Human Rights and Legal Issues for a Democratic Transition of Burma

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Many people and organizations have commented that the event that never happened before in Burma has happened now. It refers to the current dialogue process between the military regime and the National League for Democracy (NLD). However, unfortunately, it is still not entirely certain whether it is an authentic process, which would successfully create a democratic transition of Burma, or a political strategy of the regime, prolonging its power. The NLD announced to resolve the issues of the country several times, by establishing a genuine political dialogue, and so did the major ethnic resistance organizations. Controversy is not attributed to the position of the NLD but to the previous actions of the military regime.

The first military coup took place in Burma in 1962. After one year, the regime declared a nationwide general amnesty and called for a political dialogue with the armed resistance organizations. The people who aspired to achieve internal peace then whole-heartedly supported the process, as such an event had never occurred since Burma gained independence in 1948. Then, in the end of 1963, after having held dialogues for a few months, the regime itself put an end to the process by simply alleging that the ambition of the armed rebellious organizations for the country was not sincere and honest. The regime also insulted the good aspirations of the army with regard to some underground activities of the rebellious organizations (mainly the Communist Party of Burma, CPB).

At that time, there was no international involvement in the transitional process. Furthermore, the involvement of the civil society was not allowed internally,
public meetings of all other political organizations were restricted, and the media were controlled by the military. That is why the other organizations which participated in the dialogue never got an opportunity to explain to the people what happened during the dialogue processes in detail. Consequently, the justification of the regime on the collapse of dialogue was more or less acceptable to the majority of the people as well as to western democratic countries (mainly the United States with their anti-communist position at that time). With this political strategy, following the foundation of the Burma Socialist Program Party, the regime could prolong its power from 1963 to 1988, despite the fact that under its rule Burma became one of the seven poorest countries in the world.

The political dialogue created by the military regime in 1963 (an event that had never happened before) was greatly beneficial for prolonging the regime's power whereas the people suffered awfully. The second military coup took place in Burma in 1988. After one year, the regime itself called for cease-fire agreements with the armed ethnic organizations. The major reason for this was local development in the ethnic areas. The regime allowed the armed ethnic organizations to continue holding their arms under cease-fire. As a result, the regime got good credits, mainly from ASEAN countries, and could to some extent convince the international community that they were finally doing something good for the establishment of the internal peace. But actually, under that cease-fire program, the regime divided the democratic forces and armed ethnic organizations. The regime even created division among the ethnic organizations themselves.

With that political strategy, the regime strengthened its power for the next decade from 1990 to 2000. But under its rule within that period, human rights violations have remained unabated and development has never become a reality. The most serious event under the cease-fire program was the abolition of the principle of Rule of Law.

The Unlawful Association Act has been effective in Burma for decades, and pursuant to that act, the regime has declared the major ethnic armed organizations unlawful. Without cancellation of that Act and other declarations, the regime would legitimize the existence of those organizations. In law, provision is one thing and implementation is another. In Burma, the foundation for Rule of Law was absolutely withdrawn and the culture to ignore laws has obviously grown up.

Nowadays, Burma is not under the Rule of Law but under the rule of man. This has seriously affected every sector of society including economy and investment. For instance, the Singapore-based Yaung Chi Oo Trading Company, entered into a joint venture with SPDC’s Ministry of Industry No. 1 in 1993 to rescue the bankrupt Mandalay Brewery. The brewery succeeded in business thanks to the efforts of then Yaung Chi Oo’s managing director. But then, on 11 November 1998, armed soldiers seized the brewery on the orders of SPDC Chairman,
General Than Shwe. This was one of the actions taken by the regime, obviously breaking the principle of Rule of Law. Stemming from the political sector upon the implementation of the cease-fire, the Rule of (corrupted) Man has prevailed in the business sector. As a result, both national economy and private enterprises failed.

The current dialogue between the regime and the NLD is, in such as long nature, the first since 1990. But in spite of that it could possibly be a ploy created by the regime. The indicators for this are as follows. A great majority of political prisoners, including the top leaders of the NLD such as U Saw Mra Aung (Chairman of the Committee for Representing People’s Parliament or CRPP) and U Win Tin (an Executive Committee member of the NLD), have not yet been released. Some of the political prisoners that were released are those who had served their prison terms already.

