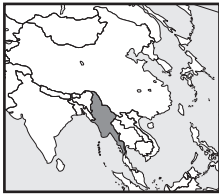


## BURMA

# Basic economic and social rights denied



Peaceful co-existence and the guarantee of social security for all persons can be ensured only if the people's right to self-determination is respected through an accountable, transparent and decentralized system of governance. Above all, the issue of people's severe lack of access to social security must be resolved by three sectors of society: the state, civil society and individuals.

### Burma Lawyers' Council

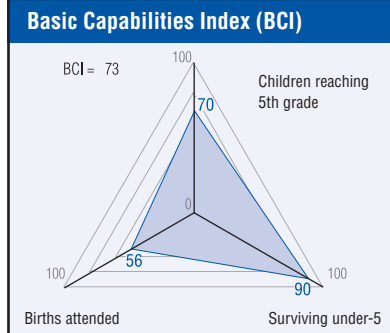
As a country that has prioritized military expenditure over welfare provision for its people during the past four decades, Burma<sup>1</sup> has succumbed to an acute economic and social crisis. The ruling State Peace and Development Council (SPDC), which seized power in 1988, continues to spend over 40% of the national budget on the military, while International Monetary Fund (IMF) figures estimate that under 1% of the gross domestic product (GDP) is spent on health and education combined.<sup>2</sup> Consequently, the people of Burma are systematically denied their basic economic and social rights, whether it is access to employment, health care, education, or other fundamental needs.

Hunger is widespread and serious throughout Burma, both in the areas affected by the ongoing civil war and elsewhere, and it is spreading both geographically and demographically. The causes of this growing phenomenon have been found to be:

- The destruction of staple crops which provide the local food supply.
- Uncompensated conscription of people to work on state projects which do not leave enough time for them to work their fields.
- Uncompensated conscription of 'porters' to areas far from their villages leaving them without time to grow food.
- Forced relocation of people to areas where rice is difficult to grow, or to unfamiliar terrain making it difficult to find enough food.
- A quota system whereby the villagers must provide a set amount of rice to the government well below the market price, regardless of whether or not the harvest was adequate, which leaves people in debt and without any rice of their own to eat (The People's Tribunal, 1999).

1 Although the ruling military junta officially changed the English version of the country's name from Burma to Myanmar in 1989, Burmese opposition groups continue to use the name Burma because they do not recognize the legitimacy of the military government.

2 Figures from Kachin Women's Association Thailand (2005, p. 15). See also UNDP (2000), which reported Burma's allocation of public resources at 0.2% of GDP.

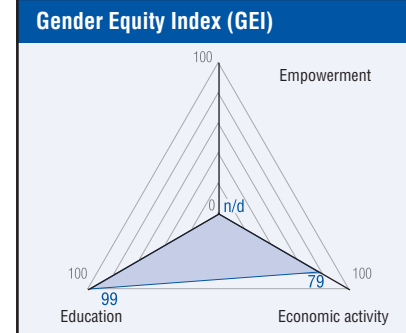


### Malnutrition, child soldiers and theft of women's hair

Food scarcity has had an especially alarming impact on the health and well-being of children in Burma. A United Nations report stressed that "the level and depth of hardship among families in Myanmar is vividly reflected in high rates of malnutrition among pre-school-aged children. Even based on official statistics, far too many of Myanmar's children suffer from wasting and stunting." Describing the situation as a "silent emergency," the report adds: "Deprivation on this scale indicates not only immediate need, but also adverse long-term repercussions for the health and intellectual development of the affected children" (Lallah, 2000a, para. 36, p. 10). According to the UNICEF report *The Progress of Nations 2000*, 45% of Burmese children under five are stunted in growth, and according to the World Health Organization (WHO), 39% are underweight. Food deprivation, repeated illness, lack or absence of health care and death or forced relocation of parents appear to be the major causes of the phenomenon of stunted growth in children (Lallah, 2000b, p. 10).<sup>3</sup>

The lack of adequate social protection provided by the state forces people to seek their own means of survival. The often desperate measures adopted place people at further risk of vulnerability to exploitation and abuse.

