

VL



# ASIA WATCH

REPLY TO: 485 Fifth Avenue, New York, NY 10017 TEL (212) 972-8400 FAX (212) 972-0905  
REPLY TO: 1522 K Street, NW, Suite 910, Washington DC 20005 TEL (202) 371-6592 FAX (202) 371-0124

## Testimony of Holly Burkhalter, Asia Watch before the Asia and Pacific Affairs and Human Rights and International Organizations Subcommittees

September 13, 1989

- JACK GRIFFING  
Chairman
- MATTHEW MEADIE  
Vice Chairman
- MAURICE STEINMAN  
Vice Chairman
- SEYMOUR B. JINAY  
Executive Director
- SILVIA CHUNG  
Press Director
- FRANK A. GROSSMAN  
Research Associate
- J. WILSON PHILIP  
Research Associate

Thank you for holding this hearing, Chairmen Solarz and Yatron, and for inviting Asia Watch to participate. My name is Holly Burkhalter and I am the Washington Director of Human Rights Watch, a human rights monitoring organization that includes Africa Watch, Americas Watch, Asia Watch, Helsinki Watch and Middle East Watch. We appreciate the subcommittees' continued concern for human rights in Burma. We also appreciate your taking the time to consider H. Res. 185, the resolution expressing congressional concern about human rights in Burma. Asia Watch strongly supports the resolution and welcomes the initiative as a means of expressing support for proponents of democracy in Burma as well as conveying revulsion to the authorities for the gross abuses of human rights which have characterized their rule.

As you know, the human rights situation in Burma

**WATCH BOARD OF DIRECTORS**

- Fred Abama
- Edward I. Baker
- Robert I. Beerman
- Tom A. Brennan
- John B. Brink
- Adrian W. Brownell
- Clarence Dun
- Dorothy A. Dossman
- Tomoko A. Gerold
- Adrienne Goodman
- Martha Goodman
- Dorothy M. Greenberg
- Charon Halperin
- Don of Han-Li
- Lung Hong
- Jim Leber
- Virginia Lopez
- Sukha Marumthan
- Ann Pandha
- Don Pan
- Stephen A. Ecklund
- Steven Rosenbaum
- Barrett Rubin
- Orville Schell
- James S. Sir
- Julius Shapiro
- Stephen C. Silberman

has deteriorated sharply over the past year. As in China, Burma's pro-democracy demonstrations last year met a bloody end with the massacre of at least 1,000 students and largely unarmed civilians on the streets of the capital and other cities in early August. Following the September 18 coup that brought General Say Maung to power, the Burmese security forces opened fire on demonstrators, killing at least 2,000 students, workers, monks and others who took part in the protests and arresting thousands more. Some ten thousand Burmese students then fled to the border areas, seeking refuge in Thailand. Of these, an estimated 3,100 have returned, according to government sources.

With the first anniversary of Burma's brutal repression of student-led protests at hand, Burma's military government has taken measures to ensure that no repetition of last year's protests takes place. To that end, over the past two months the government carried out a massive crackdown against opposition party leaders and student activists. Asia Watch has received confirmed reports of 2,400 arrests in recent weeks; 1,300 from the main opposition party, the National League for Democracy, 600 from other parties and 500 students with no party affiliation. Estimates of the total number arrested in this latest crackdown range from 3,000 to 10,000. Opposition party members and students have reportedly been dragged off buses and out of tea shops and taken into custody. Many have been taken from their homes at night. Student activists have reported that many that have been taken into custody have subsequently disappeared.

48

Torture of political prisoners in Burma is routine and widespread, sometimes leading to death. As U.S. officials in Burma have confirmed, torture of prisoners includes beatings, electric shock, and forcing prisoners to stand in deep water during interrogation. Prisoners are confined in crowded cells, often having to stand in knee-deep water. Zar Gana, a student and a political satirist who was arrested on October 2, 1988, was reportedly blindfolded, hung upside-down from the ceiling and beaten by interrogators. He was finally released on April 21 after seven months of incommunicado detention. Amnesty International has reported that another student, Zaw Win Tun, died on December 30, 1988, less than 48 hours after his release from military custody. He was reportedly held incommunicado for several weeks and severely tortured while in custody. Many students taken into custody have disappeared, and are believed to have been secretly executed.

