

# HUMAN RIGHTS IN BURMA: WHERE ARE WE NOW AND WHAT DO WE DO NEXT?

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## JOINT HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN  
RIGHTS AND INTERNATIONAL OPERATIONS

AND THE

SUBCOMMITTEE ON ASIA AND THE PACIFIC  
OF THE

COMMITTEE ON  
INTERNATIONAL RELATIONS  
HOUSE OF REPRESENTATIVES

ONE HUNDRED NINTH CONGRESS

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## HUMAN RIGHTS IN BURMA: WHERE ARE WE NOW AND WHAT DO WE DO NEXT?

TUESDAY, FEBRUARY 7, 2006

HOUSE OF REPRESENTATIVES,  
SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS  
AND INTERNATIONAL OPERATIONS, AND  
SUBCOMMITTEE ON ASIA AND THE PACIFIC,  
COMMITTEE ON INTERNATIONAL RELATIONS,  
*Washington, DC.*

The Subcommittees met, pursuant to notice, at 2:04 p.m. in room 2172, Rayburn House Office Building, Hon. Christopher H. Smith (Chairman of the Subcommittee) presiding.

Mr. SMITH OF NEW JERSEY. Subcommittee will come to order.

And good afternoon to everyone. Today's joint hearing of the Subcommittee on Africa, Global Human Rights and International Operations and the Subcommittee on Asia and the Pacific will focus on the current human rights situation in Burma and what the United States and the international community can do, and must do, to improve the situation.

After 40 years of brutal military dictatorships, the human rights situation in Burma is frightening. That nation's current military junta, in power for over 17 years, is an abysmal failure on every conceivable level. It has ruined a beautiful and naturally rich land. According to the State Department's most recent human rights country report:

"More than four decades of economic mismanagement and endemic corruption have resulted in widespread poverty, poor healthcare, declining education levels, poor infrastructure and continuously deteriorating economic conditions. During the year, poor economic policymaking, lingering consequences of the 2003 private banking sector collapse and the economic consequences of international sanctions further weakened the economy. The estimated annual per capita income was approximately \$225. Most of the population of more than 50 million live in rural areas at subsistence levels."

The Heritage Foundation ranked Iran and North Korea as the only countries with more restrictive economies than that of Burma.

But economic misery is probably the least of the problems faced by Burma's long-suffering people: Citizens still do not have the right to criticize or change their government. Security forces continued to carry extrajudicial killings. Disappearances continued, and security forces raped, tortured, beat and otherwise abused pris-

oners and detainees. Citizens were subjected to arbitrary arrest without appeal.

There are more than 1,100 political prisoners in Burma who are abused and tortured; 7 are reported to have died in custody last year. And just last month, a 38-year-old democratic activist died in custody due to inadequate medical attention. Over 15 years ago, the National League for Democracy, led so bravely by Nobel Laureate Aung San Suu Kyi, and other democratic forces won an overwhelming victory in free elections. As a matter of fact, they got over 80 percent. The junta, as we well know, refused to accept the results or to call Parliament into session. Instead, it imprisoned many activists, including Aung San Suu Kyi, who has spent 10 years under house arrest. Her current house arrest is tantamount to solitary confinement. She has been cruelly kept away from her children and her husband, who died abroad. For 15 years, the junta has cynically proclaimed its intention to draft a new Constitution via a national convention with no participation by the people's democratic representatives. That national convention has again been adjourned with no Constitution and no freedom in sight.

Since 1999, the U.S. Secretary of State has designated Burma as a country of particular concern, or CPC, under the International Religious Freedom Act for particularly severe violations of religious freedom.

According to the U.S. Department of State, Burma continues to be a tier 3 country for human trafficking and the "junta's policy of using forced labor is a driving factor behind Burma's large trafficking problem."

The ILO has condemned Burma's use of forced labor, and the ILO representative in Burma has received death threats. Burma has threatened to quit the ILO. Burma regularly prosecutes those who complain about forced labor. Last October, Burma sentenced a 34-year-old woman to 24 months in prison for "criminal intimidation" of local officials. Her offense? She had the temerity to initiate the first successful prosecution for use of forced labor in Burma. She had lodged a complaint in 2004 against local government officials over their use of forced labor on a road construction project. She exercised her right to do this under new regulations introduced by the government to appease ILO. She is now in prison, and her appeal was summarily denied.

Burma is high on the list of uncooperative drug-producing or transiting countries, and there is evidence of military and government complicity in the narcotics traffic. Burma produces about 80 percent of Southeast Asia's heroin and is one of the largest producers in the world. It exports its illicit narcotics throughout China and Southeast and Central Asia. And as Burma's heroin circulates through Asia, so does HIV/AIDS, which Burma refuses to take seriously as a domestic problem, although the UN estimated in 1999 over half a million adults were HIV-positive. According to one estimate, Burma spent only \$22,000 in 2004 to help AIDS victims.

In 2005, the regime tightened restrictions on NGOs and UN agency staff providing humanitarian assistance to Burma. The Global Fund to Fight AIDS, Tuberculosis and Malaria announced in August it was terminating its \$98 million program on the

grounds that its grants to the country cannot be managed in a way that ensures effective program implementation.

The French contingent of Doctors Without Borders reportedly plans to withdraw from Burma because of restrictions imposed on access to villagers. The military's self-justifications for its decades of arbitrary rule is to protect Burma from instability. What a cruel joke. Yet for 40 years, it has waged endless war on the nation's ethnic minorities, killing tens of thousands, driving hundreds of thousands, perhaps millions of others into exile as refugees, or within Burma as internally displaced persons. It has destroyed over 2,500 villages and uses rape as an instrument of policy. And to wage these wars, it has resorted to conscription of children. More than 70,000 child soldiers may be serving in horrible conditions in circumstances in Burma's bloated Army.

The UN Special Rapporteur for Human Rights, Sergio Pinheiro, has not been allowed into Burma for 2 years. In January 2006, UN Special Envoy to Burma, Razali Ismail, resigned his post after nearly 5 years since the junta has not allowed him to enter the country for the last 2 years.

With such a record, it is no wonder that the United States has a wide array of sanctions in place against Burma, many of which must be renewed this year, and many wonder, can any progress be made?

Yet in the midst of so much darkness, there has been some light this year. In September 2005, Noble Laureates Archbishop Desmond Tutu and former Czech President Vaclav Havel released a major report documenting Burma's human rights problems as a threat to regional peace and security. In December, with the strong support of the United States, UN Under Secretary for Political Affairs Ibrahim Gambari in the unusual but significant presence of Secretary-General Kofi Annan, personally gave the Security Council its first ever briefing—first ever—on the situation in Burma, a possible first step toward tougher international action.

He went on record that the Burmese junta imprisons dissidents, ignores basic human rights and is steering the country toward a humanitarian crisis. The Association of Southeast Asian Nations or ASEAN, which Burma joined in 1997, has finally moved from the posture of "constructive engagement" without sanctions or diplomatic pressure to a more proactive approach to promote change and reform. But most of all, we owe this progress to this Administration. Secretary of State Condoleezza Rice, Assistant Secretary of State Christopher Hill and, even more importantly, President Bush, have been relentless in making the world face up to the appalling disaster in Burma.

We have just begun, and we have a long way to go, but we in Congress are determined that there is a bipartisan way to support these efforts and to bring peace and freedom to the heroic people of Burma who have suffered so much.

The next logical step, I would respectfully submit, is for the United States, which is currently president of the Security Council, to introduce a resolution, a Security Council resolution, calling on Burma in the strongest possible terms to release Aung San Suu Kyi and other political prisoners, to implement a program for national reconciliation that includes the National League for Democ-

racy and to grant immediate and unhindered access to all parts of Burma for UN relief organizations and other international humanitarian organizations. Such a resolution should include a time line for compliance and punitive sanctions if the SPDC fails to comply.

We welcome today our very distinguished witnesses, which I will introduce more formally in a moment, and thank them for the good work both of them are doing on behalf of the suffering in Burma, but I would like to introduce my very good friend and colleague who has been outspoken on behalf of Burma for many years and recently brought to the Floor of the House an important resolution on Aung San Suu Kyi when she turned 60, Tom Lantos, the gentleman from California.

[The prepared statement of Mr. Smith of New Jersey follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER H. SMITH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW JERSEY AND CHAIRMAN, SUBCOMMITTEE ON AFRICA, GLOBAL HUMAN RIGHTS AND INTERNATIONAL OPERATIONS

The Subcommittee will come to order, and good afternoon to everyone.

Today's joint hearing of the Subcommittees on Africa, Global Human Rights and International Operations and on Asia and the Pacific will focus on the current human rights situation in Burma, and what the U.S. and the international can and must do to improve that situation.

After forty years of brutal military dictatorships, the human rights situation in Burma is frightening. That nation's current military junta, in power for over seventeen years, is an abysmal failure on every conceivable level.

It has ruined a beautiful and naturally rich land. According to the State Department's most recent Human Rights Country Report,

*"More than 4 decades of economic mismanagement and endemic corruption have resulted in widespread poverty, poor health care, declining education levels, poor infrastructure, and continuously deteriorating economic conditions. During the year, poor economic policymaking, lingering consequences of the 2003 private banking sector collapse, and the economic consequences of international sanctions further weakened the economy. The estimated annual per capita income was approximately \$225. Most of the population of more than 50 million live in rural areas at subsistence levels."*

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But economic misery is probably the least of the problems faced by Burma's long-suffering people.

*"Citizens still did not have the right to criticize or change their government . . . Security forces continued to carry out extrajudicial killings. Disappearances continued, and security forces raped, tortured, beat, and otherwise abused prisoners and detainees. Citizens were subjected to arbitrary arrest without appeal."*

2004 State Department Human Rights Report

There are more than 1,100 political prisoners in Burma, who are abused and tortured. 7 are reported to have died in custody last year, and just last month a 38-year old democratic activist died in custody due to inadequate medical attention.

Over fifteen years ago the National League for Democracy, led by Nobel laureate Aung San Suu Kyi (OWNG SAN SU CHEE), and other democratic forces, won an overwhelming victory in free elections (82%). The junta refused to accept the results or to call Parliament into session. Instead it imprisoned many activists, including Aung San Suu Kyi, who has spent 10 years under house arrest. Her current house arrest is tantamount to solitary confinement. She has been cruelly kept away from her children, and her husband, who died abroad. For fifteen years the junta has cynically proclaimed its intention to draft a new constitution via a National Convention, with no participation by the people's democratic representatives. That National Convention has again been adjourned, with no Constitution, and no freedom, in sight.

Since 1999, the U.S. Secretary of State has designated Burma as a "Country of Particular Concern" under the International Religious Freedom Act for particularly severe violations of religious freedom.

According to the U.S. Department of State, Burma continues to be a Tier 3 Country for human trafficking, and “the junta’s policy of using forced labor is a driving factor behind Burma’s large trafficking problem.” The ILO has condemned Burma’s use of forced labor, and the ILO representative in Burma has received death threats. Burma has threatened to quit the ILO. Burma regularly prosecutes those who complain about forced labor. Last October, Burma sentenced a 34-year-old woman to twenty months in prison for “criminal intimidation” of local officials. Her offense? She had the temerity to initiate the first successful prosecution for use of forced labor in Burma. She had lodged a complaint in 2004 against local government officials over their use of forced labor on a road construction project. She exercised her right to do this under new regulations introduced by the government to appease the International Labor Organization (ILO). She is now in prison, and her appeal was summarily denied.

Burma is high on the list of uncooperative drug-producing or transiting countries, and there is evidence of military and government involvement in the narcotics traffic. Burma produces about 80% of South-east Asia’s heroin, and is one of the largest producers of methamphetamines in the world. It exports its illicit narcotics throughout China and Southeast and Central Asia.

And as Burma’s heroin circulates through Asia, so does HIV/AIDS, which Burma refuses to take seriously as a domestic problem, although the UN estimated in 1999 that over half a million adults had HIV. According to one estimate, Burma spent only \$22,000 in 2004 to help AIDS victims. In 2005 the regime tightened restrictions on NGOs and UN agency staff providing humanitarian assistance in Burma. The Global Fund to Fight AIDS, Tuberculosis and Malaria announced in August that it was terminating its \$98 million program on the ground that “its grants to the country cannot be managed in a way that ensures effective program implementation.” The French contingent of medical aid group *Medecin Sans Frontieres* reportedly plans to withdraw from Burma because of restrictions imposed on access to villagers.

The military’s self-justification for its decades of arbitrary rule is to protect Burma from “instability.” Yet for forty years it has waged endless war on the nation’s ethnic minorities, killing tens of thousands, driving hundreds of thousands, perhaps millions, of others into exile as refugees or within Burma as displaced persons. It has destroyed over 2,500 villages, and uses rape as an instrument of policy. And to wage these wars, it has resorted to conscription of children: more than 70,000 child soldiers may be serving, in horrible circumstances, in Burma’s bloated army.

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With such a record, it is no wonder that the U.S. has a wide array of sanctions in place against Burma, many of which must be renewed this year. And many wonder, can any progress be made? Yet in the midst of so much darkness, there has been light this year.

In September 2005, Nobel Laureates Archbishop Desmond Tutu and former Czech President Vaclav Havel released a major report documenting Burma’s human rights problems as a threat to regional peace and security.

In December, with the strong support of the United States, UN Undersecretary for Political Affairs Ibrahim Gambari, in the unusual but significant presence of Secretary General Kofi Annan, personally gave the Security Council received its first-ever briefing on the situation in Burma, a possible first step towards tougher international action. He went on record that the Burmese junta imprisons dissidents, ignores basic human rights, and is steering the country “towards a humanitarian crisis.”

The Association of Southeast Asian Nations (ASEAN, which Burma joined in 1997) has finally moved from a posture of “constructive engagement,” without sanctions or diplomatic pressure, to a more proactive approach to promote change.

But most of all, we owe this progress to this administration. Secretary of State Condoleezza Rice, Assistant Secretary of State Christopher Hill, and even more importantly, President George Bush, have been relentless in making the world face up to the appalling disaster in Burma. We have just begun, and we have a long way to go, but we in Congress are determined to support these efforts to bring peace and freedom to the heroic Burmese people, who, in the face of so much persecution and suffering, still persist in their resolute struggle for justice.

The next logical step to take is for the U.S., which is currently President of the Security Council, to introduce a Security Council Resolution calling on Burma, in the strongest possible terms:

To release Aung San Suu Kyi (OWNG SAN SUU CHEE) and other political prisoners,

Implement a program for national reconciliation that includes the National League for Democracy,

Grant immediate and unhindered access to all parts of Burma for U.N. relief agencies and other international humanitarian organizations.

Such a resolution should include a timeline for compliance and punitive sanctions if the SPDC fails to comply.

We welcome here today Assistant Secretary of State Barry Lowenkron, of the Bureau of Democracy, Human Rights and Labor. This is Mr. Lowenkron's first time before this House, and we look forward to a very fruitful collaboration on the vital issues he promotes. His Bureau has kept attention focused on Burma when most have forgotten it. We shall also hear from Assistant Secretary of State Christopher Hill, who is the chief executor of our President's policy to change Burma.

Mr. LANTOS. Thank you very much, Mr. Chairman. Let me commend you on a comprehensive and powerful opening statement. And let me join you in commending Secretary Rice and Secretary Hill for their outstanding work in this field, as well as the President, who I know is personally committed to human rights in Burma.

The ruling Burmese junta is on a never-ending mission to convince the international community that it is simply misunderstood and that national reconciliation is right around the corner.

But a few weeks ago, we had yet another reminder as to why talk of change in Burma is a charade blinding the world to the uncompromisingly brutal nature of the Burmese regime. The Assistance Association for Political Prisoners, an internationally recognized and respected human rights organization, released a lengthy report in late December, outlining the brutal and systematic torture of Burma's political prisoners. According to the shocking document, which I strongly urge all of my colleagues to read, Burma routinely subjects its political prisoners to brutal beatings, often leading to severe injury and, occasionally, death.

The report details the so-called tick-tock torture, carried out in Burmese jails. Political prisoners are repeatedly struck in the same area of the body for many hours, causing severe physical pain and prolonged psychological damage. The repeated abuse heaped on Burma's political prisoners is just one aspect of Burma's increasingly repressive political system.

The world's only imprisoned Nobel Peace Prize recipient, Aung San Suu Kyi, remains under strict house arrest, cut off from her supporters and the international community. Other opposition leaders from the National League for Democracy remain behind bars.

Tight new restrictions have been placed on the operation of humanitarian operations in Burma, making it almost impossible for the international community to help desperately poor Burmese citizens.

Burma's ruling thugs, who have direct financial ties to most enterprises in Burma, must understand that they will be unable to enrich themselves off the American consumer until true democratic change comes to the nation and these outrageous human rights abuses come to an end. For that reason, Mr. Chairman, I will soon introduce new legislation to renew import sanctions against Burma. I have done this, as you know, on a regular basis and have every intention of continuing to do so until the regime changes.

It is my hope and my expectation that this important legislation will be swiftly considered by the appropriate congressional Committees and will be on the President's desk before the summer. Last year, the House approved my legislation to renew import sanctions by a vote of 423 to 2. And I have no doubt that this year's margin will be similarly overwhelming.

These sanctions are working well in moving Burma's neighbors to action.

During the past year, ASEAN pressed Burma to step aside from its scheduled chairmanship. Then, just a few months later, ASEAN demanded that the military regime release all political prisoners and make concrete political changes. ASEAN has never done this before. And we strongly support their effort.

Sanctions alone, however, will not bring change to Burma.

A tough approach must be combined with high level sustained diplomatic attention to the threat posed by Burma to international security and to internationally recognized human rights.

Thankfully, Mr. Chairman, this is now happening. The first ever UN Security Council debate on Burma was held on December 16. It was a breakthrough because it recognized that Burma is not just a human rights concern. It is a threat to regional peace and security. But the United Nations' job is not finished.

It is imperative that our Administration work to ensure that the Security Council once again takes up the Burma issue and, at this time, approve a resolution to ratchet up global attention to the Burma crisis. This resolution must call for the immediate release of Aung San Suu Kyi, increase humanitarian access in Burma, and direct high-level engagement by the United Nations to promote Burmese human rights and national reconciliation.

I would welcome a statement of support today by my good friend, Ambassador Chris Hill, that the Administration is committed to working energetically at the UN to obtain a meaningful and substantive Security Council resolution.

And because we cannot count on the Burmese junta to be responsive solely to diplomatic entreaties, it is also imperative that the United States remain firm in its support for strong sanctions against Burma.

I look forward to hearing today that the Administration will support the renewal of import sanctions against the Burmese regime.

Working together, with an increasingly frustrated ASEAN and an already indignant European Union, it is my strongest hope, Mr. Chairman, that we will all be able to see genuine and irreversible national reconciliation in Burma in the near future with a leading role for Aung San Suu Kyi that she so richly deserves.

I want to thank you for calling this hearing.

Mr. SMITH OF NEW JERSEY. Thank you very much Mr. Lantos. Chairman Chabot.

Mr. CHABOT. Thank you, Mr. Chairman.

I just want to thank you for holding this important hearing. I look forward to hearing the testimony from the witnesses here today, and I will withhold any statements at this time. Thank you.

Mr. SMITH OF NEW JERSEY. I would like to introduce our two very distinguished witnesses who are really very competent and capable and very focused Assistant Secretaries, beginning first with

Barry Lowenkron, who is the Assistant Secretary for the Bureau of Democracy, Human Rights and Labor, and in October 2005 was sworn in. Prior to his appointment, Secretary Lowenkron served as Principal Deputy Director of Policy Planning for the Department of State. As Civilian Special Assistant to the Chairman of the Joint Chiefs of Staff, he received the Secretary of Defense Meritorious Civilian Service Medal. Prior to joining the State Department, Secretary Lowenkron was a program development officer at the United States Information Agency.

Then we will hear from the Honorable Christopher R. Hill, who was sworn in as Assistant Secretary of State for East Asian and Pacific Affairs in April 2005. Ambassador Hill is a career member of the Senior Foreign Service whose most recent assignment was as Ambassador to the Republic of Korea. He also served as the Head of U.S. Delegation to the Six-Party Talks on the North Korean nuclear issue. Previously, he served as U.S. Ambassador to Poland, Macedonia, and as the Special Envoy to Kosovo. Ambassador Hill received the State Department's Distinguished Service Award for his contributions as a member of the United States negotiating team in the Bosnian peace settlement and was recipient of the Robert Frasure award for Peace Negotiations for his work on the Kosovo crisis.

Please, whoever would like to go first, please do.

**STATEMENT OF THE HONORABLE CHRISTOPHER R. HILL, ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE**

Ambassador HILL. Well, thank you very much, Mr. Chairman. I have a longer statement which I would like to submit for the record and read a shorter statement.

Mr. Chairman, Members of the Subcommittee, thank you very much for the invitation to testify on Burma today. It is a country on which we have focused intense diplomatic efforts, including by the President and Secretary Rice, and where other governments have shown increased willingness to join us in pressing for democratic change.

There are few places in the world where democracy has been suppressed and with human rights violations as brutally and systematically as in Burma. And the current regime's xenophobic, even more irrational policies, are driving the country relentlessly downhill in a manner that increasingly harms and threatens Burma's neighbors and the broader region.

Assistant Secretary Lowenkron will speak in detail about human rights and democracy issues. I don't want to duplicate his comments but would like to say a brief word about Nobel Laureate Aung San Suu Kyi, who has been detained since the May 2003 attack on her and her convoy. Since December 2004, she has been held virtually incommunicado, and her term of detention was inexplicably extended by 6 months last November. Despite our repeated requests, most recently, this past week, the regime has not allowed us or others to see her for now some 2 years. And this, despite the fact that the regime has never charged her with a crime. Her detention is indicative of the regime's increasing paranoia and isolation, which are also reflected in its haphazard relocation of the

capital to Pyinmana, a town in the hinterland where unfinished government buildings lack basic elements, such as running water.

Officers from our Embassy in Rangoon, who travel widely throughout the country, tried to stop by the new capital but were turned away at the entrance by security forces.

Mr. Chairman, the situation in Burma is a tragedy. We have great respect for and have strong historical bonds with the Burmese people. During World War II, Burmese soldiers fought alongside American troops. The Burmese people gave food and shelter to our downed American pilots and participated in the extraordinary supply operation known as the Burma Road.

Following a war of independence, Burma appeared poised to play a significant and positive role in the region and the world. It was the world's leading rice exporter, enjoyed high rates of enrollment in primary and secondary schools and boasted a well-educated, highly-regarded civil service. Indeed, a former Burmese official, U Thant, served for a decade as Secretary-General of the United Nations.

Unfortunately, today, Burma's military leaders have, during over 40 years of rule, chosen to take the country down quite a different path, one that has brought suffering and pain to millions of ordinary Burmese people. While the rest of Southeast Asia is experiencing strong economic growth, increased freedoms and democracy and a much greater role in a wide range of global issues, Burma's unelected leaders are moving the country in the opposite direction. Burma's neighbors have particular reason to be concerned because many of the country's growing problems will not stay within its borders.

Corruption and bad economic policies have severely hurt the economy. Social conditions have deteriorated, and the flow of narcotics out of Burma is almost as worrisome as the flow of infectious diseases. People also continue to flow across the border seeking refuge from human rights abuses and ethnic conflict. The international community has reached out many times in many ways to help Burma address its myriad problems, but the regime has rejected all of these efforts.

Our goal is the emergence of a united, unified democratic and independent nation, one in which the government respects the human rights of its citizens and promotes policies that contribute to the well being of the Burmese people and to regional peace and prosperity. As initial steps, we are calling on the Burmese authorities to release the country's over 1,100 political prisoners and begin a credible, inclusive political process that empowers the people of Burma to determine their future. It is really not asking for too much. Strong consistent international pressure on the regime to implement change is essential to achieving our objectives, and so we have focused our efforts on creating that pressure.

We are working at the United Nations and with other countries in the region and around the globe toward that end.

We have shifted the focus away from the unproductive debate over sanctions versus engagement and toward realization that all of us have an interest in reversing Burma's downward spiral. We have engaged in intensive diplomatic campaign to encourage governments in the region with influence in Burma to agree on certain

steps the regime needs to take to address the international community's concerns, noting that further deterioration in the situation is not in their interest.

We are urging governments to express their concerns to the regime both publicly and private.