3 Paulo Sérgio Pinheiro, Special Rapporteur of the Commission of Human Rights on the situation of human rights in Myanmar since 2001, has not been allowed to visit the country since November 2003. Consequently, political discussions with the Government of Myanmar have taken place only outside the country on limited occasions.



Families that cannot afford to pay for their children's needs often send them to work as child soldiers.<sup>4</sup> Burma is reported to have the highest number of child soldiers in the world (CSUCS, 2001), with unofficial sources estimating the figure to be around 50,000 (Lallah, 2000b, para. 49, p. 10). Children lacking basic social security, such as street children, orphans and children belonging to ethnic minorities, are believed to be the most vulnerable to forced recruitment.

Another indicator of Burma's lack of social security is the growing number of reported cases of the theft of women's hair since 2003. Hair purchasing centres have dramatically increased in Rangoon, where 1.6 kilograms of hair can be sold for up to MMK 500,000 (USD 400).<sup>5</sup> Rising incidents of women's hair being cut off at crowded places to be sold to these centres, as well as women who secretly sell their hair to buy food despite the dignity associated with long hair in Burma, reflect the increasing need of the population to compensate for their lack of income.

A more alarming trend is the continuing incidence of trafficking of women as a result of poverty and lack of employment opportunities. Due to the failure of the state to provide identification documents, these women and girls are denied their right to travel or migrate legally and thus become vulnerable to trafficking. Once trafficked, the majority of women and girls are forced into sex work or sold as wives in China, where they are often exploited and abused due to their lack of legal status (Kachin Women's Association Thailand, 2005, p. 22).

4 *Voice of America*, 25 April 2007 [in Burmese].

5 *The Kantarawaddy Times*, 16 May 2007 [in Burmese].

## Factors that aggravate social insecurity

### *A 'military welfare state'*

The principal policy of the SPDC is to strengthen military might through rigid centralized control. Burma has the highest budget allocation for military expenditure in Southeast Asia, amounting to over 40% of its national budget, which excludes hidden accounts and subsidies to the armed forces (Selth, 2002, p. 135). The size of its army has more than doubled since 1987, from 186,000 personnel to 428,000 in 2004 (Encarta, 2007). It is estimated that arms imports comprise more than one-fifth of total imports (WLB, 2006).

A related SPDC policy is to create a military-dominated society, or a 'military welfare state', as opposed to a social welfare state that ensures that wealth and security are shared by the majority and nobody is excluded. This policy has resulted in the under-development of physical infrastructure for the people, such as electricity, transportation and communication systems. Only an elite few are able to receive basic health care services or achieve a moderate level of education (HRDU, 2005b).

The decision by the ruling military junta to move its capital from Rangoon to Naypyidaw in November 2005 is a case in point. Huge costs have been incurred to build a vast military complex, golf courses and high-rise government buildings, yet there are few signs of the schools and hospitals that the government has promised (Sipress, 2005). Electricity supply to the area, which was already erratic before the move, has become even more unreliable (McGeown, 2006). In addition, villagers and farmers have been forced off their land and their properties have been destroyed to make way for the building of new administrative offices, residential homes and military barracks (Democratic Voice of Burma, 2005).

In such times of hardship, the people lack unemployment insurance or public financial support. Despite an existing pension system, civilian pensioners live in dire need of subsidies as the pensions they receive barely cover the cost of a few days of food.

### *Obstacles to civil society and private sector involvement*

The government's failure to adequately transfer its social security responsibilities to other sectors is illustrated by the impact of its resistance to the emergence of civil society inside Burma combined with its convoluted privatization policy. The SPDC does not cooperate effectively with international organizations in providing aid to the country's citizen, while it rigidly restricts the operations of local people's organizations.

The Joint United Nations Programme on HIV/AIDS (UNAIDS) reports that resources made available to combat HIV/AIDS are meagre in comparison with the magnitude of the problem, which is exacerbated by the SPDC's reluctance to permit international non-governmental organizations to work in collaboration with community-based organizations. Permits to visit patients are difficult to

obtain and access to high-risk groups and vulnerable groups is restricted. UNAIDS has warned of a growing epidemic in Burma and indicated that the ruling regime has largely been ignoring it (Lallah, 2000a).

