1 Introduction

The 55th session of the United Nations (UN) Commission on Human Rights (CHR) was held over six weeks in March and April 1999, in Geneva, Switzerland. This article provides an assessment of the CHR's 55th session and its relevance to Burma: what human rights issues were raised and what did relevant governments and NGOs say and do. Summarising the relevant parts of the 1999 CHR discussions and decisions, this article presents an overview of the meeting's deliberations on Burma. The article does not analyse every matter discussed but mainly summarises or extracts statements made, and documents distributed, at the CHR. This practice is followed even where the accuracy of the information may be questioned, for example, the military junta described Burma to the 1999 CHR as a "country experiencing peace and tranquillity [Sic]".

The CHR is a committee-like body of, and reports through the UN Economic and Social Council (ECOSOC) to, the UN General Assembly. The CHR is the largest regular inter-governmental meeting on human rights, and is the only forum in the UN system which exclusively considers human rights. As a subsidiary body of ECOSOC, the CHR's recommendations are passed on to the superior UN bodies. The CHR is made up of 53 State members elected on a rotating basis and with a regional proportion. Most of the 'major players' from each region are members of the CHR, however all other governments are permitted to observe and intervene during the CHR's meetings. Non-Government Organisation (NGO's) with ECOSOC status are permitted to observe, and have limited rights of intervention during, the CHR.

Some readers may find the coverage of particular issues in this article is too brief. Throughout the document, references to the relevant UN documents and resolutions are provided and the full text of these can be obtained from the internet. Unfortu-
nately, this article cannot promise to note every Burmese issue discussed during the CHR. Specific apology is made to any NGO whose statement to the CHR about Burma is not addressed below. The article endeavours to cover all the relevant statements made, and articles released, by Asia-Pacific governments and NGOs. In addition, some statements or documents by other parties (for example: special rapporteurs, non-regional governments, international NGOs) are noted where relevant to Burma. It should also be stated here that, without the generous assistance of the International Service for Human Rights, an NGO based in Geneva, this article would not have been possible.

The remainder of this article is divided into 11 sections:

2 review of United Nations' previous dealings with Burma;
3 report by special rapporteur on Burma
4 junta's general statement to 1999 Commission
5 general economic, social and cultural rights
6 general civil and political rights
7 women
8 children
9 displaced persons
10 regional human rights arrangements in Asia-Pacific
11 1999 Commission's resolution on Burma
12 conclusions

### 2 Review of United Nations' previous dealings with Burma

Before considering the detail of the 1999 CHR's dealings regarding Burma, it is useful to review preceding UN treatment of the human rights situation in Burma.

The 1998 UN General Assembly requested the UN Secretary-General to continue his discussions with the military junta about human rights and restoring democracy, and to report to the 1999 CHR on any developments. The Secretary-General's resultant report noted various meetings between his envoy and the junta's representatives in late 1998, including the envoy's visit to Burma where he also met representatives of the National League for Democracy (NLD). The report noted that in the four months since the UN General Assembly's resolution, it had not been possible to arrange senior level contact with the military junta.

Within the UN human rights procedures, there are many countries and issues in relation to which the human rights situation is so critical, that the CHR has created an additional mechanism (like special rapporteur, working group, or similar) to ensure particular attention is paid to the country or issues. A special rapporteur on Burma was created in 1992. The 1998 CHR extended the mandate, for a further year, of the special rapporteur on 'the situation of human rights in Myanmar'. Additionally, the thematic procedures (rapporteurs, working groups etc considering specific issues including torture, extra-judicial killing, judicial independence, violence against women, right to development) drew material extensively from Burma.
3 Report by special rapporteur on Burma

The special rapporteur on Myanmar (Burma) provided the 1999 CHR with a report divided into four sections: rapporteur's activities; civil and political rights; mission to Thailand; and conclusions and recommendations.

In his speech presenting his report, the UN’s summary record noted the rapporteur highlighted a number of issues, including lack of democracy and increased repression of opposition, authorities’ disregard for basic human standards in the country’s east, displacement of 100,000 people to Thailand, call for increase of international aid to ethnic people and refugees abroad, and forced labour.

The report explained that, since his appointment in June 1996, the rapporteur has not been permitted to enter Burma despite repeated requests by the rapporteur, the CHR and the UN General Assembly. The rapporteur explained that although prohibited from visiting, he had received extensive information from governmental, intergovernmental and non-governmental sources. The report noted attempts to convene parliament in accordance with the results of the 1990 general election and the authorities’ harassment and arrest of members of the parliament and others involved. The report summarised various concerns raised by UN officials, including the High Commissioner for Human Rights (HCHR) who stated, after raising human rights issues with the junta’s foreign minister, that she “received no satisfactory response.” The report described the military regime’s continued repression and harassment of political parties and opposition groups. The rapporteur discussed prison conditions and stated that the many allegations, plus the denial of access to him and the International Committee of the Red Cross, “indicate that...prison conditions fall far below the minimum international standards” (since the CHR, the International Committee of the Red Cross has been allowed access to the prisons in Burma). The report also noted numerous detailed allegations of torture by the authorities. The rapporteur visited Thailand in December 1996, meeting with Thai authorities, NGOs and Burmese ethnic groups and refugees. The rapporteur made many comments on the problems, causes and consequences of population displacement. The report contained many details of the violations carried out by the military, specifying the villages or areas and the military units involved. These violations included: forced relocations, forced labour and portering, restricting agriculture, and confiscating land. The rapporteur noted particular effects of these violations on women and children. The rapporteur stated: “The problem of displacement in Myanmar is complex...[and] the role of the army...is paramount....Violence against civilians would appear to have been a fundamental component of the overall military strategy of the Myanmar army...[T]he army has not only undertaken systematically to destroy most of the villages but also...forcibly to displace the rural population...to disrupt agricultural production.”

