



THE STATE OF HUMAN RIGHTS IN BURMA - 2008

A DOUBLE-DISASTER IN THE 2007 PROTESTS' AFTERMATH

Perhaps the two most significant features of the human rights landscape in Burma during 2008 were the morally bankrupt and blatantly repressive response of the country's military regime to the Cyclone Nargis disaster in May, and the continued detaining, charging and sentencing of persons involved in last September's nationwide protests far beyond the standards of not only international but also domestic law.

WORLD'S WORST RESPONSE TO A NATURAL DISASTER

The world was stunned when in the weeks after Cyclone Nargis swept through lower Burma on 2 and 3 May 2008, bringing in its wake a tidal wave that submerged vast areas of the delta region and took with it what will ultimately be an untold number of lives, the country's military regime responded in the only way that it knows fit, with further gross repression and violence. The effect of this response was to duplicate the massive tragedy: in the first instance came the natural disaster, which could have been mitigated had the people of Burma been better-informed and prepared; what followed was a manmade disaster, through the unconscionable denial of large-scale aid and persecution of local people who tried to help.

Not only did the generals deliberately avoid contact with world leaders and international organisations desperate to offer assistance to the millions left in dire need of water, basic food and health care, not to mention longer-term relief, but they also forged ahead with the charade of a referendum on a new constitution designed to extend their grip on power indefinitely. Government officials were instructed specifically to neglect the plight of the storm victims and continue their work to prepare for a constitutional referendum, which was merely postponed by two weeks in some townships. The situation even became so absurd that the Secretary General of the United Nations was making phone calls to head of state Senior General Than Shwe but he was refusing to receive them.

Realising that the government was not going to do anything to assist, local people, and then those from further away the worst affected areas, began organising themselves. In Rangoon residents and monks cleared roads and shared water and other essentials. In the delta, thousands of homeless people gathered at monasteries and received assistance from monks, many of whom also took on impromptu relief

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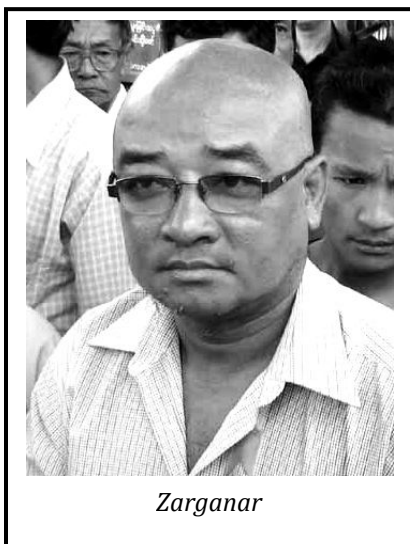


coordinating roles. Convoys of vehicles crammed with items donated by local well-wishers soon began running the gauntlet of military and police checkpoints in order to make up for the shortfall of supplies in the absence of official aid.

The regime went beyond being obstinate to outright criminality when on May 9 it seized the World Food Programme's supplies in Rangoon and forced a planeload of supplies from Qatar to be returned to the country of origin. The taking of the supplies came as such a shock to a WFP spokesman that he rightly described it as "unprecedented in modern humanitarian relief efforts".

Emissaries who visited the country, like the prime minister of Thailand, demonstrated that some small gains could be made, and some concessions were obtained and a degree of international assistance was allowed. However, the amounts of support that got through were paltry by comparison to the scale of the disaster and were accompanied by persistent needless obstacles. For the most part, the response of the Association of Southeast Asian Nations, China and India was belated and inconsistent, despite the enormity of the tragedy unfolding right on their doorsteps. Collectively, they failed the people of Burma. Had the association and these two presumptive superpowers shown strong leadership and a determination from the start then things could have been different. But their inadequate and uncoordinated reactions belittled the disaster as well as its victims and left everything in the hands of the generals.

Persons involved in promoting the domestic relief effort, taking up the slack left by the lack of either international or government aid, have themselves since been charged. Among them have been young men who assisted in cremating and burying the bodies of deceased persons, a nationally renowned comedian, Zarganar, and the leader of the Human Rights Defenders and Promoters Group, U Myint Aye.



