THE ISSUES....

UN SPECIAL RAPPORTEUR

For nearly a decade, the annual meeting of the United Nations General Assembly has provided a forum for discussion and debate on the human rights situation in Burma. Although a signatory to the UN Charter and various UN Conventions, the government of Myanmar continues to be criticized for numerous violations of basic human rights against its own people. So much so that since 1992, a UN Special Rapporteur has been assigned to report on conditions inside the country. Despite the provision of the 1997 UN Resolution calling upon the government to ensure access to the Special Rapporteur, his repeated requests for permission to visit Burma over the past year and a half have been ignored. Here are excerpts from his report and the response by the Burmese regime.

IN HER OWN WORDS

Restrictions placed on Daw Aung San Suu Kyi, the head of Burma’s National League for Democracy (NLD), during the past year have not only prevented her from conducting her "weekend talks," but also limited her access to foreign journalists. Telephone lines have often been cut and visits closely monitored, making interviews more and more rare. Freelance television journalist Jeanne Hallacy was one of the few people able to conduct a video interview of the NLD leader during her visit to Rangoon in September, discussing the prospects for dialogue between the democratic opposition and the military as well as the possible roles for ASEAN and the United Nations in that process.

A RESOLUTION OF NATIONS

For the seventh year since 1988, the United Nations General Assembly (UNGA) has passed a resolution on the Situation of Human Rights in Myanmar. Co-sponsored by thirty-one Member States, the resolution was adopted by consensus in the Third Committee of the UNGA on November 24, 1997. The resolution takes note of the continuing violations of human rights and the on-going repression of the democratic opposition. In his response to the Third Committee, Ambassador U Win Mra, Representative of the Delegation of Myanmar to the UN, refutes points raised in a resolution he describes as "not acceptable."
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S L O R C SPEAKS
This report was submitted to the members of the 52nd Session of the United Nations General Assembly (UNGA) by Mr. Rajsoomer Lallah, UN Special Rapporteur of the Commission on Human Rights, in accordance with the provisions of the 1997 UNGA Resolution on Burma.
The remains of a refugee encampment following a major Burmese military offensive against ethnic Karen in January, 1997.
ACTIVITIES OF THE SPECIAL RAPPORTEUR

Since his appointment in June 1996 and, despite the request renewed in latest resolutions of the General Assembly and the Commission on Human Rights that he have direct access to the Government and people of Myanmar, the Special Rapporteur has so far not been allowed by the Government to visit the country and to see the situation on the ground.

It is significant to note that in their responses made after the presentation of the reports of the Special Rapporteur to the General Assembly in November 1996 (A/51/466) and to the Commission on Human Rights in April 1997 (E/CN.4/1997/64), the representatives of the Government of Myanmar in New York and Geneva indicated that the Special Rapporteur would have the opportunity to visit Myanmar at a mutually convenient time.

Under those circumstances, the Special Rapporteur wrote for the fourth time to the Government of Myanmar seeking its cooperation and requesting its authorization to visit the country. In his latest letter, dated 4 June 1997, the Special Rapporteur referred to his previous letters dated 9 and 26 July 1996 and 9 January 1997. The Special Rapporteur again expressed his continuing desire to have the cooperation of the Government in order to allow him to discharge his mandate fully. He reiterated his wish to visit Myanmar as soon as possible to examine the situation in situ and to meet with appropriate governmental representatives as well as other persons relevant to the fulfillment of his mandate, adding that "such a visit would greatly assist in the establishment of a fruitful and constructive dialogue." There has again been no response to his letter.

The Special Rapporteur wishes to express his regret that although he has for more than a year remained ready to visit the country and to examine and discuss the situation in situ, he has yet to be allowed by the Government of Myanmar to see the situation on the ground, despite the requests expressed in the resolutions of the General Assembly and the Commission on Human Rights.

Notwithstanding the absence of cooperation on the part of the Government of Myanmar, the Special Rapporteur, through his missions and consultations, has continued to receive much assistance and information from governmental, intergovernmental and non-governmental sources. He has also received information from individuals connected in one way or another with the situation in Myanmar. He has further received several well-documented reports describing the situation in Myanmar, particularly in relation to the matters over which the General Assembly and the Commission on Human Rights have expressed concern.

RIGHTS PERTAINING TO DEMOCRATIC GOVERNANCE

In the absence of any improvement in the overall situation of human rights in Myanmar, the Special Rapporteur must state with regret that his previous conclusions relating to the causes of human rights violations in Myanmar remain valid. The Special Rapporteur had previously emphasized that the core of the problem in Myanmar lay in the absence of respect for rights pertaining to democratic governance insofar as that absence implied a structure of power that was autocratic and accountable only to itself, thus inherently resting on the denial and repression of fundamental rights.

The politico-legal structure of Myanmar has not changed in the past year, and the exercise of power under such a structure continues to be used in a manner and to an extent that persistently violates basic and universally accepted civil and political rights. The laws in place in Myanmar, on which the Special Rapporteur commented in his previous reports, continue to be used together with a host of executive orders to criminalize many aspects of normal civilian conduct, especially political activities. In that regard, the Special Rapporteur continues to receive information that gives rise to grave concerns.

With respect to restrictions on political parties, reports indicate that in Myanmar they are subject to intense and constant monitoring by the State Law and Order Restoration Council (SLORC). In that regard, the Special Rapporteur received several reports of acts aimed at restricting the activities of political parties in addition to the existing SLORC orders, including one prohibiting the assembly of five or more persons, which remains in effect. Members of political parties are not allowed to leave their locality without prior permission from the authorities, otherwise they risk arrest and interrogation by the police or military intelligence agents.
Numerous reports indicate that although Daw Aung San Suu Kyi is no longer under house arrest, her freedom of movement, association and expression nevertheless continue to be severely curtailed by the presence of military roadblocks outside her residence. The objective of the roadblocks is to prevent or deter people from seeing her and to put a stop, since the end of last year, to her weekly meetings and addresses to the members of NLD, its sympathizers and the citizens of Myanmar generally. The reports further indicate that she is subject to vilification and unsubstantiated allegations by certain officials of the regime and the government-controlled media without the possibility of defending herself. Indeed, it would appear that even watching a videotape portraying her could amount to a criminal offense.

Gatherings of political parties are routinely repressed; NLD members and their sympathizers are prevented from attending the gatherings. They are methodically arrested either on their way to such meetings, as mentioned above, or after attending the gatherings.

According to reports from a number of sources, the harassment and arrests culminated during the third week of May 1997 when more than 300 NLD members were arrested as a pre-emptive attempt by Myanmar authorities to prevent a party congress commemorating the seventh anniversary of the NLD victory in the 1990 elections. Those arrested included at least 60 elected Members of Parliament and senior party members. Many of the arrests took place in the Mandalay and Sagaing divisions as the NLD members were preparing to travel to Yangon to attend the congress. In other parts of the country, such as Ayeyarwadey Division and Shan, Mon and Kayin (Karen) states, it was further reported that a dozen others were detained in their homes and have been told that they would be arrested if they attempted to go to Yangon. The congress was due to take place on 27 and 28 May 1997 at the home of the NLD General Secretary, Daw Aung San Suu Kyi.

On 27 May 1997, the Chairman-Rapporteur of the Working Group on Arbitrary Detention, together with the Special Rapporteur, sent a letter to the Myanmar Minister for Foreign Affairs drawing the attention of the Myanmar authorities to information received and requesting information concerning the situation....

On the same day, the officer-in-charge of the Office of the United Nations High Commissioner for Human Rights issued a press release expressing his deep concern at reports of detentions and arrests of NLD members and called upon the Government of Myanmar to respect fully international norms of human rights and the principles enshrined in the Universal Declaration of Human Rights.

The Myanmar authorities questioned the validity and objectivity of the sources of the information. According to Myanmar officials, most of the information provided was not accurate because it emanated from sources hostile to the Government.

The Myanmar authorities questioned the validity and objectivity of the sources of the information. According to Myanmar officials, most of the information provided was not accurate because it emanated from sources hostile to the Government. The Myanmar authorities denied that anyone had been arrested or detained. In that regard, the Office of the United Nations High Commissioner for Human Rights received a letter dated 18 June 1997, the following extracts of which speak for themselves:

"The NLD’s so-called election anniversary was held in Yangon on 22 and 26 May 1997. The meeting was chaired by NLD Central Executive Committee members U Aung Shwe and U Tin Oo. Seventy Party members attended the meeting. The points from the annual party were discussed during the course of the meeting and the outcome of the deliberations were to be circulated to party members after 28 May 1997.

"No preparations had been made inside Daw Aung San Suu Kyi’s compound or any other place to hold meetings on 27 and 28 May 1997."
"No official request was put up to the authorities concerned by the NLD officials to hold such meetings. However, invitations were distributed by NLD not only to its members, but also to diplomats and journalists.

"About 80 NLD members gathered at four different points on the morning of 27 May 1997. The embassies of the United States, United Kingdom, Australia and Italy sent representatives to attend the function.

"The NLD members and the embassy officials were briefed by the authorities that no official request was made by the NLD officials to hold such meetings and that no preparations have been made at Daw Aung San Suu Kyi’s residence for those gatherings. The authorities, after explaining the situation, requested them to leave the area.

"No one had been arrested by the authorities. But there were instances where local authorities had requested some invited party members to refrain from taking a course of action which is geared to create chaos and instability in the country.

"The Government is only trying to maintain law and order as well as stability in the country.

"The situation in Yangon is calm and business is going on as usual."

Distribution of party literature to the public is not allowed, and political parties are generally forbidden to use any means such as videotapes or printing equipment for the reproduction and distribution of their bulletins, pamphlets and statements. In this situation, it is difficult to assume that open discussion can possibly take place in Myanmar. The expression of political views is not permitted unless it is in support of the present military regime...

The Special Rapporteur continues to receive reports alleging that SLORC continues to harass and keep the NLD supporters under pressure by sentencing their members under made-up charges when they decline to resign.

Thus, U Khin Tun was reportedly told by SLORC to resign from his position as Secretary of the NLD organizational committee in Mawbin. He refused to resign and was consequently sentenced to three months in prison.

U Saw U Re was reportedly forced to resign from NLD and also from Parliament and then sentenced to 17 years’ imprisonment.

NLD members who refused to resign and who have not been arrested, and their families, are reportedly facing other harassments, such as being forced to vacate apartments.

U Nyunt Win, an NLD Member of Parliament representing the Yeki constituency, was told by SLORC to resign from his position. Because he refused, he was told by the Town and Village Housing Development Board, which claimed that its action was in accordance with the directive dated 6 November 1996 of the Irrawaddy Division Law and Order Restoration Council, to vacate the State-owned apartment where he and his family lived.

... The Special Rapporteur has received information that on 21 February 1997, in Taungu, Pegu Division, 18 members of the Taungu NLD Township Organizational Committee were taken away by the police and members of the Ward/Village Law and Order Restoration Councils without any reason given. Those taken away were U Myat Thu, U Saw Tun Nwe, U Maung Win, U Myint Thein, U Thet Tun, U Kyaw Win, U Tin Thaung, U Kyaw Myint, U Tun Tin, U Tin Soe, U Pe Win and U Kyaw Win.
Those arrested were taken away in army vehicles on 22 February. According to reports dated 24 February, the arrested people were seen in an army camp near Tabye village in Htandabin township. Later, U Saw Tun Nwe was found dead at a roadside in the vicinity of his native village.

The following members of NLD in Kyaungon township have, according to information received by the Special Rapporteur, been sentenced to prison: U Tin Aung (NLD Member of Parliament for Wakema), U Kyaw Din (Chairman of NLD Organizational Committee), U Ko Wai (Secretary), U Aung Kywe (Joint Secretary), U Win Kyi, U Tun Shwe, U Tin Nyein, U Maung Kan, U Yu Wai, U Pe Tin and Daw Khin Yee are reported to be serving time in Maungmya Jail. They were charged under section 5(e) of the 1950 Emergency Provision Act for having taken a prominent part in the funeral of a one-time member of the NLD Organizational Committee.