The State Protection Act of 1975, amended in 1991, which deprives the Right to Liberty and Security of individuals is still in force. That law authorized the executive, appointed by the regime, to detain a citizen for five years without trial. So long as this Act is effective, the democratic environment will never emerge in Burma; democracy activists remain afraid of being persecuted and arbitrarily arrested at any time.

The Printers and Publishers Registration Law of 1962, which violates the principle of the freedom of expression is still in force. Under this Act, the media are strictly controlled by the regime. One of the major factors in promoting the rights of people is the existence of Freedom of Media. Total freedom of media is still not possible in Burma, so efforts should be made to effectively improve this freedom, for example by reforming the Press and Publication Act.

The Unlawful Association Act (mentioned before) of 1908, amended in 1957, which violates the principle of Freedom of Association, is still in force. The gathering of more than five people is strictly prohibited, which violates the principle of Freedom of Assembly. Under these laws and similar restriction orders, public meetings cannot freely be held by the NLD or any other political party. In this way, independent democratic institutions and other human rights organizations will never emerge. Democratic transition cannot become a reality unless these Draconian laws and orders are reformed.

The military regime has not yet done anything to promote the factors mentioned above. Although the regime has announced many times that they are taking time to go forward to democracy, they have not provided any clear messages on how they are going to reform those factors which are foundations for democracy.
ODA and Development Issues

In the current dialogue process, no progress has been made for the democratic opposition or for the people. But the military regime has already benefited. For instance, Japan has decided to start providing Official Development Assistance (ODA) to the regime while referring to the dialogue process. Within the context of the current situation, ODA will not be helpful to speed up the democratization of Burma. It will only be beneficial to the military regime. Unless structural changes take place in Burma, any ‘development’ assistance from the international community would be against the modern concept of Development and against the principle of the 1986 United Nations Declaration on the Right to Development.

Ideas of development policy and development ‘strategies’ have also changed in recent years. In the 1950s, governments were the central factor in the strategy of development. This was universally accepted, although significant differences existed between ‘left’ and ‘right’ governments. Virtually all development specialists regarded governments as the dominant agency of growth.

The Burmese military regime has declared and exercised so-called market economy since 1988. Nevertheless, no economic development has been put into place so far. The difficulty is that ‘over-controlled’ practices were rigidly carried out by the regime, without paying any attention to the principles of Rule of Law. The Yaung Chi Oo Trading Company and other companies which withdrew their investment from Burma, and the failures of Burmese private enterprises are obvious example cases. Without prevailing Rule of Law, a genuine market economy will never become a reality in Burma. Development assistance, mainly to the military regime, which discourages the privatization and free-market economy, is against the modern development concepts. So long as the illegitimate military junta rules the country, development assistance from the international community will only be exploited to prolong the power of the junta, and economic development for the people can never become a reality. At the time of the second military coup in 1988, the army had 186,000 soldiers. Nowadays, with all the development assistance to the regime, the Burmese army has become the second largest army in Southeast Asia, with over 400,000 soldiers and a huge military intelligence organization. Nothing has been done for the people. Health and education remain undeveloped.

The principles on Development were mentioned in the introduction of the 1986 United Nations Declaration on the Right to Development: “…the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits.
resulting therefrom; (...) confirming that the right to development is an inalienable human right and that equality of opportunity for development is a prerogative both of nations and of individuals who make up nations”.