Zarganar

Zarganar (a.k.a. Ko Thura), a famous comedian in Burma who took the lead in relief efforts among members of the arts and entertainment industry, had his house searched and was taken away at the start of June. According to information that the Asian Human Rights Commission (AHRC) pieced together from a number of sources, around seven police led by the Rangoon Western District police chief and with the local council chairman came to comedian Zarganar's house in Rangoon just before 8pm on June 4 and went inside saying that they just wanted to search it. After they recovered a computer, some VCDs of the cyclone damage as well as the new Rambo movie (the story is situated in Burma) and the wedding video of the junta leader's daughter, they said that they would also take Zarganar with them "for a short while", meaning "around a couple of days". They also took around USD 1000 of money for the cyclone relief effort.



Zarganar had been working constantly on cyclone relief since May 7, and had given numerous interviews to overseas-based radio stations and other media about his work and the needs of the people. He had also ridiculed state media reports about the cyclone aftermath and in an interview with the Thailand-based Irrawaddy News service published on May 21, Zarganar said that many cyclone survivors didn't want the UN Secretary General to visit for fear that security would be tightened and that they might get sent away in order to make the temporary resettlement camps look good for the VIPs.

According to Zarganar's sister, he had used all his own money for the cyclone victims and had sold his and his wife's mobile phones (which are expensive in Burma) to fund the work. He had organised over 400 volunteers to work in some 42 villages that had been neglected since the cyclone struck. Following Zarganar's arrest, the group's relief efforts also were halted.

At the end of July, Zarganar and former sports magazine editor Zaw Thet Htwe, who had also been working hard for cyclone victims, were brought into the closed court within the Insein Prison for the first time and like so many of the people accused over the September 2007 protests, charged with violating section 505(b) of the Penal Code for causing public alarm. The families of the two were not informed that they would be brought on that date and charged. Zarganar has in total been charged with seven offences under section 505(b), 295 (defiling a place of worship with intent to insult religion), and under the Illegal Associations Law, Video Law and Electronic Transactions Law.

Similarly, 57-year-old U Myint Aye and two other members of the Human Rights Defenders and Promoters (HRDP) group were in early August taken away as a consequence of their cyclone relief work. A group of police and officials came to Myint Aye's house at around 4pm on 8 August 2008 and after searching it for over two hours and taking some documents and other items they told Myint Aye to go with them for a short while. The group included Police Captain Kyaw Sein of Rangoon Division Police (intelligence), Special Branch personnel, the chairman of the ward council and another council official.

Myint Aye did not come back that night as promised. The next afternoon, another team led by the chief of police in Kyimyindaing Township came to the house and asked for some sets of clothes for Myint Aye, indicating that he would be detained for some time. They told his family not to worry and to ask for any help if they need it; however, as in other cases like this they did not give any details about where they had taken Myint Aye or why.

Although Myint Aye's house was itself damaged in the storm he instead had gone promptly to the worst-affected areas and was by May 6 among the first people to have reached the delta and begun reporting to overseas-based media about the lack of any assistance. After a few days he told one Thailand-based group that



U Myint Aye



The refugees' suffering here is great. We have bought and distributed as much rice grain as we can. HRDP Bogalay residents have taken charge. We can't distribute it to one (victim) by one. We'd get trampled by the crowds. We give three bags of rice to a monastery to cook, the next day, another three bags. So far we've distributed over 70 bags a little at a time like that.

Myint Aye's detention followed that of another two members of the HRDP group. Myo Min, who lives nearby, was taken on August 6 and Ko Thant Zaw Myint was taken on August 7. The arrests coincided with the visit to the country of the new United Nations special expert on human rights in Burma.

In September, it was reported in the state-run media that Myint Aye is to be charged with allegedly organising bombings in Rangoon and for receiving money from abroad for that purpose. These charges appear aimed at destroying the work of the HRDP, many of whose members have already been arrested and imprisoned in the last two to three years. They include Ko Thiha, who has been convicted of sedition (Penal Code section 124A) and upsetting public tranquility, sn. 505(b), sentenced to 22 years in prison; Ko Myint Naing, 40, Ko Kyaw Lwin, 40, U Hla Shein, 62, U Mya Sein, 50, U Win, 50, and U Myint, 59, the "Hinthada 6", sentenced to four to eight years for upsetting public tranquility [Penal Code section 505(b)(c)] and Ko Min Min, 30, residing in Pyi Township, sentenced to three years' imprisonment for illegal tuition.

