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CHILDREN'S RIGHTS IN BURMA

The most serious obstacle to implementing the rights of children in Burma is the lack, of openness and transparency within the ruling State Law and Order Restoration Council (SLORC) and the extremely limited access which U.N. agencies and international nongovernmental organizations (NGOS) have to children -particularly to children in especially difficult circumstances (CEDCs). Domestic reporting on the situation of children is also severely limited by the governments draconian censorship laws. There are no indigenous human rights organizations, and international human rights groups have not been allowed access to Burma since the SLORC took power. Since December 1992, the U.N. Special Rapporteur to Burma, Professor Yozo Yokota, has conducted four one-week missions to Burma (there were also two missions in 1990 and 1991 under the confidential 1503 procedure), but he has not had the time, support or access to be able to include abuses against children in his reports.

The Burmese governments report to the Committee on the Rights of the Child offers no insights into the true situation of children in Burma. It is a catalogue of actions which the government is taking or intends to take, but it includes no details of progress towards their implementation in the five years since Burma signed the CRC.

Our response to the report is based on research which Human Rights Watch/Asia has conducted since 1990. Some information comes from sources inside the country and from U.N. agencies and international NGOS, although most of the report is based on our direct interviews with refugees who fled Burma to Thailand and Bangladesh. To protect these people, we have not included names and other details which could identify the interviewees.

I. BACKGROUND

The SLORC came to power on September 18, 1988 in a bloody, crack-down against pro-democracy demonstrators. Under considerable pressure from major donor countries which had cut off all aid following the "coup," the SLORC allowed political parties to form and held a general election in May 1990. The main opposition party, the National League for Democracy (NLD) won 82 per cent of the seats but it was denied power as the SLORC retroactively announced that the election was for a constituent assembly, not a government. A constitutional drafting body, called the National Convention, was finally convened in January 1993, but by then, hundreds of NLD supporters and eighty-one members of the parliament-elect had been arrested and the Convention was set up in such a way as to ensure that there would be no challenges to military authority. The National Convention is still sitting, despite the withdrawal of the NLD in November 1995.

Shortly after coming to power the SLORC stepped up its efforts to crush insurgencies in the border regions of the country, where ethnic minorities had been fighting for autonomy and indigenous right, since 1948. Since 1989, fifteen of these groups have signed military cease-fire agreements, though there has been little evidence of improvements in human rights abuses in these areas since then. The women and children in these areas, as in all instances of low-level conflict, have paid the highest price for the lawlessness and social breakdown caused by years of war.

In an apparent attempt to increase its international legitimacy, the SLORC ratified the Convention on the Rights of the Child (CRC) in August 1991, though with two notable reservations Article 15, recognizing the right to freedom of association and of peaceful assembly and Article 37, stating that, "No child shall be subjected to torture or other cruel, degrading and inhuman treatment or punishment." These reservations were both withdrawn in October 1993. On July 14, 1993, the government passed a new Child law (SLORC Law No. 9/93) aimed at implementing "the rights of the child recognized in the UN CRC."

The law established a National Committee on the Rights of the Child, chaired by the Minister of Social Welfare, Relief and Resettlement. Since April 1995 the minister has been Maj. Gen. Soe Myint, formerly commander of the Southeastern region, where he oversaw the capture of the Karen National Union headquarters in January 1995. Over 10,000 people, at least half of whom were children, became refugees as a direct result of this offensive.

But despite its accession to the Convention, Burma has systematically violated the rights of Burmese children to life, to a nationality, to be protected from arbitrary detention and to be detained separately from adults, to be protected from performing hazardous labor, and to be protected from torture and other forms of cruel, inhuman or degrading treatment.

II. VIOLATION OF THE RIGHT TO LIFE

Many actions taken by the government have resulted directly or indirectly in the loss of life of children. On the Thai-Burmese border, an alliance between SLORC and a breakaway faction from the Karen National Union, called the Democratic Karen Buddhist Organization, led to

assaults on Burmese refugee camps in Thailand. On December 27, 1995, an eight-year-old Thai girl, Suda Panyasupatho, was shot and killed by the DKBO in a raid on Tee Nor Koh village. Her father was injured and her brother, Preecha, was kidnapped by the armed wing of the DKBO, the Democratic Karen Buddhist Army. In addition, boys as young as fourteen reportedly have died as a result of being forced to carry supplies for the Burmese military. Our most recent mission, to Burma have not produced new reports of deaths, but we interviewed one fifteen-year-old who, together with his father, was seized by the army from a cinema in Mudon, Mon State in January 1995. Soldiers had beaten the boy when he could not carry his load, and the army said he was lucky to be alive.

