



## **ASIAN HUMAN RIGHTS COMMISSION**

19 Floor, Go-Up Commercial Building, 998 Canton Road  
Kowloon, Hong Kong . Tel: +(852) 2698-6339 . Fax: +(852) 2698-6367  
E-mail: ahrchk@ahrchk.org . Web: www.ahrchk.net

December 7, 2005

Ms Louise Arbour  
High Commissioner for Human Rights  
OHCHR-UNOG  
8-14 Avenue de la Paix  
1211 Geneva 10  
SWITZERLAND  
Fax: +41 22 917-9012

### **Open letter to the UN High Commissioner for Human Rights to mark International Human Rights Day 2005**

Dear Ms Arbour,

#### **RE: SUSPEND MYANMAR FROM THE HUMAN RIGHTS COMMISSION**

On this international Human Rights Day, December 10, 2005, the Asian Human Rights Commission (AHRC) calls upon you to initiate action to suspend Myanmar from participating in the UN Commission on Human Rights in 2006.

It is public knowledge that the situation of human rights in Myanmar is among the worst in the world. Virtually all human rights are routinely, systemically and flagrantly violated by the authorities in Myanmar. Many pages would be needed to list them all. The AHRC has in particular received detailed reports that speak to the “un-rule of law” in every part of the country. It has also for many years asserted that state policies contrive to deny the right to food to millions there, an assertion recently backed by the World Food Programme director.

The situation of human rights in Myanmar has been amply documented by the Special Rapporteurs of the Commission on Human Rights appointed for this purpose. The Government of Myanmar has shown no sincerity in its dealings with any of the Special Rapporteurs. It has played charades. It has treated one after the next with polite contempt.

The current Special Rapporteur is due to complete his term in office. The Asian Human Rights Commission urges you today to take steps so that the post is not renewed. Instead, we call upon you to take see that Myanmar is suspended from participating in the Commission on Human Rights, and any subsequent Human Rights Council, until its government is prepared to take seriously its obligations under international human rights law. The presence of the Government of Myanmar at the Commission is nothing more than a cruel joke on the global community, and most of all, on its own people. It serves no good purpose. The government deserves less respect; its people deserve more.

Yours sincerely,

Basil Fernando  
Executive Director



## **ASIAN HUMAN RIGHTS COMMISSION**

19 Floor, Go-Up Commercial Building, 998 Canton Road  
Kowloon, Hong Kong . Tel: +(852) 2698-6339 . Fax: +(852) 2698-6367  
E-mail: ahrchk@ahrchk.org . Web: www.ahrchk.net

### **FOR IMMEDIATE RELEASE**

December 7, 2005

### **A report by the Asian Human Rights Commission (AHRC) marking International Human Rights Day 2005**

#### **BURMA: Sinking deeper into the un-rule of law**

With the jailing of Ma Su Su Nwe this October human rights in Burma reached a new low-point. Indeed, Ma Su Su Nwe symbolises all that is tragically wrong in Burma. An ordinary villager, 34-year-old Ma Su Su Nwe lodged a complaint in 2004 against local government officials over their use of forced labour on a road construction project, under new regulations introduced by the government to appease the International Labour Organisation (ILO). In early 2005, with pressure on the authorities from the ILO, she won her case: the first successful prosecution for use of forced labour in Burma. What happened next was instructive. The new local authorities accused Ma Su Su Nwe of criminal intimidation, and lodged charges against her: a pattern already seen in earlier cases that complainants had anyhow lost, or where complaints have been lodged but rejected. On October 13 she was found guilty and sentenced to twenty months in jail. She was immediately transported to the notorious central Insein Prison, where she has been kept in special quarters to this day. Visitors have alleged that she has been denied medicines for a chronic heart illness, and is suffering from worsening symptoms that may ultimately cause her death.

The role of the courts in Ma Su Su Nwe's case speaks to what has been rightly called the "un-rule of law" in Burma. During the trial in the township court, the judge was replaced with a judge who has been used in the past to secure convictions in cases stemming from allegations of forced labour. Successive appeals against the sentence given by her, which is bailable, have been summarily thrown out of court, with the judges reportedly not even listening to the arguments of the defence lawyer. Similarly, the case of 40-year-old U Aung Pe has been thrown out of the courts without a second thought, after he was jailed for three years for leading his English class students in paying their respects to an image of national independence hero General Aung San, the father of democracy leader Daw Aung San Suu Kyi. U Aung Pe has reportedly been beaten up inside the prison by a gang that works together with the authorities which consists of former members and associates of the regime, jailed during political turmoil in 2004.

Thuggery and coercion by local authorities and police are part of life for people throughout Burma, whether inside prisons or out. In September, for instance, Ma Aye Aye Aung, a betel nut seller, was reportedly surrounded and beaten up in public together with her husband by a group led by the local ward chairman in Mandalay division. Ma Aye Aye Aung courageously lodged a complaint in the local court. Although the case is still to be opened, she has since said that the court has harassed her constantly, calling her in nine times. Each time she has gone expecting to give her account of how she was beaten, and has instead been sent home without explanation. Her meagre livelihood has been undermined by constant interruptions, and she has had to sell household possessions to survive. Thus the role of the court has been to intimidate rather than hear the complainant. In May, the Asian Human Rights Commission reported on the case of two cousins who were beaten by the police in the capital after one of them unwittingly exposed a pro-

democracy tattoo. After the two victims lodged a complaint about the assault, they themselves were detained. Although a court later released one of the perpetrators, one victim remained imprisoned, allegedly for having broken a restraining order on his movement.