Due Process of Law

The Special Rapporteur, in his previous report to the General Assembly (A/51/466, paras. 62 to 71), analysed the notion of due process of law in Myanmar. He came to the conclusion that neither is due process of law respected nor is the rule of law upheld. The information received during the past year confirms that there is consistent failure to respect due process and the rule of law, as the following examples demonstrate.

In January 1997, the trial of 20 people was, according to reports received by the Special Rapporteur, held in a closed session in Yangon and the accused were denied access to legal counsel. The group, which included six NLD members was jailed for seven years for allegedly "inciting students and non-students during December 1996 student demonstrations"...

...Another reported case of an unfair trial has been brought to the attention of the Special Rapporteur. At Insein prison, 22 political prisoners were refused access to legal counsel. There were also reports that beatings and torture were used as a means of obtaining confessions for use as evidence against some of the accused. The prisoners... were charged under section 5(e) of the 1950 Emergency Provision Act for writing and distributing allegedly false information. They all received an additional sentence of seven years with hard labour.

The Right to Form and Join Trade Unions

With respect to the right to form and join trade unions, and notwithstanding the fact that Myanmar is a party to International Labour Organization (ILO) Convention No. 87 of 1948 concerning freedom of association and protection of the right to organize, workers and employees in Myanmar do not enjoy the right to join organizations of their own choice outside the existing structure. Furthermore, such organizations do not have the right to join federations and confederations or to affiliate with international organizations without impediment.

This year again, the situation in Myanmar was examined by the ILO Committee on the Application of Standards at the eighty-fifth session of the International Labour Conference held in June 1997 in Geneva. Regarding the application by Myanmar of ILO Convention No. 87, the Committee took note of the statement of the Myanmar Government representative indicating his Government's commitment to harmonize law and practice with the Convention in promoting and protecting the legitimate rights of all workers...

...The Committee once again expressed its profound regret that it had not received a report from the Government, and that the government representative to the Conference Committee had only repeated what had been said in previous years concerning its intention to apply the Convention without being able to indicate that any specific positive developments had occurred in law and in practice. It recalled that it had been commenting upon the serious incompatibilities between the Government's law and practice, on the one hand, and the Convention, on the other hand, for 40 years...

Forced Labour

...With respect to the prohibition of forced or compulsory labour and notwithstanding the fact that Myanmar since 1955 has been a party to ILO Convention No. 29 concerning forced labour, Myanmar still continues to use such labour....

...At the International Labour Conference in June 1996, the Committee on the Application of Standards noted the persistent failure of Myanmar to implement the Convention, and 25 worker-delegates lodged a complaint against Myanmar under Article 26 of the ILO Constitution.
The complainants alleged that the Government of Myanmar had demonstrated its unwillingness to act upon the repeated calls addressed to it by the supervisory bodies of ILO to abolish forced labour in law and in practice, and that instead the practice of forced labour was becoming more widespread, and the authorities in Myanmar were directly responsible for its increasing use.

At its two hundred sixty-eighth session, in March 1997, the Governing Body decided to refer the complaint to a Commission of Inquiry chaired by Sir William Douglas (Barbados). The Commission's mandate is to consider whether, and to what extent, the alleged violations exist or existed and to make any recommendations it deems appropriate. The Commission held its first meeting in June 1997 to establish its rules of procedure, and is expected to hold formal hearings of witnesses in November 1997 in Geneva.

VIOLATIONS AGAINST ETHNIC MINORITIES

1. Forced displacement

Reports indicated that the effect of the actions of the Government of Myanmar in the ethnic minority areas was to force the relocation of the inhabitants from their traditional and ancestral homeland to relocation sites that were subject to tight military control.

The Special Rapporteur observes that at present, forcible relocations appear to be taking place in two main contexts: as part of development projects and under counter-insurgency operations in ethnic minority regions of the countryside. Although the practice of forced relocation by the military as a means to control the population living in ethnic regions is not new, the scale of such moves increased significantly in 1996, and it is still taking place today, especially in central Shan State and in Kayah State.

Victims of displacement are mostly peasants, including members of indigenous and/or ethnic groups such as the Karen, Karenni, Shan and Mon, who are living in areas of insurgency and victimized by counter-insurgency activities or caught in the crossfire. Most of them have not been officially registered and do not possess any identification cards or other documents. In most cases, it was reported that persons were given at most one week's notice to move and were told that they would be shot if they did not comply. They were forced to leave their piece of land, their crops and most of their animals; much of the property was reportedly stolen immediately or confiscated by SLORC troops.

Beginning in early March 1996 SLORC troops reportedly relocated more than 600 villages, comprising more than 20,000 households, in central and southern areas of Shan State.

Numerous accounts received by the Special Rapporteur indicated that the civilian population living in or near the combat zone was the most susceptible to being forced to move: in those "grey zones" (zones controlled or influenced by the insurgents), the armed forces often resorted to ground searches, destruction and burning of houses and confiscation of property and food, which led the people to move temporarily or permanently.

In April 1997 the seven villages of Wan Phar Sawng, Wan Nawng Kern, Wan Zalai Loi, Wan Ho Nam, Wan Nawng Wo, Wan Kung Parng and Wan Nam Maw Long, all in Laihka township, were reportedly relocated and burned down by SLORC troops.

Since the end of June 1997, as a part of the Myay Lan Sanit campaign, SLORC troops have reportedly burnt down approximately 256 Karenni houses in seven villages in the Mawchhi area...

2. Indiscriminate bombardment of civilian settlements and arbitrary killings

Reports of artillery bombardment of civilian settlements and the burning of villages have been received by the Special Rapporteur on a regular basis since he was first appointed in June 1996. He now has lists of allegedly destroyed villages and ethnic settlements located in many areas (Shan, Kayin and Kayah) of the vast border between Thailand and Myanmar. However, there was a noticeable increase in the receipt of allegations of arbitrary killings of civilians during the summer of 1997.

While the Special Rapporteur had received reports and specific allegations of shelling and bombardments of civilian settlements, the most consistent violation of the right to life is said to stem from the continuing summary and arbitrary executions within the border areas, resulting in the death of large numbers of innocent persons, including women, children and elderly persons. Such killings often take place when relocated people try to go back
to their original villages in order to work their fields or take their possessions.

On 19 April 1997 two women from Kung Kyawng village, Namzarng township, were reportedly raped and killed by seven SLORC troops south of Kho Lam. The two women had gone to tend their farm.

On 4 May Sai Nya Mon was reportedly shot dead by SLORC troops from Nam Mo. Sai Nya Mon had gotten permission from the SLORC troops to work on his farm at his former village of Kun Sai. While he was driving his old bullock cart towards Kun Sai, SLORC troops went after him and shot him dead in a field near the village. The soldiers left the cart and took the oxen back to Nam Mo where they killed them for meat.

On 11 May 15 Palawng villagers of Pha Ngarb village, Namzarng township, were reportedly killed near the village of Nawng Kwai. Five villagers, who had been relocated at Kho Lam, had gone back to their former village of Pha Ngarb with five hired bullock carts to gather their belongings. Their bodies were dumped together in a pile, and all the carts and oxen were taken away by SLORC soldiers.

On 6 June troops led by Major Nyunt Oo arrested 26 people in Pha Lang village, Kunhing District. The people were accused of having relocated without permission. According to the information received, all 26 villagers were tied up and shot dead at close range...

Apart from the allegations of indiscriminate killings and burning of civilian settlements, the Special Rapporteur has continued to receive allegations of other arbitrary killings and extrajudicial executions of persons, either in their villages or after having been taken by the military from the area. General reports have been received stating that all persons are at risk of arbitrary killing on the mere suspicion of being a "criminal" or "sympathizer," or of harbouring or assisting "insurgents." Testimony indicates that some persons who tried to flee were threatened or actually prohibited from doing so. Attempting to flee is said to be interpreted by the authorities as positive proof of participation in or sympathy with the insurgency and of an intention to report on the abuses committed by the army. Others were required to obtain safe-conduct passes or pay high fees at checkpoints for permission to leave. Other sources have reported incidents of women and children being shot at while fleeing in areas near the border with Thailand.

It is further stated that in the course of arrest and detention persons are subject to harsh treatment and torture while being denied access to virtually any form of judicial process.

As a result, there appears to be a widespread, if not universal, fear of governmental authorities in the region.

3. Arbitrary arrest and torture of suspected "insurgents" and "terrorists"

Reports indicate that the people living in Shan State are in constant fear of arbitrary arrest and detention. It is further stated that in the course of arrest and detention persons are subject to harsh treatment and torture while being denied access to virtually any form of judicial process. As a result, there appears to be a widespread, if not universal, fear of governmental authorities in the region.

Reports received refer to the army, Tatmadaw, as responsible for arbitrary arrests and detentions. Large numbers of security checkpoints are said to have been placed in and around the towns and cities of the region. Military patrols are said to move in and out of the border areas arresting civilians when they are so inclined. Testimony indicates that often the distinction between insurgents and non-combatants is not made and that, therefore, the inhabitants of those areas who are suspected of being insurgents or sympathizers of insurgents are subject to indiscriminate torture, beatings and arbitrary arrest.

THE ISSUE OF CITIZENSHIP

In his report to the General Assembly (A/51/466) the Special Rapporteur made some observations on the issue of citizenship. It would be useful to examine the
legislation governing citizenship, if only summarily, in the light of the information that is available, as such examination may raise questions concerning its consistency with internationally recognized norms. The Special Rapporteur notes that he has not had the benefit of discussion with the Myanmar authorities on this issue and that he proposes to do so when he is authorized to visit the country.

The different types of citizenship

Under the 1982 citizenship law there are three types of citizens: full, associate and naturalized.

A full citizen must be able to prove his birthplace and the nationality of his ancestors prior to the first British annexation in 1823, and they must have belonged to an ethnic group settled on the territory before that year.

An associate citizen is a person one of whose grandparents was a citizen of another country. Associate citizenship is thus reserved for former foreign citizens or Stateless persons. One must note, however, that, in accordance with decree No. 3 relating to the citizenship law, the deadline for submission of applications for associate citizenship expired on 15 October 1982, and foreigners and Stateless persons can thus no longer apply for associate citizenship.

Citizenship by naturalization can be granted to a person who can prove that he was born in Myanmar and his parents had entered and resided in Myanmar before 4 January 1948. Persons with one parent who is a full, associate or naturalized citizen and one whom is foreigner, with parents who are both naturalized citizens with one parent who is a naturalized and one who is an associate citizen can also apply for naturalized citizenship. Applicants for naturalized citizenship must be able to speak one of the national languages well.

Obtaining citizenship

While full citizens pass on their citizenship to their children if married to a person holding any form of citizenship, children born of parents who are either both naturalized citizens or one a naturalized and the other an associate citizen do not automatically become citizens, but can apparently apply for naturalized citizenship. The citizenship law does not stipulate the status of children whose parents are both associate citizens, but it would seem that in practice such children would receive associate citizenship more or less automatically.

Regarding applications for citizenship, the only provision still enabling applications is section 8(a) of the 1982 citizenship law, which gives the authorities the possibility to confer in the interest of the State, on any person, citizenship or associate or naturalized citizenship. The decision would thus seem to be completely within the discretion of the authorities, as there is no clear legal right to obtain citizenship upon fulfilling certain criteria.

Revocation of citizenship

All forms of citizenship, except full citizenship may be revoked by the State. Full citizenship can be revoked only if the person acquires the citizenship of another country or leaves Myanmar permanently. Associate and naturalized citizens can also be deprived of their citizenship on a number of other grounds. The grounds for revocation are so widely formulated that they may easily give rise to arbitrariness in application. A person deprived of citizenship cannot, according to article 22 of the citizenship law, apply, to again become citizens. The decision would thus seem to be completely within the discretion of the authorities, as there is no clear legal right to obtain citizenship again.