Flagrant neglect by the SPDC of its own citizens' health has resulted in Burma's overall performance in health being ranked second-to-last: 190th out of 191 states (WHO, 2000). Its policies in health "still appear to be indecisive and inadequate" with "wide inequality of access to adequate health care, both preventive and curative." (Lallah, 2000b, p. 7). Denied the basic right to health, some people cross the border to Thailand to receive free medical assistance at the Mae Tao clinic.<sup>6</sup> It is estimated that over 100 patients from Burma arrive at the clinic each day. The poor quality of public health care services is undeniable and must be addressed urgently throughout the country.

Laws enacted by the SPDC have contributed to the lack of effective privatization of social security services. For instance, without declaring a privatization policy, the SPDC enacted the Law Relating to Private Health Care Services on 5 April 2007, which is purportedly aimed at the systematic participation of private care services as an "integral part" of the national health care system. However, this law essentially lacks positive foundations for the successful operation of private health care services. For instance, there is no provision authorizing them to communicate with the international health community independently, and receive financial, material and academic assistance. Nor is there any provision stipulating the obligation of the state to facilitate access by private health care services to advanced medical equipment, hospital construction materials, emergency transportation, communication, electricity and other basic infrastructure, or reduced taxes. Instead, the law imposes negative prohibitions on private health care services, and penalties for violations of the law range from a minimum of six months to a maximum of five years imprisonment.

Similarly, the Law Relating to Forming of Organizations, enacted by the SPDC in 1988, obstructs the formation and independent functioning of all organizations, including those which attempt to promote the social welfare of local people. Section 5 vaguely prohibits "organizations that attempt, instigate, incite, abet or commit acts that may effect [sic] or disrupt the regularity of state machinery," and anyone found guilty of such an offence can be punished with a prison term of up to five years. Penalties rendered under the law have created situations in which organizations operated by local civilian people are strictly controlled on one hand, while lackey organizations of the SPDC, such as the Union Solidarity Development Association, Myanmar Maternal and Child Welfare Association and Myanmar Red Cross – operated by the military leaders, wives and relatives of the military leaders, ex-army personnel and their cronies – enjoy opportunities to communicate with the international community and receive development and social welfare assistance under the guise of civil society.

<sup>6</sup> Nightingale, 9 January 2007 [in Burmese].

### *Deprivation of livelihood and lack of income security*

Farmers are effectively deprived of the right to own land. Under the Land Nationalization and Agricultural Lands Act of 1953, the transfer, partition or lease of land can only occur with permission from the authorities. The 1963 Tenancy Act usurped the right of landowners to lease their land, and the 1963 Protection of the Right to Cultivation Act stipulated that land would be protected from confiscation except in the case of "(a) non-payment of dues owing to the State, and (b) disputes arising from inheritance cases or actions taken by the State for security reasons." (HRDU, 2006).

The regime is further granted authority to confiscate land through Notification No. 4/78, enacted on 18 September 1978 (HRDU, 2005a). This notification establishes that failure to sow the allotted land with the earmarked crops to obtain optimum results, or failure to sell the full crop quota to the state at the stipulated price, would result in confiscation of land. Currently village and township administrators have the power to confiscate land and the cultivators are compelled to follow their dictates with no means to protest.

The primary reason behind land confiscation and forced displacement of people is to further extend the SPDC's military control over the country. This includes the establishment of military encampments, state enterprises and development projects to bolster the position of the SPDC. Confiscated land is also often used to grant concessions to foreign companies, to benefit the SPDC's lackey organizations, as well as to obtain access to natural resources.

One example is the continued sale of Burma's timber to foreign companies. According to the World Resources Institute (1998), the rate of deforestation has more than doubled since the present military regime came into power in 1988. Forest devastation continues in the states of Kachin, Karen and Karenni, benefiting only the SPDC officials and Chinese companies (PKDS & KESAN, 2004, p. 3-4).

