. President Raden Suharto has ruled the country with the backing of the military since 1966. Now, the shadow of the New Order State looms large in Indonesia, where rules of governance make little allowance for anything other than military-enforced behaviour.

The principal religion of the country is Islam, with a fairly large number of Christians. The official language is *Bahasa Indonesia*. Since its inception, Indonesia has come in for severe criticism by other countries and human rights organisations over the right to democracy which remains enshrined in the Constitution, but is not reflected in real life. President Suharto's Government is equipped with a range of laws which helps justify its dictatorial method of rule.

Anti-Subversion Act : The central law which has been used to justify acts of repression, particularly arrests and detentions, is the Anti-Subversion Act. This Act had its origins in the State of War Act of the 1950's when the Indonesian Government faced armed rebellions and mutinies. Later, the Sukarno Government re-issued it as a decree and then had the appointed parliament pass it as a law in 1963. Since then, literally hundreds and thousands of people have been detained. The majority of these detentions were effected in the 1960s following an attempted *coup* in 1965. Many persons belonging to the Indonesian "left" were arrested and detained. Even after they were released in 1979, they have been forced to abide by many restrictions. Since the 1970s, after the waves of arrests of "leftists", the Anti-Subversion Act has been used again and again to suppress legitimate and legally expressed dissent. In the 1980s, more students have been arrested and tried under this act.[27]

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[27] US State Department Report on Human Rights Practices for 1993, (Washington, 1993), p.642

According to the US State Department report on human rights in Indonesia, there have been more than two dozen trials under the Anti-Subversion Act in 1992. There has never been a single person who has escaped a guilty verdict. The continuing use of this law, where "subversion" is defined so broadly, acts as a major threat against anyone wishing to make outspoken criticism of the Government or to conduct a campaign against any particular policy.

Domination of the Executive : Following the model of western democracy, the state is divided into three branches : the Executive, the Legislative and the Judiciary. However, unlike the western model, Indonesia does not totally follow the concept of "*trias politica*" where each branch enjoys autonomous power. In practice, the executive branch is dominated by the military and the legislature and judiciary are dependent on the executive. This means that literally, the military holds sway over all the three branches of the state.

Political Parties : The New Order State only allows three political parties to function : *Golongan Karya* or *Golkar* (the Government Party), *Partai Persatuan Pembangunan* or PPP (Moslem Party), and *Partai Demokrasi Indonesia* or PDL (the Nationalist and non-Moslem Party). Other political parties are not allowed to function. The *Golkar* Party has among its constituents, public servants. Although there is no law to this effect, all public servants including judges must join this party or face dismissal. Government intervention plays a major role even in the two non-*Golkar* parties. It is virtually impossible to elect party leaders without the consent of the government.[28]

The Status of Women : Women in Indonesia are considered inferior to men and their role has been largely confined to the domestic sector and the family. It has been conceded that women can work in the public sector only if they do not neglect their housework; to do so would betray their very nature. The dominant notion of the role of women is conservative. Seen as a sexual object, the woman is seen in the shadow of man. This ideology which

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[28] *Ibid*, p.639

prevails in Indonesian society is subscribed to by both men and women, and is further strengthened by state politics.

The Media :

The Press : According to the Indonesian Press Council, the press must follow a "*Pancasila*" approach to news. *Pancasila* is a set of five broad social and political principles - monotheism, humanitarianism, nationalism, democracy and social justice, elevated by President Suharto to a state ideology. Although some principles of *Pancasila* appear to be consistent with political tolerance and pluralism, the government has used the ideology to justify restrictions on freedom of expression. The 1966 Press Act, amended in 1982, requires that each "press enterprise" has a publication permit. The government forbids the publication of material which could be construed as seditious, insinuating, speculative, sensational or likely to antagonize ethnic, religious or racial tensions.[29]

The Foreign Press : Under the 1966 Press Act, no foreign press corporation may be established in Indonesia, although foreign correspondents can apply for one-year work permits which may or may not be granted. A 1972 Information Ministry decision regulates the circulation of foreign publications within Indonesia.

Books and Journals : Book-banning is commonplace in Indonesia, with certain topics such as Communism, the 1965 *coup* attempt, alleged corruption amongst members of the Suharto family, and dissident movements almost guaranteed to invite banning. A prominent example of the use of banning orders to stifle freedom of expression is the complete prohibition on the sale, distribution or possession of all writings by Pramoedya Ananta Toer, the celebrated Indonesian writer and former political prisoner. In January 1990, schools in Indonesia in central Java were instructed to stop using three English-language encyclopaedias (including

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[29] Committee to Protect Journalists : Attacks on the Press in 1993 - A Worldwide Survey, (London, 1993), p.170

an encyclopaedia of the Third World) on the grounds that "they contain items viewed as offending to the Indonesian state".[30]

Labour and Trade Unions : The government allows only one labour union to exist. Like political parties, the existence of labour unions is dependent on the state. The official ideology of the labour movement in Indonesia is embodied in the *Pancasila* labour relations, which means that workers and employers must live in harmony and avoid confrontation.[31] When a conflict between labour and capital does occur, workers are often sacrificed for the sake of economic development. Strikes are rated as subversive activity while retrenchment is considered a necessary evil for development.

Corruption : Corruption has become a part of the system and for the government to attempt to tackle it would mean cessation of support from the bureaucrats. When students started criticizing the rampant corruption prevalent in the country, the government tightened regulations and barred university students from participating in independent political activity. Especially after the large student demonstration in Bandung in 1978, student leaders as well as intellectuals who influenced them were arrested. Students can now take part in politics only through joining any of the three political parties.

The concept of SARA : Since potential conflict exists between social classes in Indonesia, the government, realising the explosive potential of these conflicts in disrupting the unity of the nation, punishes those who raise these issues in an iresponsible manner. People must avoid SARA issues (i.e. issues related to *"suki"*, *"agama"*, *"ras"* and *"antar golongan"* or ethnicity, religion, race and social class respectively) or be charged with subversion. SARA is used by the government to justify its authoritarian rule. When intellectuals and students talk of the widening gap between the rich and the poor, the government accuses them of playing with SARA issues. When people talk of the unequal distribution of wealth between Java and the

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[30] n.11, p.177

[31] n.27, p.649

other islands, they can be held up for the same reason. Though these conflicts are real, the government uses SARA as a tool for political suppression. This has made it difficult for genuine democratic forces to emerge.[32]

Ethnic Conflicts : Till date, ethnic identities have been ruthlessly suppressed in East Timor, Irian Jaya, Aceh and North Sumatra. All these states are demanding to secede from Indonesia but the Suharto government is suppressing these movements with an iron hand. In East Timor, ever since 1975, i.e. since Suharto intervened militarily and established the Indonesian supremacy there, the Timorese people have lost their claim to even the most basic human rights. Government forces are being used against workers, farmers, students and others striking or demonstrating in support of increased freedom of association and expression. A consensus statement of the UN Commission on Human Rights in March '92 and a resolution of the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities in August '92, expressed concern about continuing human rights violations in East Timor and urged the government to facilitate access to the territory by humanitarian and human rights organisations. A report by the UN Special Rapporteur on Torture said that the Indonesian government practises forced torture routinely.[33]

The government said that it would seek to implement the human rights recommendations of various UN bodies and took some initiatives aimed at improving its human rights image, but there was no fundamental change in its repressive posture towards political dissent. In August '92, the national legislative body established a human rights committee and in December, the government announced plans to establish an independent human rights commission. However, the government continues to restrict access to East Timor and certain other parts of Indonesia, making effective human rights monitoring almost impossible.

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[32] Asia Watch - Prison Conditions in Indonesia, (Washington, 1990), p.22

[33] n.7, p.200

The increasing power of the military and the bureaucrats under Suharto and the resultant corruption, together with a smaller economic surplus, of which very little has trickled down to the poor, have led to a growing dissatisfaction among the people. Given this situation, combined with growing numbers of latent disruptive forces, and with state institutions still weak and incapable of managing potential conflicts, the military with its effective repressive prowess may seem an unavoidable nuisance that the ordinary citizen must reckon with.

THE PHILLIPINES

Throughout the history of the Phillipines, the Filipino people have suffered economically, politically and socially, either at the hands of the Spaniards, or the Japanese, or the Americans, and now, under the rule of a succession of Filipino Presidents, whose policies have disheartened the people; the people are only now beginning to articulate their demands calling for respect of human rights, democracy and social justice. In the Phillipines the main religions are Christianity and Islam and the main language is Filipino. Here too, like other South-East Asian nations, the pursuit of development has become the basis for the denial of democratic processes and the negation of human rights.

The Military : Till date, the military has remained politicized and divided. That the military holds clout with the civilian government can be derived from the fact that Fidel Ramos had to back down from his stand to initiate investigations into military abuses. Elements of the military are able to get away with practically any crime - autotheft, bank robbery, extra-judicial killing - with such impunity, that people have despaired that they need protection from those who are supposed to protect them.

Political Clans : Political clans still exercise great influence in Phillipine politics, especially in the provinces. A score of them still rule like erstwhile royal families with their fiefdoms outside Manila. They have held power through a combination of patronage, keeping the people economically dependent, and the use of force through their private armies.

The Supreme Court : The Supreme Court, which used to be the peoples' last resort, has also turned anti-democratic. Recently, the Supreme Court handed down a verdict which allows the military or paramilitary forces to arrest people "suspected" of subversion or supporting Communism, without warrant. Policemen can now pick up any man or woman in the street who they think may be upto anything subversive. The Supreme Court has also declared as

constitutional, the setting up of checkpoints, which allows police to stop and search civilian vehicles.

Freedom of Expression in a State of Emergency : On 6 December, 1989, a State of Emergency was declared following an attempted *coup* by military personnel and Congress passed a memorandum introduced by the Chief of Staff, General Renato de Villa, urging strong government action. On 20 December, the Republic Act 6826 (also known as the National Emergency Act) was passed by the Congress. The tenor of the National Emergency Act has led to expressions of disquiet since provisions within the Act would have negative repercussions on the freedom of expression. Provisions such as the ones empowering the President to "temporarily take over or direct the operation of any privately-owned public utility or business affected with public interest that violates the herein national policy" and "to undertake such measures as may be reasonable and necessary to enable.....to carry out the declared national policy subject to the Bill of Rights and other Constitutional guarantees" is deemed to be a sweeping measure to constrain freedom of expression.[34]

The Media :

Journalists : Low wages and poor working conditions have led to widespread corruption and unethical practices in the profession. Attempts by journalists' unions to combat poor conditions have been repelled by newspaper publishers and managers. Complaints lodged by the unions with the government labour agencies have been largely unsuccessful in arresting the ferment. Political bias and business interests of publishers have strongly affected editorial policy and act as a tool for self-censorship among journalists. There has been an alarming rise in instances of unnatural deaths of Filipino journalists since 1986. Under the Marcos administration, 30 journalists were killed, an average of two per year. Under President Aquino, 20 journalists had been murdered by 1990, an average of five per year. Most of them killed were provincial journalists, victims of the military, paramilitaries

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[34] *Ibid*, p.215

and private militia.[35]

Films : The Cinema and TV Review and Classification Board has extensive censorship powers. Established by a Presidential decree in October 1985, the Board may ban or censor portions of a film which in its veil, tends to "undermine the faith and confidence of people in their government". The Board also exercises political censorship, proscribing material which "incites subversion, insurrection, rebellion or sedition against the state".[36]

Non-Governmental and other Popular Movements : Non-Governmental Organisations (NGOs) and popular movements are still regarded with suspicion by the state. Popular movements are often tagged as "Communist fronts" by a military schooled in the Cold War mentality. Their leaders and members, thus, become targets of harassment, arrest, and even assassinations, by military and paramilitary groups. Given these conditions, NGOs and other popular movements can hardly figure in decision-making. When the government does listen to movements, it is only when they engage in militant mass actions or when the former needs to refurbish its image.

Monitoring of Human Rights Abuses : Till date, effective investigations of alleged human rights violations and related prosecutions continue to be obstructed by the security forces. Obstruction includes intimidating lawyers, judges, witnesses and plaintiffs, refusing access to information, personnel and military premises. Investigations by the official Commission of Human Rights (CHR) continues to be impeded by cumbersome, lengthy procedures and by the Commission of Human Rights' practice of placing the burden of proof on plaintiffs, despite the risk of reprisals and the lack of resources at their disposal. Failure by the authorities to exert effective control over tens of thousands of official and semi-official paramilitary forces also impedes human rights protection.

The government took some steps to promote human rights by establishing a new force - The

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[35] *Ibid*, p.217

[36] n.11, p.217

Phillipine National Police (PNP), which is under the formal control of the civilian authorities and the Witness Protection Act (WPA), 1991. However, scores of people were victims of apparent extrajudicial executions by government and government-backed forces. Many were accused of supporting armed opposition groups.[37]

Moreover, the Filipino people continue to suffer at the hands of the armed opposition groups like the New People's Army (NPA), the armed wing of the banned Communist Party of the Philippines (CPP) as well as by the Moro National Liberation Front and other groups seeking independence for the predominantly Muslim areas of Mindanao. Unofficial paramilitary forces and vigilantes engage in counter-insurgency operations forcing thousands of people to leave their homes owing to widespread destruction from bombings and military operations in the Cordillera region of northern Luzon, northern Mindanao and other areas reportedly occupied by armed opposition groups.[38]

The Exploitation of Children : The Filipino economy has produced a large number of unemployed and underemployed. The consequent struggle for survival has not spared even the children. In 1987, more than half the population was below 21 years of age. Legal provisions concerning the interest and welfare of children and youth, however, have not been implemented seriously. A different life, albeit no less violent, awaits children in the cities, who are victims of wars between the government and the guerrillas in the countryside. About three out of every 1,000 children live on the streets - vending, scavenging and begging. About 50,000 to 70,000 of Manila's children are found on the roads.[39] They are all vulnerable to drugs, diseases, syndicates, pimps and paedophiles. The children have become victims of political and economic violence. Future generations of Filipinos are slowly being destroyed by being forced to earn a living on the streets, and by not sparing them from the violence of guns.

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[37] n.10, p.648

[38] n.7, p.242

[39] The Phillipine Daily Inquirer, (Manila), 7th April, 1989.

The records show that instead of an improved way of life, the Filipinos have experienced a worsening of their living conditions in all aspects. Instead of a movement towards democracy, the direction has been to revert to elitist politics. As the Filipinos face the coming of the 21st century, they need every bit of optimism they can muster in order to deal with the obstacles that confront them in what will surely be more tumultuous years ahead. More work needs to be done in order to move towards the goals of genuine democracy and a better life for the majority of the people. Regimes may come and go but the people will still be there. They have their children to think of and to struggle for.

THAILAND

Thailand is a constitutional monarchy with an elected, democratic government. The country's history has been marked by frequent military *coups* and powerful military-bureaucratic influence over political life. The King exerts strong informal influence. A middle-income developing country with a free enterprise economic system, Thailand continues to enjoy remarkable economic growth, among the highest in the world. With the recent restoration of democratic rule, Thai citizens enjoy a wide range of civil liberties, under one of the most open and progressive governments in Thai history. However, there are a few areas of human rights abuses as the records below show :

Political and Extrajudicial Killings : There continues to be credible reports that the police sometimes summarily execute criminal suspects, particularly in areas outside Bangkok. The law admits personal suits against police officers for actions taken while making arrests. However, due to flaws in the legal process, the threat of being sued does not act as a deterrent. Killings remained a feature in the election campaigns of 1992. Hired gunmen killed over 50 vote canvassers during the March and September election campaigns.

Disappearances : Initial estimates of those missing following the suppression of the May 1992 pro-democracy demonstrations ranged as high as 1,209.

Torture and Other Cruel, Inhuman or Degrading Treatment : Although Thailand's Criminal Code forbids cruel, inhuman or degrading treatment or punishment, there continues to be reports of police beatings of prisoners and detainees. International observers note that conditions at the *Suan Phlu* Immigration Detention Center constitute a cruel and unusual ambience, with extreme overcrowding and lack of medical care. However, government treatment of Cambodian displaced persons in camps along the Thai-Cambodian border, a subject of concern in previous years, has improved in recent years.

Arbitrary Arrest, Detention or Exile : Thailand's Criminal and Penal Codes are based largely on Western European models. Except in cases of crimes in progress, arrest warrants are generally required but are issued by the police rather than the courts. During the 17-20 May 1992 protests, the police and the military took into custody and detained over 3,500 people, including onlookers (some 500 people). On 23 May, the Government granted amnesty to protesters and troops who may have committed illegal actions during the four-day protest period.[40]

Arbitrary Interference with Privacy, Family, Home or Correspondence : The law requires that police posses a search warrant prior to entering a home without the owner's consent. However, search warrants are issued by the police and are not subject to judicial review.

Thai society is essentially an open and tolerant one where membership in political organisations is voluntary and the unmonitored exchange of ideas are generally permitted. In recent years, however, it has been widely held that security forces are engaged in surreptitious monitoring of persons espousing leftist or controversial views.

The Media : While Thai citizens generally enjoy a substantial measure of freedom of press, several laws place limits on this freedom. The principal legal restrictions are prohibitions on defaming, insulting, or threatening the queen, king, heir apparent, or regent; defaming the character of certain other persons; advocating a Communist system of government; and speaking in a manner likely to incite disturbances, threaten national security, or insult religion.

Freedom of The Press : There were several attempts, at times successful, to curtail freedom of press during the May protests. All newspapers were prohibited from printing documents threatening national security or disturbing public law and order. On 20 May, police personnel censored the front page of the International Herald Tribune before it was

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[40] n.27, p.739

distributed, using a felt-tipped pen on every copy to black out an article critical of the military's involvement in the Thai economy, while leaving intact two other items pertaining directly to the demonstrations.

The Radio : Thai governments have maintained a tighter control over the electronic media than they have over the press. Radio stations are government-licensed and operated by government, military, and private entities as commercial enterprises. They are required to broadcast government-produced newscasts four times daily and a military-produced commentary once a day, but are free to originate other news and commentaries.

The Television : Of the existing five national television channels, two are run by the army and three by the government. Two new privately-owned television channels were established in September 1992. By all accounts, freedom of the press reached its nadir during the May 1992 events. All five television channels were severely criticized by the public for presenting government views of events as they unfolded.[41]

Censorship of Films : Representatives of the Thai film industry complain, with justification, that the film censorship board, composed largely of police officers, regularly deletes all references in films to a number of topics deemed politically sensitive. Among the topics subjected to such censorship are police corruption, misconduct by members of the Buddhist clergy, and the 1973 student uprising.[42]

Books and Journals : Unless critical of the monarchy, foreign and domestic books normally are not censored. The 1941 Press Law empowers the police Director General to prohibit the import of printed matter deemed dangerous to public order and morals. The last case

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[41] *Ibid,* p.741

[42] *Ibid,* p.742

of a foreign publication being barred from import occurred in 1989.[43]

Freedom of Peaceful Assembly and Association : While the Thai legal system generally recognizes the right to peaceful assembly, government officials restrict this right at times. On 17-20 May 1992, military forces under a "destroy the enemy" order issued by the Supreme Commander of the armed forces with the knowledge and consent of Prime Minister Suchinda, used excessive force to suppress pro-democracy demonstrations in Bangkok which involved about 10,000 demonstrators. At least 52 demonstrators were killed and 700 injured in the indiscriminate use of force by the military, which included unprovoked beatings of demonstrators and others. The Government has not interfered with peaceful public meetings subsequent to the May violence.

Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights : In 1992, local human rights organizations were credited with helping to bring about changes in the Constitution, nationality law, acquired immunodeficiency policy, and the land resettlement policy. Their most obvious success was in pressing the Government to account for the hundreds of people missing after the May demonstrations.

Prostitution : Prostitution, it is acknowledged within Thailand, is one of the country's most troubling social problems. While a 1990 Public Health Ministry survey placed the number of prostitutes at 86,000, most other sources state that the number exceeds 100,000, and some place it as high as 1 million. In 1992, a national group of physicians estimated the number of child prostitutes under 16 alone to be approximately 800,000.[44] It is not known what percentage of these women are being forced into prostitution against their will. Human rights monitors believe that the majority of the women who engage in prostitution are not

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[43] *Ibid,* p.743

[44] US Country Reports on Human Rights Practices for 1992, (Washington, 1992), p.667

kept under physical constraint. Reports also describe a disturbing recent trend towards increasing trafficking in women from hill tribe minorities and neighboring countries.

Despite occasional high profile raids on brothels, overall laws against prostitution have not been enforced. Senior government officials themselves have cited corruption as a major factor in police willingness to turn a blind eye to the problem. In early 1992, the caretaker government approved consideration of a bill which would have decriminalized prostitution by persons over 18 who underwent regular health checkups. Faced with fierce opposition from women's rights groups who wanted to see health requirements or sanctions on male customers and steeper penalties on brothel owners and procurers, and from conservative religious groups, the bill was never brought to a vote.[45]

The above account shows that the Thai Government will have to nurture respect for human rights through strengthening its democracy and by promoting individual liberties. The government should ensure that there is impartial and objective scrutiny of and action on human rights violations wherever they occur. Though the political system under the Chuan Government provides protection for individual interests, a lot still needs to be done to promote a strong society based on mutual respect for human rights.

[45] *Ibid,* p.668

VIETNAM

The Socialist Republic of Vietnam (SRV) remains a Communist one-party state ruled by the Vietnamese Communist Party (VCP) through a 13-member Politburo and a Communist Party Central Committee of 146 members nominally elected by a party congress held every five years.[46]

While Vietnam's predominantly agricultural economy was undermined by years of doctrinaire socialism, it has recently benefitted from the introduction of price incentives and the market mechanism. The abandonment by Vietnam of the most counter-productive aspects of Marxist-Leninist economic ideology has produced an improvement in the lives of Vietnamese citizens, not only in the greatly increased availability of goods and services but also in the new freedom of ordinary people to engage in entrepreneurial activity.

However, human rights abuses in the SRV continue. They include severe restrictions on freedom of speech, press, assembly, and association, on workers rights, and on the right of citizens to change their government. On the other hand, it remains easier to travel abroad and inside the country than was the case a few years ago. People talk much more freely with foreigners, and there is an increasing separation between the party and the State.

Political and Other Extrajudicial Killing : Statistics on the number of dead political prisoners are not available. Though, in the past, prisoners have died of exhaustion, physical abuse, malnutrition, the lack of medical care, and other effects of conditions in prisons and re-education camps, no specific figures are available .

Torture, and other Cruel, Inhuman or Degrading Treatment : The law prohibits physical abuse and released camp detainees report that camp conditions have improved since 1989

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[46] n.11, p.236

However, beatings and ill-treatment are still a feature of police investigation and a means of punishment in prisons, despite legal safeguards.

Arbitary Arrest, Detention or Exile : The 1989 Criminal Procedure Code and subsequent amendments provides for various rights for detainees, including time limits on pretrial detention, right of the accused to be informed of the charges against him or her, a ban on coercion or corporal punishment, and the right to have a lawyer during interrogation. However, in practice, these safeguards are frequently ignored by the authorities.

The Government continued its efforts to implement Party Directive 135, which calls for the arrest of those who incite opposition to the government or advocate political pluralism. As part of a protracted security crackdown, intellectuals, clergy, journalists and some foreigners were arrested and detained. In late 1991, the human rights activist, Dr. Nguyen Dan Que, was sentenced to 20 years imprisonment; his associate, Nguyen Van Thuan, was given a 10-year sentence. By the SRV's own published account, Dr. Que, an international member of Amnesty International, was incarcerated for the peaceful expression of political views which the regime found unacceptable.[47]

No official statistics are available on the number of detainees arbitrarily held for anti-government activities. However, since people can be detained without charges being filed, and trials and sentences are sometimes secret, any such statistics would almost certainly be incomplete.

Exile is not used as a means of political control, although over the years, the government has resettled hundreds of thousands of people - some forcibly - to New Economic Zones (NEZs).

Denial of Fair Public Trial : The Vietnamese court system consists of local people's courts,

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[47] n.10, p.679

military tribunals, and the Supreme Court. The Penal Code consists of the Criminal Code and a Criminal Procedure Code which was amended in 1990. Vietnam has a long-established body of family law, but lacks civil law codes.[48]

During the past few years, prison sentences have been frequently imposed by administrative procedure without benefit of due process or judicial review. In addition, such sentences are imposed on persons sentenced for peaceful expression of their views. The SRV criminalizes forms of peaceful expression and "anti-Socialist" propaganda is prohibited.

The Government continues to operate a nation-wide system of surveillance and control through household registration and party-appointed block wardens who use informants to keep track of individual activities. This system is unevenly implemented throughout the country. Urban dwellers appear to be increasingly relaxed about sending mail overseas and about meeting with foreign visitors. It appears that the Government is combining stricter surveillance designed, in part, to intimidate potential critics with some relaxation vis-a-vis the general population. Thus, though there is censorship of mail, it appears to be on a selective basis. The party excepts people to belong to one or more mass organisations, which exists for villages, city districts, school, work (trade unions), youth and women.

Freedom of Speech and Press : The Constitution provides for freedom of speech and press, but in practice, such freedoms are severely limited. The government owns and operates the broadcast media and does not permit the airing of opposing views, although it has broadcast reports of debates during National Assembly meetings. Party organs and the Ministry of Culture, Information, Sports and Tourism control all newspapers, books and other publications, as well as cultural exhibitions. Questioning of the legitimacy of the VCP or its exclusive vanguard role is not tolerated. Short of clearly proscribed writing, such as advocacy of a multiparty system, the limits of criticism are not clear; some ideas may be expressed in internally circulated documents and internal party meetings but not publicly. Criticism is

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[48] *Ibid,* p.679

occasionally expressed publicly within established forums, such as National Assembly proceedings broadcast over the national radio service. A pervasive system of informants also chills free speech to a considerable extent.[49]

Freedom of Peaceful Assembly and Association : The right of assembly is restricted in law and practice. People wishing to gather in a group are required to apply for a permit which is issued or denied by local authorities, often arbitrarily. According to refugees, in some localities, citizens must obtain permission for gatherings of over three people. Demonstrations are discouraged; those which do take place are occasionally forcibly suppressed. Non-governmental organisations are permitted, but they may meet only for approved and narrowly-defined objectives. Opposition political parties or organisations are not allowed.[50]

Freedom of Religion : Vietnam has no state religion. According to some estimates, nearly three-fourths of the population of 70 million are Buddhists, but the Government has claimed that only 6 million of them actually practice their religion. The Vatican believes that some 6 million Vietnamese are Catholic. A much smaller number are Protestant. Virtually, all the foreign clergy remaining in the South in 1975 were expelled at the end of that year. While the SRV has permitted visits by foreign clergy, it is not willing to permit their permanent residence in Vietnam.[51]

The Government, concerned that religious groups might become competing centers of influence within the society, has consistently attempted to divide and control religious groups by establishing government-controlled policy-making bodies such as the Catholic Patriotic Association to which the clergy are required to belong. Growth of religious groups are also

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[49] n.27, p.760

[50] *Ibid,* p.760

[51] *Ibid,* p.761

being prevented by inhibiting the publication of religious literature and the training of new clergy. The Government has regularly arrested and detained religious figures of all faiths on political grounds and restricted their activities. Many religious leaders remain under house arrest, are prohibited from conducting services, are denied family registration, or are otherwise harassed and impeded in their efforts to conduct their ministries. Protestant pastor, Dinh Thien Tu was arrested in 1991 and sentenced to three years of imprisonment for operating a social work program without government approval and remains in Phan Dang prison till date.[52]

Vietnam has, in recent years, expanded its dialogue with the Vatican. In late 1990, two new Bishops for Vietnam were named, apparently without Government interference, and for the first time, the Government allowed the bishops' conference to make their obligatory once-in-five-years visit to see the Pope.[53]

However, most property of religious institutions remains under government control, including temples, churches, convents, seminaries, former religious schools, libraries, and orphanages.

Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation : The Vietnamese government is starting a trend of allowing freer movement within the country for most citizens. Vietnamese are required to obtain permission to change their residence, but it appears that this has not been difficult during the past few years. Private travel abroad is usually restricted to three months, except travel for education and medical treatment. Violators of this limitation face being barred from further travel for 3 to 5 years.

The Government permits emigration for family reunification and for Amerasian Vietnamese

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[52] n.44, p.681

[53] *Ibid,* p.681

and their close family members. In January 1990, the first large-scale departures of former re-education camp detainees and their families began, pursuant to a US-SRV agreement in July 1989, to permit such emigration.[54]

In 1988, Vietnam signed a memorandum of understanding with the United Nations High Commissioner for Refugees (UNHCR) to enhance acceptance of voluntary repatriates, provided it was backed-up by financial assistance. This programme includes a commitment by Vietnam to waive prosecution and punitive measures for illegal departure from Vietnam by persons who return under the UNHCR voluntary repatriation programme. Vietnam also agreed to permit the UNHCR to monitor the returnees through follow-up visits. This agreement has resulted in a substantial flow of repatriates from other countries back to Vietnam. Due, in a large degree, to the 1989 Comprehensive Plan of Action, the rate of clandestine boat departure from Vietnam fell to negligible levels by the summer of 1991.[55]

Although Vietnam is itself a source of refugees, it is also the first country for asylum of between 15,000 and 20,000 Cambodian refugees (mainly ethnic Chinese) who have fled to Vietnam since 1975. Repatriation of these refugees, who have been looked after by the UNHCR in well-organised camps, began in 1992.[56]

Respect for Political Rights - The Right of Citizens to change their Government : Citizens are not free to change their government. All authority and political power is vested in the VCP; political opposition and other political parties are not tolerated. The law provides for equal participation in politics by women and minority groups, but in practice, minority groups and especially women, are unrepresented.

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[54] *Ibid,* p.682

[55] *Ibid,* p.682

[56] *Ibid,* p.683

Governmental Attitude Regarding Internatonal and Non-governmental Investigation of Alleged Violation of Human Rights : Vietnam does not permit human rights organisations to form or operate in its territory. Moreover, it prohibits private citizens from joining international human rights organizations. Nguyen was sentenced to 20 years in prison simply because he was a member of Amnesty International. Since 1989, however, the Vietnamese Red Cross has been permitted expanded cooperation with the American Red Cross in assisting persons seeking missing relatives, especially in re-education camps. The government does carry on some dialogue with human rights organisations, visits by human rights organisations are permitted, but the government has delimited their access to the penal system and its inmates.[57]

Discrimination Based on Sex, Race, Religion, Language or Social Status : Many Vietnamese still face discrimination in employment, education and social services. Family members of the former South Vietnamese Government and military officials and people affiliated with anti-Communist associations and or religious sects have been systematically discriminated against. According to refugees, people released from re-education camps face considerable discrimination in education, housing and employment.

Gradual assimilation and co-option appears to be the Government's long-term strategy in dealing with ethnic minorities. Special schools have been created in the Hanoi area for the education and indoctrination of members of the minorities to be "the eyes and ears of the party" among their own people. Highland minorities in central Vietnam are subjected to repression if suspected of ties with resistance groups. Officially programmed resettlement of ethnic Vietnamese into the highlands is designed in part to increase government control over minority groups.[58]

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[57] *Ibid,* p.684

[58] *Ibid,* p.684

Though women do not face problems of discrimination in regard to employment, they face problems competing with men for higher status or positions owing to attitudes deeply ingrained in traditional Vietnamese society. Article 63 of the new Constitution provides that women and men receive equal pay for equal work, and a large body of regulations and legislations is devoted to the protection of women's rights in marriage as well as in the workplace. No statistics are available on the frequency of violence against women within the home. In 1987, the then Chairman of the Council of Ministers, Doi Muoi, issued a decree banning spouse beating, but it is not known to what extent it has been implemented.[59]

Workers' Rights : Vietnamese workers are not free to form or join unions of their own choosing. All workers automatically become members of the union in their workplace; these groups are organized by the government and belong to the government-controlled Confederation of Vietnamese Workers. Vietnamese unions are not free to, and do not join, affiliate with, or participate in international labour bodies. In 1992, the Socialist Republic of Vietnam joined the International Labour Organization, from which it had withdrawn in 1985.

Vietnamese workers do not have the right to organize into unions of their own choosing or to bargain collectively. Compulsory labour is permitted by the Constitution, which states in Article 80 that "citizens must pay taxes and labour in the common interest as provided by law".Refugees report that every Vietnamese citizen is required by law to contribute 15 days of work per year to the state or pay a fee.[60] Wages are generally low, and are inadequate for providing the vast majority of workers and their families a decent standard of living.

According to existing regulations inherited from the former French colonial administration, the minimum age for workers in Vietnam is 17 years. There is no reliable information

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[59] *Ibid,* p.685

[60] *Ibid,* p.686

regarding the enforcement of these regulations, nor are any statistics available, at the moment, of the number of child workers in Vietnam.

It can be seen that in Vietnam, there is a need for enhancing respect for human rights as an essential element for social and political harmony. An early step would be the delineation of a broad set of indicators of human rights and the identification of non-derogable human rights. International standards should be set upon the Vietnamese Government for the protection of human rights, which will be binding on it, irrespective of the outcome. Only then will the Vietnamese people enjoy a modicum of rights under changed circumstances.

LAOS

The Lao People's Democratic Republic (LPDR) is a Communist, one-party state. The ruling Lao People's Revolutionary Party (LPRP) is the only party and the primary source of political authority in the country. The party leadership imposes broad controls on Lao's four million people.

In 1992, the Government launched a campaign to disseminate the essence of the new Constitution, which had been adopted by the National Assembly in 1991, to the Lao public.[61] The Constitution confers substantial powers on the National Assembly and provides for free election of National Assembly members. The Ministry of Interior (MoI) remains the main agent of state control.

Laos is one of the world's poorest and least developed countries. In the first few years after the LPRP came to power in 1975, at least 350,000 Laotians fled the country to escape the Government's harsh political and economic policies. The Government abandoned socialist economic policies in 1985 and instituted a series of sweeping economic reforms that have changed the country from a centrally planned to a market-oriented economy. These reforms have improved the state of the economy, which is now dominated by private enterprise.[62]

The people of Laos are denied many basic freedoms. Even under the new Constitution, freedom of speech, press and assembly is restricted; the right of privacy and the right of citizens to change their government are still absent. Basic human rights are still restricted in practice and citizens do not have the right and ability to change the Government peacefully.

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[61] *Ibid,* p.677

[62] *Ibid,* p.677

Political and Other Extrajudicial Killing : Small-scale military operations conducted by *Hmong* tribesmen continues on a large scale.[63] However, greater cooperation between Laos and Thailand on the common border has eroded foreign support for the insurgency. In the process of trying to quash militancy, the authorities and the militants are resorting to brutal tactics and the insurgents are occasionally assassinating military and local officials.

Torture, or Other Cruel, Inhuman or Degrading Treatment : The Lao Penal Code prohibits torture or mistreatment of prisoners, and the police do not appear to use torture or abuse during arrest and detention. However, jail authorities at times use harsh measures against prisoners who are routinely denied family visitation and proper medical care.

Arbitary Arrest, Detention or Exile : In Laos, those suspected of hostility to the ruling regime are subjected to arrest and confinement for long periods. People found guilty of what the Government calls "socially undesirable habits" such as prostitution, drug abuse and vagrancy, are subject to arrest and confinement in "rehabilitation centres", usually without public trial. Most of those sent to rehabilitation centres are allowed to return home after serving sentences that include forced labour, political indoctrination, and admission of guilt. The November 1989 Penal Code contains some protection for those accused of crimes, such as a statute of limitations and provisions for public trials. This Code has not been effectively implemented.[64]

Denial of Fair Public Trial : The Criminal Code enacted by the National Assembly in November 1989, has not been very effectively implemented. People may be arrested on unsupported accusations and without being informed of the charges against them or of the accusers' identities. Although regulation calls for judgement to be given in public, this amounts, in practice, to public announcements only and not a genuine public trial. There

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[63] n.7, p.212

[64] n.27, p.678

is some provision for appeal, although there is reportedly no appeal in important political cases. In theory, government-provided legal counsel is available to the accused, but in fact, persons accused of crimes must defend themselves without outside legal assistance. The government suspended the Laos Bar in late 1992, pending the introduction of rules regarding the activities of private lawyers. As a result, there are no private lawyers practising in Laos.[65]

Arbitrary Interference with Privacy, Family, Home or Correspondence : With the recent liberalization of the economy, the government has relaxed some elments of state control such as police monitoring of personal and business activities and enforcement of night-time curfew. However, search and seizure continue to be authorized by the security bureaus rather than by judicial authorities. Even in 1992, the MoI undertook late-night inspections of households to ensure that all those in the house were registered with the police. Those found unregistered were often detained for several days. The Government has lifted restrictions on the sale of privately-owned property and implemented a new law to return property confiscated after 1975 to the original owners. However, a November 1990 decree provides for the confiscation of property of some 30 officials of the former government who were convicted *in abstentia* in 1975 and were not allowed to return to Laos. The Government and the party continue to monitor some aspects of family life through a system of neighbourhood and workplace committees.[66]

Freedom of Speech and Press : Despite the constitutional guarantees of freedom of speech, press and assembly, these freedoms are broadly controlled by the Government. The new Penal Code bars slandering the State, including distorting party or state policies and spreading false rumours conducive to creating disorder. The Penal Code also bars the dissemination of books and other materials that are deemed indecent or would infringe on

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[65] *Ibid,* p.678

[66] *Ibid,* p.679

national culture.[67]

Newspapers and the state radio and television are instruments of the Government, reflecting its views. The constitutional guarantee of freedom of the press leaves open the possibility of non-governmental publications, and at least one privately owned business publication is now in circulation in Laos.

Academic freedom remains tightly controlled by the Government. Lao academicians are often denied permission to travel abroad for conferences or for training. The Government also severely restricts the activities of Western scholars wishing to conduct research in Laos.

Freedom of Peaceful Assembly and Association : The new Penal Code prohibits demonstrations and protest marches aimed at creating turmoil and social instability, prescribing penalties of between 1 to 5 years. Unspecified "destabilizing subversive activities" are also banned, with penalties ranging from house arrest to death. All associations are party-controlled and disseminate official policy. The Constitution specifies the right of Lao citizens to organise and join associations, but they have been unable to exercise this right except through professional groups that are organised and directed by the LPDR.[68]

Freedom of Religion : In official statements, the Government has recognised the right to freedom of religion as well as the contributions religion can make to the development of the nation, and the Constitution contains provisions for religious freedom. Since Laos is predominantly a Buddhist country, the practice of religion remains restricted, especially for non-Buddhists. Links with co-religionists and religious associations in other countries require government official. The Government does not formally ban missionaries from entering Laos to proselytize, but always denies them permission to enter. In 1992, the director of the Lao

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[67] *Ibid,* p.680

[68] *Ibid,* p.681

office of a US non-governmental organisation was expelled from Laos, allegedly for bringing religious material into the country.[69]

Freedom of Movement within the Country, Foreign Travel, Emigration and Repatriation : The Government retains the right to require citizens to obtain official permission for internal travel. Moreover, the Government has tightened regulations on travel outside Laos. It has ceased to issue blanket travel permits to aid workers, requiring them to obtain such permission each time they travelled outside Laos.[70]

The stated Government policy since 1977 has been to welcome back the approximately 10 percent of the population who fled after the change of governments in 1975. Since May 1980, when the Government reached an agreement on a repatriation programme with Thailand, the United Nations High Commissioner for Refugees (UNHCR) voluntarily returned nearly 12,000 Lao to the country. Lowland Laos made up the majority of returnees; many of the 46,000 hilltribe Lao living in the refugee camps in Thailand have expressed an interest in returning. In addition to those repatriated under the UNHCR programme, an estimated 30,000 people have repatriated themselves without official involvement.[71]

International and Non-governmental Investigation of Alleged Violations of Human Rights: There are no domestic human rights groups. Any organisation desiring to investigate human rights abuses would face serious opposition by the Government, if it were able to function at all. Laos does not generally cooperate with international human rights organisations. It has, however, communicated with and permitted visits of members of international human rights groups in recent years.

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[69] n.10, p.605

[70] *Ibid,* p.605

[71] *Ibid,* p.606

Right of Citizens to Change Their Government : Citizens do not have the ability to change their government despite constitutional provisions for secret ballots and universal suffrage in public election of the National Assembly members. Under the new Constitution, citizens elect members of the Assembly, which in turn elects the President. Because the LPRP continues to dominate government and policies, there is no structured way in which the citizens can remove the LPRP from power. Moreover, the Government has not yet allowed the formation of other political parties.

Discrimination Based on Race, Sex, Religion, Language or Social Status : Approximately one half of the population is ethnic Lao, also called "Lowland Lao" and the other half is a mosaic of upland hilltribes. While the Government encourages the preservation of minority cultures and traditions, minority tribes have virtually no voice in government decisions affecting their lands and allocation of natural resources. The party and the Government continue to be dominated by lowland Lao males, though efforts have been made to include minorities in the political and governmental elites.

The *Hmong*, the largest highland tribe, are split along clan lines. During the Vietnam War era, many were strongly anti-Communist, while others sided with the Lao Communists and the Vietnamese. The Government has repressed many of those groups who fought against it, especially those continuing to resist its authority by force. The *Hmong* tried to defend their tribal areas after 1975, and some continue to support insurgent groups. The Lao armed forces are now conducting operations against the *Hmongs*.[72]

Women in traditional Lao society have always been subservient to men and have often been discouraged from receiving an education. The 1990 Penal Code offers special protection for women and children in the workplace. There is no reported pattern of widespread domestic or culturally approved violence against women. However, in general, Lao and hilltribes tend to hold women in lower esteem than men.

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[72] n.7, p.168

Workers' Rights : Workers in Laos are not allowed to organise and bargain collectively. The Labour Code prohibits forced labour except in times of war, when the State may conscript prisoners. Those in prison camps are expected to do manual labour, including growing their own food, and they are used routinely for labour on both state and private enterprises located near prison facilities. In addition, there are reports that some of these prisoners, when released, are restricted to the general area of the camp and expected to work in state enterprises. The Labour Code contains a range of provisions suitable for the workers, but the stipulations are not observed in practice, seem to be little known to the employers, and lack any real enforcement mechanisms.[73]

The above account represents a pattern and points to a situation in Laos in which any belief in the principles of human rights are classified as subversive. Even legitimate political dissent and social discontent is being suppressed ruthlessly. The armed forces can run amok over peaceful demonstrators or sleepy hilltop villages with absolute impunity and without any public outcry or accountability. The LPRP needs to re-examine its policies in order to make it more accountable to the Lao people. Only then will real democracy get a chance to survive in this small republic.

[73] n.27, p.682

CAMBODIA

Since its independence from France in 1953, Cambodia has suffered continuous unrest. The first *coup* of 1970 by Gen Lon Nol was followed by the bloody regime of the Khmer Rouge of Pol Pot who gained power in 1975. In late 1978, Vietnam invaded Cambodia and set up the government headed by Heng Samrin, with the support of Khmer Rouge defectors and pro-Vietnamese communists. Since then, a coalition including the ousted Khmer Rouge and two non-Communist groups headed by former Prince Sihanouk and by Son Sann, waged a guerrilla war against the Vietnamese-backed regime in Phnom Penh. The civil war continued even after the withdrawal of the Vietnamese troops in 1989, and only in 1990 did the communist government of Phnom Penh, the Khmer Rouge, the supporters of Sihanouk and those of Son Sann begin peace talks that culminated in the Paris Agreements of December 23, 1991.[74]

The four parties formed a Supreme National Council under the presidency of Sihanouk. The United Nations Transitional Authority in Cambodia (UNTAC), with a contingent of 22,000 officers, was entrusted to keep peace and organise and supervise the national elections. The Khmer Rouge, responsible for more than a million deaths during its 1975-78 rule, reneged and repeatedly attacked government troops, ethnic Vietnamese, and U.N soldiers and civilians. Meanwhile, in early 1993, government agents killed dozens of workers and candidates of Prince Ranariddh's FUNCINPEC party. The elections were held on 23 May, 1993. In the aftermath of the elections, a coalition government was formed between Sihanouk's son, Ranariddh of the "National Front for an Independent, Neutral, Peaceful Cambodia" (FUNCINPEC) and Hun Sen of the Cambodian People's Party (CPP) or State of Cambodia (SoC).[75]

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[74] Report of the UN Secretary General on Human Rights in Cambodia, 45th Session, Agenda Item 32, p.1

[75] *Ibid,* p.1

During the past several years, the SOC has been changing the small and predominantly agricultural economy from a centrally- planned to a market-oriented economy. Legislation in 1989 restored the right to own and inherit property and agricultural production is now mostly private and family based. While these reforms, together with growing foreign investment, have improved the economy modestly, Cambodia remains one of the world's poorest countries, with an annual per capita income of only about $190.

Where UNTAC was able to establish itself throughout much of the country, great strides were made in establishing the notion of and respect for human rights. For the first time in nearly 20 years, independent political parties were established in Phnom Penh which were able to function throughout most of Cambodia. Indigenous human rights groups were formed and international organisations such as Amnesty International and Asia Watch were able to visit Cambodia. Although not much is known at present about the human rights situation in post-election Cambodia, it remains without doubt that Cambodia is one of the worst violators of human rights in the world.

The Pol Pot Era : When Vietnamese guerillas began to carry attacks on American troops and retreat into Cambodia, President Nixon ordered the bombing of this hitherto peaceful nation of Indo-China and since then Cambodia has known little peace. Prince Sihanouk was deposed in a *coup* in 1970. Trouble really began when the Khmer Rouge, a Marxist outfit, overthrew President Lon Nol in 1975 and assumed control of the country. In the 1976 elections, a new cabinet under Pol Pot came into power and with that began a reign of terror and destruction in Cambodia. Thousands were killed with no account whatsoever until the regime was overthrown in 1979 .

The Legal System : The Pol Pot tyranny aimed at and largely acheived the erasing of the bourgeoisie, which meant the extermination of all those who had higher education, who could speak or understand foreign languages. The entire legal system was disrupted, legal professionals persecuted, legal texts destroyed. The annihilation of all forms ofexpression was total and absolute. The police had unrestricted powers of arrest and detention, against

which there was no possible judicial review. Detainees' records were not filed, with the result that those brought into detention virtually had no way out.

At present, though the situation has slightly improved, the country lacks the basic legal structures, and above all, trained lawyers and jurists. The independence of the judiciary is a myth in a country where the Minister of Justice still thinks that it is his duty to punish a judge when they deliver a faulty judgement: the idea of judicial review simply does not exist.

Arbitrary Arrest, Detention, or Exile : Before the intervention of UNTAC, due process did not exist in Cambodia. The SOC did not charge 85 to 90 percent of those detained. Uniformed or undercover agents arrested people without warrants, and the SOC denied access to legal counsel and bail to those arrested, frequently holding them incommunicado. The security apparatus of the SOC appears to operate with a high degree of independence.[76]

Denial of Fair Public Trial : On 28 October, 1992, UNTAC implemented thorough judicial and penal reform in all of Cambodia where it was present. The reforms are embodied in "provisions relating to the judiciary and criminal law and procedures applicable in Cambodia during the transitional period". The provisions include basic legal procedures such as search warrants, speedy trials, appelate courts, and standards for treatment of detainees etc.[77] While UNTAC reforms yet hold hope for implementation in future, at the moment, the legal system is essentially dysfunctional. Prior to the UNTAC's intervention, there was no formal judicial and civilian legal system in the areas controlled by the non-Communists. Summary justice was the rule.

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[76] n.44, p.534

[77] *Ibid,* p.534

Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts : The ceasefire among contending factions was arrived at in 1992 through most of Cambodia. All four factions were partially demobilised, the non-Communists and the SOC doing so under UNTAC supervision. Demobilisation was suspended, however, as the PDK refused to participate. Sporadic shelling of villages and towns, especially by the PDK and SOC armies, occured in northern Kompong Thom, Preah Vihear, and eastern Siem Reap Provinces. The shelling caused civilian casualities, and tens of thousands of civilians fled their villages.[78]

More important for Cambodians is the persistent problem of mines. Hundreds and thousands of mines have been laid throughout Cambodia, especially in the western parts of the country, over the past 12 years of civil war. All four factions and the Vietnamese have participated in this practice. Thousands of Cambodians were maimed by the mines. Although demining has begun, the problem of mines will plague Cambodians for years to come.

Freedom of Speech and Press : Prior to 1992, freedom of press and speech was severely restricted. However, the Paris Accords provide that "all persons in Cambodia and all Cambodian refugees and displaced persons shall enjoy the rights and freedoms embodied in the Universal Declaration of Human Rights and other relevant international human rights instruments".[79] While impressive strides were being made, the new Cambodian commitment to freedom of speech occured against a historical background of repression and fear. As a result, the exercise of freedom of speech was often restricted through self-censorship by individuals fearful of consequences which in the recent past could have been dire.

Until mid-1992, the SOC Ministry of National Security secretly reviewed all publications at the limited number of printers in Phnom Penh. By the end of 1992, this practice seems to

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[78] n.7, p.205

[79] n.44, p.535

have stopped. The KPNLF began publication of its Weekly Bulletin, followed by publications of other independent political parties.[80]

Freedom of Religion : Buddhism, the dominant religion of Cambodia, was nearly wiped out during the years of PDK rule. The Muslim population of Cambodia, the Chams, were singled out for particularly harsh treatment. Christianity, viewed as a corrupt foreign influence, was thoroughly suppressed. Since the Vietnamese invasion of 1978, religion has slowly revived. A Buddhist renaissance has occured. Now, there are signs of Buddhist monks advocating human rights.[81]

The Right of Citizens to Change Their Government : Cambodians have not enjoyed this right in the last two decades. The Paris Accords represent an international effort to assist in restoring this right to the Cambodians. However, the 1993 U.N-sponsored elections has succeeded, if in parts, to restore this right to the Cambodians.

Governmental Attitude Regarding International and Nongovernmental Investigations of Alleged Violations of Human Rights : In 1992, indigenous human rights organisations were established for the first time in decades. On January 16, 1992, former SOC political prisoners, Thun Saray and Khay Matouray announced the formation of the Association of Human Rights in Cambodia (known by the French acronym ADHOC). Independent Cambodians launched three more human rights organisations by the end of 1992.[82] All these groups were highly successful in gaining membership and began conducting human rights training seminars and accepting and investigating human rights complaints from Cambodians.

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[80] *Ibid,* p.535

[81]. Ibid, p.536

[82] *Ibid,* p.537

Until December 1991, no international human rights organisation had been permitted to carry out investigations within SOC-controlled areas. However, an Amnesty International team visited SOC-controlled areas from December 8 to December 28, 1991, and an Asia Watch team visited in April and May, 1992. Unfortunately, this new openess did not apply to PDK-controlled areas. The PDK permitted only limited visits to its areas by journalists and certain U.N organisations, notably the UNHCR. Foreign diplomats had strictly controlled access to PDK zones in connection with visits by Prince Sihanouk.[83]

Discrimination Based on Race, Sex, Religion, Language, or Social Status : The SNC ratified key human rights instruments in 1992. Moreover, the 1989 SOC Constitution contains certain provisions to protect the rights of minority groups and women. However, with no effective means of implementing these instruments, the most vulnerable elements of Cambodian society are often victims of discrimination.[84]

Vietnamese and Chinese have often been the largest ethnic minorities in Cambodia. Vietnamese were subjected to bloody pogroms in the early 1970's and under the PDK. Ethnic Chinese have generally been more tolerated, although they too, received particularly severe treatment under the PDK, in part because of their economic prosperity. Popular sentiment against Vietnamese is strong throughout Cambodia. The Paris Accord calls for the verified withdrawal of all foreign forces. The PDK has often interpreted this to mean that all Vietnamese inhabitants, perhaps several hundred thousand people, must depart. The PDK and KPNLF in particular argued that if these provisions were not enforced, Cambodia would be absorbed into an expanding Vietnam.

The 1989 SoC Constitution and the 1989 SoC Law on the Family and Marriage contain provisions to protect women's rights, including a guarantee of equality before law, provisions

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[83] *Ibid,* p.538

[84] *Ibid,* p.538

against forced marraige, and regulations on divorce. However, there are no effective means of implementing these regulations and according to international aid workers, violence against women is common. The Cambodian Women's Association formed as a part of Chea Sim's United Front, has become increasingly independent, in particular at the provincial level. Khemera, an indigenous NGO, was active in 1992 in promoting the interests of women and children.

The handicapped constitute a substantial and vulnerable minority. Asia Watch reports that one in 236 Cambodians has lost at least one limb to mines, the highest percentage of amputees in the world. This group includes both adults and children.

Worker'sRights : The SOC passed a Labour Law in early August, 1992. No such law existed previously. There is, however, a wide gap between the provisions of the Labour Law and the reality of labour conditions in Cambodia today. This is not surprising considering the fact that Cambodia is passing through a political and economic transition period in which the institutions to implement and enforce new laws have not been created and in which existing SOC administrative institutions are slowly breaking down due to a lack of leadership and an inadequate civil service.[85]

The new Labour Law states that workers have the right to form unions of their own choice without previous authorisation. But, in reality, no other unions currently exists apart from those in the SOC-controlled union federation, and there are no reports that workers have attempted to form other unions.[86]

The Labour Law does not guarantee the right to strike. Collective bargaining is protected under the Labour Law, though any agreement reached between workers and employers must

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[85] *Ibid,* p.538

[86] *Ibid,* p.538

be officially approved. The new Labour Law does not provide for a nationwide minimum wage rate.[87] However, it does require that every labourer must receive a minimum wage that assures a decent living standard. But, unsafe and unhealthy working conditions prevail in Cambodian factories and industries. This is, alas, a widely prevalent occurence in most Third World countries of the globe.