The rapporteur’s conclusions noted:

- the junta’s laws violate basic freedoms, including the freedoms of expression and association;
- “The Government of Burma continues to intimidate its citizens and prevents them from exercising their fundamental rights...citizens are still being arrested for peaceful expression of their ideas.”

“"The problem of displacement in Myanmar is complex...[and] the role of the army...is paramount....Violence against civilians would appear to have been a fundamental component of the overall military strategy of the Myanmar army”

Special rapporteur on Burma
• conditions in Myanmar prisons fall short of international standards; and
• impunity remains a very serious problem.

The UN’s summary record showed the military junta’s delegation criticised the rapporteur’s report. The delegation "regretted that the Special Rapporteur had filled his report with baseless allegations made by a few dissidents...while at the same time disregarding information from authoritative government sources". The junta was unhappy with what it saw was the report's focus on civil and political rights and superficial treatment of the right to food, clothing, shelter and to development in peace and security: "The report...read like a propaganda document for the...handful of...dissidents".

4 Junta’s general statement to 1999 commission

The delegation representing the military junta in Burma arranged for the UN to distribute a document entitled “Memorandum concerning the situation of human rights in Myanmar” which it explained, "...has been prepared for the ready reference of the members of the Commission on Human Rights and observer delegations...to understand better the true situation prevailing in the Union of Myanmar". The junta’s document endeavoured to respond to many of the expected criticisms, explaining the junta’s views on: opposition to the government, difficulties in border areas (lack of infrastructure and presence of drugs), government opposition to the drug industry, development of a new constitution, right to development, children’s and women’s rights, traditional contribution of labour, and the rule of law and judicial system.

The document stated, "The present Government was compelled to assume the responsibilities of State in 1988, in order to save the country from a rapidly worsening anarchic situation where...mob action began to rule and innocent people were being beheaded in the streets. The Government...laid down clear objectives aimed at re-establishing a multi-party democratic state. The document's author may have forgotten the 1990 election which the junta organised because it is not mentioned throughout the document. The military junta referred to the actions of the NLD, which the majority of Burmese people elected to govern the country: "The NLD secretly and systematically plotted to convene a parliament on its own...the NLD [took action] to convene a parliament. If the NLD took this line of action, the party could then become some sort of 'parallel government', which no government could ever countenance...To forestall such a situation from arising, the Government [ie. military junta] had to take appropriate measures in the supreme national interest. In order to maintain stability and national security, representatives-elect and some party members of the NLD have had to be called in temporarily at guest houses for the purpose of exchanging views on the consequences of the actions of the party for the peace and stability of the State. The military junta considered Burma is a "country experiencing peace and tranquillity [Sic]".

The Australian government stated, "The on-going repression of the NLD and the continuing detention of opposition members and others for merely expressing their political opinions is unacceptable."
The NGO, Worldview International Foundation, urged the CHR to recall previous resolutions on Burma by the CHR and the UN General Assembly on Burma, and urged the 1999 CHR not to focus only on civil and political rights, but to also consider other rights which are declining as well because of the military government’s practises. These practises, the NGO stated, are leading to poverty, environmental degradation, lack of medical care, landlessness and loss of livelihood. The military junta’s statement had explained the “standard of living of the majority of the population has markedly raised by the new...policy laid down by the government”.

“Implementation of Economic, Social and Cultural rights has been declining...largely due to mismanagement and the unjust economic and development policy of a regime whose main interest is to build up the armed forces”.

Worldview International Foundation

“[the] standard of living of the majority of the population has markedly raised by the new...policy laid down by the government”.

Burma military junta

Worldview International Foundation provided many examples of confiscation of land and forced labour, leading to some deaths. Other NGOs addressed the issue of forced labour. NGO, Anti-Slavery International, reported the forced relocation of over 300,000 people from just one area in Burma alone, and stated this is continuing. The NGO also explained there are many extrajudicial killings of people who return and often there is no punishment of rape by military, even where reported.

The delegation of the military junta warned: “Attempts from outside to hasten the process [of democratisation] or to set the direction in which Myanmar should move would only hinder the pace of democratisation and prove to be counter-productive”.

5 General economic, social and cultural rights

The situation in Burma was not specifically addressed in the discussions on economic, social and cultural rights. However, two of the items covered, foreign debt and extreme poverty, are relevant to Burma.

The 1998 CHR created, for three years, a special rapporteur on ‘the effects of foreign debt on the full enjoyment of economic, social and cultural rights’. No report was provided to the 1999 CHR. The 1999 CHR resolution on foreign debt was adopted against the vote of 15 delegations. The resolution noted, “foreign debt burden remains one of the most critical factors adversely affecting economic, social, scientific and technical development and living standards in many...countries”. The CHR cautioned both developing and developed countries: a clear statement that the current unfair situation cannot continue - the CHR affirmed a permanent solution to the foreign debt problems lies in establishing a just and equitable international economic system guaranteeing developing countries better market conditions. The CHR also emphasised the need for new financial flows to debtor developing countries, in addition to
debt relief measures. To developing countries, the CHR cautioned that a focus on foreign debt problems cannot excuse inaction on various measures; and affirmed people’s basic rights to food, housing, clothing, education, health services and a healthy environment cannot be subordinated to economic reforms arising from foreign debt. The CHR also recognised the need, in international financial institutions’ deliberations and actions, for more transparency and consideration of CHR resolutions. The resolution also indicated there should be more participation by governments in international financial institutions.

