

# Human Rights Watch

## Torture, Former Combatants, Political Prisoners, Terror Suspects, & Terrorists

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Events of 2009

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Intensifying Attacks on Human Rights Defenders, Organizations, and Institutions

Health Providers Complicity in Torture and Cruel, Inhuman or Degrading Treatment

In Search of Authoritative Local Voices

Burma's human rights record continued to deteriorate in 2009 ahead of announced elections in 2010. The ruling State Peace and Development Council (SPDC) systematically denies citizens basic freedoms including freedom of expression, association, and assembly. More than 2,100 political prisoners remain behind bars. This, and the politically-motivated arrest and trial of Aung San Suu Kyi only to send her back to house arrest for another 18 months, confirmed that Burma's military rulers are unwilling to allow genuine political participation in the electoral process. The Burmese military continues to perpetrate violations against civilians in ethnic conflict areas, including extrajudicial killings, forced labor, and sexual violence.

Aung San Suu Kyi, one of the leaders of the opposition National League for Democracy (NLD), has been under house arrest since 2003. On May 14, 2009, authorities arrested her (along with her two housemaids, who are NLD members) on charges that she breached terms of her house arrest order by permitting the intrusion of an American man, John Yettaw. Suu Kyi and her two staff were transferred to Insein prison, and went on trial on May 18 for allegedly violating the 1975 State Protection Act, the draconian law used to justify her house arrest extension orders.

The trial dragged on for three months, with frequent delays and with international fair trial standards lacking. Suu Kyi was allowed legal representation, but the court did not meet her counsel's request to present a number of witnesses (there were 14 prosecution but only two defense witnesses). The court was closed to the public, with foreign diplomats and the press permitted to observe the trial only on a few occasions. On August 11 Suu Kyi was found guilty, and sentenced to three years' hard labor, but almost immediately Home Affairs Minister Gen. Maung Oo read out a letter from President Than Shwe declaring the sentences of Suu Kyi and her staff would be commuted to 18 months' house arrest. The court sentenced Yettaw to seven years' hard labor for breaching Suu Kyi's house arrest conditions and for immigration violations, but he was released a week later on humanitarian grounds during a visit by US Senator Jim Webb. Suu Kyi appealed her sentence, but the Rangoon Division Court dismissed the appeal on October 1.

Activists arrested in 2007 and 2008, especially those involved in the 2007 mass protests, were sentenced by unfair trials in closed courts. In 2009 the SPDC conducted two prisoner amnesties, releasing 6,313 prisoners in February and 7,114 in September, but only 31 of those released in February and an estimated 130 released in September were political prisoners. They included journalist Eine Khine Oo, arrested in 2008 for helping victims of Cyclone Nargis, and magazine editor Thet Zin. An estimated 2,100 political prisoners remain incarcerated for their peaceful activities in Burma. Many prominent prisoners, such as student leader Min Ko Naing and famed comedian and social activist Zargana, have been transferred to isolated prisons with poor health and sanitation facilities.

Meanwhile, arrests of human rights defenders, activists, and NLD members continued throughout 2009. On September 3, authorities arrested US citizen Kyaw Zaw Lwin when he arrived in Rangoon. Zaw Lwin, who had been active in international campaigns on the

rights of political prisoners, has reportedly been tortured in prison. The International Committee of the Red Cross (ICRC) is still denied access to Burmese prisons and detention facilities.

Buddhist monks and key monasteries throughout Burma suspected of anti-junta activity are closely monitored by the authorities to deter any renewed monk-led protests. More than 230 Buddhist monks involved in the 2007 protests remain in prison.

The Burmese military continues to attack civilians in ethnic conflict areas, particularly in eastern and northern Burma. In May 2009, attacks by the army and its proxy force, the Democratic Karen Buddhist Army (DKBA), displaced thousands of civilians and forced an estimated 5,000 refugees into Thailand. In late July attacks by Burmese army troops against 39 villages in central Shan state displaced an estimated 10,000 civilians in the area.

Tensions between the military government and an estimated two dozen armed militias with longstanding, semi-official ceasefire agreements increased during 2009 as the government instructed them to disarm and transform into smaller "Border Security Guard" forces ahead of the 2010 elections. In August 2009, government attacks against an official ceasefire militia, the Myanmar National Democratic Alliance Army in northern Shan state, drove some 37,000 ethnic Kokang and Chinese civilians into southern China. Some of the refugees have returned, but thousands have remained in China due to fears of further fighting.

Abuses such as sexual violence against women and girls, extrajudicial killings, forced labor, torture, beatings, and confiscation of land and property are widespread. In clear violation of international humanitarian law, the Burmese army and non-state armed groups continue to routinely use antipersonnel landmines, and target food production and means of civilian livelihood.

There are an estimated half-million internally displaced persons in eastern Burma, and 140,000 refugees remain in nine camps along the Thailand-Burma border, despite a large-scale resettlement program by international agencies. More than 50,000 refugees from Chin state remain in eastern India, and 28,000 ethnic Rohingya Muslims live in squalid camps in Bangladesh.

Millions of Burmese migrants, refugees, and asylum seekers live in Thailand, India, Bangladesh, and Malaysia and are sometimes subject to trafficking. Thousands of ethnic Rohingya from western Burma and Bangladesh made perilous journeys by sea to Thailand, Malaysia, and Indonesia in late 2008 and early 2009. In January Thailand pushed back a number of boats into open waters, despite an international outcry (see also Thailand chapter).