Let me stress that President Bush and Secretary Rice are leading this effort and have been personally and actively engaged—the President raised Burma during his Asia trip last November, strongly urging countries in the region to press the Burmese regime to initiate change. Secretary Rice also has been extremely active both in her public comments and in private meetings as have other senior officials. I am pleased to report that we are beginning to make some progress. Increasingly, other governments, along with parliamentarians and the media, understand that the situation in Burma must change. And they are starting to speak out. For example, ASEAN specifically called in its December statement for the release of political prisoners and expedited democratization. The statement also conveyed ASEAN'S decision to send Malaysian Foreign Minister Hamid to Burma as an ASEAN envoy. When I saw him just 3 weeks ago, he made it clear that he believes Burma needs to change. Senior officials from Japan, from South Korea, India and Australia have also called on the regime to move forward as have several European officials. Chinese officials, while not quite willing to speak publicly, have privately noted their concerns and we are engaged in an active dialogue with them.

We talk about Burma with the Chinese. Multilaterally, we have succeeded in focusing the international spotlight on Burma through the first ever UN Security Council discussion on the country. On December 16, Under Secretary-General for Political Affairs Gambari briefed the council on deteriorating conditions in Burma. We believe the situation warrants continued UN Security Council attention and discussion, and we are considering next steps in that body.

In the weeks and months ahead, we will continue our intensive diplomatic efforts in New York, Tokyo, Seoul, Beijing, the ASEAN countries and elsewhere.

We intend to build on the momentum behind an international campaign to press the regime to open itself to change. An essential component of our strategy is indeed sanctions. They continue to set an international standard by which all other governments' policies are judged. They serve as a constant reminder to the regime that its behavior is quite simply unacceptable, that its leaders will remain international pariahs. They serve as an important moral support for the democratic opposition, and they ensure that American companies will not help fund the luxurious lifestyles of a few.

Chairman Smith, Members of the Committee, we remain committed to bringing about positive change in Burma. We have strategy to get there, and it is beginning to pay off.

The Administration is engaged at the highest levels. Key countries in the regime have begun to speak out about the need for reform, and international pressure on the regime to change its misguided irrational policies is beginning to mount. The road ahead is not easy, but by continuing our intense efforts, we can effectively promote freedom for Burma's long-suffering population. As Presi-

dent Bush said, the Burmese people “want their liberty—and one day, they will have it.” Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Hill follows:]

PREPARED STATEMENT OF THE HONORABLE CHRISTOPHER R. HILL, ASSISTANT SECRETARY, BUREAU OF EAST ASIAN AND PACIFIC AFFAIRS, U.S. DEPARTMENT OF STATE

Chairman Smith, Chairman Leach, members of the subcommittees,

Thank you for the invitation to testify on Burma today. It is a country on which we have focused intense diplomatic efforts, including by the President and Secretary Rice, and where other governments, including Asian ones, have shown increased willingness to join us in pressing for democratic change.

Burma is high on our freedom agenda for two reasons: First, because there are few places in the world where democracy has been suppressed—and human rights violated—as brutally and systematically as in Burma; second, because the current regime’s xenophobic, ever more irrational policies are driving the country relentlessly downhill in a manner that increasingly harms—and threatens—Burma’s neighbors and the broader region.

My colleague, Assistant Secretary Barry Lowenkron, will speak in detail about human rights and democracy issues in Burma. I don’t want to duplicate his comments, but would like to say a brief word about Burmese pro-democracy leader and Nobel Laureate Aung San Suu Kyi, who in many ways symbolizes both the plight and the hope of the Burmese people.

Aung San Suu Kyi has been detained since the May 2003 attack on her and her convoy by forces affiliated with the regime. Since December 2004, she has been held virtually incommunicado. Her term of detention was inexplicably extended by 6 more months last November. Despite our repeated requests to see her, most recently this past week, the regime has not allowed us or others to see her for two years. And this, despite the fact that the regime has never charged her with a crime.

Why the government fears this 60-year-old woman and has put her under lock and key, denying her virtually all outside contact, is not clear. But it is indicative of a paranoia and isolationism that we increasingly see in the regime’s leadership and decisions.

The situation in Burma is a tragedy, and a very human one. We have great respect for and strong historical bonds with the people of Burma. During World War II, Burmese soldiers fought alongside American troops, and rescued downed American pilots. Following the war and independence, Burma appeared poised to play a significant, positive role in the region and the world. The country was for some time the world’s leading rice exporter. It enjoyed high rates of enrollment in primary and secondary schools, and boasted a well-educated, highly-regarded civil service. A former Burmese official, U Thant, served for a decade as Secretary General of the United Nations.

Unfortunately, Burma’s military leaders have, during over forty years of rule, chosen to take the country down a different path, one that has brought suffering and pain to millions of ordinary Burmese people. While the rest of Southeast Asia has, in recent years, experienced strong economic growth, increased freedom and democracy, and a greater role in a wide range of global issues, Burma’s generals have moved the country in the opposite direction. As President Bush said in Kyoto last November, “The result is that a country [Burma] rich in human talent and natural resources is a place where millions struggle simply to stay alive.”

The regime has put Burma on a downward course that is increasingly worrying not only to its people, but to the world. Burma’s neighbors have particular reason to be concerned because many of the country’s growing problems will not stay within its borders.

The junta’s corruption and bad economic policies have severely hurt the economy. Although reliable economic statistics are not available, most experts believe Burma’s economy remained stagnant in 2005, while inflation may have risen as much as 50 percent. Arbitrary restrictions on businesses have reduced investment, and the regime has failed to restore confidence in the country’s private banks, which are still suffering the effects of a 2003 collapse. Officers from our embassy in Rangoon, who travel widely in the country, confirm widespread reports that the middle class is dipping into its limited reserves to survive, and that life for ordinary Burmese is becoming increasingly difficult.

Social conditions have declined in tandem with the economy, in part due to the regime’s failure to devote resources to health and education. The junta’s most recent published budget indicates it spends \$1.10 per citizen on education and a mere 400

on healthcare, compared to \$400 per soldier. Rates of malnutrition and infant mortality are rising; according to the UN, one-third of Burmese children are malnourished, and 50 percent drop out of school within five years. This in a country that was at one time the envy of Asia for its educational standards.

According to the Global Fund to Fight AIDS, Tuberculosis and Malaria, two percent of pregnant women are HIV positive. The Fund also notes that 97,000 cases of TB are reported each year, along with 600,000 cases of malaria. Given its proximity to Thailand and Vietnam, poor health system, rice paddy agriculture and its lack of transparency, Burma is also a likely candidate for unreported cases of Avian Influenza in both poultry and humans, which could have public health implications not only for Burma and its people, but for the entire global community.

The country's continuing socioeconomic decline, and growing role as an exporter of problems to the region, only add to the urgency of the situation. It is our strong view that continuation of the political status quo, in addition to being unacceptable on political and democracy grounds, will ensure that Burma continues its worrying decline, becoming a bigger drag on and threat to the entire region.

In his briefing before the UN Security Council on December 16, UN Under Secretary General for Political Affairs Ibrahim Gambari characterized the situation as a humanitarian emergency—one which could create numerous problems not just for the Burmese people, but for the region and the international community. Similarly, UN Secretary General Kofi Annan characterized Burma as a threat to human security. How did the ruling generals respond to this litany of humanitarian problems? By placing significant restrictions on UN agencies and NGOs, in some cases suspending their operations or forcing them to terminate their programs altogether. Just last year, the Global Fund terminated three grant agreements with the United Nations Development Program totaling up to \$98.4 million to combat the three diseases in Burma, citing the lack of access to project sites and restrictions on its procurement of medical supplies. The World Food Program separately confronted the regime directly regarding a 10 percent duty being levied on all purchases it made inside the country.

The flow of narcotics out of Burma is almost as worrisome as the flow of diseases. Burma remains the world's second largest producer of opium, and production of amphetamine-type stimulants is on the rise. Ninety percent of heroin in Southeast Asia comes from Burma. Drugs produced there are trafficked to China, India, Thailand and other neighboring countries, and despite some efforts by the regime and the continued drop in opium production, narcotics traffickers still operate with impunity.

People also continue to flow across the border, seeking refuge from human rights abuses, ethnic conflict, and the other problems I have cited. There are 140,000 Burmese refugees living in 10 camps along the Burma-Thai border. An additional 1–2 million Burmese migrants reside in Thailand outside the refugee camps, and Malaysia, India and Bangladesh host an estimated 85,000 Burmese refugees among them. If Rangoon's economy continues to stagnate, if the spread of infectious diseases remains unchecked, and if the generals continue to brutalize its people and ignore the country's smoldering ethnic insurgencies, the flow of Burmese crossing into neighboring countries is likely to increase. Inside Burma, up to half a million people are internally displaced.

The international community has reached out many times in many ways to help Burma address its myriad problems. The United Nations has adopted 28 resolutions calling for the regime to engage the opposition in real dialogue and for the release of political prisoners, the Secretary General designated a Special Envoy, ASEAN has offered help, but the regime has rejected all of these efforts, preferring instead to isolate itself from the international community and its own people.

This isolation took a bizarre twist last November when the regime, without notice, decided to move the seat of government and ordered civil servants to relocate to a heretofore undeveloped town in the hinterland some 200 miles away from Rangoon. Of course, governments have the right to move their capitals, but the way in which the regime made the move is both worrisome and telling. It did not notify the Burmese people, let alone foreign governments or embassies, and it forced civil servants to leave their families behind indefinitely to make the move. When the civil servants arrived, they found unfinished buildings lacking basics like windows and running water. Many fell ill with malaria. Visiting the new capital city of Pyinmana, we were told, was not possible. A few of our embassy officials who were traveling in the region tried to stop by Pyinmana, but were turned away by security forces.

For years, we have called on the regime in Burma to reach out to the opposition and begin a true political process that leads to national reconciliation and democracy. That is not asking too much. After all, there were genuine legislative elections

in 1990—which we still consider valid—in which the opposition won 82 percent of the seats.

Our long-term goal is the emergence of a unified, democratic and independent nation; one in which the government respects the human rights of its citizens and promotes policies that contribute to the well-being of the Burmese people and regional peace and prosperity. As initial steps, we are calling on the Burmese authorities to release Aung San Suu Kyi, U Tin Oo, Hkun Htun Oo and the over 1,100 other political prisoners, and begin a credible, inclusive political process that empowers the people of Burma to determine their future. The National League for Democracy's proposal for the establishment of a tripartite transitional body composed of the military, political parties, and ethnic nationalities demonstrates its flexibility and willingness to negotiate, ingredients that have been sorely lacking in the regime's approach. The regime should engage the democratic opposition and ethnic minority political groups in a genuine dialogue that allows the Burmese people to determine their own future.

Our view is that strong, consistent international pressure on the regime to implement change is essential to achieving our objectives, so we have focused our efforts on creating that pressure. We are working at the UN and with other countries in the region and around the globe toward that end. We have shifted the focus away from the unproductive debate over sanctions versus engagement, which had largely paralyzed previous discussions on Burma, toward realization that all of us have an interest in reversing Burma's downward spiral.

We have engaged in an intensive diplomatic campaign to encourage governments in the region with influence in Burma such as India, China, Japan and ASEAN members, to agree on certain steps the regime needs to take to address the international community's concerns, noting that further deterioration in the situation is not in their interest. These steps include: releasing Aung San Suu Kyi and all political prisoners; initiating a credible, inclusive political process; granting access for UN representatives; and lifting restrictions on UN agencies and NGOs providing humanitarian assistance. We are urging governments to embrace as many of these points as possible, and to express their concerns to the regime both publicly and in private.

Let me stress that President Bush and Secretary Rice are leading this effort and have been actively engaged. The President raised Burma during his Asia trip last November, strongly urging countries in the region to press the Burmese regime to initiate change. Prior to that trip, the President took the time to meet with a Burmese refugee, activist Charm Tong, who related her own personal stories of suffering at the hands of this brutal regime. Secretary Rice also has been extremely active, both in her public comments and in private meetings, as have other senior officials such as Under Secretaries Nick Burns and Paula Dobriansky.

I am pleased to report that we are making progress—notable progress. Increasingly, other governments, along with parliamentarians and the media, understand that the situation in Burma must change, and they are starting to speak out. For example, ASEAN specifically called in its December statement for the release of political prisoners and expedited democratization. The statement also conveyed ASEAN's decision to send Malaysian Foreign Minister Syed Hamid to Burma as an ASEAN envoy. I saw Foreign Minister Hamid during my recent visit to Kuala Lumpur, and he made clear that he believes Burma needs to change. We are confident that he and Indonesian President Yudhoyono will deliver strong messages reaffirming ASEAN's position when they visit Rangoon. Senior officials from Japan, Korea, India, and Australia have also called on the regime to move forward, as have several European officials. Chinese officials, while yet to speak out publicly about the situation in Burma, have privately noted their concerns, and we are engaged in an active dialogue with them.

Multilaterally, we have succeeded in focusing the international spotlight on Burma through the first ever UN Security Council discussion on the country. On December 16, Under Secretary General for Political Affairs Ibrahim Gambari briefed the Council on deteriorating conditions in Burma, highlighting the gravity of the situation there. Secretary General Annan participated in the briefing and, in his comments to the press afterwards said that the Security Council could "use its contacts with countries with influence to bring pressure to bear and encourage the government to accelerate the national political process, and ensure that it is inclusive and all political parties and personalities are able to participate freely and willingly, including Aung San Suu Kyi." We believe the situation warrants continued UN Security Council attention and discussion, and we are considering next steps in that body.

Another multilateral initiative we lobbied hard in support of was the EU's UN General Assembly resolution on human rights in Burma. Last December, the Gen-

eral Assembly adopted the resolution by consensus after defeating by a wide margin a motion tabled by Burma in the UN's Third Committee that would have scuttled the resolution altogether. As adopted, the resolution calls for the release of political prisoners and a credible and inclusive political process.

In the weeks and months ahead, we will continue our intensive diplomatic efforts in New York, Tokyo, Seoul, Beijing, the ASEAN countries, and elsewhere. We intend to build on the recently-created momentum behind an international campaign to press the junta to open itself to change.

Chairman Smith, Chairman Leach, we are grateful for Congress' strong support on this important issue. We continue to use funds appropriated by Congress to support democratic ideals through programs that promote democratic values, human rights, the rule of law, and good governance. We also have an active public diplomacy program through our American Center in Rangoon, which we hope to expand, that enables us to reach wide audiences inside Burma. In addition, Embassy Rangoon is developing a small grants program to work with organizations inside Burma that will support grassroots efforts to address issues of shared concern. On the humanitarian front, we have supported efforts to combat HIV/AIDS and fund assistance to refugees, migrants and IDPs.

An essential component of our strategy is sanctions. Some in the international community have argued that, because the Burmese regime has not yet changed its approach, our sanctions policy has failed and should be dropped. I strongly disagree. Our sanctions have played—and continue to play—a critically important role. They set an international standard by which all other governments' policies are judged; they serve as a constant reminder to the regime—and everyone else concerned with Burma—that its behavior is unacceptable, and that regime leaders will remain international pariahs as long as they continue this behavior; they serve as important moral support for the democratic opposition, the vast majority of whom support our sanctions policy; and they ensure that American companies will not help fund the luxurious lifestyles of the generals, who rule the fourth most corrupt country according to Transparency International's latest survey on this topic.

Because of the important role that sanctions play, the State Department strongly supports renewal of the import ban in the Burmese Freedom and Democracy Act, which is due to lapse this summer. Failure to maintain current sanctions—at a time when the regime's behavior is going from bad to worse, and when the international community is beginning to rally behind the call for change—would send the wrong message at the wrong time. Moreover, lifting sanctions now would deal a strong blow to the opposition, and be celebrated by the generals. We must keep in mind that it is the regime's misguided policies that have caused the suffering of the Burmese people, not international sanctions.

Chairman Smith, Chairman Leach, bringing about the kind of positive change we all seek in Burma is a long-term endeavor. We have a strategy to get there, and it is paying off: The Administration is engaged at the highest levels; key countries in the region have begun to speak out about the need for reform; and international pressure on the regime to change its misguided, irrational policies is mounting. The road ahead is not short, but by continuing our intense efforts, we can effectively promote freedom for Burma's long-suffering population. As President Bush said, the Burmese people "want their liberty—and one day, they will have it."

Mr. SMITH OF NEW JERSEY. Mr. Hill, thank you so much for your testimony.

And Secretary Lowenkron, if you could proceed.

**STATEMENT OF THE HONORABLE BARRY F. LOWENKRON, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE**

Mr. LOWENKRON. Chairman Smith, Members of both Subcommittees, I appreciate the opportunity to testify before this Committee.

I have great respect for the Committee's work on behalf of men and women across the globe that, often at great personal risk, advance freedom's cause. I have prepared a longer written statement, and with your permission, I would like to submit it into the record.

Mr. SMITH OF NEW JERSEY. So ordered.

Mr. LOWENKRON. Thank you. Mr. Chairman, you painted a picture in your opening remarks of Burma that is stark and heart-

wrenching. This is so very, sadly true. Secretary Rice has described Burma's military junta as one of the worst regimes in the world. The regime's cruel and destructive rule has inflicted tremendous suffering on the Burmese people and has caused or exacerbated a host of ills for the entire Southeast Asian region, as my colleague Assistant Secretary Hill, has outlined.

For over 15 years, the Burmese regime has ignored the will of its people and 28 successive resolutions adopted by the General Assembly and the UN Commission on Human Rights. The junta rules by decree. Forced labor, trafficking in persons, use of child soldiers, religious discrimination, rape, torture, execution and forced relocation of ethnic minorities are the order of the day in Burma.

There are an estimated 35 prisons and 70 labor camps, in which conditions are harsh and life-threatening. Prisoners are forced to rely on their families for food, clothing and medical supplies. Political prisoners like Hkun Htun Oo and the nine other Shan leaders sentenced with him are increasingly being transferred to remote prisons away from their families. By the end of 2005, there were approximately 1,300 security detainees which include over 1,100 political prisoners.

Although the junta released approximately 19,000 prisoners during two mass releases last year, most were common criminals. Only 361 political prisoners were released. But at least 144 activists have already taken their place behind bars and arrests continue unabated.

Pro-democracy activists continue to die in custody, including Aung Hlaing Win, a 30-year-old National League for Democracy member who was arrested in May. Although the police informed his family that he died of a heart attack, the autopsy revealed he suffered from 24 injuries and bruises to his body.

The regime systematically engages in religious repression, trafficking in persons and continued attacks on ethnic minorities, including last September's attacks on Karen and southern Karenni villages. We designated Burma a Country of Particular Concern in 2005 for the seventh consecutive year and a tier 3 country for trafficking in persons for the fifth year in a row.

Forced labor also remains a serious concern with citizens forced to work on construction and maintenance projects and in military industrialized zones. Relations between the ILO and the regime have reached a new low. The ILO liaison has received death threats. In October, the regime verbally stated its intention to withdraw from the ILO. The regime has not yet acted on the threat but remains totally uncooperative. To escape these grim realities, many Burmese go into hiding in the jungles or cross into neighboring countries. The IDP and refugee flows are indeed staggering.

Meanwhile, the regime continues to tout its farcical roadmap to democracy, which you, Congressman Smith, rightly called a sham. The process has zero—zero—credibility, since the regime hand-picked delegates, barred the participation of any pro-democracy parties, did not allow delegates to freely debate proposals and threatened those who would actually discuss the process with a 5- to 20-year prison sentence.

Aung San Suu Kyi has been held incommunicado under house arrest without charge since September 2003, the third time in the

last 15 years, and her detention was extended in November for an additional 6 months. The vice chairman, U Tin Oo, also remains under house arrest without trial. Hkun Htun Oo, chairman of the SNLD, and nine other Shan leaders were arrested in February and tried in secret. He received two life sentences plus 53 years in prison.

The Bush Administration is committed to helping the Burmese people realize their dream of freedom. Assistant Secretary Hill has outlined our strategy for greater UN involvement and greater efforts on the part of Burma's neighbors to address this morally reprehensible state of affairs in Burma. I would reinforce three points before describing the work of my bureau in helping the Burmese people. First, we believe that when Secretary-General Annan names a new special envoy, that envoy should be given a broader mandate. In addition to providing the Secretary-General's good offices, the mandate should encompass coordination with the world community including regional governments and organizations and NGOs. The mandate should also require access to the regime and leading opposition figures, including those currently detained.

Second, a stronger international consensus must be forged on steps the Burmese regime must take. The regime must immediately and unconditionally release Aung San Suu Kyi and all other political prisoners, initiate a credible and inclusive political process, grant access for UN representatives and lift restrictions on UN agencies and NGOs providing humanitarian relief. Third, Secretary Rice and other senior State Department officials will continue to make clear to countries in the region, and indeed around the globe, that there should be no business as usual with Burma under the present appalling circumstances.

With crucial support from the Congress, we continue to fund innovative programs to further the objectives of the Burmese Freedom and Democracy Act. My bureau administers key Burma programs through the National Endowment for Democracy. Since fiscal year 2000, NED has received over \$16 million to focus on democracy and human rights activities, including capacity building for NGOs in exile and the collection of information on human rights.

In fact, most of the information that we have on human rights violations inside Burma comes from first-hand accounts from victims collected by NGOs that we fund. This funding also includes \$650,000 for training a new generation of journalists and media professionals.

Since 2002, my bureau has also provided \$325,000 in scholarships that have sent more than 200 Burmese students to universities around the world, preparing them as leaders of a free Burma. This program will continue through 2006.

Finally, we will continue to report and speak out publicly on human rights in Burma.

I am pleased that you have invited today Bo Kyi from AAPP and Naw Win Yee from the Shan Women's Action Network (SWAN) to testify this afternoon. We rely on information and insights from these and other brave exile groups. Last November, I had the honor to meet with Charm Tong of SWAN after she met with Presi-

dent Bush. Her courage gives hope and inspiration to people across the globe.

As President Bush has said:

“The people of Burma live in the darkness of tyranny—but the light of freedom shines in their hearts.”

Once again, I would like to thank Chairman Smith for training a spotlight on Burma. I look forward to working closely with you and your colleagues to hasten the day when the people of Burma will live in freedom. Thank you.

[The prepared statement of Mr. Lowenkron follows:]

PREPARED STATEMENT OF THE HONORABLE BARRY F. LOWENKRON, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE

Chairman Smith, Chairman Leach, and Members of both Subcommittees,

I appreciate this opportunity to testify before this Committee. In fact, this is my first opportunity to present testimony to the Congress as Assistant Secretary of State for Democracy, Human Rights and Labor. I have great respect for this Committee's work, and for your leadership on behalf of men and women across the globe who, often against great odds and at great personal risk, advance freedom's cause. I look forward to working closely with this Committee and others in Congress in the months and years ahead.

During my confirmation hearing, I stated that I did not see defending human rights and promoting democracy as competing priorities. Each is integral to the President's Freedom Agenda. As President Bush said last week in his State of the Union address: “. . . more than half the people of our world live in democratic nations. And we do not forget the other half—in places like Syria and Burma, Zimbabwe, North Korea and Iran—because the demands of justice and the peace of this world require their freedom as well.”

Advancing human rights and democracy are parts of the same whole. Burma is a case in point. In 1990, Burma held historic free and fair legislative elections, but the junta crushed the outcome and has proceeded ever since to violate the most basic human rights of its people. Only by Burma's return to the democratic path from which it was so cruelly wrenched can the fundamental rights of the Burmese people be fully realized.

Secretary Rice has described Burma's military junta as “one of the worst regimes in the world.” The regime's cruel and destructive misrule has inflicted tremendous suffering on the Burmese people and has caused or exacerbated a host of ills for the entire Southeast Asian region, from large refugee outflows to the spread of HIV/AIDS and other infectious diseases, and the trafficking of drugs and human beings. In illustration of deepening discontent with the regime in the region, last year fellow member nations succeeded in obtaining the regime's agreement to forgo its turn as Chair of the Association for South East Asian Nations (ASEAN).

Burma's current government poses not only a moral challenge, but also a security concern, for its neighbors and the world.

For over 15 years, the Burmese regime has ignored the will of its people. The regime has flouted 28 successive resolutions adopted by the General Assembly and the UN Commission on Human Rights calling on the regime to release political prisoners and engage in a dialogue with the opposition leading to national reconciliation. The junta rules by decree and is not bound by any constitutional provisions guaranteeing any fundamental freedoms. Forced labor, trafficking in persons, use of child soldiers and religious discrimination remain serious concerns. The military's abuse continues: rape, torture, execution and forced relocation, particularly of citizens belonging to ethnic minorities. The regime monitors citizens' communications, searches homes without warrants, and maintains iron-fisted control through the surveillance, harassment, and imprisonment of political activists.