"Foreign debt burden remains one of the most critical factors adversely affecting economic, social, scientific and technical development and living standards in many countries"

UN Commission on Human Rights, resolution 1999/22

The 1998 CHR appointed, for two years, an independent expert on ‘human rights and extreme poverty’. The expert’s report to the 1999 CHR was divided into eight sections: extreme poverty as a human rights violation; UN action on extreme poverty; national-level action; case studies; technical cooperation; women in extreme poverty; conclusions; and recommendations. The expert explained that 20% of the world’s population, the majority of them women, live in absolute poverty, and this number is increasing. The expert noted the Sub-Commission’s special rapporteur’s work and relevant provisions of international human rights treaties, and observed, "poverty is the principal cause of human rights violations in the world". The expert explained the relevant obligations on States, particularly under the International Covenant on Economic, Social and Cultural Rights, and also considered the relevance of the right to development. The report summarised various UN conferences, programs and reports addressing poverty and noted the research and statistics demonstrating poverty alleviation is easily affordable by the world economy. The expert considered that "Lack of political commitment, not financial resources, is the real obstacle to poverty eradication". The CHR resolution addressing human rights and extreme poverty was passed by consensus. The 1999 CHR reaffirmed: (1) urgent national and international action is needed to eliminate poverty and exclusion from society; and (2) States must involve poorest people in all aspects of political, economics and social life, particularly in planning and implementation of policies which affect them.

"Poverty is the principal cause of human rights violations in the world...[and] lack of political commitment, not financial resources, is the real obstacle to poverty eradication"

Independent expert on human rights and extreme poverty

6 General civil and political rights

The 1999 CHR received a report from the UN Secretary-General on the issue of deprivation of nationality. The CHR’s resolution on this matter was passed by consensus. The CHR reaffirmed every person has a right to a nationality, which is an inalienable human right, and recognised arbitrary deprivation of nationality is a human rights violation. The CHR called on States to refrain from discriminating against persons by restricting their right to a nationality because of race, colour, gender, religion or na-
The 1999 CHR received a report from the special rapporteur on 'torture and other cruel, inhuman or degrading treatment or punishment'. The comprehensive report was divided into four sections: mandate and methods of work; rapporteur's activities; information on various countries; and conclusions and recommendations. The report detailed cases from the majority of countries in the Asia-Pacific region. Cases in Burma involved allegations of deaths in custody, torture during investigation to extract confessions, and military abuse of civilians (including rape and murder). The rapporteur's conclusions and recommendations were drawn from his presentation to the UN General Assembly in November 1998. One of the main problems the rapporteur perceived was the problem of impunity, both though formal legal protection and the informal shield provided by inadequate investigation and judicial systems. In summarising three recommendations, the rapporteur recommended: (1) incommunicado detention (present in many torture cases) should not be permitted beyond 48 hours; and governments should (2) ratify the International Criminal Court Statute, and (3) introduce legislation specifically to prohibit and punish torturers. The CHR's resolution on torture was passed by consensus and urged all governments to promptly implement the Vienna Declaration and Programme of Action, particularly regarding freedom from torture and removing impunity for torturers. The CHR reminded governments that corporal punishment and prolonged incommunicado detention can amount to cruel, inhuman or degrading treatment or even torture (and, therefore, breach international standards). The CHR emphasised to governments: (1) all allegations of torture or cruel, inhuman or degrading treatment should be promptly examined by a competent, impartial, national authority; (2) all persons who order, assist or perform torture must be held responsible and punished; and (3) national legal systems must provide fair compensation for torture victims. The resolution also emphasised various obligations on States that have ratified the 'Convention Against Torture', and urged governments which have not ratified the convention to do so.

The working group on 'arbitrary detention', comprising five experts, provided various reports to the 1999 CHR. However, only the group's main report was relevant to Burma. The main report was divided into an introduction and three sections: working group's activities; immigrants and asylum seekers; and conclusions and recommendations. The group's report explained that over the last year it communicated, sometimes jointly with special rapporteurs, with governments regarding 135 'ordinary cases' (14 from Burma) and 'urgent appeals' regarding 763 individuals (55 in Burma). The report noted no reply from the Burmese military junta to any of these reports. The working group stated, "impunity...[is] one of the most serious human rights problems and a fundamental reason why human rights violations continue to be committed."
relevant international instruments relating to states of emergency.

The special rapporteur on 'extrajudicial, summary or arbitrary executions' provided two documents to the 1999 CHR: a main report and an addendum with notes on country situations. The main report contained an introduction and six sections: mandate; rapporteur's activities; situations involving violation of right to life; issues requiring attention; issues of special concern; and concluding remarks. The report stated the rapporteur "is particularly disturbed by the growing number of report of killings by government security forces in Myanmar. The Special Rapporteur is not aware of any attempt by the Government of Myanmar to...end...these abuses, nor...investigate the crimes committed". The rapporteur explained that in the year to 31 Oct 1998, urgent appeals and regular communications were sent to more than 40 governments regarding over 2,400 persons. The main report analysed the cases investigated by the rapporteur to consider violations of the right to life of specific groups including women, minors, refugees and internally displaced persons. The rapporteur provided the 1999 CHR with a second document containing the details of her communications with governments. The cases relating to Burma described killings associated with military action and deaths in custody. The report showed no response from the Burmese military junta to the rapporteur's communications. The rapporteur's observations on Burma noted: dismay about the large number of allegations of government killings; abhorrence at the military's impunity; and regret at the targeting of ethnic minorities. The CHR's consensus resolution on summary or arbitrary executions was an encouraging, strongly worded, resolution. The CHR condemned all extrajudicial, summary or arbitrary executions that occur and demanded all governments act to ensure any such practices stop. The resolution reiterated governments' obligation to conduct "exhaustive and impartial investigations into all suspected cases of extrajudicial, summary or arbitrary executions". Governments of States where the death penalty exists, which includes Burma, were called on to comply with their obligations under international human rights instruments and the safeguards contained in relevant ECOSOC resolutions of 1984 and 1989. The CHR urged governments to: (1) take all necessary and possible measures to prevent loss of life during situations of public demonstrations, internal violence, disturbances, armed conflict etc; and (2) ensure police and security forces receive thorough training in human rights matters in particular with respect to restrictions on use of force and firearms. The CHR also strongly urged all governments to cooperate and assist the rapporteur (by issuing invitations when requested, and by replying to communications) and expressed concern at the number of governments which hadn't replied.

