



# BURMA REPORT

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Issue N° 79

**Free all political prisoners, free Aung San Suu Kyi, free Burma.**

THE BURMANET NEWS -November 14 - 16, 2009 Issue #3841- "Editor" <[editor@burmanet.org](mailto:editor@burmanet.org)> - <[www.burmanet.org](http://www.burmanet.org)>

**Reuters - November 16, 2009** - <<http://af.reuters.com/article/worldNews/idAFTRE5AF1G020091116?pageNumber=2&virtualBrandChannel=0>>

## Suu Kyi seeks meeting with Myanmar junta leader - Aung Hla Tun

Yangon (Reuters) - Detained Myanmar opposition leader Aung San Suu Kyi has requested a meeting with the military regime's top leader, adding to signs that lines of communication are opening up between her and the junta.

In a letter dated November 11, obtained by Reuters on Monday, the 64-year-old Nobel peace laureate said she wanted to work with General Than Shwe's government, which calls itself the State Peace and Development Council, in the interests of the country.



Aung San Suu Kyi (C) arrives for a meeting with U.S. Assistant Secretary of State for East Asian and Pacific Affairs Kurt Campbell (L) at the Inya Lake Hotel in Yangon November 4, 2009. - **REUTERS/Aung Hla Tun**

News of the letter comes after U.S. President Barack Obama on Saturday offered Myanmar the prospect of better ties with Washington if it pursued democratic reform and freed political prisoners, including Suu Kyi.

"I would like to earnestly request permission to meet you so that we can talk about cooperating with the State Peace and Development Council in working in the interest of the nation," Suu Kyi wrote. It would be the first meeting with the strongman of the former Burma since the 2003 arrest of Suu Kyi, sentenced in August to an additional 18 months of house detention for harbouring an American who swam uninvited to her lakeside home.

Last month Suu Kyi held a rare meeting with a minister from the ruling junta. In September, she made a formal offer to the regime to help negotiate with Western countries to lift sanctions, which critics say have been largely ineffective.

She has spent more than 14 of the past 20 years in detention of one sort or another, mostly under house arrest.

Myanmar's military, which has ruled the country for almost 50 years and is shunned by the West over its rights record, plans to hold multi-party elections in 2010.

In the letter, Suu Kyi also expressed thanks to the regime for allowing her to meet on November 4 with U.S. Assistant Secretary of State Kurt Campbell, the highest-ranking U.S. diplomat to visit Myanmar in 14 years.

She asked for permission to visit three senior leaders of her National League for Democracy Party who are house-bound due to ill health and approval to hold a plenary meeting with leaders of her party in her home before meeting with Than Shwe.

Nyan Win, spokesman of the NLD party and a member of Suu Kyi's legal defence team, said the government had yet to reply to her letter.

Lawyers for Suu Kyi said on Friday they had lodged an appeal against herhouse arrest with the Supreme Court but expected no rapid decision.

(Writing by Jason Szep; Editing by Alan Raybould and Jerry Norton)

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[ThaungN@aol.com](mailto:ThaungN@aol.com) - Obama tells Myanmar junta to free Suu Kyi--Sun, 15. Nov 2009 16:33:13

AP- <[http://hosted.ap.org/dynamic/stories/A/AS\\_ASEAN\\_US\\_MYANMAR?SITE=CAANR&SECTION=HOME&TEMPLATE=DEFAULT](http://hosted.ap.org/dynamic/stories/A/AS_ASEAN_US_MYANMAR?SITE=CAANR&SECTION=HOME&TEMPLATE=DEFAULT)>

## Obama tells Myanmar junta to free Suu Kyi

By VIJAY JOSHI

Sun, 15. Nov 2009 16:33:13

SINGAPORE -(AP)-President Barack Obama on Sunday told Myanmar's junta to free pro-democracy leader Aung San Suu Kyi during an unusual face-to-face interaction with a top leader of the ruling military.

Obama delivered the strong message during his summit with leaders of 10 Southeast Asian nations, which included Myanmar Prime Minister Gen. Thein Sein.

White House press secretary Robert Gibbs told reporters that Obama called on Myanmar to free his fellow Nobel Peace laureate Suu Kyi and other political prisoners, and end oppression of minorities.

"Obama brought that up directly with that government," Gibbs said, indicating that the president addressed Thein Sein.

For decades, Western governments have avoided direct contacts with leaders of Myanmar because of the regime's poor human rights record and suppression of democracy.

A joint statement issued after the summit — the first ever between a U.S. president and the Association of Southeast Asian Nations — devoted a paragraph on Myanmar, a major irritant in relations between the two sides.