At present, Cambodia has taken a sharply different path towards democracy than other Asian nations. After the U.N. completed its withdrawal in November, 1993, the country was left free of foreign influences for the first time since the early 1960s. However, significant problems remain. The Khmer Rouge still controls 15 percent of territory and is negotiating for a role in the new government. Moreover, the country lacks the structures of civil society, including established trade unions; vibrant, independent newspapers, and religious and voluntary organisations that are needed for expanding and preserving democracy.

An Overview : An analysis of the above shows that at present, all the South-East Asian nations stand at crossroads in so far as the issue of human rights is concerned. These nations are faced with the option of having to choose between the concept of human rights as defined by the Western nations or to delineate for themselves, their own paradigm of human rights appropriate to their own circumstances. As long as the interests of the people are addressed favourably, the choice of a delivery mechanism or mode of implementation is entirely the prerogative of the government in question. It is in keeping with this view of human rights in South-East Asia, that the following chapters of human rights violations in Burma will be discussed.

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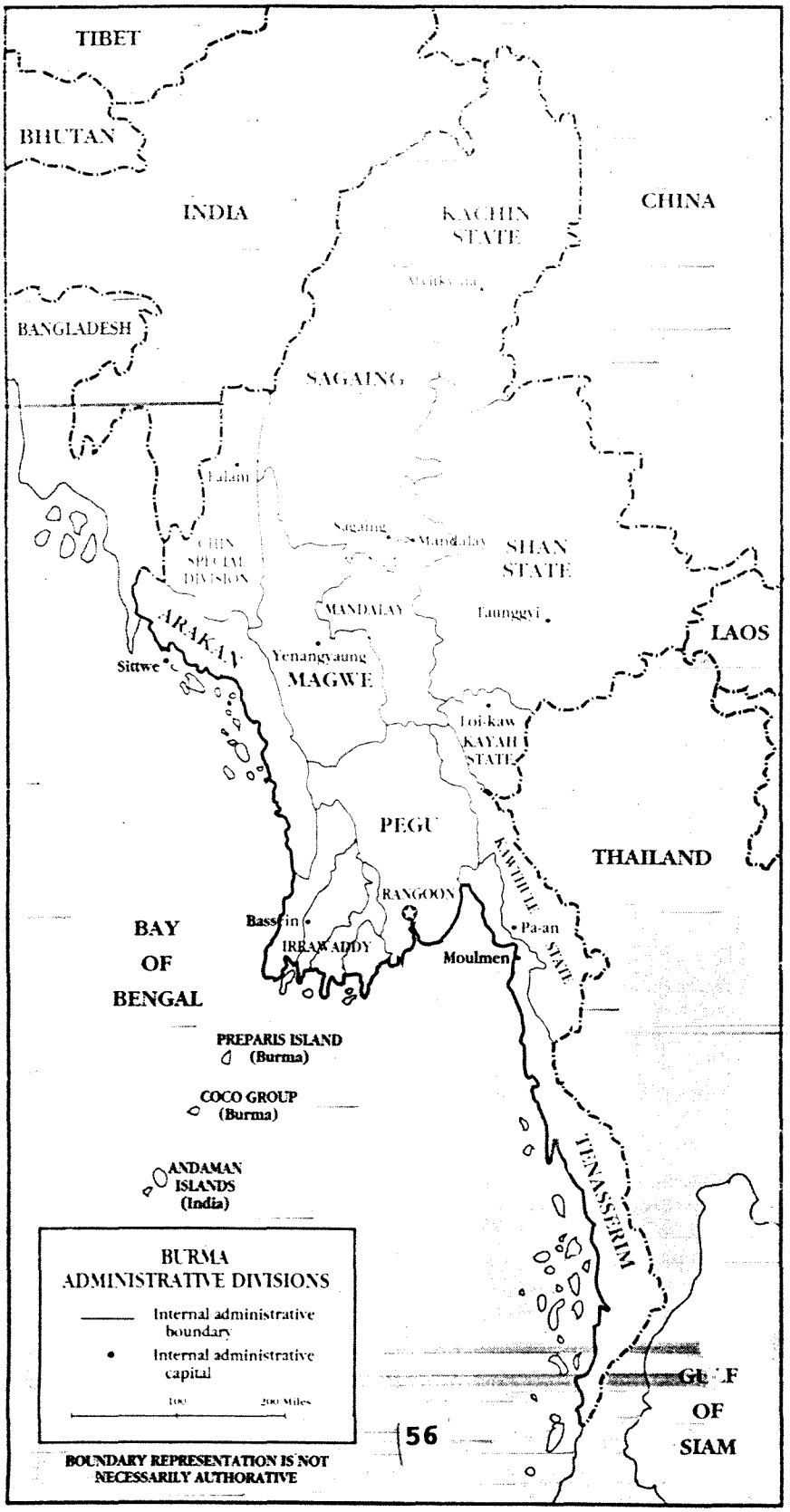
[87] *Ibid,* p.538

MAP : BURMA-=-ADMINISTRATIVE DIVISIONS



Source: U.S. Central Intelligence Agency

CHAPTER II: THE MOVEMENTS TOWARDS RESTORATION OF DEMOCRACY IN BURMA

Background to the crisis : Located between the borders of Bangladesh, India, Tibet, China, Laos and Thailand, Burma (Myanmar)[1] has remained in a state of acute political and economic crisis ever since 1962, when the then Army Chief of Staff, General Ne Win seized power in a bloodless *coup* against Burma's last elected government. In the past 32 years, the country has never achieved more than a hollow facade of civilian rule. Ne Win, formally retired from all official posts, today remains Burma's *de facto* ruler.

Under the 1974 Constitution, the political map marks 7 divisions, largely inhabited by the Burman majority, and 7 ethnic minority states - the *Chin, Kachin, Karen, Kayah (Karenni), Mon, Shan* and *Rakhine (Arakan)*. There are, however, large minorities such as the *Lahus, Nagas* and *Was*, without any geographic representation at all, and, intermingled in many communities, there are an estimated 1.5 million Chinese, Tamils, Bengalis and other minorities of Indian origin. Since 1988, the military government, the State Law and Order Restoration Council (SLORC), has promised to make adjustments in the internal boundaries

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[1] In June 1989, a State Law and Order Restoration Council (SLORC) decree changed the Union of Burma's official name to *Pyidaungzu Myanma Naingnandaw*, the official translation of which in English, reads as Union of Myanmar. The names of several cities, rivers and regions were also altered nominally to reflect more closely their transliteration from Burmese into English. The action is reminiscent of Pol Pot's renaming of Cambodia to symbolize the triumph of the Khmer Rouge - to represent a definitive, if murderous break with the past, and to clothe a repressive dictatorship in the mantle of national revival.

Keeping in view the current situation in Burma and the position of Burmese pro-democracy groups, the international community rejects these name changes since it is a disservice to the cause of democracy to recognise such actions by a *junta* so utterly repudiated by Burma's peoples. Hence, the term "Myanmar" will not be used hereafter, except during references made by the SLORC, as a mark of solidarity with the cause of the Burmese peoples' movement for democracy.

but no concrete steps has been taken so far.[2]

Over 80 percent of the population practice *Theravada* Buddhism. Burma is also home to over 2 million Muslims, with a large concentration in Arakan, and there are substantial Christian communities across the country, mostly among the ethnic minorities of the *Chins, Kachins* and *Karens*.[3]

Burma's turbulent history reflects its complex ethnic balance. Annexed into the British Empire in three wars between 1824 and 1886, until 1937, Burma was governed as a province of India. Administration, however, was divided between two divisions - Ministerial Burma and the ethnic minority Frontier Areas. The country suffered even more death and destruction during the Second World War when Aung San, Ne Win and the heroes of the national liberation movement fought, first on the Japanese side, while the *Karens, Kachins* and other hill people largely stayed loyal to the British. It was thus, only at independence that the two divisions were brought together and Burma was gerrymandered into its present form.

Time has not been kind to the Burmese people and oppression is nothing new to them. Conquered by Britain in the 19th century, invaded by Japan during World War II and now, ruled by its own repressive Generals for more than three decades, Burma has, for more than a century, known little but harsh authoritarian rule.

Since this paper is intended to be a focus on the impact of military rule in the movements towards restoration of democracy and the conditions of human rights in Burma, this chapter will treat only that period of military rule which relates to the above issues.

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[2] Law Asia Regional Country Report, (Washington, 1990), pp.42-45

[3] *Ibid*, p.45

Reasons for the failure of democracy in Burma : There are many reasons for the failure of democracy in Burma. At the root of it was the inability of the party system to become a deep and meaningful part of society. Residents of the rural areas had little understanding of, and practically no commitment to party ideals and institutions. The struggle among the members of the ruling elite for power and prestige gave the people no basis for confidence in their leadership. The government's failure to end insurgency and to curb the predatory activities of rebels and bandits left the people with no real protection against the constant threat of victimization. As always, the peasants had to cope with this reality as best as they could and to look to their immediate leaders, the village elders, the clergy and a few national figures such as U Nu, to guide and instruct them. More than a decade of democracy provided no evidence that it was a system that could govern and harmonize the interests of the people.

The second reason was the inability of the national leaders to solve the minority questions. While most of the people trusted U Nu, the peoples of the plains and those of the hills did not trust each other. Fears of Burmanization among the minorities, resulting in the loss of their culture and identity, and fears among the military that secession in the minority areas would leave the country nearly indefensible, placed constant pressures on the men in power. None of the proposed solutions - the creation of more states, the relaxation of central controls, the physical integration of the minorities in a centralised state - appealed to the people. Fourteen years of experimentation with democracy gave way to authoritarian rule while the people looked on in stoic silence.

The Military Coup of 1962 : Impatient army observers, who had been waiting in the wings since 1960 under restraint from Ne Win, were always on the lookout for an opportunity to reassert control; they found their excuse in the convening of the *Shan* State Conference at Rangoon on 1 March, 1962. The distinguished *Shan* delegation included the former President of the Burma Union, Sao Shwe Thaike, who, like the others, had come in good faith, hoping to formulate an acceptable pattern for the autonomy of the *Shan* state. Ne Win professed to see in the conference's agenda, the threat of complete disintegration of the

Union. Early on the morning of 2 March, 1962, the military forces of Burma, led by General Ne Win, took over Rangoon in an efficient and almost bloodless *coup*. Premier U Nu, many *Shan* princes and political leaders were rounded up that day and held indefinitely without trial, along with other representatives of the *Shan* delegation. Also included among the fifty-three persons seized at the time were Chief Justice Myint Thein, Thakin Tin of the ABPO and the *Karen* ex-president of the Union, Mahn Win Maung.[4]

In defence of his action, Ne Win declared flatly that the integrity of the Burma Union was in danger and that parliamentary democracy had proved unsuitable for Burma. He established a seventeen-member Revolutionary Council, all members of which were from the military. He suspended the Constitution and disbanded both the elected assembly and the Chamber of Nationalities. He also abolished the Supreme Court and the High Court, substituting them with military tribunals. Six weeks later, he forced the representatives of the American Ford and Asian Foundations to depart from the country and suspended the operations of the Fullbright Foundation. The same xenophobic tendency was reflected in Ne Win's curtailment of the English language training programme, previously conducted by the United States Information Service (USIS) and the British Council.[5]

The army *coup* generated no effective protest partly because physical resistance was impossible in any case. The authority of the civilian government was in such disarray that potential protesters lacked both popular backing as wellas self-confidence. The general mood was of reluctant acquiescence. The previous record of Ne Win as head of a caretaker government had not been all that bad. The military command in general, was urban, rather than rural, secularist rather than religiously committed, and seemed to be still strongly anti-Communist and anti-rebel. Some observers hoped that a second limited exhibition of disciplined chauvinism by the army might serve to restore Burma's lost sense of cohesion,

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[4] Robert H Taylor, The State in Burma, (London, 1987), pp.338 - 340

[5] Josef Silverstein, Burma : Military Rule and the Politics of Stagnation, (New York, 1977), p.57

bridge political and other rifts, and contribute to economic recovery.

The causes of the *coup* have been the subject of considerable speculation. Some have argued that military leaders such as Colonel Maung Maung, had advocated a similar military takeover the previous year. General Ne Win, not yet ready for such action, had forced the Colonel's exile by placing him as an ambassador abroad.[6] Others have attributed the *coup* to U Nu's decision in January 1962, to nationalise the import trade by the 1st of March.[7] However, such action could not have possibly affected the Defence Services Institute, run by the military and so, does not stand scrutiny. Another opinion is that the military acted to achieve Socialism in the shortest period of time.[8]

The most common and probable explanation for the *coup* and its timing were the increased difficulties relating to national unity, especially among the *Shans*.[9] *Shan* leaders had met previously in Taunggyi, the capital of the Shan state, where some participants allegedly launched anti-Burman diatribes. At the time of the *coup*, the *Shan* were in Rangoon for a meeting on unity, and if the *coup* was, at least in part, prompted by communal problems, the timing could not have been better.

There was probably a complex mix of causes, but the timing of the *coup* was most likely a result of the *Shan* Rangoon meeting, which gave the military an unprecedented opportunity to round up many leaders quickly. Growing security problems, political factionalism, and

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[6] Trager, Burma from Kingdom to Republic, (London, 1992), p.193. (Colonel Maung Maung went to Israel, Colonel Aung Shwe to Australia. Others have attributed Maung Maung's exile to other causes.)

[7] The Times, (London, 5th March, 1962)

[8] Norman Nyun-Han, Burma's Experience in Socialism (Ph D dissertation, University of Colarado, 1970), p.1

[9] Richard Butwell, The Four Failures of U Nu's Second Premiership", Asian Survey, Vol 2, No 1, (Singapore, March 1962), p.13

bureaucratic ineptitude may all have contributed to the feeling of urgency. The immediate evidence suggested that Ne Win's basic objectives in staging the *coup* were political rather than ideological.

The Emerging 'Burmese Way to Socialism' : The new regime's blueprint for the nation issued on 30 April, 1962, was entitled "The Burmese Way to Socialism". The full implications of its political pattern were unclear, and its authorship was not indicated. The word "Burmese" in the title, clearly, had to be underscored. The document elaborately laid out a plan for the way Burma was to be governed under the new dispensation. Ostensibly, to suppress exploitative capitalism, a system of social justice was designed to free the people from all material anxieties including food, clothing, shelter and employment needs. The plan would endeavour to achieve a balanced development of all available resources, including labour, raw materials, technical abilities and the instruments of production. The state itself, or group cooperatives functioning under national control, would eventually monopolise or direct the means of production. The profit motive would, thus be eradicated, along with easy living, public freedom of criticism and elimination of bureaucratic bottlenecks. Traditional educational objectives and religious sanctions to morality would be promoted, but bogus acts of charity and hypocritical piety would not be tolerated. All indigenous ethnic groups, regardless of origin, religion, or language would hopefully be united by a common patriotic bond. A monolithic political organisation to be called the Burmese Socialist Programme Party (BSPP) would direct the new programme, while the armed forces would support and defend the new order.[10]

Executive leadership of the new regime was lodged in the Revolutionary Council (hereafter called the council). The council was expected to extend its disciplinary control through successive lower levels of the party cadres to the eventual peasants and working councils, which would be created in due course. Army-controlled economic and governmental

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[10] Josef Silverstein, Burmese Politics : The Dilemma of National Unity, (New York,1991), p.230 - 236

agencies, functioning under the council's direction but each one enjoying a considerable degree of operational autonomy, would take the place of the capitalist business community.[11]

The only political group which eventually responded with some enthusiasm to Ne Win's appeal to collaborate with the Revolutionary Council was the National Unity Front and some Marxist theoreticians. Generally, the educated elite and most officials of previous governments stubbornly rejected the imposition of army dictatorship, however much they may have sympathised with its declared socialist goals. Judges, minority leaders, bureaucrats, faculty and students, press and the business community, and eventually the monks, all of them refused to respond to invitations to supported the BSPP. All minority groups distrusted the army-enforced Burman domination and moved towards overt rebellion. Thus, NUF volunteers and the factional Communist-oriented army leadership led by Brigadier Tin Pe and Colonel Than Sein gained political ascendancy within the council largely by default, in the absence of any serious political competitors.[12]

The BSPP was, in fact, a projection of the military government itself. In the absence of any means of independent financial support for the party, the council decreed in October 1963 that the party leaders should draw on the government budget to cover both party expenses as well as their personal needs. Burma's socialist utopia was, thus, applied from the outset, on a selective basis. From the start, the army programme was puritanical in character; it lacked the capacity to enlist people's participation, to improve governmental efficiency or to achieve progressive economic development. Religion was also being made to serve the socialist objective of the new government. National accomplishemnt as well as personal destiny were to be determined not by *Karma* but mainly by intelligence and industry, no matter how much Buddhism may have contributed historically to Burma's social and cultural values.

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[11] *Ibid*, p.235

[12] *Ibid*, p.236

Opposition to Military Rule (1962 - 1974) : Throughout the first phase of military rule, due to the situation as seen above, the government faced opposition from several quarters - the indigenous minorities, political parties, religious groups, and particular individuals. Because of their different goals and tactics, these groups never coalesced into a unified opposition, though occasionally, they were drawn together for brief periods. The basis of their unity - when it occurred - was opposition to the Ne Win Government, but that was never strong enough to transcend the issues and personalities that divided them.

During the first years of military rule, the most vocal and active overground opposition came from University students and Buddhist monks. The students were the first to protest but following the reopening of the Universities in May 1962, they were placed under new and more restrictive regulations. The students protested again in July 1962 and, contrary to tradition, the military responded with gunfire, killing at least sixteen, closing the Universities, and blowing up the Student Union building at the University of Rangoon. When the Universities were reopened later that year, the students were required to present suitability certificates and undertake to agree to abide by regulations; in turn, the Government appeared to ease its harsh policies. By 1963, however, the students were emboldened enough to make fresh demands and to support some of the opposition during the negotiations between the insurgents and the military that took place during the summer and fall of that year. When the negotiations broke down in November 1963, the soldiers in power moved against the students once again, closing the Universities and sending the students home. Although the Universities were reopened the next year, they were reorganised, and the students who were readmitted were screened carefully. For all practical purposes, student opposition to military rule came to an end until 1969, when the students again rioted and shouted anti-government slogans over the issue of ticket sales for the South-East Asia Peninsula (SEAP) games. Once again, the government responded with force and closed the Universities. For the remainder of this phase of military rule, the students remained silent.[13]

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[13] *Ibid*, p.250

Buddhist monks provided the only other organised open opposition to the government. But, the government had already silenced them in 1965.

The underground opposition by the minorities and the Communist parties continued through the entire period of military rule and is continuing till date. Minority groups like the *Karens, Shans, Kachins, Kayahs* and the *Mons* were openly fighting against the government. The *Mons* were interested in obtaining a state of their own. The *Karens* were interested in redrawing their state boundaries to include more of their people and greater access to natural resources. The *Shans* and the *Kayahs* desired either a redefined federation that would give them parity with a Burmese state or the right to secede from the Union. The *Kachins*, who had a state, wanted greater power and more autonomy.[14]

While each of these ethnic groups had front organisations struggling to achieve its desired ends through constitutional means, underground insurgent groups were battling the government for territory and control over their ethnic population. Some of these insurgent groups came together once in a while, as in the *Shan* State, where they joined forces with the remnants of the Nationalist Chinese and engaged in illegal opium and arms trade. The most important coalition of ethnic groups to face the military after the *coup* was the illegal National Democratic United Front (NDUF) consisting of the Karen National Union, the new Mon State party, and the Karenni National Progressive Party. The NDUF allied with the Burma Communist Party of Thakin Than Tun and together, they negotiated with the military in 1963. Following the failure of the negotiations, the NDUF fell apart and each unit sought to gain its goal independently. The various insurgent ethnic groups operated in the hill areas and near Burma's borders with China, Laos and Thailand. They held large stretches of territory and were able to support the smuggling of opium, precious stones and teak out of Burma and to bring in a variety of consumer goods illegally from Thailand without any real interference from the military. The government maintained control over major trading centres, key villages and roads. Hence, the insurgents were never able to

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[14] *Ibid*, p.253

establish a rival government inside Burma.[15]

To answer the challenge posed by ethnic dissidents, the military sought to create a unified state exercising central control through military means. At the same time, in 1963, it made an effort to negotiate a settlement with all the dissidents. Although it won the support of a minor faction of *Karen* insurgents, it failed to end insurgency in Burma.[16]

In 1964, the military chose a new path by declaring a new national policy on minority-majority relations, which, it hoped, would wean the minority peoples away from the influence of their insurgent leaders. On Union Day, 1964, Ne Win declared that while economic development was the concern of the entire nation, other areas such as language, culture, literature, religion and custom were the responsibility of individual ethnic groups. He concluded by warning against any activity that threatened national unity. This declaration elevated the Burman nation above any of its component groups and implied that all these groups must strive for the common good, even at the expense of their particular rights and without the safety valve of the right of seccession. Moreover, the opening of the Academy of National Groups, which sought recruits from all ethnic groups, also was a major step towards enhancing minority-majority relations. But, the good of the academy was never fully realised; the training period and community living period were too short for the trainees to transcend their ethnic and linguistic differences; the new skills were relatively simple, so much so that most trainees did not learn much more than they already knew. Other measures to overcome racial antagonism were taken, such as nationwide celebration of ethnic national days, publication of the folklore of certain minorities, and historical and anthropological studies of the minorities. However, despite these efforts, the first twelve years of military rule did not see any major changes in racial attitudes and behaviour of the

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[15] Bertil Litner, Land of Jade : A Journey through Insurgent Burma (New York, 1990), p.257

[16] *Ibid*, p.258

people.[17]

The second real source of opposition was the Burma Communist Party under the leadership of Thakin Than Tun until his death in 1968. The party had been in continuous revolt against the government since 1948. When the military curbed legal opposition, the Communists became more isolated than ever.[18] In this situation, the military leaders sought to bring an end to political strife and insurgence through negotiations with both the Communists and the insurgent minorities. In April 1963, the government issued a general amnesty; prisoners, other than political leaders arrested in the *coup*, were freed and their sentences reduced. Having established a favourable climate, the military invited the insurgents to peace talks on July 11, aimed at ending civil strife. During the discussions, leaders of the underground were free to meet with the public, talk publicly, and publish their point of view. The insurgent leaders made three key demands : a nationwide ceasefire, freedom of mobility for insurgent leaders to consult each other, and according of full publicity to their meetings and all proposals and counter-proposals. Discussions broke down over the first issue. The BCP and NDUF demanded the right to continue the right to administer their areas and collect taxes. The military argued that such a demand went beyond a cease-fire and, in effect, divided the nation. Fighting resumed, following the delegations' return to the jungle.

But the negotiations strengthened the government's confidence in its popular mandate and with the help of people's militias, the military vigorously renewed their attack on the insurgents. Moreover, serious infighting amongst party members weakened the BCP. After the expulsion of several BCP leaders, the revived BCP, under the leadership of Thakin Zin, Thakin Chit and Ba Thein Tin, regrouped, restocked their weapons from Chinese sources and resumed battle against the military. Interacting with the ethnic rebels, supported modestly by the People's Republic of China, the BCP presented a greater threat than at any

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[17] *Ibid*, p.259

[18]. Bertil Litner, The Rise and Fall of the Communist Party of Burma, (New York, 1990), p.210

other unit since 1950 to the one-party state the military sought to impose on the Union of Burma.[19]

The third element of the opposition was made up of individual political leaders who would not support the *coup* government. Chief among them was U Nu. Imprisoned without trial in 1962 on the orders of Ne Win, he remained in jail since 1966, when he was released on the condition that he was not to engage in politics. In 1968, Ne Win sought to engage Nu and other leaders from the past into a committee to plan Burma's future. The Internal Unity Advisory Body (IUAB) was composed of thirty-three former political and ethnic leaders. The IUAB report included three different sets of recommendations and a separate report of U Nu. The majority report supported a return to the original constitution and the retention of the federal system with a few new states added. The minority report called for the convening of a national unity congress, the formal adoption of a federal political system, and the creation of a one-party socialist state.

U Nu presented his own views separately. He argued that power had been seized illegally and firstly, must be returned to him; then the old Parliament had to be reconvened to elect Ne Win President of the Union. Following the elections, martial law would have to be lifted, political rights restored, and political prisoners released.[20]

When his suggestions were rejected, U Nu asked for and received permission to go abroad. In London, he called for a popular revolt against the military. Following visits to several countries, Nu raised money from a Canadian company and other sources, and then settled in Thailand, where he organised a rebel army. Nu formed a National United Liberation Front - with several minority dissidents and called his movement the Elected Government of the Union of Burma. He organised a new political party, the Parliamentary Democracy Party, as the major constituent unit of the front. His army launched raids inside Burma and,

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[19] *Ibid*, p.213

[20] Working People's Daily, (Rangoon, 5th July, 1969), p.11

for a while, held territory inside the Burma-Thai border, but his efforts failed to inspire a popular uprising, or defections from Ne Win's armed forces. Even a leaflet-dropping air raid on April 7 1972, over Rangoon and lower Burma failed to arouse the people.[21]

In January, 1972, Nu resigned as president of the NULF insurgent group over his differences with the representatives of the minorities over the question of the future of the federal state in Burma. He refused to make any commitment to the right of the minorities to secede. Against his wishes, the right of secession was adopted as part of the NULF manifesto. All his political life, U Nu had fought to hold the Union together; so he refused to agree to anything that contradicted his position. Nu's deperature from the insurgent ranks ended his challenge to the military.

Those who opposed military rule were unable to unite, both on goals and tactics, to mount a major challenge to the men in power. The government was never really challenged because the military leaders controlled the centres of armed might, they remained a cohesive unit, and they retained the loyalty of their junior officers and the men in the ranks. That does not mean that the military exercised authority over the whole of Burma - it did not. It did exercise authority over the centers of population, controlled the means of communication, and was able to protect the bulk of the population from assaults by insurgents; thus it was able to survive in power.

Constitutional Dictatorship of 1972 : The Second Phase of Military Rule : The men who seized power in 1962 did not see the writing of a new constitution for Burma as an immediate issue. The military leaders justified having set aside the Parliament and altered the courts, having arrested the elected government, and having re-arranged the administrative structure in their first publication "The Burmese Way To Socialism", which stated that the original constitution was unacceptable because it had defects, weaknesses and loopholes that kept the nation from realising its goals of socialism and national unity among

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[21] *Ibid*, p.11

all the people.[22] Seven years later, in 1969, General Ne Win announced that the time was ripe for writing a new constitution and criticised the fundamental law by giving numerous examples of how he thought it favoured the private sector of the economy, foreign firms, lawyers, and feudal leaders in the states. He called for a return to the principles of government and the goals for the people set by Aung San before independence.[23] In 1971, the first congress of the BSPP announced that it would be responsible for writing the new constitution and in 1973, completed its work when the final version was presented and approved by the second Congress of the party and submitted to the people for ratification.