The CHR also passed a resolution on the death penalty, although 11 countries voted against this including, from the Asia-Pacific: Bangladesh, China, Indonesia, Japan, Pakistan, Qatar and South Korea. The CHR called on all States to move toward abolition of the death penalty. The CHR urged States maintaining the death penalty to: (1) comply with their relevant international obligations (including that the death penalty can only be sentenced for the most serious crimes and after a fair trial; and is not to be sentenced against minors nor pregnant women); (2) ensure the death penalty is not imposed for non-violent financial or religious practices or expressions of conscience; (3) not impose the death penalty against, or execute, persons suffering from mental disorder; and (4) move toward completely abolishing the death penalty.

The 1998 CHR considered the question of impunity and, through the UN Secretary-
other action they had taken to combat impunity for human rights violations. The Secretary-General collated information provided by governments and provided this to the 1999 CHR. No response was reported from the military junta in Burma. The CHR's consensus resolution on impunity noted it was important to take all necessary and possible steps to hold human rights violators accountable and urged all States to take action in accordance with the due processes of law. The CHR also called on States to provide victims of human rights violations a fair process through which these violations can be investigated and made public. The CHR welcomed the publications of findings of truth and reconciliation commissions which has occurred in some countries and encouraged other States to establish ‘appropriate mechanisms’ to expose serious human rights violations. The CHR continued the Secretary-General's reporting procedure on impunity to the 2000 CHR.

7 Women

The UN Secretary-General provided the 1999 CHR with a report on integration of women's human rights and the gender perspective. The Secretary-General noted: "the principle of non-discrimination is a widely accepted norm [however] some aspects have proved easier to implement than others. The elimination of [sexual] discrimination...still remains far from being attained despite gains made in the field of human rights". The report noted various attention given to, and activities on, women's human rights, including by the World Conference on Human Rights, 4th World Conference on Women, UN General Assembly, OHCHR, treaties bodies, and various UN bodies and special rapporteurs/working groups etc. The Secretary-General explained the HCHR has identified trafficking in women and children for sexual exploitation as a priority issue and decided to focus attention on this problem particularly in South East Asia and areas of Europe. The Secretary-General's recommendations included his call that clarification is needed of States' obligations to prevent and redress violations of women's rights.

"the principle of non-discrimination is a widely accepted norm [however] some aspects have proved easier to implement than others. The elimination of [sexual] discrimination...still remains far from being attained despite gains made in the field of human rights"

UN Secretary-General

The special rapporteur on ‘violence against women' provided five documents to the 1999 CHR, however only the main report on ‘violence against women in the family' was directly relevant to Burma. The main report contained an introduction and six sections: methods and activities in compiling report; defining ‘family' and ‘violence'; evolving legal framework; funding (including general trends and analysis of submissions from NGOs and governments); and conclusion. The report also annexed a table showing various measures taken (or lack thereof) by every government in response to domestic violence. Burma was one of the many countries listed as having no specific criminal law nor protective services against domestic violence. The report reviewed States' actions to combat violence against women in the family. The introductory sections of the report explained that international human rights guarantees are not restricted to the public sphere, but also apply to the private realm and States are obliged
to act to prevent, investigate and punish human rights violations within the family. The report explained examples of such violence include: woman battering, marital rape, incest, forced prostitution, violence against domestic workers, violence against girls, sex-selective abortions and female infanticide, forced marriage, son preference, female genital mutilation and honour crimes. The section on an 'evolving legal framework' contained a useful analysis and explanation of factors to be considered in determining whether a government has "exercise[d] diligence to prevent, investigate, and...punish acts of violence against women" which is required under the 'Declaration on Elimination of Violence Against Women'. In the findings section, the rapporteur observed many governments: (1) seem motivated by outdated views of a woman's role in family and society; (2) continue to make erroneous links between alcohol and violence against women, while ignoring the underlying cause of the male patriarchal ideology; (3) are avoiding responsibility for positive, anti-violence action by claiming it is culturally inappropriate in their country; and (4) classify women, children, the elderly, disabled etc. as one social group, and provide a 'social welfare' approach to discrimination against women rather than 'social justice' and empowerment. In relation to Burma, the rapporteur noted encouragingly the inclusion of violence against women in the Burmese August 1997 National Action Plan for the Advancement of Women, which addressed general training on violence against women for the military and legal officials. However, the rapporteur regretted no information was provided by the military regime about domestic violence: "There is no indication that domestic violence has been admitted by the Government to be a problem...Official denial of the existence of the problem may serve as an obstacle to victim reporting of such violence". The rapporteur concluded: "Overwhelmingly, States are failing...their international obligations...[on] violence against women in the family", and the violence is generally "viewed as a 'women's' issue rather than a serious human rights issue which affects a large percentage of any country's population". The rapporteur contained the detail of her communications with governments in a separate report.

A speaker from the delegation of the military junta in Burma "wish[ed] to apprise the Commission of the fact that the status of women in Myanmar is among the highest in the world", and also informed the CHR that "violence against women is not a major problem in my country". The statement explained various government activities as the "Government...assuming a leading role in coordinating and monitoring the progress made for the advancement of women in the country".

The military junta's role was seen differently by the NGO, Aliran, who informed the CHR that in Burma, "widespread violence against women by the military has been recorded in the UN documents as well as [NGO] reports published...across the world. There has been no adequate action taken by the regime to cease these...abuses". Aliran expressed concerns regarding military violence against women and that male soldiers may become more violent in their civilian lives (with wives, daughters etc). The NGO explained, "the regime needs to allow the development of independent women's organisations and NGOs - the existing ones...appear to be no more than a first wives' club of military men".

Asia Pacific Forum of Women, Law & Development, an NGO, explained "[It is] essential that all violations are in the first place correctly documented and acknowledged as violations. Violence against women, whether committed in the family, in the commu-
human rights and fundamental freedoms"\textsuperscript{58}. The NGO emphasised the rapporteur's work is important, but attention must be given also to governments' actions in response to the rapporteur's reports and recommendations.