...The various distinctions that exist in the law of Myanmar regulating citizenship and its effect on the right to vote, to be elected or to have access to public office, and indeed on other rights promulgated in the Declaration and that are common to citizens as well as non-citizens in any given State, such as freedom of expression, movement, association and all the other fundamental rights, would appear to raise serious questions of compatibility with the principles governing the enjoyment of fundamental rights as promulgated in the Declaration.

In Myanmar, only full and naturalized citizens are entitled to enjoy citizenship rights, with the exception of rights from time to time stipulated by the State. All forms of citizenship entail the right to vote, but only full citizens may stand as candidates in elections.
Although not precluded by the citizenship law, an associate citizen cannot in practice own land or fixed property, be educated as a doctor or an engineer or work as a private teacher or for a foreign firm, United Nations agency or foreign embassy or stand for any elected post.

**Citizenship identity cards**

While all citizens are in principle entitled to a passport for travel abroad, the passports remain with the authorities while their holders are staying in Myanmar, and thus cannot be used for identification. Instead, citizens are required to carry identity cards (citizenship cards) at all times.

The identity cards are coloured differently according to the type of citizenship one possesses. The cards must be produced to enjoy a number of basic rights and services: to vote, to buy travel tickets, to stay outside one's ward of residence with friends or family or in hostels, to receive health services or to attend high school or university. Identity cards are routinely checked by the police and the army. The card number is noted in connection with the smallest transaction and is sent to the relevant authorities. In 1990 the identity cards were changed, and now also include mention of ethnic origin and religion. The necessity of mentioning a person's ethnicity and religion in this way remains open to question.

The confiscation of identity cards has also been used by the authorities as a means of harassment of recognized citizens.

On 26 January 1997 two NLD executives, who were staying in the Tawwin guest house in Myaungmya township were searched and had their citizen identity cards confiscated by local authorities. The cards were returned only after they had signed a pledge to return immediately to Yangon. Their meeting with the Chairman of the NLD Irrawaddy Divisional Organizing Committee was thus prevented.

The lack of proof of citizenship in the form of identity cards affects numerous aspects of life of those concerned. First, the right to freedom of movement is restricted. Not only are these persons prevented from travelling abroad, but they cannot even travel outside their ward of residence, as an identity card is needed to register as an overnight guest. The lack of an identity card in addition precludes access to health services and prevents young people from attending high school or university.

**Groups particularly affected**

Many persons belonging to ethnic minorities have no identity cards, even if they would be entitled to full citizenship under the citizenship law. Proving entitlement to citizenship is made difficult by lack of access to written records and the difficulty of travelling to government-controlled areas for registration. Furthermore, government officials are said to be generally unwilling to register persons belonging to minorities.

It is almost impossible for the Rakhine Muslims, or Rohingya, to become registered citizens, in par-
ticular children born in refugee camps. Following the promulgation of the 1982 citizenship law, all citizens were obliged to register for new identity cards. By December 1992, only 845,000 out of 1,200,000 inhabitants of Rakhine State had applied, the lowest percentage in the country. About 30 percent of the relatively few applications made in Rakhine State were either rejected or are still awaiting a decision.

The Special Rapporteur regrets that, in spite of his continuing efforts to obtain the authorization of the Government of Myanmar to visit the country and in spite of the encouraging statements made by the Permanent Representative of Myanmar, both in the General Assembly and in the Commission on Human Rights, he has not so far obtained any response.

Most of the Muslim population of Rakhine State have not been issued citizenship cards under the existing naturalization regulations, and indeed most of them are not even considered so-called foreign residents.

The 1982 citizenship law would in fact seem to be intended to prevent the Rakhine Muslims from being recognized as citizens, as the majority of the group settled in Myanmar after 1823. The law is, however, not always applied, and the Rohingya were permitted to vote and to form political parties during the 1990 elections, which must be seen as a de facto recognition of the status of the Rohingya by the Government.

CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

The Special Rapporteur has unfortunately come to the conclusion, based on his examination of the human rights situation in Myanmar over the past year, that there has been no change in the situation since he submitted his report to the General Assembly in 1996 and to the Commission on Human Rights in 1997 and that his recommendations have gone unheeded by the Government of Myanmar. As a result, the conclusions of the Special Rapporteur in his reports to the General Assembly at its fifty-first session (A/51/466, paras. 146-152) and the Commission on Human Rights at its fifty-third session (E/CN.4/1997/64, paras. 101-107) remain substantially the same, except for the fact that, according to certain reports, a meeting took place in mid-July between a representative of SLORC and an official of NLD. There have been suggestions that the substance of the discussions was political in character, but the Special Rapporteur has no concrete information in that regard.

The Special Rapporteur regrets that, in spite of his continuing efforts to obtain the authorization of the Government of Myanmar to visit the country and in spite of the encouraging statements made by the Permanent Representative of Myanmar, both in the General Assembly and in the Commission on Human Rights, he has not so far obtained any response. The Special Rapporteur has nevertheless taken great care in assessing the information gathered from all sources and organizations, both intergovernmental and non-governmental, including information gathered during his mission to the Myanmar/Thailand border in...

The Special Rapporteur observes that the absence of respect for the rights pertaining to democratic governance continues to be the root of all the major violations of human rights in Myanmar. Such absence is inherent in a power structure that is autocratic and accountable only to itself, thus resting on the denial and repression of fundamental rights. The Special Rapporteur concludes that genuine and enduring improvements in the human rights situation in Myanmar cannot be attained without respect for the rights pertaining to democratic governance.

In that regard, he notes with particular concern that the electoral process initiated in Myanmar by the general elections of 27 May 1990 has yet, after seven years, to reach its conclusion, and that the Government still has not implemented its commitments to take all necessary steps towards the establishment of democracy in the light of those elections.

Government representatives have repeatedly explained that the Government is willing to transfer power to a civilian Government, but that in order to do so there must be a strong constitution, and that in order to have a strong constitution they are doing their best to complete the work of the National Convention. However, the Special Rapporteur cannot help but observe that, given the fact that most of the representatives who were democratically elected in 1990 have been excluded from participating in the meetings of the National Convention, the restrictions imposed upon the delegates (practically no freedom to assemble, to print and distribute leaflets or to make statements freely) and the strict guidelines (including the requirement that the Tatmadaw play a leading role), the National Convention does not constitute the necessary steps towards the restoration of democracy, fully respecting the will of the people as expressed in the democratic elections held in 1990.

The well-documented reports, photographs and testimony received by the Special Rapporteur lead him to conclude that extrajudicial, summary or arbitrary executions, the practice of torture, portering and forced labour continue to occur in Myanmar, particularly in the context of development programmes and counter-insurgency operations in minority-dominated regions.

With regard to arbitrary arrest and detention, the Special Rapporteur does not doubt that such violations take place on a wide scale, if for no other reason than that an examination of the laws in place shows that such violations are legal and may easily occur. At the same time, the absence of an independent judiciary, coupled with a host of executive orders criminalizing far too many aspects of normal civilian conduct that prescribe enormously disproportionate penalties and authorize arrest and detention without judicial review or any other form of judicial authorization, leads the Special Rapporteur to conclude that a significant percentage of all arrests and detentions in Myanmar are arbitrary when measured against generally accepted international standards. The Special Rapporteur expresses his deep concern at the continued detention of many political prisoners, in particular elected representatives, and the recent arrests and harassment of other supporters of democratic groups in Myanmar, culminating in the massive arrests of NLD supporters and the virtual blockade of the General Secretary of NLD in her compound.

On the basis of virtually unanimous reports of continuing violations and other information, the Special Rapporteur concludes that there is no freedom of thought, opinion, expression or association in Myanmar. The absolute power of SLORC is exercised to silence opposition and penalize those holding dissenting views or beliefs. Because of both visible and invisible pressures, the people live in a climate of fear that whatever they or their family members say or do, particularly in the area of politics, they risk arrest and interrogation by the police or military intelligence officers. The Special Rapporteur notes that NLD leaders cannot assemble in a group, cannot freely discuss and cannot publish or distribute printed or videotaped material. In such circumstances it is difficult to believe that open discussion and free exchanges of views and opinions can possibly take place in Myanmar, unless they are in support of the present military regime.

Turning to freedom of movement and residence in Myanmar, including the right to leave and re-enter one's own country, the Special Rapporteur concludes that there are clear violations of those freedoms in both law and practice. Specifically, severe, unreasonable and, in the case of the Muslim Rakhine population, racially based restrictions are placed on trav-
el inside the country and abroad. On the matter of internal deportations and forced relocations, the Special Rapporteur concludes that the Government's policy violates freedom of movement and residence and, in some cases, constitutes discriminatory practices based on ethnicity.

An analysis of the laws relating to citizenship and their effect on the exercise of civil and political rights raises serious questions of the consistency of those laws with generally accepted international norms, since those laws appear to be discriminatory on the basis of religion, ethnicity, equality before the law and special measures of protection to which children are entitled. In the short term this situation produces serious violations of the rights of both minorities and other persons living in the country as well as a sense of not belonging to Myanmar. In the long term, the situation is likely to encourage and exacerbate secessionist movements likely to be destructive of a multi-ethnic and multi-religious nation. Sheer repression following efforts at ceasefire agreements would not appear to be the answer.

B. Recommendations

In the light of the foregoing conclusions, the Special Rapporteur submits the following recommendations for the consideration of the General Assembly and of the Government of Myanmar:

(a) To ensure that the Government of Myanmar genuinely reflects the will of the people, steps should be taken to allow all citizens to participate freely in the political process in accordance with the principles of the Universal Declaration of Human Rights and to accelerate the process of transition to democracy, in particular through the transfer of power to the democratically elected representatives. The institutions of Myanmar should be such as to ensure that the executive authorities are accountable to the citizenry in a clear and meaningful way and, furthermore, steps should be taken to restore the independence of the judiciary and to subject the executive to the rule of law and render unjust and unjustifiable action justiciable;

(b) All necessary measures should be taken to accelerate the process of transition to a democratic order and to involve in a meaningful way the representatives duly elected in 1990. Genuine and substantive discussions should take place without further delay between the present military regime and the leaders of the NLD and with other political leaders who were duly elected in the democratic elections of 1990, including representatives of ethnic minorities. Certain steps reportedly taken in July by SLORC, apparently to initiate such discussions, are a welcome and positive development, but that development must be intensified. SLORC should do all it can to ensure that the character and substance of the discussions are genuine and are perceived to be so by all the participants;

(c) Immediate measures should be taken to put an end to the harassment of the leaders and leaders and the membership of NLD, to ensure that the General Secretary of NLD is genuinely free and able to exercise her functions without fear of attack and to ensure that all political parties are able freely to exercise their rights;

(d) All political detainees, including elected political representatives, students, workers, peasants and others arrested or detained under martial law after the 1988 and 1990 demonstrations or as a result of the National Convention should be tried by a properly constituted and independent
civilians in civilian court in open judicial proceedings and in accordance with all the guarantees of fair trial and due process in conformity with applicable international norms. If found guilty in such judicial proceedings, they should be given a just sentence proportionate to their offence. Otherwise, they should be released immediately, and the Government should ensure that there are no acts of intimidation, threats or reprisals against them or their families and take appropriate measures to compensate all who have suffered arbitrary arrest or detention;

(e) Constitutionality and the rule of law should be re-established, and SLORC orders and decrees should no longer be the basis of law. All laws rendering violations of human rights legitimate should be repealed immediately, and all laws should be given due publicity. The principle of non-retroactivity of penal laws should be respected in all circumstances;

(f) The Government of Myanmar should give particular attention to prison conditions and take all necessary steps to allow international humanitarian organizations to have access thereto and to communicate freely and confidentially with prisoners;

(g) Urgent steps should be taken to facilitate and guarantee the enjoyment of the freedom of opinion, expression and association, in particular by decriminalizing the expression of opposition views and by relinquishing government controls over the media and literary and artistic works;