III. CHILDREN IN DETENTION

The treatment of children in Burmese detention centers and jails is appalling. In the government's report to the Committee on the Rights of the Child, it states that children will be tried by juvenile courts and if convicted of any offense, will be detained in juvenile detention centers. Human Rights Watch/Asia believes that there is only one, possibly two detention centers for boys in the whole of Burma. One, outside Rangoon, houses 400 boys who have been convicted of serious criminal offenses, including murder, drug trafficking and violent theft. Access to this institution has been severely limited, and to Human Rights Watch/Asia's knowledge, no foreign experts or individuals have been given access in the past seven years. A consultant to UNICEF, Jo Boyden, wrote in an unpublished report in February 1992 entitled Myanmar Children in Especially Difficult Circumstances, that "this facility, should be investigated at the earliest opportunity since conditions are reported to be particularly harsh there. One doctor who visited the center observed extremely high levels of sexual abuse."

There is also evidence to suggest that increasing numbers of children are being arrested for drug-trafficking offenses. The production of heroin in Burma has more than tripled since the SLORC came to power, and as the traffickers seek to avoid arrest it is reported that children are used as the "donkeys." Following arrest these children are unlikely to get a fair trial, whether or not they are tried in a juvenile court, and they face long terms in detention centers. If the children are also addicted to heroin, or any other drug, they will be forced to go through "cold turkey" while shackled to their beds in small rooms in government-run "detoxification" centers. Like other addicts they receive no medication.

Children have also been arrested for political protests, and many of them received long prison terms, which were usually served out in adult jails or work camps. Up until April 1992, all of those children arrested for freely exercising their rights to freedom of association and expression were tried by military tribunals. In these tribunals the defendants were not permitted to have legal representation or to call witnesses, and there was no right of appeal except to the Commander-in-Chief of the Armed Forces. In December 1991, Amnesty International reported in "Union of Myanmar: Arrests and Trials of Political Prisoners," (ASA 16/10/91) that a fourteen-year-old boy, Ko Win Thein, was arrested in February 1990 for having put up "anti-government" posters in his high school in North Okalapa, Rangoon. He was sentenced to thirteen years in prison. The same report also reported the arrests of nine high school students from Monywa on July 19, 1991, including Than Zin Hlaing, Soe Win Maung, Kyaw Moe, Htun Ohn, Kyaw Kyaw Lwin, Aung Aung and Aung Naing. Eight others from Mandalay were also arrested in the same month: Myo Win Thant, Soe Soe Oo, Kyaw Soe, Lin Lin Zaw, Win Thein, Win Tin, Htun Ohn and Ave Ko. All of these boys were between fourteen and eighteen years old. It is not known if any of these boys have been released.

The Burmese government reports that mothers are permitted to keep their children, under six years old, with them in jail if they have no other means of taking care of them. Often this is the case, and in the women's section of Rangoon's Insein jail in 1995, there were at any one time between fifty and sixty children housed with their mothers. These children receive no additional foods, other than that fed to prisoners (which is poor quality rice, with a small amount of fish paste and liquid vegetable curry). There are no schooling provisions for them, and, like all prisoners, they are not permitted to have books or toys.

IV. CHILD LABOR

Forced Portering

The Burmese army routinely uses civilians as unpaid porters to carry ammunition and food supplies to front line positions or while on patrol in ethnic minority areas. The taking of porters has reduced since fifteen ethnic groups signed ceasefires, but it has by no means ended. Both the Kachin Independence Army (KIA) and the Karenni Nationalities Progressive Party (KNPP) have reported that the taking of porters continues in their areas, as the army steps up its military presence around their designated areas. Indeed, this was cited as a major reason for the collapse of the KNPP's cease-fire agreement in June 1995. In areas A-here there are no cease-fires, especially the Karen State, the taking of porters continues unabated.

Our research in 1995 indicated that when civilians, often ethnic minority villagers, were taken as porters, it was often while they were in their fields or on trips away from their homes. Their wives and mothers were never informed, and in many cases women interviewed by Human Rights Watch/Asia said they left Burma because they believed that their husbands or fathers had been killed while working as porters. Some had tried to get information about their relatives' whereabouts from the local military base, but only rarely were they given information, and none received compensation from the army. Effectively, therefore, these men had been "disappeared" by the military.

Most frequently, men are taken to work as porters, although women are also taken if their husbands run away as the army approaches the village. In one major offensive against the KNU between January and March 1993, scores of women and girls were taken to the front line, where they were frequently raped by the soldiers, according to an October 1993 Amnesty International report (ASA 16/06/93). Since then however, we believe that there has been an attempt by military commanders to reduce the numbers of women abused in this way, and in January 1995, for example, the porters interviewed by Human Rights Watch/Asia said that no women had been taken among 5,000 porters used at that time. Other reports indicate that the taking of women for short "duties" and the rape of women by the military in other circumstances continues.