Development projects that have led to forced displacement in Burma include the construction of infrastructure, mines, irrigation systems, and natural gas and oil extraction facilities, as well as commercial agricultural fields and military bases (TBBC, 2005; HRW, 2005). According to Earth Rights International (2005), "dozens of large-scale dams (15 meters in height) have been already built or are currently under construction throughout Burma, especially in the central region of the country." The construction and resulting water displacement of these hydroelectric dams necessitate the mass relocation of those living in the affected area.

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We believe that the problems affecting social integration are problems related to rights – social and political – which are linked to the construction and reproduction of citizenship. In consequence, social insertion strategies must, on the one hand, adopt a format for the transfer of economic, social, political and cultural resources tending to strengthen the social networks of those who are currently excluded, in order to ensure their development and socioeconomic and political autonomy; and, on the other hand, ensure political and institutional characteristics in the government and in state actions which are accessible and open to social preferences and control. Essentially, it is a matter of creating conditions for a citizenship which is based on respect and the strengthening of individual and social rights. ■

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## BULGARIA

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In the context of pan-European objectives and values, the foundation has been laid for achieving a more direct connection between strategy and policies in the pensions sphere and in National Employment Action Plans, with a view to raising the employment rate, restricting the inflow to early retirement schemes, increasing incentives for pro-longing active employment and setting pension systems on a stable financial footing.

The analysis of the Bulgarian experience so far provides grounds for the conclusion that there is room for a certain regulatory modification, particularly in light of the commitments ensuing for the country from European instruments in the area of pensions and social involvement. Above all, in order to guarantee a dignified life for the elderly, pensions (both today and in the future) should not be a generator of poverty, and they should match the new individual needs created by changing. Finally, and perhaps most important of all, pension systems must be financially healthy, autonomous, and sustainable in the long term. ■

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In addition, the SPDC relocates villagers not to use the confiscated land itself, but to undermine the support base of armed opposition groups by severing their connections to recruits, information, supplies and finances. Known as the 'four cuts' policy, this military-based strategy has been implemented by forcibly relocating villagers from contested areas to SPDC-controlled areas, thereby isolating villagers from resistance forces and placing them more firmly under military control (Global IDP Project, 2005).

### Recommendations

Burma is a multiethnic society with diverse cultures, religions and traditions. Ultimately, peaceful co-existence and the guarantee of social security for all persons can be ensured only if the people's right to self-determination is respected through an accountable, transparent and decentralized system of governance. Within the framework of federalism in which civil society exists in every constituent unit of the union, the country must embrace a structure of governance whereby people's rights and needs can be expressed and protected through institutionalized inputs to the decision-making processes at all levels of the administrative system. In essence, the notion of 'self-rule and shared rule' must be respected.

Essentially, the state must take primary responsibility for the social security of people depending on

available natural resources, gross national income, and state budgets, while promoting the economic, social and cultural rights of people on one hand and fostering the economic welfare of people on the other, through a 'people-centred' approach as opposed to 'state-centric' development programmes. The state is also obliged to respect and promote the genuine principles of the rule of law with the existence of an independent judiciary, under which corrupt practices and abuses of power by administrative officials can be brought to justice and a transparent society can be established.

The emergence of civil society organizations and institutions will help secure the right to social security for all. As such, all oppressive laws and other restrictions imposed on the formation and independent functioning of civil society organizations must be abrogated, and their communications with the outside world and among the organizations themselves to seek assistance and cooperation on social security matters must be institutionalized and legalized.

Social security can also be protected when people live in dignity with a secure livelihood. To this end, last but not least, the state must guarantee people's access to the resources required, in addition to the cancellation of legal and administrative barriers which hinder equal rights to employment, equal pay for equal work, and the independent formation and operation of trade unions, commencing with the right not to be forced to work.

Eventually, the right to social security will become a reality when the inner dynamics, interconnectedness and interaction between the state, civil society organizations and capable individuals better reflect the dire need of the Burmese people. ■

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