Recent detainees have also been tortured. Student organizations have reported that Aye Aye Mun, a student at Rangoon University was arrested in mid-April and taken to Insein jail outside Rangoon. She was beaten so badly while in custody that she was released. She died at home the day after her release.

Torture is by no means limited to pro-democracy student demonstrators. Villagers from border areas who have been taken into custody by the army for suspected links to the insurgency movements have been beaten and whipped, had their fingers crushed

or the skin on their legs scraped off with bamboo rods, or have been burned with cigars and molten plastic. Women and girls are frequently raped.

In recent months, the military government has employed a particularly cruel practice to punish participants in the pro-democracy demonstrations. Student detainees have been transported to the border areas and forced to serve as porters for the army in its counterinsurgency operations against ethnic guerrillas in border areas. Portage for the army is particularly dangerous in that the unarmed civilians are forced to walk ahead of troops bearing heavy loads of ammunition. They are exposed to armed attack without protection and are used to sweep the mine-strewn area ahead of the army.

In one recent incident on July 2, as the Burmese army was preparing to launch a major assault against the Kachin forces in the Shan State along the Chinese border with Burma, 500 political prisoners -- primarily college students and some of high school age, although some were older -- from Insein and other prisons were sent by train to Mandalay. On the 5th of July they were transported blindfolded in army trucks to Lashio and Nantou where they were tied together by ropes around their waists and ankles and were made to carry arms and ammunition for the Burmese troops. Linked together in this way, they were unable to run, and could only walk. Eyewitnesses and independent Asia Watch sources have reported that most were wearing only torn trousers or longyi, but no shirts or shoes. An average of 2-3 students e

day were reported to have died during the march from exhaustion, beatings and starvation. Students sick with malaria were beaten, and when they collapsed would be cut loose and left to die. One escapee reported seeing 90 bodies of students who died en route. An independent Asia Watch source who witnessed the march confirmed that villagers who attempted to provide the students with food and water along the way were prevented from doing so by Burmese soldiers. Soldiers reportedly told the students "Now you are going to get a lesson in real democracy" as they beat them. Informed sources have told Asia Watch that it was clear that none of the students was meant to survive the death march.

The practice of portering is not a new development. Amnesty International issued a report in May 1988 on the Burmese army's long-standing practice of impressing villagers among the ethnic minorities in border areas to serve as porters for army operations. The practice of forced portering has been used by the Burmese army to punish and demoralize villagers suspected of supporting ethnic insurgent movements along the Burmese border. According to Amnesty International, villagers who resist or who fall sick have been shot or beaten to death by soldiers. The State Department Country Report for 1988 reported that in mid-October 1988 the Government revealed that 1,120 people had been rounded up for labor and porter service. The State Department report noted that many sources, including eyewitness accounts, indicate that by late December this figure had increased significantly.

H

The U.S. Committee for Refugees has reported on other significant abuses by the Burmese military against unarmed civilians in the course of counterinsurgency operations in the border areas. On August 31, 1989 the organization reported that massive numbers of civilians have been displaced from their homes in Karen areas, and that the army routinely burns homes and crops.

The recent crackdown on opposition figures and students makes a mockery of the Saw Maung regime's promises of political liberalization and elections in May 1990. On July 20, two prominent leaders in Burma's opposition party, the National League for Democracy (NLD), Aung San Suu Kyi and U Tin Oo, were arrested and placed under house arrest for up to one year. Apart from close family members, the two are being held incommunicado and telephone lines to their homes have been severed. At least ten armed military intelligence officials have been posted inside the compound of Aung San Suu Kyi's home. Both leaders have been charged with "sowing dissension in the military" and "nurturing hatred for the armed forces among the populace." Prior to her arrest, the army conducted a vicious and obscene propaganda campaign against Aung San Suu Kyi and her British husband, Michael Aries. As noted above, at least 1,300 members of the NLD, plus other opposition parties and prominent student activists, are reported to have been detained following Aung San Suu Kyi's arrest. To our knowledge, the political prisoners are being held without charge or trial.

