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BURMA: AN OPPORTUNITY TO EXPAND HUMANITARIAN SPACE

After nearly 50 years of brutal military rule, Burma is embarking upon a landmark transition to civilian administration. The country has seen some promising political reforms. But the world's longest civil war, coupled with natural disasters within the country, has created serious humanitarian needs which still persist. Recently, the Burmese government has demonstrated a willingness to cooperate with humanitarian agencies. The international community must seize this opportunity to ensure that the needs of the displaced are met, the military's abuse of human rights are stemmed, and ethnic conflicts progress toward peaceful resolution. Only by addressing both political reform and ethnic conflict will policymakers be able to break the cycles of violence that have gripped the people of Burma.

EXPAND HUMANITARIAN SPACE

There are an estimated 500,000 internally-displaced people (IDPs) in Burma, and three million Burmese refugees in other countries. There are also some 800,000 stateless Rohingyas in the west of the country, who live in dire humanitarian conditions because of their lack of basic human rights. Now is the time for the humanitarian community – led by the UN Resident Coordinator/Humanitarian Coordinator (RC/HC) and supported by key donors like the European Union, United Kingdom, and United States – to expand operations in Burma to meet these humanitarian needs. While it is premature to plan any refugee returns, the long-neglected humanitarian issues have to be prioritized and addressed by both the government and the humanitarian community.

Burma's new government has demonstrated a willingness to work with the international community on humanitarian needs created by both natural disasters and conflict. The government has finally recognized the existence of IDPs, and invited the UN to assess the displaced's needs in Kachin State. In December, the government also took the unprecedented step of allowing UN agencies to assist IDPs in areas

POLICY RECOMMENDATIONS

- Humanitarian donors, particularly the EU, UK, and U.S. governments, should increase humanitarian and disaster risk reduction assistance inside Burma and immediately fund the \$6.4 million UN appeal to respond to ongoing displacement of Kachin communities.
- Western donor governments should lift aid restrictions to allow their partners to support capacity-building efforts in reform-minded ministries – particularly the Ministries of Health and Social Welfare.
- The international community should encourage and support President Thein Sein to confirm the lead mediator for ceasefire negotiations and pursue Track II diplomacy efforts by appointing an advisory body to reach out to all ethnic groups (including Burmans) to find a peaceful solution to the ethnic conflicts.
- The international community, particularly Indonesia and the U.S., should engage the Burmese military to prevent and respond to violations of human rights – particularly in conflict-affected areas – by setting up appropriate reporting and accountability mechanisms.

outside of its control. The government is also working with the UN Refugee Agency (UNHCR) to identify potentially stateless Chinese and Hindu populations, and has so far approved two communities for naturalization. While these steps may seem inadequate considering the vast need, history has shown that persistence in pushing the boundaries in Burma can effectively expand humanitarian space.

The new, decentralized government structure has improved bureaucratic processes and increased channels to expand access to conflict-affected areas. Previously, all approvals passed through both the military and ministries. Now the military has been removed from the process, and there are multiple decision-makers. Over the past year, the government has signed numerous Memorandums of Understanding (MoUs) with international non-governmental organizations (INGOs), some of which had been languishing in bureaucracy for years. In addition, INGO officials told RI that the government has improved the approval system for visas and travel permits for international staff, although the process remains highly bureaucratic. Some government officials at the regional levels (such as the chief ministers of Kachin and Karen States) are now able to act independently of the central government, which has helped to expand access for international aid agencies assisting IDPs. While many of these efforts remain personality-driven, they illustrate the new entry points to engage authorities on humanitarian issues.

While overall access to conflict areas remains challenging, it is possible for humanitarian aid to be provided independently and impartially. Over the past decade, local NGOs in Burma have developed significantly and are now estimated to number in the hundreds. The devastation wrought by Cyclone Nargis in 2008 served as a catalyst in mobilizing and strengthening local civil society, as well as re-establishing a dialogue between the humanitarian community and the government. In conflict-affected areas, which are more sensitive for the government, supporting and strengthening local NGOs and civil society is critical to expanding humanitarian space. Religious organizations – primarily Buddhist and Christian – are the primary focal point in providing IDPs with food, shelter, and livelihood support. In Kachin State, church and monastery compounds are hosting thousands of IDPs organized by volunteer groups, with assistance provided by UN agencies.

International aid agencies should increase partnerships with local organizations to strengthen their capacity to reach the most vulnerable. While many INGOs in Burma do not invest the time necessary to gain government-approved access to conflict areas, some do partner with

local NGOs, provide funds for small-scale programs, and build organizational capacity. These partnerships can leverage INGOs' technical expertise and access to international funds with local NGOs' connections to communities and authorities. Some UN agencies have expressed reservations about engaging with local organizations because of assumed ties to armed groups, but this assessment should not be generalized. The UN Humanitarian Country Team should develop tools to assess local organizations' capacities and compliance with the humanitarian principles to identify reliable partners.