"[It is] essential that all violations are in the first place correctly documented and acknowledged as violations. Violence against women, whether committed in the family, in the community, or by the state of the army...needs to be declared again and again...as violation of human rights and fundamental freedoms"\textsuperscript{59}

Asia Pacific Forum of Women, Law & Development

The CHR passed two resolutions, by consensus, in relation to women's human rights. The first resolution dealt with trafficking in women and girls\textsuperscript{59} and urged governments to: (1) take measures to eliminate trafficking including legislating for better protection against, and punishment of, trafficking; and (2) address root factors contributing to trafficking in women and girls. The CHR encouraged government-NGO cooperation in campaigns to assist migrant females to better protect themselves from trafficking. The CHR called on governments to resource comprehensive programs for victims of trafficking.

The CHR's consensus resolution on violence against women\textsuperscript{60} welcomed and commended the special rapporteur's reports. The CHR requested all governments to cooperate and assist the rapporteur's activities. The CHR emphasised the rapporteur's conclusions and recommendations that States have an affirmative duty to promote and protect the human rights of women, and called on States to: (1) condemn violence against women and not excuse these because of custom or religion; (2) ensure legislation and government actions prohibits, prevents and punishes violence against women; and (3) consider effective information campaigns about violence against women.

8 Children

The 1999 CHR received two documents from the special rapporteur on 'sale of children, child prostitution and child pornography'. However, only the rapporteur's main report\textsuperscript{61} was relevant to Burma. The main report contained five relevant sections: working methods and activities; international developments; child sale & trafficking; international developments on trafficking; and conclusions and recommendations. The rapporteur explained her previous reports focussed on child prostitution and pornography, and the 1999 report focuses on sale of children. The report noted, "children in virtually all areas of the world are being sold...[and] in most cases where there is sale there is also trafficking involved"\textsuperscript{62} and so the rapporteur dealt with sale and trafficking together. The rapporteur observed, "international law concerning...trafficking of human[s]...has been evolving throughout the twentieth century, but...recent widespread reports of women and children being trafficked for prostitution...demonstrate the inadequacy of the current legal regime and response mechanism which purport to address such atrocities"\textsuperscript{63}. The rapporteur sent a general circular requesting relevant information from governments and other organisations and received many replies, but none were reported from Burma. The report provided details on various international treaties and their obligations against trafficking and related practices. The rapporteur explained she received information about Burmese military drugging children and
transporting them to China where their organs are used in operations. The rapporteur concluded: "most countries do not have response mechanisms in place to extricate children from exploitative situations arising from sale or trafficking".

"international law concerning trafficking of human[s]...has been evolving throughout the twentieth century, but...recent widespread reports of women and children being trafficked for prostitution...demonstrate the inadequacy of the current legal regime and response mechanism which purport to address such atrocities". Special rapporteur on sale of children

The CHR's resolution on the rights of the child was passed by consensus. In this resolution, the CHR called on all States to: (1) take all necessary measures and to institute legal reforms to ensure girls' full and equal enjoyment of all human rights; (2) take all appropriate national and international action to prevent abduction, sale, or trafficking of children for any purpose or in any form; (3) develop and implement strategies for eliminating child labour contrary to accepted international standards giving special attention to specific dangers faced by girls; and (4) seek comprehensive solutions to problems causing children to work and/or to live on the street. The CHR noted the high number of States which have ratified the child's rights convention, but called on States to implement it fully and ensure the rights contained in the convention are respected. In relation to armed conflict, the CHR called on States and all parties to armed conflict to: (1) fully respect international humanitarian law and to end use of children as soldiers; and (2) bear in mind refugee and internally displaced children are particularly exposed to risks in connection with armed conflict. The resolution also addressed juvenile justice, disabled children, and children's rights to health.

9 Displaced persons

In 1992, a special representative of the UN Secretary-General was created to consider internally displaced persons. The 1998 CHR extended the mandate, for a further three years, of the UN Secretary-General's representative on 'internally displaced persons'. The representative's report to the 1999 CHR contained five sections: guiding principles; institutional framework; country focus; research agenda; and conclusion. The report stated, "...the problem of internal displacement remains one of the most pressing challenges facing the international community. Some 20 to 25 million persons in at least 40 countries worldwide are internally displaced". The representative explained the 'Guiding Principles on Internal Displacement' which endeavour to identify, reaffirm and consolidate specific rights for protection of internally displaced persons, and the five year process leading to the development of these principles. The representative noted the CHR and other international bodies had commended the principles. The report summarised UN and other efforts on internally displaced persons, both in setting up a protective framework or system and also in relation to specific cases. The representative also made an accompanying statement to the CHR, in which he emphasised "in any situation of internal displacement, the primary responsibility to provide protection and assistance rests with the State". The representative explained his activities in publicising the guiding principles. The representative commended some institutions' responses to the problems of internal displacement as strengthening in the last five years. However, the representative warned that nations must go beyond indi-
Individual responses to each crisis and establish a clear legal and institutional framework for protecting internally displaced persons.