Student activists in particular have been subject to arbitrary arrest and other abuses. Some 43 students who were staying at the home of Aung San Suu Kyi (which had functioned as the headquarters of the NLD) have been arrested for failing to register their place of residence with the authorities, according to reports received by Amnesty International. The government has also published directives requiring that all "strangers" and "missing persons" be reported to the law and order restoration councils. Student organizations have claimed that parents have been asked to report missing students. The prominent student leader Min Ko Naing and 15 other members of opposition parties were arrested on March 23 for "organizing and inciting disturbances" in connection with demonstrations marking Armed Forces Day. Min Ko Naing is being held without charge in Insein Jail, north of Rangoon. He has reportedly been denied visitors, and Asia Watch is gravely concerned that he and the others detained recently may be ill-treated in custody.

The British Broadcasting Corporation reported on June 25, that soldiers from the 36th Light Infantry Regiment took 11 mineworkers from a jade mine in Mong Hnyin Township into custody on June 8, apparently in a search operation to uncover students hiding in the mine. After three of the workers escaped, the soldiers reportedly bayoneted the remaining eight. Four of those killed were students. The government claims that the students had joined the Kachin Independence Army (KIA, an armed opposition organization which has been fighting Burmese forces

along the Burma-Thailand border), and were killed in an encounter between the Burmese forces and the KIA. Opposition leader Aung San Suu Kyi has called on the government to initiate a full investigation into the incident, to which the government has responded by accusing Aung San Suu Kyi of creating dissension between the people and the Defense Forces.

On July 27, the government sentenced to death three student leaders of the NLD, Than Zaw (a.k.a. Zaw Gyi), Myi Nyi U and Moe Kyaw Thu, for their alleged involvement in the July 7 bombing of the Syrian Oil Refinery near Rangoon. The three were sentenced before a military tribunal established on July 17 under Martial Law Orders 1/89 and 2/89. The tribunals have been empowered to conduct summary trials which suspend legal safeguards and deny the right of judicial appeal. Although the government has stated that the three "confessed" to the crime, an Asia Watch source reported that photographs released of the students suggested that they had been severely beaten. A fourth student, Moe Thiha, has been accused of masterminding the explosion. However, informed sources have confirmed that Moe Thiha, a poet and songwriter, has not been in Burma since he left for the border camps in April. Asia Watch fears that the students have been tortured into confessing and that the government is trying to use the bombing incident to discredit the NLD.

Burma's change of government last fall created no significant difference in the power structure that has ruled Burma for 26 years--representing a insurmountable obstacle to any

real efforts at democratization. The ruling "State Law and Order Restoration Council (SLORC)," is headed by General Saw Maung, who is largely considered little more than a figurehead. The real power behind SLORC is believed to rest with Brig. Gen. Khin Nyunt (head of the infamous DDSI, the military intelligence service) and Brig. Gen. Tin Oo (no relation to the opposition leader of the same name) both of whom have been close associates of Ne Win for many years. Most observers believe that Ne Win continues to direct government policy from behind the scenes, and to control the army, the DDSI and the NUP through his hand-picked advisers.

And although the Saw Maung regime has promised elections in May 1990, most observers doubt that they will be held fairly, if at all. The draft election law, published on March 2, excludes from contesting in the elections persons who "have contacts with insurgent groups" and citizens who are "entitled to the rights and privileges of a subject or a citizen of a foreign power." This appears to be aimed at the National League for Democracy, and Aung San Suu Kyi in particular, as she is married to a British citizen. The election regulations include rules for the election of a 489-member parliament. (It is our understanding that even if elections went forward, the parliament itself would have no actual governing authority, but, rather, preside over constitutional changes and eventually schedule national elections on an unspecified date several years in the future.) While opposition figures welcomed the promulgation of the election

regulations, they raised concerns about limits contained in the new regulations, as well as other restrictions on political participation, described below.