SAFFRON REVOLUTION IMPRISONED

In the year since the nationwide monk-led protests that shook Burma in response to a dramatic and sudden increase in fuel price rises on 15 August 2007, which became known around the world as the Saffron Revolution, the cases of hundreds of people and forcibly disrobed nuns and monks who are accused of having had key involvement in the rallies have been winding their way through the country's courts. The cases are, as in the manner of the crackdown itself, characterised by patent illegality and often are little more than an exercise in nonsense, where the courts are being forced to participate in their own debasement and caricature. The trials are being held behind closed doors, with charges brought under one section of law and changed to another, without investigating officers being able to bring any evidence or even say when or where an alleged offence occurred, police witnesses admitting that they know nothing about the cases that they are presenting other than that they have been ordered to come and present them, and judges sitting as spectators to the absurd charade.

The handling and movement of the cases through the courts is consistent with the handling of the protests themselves. As the AHRC described in its 2007 human rights report, the defining characteristic of the crackdown was its patent illegality by all standards of law, including Burma's own law. State-run newspapers did not even describe arrests as such, instead referring to people being "brought, investigated and questioned". Accused persons were abducted and held in unofficial sites, from a technical training institute, to an old racetrack, to the military dog pens. The one place where they were not held was a police



station, even though no declaration of emergency or any other extraordinary law was introduced to authorise the authorities to behave outside of the ordinary law, which requires that the police be custodians of criminal detainees, and that anyone be brought before a judge within 24 hours. Nor have prisoners had access to the International Committee of the Red Cross, which has been unable to obtain access to facilities in Burma since the government insisted on having its representatives attend interviews between ICRC staff and its charges, which is in breach of the committee's charter.



Khin Sanda Win

For instance, a group of men in plain clothes, apparently members of a government gang and a government-organised mass group, allegedly stopped Khin Sanda Win, a 23-year-old university student, in Rangoon at around 10am on 29 September 2007 during the military-led crackdown on protestors. They searched her and although she only had her ID cards, a small amount of money and some personal items, they tied her hands behind her back and took her to the town hall. There she was put together with ten men who were unknown to her and then they were each photographed with various weapons, including knives, slingshots and pellets. Then they were allegedly forced to sign confessions that the weapons had been found in their bags. When Khin Sanda Win refused to sign, one of the men in plain clothes hit her on the head with a bamboo rod. That night, she was sent to a special interrogation centre and she was kept there without charge, warrant or otherwise until October 7, when she was transferred to the central prison

and held there, again without charge, warrant or any other legal order until October 25, when she was sent to the Hlaing Township Peace and Development Council office where in the presence of the council chairman and her parents she was told to sign a pledge that she would not take part in any anti-state activities, after which she was released.

Although it seemed like Khin Sanda Win's ordeal was over, it was not. On November 1 two police officers came to her house and informed her that she would be charged with having illegal arms, although the "arms" they claimed to have found were a slingshot and some pellets, which do not violate the law. When Khin Sanda Win went to court the next day, the charge that was put against her was not as the police had indicated but instead acting "to endanger human life or the personal safety of others" (Penal Code sn. 336). This is a charge for which the accused can get bail. But when her lawyer applied, the judge set bail at five million kyat (USD 4000) from two separate bailors. In fact, this amount was far more than the amount that they judge could legally set, which is three million kyat (USD 2400) from a single bailor. Then, on November 12 the judge, without any request from the police, unilaterally revoked the bail on the absurd grounds of Khin Sanda Win being a threat to security forces personnel because the charge against her relates to the "disturbances" of September. Khin Sanda Win's lawyer unsuccessfully appealed at the subdivisional and divisional courts to have her released on bail on health and legal grounds.

Then there is the case of Ma Honey Oo, who is accused of having had contact with overseas radio stations to give out information at the time of the protests, and having been involved in making a student union. She was taken into custody on 9 October 2007 but was not brought before a court until December 20; during those more than two months she was held illegally without charge at the central prison. The police accused



Honey Oo of having been involved in a student union, having talked to foreign media by telephone and of having participated in protests at the Yuzana Plaza and on the road from Mingalar Market to Natmauk on 25-6 September 2007.