The actual practices under the rule of the regime in Burma are against the principles and provisions of this UN Declaration. Ironically, forced labour is the only “participation of the people” in the so-called development projects in Burma. In other words, the participation of the people in Burma has absolutely been denied. The people in Burma have never benefited from any government development project since 1988. This happens in all those countries where the people cannot influence the development policy and practices of the government: such governments do not exercise transparent policy, with the result that terrible corruption has become common in every sector of the government. In such a climate political parties cannot function. In Burma there are no non-governmental organizations which can play a critical role. Professor Amartya Sen, the 1998 Nobel Prize Laureate in Economic Science, rightly pointed this out in his book entitled “Development as Freedom”:

“While much can be done through sensible government policy, it is important to integrate the role of the government with the efficient functioning of other economic and social institutions – varying from trade, commerce and the markets to active functioning of political parties, non-governmental organizations, and institutions that sustain and facilitate informed public discussion, including effective news media”.¹

The Karenni National Progressive Party (KNPP) is an ethnic resistance organization which mainly represents the local Karenni people who live in the area in Karenni State where the Lawpita hydropower plant is situated. The present plant was built in 1952 by Japanese engineers. It was paid for by the Japanese as war indemnity. Despite being located inside Karenni State, the successive military regimes of Burma have never allowed Karenni civilians to use the electricity. The power plant distributes its electricity through the rest of Burma, particularly to Rangoon, the capital, and Mandalay, the second largest city.

On 24 April 2001, the KNPP issued a statement regarding Japanese Government plans to provide US$ 24 million to the military regime for extending the Lawpita plant. It stated, “... Since the SPDC’s take-over, seven villages have been forcibly moved out of the Lawpita area. In addition to this, 10,000 anti-personnel landmines have been laid. Because of massive numbers of landmines, lots of Karenni villagers have lost their lives or were injured, and tens of thousands head of cattle belonging to the villagers living in the area have been killed. Should the extension of the Lawpita power plant go ahead, more dams would be built which will destroy tens of thousands of acres of farmland. Many more people living on the Karenni-Shan border will become homeless”.¹
It is clear that ODA from the Japanese Government would not foster the development of the local Karenni people; on the contrary, those people would even suffer from it. Without the existence of functioning political parties, independent democratic institutions, human rights organizations, and independent media in Burma, government accountability cannot be ensured. While the people can neither influence nor participate in the decision making process of the government, any development assistance from the Japanese and other governments should be frozen.

**Issues of Legitimacy**

The conflict in Burma differs from those between Israel and the Palestinian Liberation Organization (PLO), or between the Tamil Tigers and the Sri Lankan Government. The Israeli-Palestinian conflict is a conflict between two countries, mainly based on racial difference. In spite of the existence of territorial claims by both sides, many academics analysed that the PLO constitutes a de facto government of a country. The Sri Lankan conflict, between government and opposition in one country, seems similar to the case of Burma. The difference between Sri Lanka and Burma, however, is that in Sri Lanka the conflict is mainly based on racial issues, while in Burma the conflict is mainly based on the Legitimacy of government.

It remains to be seen whether the approach by the international community would be successful in case they tried to apply the conflict resolution formulas used in Israel, Sri Lanka or elsewhere. It would not be a question of conflict resolution formulas or diplomatic skills. It is a question of Legitimacy. This might become a precedent for future Burma or for any other country.

The perspectives of the people in Burma would not also be beneficial for democratization and long-term peace in the country, presuming that the current dialogue is relevant and accountable only to the regime and the NLD. Because, the question of Legitimacy is relevant to every citizen of Burma. History has already proved that only a government that emerged from free and fair elections can have the right to rule the people. That is a legitimate government. So that is why the position of the people should not be somewhere in between.

In attempting to resolve the Legitimacy issue of Burma, the experiences of countries in southern Europe and Latin America are interesting to observe. While facing economic and other crisis, the ruling military regimes in those countries did not have any legitimacy to rule the country. Consequently, elections were held, whereupon power was transferred to the election-winning par-
Burma’s case is quite peculiar. While the elections were already held ten years ago, no power has been transferred to the election-winning party, the National League for Democracy. Instead, the military junta attempted to steal the Legitimacy from the NLD by convening a sham National Convention in January 1993. In the current dialogue process, the two major factors that have to be dealt with are the May 1990 election results, and the sham National Convention created by the military regime.