Despite vigorous and outspoken criticism of the initial drafts of the constitution which was drawn up by a State Constitution Drafting Committee nominated by the BSPP, which included thirty-three military officers among the total membership of ninety-seven, there was very little difference between the three versions of the constitution. All contained the same number of chapters and nearly the same number of articles. In all three drafts, the preamble made it clear that the Revolutionary Council fulfilled "its historic mission" by adopting the Burmese way to Socialism and creating the BSPP. As will be seen, the military leaders made certain that their leadership and programmes continued into the future.

The 1971, Congress of the BSPP adopted six guiding principles for the new constitution: 1) socialism is the goal of the state; 2) a socialist economy shall be adopted and laws for its protection shall be implemented; 3) the state shall be organised as a democratic society; 4) there shall be racial equality and national unity in good times and bad; 5) the people shall have democratic and personal rights within the framework of socialist democracy and duties and obligations towards socialism and the states; and, 6) any other provisions that will contribute to the building of a socialist democratic state will be adopted.

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[22] Government of Burma, Revolutionary Council, The Burmese Way To Socialism, (Rangoon, 1962)

[23]. Government of Burma, Address delivered by Gen. Ne Win, Chairman of the BSPP, at the Opening Session of the Fourth Party Seminar on 6th November 1969, (Rangoon)

The military went to great lengths to publicize the writing and promulgate the new constitution. They fashioned a constitutional dictatorship through the control of the BSPP, the hierarchical nature of the government, and the absence of any means for legally expressing opposition.

Totalitarian safeguards permeate the 1974 Constitution, which was finally suspended in 1988. The federal principles of the 1947 Constitution were completely abandoned. Instead, the principle that Burma became a one-party state was enshrined as the BSPP's main article of faith (Art.11), and all forms of expression were broad limitations. For example, although there are clear guarantees for the basic rights of all citizens before the law "regardless of race, religion, status and sex" (Art.22), the exercise of such rights must not be "to the detriment of national solidarity and the socialist social order".(Art.153 b).

Similarly, Art.158 guarantees citizens "freedom of association, assembly and possession" and the right to "freely take part in political, social, class and mass organisations", but these must be permitted by law. Art.157 declares:

> "Every citizen shall have the freedom of speech, expression and publication to the extent that such freedom is not contrary to the interests of the working people and socialism".

Thus, it can be seen that the constitution continues to peruse the goal that the military sought following the *coup* in 1962 - direct control over the entire nation through a strong and disciplined administrative structure.

By granting the request of the ethnic minorities that all states should be equal, the new constitution created 9 states and divisions out of the former territory known as Burma proper and reduced all of those to an administrative level beneath the national government. The territorial shape of a particular state can be changed; it can be renamed, and it can be reconstituted. Thus, the states no longer belong to any ethnic group, but to all citizens

residing in the territory. With no territory of their own, with no cultural protections formally embodied in the legislative lists, the dominance of the majority Burmans will expand, and racial enmity, which characterised the first century of independent Burma will continue.[24]

Finally, the hallmark of the new system is its corpus of elected bodies and collective leadership. The election of representatives to four levels of government proved confusing and cumbersome. In emphasising the role of the voter, it disguises the fact that the candidates were handpicked by the party and the outcome of the election was never in doubt. If the purpose of the constitution was to make dictatorship appear to be a popular self-governing system, the effect failed because the disguise did not conceal much.[25]

Thus, it can be seen that the Constitution perpetrates the goal the military sought to achieve following the *coup* in 1962 - direct control over the entire nation through a strong and disciplined administrative structure.

Pro-democracy Protests : The Aftermath of the Constitution : If the government felt that the new constitution would immediately solve the economic problems or create political tranquility, it was quickly proved wrong. The *Pyithu Hluttaw* (People's Assembly) was installed in March, 1974, but by May of that year, demonstrations and workers' strikes cropped up over the issue of higher wages and bad labour conditions. These started at the Chauk oil fields of central Burma (the site of the first workers' strike in 1930) and spread to the entire oil industry and to factories in Rangoon. In June, demonstrations again broke out over food shortages, and the police fired on workers, officially killing 22, although unofficially, over 100 were said to have been killed. Universities, colleges and educational institutes were closed to prevent further demonstrations.[26]

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[24] n.3, p.342

[25] *Ibid*, p.342

[26] n.4, p.240

Latent discontent over the regime found its greatest expression in the disturbances that occured on the occassion of the burial of the former U.N Secretary General, U Thant, in December, 1974. Had he remained in Rangoon and not been Burmese ambassador to the United Nations and subsequently U.N Secretary General, it is likely U Thant would have been jailed by the military after the *coup*. The students, disgruntled with what they regarded as inappropriate ceremonies and an inadequate burial site for U Thant, seized his body in clear protest against the military. Together with monks, they attempted to bury it at the former Student Union building which Ne Win had ordered to be blown up. This was the first major involvement of the *sangha* (monastic order) in anti-government protests since 1964, when the Revolutionary Council attempted to register monks. It was also the most serious so far. The government declared that the "mob rule has become widespread", and martial law was declared. Riots broke out in which officially, 13 were killed, 70 wounded, and about 3000 arrested , of whom 350 were monks. However, persistent rumours remain that upto 1,000 died and that a mass grave was dug at the military cantonment area at Mingaladon outside Rangoon.[27]

The demonstrations over U Thant's burial were significant. Slogans were shouted over the "fascist government", the "one-party dictatorship".[28] The riots indicated that the mass mobilisation systems previously installed by the military and the new constitution had not created the sense of efficacy that the military expected nor dampened the libertarian spirit.

Further demonstrations were to take place. In 1975, students and some workers rioted on the anniversary of the June 1974 workers' riots, and some 217 were arrested. Once again, schools were closed; they had only been reopened on May 13, 1975. They were not to reopen till January 5, 1976.[29]

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[27] *Ibid*, p.241

[28] *Ibid*, p.241

[29] *Ibid*, p.241

In 1976, there was continued unrest, although it was less widespread. Students closed the universities and institutes for the third time on 23 and 24 March, when they demonstrated on the anniversary of the centennial celebrations for Thakin Kodow Hmaing, a prominent left-wing leader. Thin Maung Than, a student leader who was alleged to have agitated against the government, was arrested and tried *in camera*, given the death sentence and executed within hours of the sentence. That effectively stifled student agitation for a while. Insurgent activity had also spread in the meanwhile. There had been attacks on the Bhamo and Myitkyina airports in the Kachin State in 1975 and 1976, and the *Karen* had seized the important town of Thaton for a brief period in March 1976. Although no direct threat to the regime, insurgents were estimated to deny to the government perhaps 40 percent of the territory of the nation, all in areas outside Burma proper.[30]

Of more importance to the regime and its continued survival was the attempted *coup* by young army officers in July, 1976. Although unsuccessful, these officers had conveyed the denouncement of the socialist system. In January, 1977, the *coup* plotters were sentenced. There were small student demonstrations against these sentences. There were purges within the BSPP, and although Ne Win always seemed to be in control of the military and the government apparatus, his uncontested leadership was unexpectedly challenged at the extraordinary meeting of the 1977 BSPP Congress in November. An election was held for party Chairman, and in a surprise development, Ne Win was placed third. A second ballot indicated that Kyaw Soe had won. New elections were immediately ordered, and Ne Win was finally elected Chairman.[31] In spite of this, Ne Win's control has, since then, remained secure.

The period since the promulgation of the new constitution has given little political comfort to the regime. Political stability was threatened almost continuously in the first four years of the new constitutional government. It did not bode well for the future, for if the new

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[30] *Ibid*, p.243

[31] *Ibid*, p.243

liberal economic policies failed to produce dramatic improvement , there was always the likelihood of other demonstrations and increased dissatisfaction, as the 1988 pro-democracy movement was to vindicate later on.

The 1988 Pro-democracy Movement : Rumblings of discontent among the people of Burma as a result of the draconian rule of the BSPP finally culminated in 1988 when Burmese history again witnessed another major event which became the focus of international attention. The cause for the 1988 uprising can be traced to the demonetisation of currency notes in September, 1987, without any refund or compensation. All currency notes above the value of $ 2.00 were demonetised and virtually 70% of all currency in circulation was rendered valueless.[32] The demonetisation of banknotes turned out to be a tragedy. It was announced that compensation could be made to only those people who could prove that they had earned their money "by honest means". In Burma, where the blackmarket accounts for the greater part of the entire economy, that was virtually impossible. Many traders lost their entire capital. At the same time, shortages of domestic goods were reported and it was clear that the economy was in shambles.[33] There were some students protests as well. The government closed all educational institutions by announcing early October holidays. Though there was no massive reaction at that time, it was clear that the gross injustice wiped out many people's savings of a lifetime and heightened tension.

In March, 1988, an altercation took place between a group of students of the Yangon Institute of Technology and some local youth. On 13 March, 1988, the *Lon Htein* (Security Police) fired on demonstrators from the Institute protesting against the handling of the dispute by the government. At least, one student, Maung Phone Maw, was killed and several were wounded. A local situation was thus aggravated and soon escalated into demonstrations against the government. The government forcibly suppressed the demonstrations and many

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[32] David I Steinberg, The Future of Burma : Crisis and Choice in Myanmar, (New York, 1990), p.22

[33] n.14, p.181

were killed. Hundreds of students were arrested and at least 21 were suffocated to death while locked inside a police van outside the Insein Central Prison. The demonstrations continued, along with parallel atrocities perpetrated on the people by the *Lon Htein*. On 21 June, 1988, the government imposed a ban on all public gatherings. In spite of the ban, protests against the government erupted in the towns of Mawlamyine (Moulmein), Prome, Bago (Pegu) and other places. Universities were closed but student cells in several places were active and plans were being made for a massive nationwide demonstration against the government on 8 August, 1988.[34]

These events compelled the Central Executive Committee of BSPP to call an extraordinary Congress of the party on 23 July, 1988. In this Congress, General Ne Win accepted responsibility for the events and announced his resignation from politics and his position as Chairman of BSPP. He also expressed that five other senior leaders had expressed their desire to resign. Ne Win threatened that if the demonstrations continued, the army would shoot to kill. After this speech, he left the meeting.[35]

The Congress accepted Ne Win's resignation as Chairman of the BSPP but not from the membership of the party. Vice Chairman San Yu was permitted to resign. The Congress did not accept the resignations of the four other leaders. General Ne Win's proposal to hold a referendum to choose between a single or multi-party system was also rejected. Sein Lwin, who was very unpopular as he was considered responsible for the excesses committed in 1962 as well as in 1988, was placed at the helm of affairs as President and BSPP Chairman. The demonstrations continued unabated.[36]

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[34] Makhdoom Ali Khan, Report of a Mission to Myanmar, The Burmese Way : To Where? (London, 1991), p.25

[35] *Ibid*, p.25

[36] *Ibid*, p.25

The popular uprisings culminated in a nationwide strike on 8 August, 1988. Soldiers opened fire on unarmed demonstrators and between 8 and 12 August, about 3000 people were killed. Nevertheless, the protest movement continued. Rioting stopped on the night of 12 August when Sein Lwin resigned. The citizens, however continued to demonstrate for the end of one-party rule, handing over of power to an interim government and holding of multi-party elections. A general strike was effected, with provisions made to ensure that no essential services were disrupted.[37]

On 19 August 1988, Dr Maung Maung replaced Sein Lwin as President as well as Party Chairman. Various measures initiated by him to placate the people, including the lifting of Martial Law in Rangoon on 24 August 1988, along with the withdrawal of the army and the release of political prisoners on 25 August 1988, had no effect and the demonstrations continued with the same zeal and vigour.[38]

On 27 August 1988, U Tin Oo, the former Defence Minister who had been dismissed in 1976, addressed a gathering of about 4,000 people. The next day (28 August 1988), U Nu, the former Prime Minister, established a political party - the League for Democracy and Peace (Provisional), in violation of Ne Win's 1974 Constitution. On 2 September 1988, the Bar Council declared that the 1962 *coup* was unconstitutional and illegal. On 9 September 1988, U Nu declared that as the *coup* of 1962 was unlawful, he was still the legitimate Prime Minister under the 1974 Constitution. He formed an interim government and announced a cabinet. The formation of the interim government was opposed by prominent opposition figures such as Aung San Suu Kyi and Aung Gyi. The opposition was thus divided and the regime indirectly reaped the benefits.[39]

The government announced that a second emergency session of the BSPP had been

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[37] *Ibid*, p.25

[38] *Ibid*, p.25

[39] *Ibid*, p.25

scheduled for 12 September 1988, which was to be followed by a session of the *Pyithu Hluttaw*. The BSPP Congress as well as the *Pyithu Hluttaw* session agreed that free and fair multi-party elections ought to be held. On 16 September 1988, a BSPP proclamation permitted civil servants, police and members of the armed forces to retire from the party.[40]

The brief "democracy summer" abruptly ended on 18 September 1988, with a bloody stage-managed *coup* by Ne Win loyalists, headed by General Saw Maung. General Saw Maung announced that the military had taken over power and a nineteen-member State Law and Order Restoration Council (SLORC) was formed which assumed all legislative, executive and judicial power. Curfew was imposed, gatherings of more than 5 people were prohibited, demonstrators were shot and the streets cleared of all opposition and protestors. In the aftermath of the *coup*, a further 10,000 students and civilian activists fled into the sanctuary of borderlands controlled by various ethnic and Communist insurgent movements which had been at war with the central government, virtually since independence in 1948.[41]

SLORC promised that free and fair multi-party elections would be held in May 1990, formally ending 26 years of one-party rule by the BSPP, once law and order had been established. The SLORC generals have consistently described themselves as an interim military body with no self-interest or ambition - only the historic duty to oversee the transition of "Myanmar" to its third constitution since independence. At the same time, they have designated 3 major areas - "national security", "national sovereignty", and the "unity of races" - as the army's exclusive preserve and continue to warn that they will interfere in the political process whenever and wherever they feel these interests are threatened.[42]

While all references to socialism have been dropped and economic change is slowly

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[40] *Ibid*, p.26

[41] Article 19 Country Report, State of Fear : Censhorship in Burma (Myanmar), (Washington, 1991), p.1

[42]. Bangkok Post, (13th November 1990).

underway beginning with the announcement of an "open door" trade policy, the style and manner of functioning of the SLORC is little different from the BSPP. The SLORC leaders are all Ne Win loyalists and BSPP veterans, and Ne Win himself, who publicly advocated economic reform at his resignation in July 1988, is widely believed to be pulling all the strings from behind the scenes. Indeed, Saw Maung was the BSPP's last Minister of Defence.

This explains the contradiction, often confusing to foreign observers, between the SLORC's public promises of "multi-party" democratic reform and the severity with which the opposition has been crushed. Documents leaked on the eve of the Saw Maung *coup* have shown that the main object of the present "*Tatamdaw*" (Defence Services) leadership is to remain in control of the political process at this crucial transitional period, which is likely to shape Burma's history well into the 21st century. Fear of revenge from the people is undoubtedly a powerful, motivating force; in 1988, several dozen police and army agents were killed and there were many calls to put army leaders on public trial.

To keep up on its promise, SLORC announced holding of free and fair elections in 1990. However, on the eve of the elections, a large number of student activists and the first-line leadership of the National League for Democracy (NLD), which, with over 2 million members, was the clear favourite to win the promised elections, were arrested. According to the League's youth leader who escaped to Thailand, Nyo Aung Myint, the "NLD was more a mass movement for democracy" than a simple political party.[43] Built around the popular personalities of Aung San Suu Kyi (the daughter of independence hero and "Father of the Nation" - Aung San) and former Defence Minister U Tin Oo, the NLD leadership included many prominent journalists, writers, film directors, and artists, among them U Ba Thaw (also known as Maung Thawka), U Win Tin, U Aung Lwin, Maung Moe Thu and Ma Theingi, all of whom were detained.

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[43] Interview published in The Far Eastern Economic Review, (Hong Kong, 1st December 1989)

In December 1989, the SLORC also moved against the country's second largest political party, the League for Democracy and Peace (LDP), headed by Burma's last democratically-elected Prime Minister, U Nu, who had previously been imprisoned. Since his return from exile in 1980, the 82 year-old U Nu had largely been engaged in translating and producing Buddhist scriptures at the World Peace Pagoda in Rangoon. When he refused an order from the SLORC to renounce the "parallel" government, that he had declared during the 1988 uprising, he and other senior members of the LDP leadership was arrested on 29 December 1989.

Nonetheless, on 27 May 1990, more than 200 new political parties participated in elections to a new People's Assembly which, Saw Maung pledged, would have sole responsibility for forming a new government and drafting a new constitution.[44] The election result, despite continuing arrests and severe restrictions on the freedom of assembly and speech, was a landslide victory for the NLD, and a crushing defeat for the National Unity Party (NUP), the former BSPP, which the SLORC had openly backed.

Immediately, following the polls, however, the army leaders declared a protracted transitional period, a National Convention and a new set of political conditions before any handing over of power. In September 1990, the acting leader of NLD, ex-Colonel Kyi Maung, was arrested on charges of treason and a new round of political arrests began.

As a sign of deepening international concern, The United Nations Economic and Social Council appointed an Independent Expert to investigate a "consistent pattern of gross violations of human rights" and, following a condemnatory report in February 1991, decided to keep Burma under review.[45] The SLORC Generals however, citing the uniqueness of

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[44] Working Peoples Daily, (Rangoon, 10th January 1990)

[45] United Nations Economic and Social Council, Commission of Human Rights, Study of Situations Which Appear to Reveal a Consistent Pattern of Gross Violations of Human Rights, (Geneva, 15th February 1991)

"Myanmar" insisted it was the historic duty of the *Tatamdaw* to over see any political changes and in September 1991, warned that the SLORC might be in power for another 10 years.[46]

Lacking any constitutional basis, the SLORC describes itself as a *de facto* government, recognised by the United Nations. As a further justification to its hold on power, the SLORC has frequently warned of both left-wing and right-wing plots, involving various insurgent forces, which continue to threaten the sovereignty of Burma. Both NLD and insurgent leaders have denied this charges, but they have frequently been repeated by the SLORC and hundreds of citizens has been arrested for their alleged involvement in one or the other of these twin conspiracies.

Multi-party democracy is still being promised. Nonetheless, after more than five years of upheaval, bloodshed and expectations, the military still holds power. The country remains under martial law and the same set of Ne Win loyalists remains in control of all institutions as well as all aspects of civil society.

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[46] Broadcast in the Rangoon Home Service, 8th September 1991, in the BBC Summary of World Broadcasts, (11th September 1991)

CHAPTER III: THE ISSUE OF HUMAN RIGHTS IN BURMA

For many Burmese citizens, if there is one key to all the crises that Burma faces at present, it is the single issue of human rights. This is the issue which Aung San Suu Kyi, daughter of Aung San, has restored to the political vocabulary of Burma and it is on this issue that the National League for Democracy (NLD) fought and won the 1990 general elections. As Aung San Suu Kyi has repeatedly stated,

> *"Until human rights are restored to the Burmese citizens, none of the great crises facing the country will ever be resolved. There can be no serious debate while the country lives in a state of constant fear. With so close a relationship between fear and corruption, it is little wonder that in any society where fear is rife, corruption in any form becomes deeply entrenched".*[1]

Burma's generals overthrew their country's elected government in 1962. By the gun, they stay in power today. Their Socialist and isolationist policies have impoverished Burma. The cruelty of Burma's military regime is no secret to the outside world. Today, its human rights record is one of the world's worst. The human rights abuses and poverty inflicted by the BSPP, the SLORC, and the insurgents on Burma's peoples are terrible and beyond anyone's imagination. Burma's reality today is dismal even by the standards of the country's long history replete with distress. This chapter will document the human rights violations inflicted both by the Burma Socialist Programme Party (BSPP) and the State Law and Order Restoration Council (SLORC) on the Burmese people.

The Legacy of the Burma Socialist Programme Party (BSPP) :

The Ne Win Period : Under Ne Win, Burma became one of the most secretive and hermetically sealed countries in the world. Foreign journalists and publications were banned

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[1] The Times Literary Supplement, (London, 12th July, 1991)

and the few international visitors were restricted to Rangoon, Mandalay and a handful of other government-controlled towns. As the one-party rule of the BSPP was imposed, thousands of politicians, ethnic minority leaders and trade unionists from the 1950s were imprisoned without trial.

The vague rhetoric of the Burmese Way to Socialism never disguised the military character of Ne Win's rule. From the township and divisional levels right to the BSPP Cabinet, all key positions were filled by active or retired military officers, and only one civilian of any note, the lawyer Dr Maung Maung, ever served in the higher ranks of the BSPP.[2]

No section of the community was to escape Ne Win's attempt to fundamentally restructure Burmese society on monolithic lines. Agents of the Military Intelligence Service (MIS) infiltrated into every area of national life and all opposition was ruthlessly crushed. As Ne Win graphically reminded the Burmese people in his 1988 resignation speech, "When the army shoots, it shoots to hit".[3] Dozens of students were killed when troops opened fire on demonstrators at Rangoon University in 1962, and when fresh protests erupted (notably during U Thant's burial in 1974), the army did not hesitate to use live ammunition.

All trade unions (which had flourished during the 1940s and 1950s) were forcibly disbanded and replaced by mass BSPP-controlled worker- and peasant-organisations. In 1962, the Buddhist clergy were also ordered to join a national register; many refused on religious grounds, and dozens were arrested in mass protests in 1965 after Ne Win created a central All Buddha Sasana Sangha Organisation. It was not until the late 1970s that the clergy was fully brought under the control of the Ministry of Home and Religious Affairs.

Meanwhile, in the countryside, following the breakdown of peace talks in 1964, the army

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[2] Martin Smith, Insurgency and the Politics of Ethnicity, (London, 1991), pp. 198-206

[3] The Guardian, (London, 26th July 1988)

mounted an all-out offensive to try, once and for all, to end the insurgencies, and in 1968, the notorious 'Four Cuts' campaign was formally unveiled.[4]

The Media Under Ne Win : From the beginning of his rule, the press was one of the main targets of Ne Win's campaign. One month after the army seized power in 1962, journalists formed the Burma Press Council to try and preserve press freedom through a voluntary code of ethics. However, in 1963, several newspaper editors, including U Law Yone, the internationally respected editor of the "Nation", were arrested, and the Ministry of Information began publication of the "Forward Weekly" and "Working People's Daily" as the official mouthpieces of the BSPP.

Dissent was quickly crushed. For example, when a monk, Shin Ottama, placed an advertisement in the Mandalay paper "*Baho-si*", objecting to the BSPP's Buddhist Sangha (Order) registration campaign, the paper was closed down. Finally, in September 1964, all the remaining papers, including the left-wing "*Kyemon*" and "*Botahtaung*", were shut down. Those that reopened were nationalised and allowed "freedom of expression" only within the accepted limits of the Burmese Way to Socialism.[5]

By 1988, only six papers were left (of more than 30 when Ne Win came to power) : the "*Loktha Pyeithu Neizin*", "*Kyemon*", "*Myanmar Alin*" and "*Botahtaung*" , and two English newspapers - the "Working People's Daily" and "Guardian". All were printed in Rangoon and were virtually indistinguishable in their news coverage. They often reprinted army or BSPP directives issued through the official News Agency of Burma and only the feature articles varied. Burma's last provincial daily, the "*Hanthawaddy*", edited by U Win Tin in Mandalay, was closed down by Ne Win in 1978, citing suspected Communist sympathies,

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[4] n.2, pp. 202-212, 258-62

[5] Anna Allott, "Prose Writing and Publishing in Burma: Government Policy and Popular Practice", in Tham Seong (ed.), Essays on Literature and Society in Southeast Asia, (Singapore, 1981), p.19

when it printed an article to which he objected.

The 1974 Constitution : The 1974 Constitution, which was suspended in 1988, was totalitarian in character. The federal principles of the 1947 Constitution were suspended but the principle that Burma is to become a one-party state was enshrined. For example, although there are clear guarantees for the basic rights of all citizens before the law "regardless of race, religion, status and sex" (Art.22), the exercise of such rights must not be "to the detriment of national solidarity and the Socialist social order" (Art.153b). Similarly, Article 158 guarantees citizens "freedom of association, assembly and procession" and the right to "freely take part in political, social, class and mass organizations," but these must be "permitted by law".