"...the problem of internal displacement remains one of the most pressing challenges facing the international community. Some 20 to 25 million persons in at least 40 countries worldwide are internally displaced...[I]n any situation of internal displacement, the primary responsibility to provide protection and assistance rests with the State"

UN Secretary-General’s special representative on internally displaced persons

The NGO, Anti-Slavery International, addressed the issue of internally displaced persons in Burma. The NGO explained the widespread repression of ethnic minorities and the nationwide practice of forced labour (as noted by the International Labour Organisation) which caused unprecedented displacement of the population. The NGO informed the CHR that in western Burma, where there is little or no opposition justifying a large military presence, there is a large military presence to enforce ‘development projects’. The NGO stated, "so called ‘development programmes’ consist mostly of projects carried out with unpaid forced labour...New roads are built to facilitate military penetration and to control border trade for the [military’s] economic interests... These projects have...provided little improvement to the inhabitants of these regions, but rather persecution and impoverishment" and the NGO provided numerous examples from rural areas in Burma. "These military practises have meant that many [local] people are no longer able to grow enough food or otherwise earn enough income to support their families. They have been impoverished to such an extent that they have no other option than leaving their homes in search of a means of survival"

As explained earlier, the delegation of the Burma military junta issued a general statement on various human rights matters as a "ready reference" for delegations. This statement also addressed allegations of forced labour, explaining, "The Government is systematically implementing regional infrastructure development projects. Without international aid, the Government has to utilise all limited resources...Hence there are times when the people of less developed areas are requested to cooperate in efforts designed to raise their standard of living". The statement continued, "A review...of the regional development projects in which the authorities have been unfairly accused of employing so-called ‘forced labour’ will clearly reveal...", NOT that the accusations of employing forced labour are wrong, but "...that there will be long term economic...benefits"! And, still on this issue: "A unique Myanmar tradition, which per-

"It is common practice for the military to force villagers to go and work on military bases or constructing or maintaining barracks, bunkers or fences, or performing menial tasks like cleaning...and fetching firewood or water. Even children are forced to do this kind of work" Special rapporteur on Burma

"[In Burma] so called ‘development programmes’ consist mostly of projects carried out with unpaid forced labour...New roads are built to facilitate military penetration and to control border trade for the [military’s] economic interests... These projects have...provided little improvement to the inhabitants of these regions, but rather persecution and impoverishment" Anti-Slavery International
wards...construction and maintenance of...roads, bridges as well as in the digging and clearing of...wells...and irrigation systems. Myanmar people believe the contribution of labour is...meritorious and conducive to mental and physical well-being.

"The Government is systematically implementing development projects... [T]he Government has to utilise all limited resources...Here there are times when the people of less developed areas are requested to cooperate in efforts designed to raise their standard of living"

Burma military junta

The NGO, Aliran, stated that in South East Asia about 200 thousand people are officially recognised as refugees but there are millions more internally displaced persons arising from military aggression, political repression and harmful government practices. The NGO stated the Association of South East Asian Nations, which includes Burma, needs to incorporate a human rights perspective in its policies and activities.

The CHR's consensus resolution on internally displaced persons welcomed the 'Guiding Principles on Internal Displacement' being used in dialogue with governments, inter-governmental bodies and NGOs, and requested this continue. The CHR commended the UN Secretary-General's representative for his efforts to promote a comprehensive strategy focussing on prevention as well as protection and assistance for internally displaced persons.

10 Regional human rights arrangements in the Asia-Pacific

The UN Secretary-General provided a report on Asia-Pacific regional cooperation in human rights. The Secretary-General's report contained three main sections: 7th Asia-Pacific workshop on human rights; relevant UN programs; and adherence to national covenants. The OHCHR has organised a series of workshops for the promotion and protection of human rights in the Asia-Pacific region and these workshops were explained in the Secretary-General's report. The workshops commenced in 1990 (Philippines) and have been held annually since 1996. The most recent regional Asia-Pacific workshop in this series was in February 1999, in New Delhi, India. The workshop in New Delhi reviewed Asia-Pacific progress on four areas (national plans of actions on human rights; human rights education; national human rights institutions; and strategies for economic, social and cultural rights) and identified next steps to be taken. The Secretary-General's report provided details of the New Delhi workshop including participants and notes on proceedings. The report showed the New Delhi meeting was attended by the Burmese military junta together with 28 governments, but no specific Burma-focussed NGO participated. The concluding statement of the New Delhi meeting is annexed to the Secretary-General's report.

The Secretary-General also noted the OHCHR's projects with many Asia-Pacific countries on various issues including: administration of justice, penal system, establishing human rights commissions, increasing public human rights awareness, incorporating international human rights standards, implementing national action plans, and children's rights. However, the report did not mention any OHCHR project with the Burmese military junta.

"A unique Myanmar tradition, which persists to this very day...encourages labour contribution by the local populace towards...construction and maintenance of...roads, bridges as well as in the digging and clearing of...wells...and irrigation systems. Myanmar people believe the contribution of labour is...meritorious and conducive to mental and physical well-being"

Burma military junta
The Secretary-General's report contained a table listing every Asia-Pacific country and seven international human rights covenants, showing which countries have ratified these, and when. This shows Burma has ratified only two of the nine main international human rights treaties. In the Asia-Pacific, from Pakistan to Western Samoa, Burma's neglect to agree to human rights treaties is surpassed only by four countries, none of which have a population exceeding 300,000 people. Certainly, compared to all its neighbours, Burma's backwardness is apparent. Laos has ratified 3 of these treaties, China - 4, Bangladesh - 6, India - 5 and Thailand - 3. Also, compared to the other UN 'Asia-Pacific' countries for which the CHR has considered human rights sufficiently troubled so as to appoint a special rapporteur or similar, Burma is lagging: Afghanistan has ratified 5 of these treaties, Cambodia - 6, Iran - 4, Iraq - 5, and Cyprus - 7.

The CHR resolution on regional human rights cooperation in the Asia-Pacific was passed by consensus and provided little encouragement for development in this region. The resolution stated the CHR, "recognizes the importance of an inclusive, step-by-step, practical and building-blocks approach towards enhancing regional cooperation... [on] human rights in accordance with the pace and priorities to be set by the Governments of the Asian and Pacific region by consensus". Unfortunately, this sets a brake on regional human rights development through the current process, with the very clear message that any such progress will be at the pace of the most reluctant, recalcitrant government.

11 1999 Commission's resolution on Burma

Although many of the resolutions noted above apply to Burma, there was one resolution passed specifically on the problems in Burma. The concerns of the Special Rapporteur on Burma were reflected in CHR's resolution on Burma which was adopted by consensus.