In court the police could not produce any evidence to support any of their claims against Ma Honey Oo and on the contrary showed ignorance and confusion about the laws under which she had been brought. The investigating detective, Sub-Inspector Soe Moe Aung, in cross-examination said that the information they had that Honey Oo was part of the group accused of having contact with overseas media was from a reliable source, but he could not divulge the source to the court and the source was not included among the list of witnesses in the case. He had no evidence to present to the court other than the supposed confession of the accused. Nor could he produce any photographs or other evidence that Honey Oo was in the protests as he had claimed in the charges against her, saying only that eyewitnesses had seen her, although he acknowledged that it was the responsibility of the police to take photographs and bring enough evidence with which to support the case. On the other hand, among the “evidence” presented against Honey Oo was that she had gone for English lessons at the American Center library, about which the defence lawyer asked if it was a crime to learn English; the officer replied that he just collected and gave information about her and it wasn’t for him to decide if it was relevant or not. Finally, on the charge of sedition, the defence lawyer pointed out to the policeman that there was nothing in the case brought against his client that could meet the elements of this charge and at most she could be charged with obstructing a public thoroughfare. Sub-Inspector Soe Moe Aung replied that the protests included seditious behaviour but when asked to explain the section to the court he admitted that he could not.



Ma Honey Oo

The chief of the Tamwe Township police, Inspector Hla Thein (Police No. La/155953) said that on December 10 he received four interrogation records of Honey Oo from Sub-Inspector Hla Htun, SB, which he submitted to the court as evidence. When the defence lawyer asked him if he knew that the accused had been interrogated “under duress” the police chief denied it, but when the lawyer challenged him, he admitted that he didn’t actually know how she had been interrogated. The lawyer also asked the officer if he didn’t know that Honey Oo was taking an exam on September 25 and couldn’t have been on the road waving a flag as the eyewitnesses had purportedly said, Inspector Hla Thein replied that he didn’t know this but maybe she had gone before she went to the exam, although he also didn’t know what time she might have had the exam. When told by the lawyer that the time of the exam was the same as she was supposed to have been on the road and therefore the eyewitnesses must be lying, the police chief denied it and said that it must just be a matter of not being able to identify the time of her involvement in the protests exactly. The chief also claimed fantastic ignorance of basic criminal procedure, denying knowledge that the Evidence Act prohibits forced confession and also that he is supposed to keep a record of any



investigation in his station's Daily Diary, not in a personal book as he said he did. Finally, coming back to the submitting of the confessions to the court, the defence lawyer asked the police chief if he knew that they were inadmissible, to which the inspector replied that "in some cases they [are]" but asked to explain to the court which cases these would be he admitted that he was unable to do so.

Importantly, Honey Oo was first detained on 9 October 2007; however, she was not put in remand until December 20, during which time she was held in Building 3 of Insein Prison without charge. When the defence lawyer asked the police chief about this, he simply said that he was not involved in the case for the period of alleged illegal detention, but denied anyhow that it had been illegal. The lawyer observed though, and the policeman agreed, that she had not been charged until December 17, so that when the lawyer asked the officer to confirm that Honey Oo was arrested and held for over two months before the case was opened, he replied, "I don't know."

At the same time that the case was brought against Honey Oo another under section 124A was brought against a 20-year-old man named Aung Min Naing, who was detained on September 7 and accused of joining around 50 persons on August 23 and going to Tamwe Plaza and the road in front of the Tamwe Temporary Market and Kyaukmyaung Market and marching in protest at the fuel price hikes, for which he was also held for over three months without remand and charged with sedition by the same police as in Honey Oo's case. Again the police laid the charge apparently without properly understanding it, Sub-Inspector Soe Moe Aung admitting that the decision to do so had nothing to do with him and that he was working was "under instructions" from somewhere and someone else. He also acknowledged that he didn't know whether or not there is even a law for obtaining a permit to rally on the road. Again, neither he nor Inspector Hla Thein had any evidence to present to the court at all, and the inspector inadvertently denied having made an illegal arrest without the defence lawyer even asking him about this. Again, the police had presented an inadmissible confession to the court, allegedly obtained through torture, which they denied. Finally, in response to the lawyer's question about whether the policeman understood or not that in the absence of other evidence witness testimonies alone do not constitute a strong case, the officer replied, "That's not so."