In Cambodia, national general elections were held in July 1998. After these elections, the country was in serious dispute due to a controversial seat allocation formula and, consequently, the election results could not be approved for some time. In contrast, in the elections held in Burma in May 1990, it was remarkable that there were no disputes whatsoever in the whole election process. The NLD was officially recognized as the election-winning party by the whole country (including the military regime) and the international community. At that time, it was generally considered quite difficult to neglect or ignore the result of the elections, as the succeeding governments would face the legal and political crisis of resolving the issue of Legitimacy to rule. However, the military government ignored the result of the elections. Continued recognition of the people and the international community of the election results would strongly enhance the bargaining power of the NLD in the current dialogue process. Equally important is the formal and official recognition of the result of free and fair elections, especially in Southeast Asia where some countries are still facing the threat of a coup d’état.

The National Convention in Burma is a major political strategy of the military regime in an attempt to achieve the Legitimacy to rule the country. Following the May 1990 elections, instead of transferring power to the election-winning party, the military regime convened its sham National Convention. Under the heading of “Convening of a National Convention” the regime issued Order 11/92, dated 24 April 1992. When this was announced, the people heard the expression “National Convention” for the first time, not less than two years after the elections. Of the 702 delegates attending the National Convention, more than 600 were selected by the military regime. Based on the experiences of the elected members of parliament who attended the National Convention, and other relevant documents, an analysis was made during a constitutional seminar in which 169 delegates (from 40 democratic and ethnic organizations in Burma) participated, in October 1994. Part of their analysis is as follows:

“The six aims mentioned in Article 1 of the National Convention Procedural Code are the cardinal principles circumscribing the whole National Convention. There is no permission to refer to history as a background to debate the cessation of civil war,
which has been the main cause of human rights violations in Burma. For the SLORC, it is immaterial whether to have constitutional provisions, guaranteeing the equality of all the indigenous ethnic nationalities, or to define where and how the sovereignty resides, and it allows the discussion only about the stability of sovereignty. The aim of “The participation of the military, in the leading role, in the national politics of the State” is an attempt by the military to gain the constitutional rights to interfere in civil administration”.

“The Freedom of Speech of the delegates is totally prohibited by Articles 1, 5(c), 8(j), 37, 45(a), (b), (c) and (j). According to Articles 15(c) and 16(i), action can be taken against a delegate at any time for matters included in discussion. Action has been taken, (...) for example [in] the case of Dr Aung Khin Hsint”.

“Though the expression “National Convention Discussions” was used, in actual practice only papers were read and there had been no free discussions. When the stage for laying down basic principles was approached, the discussion papers had to be submitted to the Presidium. The Presidium, if necessary, according to Article 45 (j) summoned the delegate concerned and could ask to make changes in the paper. If the delegate refused, his paper would be sent to the Working Committee which made changes as desired, making the papers suitable for presentation in the meetings. Of course, the presentation had to be exactly in accordance with the version as edited by the Working Committee”.

The military regime is attempting to gain the right to legally prolong its rule by framing a state constitution which its National Convention has been drafting, guaranteeing the perpetuation of military dictatorship. Based on this, and on analysis of the National Convention, a position statement of the democratic and ethnic organizations participating in the constitutional seminar was issued on 21 October 1994: “As the SLORC is not a legally elected government, it has no right to convene a national convention. The “National Convention” being held by the SLORC is merely a fraudulent one. It is concluded that the basic principles for a state constitution laid down by the convention are for the legalization of the rule of military dictatorship. Therefore, all the delegates unanimously reached the position to totally repudiate the SLORC’s National Convention and the results emanating from it”.

Following that constitutional seminar, the analysis of the regime’s National Convention was widely publicized. Subsequently, 86 NLD-elected representatives participating in the National Convention withdrew from it in November 1995. In this way the NLD supported the position of the constitutional seminar, with the result that the military regime had to postpone its sham National Con-
vention. It was a historical landmark for the democratic movement and also a major challenge against the regime’s ploy to achieve legitimacy in a deceitful way.

Many major armed ethnic organizations are still adhering on that position and they have never participated in the National Convention. Some of these organizations are still fighting against the regime (such as the Karen National Union and the Karenni National Progressive Party), while others entered into ceasefire agreements with the regime (such as the Kachin Independence Organization and the New Mon State Party).