But the statement did not call for the release of political prisoners, including Suu Kyi, who has spent 14 of the last 20 years under detention by the military regime. It only urged Myanmar to ensure that the elections it intends to hold in 2010 are "conducted in a free, fair, inclusive and transparent manner."

However, a direct appeal from Obama carries more weight as he is the most powerful leader to have conveyed the message directly to a top Myanmar official.

Thein Sein did not address leaders' concerns about Suu Kyi, said Malaysian Prime Minister Najib Razak. "We expected a bit more but it was not forthcoming. We hope (democracy) ... in Myanmar will become a reality sooner than later," he told reporters.

He said a reference to Suu Kyi was not included in the statement because there was no consensus.

White House aides said ASEAN was unlikely to include an explicitly critical statement on one of its members, since it would amount to Myanmar criticizing itself. That's why Obama raised the issue directly in his remarks to the group, said the aides.

Obama, in a broad policy speech in Tokyo on Saturday, also made a point of mentioning Suu Kyi by name.

Before the summit, the 11 leaders gathered for a photo shoot for a few minutes, but Obama and Thein Sein stayed far from each other and made no contact of any sort.

The Myanmar government has said the 2010 elections are another step toward democracy, but has not clarified whether Suu Kyi will be allowed to participate. The junta refused to honor the result of the last elections in 1990 when Suu Kyi's party won by a landslide.

Although the United States recently eased its policy toward Myanmar by initiating talks with the generals, it has made clear economic sanctions won't be lifted unless Suu Kyi is released.

Earlier this month, two senior U.S. diplomats went to Myanmar for talks, and also had a private meeting with Suu Kyi. It was the highest-level U.S. visit to Myanmar in 14 years.

Sunday's U.S.-ASEAN summit — held just after the 21-nation Asia-Pacific Economic Cooperation forum — is the outcome of the new thinking in Washington that ignoring Myanmar will not yield any results, and relations with Southeast Asia should not be held hostage by the junta.

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Tin Kyi <[mtinkyi7@yahoo.com](mailto:mtinkyi7@yahoo.com)> - NLDmembersnSupportersofCRPPnNLDnDASSK@yahoogroups.com, Wed, 11. Nov 2009 20:37:17

**SINGAPORE (AP)** - <<http://www.google.com/hostednews/ap/article/ALeqM5guSoils3M8NmCUsy6YLOUln-IzyAD9BT99T00>>

## Clinton: No conditions on Myanmar for better ties

By VIJAY JOSHI, Associated Press Writer – Wed Nov 11, 5:41 am ET

**SINGAPORE (AP)** – U.S. Secretary of State Hillary Rodham Clinton said Wednesday that Washington will not impose new conditions on Myanmar's junta in exchange for better relations, but will not lift sanctions until it makes progress on democracy.

Clinton's comments reflect an easing of U.S. policy on Myanmar, which has been ruled by the military since 1962. The junta has been widely criticized for holding pro-democracy leader Aung San Suu Kyi, a Nobel Peace Prize laureate, under detention.

Clinton, who met Wednesday with the foreign ministers of Asia-Pacific countries ahead of a regional summit, said she "reiterated that U.S. sanctions will remain in place until we see meaningful progress in key areas."

She told reporters that China, India and the 10-nation Association of Southeast Asian Nations also must play a greater role in pushing Myanmar's junta toward democracy.

Asked if the United States has set any conditions, including the return of Suu Kyi to political life, for improving relations with Myanmar, Clinton made it clear that the U.S. is now committed to engaging the generals rather than ostracizing them.

"This has to be resolved within the Burmese people themselves. We are not setting or dictating any conditions," she said. Myanmar is also known as Burma.

But a senior U.S. official later said that Suu Kyi's release and return to politics would be "an essential precondition to move forward." The official spoke on condition of anonymity because he was discussing internal administration thinking.

Last week, two senior U.S. diplomats went to Myanmar for talks with the junta and also had a private meeting with Suu Kyi. It was the highest-level U.S. visit to Myanmar in 14 years.

Clinton said although the visit was constructive, "there is a lot of work to do. We have no illusions that any of this would be easy or quick."

On Sunday, President Barack Obama will attend the first-ever meeting of U.S. and ASEAN leaders on the sidelines of the Asia-Pacific Economic Cooperation summit. He is to sit at the same table with Myanmar Prime Minister Gen. Thein Sein.

The Myanmar government has said it intends to hold elections next year but has not clarified whether Suu Kyi will be allowed to participate.

