

Humanitarian Assistance to Burma

How to establish good governance in the provision of humanitarian aid - ensuring aid reaches the right people in the right way

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Notable Quotes

“Better governance [not increased funding] is the answer to Burma’s humanitarian crisis...the most important aspect of humanitarian assistance or any kind of assistance is good governance. Unless there is good governance, you cannot ensure that the assistance will really benefit the country” – Daw Aung San Suu Kyi, August 2002

“The root cause of the on-going humanitarian crisis in Burma is the lack of a democratic government accountable to the people, and the military’s focus of holding on to power instead of promoting the interest of the nation” – Strategy Coordination Committee, ‘Humanitarian Aid – Burma’ Statement, 20 January 2002

“The issue of humanitarian aid for a country where an authoritarian government has a stranglehold on every aspect of the lives of its citizens has to be handled with the greatest care” – Daw Aung San Suu Kyi, 1999

“We have always said that assistance to Burma should depend on accountability, transparency, and independent monitoring, which is to say that assistance projects, aid projects must be opened to scrutiny...we have said everything that we do, we do only with the benefit of the people in mind, which is why we insist that assistance and aid must be opened to scrutiny to ensure that the right assistance is getting to the right people in the right way, ensure that our people are really benefiting from whatever aid or assistance is given to the state’ – Message from Daw Aung San Suu Kyi, 19 July 2002

“Unless there is accountability and transparency, you can never say what happens to all that assistance. It may not go to help the people, on the contrary, it may go into schemes that harm the people. So unless there is accountability and transparency we cannot say that humanitarian aid is assisting the people” – Daw Aung San Suu Kyi, interview August 2002

“[The international community must] respect the concerns and engage Burman and non-Burman democratic groups and civil society organizations in a transparent and constructive debate before taking any decisions on increasing international aid to Burma” – Statement by Concerned Individuals along the Thai-Burma border, 20 July 2002.

“international agencies – such as UNDP, UNICEF, FAO, WHO or UNDCP – have not confronted the government over rights of access and NGOs have not gained unimpeded access to the displaced in contested areas”- Burma Ethnic Research Group, September 2000

“Among the areas in most need of significant improvement is the situation of vulnerable groups, inter alia the poor, children, women and ethnic minorities and, in particular, those among them who have become internally displaced in zones of conflict between the army and armed groups” – Special Rapporteur on the Situation of Human Rights in Myanmar, Professor Paulo Pinheiro, CHR report 2002, paragraph 108.

“Humanitarian assistance should not damage the process of democratization by helping the SPDC shift money from health and education to the military” – Dr Sann Aung, NCGUB

Executive Summary

The National Coalition Government of the Union of Burma's (the NCGUB) position on humanitarian aid is that the dire humanitarian situation should be one of the first items on the agenda of a substantive dialogue between the SPDC and the NLD. Joint consultative mechanisms should be established to ensure that aid reaches the right people in the right way. The objective of these mechanisms would be to ensure transparency and accountability and independent monitoring of the provision of humanitarian aid to the most vulnerable populations in Burma. Once these modalities are agreed upon, humanitarian aid by the international community should increase. Initially, to ensure the implementation and enforcement of the joint mechanisms, the NCGUB would prefer funds to finance small-scale projects managed by international NGOs.

In a leaked letter dated 30 June 2001, all nine UN agency representatives in Rangoon collectively called on their respective headquarters and the international community for a 'dramatic overhaul of the budget allocations' for Burma because the country was 'on the brink of a humanitarian crisis.' The situation has not improved. The UN Country Team is due to issue its humanitarian assessment of Burma at the end of 2002. The results will be used to urge the international community to increase funding for humanitarian assistance to Burma.

The NCGUB shares the concerns of the UN and the international community regarding the rapidly deteriorating humanitarian situation in Burma. The NCGUB is concerned about the long-term consequences for the country and believes the situation needs immediate attention - but not through the existing mechanisms. The humanitarian situation should be one of the first items on the agenda of a substantive dialogue between the State Peace and Development Council (SPDC) and the National League for Democracy (NLD). Joint consultative mechanisms must be established to ensure the three tenets: accountability, transparency and independent monitoring. Only through such mechanisms will aid reach the most vulnerable populations in Burma. The international community, the holders of the purse strings, must actively engage the regime in a dialogue to confront the humanitarian needs in the country and continue to push for appropriate modalities to enable the provision of humanitarian aid in a transparent and accountable manner.