(h) Restrictions relating to the entry and exit of citizens into and out of the country, as well as their movement within the country, should be abolished;

(i) All discriminatory policies that interfere with the free and equal enjoyment of property should cease, and adequate compensation should be given to those who have been arbitrarily or unjustly deprived of their property;

(j) The Government of Myanmar should fulfill its obligations under ILO Convention No. 87 of 1948 concerning freedom of association and protection of the right to organize. In compliance with that Convention, it should guarantee by law the existence and practice of free trade unions. In that respect, the Government of Myanmar is encouraged to cooperate more closely with ILO through a technical cooperation programme so that the very serious discrepancies between law and practice, on the one hand, and the Convention, on the other hand, are eliminated immediately;

(k) The Government of Myanmar is urged to comply with its obligations under ILO Convention No. 29 prohibiting the practice of forced labour and forced portering. The Government should urgently take measures to repeal the offending legal provisions under the Village Act and the Towns Act to prevent the continuation of the practice of forced labour. The Government is encouraged to cooperate with the ILO Commission of Inquiry;

(l) The Government of Myanmar should take immediate steps to put an end to the enforced displacement of persons and to create appropriate conditions to prevent the flow of refugees to neighbouring States. In the event that the relocation of villagers becomes necessary in circumstances that are in conformity with international norms, proper consultations should take place with the villagers, including the payment of appropriate compensation, reviewable by independent courts, and measures to ensure that adequate food, housing, medical care and social amenities, including arrangements for the education of children, are provided;

(m) The Government of Myanmar should refrain from actions that contribute to insecurity affecting the population, such as the use of military forces and bombardments against civilian targets along its border with Thailand;

(n) In order to promote the repatriation of the Muslims and other minorities of Myanmar, the Government should create the necessary conditions of respect for their human rights. The Government should ensure, in law and in practice, their safe return and resettlement in their villages of origin. To the end, it should also promote their complete civil, political, social, economic and cultural participation in Myanmar without restriction or discrimination due to status;

(o) The laws relating to citizenship should be revised in order to ensure that they have no unfavourable incidence on the exercise of civil and political rights and to be consistent with generally accepted norms. Such laws should be substantially revised so as to remove all discriminatory fea-
tures based on religion, ethnicity or inequality and to remove any adverse impact on the right of children to have a nationality. Further, measures should be adopted by the Administration to ensure that citizenship can be obtained without burdensome and unrealistic administrative procedures and requirements. Those laws should also be brought into conformity with the principles embodied in the 1961 Convention on the Reduction of Statelessness. Consideration should also be given by Myanmar to ratify that Convention as well as the 1951 Convention relating to the Status of Refugees and its Additional Protocol of 1967. The 1982 citizenship law should be revised or amended to abolish its overly burdensome requirements for citizenship. The provision of the law regarding categories of second-class citizens should not be applied in a manner that has a discriminatory effect on racial or ethnic minorities, particularly the Rakhine Muslims. It should be brought in line with principles embodied in the Convention on the Reduction of Statelessness;

(p) The Government of Myanmar should take steps to bring the acts of soldiers, including both privates and officers, in line with accepted international human rights and humanitarian standards so as to prevent arbitrary killings, rapes and confiscation of property, or forcing persons into acts of labour, portering, relocation or otherwise treating persons without respect for their dignity as human beings. When local villagers are hired for porterage and other work, it should be done with their consent and adequate wages should be paid. The nature of the work should be reasonable and in accordance with established international labour standards. When the relocation of villagers is considered necessary for military operations or for development projects in the public interest, proper consultation with the villagers should take place and appropriate compensation should be paid. The amount of the compensation should be reviewable by independent courts;

(q) Military and law enforcement personnel, including prison guards, should be thoroughly informed and trained regarding their responsibilities in accordance with international human rights norms and humanitarian law. Such standards should be incorporated into Myanmar law, including the new constitution;

(r) Given the magnitude of the abuses documented, the Government should subject all officials committing human rights violations to strict disciplinary control and punishment and put an end to the culture of impunity that prevails at present in the public and military sectors;

(s) The Government of Myanmar is urged to fulfil in good faith the obligations it assumed under Articles 55 and 56 of the Charter of the United Nations to take joint and separate action in cooperation with the Organization for the achievement of universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. The Special Rapporteur notes that the Government of Myanmar should encourage the adoption, as one of the basic constitutional principles, of the provisions of the Universal Declaration of Human Rights, a copy of which should be made widely available in the main languages spoken in Myanmar;

(t) The Government of Myanmar should further consider accession to the international covenants on human rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the two additional protocols to the Geneva Conventions of 1949 and, in the meantime, to ensure the application of the principles proclaimed in those international instruments in order to evidence a firm commitment towards the promotion and protection of human rights without discrimination of any kind outlawed under those norms;

(u) Myanmar law should be brought in line with accepted international standards regarding protection of physical integrity rights, including the right to life, the protection against "disappearance", the prohibition of torture, cruel, inhuman or degrading treatment, the provision of humane conditions for all persons under detention and the insurance of basic judicial guarantees.

NOTES

Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40), General Comment No. 25 (57), para. 365 and annex V.
MR. CHAIRMAN,

Thank you for giving me the floor. I would like to take this opportunity to place on record the position of my delegation with regard to the interim report presented just now by Mr. Rajoosmer Lallah.

The report turned a blind eye to all the positive and constructive achievements of my country. It has given priority and credence only to wide ranging accusations emanating from people, inside and outside the country, who have their own political motives.

Furthermore, just as in his last year's report, Mr. Lallah has incorporated political statements in the guise of legal arguments in the present one. Any person, with an independent mind and unbiased outlook, can easily ascertain that the report is nothing but an attempt to exert unwarranted political pressure on my country.

Myanmar has an unbroken record of cooperation with the United Nations in all areas of interest, including that of human rights. We have always cooperated with the United Nations human rights bodies to the fullest extent possible.

Information regarding the developments in my country are provided to the thematic rapporteurs of the Commission on Human Rights, including Mr. Lallah, through the Office of the High Commissioner for Human Rights, whenever they are requested. We are indeed, heartened to find our responses to allegations in the reports of the thematic rapporteurs.

However, Mr. Lallah's report is found to have reflected mainly the views of those who are opposing the Government for reasons totally unconnected with the issue of human rights. It is most regrettable that he had ignored the official records provided to him by responsible Myanmar officials.
MR. CHAIRMAN,

From our point of view, there are several aspects of human rights. These rights include among others, the right to development, the right to live in peace and tranquility, and the right to security on the streets and in the homes. These are among the most fundamental of human rights. Without ensuring these basic rights, other aspects of human rights cannot be implemented.

We have repeatedly stated that the Government and people are endeavouring to attain unity, peace, stability and prevalence of law and order in the country even while striving for the socio-economic development of the people. And we are achieving unprecedented successes in our endeavours.

None of these aspects were mentioned in Mr. Lallah’s report. We found the report to be totally inaccurate, biased, highly intrusive and politically motivated. It demonstrates a lack of understanding and is contrary to the actual nature of events transpiring in my country.

How can such a report claim to show the true situation prevailing in my country? How can such a report claim to have credibility? The conclusions and recommendations contained in the report are totally unacceptable to us. As such, my delegation categorically rejects the report.

MR. CHAIRMAN,

It is a well-known fact that Myanmar has not accepted the appointment of a Special Rapporteur and has disassociated itself from the decisions of the UN General Assembly and the Commission on Human Rights, regarding the situation of human rights in the country. However, in the spirit of cooperation with the United Nations, the Government has agreed, on several occasions, to the visits to Myanmar of representatives of the Commission on Human Rights. The Government, on its part, has done its utmost to enable them to observe in a free and open manner, the events transpiring in the country. The former Special Rapporteur on the Situation of Human Rights in Myanmar had visited the country five times.

However, the reports submitted were found to be biased, inaccurate and politically motivated. They failed to reflect the true situation of the events that were occurring in the country. Those one-sided reportings have inflicted damage on the country and people.

MR. CHAIRMAN,

In our view, a report of a United Nations Special Rapporteur should possess among other things, factual accuracy, overall balance and comprehensiveness, and should strive to maintain a fair standard of professionalism and respectability. Moreover, as an impartial representative of the Commission on Human Rights, Mr. Lallah should in his report, observe the universal human rights norms of non-selectivity, objectivity and impartiality. I regret to state that these qualities are conspicuously lacking in the report of the Special Rapporteur on the Situation of Human Rights in Myanmar contained in document A/52/484 of 16 October 1997.

Therefore, it has become necessary for us to be cautious in dealing with such matters and to exercise considerable restraint before damage is properly assessed in safeguarding our national interest. We shall continue to promote and protect human rights in our country, while at the same time protect our sovereignty. We shall also continue to co-operate with the United Nations and its relevant subsidiary bodies in order to achieve these objectives. In this context, I wish to reiterate that, as in the case of his predecessor, Mr. Rajsoomer Lallah would have the opportunity to visit Myanmar at a time deemed appropriate.

MR. CHAIRMAN,

Many positive developments have continued to occur in my country throughout the period of the past year. Limitation of time constrains me from elaborating on those events. Thus, for the ready reference of the members of the Committee and for observers, in order to enable them to clearly understand the ongoing process occurring in Myanmar, my delegation has undertaken to circulate a Memorandum concerning the Situation of Human Rights in Myanmar as an official document of the fifty-second United Nations General Assembly.

I will also be apprising the Committee in detail of the positive developments occurring in my country at a later stage.

I thank you Mr. Chairman.
In Her Own Words

Interview with

Daw Aung San Suu Kyi

This interview was conducted by Jeanne Hallacy, a freelance journalist who visited Burma in September. The videotape was transcribed by the Alternative ASEAN Network on Burma and edited by Burma Debate.
QUESTION • What is your opinion of this idea about a change in the ASEAN stance from constructive engagement to constructive intervention? How would you perceive that to be useful in the current situation here?

ANSWER • I suppose it depends on how they intend to intervene, because I've always said that you really cannot remove the internal affairs of the country or divorce the internal situation of the country from its economic situation, which I think was ASEAN's stand before; that they were not going to interfere in the internal affairs of Burma although they were going to engage with it economically.

I think now they've realized that this is not possible. So, that is why they have changed their policy from one of "Constructive Engagement" to "Constructive Intervention." And you know, it is my hope that they'd intervene in the right way. That is to say, in a way which will help Burma to progress along the path to democracy.

Q • Can you be a bit more concrete about what type of action you would see this more pro-active ASEAN policy include?

A • Well, I don't like to tell other countries what they should do. But I think the ASEAN countries have now realized that they are not going to get the economic benefit that they'd hoped to get out of Burma. I've been saying that since my release, not because I'm clairvoyant or because I'm an astrologer, but simply because I listened to the Burmese people and I could tell from what they were saying, that the economy was not going to take off under these circumstances. And this is what I try tell the ASEAN nations that the economy cannot take off under the present political situation. Even if their only interest is in the economic side of the question they've got to take care of the political side as well. To put it very simply, if they want economic improvement in Burma, they've got to help the political situation to improve. I do not think that there can be real economic progress without democracy.

Q • Do you think that ASEAN should raise this question at a meeting, now that Burma is a member? Should they actually make it more formal?

A • Well I think they should ask them formally, why not? If asking informally doesn't work they should go a step further and ask them formally. I think they should let Burma know what they think is necessary for the economy to take off.

Q • Are there specific policy changes that ASEAN could take on that would be beneficial towards promoting the process of dialogue here?

A • That is difficult to say because ASEAN is made up of several different countries and I think they have got to work out for themselves what would be feasible. I am basically against any country dictating to any other country as to what they should or should not do, but I think I'm all for saying, quite frankly, what we think the ethical issues are. And I think what we've got to remember in this case is that if the ASEANs are going to be interested purely in the economic benefits that they hope to reap out of Burma, it would be self-defeating. They will not be able to reap any benefit from Burma as long as we go on in this way, because you must have noticed that inflation is rampant, the economy is going downhill, there isn't a kind of accountable, transparent government that is necessary to make an economic success out of an open market system.