The junta refused to honor the result of the last elections in 1990 when Suu Kyi's party won by a landslide. Suu Kyi has spent 14 of the last 20 years in detention, and remains under house arrest.

Clinton said the U.S. wants to create the opportunity for the people of Myanmar to have "free and credible elections" next year.

"This is a very challenging situation as many of the countries can attest but the U.S. is committed to moving forward," she said.

After the U.S.-ASEAN meeting, the leaders are expected to issue a joint call urging Myanmar to hold "free, fair, inclusive and transparent" elections.

"The statement we're trying to make here is that we're not going to let the Burmese tail wag the ASEAN dog," Jeffrey Bader, a National Security Council official, told reporters in Washington, D.C.

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Burma News - 13 November 2009 - "Burma\_news" <[burma\\_news@verizon.net](mailto:burma_news@verizon.net)>-Sat, 14. Nov 2009 02:42:09

**AFP – 13 November 2009** <<http://www.nasdaq.com/asp/stock-market-news-story.aspx?storyid=200911130017dowjonesdjonline000003&title=myanmars-suu-kyi-appeals-to-top-court-over-house-arrest---lawyer>>

## Myanmar's Suu Kyi appeals to top court: lawyer

AFP – 13 November 2009

YANGON – Myanmar pro-democracy leader Aung San Suu Kyi Friday lodged an appeal with the military-ruled country's

highest court against her extended house arrest, her main lawyer said.

"We submitted the appeal petition to the supreme court. Now we must wait to find out whether the court will agree to hear the case," Kyi Win, the head of Suu Kyi's legal team, told AFP outside the court.

"We hope for the best," Kyi Win said.

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THE BURMANET NEWS -November 17, 2009 Issue #3842 -"Editor" <editor@burmanet.org> -<www.burmanet.org>

The Irrawaddy - Newsletter for Tuesday, November 17, 2009 - <news@irrawaddy.org> - <http://www.irrawaddy.org/article.php?art\_id=17237>

## Irrawaddy: Possible Release of Suu Kyi Cheers Political Prisoners- By KYI WAI - Tuesday, November 17, 2009

RANGOON — A 73-year-old mother broke into tears when she heard the message from her son, Tun Tun Oo, who is in Meik-Hitla Prison, one of thousands of political prisoners in Burmese jails.



Family members of prisoners wait for the release of their loved ones in front of Rangoon's Insein prison gate in September. (Photo: Reuters)

Tun Tun Oo told his mother not to worry about him, and "sooner or later, Daw Aung San Suu Kyi will be free."

"My son preferred to talk about Daw Aung San Suu Kyi's freedom rather than his own," she said, holding back more tears. "He's said repeatedly that only Aung San Suu Kyi can bring better times to Burma."

After news reports appeared recently saying that the regime might release Suu Kyi, people across Burma—and in prisons—have hoped the news is true, and not just another tactic by the military government to buy time before the 2010 election.

The Associated Press news agency reported on Nov. 9, that a senior Burmese diplomat said the junta will release Suu Kyi to take part in the reorganization of her political party.

The wife of a political prisoner in Kalay Prison said, "I told my husband, and he was very happy. He didn't ask about home immediately, but he asked about more Suu Kyi news and information about the NLD. He asked me to give him details about his colleagues who are not in prison."

She said she knew her husband wanted such news, and she had prepared magazines and journals to give to him, since authorities now allow prisoners to read the news in prison.

"They don't have access to radio, so they don't know the latest news," she said. "He told me to bring news. He wants it more than food and medicine. He thrives on it," she said.

Similarly, a family member of political prisoner Shwe Maung, who is bedridden in Pyapon Prison with a chronic illness, told The Irrawaddy that his morale improved noticeably when he heard the news of her possible release.

"His is suffering. He can't speak much, and he can't walk, but when he heard the news, he started feeling better," said a family member.

Rangoon tea shops, popular gathering places for regular gossip and the sharing of information with friends, have been buzzing with speculation about Suu Kyi's release, and the neighborhood where her compound is located has seen more visitors and tourists.

"Since the news came out, more people are coming to the corner of University Avenue [where Suu Kyi lives], and frequenting teashops and restaurants close to Sayar San Road," said a resident who lives on University Avenue.

A Rangoon journalist said: "Some people believe she could be freed, but it will take time, while others have suspicions that the regime is just playing on the news to please the US. Nevertheless, it is obvious everybody wants to see her free."

The Thailand-based Assistance Association for Political Prisoners-Burma has estimated that there are 2,100 political prisoners in Burma.