Then there is the case of Win Maw, who was arrested and charged by Special Branch police with having upset public tranquility because during the August and September protests he sent news by phone and email and took photographs for the Norway-based Democratic Voice of Burma (DVB) radio, together with an assistant. Win Maw, who was imprisoned previously for seven years under emergency regulations from 1996 to 2002 for performing as lead guitarist in a rock group, has been accused of sending false news abroad in order to damage the public well-being. The reason that the police have accused him of this offence is that it is not illegal for a person in Burma to have contact with overseas media, so by Win Maw sending the news to DVB he was not doing anything wrong: only if the police accuse him of sending



false news with intent to harm the public can they try to make a case out of nothing.

Win Maw

The case opened against Win Maw on 28 March 2008 in a closed court, like other cases from the protests of last year, which is against the normal procedure of courts in Burma. Again as in other cases of its type from last year, the police couldn't present anything to show that Win Maw had been sending the news in order to do what they said he had done. The police gave a list of "evidence" to the court that includes legally-published books owned by Win Maw's father and bearing his signature, some photos of democracy leader Daw Aung San Suu Kyi, which also are not illegal, and a computer hard disk. If Win Maw had prepared anything against the law as accused the police should have been able to find it on the hard disk and present it as evidence, but they have not. Only the disk itself has been submitted as evidence. Also, what they recorded on the evidence list as 18 "political" texts they admitted in the court are actually just English learners from the American Center, where Win Maw had gone to study.

Another thing about the case against Win Maw is that of the eight witnesses listed for the prosecution, six are all Special Branch police, including Police Major Ye Nyunt. The other two are civilians identified as Maung Maung Than Htay and U Zaw Thura, who were witnesses to the search as required by the Criminal Procedure Code (section 103). The purpose of having the two witnesses is so that there are independent observers to the actions of the police, so that later if there were any confusion about what had occurred then they could be called to testify and verify facts to a court. However, in the perverted legal setting of Burma this purpose has been completely lost. Instead, Police Major Ye Nyunt has been using the same two "witnesses" for repeated cases.

Similarly, Police Major Ye Nyunt has also charged 39-year-old Zaw Min (a.k.a. Paung Paung) under section 505(b) with having had contact with Win Maw and sent 'false news' abroad (Felony Case No. 112/2008 Sanchaung Township Court, Judge Daw Than Htay, Assistant Township Judge, No. Ta/2043 presiding). The list of prosecution witnesses in his case consists only of four Special Branch officers, including the officer bringing the case. As in Win Maw's case there is no evidence to match the elements of the charge against the accused, and in fact no evidence at all: the police allege that they had arrested Zaw Min in possession of a memory stick with photographs on it but they could not produce the said memory stick in court. Nor could they produce documents in court to show that he had produced any false news. The absence of evidence can be partly explained by the fact that as in other cases of its sort, the police were not actually the ones to have made the arrest of the accused. Rather, it was the MAS who took him and then gave the case to the police with instructions on how to prosecute it. The army also held and interrogated Zaw Min before transferring him to the police, which is against the law. The police also presented a confession to the court obtained from Zaw Min while he was in custody, probably through the use of torture, and read it to the court in order to "refresh his memory" which violates the Evidence Act not only as such confessions are not allowed but also because material brought to refresh the memory of a witness must be that which the witness wrote him or herself (sections 26, 159).





One of the cases that the same police officer has lodged using the same two witnesses as in the case of Win Maw is against blogger Nay Phone Latt. Like Win Maw, Nay Phone Latt has been charged with section 505(b) after he was arrested at the end of January 2008 and accused of having defaced images of national leaders, writing and cartoons in his email inbox and having distributed these to upset the public tranquility. According to the police, in December 2007 when he went to Singapore he also met political activists and went to see the “Four Fruits” (Thi Lay Thi) *Nay Phone Latt* entertainment troupe, whose CDs of performances he copied and passed to others, among other things.

There is as in other cases arising from last year’s protests a range of problems with the cases against Nay Phone Latt. First, the police have not presented any evidence that he had himself been responsible for distributing any of the contents that they found in his email inbox, which he had received from elsewhere, not made himself. Secondly, the information given by the police on events in Singapore are irrelevant to the cases that have been lodged against him. Thirdly, the entertainment troupe had up to the time that it went to Singapore had its CDs freely sold in Rangoon. Fourthly, Nay Phone Latt was interrogated and detained at an army camp, a fact acknowledged by the investigating officer in his testimony, which is a flagrant violation of the law on evidence. And finally, fifthly, the case was yet again heard in a closed court inside the Insein Prison, rather than in an open court as should usually be done by law.