There are an estimated 35 prisons and 70 labor camps, in which conditions are harsh and life-threatening. Prisoners are forced to rely on their families for food, clothing, and medical supplies. Political prisoners like Hkun Htun Oo and the nine other Shan leaders sentenced with him are increasingly being transferred to remote prisons away from their families. By the end of 2005, there were approximately 1,300 “security detainees,” which include over 1,100 political prisoners. The Assistance Association for Political Prisoners—Burma (AAPP) released a report in December documenting the use of “brutal and systematic” torture by the regime. Based

on the testimony of 35 former political prisoners, the report details physical, psychological, and sexual abuse of dissidents and identifies by name many of the perpetrators.

Although the junta released approximately 19,000 prisoners during two mass releases last year, most were common criminals. Only 361 political prisoners were released. Min Ko Naing, one of the most prominent leaders of the opposition, was among them. But arrests of pro-democracy activists, both ethnic Burman and minority, continue unabated and at least 144 activists were detained in 2005. Pro-democracy activists continue to die in custody, including Aung Hlaing Win, a thirty-year old National League for Democracy member arrested in May. Although the police informed his family that he died of a heart attack, the autopsy revealed he suffered from 24 injuries and bruises.

Just as it represses other aspects of life, the regime also systematically engages in religious repression. Though it promotes Buddhism over other religions, it tries to control the Buddhist clergy (Sangha) by imposing a code of conduct that is enforced by criminal penalties. Religious persecution is especially harsh for Muslim communities and for Christian communities in Chin state. Pursuant to The International Religious Freedom Act of 1998, we designated Burma as a Country of Particular Concern (CPC) in 2005 for the seventh consecutive year.

We remain deeply concerned about the continuing attacks on ethnic minorities, including renewed attacks last September on villages in the Karen and southern Karenni states. These military offensives are accompanied by forced relocation, rape, forced labor, murder, destruction of property, extortion, and loss of food stores and livestock. Non-Governmental Organizations (NGOs) in Thailand have compiled detailed documentation on the systematic rape by the Burmese army of women belonging to ethnic minorities, including Shan, Karen, Mon, Karenni, Chin and Tavoyan women.

Forced labor also remains a serious concern. Citizens are routinely forced to work on construction and maintenance projects, and in military-industrialized zones. In 2000, the International Labor Organization (ILO) Conference instituted unprecedented sanctions on Burma, which remain in force. Due to Burma's total lack of progress on forced labor, in 2005 the ILO specifically asked all members to again "review the relations they may have with Burma and to take appropriate measure to ensure that Burma cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labor . . ." The regime's use of forced labor in support of military garrisons or operations is particularly common in ethnic or religious minority regions. The ILO has corroborated UN High Commissioner for Refugees' reports of a "serious resurgence" in forced labor in Rakhine State, where the former Prime Minister had ordered the military to construct six new bridges.

In May, the ILO stopped accepting new cases documenting abuses in Burma because the regime indicated it would prosecute any person who made what the government deemed a "false claim." Relations between the ILO and the regime have reached a new low. The ILO Liaison received death threats and restrictions on ILO activities have increased. In October, the regime verbally stated its intention to withdraw from the ILO. The regime has not yet acted on the threat, but remains totally uncooperative. Political activist Ma Su Su Nway successfully prosecuted local officials from Kawhmu Township on forced labor charges in January of last year, but she was quickly countersued by another local official for "insulting and disrupting a government official on duty." Su Su Nway was sentenced to 18 months of imprisonment on October 13.

The State Department's report on Trafficking in Persons sheds further light on forced labor in Burma. Pursuant to the Trafficking Victims Protection Act of 2000, Burma has been designated a Tier 3 country—a country that fails to take significant actions to bring itself into compliance with the minimum standards for the elimination of trafficking. On September 21, 2005, President Bush renewed sanctions as required by that law. Trafficking of women and girls for sexual exploitation, factory labor, and as household servants continues unabated to Thailand and other countries, including China, India, Bangladesh, Taiwan, Pakistan, Malaysia, Japan, and countries in the Middle East.

To escape the grim realities I have just described, many Burmese go into hiding in the jungles or cross into neighboring countries. The Internally Displaced Persons (IDP) and refugee flows are staggering. According to NGOs based in Thailand, there were over 500,000 IDPs in Burma at the end of 2005, and approximately 100–200 Burmese cross into Thailand every month. There are 140,000 recognized refugees from Burma in Thailand, and a total of 85,000 in Bangladesh, Malaysia, and India. However, hundreds of thousands of others have fled Burma but have not sought UNHCR refugee status.

The situation in Burma continues to deteriorate across all fronts. Ignoring what UN Under Secretary for Political Affairs Gambari has called a looming humanitarian crisis, the regime has again increased restrictions on UN agencies and humanitarian NGOs operating inside the country, including by limiting access to project sites and placing restrictions on residency permits and continuing to interfere with their activities.

The regime continues to tout its farcical 'roadmap to democracy'—a process predicated on the drafting of a constitution that would nullify the results of the legitimate 1990 elections—elections during which the pro-democracy National League for Democracy (NLD), followed by the Shan Nationalities League for Democracy (SNLD), won the majority of seats.

On January 31, the regime recessed the latest session of the National Convention which is to draft the new constitution. We view the process as lacking credibility since the regime handpicked delegates, barred the participation of the NLD and other pro-democracy parties and did not allow delegates to freely debate proposals. The regime also threatened to enforce harsh laws against any who criticized the National Convention or draft constitution. Three representatives of political parties were reportedly detained for giving radio interviews on the National Convention and were reminded that discussing the process was a violation of the law and risks a five- to twenty-year sentence.

Aung San Suu Kyi, Nobel Laureate and leader of the NLD, has been under house arrest without charge since September 2003—the third time in the last fifteen years—and her detention was extended in November for an additional six months. She is held incommunicado with the outside world, except for two live-in staff, who are also effectively under house arrest. NLD Vice Chairman U Tin Oo also remains under house arrest without trial. Hkun Htun Oo, Chairman of the SNLD, and nine other Shan leaders were arrested in February and tried in secret in Insein prison. Hkun Htun Oo received two life sentences plus 53 years in prison.

In his August report to the UN General Assembly, UN Special Rapporteur on Human Rights in Burma Paulo Sérgio Pinheiro stated that "if the inherent procedural restrictions are not amended and the representatives of the democratic opposition are not involved in the National Convention, any constitution that emerges will lack credibility." Rather than heed his recommendations, the regime instead has remained intransigent.

To make matters even worse, in November the regime abruptly moved Burma's administrative capital to remote Pyinmana, ordering civil servants to relocate there without their families, and forcing foreign diplomats to move to the new capital by 2008. Until then, according to Burmese authorities, the government will be (quote) "unavailable."

As former President of the Czech Republic Vaclav Havel, who co-commissioned with Nobel Laureate Archbishop Desmond Tutu the landmark report, "Threat to Peace: A Call for the UN Security Council to Act in Burma", has said: "Seemingly unshakable totalitarian monoliths are in fact sometimes as cohesive as proverbial houses of cards, and fall just as quickly. Continuing democratization of the whole region, together with growing dissent inside the country, must eventually have a positive effect."

Just as it did in Czechoslovakia and South Africa, one day the seemingly impossible will become the inevitable, and the men and women of Burma will realize their dream of freedom. And the Bush Administration is committed to helping the Burmese people reach that day.

It was the United States that spearheaded the international effort that resulted in a unanimous decision to request that the Secretary General or his representative brief the Security Council in informal consultations on the situation in Burma. On December 16, Under Secretary General Gambari, with Secretary General Annan participating, briefed the Council, the first such briefing by the UN Secretariat on Burma. We will push to keep up the momentum created by that unprecedented discussion.

UN Secretary General Kofi Annan has designated 2006 as the year for bringing about a transition to democracy in Burma, and we take that target very seriously. As Ambassador Bolton has said, "It's certainly the intention of the United States . . . to continue advocating Security Council scrutiny and action." We will continue to press hard for further UN Security Council discussion and action on Burma. We will also continue to support strong resolutions on Burma in the UN General Assembly, as we did the European Union's resolution last year, as well as in other international bodies.

Upon stepping down, former Special UN Envoy Razali stated that: "The longer the regime is obdurate, and the more people hear about the problems from within, and if ASEAN cannot make an impact or influence, then one way or another it leads

to the Security Council.” We believe that it is important for Secretary General Annan to name another Special Envoy and to give the Envoy a broader mandate. In addition to providing the Secretary General’s “good offices,” the mandate should encompass coordination with the world community, including regional governments and organizations and NGOs, in order to forge broad international support for pressing the Burmese regime to change. The mandate also should require access to the regime and leading opposition figures, including those currently detained.

Greater international involvement is essential to forging a stronger consensus on steps the Burmese regime must take to address these urgent concerns. The regime must immediately and unconditionally release Aung San Suu Kyi and all other political prisoners, initiate a credible and inclusive political process, grant access for UN representatives, and lift restrictions on UN agencies and NGOs providing humanitarian relief.

Secretary Rice and other senior state department officials will continue to make clear to allies and friends in the region and around the globe the United States’ strong view that there should be no business as usual with Burma under the present appalling circumstances.

Meanwhile, with crucial support from the Congress, we continue to fund innovative programs to further the objectives of *The Burmese Freedom and Democracy Act*. This far-reaching legislation stands as a testament to the joint resolve of the Congress and the Administration to work together for human rights and peaceful change in Burma, and I look forward to continued close coordination of our efforts.

The Bureau of Democracy, Human Rights and Labor (DRL) administers key Burma programs through the National Endowment for Democracy (NED). Since fiscal year 2000, NED has received over \$16 million to focus on democracy and human rights activities, including capacity building for NGOs in exile and the collection of information on human rights. In fact, most of the information that we have on human rights violations inside Burma comes from first-hand victim accounts collected by democracy NGOs that we fund. This funding also includes \$650,000 for training a new generation of Burmese journalists and media professionals. Our efforts in this area are given added meaning in light of the recent statement by Reporters Without Borders and the Burma Media Association (BMA) that the regime has now censored two privately-owned weeklies, and has also refused conditional release for Than Win Hlaing, a prominent journalist who is very ill after spending six years in prison.

Since 2002, DRL has also provided \$325,000 in scholarship grants that have helped send more than 200 Burmese students to universities around the world for higher education and advanced degrees in preparation for their future role as leaders in a free Burma. This scholarship program will continue through 2006. This type of program is critical in light of the practically non-existent system of education in Burma and the tight restrictions imposed on both teachers and students.

The current fiscal year’s funding for Burma-related activities is \$8 million. DRL and the Bureau of East Asia Pacific (EAP) administer \$4 million, which is used for democracy and human rights promotion. The U.S. Agency for International Development (USAID) administers the other \$4 million, which is programmed through NGOs for humanitarian assistance.

And finally, we will continue to monitor and annually report on human rights in Burma, and describe our efforts to support human rights and democracy there. I am pleased you have invited both Bo Kyi from AAPP and Naw Win Yee from the Shan Women’s Action Network (SWAN) to testify this afternoon. We rely on the valuable contributions of information and insight from these and other brave exile groups, and I am proud that through U.S. support, they are able to sustain their noble work. Members of AAPP are all former political prisoners, and they risk everything to document the plight of their colleagues inside Burma. Last November, I had the honor to meet with Charm Tong of SWAN after she met with President Bush. Charm Tong gave a moving account of the horrors Shan and other ethnic minority women experience on a daily basis, yet her courage and dedication give hope and inspiration to people across the globe.

As President Bush has said: “The people of Burma live in the darkness of tyranny—but the light of freedom shines in their hearts.”

Once, again, I would like to thank the Chairmen of both Committees for holding this hearing to train a spotlight on Burma. Our ability to quickly and appropriately respond when needs arise is critical, and we are constantly exploring new ways to be effective. I look forward to working closely with you and your colleagues to hasten the day when the people of Burma will live in freedom. This is the unwavering commitment of the Bush Administration and the United States Congress.

Now, I would be pleased to take any questions you may have.

Mr. SMITH OF NEW JERSEY. Mr. Secretary, thank you so very much, thank you both for your excellent testimonies.

Let me just begin the questioning. First of all, I ask unanimous consent that major portions of the report that was commissioned by Bishop Desmond Tutu and Václav Havel called, "Threat to Peace: A Call for the UN Security Council to Act in Burma," be made a part of the record. Without objection, so ordered.

[The information referred to follows:]

## Executive Summary

### The Situation in Burma

- The situation in Burma continues to deteriorate with no degree of measurable improvement. Members of the international community, including governments, coalitions of governments, nongovernmental organizations and many United Nations (UN) bodies, have reported grave human rights violations, sustained conflict between the Government of Burma (the State Peace and Development Council, or SPDC) and ethnic factions, and failures by the SPDC to move forward in any meaningful way with the national reconciliation it promised in its “roadmap” to democracy. As a result of the SPDC’s refusal to implement recommendations made by the UN—in particular by the Office of the Secretary-General—Burma threatens the peace and stability of the region. Therefore, UN Security Council (Security Council) action is both warranted and necessary.

### Powers of the UN Security Council

- Charged with the critical mission of maintaining peace and security between nations, the UN Security Council possesses unparalleled authority to make binding decisions that uphold the United Nations’ commitment to prevent war, preserve human rights, and promote international political stability.
- Under Chapter VII, Article 39 of the UN Charter, the Security Council possesses sole authority to “determine the existence of any threat to the peace, breach of the peace, or act of aggression.” As articulated in Article 33 of the Charter, whenever the Council “deems necessary,” at “any stage” of a dispute, it may intervene “to ensure prompt and effective action” to safeguard peace and security.
- Action by the Security Council can include the adoption of simple and clear resolutions requiring action on the part of the offending government or group to curtail its aggressive or threatening acts, sanctions against the perpetrating government or group, or the authorization of a UN peacekeeping force to enter the territory. Under Article 25 of the UN Charter, all members of the UN “agree to accept and carry out the decisions of the Security Council.”
- Relying on Chapter VII, the Security Council has intervened in such countries as Sierra Leone, Afghanistan, Haiti, Yemen, Rwanda, Liberia, and Cambodia when it determined the situations in those countries to constitute a “threat to the peace” that required intervention to protect and preserve international stability. Although there is no precise definition of what represents a “threat to the peace,” the Security Council—through its past actions on a case-by-case evaluation—has elucidated a list of factors that can collectively constitute such a threat to the peace.
- Because the Security Council takes a case-by-case approach, no one factor or set of factors is dispositive. Each past case was a unique set of circumstances; the Security Council considered the totality of each situation in determining that a threat to the peace was taking place.

### UN Security Council Action and Burma

- To guide our work, we first reviewed initial Security Council resolutions that were adopted in response to internal conflict situations (when a government was in control of the country) that the Security Council deemed a threat to the peace. This review enabled us to identify the criteria that helped the Council make its decisions. These criteria are utilized in this report as the determining factors relevant to the case of Burma. These factors include: (1) the overthrow of a democratically elected government; (2) conflict among governmental bodies and insurgent armies or armed ethnic groups; (3) widespread internal humanitarian/human rights violations; (4) the

substantial outflow of refugees; and (5) other cross-border problems (for instance, drug trafficking).

• All the cases of internal conflict in which the Security Council has become engaged have included some of these factors. But Burma is unique in today's world: only there are all five factors present.

#### Assessment of Determining Factors Resulting in UN Security Council Intervention

	Resolution	Overthrow of Democratic Government	Conflict Among Factions	Human. / Human Rights Violations	Refugee Outflows	Other (Drug Trafficking)	Other (HIV/AIDS)
Sierra Leone	S.C. 1132 (1997)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Afghanistan	S.C. 1076 (1996)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
Yemen	S.C. 924 (1994)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Haiti	S.C. 841 (1993)	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Rwanda	S.C. 812 (1993)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Liberia	S.C. 788 (1992)		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Cambodia	S.C. 668 (1990)		<input checked="" type="checkbox"/>				
<b>Burma</b>	-	<input checked="" type="checkbox"/>					

• Furthermore, the extent to which some of these factors exist in Burma is considerably worse than in other countries in which the Security Council has chosen to act:

*Overthrow of Democratically-Elected Government:* A military regime overthrew the democratically-elected government in 1962. In 1990, the military regime permitted elections to take place. The result: the National League for Democracy (NLD) became the democratically elected government of Burma, winning more than 80 percent of the seats in Parliament. The NLD was never permitted to take power and NLD members have since been harassed, jailed, and murdered. NLD leader Aung San Suu Kyi has remained under house arrest in Burma since 1990 with only intermittent periods of release.

*Conflict Between Central Governments and Ethnic Factions:* Serious, protracted fighting between the SPDC and various ethnic groups seeking autonomy and freedom from oppression has been consistent and ongoing, even in areas where non-binding ceasefire agreements have been made.

*Widespread Internal Humanitarian/Human Rights Violations:* The SPDC has committed grave, systematic, and widespread human rights abuses against the people in Burma, including violations similar to but even worse than in other cases previously considered by the Security Council. Some violations that are unique to Burma, or particularly pervasive, include the destruction of more than 2,700 villages since 1996, massive forced relocations, rape of ethnic minorities by SPDC soldiers, and widespread forced labor. As many as 70,000 children have been forced to become soldiers by the regime—more than in any other country in the world.

Additional violations include the denial of political rights and free speech, harassment of political activists, torture, and murder.

□ *Outflow of Refugees:* Almost 700,000 refugees have poured out of Burma in recent years as a result of the grave conditions created by the Government of Burma. The government is responsible for a decline in the economic situation so alarming that Burma is now one of the poorest countries in the world, providing its people little or no access to health care or education.

□ *Drug Production and Trafficking:* Burma is one of the world's leading producers of heroin and amphetamine-type stimulants. The trafficking and use of these drugs are of enormous concern to the international community and to the region particularly.

• In addition to those factors considered in prior cases by the Security Council, the Security Council adopted Resolution 1308 in 2000 calling attention to the threat that the spread of HIV/AIDS poses to international security. Burma has been a primary contributor to the spread of HIV/AIDS in Southeast Asia. Because Burma is the heroin supplier for the region, HIV strains that originated there are now spreading to neighboring countries along the heroin routes. The flourishing sex industry is another conduit enabling HIV to spread within Burma itself.

### **Conclusion**

- While Burma is similar to the other countries considered in this report, in that all of the factors taken from relevant Security Council resolutions are present in Burma, the situation in Burma is particularly unique, especially considering the severity of those factors. Additionally, in no prior cases do other distinguishing factors appear, such as Burma's contribution to the spread of HIV/AIDS. The persistence of these circumstances in Burma and the region, in conjunction with the failure of the regime to implement any reform or enable outside organizations to facilitate progress, makes the overall magnitude of the threat to peace in Burma substantially higher than it was in cases where the Security Council has acted in the past.
- As a result of the severity of the overall situation in Burma and in consideration of all of these factors, which are analyzed in detail in this report, the situation in Burma constitutes "a threat to the peace," thereby authorizing Security Council action. Binding Security Council intervention is a necessary international and multilateral vehicle to restore the peace, promote national reconciliation, and facilitate a return to democratic rule.

### **Recommendations**

The UN Security Council should adopt a resolution on the situation in Burma in accordance with its authority under Chapter VII of the UN Charter (Article 41) and past Security Council precedents. The resolution should:

- Outline the major reasons for the Security Council intervention, focusing on the threat to the peace caused by the major issues described in this report;
- Require the Government of Burma to work with the Secretary-General's office in implementing a plan for national reconciliation and a restoration of a democratically-elected government;
- Request the Secretary-General to remain vigorously engaged with the dispute resolution process and require that he report back to the Security Council on a regular basis;
- Urge the Government of Burma to ensure the immediate, safe, and unhindered access to all parts of the country for the United Nations and international humanitarian organizations to provide humanitarian assistance to the most vulnerable groups of the population, including internally displaced persons; and
- Call for the immediate and unconditional release of Aung San Suu Kyi and all prisoners of

conscience in Burma.

Mr. SMITH OF NEW JERSEY. Let me just take that report and just ask a couple of questions if I could.

One of the recommendations made by that report and by those two individuals, the eminent persons of the globe, was to initiate a UN Security Council resolution. They make a point in their report that Sierra Leone, Afghanistan, Yemen, Haiti, Rwanda, Liberia and Cambodia—all of which were the subject of UN Security Council interventions—met criteria on a broad number of situations, for example, in the area and that Burma meets every one of them plus. For example, the overthrow of a democratically-elected government: Sierra Leone and Haiti had that as an X in the box. Burma certainly does. Conflict between central governments and ethnic factions: Most of those except for Haiti had that. Widespread internal humanitarian and human rights violations: Obviously, that is a given, especially given your very important statements and the ongoing record of atrocity in Burma. Refugee overflows, drug trafficking, and it goes on. HIV/AIDS is another one as well.

Ambassador Hill, a moment ago you talked about next steps and my question would be, is that a next step? Will there be a resolution proffered at the UN Security Council on Burma? And secondly, as you are answering that, what was the reaction of China, India and Thailand to the briefing that occurred on December 16? How did they react?

Ambassador HILL. First of all, with respect to the Security Council, we thought it was a very important first step on December 16 to bring it to the Security Council. This was not a unanimously—there were people who were concerned about this step, and we were able to do it. So we were pleased to make that step. I want to emphasize, it is not the last step. I would say it is more like a first step.

At this point, with respect to your question about a Security Council resolution, we are certainly—we will look at that option very, very carefully, and we will look at all UN options. It is our very strong belief that this is an issue that does require a broader number of players, and we believe the Security Council is an appropriate place to be informed and to look very closely at this question of Burma.

I am not prepared today to say with certainty that we will go to a Security Council resolution, except to tell you that that option, and other options, remain very much in active consideration.

Mr. SMITH OF NEW JERSEY. If you could keep the Subcommittees informed of that, because I personally think it would be a very, very important next step.

Ambassador HILL. Thank you very much.

Mr. SMITH OF NEW JERSEY. And Anastasia Brown, the Director of Refugee Programs, who will testify shortly for the United States

Catholic Conference of Bishops, makes four recommendations, and I would ask you if you could respond to those recommendations. She says that the United States should move to consider Burmese refugee population beyond those already being considered for possible resettlement and should establish the necessary infrastructure to accomplish these objectives. Such a plan should include a group waiver to the material support bar to admissibility of Burmese refugees.

She also points out that the United States should continue and increase the humanitarian assistance to Burmese refugee populations in Thailand, Malaysia, Bangladesh and India, and the United States should pay special attention to the large number of Burmese unaccompanied refugee minors and help provide them with educational support and possible resettlement. She points out—and I think very correctly—that the country offers asylum, however we know that Thailand only considers those who are actually fleeing conflict and guns, rather than a more traditional definition as found in the refugee convention—well founded fear in the various categories. Thailand is not a signatory to that, so therefore there are a number of people who are in limbo and don't know where they stand, frankly, and so a third country of resettlement would seem to be the major durable solution to those individuals. And my question is, how do you respond to those recommendations that are made by the Director of Refugee Programs?

Mr. LOWENKRON. Mr. Chairman, thank you. If I could make just a couple of points. My colleagues in the State Department's Bureau of Population, Refugees and Migration have already begun preparations for processing into resettlement into the United States refugees in the Burmese refugee camp, Tham Hin camp in Thailand, approximately about 10,000 of these refugees. In the context of, can we increase the numbers, we are looking at, we are working out coordination with the Departments of Homeland Security, the State Department itself, to get through the so-called material support issue, and we hope to increase those numbers in the future.

So I would like to get back to you about the progress on resettlement in the United States and also with third countries, as well as—

Mr. SMITH OF NEW JERSEY. I appreciate that very much. Let me just ask you about ASEAN. What can we expect from the ASEAN nations going forward? Now that they seem to have realized that constructive engagement was a dead end and did not work, what specifically are they contemplating, Ambassador Hill?

Ambassador HILL. I think you are quite right; the ASEAN countries have been concerned that what they've been doing has not been yielding results. I think they are particularly concerned. In fact, I was on a trip through the region recently, and they are particularly concerned that Burma had just up and announced a new capital in Pyinmana without even informing its ASEAN partners.

So I think they realize that this is an issue that, you know, is just not getting any better. I think they are also very mindful of the fact that it is a regional issue. Burma, one of their leading exports these days is refugees.

And I think from the point of view of Thailand in particular, they have felt this very much.

So, I think what is important to remember is ASEAN is a consensus based organization. They work very carefully, and they try to make sure that when they move, they move with unanimity. So I know they are seized with the issues. I know they are working on the issue. I know they want the chairman, the Malaysian foreign minister, to go there, and very interestingly and, to my knowledge, for the first time, they have insisted that if he goes to Burma, he must see Aung San Suu Kyi.

So, these are, I think these are positive developments. We want to support them in this process. I think what is, for me, what is essential is that the ASEAN countries have made, I think, a strategic decision that this situation just can't be allowed to go on as it is.

