

Militarized development is always untenable



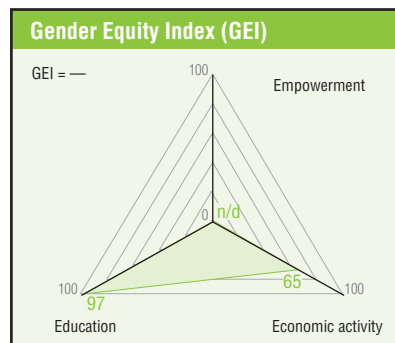
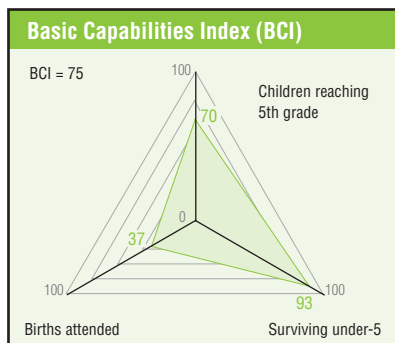
Decades of military rule have fostered a repressive political environment in which democratic principles are flouted, public resources are exploited for the benefit of the military elite and human rights and the rule of law enjoy little respect. Without basic rights, the voiceless people of the country suffer the consequences of economic mismanagement that undermines the environment and retards sustainable development. Burma urgently needs strong democratic institutions that promote sustainable development, public participation and accountability.

Burma Lawyers' Council
Leslie Choi

Despite the country's abundance of natural resources, a majority of the Burmese people face challenging life conditions as a result of governmental economic mismanagement. More than 32% of the population lives below the poverty line.¹ Burma ranked 132 out of 169 countries in the 2010 UNDP Human Development Index.² The lack of public participation in developing economic policies is reflected in the Government's allocation of only 0.5% of the gross domestic product (GDP) for health, and 0.9% for education.³ Meanwhile, the Government pours more than 60% of its spending into State-owned businesses.⁴

The lack of democratic institutions effectively bars the public from participating in decision-making on economic, social and environmental policies. Abuse of power is rampant. Development projects are used to line the pockets of military officials at the expense of citizens.

The military regime, known as the State Peace and Development Council (SPDC), organized a national election in November 2010 – the first in 20 years – but it was characterized by flawed election laws and repressive practices. The SPDC continues to hold the reins of Government in Burma and officials regularly abuse their power to further their own interests. They have little fear of the consequences since no means currently exist to hold such people accountable, they often face little to no repercussions for these abuses.



2008 Constitution and 2010 elections

The 2008 Constitution entrenched military rule by reserving a quarter of national parliamentary seats and a third of state and regional parliamentary seats for military representatives appointed by the Commander-in-Chief.⁵ The military appoints all of the members of the Union Election Commission (UEC), the government body responsible for ensuring that elections are free and fair.⁶ Election laws bar political prisoners from joining parties and place restrictions on campaigning activities of political parties. In response to the restrictive laws, the National League for Democracy (NLD), and other key opposition groups boycotted the elections, further delegitimizing the results.⁷

The elections were also marred by voter intimidation, electoral fraud and corruption.⁸ One of the most common complaints concerned the manipulation of voting results through the collection of votes in advance and vote-rigging.⁹ In some areas, villagers were threatened with land confiscation and the discontinuation of public services if they did not vote for the regime-backed Union Solidarity and Development Party (USDP).¹⁰

The military regime has further entrenched its position through laws that obstruct judicial independence.¹¹ The President has the power to appoint and dismiss Supreme Court Justices at his discretion.¹² The Supreme Court does not exercise jurisdiction over military or constitutional issues. Additionally, the Constitution guarantees impunity to members of the ruling military regime, thereby preventing the judiciary from enforcing the law in cases in which they are involved.¹³ Pervasive corruption further undermines the legitimacy of the judiciary, as well as its ability to protect the rights of individuals and hold government officials accountable.¹⁴

In most countries, civil society organizations play a fundamental role in the promotion of democratic principles and help ensure transparency, accountability, defense of human rights, and public participation. In Burma, these organizations are stifled by repressive restrictions or outright bans on civil society activities.¹⁵ In the absence of a vibrant civil society, military junta rule is unchecked, unmonitored, and unaccountable.

1 Economy Watch, *Myanmar (Burma) Poverty Line, Gini Index, Household Income and Consumption*, (May 2011), <www.economywatch.com/economic-statistics/Myanmar/Poverty_Line>.

2 UNDP, *The Real Wealth of Nations: Pathways in Human Development*, (New York: 2010), <hdr.undp.org/en/statistics>.

3 UN Human Rights Council, *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, (Geneva: 10 March 2010).

4 Index mundi, *Burma Economy Profile*, (2010), <www.indexmundi.com/burma/economy_profile.html>.

5 *Constitution of the Republic of the Union of Myanmar*, (September 2008), arts 74, 109, and 141.