Q • Some ASEAN representatives have said that even withstanding your desire to have them play a greater role, there is no linkage for them in Burma as there is in Cambodia. There, a peace treaty exists that needs to be upheld. In Burma, no such treaty exists.

A • There is a General Assembly resolution on Burma they could refer to that represents international opinion and that passed unanimously. They could always refer to the General Assembly resolution as a goal to work towards.
Q • There’s a sense regarding the kind of support that you have been able to muster in the last year [from Western nations], that there isn’t much more that could be done. Is there more of a role for the Western nations to play?

A • I think there’s a role for everybody in the world to play because when we think of support from the West or from any other country, from the international community, we’re not simply thinking about governments, we’re thinking about people. And I think that the people in the West have been very supportive, say, for example, consumer boycotts of companies dealing with SLORC. This kind of consumer action could take place anywhere, all over the world. What we want to appeal to, what we want to do, is to make an appeal to the peoples of the world rather than just to the governments of the world.

Q • Can you comment a bit on the dialogue that we have heard about...there was a meeting in July between U Aung Shwe and a representative of the SLORC. What happened during that meeting, and is it a positive step that dialogue is perhaps being considered by the government now?

A • Well, I don’t think we can call that meeting a dialogue. In fact, the SLORC does not refer to it as a dialogue, I think they simply refer to it as a meeting. And we issued a statement after that meeting laying down what we said, what was discussed. I think at that meeting Gen. Khin Nyunt repeated what he had said in the previous press statement. You know, the one accusing me of accepting US $80,000 or something quite ridiculous from some American source or the other. We always believe in cautious optimism. At best, we could think of it as a sounding out to see whether dialogue was possible between the NLD and the SLORC. At worst, it could be aimed at trying to create a split within the party because at one time Gen. Khin Nyunt said the party could speak to U Aung Shwe and the other two members of the executive committee. He couldn’t speak to me because of this allegation about the US $80,000, which is a whole lot of nonsense anyway.

Q • The SLORC has said in earlier years, that when they do meet with you, they were met with what was not quite an open door on your part... In 1994, they met with you and it didn’t seem that it was going to be a two-way street.

A • Well, they met with me a couple of times in 1994, and the answer to whether or not the talks went well is rather simply to look at the official reports of those talks in the newspapers. I think they said in those reports that the talks had gone well. And this is an afterthought now to try to make out as though I had been uncooperative during the course of those two talks.

Q • Do you feel as prepared now to be able to sit down with them in a dialogue? Are you still making efforts to ask them to sit with you in a dialogue?

A • When U Aung Shwe met with them in July, he assured them that if they open dialogue with me he could guarantee that these talks would be a success. What more could he say?

Q • And since that time you could not follow up on them or...?

A • No, not at all.

Q • There’s a sense that you are under effective house arrest or controlled detention, and therefore because of your lack of access to the people, that you as a leader and your party may be losing a certain support among the general population here.

A • I don’t think so because our access to the people has always been blocked by SLORC. I think we find a lot of sympathy partly because of the vitriolic articles that they write about us in the press, partly because of the dismal economic situation, and I think the people are beginning to realize more and more that this cannot go on. And the fact that we have not been able to keep in touch with the public matters much less now than you would imagine. One of the reasons why it’s not as bad as it might have been is because of Radio Free Asia, which is widely
Q • But if you’re being prevented from speaking and your party has been targeted in terms of arrests, and meetings are not accessible to the people, how is the party still a living organism within the Burmese political landscape?

A • Well, because we go on doing our work in spite of the fact that people get arrested. Our people would not be arrested if they were not working. The very fact that our people are getting arrested is proof of the fact that we are working and I think the people realize that. Every time one of our people is arrested, every time one of our MPs [Members of Parliament] is forced to resign, the people realize that we are carrying on with our work. We are not a dormant party, that is why we are being harassed by SLORC. If we were dead and done for, SLORC wouldn’t bother to arrest anybody.

Q • Again to push you on this, in a pragmatic way, how is the party being able to assert itself as a viable political force since members have been rounded-up and you are not out there on the streets anymore. Do people still meet quietly in their districts?

A • We have offices all over the country and our officers continue to function. Some of our offices have been forced to close down and you are not out there on the streets anymore. Do people still meet quietly in their districts?

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A • We have offices all over the country and our officers continue to function. Some of our offices have been forced to close down and that does not mean that our people there have stopped working. There are such things as teashops where you can meet friends and colleagues and carry on with your work. And sometimes I think that SLORC does half our work for us. The way in which they are unable to handle the economy and as I said, the way in which they attack us so viciously in the press, does a lot for our party...[It] helps us to get a bit of rest, put our feet up and let them carry on.

Q • There are impressions though that those confidantes who have been closest to you within your party have been detained and that there's no one left around you now whom you can rely on to chart out a political course. How do you respond to that?

A • Well, I think that the more people that they arrest, the better the quality of the remaining ones come out. I always think that trouble is a very, very good way of finding out who the really reliable people are. So I don’t really shy away from trouble. I think the more problems there are, the more you are able to judge the quality of the people around you and hidden talents come to the fore.

Q • What would you divulge in terms of what is the party's agenda now?

A • You know I never divulge such things to the press, so it's no use asking me on such matters. People keep asking me what are your plans and I never tell them.

Q • No, I mean the political agenda. Would you say that trying to aspire to a dialogue is at the epicenter of the NLD?

A • Well, we've always said we want dialogue, but it doesn't mean that's all we're doing. We know that in the end we'll end up with dialogue, but there are other things that have to be done to make everyone concerned understand that dialogue is the only way.

Q • So you wouldn't call this current situation a political stalemate, as it were...?

A • I think I've been hearing this term 'political stalemate' ever since I don't know when. People say 'political stalemate' every time there isn't a demonstration on the street or people are not getting arrested, or there isn't some sort of major catastrophe... People think of politics as a series of dramas. It's not like that at all. A lot of politics is humdrum everyday work.

Q • Can you comment on... the fact of it is in a recent interview... a diplomat said that the NLD does not enjoy any military support, so in a practical way, even though they might be able to muster popular
A • I had better remind the diplomat that in the elections of 1990 the NLD won in all the areas which were dominated by military forces. Places like Mingaladon, places like Hmawbi, we won in those places. I believe that we have strong support within the army.

Q • And, would the power sharing that the SLORC has currently proposed — the 25% power sharing — would that be something acceptable to the NLD?

A • If they want to know the answer to that they must start a dialogue with us.

Q • There were lots of rumors going around that I'm sure you're aware of that you had a health problem and that was partly preventing you from being able to be out [among the people]. Could you comment on that your recent health condition? Have you regained your health now?

A • I'm perfectly healthy now. I fell down the stairs. We issued a statement about that. I suffered from cervical spondylitis during the years I was under house arrest and that fall set it off again. It took me some time to get back into the full swing of things as it were. Apart from that, it was a good excuse for a rest — my doctor thought it was high time I had a good rest.

Q • How are you feeling now, are you feeling very...?

A • I feel fine now, fighting fit.

Q • There's been a lot of speculation that the economy is at quite a critical level right now. How do you perceive that affecting the political circumstances in Burma today?

A • Economics and politics are interminably connected, so if the government is unable to cope with the economy, there is bound to be a push for political change.

Q • Would you say that inadvertently the economic crisis could, perhaps, push forward a dialogue the government might be willing to have because they feel that there is a need to fix it?

A • It would be very sad if the government were to go for dialogue only if things are so bad that they cannot avoid dialogue. I think they should look upon dialogue not as a way out of the worst possible situation, but as a way forward to the best possible solution.

Q • Is the NLD having ongoing contact with ethnic groups who are inspired by the fact that if a dialogue were to take place, they would be included in that process?

A • The NLD is always interested in contacts with the ethnic groups. I understand that many of the ethnic groups are threatened by the SLORC; they are told that if they have too much contact or any contact with the NLD they would be in trouble. So I think it is quite difficult for them to be in touch with us.

Q • Do you think that the state of abeyance of the National Convention right now is hinging upon any kind of interaction between the opposition, and that it would resume if the NLD were to change its stance on participation?

A • I think the real trouble with the National Convention is that it is not really a National Convention. A genuine National Convention must be one made up of people who have been elected or selected by the public in some way or the other, which is not the case of this present Convention. That is its main trouble.

Q • In a recent interview, one of the SLORC generals was speculating that you were interested in getting an American green card...

A • What's that for?

Q • A green card is a legal document to live in the United States.

A • What on earth would I want that for?

Q • He was questioning whether or not you actually were choosing to stay in Burma, and your feeling of patriotism...

A • Perhaps, he wants a green card, perhaps that's what put the idea into his head. I've never, never entertained such an idea. I don't need an Ameri-
I have never in my life considered that. So I don’t see why I should consider getting a green card to go and live in America for goodness knows what’s the reason. I have many friends among Americans, but I am Burmese and I intend to remain Burmese until I die.

Q • In that same interview there was a question about the fact that the party was synonymous with Aung San Suu Kyi, that without Aung San Suu Kyi the party was incapable of making decisions, that even within the NLD/EC [Executive Committee] Daw Suu Kyi’s leadership role dominates the decisions.

A • Was that the opinion of the general?

Q • It was what he was saying.

A • Well, what a very, very high opinion he has of me. I think I’d better thank him, but I don’t think he understands that much about democracy.

Q • So, the NLD, you feel, is still very much consen-sus opinion and...

A • Of course.

Q • ...and have you been able to continue meeting under this type of current circumstances?

A • Yes, of course, the Executive Committee meetings have continued uninterrupted regardless of the fact that I have not been well enough to attend them.

Q • Again just to push you a little bit...

A • Go on pushing...

Q • The idea is that there is a stasis... if you don’t want to use the word ‘stalemate’, that the populations economic situation is getting worse daily, with rising prices and all of that. Despite what is still popular support for the opposition in this country, people have a feeling of inertia, that yes, of course, we might change, but when will it come?

A • It will, it will come. A bit of inertia from time to time is not a bad idea, it is a way of storing up energy for the time when it is needed.

Q • Do you remain confident that you, representing the NLD, and the NLD itself still muster a great deal of popular support within Burma?

A • I have always reminded the people that I alone cannot bring them democracy, nor can the NLD by itself bring democracy. We’ve all got to participate. I believe that the people of Burma want democracy, and because of that we shall get democracy. Obviously they have to be given some kind of leadership because that’s the way it happens in any sort of movement. There has to be some group to coordinate the aspirations of the people at large. I would like to think of the NLD as helping the people achieve what they want, rather than dragging them along to our common goal.

Q • Are you feeling optimistic that dialogue is nigh?

A • I’ve always said that I am a cautious optimist. I know that dialogue is inevitable because that is the only way in which problems are solved in the end. And I’ve always said — I’ve repeated this ad nauseam — that the intelligent ones get to dialogue quicker, whereas the ones not so intelligent drag their feet until dialogue is really, really unavoidable, by which time of course, a lot of people have suffered unnecessarily.

Q • Would it be acceptable to you if that dialogue did not include you in the initial stages, or would you make it a prerequisite that you were also included?

A • It has nothing to do with me, it’s to do with the NLD. According to the mandate of the NLD any dialogue between the NLD and the SLORC must include me.

Q • Arguably, the decision by the United States Government to impose U.S. sanctions has not had that much of a measurable impact towards the SLORC government’s policy of considering interacting with the opposition. People do say that with the investment here, and SLORC’s acceptance into ASEAN, that over time change will take place... What would you respond to that?
A • Well the sanctions have hit Burma very hard, don't forget that the value of the Kyat came down very, very rapidly once the economic sanctions were in place. I think it's about half, cutting it on the black-market. So you can't say that the sanctions have not had an effect. As I have said earlier, you cannot divorce economics from politics. The economic effect of the sanctions is going to show politically sooner or later. And let's hope sooner rather than later.