Mr. SMITH OF NEW JERSEY. Both of you speak to very grave issues in Burma. One is the systematic use of rape against women, and we will be hearing from a witness who will speak to that issue in greater detail later, but we know from what happened in Serbia, that rape was used as a weapon to not only cruelly inflict pain upon the women themselves but also to break the resolve of the people in Croatia and Bosnia, and now we see the same kind of systematic rape occurring.

What can be done to try to stop that horrific abuse?

And secondly, when it comes to child soldiers—I just returned from Uganda where there is another group of child soldiers obviously being exploited in northern Uganda, but the number of child soldiers in Burma exceeds, by far, 70,000. I think that is the conventional wisdom in terms of number, maybe more maybe less. But what happens to those children? How long do they stay child soldiers? You know, the kind of trauma that they inflict upon others, and themselves, and that is inflicted on them to make them, in some cases, killing machines, what happens to these children as they get older and become young adults? And what can be done to help them?

Mr. LOWENKRON. Let me begin with the issue of child soldiers. Here, again, we face a situation in which the Burmese Government sets up a committee and says that they are now dealing with child soldiers, when, in reality, we have a different picture.

In January 2004, they set up a Committee for Preventing Recruitment of Child Soldiers. In the summer of 2004 it reportedly issued new sets of guidelines and regulations on the issue of recruiting soldiers, including punishments of those who recruit child soldiers. The problem is that there is very little opportunity on the part of international organizations or any Embassies to monitor whether these regulations are effective or even in play.

We do have reports from nongovernmental organizations that recruitment of child soldiers continues. It continues. They are often taken from their homes. They are taken from their villages. They are forbidden to tell their parents where they are. When they try to leave, when they are captured, they are punished. They are sent to far outposts, military posts in bases in the country. Some of them do eventually get out. The ILO has tried its best to help them, which is another reason why the ILO is not in good favor with the regime.

One of the things that we need to do as part of the conditions that we want the Burmese Government to honor is to allow international nongovernmental organizations and the UN back in so that we can monitor this, because the Burmese word is not worth much regarding the recruitment, and use of child soldiers or how to deal with them once they are out.

In terms of rape, you are absolutely right. It is used as a campaign, particularly to displace ethnic minorities, to harass ethnic minorities, to intimidate them. But this again goes to the matter of, we need to get international NGOs and the UN back there, and we need to place this as one of the conditions, if we hope to start to get change within Burma itself. It is not a matter of the Burmese regime to simply say that they are willing to engage in a dialogue. There have to be meaningful elements to that. And one of those has to be to allow international NGOs and the UN back in to observe what is going on there and then to make this part and parcel of the strategy that Assistant Secretary Hill and Secretary Rice and Under Secretary Burns are using to hammer home this point both at the UN and also in the region.

Mr. SMITH OF NEW JERSEY. I know that Aung San Suu Kyi—and I have read much of her writings—often talks about reconciliation and forgiveness, but it seems to me that the crimes against humanity that have been perpetrated by the junta need to be held to account. And I was wondering, are there any serious efforts underway to refer any individuals to the ICC, notwithstanding U.S. reservations on the ICC itself, for their crimes against humanity?

Mr. LOWENKRON. I would be happy to take that question for the record, but my understanding is there are no plans in the context of the ICC. We have a long-standing policy in terms of the ICC, in the context of how we dealt with the crisis in Sudan. I would hasten to add that Aung San Suu Kyi's offer is a testimony to what an extraordinary individual she is, that in the face of her own personal tribulations and persecution from this junta, and in the face of the unfathomable demands and crises that have been placed on the Burmese people, she is still willing to speak about reconciliation. It is an extraordinary statement.

Mr. SMITH OF NEW JERSEY. Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Thank you, Mr. Chairman, and I want to offer my personal commendation to you as our champion of human rights with my utmost respect to you, Mr. Chairman, for your sensitivity, for your leadership for all these years in seeing that our Government, our people, would lend support, especially those areas of the world that really need our support and our help.

Burma is not a new issue, Mr. Chairman. I mean, we have been through this for how many years now?

And in terms of trying to find out what kind of a policy we are really enunciating, toward countries like Burma, North Korea, West Papua New Guinea, you cannot talk about Burma without talking about West Papua New Guinea, Mr. Chairman.

In terms of brutal repression, some 2 million West Papuans right now are under the military control of the Indonesian Government. And I want to express to you, Mr. Hill, my utter disappointment in the policy this Administration has given toward the people of West Papua New Guinea.

As of last week, 43 West Papuans have had to paddle their canoes to Australia to claim political asylum. This is just a little tip of the iceberg, of this serious, serious problem of repression, the atrocities that have been committed against the West Papuan people. The world doesn't even listen or know or even care.

So, Mr. Chairman, I want to say, if you want to talk about Burma, we need to talk about West Papua New Guinea just as much.

I want to ask a question. What countries currently trade with Burma? It is obvious, we have got a brutal military regime. We have such champions of democracy like Aung San Suu Kyi, and this military dictatorship continues to control the government. And my curiosity is, there has got to be some trade going on or this military regime doesn't continue to feed on whatever trade relationship they have with other countries. Obviously, the ASEAN countries, and I know China has been providing a lot of assistance to Burma.

And I just wanted to ask Secretary Hill and Secretary Lowenkron, what countries currently trade, conduct trade relations with Burma? I am very curious. And what volume of business are they doing, besides the drug addiction problems of heroin that comes out of that country?

Ambassador HILL. Well, first of all, let me say, with respect to the trade picture, we are the only country that currently has trade sanctions on Burma. Burma's trade tends to be focused on other ASEAN countries as well as China and India. The overall state of Burma's trade, though, is quite remarkable given a country of its size. But, we have, by way of comparison, let me just say Burma is a country of approximately about 60 million people. And their total two-way trade on about 60 million people is about \$5 billion.

By point of comparison, Thailand, with a population only slightly more, about 65 million people, has two-way trade of \$190 billion.

So, comparing that to \$5 billion for Burma. In fact, Vietnam, which is a country a little larger, about 80 million people, has trade; and Vietnam has come out of some rather major transformation in the last few years, but its trade is \$60 billion.

So you see in comparison, Burma's trade is quite small, and I would say that is part of the effort by the regime, essentially, to close the door and to look inward and not to deal with its neighbors.

So Burma, through a process of self-isolation, is really taking itself out of the game. And when you look at the overall neighborhood in ASEAN, and what is going on in that part of the world, in Burma, and Burma is truly going in the wrong direction.

Mr. FALEOMAVAEGA. Secretary Hill, it seems that in our foreign policy toward the Middle East, specifically Iraq, we have taken somewhat of a unilateral approach in resolving the crisis there in Iraq by, of course, bringing down Saddam Hussein, and we don't support him at all, trying to democratize that country right now, spending \$1 billion a week and a very serious situation in the Far East and North Korea, and yet our approach toward these countries like North Korea and Burma is a multilateral approach, that we want to ask China and other countries to come in and help. But it seems that for all the years that I have sat on this Committee,

Secretary Hill, it is all rhetoric, it is all talk, and we keep saying we need to do this and we need to do that while the people of Burma continue to suffer.

At what level does this military regime have to do to trigger our Government's position by saying we need to go down there and put down this military regime once and for all, just like we have done to Saddam Hussein?

I just wanted to ask, Mr. Secretary, where do we find the balance where we apply multilateralism policies in this region, and yet we also apply unilateralism by going along and getting rid of people like Saddam Hussein. I am a little confused here.

Ambassador HILL. Well, sir, I would say that we are looking for policies in Burma that are effective, and, we believe, the most effective policies in Burma are ones that stress multilateral efforts. It does not mean that it is easy. It does not mean that we necessarily are able, easily, to find common ground with other partners, but we believe that ultimately, if we are to be successful and if Burma is to change, it needs to do so because it sees that there is unanimity within the international community.

That is why we felt it was a very important step to take this to the Security Council in December and have the first-ever briefing given by the UN experts on the situation in Burma. So we believe that what is necessary in Burma is more multilateralism, not less.

It is very important that we establish a level of effort. We need to show our partners that this is important to us. This is important to get done. When I was recently in Asia, I spoke about Burma with the Chinese. I spoke about Burma in Southeast Asia, I spoke about Burma with the Vietnamese. In fact, I even raised the issue of Burma in Cambodia.

We want all the countries in the region to understand that this is very important to us, and we hope that they will come to understand it is very important to them. We feel there are some signs of this.

When I spoke with the Malaysian Foreign Minister, Mr. Hamid, it was very clear Malaysia wants to contribute and wants to see if they can make this situation better. So in a funny way, dealing with this terrible problem in Burma, with a regime that doesn't listen very well to others, that is actually drawing us closer together with our ASEAN partners, with the partners in the region, to try to work together. So we need more multilateralism, not less.

Mr. FALCOMA. I know, Mr. Chairman. Thank you Mr. Chairman for giving me time. I don't like hypotheticals, just as you, Secretary Hill, but I will throw one at you.

If Burma had one-fourth of the world's oil supply, reserve supply, and it provides 11 percent of our own imported oil—it meets our economic interest in that respect—do you think that we might have a change of policy toward Burma just the same way that we are looking toward the Middle East as one of the primary reasons why we are so attentive to the situation because of our own serious economic interests, and that is oil?

That is my hypothetical. I don't want to put you on the spot of having to answer a hypothetical, but I am just thinking out loud, Secretary Hill—and I am just a layman—I am trying to figure out of this whole mess, where we are at.

Like I said, Mr. Chairman, I sincerely hope in the coming weeks we would hold an oversight hearing about West Papua New Guinea. The largest gold mine operation in that colony, in the world, is in West Papua New Guinea. The atrocities committed; right now the Government of Indonesia prohibits any journalists or media people going to West Papua New Guinea.

You talk about atrocities of the same situation, it is a blueprint of whatever is happening in Burma; that is exactly what is happening in West Papua New Guinea.

I am very disappointed that our policy toward Indonesia is very strategic and getting rid of terrorism is more important than human rights and all the problems of the last 40 years which our country and other countries of the world have never paid attention, and Burma is in that same situation. I just want to end it at that, Mr. Chairman.

I know I have taken my time. Thank you.

Mr. SMITH OF NEW JERSEY. Thank you very much. Chairman Chabot.

Mr. CHABOT. Following up on Mr. Faleomavaega's sanctions and what we can actually do, is there some way the United States could refine to make our existing sanctions more effective? And is there a plan to get more cooperation from the other countries in the region who are trading with them, to put more pressure on the government?

Ambassador HILL. First of all, I think we need to constantly look at these sanctions to make sure they are effective, because the purpose of this—as I laid out, there are several purposes—but one of the key purposes is to make them effective.

Mr. CHABOT. Could you tell us what those sanctions actually are; what we are trading or what we are not?

Ambassador HILL. First of all, we don't trade with Burma. We don't accept Burmese imports nor do we trade with Burma.

Mr. CHABOT. Not to interrupt you, but how extensive was our trade prior to this repressive regime?

Ambassador HILL. I will have to take that question, but it was not extensive. This goes back to the earlier discussion about multilateral versus bilateral. We need to get more multilateral participation. I mean, we need to work more multilaterally. I would say, looking at those trade numbers, we are talking about a total trade in a country of some 55–60 million people, of \$5 billion, two-way trade. It is pretty small, pretty small trade, generally. So it is a country that is increasingly focused inward and a country that is therefore hard to reach through such things as trade sanctions.

I think we need to look at other sanctions that we can do. We have, in addition to the import ban, we have a ban on export of financial services. We have a ban on new exports—I am sorry, new investments. We have an asset freeze. We have an arms embargo. We have a visa ban for select officers. So we have done a number of things. I think the issue is, we need to work carefully with our partners to see what more we can get from them.

But we have had an issue of trying to, I think, first of all, establish our level of effort with our partners, explain this is an important issue, and try to engage them—and when I say our partners, I am talking about ASEAN countries, China, India, I mean all of

these countries view Burma not just as a human rights issue but as a strategic issue for them as well. So we need to engage all of them and see what we can do, but with the understanding that often countries do not like to pursue the sanctions policies.

Mr. CHABOT. I have a particular interest in doing everything we can to attack the narcotics trade nationwide. I was just in Afghanistan and Colombia in the last couple of months. Could you inform us a little more about the nature of the narcotics that is involved here? Is it—I assume it is principally opium, poppy, heroin?

Ambassador HILL. That is certainly my understanding, that it is opium and heroin, but I will have to take that question and get back to you.

Mr. CHABOT. All right.

Ambassador HILL. We have people who know a lot more about that.

Mr. CHABOT. I would also be interested as to the extent which this is making it into the United States, or is it more of a regional problem there?

Ambassador HILL. Let me get you more on that.

Mr. CHABOT. I appreciate that. Thank you. Finally, it is my understanding that there have been ongoing reports that Burma's military regime has had interest in developing nuclear power and, potentially, weaponry.

It is my understanding also that there is some evidence that Burma has exported uranium to North Korea, and I don't know if in this particular forum you can discuss that. But, if so, I would be happy to hear your answer. If not, if we need to do that in a closed session, we can do that.

Ambassador HILL. Again, we have certainly seen those reports, but we would have to—I don't think I can go into further details in this forum on that.

Mr. CHABOT. Let me ask one final question, if I could, Mr. Chairman. Could you give us—what information do we have relative to the current conditions under which Aung San Suu Kyi is being held? How recent—do we have anything that is credible about her conditions?

Mr. LOWENKRON. The reports we have is that she is incommunicado with two assistants. They themselves are incommunicado. We have tried to reach her, we have been barred from reaching her. The Embassy is also requesting the chance to see her, as are other Embassies. We are told that she is in decent health, but clearly she is completely cut off from the world.

Mr. CHABOT. Thank you very much. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Thank you. Let me just ask one final question. On February 15, I will be chairing a hearing on the issue of United States corporate complicity with Beijing and other repressive countries. But particular focus will be on the People's Republic of China as it relates to Google, for example, secreting out information and actually sending individuals, when they type into the Google search "torture" for example, they are taken to an area that is really the *People's Daily* rather than any open information. So Google.com is a lot different than Google.cn, which is the Chinese search engine—or Yahoo, who we believe will be here to tes-

tify, where they have actually partnered with the secret police in tracking down individuals who have sent e-mails.

In the case of Xio Tel, he actually got 10 years for simply passing on information that he had gotten from the propaganda folks in Beijing about how not to celebrate or remember the atrocities committed in Tiananmen Square, and he worked for a trade journal. For passing that on, he got 10 years in prison and he is one of many cyber dissidents.

My question is, because the dictatorship in Beijing is partnering with United States corporations to push people into Web sites, and news and images on those Web sites continually tell what the propagandists want them to hear—in the case of the police they are actually working hand-in-glove with them—what safeguards exist to prevent Beijing from passing through to Rangoon sensitive innovative technologies and thus evading United States sanctions vis-a-vis Burma?

Have we heard of any of this? Is this being looked at? It seems to me there are people, obviously, in Burma who are using the Internet, and to think that there might be, you know, a dragnet put out there, courtesy of United States technology, and sensitive technology at that, that could result in their incarceration and their torture would be horrific.

Can they evade those sanctions that Beijing passes through?

Mr. LOWENKRON. Let me just say in the context of Burma, it is clearly—and I appreciate your concern—that it is something that we will look at. The fact of the matter, the Internet usage in Burma is so poor as compared to everywhere else, right now the regime, the main challenge of the regime is to try to get people to at least communicate openly with each other, in any type of form, anywhere in the country, because it is such a repressive regime. But we will look in terms of the context of how the Burmese will try to use the Internet as well, to use that as a tool, to clamp down even further.

Mr. SMITH OF NEW JERSEY. In addition, how might the Chinese be able to, particularly the secret police, share this capability that they are getting courtesy of the United States corporations with their friends and allies in Rangoon?

Ambassador HILL. I would just like to say, Burma has a per capita income of some \$225 a year. It is one of the poorest countries in the world. It is also a country that has, perhaps, the least Internet access in the world.

As we understand, there is only one Internet service provider in Burma, which is, of course, controlled by the government, so it is an extremely limited number of people who would have access.

Mr. SMITH OF NEW JERSEY. But again as a tool of repression, especially as it relates to academics and people who might have the wherewithal and capability, it seems to me that sharing that sensitive surveillance capability could be catastrophic and make a bad situation even worse.

Mr. Faleomavaega.

Mr. FALEOMAVAEGA. Yes, sir. Thank you, Mr. Chairman.

I just want to have one additional question, and I wanted to ask Secretary Hill. Our current policy is that we are the only country that has placed sanctions against Burma. And yet we find our-

selves—5, 6, maybe even 10 other countries currently trade with Burma, which makes our sanctions totally worthless, meaningless, without any effect, if this military regime continues to operate at a \$5 billion budget, quite well have been able to buy guns and bullets and whatever it is to take control of some 60 million people living in that country. I, for a better word in describing our policy toward Burma, Mr. Chairman, I think we are wearing dentures.

I want to ask if the Administration has any proposed policy or suggestions or recommendations to the Congress that we could give you more teeth in some way, by way of policy, to really make it effective and not just simply—and, please understand, Secretary Hill, this is not just the Republican Administration, even including Democratic Administrations.

I think, after talking about the crisis and the problems in Burma with the atrocities and human rights violations that have been going on for years and years, I want to ask you, what can we do here on the part of the Congress to give the Administration more teeth in seriously addressing the very serious problems we are faced with as far as Burma specifically?

For now, I am going to defer my concerns about West Papua New Guinea; but Burma specifically, what can we do in Congress to help the Administration to make this not just talking and talking and talking and talking; you know, we have a native Hawaiian word, we say, “wah,” which means just a bunch of hot air. And I really think the good people of Burma are really, really anxious and want to—let us really make this a serious effort.

Mr. Chairman, I cannot thank you enough for your leadership in really bringing this to the forefront of the public understanding and sensitivity of the serious problems we have. This is just one country, Burma. And I would like to ask, Secretary Hill, do you need any tools from the Congress to make your job more effective when dealing with this one country? That is all I am asking.

Ambassador HILL. Thank you very much. First of all, we want to work very closely with you on Burma, and we really value your interest in this, because, frankly, it helps us when we go to the other countries and explain that this is an issue. It is not just coming out of the Executive, it is also coming out of our Congress. First of all, just your interest is very important to us.

Secondly, we would like you to renew those sanctions. I am optimistic that will happen, but we need that.

Thirdly, I think when you take trips—and I know you have had the opportunity to go and see these countries—let them know what you think of the situation, because as a Foreign Service officer, it is always helpful to me when Congressmen come out and make it clear to our partners that we have a substantial level of effort on this. So I appreciate all those things.

This is a tough issue. I mean, as you suggest too, Mr. Congressman, this is an issue that has been around for awhile. The reason it has been around for a while is it is a tough issue. We have a regime that isn't particularly interested in trading with us; \$5 billion total trade, imports and exports, \$5 billion is minuscule. So we are looking at a regime that is not so interested in opening up to the world, and that is part of our problem.

So it is a tough issue, but we do need more multilateralism.

Mr. FALEOMAVAEGA. Just enough to buy bullets and guns to continue their rule, that is my problem. You can do a lot with \$5 billion, that is my concern.

Thank you very much Secretary Hill and Secretary Lowenkron.

Mr. LOWENKRON. Congressman, if I could just add one thing to Assistant Secretary Hill's response. I share your frustration; it is very, very hard to read any account of what happens in Burma without being moved by the suffering of the Burmese people, year in year out. You asked about the value of sanctions, and that is a valid question, because we wish we could have those sanctions have a greater impact.

But I would ask you, there is one way in which the sanctions really do have an impact. They keep those voices alive in Burma. Aung San Suu Kyi and those in prison and those who would deny that legitimate, democratic right in 1990, they know that the United States stands behind them. They reject the false argument that sanctions really hurt the Burmese people. What hurts the Burmese people is this reprehensible, despicable regime. They know that the United States cares and that the United States will continue to press for reform. That is a value of those sanctions as well.

Mr. FALEOMAVAEGA. Thank you, Mr. Secretary. Thank you, Mr. Chairman.

Mr. SMITH OF NEW JERSEY. Thank you. I want to thank Mr. Faleomavaega for his kind remarks but also for his faithfulness to the people of West Papua New Guinea.

Mr. FALEOMAVAEGA. I am not through with that.

Mr. SMITH OF NEW JERSEY. I know you are not. I am glad you are not. I want to keep those issues centerfold.

I want to thank our distinguished two witnesses for your excellent work on behalf of human rights and democracy and look forward to working with you as we go forward. Thank you very much.

I would like to ask our second panel if they would make their way to the witness table, beginning with Ko Bo Kyi, a student leader at Rangoon University in Burma, where he helped to organize nationwide demonstrations aimed at establishing democracy in the country. He was arrested and sentenced to prison twice in Burma after refusing to serve as an informer for the ruling military regime. In prison, he suffered severe torture at the hands of the ruling military regime. In 1999 he fled from Burma, and in 2000 he established the Assistance Association for Political Prisoners in Burma, which works to provide information to the international community about torture and political prisoners in Burma.

Then we will hear from Naw Win Yee, who is a leading member of the Shan Women's Action Network (SWAN), an organization comprised of refugee women living in Thailand that works for human rights, freedom, and democracy in Burma and also works to elevate the roles of women in Burmese politics and society. SWAN produced a groundbreaking report on the military regime's use of rape as a weapon of war in Burma that was subsequently corroborated by the U.S. State Department.

We will then hear from Tom Malinowski, who is no stranger to this Committee. He has been a great defender of human rights and has been for many years. He is the Washington Advocacy Director

for Human Rights Watch since April 2001. Prior to joining Human Rights Watch he served as Special Assistant to President Bill Clinton, and Senior Director for Foreign Policy Speechwriting at the National Security Council. He also served as a speechwriter for Secretaries of State Christopher and Albright, and a member of the State Department Policy Planning Staff.

Finally we will hear from Ms. Anastasia Brown, who is the Director of Refugee Programs, Migration and Refugee Services for the United States Conference of Catholic Bishops. Her responsibilities include supervision of all services to refugees, victims of trafficking and unaccompanied alien minors, resettled through the Catholic network in the United States. Ms. Brown serves as the NGO co-chair of two joint U.S. Government/Refugee Council USA working groups, the East Asia Pacific Regional Workgroup and the Misrepresentation/Fraud Workgroup.

I would like to begin with Mr. Kyi. If you could proceed.

**STATEMENT OF MR. KO BO KYI, SECRETARY, ASSISTANCE  
ASSOCIATION FOR POLITICAL PRISONERS (BURMA)**

Mr. KYI. Chairman Smith, Ranking Members, and Members of Congress, thank you very much for giving me the opportunity to speak on the situation of human rights in Burma. I would like to take this opportunity to say that we all appreciate the United States Congress and the Administration for giving us hope and encouragement in our long struggle, and also want to thank Ambassador Christopher Hill and Assistant Secretary Lowenkron for their commitments to addressing human rights in Burma and around the world.

I also want to thank Congressman Tom Lantos for his leadership to pass the Burmese Freedom and Democracy Act. I am not here to gain sympathy for my suffering as a victim of torture. Rather, I am here to talk about facts. Also to talk about the courage and bravery of my people who continue to strengthen our struggle for change. To save the time for questions, I will not read the whole testimony. Instead, I will summarize it.

Last December, we published a report, entitled "The Darkness We See," detailing the physical and psychological effect of torture. However, since Secretary Lowenkron and Chris Hill have already talked about human rights abuses a lot, I would like to talk a bit about my personal experience, about the reason why I was arrested and the way I was treated at the interrogation and prison. I have been in prison for over 7 years of treatments.

I was arrested while I was having lunch with my family. I was brought to the military intelligence center. I was handcuffed and blindfolded. After that I was brought to the court. In court, a so-called judge remanded me to detention, but I didn't understand, and I don't think the judge, too, understood what he was doing. It took only just 5 minutes.

I was taken away in a car. Military intelligence personnel shoved their guns into my ribs and ordered me not to shout. I was ordered to lie down in the car, so the public could not see me. After an hour drive, I heard the car engine stop, and the military intelligence ordered me to jump down. I had no idea where I was since I was blindfolded.

After 10 minutes of walking, I was told to stop. I heard someone open the door. There was no need for me to walk, because someone kicked me in the back. When my forehead slammed against the wall, I collapsed. I heard them lock the door, but I couldn't stand up. I could only see stars in my eyes, and I tried to stay quiet and recover from my head injury.

One half hour later, when I didn't hear anything, I removed my hood and saw that I was in an 8-by-8-foot room. There were a table and two chairs. There was a bed and a light. When I laid down on the bed, many bugs bit me. I understand that they intentionally placed the bugs on the bed.