The NCGUB's position is supported by both the UN Secretary-General's Special Envoy, Ambassador Tan Sri Razali Ismail, and the Special Rapporteur on the Situation of Human Rights in Burma, Mr. Paulo Sergio Pinheiro. Ambassador Razali and Professor Pinheiro have discussed with the SPDC and Daw Aung San Suu Kyi the need for greater humanitarian assistance to deal with the challenge posed by HIV/AIDS and other health-related issues, including malaria and the lack of immunization programs in certain areas. Both Ambassador Razali and Mr. Pinheiro have raised the idea of a functional committee with mixed composition and oversight by the UN.

Language in Commission on Human Rights resolution 2002/67 concerning the ‘Situation of human rights in Myanmar,’ reflects this idea of a joint mechanism and the need for cooperation and consultation with all relevant players on the provision of humanitarian assistance.¹ However agreement has not yet been reached with the SPDC on modalities to enable the provision of such assistance.

The need for joint consultative mechanisms is due to the root cause of the humanitarian crisis in Burma - the lack of an accountable democratic government. The regime is accountable for failing to shoulder responsibility for its citizens. This failure has precipitated the humanitarian crisis. As Daw Aung San Suu Kyi states, better governance, rather than increased funding, is the answer to Burma’s humanitarian crisis.²

The politics cannot be taken out of aid due to the root cause of the current situation – prolonged military rule. That the regime clearly views humanitarian aid as political is demonstrated by the pervasive surveillance of and interference in the work of international aid agencies operating in Burma. Without taking the root causes into account, and without careful planning and thought, humanitarian assistance is likely to aggravate the humanitarian and political crisis by failing to provide urgently needed protection and assistance to the most vulnerable populations and further consolidating the regime’s rule. The concern is that humanitarian assistance may unintentionally exacerbate the conflict rather than contribute to peace. Well meaning cannot suffice for well-conceived or well-done.

Another concern is that an increase in humanitarian assistance by donor countries may undermine political pressure for democratic change. Political strategies must be pursued together with humanitarian strategies. Daw Aung San Suu Kyi stated on 22 August, ‘We would be happy to cooperate with the SPDC on aid and assistance programs which will benefit the people and which will also promote the process of democratization and the second part is very important.’³

Fundamental prerequisites for democratic change are the pursuit of peace and national reconciliation. It is of vital importance in crafting and implementing aid projects that there is genuine and official consultation and cooperation not just with the NLD but also

¹ See paragraph 4(h): ‘*Expresses its grave concern* at the ever increasing impact of HIV/AIDS on the population of Myanmar and urges the Government of Myanmar to recognize further the gravity of the situation, the need to commit adequate resources and the need to take measures, in cooperation with the National League for Democracy, ethnic groups, non-governmental organizations and women’s groups...’; and, 7(n): ‘Strongly urges the Government of Myanmar to cooperate fully with the United Nations international humanitarian organizations, and all sectors of the community through consultation, to facilitate the granting of authorization to work throughout the country to United Nations and international humanitarian personnel, to allow the provision of humanitarian assistance and to guarantee that it actually reaches the most vulnerable groups of the population, in cooperation with all relevant political and ethnic groups’.

² Daw Aung San Suu Kyi, “Better Governance is the Answer”, transcript of interview, August 2002.

³ Steve Hirsch, United Nations Wire interview conducted on 21 August 2002. See www.unwire.org.

with other political and ethnic nationality representatives, and local communities. All relevant political and ethnic groups must be consulted and treated as equal partners.

The correlation between increased militarization, human rights abuses and humanitarian problems is extremely strong. The authorities have not authorized independent monitoring or humanitarian assistance to displaced persons and/or other vulnerable populations. According to Mr. Pinheiro, estimates of the total number of displaced persons in Burma range from 600,000 to one million, most of whom are located in the ethnic border areas. Cross-border aid does reach vulnerable populations near the Thai-Burma border but is inadequate to address the overall need in these areas. Access to these vulnerable populations is crucial to the success of humanitarian assistance efforts. The international community must pressure the regime to allow humanitarian aid to reach these people.