The CHR, while encouraging the military junta for acceding to some international conventions, was highly critical of the junta's actions. The resolution "notes...significant increase in the number of political prisoners during 1998". The CHR's resolution criticised:

- the unrepresentative process for drafting a new constitution;
- widespread and systematic use of forced labour;
- the junta's refusal to cooperate with the special rapporteur;
- extrajudicial executions, enforced disappearances, torture, abuse of women and children by government agents;
- violation of the rights of minorities, women and children; and
- escalating persecution of the democratic opposition.

The resolution urged the junta to cooperate fully with the rapporteur and strongly urged the junta to "implement fully the recommendations made by the Special Rapporteur". The CHR strongly urged the government to ensure the establishment of de-
democracy in accordance with the democratic elections in 1990. The junta was also strongly urged to "investigate and prosecute alleged violations committed by government agents in all circumstances".85

Importantly, the CHR ignored the junta's pathetic allegation that "the status of women in Myanmar is among the highest in the world [and]...violence against women is not a major problem in my country".86 The resolution stated that the CHR, "deplores the continuing violations of the rights of women...in particular [through] forced labour, sexual violence and exploitation, including rape, as reported by the Special Rapporteur".87

The CHR continued the mandate of the rapporteur on Burma and, unlike most other rapporteurs, requested he provide a report not only to next year's CHR, but to the UN's General Assembly later in 1999.

A comparison can be made between the 1999 CHR resolution on Burma with that passed by the CHR in 1998. This comparison indicates the twelve months leading to the 1999 CHR were worse for human rights in Burma than the similar period a year earlier. The 1998 resolution welcomed or noted more positive developments, including holding of various meeting by the NLD; some contact between the military junta and the NLD; and the military junta (1) cooperating with the UN High Commissioner for Refugees and NGOs in returning refugees from Bangladesh, (2) acceding to international human rights treaties, and (3) meeting with the UN Secretary-General and his envoy. There was less to commend in the 1999 resolution, and the majority of the resolution criticised the junta's actions and called for action.

12 Conclusions

Unfortunately, the Burmese military junta continues to deny human rights problems in the country. These denials indicate the military junta's statements are either drafted with ignorance of the situation, suggesting incompetence; or a desire to mislead the CHR, suggesting dishonesty. One of these two choices must be attributed to much of the junta's input to this year's CHR. A far more commendable attitude was seen in parts of the statements from government delegations like Bangladesh, South Korea, Indonesia and India. These governments appeared more prepared to acknowledge some problems. Without a government's acknowledgment that a problem exists, very little improvement will ever occur. This whole situation provides a sad reason for NGO involvement in the CHR, but it appears critical for NGOs to correct the junta's inaccuracies, either by making statements directly to the CHR, or by providing accurate information to governments, special rapporteurs and UN officials.

The military junta's obvious reluctance to commit to common human rights standards in various international treaties indicates the junta's statements about its respect for human rights are not genuine. It appears unlikely the current UN-sponsored regional process on improving human rights in the Asia-Pacific will assist the situation inside Burma. The CHR's resolution accepted the regional process must be "in accordance with the pace and priorities to be set by the Governments of the Asian and Pacific region by consensus". The requirement for consensus presents the military junta with an
opportunity to keep any regional improvements through the current process at a speed, and on matters, limited to the junta's choosing.

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The prevalence of impunity and the lack of accountability of government officials' human rights violations was a consistent theme throughout this year's CHR. Impunity in general, without specifically mentioning Burma, was a problem noted by many speakers and also in the reports of the special rapporteur on torture, the working group on arbitrary detention, and the UN Secretary-General. There were a number of CHR resolutions which noted and called for action against impunity including the resolutions on torture, and on extrajudicial or summary executions. The CHR also passed a specific resolution against impunity. Global observations aside, however, impunity was seen as a particular problem in Burma. This was noted many times including in the reports of the special rapporteurs on extrajudicial and summary executions and on Burma. The CHR's resolution on Burma specifically directed the military junta to end impunity. As the special rapporteur on torture explained, impunity can arise both from formal legal protection and through an informal shield created by inadequate investigation and judicial processes. To this should also be added the illegal impunity gained through corruption. Following the CHR's various resolutions covering impunity, the military junta must, and must be pressed to, act against all these forms of impunity.

The military junta, along with some other Asia-Pacific governments, refuses to permit UN officials to visit their country, or parts of it, and then accuses the officials of inaccuracy. It is important the CHR better respond to and control these government games in future years, but in the interim it is important the governments be questioned at every opportunity to explain their reasons in restricting UN human rights mechanisms. The government delegation representing Burma should seriously consider the logic of their government restricting access to information by rapporteurs and working groups and then questioning the accuracy of the resulting report. Other governments from this region, including Yemen and Malaysia, were noted as fully assisting visits by some special rapporteurs or working groups.

There is still considerably more attention to civil and political rights than economic, social and cultural rights. This situation is also magnified by this article because the current treatment of civil and political rights tends to identify particular countries (which were then summarised and noted in this article) whereas economic, social and cultural rights are dealt with more generally. It appears that this bias is slowly correcting, which is positive for Burma because economic, social and cultural rights require more attention in the region than they currently receive. However it seems likely that while the United States of America ('USA') remains dominant in so many areas, its preference to focus on civil and political rights (rather than addressing the inequities of the international financial system and countries' indebtedness; inequities which favour the developed world and many companies based in the USA) will keep the CHR skewed toward civil and political rights. There are signs, however, that more attention is being devoted to economic, social and cultural rights. The 1999 CHR received the
right (the right to education) and created a new rapporteur on one of the more obvious symptoms of the developing / developed divide: migrants. Additionally, increasing attention is being devoted to the right to development, which is also encouraging for Burma. Now, more than ever, the importance of inter-relatedness of human rights is apparent. Encouragingly, the CHR appears alive to this issue, with one resolution noting: "promoting and protecting one category of rights should...never exempt or excuse States from the promotion and protection of other rights"95.