Q • But there has been a stepped up campaign of vitriol aimed at United States Government's complicity. ...

A • Well, the SLORC is somewhat experienced in the use of vitriol. Perhaps, if they had considered another way of winning friends and influencing people it might be better for them all around.

Q • Do you think they care about what the United States Government think of them?

A • Oh yes, I think so, very much so. If they don't care about what the United States Government thought about them, then they wouldn't waste their energy attacking it so viciously.

Q • What keeps you going personally on the inside, so that you have this resource of focus and ability to carry on in the circumstances?

A • People I suppose, people for whom I care, people I want to see happy, people... in the end.

Q • There is a feeling that even if they have perhaps prevented you from holding your weekend meetings outside your house, that there are more proactive ways you could try to reach out to the people with whom you are trying to interact in Burma, by going out public more often, making appearances in towns, or in villages at ceremonies to let the people know that you are still out there... Why haven't you been doing that?

A • Because I've not been well. As I say, we never talk about our plans, we never discuss our plans in advance. But, obviously we have ways and means of reaching out to the people at large.

Q • Have you had free access to leave your home when you choose, whenever you choose?

A • More or less, but... there are lots of restrictions about who can come to see me, and that's all completely against the law. There is no law that allows them to stop people from coming to see me. I'm a free citizen. If they have a case against me, they can put me on trial.

Q • And have you been told in explicit terms that you are not allowed to hold public weekend talks at your gate or elsewhere?

A • Why no, they just shut off the road so nobody can come.

Q • So how would you describe your current state inside of your compound, if you're not under arrest again, how would you...

A • No, I'm not under arrest again, but my movements are quite restricted. And the movements of those who wish to come and see me are restricted. So it's quite obvious that the SLORC is very nervous about what the NLD is capable of doing. If they were not nervous about the strength of the NLD, they don't need to impose these restrictions. They know that we are a powerful force within the country, this is why they have imposed so many restrictions upon us.

Q • And do you think that the members of your party and supporters of your party nationwide still feel the same confidence to proceed working towards democracy considering the wave of arrests, and so forth?

A • Of course confidence ebbs and wanes, this is the way of human nature. But, on the whole, I think the public at large know that change is necessary and change is inevitable, and that the change will be towards democracy.
ADOPTED BY THE
THIRD COMMITTEE
OF THE UNITED
NATIONS
GENERAL ASSEMBLY

November 24, 1997

Meeting of the UN General Assembly in New York City.
RESOLUTION ON THE SITUATION OF HUMAN RIGHTS IN MYANMAR

Adopted by the Third Committee of the United Nations General Assembly,

Reaffirming that all member states have an obligation to promote and protect human rights and fundamental freedoms as stated in the Charter of the United Nations and elaborated in the Universal Declaration of Human Rights, the International Covenants of Human Rights and other applicable human rights instruments,

Aware that, in accordance with the Charter, the organization promotes and encourages respect for human rights and fundamental freedoms for all and that the Universal Declaration of Human Rights states that the will of the people shall be the basis of the authority of government,

Recalling its resolution 51/117 of 12 December 1996,

Recalling also Commission on Human Rights resolution 1992/58 of 3 March 1992, in which the Commission, inter alia, decided to nominate a special rapporteur to establish direct contacts with the Government and with the people of Myanmar, including political leaders deprived of their liberty, their families and their lawyers, with a view to examining the situation of human rights in Myanmar and following any progress made towards the transfer of power to a civilian Government and the drafting of a new constitution, the lifting of restrictions on personal freedoms and the restoration of human rights in Myanmar,

Taking note of Commission on Human Rights resolution 1997/64 of 16 April 1997, in which the Commission decided to extend for one year the mandate of its Special Rapporteur on the situation of human rights in Myanmar,

Noting with concern that the Government of Myanmar has not yet agreed to a visit by the Special Rapporteur,

Gravely concerned that the Government of Myanmar still has not implemented its commitment to take all necessary steps towards democracy in the light of the results of the elections held in 1990. Gravely concerned at the travel and other restrictions placed on Aung San Suu Kyi and other political leaders and at continued arrests and harassment of members and supporters of the National League for Democracy, trade unionists and students for peacefully exercising their right to freedom of expression, assembly and association, at forced resignations of elected representatives and at the long closure of all universities and colleges following the student demonstrations in December 1996;

Recalling the withdrawal and subsequent exclusion from the National Convention of members of the National League for Democracy in late 1995,

Welcoming the contact between the Government of Myanmar and political parties, in particular the National League for Democracy, but regretting the failure of the Government of Myanmar to engage in a substantive political dialogue with Aung San Suu Kyi and other political leaders, including representatives of ethnic groups.
Gravely concerned at the continued violations of human rights in Myanmar, as reported by the Special Rapporteur, including extrajudicial, summary or arbitrary executions, killings of civilians, torture, arbitrary arrest and detention, deaths in custody, absence of due process of law, including trial of detainees in secrecy without proper legal representation, severe restrictions on freedom of opinion, expression, assembly and association, violations of freedom of movement, forced relocation, forced labour by children as well as adults, including porter for the military, abuse of women and children by government agents and the imposition of oppressive measures directed in particular at ethnic and religious minorities,

Recalling the observation made by the Special Rapporteur, that the absence of respect for the rights pertaining to democratic governance is at the root of all the major violations of human rights in Myanmar,

Recalling also the conclusion of ceasefire agreements between the Government of Myanmar and several ethnic groups,

Noting that the human rights situation in Myanmar has resulted in flows of refugees to neighbouring countries, thus creating problems for the countries concerned;

1. Expresses its appreciation to the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Myanmar for his interim report, and urges the Government of Myanmar to cooperate fully with the Special Rapporteur, and to ensure his access to Myanmar, without preconditions, in order to allow him fully to discharge his mandate;

2. Also expresses its appreciation to the Secretary-General for his report;

3. Deplores the continued violations of human rights in Myanmar;

4. Notes that Nobel Peace Prize Laureate Aung San Suu Kyi was allowed to travel to the National League for Democracy's Thaketa Township office to conduct peacefully normal political activities on 21 October 1997, but subsequently was blocked from attending party meeting of the National League for Democracy on 5 November 1997 in Tamwe Township and on 13 November 1997 in Hlaing Township, and requests the Government of Myanmar to permit unrestricted communication with and physical access to Aung San Suu Kyi and other political leaders by members and supporters of the National League for Democracy and to protect their physical well-being;

5. Strongly urges the Government of Myanmar to release immediately and unconditionally detained political leaders and all political prisoners, to ensure their physical integrity and to permit them to participate in the process of national reconciliation;

6. Urges the Government of Myanmar to pursue its contacts with the National League for Democracy with a view to engaging, at the earliest possible date, in a substantive political dialogue with the National League for Democracy General Secretary Aung San Suu Kyi and other political leaders, including representatives of the ethnic groups, as the best means of promoting national reconciliation and the full and early restoration of democracy;

7. Welcomes the visits to Myanmar in the first half of 1997 by the Envoy of the Secretary-General and the UN Director of the East Asia and the Pacific Division for the purpose of discussions with the Government and with Aung San Suu Kyi and other political leaders, and further encourages the Government of Myanmar to broaden its dialogue with the Secretary-General and to facilitate access by his representative to the political leaders in Myanmar;

8. Again urges the Government of Myanmar, in conformity with its assurances given at various times, to take all necessary steps towards the restoration of democracy in accordance with the will of the people as expressed in the democratic elections held in 1990 and to ensure that political parties and non-governmental organizations can function freely;

9. Welcomes the holding of the Ninth Anniversary Conference of the National League for Democracy on 27-28 September 1997;

10. Expresses its concern that most of the representatives duly elected in 1990 are still excluded from participating in the meetings of the National Convention, created to prepare basic elements for the drafting of a new constitution, and that one of the objectives of the Convention is to main-
tain the participation of the armed forces in a leading role in the future political life of the State, and notes also with concern that the composition and working procedures of the National Convention do not permit the elected representatives of the people freely to express their views, and concludes that the National Convention does not appear to constitute the necessary steps towards the restoration of democracy;

11. **Strongly urges** the Government of Myanmar to take all appropriate measures to allow all citizens to participate freely in the political process, in accordance with the principles of the Universal Declaration of Human Rights, and to accelerate the process of transition to democracy, in particular through the transfer of power to democratically elected representatives;

12. **Also strongly urges** the Government of Myanmar to ensure full respect for human rights and fundamental freedoms, including freedom of expression and assembly, the right to fair trial and the protection of the rights of persons belonging to ethnic and religious minorities, to put an end to violations of the right to life and integrity of the human being, to the practices of torture, abuse of women, forced labour and forced relocations and to enforced disappearances and summary executions and to fulfill its obligation to end impunity of perpetrators of human rights violations, including members of the military, and to investigate and prosecute alleged violations committed by government agents in all circumstances;

13. **Calls upon** the Government of Myanmar to implement fully the recommendations made by the Special Rapporteur;

14. **Welcomes** the accession by the Government of Myanmar on 22 July 1997 to the Convention on the Elimination of All Forms of Discrimination against Women;

15. **Appeals** to the Government of Myanmar to consider becoming a party to the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment;

16. **Strongly urges** the Government of Myanmar to fulfill its obligations with regard to the Convention on the Rights of the Child, as set out in the concluding comments of the Committee on the Rights of the Child;

17. **Also strongly urges** the Government of Myanmar to fulfill its obligations as a State party to the Forced Labour Convention, 1930 (No.29), and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization, and encourages the Government of Myanmar to cooperate more closely with the International Labour Organization, in particular with the Commission of Inquiry appointed in accordance with Article 26 of the Constitution of the International Labour Organization;

18. **Stresses** the importance for the Government of Myanmar to give particular attention to improving the conditions in the country's jails and to allow the competent international humanitarian organizations to communicate freely and confidentially with prisoners;

19. **Calls upon** the Government of Myanmar and other parties to the hostilities in Myanmar to respect fully to obligations under international humanitarian law, including Article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian population, to protect all civilians, including children, women and persons belonging to ethnic or religious minorities, from violations of humanitarian law and to avail itself of such services as may be offered by impartial humanitarian bodies;

20. **Encourages** the Government of Myanmar to create the necessary conditions to ensure an end to the movements of refugees to neighbouring countries and to create conditions conducive to their voluntary return and their full reintegra-

21. **Requests** the Secretary-General to continue his discussions with the Government of Myanmar in order to assist in the implementation of the present resolution and to report to the General Assembly at its fifty-third session and to the Commission on Human Rights at its fifty-fourth session;

22. **Decides** to continue its consideration of this question at its fifty-third session.
Statement by

HIS EXCELLENCY U WIN MRA

Permanent Representative and Alternate Chairman of
the Delegation of the Union of Myanmar

IN THE THIRD COMMITTEE OF THE FIFTY-SECOND SESSION OF THE UNITED
NATIONS GENERAL ASSEMBLY ON THE DRAFT RESOLUTION A/C.3/52/L.63
"SITUATION OF HUMAN RIGHTS IN MYANMAR"

New York, 24 November 1997

MR. CHAIRMAN,

I thank you for giving me the floor to state my
delegation's position on the draft resolution "the
situation of human rights in Myanmar" contained
in A/C.3/52/L.63. The draft ritualistically repeats
many paragraphs of last year's resolution without
taking into consideration the present realities in
Myanmar. As my delegation's position is well-
known, I will refrain from repeating them and I will
concentrate only on the new elements. Before I
comment on them, let me make a general observa-
tion on the draft.