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The Irrawaddy, news@irrawaddy.org Newsletter for November 13, 2009 - Saffron Mail Letter, 18. Nov 2009 - green leave <greenleave2007@gmail.com>

**The Irrawaddy - Opinion – COMMENTARY -**

# Climate Change and Aung San Suu Kyi

By **AUNG ZAW**

Friday, November 13, 2009 - <[http://www.irrawaddy.org/opinion\\_story.php?art\\_id=17213&Submit=Submit](http://www.irrawaddy.org/opinion_story.php?art_id=17213&Submit=Submit)>

The regime in Burma is like climate change—if you don't contain it now, it could be catastrophic.

Seeing Burma going nowhere over the past decades, friends and foes of the regime have reached the consensus that the country needs to make meaningful progress.

To achieve momentum in the land of "standstill," we need some energy and a shakeup.

Washington's new Burma policy is indeed shaking things up. However, we must be realistic—external forces can only inject a dose of fresh air into political dynamism in Burma. The plain fact is that change must come from within. So we'd better not to wait but make a move of our own.

US Assistant Secretary of State Kurt Campbell's statement following his visit to Burma and the briefing he gave on his talks there received positive feedback not only in Burma but also in European and Asean capitals.

There's no doubt that the new US policy is comprehensive. It covers Burma's pressing issues, including ethnic nationalities, democratization, the 2010 election, the need for national reconciliation and political dialogue, the problem of narcotics and security questions. More importantly, the US has no plans to lift sanctions until it sees progress in these key areas.

The new policy no doubt injected positive energy and some rare hope in Burma. The visit of two high ranking US diplomats also created a good impression, although we all know that it will be a long and difficult process.

US Secretary of State Hillary Clinton made it clear that there is a lot of work to do on Burma, saying: "We have no illusions that any of this will be easy or quick."

We all know that no one has the magic pill to cure Burma's ills.

In a message directed at the principal stakeholders, regime leader Snr-Gen Than Shwe and pro-democracy icon Aung San Suu Kyi, Clinton said Burma's problems must be resolved by the Burmese people themselves.

It could be a win-win situation if Than Shwe and Suu Kyi wanted to make the most of the positive energy released by the new US initiative and its policy of direct engagement.

It is understandable that many are deeply skeptical about the sincerity of Than Shwe and the slow pace of political progress in Burma. If Than Shwe took a pragmatic approach, however, he could make the next move and strike a deal with Suu Kyi.

The paramount leader of the regime has delivered little of substance in the past two decades. Nonetheless, we all know that the election in 2010 will be his personal exit strategy. He needed a safe passage out of the political arena.

This can be an opportunity for Suu Kyi. She could demonstrate that she is pragmatic and a deal-maker, too. She could show that she is ready to help the national reconciliation and political process to move forward.

Since the mockery trial earlier this year, Suu Kyi is back in the political limelight. She has won enormous support from the international community and her popularity inside the country has no doubt surged.

There are reports in Rangoon that Suu Kyi, who has held talks with Than Shwe in the past, is now asking for further meetings. Recently, she expressed her gratitude to Than Shwe for allowing her to meet diplomats and US officials.

Her party, the National League for Democracy (NLD), is planning to release an important statement for the nation soon, the party spokesman said. How important for the nation the statement will prove to be remains to be seen.

Political pundits say the NLD statement may include Suu Kyi's stance on western sanctions and the 2010 election. This indicates that Suu Kyi may make a meaningful and pragmatic offer to Burma's paramount leader, who wants the Lady to show "respect" and "good behavior."

A statement by Suu Kyi and her next moves should spell out her own "climate change" policy.

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**The Irrawaddy** NEWS ANALYSIS - Newsletter for November 24, 2009 - [news@irrawaddy.org](mailto:news@irrawaddy.org)

## Selection Time Precedes Election Time in Burma

By **AUNG ZAW** Tuesday, November 24, 2009 - [http://www.irrawaddy.org/article.php?art\\_id=17279&page=1](http://www.irrawaddy.org/article.php?art_id=17279&page=1)

Although Burma's military regime has announced no election law nor declared the date of the poll it plans to hold in 2010, preparations appear to have begun in Naypyidaw.

Informed sources suggest that potential candidates for president, vice-president, commander-in-chief of the armed forces and defense minister have been chosen.

The current list may yet be modified before the election and some potential candidates in the list could be removed. All depends on the regime leader Snr-Gen Than Shwe, who still calls the shots.

Than Shwe, who is in his late 70s, and his number 2, Dep Snr-Gen Maung Aye, who is only slightly younger, will retire soon after the election. Informed sources said that they are building lavish new homes in Naypyidaw for their retirement.