In recent years, the UN's advocacy efforts have languished following the expulsion of the RC/HC during the 2007 Saffron Revolution. The World Food Programme (WFP) and UNICEF have established offices throughout Burma's border regions, yet the UN has failed to leverage its comparative advantages to strengthen the humanitarian dialogue with the Burmese government. The recent arrival of the Office of the Coordination of Humanitarian Affairs (OCHA) in Burma and its growing dialogue with the government is an excellent opportunity for the incoming RC/HC to strengthen advocacy with the government to expand access to meet both immediate and long-term humanitarian needs, as well as request donors to increase humanitarian funding. To better focus efforts on this undertaking, the RC/HC position should be de-linked from its additional role as the head of the UN Development Programme (UNDP). The demands of the two positions are too great to be handled by just one person. UNDP's head will need to exercise strong leadership as it recalibrates its operations in Burma to the changing political climate. It is essential that this new role not detract from addressing critical humanitarian needs.

Limited humanitarian funding inside Burma remains a significant barrier to increasing operational space within the country. In recent years, the UK, EU, and Australia have significantly increased assistance inside Burma. However, the majority of the U.S. government's \$38.5 million contribution to Burma goes to organizations based in Thailand.

USAID's Office of Foreign Disaster Assistance (OFDA) has spent only \$100,000 in Burma since its response to Cyclone Nargis, despite widespread humanitarian needs resulting from conflict, natural disasters, and climate change. As demonstrated by recent deadly cyclones, droughts, and earthquakes, Burma is considered one of the world's most vulnerable countries to natural disasters and climate change. OFDA should leverage the Burmese government's interest in disaster preparedness and response capacity by investing in disaster risk reduction, while supporting local partners who work in conflict areas.

U.S. assistance inside Burma must be increased, but this increase must not undercut existing funding for humanitarian programs for Burmese refugees in Thailand.

DECREASE DONOR RESTRICTIONS TO INCREASE LOCAL CAPACITY

Western donor restrictions on aid to Burma – in particular those imposed by the U.S. – prevent donors’ implementing partners from providing technical advice and assistance to the Burmese government. Local and international aid workers told RI that these onerous restrictions have exacerbated the impact of the government’s disastrous economic policies and deepened the suffering of the poorest Burmese. Rolling back all U.S. sanctions may not be appropriate until key human rights benchmarks are met. However, removing specific barriers to technical assistance to key ministries and civil servants would allow Burma’s government to better respond to humanitarian needs and jumpstart the country’s stagnant development progress.

While in Burma, RI met with aid workers who consistently spoke of civil servants operating at all levels of government without basic management, planning, and administrative skills. One UN official said, “This government is like a newborn – it needs proper development and teaching.”

U.S. law, along with similar restrictions imposed by other western donors, prohibits assistance from reaching any member of the government. This means that, in practice, UNDP and U.S. implementing-partner NGOs can work freely with communities, but cannot provide any assistance or even training to teachers or health workers, thereby hindering systemic impact. Western donors should make their existing policies more flexible in order to assist high-impact, reform-minded ministries like health and social welfare, and improve working-level capacity to address the needs of the most vulnerable. Regional countries should also strengthen their engagement to build capacity of civil servants and lawmakers on public administration, policy-making, and program implementation.

In the past year, local NGOs have significantly strengthened their advocacy with the government. Donors should promote this approach by removing restrictions that may prevent implementing partners from engaging authorities. One aid worker told RI, “NGOs here can fall into a trap if they do the government’s job without advocating and teaching [the government about] its obligations.” For example, a local network of women’s organizations is helping government officials draft their implementation plan for the Convention on the Elimination of Discrimination Against Women. These

steps will allow civil society to fully leverage new opportunities to influence the government, institute rights-based policies, and raise awareness of human rights.

THE EMERGING KACHIN CRISIS

In June 2011, the Burmese government returned to war with the Kachin Independence Organization (KIO) after 16 years of relative peace. The re-emergence of this conflict is of particular concern, not only because of its potential to undermine other possible ceasefire agreements, but also because of its human toll. One Rangoon-based NGO told RI they had documented 60 cases of rape by soldiers from June-November 2011. In December, President Thein Sein ordered the army to halt its military operation. But at the time of writing, fighting continues – indicating that the military remains unwilling to submit to civilian authority.

Without effective pressure from key actors like China, Indonesia, and the U.S., the military may succeed in eliminating the KIO, thereby destroying peace prospects in the near term and widening ethnic divisions.

Since June, at least 60,000 civilians, primarily women and children, have been forced from their homes due to this violence. The majority of IDPs are now caught between warring parties. OCHA was able to secure access to deliver some assistance, and this must be sustained to meet the growing need for food, water, medical supplies, and warm clothes. IDPs, primarily those dependent on agriculture, were unable to harvest their crops due to fighting and will need food aid until late 2012. Unless international donors renew their contributions, WFP will run out of funds for IDPs in February 2012. Key humanitarian donors like OFDA and the European Community Humanitarian Office should follow the UK government’s lead and fund the \$6.4 million UN appeal to assist civilians forced to flee the military offensive against the KIO.