The NCGUB believes that appropriate humanitarian assistance to cover basic needs requires adequate nutrition, water, sanitation, clothing, health care and security.

The first section of this paper outlines the general humanitarian situation in Burma: the level of poverty; the collapse of the health care and education systems; the rapid spread of HIV/AIDS; food insecurity resulting from increased militarization; and the extensive use of landmines.

The second section explores why there is a humanitarian crisis in Burma, focusing on the lack of good governance. There is no evidence of sufficient political will within the regime to address the underlying causes of the crisis. This is acutely illustrated by the continuing excessive spending on the military and under-investment in the non-military sector. The lack of sustainable civic structures deprives alternate means to social services delivery. Accordingly channeling humanitarian aid through the existing institutional mechanisms is highly unlikely to be transparent, accountable or effective.

The third section addresses current humanitarian aid operations in Burma. This section discusses the specific challenges faced primarily by international aid agencies operating inside Burma and past incidences of concern involving international aid agencies. This section also discusses the options for building the capacity of civil society to ensure sustainability and the Joint Operating Principles (code of conduct) developed by a group of international NGOs inside Burma.

The fourth section focuses on the call for a nationwide cease-fire, which would enable the provision of humanitarian assistance to conflict areas, by raising the use of humanitarian cease-fires as a potential peace-building tool. Humanitarian cease-fires constitute attempts to get much-needed humanitarian space in the midst of violent armed conflicts. If such initiatives are both of a humanitarian and political nature they can truly be used as a peace-building tool.

The paper then discusses potential institutional processes for the provision of humanitarian assistance to ensure accountability, transparency and independent monitoring in light of lessons learnt from other contexts.

The final section of the paper proposes an institutional process for the provision of humanitarian assistance in Burma. It is essential that such a process is established to mitigate the potentially adverse consequences of such assistance and to create much needed humanitarian and political space to forward the peace, democracy and reconciliation agenda. The proposed institutional process serves as a recommendation as to how to deliver aid in the right way to the right people.

The General Humanitarian Situation in Burma

In a letter dated 30 June 2001, leaked to the press in early August, all nine UN agency representatives in Rangoon collectively called on their respective headquarters and the international community for a ‘dramatic overhaul of the budget allocations’ for Burma because the country is ‘on the brink of a humanitarian crisis.’⁴ UNICEF wrote to the UN Secretary-General in March 1992 describing the situation facing the children of Burma as a ‘silent emergency.’ A lot of time has passed since then.

In the wake of international isolation and sanctions, multilateral and bilateral assistance has shrunk and the UN has emerged as the largest source of aid, which is mainly humanitarian. At present, 68 per cent of official development assistance (ODA) is channelled through UN agencies operating in the country.⁵

The European Union (EU) has provided 11.17 million euros towards humanitarian programs in Burma since 1996. It has contributed 5 million euros to the Joint Action Plan on HIV/AIDS and announced on 8 August 2002 that it has allocated two million euros towards malaria prevention and treatment programs and a project by the International Committee of the Red Cross which monitors political prisoners.⁶

There are around 30 international NGOs (INGOs) operating in Burma, of which 16 are subcontracted by UN agencies. Assistance from these INGOs has increased from \$4.5 million in 1999 to more than \$7 million in 2000.⁷ INGO activities are concentrated mainly on HIV/AIDS, primary health, and maternal and child health care.

The Secretary-General’s Special Envoy, Ambassador Tan Sri Razali Ismail, and the UN Special Rapporteur on Human Rights in Burma, Mr. Paulo Sergio Pinheiro, have discussed with the regime and Daw Aung San Suu Kyi the possibility of greater humanitarian assistance to deal with the challenge posed by HIV/AIDS and other health-related issues, including malaria and the lack of immunization programs in certain areas. Agreement has not yet been reached with the regime on modalities to enable the provision of such assistance.

The discussion below will outline the current humanitarian situation in Burma.