All day they didn't provide food and water. I grew hungry and asked for food and water. He said it was midnight and too late. I asked for water. He said that he had no authority to give it.

One intelligence officer interrogated me while I was blindfolded, asking whether I had contact with the opposition groups on the Thai-Burma border line. I replied that I had no contact. As soon as I answered, his fist slammed into my belly, and I was knocked down.

I could not count for how many hours this went on. Eventually, I could not stand up anymore, even as they screamed me to rise. I said I needed a doctor. My legs were swollen, and I was in serious pain. They told me that if I wanted to rest, I had to tell the truth. I told him that I wanted to tell the truth, but first I wanted to use a toilet. The interrogator allowed me to use a toilet. Because I had not had any water, I leaned over and drank water from the toilet.

The other officer said if I told him what I had done, I could be released tomorrow. If I agreed to work with him, my family could be rich. I said, I will tell you the truth, but not for these reasons.

I wrote down what I had done on some paper he gave me. I explained truthfully that I was one of the executive committee members of Burma's National Student Union. I helped lead a peaceful demonstration near Rangoon Arts and Sciences University. During the demonstration, we demanded the release of all students who were in prison and the legalization of our student union. That is all that I did.

One of the officers entered again and asked if I had finished writing. I said yes. After reading it, he was angry and beat me again. Then I was ordered to stand up again. I didn't know how many days I had been there. They told me that I would be in prison for several years. Before I was taken to the court, I had already been in prison for 3 years.

I was locked up there for 9 days. I was not allowed to take a shower. I was transferred from the intelligence center to the prison. I was locked in solitary confinement. I had no contact with anyone, including my family. One week after I had been transported to prison, my name was called and I was brought to the prison gate. They told me that my case was to be heard by a martial court, which consisted of military officers.

One military officer asked me whether I broke the law or not. I replied, "Absolutely not." He replied, "Three years in prison with hard labor." I asked the intelligence officers to inform my family, but they did not. Three months later I was transferred to Mandalay prison, far away from my family. I was not beaten physically,

but I faced starvation because my family could not visit me regularly and provide enough food and medicine. I slept on a thin mat of concrete. The prison authorities did not allow us to use mosquito nets. Therefore everybody slept badly because of the mosquitos.

As a result of my treatment, I began to suffer from hypertension, heart disease and back pain, which has lasted to this day. I was released from prison on January 21, 1993, my 28th birthday. It is very remarkable, I didn't have lunch for that day on my 28th birthday.

When I was released from prison, I tried to reenter the university because I had been a final-year student at the Rangoon Arts and Science University before I was arrested. But I was told not to attend the classes. But I took my exams and passed. After I passed, the military intelligence threatened my life. I was not allowed to have a normal job in a firm or company because of my involvement in politics and human rights activities, and I could work as a private tutor.

After this, the military intelligence asked me to become an informer for them. I said that I would do for the sake of the people under two conditions. The first was the release of all political prisoners. The second was for the regime to enter into a political dialogue with Aung San Suu Kyi and the NLD. I agreed to work with the army if these two points were ensured. They denied my request and I refused to comply with the junta's request.

For denying the regime, I was arrested again. This time they had no mercy whatsoever. I was beaten mercilessly two times until I passed out. I was held for a year without trial and sent to Insein Prison. On July 6, 1996, I was hooded and handcuffed in my Insein Prison cell and taken to the court inside the prison compound. I was interrogated throughout the day and accused of planning a commemoration of a famous day in Burmese history. During the interrogation, I was forced to lie on my stomach on the ground while interrogators stepped on me and whipped me with a rubber cord, about one inch in diameter. After being hit 150 times, I lost consciousness.

When I woke up, I was taken in chains to the solitary confinement cell. I was then forced to assume various ponsan positions for 1 hour at a time, twice a day. For 12 days I had to perform the same ponsan routine, but remaining in chains around my waist which were attached to an iron bar between my legs.

I had sores, bruises on my ankles, forehead, elbows and knees. During the time, I was also made to "hop like a frog" while chained.

I was transferred to Tharawaddy Prison in middle Burma, 200 miles from my home in Rangoon, in November 1997 where I remained until my release.

After being released a second time, I worked as a private tutor again. I tried to do something to bring about real changes and to restore democracy and human rights. During this time, however, I was under military surveillance. They eventually came to my home. Luckily, I was not there at the time, but many of my friends were arrested. I hid in Burma for a short time, and eventually fled to the Burma/Thailand border, where I am now in exile.

I have included information about other political prisoners in my written testimony, but I do want to mention one of them right now. Her picture is right here, Su Su Nway. She reported on the regime's forced labor to the International Labor Organization's office in Rangoon. She is 34 years old and she is a member of the National League for Democracy. She subsequently sued local authorities from Htan-Manaing and Mya-Sanni villages for forced labor practices. In a rare court decision, she won her case. The local authorities responsible for coercing villagers into forced labor were given prison sentences. However, military authorities put her under constant surveillance and harassment since then. The authorities subsequently countersued her on the false allegation of besmearing their reputation. Now she was given 1½ years imprisonment and taken to Insein Prison.

Now I would like to make a couple of recommendations for the United States and world community. First, the world should press ahead to cause resolution on Burma at the United Nations Security Council. We thank Bishop Tutu and former President Vaclav Havel for giving us so much support in this effort. We also thank President Bush and Members of Congress of both Parties for making Burma a diplomatic priority.

Second, we requested Congress to maintain the Burmese Freedom and Democracy Act. This is very effective and has made a major difference. Because of strong resolve, ASEAN is now diverting from its traditions and beginning to pressure the regime to expedite political change in Burma.

Finally, we ask you to work with China on a reasonable solution to Burma's problem. China has significant influence over Than Shwe's military regime. It is important to understand that Burma's democracy movement doesn't seek to undermine or offend China. We want China to be a reasonable and responsible neighbor, and we believe there is much we can learn from each other. We would like the United States to speak to China about the situation in our country.

Thank you again, Mr. Chairman, and Ranking Members. We thank the United States for supporting our efforts. We are working hard and will find national reconciliation and true stability in Burma soon. Changing Burma is not Mission Impossible, and it can happen soon.

[The prepared statement of Mr. Kyi follows:]

PREPARED STATEMENT OF MR. KO BO KYI, SECRETARY, ASSISTANCE ASSOCIATION FOR POLITICAL PRISONERS (BURMA)

Mr. Chairmen, Ranking Member, and Members of Congress,

Thank you very much for giving me the opportunity to speak on the situation of human rights in Burma. I would like to take this opportunity to say that we all appreciate the United States Congress and Administration for giving us hope and encouragement in our long struggle. I also want to thank Ambassador Christopher Hill and Assistant Secretary Barry Lowenkron for their commitment to addressing human rights in Burma and around the world.

My name is Bo Kyi. I am the Joint-Secretary of the Assistance Association for Political Prisoners (Burma), an organization based on the Thailand-Burma border. The AAPP was formed in 1999 by former political prisoners who fled from Burma to avoid re-imprisonment. Like other members of AAPP, I served time in prison for my political beliefs. Altogether I completed two consecutive sentences and spent over seven years behind bars. My mission now, and the greater mission of the AAPP as

an organization, is to document the suffering of democracy activists in the gulags of the military regime and to expose these abuses to the civilized world.

I am not here to gain sympathy for my sufferings as a victim of Burma's military junta; rather I am here to talk about facts, and also to talk about the courage and bravery of my people, who continue to strengthen our struggle for freedom and democracy.

#### *Human Rights in Burma Today*

One month ago, the Washington Post published a major article on torture in Burma. This article was quite accurate, and described how political prisoners are treated in Burma. At present, there are over 1,100 political prisoners in Burma, including 12 elected members of parliament. The world's only imprisoned Nobel Peace Prize recipient, Aung San Suu Kyi, is also in detention. All these prisoners have been arrested for working for freedom and democracy. At least 80 political prisoners have died in prisons and interrogation centers due to torture and denial of medical treatment. Most of those arrested and detained have been subjected to torture.

To put it simply, the easiest way to become a political prisoner in Burma is to try to exercise your basic human rights, or advocate for the basic rights of others. All basic rights, including freedom of speech, freedom of press, freedom of association, freedom of worship, and freedom of movement are denied or severely limited by the military regime.

Last December, we published a report, entitled "The Darkness We See", detailing the torture inflicted on political prisoners in Burma and also showing the physical and psychological effects of torture.

We conducted interviews with thirty-five former political prisoners who have been tortured physically and psychologically in some of the country's forty-three prisons.

We have concluded that it is clear that torture is the state policy of the military junta. Torture is used by the military regime to try and break the will of political activists and create an overwhelming climate of fear. We have asked the international community to help us in our efforts to abolish torture and lift this climate of fear in Burma.

Overall, the human rights situation in Burma today is still quite bad and will never improve under the hands of Than Shwe. Hundreds of thousands of ethnic nationalities live as internally displaced persons in the jungles and mountains. More than two million people live in neighboring countries as refugees. Forcible recruitment of children into the Burmese military continues, and Burma has more child soldiers than any other country in the world. Modern forms of slave labor, as well as forced relocations, have become a common practice of Than Shwe's regime not only in rural areas, but also in the capital city of Rangoon and other major cities. The Burmese military continues to use rape as a weapon of war in ethnic minority areas. Burma is still the second largest producer of heroin. According to Parade Magazine, Than Shwe is the third worst dictator in the world, after Kim Jong Il of North Korea and Robert Mugabe of Zimbabwe.

As someone who has struggled for democracy under Than Shwe's military regime, I can tell you that the unbelievable suffering you hear about in the news and read in the papers is true life in Burma.

#### *My Story*

I was arrested while I was having lunch with family. I was brought to a military intelligence center. I was handcuffed and blindfolded. After that I was brought to the court. In court, a so-called judge remanded me to detention but I didn't understand and I don't think even the judge understood what he was doing. It took only 5 minutes.

I was taken away in a car. Military intelligence personnel shoved their guns into my ribs and ordered me not to shout. I was ordered to lie down in the car so the public couldn't see me. After an hour drive, I heard the car engine stop and the military intelligence ordered me to jump down. I had no idea where I was since I was blindfolded.

After ten minutes of walking, I was told to stop. I heard someone open a door. There was no need for me to walk because someone kicked me in the back. When my forehead slammed against the wall, I collapsed. I heard them lock the door, but I could not stand up and I could only see stars in my eyes. I tried to stay quiet and recover from my head injury.

One half hour later, when I didn't hear anything, I removed my hood and saw that I was in an 8 by 8 foot room. There were a table and two chairs. There was a bed and a light. When I lied down on bed, many bugs bit me. I understood that they intentionally placed the bugs on the bed.

I sat down near by the bed and thought about what information they wanted to get from me.

“Blindfold!” someone ordered from the outside and I put it back on. He asked my name and said that he had heard my name many times but he had never seen me in person. He said that before he saw me, he thought I would be very big and strong. However when he saw me in person, I was thinner than a stick he’d used to beat a dog. They didn’t ask any questions but many other intelligence personnel came to me and said the same.

All day, they didn’t provide food and water. I grew hungry and asked for food and water. He said it was midnight and too late. I asked for water. He said that he had no authority to give it.

When I looked on the walls, I saw spattered blood and many names including my friends. I asked myself where were they now, tortured, dead, or in prison? I began to grow worried and realized that the torture had already started: denial of food and water, blindfolding, and solitary confinement.

One intelligence officer interrogated me while I was blindfolded, asking whether I had contact with opposition groups along the Thai-Burma border. I replied that I had no contact. As soon as I answered, his fist slammed into my belly and I was knocked down.

I could not count for how many hours this went on. Eventually I could not stand up anymore, even as they screamed at me to rise. I said I needed a doctor. My legs were swollen and I was in serious pain.

They told me that if I wanted to rest, I had to tell the truth. I told him that I would tell the truth but first I wanted to use the toilet. The interrogator allowed using toilet, and because I had not had any water I leaned over and drank from the toilet.

The MI officer said that if I told him what I had done, I could be released tomorrow, and if I agreed to work with him my family could be rich. I said I would tell the truth, but not for these reasons.

I wrote down what I had done on some paper he gave me. I explained truthfully, that I was one of the executive committee members of Burma’s national student union. I helped lead a peaceful demonstration near Rangoon Arts and Sciences University. During the demonstration, we demanded the release of all students who were in prison and the legalization of our student union.

When the MI officers entered again they asked if I had finished my writing. I said, yes. After reading it, he was angry and beat me again. Then I was ordered to stand up again. I didn’t know how many days I had been there. They told me that I would be in prison for several years.

I was locked up there for 9 days. I was not allowed to take a shower. Once I was transferred from the military intelligence center to the prison, I was locked in solitary confinement. I had no contact with anyone, including my family.

One week after I had been transferred to prison, my name was called and I was brought to the prison gate. They told me that my case was to be heard by a martial court, which consisted of military officers. One military officer asked me whether I broke the law or not. I replied, “Absolutely not.” Then he said I was sentenced to 3 years imprisonment with hard labour.

I asked the intelligence officer to inform my family, but they did not. Three months later I was transferred to Mandalay prison, which was far away from my family. I was not beaten physically but I faced starvation because my family could not visit me regularly and provide enough food and medicine. I slept on a thin mat of concrete. The prison authorities didn’t allow us to use mosquito nets. Therefore everyone slept badly because of the mosquitoes.

There was only one hospital in the overcrowded prison. The hospital provides no medicine except some kinds of temporary anesthetics and antiseptics, plus Paracetamol and Aspirin. The doctor neither examines patients nor prescribes medicine for them; these tasks are carried out by prisoners who committed real crimes. The prison hospital was always dirty and the sanitation was incredibly poor.

As a result of my treatment, I began to suffer from hypertension, heart disease and back pain, which has lasted to this day. I was released from prison on January 21, 1993.

When I was released from prison, I tried to re-enter the university because I had been a final-year student at the Rangoon Arts and Science University before I was arrested. I was told not to attend classes, but I took my exams anyway. After I passed, the military intelligence threatened my life. I was not allowed to have a normal job in a firm or company because of my involvement in politics and human rights activities. I could only work as a private tutor.

After this, the military asked me to become an informer. I said that I would for the sake of the people, under two conditions: the first was the release of all political

prisoners. The second was for the regime to enter into a political dialogue with Aung San Suu Kyi and the NLD. I agreed to work with the army if these two points were ensured. They denied my request, and I refused to comply with the junta's request.

For denying the regime, I was arrested again. This time they had no mercy whatsoever. I was beaten mercilessly two times until I passed out. I was held for a year without trial, and sent to Insein prison. On 6 July 1996 I was hooded and handcuffed in my Insein Prison cell and taken to the court inside the prison compound. I was interrogated throughout the day and accused of planning a commemoration of a famous day in Burmese history. During the interrogation I was forced to lie on my stomach on the ground while interrogators stepped on me and whipped me with a rubber cord about one inch in diameter. While beating me, when I didn't scream they told me that I was stubborn, and when they beat me harder I screamed and they told me I was the scourge of our country.

After being hit 150 times, I lost consciousness. When I woke up, I was taken in chains to a solitary confinement cell. I was then forced to assume various *ponsan* positions for one hour at a time, twice a day. For 12 days I had to perform the same *ponsan* routine, while remaining in chains which encircled my waist and which were attached to an iron bar between my legs. I had sores and bruises on my ankles, forehead, elbows, and knees. During that time I was also made to "hop like a frog" while in chains.

I was transferred to Tharawaddy Prison in November 1997 where I remained until my release. After my possessions were confiscated I was held in solitary confinement from November 1997 until May 1998. I was released in October 1998 on completion of my sentence but remained under intense surveillance until I fled the country in September 1999. As a result of brutal treatment both interrogation and prisons I am unable to undertake physical work and can not sit or stand for prolonged periods.

After being released a second time, I worked as a private tutor again. I tried to do something to bring about real change and to restore democracy and human rights. During this time however, I was under suspicion of the government and was also under military surveillance. They eventually came to my home. Luckily I was not there at that time, but many of my friends were arrested. I hid in Burma for a short time, and eventually fled to the Burma/Thailand border, where I am now in exile. Even though I live on the Burma/Thailand border, I was not granted asylum from Thailand because they have not yet ratified the U.N. refugee charter. So, I have no choice but to live as an exile.

#### *Other Political Prisoners*

**Kalay Prison**—I am not the only person to have suffered inside prison in Burma. Just two weeks ago on January 24th some prisoners in Kalay prison in North-western Burma tried to make a request for more food and water to the prison authorities. Instead of responding positively, prison authorities responded by beating these prisoners as brutally as possible. About 80 prisoners were beaten by the jailors and two prisoners died instantly. Many of them were seriously injured and put in the solitary confinement as the punishment. One political prisoner Nyunt Aung was seriously injured in this brutal attack and so far no medication has been made available for him. The situation for the other six political prisoners, which include a leader of a political party (Sai Nyunt Lwin) and an elected member of parliament from Aung San Suu Kyi's political party (Sai Nyunt Lwin) is still unknown. The International Committee of the Red Cross has been denied access to the prison—a clear violation of ICRC policy.

Just three weeks before that, another political prisoner, Khin Maung Lwin (38 years old) passed away on January 11, 2006 at Putao prison in Kachin State, Northern part of Burma. He was arrested in 1998, after he sent an open letter to the State Sangha Maha Nayaka, the highest body of Senior Buddhist Monks, to help the people of Burma to be free. A summary court sentenced him to ten years imprisonment with hard labor and transferred him to Putao prison in Kachin State, 900 miles away from Rangoon. Due to physical and psychological torture in interrogation center and prison, his health situation seriously deteriorated. Purposeful denial of medical treatment by the military regime caused his death.

**Aung Myint Thein**—In another recent case, Aung Myint Thein was a human rights activist and lived in Rangoon. He collected information on the human rights situation in Burma and reported it to international organizations including the International Labor Organization, a United Nations Agency. He did so at great risk to his personal safety, and with the knowledge that his actions could lead to his arrest. On August 28, 2005, the authorities held a press conference in which they announced that ten people had been arrested, including Aung Myint Thein. It is likely

that he was tortured and he died in prison after purposeful denial of health care by the military regime.

**Aung Hlaing Win**—In yet another case, Aung Hlaing Win, a 30 year-old member of National League for Democracy, was dragged from a restaurant in the capitol city of Rangoon on May 1st of 2005 by four plain-clothes intelligence officers. Ten days later, his family was informed by Lieutenant Colonel Min Hlaing, the commander of No.1 Military Intelligence Unit, that Aung Hlaing Win had died in custody after suffering a heart attack and that his body had already been cremated. The Lt. Col. offered Aung Hlaing Win's family \$100 to pay for a memorial service, but the family refused the money.

Aung Hlaing Win's wife could not understand why her young and healthy husband suddenly had a heart attack. She also didn't understand why his body was cremated without her consent. She also didn't understand why her husband was arrested in the first place without a warrant, so she filed a case in court. In an extremely rare move that we believe was an accident, the township judge permitted a doctor who had examined Aung Hlaing Win's body in the hospital, to testify in a pre-trial hearing and doctor testified that his death was the result of extensive and severe injuries inflicted upon his body. However, court officials, who serve only to do the bidding of the ruling military junta, called the death "natural" and dismissed the case.

**Su Su Nway**—In another case, Su Su Nway, a 34 year-old NLD member, at great risk to her own life, reported on the regime's forced labor practices to the International Labor Organization's office in Rangoon. She subsequently sued local authorities from Htan-Manaing and Mya-Sanni villages for forced labor practices. In a rare court decision, Su Su Nway won her case and the local authorities responsible for coercing villagers into forced labor were given prison sentences. However, military authorities put her under constant surveillance and harassment since then. The authorities subsequently counter-sued her on the false allegation of 'besmearing their reputation.' She was sentenced and taken to Insein prison. She has repeatedly, and elegantly, stated her willingness to go to prison for the truth, for the right of her fellow villagers to be free from the practice of forced labor.

All of these cases in which individual activists have been arrested, tortured, and imprisoned for their beliefs should not be seen as tragedies. Yes, they are sad. But we want to the world to see that we are struggling, we are fighting, and we are trying as hard as we can to bring change to our country.

#### *Policy Recommendations*

I would like to make a couple of recommendations for the United States and world community.

First, the world should press ahead to pass a resolution on Burma at the United Nations Security Council. Right now the military regime has been unable to divide and conquer international opinion, but a resolution would force them to the bargaining table. We thank Archbishop Tutu and President Vaclav Havel for giving us so much support in this effort. We also thank President Bush and members of the Congress from both parties for making Burma a diplomatic priority. We believe that because of the effective diplomacy of the United States and the regime's refusal to make any changes, even traditional allies of the regime are beginning to take a second look at Burma. This is very encouraging and we urge the United States to press forward with a full UN Security Council resolution in 2006.

Second, three years ago the United States Congress adopted the Burmese Freedom and Democracy Act almost unanimously. This is a very effective measure and has hurt the military regime and its cronies quite badly both in terms of finance and reputation. This is very encouraging for Burmese democracy activists and we feel that we are not alone. We request the Congress to maintain the Burmese Freedom and Democracy Act.

Because of strong resolve by the United States, ASEAN is now diverting from its traditions and beginning to pressure the regime to expedite political change in Burma. Some ASEAN members, including the Philippines, Malaysia, Indonesia and Singapore are showing their willingness to work together with the United States to promote freedom in Burma. We ask the Congress to encourage the U.S. Administration to continue its diplomatic efforts with these countries.

Finally, we ask you to work with China on a reasonable solution to Burma's problems. China has significant influence over Than Shwe's military regime. It is important to understand that Burma's democracy movement does not seek to undermine or offend China. We want China to be a reasonable and responsible neighbor and we believe there is much we can learn from each other. We would like the United States to speak to China about the situation in our country.

Thank you again Mr. Chairmen and Ranking Members. We thank the United States for supporting our efforts. We are working hard and will find national reconciliation and true stability in Burma soon. Changing Burma is not mission impossible, and it can happen soon.

Mr. SMITH OF NEW JERSEY. Mr. Kyi, thank you so much for not only your ongoing advocacy for those still left behind and still being so cruelly dealt with, but for telling us your story. It will help many of my colleagues, when they read this transcript and hear about it, that you took the time to tell us what you have gone through and the horrific tortures you have endured.

Your bravery and your clarity of testimony will compel us and will encourage us to do more. Thank you so much for taking the time to do that.

As you pointed out, this is a bipartisan effort, and we will work very hard with the Administration and hopefully with other countries. Thank you very much.

Mr. SMITH OF NEW JERSEY. Ms. Yee.

**STATEMENT OF MS. NAW WIN YEE, SHAN WOMEN'S ACTION NETWORK**

Ms. YEE. Thank you, Mr. Chairman and Ranking Members for giving me the opportunity to speak today about the situation of human rights in eastern Burma. I would also like to thank Ambassador Hill and Assistant Secretary Lowenkron for their comments on human rights in Burma and around the world.

Because of the time, I am not going to read my whole testimony, I am going to summarize. I am originally from the Shan State, located in northeastern Burma, and I am a member of the Shan Women's Action Network based in Thailand.

It is a horrible reality that for hundreds of thousands of people, human rights abuses are a daily part of life. Much of eastern Burma, where I grew up, is like hell on earth. Since the mid-1990s, the ruling military regime has launched an all-out effort to block any and all forms of resistance to their rule inside Burma and to consolidate their control over the country.

Eastern Burma, much of which is rural countryside and tropical jungle, is quite different from the urban areas around Mandalay and Rangoon. For hundreds of years, Shan, Karen, Karenni and other leaders ruled our territories and served as our local governments. Ethnic leaders, who previously were able to provide protection and safety to these populations, are today unable to do so. Instead, we live in fear.

In order to stop the resistance movements, the military regime has targeted civilian populations with a policy known as the "four cuts" campaign to cut off resistance movements from the population. In reality, it has meant carrying out widespread human rights abuses against innocent villagers by cutting food supplies, communications, money, and forcibly relocating civilian populations off their lands.

From 1996 until late 2004, over 2,500 villages were destroyed by the military regime in eastern Burma. You can see on the maps on the left. Sometimes the regime announced in advance that they were going to burn our villages. In other cases, they attacked by surprise. Most people who had to flee did not have the chance to

collect their belongings, and many left a lifetime of savings and capital behind. Those who had the most difficulties are our elders and children, who cannot move as quickly to escape attack.

Over 1 million people have fled their homes and become refugees, or, even worse, internally displaced persons. At least 700,000 refugees have fled the country. Some of these refugees are permitted in refugee camps. Neighboring countries such as Thailand do not allow all the Burmese fleeing the regime's violence into refugee camps, because they are fearful that it will encourage more refugees. But this is wrong. People are fleeing anyway, and they are only fleeing because they fear for their life. If they could safely stay in Burma, they would.