As well as working as porters, civilians also have to guard militarily-strategic roads and railways. Usually, women are chosen for this work, and we were told in 1995 that those with small children had no option but to take them along. "Guard duty" lasted from twenty-four hours to ten days, and the women sit under trees along the road, or at the edge of railway embankments, taking food and a cooking pot with them. They were frequently checked by soldiers in vehicles throughout the day and night to ensure that they have not fallen asleep. Those that had fallen asleep, or who had left their posts to attend to their children, were beaten and verbally abused.

Forced labor

As with portering, forced labor is endemic in Burma. Since 1992, the military has forced at least two million people across the country to work without pay on the construction of roads, railways and bridges. In recent years, the use of forced labor has increased as the government tries to improve its infrastructure in order to attract foreign investment and tourism. Hundreds, if not thousands, have died from beatings, exhaustion and a lack of medical care. Those forced to do such work include women, children and the aged. The use of forced labor in Burma has led to an investigation by the International Labor Organization under Article 37, and the European Commission announced on January 16 that it was also conducting an investigation into the practice.

In January 1995 a woman from Karen State interviewed by Human Rights Watch/Asia said, "Sometimes we didn't go because we were tired, and they [the soldiers] came and dragged us from the our house. My children were screaming and crying, but I just had to leave them there."

Child Workers

According to UNICEF figures, only 38 per cent of the children in Burma enroll in primary school. Of the rest, many work in agriculture with their parents. In ethnic minority areas, where one-parent families are common due to the deaths of fathers in fighting, portering or where poverty forces the father to leave the household to find work in Thailand or elsewhere, children are obliged to work full time from a young age.

While there is little major industrial development in Burma, that which does exist is inaccessible to human rights groups. Much of Burma's pre-SLORC economy was based on so-called "cottage industries", whereby work was farmed out to women and children to do at home, usually for a very low wage. There is no regulation of the wages, hours, or working conditions. Girls are particularly sought after in such areas as the making of lacquer ware, embroideries (kalaga), cigarettes and cigars, and gem polishing. Boys meanwhile, work in the construction and domestic labor sectors as well as in markets, restaurants and as petty - vendors along railway tracks.

As Burma continues to attract foreign investment, having the lowest wage rates in the region, the likelihood is that the exploitation and abuse of child workers will increase. Human Rights Watch/Asia is concerned that proper monitoring and regulation of cottage industries and of new industries be implemented in Burma immediately, before abuse becomes entrenched. Already, anecdotal evidence from NGOs and other visitors to Burma suggests that there is an increase in the numbers of children working in hotels and restaurants in the tourism sector. There is also a reported increase in the number of children of both sexes working in Burma's expanding sex industry.

V. CHILD SOLDIERS

All sides to the Burmese conflict employ children to fight their wars. The Shan Ming Tai Army and the United Wa State Army are believed to have the largest numbers of child soldiers, with each family being required to give a son to the cause. The Karen National Union, Karenni Nationalities People's Progressive Army and the New Mon State Party also recruit children as young as twelve.

In the case of the Burmese government there is no statistical or other data as the recruitment of children. Since 1999, the size of the armed forces has nearly doubled, from 180,000 to around 350,000 and anecdotal evidence, supported by the testimony of refugees and some soldiers themselves, suggests that in part this increase has been facilitated by the recruitment of thirteen-, fourteen-, and fifteen-year-old boys. Often this recruitment is forced, with whole villages or sections of towns being ordered to "give" a number of boys to the army or face heavy fines. In other cases the coercion is less explicit but just as compelling. In ethnic minority areas for example, the families of soldiers are exempt from arbitrary taxation or forced relocations. Refugees interviewed by Human Rights Watch/Asia in Thailand report that there are often fourteen- and fifteen-year-old soldiers in the brigades which take them to work as porters. In every case, the former porters note that the young soldiers were especially brutal in their treatment of civilian porters.

Testimony from villagers who have escaped to the Thai border reveals that in many areas of the Karen State villages are required to "donate" one boy from each ward to army service. One former soldier interviewed by HRW in September 1995 said that he was fifteen years old when he was recruited into the army. The army had ordered the council chairman to find ten "volunteers" from his quarter of the town. At the military training school in Meiktila in 1989 there were 500 other recruits older than he was. He described the brutal and brutalizing treatment he and all the recruits experienced in this training camp, which included beatings, sleep deprivation and starvation. He also said that Christian recruits were not permitted to worship or pray, and did not know of any Muslims in the army.