Provided that the regime and the NLD reach an agreement in the current dialogue process to implement the May 1990 May election results, there won’t be any problem. However, in case the regime tries to persuade the NLD to join the National Convention again, this would be unacceptable for the NLD. The issue of Legitimacy is not only concerning the regime and the NLD but also the people at large, with reference to Article 21(3) of the Universal Declaration of Human Rights: “The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedure”.

The Issue of Previous Human Rights Abuses

Almost every country which emerged from the rule of dictatorial regimes had to confront ‘the past’, particularly in terms of human rights abuses. It is not possible to escape from this confrontation. In the case of Burma, it is necessary to take into account whether this issue should be included in the current dialogue process or not.

Actually the process should be the one which lays down the foundations for a genuine national reconciliation, based on the promotion and protection of human rights by properly dealing with the previous abuses. In this regard, there are two schools of thought. The first one is that this issue should not be discussed or publicized during the current dialogue processes, as it could make the regime hesitate to make democratic changes; there might be a human rights trade-off for democratization. The second one is that, without dealing with previous human rights abuses properly, the perpetrators will enjoy impunity. This would violate the individual Rights of Justice for the victims, because a situation is created in which future human rights abuses can freely be committed.

In respect of the former, the experiences of many countries proved that only
the will of the ruling regimes to make changes for democratization did not play a crucial role, as authoritarian regimes generally do not like to lose power. However, factors like crisis and other pressures created by the people and the international community, forced the regimes to make changes. In the case of Argentina in 1983, while the military was holding power, Raul Alfonsin of the Radical Party participated in the presidential elections, promising to investigate human rights violations and to bring to trial a. the military chiefs who had given the orders to abduct, torture, and kill “subversive elements”, and b. the army officers and guerrilla leaders who had committed cruel human rights abuses. Alfonsin was elected president and he was able to deal with the previous human rights abuses with the support of the people. He did not have any assistance either from foreign invading armies (such as in Germany and Japan after the Second World War) or from national armed forces (such as the situation in Greece where some military factions did not oppose the trial). The army in Argentina was unified in its opposition.

In the case of Burma, the regime is not so naïve as to absolutely ignore the issue of accountability on previous human rights abuses. Former dictators like Pinochet from Chili, Milosovic from Yugoslavia, or Habré from Chad, have been facing trials. Twenty-one Truth Commissions, in countries emerging from brutal military regimes were established to confront ‘the past’, the unforgettable history. Of course, it would be possible to keep silent on the issue of previous human rights abuses, when the parties in the dialogue process pretend to forget it. But would that be beneficial? Can such an issue be covered in the current process and be dealt with later, only after a new democratic government is formed?

According to Neil J. Kritz (of the United States Institute of Peace), “diplomats and negotiators involved in efforts to curtail violent disputes, who previously might have dismissed any focus on past atrocities as an obstacle to stability and the resolution of conflict, today increasingly recognize this as an integral and unavoidable element of the peace process. For example, although recent peace accords to conclude civil wars in El Salvador, Bosnia, and, most recently, Guatemala may each have their respective weaknesses regarding accountability, each reflects this paradigm shift by incorporating various mechanisms to deal with the legacy of past violations and recognizing that a durable peace would be unattainable without them”.

According to Stephen Landsman (Professor of Tort Law and Social Policy at DePaul University), “Prosecuting the human rights violations of a predecessor regime can yield at least half a dozen significant benefits to a democratic government. First, it can substantially enhance the prospects for the establishment of the Rule of Law. Second, prosecution can function as a means of educating the citizenry to the nature and extent of prior wrongdoing. Third, prosecution is one of the most effective ways of identifying and creating the predicate for the compensation of victims of a predecessor regime’s misdeeds. Fourth, prosecu-
tion can provide a means of punishing wrongdoers for their criminal conduct. Fifth, prosecution can enhance a society’s ability to deter future violations of human rights. Finally, prosecution may be essential to healing the social wounds caused by serious human rights violations”.