Worse than being a refugee is being an internally displaced person. Over half a million people live inside Burma as internally displaced persons. It is too dangerous for many of them to flee as a refugee, so they hide out in the jungle and grow secret crops to sustain themselves or forage for food. The military regime often hunts them down like animals.

Now the regime is planning to build a series of megadams on the Salween River in the ethnic areas where it has forcibly relocated these people. The regime will sell the power from the dams to Thailand, while the flood zones will permanently displace tens of thousands of people.

In a carefully designed campaign to further hurt and punish Burma's ethnic minorities, the military regime will not permit access for health workers to areas most in need and where populations are most vulnerable. The regime's refusal to allow free access to aid workers has caused humanitarian organizations to leave Burma, including the United Nations Global Fund for AIDS, Tuberculosis and Malaria. Last month, Doctors Without Borders announced it was leaving.

In addition to forcing people to flee their homes, Burma's military regime has carried out a policy of using rape as a weapon of war against Shan and other ethnic nationalities in my country. SWAN has interviewed and documented countless cases of rape by soldiers of the ruling military regime in Burma. In a report we wrote entitled "License to Rape," we found that among the rapes we documented, at least 83 percent were committed by officers, usually in front of their own troops, to further humiliate the victims. The rapes involved extreme brutality, including torture such as beatings and mutilations. Sixty-one percent of the rapes we documented were gang rapes by the soldiers, while in 25 percent of the cases the rape ended with the killing of the women.

I will give you an example. On a recent patrol last year, while his troops were hunting for rebels in local villages, a commanding officer raped a 14-year-old girl in front of her parents. He warned the villagers that if they supported the resistance, the punishment would be worse. Just a few days later, he went to another village and raped another 15-year-old girl.

All of these abuses—burning of villages, raping of women, kidnapping people for forced labor—clearly demonstrates that the Burmese military regime is one of the world's most brutal military regimes.

As a young girl I watched the soldiers from the ruling military regime seize our family lands and destroy our livelihood. Even though we had farmed this land for many years, the military simply took it from us so they could resell it for profit to drug traffickers and others who had cash.

They did not only take land from my family, but from thousands of families, as they handed over huge parcels of territory to their cronies in the narcotics business. They treat us like animals. Even though the regime cracks down on any political opposition, they allow drug warlords to operate.

In spite of the regime's claim about reduction of opium production in Burma, it has been grown all over the Shan State. The situation of human rights in Burma is clearly very bad. However, there is also room for some hope and optimism. That is because, despite the pressure from the military regime, the people of Burma have never given up hope for human rights, freedom, and democracy.

We used to believe that we were alone in the world. The Burmese Freedom and Democracy Act passed by this Congress proved that we are not. Strong support from the United States and European Union has also put pressure on the Association of Southeast Asian Nations to speak out more forcefully on Burma, whereas 4 years ago Southeast Asian countries strongly supported Burma's military regime. Now they are calling for human rights and democracy. Please support the Burmese Freedom and Democracy Act.

Second, I would like to ask the United States to work hard for a UN Security Council resolution on Burma. We desperately need the UN Security Council to pass a reasonable resolution for facilitating changes in Burma.

Thank you again for giving me the opportunity to share my story and the story of my people. We admire the values of the United States, and we know that one day soon our country will find a brighter future through national reconciliation and peace.

[The prepared statement of Ms. Yee follows:]

PREPARED STATEMENT OF MS. NAW WIN YEE, SHAN WOMEN'S ACTION NETWORK

Thank you Mr. Chairmen and Mr. Ranking Members for giving me the opportunity to speak today about the situation of human rights in eastern Burma. I would also like to thank Ambassador Christopher Hill and Assistant Secretary Barry Lowenkron for their commitments to human rights in Burma and around the world.

I am originally from the Shan State, located in northeastern Burma, and am a member of the Shan Women's Action Network (SWAN), based in Thailand. I am working to improve the lives of women inside Burma as well as the lives of those refugees who have been displaced by the violence and terror of Burma's military regime.

It is a horrible reality that for hundreds of thousands of people, human rights abuses are a daily part of life. Much of eastern Burma, where I grew up, is like hell on earth. Since the mid-1990s the ruling military regime has launched an all-out effort to block any and all forms of resistance to their rule inside Burma and to consolidate their control over the country.

Eastern Burma, much of which is rural countryside and tropical jungle, is quite different from the urban areas around Mandalay and Rangoon. Prior to the mid-1990s the military regime did not control these regions. Ethnic leaders and armies kept the regime at bay and away from the local population, providing protection and safety. For hundreds of years, Shan, Karen, Karenni, and other leaders ruled our territories and served as our local governments. Ethnic leaders who previously were able to provide protection and safety to these populations are, today, unable to do so. Instead, we live in fear.

Over the past decade, the military regime undertook vicious measures to decapitate ethnic resistance movements once and for all. They carried out major military attacks against civilian populations in order to gain total control. However, the regime had a difficult time making progress because many people support the resistance.

In order to stop the resistance movements, the military regime has targeted civilian populations with a policy known as the “four cuts” campaign. The intent of this campaign is to cut off resistance movements from the population. In reality, it has meant carrying out widespread human rights abuses against innocent villagers by cutting food supplies, communications, and money, and forcibly relocating civilian populations off their land.

From 1996 until late 2004, over 2,500 villages were destroyed by the military regime in eastern Burma. Sometimes the regime announced in advance that they were going to burn our villages, in other cases they attacked by surprise. Most people who had to flee did not have the chance to collect their belongings, and many left a lifetime of savings and capital behind. Those who have had the most difficulty are our elders and children, they can not move as quickly to escape attacks.

Over one million people have fled their homes and became refugees or, even worse, internally displaced persons. At least 700,000 refugees have fled the country. Some of these refugees are permitted in refugee camps. Neighboring countries such as Thailand do not allow all the Burmese fleeing the regime’s violence into refugee camps because they are fearful that it will encourage more refugees. But this is wrong—people are fleeing anyway and they are only fleeing because they fear for their lives. If they could safely stay in Burma, they would.

Worse than being a refugee is being an internally displaced person. Over 1/2 million people live inside Burma as internally displaced persons. It is too dangerous for many of them to flee as refugees, so they hide out in the jungle and grow secret crops to sustain themselves, or forage for food. The military regime often hunts them down like animals.

Now the regime is planning to build a series of mega-dams on the Salween River in the ethnic areas where it has forcibly relocated these peoples. The regime will sell the power from the dams to Thailand, while the flood-zones will permanently displace tens of thousands of people.

By destroying the local governance structures of our peoples, the military regime has also created a public health emergency in eastern Burma. Many people can not receive any medical care, contributing to high mortality rates from infectious diseases which can be prevented and treated, such as malaria and tuberculosis. According to the most recent report on internally displaced persons in eastern Burma, child mortality and nutrition rates are similar to those among IDPs in the Horn of Africa.

In a carefully crafted campaign to further cripple and punish Burma’s ethnic minorities, the military regime will not permit access for health workers to areas most in need and where populations are most vulnerable. In the jungles and mountains of eastern Burma, where malaria is devastating to the people, the military regime forbids or severely restricts humanitarian assistance. The regime’s refusal to allow free access to aid workers has caused humanitarian organizations to leave Burma, including the United Nations Global Fund for AIDs, Tuberculosis, and Malaria. Last month, Doctors Without Borders (France) announced it was leaving.

In addition to forcing people to flee their homes, Burma’s military regime has also carried out a policy of using rape as a weapon of war against Shan and other ethnic nationalities in my country. SWAN has interviewed and documented countless cases of rape by soldiers of the ruling military regime in Burma in a report we wrote entitled “Licensed to Rape”. We found that among the rapes we documented, at least 83% were committed by officers, usually in front of their own troops to further humiliate the victims. The rapes involved extreme brutality, including torture such as beatings and mutilation. 61% of the rapes we documented were gang-rapes by soldiers, while in 25% of the cases the rapes ended with the killing of the woman. Clearly, these military rapes are acts of vicious performance—they send clear messages to survivors of military rape, victims’ and survivors’ families, and whole communities. These are war crimes designed and used specifically to demoralize and terrorize our people.

I will give you an example: a twelve-year old girl was taking hay to feed cattle in a field near a relocated village. Soldiers of the military regime found her, and they raped her and shot her. Some local villagers heard the gunfire and came to see what was happening. When they saw the dead body, they asked permission from the soldiers to bury the girl, but the soldiers ordered them to leave the body exposed to send a message to those in the village who might support the ethnic resistance. In another case, two young students, aged 17 and 18, were ordered to go to the local

military base after they were overheard questioning the cruelty of military rule. As punishment, they were raped by officers of the base, who then demanded payment from the girls' parents for their release.

The truth is that all of these abuses—burning of villages, raping of women, kidnapping people for forced labor—clearly demonstrate that the Burmese military regime is one of the world's most brutal military regimes. Unfortunately, like many people from Burma, I have seen these human rights abuses firsthand. As a young girl, I watched as soldiers from the ruling military regime seized my family's land and destroyed our livelihood. Even though we had farmed this land for many years, the military simply took it from us so they could resell it for profit to drug traffickers who had cash.

They did not only take land from my family, but from thousands of families as they handed over huge swaths of territories to their cronies in the narcotics business. They also took livestock, tools, and anything else they wanted. The Burmese military junta and their soldiers do not treat their own citizens as human beings—they treat us like animals.

Now, the effect of years of human rights abuses and brutal attacks is resulting in the fundamental destruction of even the most basic access to food and medicine. A groundbreaking report by the Shan Relief and Development Association has documented the destruction of rice production in the Shan State. It points out how corruption, cronyism, and human rights abuses have resulted in a precipitous decline in the production of rice, Burma's most basic staple.

Due to extensive relocations of villagers, rice production in the mountains has decreased by 80%. Overall, rice production in the area studied in the report decreased by an astonishing 56%. Villagers and farmers are left hungry and in need. Burma should be an incredibly wealthy country. Fifty years ago, Burma was considered the "rice bowl" of Asia. Sadly, economic mismanagement by the military regime is condemning millions of people to constant hunger, chronic malnutrition, and starvation.

Even though the regime cracks down on any political opposition, they allow drug warlords to operate.

Drug abuse is rampant and more and more young people have become addicted to opiates and amphetamine-type stimulants. In spite of the regime's claims about reducing opium production in Burma, it is being grown all over Shan State.

The situation for human rights in Burma is clearly very bad. However, there is also room for some hope and optimism. That is because despite the pressure from the military regime, the people of Burma have never given up their hope for human rights, freedom, and democracy.

We strongly support the efforts of Aung San Suu Kyi and the National League for Democracy. No military regime can control a country forever, especially one that is hated by all the people. Aung San Suu Kyi is our nation's leader. Despite near assassination and spending years under arrest she remains the moral force that symbolizes my country's desire for national reconciliation.

I would like to thank the United States Congress for supporting the Burmese Freedom and Democracy Act. We used to believe that we were alone in the world—the Act proves that we are not. Strong support from the United States and European Union has also put pressure on the Association of Southeast Asian Nations to speak out more forcefully on Burma. Whereas four years ago Southeast Asian countries strongly supported Burma's military regime and defended its human rights abuses, now they are calling for human rights and democracy. Please support the Burmese Freedom and Democracy Act. It is an important tool in helping my country reach national reconciliation.

Second, I would like to ask the United States to work hard for a UN Security Council resolution on Burma. I have seen with my own eyes the devastating transnational effects of human rights abuses. Because of Burma's military regime, our country sends refugees, drugs, and HIV/AIDs to our neighboring countries. We desperately need the UN Security Council to pass a reasonable resolution facilitating change in Burma.

Thank you again for giving me the opportunity to share my story and the story of my people. We admire the values of the United States and we know that one day soon our country will find a brighter future through national reconciliation and peace.

Mr. SMITH OF NEW JERSEY. Ms. Yee, thank you for your passionate defense of the people of Burma, especially the women. We will make all of your testimonies available to the Members of the House, especially the International Relations Committee, because your passion and your deep concern certainly comes through. We

have not forgotten, and you have helped us not to forget. So thank you so very much.

Without objection, all of your full statements will be made a part of the record.

I would now like to turn to Tom. Thank you again for being here and for your great work.

**STATEMENT OF MR. TOM MALINOWSKI, WASHINGTON  
ADVOCACY DIRECTOR, HUMAN RIGHTS WATCH**

Mr. MALINOWSKI. Sure. Thank you very much, Mr. Chairman, and thank you for not forgetting about this and for so many issues that we care about. It is also an honor to share the podium with Bo Kyi and Naw Win Yee, who know what they are talking about better than us.

Two straightforward points. First of all, the situation in Burma is about as bleak as it has been in the sad history of this country. You summarized it perfectly well. We heard from our witnesses from Burma. I am not going to try to add to the picture that they have painted.

But there is a second point that others have alluded to that is more hopeful. That is, this is a moment of opportunity, I think, in Burma, in the international community, because there is greater recognition of these terrible facts, and greater recognition has led to greater pressure, particularly from Burma's neighbors. Greater pressure from the outside does matter a great deal. As Assistant Secretary Lowenkron pointed out, it is what has kept the opposition alive in Burma. It is what has kept hope alive in Burma these many years. I think it is going to continue to play a very important role, particularly at that inevitable moment when change does come. I think we are going to look back on all these things that we have done and see how they contributed to that, I think, inevitable change.

I think one of the interesting parts of some of the recent developments in Burma is that this recognition was brought out by this very bizarre development that a couple of people mentioned that we really haven't discussed: A move by the regime of the capital of Burma from Rangoon—which is by far the largest, most cosmopolitan city in the county, the center of culture, economic life, et cetera—basically to the jungle, to a fortified command and control center, as they put it, in an area outside of a small provincial town called Pyinmana. As others have mentioned, no running water, no infrastructure whatsoever.

Thousands of civil servants in Rangoon have basically been told almost overnight to pack their bags and move to this place. According to the ILO, to the press reports, at the site of this new capital, military has conscripted forced laborers, as you can imagine, to build government buildings from scratch, bunkers, escape tunnels dug into mountains alongside luxury mansions and golf courses for the leadership.

When the announcement was made, the information minister of the country gathered the press together and read out a statement that simply said, "If you need to communicate on urgent matters, you can send a fax to Pyinmana. We will send you new numbers in due course, and you will be informed of the date to begin start

communicating with us.” You can imagine how Burma’s neighbors felt about this. A lot can be said about this. It shows just how disconnected Burma’s leaders are from the country they rule.

They want to control Burma. At the same time, they, in a way, want no part of it. You know, they would rather burrow into a bunker in the mountain, with no contact whatsoever with the people of the country, with the culture or life of their nation. It shows how fearful these generals are of the people in whom they themselves instill so much fear.

It may have some implications, I think, for the stability of the regime down the road. We can only imagine how the many thousands of these mid-level, low-level, some high-level officials feel about being uprooted suddenly from their country’s relatively cosmopolitan capital, either leaving their families behind or being forced to take them to the jungle, and what conclusions they are drawing about the sanity of their leaders. Such things have unpredictable consequences in regimes like Burma.

But for now, the one thing we do know is that it has affected Burma’s relationship with its neighbors, its image in the region. ASEAN has been thoroughly embarrassed by this bizarre behavior by one of its member states. Frankly, I think this has called into question their decision, several years ago, to admit Burma as a member.

Others have mentioned some steps that ASEAN has taken. One very significant small development was the foreign minister of Indonesia calling Burma a threat to the stability of the region, adopting precisely the language in the documentation that we have long been urging them to adopt. And the best answer to those who say this is an internal matter for the Government of Burma, ASEAN leaders have called for the first time for the release of prisoners; very, very significant. I think this matters to the regime.

Several years ago, when I was working for the State Department, for Secretary of State Albright, we would go over there at least once a year and talk to leaders in Southeast Asia about Burma. She was very much in their face, as you remember. But we were knocking on a closed door. They didn’t want to hear it.

For the Burmese Government, that was a very, very important thing. It was a source of moral support for them. It was a shield against outside pressure, and that shield is fraying.

So it is important to keep ASEAN heading down that path, and that is, I think, what the Bush Administration is trying to do. To their great credit, they have really stepped up their engagement on Burma in the last several months, as you mentioned, Mr. Chairman.

The most important initiative was the effort to bring Burma before the UN Security Council for the first time. The United States argued successfully that the atrocities, particularly in the ethnic minority areas, certainly rise to the level of other situations that the Security Council has taken up; that the repression has been felt beyond Burma’s borders, in terms of the drug flowing and AIDS spreading and refugees moving to neighboring countries.

This was a very modest first step, it was not formally on the agenda. It was a briefing. But we heard Secretary Hill say today, “It was only a first step, wait as I motion to commit to taking the

next step.” I think the most important thing we can urge the Administration to do is, in fact, to energetically work the next several months, particularly this month when the United States has the presidency of the Security Council, to take that next step.

I totally agree with you that the goal should be a resolution down the road. It will not be easy to get because of opposition. Again, people said we would never get a discussion of Burma in the Security Council, and we proved them wrong. So I think with energetic diplomacy, a resolution that sets absolutely clear benchmarks for the Burmese Government to meet, and that down the road would threaten to impose real international targeted sanctions if those benchmarks are not met, is a realistic goal and a necessary goal.

Burmese, I think, do care about what the Security Council says. They know it is more than just a talk shop. They know that Security Council resolutions have led to action that is felt by the brutal regimes of the world, and I think they are very much concerned about the Security Council taking action.

There are lots of things that could be done. I think there should be a greater focus in all of our efforts on the atrocities that have been taking place, particularly in the Shan State, as Naw Win Yee told us about.

One of the goals of the actions in the United Nations could well be, I think should be, the appointment of a commission of inquiry, as was done in the case of Darfur, with the strong support of the Administration, as was done in the case of Yugoslavia in the 1990s.

I agree with you that ultimately one should consider taking the additional step of referring these leaders to the ICC. We are not there yet. The first step I think is to conduct that investigation. This is something that the UN does well.

It could do it pursuant to Security Council resolution, the Secretary-General could order such an investigation himself. In fact, the State Department, which has a war crimes office, could, by itself, conduct an investigation, as it did actually in the case of Darfur a year ago.

I would urge the Administration to try to get satellite imagery of this new capital, which I think would not be hard to do. It would show the bizarre quality of what is happening in this jungle compound. I think it would help illustrate for the world just how crazy this is and the nature of this regime.

Another thing to focus on—and no one has mentioned it as the weak link of ASEAN—and that is Thailand, both in terms of its engagement with the Burmese regime but also in terms of the example it is setting in its own governments in the setbacks to democracy in Thailand itself, which I think should be of great concern to the United States and to the Congress. Thailand wants an FTA with the United States, and I am not against FTAs, I am for free trade. I think we should be giving FTAs to our good allies around the world. But I do think that we should take into account the policies of those countries, and I think these policies should be taken into account by the House when it comes before you.

And then finally I would echo the call of everyone else that the Congress should renew the sanctions when the time comes. It would be very strange if we were not to do that as a country. It would send exactly the wrong signal to Burma’s leaders and all the

countries we are trying to convince to increase their pressure against Burma.

Final note, I would just say, you know, don't give up hope and don't lose interest in this. It has been many years ago and it has been very frustrating, but governments like this have come many times before in history and most of them have gone.

There is no primer that tells us how to do that. There is no unified field theory of democracy promotion, as we all know. But I think history does teach us that governments like this do change when they are demoralized, and they can be demoralized when they feel that they are despised by their people, when they feel like they are abandoned by their allies, as the Burmese junta is being abandoned, when they feel they are losing control of events around them, when the costs of their repression begin to outweigh the benefits.

Now Aung San Suu Kyi has made clear that when the generals have reached that point of recognition she is going to hand them an olive branch, and good for her. She is a remarkable lady. But in the meantime, it is our job in the international community to push them to that point of recognition. So let's stay the course and not give up on that goal. Thank you.

[The prepared statement of Mr. Malinowski follows:]

PREPARED STATEMENT OF MR. TOM MALINOWSKI, WASHINGTON ADVOCACY DIRECTOR,  
HUMAN RIGHTS WATCH

Mr. Chairman:

Thank you very much for inviting me to testify at this hearing and for your tireless leadership on behalf of human rights in Burma.

I have two straightforward points to convey to the Committee today. First, the situation in Burma is as bleak today as at any point in that country's sad recent history. The Burmese government's repression, paranoia and mismanagement continue to cause misery and suffering inside Burma and pose a growing threat to the stability and well-being of Burma's neighbors. Second, there is growing recognition of these facts among Burma's neighbors and around the world. For this reason, though this is a profoundly unhappy moment for Burma, it is also a moment of opportunity for those who are working for change—an opportunity the United States should seize.

*Conditions Inside Burma*

Burma's military government, the State Peace and Development Council (SPDC), has made many promises of political reform and reconciliation in recent years. The junta's pledges continue to be empty rhetoric. The 2003 "road map" for a transition to democracy in Burma has made no progress. The National Convention to discuss and promulgate principles for a new constitution has continued to flounder, with no timetable for progress and no role for the genuine representatives of the Burmese people. The convention met from February to March 2005, but included no representatives from the National League for Democracy (NLD) and several other ethnic nationality political parties which won seats in the 1990 elections.

The SPDC continues to ban virtually all opposition political activity and to persecute democracy and human rights activists. Almost all offices of pro-democracy and ethnic nationality political parties remain closed, except for the NLD headquarters in Rangoon, which is under heavy surveillance. Freedom of expression, assembly, and association are non-existent.

Despite the release of 249 political prisoners in July 2005, the junta continues to detain and arrest people who express their political opinions. More than 1,100 people are currently imprisoned for their political beliefs. Though her followers have been relentlessly persecuted and she herself has been brutally assaulted by the junta's armed thugs, NLD leader Aung San Suu Kyi has remained steadfast in her call for reconciliation and dialogue—for a solution to Burma's problems that is negotiated calmly between its government and its people. Yet the junta continues to hold her in virtually solitary confinement without access to newspapers, telephones, or any correspondence.

Perhaps the most horrific of the junta's abuses are committed against civilians living in Burma's ethnic minority areas. The SPDC's forcible relocation of minority ethnic groups has destroyed nearly three thousand villages, not just in areas of active ethnic insurgency but also in areas targeted for infrastructure development. Forced relocation of entire villages continues. Government armed forces continue to engage in summary executions, torture, and the rape of women and girls.

This campaign can only be described as ethnic cleaning on a very large scale. Hundreds of thousands of people, most of them from ethnic minority groups, live precariously inside Burma as internally displaced people. More than two million have fled to neighboring countries, in particular Thailand, where they face difficult circumstances as asylum seekers or illegal immigrants.

The Burmese government has refused international access to areas of ongoing conflict, cutting off humanitarian assistance to internally displaced persons in violation of international humanitarian law. Hundreds of thousands of villagers have been forced to work as porters or laborers for little or no pay. Those who refuse to provide mandatory labor are often threatened with prosecution, or exhorted to pay a fee in lieu of their duties. Those who do not properly carry out their tasks are often shot or beaten to death. Anyone found to have made what the government deems "false complaints" to the International Labor Organization (ILO) can face prosecution. Children also continue to be forcibly recruited by government armed forces.

While seventeen ceasefire agreements have brought an end to the fighting in some areas of Burma, they have not resulted in political settlements or significant improvements in the daily lives of villagers. In 2005 there was an increase in government military presence in certain ceasefire areas, and the political concerns of ethnic communities have been left unaddressed in the deliberations of the National Convention.

Some ethnic groups are now reconsidering ceasefire agreements, while some ceasefires have already broken down. The arrests of several Shan leaders, including the President of the Shan State Peace Council (SSPC) and the Chairman of the Shan Nationalities League for Democracy (SNLD) in early 2005, led to the withdrawal of the Shan State National Army (SSNA) from its ceasefire agreement with the government. Peace talks between the government and the Karen National Union (KNU) also stalled in 2005 as Burmese forces continued to attack and destroy villages populated by Karen civilians or to uproot them from their homes to gain control over their land.

Meanwhile, the people of Burma continue to live in terrible poverty. The military junta devotes only a tiny fraction of its own resources to the health and education of the Burmese people, even as it demands that outside donors provide it with aid. Because of the dire humanitarian situation in Burma, some international agencies have tried to help. The Global Fund to Fight AIDS, Tuberculosis and Malaria, for example, had planned to spend \$100 million over five years in Burma, which has hundreds of thousands of HIV-positive people. But the Fund withdrew from Burma in December because the junta was making it impossible for its staff to operate in a way that was transparent and beneficial to the people of Burma. Last year, the Burmese government also announced that was withdrawing from the International Labor Organization, which has maintained a presence in the country to encourage an end to forced labor.