Political participation is also limited by other laws and regulations. Severe restrictions on speech and assembly have been used to prevent opposition groups from functioning freely. Martial Law regulations promulgated in September 1988 prohibit gatherings of more than five persons in the streets, or fifty indoors. Congregating, walking, marching in procession, chanting slogans, delivering speeches, agitating and creating disturbances in the streets by a group of more than five people were also banned in October 1988, as were "organizational activities, speeches, propaganda and subversive literature aimed at dividing the Defense Forces." Under the State Protection Law of 1975, still in force, persons may be held for up to three years without charge or trial for actions deemed by the authorities to "endanger the peace of most citizens or the security and sovereignty of the state." Under the Emergency Provisions Act of 1950, still in force, persons may be prosecuted for "spreading a false news item or a rumor to excite disaffection," or for committing an act "with intent to cause alarm among the people" or "to cause disintegration of the moral character of the people using methods that cause harm to the security, the law and order and rehabilitation of the state." Amnesty International has documented more than 50 cases of persons detained since March 1989 under the Emergency Provisions Act and the State Protection

Law. Most of those detained have been students and members of legally registered political parties arrested in connection with the non-violent expression of their political beliefs at gatherings of opposition groups.

When the National League for Democracy attempted to organize a peaceful demonstration on Martyrs Day on July 19, the authorities issued a threat indicating that they would use force against the demonstrators, saying that military officials had absolute freedom of action and free reign to open fire on demonstrators if necessary. Kyaw San, chief spokesman of the SLORC warned that the National League for Democracy must bear the consequences of its actions in organising the event, and reportedly warned people by loudspeaker not to participate in the demonstrations. After the army erected barricades throughout Rangoon, thereby sealing off the streets, Aung San Suu Kyi cancelled the event, stating that the army had prepared "a killing field" for the demonstrators.

Civil servants who took part in last year's demonstrations have also suffered reprisals. Many have been forced to retire, or have been transferred to less desirable posts following "investigations" by government officials into their participation in the demonstrations.

The press is also severely restricted. Under Order No 3/89 of the SLORC promulgated on June 27, all registered organizations may publish documents only after obtaining an exemption in accordance with the 1962 Printers and Publishers Registration

Law. All publications -- including handbills and posters -- must first be submitted to the authorities for approval, and cannot contain material that "opposes the SLORC, the regional law and order restoration councils ..., or the government; insults, slanders or attempts to divide the Defense Forces; instigates action that affects law and order and peace and tranquility; and contradicts the orders that have been issued wherever necessary." On June 27, the authorities announced the arrest of 31 members of a youth group in Mandalay who had distributed pamphlets calling for demonstrations and who were in possession of posters "slandering the government and the Defense Forces." Fourteen members of the group were reported to have been released after questioning; the remaining 17 have been charged in connection with their activities to encourage demonstrations. On July 28, Military Tribunal No. 2 sentenced seven persons to five years at hard labor for their involvement in a peaceful protest organized by monks at the Shwedagon Pagoda in Rangoon. They include San Maung, Zaw Win Aung, Kyaw Win Moe, Htay Lwin, Khin Maung Tin, That Naing (a.k.a. Htet Naing), and Kyaw Lwin Nyunt (a.k.a. Kyaw Lwin Myint). According to Amnesty International, they were protesting a decision by the security authorities restricting them from entering the pagoda. They have been charged with "disturbing the peace, affecting restoration of law and order and undermining the well-being of the general public or a group of people" by demonstrating and "shouting slogans."

In early July, the Burmese authorities "temporarily"

7

H6

suspended visas for foreign correspondents. Burmese journalists who work for the international wire services have also been intimidated. After the arrest of Aung San Suu Kyi, international telephone and telex lines to Burma were cut, and were only restored two weeks later. Asia Watch believes that these measures restricting communications have only facilitated government efforts to conceal human rights abuses by the security forces, and we urge the authorities to permit access to Burma to the press and other international observers.