The Publishing Registration Law : The main instrument of BSPP control of the media was the 1962 Printers and Publishers Registration Law, still in force today, under which "Publications" or "Press Scrutiny Boards" were established to monitor every aspect of the written word, including song lyrics, film and, later, video scripts. These boards govern not only the text, language and subject of all books and publications, but even the numbers printed. Another 1977 press directive, from which periodicals are exempt, requires manuscripts to be submitted for inspection. Under the BSPP, all books were additionally expected to foster "Socialism" and "Burmese culture" and were adjudged for literary awards. Until 1988 an average of 1,800 titles passed the censors each year, but with print and paper always in short supply, only print-runs of 2,000-3,000 copies were usually permitted.[6]

Alternative Expression : To circumvent these tight restrictions, writers and artistes in Burma have become adept at trying to beat the censors. Since no news reporting has been permitted, literary periodicals and magazines became extremely popular. Several monthly fiction magazines (*Myawaddy and Ngwetayi*) were state-owned under the BSPP, but the rest

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[6] Article 19 Country Report, State of Fear : Censhorship in Burma, (Washington, 1991), p.22

(some 20-30 titles) were privately-owned. Their titles, however, have changed frequently. Censorship is normally conducted only after a manuscript is complete, ensuring extra caution by editors who face financial ruin if any part of their material is banned. A popular style in short stories has thus developed since these are easier to remove and replace.[7]

Musicians have shown similar ingenuity. For example, in 1960 after Ne Win banned all Western music as "decadent", a popular underground culture known as "stereo" music sprang up to compete with the stylized "mono" music played on State radio. Despite frequent bans on their material, one group which broke through to popular acclaim was the "*Thabawa Yinthwenge*" (Wild Ones), a band of Mandalay University students formed in 1973 by a young *Shan*, Sai Hti Hseng. Their songs with a discreet social message became countrywide hits.[8]

Those who have sought to circumvent the press laws have faced considerable risks. Allegations of torture and ill-treatment of writers were commonplace in the days of the BSPP, according to U Win Khet, whose popular bi-monthly journal, "*Shu Daunt*" was closed down in 1971 after he printed a poem which the BSPP objected to.[9]

Ethnic Minorities and Burmanization : One section of the community particularly hard hit by the BSPP's draconian publishing laws was the country's restive ethnic minorities. In the face of such obvious ethnic diversity, Ne Win embarked on what minority leaders allege was a straightforward policy of "Burmanization". Although Article 153b of the 1974 Constitution guarantees the right of every citizens to "freely use one's language and literature", and Article 152b allows for minority languages to be taught in schools, under the BSPP the status of ethnic minority languages was so downgraded as to put minority citizens at a great

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[7] *Ibid*, p.22

[8] *Ibid*, p.23

[9] *Ibid*, p.23

disadvantage. The *Chin* and *Kayah* States, for example, have always scored at the bottom of Burma's educational league table with few indigenous *Zomi* or *Karenni* students completing the Xth grade.[10]

Licenses to publish Indian and Chinese language papers were discontinued in January 1966 and, following the nationalisation of all schools, minority languages are today rarely taught or used beyond IVth grade in school. Minority writers, in particular, struggling to increase popularise their own languages, have repeatedly run foul of the Press Scrutiny Boards. Until today, minority literature has largely been restricted to folklore or domestic magazines, such as the *Karen* "Our Home" and "Go Forward".[11]

Another casualty of the BSPP's promotion of Burmese has been the English language whose continued usage was guaranteed - after Burmese - in the 1947 Constitution, partly to placate minority fears of Burman cultural domination. In 1966, the Chair of English at Rangoon University was abolished and English was reduced to the status of a minority subject in schools. Following a dramatic collapse in standards which adversely affected Burmese students (including members of Ne Win's family) going to study abroad, in the early 1980s, English was restored in all primary schools but levels of competence remain extremely low.[12]

In general, any discussion of ethnic minority issues was overshadowed by the various internal ethnic wars. While the BSPP claimed, despite much evidence to the contrary, to be championing the rights of minorities to the free expression of their languages and cultures, little attempt was made to conceal a long-term campaign to reduce ethnic Indian and Chinese influence in Burma. An estimated 300,000 Indians and 100,000 Chinese left Burma during the nationalization programmes of 1963-67, and dozens, possibly, hundreds, of

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[10] *Ibid*, p.24

[11] *Ibid*, p.24

[12] *Ibid*, p.25

Chinese were killed or injured in officially-inspired riots which broke out across the country in mid-1967. This led to a complete breakdown in relations between Beijing and Rangoon and to China's full military backing of the Communist Party of Burma (CPB).[13]

Religious Minorities : Though freedom of religion was technically permitted under the 1974 Constitution, many like the Buddhist clergy and religious minorities found their movements curtailed. The publication and distribution of Christian literature, including the Bible, continues to be restricted. The Press Scrutiny Boards have complained to the pastors, for example, over the militant language of the Old Testament, which, they claim, is an incitement to rebellion by ethnic groups such as the *Chin, Karen* and *Kachin.*

Following the Ne Win *coup*, a number of elderly foreign missionaries were permitted to remain in Burma, but new arrivals were halted. Church schools were nationalised and all other foreign church workers and their families were deported. Tight restrictions were also put on the freedom of travel for Christian leaders inside Burma and few were officially allowed to leave the country for international meetings. Church workers in the war zones, in particular, faced considerable dangers and were warned not to visit or contact communities suspected of supporting insurgent forces. In the past 30 years, many have died in cross-fire. As a result, in areas controlled by the KNU, Kachin Independence Organisation (KIO) and Karenni National Progressive Party, a number of self-supporting churches, mostly Baptist-alligned, have developed and established their own mission schools.

Buddhist monks have complained of similar harassment and, among minorities such as the *Karens, Mons, Shans* and *Rakhines*, have tried to maintain monastries on both sides of the battle-lines, including in many areas being run by the CPB.

The Muslim community has made the most serious allegations of religious persecution. In 1978, Arakan was the scene of one of the greatest refugee exoduses of modern times when

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[13] n.2, p.219

over 200,000 Arakenese Muslims (Also known as *Rohingiyas*) fled into Bangladesh during the government's "*Nagamin*" census operation amidst widespread reports of army rape, torture, killing and the desecration of mosques. Though most of them were later allowed to return, a continuing stream of refugees have alleged that the army has a hidden agenda to clear north Arakan of its Muslim majority. In 1983, several hundred Muslim refugees also fled to the Thai border after an outbreak of anti-Muslim riots in Martaban, Moulmein and several towns in southern Burma in which a number of mosques were reportedly destroyed.[14]

Another grievance of Muslims has been the strict conditions and limits put on the number of Burmese citizens allowed to perform *Haj* each year. MIS agents have allegedly secretly followed those given permission to leave for Saudia Arabia and *Hajis* have been arrested and interrogated on their return.

Literacy: Burma has long prided itself on its high literacy levels and under the BSPP twice won UNESCO prizes for special literacy campaigns. In 1987, however, in a typical manipulation of statistics for which the BSPP was notorious, the previously reported adult literary rate of 78.6 per cent was dropped to just 18.7 per cent. This was apparently to comply with the strict condition of less than 20 per cent literacy in order to be admitted to LDC (Less Developed Country) status at the UN. To explain the drop, BSPP officials argued (unconvincingly) that earlier figures were based on citizens who completed monastic education and could not be regarded as functional literacy for development purposes.[15] In fact, literacy rates vary greatly from one part of the country to another and there are many remote ethnic minority regions where villagers do not speak Burmese at all.

The Press in the 1988 Democracy Summer : In a brief cultural renaissance during the democracy uprising of 1988, an extraordinary array of newspapers and publications

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[14] *Ibid*, pp.241,400

[15] n.6, p.27

blossomed across the country, demonstrating that Burma's free press traditions were far from dead. More than 40 newspapers were published in Mandalay alone. These ranged from "The Call", published from the Mandalay Strike Committee, to the "*Ain Daw Ya*" of the monks' Sangha Union. In Rangoon, over 50 new news-sheets were produced. Most were news-sheets representing the views of the fledgling political fronts, but others were more sophisticated. The "*Ahyoung Thit*" (New Colour), for example, published by the Artists' and Cartoonists' Union of Burma, contained biting satires on the BSPP and the tumultous political scene. Even the State-run "Guardian" and "WPD" began to report the news more accurately.

With the Saw Maung *coup* of 18 September 1988, all were forced to cease publications and many writers, including the veteran "*Myawaddy*" magazine writer U Ye Gaung and popular cartoonist Ko Ko Maung, fled into insurgent-held territory to avoid arrest. With them, they brought copies of the new democracy papers, some of which have been stored in archives to await political change at home.[16]

The State Law and Order Restoration Council (SLORC) :

> *"In political tactics, there are such things as dialogue and so forth, but in our military science, there is no such thing as dialogue. Someone might say, 'Look, friend, please do not shoot'. Well, that is not the way it works."*
>
> Gen. Saw Maung, SLORC Chairman.[17]

SLORC Claims of Legitimacy : The SLORC claims their legitimacy from the armed forces or "*Tatamdaw*", which they say is "born of the people" and its founder Aung San. However, the style and manner of functioning of the SLORC is little different from the BSPP. Though

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[16] Anna Allot, "The Media in Burma and the pro-Democracy Movement of July-September 1988", South-East Asia Library Group Newsletter, (Singapore, December 1990), pp.17-38

[17] The Bangkok Post, (Bangkok, 13th November 1990)

Ne Win resigned in July, 1988, he is believed to be pulling all the string from behind the scenes. Moreover, Gen Saw Maung was the BSPP's last Minister of Defence.

SLORC's Use of the Law : The SLORC has been assiduous in its invocation of the law as the basis for all its actions and has used the rationale of "law and order" to employ an intricate labyrinth of laws, both past and present, to restrict freedom of speech and assembly. Where these laws fail, it has declared catch-all martial law decrees. Sentencing has also been increased under many existing laws.

While the SLORC has promised far-reaching reforms and has sought to disassociate itself from its BSPP past, it nonetheless has largely maintained the laws and edicts of the BSPP era. On the day of the *coup*, the SLORC abolished all existing legal institutions. But, on 26 September, 1988, a Judicial Law re-established courts at various levels and a number of legal principles, including the rights of appeal, public trial and defence. Under the SLORC, the most commonly employed laws have been the 1923 Official Secrets Act, the 1950 Emergency Provisions (or Measures) Act, the 1957 Unlawful Associations Act, the 1962 Printers' and Publishers' Registration Law and the 1975 State Protection Law (also known as the "Law to Safeguard the State From the Dangers of Destructive Elements"). Under the 1950 Emergency Provisions Act, anyone judged guilty of spreading news or stories "disloyal to the state" can be imprisoned upto 7 years, while under the 1975 State Protection Law , the authorities can order detention upto 3 years without trial (extended to 5 years in August 1991) of anyone who they believe has, does or will "endanger the security and sovereignty of the State".[18] It is under this law that Aung San Suu Kyi and former prime minister U Nu (now released) were detained and its main purpose appears to be to avoid the embarrassment of having to bring charges in a public trial.

These laws have been backed up by a series of sweeping martial law decrees. Order 2/88 issued on the day of the *coup* enforces a night-time curfew and a ban on public gatherings

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[18] n.6, p.32

of more than five people. This was followed by Order 8/88 which bans any activity, literature or speeches "aimed at dividing the Defence Forces".[19] From time to time, the lifting or reimposition of martial law in different parts of the country has been announced, but the details have consistently been unclear and more than six years later, both decrees are still widely in force.

Trials conducted under the SLORC, both in the criminal courts and in military tribunals under martial law decrees, are suspect. According to Amnesty International, military trials in Burma restrict the defendant's rights of defence and appeals and are not conducted according to international standards of fairness; trials of political prisoners are often conducted in a single half-day hearing held within the prison in which the accused is held, without access to family members or legal counsel, and proceedings are held *in camera*. The accused is thus denied the opportunity to prepare any defence and to exercise the right of defence in court. These procedures are contrary to the international standards of fair trial set forth in Article 14 of the ICCPR (International Covenant for Civil and Political Rights).[20]

SLORC's Actions in the pre-Election Period : Under the aforementioned laws and decrees, hundreds of civilians and students were killed, imprisoned and wounded in the months immediately following the *coup*. Thousands of others fled into insurgent-held territory along the Thai border. Others escaped to territory escaped controlled by the Kachin Independence Organisation (KIO) in northeast Burma. Some crossed over into India and over 3,000 exiles reached Bangkok where they registered with the UN High Commissioner for Refugees.

Many popular social critics who stayed behind risked summary arrest and imprisonment. The SLORC has consistently refused any investigation into the countrywide military clampdown during these months of 1988 and has issued few figures. In April 1989, a SLORC spokesman

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[19] *Ibid*, p.32

[20] Amnesty International, Myanmar (Burma) : Unfair Political Trials, (London, 1991), p.2

reported that 721 people, including 183 students who had been arrested after the *coup*, remained in custody.[21] Students, opposition leaders and human rights leaders put the figures far higher. However, until real peace returns, it will be impossible to distinguish the number of deaths or arrests for those who have gone into exile or underground.

The most controversial figure remains the number of fatalities. Estimates range from anywhere between 3,000 and 10,000 deaths in the year's political violence. Though eyewitnesses claim that the number was much higher, in its report to the UN Independent Expert, the SLORC claimed only 15 "demonstrators" had died following the *coup*, though it did add that 516 "looters" had also "lost their lives".[22]

Following the *coup*, insurgent parties continued to be outlawed and heavy fighting broke out with ethnic forces in the Kachin and Karen States and the CPB in the Shan State. Parties which obeyed the laws, however, were permitted to register, and by February 1989, a remarkable 233 new political parties had been formed, although many privately admitted that they had registered simply for extra telephone and petrol allowances or to circumvent the strict ban on public gatherings.

Despite continued harassment, parties continued to campaign, but on 6 June 1989, Home and Religious Affairs Minister, Major General Phone Myint, initiated a month-long campaign which paved the way for another near total news blackout on Burma. The Major General issued a new SLORC Directive, No 38, and warned citizens on State radio of the existing legal restrictions under the 1962 and 1977 publishing laws.[23] Shortly afterwards, at a meeting of 883 publishers and printers on 14 June, police chief Colonel Thura Pe Aung,

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[21] The Nation, (Bangkok, 28th April 1989)

[22] The UN Economic and Social Council, Study of Situations, Annexes, (Geneva, 1992), p.17

[23] Broadcast in the Rangoon Home Service, (7th June 1989), in the BBC.

complained of the number of organisations printing and distributing pamphlets and posters critical of the SLORC.[24] That same night, ten publishing houses in Rangoon were raided and a number of printers were arrested. Four days later, on 18 June, SLORC Chairman, Gen. Saw Maung, declared Martial Law 16/89 which increased maximum sentences under the 1962 Printers' and Publishers' Registration Law to seven years' imprisonment and/or 30,000 kyat (US $ 5,000) fines.[25]

Finally, on 27 June 1989, MIS chief, Brig-Gen. Khin Nyunt, issued Order 3/89 announcing martial law regulations would be used against political parties, publishers, and organisations illegally publishing documents without proper registration. Political parties would be required to obtain "exemption certificates" from the Home and Religious Affairs Ministry for any materials they wanted to publish and, in a further tightening of the law, these would be judged on the basis of martial law regulations once they hit the streets.

Against a backdrop of growing tension and student protests, Martial Law Orders 1/89 and 2/89 were announced on 17 and 18 July respectively, which established military tribunals across the country with only three possible penalties---death, life imprisonment or a minimum of three years' hard labour.

Many parties publicly objected to these draconian legislations and the NLD leadrership called for a peaceful campaign of non-compliance with any martial law regulations which restricted civil liberties. A mass memorial rally was planned for Martyr's Day, 19 July, Burma's most important national holiday, which commemorates the death of Aung San. After thousands of heavily- armed troops were brought into the streets, the rally was called off by Aung San Suu Kyi, Aung San's daughter and the leader of the NLD, because the

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[24] Broadcast in the Rangoon Home Service, (15th June 1989), in the BBC

[25] *Ibid,* (15th June 1989)

League "had no intention of leading our people straight into a killing field". [26] The next day, she was placed under house-arrest persuant to the 1975 State Protection Law for allegedly "endangering the State".

Though her period of house arrest is over, it has been announced recently that Aung San Suu Kyi will remain imprisoned for at least another year. But the official said that visits to Ms Aung San Suu Kyi like the ones US Congressman William Richardson made on 14 and 15 February 1994, will not be her last. Colonel Kyaw Win, the deputy director of Burma's military intelligence services said that Ms Suu Kyi would be confined till at least 1995. He told visiting Japanese reporters that her first year under house arrest was actually an arrest period and that her five-year term of house arrest actually began in 1990. Mr Richardson became the first non-family visitor Ms Aung San Suu Kyi has had in four and a half years when he and three others, including a UN official based in Rangoon and a reporter from the *New York Times,* had a surprise meeting with her on 14 February, 1994. Until then, she had been only allowed visits from members of her immediate family. Burma's military leaders have said that she could be released from house arrest any time provided she left Burma and refrained from involvement in politics.

Many other NLD leaders have been imprisoned on various charges. Again, details of arrests and trials were rarely reported. In December 1989, the League's 65-year-old Chairman, U Tin Oo, was sentenced by a summary Military Tribunal to three years' hard labour for "sedition" and "sending false news to foreign organisations and leaders". Organisations, the MIS specified, included the United States and Thai governments and the Co-ordinator for Human Rights Questions of the International Organisation in Geneva. In May 1991, it was reported by Agence France Presse that 14 years had been added to his sentence.

For many Burmese citizens, the most vindictive sentence was reserved for the popular

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[26] Amnesty International, "Myanmar(Burma) : Prisoners of Conscience : A Chronicle of Developments Since September 1988 (London, 1989), p.65

speaker and chairman of the Writer's Association, 61 year-old U Ba Thaw (pen name, Maung Thawka). A former naval officer, he was sentenced to 20 years' hard labour in October 1989, by a Military Tribunal under section 5A/B of the 1950 Emergency Provisions Act for allegedly trying to cause a mutiny in the Defence Services through a letter he had written.

In December 1989, the SLORC also moved against the country's second largest political party, the League for Democracy and Peace (LDP), headed by Burma's U Nu. When he refused an order from the SLORC to renounce a "parallel" government he had declared during the 1988 uprising, he and other senior members of the LDP leadership were arrested on 29 December 1989.[27] U Nu has been released only recently.

Restrictions on Movement and Forced Relocations of Civilians: A major disruption in many constituencies during 1989-90 was the forced relocation by the SLORC of upto 500,000 across the country into satellite new towns. Officially, the moves were part of government developmental schemes, but in reality, this was not the case. Many of the families relocated were from working-class communities which had supported the democracy movement in 1988. Such moves contradict Article 12 of the Universal Declaration of Human Rights which declares, "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence".[28] For example, nearly 100,000 people were moved to the new town of Hlaing Thayar near Rangoon. Conditions varied, but local health workers reported high fatality levels at many of the new sites due to malaria and poor sanitation. In April 1990, an estimated 20,000 civilians were also removed from the historic town of Pagan and their houses were bulldozed.[29]

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[27] n.6, p.37

[28] Asia Watch, Human Rights in Burma, (Washington, 1992), pp.20-21

[29] *Ibid*, p.22

A rare glimpse of the extraordinary way press censorship was working was revealed to the outside world in April 1989 when one of the few foreign press teams allowed to visit Burma, an Australian SBS Television crew, managed to slip into Waybagi new town to investigate reports of the deaths of ten elderly people during the forced move of 3,000 people from a workers' quarter, next to the Defence Office in Rangoon, which had been active in the 1988 protests. The journalists were ordered by soldiers to stop filming and their translator was detained. The next day, the country's only daily paper, the WPD, carried a front-page story from Waybagi warning of "irresponsible persons spreading rumours" with the headline "The Government to Continue to Carry Out Righteous Work"; at the bottom of the page was a slogan: "Oppose those who disturb peace and tranquility. Crush those who mar the rule of law."[30]

Heavy fighting continued in some parts of the country throughout the election period and a number of terrorist bombs were exploded in Rangoon and other towns in Lower Burma. Most of the battles, however, were concentrated in the ethnic minority Kachin, Karen, Mon, Shan and Kayah states. In these areas too, many communities were forced to move or flee during the army's ongoing Four Cuts campaign. Nevertheless, although the polls were very low in many of the war-zones, in only six constituencies was voting officially suspended due to the insurgencies.

Two additional martial law decrees prior to the election placed additional and severe restrictions on freedom of movement and association. A directive, dated 18 July 1989, ordered all inhabitants in Rangoon to report any guests or people missing from their houses to the local Law and Order Restoration Council. On 22 May 1990, this regulation was toughened by Order 1/90 which set jail terms for people who do not "report people illegally residing in their houses."[31]

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[30] Working People's Daily, (Rangoon, 14th April, 1989)

[31] Amnesty International, Myanmar: In the National Interest, (London, 1990) p.17

The 1990 General Election: It was against this extraordinary background, with the leaders of main political parties under arrest and the country under martial law, that the May 1990 election went ahead, Burma's first election in three decades. The SLORC generals continued to warn of "insurgent organisations" hiding behind political leaders and parties, and in January 1990, after a series of objections, Aung San Suu Kyi's candidature was banned by the SLORC-controlled Election Commission on the ground of "associations with insurgent organisations".[32]

A number of other legally-registered parties were also decimated by arrests in 1989, including the student-backed Democratic Party for New Society, whose leader, Moe Thee Zun, went underground in April 1989 to join the insurgent All Burma Students Democratic Front (ABSDF). Another three parties - the National Politics Front, the Evergreen Youth Association and the People's Progressive Party - were all accused of pro-Communist sympathies and several well-known leaders were imprisoned. All three parties were prominently featured in Khin Nyunt's "Red Book" and in September 1989, were banned from standing in the 1990 election altogether.[33]

Eventually, 93 small parties were left to put up 2,311 candidates for 485 seats. The election procedure was set out in a People's Assembly Law of 31 May 1989, which was later amended retrospectively. All political campaigning was conducted under Martial Law 3/90 of 23 February 1990 which decreed that all speeches, writings and publications had to be approved by the local township authorities. Those deemed derogatory to the SLORC, Defence Services or "solidarity of national races" were punishable by prison terms of upto three years or fines of 5,000 kyats.[34]

Each party was restricted to one pre-approved ten-minute statement on state-controlled

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[32] Asia Watch, Burma: Worsening Repression, (Washington, 1993)

[33] n.6, p.40

[34] *Ibid*, p 41

television and fifteen minutes on State Radio. Parties complained that all references to Ne Win, the *Tatamdaw* and the economy were removed, making broadcasts indistinguishable. All existing party emblems were banned and parties were forced to choose their insignia from a prescribed list of new items: these included beach balls, combs, tennis rackets and umbrellas. (The NLD choose the *kamuk* or peasant's hat which, as a silent protest, became a popular fashion accessory around the country).[35]

Prior to the polls, at least 60 candidates from different parties were detained under martial law regulations. Thirty-three of these candidates were arrested between 28 April and 8 May 1990 on charges varying from "delivering speeches without permission" to "holding party meetings and singing party songs for donations at a traditional ceremony".[36] Also arrested in the same period was the respected Rakhine historian, 82 year-old U Oo Tha Tun, standing for the Arakan League for Democracy in Kyauktaw constituency; sentenced to three years' imprisonment, he reportedly died later in jail. Dozens of junior party activists were also arrested.

The SLORC's strategy appeared clear - to pave the way for a victory for candidates of its own chosen party, the NUP, which had inherited all the property, membership lists and assets of the BSPP. Campaigning a slogan "Prevent the Re-enslavement of Myanmar", the NUP proudly admitted its BSPP past.[37]

Despite this background of coercion, media manipulation and disproportionate funding, the result of the elections was a decisive victory for the NLD, which won 392 of the 425 seats it contested, while the NUP which stood in most seats in the country, won only ten. Of the other 25 parties which won seats, 19 represented ethnic minority parties, most of which were

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[35] *Ibid*, p.41

[36] n.28, pp.16-17

[37] Broadcast in the Rangoon Home Service, 8th April 1989, in the BBC Summary of World Broadcasts

allied to the NLD. Against all SLORC expectations, the breakdown of voting figures made it clear that tens of thousands of former BSPP members and many soldiers and their families had voted for the NLD. If people had taken to the streets in 1988 to demand democracy on their feet, in 1990, they had earned it through the ballot box.

Arrests and Retrospective Laws in the post-Election Period: Immediately following the polls, the SLORC embarked on another series of delaying tactics and once again unveiled a new set of complicated laws and decrees. Despite their victory, no NLD leaders were released and, having taken six weeks to announce the results, the SLORC declared an indefinite moratorium during which defeated candidates could lodge appeals and expense claims could be investigated. Over a year later, the Election Commission declared that it still had not completed its task, making the administration of Burma's 1990 election one of the longest on record.[38]

In an attempt to force the political pace, on 28-29 July 1990, victorious candidates from the NLD held a mass meeting at the Gandhi Hall in Rangoon to demand an immediate transfer of power. But, on the eve of the meeting, SLORC issued Martial Law Declaration No. 1/90, which established a new tier of obstacles and a mandate for the SLORC to hold on to power indefinitely. A previously unknown "National Convention", consisting of one or two representatives from each of the 27 victorious parties would draw up the "principles" for the new constitution with the guidance of unnamed advisors.[39] Only after this Convention had met could the elected People's Assembly begin work on its own draft, which would then have to be returned to the military authorities and the people for a possible referendum or election.

To a growing groundswell of political anger, a new round of arrests begun. In early August

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[38] Broadcast in the Rangoon Home Service, 16th September 1989, in the BBC Summary of World Broadcasts

[39] n.6, p.43

1990, protests broke out in Mandalay, in which four people, including two monks were killed and 500 people arrested. On 6 September, the NLD's acting leaders, ex-Col. Kyi Maung and ex-Col. Chit Khaing, were arrested and subsequently sentenced to ten years (later doubled to 20 years) and seven years' jail respectively on treason charges. Three days later, Brig-Gen. Myo Nyunt accused the NLD of "plotting to destabilise the country".[40]

As the arrests continued, NLD MPs made several attempts to convene mass meetings in Mandalay and Rangoon to declare a government. Each attempt was foiled and followed by further arrests. As a test of their views, NLD MPs were allegedly ordered to sign copies of the 1/90 Order, effectively renouncing any right to establish a government. By the end of the year, over 80 MPs had been arrested and interrogated.[41]

For a brief period, the protests were taken up by Buddhist monks in Mandalay. After 350 monasteries were raided and dozens of monks arrested in late October, their protest was quickly quelled. The Bangkok Post reported on 25 April 1990, quoting Phra U.H.M. Chan, a monk who had fled Myanmar, that two hundred Myanmar monks were in jail and a further three hundred were being detained for trial. Some of the monks, he said, had already been sentenced to ten to twenty years' imprisonment.

The situation became even more complicated by mid-December. A party of 12 MPs, led by Aung San Suu Kyi's cousin, Dr Sein Win, the MP of Paukkaung, escaped to the KNU General Head Quarter of the insurgent DAB at Mannerplaw and declared the formation of what they described as a "*de jure* National Coalition Government Union of Burma". Claiming to have received signed authorisations from over 250 MPs before their flight to the mountains, they called for international recognition.[42]

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[40] BBC World Service News, 9th September 1990

[41] n.6, p.44

[42] *Ibid*, p.45

Consequently, SLORC sentencing appeared to toughen and many of the MPs implicated in the plan to form a government were given long jail terms. Details remain unclear and the number of MPs detained was never reported, but over 30 NLD MPs are known to have been tried and sentenced to 10-25 years' imprisonment during April 1991. The SLORC also used this clampdown to attack parties that had been unsuccessful in the elections. Several parties, including U Nu's LDP, were forcibly deregistered.[43]

The growing pressures on the regime forced the SLORC into some unusual accommodations. In an unexpected twist in early 1991, the SLORC declared ceasefires with a number of insurgent groups from the DAB which had previously been accused in the State acts of terrorism. Leaders of the KIO 4th Brigade, the Pao National Organisation, Shan State Progress Party and Palaung State Liberation Party were openly invited to take part in the National Convention.[44] Armed opposition groups once belonging to the insurgent CPB, which had declared ceasefires in 1989, were now similarly legalised and invited to the Convention.

Meanwhile, the SLORC continued to arrest and disqualify many of the MPs who had won seats in the 1990 election and issued new decrees. The 1989 People's Assembly Law was amended retrospectively to ban from office, for upto ten years, candidates judged guilty of any of an array of crimes, including treason, misuse of election expenses and a catch-all offence - "moral turpitude as determined and declared from time to time by the SLORC". One week later, Khin Nyunt signed into existence under Order 33/91 another non-elected body, the Law Scrutiny Central Body, to review the application of all laws, past and present.[45]

A number of other prominent parties also came under attack. In July 1991, the Union

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[43] *Ibid*, p.45

[44] Working People's Daily, (Rangoon, 14th April 1991)

[45] *Ibid*.

Nationals Democracy Party, headed by Ne Win's former deputy, ex-Brigadier Aung Gyi, who had briefly been imprisoned in 1988 for criticising the BSPP, was charged with involvement in a complex corruption case involving illegal bird-nesting and the possession of arms.[46] The moral message of these attacks, loudly trumpeted in the government-controlled media, was that democracy parties could not be trusted.