#### *Diplomatic Opportunity*

Mr. Chairman, it's always been clear to those of us who follow events in Burma that change in that country can come only from within. But pressure from the outside has made and will continue to make a crucial difference. It has helped to keep the democratic movement inside the country alive, literally as well as figuratively. It is the only reason the Burmese government has ever agreed to even consider reform and reconciliation, and it will play an even more critical role when the moment of transition comes, as I believe it inevitably must.

Unfortunately, outside pressure on the military junta has been inconsistent, largely because Burma's immediate neighbors have been indifferent or actively hostile to any international effort to encourage reform. As I mentioned at the outset, however, there is growing recognition around the world that the Burmese government's policies are leading to a dead end. And thus, the key international actors are beginning to speak with something more like a single voice.

This recognition was brought on in part by a bizarre event. Late last year, Burma's military government announced that it was moving the country's capitol from Rangoon—by far the largest city in the country and the center of its economic, political and cultural life—to a so called "command and control center" in the jungle near a small provincial town called Pyinmana. Thousands of civil servants were told

to pack their bags and move to this place, which until recently had no running water and barely any infrastructure. According to the ILO and press reports, at the site of the new capitol, the military has conscripted forced laborers to build government buildings, bunkers, and escape tunnels alongside luxury mansions and golf courses for the junta leaders. When the announcement was made, Burma's Information Minister, General Kyaw Hsan, read a statement to the press. It said: "If you need to communicate on urgent matters, you can send a fax to Pinyinmana. We will send you new numbers in due course, and you will be informed of the date to start communicating with us."

Now, so much can be said about this move, Mr. Chairman. It shows how disconnected Burma's military junta is from the country it rules—the generals want to control Burma, but in a sense they want no part of it; they would rather burrow into a bunker in a mountain with no contact whatsoever with the people, culture or life of their nation. It shows how fearful this government is of the Burmese people, even as it instills fear in them. It may have some implications for the stability of the regime—we can only imagine how the many thousands of officials feel about being uprooted suddenly from their country's relatively cosmopolitan capitol, either leaving their families behind or taking them to the jungle, and what conclusions they are drawing about the sanity of their leaders. Such things have unpredictable consequences.

But for now, one thing we do know is that this move has affected Burma's image in Asia and its relations with its neighbors in the Association for Southeast Asian Nations (ASEAN). ASEAN was already frustrated by Burma's failure to keep its promises of reform. Now it has been embarrassed by its bizarre behavior, which has called further into question ASEAN's decision to admit Burma as a member.

Last year, ASEAN decided not to allow Burma to take its turn as ASEAN chairman, in part because the United States and other Western countries would have sharply limited their engagement with a Burma-led ASEAN. And recently, regional leaders have been making increasingly explicit and pointed calls on Burma to accelerate political change. Most remarkably, in January the Foreign Minister of Indonesia, Hassan Wirayuda, suggested that Burma posed a threat to regional stability—precisely the point critics of the regime have long urged ASEAN members to recognize, and the best answer to those in the region who say that repression in Burma is simply an internal affair.

Burma has predictably pushed back against pressure from ASEAN. In January, it delayed a visit by the Malaysian Foreign Minister, who had been charged by ASEAN to assess Burma's progress towards democracy. Its excuse was that it was too busy to receive the envoy because it was preoccupied with moving its capitol city! Nevertheless, I believe that criticism from neighboring countries matters a great deal to the Burmese leadership, because these countries have been an important source of political and financial support to the regime.

To its credit, the Bush administration has also been stepping up its engagement. In December, the administration led an effort to bring Burma, for the very first time, before the U.N. Security Council. The United States argued, rightly, that repression inside Burma, particularly the killing and displacement of minority peoples, had reached a scale similar to that of other crisis situations to which the Security Council has responded. And it pointed out, correctly, that the impact of this repression is felt beyond Burma's borders, as refugees flee the country, as uncontrolled diseases like AIDS spread to neighboring countries, and as deadly drugs are exported by militias allied with the military junta.

The Security Council's first step was modest—it simply held a briefing on Burma—and there are clearly members of the Council, including China, that do not want the issue to arise again. The administration, however, made clear that it did not want this briefing to be a one-time event. The State Department said that "continuing U.N. Security Council engagement" on Burma was "essential."

I believe that the Burmese government is profoundly concerned about the potential of Security Council involvement. And it should be. The Council is not just a talk shop. It has the capacity to act, with the full authority of the international community, to enforce the international standards the Burmese government has so long been flouting.

The most important thing the United States can do in the coming months, Mr. Chairman, is to stand by its commitment to keep Burma on the Security Council agenda. That will not be easy. It will require making a significant diplomatic effort over the coming months. But it is possible—as the United States has already shown. And the results may be profound. The goal should be to build support for a Security Council resolution that will set clear benchmarks for reform in Burma and impose targeted sanctions if those benchmarks are not met. The U.N. could also appoint a Commission of Inquiry to investigate whether the Burmese military has com-

mitted war crimes and crimes against humanity in its campaign against ethnic minority groups—as it did in the case of Darfur, Sudan, and a decade before in Bosnia. The Burmese military’s campaign of killing, rape, and displacement in minority areas clearly merits such an investigation, and Burma’s leaders should be on notice that they can be held accountable.

Finally, the Congress should do its part by renewing sanctions against Burma again this year. To do otherwise, in the absence of any steps towards reform in Burma, would send exactly the wrong signal to Burma’s leaders, and a confusing message to all those countries the United States is now rightly asking to support increased pressure against the Burmese government.

Mr. Chairman, it would be easy, looking back on the last 15 years of struggle for democracy and human rights in Burma to lose interest and hope. But let’s remember: governments like the Burmese junta have come many times in history, and most of them have gone, or evolved beyond recognition. There is no primer that tells us in precise detail how to bring such change about; there is no unified-field theory of democracy promotion. But I think history does teach us that governments such as this do change when their leaders become demoralized—demoralized because they are despised by their people; because they are abandoned by their allies; because they feel they are losing control of events; because they costs of continued repression begin to outweigh the benefits.

Aung San Suu Kyi has made clear that when the generals get there, the Burmese opposition will hand them an olive branch, that there can be reconciliation in Burma, a way forward in which the military has a place of honor. But for now, it is our job in the international community to help push them to that point.

To that end, let us all stay the course.

Mr. SMITH OF NEW JERSEY. Thank you very much for your very incisive insights.

Ms. Brown.

**STATEMENT OF MS. ANASTASIA BROWN, DIRECTOR OF REFUGEE PROGRAMS, UNITED STATES CONFERENCE OF CATHOLIC BISHOPS**

Ms. BROWN. Mr. Chairman, thank you for the invitation to speak today about the plight of Burmese refugees in Asia. You have the written testimony of the agency, and I will focus my oral remarks on durable solutions for Burmese refugees.

As we have heard today, the military junta in Burma continues to persecute ethnic and religious minorities. Refugees have undergone numerous documented atrocities, including slave labor, forced conscription, torture and systematic rape.

Last year I visited refugees in Thailand and Malaysia, and I just returned from a conference on Thailand on resettlement of Burmese refugees. I can speak first-hand of refugees who have fled atrocities and are now living in squalor without hope, of children who do not even dare to have a dream for their own future. Of the hundreds of thousands of Burmese refugees, only a small number have ever been offered any durable solution.

As the situation in Burma does not allow for repatriation in large numbers, the other solutions of local integration and resettlement must be pursued. Local integration is a very limited option for political and economic reasons in the countries of asylum, and only a small number of refugees have ever actually been resettled in third countries.

In 2005, the UNHCR in Thailand referred to the United States 9,000 Karen refugees and the UNHCR in Malaysia continued referral of a target of about 3,000 Chin refugees, and while these steps are encouraging there is much, much more to be done. The refugees in camps in Thailand have been effectively warehoused there for 20 years. The refugees in Malaysia, New Delhi and elsewhere

also live on the margins of society with virtually no support or protection.

With the possibility of resettlement for the first time in years, hope has reappeared in the Thailand camps. MRS/USCCB is particularly concerned for children, who are among the most vulnerable of all refugees and deserve special protection. In Thailand, 8,000 of the children living in camps are living there without their parents, and many of them without any relatives.

In Malaysia, the number of unaccompanied teenage boys working in the jungle is thought to be in the hundreds. Abuse and forced marriage can be prevalent in the camp, while those children who leave the camp can become victims of labor and sexual exploitation. It is vitally important that each one of these children be interviewed to determine what solution is in their best interests, both for short-term care and for long-term durable solutions, and these determinations should be conducted by people with child welfare expertise.

Unfortunately, the language included in the USA PATRIOT Act and the REAL ID Act may have the consequence of excluding vulnerable refugees from admission to the U.S. In those laws, anyone who provides material support to a terrorist organization is excluded from entry to the U.S.

We would all agree with this in principle. However, the language relating to material support is so broad in construction that it could be interpreted to include any individual who provides as little as a glass of water to a person, defending them against a repressive regime.

A case in point—this is a real case: A woman who provided 2 tins of rice to the resistance army, whose husband was then killed, and who suffered repeated systematic rape by the Burmese military army; this woman could be excluded under this provision.

Until the Department of Homeland Security offers guidance on this issue, these provisions have already virtually stopped the processing of refugees in Malaysia where even unaccompanied minors have been placed on hold and will likely cripple processing in Thailand once interviews begin.

Efforts by the UNHCR in Malaysia to improve refugee protection have been severely set back by this, and the reaction of the Thai when the United States is unable to process refugees as promised will undoubtedly be quite severe.

Mr. Chairman, Refugee Council USA, of which USCCB is a member, has developed guiding principles for the Department of Homeland Security on resolution of this issue which I would like to submit for the record.

[The information referred to follows:]

## Application and Implementation of “Material Support” Admissions Bar

### PRINCIPLES

**Problem:** Hundreds of refugees in need of protection, and potentially thousands in the near future, are being denied access to asylum and resettlement in the United States due to the overly-broad application of the “material support to terrorist organizations” bar to admission to the United States. This statutory bar has been interpreted to deny refugee protection, for example, to Burmese religious and ethnic minorities who provided support to groups that have resorted to armed opposition to the repressive military regime that has ruled Burma by decree since 1988. Colombian refugees who were victims of extortion by guerrilla groups are likewise being excluded from asylum or the hope of resettlement in the United States. Legislative and administrative action is needed to address this problem.

#### I. Application of Material Support Bar

##### Objectives

- Refugees in need of protection and who pose no threat to the U.S. are not barred from protection in this country on account of the “material support” ground of inadmissibility.
- In determining whether or not to apply the material support bar in an individual case, or to a group of cases, adjudicators consider all relevant factors.
- The intent of the law is reflected in the application of the law. The intent of the material support provision is to deny admission to any person who has knowingly and voluntarily supported terrorist activity and/or who otherwise poses a threat to the U.S.

##### Principles

1. Terrorist Organizations and Terrorist Activity: In determining whether an organization is a “terrorist organization” or has engaged in “terrorist activity,” decision-makers should consider all relevant factors regarding the group’s objectives, conduct and structure, as well as U.S. commitment to refugee protection.
  - Objectives: The political objectives of the organization should be considered, as well as the availability of peaceful avenues for change in the country.
  - Activities: The organization’s activities and conduct in pursuing its stated goals should be considered, most notably whether the organization has deliberately targeted or killed civilians or non-combatants.
  - U.S. Commitment to Refugee Protection: The U.S. has a strong tradition of providing protection to refugees through its asylum and resettlement programs and should continue vigorous protection through these programs. The official designation of a group of refugees for the US resettlement program should be considered.
2. Individual Application of Material Support Bar: Persons in need of and deserving of refugee protection should have access to refugee resettlement or asylum in the U.S. The material support bar should only be applied to persons who have provided meaningful and voluntary assistance to a terrorist organization. Individual responsibility must be ascertained before denying refugee protection.
  - Nature of Support: The actual provision of “material support” must be established. It should be shown that the person actually provided assistance and that the amount and nature of the assistance was

significant. Small or one-time payments, of either money or goods, should generally not be considered material support.

- ♦ *Voluntariness and Intent:* Individual responsibility must be established. It must be shown that the individual intended to provide material support to a terrorist organization in furtherance of terrorist activity. The material support bar should not apply to those who acted under duress.
- ♦ *Refugee Claim:* Refugees should not be barred from protection for conduct that was the result of their being victimized by terrorist or government groups in their country of origin.
- ♦ *Application of Other Bars to Admission:* All persons seeking refugee protection in the U.S., either through the resettlement or asylum programs, would continue to be subject to existing bars to protection on criminal or security grounds.

## II. **Use of Waiver Authority: Operational Issues**

### **Objectives**

- ♦ The material support ground of inadmissibility is waived in appropriate cases, as envisioned by Congress.
- ♦ Exercise of the waiver is workable, taking into consideration the realities of resettlement processing overseas and asylum adjudications in the U.S.
- ♦ The waiver is applied consistently, to all eligible individuals, including refugees and asylum-seekers.

### **Principles**

*Group v. Individual Waiver:* Where large numbers of similarly situated refugees are concerned, a group waiver (regarding a terrorist organization designation) should be preferred over individual waivers (regarding material support).

*Delegation & Review:* With regard to individual waivers, delegation of the waiver authority should take into account both efficiency and accountability concerns. In the resettlement context, which will potentially involve thousands of individuals, resettlement officers should have decision-making authority without DHS HQ review. HQ guidance should be available, with quality assurance checks occurring throughout. In the asylum context, where the numbers are fewer, delegation to asylum officers and DHS trial attorneys with HQ review may be more reasonable.

*Consistency of Application:* Any decision to waive a group's designation as a terrorist organization should extend to all relevant immigration programs when determining a person's admissibility under the material support bar, (e.g., eligibility for refugee resettlement, asylum, trafficking, adjustment of status and naturalization).

*Duration of Waiver:* Once exercised, the waiver should continue to apply in later proceedings, absent new information (e.g., applicable at time of adjustment of status and naturalization).

*Scope of Waiver:* Waiver of the material support bar would not preclude application of any other bars to admission that may apply.

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### Material Support Backgrounder

#### Problem

The U.S. government is denying protection to refugees and asylum seekers deserving of our protection. Under a relatively new policy, the "material support" to terrorists ground of inadmissibility is being applied to individuals who are refugees and asylees as defined by §101(a)(42) of the INA who are not terrorists and urgently require protection. Ironically, for many of these refugees, the very circumstances that form the basis of their refugee/asylum claim have been interpreted in a way that has made them ineligible for refugee or asylum status in the United States. For example, refugees and asylum seekers who are coerced or who have acted under duress are being denied protection by the U.S. government regardless of whether or not the payment to the alleged or known terrorist group was voluntary.

The delay in addressing this problem has nearly shut down the U.S. refugee admissions program for Colombians and threatens to do the same to the approximately 9,000 ethnic and religious minority refugees from Burma who are ready to begin the process for resettlement in the U.S. It is likely to have the same impact on other refugee populations. In addition, hundreds of asylum seekers with legitimate claims whose cases are complicated by material support issues are waiting for final decisions on their cases. In some cases immigration judges have been denying asylum applications on these grounds.

#### Background

Both international and U.S. law prohibit granting refugee status to anyone who is a terrorist or supports terrorist activity. The underlying purpose of this bar is that this person is undeserving of protection and/or the individual seeking protection poses a threat to national security.

Recent legislation, including the USA PATRIOT Act<sup>1</sup> and the REAL ID Act of 2005<sup>2</sup>, contained provisions that expanded an already broad definition of terrorism and what constitutes terrorist activity. For example, the USA PATRIOT Act expanded the reach of the terrorism definition mainly by broadening the grounds of inadmissibility and deportability based on "material support" to terrorism to include support provided to organizations that were not designated as terrorist organizations under the immigration statute or through publication in the Federal Register, but were deemed to be "terrorist organizations" because they engaged in "terrorist activity" – a concept which includes any use of a weapon or "dangerous device" (or threat, attempt, or conspiracy to do the same) with the intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property, for any motive other than "mere personal monetary gain." Further, the REAL ID Act greatly expanded the definition of "non-designated" terrorist organization to include a "group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in "any form of "terrorist activity."

<sup>1</sup> The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 hereinafter the USA PATRIOT Act of 2001, Pub. L. No. 107-56, § 412, 115 Stat. 272 (codified at INA § 236A(a)(3)).

<sup>2</sup> INA § 212(d)(3) as amended by the REAL ID Act, Pub. L. No. 109-13 § 103.

### Who is being affected?

The USA PATRIOT Act and the REAL ID Act were meant to protect America from genuine terrorist threats. They were not meant to exclude refugees and asylum seekers who have been victims of terrorism or oppressed by brutal regimes. However, the following groups of refugees have been denied protection because of the overly broad interpretation of the new terrorism definition:

- **Colombian refugees**, many of whom have been coerced under extreme duress to make payments to armed groups on the State Department's list of foreign terrorist organizations (FTOs). The United Self-Defense Forces of Colombia (AUC), the Revolutionary Armed Forces of Colombia (FARC), and the National Liberation Army (ELN) pervade nearly all aspects of Colombian life, and payments to these groups, often made under threat of torture or death to oneself or a loved one, are a necessity of survival for many Colombians. UNHCR estimates that at least 70 percent of the Colombian refugees that would otherwise be suitable for referral to the U.S. refugee program have been forced by the FARC or other designated FTO to pay "taxes" or other types of coerced payments.
- More recently, the "material support" bar to admissibility has been applied to **ethnic minority refugees and asylum seekers from Burma**, many of whom are fleeing religious persecution. These refugees have been denied protection because they have contributed to ethnic and religious organizations that may be associated with sub-groups that oppose the repressive Burmese authorities. While these parent groups and sub-groups are not designated by the State Department as FTOs, the activities of certain associated sub-groups that advocate the overthrow of the military rulers of Burma have been construed as "terrorist activity" as broadly interpreted from the INA definition modified by the REAL ID Act.

### Solution

Congress in fact created an exception to the material support ground of inadmissibility in the INA.

Recently, the REAL ID Act reaffirmed the authority of the Secretary of Homeland Security and the Secretary of State (after consultation with one another and the Attorney General) to conclude that the material support ground of inadmissibility "should not apply" to an alien who may otherwise fall under this ground of inadmissibility or to a group solely by virtue of having a subgroup engaged in terrorist activity. While lawyers for the three designated agencies have been meeting regularly, the government has not yet established a process for exercising this authority. As a result of this delay, more and more refugees and asylum seekers are being denied access to the safety of the U.S.

In order to solve this problem without changing existing law and to restore access to protection for legitimate refugees and asylum seekers, the Administration must 1) develop a legal interpretation of the "material support" ground of inadmissibility that is in line with a plain reading of the statute and excludes actions that are coerced or made under duress or could not constitute support because the contributions were one-off or irregular payments of little significance and 2) quickly establish a process—as statutorily authorized by INA §212(d)(3) as amended by the REAL ID Act<sup>3</sup>—for facilitating the admission of refugees and for granting asylum where the circumstances under which the alleged support provided is involuntary, inadvertent, or otherwise excusable.

<sup>3</sup> INA § 212(d)(3) as amended by the REAL ID Act, Pub. L. No. 109-13 § 104.

Ms. BROWN. Considering the precarious circumstances of these refugees, USCCB/MRS recommends four steps that the U.S. should take to address the situation: The United States should move to expand the numbers of Burmese refugees for possible resettlement, including expanding the use of group referrals in Thailand, Malaysia and elsewhere; the United States should implement a mechanism which would exclude these vulnerable refugees from the material support bar to inadmissibility; the United States should continue and increase humanitarian assistance to Burmese refugee populations in Thailand, Malaysia and elsewhere, allowing better conditions for those not resettled in third countries; and the United States Government should pay special attention to the large number of unaccompanied Burmese refugee minors and help provide for short-term care and durable solutions, and this would include a comprehensive best interest determination process on each child conducted by child welfare experts.

Mr. Chairman, these refugees have suffered terrible ethnic and religious persecution, and they look to the United States for support of their struggle for human rights and democracy. At a time in which President Bush has called for the spread of democracy against oppressive regimes, it would be tragic if we were to exclude these vulnerable refugees from entry into the United States because they supported those who struggle for democracy in their land.

And I thank you again for this opportunity.

[The prepared statement of Ms. Brown follows:]

PREPARED STATEMENT OF MS. ANASTASIA BROWN, DIRECTOR OF REFUGEE PROGRAMS,  
UNITED STATES CONFERENCE OF CATHOLIC BISHOPS

I am Anastasia Brown, director of Refugee Programs for Migration and Refugee Services of the U.S. Conference of Catholic Bishops (MRS/USCCB). MRS/USCCB is the largest refugee resettlement agency in the United States. Working with over 100 Catholic dioceses across the nation, we provide resettlement assistance to approximately 15,000 to 20,000 refugees each year, helping them with job placement, housing, and other forms of assistance to ensure their early self-sufficiency.

I would like to thank Subcommittee Chairmen Christopher Smith and Jim Leach, as well as Ranking Members Donald Payne and Eni Faleomavaega for the invitation to speak to you today about the plight of Burmese refugees in Southeast Asia. MRS/USCCB has traveled to Thailand, Malaysia, and India in the past several years to assess the situation of Burmese refugees. Indeed, I just returned this past weekend from Thailand, where I was able to view the Burmese refugee situation first-hand.

As we have heard today, the military junta in Burma continues to persecute religious and ethnic minorities and drive them from their homelands. Many of the refugees we have visited have lived in camps or other urban settings for as long as twenty years, while many of the child refugees we met know only the camps and are not afforded the opportunity to extend their educations or live a normal life. We strongly believe that the international community, including the United States, should work toward a durable solution for this population, including the resettlement of a large portion to third countries.

Today I recommend four steps that the United States should take to address the needs of the Burmese refugee population so that durable solutions can be found to their plight:

- The United States should move to consider the Burmese refugee population beyond those already being considered for possible resettlement and should establish the necessary infrastructure to accomplish this objective. Such a plan should include a group waiver to the "material support" bar to admissibility for Burmese refugees;
- The Administration and Congress should move immediately to correct the damage caused by recent changes in law relating to material support. These changes were ill-considered. Moreover, they can be interpreted in an overly-

broad manner, resulting in the possible denial of refugee protection to many deserving, bona fide refugees, including refugees fleeing persecution in Burma.

- The United States should continue and increase humanitarian assistance to Burmese refugee populations in Thailand, Malaysia, Bangladesh, and India, and;
- The United States government should pay special attention to the large number of Burmese unaccompanied refugee minors and help provide them educational support and possible resettlement.

#### BURMESE REFUGEES IN SOUTHEAST ASIA

While I will focus my testimony today primarily on Burmese refugees in Thailand, I think it is important to note the entire population of uprooted Burmese, which stands at an estimated 1.5 million. Of that total, as many as 800,000 are internally displaced within Burma while about 700,000 are refugees located in neighboring countries. Thailand hosts the largest population of Burmese refugees and asylum seekers and I will speak more about those shortly.

Of the neighboring countries, Bangladesh hosts about 150,000 Burmese refugees, mostly ethnic Rohingya. Of those, only 20,000 are in the two camps operated by the United Nation's High Commissioner for Refugees (UNHCR), while the rest are outside the camps with no official status and living in difficult conditions. About 60,000 ethnic Chin from Burma live in Mizoram State, in the eastern half of India. India considers this population to be illegal and will not grant UNHCR access to them. Smaller number of Burmese Chin and other ethnic minorities live as urban refugees in New Delhi and are extremely marginalized and vulnerable. MRS/USCCB and other refugee organizations have long advocated for the resettlement of the Burmese in New Delhi, but with no success.

An estimated 25,000 Burmese refugees and asylum-seekers, mostly ethnic Chin and Rohingya, live in Malaysia, and they, too, live in extremely difficult conditions. While the United States has committed to resettling several thousand Chin from Malaysia, those plans are now in jeopardy because of an issue which I will discuss in more detail later—the “material support to terrorists” ground of inadmissibility. Finally, several thousand Burmese are seeking asylum in countries outside the region, including the United States and other industrialized countries. While the United States has traditionally granted protection to significant numbers of Burmese each year through our asylum system, our continued ability to do so is also threatened by the issue of material support and by new asylum standards established by the REAL ID Act of 2005.