Blanket amnesty might not be applicable for all serious human rights violations. The new democratic government, which would emerge from the old regime after completing the dialogue process, has the responsibility to take action on the offenses committed under the Genocide Convention, the Convention against Torture, and the Conventions on Crimes Against Humanity and War Crimes. Should there be no agreement on how to deal with the previous human rights abuses in the current dialogue process, then how is a new government going to respond to questions raised by the international community and human rights organizations? There are thousands of victims of human rights violations in Burma. Once a new government has been formed, complaints will certainly come forward, with the demand for proper action by the authorities of course. How is that new government going to resolve this issue?

The new government would undoubtedly face serious problems once they attempt to deal with the issue of previous human rights abuses without any agreement in the current dialogue process. Nobody knows how long the current dialogue process is going to take. It has been going on for seven months and no progress has been made. It may take several years. During such a long dialogue process, not mentioning the issue of previous human rights abuses would certainly create an atmosphere of impunity. It would inspire the regime to continue ruling the country brutally.

To avoid this, a clear message should be provided to the regime that the longer they stay in power, the more serious the situation becomes for them: human rights abuses will not be pardoned under the gradual spread of litigations by the victims and by international human rights organizations; by the UN Security Council through the current International Criminal Tribunal; and by the International Criminal Court (another international mechanism for the protection of human rights, which will come into existence in 2002). The military regime knows of course that it is not possible to continue ruling the country without committing more serious human rights violations.

The dialogue process would never be successful if an allegation be made that all the previous human rights abuses were perpetrated only by the regime, such as ‘Victor Justice’ was sought by the Neurenberg Tribunal after the Second World War. The experiences of the countries which changed from authoritarian rule to democracy in a peaceful way, proved that the accountability for previous human rights abuses had to be sought not only among the authorities of the former regimes, but also among other responsible persons in the liberation movement, as human rights abuses usually ensued from both sides. “In the case of South
Africa, after struggling against the white apartheid regime for several decades, 80% of the perpetrators who came forward to the Truth and Reconciliation Commission and made full disclosures on how they committed abuses, were black people”, according to Professor Paul van Zyl (former Executive Secretary of the Truth and Reconciliation Commission of South Africa). This process would also create the feeling of justice in the mentality of the authorities of former regimes, thereby speeding up the dialogue. However, it is still not sure whether the forces in the liberation movement of Burma are prepared to face this issue.

Further detailed discussion among the parties in the dialogue process on how to deal with the previous human rights abuses would be beneficial. For instance, under the principle of command responsibility, all the abuses committed by subordinates might not be accountable to the commanders.

In conclusion, keeping silence on the previous human rights abuses in the dialogue process would not be beneficial in order to seek justice for the victims, to stabilize the country, to achieve a genuine national reconciliation, or to enjoy long-term peace in Burma. The parties in the current dialogue process should find a mechanism by which the previous human rights abuses can properly and justly be dealt with.

**The Junta’s Ploy**

In 1963, the military regime in Burma could manipulate the Peace Talk Process and benefited from that. It should not be provided another opportunity in the current process. There is quite a difference between the situation in the world in 1963 and 2001. Now that the Cold War has ceased to be, democratic countries no longer see communism as a major threat in the Asian region. This makes the Burmese military regime hesitant to simply tell the people that the dialogue process has collapsed due to the underground activities of the communists. In the current cease-fire situation, it is also not possible to allege the ethnic organizations as scapegoats for the collapse of dialogue process.

Within this context, freezing the current dialogue process might not be advantageous for the military regime. But while the talks go on, the regime might want to win time without making any fundamental democratic changes. Some analysts suggest that the parties should take time for confidence building. That might be true for the parties in other national and international conflicts, however for two reasons it remains doubtful in the case of Burma, where the regime obviously takes more time than necessary.
The first reason is that the NLD communication channels (both national and international) are being cut. The functions of the party are still strictly controlled by the military. Many NLD leaders are currently under house arrest or in prison. The current structure of the state and the existing laws create a situation for the NLD which is not favourable. As a result of all this, the power of the NLD has been weakened. Meanwhile the military regime can use its communication channels freely. The junta can manage its activities in whatever way it likes. The structure of the state and the existing laws are directly beneficial to the military, which is not only enjoying political credits but also material assistance from the international community. In this context, the regime could have a hidden agenda in the current dialogue process: the more time it takes, the better it can strengthen its power.