Another person who has been charged together with Nay Phone Latt under section 505(b) (Felony Case No. 70/2008) is Thin July Kyaw, a young woman accused of having taken items for persons in hiding after the protests. According to the police, Thin July Kyaw received items of clothing and CDs from Nay Phone Latt one time at the American Center and one time at a teashop in the Yuzana Garden that were for another person named Ma Ni Moe Hlaing. Furthermore, Thin July Kyaw was accused of having contact with one of the young women who led the first protests in August, Nilar Thein, through a school friend, and of having sent money and other things to her after she went into hiding in August.



Lastly, how the ordinary criminal law is used to target anyone in Burma for any purpose that the state sees fit is exemplified in the case of Khin Moe Aye and Kyaw Soe. As Police Major Ye Nyunt apparently had no case that could be brought against them under the Penal Code he has instead charged them with illegally buying and hoarding foreign exchange.

As in Burma authorised exchange outlets give very low rates it is common for people, like in all other areas of life, to buy and sell foreign exchange through the black market. Unauthorised traders in money can be found everywhere in Rangoon, and the police and local authorities also engage in this trade and turn a blind eye to those buying and selling cash under their watch. However, the police officer bringing this case has accused Khin Moe Aye of having been in illegal possession of about USD 1300 and 100 Euros and Kyaw Soe of having kept the money because of their suspected connection to other people involved in the protests of last year.



There are as in other cases many flagrant breaches of ordinary law in the charges against the two. First, the items of evidence were purportedly kept at the special court inside the Insein Prison rather than at a police station as required by law, although there are serious doubts about the existence of any such evidence at all: the “witnesses” that this evidence was collected and stored at the prison facility are prison guards, rather than ordinary citizens as is normally required. Secondly, as this is an ordinary criminal case it should have been handled under the Sanchaung police station, which covers the area where the offence is alleged to have occurred, not through Special Branch. Thirdly, although the case is under the jurisdiction of the Sanchaung Township Court, the hearings are being conducted inside the prison, which not only violates the law on holding an open inquiry, but also breaches the ordinary criminal procedure that the case should be heard in the court of the locality where the offence was allegedly committed. There are neither grounds nor authority for this case to have been transferred for hearings inside the prison, not in accordance with the law on procedure or any orders given. Fourthly, the two accused were illegally held in prison from December 16 until 26 March 2008 when they were finally brought to the court, without any remand, a fact admitted by the investigating officer in his cross-examination before the court.



Khin Moe Aye

It also emerged from the details of the case as given by Police Major Ye Nyunt in court that as in other cases of this type the police did not arrest the defendants at all but MAS personnel did at Kyaik Htoe town and sent them to the central prison, and transferred the case to the police for prosecution. When the two were originally brought to the prison also, the officers had not uncovered the foreign exchange, and it was only as they were going through the baggage of the couple that in the presence of prisons’ officials they supposedly found the money upon which the charges were laid. In other words, the two accused were first detained and brought to the central prison without any specific charge or suspicion having been levelled against them at all and only once there was the case made. However, the officer who brought the case to the court was not involved in any of this and had no specific knowledge to offer other than what he had been told to present by his superiors.

GOING BEYOND “REGIME CHANGE”

Over forty years of militarism has destroyed the livelihoods of the majority of people in Burma. Only a handful that are close to the military regime and others who participate in keeping the machinery of repression alive obtain some benefit from the situation. Together with destitution, destruction of livelihoods and widespread poverty there has also been the destruction of the entire political system and the administration of justice. There are no credible means of public representation through political leaders or parties. There is no free media and the system of the administration of justice after years of suppression has disappeared. The policing system is basically a surveillance system; independent investigation of crime does not exist.



Even under these circumstances people have tried to organise and express themselves, only to be met with repeated uncompromising brutality. After last September, among the small amount of support hoped for from abroad was an investigation by the United Nations, but even this little was defeated by players in the international community, including the government of India, which argued that since the military regime promised to conduct inquiries then no external ones were necessary. If a murderer promised to conduct an inquiry into the alleged murder, or for that matter any alleged criminal gave an undertaking to conduct the inquiry into the criminal act, anyone would see the ridiculousness of such a situation. The government of India, the country that calls itself the largest democracy in the world and which also got the largest number of votes to sit in the UN Human Rights Council either does not see this as ludicrous or does not care. Its cynical manipulating of international agencies for some perceived small economic advantages defies description. That the rest of the international community was not able to do anything in the face of such a ludicrous situation only compounds the absurdity of the whole thing.