However, before vacating the throne, Than Shwe will make sure he and his family can live in safely, leaving his trusted officers in high positions to ensure security.

Than Shwe has reportedly already endorsed the junta's No 3, Gen Thura Shwe Mann, joint chief-of-staff in the armed forces, to become president of post-election Burma.

According to sources close to the military elite, Shwe Mann, 62, will be nominated by the representatives of the military in the future Senate and House, to be formed after the planned 2010 election.

The military will receive 25 percent of the seats at the village, township, state, regional and district levels in the new governing body, according to the 2008 Constitution.

There will be three nominees for the presidency—one from the Amyotha Hluttawa (Nationalities Parliament or Senate), one from the members of the Pyithu Hluttaw (People's Assembly or House) and one from the military contingent of the two Hluttaws. The Senate and the House will then vote to choose the president.

Shwe Mann, a protégé of Than Shwe, has a reputation of being down to earth and a good listener, but he has yet to show his teeth on a broad range of social, economic and political issues. His vision of Burma's future is unknown.

However, Shwe Mann increasingly oversees regular meetings on political and security affairs with high-ranking military officials in Rangoon and Naypyidaw—perhaps a further sign that Than Shwe will take a back seat after the election.

Shwe Mann and his wife are close to Than Shwe's family on a personal level, undertaking shopping trips together to Singapore.

Recently, Shwe Mann was the subject of extensive news coverage focusing on his secret mission to North Korea in November.

According to the Constitution, one of the duties of the new president will be to head the National Defense and Security Council, which has the power to declare a state of emergency and nullify the Constitution.

Than Shwe's choice for one of the two proposed vice-presidents, according to informed sources, is Maj-Gen Htay Oo, the minister of agriculture and irrigation and a key leader of the Union Solidarity and Development Association (USDA), the junta-backed mass organization.

Htay Oo recently visited Japan—displaying, according to military sources, all the qualities of a politician rather than an army officer.

The choice of the second vice-president is likely to fall to an ethnic leader. It's worth recalling that Burma's first and second presidents were Shan and Karen.

Analysts ponder the question of who will become commander-in-chief of the armed forces.

Than Shwe currently holds Burma's most powerful position in the armed forces and analysts say he will hand this position over only to his most trusted ally.

There appear to be plenty of subordinates who could fill the shoes.

They include Lt-Gen Hla Htay Win, Maj-Gen Ko Ko, Maj-Gen Tin Ngwe and Maj-Gen Kyaw Swe. All are close to Than Shwe and Dep Snr-Gen Gen Maung Aye, the current army chief and deputy to Than Shwe.

Maj-Gen Tin Ngwe is said by analysts to be the front runner for the post of commander-in-chief of the armed forces. He recently accompanied Than Shwe when he made an official visit to Sri Lanka.

Born in Nyaung-Oo, in the central heartland of Burma, Tin Ngwe attended the Defense Services Academy Intake 22, together with Kyaw Swe, later serving as G-1 in the defense ministry. He is known to be loyal to Than Shwe and Shwe Mann.

According to the new Constitution, the commander-in-chief will control the ministries of defense, border affairs and home affairs, exercising wide executive powers.

Analysts also tip Lt-Gen Myint Swe, a Than Shwe protégé, as a possible candidate for the post of defense minister. He attended the 15th intake of the Defense Services Academy in 1971 and is currently commander of the Bureau of Special Operations 5.

Myint Swe became commanding officer of Light Infantry Division 11, overseeing security in Rangoon, and later served as commander of Southwest Military Region in Bassein, Irrawaddy Division, before moving in the late 1990s to the defense ministry, where he worked directly under Than Shwe and Maung Aye.

This seems to be Than Shwe's "rest in peace" selection plan for 2010. If he executes it smoothly, he will avoid the fate of such top men as Gen Khin Nyunt and the late dictator Gen Ne Win, both of whom ended up under house arrest.

Analysts say Than Shwe wants to make sure the 2010 election provides him and his family with a safe exit strategy. That entails leaving his trusted aides at the helm—and that means the country will continue to be run by the military.

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The Irrawaddy Newsletter November 20, 2009 - [news@irrawaddy.org](mailto:news@irrawaddy.org)

**The Irrawaddy** - <[http://www.irrawaddy.org/article.php?art\\_id=17260&Submit=Submit](http://www.irrawaddy.org/article.php?art_id=17260&Submit=Submit)>

## Children's Rights Celebrated in Naypyidaw

By **WAI MOE**

Friday, **November 20**, 2009

The Burmese military junta celebrated the 20th anniversary of the Universal Convention on Children's Rights on Friday in Naypyidaw.