Following this blitz, in September 1991, State Radio reported 244 NLD MPs had signed statements renouncing any support for Dr Sein Win. With well over a hundred MPs known to be in jail, hiding or exile, the election result had effectively been quashed. Under the 1/90 Order, SLORC officials promised to proceed along the road towards multi-party democracy by holding the National Convention at some future stage, but continued to warn of "political parties deceiving the nation".

Ne Win's supporters remained firmly in power and the SLORC's intention to remain in office for "up to ten years" was signalled in a press conference by the *Tatamdaw* generals on State radio on 8 September 1991.[47]

Continuing Use of Press Laws to Stifle Freedom of Expression : In the election aftermath, there was a second major clampdown on political parties during which press laws were again used to stifle freedom of speech and prevent the distribution of party news or literature. Three NLD officials were detained in the first week of September 1990 under section 20 of the 1962 Printers' and Publishers' Registration Law for "illegally" attempting to publish, without permission, details of the NLD's historic Gandhi Hall meeting in July.

On 17 October 1990, the former *Botahtaung* journalist and NLD MP for Mandalay

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[46] n.6, p.47

[47] Broadcast in the Rangoon Home Service, 8th September 1991, in the BBC Summary of World Broadcasts, 11th September 1991

SouthEast, U Ohn Kyaing and three other senior colleagues were sentenced by Military Tribunals under the 1950 Emergency Provisions Act (5J) to jail terms varying from three to seven years' hard labour for writing and distributing "false" publications. They had accused the *Tatamdaw* of brutality in breaking up the demonstrations by students and monks in Manadalay the previous August. In November 1990, their case was unsuccessfully raised with the SLORC by the delegation of the UN Independent Expert.[48]

Members of other parties were similarly hit. Organisers of the Democratic Party for New Society for Kayan township were imprisoned on 12th September 1990 under the 1950 Emergency Provisions Act for publishing "agitative pamphlets with the intent to discredit the government."[49]

Another case involved the writer Nyan Paw (pen name, Min Lu) who wrote a series of highly satirical poems, critical of the BSPP and the SLORC, published in pamphlets under the title, "*BarDway Hpyit Kon Byi Lai*" ("What has become of us?"). In one verse he foresaw his own arrest when he attacked the cruel intellectual paradox in Burma today; while the SLORC officer receives "State money for his sentence", writers "get sentences for their statements".[50]

Other journalists and writers known to have been imprisoned during this period include U Soe Thein (pen name, Maung Wuntha), a former BSPP member who had worked on the WPD, Myanmar Alin and Botahtaung, and another former Botahtaung editor, U Sein Hla Oo (pen name, Maung Nwe Oo), who had previously been arrested in February 1990. NLD MPs for Waw township and Insein (2)) respectively, they were sentenced in late April or early May 1991 to 10 years' hard labour under Section 124 of the Penal Code for allegedly "withholding information relating to high treason". Also sentenced to ten years'

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[48] n.22, pp.30-31

[49] n.5, p.19

[50] n.7, p.48

imprisonment was the author and NLD MP for Moulmein (2), U Chan Aye. Not all those arrested, however, were so well-known. For example, the security forces also detained Daw Win May, a 51 year-old member of the Radio Workers' Union, who had earlier been sacked - after 22 years' employment at State radio - for her participation in the 1988 protests.[51]

The extraordinary constraints now imposed by the SLORC on any expression or dissemination of political views were revealed by visiting Thai journalists in an interview with the NLD's two surviving leaders in Rangoon, U Aung Shwe and U Lwin, both ex-military men, in January 1991. Permission for the interview was only granted at the last minute and it was the only legal public statement made by the NLD until July 1991. The two men explained that they had ordered NLD members to cut all contact with foreigners and newsmen and not to publish anything without their knowledge. Since October 1990, they said, the League had been forbidden by the SLORC from issuing newsletters or public statements and was prohibited from using any duplication process or machine. Thus, according to Aung Ahwe, "when we want to issue an instruction, we have to type every sheet of paper". Though still at liberty, U Lwin then revealed to his Thai interviewers that he had himself been "interrogated" more than seven times, but was quickly interrupted by Aung Shwe who warned him,"It's not interrogation but confidential talks that we cannot divulge to anybody because we signed a document stating that we would not do so".[52]

Ill-Treatment and Death in Custody of Political Prisoners : In May 1990, Amnesty International described the beating, illtreatment and torture of political prisoners in Burma as "rife"and identified six different State security forces responsible and at least 19 different prisons or detention centres where torture is used.[53] Such methods have long been commonplace in the *Tatamdaw's* war against armed forces in the countryside, but since 1988, intellectuals, students, writers, monks and workers' leaders also appear to have been singled

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[51] *Ibid*, p.49

[52] Bangkok Post, (1st February 1991)

[53] n.26, p.11

out for particularly harsh treatment. Documented methods include electric shocks, sleep deprivation and various forms of water torture.

In the past few years, there have been persistent reports of prisoners dying under torture. In the most notorious case, U Maung Ko, a member of the Central Workers Body of the NLD, who was on the first UN Independent Expert's list of prisoners of concern, died during interrogation on 9 November 1990, while the UN delegation was actually in the country. SLORC officials claimed that he had committed suicide, but this charge has been denied by members of his family and doctors who examined his body.[54]

Another concern is the cramped and insanitary conditions in which prisoners are kept, both during and following interrogation. Requests by the two teams of the UN Independent Expert and various international human rights' organisations to visit detainees have been all turned down, but the poor state of Burmese prisons has been confirmed by foreigners who have also been detained from time to time. The Malaysian journalist Kim Gooi, for example, described the conditions he experienced in Kengtung Jail as "appalling".[55]

The fate of many prisoners remains unknown and the majority of arrests, sentences, and injuries has never been officially reported. But, since 1988, a number of well-known detainees have died in unexplained circumstances - either in prison or soon after their release. In June 1991, the popular writer, poet and chairman of the Writer's Association, 63 year-old U Ba Thaw was reported to have died after being moved to a Rangoon hospital. Serving a 20-year sentence, he was believed to have been in poor health following a beating for supporting a hunger strike by student inmates of Insein Prison in September 1990. A number of students were reported to have been killed and another NLD Central Committee member, the lawyer and writer U Ko Yu (pen name, Maung Thit), allegedly was hurt.[56]

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[54] Dawn News Bulletin, (Bangkok, December 1990), Vol II, p.2

[55] Bangkok Post, (6th February 1983)

[56] Bangkok Post, (2nd November 1990)

Other prominent detainees have also reportedly died under suspicious circumstances.[57]

For the moment, the conditions of thousands of other detainees remains undocumented. Amnesty International has gathered a list of some 2,000 individuals known to have been arrested since the SLORC assumed power. The list, however, is far from complete and the sentences against many have never been properly confirmed nor is it always reported who has been released. In addition, sentences of some detainees such as NLD Chairman Tin Oo, who were nearing release, have also been extended.

Cultural and Political Expression Under the SLORC:

> *" The time has now come to expose and exclude those who look up to other countries and want to rely on and regard foreigners as their teachers. Those who pine for an aunt instead of their own mother are national traitors.....There is no other alternative but to take severe action against those persons who are found to be traitors."*
>
> MIS Chief, Maj-Gen. Khin Nyunt.[58]

Newspapers : Under the SLORC, censorship of every form of the written law and spoken word has been tightened. Following the Saw Maung *coup*, the six State-run newspapers were closed down and only one, the WPD in Burmese and English-language editions, has been permitted to reopen. Printed in Rangoon, only limited numbers reach towns outside the capital. News reporting consists only of military press releases and eulogies of the Defence Services and SLORC leaders. State-run radio and television echo these reports word for word. In November 1990, SLORC officials told the UN Team of Independent Experts that

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[57] The Eastern Yoma Bulletin, (Bangkok, March 1991), p.5; statement by the Democratic Party for New Society, 14th November 1991

[58] Broadcast in the Rangoon Home Service, 4th October 1991, in the BBC Summary of World Broadcasts, 8th October 1991

Myanmar had a "free Press" and anybody could apply for a press license under the 1962 Printers' and Publishers' Registration Law, but no one had done so - "a lack of interest" they attributed to "financial or material reasons".[59] However, a military newspaper proclaims the slogan on the front page of every issue - "The army is your only true parent. Don't listen to outsiders, trust nobody but your own blood".

SLORC's Cultural Revolution: Despite the SLORC's disavowal of any political self-ambitions or philosophy, *Tatamdaw* leaders, have, since September 1988, repeatedly used their control over Burma's press and institutions to advance new interpretations of Burma's history and culture. The universities, have, for the most part, remained closed, but the Historical Research Commission at Rangoon University, headed by the wife of Gen. Ne Win, has continued work on a new series of books which, whitewashing over many critical details of the past, project Ne Win's *Tatamdaw* as the modern embodiment of all national aspirations.[60]

Most of the SLORC propaganda consists of militarist sloganeering, and based largely on Khin Nyunt's Green and Red Books, has taken on an increasingly racist and national socialist tinge. This campaign reached a crescendo in mid-91 when SLORC officers began their own cultural revolution with a sustained attack on "decadent Western culture".[61]

The SLORC offensive was publicly launched by the Rangoon military commander, Maj-Gen. Myo Nyunt, on State Radio, in June 1991. The Maj-Gen. delivered a speech to students in which he deplored Western influence amongst artistes as "contrary to Buddhist culture". Action, he warned, might be taken under martial law.

Cartoons have also frequently appeared in the "WPD" attacking foreigners and depicting

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[59] n.22, p.15

[60] n.6, p.54

[61] *Ibid.*

AIDS as a foreign disease. A partcularly racist cartoon on 19 May 1991, tried to discredit Aung San Suu Kyi for marrying a Britisher by mocking the "mixed blood" of their two children, a theme subsequently returned to by MIS chief Khin Nyunt and other SLORC officials.[62]

The first reported victim of SLORC's cultural revolution was the award-winning actress and singer Khine Khin Oo, who was banned for five years on 15 June 1991 from all public performances for appearing on stage in "alien and decadent attire". At the time, she was one of the several popular artistes performing at a state-sponsored charity show in aid of victims of the Meiktila fire disaster in April 1991, in which over 5,000 houses were destroyed and 25,000 people were made homeless.[63]

Music and Films : Music and films have also come under the domain of the SLORC. Printed and recorded songs still have to be approved by censors under the 1962 Printers' and Publishers' Registration Law. The short-lived Musicians Union of 1988 has been banned and many popular songs have been proscribed. Several young musicians and singers were arrested during the Thingyan water-festival in April 1989, which has traditionally been an occasion for political satire and in which 27 troupes performed plays and chants at the NLD headquarters in Rangoon alluding to human rights abuses and government corruption.[64]

Under another directive dated 18 June 1991, an additional censorship board has been set up under the Ministry of Home and Religious Affairs to scrutinize the "lyrics,rendition and musical arrangement of songs" and protect Burmese cassette tapes against foreign influences which, the SLORC alleged, were "undermining national spirit and patriotism and making Myanmar culture extinct". The attack was then continued at a meeting at the Ministry of

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[62] *Ibid*, p.55

[63] *Ibid.*

[64] *Ibid.*

Defence on 4 July 1991, where musicians and artistes were warned by MIS chief Khin Nyunt to work, as their patriotic duty, with the State-controlled Myanmar Music Organisation.[65]

Another target of the SLORC camapign has been Burma's film and video industry. A number of prominent actors and film directors, including Maung Thu and U Tin Soe, have been arrested. In July 1991, Khin Nyunt launched a similar "cultural" camapign to try and force actors and directors to work with a patriotic Motion Picture organisation loyal to the SLORC.[66]

However, the authorities still appear to have difficulties in controlling the distribution of films within Burma. Although all film-scripts are closely checked before permission to shoot is given, with the advent of colour television, a flourishing black-market in pirated video tapes (largely from Thailand, Sinagapore and Malaysia) has mushroomed since the early 1980s. Private TV ownership is still low and in many remote communities, villagers have clubbed together to buy video-machines.

Under a 1985 Video Law, official registration is required for all aspects of the video business, including filming, copying, distributing and hiring. Failure to comply can lead to prison terms of upto five years and fines upto 40,000 kyats. Following the suppression of the democratic uprising, Western news reports and home-produced videos of NLD or underground rallies have become keenly sought after items. In response, in May 1989, the SLORC regularly began raids on the estimated 400 private video-shops in Burma and many were forced to close. The WPD reported that those arrested faced three years' imprisonment.[67]

In 1991, these raids were stepped up as part of the SLORC's cultural revolution.

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[65] *Ibid*, p.56

[66] *Ibid.*

[67] Working People's Daily, (Rangoon, 16th May 1989)

Nonetheless, in many regions of the country, illegal videos remain a source of information and entertainment.

Journals, Books and Magazines : Publishing has been particularly hit by the clampdown of the past few years. The imprisonment of such leading writers such as U Ba Thaw and U Win Tin, the chairman and vice-chairman of Burma's Writer's Association, has sent a warning to all would-be writers.[68] Due to tightening censorship and escalating costs, the number of new books published had reduced drastically.

In keeping with the rest of the economy, the publishing market is in some confusion over the commercial rights of publishers and owners after the 'reforms' introduced by the SLORC. In line with its pledges to liberalise trade, a number of State-owned magazines such as "*Myawaddy*" have reputedly been "deregulated", but still seem to be operated by State funding, making their exact ownership unclear.[69]

Due to the risks they run, private publishing companies thus remain extremely cautious. One new phenomenon, only possible after Ne Win's abandonment of socialism, has been the birth of a number of popular magazines such as "*Dhana*" (Wealth), which concentrate on business and technological affairs. In complete contradiction to the xenophobia of the SLORC, they include articles about Burmese citizens who have been successful working abroad.[70]

Education: Burma's education system has been devastated by the upheavals of the last three years and an entire generation of university students has lost out on their studies. As the spearhead to the street protests which brought down the BSPP in 1988, hundreds of students are believed to have been killed or arrested during the democracy summer and the SLORC

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[68] n.6, p.57

[69] *Ibid.*

[70] *Ibid*, p.58

has exacted heavy revenge ever since. Primary schools reopened with troops in attendence in June 1989, and high schools reopened the following September. Universities did not reopen until May 1991, and then only for the final-year students from the class of 1988. Thousands of students and many of their teachers were still missing and the situation had become desperate. Large gaps were beginning to appear in hospitals, government offices and laboratories where a new intake of graduates was long overdue.

While the Historical Research Commission at Rangoon University has been slowly rewriting Burma's history, all student movements which remaine active have continued to be hunted down and ruthlessly quashed. Between March and July 1989, Min Ko Naing, Aung Din and most of the remaining members of the All Burma Federation of Student's Union, who had stayed in the cities following the Saw Maung *coup*, were arrested under martial law regulations, and several are believed to have been sentenced to long-term jail sentences.[71]

Students have been treated particularly harshly in prison and several, including Zaw Win Htun, a 21 year-old Physics student, have died from their injuries. Many students believe that an anti-intellectual prejudice has deliberately been fostered in army units trained on the battlefield. In July 1989, some 500 political prisoners and students were sent from Insein Prison on a "death march" to the war-front in the Kachin State to work as porters carrying supplies for the army. Eyewinesses who escaped reported that many of their colleagues had died along the way.[72]

High school students have been equally severely treated. In April 1990, three 8th grade schoolboys, Thein Tun U, Win Thein and Kyaw Soe, were sentenced to 13 years' imprisonment by a Miliatry Tribunal in Rangoon under the 1975 State-Protection Law for putting up anti-government posters on the walls of their school. Students who escaped to India in July 1991 alleged that more than 150 high school students under 18 years of age in

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[71] *Ibid.*

[72] Asia Watch, Burma : Time for Sanctions (New York, 1991) p.4

the northern town of Monywa had also been sentenced to long jail terms.

In the war zones, students who have not been convicted of any crime have even been forced into the front line. In late February 1991, a number of students from Papun High Schools in the Karen state, who were preparing to take their exams, were press-ganged into porter service for the *Tatamdaw*. Two girls, Naw Aye Hla and Ne Law Win, were later reportedly killed on their way to the battlefield when they stepped on mines.[73]

The consequences of the tragic events of the past three years is a state of deep demoralisation throughout all the educational institutions in Burma. An estimated 2,500 students still continue with the armed struggle in the mountains where they have set up their own "jungle schools". Thousands more, accompanied by many of their teachers, have joined Burma's brain-drain and found their way across the borders to try and start new lives abroad. Thailand is as far as most have been able to reach.

Restrictions on Public Servants and Political Parties: The SLORC has imposed intense pressures on soldiers, civil servants and the officials of political parties. Following the suppression of the democracy uprising, thousands of civil servants and workers' leaders who had taken part in the democracy protests were dismissed. The fate of soldiers, however, who joined the protests, remains unknown.

The SLORC appeared determined to prevent any repetition of the events of 1988. In a complete about-turn from the days of the BSPP, soldiers were barred from party politics under Notification No. 14/18 immediately after SLORC assumed power. Technically, the same notification applied to other public servants and over the past few years, this restriction has increasingly been enforced. Independent trade unions have been banned, although a quiescent "United Trade Union Congress, Union of Burma" has been quoted in

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[73] Karen National Union Bulletin, (Bangkok, August 1991), p.18

the State press in defence of the SLORC. Public service personnel were publicly barred from engaging in any political activity and have repeatedly been warned to stay away from party politics by SLORC officials. Spot-checks have been threatened in schools and offices, and public servants warned to report on the activities and movements of their relatives.[74]

The exact reason for the severity of this campaign is unclear. There are rumours that many departments have been working a silent go-slow in support of the NLD ever since the democracy uprising was crushed. There also appears to be a determination by the military to bring all government departments under its control before any transfer of power to a civilian administration. It would seem that since the *Tatamdaw* no longer governs the country through a political party, the BSPP, it is having to find new ways to exert political control.

A particular innovation by Burma's security forces since 1988 has been form-filling for what have been dubbed as the SLORC's "Thought Police". Students and their parents have repeatedly been required to sign forms guaranteeing their good behaviour, before being released from custody or entering school. If they misbehave, these forms can be used as evidence against them. Public servants have also been ordered to fill in forms explaining their loyalty to the government, while MPs and party officials have been required to sign the 1/90 Order, legitimising the SLORC's continued hold on power. This process reached its peak during the cultural revolution campaign when the SLORC, in line with the No. 1/91 decree, embarked on a massive form-filling exercise involving hundreds of thousands of public service personnel who were ordered to fill-in multiple copies of forms answering 33 detailed questions on their political views. Subsequently in August 1991, another form was distributed amongst political parties which again required officials to sign their names on answers acceptable to the SLORC or face imprisonment.[75]

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[74] n.6, p.60

[75] *Ibid*, p.61

A "final warning" to public service personnel that continued "opposition in words, deeds, behaviour and thoughts" would no longer be tolerated was issued on 24th September 1991. Ten days later, the MIS chief reported that over 15,000 civil servants had either been sacked or had disciplinary action taken against them since the *coup*.[76] By the end of the year, not one government servant or party official in Burma was supposed to have a private political thought. Everybody was on record - it would appear, with the same set of acceptable answers.

Religious Freedom: Under the SLORC, a tightening up in the regulation and control of every religious organization in Burma has met with widespread opposition. In a country of over 80 percent Buddhists, monks have historically been in the forefront of political protest in Burma and the years 1988-91 have proven no execption.

In the brief democracy summer, monasteries were quick to break free of the administrative shackles that existed under the BSPP and, as respected community figures, monks and abbots were elected to chair many of the Strike Committees that proliferated across the country. A number of monks were killed when troops opened fire on crowds in Rangoon and Moulmein during August and September 1988, and hundreds of monks in southern Burma went into hiding following the Saw Maung *coup*. By mid-1990, as fighting continued, as many as 400 monks had arrived to take sanctuary in Thai monasteries in Bangkok.[77]

It is in the northern city of Mandalay that the most serious confrontations have taken place. Two of the key leaders - the Venerable U Kaweinda and the Venerable U Kawira - who controlled the city for several weeks during the democracy summer were tracked down by MIS agents and imprisoned in early 1989. No charges have been publicly brought against

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[76] Broadcast in the Rangoon Home Service, 4th October 1989, in the BBC Summary of World Broadcasts

[77] n.6, p.63.1

either man, but U Kaweinda was reported to have been tortured to try and make him confess that he supported the underground CPB.[78]

The Venerable U Yewata assumed leadership following their arrest. When it became clear that the SLORC was not going to honour the election results, U Yewata took a leading role in organising the boycott of religious services for military personnel and their families. As the protest spread across the country, U Yewata travelled to Rangoon to meet with NLD officials and hold talks with foreign diplomats. This was the cue for the SLORC to instigate a massive clampdown on the Buddhist clergy. On 19 October 1990, U Yewata was arrested and over 350 monasteries were raided in scenes filmed and shown on State TV hundreds of monks were detained.[79]

A complex mix of regulations, including press laws, were used to justify their detention. In what appeared to be a crude attempt to smear the *Sangha Sammagi* movement, other monks were arrested on criminal charges as varied as gambling, illegal possession of jade or herion, and rape. On 31 October 1990, another SLORC declaration No 20/90, known as the Law Relating to the Sangha Organisation, which decreed that there should be only one monks' organisation in Burma with nine legally-approved sects. Subsequently, a number of leading clergy were replaced by monks believed to be more favourable to the SLORC, leading to the expression "SLORC monks" by their critics.[80]

During the following months, in the State media, Gen. Saw Maung and other leading SLORC officials repeatedly referred to their own Buddhist beliefs and were often shown on State TV making offerings to monks, in an apparent bid to win back public favour after this devastating attack on the Buddhist clergy. Early 1991 saw SLORC inviting a number of leading international Buddhist dignitaries, including the Thai Supreme Patriarch, Bhaddanta

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[78] *Ibid*, p.64

[79] *Ibid.*

[80] *Ibid.*

Nanasamvara, to Rangoon to recieve Burma's highest Buddhist awards. Most of these invitations were turned down and in September 1991, amid considerable diplomatic embarassment.

Lt Gen Phone Myint, the Home and Religious Affairs Minister, was rebuffed after he flew to Bangkok to try and personally confer the religious titles in Thailand.[81] In Buddhist communities around the world, deep unease has persisted over reports of the alleged ill-treatment of monks in jail, and these fears were confirmed by a number of monks who were released sometime afterwards.

Leaders of the Christian and Muslim minorities in Burma have also complained of severe restrictions under the SLORC. Any activity that might be construed as proselytizing is banned and care has to be taken not to break the 2/88 Order which limits the size of public gatherings. A particular complaint since 1988 has been the SLORC's seizure, without compensation, of Church land for its development and resettlement programmes. There have also been crackdowns on Christian communities in the Irrawaddy Delta after insurgent units of the KNU infiltrated the area.

As during the period of BSPP rule, it has been the Muslim community which has made the most serious allegations of official persecutions. Since November 1990, an estimated 40,000 Muslim refugees, including many students, have arrived in Bangladesh to join an earlier generation of exiles. Some have come to escape porter---duty for *Tatamdaw*. Others have complained of robbery, murder, land confiscation and attempts by the SLORC to resettle their farms and villages with Buddhist Rakhines in what they believe is a deliberate attempt to force the Muslim population out of north Arakan. Although many local Muslim families are residents in Burma of several generations standing, the State media today routinely refers to Muslims of Indian extraction as "foreigners" which continues to inflame ethnic

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[81] The BBC Summary of World Broadcasts, (5th September 1991)

tensions across the country.[82]

Ethnic Minorities: Despite repeated pledges by the SLORC to bring an end to the insurgencies by the drafting of a new constitution acceptable to Burma's ethnic minorities, many nationalist parties claim that the BSPP's "Burmanization" policy has continued unabated. The SLORC has offered ceasefires to several ethnic insurgent organisations which are heavily involved in the herion trade in the Shan State. At the same time, the SLORC has refused to engage in negotiations of any sort with the Democratic Alliance of Burma (DAB) and other armed opposition forces which have popular support in southeast and northeast Burma. The SLORC's all-out offensive against these groups have resulted in thousands of civilian casualities since September 1988 and the displacement of many communities.[83]

Fewer books have been produced in minority languages under the SLORC than under the BSPP and many minority intellectuals have been arrested or gone underground. Burma's substantial Indian and Chinese minorities have also been the target of a xenophobic campaign, orchestrated by the SLORC, which has frequently led to physical violence. Articles accusing "foreigners of greed, corruption and an alarming birth rate, have appeared in the State media in a series entitled "We Fear Our Race May Become Extinct".

The Insurgent Press: While the political struggle in the cities continues, the insurgent press in Burma, which has flourished virtually uninterrupted since Independence in 1948, has been little affected by the events of the past three years. Some publications are produced locally, but others, of better quality, are printed abroad (largely in Thailand). Circulation of these magazines and news-sheets is irregular and is usually dependent on the financial resources of the diverse insurgent fronts.

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[82] Newsletter of the Rohingya Solidarity Organisation, (Bangkok, July-August 1991)

[83] n.28

The most widely-distributed of the many publications launched since 1988 is the English-language "Dawn News Bulletin" of the ABSDF which, like the NMSP, KNU and KIO, is also a DAB member. Pamphlets and leaflets from differnt CPB regional units, which have been prominently featured at the SLORC press conferences, are still in circulatation but have declined dramatically since ethnic mutinies caused the virtual collapse of the party in 1989. The CPB also ran an illegal radio station, the "Voice of the People of Burma", which broadcast virtually uninterrupted in several indigenous languages from 1971 until the 1989 mutinies. Subsequently, a breakaway ethnic organisation, the United Wa State Army, has broadcasted occasional propaganda statements on the same frequency but now appears to have shut down.

In December 1989, the KNU also briefly resurrected its own radio station, which had been shut down during fighting in 1983, and opened a new "Democratic Alliance of Burma" programme, but transmissions have been intermittent and reception very poor.[84]

Forced Portering: Misplaced zeal cannot be pleaded as a defence for forced portering. Right from the early days of conflict between the ethnic insurgents and the Burmese Army, the leaders of the ethnic minorities have alleged that the army extorted money from the villagers and those who failed to pay were impressed into its service as porters. Refugees from the Tavoy area of Tanintharyi (Tenasserim) Division say that the army enforces a quota of one porter per family. Porters who subsequently manage to escape, report having been abducted from homes, fields, markets and wedding parties. In Lolikaw, Karenni State, the army took 1500 porters from their homes between 27 and 29 June 1989, to prepare an offensive against the rebels.[85] After SLORC seized power, it started using the inhabitants of cities and political prisoners as porters.