Poverty

Four decades of military rule and mismanagement have resulted in widespread poverty, poor health care, and low educational standards. Burma was officially designated a ‘least developed country’ in 1987. The World Bank estimates, based on a national government

⁴ Copy of letter is with author.

⁵ Asian Development Bank, “Economic Update. Myanmar”, November 2001, p. 8. Found at: http://www.adb.org/Documents/Economic_Updates/MYA/in259_01.pdf [hereinafter ‘ADB Nov 2001 report’].

⁶ Nwe Nwe Aye and Thet Khaing, ‘EU allocates \$2 million for malaria program’, Myanmar Times, August 19-25, 2002.

⁷ Ibid.

survey of household income and expenditures in 1997, that about one fourth of the population, or thirteen million people, are living below minimum subsistence level, with another five million living precariously just above it.⁸ Since this household survey was conducted the economic situation has worsened; an even greater proportion of the population is now living below the minimum subsistence level.

Burma is ranked 125th in the UNDP Human Development Index 2000, placing it in the lower portion of 'medium human development countries in the region'. Its score of 0.585, which measures health status, educational attainment, and general standard of living, places it third from bottom in Southeast Asia, just above Cambodia and Laos. However this figure is based on the official literacy rate of 84.4%. A recent UNICEF survey found that the real functionary literacy rate is only about 53%. With this estimate the HDI value would be lower, roughly the same as Laos.⁹

Health

The health care system in Burma has been in decline for a number of years. This process has accelerated since 1995. The rates of infant mortality and malnutrition among children are very high, comparing unfavorably with its neighbors. In each of these areas, the trend within Burma over the last 15 years is one of stagnation or deterioration. According to UNICEF, of the 1.3 million children born every year, more than 92,500 will die before they reach their first birthday and another 138,000 children will die before the age of 5. The main causes of premature death are malaria, tuberculosis, HIV/AIDS, acute respiratory infections, and diarrheal diseases.¹⁰ More than 1 in 3 children aged under 5 will become malnourished, most probably when they are between 1-3 years old.¹¹ Conflict, massive displacements, economic mismanagement and inadequate budget allocations have provoked this situation.

The maternal mortality ratio (MMR) in the country is high, with estimates ranging between 230 and 580 per 100,000 live births. Contraception is largely unavailable and it is estimated that the consequences of unsafe abortion account for around 50 per cent of maternal deaths¹².

Burma's healthcare system is the most discriminatory in the ASEAN region, with responsiveness likely to depend upon an individual's ethnic group, income level, or civilian versus military status. The health problems are exacerbated by the on-going armed conflict, which disproportionately affects ethnic groups. Children from ethnic groups have extremely limited access to health care, hospitals and immunization. Rural and border areas need increased immunization and inoculation coverage.¹³ Conditions are particularly harsh in areas of open conflict, where the population is under pressure from

⁸ See, ICG humanitarian assistance report at page 9 quoting World Bank, Myanmar: An Economic and Social Assessment, 1999 [draft], p. 11.

⁹ ICG humanitarian assistance report, at p. 10, citing UN Country Paper.

¹⁰ ICG humanitarian assistance report, at p. 10 quoting UN Country Paper, January 2002.

¹¹ See UNICEF, Children and Women in Myanmar, April 2001, found at <http://www.unicef.org/myanmar/pages/a3.html>, at p. 2.

¹² See UNFPA 2001 report, para. 5 and UNAIDS/WHO 2000 (revised) report, p. 3.

¹³ ADB Nov 2001 report, at p. 6.

both regime and resistance forces. Landmines and military violence directly affect the health of the populace, while displacement and forced relocations are the main causes of malnutrition and other related illnesses.

The border areas score lower than the national average on most social indicators, with Northern Rakhine (Arakan), Chin State, and Kayah (Karenni) State being the worst affected.¹⁴ International aid agencies do not have access to large populations in these States. Internally displaced persons (IDPs) suffer the most as the regime refuses to acknowledge or allow official assistance to this most vulnerable population, the majority of which are women and children.