Following the violence of 1988 and 1989, some 10,000 Burmese students fled Rangoon and other major cities. In a calculated effort to appease its international critics, and woo back the students, the Burmese regime set up some 27 "reception centers" to receive students who wished to return, promising that they would be treated humanely upon their return. (The government claims that some 3,000 have now returned.) When a group of 80 students returned in December, however, the SLORC issued an announcement that the government would "punish those found to have committed criminal acts." Student leader Thant Zin, who was repatriated on December 26, was arrested and held incommunicado after his return to Burma. Tu Ain Tin, a student who had performed protest songs during the demonstrations in September, was also arrested after he was repatriated. Amnesty International reported that some of the returning students were either taken into custody and executed by army units or were shot and killed by soldiers who ambushed them in the forest. According to the

human rights organization, on November 19, nine students were arrested in the Burmese town of Kawthaung. They were taken to a military camp where, allegedly, four were beheaded. The other five managed to escape.

The SLORC even went so far as to set up an extraordinary press event in mid-January, inviting some 46 international journalists (who had previously been excluded from Burma) to observe the returned students and satisfy themselves that the returnees were safe. At the event, several very brave students among the group challenged the military's depiction of the democracy movement and described military killings of unarmed civilians. The three students met privately with journalists and told them that they had been coerced into returning, and expressed fear for their safety. Asia Watch has since learned that two of the students who spoke out, U Sai Myo Wun Tun and U Kyi Moe, have been taken into custody and subsequently disappeared.

At the time of this writing, some 2,000 - 3,000 students are in camps along the Thai border inside Burma and 1,000 are in Thailand. After Thailand's rapprochement with Burma in December, some 300 of these students were deported from border areas in Thailand and returned to Rangoon, despite evidence that they faced arrest, torture and possible execution upon their return. Since the closure of the Tak repatriation center in March, several hundred more have been repatriated to the camps inside the Burmese border, where the risks they face are considerably

HB

less. (Based on reports from the U.N. High Commissioner for Refugees, the press, and local observers, the total number of Burmese repatriated by Thailand over the past year may number as high as 1,500, but this number may include persons who have returned to Thailand and been repatriated repeatedly.)

Inexplicably, the U.S. Embassy in Bangkok has been extremely reluctant to provide humanitarian paroles to the handful of students who have approached the Embassy seeking assistance. The Embassy reportedly turned away some students, saying that they would have to return to Rangoon to apply for appropriate travel documents. Considering the extreme risk posed to the students from the Burmese military authorities, the requirement that they return to Rangoon is callous and indefensible. The Washington Post of August 3, 1989 reported that the Immigration and Naturalisation Service's Ralph Thomas, deputy assistant commissioner for refugees, asylum and parole, stated: "We basically have not brought people in from this student group, and the reason is it's very hard to distinguish them from all the rest who want to come here." This reasoning seems spurious, given the relatively small population at risk who want to enter the U.S.

Following significant pressure by Chairman Solars and Senator Daniel Patrick Moynihan, the Embassy reversed its position on two cases, and on August 11, the U.S. Immigration and Naturalization Service (INS) granted permission for two student activists who have been in hiding in Thailand, Yuzana Khin and

Min Son Min, to enter the U.S. under a special provision in U.S. immigration laws. The move reverses an earlier decision denying humanitarian parole to Khin.

Asia Watch welcomes the INS decision. We are disturbed, however, by reports that officials at the INS and the State Department continue to state that they have had no corroboration of reports that Burmese students have been forcibly repatriated from Thailand. Asia Watch, the U.S. Committee for Refugees, and other groups have received credible reports of the forced repatriation of a number of Burmese students, and of the arrest and disappearance in custody of students who have returned from the border areas voluntarily. The Embassy appears to justify its extraordinarily ungenerous response to the Burmese students on the notion that a "policy decision" is required. Under current law, the Embassy possesses the authority to admit the small number of students who have expressed an interest in entering the U.S. (numbering less than 50) without needing a further "policy" directive. All that is needed is a commitment on the part of the U.S. Embassy in Thailand and a decision.