6 UN General Assembly, *Situation of human rights in Myanmar*, (15 September 2010).

7 M. Maung, "Ethnic leaders join NLD vote-boycott roadshow," in *Mizzima News*, (13 October 2010), <www.mizzima.com/news/election-2010-14442-ethnic-leaders-join-nld-vote-boycott-roadshow.html>.

8 J. Davies, and H. Siddique, "Burma election observers report voter intimidation," *The Guardian*, (8 November 2010), <www.guardian.co.uk/world/2010/nov/08/burma-election-voter-intimidation>.

9 Burma Fund UN Office, *Burma's 2010 Elections: A comprehensive report*, (January 2011).

10 Ibid.

11 A.U. Htoo, "Analysis of the SPDC's Constitution from the Perspective of Human Rights," in *Legal Issues on Burma Journal*, No. 30 (2008).

12 *Constitution of the Republic of the Union of Myanmar*, (September 2008), arts 299, 302, 308, 311, 327, and 334.

13 Ibid., art. 445.

14 US Department of State, *2008 Country Report on Burma*, (Washington DC: 25 February 2009), <www.state.gov/g/drl/rls/hrrpt/2008/eap/119035.htm>.

15 Human Rights Watch, *I Want to Help My Own People*, (28 April 2010), <www.hrw.org/en/reports/2010/04/29/i-want-help-my-own-people-0>.

The grim face of militarized development

The SPDC has sold rights to exploit domestic resources to neighbouring countries, generating billions of dollars, yet the Burmese people have not seen the economic benefits.¹⁶ Instead, in pursuing its own interests and militarizing development projects, the Government has exploited local villagers and exposed them to human rights abuses.

Villagers are systematically subjected to forced labour by Burmese army troops.¹⁷ For example, during the construction of the Yadana gas pipeline in Eastern Burma, a joint venture of the French-owned Total and the US-owned Unocal (now owned by Chevron), Government soldiers and proxy military groups providing security forced civilians to cut down trees, serve as porters, and build military infrastructure.¹⁸ Those who refused were beaten, raped, tortured and killed.¹⁹

Large-scale land confiscation is another prevalent development-related government abuse. Villagers receive nominal or no compensation for the farmland seized. In 2010, approximately 2,500 acres of land in Southern Burma were confiscated and distributed to logging companies.²⁰ Villagers who live by the China-sponsored development of the Shwe gas pipelines in Western Burma also report that authorities have been confiscating land without compensation.²¹

Many Burmese rely primarily on farming for their livelihoods. Forced labour leaves them much less time to cultivate their land, while confiscation completely deprives them of their source of food and income. Additionally, militarization of areas with development projects, which is common, is often

accompanied by an increase in unofficial taxes, imposed on local villagers by soldiers.²² These corrupt practices not only heighten food insecurity, they also close off educational opportunities: farmers can no longer afford to send their children to school.

Environmental impact

The severe environmental degradation that frequently results from these projects further exacerbates their negative social and economic impact. Unsustainable logging, shrimp farming and hydro-electric projects, as well as extractive industries have seriously damaged the environment. For example, air and water pollution created by a 2010 coal mining partnership agreement between Chinese and Burmese companies in Shan State have contaminated water supplies and caused approximately 2,000 cases of skin disease.²³ This venture is the largest cooperative mining project between China and Burma, located in the Sagaing Division, and it continues to release toxic chemicals during the refining process.²⁴

The environmental risks associated with development projects are not disclosed to affected communities,²⁵ and in the absence of the rule of law the victims of development-related government actions have no viable legal recourse. Order 1/99, which outlaws forced labour, it is hardly enforced.²⁶ When individuals subjected to forced labour and land confiscation have filed complaints, the SPDC has retaliated against them and their lawyers through criminal charges and arbitrary sentences to hard labour camps.²⁷

The country's environmental laws are not enforced. Although the Forest Law emphasizes the importance of conserving and protecting Burma's forests,²⁸ between 1990 and 2005, the country lost almost 20% of its forests,²⁹ and in recent years the rate of deforestation has increased. Similarly, although the Myanmar Mines Law of 1994 requires permission from land users before a mining permit is issued, in practice villagers are not consulted and their lands are typically confiscated.³⁰

Additionally, no law requires that companies seeking to invest in development projects in Burma consult with affected communities. Even when companies have taken the initiative to do so, the environmental impact assessments that were commissioned have been fundamentally flawed, leading to inaccurate conclusions.³¹ For example, the third-party environmental impact assessment commissioned by the French oil company Total on the Yadana gas pipeline project relied on the testimony of Burmese villagers procured through interviews conducted in the presence of military intelligence officials.