The government delegation representing Burma should seriously consider the logic of their government restricting access to information by rapporteurs and working groups and then questioning the accuracy of the resulting report.

Notes

1. note verbal by military junta to UN dated 15 March 1999 (see fn 14 below), p13
2. there were twelve CHR members from the Asia-Pacific this year: Bangladesh, Bhutan, China, India, Indonesia, Japan, Nepal, Pakistan, Philippines, Qatar, South Korea, Sri Lanka
3. many UN web-sites lead to each document, however the easiest starting point may be the search site for UN human rights documents: www.unhchr.ch/huridocda/huridoca.nsf
5. document E/CN.4/1999/35
6. document E/CN.4/1999/SR.13, para’s 53 to 58
7. report of Special rapporteur on Myanmar (see fn 5 above), para 10
8. report of Special rapporteur on Myanmar (see fn 5 above), para 20
9. report of Special rapporteur on Myanmar (see fn 5 above), para 30-33
10. report of Special rapporteur on Myanmar (see fn 5 above), para 73
11. document E/CN.4/1999/SR.13, para’s 59 to 64
15. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p3
16. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p3
17. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), pp11-12
18. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p13
19. statement by Australian government delegation under CHR’s agenda item 9, page 4.
20. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p12
21. statement by Worldview International Foundation under CHR’s agenda item 9, page 1
22. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p14
23. resolution E/CN.4/RES/1999/22
25. report of independent expert on human rights and extreme poverty (see fn24 above), para 9
26. report of independent expert on human rights and extreme poverty (see fn24 above), para 65
27. resolution E/CN.4/RES/1999/26
29. resolution E/CN.4/RES/1999/28
31. report of special rapporteur on torture (see fn30 above), para’s 491 to 525
32. resolution E/CN.4/RES/1999/32
33. document E/CN.4/1999/63
34. report of Working group on arbitrary detention (see fn33 above), para 49
35. resolution E/CN.4/RES/1999/37
37. report of special rapporteur on extrajudicial or summary executions (see fn36 above), para 68
38. document E/CN.4/1999/39/Add.1
39. report of special rapporteur on extrajudicial or summary executions (see fn36 above), para’s 166-167
40. report of special rapporteur on extrajudicial or summary executions (see fn36 above), para 168
41. resolution E/CN.4/RES/1999/35
42. CHR resolution on extrajudicial, summary or arbitrary executions (see fn41 above) para4
43. resolution E/CN.4/RES/1999/61
44. document E/CN.4/1999/57
45. resolution E/CN.4/RES/1999/34
46. document E/CN.4/1999/67
47. report of UN Secretary-General on integration of women’s rights (see fn46 above), para5
48. document E/CN.4/1999/68
49. report of the special rapporteur on violence against women (see fn48 above), paras 52-54
50. report of the special rapporteur on violence against women (see fn48 above), para 52
51. report of the special rapporteur on violence against women (see fn48 above), para 242
52. document E/CN.4/1999/68/Add.1
53. statement by Myanmar government delegation under CHR's agenda item 12, p5
54. statement by Myanmar government delegation under CHR's agenda item 12, p3
55. statement by Myanmar government delegation under CHR's agenda item 12, p2
56. statement by Aliran under CHR's agenda item 12, p1
57. statement by Aliran under CHR's agenda item 12, p2
58. statement by Asia Pacific Forum of Women, Law & Development under CHR's agenda item 12, p2
59. resolution E/CN.4/RES/1999/40
60. resolution E/CN.4/RES/1999/42
61. document E/CN.4/1999/71
62. report of special rapporteur on child sale, pornography and prostitution (see fn53 above), para 5
63. report of special rapporteur on child sale, pornography and prostitution (see fn53 above), para 6
64. report of special rapporteur on child sale, pornography and prostitution (see fn53 above), para 86
65. report of special rapporteur on child sale, pornography and prostitution (see fn53 above), para 149
66. resolution E/CN.4/RES/1999/80
68. report of special representative on internally displaced persons (see fn67 above), para 1
69. statement by UN Secretary-General's special representative under CHR's agenda item 14 (c), p1
70. statement by Anti-Slavery International under CHR's agenda item 14(c), p1
71. statement by Anti-Slavery International under CHR's agenda item 14(c), p2
72. see section 4 "junta's general statement to 1999 commission" above
73. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p19
74. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p19
75. note verbale by military junta to UN dated 15 March 1999 (see fn14 above), p19-20
76. resolution E/CN.4/RES/1999/47
77. document E/CN.4/1999/94
78. see document E/CN.4/1999/93, para's 26-30
79. Burma has ratified only the first two of: International Covenant on the Rights of the Child; Convention on the Elimination of All Forms of Discrimination Against Women; International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights ('ICCPR'); First Optional Protocol to the ICCPR; Second Optional Protocol to the ICCPR; International Covenant on the Elimination of All Forms of Racial Discrimination; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
80. the following Asian countries have ratified less than 2 of the main international treaties: Brunei (population 290 thousand), Marshall Islands (54 thousand), Micronesia (104 thousand), and Palau (population 17 thousand)
81. resolution E/CN.4/RES/1999/69
82. resolution E/CN.4/RES/1999/17
83. CHR's resolution on Burma (see fn82 above), para 1(c)
84. CHR's resolution on Burma (see fn82 above), para 7(a)
85. CHR's resolution on Burma (see fn82 above), para 7(m)
86. see text from fn53 to fn55
87. CHR's resolution on Burma (see fn82 above), para 4(d)
88. resolution E/CN.4/RES/1999/63
89. see following fn30
90. see text re: fn34
91. see text re: fn44
92. see text from fn36 to fn40
93. see text following fn9
94. see text re: fn82
95. resolution E/CN.4/RES/1999/25, para 3(d)