The international response to the severe repression in Burma has been muted. Last fall, Burma's principal donors, including Japan and West Germany, suspended aid following the killing of opposition demonstrators. This was apparently the first time Japan had used economic assistance to protest human rights abuses. That response was short-lived, however, and in February

Japan reinstated its \$300 million aid program, by far the largest in Burma, citing the restoration of "law and order" and signs of gradual democratization in the country. This move came too quickly and sent precisely the wrong signal to Burma's military rulers. And the Government of Singapore provided extremely significant support by way of arms sales to Burma at the moment of greatest military carnage. The shipment from Singapore, which was unloaded in Burma on October 6, contained mortars, ammunition, raw material for making rifle bullets and 84 mm Carl Gustaf rockets which Chartered Industries in Singapore manufacture under license from Swedish company Forenade Fabriksverken. The shipment violated an agreement between the Swedish company and Singapore, which required approval from the Swedish government for re-export to a third country. The Singaporean company never bothered to apply for such a permit.

The US cut off its small aid program to Burma last year -- \$8 million in anti-drug equipment and \$4 million in development assistance -- and now the administration should call upon Japan to do the same. It should also discourage other allies, notably South Korea and Thailand, from pursuing new trade relationships with Burma unless the Saw Maung government takes positive steps toward restoring fundamental human rights. Asia Watch welcomed the suspension of U.S. aid, and the United States decision in July 1989 to suspend Burma's participation in the Generalized System of Preferences. It is our understanding that Senator Moynihan has introduced a bill which would prohibit the

H

importation of Burmese teak and fish products. Congress should give this matter serious consideration. A similar boycott on the importation of coffee from Uganda enacted by the Congress in 1978 (the Pease/Hatfield bill) was very instrumental in bringing pressure on the Amin government.

The US Ambassador to the U.N. should also enlist our allies in calling for a special rapporteur on Burma in the UN Human Rights Commission. US support for democratic reform in Burma should be backed by concrete measures to protect those who have fought for human rights. The administration should admit Burmese students who face political persecution under the humanitarian parole provision of immigration requirements, and include Burmese among those groups which may be considered for refugee status in the U.S. When you take up House Resolution 185, this Committee should consider amending the resolution to instruct the executive branch to adopt a more generous approach with respect to Burmese students.

The deterioration of human rights in Burma demonstrates that without sustained pressure from the international community, governments have little reason to acknowledge the protests of their own people or to fear the world's condemnation. Yet it is clear that the Burmese military authorities have been forced to take at least some actions in response to domestic and international criticism. The fact that the widely-hated Sein Lwin, head of Burma's vicious riot police, which had engaged in most of the killings, torture and rapes of the March 1988 student

HE

uprising, lasted only 3 weeks in office before being replaced by the more moderate Dr. Maung Maung (who was himself later replaced by the SLORC, headed by General Saw Maung) suggests that the army is not impervious to pressure. The press event organized in January also indicates that the Burmese felt the need to deflect international criticism on human rights by "proving" to the outside world that the students were safe. (Though, as seen above, the event backfired when students told journalists privately about abuses.) Similarly the promulgation of the election law in March and the announcement of elections in May 1990 suggests a desperate need for international legitimacy in the face of wide-spread criticism and the cut-off of aid from key donors.

The democracy movement in Burma has not been vanquished by the extraordinary orgy of violence perpetrated by a brutal and corrupt military. Though the military's jailings and killings of democracy leaders and members of opposition political party members has made a mockery of its promises of multi-party elections next spring, Ne Win and his associates now in power cannot ignore popular demands forever. An organized and dedicated group of Burmese -- with significant popular support -- is testing the government's promises, and will surely not go away. The U.S. and our allies should keep faith with the real hope for Burma's future by demanding that the military authorities honor their commitments and permit free speech, assembly, and political

participation, as well as account for the atrocities it committed  
in its futile attempt to turn back the clock.