PAVING THE LONG ROAD TO PEACE

A durable peace can only be reached in Burma if the government takes concrete steps to rebuild trust among ethnic minorities. The colonial legacy and subsequent government policies towards Burma’s ethnic minorities – which make up roughly 40% of its population – have deeply fractured society. Various attempts by previous Burmese leaders to negotiate with ethnic groups have been viewed as a threat and only met with tighter military control. Both the government and international community must proceed with caution and prioritize the peaceful resolution of the ethnic conflicts, while acknowledging that

national reconciliation will be a long-term process. These deeply entrenched conflicts can only be solved through a comprehensive national reconciliation plan that engages both the majority Burman population and ethnic minorities, including the stateless Rohingya.

The government's attempts at peace have long been viewed with suspicion by ethnic armed groups. Over a dozen ceasefires were signed during the 1990s, allowing the military to concentrate its forces against non-ceasefire groups, like the Karen National Union (KNU). Ultimately, the ceasefires did not allow for grievances to be addressed. In 2009, the government ordered all ceasefire groups to merge into the Burma Army as border guards, reigniting conflict with several armed groups who refused.

In August 2011, Burma's Parliament appointed a national mediation team to talk with armed ethnic groups. This team was led by MP Aung Thaung, who is deeply mistrusted by ethnic minorities, and had little success. Within months, President Thein Sein appointed the Minister for Railways to also reach out to various ethnic armed groups. As a result of the negotiations led by the minister, the Shan State Army-South and the Chin National Front have signed ceasefire agreements with the government, while talks with the KNU and New Mon State Party are continuing.

President Thein Sein should confirm the Minister for Railways' appointment as the lead national mediator to reach out to all armed groups. The current structure consisting of separate mediation teams appointed by both the President and the Parliament has bred confusion and mistrust. The progress made by the Minister of Railways on the ceasefire negotiations could be undermined by the mediators appointed by the Parliament. The President should also pursue Track II diplomacy by convening an advisory group on ethnic issues, which would consult widely with civil society in Burma and in exile, as well as communities, to rebuild trust and explore peaceful solutions to the conflict.

Burma's ethnic conflicts result from numerous grievances and are rooted in a lack of control over the issues that most affect ethnic minorities. Ethnic minorities, particularly in the border areas, have been subject to atrocities and human rights abuses by all parties to the conflict. Armed groups have caused a proliferation of landmines, recruited child soldiers, practiced extortion, and profited from illegal border trade. Over the past 50 years, the Burma Army has used sexual violence against women, imprisonment, child soldiers, human minesweepers, extrajudicial killings, and the destruction of villages in its campaign to cut off food, funds, information, and recruits from armed groups. The so-called "four cuts"

counterinsurgency campaign has resulted in up to one million civilian deaths and the displacement of many more.

Conflict has also deprived ethnic communities of development opportunities. Although most natural resources and strategic routes are located in border regions, ethnic communities have gained little from these multimillion-dollar projects. Instead, they have suffered from the impact of environmental degradation, loss of livelihoods, and forced relocation.

ENGAGE THE MILITARY TO END HUMAN RIGHTS ABUSES

The international community, particularly the U.S. and Indonesia, should support all efforts to bring the military under civilian control to end human rights abuses and strengthen reporting and accountability mechanisms. Indonesia is a key regional player, and was the final decision-maker in giving Burma the 2014 ASEAN chairmanship. Indonesia also has experienced its own relatively peaceful transition from military to civilian rule, and can use this experience to help guide Burma through its own transition.

After years of unsuccessful attempts by the U.S. to engage Burma's military, Special Envoy Derek Mitchell met the Burma Army's commander-in-chief in 2011 to discuss its human rights record. Following that meeting, the military requested that NGOs report cases of rape by soldiers so that the military could undertake investigations. RI met with local women's organizations who said that this kind of international engagement was critical to supporting local efforts to hold the military accountable. RI was told of one group's successful negotiation for the removal of a particularly abusive military battalion from a community. In another example, children's rights groups have been able to secure the release of child soldiers to their families by training military officers and raising community awareness.

Engaging the government and the military is essential to transforming the Burmese government's pledges of reform into action. For the first time, some members of the Burmese leadership, particularly President Thein Sein, have expressed a willingness to assert civilian control over the military. The Burmese government has a very long way to go in this effort, but the international community must take full advantage of this opportunity to pressure the military to reform its command-and-control structure, as well as increase engagement on civilian protection, international humanitarian law, and human rights.

Lynn Yoshikawa and Kristen Cordell assessed the humanitarian situation in Burma in November and December 2011.