As I stated, Thailand hosts the majority of Burmese refugees. According to recent statistics, more than 450,000 refugees and asylum-seekers reside in Thailand. Of those, 142, 917 live in 9 camps along the Thai-Burma border, most of which are of the Karen and Karenni ethnic groups. According to UNHCR, 100,840 refugees in the camps are registered and 36, 874 unregistered, which means that the Thai government does not “officially” recognize these refugees.<sup>1</sup> This includes about 8,000 unaccompanied minors living in camps, a group that I will discuss in greater detail later. There are also an estimated 200,000 ethnic Shan refugees living in Thailand with no legal protection and no access to the camps. The remainder of refugees in Thailand are Karen/Karenni refugees living outside camps in various rural and urban settings.

#### THE OPTION OF THIRD COUNTRY RESETTLEMENT FOR BURMESE REFUGEES

There are three durable solutions for refugees in the world: 1). repatriation to their home at such time as it is safe to return; 2). permanent resettlement in the country of first asylum; and 3). resettlement to a third country. Because of the ongoing civil war in Burma, which has lasted for over twenty years, it is highly unlikely that a large scale repatriation will occur in the near future. For political and economic reasons, the Thai government, as well as the governments of other neighboring countries, has been unwilling to permanently accept the Burmese refugee population. The only real solution to the plight of many of the Burmese refugees is resettlement to a third country, such as the United States. This option would provide them an opportunity to start their lives and the lives of their families anew.

<sup>1</sup>Registration is an important element of refugee protection in Thailand, as it allows refugees legal protection and the right to remain in the country. In addition, it allows for an exit permit to be granted if a refugee is invited to resettle in a third country.

The Thai government has recently shown a willingness to consider third country resettlement for the Burmese refugee population in their country. The United States government, through the Office of Population, Refugees, and Migration (PRM), has recognized that repatriation to Burma and permanent resettlement in Thailand are not possible at this time and has agreed to consider for resettlement approximately 9,463 refugees in Tham Hin camp west of Bangkok. These refugees could be resettled in the United States during the current fiscal year. However, current the law prohibits the admission of anyone to the United States who may have provided "material support," to what the United States considers a terrorist organization. The government's overly broad interpretation of this law is likely to bar the admission of most of the Burmese refugees currently being considered for resettlement, even though these refugees are not terrorists and are in fact victims of a brutal regime who urgently require protection.

*The Issue of Material Support*

The Immigration and Nationality Act (INA) prohibits granting refugee status to anyone who is a terrorist or supports terrorist activity. This prohibition is needed to ensure national security and to prevent the extension of refugee protection to those who are undeserving of protection.

However, recent legislation, including the USA Patriot Act and the REAL ID Act, expanded and broadened this law in ways that have had an unintended, negative impact on bona fide refugees. For example, the USA Patriot Act expanded the reach of the terrorism definition by broadening grounds of inadmissibility to anyone who provides "material support" to groups which engage in "terrorist activity," which includes any use of a weapon or "dangerous device" with the intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property, for any motive other than "mere personal monetary gain." Moreover, the REAL ID Act expanded the definition of "non-designated" terrorist organization to include a "group of two or more individuals, whether organized or not, which engages in, or has a subgroup which engages in "any form of terrorist activity."

These changes were ostensibly designed to protect the United States from genuine terrorist threats. However, they have had the effect of excluding from U.S. protection refugees and asylum-seekers who have been victims of terrorism or brutal regimes. Many Burmese refugees who have fled religious persecution have been impacted by the Administration's delay in interpreting this law because they may have contributed to ethnic or religious organizations that may be associated with sub-groups that oppose the repressive Burmese authorities. While these parent groups and sub-groups have not been designated by the State Department as foreign terrorist organizations, the activities of certain sub-groups that advocate the overthrow of the military rulers of Burma may be construed as a "terrorist activity" under the broadly interpreted provisions from the REAL ID Act. Furthermore, the law, broadly interpreted, would provide no exception to the bar for refugees who may have provided assistance against their will, or under "duress."

This bar to admissibility is having a profound impact on the Burmese refugee population as a whole. As previously mentioned, the UNHCR referred to the United States 9,463 ethnic Karen refugees from Burma currently located in Tham Hin refugee camp in Burma. In addition, the UNHCR in Malaysia has referred 3,000 ethnic Chin refugees living in Malaysia to the United States. The resettlement of these groups is in jeopardy, pending the release of guidance by the Department of Homeland Security regarding the interpretation and implementation of the definitions in the PATRIOT and REAL ID Acts.

As written, the law is so broad as to include any individual who provides as little as a glass of water, a bowl of rice, or a place to sleep to a member of an organization involved in the defense of that individual against a regime which is actively involved in ethnic cleansing. In one case, a woman who offered two tins of rice to the resistance army and who lost her husband in the conflict and was systematically raped by the Burmese army would be excluded under this provision. There are other compelling cases which demonstrate that the material support bar should not apply to this vulnerable population.

From our perspective, the material support bar should not apply to the situation of the Burmese refugees. We therefore ask Congress to support efforts within the Department of State and the Department of Homeland Security to implement a mechanism that would allow deserving Burmese refugee resettlement in the United States. In order to solve this problem without changing existing law, DHS should develop a legal interpretation of "material support" which is in line with a plain reading of the statute and exclude actions which are made under duress or could not constitute support because payments were insignificant. DHS also should quick-

ly establish a process for facilitating the admission of refugees and for granting asylum where the circumstances under which the alleged support was provided was involuntary, inadvertent, or otherwise excusable—such as when the support is provided to a group that is not designated as a terrorist group and is in fact engaged in protecting the victims of a brutal and repressive regime.

We urge a “group” waiver for the Burmese refugee population, as allowed under the law. Further, we urge Congress to revisit the law and adjust the material support provisions in the REAL ID Act and the PATRIOT Act to minimize the impact to bona fide refugee groups around the world.

Mr. Chairman, with your permission I would like to submit for the record principles developed by Refugee Council USA, the nation’s leading coalition of refugee resettlement, human rights, and humanitarian organizations, which we believe should govern DHS interpretation of the material support law.

#### HUMANITARIAN ASSISTANCE TO BURMESE REFUGEES

As noted earlier, approximately 145,000 refugees from Burma live in nine camps along the Thai-Burma border. The residents of the camps are primarily ethnic minorities from Burma—mostly Karen and Karenni. The Thai government permits international organizations to provide assistance in the camps. While UNHCR is allowed a limited protection role, UNHCR does not run any of the camps or any of the assistance programs. Some of the refugees have lived in the camps for more than 20 years. Thus, a generation of Burmese has been born and raised in the camps, never having seen their homeland. They are now joining their parents as adult refugees living in squalor, with no hope in sight for return to Burma.

Much of the assistance in the camps is provided by a coalition of nongovernmental organizations known as the Thailand Burma Border Consortium (TBBC). The U.S. government is a major donor to the TBBC and also provides funding directly to a number of relief agencies. The assistance provided to the refugees includes food rations (primarily rice, salt, and fish paste); supplementary feeding for vulnerable groups; primary health care; water and sanitation; building materials; blankets and sleeping mats; cooking utensils and fuel; clothing; education services and supplies; health worker training; and other capacity-building initiatives for local community based organizations. Many relief agencies are also involved in refugee protection and advocacy.

Since the beginning of their work on the border, most of the relief agencies have been committed to providing levels of assistance to the refugees that are consistent with the living standards of local communities, both to avoid conflict with local communities and to help prepare for the refugees’ eventual voluntary return to Burma. They keep relief assistance to a minimum in order to respect cultural identity, promote self-sufficiency, and minimize aid-dependency. Much of the assistance is provided through representative refugee relief committees in order to ensure coordination, avoid duplication, and enhance the capacity of community leadership structures.

Although Thailand initially allowed the refugees some movement outside of the camps, for the past decade the Thai government has allowed virtually no such movement and has not permitted the refugees to work in Thailand or to rent land to grow crops. Refugees who complete their course of education in the camps are left with no prospects for work or for further education.

Although the Thai government formerly permitted some Burmese refugees and asylum seekers—mostly Democracy activists—to live in Bangkok, in the past few years the government has required all such individuals to move to the border camps or face potential forced return to Burma. The movement of these urban refugees to the camps for the ethnic minorities has posed a number of challenges for both protection and assistance.

In recent years, as the prospects for the refugees’ return to Burma have grown increasingly dim, the assistance organizations and UNHCR have been dialoguing with the Thai government on ways to improve the refugees’ standard of living through such initiatives as income-generation projects. Thailand has recently become amenable to such initiatives, on a limited basis, and many relief groups and refugee advocates are now sensing a window of opportunity for real improvement in the refugees’ living conditions. However, such initiatives will be threatened if sufficient funding is not available. Currently, the TBBC is experiencing a funding shortfall that may cause cutbacks in even basic relief supplies, while some relief groups report that their income-generation and other capacity-building initiatives may be in jeopardy. It would indeed be a shame if at this point in time, when after so many years Thailand has begun to consider easing up on some of the restrictions

placed on the refugees, if the assistance community had insufficient resources to respond to this opportunity.

Finally, humanitarian assistance to ethnic Chin in Malaysia is miniscule, if not nonexistent in some circumstances. It is difficult to identify funding for this group, even for small projects to assist them in their struggle to survive.

We therefore urge significant increases in funding for U.S. refugee assistance programs, primarily through the Migration and Refugee Assistance (MRA) account administered by the State Department's refugee bureau. In his recent budget submission for Fiscal Year 2007, President Bush has requested \$834 million for the MRA account. Refugee Council USA, of which MRS/USCCB is a member, believes this amount is insufficient to meet humanitarian assistance needs around the globe. We ask for an appropriation of \$ 1.2 billion for fiscal year 2007 for the MRA account, with \$780 million designated for overseas refugee assistance. We also urge sufficient funding for programs of the U.S. Agency for International Development that assist refugees and internally displaced persons.

#### THE PLIGHT OF BURMESE UNACCOMPANIED REFUGEE MINORS

Within the Burmese refugee population are thousands of unaccompanied refugee minors (URMs). URMs are defined as children who are not currently living with their parents or primary care givers when they became refugees. In reality, these children have lost their parents, some of whom have been killed in the conflict. These children have languished in camps for years and have no access to education beyond the tenth grade. They have little hope for their future and face the prospect of living in refugee camps most of their lives.

According to the UNHCR, there are approximately 8,000 Burmese unaccompanied refugee minors in Thailand and an untold number in Malaysia. In Thailand, these children live in the border camps in a variety of arrangements, including in boarding houses, with blood relatives, with non relative foster care families, or on their own.

In Malaysia, a smaller number of Burmese URMS of teenage age live in the jungles outside Kuala Lumpur. These teenage boys eke out an existence by working at local construction sites or in other menial jobs. They have no access to education and no future other than what they currently know.

MRS/USCCB believes that URMs are particularly vulnerable and, under certain circumstances, should be given the opportunity to escape the imprisonment of refugee camps and start a new life in a new country. Burmese URMS, many whom know only life in a refugee camp, should be considered for resettlement in the United States. In order to achieve this end, we make the following recommendations:

- Child welfare experts should be deployed to camps in Thailand to assist in the development and implementation of protocols for serving URMs, including conducting more comprehensive and ongoing best interest determinations (BIDs) and establishing oversight mechanisms to ensure appropriate child welfare conditions in the camps;
- Active tracing efforts should be ongoing within Thailand, including in the camps and in major urban areas;
- For URMS whose BIDs indicate such, resettlement should be pursued expeditiously;
- UNHCR should ensure that no URMs are living in the camps without proper adult guardianship. UNHCR, with U.S. assistance, should develop educational programs to allow young boys and girls to continue their education;
- In Malaysia, UNHCR should deploy child welfare experts to make BIDs for ethnic Chin teenage boys living in the Malaysian jungle.

#### CONCLUSION

Mr. Chairman, it is clear that the Burmese refugees in Southeast Asia are in need of a durable solution.

For the past two decades, the military regime in Burma has targeted ethnic minorities with policies of ethnic cleansing and eradication of religious minorities. Entire villages have been displaced from their land and churches have been destroyed. Persons have been forced into slave labor, conscription, and have experienced torture and systematic rape. The ethnic minorities have struggled with this regime of terror and have by necessity formed their own defense systems, which include armed resistance. We should take note that the current regime in Burma seized power from a democratically-elected government, and has held the elected leader under house arrest for many years.

Disturbingly, these refugees look to the United States as supportive of their struggle for human rights and democracy. At a time in which President Bush has called for the spread of democracy against oppressive regimes, it is ironic that we would exclude vulnerable refugees who struggle for democracy in their land against an oppressive regime.

Mr. Chairman, we ask you and the committee to strongly consider our recommendations to assist this vulnerable population. With U.S. leadership, we can improve the lives of these suffering people and grant them hope for the future.

Mr. SMITH OF NEW JERSEY. Thank you very much, and your full statement and the references you made to some other material will be made a part of the record.

Let me just begin by saying for the record that I voted no on the REAL ID Act precisely because of some of the issues you have raised about material support. It became very clear that in this country and abroad this would have grave implications for those fleeing tyranny and renouncing the chilling effect that was anticipated.

And let me just ask, maybe, Mr. Malinowski, you might want to answer this. ICC action can begin not just as a result of referral by the Security Council, but it is my understanding that victims can also bring action that the court could take up. Is that your understanding or no?

Mr. MALINOWSKI. Not in this case, no.

Mr. SMITH OF NEW JERSEY. And why would that be?

Mr. MALINOWSKI. ICC has jurisdiction to initiate an investigation on behalf of victims in countries that are parties to the ICC Treaty. Burma is not a party, for obvious reasons, because it doesn't want to subject itself to this. So for countries that aren't parties, the only way to initiate investigation is through Security Council referral. That is how we got Darfur, Sudan, in.

We are obviously not there yet at the Security Council. You would have to start by creating the evidentiary basis, which you could do through a commission of inquiry. You would then face the political choice of whether this is the right course of action.

Assistant Secretary Lowenkron pointed out correctly that Aung San Suu Kyi has not supported judicial accountability, punishment for the generals. In my view the time has come for the rest of us to start at least talking about that, keeping in mind that at the end of the day it would be up to the Burmese opposition to decide how to go. And I wouldn't mind a situation in which the Burmese Government has to ask Aung San Suu Kyi to protect them from an ICC prosecution. I would love to see that day come.

Mr. SMITH OF NEW JERSEY. I would love to see that as well, and thank you for that clarification.

Let me ask you, if I could, about the situation of healthcare in Burma. The report that was produced on September 20, at the behest of Archbishop Tutu and Haclav Havel, points out that the healthcare situation in Burma is second from the worst, at the bottom of the pile if you will, of countries to Sierra Leone, that it is 190 out of 191.

And my question is, how accurate do you think that is? Is it perhaps even worse because of a denial of access by international organizations and especially for the refugee women? If I could, Ms. Win Yee, what is the situation for them? What is their life span,

vulnerability for disease, HIV/AIDS—could you give us some insight into that?

Ms. YEE. For the situation of the women in the ethnic areas, they are very vulnerable because there is no access to healthcare for them. And in the ethnic areas, the regime does not allow the humanitarian aid workers to access those areas because they don't want the workers to see human rights abuses. They don't allow healthcare workers access to those areas. So the women and children are very vulnerable.

Mr. SMITH OF NEW JERSEY. Is the movement of the capital being seen as not just an isolation from their own people, do they have the bunker mentality, are they anticipating some additional military operations against the junta? Why are they doing it?

Mr. MALINOWSKI. Why are they doing it? There are many theories, amongst which is that their astrologers told them this was the right thing to do. And that may well be the most credible of all the theories out there. Yes, there is some fear and paranoia. This is a regime that back during the first Gulf War, famously they put out one of their spokespeople to talk to the press, to announce, "We have not invaded any foreign countries. I repeat, we have not invaded any foreign countries." They have this paranoia that we are going to come after them.

And you know, all these factors I think come into play. But I think mostly it is a regime that is completely alienated from the country that it rules. They live in their own universe. And so from that mindset, it must have seemed like a normal thing almost to create their own universe in a bunker in this place, especially if they were told that astrologically it was auspicious.

Mr. SMITH OF NEW JERSEY. We know that Hitler consulted an astrologer as well and what became of that. Let me ask you about the cease-fires that have been entered into with the ethnic minorities. The report also makes a point of showing that very often, once a cease-fire has been agreed to, the army then raids and burns down villages anyway. What is the sense, snapshot now 2006; is that still the case? Are any of these cease-fires holding? Ms. Win Yee.

Ms. YEE. Can you repeat again please?

Mr. SMITH OF NEW JERSEY. Are the cease-fires proving to be durable and real? Or is it a cynical attempt on the part of the army to enter into a cease-fire, the guard comes down and in comes the soldiers to continue their raping and burning of villages?

Mr. MALINOWSKI. I will take it. I think you have answered your own question. In effect, that has been the case. There are cease-fires where they have officially held, have not really resulted in improvements in the lives and security of local people for precisely the reasons you stated, and partly for that reason some of the cease-fires have already broken down.

There have been these arrests of several Shan leaders in the last few years, one of which led to withdrawal of the Shan State national army, one of the key cease-fire groups, from the cease-fire. The talks with the Karen have stalled. So, you know, that is another bleak picture.

Mr. SMITH OF NEW JERSEY. Mr. Kyi, how many political prisoners are there and—

Mr. KYI. There are 1,127 as far as we know.

Mr. SMITH OF NEW JERSEY. Let me just ask finally and then ask if you have any concluding remarks.

Ms. Brown, you heard earlier that I asked basically the four, three of the four questions that you had posed to the Administration. Are you satisfied that they are working toward a durable solution to the problems in Burma?

Ms. BROWN. I would say that we do not have resettlement in large enough numbers. And until we can find a solution to this issue of material support, we will not have resettlement at all or in very, very small numbers. So I am not actually satisfied that we have a solution ready.

Mr. SMITH OF NEW JERSEY. What has Homeland Security told you concerning material support? The Judiciary Committee begged to differ with the Catholic Conference and others while that bill, the REAL ID Act, was under consideration. I read the plain language and was very concerned and that is one of the reasons why I voted no. But they would protest that that is not what they meant.

But, you know, if this stays in no-man's land, if it effectively becomes, you know, what your argument is, where are we in terms of Homeland Security?

Ms. BROWN. Well, we have been advised that a mechanism is being crafted. However, we have been advised of this for many months and the refugees are languishing, and in fact interviews will begin in Thailand and the crisis will come to a head very shortly.

Additionally, I would like to say that we continue to advocate for a mechanism which is easy and not a mechanism which would take months and months and months for a single individual to be allowed to come into the United States.

Mr. SMITH OF NEW JERSEY. I appreciate that. Well, we will take this, and as the Chairman of this Subcommittee, will write to Secretary Rice and see what we can do. We will also begin a letter and circulate it on both sides of the aisle to try to come to a resolution and bring that to Mr. Chertoff as well.

Anything else anyone would like to add before we conclude?

If not, I want to again thank you for your expert testimony and for your tremendous work on behalf of the Burmese people. Thank you.

The meeting is adjourned.

Mr. MALINOWSKI. Thank you.

[Whereupon, at 4:17 p.m., the Subcommittee was adjourned.]

## A P P E N D I X

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### MATERIAL SUBMITTED FOR THE HEARING RECORD

PREPARED STATEMENT OF THE HONORABLE JAMES A. LEACH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF IOWA, AND CHAIRMAN, SUBCOMMITTEE ON ASIA AND THE PACIFIC

Let me express my appreciation to Chairman Smith for his leadership in holding this important hearing on the situation in Burma. Let me also extend a warm welcome to our witnesses, particularly the Burmese freedom activists who so nobly symbolize their country's hope for a better future.

What happens to Burma and to the peoples of this extraordinary country matters deeply to the United States. Broadly speaking, our primary interests are focused on human rights, democracy, refugee assistance, and an end to Burmese production and trafficking of illicit narcotics. However, we also seek to reach out to the Burmese people with humanitarian assistance, including medical aid to help stem the devastating spread of diseases like HIV/AIDS and—I would hope—potential pandemics like the Avian flu.

In addition, there is a regional security dimension. Burma occupies an important strategic crossroads in Asia, sandwiched between China and India, the world's two most populous countries. A stable and democratic Burma is not only less likely to be a source of tension and conflict in the region, but is also more likely to be an asset to our friends in the Association of Southeast Asian Nations (ASEAN).

The great tragedy of the current circumstance is that after independence Burma was potentially the most prosperous country in Southeast Asia. Today, after more than forty years of military misrule, its economy is in a shambles, health and educational services are in precipitous decline, while its citizens continue to suffer grievous human rights abuses and repression. The dilemma for the U.S. and other outside parties is how to craft the right mix of policies that can best help the people of Burma to move forward toward democracy and national reconciliation, as well as economic and social development.

In this regard, the U.S. government, led by the Department of State, has recently led efforts to address the situation in Burma at the United Nations Security Council on the grounds that the deteriorating situation there, including refugee flows and the drug trade, constitutes a threat to international peace and security. Congress strongly supports this effort. Likewise, it is encouraging that ASEAN has begun to consider new and more activist initiatives to modify the behavior of its most obdurate member state.

As symbolized by the sudden and bizarre decision of the ruling military regime to retreat from the capital in Rangoon to an obscure jungle locale, Burma represents one of our most intractable foreign policy challenges in Asia today. The conundrum is how to influence narrow-minded nationalists who often seem to welcome isolation and who, when it suits their interests, are also able to seek succor from powerful neighbors. Nonetheless, there is no credible alternative for the U.S. at this time but to persevere with principled efforts to free the courageous Aung San Suu Kyi and to help bring democratic governance and national reconciliation to the long-suffering Burmese people.

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RESPONSE FROM THE HONORABLE BARRY F. LOWENKRON, ASSISTANT SECRETARY, BUREAU OF DEMOCRACY, HUMAN RIGHTS AND LABOR, U.S. DEPARTMENT OF STATE, TO QUESTION SUBMITTED FOR THE RECORD

*Question:*

*Anastasia Brown, Director for Refugee Programs for the Migration and Refugee Services of the U.S. Conference of Catholic Bishops, makes four recommendations in*

*her testimony and I would ask you if you could respond to those recommendations. One, the U.S. should move to consider Burmese refugee population beyond those already being considered for possible resettlement and should establish the necessary infrastructure to accomplish these objectives; such a plan should include a group waiver to the material support bar to admissibility of Burmese refugees. Two, the U.S. should continue and increase the humanitarian assistance to Burmese refugee populations in Thailand, Malaysia, Bangladesh and India. Three, the U.S. should pay special attention to the large number of Burmese unaccompanied refugee minors and help provide them with educational support and possible resettlement. Four, Brown pointed out that Thailand only considers those who are actually feeling conflict and guns as refugees, rather than the more traditional definition in the Convention, which includes well-founded fears in various categories. Thailand is not a signatory to the Convention, so there are a number of people in limbo—a third country of resettlement would seem to be the major durable solution for those individuals.*

*Response:*

The Bureau of Population, Refugees and Migration, which has responsibility for refugee issues at the Department of State, reports that the U.S. Refugee Admissions Program is open to Burmese refugees referred in any location. At present, the United States is about to begin processing of a large group of ethnic Karen from Burma located in Tham Hin camp Thailand. The United States has also been processing a number of ethnic Chin and other Burmese refugee cases referred to us in Malaysia. In both locations, the so-called “material support” issue has interfered significantly with the smooth processing of these refugee applicants. The Administration is engaged at the highest levels in seeking the best solution to this situation. The United States envisions a multi-year effort to process additional refugee applicants from Burma in Thailand and other locations.

The U.S. is increasing assistance to Burmese refugees in Thailand. In FY05, the Department’s Bureau of Population, Refugees, and Migration provided over \$6.2 million to assist Burmese refugees. In FY06, we will be providing more than \$6.6 million. USAID also provided \$4 million in humanitarian assistance to Burmese refugees, migrants and to address other humanitarian concerns both inside Burma and on the Burma-Thai border in FY05. We continue to support UNHCR in Burma and in Thailand, as well as in Bangladesh, Malaysia and India. In Malaysia, UNHCR’s efforts have led to increased protection for Burmese refugees.

Programs funded by PRM for refugees in Thailand pay particular attention to the most vulnerable refugees, which are women and children. While our programs in Thailand support the provision of health care to all refugees, indicators that measure the implementation of the programs focus on women and children. The same is true for our programs to provide food in the camps. In addition, PRM also supports programs to prevent sexual and gender-based violence (SGBV) and to assist and protect SGBV victims. Unaccompanied minors are also of special concern to us. In this regard, PRM works closely with UNHCR to ensure that the best interest of unaccompanied minors guide any determination of their cases. In some cases, third country resettlement will be the appropriate durable solution.

Despite not being a signatory to the 1951 Convention relating to the Status of Refugees Thailand hosts a large number of refugees from different countries and cooperates with UNHCR on cases of individuals fleeing political and other forms of persecution.