Conclusions

Strong democratic institutions that promote good governance are an essential prerequisite for sustainable development. This entails respect for the rule of law and human rights, effective public participation, access to knowledge, and accountability in the management of public resources.

Democratic principles must be strengthened in Burma through free and fair elections, an independent judiciary that upholds the rule of law, and a constitutional review that involves all stakeholders. Public participation should also be incorporated into all stages of development so that the people can shape economic policies, become fully aware of the social and environmental impact of all development initiatives, and have the power to hold government actors and companies accountable for any rights violations. ■

16 EarthRights International, *Energy Insecurity*, (July 2010), <www.earthrights.org/publication/energy-insecurity-how-total-chevron-and-pttep-contribute-human-rights-violations-financi>.

17 EarthRights International, *The Human Cost of Energy: Chevron's Continuing Role in Financing Oppression and Profiting From Human Rights Abuses in Military-Rule Burma*, (April 2008), <www.earthrights.org/publication/human-cost-energy-chevron-s-continuing-role-financing-oppression-and-profiting-human-rig>; UN Human Rights Council, *Progress report of the Special Rapporteur on the situation of human rights in Myanmar*, (10 March 2010).

18 R. Sisodia and A. Buncombe, "Burmese villagers 'forced to work on Total pipeline,'" *The Independent*, (14 August 2009), <www.independent.co.uk/news/world/asia/burmese-villagers-forced-to-work-on-total-pipeline-1771876.html>.

19 EarthRights International, *The Human Cost of Energy*, op cit, <www.earthrights.org/publication/human-cost-energy-chevron-s-continuing-role-financing-oppression-and-profiting-human-rights>.

20 S.Y. Naing, "Land Confiscation Reported in Dawei Project," *The Irrawaddy*, (15 December 2010), <www.irrawaddy.org/article.php?art_id=20326>.

21 Mizzima News Group, "Land confiscation begins with pipeline project," *Mizzima News*, (9 November 2009), <www.mizzima.com/news/inside-burma/3023-land-confiscation-begins-with-pipeline-project.html>.

22 All Arakan Students' & Youths' Congress, *Overview of Land Confiscation in Arakan State*, (June 2010). Available from: <www.burmalibrary.org/docs09/Land_%20Confiscation_in_Arakan-Overview.pdf>; Karen Human Rights Group, *Pa'an District: Land confiscation, forced labour and extortion undermining villagers' livelihoods*, 11 February 2006. Available from: <www.khrgh.org/khrgh2006/khrgh06f1.html>.

23 Pa-O Youth Organization, *Poison Clouds: Lessons from Burma's largest coal project at Tigyit*, (2011), <pyo-org.blogspot.com>.

24 J. Allchin, "China seals biggest Burma mining deal," *Democratic Voice of Burma*, (July 30 2010), <www.dvb.no/news/china-seals-biggest-burma-mining-deal/11015>.

25 EarthRights International, *China in Burma: The Increasing Investment of Chinese Multinational Corporations in Burma's Hydropower, Oil, and Natural Gas, and Mining Sectors*, (September 2007), <www.earthrights.org/sites/default/files/publications/China-in-Burma-2007-backgroundunder.pdf>.

26 The Government of the Union of Myanmar, "Order supplementing Order No. 1/99," in *The Ministry of Home Affairs*, (27 October 2000).

27 International Trade Union Confederation, *2010 Annual Survey of violations of trade union rights – Burma*, (9 June 2010); M. Maung, "Lawyer arrested for defending labour activist freed," *Mizzima News*, (6 March 2010), <www.mizzima.com/news/inside-burma/3621-lawyer-arrested-for-defending-labour-activist-freed.html>; Kaew, N.K, "Army seizes 30,000 acres of farmland," *Democratic Voice of Burma*, (22 February 2011), <www.dvb.no/news/army-seizes-30000-acres-of-farmland/14351>.

28 The State Law and Order Restoration Council, *The Forest Law (The State Law and Order Restoration Council Law No 8/92)*, (3 November 1992).

29 The National Coalition Government of the Union of Burma (NCGUB), "Burma Human Rights Yearbook 2008-2009," in *Human Rights Documentation Unit*, (November 2009), <www.ncgub.net/NCGUB/mediagallery/album4c6.html?aid=90&page=1>.

30 Pa-O Youth Organization, *Poison Clouds*, op cit, <pyo-org.blogspot.com>; The State Law and Order Restoration Council, *The Myanmar Mines Law (No 8/94)*, (6 September 1994).

31 EarthRights International, *Getting it Wrong: Flawed Corporate Social Responsibility and Misrepresentations Surrounding Total and Chevron's Yadana Gas Pipeline in Military-Ruled Burma*, (September 2009), <www.earthrights.org/sites/default/files/publications/getting-it-wrong.pdf>.