That despite many decades of talk about democracy in Burma things have further degenerated comes as little surprise. That the global democratic movement and human rights movement have failed to make an impact is not a matter of bad luck. There are some fundamental flaws within these movements that are contributing to failure. Those of us concerned with these movements need to look at them and ourselves self-critically if improved strategies are to be found to address the problems of Burma.

The biggest flaw is the failure of democratic and human rights movements to understand and articulate the linkages between justice and politics, and how strategies can be developed to address the two simultaneously.

Various forms of pressure on a political front may eventually force a military regime to give in to demands for democratic reforms, but these may also fail to account for the consequences to mechanisms of justice in a country that has been under military rule, which in Burma's case is now effectively into its 50th year. Many years of neglect and deliberate abuse of justice institutions results in them withering and becoming all but dead, even if still housed within the body. No amount of simple political pressure can revive them. In fact, the justice system of Burma is in an even worse situation. It is like a living-dead organ, existing for the purpose of supporting military rule. It is a system of injustice that has become organically linked to the equally unjust political system of the country, and one that if pressured can but work harder to support the diseased body with which it has become fully integrated.

Globally, the demands placed on military regimes are articulated in very simple terms. They often come down to the holding of an election so that a government of popular choice can be installed. There is nothing objectionable in that. However, a political system that has destroyed a country's justice mechanism cannot be changed by a mere election, for at least two reasons.

First, often elections are not honoured, as was the case in Burma when the National League for Democracy overwhelmingly won the vote but was not allowed to take office. The same thing happened in Cambodia



when the FUNCINPEC party won the May 1993 UN-sponsored ballot but was forced to share power with the Cambodian People's Party of Hun Sen, which later consolidated control and has effectively brought about a one-party system of the sort that preceded international intervention. There too the ruling group has used the courts to ensure firm control of parts of government not directly under the executive.

Second, the political and judicial system may be so perverted by military control that it may bring into power unlikely and unsuitable candidates and it may anyhow be impossible for whoever takes power to do anything about the institutional arrangements. This is the problem faced in Thailand, where the courts have become complicit with the armed forces and other powerful groups in the country in defeating the political party process itself. That the country is increasingly treated as ungovernable by anyone apart from an authoritarian-type leader is not a consequence of the behaviour of its people or anything innate in the workings of its institutions but a consequence of a deliberate agenda towards that end by these groups who are hostile to people having a genuine say in what goes on in their lives.

So although the political response to Burma is invariably reduced to "regime change", experience shows that even a short term and oversimplified goal like this often remains beyond reach, and in places where it has succeeded, such as the Philippines and Indonesia, although conditions may in certain respects improve, the forced collapse of institutions under the old regimes have lasting and intense consequences for the new ones. Over time people in some such places begin to doubt that there was actually any change at all, apart from a reduction in overt violence for a while. And the violence too gets back in under the new regime after a brief interval, in the absence of mechanisms to deal with it.

If more people in democratic and human rights movements locally and globally adopt a dual approach of combining struggle for regime change with struggle for legal reforms then new opportunities may open up in places like Burma rather than simply by putting pressure on a military regime to hold an election and admit some superficial political reforms. This can be done in many places and at many levels. For instance, despite all the United Nations experts, diplomats and officials coming and going and talking about Burma, how much effort has been paid to documenting and monitoring the work of its judicial system in terms of international standards and putting forward proposals on specific items that need to be addressed, items on which the government will feel some obligation to respond and on which local lawyers, human rights defenders and activists also can work in their respective ways? The answer to this question is shorter than the question itself. No such work has been done, even with the presence of country offices like the UN Office on Drugs and Crime. Monitoring and reporting on the policing system similarly has so far amounted to nothing. The human rights movement has remained stuck at the point of documenting individual violations and incidents without steps to bring that work into bigger and more meaningful studies on systemic issues. Serious work in these areas could be more effective than the types of two-dimensional back and forth about political party issues that goes on at the moment. It is in this respect that we now need to develop our thinking and planning and hone our expertise if better strategies for the protection and the promotion of human rights of people in Burma are to figure in the global democratic and human rights agendas.