In September 1995, Human Rights Watch/Asia interviewed several soldiers in Burma. In Loikaw, Karenni State, we talked to three other soldiers who all said they were sixteen years old. They all came from the same village, and had joined the army together three years before. Two others who had also joined with them had been killed in the fighting against the Ming Tai

Army in June 1994. In the same town, we met a ten-year-old boy in a green uniform who claimed to be a soldier. He said that he had run away from home at age seven and had joined the army. He said he received 350 Kyats per month-less than \$3.50 - out of which he had to pay for his clothes and uniforms, but food and board were free. He had never seen front line action but was looking forward to doing so within twelve months. The following morning, not quite believing his story, we went to the army parade ground. There he was seen at the gates of the compound, standing in uniform with his "brothers."

As the army continues to expand, and it is reported that the SLORC's target is for 500,000 soldiers, the forced recruitment of children looks set to continue.

VI. RIGHT TO NATIONALITY

"The 1982 Citizenship Law should be revised or amended to abolish its over-burdensome requirements for citizenship. The Law should not apply its categories of second-class citizens in a manner which has discriminatory effects on racial or ethnic minorities particularly the Rakhine Muslims. It should be brought in line with the principles embodied in the Convention on the Reduction of Statelessness of 30 August 1961." Professor Yokota, "Report on the Situation of Human Rights in Myanmar." UNESCO February 17, 1993 E/CN.4/1993/37.

Under Burma's 1982 Citizenship Law, there are three types of citizens: full citizens, associate citizens, and naturalized citizens. In order to be a full citizen of the country one must be able to produce evidence of the birthplace and nationality of one's ancestors prior to the first British annexation in 1824. This includes nationals from the Kachin, Kayah, Karen, Chin, Mon, Rakhine and Shan ethnic groups, or any other ethnic groups which "have settled in the territories included within the State" prior to 1823. Failing this, one is classified as an associate citizen if only one grandparent was a citizen of another country. No other criteria are stipulated. A naturalized citizen is one who has a parent who was a full citizen, and one who was an associate citizen. According to the terms of the law, only full and naturalized citizens are "entitled to enjoy the rights of a citizen under the law, with the exception from time to time of the rights stipulated by the State." All forms of citizenship, "except a citizen by birth" may be revoked by the State. Every person in Burma must carry at all times his or her identity card, which has different colors for the three types of citizenship. Foreigners residing in Burma for more than three months Foreign Registration Certificate which they also must carry at all times.

The three levels of citizenship entitle the holder to different rights, though they, are not stipulated in the citizenship law and are not always applied. Among other things, an associate citizen cannot own land or fixed property, s/he cannot train to be a doctor or engineer (until recent times these were the most sought after careers in Burma as qualification enabled the person to leave the country); s/he cannot be a tuition (private) teacher, s/he cannot work for a foreign firm, UN agency or foreign embassy, and s/he cannot stand for any elected post. Lack of these basic rights has not prevented ethnic people attaining high positions, most notably the Foreign Minister, U Ohn Gyaw (an associate citizen.)

Many of Burma's ethnic minorities have no identity cards, especially those who live in areas which were not under government control for long periods. Access to written records, the difficulty of travelling to government-controlled areas for registration, and a general unwillingness of the government to register such people make the process of proving citizenship immensely difficult. For the Rohingya Muslims from Arkan State, it is almost impossible. The situation is even worse for children from these groups born in refugee camps. Following the promulgation of the 1992 law, all citizens in Burma were required to be registered for their new cards. This meant travelling to the capital town of their state or division and filling in an application form which was sent, along with supporting documents, to the Ministry of Immigration and Manpower. According to government figures, by December 1992 only 845,000 people out of 2,400,000 in Arakan State had applied, by far the lowest percentage in the country. Of those, 227,000 had still not received identity cards, a figure, second only to the Irrawaddy Division, an area which has a large population of Karen.

Between November 1991 and March 1992, 250,000 Muslims fled Arakan State to seek refuge in neighbouring Bangladesh. They cited gross abuses by the Burmese army, in what appeared to be a concerted effort to expel all Muslims from the area. When Human Rights Watch/Asia conducted interviews in the refugee camps in 1992, we found that while some identity cards were from the 1950s and 1960s, none had received new cards under the 1992 law. Those who did have old cards often had them confiscated by the army, who had systematically taken away the identity cards of Muslims as they left the country.

By December 1995, only, 52,000 refugees remained in Bangladesh, but the citizenship rights of those who have returned, under a UNHCR-sponsored program, remains uncertain. On return to Burma, the refugees are given a card which identifies them as returnees and on production of this card then, can claim their resettlement package. However, not one returnee has yet received a new identity card as any form of citizen, and the government still insists in public meetings that most of the returnees are in fact Bangladesh citizens who came to Burma for seasonal work. The U.N. High Commissioner for Refugees cited statelessness as one of the principal causes of refugee crises in the 1995 State of the World's Refugees. In the case of the Rohingyas, preventing a further exodus was said to depend on "protecting their human rights, improving their legal and social status, and providing them with income-earning opportunities."

[Home](#)

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