As it is formulated, the draft contains as before,
unsubstantiated allegations based on information
received from dubious sources. Despite the fact that
much progress has been made in the country, the
draft, regrettably fails to portray the situation of
the country in a faithful manner. Even where some
positive developments are mentioned, it is done
very grudgingly. Furthermore, the draft reveals a
lack of understanding of the root causes of prob-
lems in Myanmar. It is an attempt to impose on my
country a solution which only the people of
Myanmar have the legitimate right to undertake.
The allegations in the draft are principally linked with the ethnic problem which is rooted in Myanmar's colonial past. The allegations of torture, summary executions, etc. are, on closer examination, found to have originated from areas where the insurgents were active and they stemmed mainly from those insurgents and the unscrupulous elements who were bent on capitalizing on the situation. Actually, due to the government efforts to achieve national reconciliation, 16 armed groups have returned to the legal fold and peace and stability are prevailing in the country. The national races are actively cooperating with the government in efforts for economic development of their respective regions and are participating in the National Convention process as well. The only armed group remaining outside the legal fold is the Karen National Union. Even the KNU is now composed only of a few old guards helped and financed by extraneous elements. Therefore, in reality, the allegations now in the draft primarily emanated from the KNU remnants and other unscrupulous elements linked with them. For these reasons, the allegations have no validity at all and do not reflect the actual situation in the country.

I would like to reiterate here that, as a matter of policy, Myanmar does not condone human rights violations as it is committed to the principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights.

The draft resolution on Myanmar maintains a distinctive characteristic, especially in terms of co-sponsorship. It is glaringly co-sponsored by a particular group of countries and a few others who are linked with them. The majority of co-sponsors represent one particular geographical area, clearly demonstrating a clash of cultural values and traditions between them and Myanmar. It is therefore evident that the co-sponsors lack a clear understanding of Myanmar's concept of human rights, situation in Myanmar and its root causes. The draft is conspicuous by the absence of any Asian or African countries in its co-sponsorship. One may therefore wonder whether the concerns expressed in the draft constitute those of the international community. Moreover, the draft attempts to stand up for a single individual and one political party out of many other legally registered political parties. The draft clearly politicizes the human rights question in the name of the international community. The draft therefore is unbalanced, highly intrusive and politicized.

To find out the real situation in my country, the distinguished delegates are kindly invited to refer to the memorandum on the situation of human rights in Myanmar contained in document A/C.3/52/5 submitted to the Secretary-General under this item.

MR. CHAIRMAN,

Let me now turn to the new elements in the draft. True to the nature of country-specific resolutions, new allegations, though unsubstantiated, have found their way into this year's draft. I will confine my comments to them.

Preambular paragraph 8 on allegations of restrictions and harassment is a lop-sided representation. There were no restrictions on Daw Aung San Suu Kyi as alleged. On the contrary, her activities in Yangon are extensive and well-known. Similarly, there was no arrest or harassment of the members of the NLD as stated in this paragraph. As a matter of fact, it has been found that some members of the NLD resorted to any means conceivable to create chaos. The actions of the government were invariably preventive in nature and they were taken with the objective of upholding the rule of law and of maintaining public peace and civil order in the country. I wish to reiterate that the government does not take action against any individual for peaceful activities. It takes action against only those who violate the existing laws. However, let me underscore here that being a member of a political party does not exempt an individual from legal actions for infringement of the law. Let me also stress that, in the circumstances referred to in the paragraph under reference, the government exercised utmost restraint. The university classes were not closed but merely suspended in order to avoid further unrest on the campuses and to safeguard public order. Efforts are now under way to resume all the classes. This paragraph also alludes to forced resignations of elected representatives, which is totally devoid of truth. In reality, they were permitted to resign only at their request.
Preambular paragraph 11 attempts to criticize the legal system of Myanmar on the basis of information provided to the Special Rapporteur by anti-government sources. It is disingenuous to charge the government with unsubstantiated allegations. It is well known that Myanmar enjoys a sound and comprehensive legal system complete with necessary codes of criminal, civil and court procedures.

No perpetrators of offences punishable under law enjoy impunity in Myanmar. To suggest that such a privilege exists in Myanmar for government agents is outrageous and is totally unacceptable. These procedures guarantee fair trial to all persons. Like similar legal systems in other countries, it is based on the universally accepted principles. Dispensing justice in open courts, unless otherwise prohibited by law, is a principle, among others, observed by the Myanmar legal system. However, no system can escape occasional lapses due to human foibles or unique circumstances. In fact, if there were cases of government agents, be they military or civilian, breaking the existing laws, there are established channels through which proper complaints or reports can be brought to the competent authorities. No legal system provides for actions based on uncorroborated evidence or unsubstantiated allegations.

Operative paragraph 1 refers to cooperation between Myanmar and the Special Rapporteur, urging the government to ensure the access by the Special Rapporteur to Myanmar without preconditions. This paragraph obviously dictates to the government the ground rules for the visit of the Special Rapporteur. We find this highly objectionable. This paragraph implies the absence of any cooperation between Myanmar and the UN. As is well known, there have been instances where Myanmar has cooperated to the fullest extent possible not only with the UN but also with the Special Rapporteur appointed by the Commission on Human Rights. Concerning the visit of the Special Rapporteur, we have not yet precluded the possibility of such a visit. Under the circumstances, it is not appropriate to prejudge the action of the government which could undermine the prevailing spirit of cooperation. We find it presumptuous and highly objectionable.

With respect to the activities of the NLD in operative paragraph 4, I wish to reiterate what the representative of Myanmar stated in this Committee on 18 November. In Myanmar, peaceful political activities within the law are permitted. The concern about the physical well-being of Daw Aung San Suu Kyi is misplaced since the government has taken responsibilities even for her personal security at her own request.

Operative paragraph 6 urges the government to make further contacts with the NLD. With the first meeting with the Chairman of the NLD and two CEC members on 17 July of this year and another invitation to them after two months, the government has shown its positive and conciliatory gesture towards the NLD. I wish to emphasize here that
it is the government which took the initiative to establish contacts with the NLD and this led to the first successful meeting. As is widely known, the second meeting did not take place due to the precedence given to personal interests over that of the party. As such, it has proven more and more difficult for the government to continue its sincere efforts for further contacts with the NLD.

Operative paragraph 7 urges the government to broaden the dialogue with the Secretary-General. As has been consistently done in the past, Myanmar will continue to cooperate with the UN in every possible way. It is, however, appropriate to reiterate my government's position that the role of the Secretary-General as envisaged in this paragraph and operative paragraph 21 is to be implemented in a manner consistent with the time-honoured principle set forth in Article 2, paragraph 7, of the Charter of the United Nations.

Operative paragraph 10 represents a blatant interference in the internal affairs of Myanmar. Myanmar has chosen the mechanism of the National Convention as its political path towards democracy and will never deviate from this undertaking at this stage after so much progress has been achieved. We cannot accept any judgement on our internal political process. As is now composed, absence of representatives of a single political party does not detract from the representative character of the National Convention since delegates representing all strata of life in the country, including the delegates from other political parties and national races are participating in the process. It was the NLD which unilaterally withdrew from the process and renounced its right to participation. The government cannot be faulted for that.

The National Convention is the only forum where dialogue is going on among the national races to achieve consensus on the principles for the new constitution. I want to stress that the success of the National Convention is the national priority. My government will not accept any disruption of this process, whatever judgement is made on it. It is neither appropriate nor morally defensible for any country to pass judgement on our internal process or to attempt to channel that process to its own liking. We totally reject the conclusion made in the paragraph.

The intent and purpose of operative paragraph 16 referring to the Convention on the Rights of the Child is difficult to understand. Myanmar acceded to the Convention in July 1991, well before several co-sponsor countries became States Parties. Although the Convention has been accepted by a greater number of countries than any other international instrument on human rights, one co-sponsor of the present draft has not acceded to the Convention, according to the information we have in hand as of September 1996. The exhortation in this paragraph plainly reveals an unfair treatment of my country. We cannot accept that treatment. Under Article 43 of the Convention, the committee on the Rights of the Child is the mechanism to examine the progress made by the States Parties in achieving the realization of the obligations undertaken in the convention. Myanmar has, as required under the mechanism already submitted its national report at the 14th session of the Committee on the Rights of the Child and replied to both oral and written questions from the Committee. As the Committee is competent to transmit its suggestions and recommendations together with its comments to any States Parties concerned, there is no valid ground for the reference made in this paragraph.

MR. CHAIRMAN,

The draft contained in A/C.3/52/L.63 is, for the above-mentioned reasons, not acceptable to us. My delegation totally rejects all the negative elements and disassociates itself from the draft.

My delegation wishes to express its deepest appreciation to all friendly countries for their support, cooperation and understanding shown towards my delegation and the constructive approach they have taken on the draft.

Thank you, Mr. Chairman.
IN BRIEF

ROUNDTABLES

WASHINGTON, DC — A Washington Roundtable of November 21 featured David Tharckahaw of the Karen National Union and Sao Ood Kesi, a representative of the Shan ethnic minority. The speakers discussed the status of refugees fleeing forced relocation and forced labor in Burma.


NEW YORK — The New York Roundtable is a periodic meeting of organizations and individuals interested in Burma. For more information contact: Burma/U.N. Service Office by phone: (212) 338-0048 or fax: (212) 338-0049.

NEW ENGLAND — The New England Burma Roundtable is an informal group of individuals and organizations working to promote human rights and democracy in Burma. Meetings are held the second Monday of every month. For information contact Simon Billenness of Franklin Research & Development Corporation by phone: (617) 482-6655 or fax: (617) 482-6179.

SAN FRANCISCO — The Bay Area Burma Roundtable is held the third Wednesday of every month. For more information contact Jane Jerome by phone: (408) 995-0403 or e-mail: jjerome@igc.apc.org.

SEATTLE — The Burma Interest Group is a non-partisan forum attended by representatives of NGOs, business, academia and other interested parties that meets monthly to discuss Burma related topics. For more information contact Larry Dohrs by phone: (206) 784-6873 or fax: (206)784-8150.

LONDON — The Burma Briefing is a periodic meeting of NGOs working on Burma. For information contact Edmond McGovern by phone: (44-392) 876-849 or fax: (44-392) 876-525.

HONG KONG — Information on Burma Roundtables can be obtained by contacting the Asian Human Rights Commission by phone: (852) 2698-6339 or fax: (852) 2698-6367.

BRUSSELS/PARIS — The NGO communities in France and Belgium host periodic roundtables in Paris and Brussels. For more information on this European forum contact Lotte Leicht of Human Rights Watch by phone: (32-2) 732-2009 or fax: (32-2) 732-0471.

NETHERLANDS — The Netherlands Burma Roundtable is held once every two months with the goal of updating organizations and individuals on current events and activities surrounding Burma. For more information contact: Burma Centre Netherlands (BCN), by phone: (31-020) 671-6952 or fax: (31-020) 761-3513.

BRIEFINGS AND DEVELOPMENTS

UN TO SEND SPECIAL ENVOY TO BURMA

The United Nations Secretary-General, Kofi Annan, has announced that a UN Special Envoy will be sent to Burma, perhaps within the next month, to monitor the country’s moves toward democratic reform. This announcement followed the December 16 meeting between Mr. Annan and Senior General Than Shwe, chairman of the Burmese regime’s State Peace and Development Council (SPDC). The two officials were in Kuala Lumpur to attend a summit of Asian leaders. The Secretary-General said of the envoy’s upcoming mission: "It’s a little unusual for the United Nations. We are not going in with a timetable like we did with Cambodia."