The ceremony surprised many people in the human rights community because the junta is often cited as one of the world's worst regimes in violating the rights of children. The army is regularly accused of conscripting child soldiers.

A non-binding resolution approved on Thursday by the UN Assembly's Third Committee called on the Burmese government to end the recruitment of child soldiers and "to intensify measures to ensure the protection of children from armed conflict."

The UN committee called on the junta to cooperate with the UN special representative for Children and Armed Conflict by granting access to areas where child soldiers are recruited.

According to a report by the US State Department: "Urban poor and street children in Rangoon and Mandalay are at risk of involuntary conscription as child soldiers by the Burmese junta. Thousands of children are forced to serve in Burma's national army as desertions of men in the army rise. Some children were threatened with jail if they did not agree to join the army."

The Burmese army has an estimated 70,000 child soldiers, one of the highest percentages in the world, according to rights' groups. Some are as young as 11 years old. Non-state armed groups also recruit thousands of children as soldiers.

The exile-based Human Rights Education Institute of Burma (HREIB), which monitors children's rights in the country, claimed that the junta recently used child soldiers in military offensives against ethnic minorities.

In a statement on Nov. 9, the group said the military offensive by the regime in the Kokang area of northeastern Burma and Karen State underscored the gravity of the situation.

"Celebrating the convention on children's rights means respecting child rights," said Aung Myo Min, the coordinator of HREIB. "The event in Naypyidaw seems to be a showcase without meaning since the Burmese junta has failed to collaborate with the UN Security Council Working Group on Children and Armed Conflict for four years."

He said that according to the International Labor Organization (ILO), the number of child soldiers in Burma is increasing.

Other abuses involving Burmese children occur in the areas of child labor, human trafficking, healthcare and education.

There are no official statistics on child labor in the country. However, the ILO has estimated that more than 1.1 million Burmese children are economically active. Child laborers are noticeable on the streets and in teashops and markets in Burmese cities.

Burma has one of world's poorest health care systems. The UN International Children's Emergency Fund (UNICEF) has said that infant mortality in the country is unusually high, with one out of 10 live births resulting in death.

"Malnutrition is widespread among children under five with about one-third of children severely or moderately stunted and underweight," according to UNICEF.

The UN says that less than 55 percent of children in Burma complete primary school.

Rights groups say Burmese children work as forced laborers in dangerous jobs in Thailand, China, Bangladesh, Taiwan, India, Malaysia, Korea, Macau and Japan. Oftentimes, the children are exploited in the sex industry.

Independent researchers estimate that at least 20,000 Burmese children work in Thailand alone.

"Burmese children in Thailand are subjected to conditions of forced labor as hawkers, beggars, and for work in shops, agriculture, fish processing and other small-scale industries," said the US State Department in its "Trafficking in Persons Report 2009."

"Trafficking in girls for the purpose of prostitution persisted as a major problem, particularly in urban areas. Burma is [also] a destination country for child sex tourism," the report said.

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green leave <[greenleave2007@gmail.com](mailto:greenleave2007@gmail.com)> - 26. Nov 2009 14:37:36 - <[http://www.irrawaddy.org/article.php?art\\_id=17265&page=2](http://www.irrawaddy.org/article.php?art_id=17265&page=2)>

**The Irrawaddy - NOVEMBER, 2009 - VOLUME 17 NO.8** -<[http://www.irrawaddy.org/article.php?art\\_id=17135](http://www.irrawaddy.org/article.php?art_id=17135)>

## **Above the Law** By **ARNOLD CORSO** Monday, **November 23, 2009**

After decades of military rule, many Burmese are no longer aware that their country had one of the most progressive judicial systems in the region after independence in 1948. Judges had secure salaries and could only be removed for misbehavior or incapacity. The courts were not afraid to challenge the executive, and the Supreme Court proclaimed that the 1947 Constitution should be interpreted in a "liberal and comprehensive spirit." Even at the height of insurgencies against Rangoon in the late 1940s, the Supreme Court ordered police to release men who had been detained illegally.

The slide from a judiciary with integrity to its present role as defender of the military began when the late Gen Ne Win seized power and imprisoned Chief Justice Myint Thein for six years—longer than he imprisoned former Prime Minister U Nu. When Ne Win drafted the 1974 Constitution, he removed any remaining separation between the judiciary and the government. He packed the Council of People's Justice, which replaced the Supreme Court, with members of the Burma Socialist Programme Party. The Constitution required the court to "protect the socialist system" rather than the rights of Burmese citizens.