Anecdotal evidence suggests that torture is a routine part of investigation and imprisonment in Burma, although conditions in the country make it impossible to monitor effectively. Increasingly, where it results in a death in custody there are reports that the authorities have immediately destroyed the body of the deceased. One prominent case in May 2005 was that of Aung Hlaing Win, who was dead by the time he was delivered to a hospital by military intelligence officers. Doctors found that his body had at least 24 external bruises, three broken ribs and a bruised heart. The officers took the body away and cremated it. In June the local township court concluded that Aung Hlaing Win had died of chronic illness, although the doctors testified to the injuries they had seen. It reportedly refused to entertain questions from his wife as to why the body was cremated and not returned to the family, and refused her the right to appoint an advocate of her choice. It also allegedly refused to give copies of the judgment and other court records to the family. Appeals to higher courts over the case were also unsuccessful. In a similar case, the corpse of Min Tun Wai, who died within a day of being sent to Moulmein Prison after a summary trial during May, was disappeared by the authorities there. In November, the authorities at Insein Prison allowed the family of Ko Aung Myint Thein to view his corpse, but insisted on cremating him without delay, raising doubts among family members that he had not died of stomach cancer as they were told.

There are also numerous reported cases of violence against women in Burma by state agents, which are consistently followed by attempts to conceal the crimes. After two police allegedly raped 30-year-old Ma Soe Soe in June, they arrested a witness and took other steps to silence the matter. After a police officer in Taunggut Township reportedly raped a local woman in May the village chairman refused to take up the parents' complaint because the perpetrator was a police officer. After they took it direct to the police station, the superintendent reportedly ordered the rapist and victim to marry and then divorce. When the victim refused to cooperate, she was reportedly assaulted inside the station. In mid-2004, an officer from the Meikhtila Training Airbase allegedly beat a 15-year-old girl to death after she was careless in her work as a housekeeper. Although doctors examining the body again found numerous injuries, the perpetrator had allegedly poured poison into her mouth in a clumsy attempt at making her death look like suicide. The local battalion commander arranged to prevent the case from going to court by paying and threatening the family and other persons. In 2004 the Asian Human Rights Commission reported on how Ma San San Aye and Ma Aye Mi San were allegedly raped by a local government official in Pyapon Township. At least one of the two was a child at the time of the alleged rape. Although the AHRC has obtained documentation regarding the allegation in that case, after the matter was dropped by the local authorities and the victims attempted to take it higher up, they themselves were convicted of defamation and sentenced to four years' rigorous imprisonment. Despite raising the details of the case repeatedly with government authorities and concerned UN and international agencies, no further information has been made known to the AHRC regarding the fate of the two young victims or the alleged rapist.

Together these cases speak to the lack of possibilities for obtaining redress for rights violations anywhere in Burma today. The purpose of its institutions is to support the interests and authority of the army and subsidiary state agencies. Although Burma is a party to the U.N. Convention on the Elimination of Discrimination against Women and U.N. Convention on the Rights of the Child, there is no means by which to protect the rights of victims in accordance with these treaties. Although it has committed itself to the elimination of forced labour and instituted regulations with a view to the same, an ILO presence in the country has ultimately failed to make any

significant progress towards this goal, and small victories have been soured by retributive actions against complainants that together send a clear message to others who may think of objecting when they are sent to work without pay. Although it remains a member of the U.N. Human Rights Commission, it has exhausted one Special Rapporteur on the situation of human rights in Myanmar after the next without any signs of meaningful progress.

The same denials of fundamental civil and political rights in Burma are reflected in denials of basic economic and social rights. Since 1998 the AHRC has pointed to the connections between the un-rule of law in Burma and the hunger, sickness and growing deprivation suffered by its people. This assessment was validated in August when the executive director of the World Food Programme (WFP) said after a visit to Burma that its food shortages and malnutrition are serious, and drew a direct line between them and the policies and practices of its government. He underlined his concerns by pointing out that Burma is the only country in the world where the WFP is obliged to pay a tax on food bought within the country for local distribution.

No doubt Burma is sunk in a deep mire. The challenge for human rights defenders in the country and abroad is how to understand this situation, and what to do about it. With a paranoid and introspective military government and an armed forces internationally renowned for rampant and gross human rights abuses—including systematic extrajudicial killing, torture, rape, forced labour and destruction of villages, crops and livestock—in the country's hinterlands where civil conflicts persist and both the concept and presence of the state is all but non-existent, it is easy to reduce the problems there to simplistic rhetoric about dictatorship versus democracy, slavery versus freedom. However, the far more insidious symptoms of the country's persistent decline are in the corrosion of institutions for the rule of law and social administration, and organizations through which parts of civil society might find some opportunity for expression. The majority of people in Burma must daily endure an abrasive fear of police and government officials with powers to abuse and axes to grind, and against whom there is no possibility of effective redress or recourse.

This is what the un-rule of law signifies for the ordinary person in Burma. The long-term consequences of this condition are not yet well-understood. However, it can be said that as the country's institutions are further compromised and distorted its society becomes more harsh, its people more desperate. While we extend our hopes and energies towards Ma Su Su Nwe and others who are struggling in their own ways to find some space in which to bring about change in Burma, we can expect that there shall be many more like her before meaningful change is realised. The strongest hope for Burma is that there do appear to be many more like her, in every part of the country and in every walk of life, and if their actions coalesce today's faint hope for change may yet become a real possibility.

#

#

#

*About AHRC The Asian Human Rights Commission is a regional non-governmental organisation monitoring and lobbying human rights issues in Asia. The Hong Kong-based group was founded in 1984*