Burma continues widespread and systematic forced recruitment of child soldiers. In June the United Nations Security Council working group on children and armed conflict released its report on Burma, calling on the SPDC to increase its efforts to end the culture of impunity for the forcible recruitment of child soldiers. The SPDC has instituted cosmetic and largely ineffectual policies to end the recruitment of child soldiers, with a low number of prosecutions of perpetrators that has not addressed the full extent of the problem. The junta limits its engagement with the UN Burma country team efforts through the International Labour Organization (ILO), which has been effective in releasing a small number of child soldiers. Non-state armed groups such as the DKBA increased their forcible recruitment and use of child soldiers in 2009.

Humanitarian engagement in areas of the Irrawaddy Delta affected by May 2008's Cyclone Nargis has given international and private Burmese relief agencies greater freedom to operate. However, basic freedoms of expression and information, assembly, and movement are still denied or curtailed. Private Burmese relief agencies have markedly proliferated, but must still navigate government controls, and most operate clandestinely. The SPDC delayed or denied work visas to some foreign aid workers posted to Burma. An increase in international humanitarian assistance has not been matched by junta programs-although the SPDC accrues billions of dollars annually in natural gas sales, little of it is disbursed to urgently needed health and livelihood programs.

Parts of Burma remain either off-limits to humanitarian relief organizations, or with tight controls imposed on movement and monitoring of projects, such as western Arakan state and conflict zones in eastern Burma. Conditions in these areas, particularly in Rohingya communities, continue to present a serious human rights challenge to international agencies working in Burma.

Key international actors on Burma including the United States, European Union, Australia, and the Association of Southeast Asian Nations (ASEAN) sharply criticized the trial of Suu Kyi and called for her immediate release. On June 16 five special rapporteurs of the United Nations Human Rights Council issued a joint statement that the trial violated substantive and procedural rights. In August the EU imposed a new set of targeted measures including extending its assets freeze to enterprises owned and controlled by junta members, and to members of the judiciary; the latter were also added to the list of persons under travel ban.

UN Secretary-General Ban Ki-moon visited Burma in July and met with senior junta leaders. Despite repeated requests he was denied permission to visit Aung San Suu Kyi. Ban stated his three calls to the SPDC to be the immediate release of political prisoners, an all-inclusive dialogue between the junta and Suu Kyi, and for the planned elections in 2010 to be "implemented in an inclusive, participatory, and transparent manner." Ban gave a speech in Rangoon at the end of his visit in which he deplored the human rights situation in Burma and called on the military government to work with the UN and the international community on seeking real political change and humanitarian development.

The UN secretary-general's special advisor on Burma, Ibrahim Gambari, visited Burma three times in 2009 to meet with senior junta officials. In September the "Group of Friends of Burma" met during UN General Assembly proceedings in New York and reiterated its call for the SPDC to work with the UN on substantive change. China blocked formal discussion of Burma in the Security Council in October.

The UN special rapporteur on human rights in Burma, Toms Ojea Quintana, visited Burma in February for a five-day tour. He was allowed to meet with government-screened political prisoners in Rangoon and Hpa-an (Karen state), and with government officials, representatives of pro-SPDC civil society organizations, and members of legally registered political parties. Two requested further visits in 2009 were postponed. Quintana's August report to the UN General Assembly called for the SPDC "to take prompt measures to establish accountability and responsibility with regard to the widespread and systematic human rights violations reported in [Burma]."

In February US Secretary of State Hillary Clinton announced an official review of US policy toward Burma. The review was released in

October, with the US retaining existing trade, investment, and targeted financial sanctions but announcing new high-level diplomatic engagement with the SPDC (Senator Webb's visit in August, ostensibly for private mediation efforts, had included meetings with senior military leaders, and afterward Webb had called on international actors to reconsider sanctions and engage with the SPDC). In November US Under-Secretary of State Kurt Campbell and other US officials paid the highest-level official visit to Burma in 15 years, meeting senior military leaders and Aung San Suu Kyi. President Barack Obama met Burmese Prime Minister Thein Sein at a November US-ASEAN summit meeting with all 10 ASEAN leaders, marking the first meeting between Burmese and US leaders in decades.

ASEAN in 2009 made several criticisms of the SPDC and called for Suu Kyi's release, particularly in a strongly-worded statement issued by Thailand as the ASEAN chair in late May. ASEAN Secretary-General Surin Pitsuwan renewed the Tripartite Core Group to assist with post-cyclone aid, and repeated calls to engage with the SPDC on political reform. But ASEAN members Singapore, Vietnam, and Laos continued to support Burma internationally. China and Russia also continue to provide diplomatic support for the SPDC.

China, Thailand, and India are major trade and investment partners. In March Chinese officials secured an agreement with Burma to construct a pipeline to transport natural gas from western Burma to China. Sales of natural gas continue to account for the largest share of the SPDC's revenue, and this project, scheduled for completion in 2013, will generate considerable additional profits for the junta. The Kokang fighting on China's border prompted a rare public rebuke from China, however, which said the SPDC had "harmed the rights and interests of Chinese citizens living there."

In 2009 international calls increased for an investigation into war crimes and crimes against humanity in Burma, and for a UN arms embargo to be imposed. No government has yet taken the lead in either initiative at the UN, despite calls for imposing tougher measures on the SPDC for its use of child soldiers. China, Russia, and North Korea still sell arms to the SPDC.

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