The second reason is that since 1989 the regime has told the leaders of those armed ethnic organizations which entered into cease-fire agreements to establish ‘trust and confidence building’ first, whenever political dialogue is mentioned. The junta usually works on ‘confidence building’ for the ethnic leaders by granting private licenses for business and providing land for private use. This has already been going on for ten years. The ‘confidence building’ process between the junta and the ethnic leaders shows no signs of it ending, while national issues are never discussed. At the mean time (except for the United Wa State Party which managed to grow with narcotics money) all other armed ethnic organizations which entered into cease-fire agreements have become weaker, whereas the military regime has become stronger. The regime is applying similar tactics towards the NLD now. By manipulating the current dialogue process, ‘confidence building’ might take another twenty years with no fundamental democratic changes in Burma.

**Strengthening the Democratic Opposition**

While the military regime could strengthen its power (by receiving huge amounts of assistance from China and Pakistan, by manipulating the country’s budget, by making profits on narcotics), the international community should not ignore the vulnerable situation of the democratic forces in Burma. In the ASEAN context, countries have interfered in each other’s internal affairs. ASEAN itself sent a troika (consisting of government representatives from Indonesia, the Philippines and Thailand) to Cambodia in 1997, after current Cambodian Prime Minister Hun Sen had staged a coup. It was a meaningful step of ASEAN to help resolve the problem of the Cambodia. But unfortunately, whereas ASEAN openly recognized the Cambodian election results, it never did so in the case of Burma. The democratic forces in Burma would be strength-
ened if ASEAN publicly recognized NLD’s victory in the May 1990 elections. The NLD has been weakening and its local activities are almost paralyzed now. This is not the result of ineffective leadership on behalf of the NLD. It is the result of the existence of unjust laws and practices of the military regime.

Strengthening Civil Society

It would not be helpful for the democratization of Burma if the international community remained in a ‘wait-and-see’ passivity. The people in Burma have a responsibility also, by exerting their concerted efforts to promote their rights. However without the effective assistance of the international community, the struggle of the people would be too arduous. The emergence and strengthening of civil society in Burma are top priorities. What kind of international assistance would be beneficial for Burma in the long term?

India and Pakistan gained independence at the same time as Burma. But where India managed to establish a stable democracy, Pakistan faced military coups. Many academics have pointed out that unlike Pakistan, India has a strong civil society. Civil society has played a significant role in promoting the rights of the people in many Southeast Asian countries, such as Thailand, the Philippines, Indonesia, and even Cambodia. But not yet in Burma. The emergence and strengthening of civil society in Burma would enable the strengthening of the democratic movement. It would speed up the current dialogue process. Furthermore, the people would be able to promote their own rights for the long term: a strong civil society will deter the vicious circle of military rule in Burma.

It may take time, but the emergence of civil society in Burma is a strong foundation for democracy and also a long-term protection for human rights. In this regard, the UN, democratic governments, international organizations interested in promoting human rights and democracy in Burma can do a lot.

First, education should be provided to the democratic ethnic organizations along the Thai-Burma, India-Burma and China-Burma border areas, in order to enable them to implement human rights and education programs themselves on a wider scale.

Second, UN agencies working in Burma should improve their relationships with the forces working for the restoration of democracy and human rights. The role of the UN in the current dialogue process should be actively promoted so that it can be officially involved in the process. The actions of the Red Cross and the International Labour Organization should be honoured and strengthened.
Third, effective monitoring and intervention by international media and legal communities, in order to promote the independent judiciary and independent media in Burma, would be extremely beneficial.

Endnotes

* Aung Htoo is the General Secretary of Burma Lawyers’ Council.

4. SLORC stands for ‘State Law and Order Restoration Council’, the military regime’s official name at that time.
6. Ibid., p. 2623.