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[84] n.6, p.70

[85] Dr Em Marta, Forced Labour in Burma, UN Working Group on Slavery, (Geneva, 1st August 1990)

Porters are given little to eat or drink and virtually no rest. They carry supplies, munitions and the wounded for the army. They are placed at the head of army columns and are deliberately used to trigger ambushes and detonate mines. When they are wounded, fall sick or are totally exhausted, they are left behind by the army. Those who can, find their way back home. Those who cannot, die. Few last more than two to three weeks. The army shows no mercy to even children, pregnant women, the sick or the elderly. Many have been handicapped and emotionally scarred for life.

On 26 October 1989, the Far Eastern Economic Review reported that in July and August 1989, "hundreds of political prisoners in Burma were used as porters for the Burmese Army during a counter-insurgency campaign in northern Shan State". Subsequently, they were forced to search for precious stones and pan for gold in the Namtu-Mong Yen area of the State. At least, 100 were reported to have died from illness, exhaustion and beatings since July 1989.

In April 1990, about twenty porters drowned in the Salween river when the Myanmar Army attempted to capture the west bank of the river to link up with the Thai trading post of Mae Sam Laeb on the east bank. They had been chained in pairs and had been forced to carry supplies and munitions. When they reached the river, they tried to escape. Some were shot, some drowned.[86]

In the Mon areas, every household has to pay, the Mon leaders claim, 30 kyats a month. The money is collected by the headman of the village, who uses it to hire porters whom he selects. At other times, the army picks up young men directly to serve as porters. Those who want to avoid porter service allegedly have to pay 1,000 kyats.[87]

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[86] "Violence in Burma as Elections Near", The Hindustan Times, (Delhi, 11th May 1990)

[87] Report of a Mission to Burma by the International Commission of Jurists, The Burmese Way : To Where? (Geneva, 1991), p.76

Diplomats point out that though the Myanmar Army routinely uses porters all along the border, they are not the only ones to do so. The areas in control of the insurgents are reportedly governed and administered no better than those under the control of the Myanmar Army. Both sides are said to exort money from their subjects. Some insurgent leaders at Manerplaw admitted to taxing villagers. Both sides also allegedly force village populations from one area to another. Both sides, particularly the KNU, reportedly impress villagers into porter service. The charges are denied, however, by the leaders of the ethnic minorities and the insurgents.[88]

Refugees: People are forced to flee the country in order to avoid persecution. A large number of refugees live in refugee camps on the Chinese and Thai borders. There are refugees in camps in Bangladesh and India as well. None of these countries, except the People's Republic of China, is a party to the 1951 International Convention Relating to the Status of Refugees. The refugees are regarded as illegal immigrants and are at the mercy of the executive authorities in the host countries.

As many of the ethnic minorities live on both sides of the borders, the refugees from the minority communities can find refuge with members of their respective tribes living across the border and are therefore, in a better position than the Burmans and the students. As time passes and there is no solution in sight, frustrations grow. Many of the students who practised and preached non-violence are turning to violent means and joining or forming insurgent groups or forming such groups on their own. The All Burma Students Democratic Front (ABSDF) has also taken up arms and education ranks very low on its list of priorities.[89]

Ecocide: The SLORC's economic mismanagement has already impoverished Burma - it is today listed with the likes of Haiti and Mali among the United Nations' "Least Developed

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[88] *Ibid.*

[89] *Ibid.*

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Countries". SLORC policies threaten Burma with irreperable environmental harm. The very resources that would ensure Burma's future generations' prosperity are now being systematically destroyed by the SLORC for its own short-term gains.

Logging now competes with heroin production as the country's fastest growing industry. Since late 1988, Burma's hardwood forests have been cut at a furious rate. The annual percentage of forest destroyed is now near that in the Amazon - over 1.2 million acres are felled each year.[90] Restoration of logged areas is rarely even attempted. Large areas are already denuded of vegetation. In about a decade, Burma will suffer the severe ecological consequences of excessive logging seen in neighbouring Thailand.

Some areas in Burma are already feeling the effects of deforestation. In 1991, over 6,000 acres of paddy, coconut and beetle-nut plantations were lost due to flooding in a single newly-deforested township. People living in the border areas face cultural extinction. Traditional lifestyles of local inhabitants, especially ethnic minorities, are fast disappearing with the forests that always sustained them. And as the flora is devoured, the fauna cannot survive. Endangered animals, including the clouded leopard, silvered leaf monkey and Asian elephant, are losing one of their last pristine habitats on earth. Marine and freshwater fisheries are also under severe pressure. The SLORC has granted numerous fishing licenses, especially to Thai companies, that are paid for in hard currency. While the SLORC receives more hard cash, Burma's coastal waters are periliously overfished. Use of dynamite and cyanide to kill large numbers of fish is growing, as is driftnet trawling that sweeps the sea clean of virtually all living creatures. Such wholesale exploitation has also spread inland. Burmese refugees in Thailand describe the use of large electrical genarators to "electrocute whole stretches of river, killing everything that swims".[91]

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[90] The Far-Eastern Economic Review, (Hong Kong, 8th August 1991), p.57

[91] Burma Action Group, Ecology Fact Sheet, (London, March 1991)

Overfishing and indiscriminate logging are destroying the traditional livelihood of tens of thousands of families, increasing poverty and malnutrition and contributing to the refugee exodus. Burma's resource base is today plundered only to perpetuate SLORC rule. The effects will be felt for generations.

In Burma, the killing goes on. Weapons pouring into Burma arm the SLORC against the Burmese peoples' demand for democracy. From one killing field to another, the SLORC *junta* is an unapologetic agent of death. The time has come to draw a line against human rights abuses in Burma. No one concerned with promoting democracy, or defending human rights, or stemming the plague of drugs and the wanton despoliation of some of the planet's most precious assets, can any longer plead ignorance of the Burmese circumstances. As long as the SLORC remains in total control of all government functions and institutions of civil society, as long as repressive laws remain on the books, a state of fear will prevail, and censorship will allow many thousands more to be imprisoned, tortured and killed.

CHAPTER IV : THE INTERNATIONALRESPONSE

With the exception of Iraq since 1988, few world governments have been more condemned internationally than the SLORC. All western aid, including that from Burma's two largest creditors and donors, Japan and West Germany, was cut off in 1988 and resumption of any aid has been made conditional to political reform. These conditions have been repeated many times since and several governments have been quite outspoken in their criticism of the SLORC. In May 1991, the British Foreign Secretary, Douglas Hurd, described the SLORC's spending on arms as "grotesque for such a small country with no external enemies". [1] Linking the resumption of aid to Burma with progress on human rights and narcotics' eradication, the US Under-Secretary of State, Robert Zoellick, warned an ASEAN meeting in July 1991, that "underdeveloped and undemocratic Burma" would "remain a cancer of instability" in the region.[2]

The award of the 1990 Sakharov Prize by the European Parliament and the 1991 Nobel Peace Prize to Aung San Suu Kyi also reflects a recognition of the extraordinary hardships the Burmese peoples face and the perilous nature of the struggle for democracy and human rights in Burma today.

Despite these powerful statements and gestures, other than a textile boycott by the USA and the call for an international arms embargo by the European Community, few governments have followed through with any real action or commitment. Almost all the governments are interested in the vast economic potential that Burma has to offer. Western oil companies, including Amoco, Unocal, Idemitsu, Kirkland Resources, Croft Exploration, Premier Petroleum, Petro-Canada, BHP and Royal Dutch Shell, have invested in the SLORC economy and strong economic support for the SLORC has come from its close neighbours,

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[1] Foreign and Commonwealth Office, Press Release, (Washington, 30th May 1991)

[2] The Bangkok Post, (23rd July 1991)

especially Thailand, Singapore and China, which have all been quick to take advantage of cheap prices to step up official trade.

The Response of the United Nations (UN) : Opposition groups have objected that the UN officials in Burma allow themselves to be used for blatant propaganda, but there is an overwhelming feeling among UN workers in Rangoon that Burma's problems are now so great that it is a small price to pay to begin development projects which are intended for the benefit of all Burmese people. It is now generally accepted that in the last decade of the 20th century, the UN is likely to become an increasingly important influence in Burma.

Burma remains one of the only four countries of the UN which has not signed any of the four Geneva Conventions of 1949 concerning treatment of civilians and combatants during war, nor has it signed the International Covenant on Civil and Political Rights. Nevertheless, over the last few years, it has broken its long isolation to ratify the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances and the UN Convention on the Rights of the Child.[3]

In these steps, some observers see hopeful signs of constructive dialogue and, out of its professed respect for the UN, the SLORC has agreed, under the confidential 1503 procedure, to allow the UN Team of Independent Experts to continue monitoring events during the country's uncertain political transition. The first team, headed by the Japanese professor, Sadako Ogata, visited Rangoon in November 1990 and a second team led by another Japanese professor, Yozo Yokata, visited in October 1991. Both, however, were prevented from meeting Aung San Suu Kyi or other political detainees. Indeed, two out of the 19 political prisoners on Professor Ogata's original list, U Maung Ko and U Ba Thaw, subsequently died from ill-treatment in jail - the former while Professor Ogata was actually visiting the country.[4]

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[3] The Bangkok Post, (10th October 1990)

[4] Burma Alert, Vol III, No 7, (Bangkok, 1990)

Pressure has also built up at the UN General Assembly in New York to pass motions criticizing human rights abuses by the SLORC and the regime's failure to acknowledge the 1990 election result. At first, these were held up by Cuba, ASEAN and other Third World parties who felt an unwelcome precedent would be set. But, in November 1991, a resolution was passed by consensus, which took note of the assurances of the government of Burma to take firm steps towards the establishment of a democratic State and which looked forward towards the early implementation of this commitment. The resolution also expressed concern at the information on the grave human rights situation and stressed the need for an early improvement in the situation. The UN Human Rights Commission has passed a resolution in March 1993 and called upon the SLORC to end human rights abuses. Earlier, the UN Special Rapporteur on Burma has submitted his report in February 1993.[5]
The UN's general expectations from Burma were expressed in the first report of the UN Independent Expert to the UN Commission on Human Rights in Geneva :

> *"The formation of a democratically elected government is of central importance to the promotion and protection of human rights, as it is only under such a government that personal freedoms including freedom of expression and assembly and freedom from arbitrary arrest and detention can be assured."*[6]

Under the confidential 1503 procedure, however, these conclusions have never been formally reported and many Burmese opposition groups have accused the different UN agencies of taking up self-serving and contradictory positions on the SLORC. While most governments and multi-lateral agencies have stopped or are in the process of reducing aid to the SLORC, several UN agencies, notably the UNDP, proposed to increase aid from 1991. Technically, the UN cannot refuse to grant at least some aid to member countries which have been classified as LDCs and which other wise meet the UN's criteria of qualifying for aid. But,

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[5] *Ibid.*

[6] United Nations Social and Economic Council, Study of Situations, (Geneva, 1992), p.25

serious concern was expressed by opposition groups at a number of projects, coordinated by the UNDP, notably road-building schemes in the ethnic minority borderlands. Such projects, it was alleged, were counter-insurgency measures, hardly designed to help the local people. Questions were also raised over narcotics and environmental policies and Burma's right to LDC status at the UN when the SLORC continued to spend so much on arms. Amongst opposition groups, there has been a general consensus that, though humanitarian help was welcome, all aid must be carefully monitored and used only for the benefit of the local people and not for the political legitimization of the SLORC.[7]

India : Indo-Burmese ties are age old. But, despite the commonalities of history and culture, the road of friendship between New Delhi and Rangoon has never been a straight one.

In the post-independence period, bilateral relations between the two countries have passed through different phases. Geopolitical, cultural and trade relations between India and Burma through the 1950s (when Burma was under U Nu) remained cordial and mutually beneficial. Nehru and U Nu shared a common world-view and concern to do something for the poor people of former Asian and African coloniesto shield them from the consequences of the power struggles of developed societies.

The second phase, which began with the chauvinistic and anti-foreigner policies of General Ne Win, can be called the beginning of neglect on the part of India. This phase lasted from 1962 to the onset of the pro-democracy movement in Burma in August 1988.

Despite the resolution of border problems with Burma (land border agreement in 1966 and maritime border agreement in 1986), bilateral relations suffered systematically during the regime of the BSPP, chaired by General Ne Win. Ne Win nationalised all property, including industries, shops and professional establishments, belonging to foreigners. The Indians were the main victims of this policy because more than 60 percent of all privately-

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[7] *Ibid*, p.27

owned business and industries belonged to Indians. Between 1964-68, more than 1.5 lakh Indians returned to India without any compensation.

The question of compensation, pensions to Indians who had worked in Burma and the grant of citizenship to about half a million people of Indian origin even after Burma promulgated a new Citizenship Act in 1982 have been major irritants in bilateral relations.[8]

Further, Burma, over the years, has displayed a lukewarm approach in dealing with trans-border insurgency directed at India. Except for a few occasions, in 1980, when the two armies launched joint action against Naga rebels, the Burmese side has proved less enthusiastic in curbing border insurgency and drug trafficking.

On the cultural side, the only contact between the two peoples was an annual event, when a couple of hundred persons conducted a pilgrimage to places associated with the life of the Buddha. Even the cultural scholarships offered by the Indian Government were left unutilised year after year.

Trade and economic relations between Burma and India received a severe jolt during the BSPP regime. India's exports to Burma, which stood at Rs 26.24 crore in 1950-51, had fallen to a mere Rs 1.54 crore by 1973-74. Similarly, imports from Burma which were of the order of Rs 18.8 crore in 1950-51, had come down to a paltry sum of Rs 7 lakh by 1973-74. The situation worsened by mid-80s.[9]

Recognising the "hermit policy" of Burma, Burmese sensitivity over questions of mutual security, international cooperation and military aid, during the visit of Rajiv Gandhi in December 1987, India offered to cooperate vigorously in areas such as trade, technology,

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[8] The Hindustan Times, (11th January 1992)

[9] *Ibid*

power development, transport and communication, which Burma readily accepted.[10]

Relations between the two countries deteriorated markedly ever since the takeover of Burma by the military *junta* in September, 1988. Tensions developed after the atrocities committed by the military *junta* on the Burmese civilians gained international recognition. Despite endorsing the Indian stand on Kashmir that the dispute ought to be resolved bilaterally and politically within the Simla agreement, Burma could not agree with India on many issues such as the Cambodian problem, Soviet intervention in Afghanistan etc. to name a few. Burma also kept itself out of regional and international groupings. It quit the NAM and refused to join SAARC or any other regional body. Even in the UN where U Thant had held the top position of Secretary General, it has maintained a low profile. Besides, at the very onset of independence in 1948, it chose not to join the Commonwealth, something unique in the annals of ex-British colonial territories.

Indian human rights groups have actively lobbied for the release of Aung San Suu Kyi, who has been placed under house-arrest since July, 1989.[11]

However, the Prime Minister, Mr P V Narasimha Rao, was convinced after a discussion with the Chuan Leekpai Government during his visit to Thailand in April 1993, that India should start mending fences with the SLORC. This followed the visit of outgoing Foreign Secretary, Mr J N Dixit, to Burma in April 1993, which ended a five-year diplomatic stand-off between the two nations, that had set in since the visit by Rajiv Gandhi. The diplomatic exchanges between Rangoon and New Delhi in the last one year speaks volumes.[12]

The Indian Government allegedly asked the Delhi office of the UN High Commissioner for Refugees (UNHCR) to send the Burmese students residing in Delhi to their makeshift

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[10] *Ibid*

[11] *Ibid*

[12] The Times of India, (25th April 1993)

camps in Manipur. The Burmese Deputy Foreign Minister, U Nyunt Swe, visited New Delhi in January 1994 to put more pressure on the Indian Governmenton on this particular issue.[13]

India and Burma have now signed two landmark agreements on the 21st of January, 1994 on resumption of border trade and increasing people-to-people contacts along the Indo-Burma border in a move prompted largely by mutuality of economic interests rather than by political commonalities. The trade agreement was signed between the Union Commerce Secretary, Mr Tejinder Khanna, and the Deputy Minister of Foreign Affairs, Mr Nyunt Swe and the memorandum of understanding on cooperation between the respective border (civilian) authorities was signed between the Union Home Secretary, Mr N N Vohra, and the Burmese Ambassador, Mr Wynn Lwin. This was the first major interaction between the two neighbouring countries ever since the September 1988 uprising in Burma and the subsequent takeover by the military *junta*. Trade routes between the two countries had been curtailed since 1947. The trade agreement would be valid for the next two years and would come into force from a date to be mutually agreed upon by the two countries, and would help keep a firm check on insurgency and drug trade. The area along the border has long been a hotbed of insurgencies, ethnic clashes and drug trafficking, leading to disturbed conditions. It is hoped that this move may help in ushering in the much-needed peace and tranquility along the long common border. This move also depicts that the Burmese military *junta* are making a conscious effort to understand the importance of Indo-Burmese relations for regional peace and security.[14]

The first series of sectoral level talks being held at Imphal from 7 to 9 March 1994 are intended to urgently implement the provisions of the MoU and thereby make it fully operational. A high-level Indian delegation led by Union Home Secretary visited Burma from the 2nd to 4th February this year to take follow-up measures to make the MoU

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[13] The Hindustan Times, (2nd February 1994)

[14] *Ibid*

operational both at the sectoral as well as national levels.[15]

India's views on Burma is, however, being clouded by Rangoon's close links with China. China is helping Burma build a naval base on Haingyi island at the mouth of Bassein structure, with roads and bridges which have strategic importance. This increasing interest in Burma fits into China's strategic design to have both the western and eastern flank of India under the control of its close friends.

India has reason to have more than an ideological interest in a democratic government coming to power in Burma. The appreciation of geopolitical realities, negation of the "tilt theory" by Burma, acceptance of the principle of reciprocity by both countries and installation of a democratically elected government in Rangoon should pave the way for the expansion of bilateral ties between the two neighbours.

ASEAN : Unlike Western countries and India, ASEAN countries (consisting of Malaysia, Indonesia, Thailand, Singapore and Brunei) have been reluctant to be drawn into making any statements regarding human rights abuses in Burma. Hence, the SLORC is emboldened towards making cosmetic gestures like allowing the US Senator, Bill Richardson, to visit Suu Kyi. It is part of SLORC's diplomatic tactics to get an observer status in the Association of South-east Asian Nations' (ASEAN) Foreign Ministers' summit to be held in Bangkok in July, 1994. The rejection of Indonesia, Malaysia and Singapore, at least in principle, of attaching strings with aid or trade on human rights' grounds have put the SLORC in a formidable moral position. Burma, which prefers isolation, has found new accomplices. The only dark spot on the horizon is that, along with growing fundamentalism, Malaysia and Indonesia have been concerned with the treatment of the *Rohingiya* Muslims in the Arakans.[16]

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[15] *Ibid*

[16] The Bangkok Post, (11th April 1994)

Singapore : The visit of the Singapore Prime Minister, Mr Goh Chok Tong, to Burma on the 28-30 March 1994, is significant in more ways than one. Burma's image will surely get a boost and the SLORC is finally set to start a full-fledged diplomatic relation with ASEAN. One of the most important aspects of Mr Tong's visit is to explore the possibility of exploiting the economic resources of Burma. Besides, China, Japan and South Korea, ASEAN countires have been major exporting countries to Burma during 1991-92, along with the US and members of the European Community, which have been major exporting countries to Burma.[17]

Investments by Singapore in Burma include provision of raw material and equipment to Burmese oil companies by the ACE Pressureweld Inc.; joint venture to produce and market automobiles by Century Motor; data services (collecting/processing) for foreign oil companies in Burma by Halliburton Geophysical; joint venture by NC Timber Trading to manufacture parquet flooring tiles, process teak and rose wood for export; site preparation for foreign oil firms in Burma by PAE Singapore; and, a private joint venture by the Myanmar ECI to produce Baryte powder (used in drilling for oil).[18]

Singapore has also supplied arms to Burma as can be seen by the transfer of 84 mm Carl Gustaf rockets, mortars and ammunition to Burma since 1988.[19]

Thailand : Among all the ASEAN countries, Thailand shares a love-hate relationship with the SLORC. In December 1988, the Thai government became the first country to break the international diplomatic blocade against the Burmese regime following the crackdown against pro-democracy protesters with a visit by the ten-army commander, General Chavalit Youngchaiyuth. Since then, Thailand has provided much-needed foreign exchange to the Burmese government. As Burma's neighbour, Thailand sets an important example for

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[17] The Bangkok Post, (2nd April 1994)

[18] *Ibid*

[19] *Ibid*

Malaysia, Singapore amd other South-East Asian countries eager to capitalize on the Burmese government's need for foreign investment and aid.[20]

The only solidarity Thailand has officially shown with the cause of the protest against the current human rights situation in Burma was when Chuan Leekpai's government overcame the objections of the military to the visit of Nobel laureates to Thailand in February 1993 to campaign for Aung San Suu Kyi's release. However,the intention of Chuan's government to invite the SLORC as an observer at the next ASEAN summit met with opposition from the House Committee on Justice and Human Rights in the Thai parliament.[21]

Thailand's policies towards Burma involve a complex mixture of national, security, commercial and personal interests. Burma is viewed as an important market for Thai products. Over the past four years, Thai businesses have paid about $ 300 million in licenses and fees for various concessions in logging, mining and fishing. Many agreements exist between private Thai companies and newly "privatized" Burmese corporations. Most such business is controlled either by serving or retired senior Thai and Burmese military officers. The large profits reaped by Thai soldiers certainly shape Bangkok's supportive policies towards the Burmese *junta*. Logging concessions now earn the SLORC over $ 100 million each year, from Japanese, Hong Kong, Singaporean and Taiwanese companies, as well as those from Thailand.[22]

SLORC has now decided to end 47 Thai logging concessions in Burma. The Thai logging-business owners are pressurising the government to intercede on their behalf. In response, SLORC indicated that they would be interested to have Thai companies invest in the wood-based industrial ventures in Burma. Thai logging companies are reluctant to accept this

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[20] Burma Alert, No 3, (Bangkok, 1990), p.7

[21] The Bangkok Post, (7th March 1993)

[22] "Partners in Plunder", The Far Eastern Economic Review, (Hong Kong, 22nd February 1990), p.16-19

strategy as a large number of these have firmly established their own saw mills along the Thai-Burma border. SLORC's second option was to have the wood imported into Thailand through sea ports rather than using land routes which pass through areas presently controlled by *Mon* and *Karen* forces. The competition for Thailand as a buyer of Burmese wood is growing as SLORC also intends to sell its wood to Singapore, Malaysia and South Korea.

Thai Airways also has plans to begin flights to Pagan and Mandalay (in central Burma) to help promote tourism in Burma, especially western-oriented tourism. This decision came in the wake of the SLORC leadership's bid to revive and promote tourism in Burma to help in building up its sagging economy.[23]

Other investments in Burma includes a joint feasibility study of two hydro-electric dams by the Thai Government; a proposed brewery by the Pattara Thurakit (SLORC wants to switch traditional beer for one that is more suitable for international consumption); an 18-month contract by the PAE Thailand to build all 6 Shell sites and 60 km of access roads; and, the improvement and expansion of Strand and President Hotels in Rangoon, along with the improvement of a department store in Rangoon by Thip Tharn Thong.[24]

An important issue that connects Burma with Thailand is prostitution. Burmese soldiers are said to cooperate in selling Burmese women into prostitution in Thailand.[25] Burmese women who were deported from Thailand after contracting AIDS as prostitutes have reportedly been murdered by SLORC authorities upon their return to Burma.[26]

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[23] The Asian Age, (Delhi, 15th April 1994)

[24] *Ibid*

[25] Hnin Hnin Pyne, AIDS and Prostitution in Thailand : Case Study of Burmese Prostitutes in Rangoon, Massachusetts Institute of Technology, (Massachussets, May 1992)

[26] Report entitled - "Burma Used Cyanide on AIDS Prostitutes" in the South China Morning Post, (Hanoi, 3rd April 1992)

The question of Burmese refugees in Thailand has created a serious bone of contention between these two countries. To date, the Thai government has considered all these refugees as illegal immigrants. Following the 1988 crackdown and the flight of Burmese students to the border, Thai officials deported more than 150 Burmese refugees to Burma from a rehabilitation center in Tak province. This is clearly violative of the prohibition on refoulment in international law. When concerns were raised regarding the involuntary nature of these repatriations, the Tak Center was closed on 31 March 1989. Despite the closure of the Tak Center, the Thai government continues, on occasions, to deport students and other refugees to Burma. Although Thailand has, in response to international pressure, sent many of the deportees to areas along the border not controlled by the Burmese army, such "safe" locales from which the deportees may then return to Bangkok - are rapidly diminishing as the Burmese military advances southward along the border. The Thai officials have prevailed upon the United Nations High Commissioner for Refugees not to grant Burmese students letters formally recognising them as refugees. But, the Thai government has, to date, failed to provide its own documentation to ensure that those with a well-founded fear of persecution are not being returned to Burma.[27]

US-based human rights groups are lobbying their government to block military aid to Thailand since its military still dictates foreign policy issues such as the "constructive engagement" with Burma. These groups are lobbying for development aid and not military aid to Thailand as Thailand is concerned only about trade prospects in Burma and has completely ignored the human rights situation there.

Malaysia and Indonesia have also established cordial relations with the SLORC regime. Indonesia has strenuously protested gross abuses against Muslims and destruction of mosques by SLORC troops in the Arakans that have caused a massive refugee exodus. Barring these tensions regarding the treatment of *Rohingiya* Muslims in the Arakans, both countries have established trading relations with Burma as can be seen by the decision of

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[27] Pen International, Vol XLI, No 2, (New York, 1991), p.18

Serge Pun & Associates of Malaysia to establish a subsidiary in Burma to develop a hotel in Rangoon. The Malaysian Air Force has trained 10 Burmese Army captains on the use of the American built C-130 transport aircraft.[28]

Brunei : Brunei established diplomatic relations with Burma on 21 September 1993. It has, thus, provided legitimacy to the SLORC.

Though ASEAN members have now decided to initiate full diplomatic relations with the SLORC, it is contentious and deserves scrutiny. The US had earlier called for the total isolation of Burma for its human rights practices. It had believed that punitive economic measures would bring the required changes in the political system. But, ASEAN countries have rejected it and started a "constructive engagement" with SLORC. As long as Suu Kyi continues to be under house arrest and another 2000 political activists of Burma continue to be detained without any trial that conforms to internationally recognised human rights standards, ASEAN countries would be doing Burma a great wrong by attempting to grant legitimacy to the illegal military *junta* in Burma. ASEAN should heed that the SLORC is the only *junta* in the world which does not honour the mandate of its people. Human rights violations, wherever they occur, are matters of international concern and cannot be argued as purely internal affairs. The fact that one country is a neighbour where such outrages happen do not justify acquiescence by another.