Although the military revived the Supreme Court in 1988, Human Rights Watch maintains that judges still "serve at the whim of the SPDC and must follow the directives of the military."

As the world observed this past summer during Aung San Suu Kyi's trial, judges will silence defense attorneys and refuse to allow witnesses to testify. They take orders from military intelligence to manipulate proceedings against political dissidents, such as the 300 democracy activists who were given lengthy prison sentences by the courts at Insein Prison last November. In commercial litigation, judges are known to auction off decisions to the highest bidder.

The 2008 Constitution will not significantly improve Burma's corrupted judicial system. The Constitution separates the judiciary from the rest of government only "to the extent possible." It allows the president or the Hluttaw, the Burmese parliament, to impeach justices for crimes as well as for vague offenses like "misconduct" and "inefficient discharge of duties." Furthermore, the Constitution only requires the support of a quarter of members from either chamber of the Hluttaw to initiate impeachment proceedings, so military members in parliament alone could threaten judges with impeachment unless they agreed to the military's agenda.

The 2008 Constitution also created a new Constitutional Tribunal to interpret and decide cases concerning constitutional law. This new body will be no more independent than other courts. Appointed proportionally by the president and the speakers of the two Hluttaw chambers, its nine justices serve for five years, ensuring compliance to military wishes by those who wish to be reappointed. An additional twist is that several government officials, including the president and speakers of the Hluttaw, can directly request the tribunal to rule on any part of the Constitution.

The National Convention never publicly explained why it established the Constitutional Tribunal. During genuine political transitions, such a court might demonstrate a commitment to democracy. For example, during South Africa's transition from apartheid in the early 1990s, the African National Congress agreed to a strong constitutional court in order to reassure white Afrikaner and Zulu minorities that they would be treated fairly. In Burma's case, however, where the court is controlled by a military that continues persecution of dissidents and ethnic minorities, suggesting that the Constitutional Tribunal is part of a commitment to democracy and or a guarantee to protect minority rights seems implausible.

From British colonialism through parliamentary democracy to socialism and military rule, Burma has accumulated many obsolete and contradictory laws that may not accord with the 2008 Constitution. Other developing countries have found it easier to rely on courts to determine the validity of older laws rather than review the entire legal code. Under Suharto, for



example, Indonesia established administrative courts to remove older regulations that conflicted with laws parliament passed to attract foreign investment. Likewise, the Constitutional Tribunal's more likely role after the elections will involve removing old laws that conflict with the new Constitution.

The Constitutional Tribunal will also decide cases between Burma's political factions after the elections. The 2008 Constitution creates several centers of power, such as the president, the speakers of the Hluttaw, the commander in chief and the military members of the Hluttaw, the chief justice, and chief ministers of states and regions.

Burma's senior generals are known to be competing for influence and patronage, so even if the Tatmadaw's allies control all these posts, disagreements will likely arise over the new Constitution. Rather than split the leadership, these officials can refer constitutional disputes to the Constitutional Tribunal, thereby resolving them peacefully and maintaining unity.

Finally, Burma's Constitutional Tribunal will help the Union government control local officials and ethnic minority groups who might be difficult to supervise directly. In neighboring China, for example, where Beijing lacks the resources to closely monitor distant provincial governments, the central government has relied upon citizens to bring lawsuits in courts to punish wayward local officials who violate national laws.

Given Burma's ethnic diversity, some form of federalism seems inevitable. Indeed, the new Constitution establishes a federal system in all but name. State and regional Hluttaws can regulate local commerce, agriculture, and cultural rights.

On the other hand, the military considers the very idea of "federalism" anathema, fearing it would lead to national disintegration. Thus the Constitutional Tribunal, which is controlled by the Union, can strike down any law passed by a state or regional Hluttaw if it infringes upon the interests of the central government or the military.

Burma's judicial system has fallen a long way, from being an ardent protector of constitutional rights to a rubber stamp protecting military elites.

The National Convention designed the Constitutional Tribunal to serve as an important, if underappreciated, part of the military's plan to maintain its influence. The court is likely to revise Burma's older laws, resolve disputes between politicians, and prevent the emergence of robust federalism. In short, the Constitutional Tribunal will act as a "hidden hand" to ensure that Burma remains a "discipline-flourishing democracy."

Arnold Corso (pseudonym) is a legal expert who has worked with human rights organizations in Southeast Asia.