UN PROVIDES FLOOD AID

In a December 9 announcement the United Nations Food and Agriculture Organization stated that it would provide $318,000 in aid to Burma to assist in rehabilitation efforts resulting from the severe flooding that occurred over the past several months. A reported 510,000 hectares of crops were lost, affecting over 120,000 farmers and there is now a shortage of seeds for planting. The UN agency said that at the government’s request it would supply sunflower, soya bean and vegetable seeds for distribution to the flood-stricken farmers.
U.S. GOVERNMENT CONDEMNS SENTENCING OF OPPOSITION LEADERS

In a statement released by the Department of State on December 16, the U.S. government voiced its condemnation of the sentences given to seven members of Burma's democratic opposition party who were detained last month following attempts to hold party organizational meetings. Six of the seven members of the National League for Democracy were sentenced to six years in prison for "disturbing the public or law and order." The seventh received a seven-year term. The statement, which was read by Deputy Spokesman, James B. Foley, called for the release of all political prisoners and concluded with the following remarks: "We had hoped that the recent restructuring of Burma's military junta might lead to long-promised political reforms, and especially create new opportunities to begin a meaningful dialogue aimed at national reconciliation with the National League for Democracy, other democratic parties and Burma's ethnic minorities. However, it appears that repression and dictatorship remain the hallmark of the ruling junta.

CONGRESSMEN CALL FOR HALT TO FORCED RETURN OF REFUGEES

Members of the United States House of Representatives expressed their concern over the forced return of refugees by the government of Thailand. Reacting to an incident which took place on November 15 and resulting in the repatriation of nearly 1,000 Karen refugees, the Congressmen appealed to Thai Prime Minister Chuan Leekpai to halt the forced return of these refugees back to Burma. In their letter of November 21, Representatives Chris Smith (R-NI), Tom Lantos (D-CA) and Howard Berman (D-CA) urged the Thai government to provide safe haven to those fleeing Burma.

PRESIDENT CLINTON REPORTS TO CONGRESS

In a December 9 letter to the U.S. House of Representatives, President Bill Clinton stated that, "The military regime in Burma, the State Law and Order Restoration Council, has made no progress in the past six months in moving toward greater democratization, nor has it made any progress toward fundamental improvement in the quality of life of the people of Burma." In light of this, the President declared that Burma "continues to represent an extraordinary and unusual threat to the national security, foreign policy and economy of the United States" thereby noting that the conditions remain in place that led him to impose sanctions on investment in Burma. The letter accompanied a report to Congress required every six months under the FY 1997 Foreign Operations Appropriations Act on the progress toward democratization in Burma.

BUSINESS WATCH

TAIWAN TO OPEN TRADE MISSION IN RANGOON

According to the Far Eastern Economic Review, Taiwan plans to open a full trade mission in Rangoon in the near future. The move is seen as part of Taiwan’s overall strategy to expand trade links with its Southeast Asian neighbors. Both of Taiwan’s major airlines, China Airlines and Eva Air, already fly weekly charters between Burma’s capital city and Taipei and many members of Burma’s business community are of Cantonese and Fujianese origin with strong ties to Taiwan. Economic and trade offices serve as de facto embassies for the Taiwanese government in countries that recognize China rather than Taiwan.

TEXTILE WORKERS ON STRIKE

The Federation of Trade Unions-Burma has reported that nearly 1,000 textile workers in the city of Pegu, 50 miles from Rangoon, went on strike on November 19 in a call for higher pay and better working conditions. The employees of the Yan Xi Kyan factory, a joint venture between the Burmese government and a Chinese company, participated in a work stoppage which led to the arrest and dismissal of eleven strikers. The dispute was settled on December 12 after management agreed to the list of demands and all dismissed workers were reinstated. Further labor unrest took place at a factory in North Okkalapa, as workers protested the closing of the Cherry garment factory where nearly 3,000 people were employed. The soaring inflation rate and the fact that management in many of the textile factories has been assumed by members of the military appear to have contributed to the growing discontent among Burma’s work force.

THAI BANK ANNOUNCES CLOSING OF BURMA BRANCH

Thailand’s third largest commercial bank, Thai Farmers Bank PLC, has announced that it will close its offices in Burma due to lack of business. Because the Burmese authorities do not permit full operations by foreign banks, the branches serve as representative offices responsible for advising Thais doing business in the country. However, a bank officer was reported as stating that: "Many Thai businessmen are leaving Burma... because they aren’t making any money there." Thai Farmers, which is closing its offices in Vietnam for the same reasons, stated that it would consider reopening in both countries when the governments would allow foreign banks to operate full branches with complete banking services.

CANADIAN FIRM STOPS BUSINESS IN BURMA

Tiger International Resources Inc., a Canadian based firm, has announced that it will no longer do business in Burma. The company, which has been investing in and conducting mineral exploration in Burma since 1996, plans to advise the government of its decision to leave by the end of 1997. Reasons cited for the withdrawal included the claim that the government was unresponsive to market pressures and placed too many burdens on companies trying to operate there, making Tiger International Resources’ project uneconomical.

EDITOR’S NOTE

Regarding the September/October 1997 issue of Burma Debate, the credit on the photograph of U Ohn Gyaw (p. 19) was inadvertently omitted. It should have read: Reuters/Romeo Ranoco/Archive Photos.
Undated (1997)

This July 19th, Martyrs’ Day is a sadder day than previous ones as we do not hear the sirens being played by the Myanma-athan [Burma Broadcasting Service] any more at the exact time of Bogyoke’s [General Aung San] death. Also the Na-Wa-Ta generals do not salute on Martyrs’ Day. This behavior by Na-Wa-Ta shows disrespect... for the fallen leaders who are martyrs. In the currency printed by Na-Wa-Ta, Bogyoke’s picture is no longer there. By observing these acts of Na-Wa-Ta it seems that they are trying to make the people forget Bogyoke; perhaps they have feelings of jealousy and resentment towards Bogyoke. It is so sad that Bogyoke is not respected and valued.

Mandalay University

December 8, 1997

Travel restrictions on Muslims of Arakan, which were imposed long ago, have been further tightened recently. Severe restrictions have particularly been put on travel between Maungdaw and Sittwe (Akyab). Besides getting permission following a lengthy process which is very costly, intimidation and extortion along the way is now carried out with added momentum. The latest method of harassment and brutal dealings are applied against the Muslims at the notorious "ASEAN gate" in Akyab. All the Muslim passengers are herded to the "ASEAN gate" after arrival at the jetty in Akyab, which was erected recently for the Rohingya passengers, while non-Muslims are allowed to go through the usual gate. Rohingyas are kept inside the "ASEAN gate" for about two or more hours where they are physically humiliated and financially extorted before being allowed to proceed. Whatever is demanded by the combined authorities posted at the jetty, must be provided by the Muslim Rohingyas. The Muslims have to unwillingly buy anti-Muslim propaganda magazines, make donations for building pagodas, and buy lottery tickets with expired dates. During the line-up at the infamous gate, the Muslims need to sit humbly and any movement that would create undesirable attention results in beating and kicking, without considering that the person may be old or pregnant.

The authorities have been feeling that it was possible for the SLORC to be admitted to ASEAN because of the strong support from Muslim countries in ASEAN. But what about the Muslims in Burma? As the junta maintains its same track — ethnic cleansing in Muslim areas — it has nakedly started humiliating the Muslims in Arakan by introducing this "ASEAN gate" to dispel any hope in them of strong constructive intervention from Malaysia and Indonesia to improve that status of Muslims in Burma.

Maungdaw, Burma

July 31, 1997

...I want to tell you about the spread of the AIDS virus and deaths from the HIV/AIDS in the jade mines areas of the Kachin State villages such as Hpa-khant, Seik-mu, Tar-makan, and Lone-kin. In some cases, due to the many deaths that take place daily in the villages, the bodies are just rolled up in mats for the funerals. The SLORC on the other hand, by obtaining many so-called ‘peace’ agreements, including one with drug kingpin Khun Sa, has allowed certain groups to engage in lawless business activities within the country. Particularly in Pha-khant township, the blatant sale and trafficking of heroin can be seen. The AIDS virus, transmitted through the use of needles or from HIV-infected prostitutes, has indeed spread. According to local doctors, they see an uncontrollable situation in these affected areas in the next four or five years and predict a mass exodus of villagers fleeing to other areas. In many places we can see HIV-infected people with bloated faces and legs scrounging for food in the garbage piles.

Phakant

In this publication, Peter Carey brings together contributions by some of the leading experts on contemporary Burma. These participants at a Southeast Asia conference sponsored by the Foreign and Commonwealth Office in conjunction with the St. Anthony’s College Asian Studies Centre, discussed four topic areas — politics and constitution-making; the economy and the role of foreign aid; the minorities; and foreign policy — and looked at the prospects for change in a deeply divided, yet intrinsically rich country.
This interview originally appeared in the December 8, 1997 issue of the Japanese newspaper The Nikkei Weekly. It is reprinted here with permission and may not be reproduced on the internet.

AMBASSADOR URGES JAPANESE INVESTORS TO MEET EUROPE LEVEL
BY SATOSHI ISAKA, staff writer

Japanese companies should expand investment in Myanmar to recoup ground lost to European and Southeast Asian companies, Ambassador U Soe Win says. Soe Win, 52, a former military officer, also says he sometimes sees Myanmar dissidents who live in Japan.

Q: Japan has made resumption of aid to Myanmar conditional on improvement in democratization and human rights. What do you think of that?
A: Though our two countries have long enjoyed friendly ties, I don't deny that there are ups and downs in the relationship. Foreign pressure has unfortunately caused Japan to reluctantly suspend official development assistance since 1988 (when the current military government took power). On our part, there is no change in policy. With or without outside assistance, the government is determined to march forward to build a modern society with our natural and human resources.

Q: Japan's investment in Myanmar remains small. You must be concerned.
A: Many Japanese enterprises, particularly big trading companies, wish to invest in Myanmar. They have much interest in the oil and gas sectors, where we have great potential. But because of pressure from some quarters and lack of ODA, potential investors have been lackadaisical.

At present, outstanding Japanese investment is just $202 million, lagging far behind companies from Europe and Southeast Asia. U.K. companies, despite their government being very vocal about political conditions in Myanmar, are quite eager to do business in our country.

Q: Tensions between the Myanmar government and the National League for Democracy, led by Aung San Suu Kyi, appear to have somehow eased in recent weeks. How should we understand the government's intention?
A: Preventing the disintegration of the union and maintaining national solidarity are among the highest goals of the government. It has since 1988 been striving to accommodate all the national races and consolidate the union. As a result, most rebel groups have made peace after they realized the goodwill, patience and magnanimity of the government. So I can say the recent development that you refer to is also one of the circumstances that the government has shown its magnanimity, patience and forgiveness.

There is nothing that cannot happen in politics. I found it true when most of the rebel groups returned to the legal fold to make peace. Such development was inconceivable in the days of the previous governments. No one ever imagined that peace and tranquility would prevail so widely in Myanmar as they do today.

Q: What sort of Japanese are you most closely associated with?
A: There are two types of Japanese friends with whom I am closely related. Old friends are war veterans (who fought during World War II in Myanmar). They have a fond memory of Myanmar and have often visited the country. I am often invited by them for dinner, for speeches and for other engagements.

New friends are businesspeople, especially those at big trading houses like Mitsui & Co., Marubeni Corp., Itochu Corp. and Sumitomo Corp., who are considering investment in Myanmar.

Q: There are many Myanmar expatriates in Japan who fled the country after 1988 and lead anti-government activities here. How are you dealing with them?
A: We have to consolidate them into our fold. Five dissidents have changed their attitudes since I came here. One of them, who got married to a Japanese lady, went back home and surrendered to the government. He then returned to Japan and stays as a businessman.

We get in touch with dissidents through our middlemen. Intentionally or unintentionally, we have sometimes met.
Burina Debate is a publication of The Burma Project of the Open Society Institute.

Mary Pack, Editor

THE OPEN SOCIETY INSTITUTE (OSI) was established in December of 1993 to promote the development of open societies around the world. Toward this goal, the institute engages in a number of regional and country-specific projects relating to education, media, legal reform and human rights. In addition, OSI undertakes advocacy projects aimed at encouraging debate and disseminating information on a range of issues which are insufficiently explored in the public realm. OSI funds projects that promote the exploration of novel approaches to domestic and international problems.

The Burma Project initiates, supports and administers a wide range of programs and activities. Priority is given to programs that promote the well-being and progress of all the people of Burma regardless of race, ethnic background, age or gender.

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