China : China's strategic interests in Burma have undergone a fundamental change since the 1970s when Peking's policy was directed towards supporting Communists and other anti-government rebels along the common frontier. A shift towards greater economic cooperation was first evident in a September 1985 article in the *Peking Review* written by Pan Qi, a former vice-minister of communications. The article, entitled *"Opening to the South-east : An Expert Opinion"*, discussed the possibilities of Chinese trade through Burma. That trade is now conservatively estimated at US $ 1 billion per year, not including a lucrative cross-

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[28] The Bangkok Post, (17th April 1994)

border traffic in narcotics from Burma's sector of the Golden Triangle.

China has been abetting Burma's heroin trade and supplying massive quantities of arms to the SLORC. Chinese officials have publicly admitted that large drug shipments from Burma towards India and other countries are passing through their territory. It has been argued that heroin cannot pass through China's heavily militarized southern border regions without official complicity.[29] There is also a widespread belief that China tolerates heroin smuggling through its territory so that the SLORC can earn hard currency to buy Chinese weapons.

When Chinese engineers began building a new concrete bridge over Shweli River on the Sino-Burmese border a year ago, local people dubbed it as the "gun bridge" as it was seen primarily as a means of funnelling arms into Burma. Further, the new bridge is seen as a milestone by some observers in China's efforts to establish more direct control over Burma. After completion in October 1992, more than 300 trucks laden with arms and ammunition have rumbled through the Chinese border town of Ruili and across the Shweli bridge into Muse in Burma.[30]

China agreed to a one billion dollar arms deal with Burma in October 1989. But, less than half the equipment had been delivered until the new bridge facilitated the movement of military traffic across the border. Most of the weapons are supplied through the Chinese Polytechnologies Corporation, a company managed by Chinese leader Deng Xiao Peng's son-in-law.[31]

In January 1993, Lt Col Ye Myint, deputy commander of the Burmese Army's Northeastern Command, Lt Col Than Tin from Burma's defence attache in Peking and Lt Col Kyaw Thein from the military intelligence held a meeting in Muse with senior Chinese officials. Apart from discussing further arms deliveries, the Chinese reportedly outlined plans for

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[29] The Wall Street Journal, (New York, 20th May 1992), p.13

[30] B.U.R.M.A., (Bangkok, 1991), Vol I, No 2, p.8

[31] *Ibid*

improving northern Burma's infrastructure. The World War II-era Burma Road, which connects Lashio in north-eastern Burma with China's Yunan province, is already being upgraded with Chinese assistance. The Chinese have now promised to build more roads linking Yunan with Burma's northernmost Kachin state. A hydro-electric power station could also be built in Kachin state to supply its two main towns of Myitkyina and Bhamo.[32]

"The Chinese have won through diplomacy what the rebels failed to achieve for them on the battlefield", a senior Rangoon-based diplomat said. "Today, China controls Burma economically, militarily and politically".[33]

China's next step towards strengthening its grip on Burma is reported to be the construction of a munitions factory near the town of Magwe in the central Burmese plain. In 1991, Chinese engineers visited Magwe and intelligence sources believe that production would begin by the end of 1993. The factory will produce M21 semi-automatic rifles, M22 assault rifles and M23 light machine guns, plus ammunition for these weapons. All these developments show that there is a clear connection between new Chinese arms shipments and the rising tide of SLORC violence, "resulting in massive violations of human rights" and "massive refugee outflows".[34]

China's continued reluctance to support stronger UN actions against the repressive SLORC regime shows that the new anti-democratic Asian nexus between Burma and China is a threat to regional democratization and stability that cannot be ignored.

Japan : The value of Japan's investment in Burma still outweighs that of most of Burma's neighbours. Japan is Burma's primary aid donor. After suspending its Official Development

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[32] Bertil Litner, "Burmese Army Gains Muscle", The Dawn, (Bangkok, November 1991)

[33] *Ibid*

[34] *Ibid*

Aid Program after the 1988 SLORC *coup*, Japan has once again resumed bilateral aid in 1991 and has delivered $ 1.34 million worth of assistance to Burma. About $ 750 million more is in the pipeline. Japan has also exported at least 15,000 trucks to Burma for "commercial use", most of which are being used by the army.[35]

The SLORC is optimistic that Japan will not cut aid and, in fact, expects increased assistance. During the Japanese Deputy Foreign Minister Kakizawa Koji's visit to Rangoon in July 1992, a SLORC official commented, "After the political concessions we have made, the Japanese are studying whether to increase aid to us".[36]

Aung San Suu Kyi's reaction to Japan's economic ties with the SLORC was recorded at one of her last press conferences before her arrest in July 1989. It applies equally to trade and investment by other developed countries. "For Japan to put profits before human rights is really shocking", she said. "It's not as if they would starve if they place human rights before economic considerations".[37]

Japan's investments in Burma includes financial backing for a new international airport, financial backing for the feasibility study of a bridge at Myawaddy, purchase of Burmese embassy property in Tokyo's Shinagawa district - all by the Japanese government; oil and gas exploration by Idemitsu in Monywa Basin; financial backing for "Rangoon City Project" - a 44-acre complex with two hotels, commercial areas and estates by Daichi; proposed construction of a 100-room , five-star hotel by MCG Corp.; and, the establishment by Mitsui of a branch office in Rangoon in April, 1989.[38]

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[35] *Ibid*

[36] Asiaweek, (Hong Kong, 24th July 1992), p.26

[37] Stan Sesser, "A Rich Country Gone Wrong", The New Yorker, (9th October 1989), p.92

[38] *Ibid*

Despite Tokyo's recent rhetorical support for tougher actions against the SLORC, there is scant sign that Japan's tougher-sounding words will soon translate to meaningful action.

The United States : The US has "no vital strategic interests in Burma". Moreover, the US, in its position as the sole military superpower in the world, has strongly condemned Burma's gross violations of human rights. Following the military crackdown in 1988, the US government suspended all aid and loans to the Burmese regime, which, at that time, amounted to approximately $ 16 million. The terminated aid included an unsuccessful US program for opium eradication, at a cost of $ 6 to 8 million per year, and a military training program amounting to $ 265,000. Effective in 1989, the US government also suspended Generalized System of Preferences (GSP) benefits to Burma under labour rights provisions of the US trade law, the 1974 Trade Act, as amended. In July 1989, the US Embassy in Rangoon also made public, information confirming the widespread torture of political detainees in Burma, and the State Department reports on Burma in the consecutive years is a scathing indictment of the country's human rights record. The then Secretary of State, James Baker, has described US policy towards Burma as "constructive disengagement". The then Assistant Secretary, Solomon, had stated that an arms embargo is a priority of America's Burma policy.[39]

Concerned about the recent explosion in Burma's heroin production, the US Government has recently contributed $ 4 million towards a drug eradication programme in Burma. The US President, Mr Clinton, has also ordered a review of a US-Burma policy which recommends sending a US ambassador, the first since 1990, to Rangoon. The policy also suggests exploring ways to impose an arms embargo against Rangoon. Some senators such as Sen. Daniel Patrick Moynihan, are opposed to sending an ambassador to Rangoon until more positive changes take place there. Burmese opposition groups agree with this. However, it is also clear that any boycott requires sincere US leadership for meaningful

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[39] House Sub-Committee on Asian and Pacific Affairs, Hearings, (Washington, 20th May 1992)

implementation.

As Professor Gary Clyde Hufbauer writes:

> *"(The) imposition of economic sanctions conveys a triple signal : to the target country, it says the sender does not condone your actions; to allies, it says words will be supported by deeds; to domestic audiences, it says the sender's government will safeguard the nation's vital interests".*[40]

The US should use sanctions against Burma to achieve all three of these purposes. So far, America's use of sanctions is limited - it has not sent the clear-cut message that strong sanctions convey. The US has suspended all non-humanitarian assistance, withdrawn Burma's tariff privileges and refused to renew a bilateral textile agreement with Burma. Despite these actions, the US is one of the largest investors in Burma. In 1991, US companies invested $ 157 million - mostly in one and two-year oil leasing and exploration arrangements. Bilateral trade in 1991 totaled $ 50 million, much of it in Burmese textiles imported to the US. The executive branch has only made minimal use of Congressional authorization to apply economic sanctions against Burma.[41]

That US economic interests in Burma are still substantial can be deciphered from the presence of giant multinationals like Pepsico and Amoco, who are pursuing economic gains in Burma. When Coca-Cola abandoned plans to enter Burma after lobbying by exiled groups, Pepsi was quick to step in. On 22 November 1991, Pepsico, in a joint venture with the local private enterprise, Myanmar Golden Star Co., began producing 70200 ten-ounce soft drink bottles per day. Plans are underway to increase production from 200 to 400 bottles per minute and to spread the distribution network to other areas of Burma. A second

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[40] Towards Democracy in Burma, Institute of Asian Democracy, (Washington, 1992), p.24

[41] *Ibid*, p.25

bottling plant is planned for Mandalay to cover the northern areas of Burma.[42]

The US has invested heavily in Burma, as can be seen from Bell Helicopter's proposed provisions of spare parts and joint venture to carry out repairs on Burma's existing fleet of 20 Bell helicopters donated by the US Government in 1974 for anti-narcotic operations; the decision made by Pan American Enterprises to provide raw material to Shwedaung Textile Mill of MTI for production of finished goods; and, by Parker Drilling to service drilling networks for Yukon, Edemitsu, BHP, and Amoco. Oil exploration constitutes the heaviest foreign investment by American companies. Amoco, Unocal (spudded first of 4 oil wells on 27 April, 1991) and Texaco are among at least ten companies investing over $ 300 million in the search for oil and natural gas. A major find by any company will assure the SLORC of substantial income for years to come and will insulate the generals further against international pressure.[43]

American companies are also directly involved in the wanton destruction of Burma's forests and fisheries. The largest single importer of Burmese teak is Dean Hardwoods of Wilmington, North Carolina.[44] The teak is used for the manufacture of luxury yachts and other such pleasure crafts. In August 1990, MMA Finaco signed a multi-million dollar contract with SLORC "for production, processing and marketing of offshore fish, and marine products".[45]

The Reply from the SLORC : The SLORC government has continued to stress on what they

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[42] *Ibid*, p.25

[43] *Ibid*, p.25

[44] B.U.R.M.A, Foreign Investments in Burma, (Bangkok, April 1993), p.9

[45] *Ibid*

describe as the political and cultural uniqueness of Burma and have rejected all unsolicited international advice or pressure as "interference". "I tell you", Gen. Saw Maung once explained, "if anyone wants to enjoy human rights they have in the USA, England or India, provided that country accepts (them), I will permit them to leave. But, in Myanmar, I can only grant rights suitable for the Myanmar people".

Despite overwhelming evidence of gross human rights' abuses in Burma today, every report to that effect has been rejected by the SLORC as "lies" concocted by enemies of the Burmese state. In a formal reply to the UN Economic and Social Council in May 1991, the SLORC argued, "Human rights in Myanmar are adequately protected not only by an elaborate legal and judicial system founded on modern norms and principles of justice, but also by our own age-old and time-tested traditions and culture".[46] In a further refinement, SLORC officials have also borrowed from recent human rights statements in China where the government has tried to put the discussion of human rights into a very different context. "In our country, human rights mean security, food, clothing and shelter, non-disintegration of the country and perpetuation of the country's sovereignity", explained SLORC Secretary 2, Maj Gen Tin Oo. "There is nothing more important than these national interests".[47]

Nonetheless, there are many indications that, as Burma's problems mount and the SLORC permits increasing numbers of international traders and businessmen into the country, the door is gradually opening and many countries, more glaringly, the ASEAN nations, are taking advantage of this. Although the SLORC rejects any identity for itself as a "political" government, its chosen route back into the international community is through the UN and, as it repeatedly reminds the Burmese people, great importance is placed on the fact that "Myanmar" and the SLORC generals are recognised as the *de facto* government at the UN General Assembly - not the NLD or the National Coalition Government of Dr Sein Win.

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[46] Press Release of the Myanmar Government, (New York, 23rd May 1991)

[47] BBC Summary of World Broadcasts, (11th September 1991)

While many foreigners remain barred, UN officials are feted guests in Burma and are prominently displayed on the front page of Burma's only newspaper, the WPD, when they meet with SLORC officials.[48] These pictures are often juxtaposed with military slogans, explanations of SLORC actions or reports of *Tatamdaw* victories on the battlefield. Since September 1990, the SLORC has also intimated it will allow select non-governmental organizations, supervised by the United Nations Development Programme, to enter Burma to begin aid programmes. To date, however, while Burma's crisis continues, few organizations have expressed any interest.

Developing countries have complained of hypocrisy in the position of the developed countries and Western governments vis-a-vis Burma in that, although complaining of human rights abuses, these nations have done nothing to stem the flow of investment from their own countries. Opposition groups in Burma have thus questioned the wisdom of any arms embargoes and human rights pressure if they are not coordinated with effective economic action or political will. The irony is that, at a time when the SLORC has become increasingly isolated both at home and abroad, it has even more funds to spend on the army's expansion to suppress all dissent.

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[48] Working People's Daily, (Rangoon, 26th March 1992), p.3

CHAPTER V : CONCLUSION

A little over 45 years have elapsed since the Universal Declaration of Human Rights was adopted by some members of the United Nations. Yet, towards the middle of the last decade of the century, the progress of incorporation of international Human Rights standards into national legislation in South-East Asia remains woefully inadequate. The attitude to human rights in South-East Asia is a clear example of a situation where existing national legislation is not translated into effective action on the ground. Pious declarations of the governments of these countries proclaiming unflinching commitment to human rights mean little unless one has evidence of tangible measures of accountability and the availability of legal remedies to the citizen to make these rights justiciable and enforceable.

The incarceration of 'prisoners of conscience', improvement in prison conditions, custodial deaths, custodial rapes, unfair trials, torture, cruel and other inhuman degrading treatment, the unrestricted use of administrative and preventive detention, extra-judicial executions, wanton usage of the death penalty, systematic flaunting of the conventions of the International Labour Office, infringement of the right to freedom of expression, denial of the right to information and attempts to bridle the media are part of the general scenario in most of the South-East Asian nations. Discrimination against women and children, suppression of ethnic and religious minorities - these and an increasing trend of sundry other violations underscore the need for institutional and non-derogable safeguards if the quality of life is to comprise of indicators other than mere economic prosperity. And Burma, in particular, is devoid of even this fig-leaf of burgeoning opulence, steeped as it is, in dire poverty. The need to develop a discriminating and independent public opinion on human rights issues is paramount and must precede any concommitant action at the administrative level.

What is of greater significance is that in developing countries in general and in South-East Asia in particular, there is the felt need to completely redefine human rights beyond the periphery of civil and political rights only. To the vast multitudes residing in South-East

Asia, human rights begin at the far more basic level of the right to food, clothing, shelter, education, health, employment and so forth. It is this holistic vision of human rights incorporating food and freedom, life and liberty along with the more recognised rights to freedom of expression, of association, of dissent and the right to avail of the rule of law that most South-East Asian nations are turning to. Yet, the endeavour to deliver to the people this very holistic concept of human rights, bestows upon all concerned governments that extra degree of responsibility which they would be unwise to eschew.

In South-East Asia, as in other parts of Asia and Africa, all rights have a strong collective orientation, such as the community or the nation. Their colonial backdrop makes for the fact that their present-day societies are more than a litany of personal liberties. Instead, these are a collective ideal inextricably linked with the quest of whole communities for human dignity and social justice. The struggles of the South Africans and Palestinian peoples are manifestations of the same aspirations. Moreover, the collective approach to the question of rights is a matter of survival itself in a framework where a handful of nations control the political, cultural, economic, scientific and technological resources of the world. The right to life - the most basic of all rights - has been, in the past, severely jeopardised by sundry machinations of the west effected through numerous proxy wars and the like which have killed millions of peoples in these parts over the last half a century. Let governments like that in Burma not add to that.

Therefore, there is a need to introduce an awareness among human rights groups in South-East Asia to look beyond national issues and make a concerted effort at addressing what is increasingly looking like global dominance by a single power. An instance of this is the relocation of the Seventh Fleet of the US navy in Singapore after the Phillipines withdrew the facility of Subic Bay. It is remarkable that an economically advanced nation like Singapore is singularly insulated against the recognition of gross transgression of rights. Human rights, in the South-East Asian context, must be an integrated whole of the gamut of rights consisting not only of those which the western nations understand and adhere to, but also those which are of fundamental importance in these parts of the world. In fact, one

should go as far as to assert that the priority accorded to different sets of human rights, individual and collective, have to be completely reassessed and re-evaluated to make them meaningful in the Asian context. Only then would a proper appraisal of South-Asian democracies, the constraints within which they operate and the manner in which they cope, be possible.

In Burma, despite promises of fundamental changes since the great democracy uprising of 1988, the situation today is, without doubt, more repressive than at any time in the recent past. Hundreds and possibly thousands of civilians remain unaccounted for after the violence of the past six years, university classes have been virtually cold-storaged for fear of letting young people meet; and unreported wars continue to take an ever greater toll of human life.

Many of Burma's brightest talents - writers, artists, lawyers and doctors - who plunged into the democracy movement and now languish in jail. A general election was promised by the SLORC, but even before the country went to the polls, Aung San Suu Kyi, U Nu and many of the country's most able politicians were already under arrest. When the polls failed to vindicate the expectations of the SLORC generals, more people were jailed.

Thousands of non-criminal people in jails is a phenomenon that is being explained with almost casual disdain - they are branded either traitors or criminals. The state media repeatedly attacks rightists, Communists, imperialists, and, more recently, "capitalists attempting to subvert the sovereignty of Myanmar". According to the SLORC, Burma has no political prisoners. It's only rationale is "law and order", a convenient, catch-all justification with which the *Tatamdaw* could well rule Burma indefinitely. Military terminology and practice permeates every level of SLORC governence and its use of the law. According to Maj Gen Myo Nyunt, the law is simply a "good weapon" that may require "adjusting from time to time " but must always be fired, immediately and accurately, at the "bulls-eye of the target" whenever the need arises. Indeed, so successfully has the law been employed that 17 of the 19 original Central Executive Committee members of the NLD have been detained.

The SLORC continues to make an artificial display of responding to international criticism to improve its dismal reputation; some of its oft-repeated practices to that effect have been mentioned in earlier chapters. It now says that ceasefire with the *Karens* is testimony to its new initiative for a national reconciliation. The cease-fire has already engendered fresh disagreement among the pro-democracy groups, further strengthening the SLORC hegemony.

Amidst this backdrop, as Burma's social and economic crisis grows, there are quiet voices even within the military who have called for discussion and believe, like Aung San Suu Kyi, that the only way forward is by reason and compromise. For the moment, however, that is not the avowed course that Burmese politics is taking. The timescale of reform is entirely in the hands of the Ne Win old-guard, and currently, they are privately hoping to edge Burma along the road towards the model of Indonesia, Malaysia and Singapore where real power, in an ostensibly democratic system, remains in the hands of a privileged few amongst the civilians and the military.

Whether they succeed without the support of the people remains in the realm of speculation. At some stage, the consequences of the violence and long prison terms they meted out to those who stood up for democracy will have to be redressed. "Our heads are bloody but unbowed", runs a popular student slogan. In Aung San Suu Kyi, at least, the country has found an inspirational leader who has taught the people not to be afraid. "Fear", she said, "is not the natural state of civilized man". No one is in a position to understand the inherent danger in the emerging situation more than Suu Kyi, whose first meeting with an international audience on 14 February 1994, at least ensured that her words would directly go out to the international community. She used this access to persistently redirect the issue of human rights away from her own detention and towards the suffering of others. "Whatever they do to me", she said, "I can take it. What's more important is what they are doing to the country.....isolation is not difficult. I know other people have suffered a lot more. People have died". Let the world not forget what Aung San Suu Kyi remembers.

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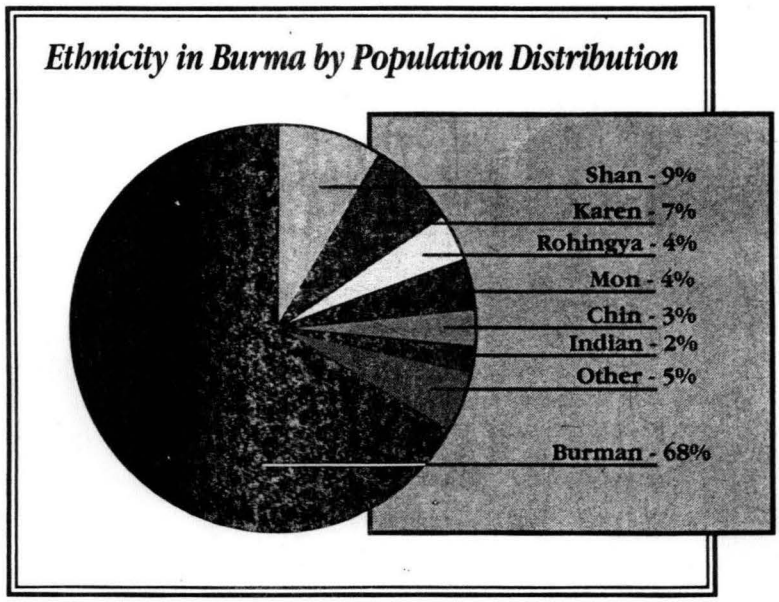
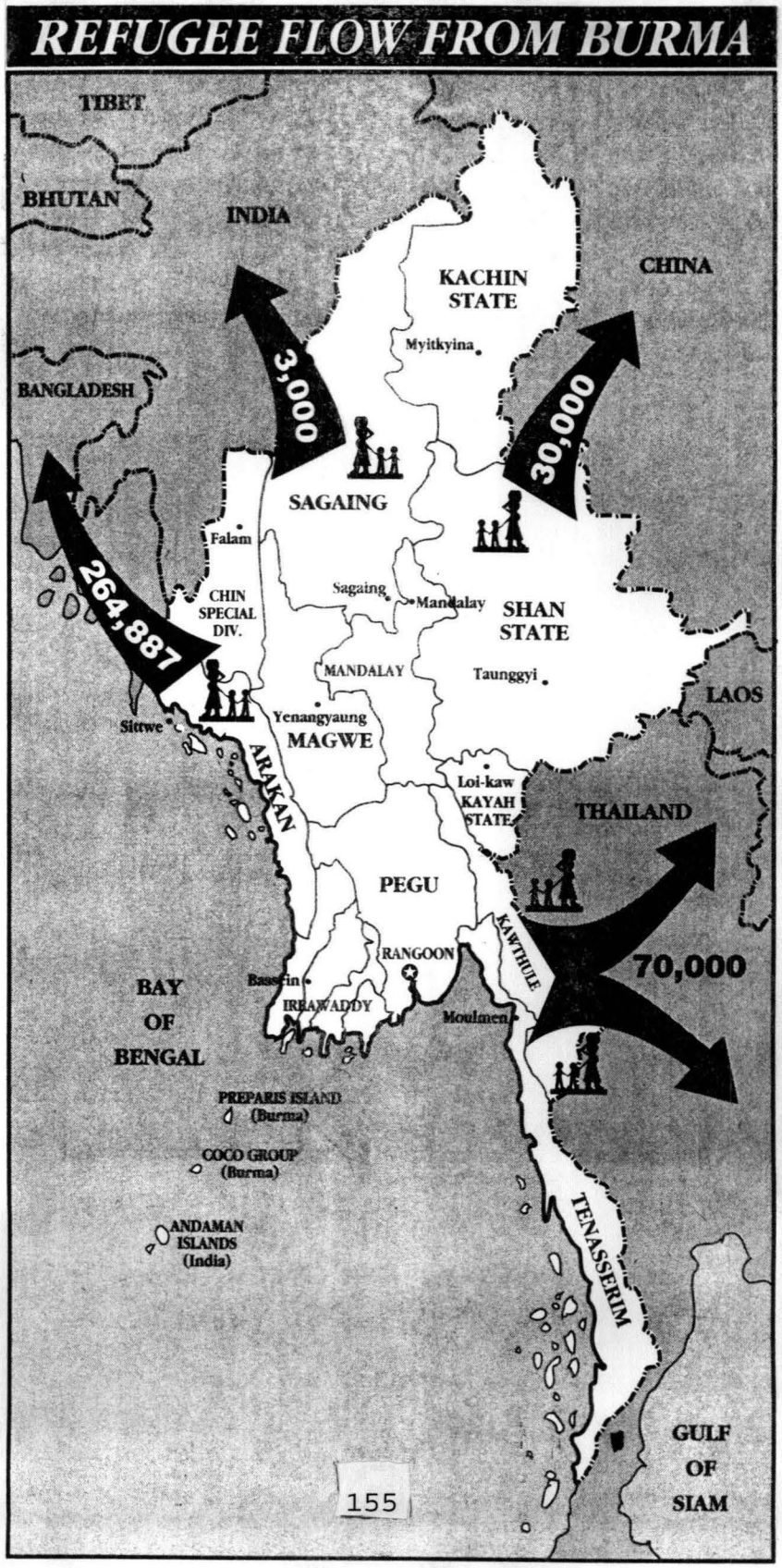
ANNEXURES

Annexure I-=-Ethnicity in Burma by Population Distribution



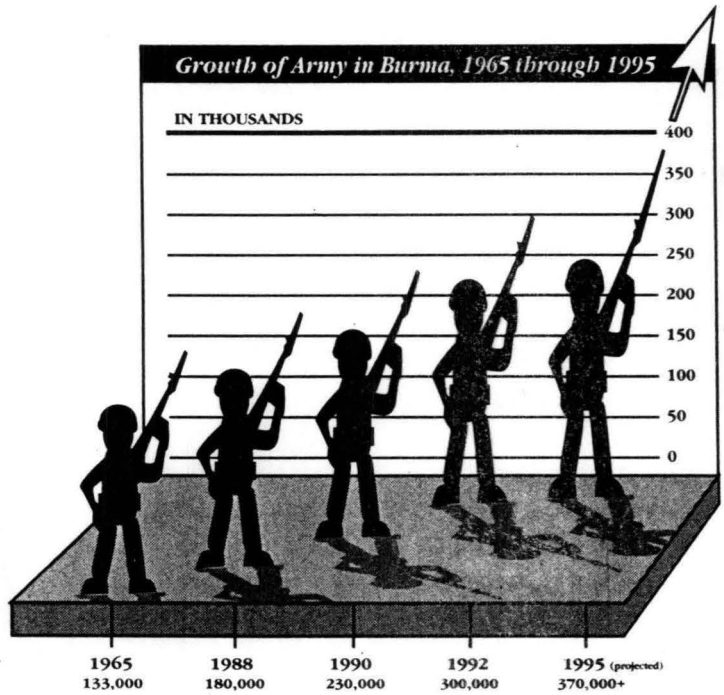
Source: U.S. Central Intelligence Agency, *CIA World Factbook 1991*.

Annexure II-=-Refugee Flows from Burma



Source: Institute for Asian Democracy

Annexure III-=-Growth of the Army in Burma, 1965 through 1994



Sources: Stockholm International Peace Research Institute, *Jane's Defence Weekly* and *Far Eastern Economic Review*.

Annexure IV-=-Burma's Opium Cultivation and Heroin Production