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## opinion: **Burma's minorities must not be overlooked**

*Before there's more dialogue with General Than Shwe, human rights abuses against ethnic minorities must cease.*

By **Richard Sollom** — Special to GlobalPost - <<http://www.globalpost.com/dispatch/worldview/091125/opinion-burma-minorities>>

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COX 'S BAZAAR, Bangladesh and CAMBRIDGE, Massachusetts — Twenty years after the November 1989 fall of the Berlin Wall, a repressive barricade is being quietly raised in the jungles of Burma.

The Burmese military junta has begun erecting a concrete and barbed-wire fence along its western border with Bangladesh, allegedly to prevent smuggling, but more probably to prohibit the return from Bangladesh of some 200,000 Rohingya migrants — a persecuted Burmese Muslim minority group who are now stateless.

Burma's new barrier symbolizes the past five decades of military rule and isolation from the free world. It should also remind the West of the brutal repression of ethnic minorities who abide mass atrocities behind Burma's barricade.

As principal investigator for Physicians for Human Rights, I returned last week from a three-week trip to Burma and its neighboring countries — Bangladesh, India and Thailand — where I met with Burmese civil society and victims of human rights violations. Our investigation revealed ongoing crimes against humanity in this country where murder, forced displacement, slave labor, conscription of child soldiers, torture and rape comprise the military's arsenal of rights abuses inflicted against ethnic minorities.

In Cox's Bazaar, Bangladesh, I interviewed a 72-year-old Buddhist monk whom Burmese military imprisoned and tortured for the past two years after he had led the peaceful demonstration that sparked the Saffron Revolution — the name of which stems from the monks' colorful monastic robes.

In Aizawl, India a group of Christian women who fled Chin State in Burma this year reported to me unspeakable sexual violence they suffered at the hands of the Tatmadaw, or Burmese military, during its roundup of forced laborers.

In the Thai border town of Mae Sot, I met a 14-year-old landmine survivor whose left leg was blown off just days earlier

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while tending his family's four water buffalo just across the border in Karen State, Burma.

Such egregious breaches of human dignity are not isolated incidents. They highlight the military's widespread and systematic campaign to crush dissent by imprisonment, torture, enslavement and the silencing of ethnic minorities such as the Chin, Karen, Kokang, Rakhine, Rohingya and Shan. No group is spared.

Burma's de facto president, the reclusive Senior General Than Shwe, seized power 20 years ago while promising free and fair elections in 1990. The opposition National League for Democracy (NLD) trounced the military-backed State Law and Order Restoration Council (SLORC) garnering 59 percent of the vote and 80 percent of the seats in the People's Assembly. SLORC dismissed the results, and subsequently detained NLD's Prime Minister-elect Aung San Suu Kyi.

The merciless head of Burma's military junta will not brook a second defeat at the polls next year. He has hence stepped-up militarization this past year resulting in forced relocation and attendant rights abuses. Than Shwe's Tatmadaw has locked up 2,200 political prisoners, destroyed more than 3,200 villages and forced up to 3 million civilians to flee — all of which make it nearly impossible for the NLD and other political parties to organize prior to upcoming elections.

President Obama has recently embarked on a new policy of engagement with the Burmese military claiming targeted sanctions have failed to reform the repressive regime. Assistant Secretary of State for East Asian and Pacific Affairs Kurt Campbell met this month in the capital city Naypyidaw with his Burmese counterpart in a second round of dialogue, which began this September in New York. And Obama himself met recently with ASEAN leaders, including Burma's Prime Minister Thein Sein, in Singapore.

For such diplomatic initiatives to succeed, the Obama administration must establish benchmarks and present credible consequences should its new strategy of engagement fail to produce movement toward real political change within Burma. The minimum price for continued dialogue should be the unconditional release of all political prisoners and the immediate cessation of rights abuses against ethnic minorities — without which there can be neither free nor fair elections in 2010.

By meeting with the Americans, Than Shwe has already procured what he craves most — international legitimacy — and revoking it is perhaps the best hope for a shift in Burma. If these series of high-level diplomatic talks do not result in any significant positive change by the military junta, the United States should fully implement tougher sanctions already allowed by the 2008 Burmese JADE Act and press the U.N. Security Council to launch a commission of inquiry into crimes against humanity in Burma.

Burma's military regime has maintained its intransigence for decades in the face of outside demands for change. As the United States tries to alter that posture, it must not forsake justice and accountability for toothless diplomatic engagement.

Richard Sollom is Director of Research and Investigations at Physicians for Human Rights in Cambridge, Massachusetts, where he directs public health research and human rights investigations in areas of armed conflict.

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