Burma's healthcare system is in a shambles due to inadequate budget allocations. Since 1985, public expenditure on health has shown a dramatic downward trend. Government spending on health care declined from 0.38% of GDP in 1995/6 to 0.17% in 1999/2000, one of the lowest levels in the world.¹⁵ In 1999, the regime's per capita expenditure on health care was US\$0.60 per annum. The World Bank's recommended minimum is twenty times that amount.¹⁶ The regime claims that its health expenditure in 2000/1 has increased to 0.305% of GDP,¹⁷ which is still completely inadequate.

HIV/AIDS

Burma stands perilously close to an unstoppable epidemic.¹⁸ In June 2000, UNAIDS estimated that 530,000 people were infected by HIV.¹⁹ This translates into one in 50 (2%) of the population in the most sexually active age bracket of 15 to 49. Some 180,000 of those infected were women, and another 14,000 were children. According to one estimate there were anywhere from 42,000 to 58,000 HIV-positive children born in Burma between 1988 and 1998.²⁰ There are at least 43,000 AIDS orphans. With around 50,000 new AIDS deaths a year, the total number of children deprived of one or both of their parents is rising sharply.²¹

Official HIV surveillance data in Burma, while imperfect, clearly indicates a serious epidemic that has spread from known high-risk groups into the general population. HIV prevalence of pregnant women receiving antenatal care, averaged 2.2% across the country and in some sites (border areas) was as high as 5.3%. A prevalence of 1% among pregnant women is used by UNAIDS/WHO as the benchmark of a generalized epidemic, where HIV has "bridged" from high-risk populations to the general population.²²

¹⁴ ICG humanitarian assistance report, at p. 11.

¹⁵ ADB Nov 2001 report, at p. 6.

¹⁶ See ICG HIV/AIDS report, at p. 8.

¹⁷ See, 'Report on the situation of human rights in Myanmar, prepared by Mr Paulo Sergio Pinheiro, Special Rapporteur of the Commission on Human Rights, in accordance with Commission resolution 2001/15', UN Doc. E/CN.4/2002/45 [hereinafter 'Pinheiro's CHR 2002 report'], at para. 94.

¹⁸ See ICG HIV/AIDS report, overview.

¹⁹ UNAIDS, Report on Global HIV/AIDS Epidemic, June 2000.

²⁰ Dr C Beyrer, 'War in the Blood: Sex, Politics and AIDS in Southeast Asia', 1998.

²¹ ICG HIV/AIDS report, at p. 2 and UNAIDS/WHO 2000 (revised) report, p. 3.

²² UNAIDS, "United Nations Response to HIV/AIDS in Myanmar: The United Nations Joint Plan of Action 2001-2", at 5-6; and ICG HIV/AIDS report, at p. 2.

Included among the major direct human factors contributing to this incidence are: injecting drug use (around 60% in 2000), direct and indirect commercial sex (38% in 2000), and male and female STI infections.²³ Overall, HIV levels in blood donors have been rising slowly but steadily over the past decade.

The known impact of HIV/AIDS is most severe along the north, Eastern and Southern border areas of Burma neighboring China and Thailand (Kachin, Mon, Shan States, Thanintharyi Division) and Rangoon.

An increasingly high number of young girls are being trafficked to Thailand to work in the sex industry. These girls are at high risk of contracting HIV as many of them are sold and re-sold a number of times as 'virgins.'²⁴

Specific challenges to effective HIV/AIDS control and prevention in Burma include: risk factors associated with mobile and transient populations; limited condom use and availability (condoms were outlawed until 1992 and usage remains very low due); limited access to high-risk and at-risk populations, the inadequate involvement of people living with HIV/AIDS; inadequate behavioral research; limited supportive laboratory capacities; and limited resources to support blood safety programs.²⁵

Efforts to fight the disease are complicated by stigma, discrimination and fear. Poor quality and overpriced treatment for sexually transmitted infections facilitates the transmission of HIV. People with HIV infections are generally stigmatized and do not always access the care and support actually in place. Few support groups exist for People Living with HIV/AIDS. Only recently has the regime publicly acknowledged concern about HIV/AIDS and publicly named the epidemic as one of the top three priority public health issues, along with malaria and TB.²⁶

In the absence of any significant bilateral and multilateral donors, the UN system in Burma is the principal source of external funding for HIV/AIDS prevention and control efforts. The newly implemented two-year UN Joint Plan of Action aims to achieve a more coordinated approach by the UN agencies working on HIV/AIDS. However the targeted budget of \$34 million needed to fund activities identified in the Joint Plan has not yet been reached.

Several INGOs have been subcontracted by the UN or have their own programs on HIV/AIDS prevention and care.²⁷ All of the UN co-sponsors have funded and partnered

²³ UNAIDS Joint Plan of Action, id, at 6 and ICG HIV/AIDS report, at 2.

²⁴ See U.S. State Department, 'Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report', (Released by the Office to Monitor and Combat Trafficking in Persons) June 5, 2002. Found at: <http://www.state.gov/g/tip/rls/tiprpt/2002/>.

²⁵ UNAIDS Joint Plan of Action, at 6.

²⁶ USAID HIV/AIDS 2002 report, at page 6.

²⁷ The UN agencies are: UNDP, UNFPA, UNICEF, WHO, UNDCP. All UN agencies are coordinated through UNAIDS. The INGOs are: the ICRC; World Vision; CARE; Save the Children (UK); Population

with at least one of these NGOs for HIV projects. Though INGOs are reported to be generally effective, their geographical and population reach is very limited.²⁸

Education

Burma was once considered one of the most literate countries in the world. Unfortunately today the education system at all levels is decaying – and along with it the future of Burma’s next generations. The regime has neglected the education of children, allocating minimal resources to public education. In 1999, the World Bank found that state spending on education is among the lowest in the world, equivalent to 28 cents per child annually. Of the national budget, 40.1% is used for the military forces while less than 1% is used for all civilian education.²⁹

Rates of school attendance and educational attainment decreased during 2001, largely due to increasing formal and informal school fees, as the junta diverted expenditures from health and education to the armed forces.³⁰

Low educational attainment is a serious social, economic and political problem. Only three out of four children enter primary school, and of those only two out of five complete the full five years. In other words, only 30% of Burmese children get proper primary schooling, let alone secondary and tertiary education.³¹

According to a study conducted by UNICEF and the regime, the single greatest obstacle to school attendance in Burma is cost: 57.6% of households cannot afford basic education for their children.³²

Those children who are able to attend school rarely receive quality education. Textbooks, equipment and school supplies are outdated and in short supply. Standards are low and a new exam system makes it easier to pass the primary, middle and high school levels.³³

Teachers’ salaries are far below subsistence wages and have forced many teachers to quit teaching out of economic necessity. Increasingly, only prosperous families can afford to send their children to school, even at the primary level. In some areas in the center of the country, in which few families are able to afford unofficial payments to teachers, teachers generally no longer come to work and schools no longer function. In response to government neglect, private institutions have begun to provide assistance in education,

Service International; Medecins du Monde; Medecins sans Frontieres (Holland); Marie Stopes International; World Concern, and; the Population Council.

²⁸ See ICG HIV/AIDS report, at p. 6.

²⁹ See U.S State Department’s 2002 human rights report, section on children.

³⁰ U.S State Department’s 2002 human rights report, section on children.

³¹ ICG humanitarian assistance report, at p. 9.

³² UNICEF and Myanmar Department of Labor, Report on Working Children and Women in Myanmar’s Urban Informal Sector, 1997.

³³ In Burma, primary school is for children aged 6-9; middle school from 10-13; and high school from 14-15.

despite an official monopoly on education.³⁴ The higher costs in this sector effectively exclude the poorest and weakest strata of the population.

Female students are disproportionately affected by high dropout rates. Fewer than one third of all girls who enroll make it through primary school.³⁵

Access to primary education is highly politicized. In many townships, NLD members are prohibited from participating in Parent Teacher Associations. Therefore, aid projects implemented through Parent and Teacher Associations invariably exclude on the basis of extraneous political considerations – the children of families the regime considers to be supporters of the democracy movement.

In addition to dropping out of school for financial reasons, thousands of children are forced to drop out, or interrupt, their education for reasons associated with conflict due to: lack of an educational infrastructure; few teachers; security concerns; constant transience due to forced relocation; and ‘Burmanization’ policies that force the closure of non-Burman schools in ethnic areas. Other factors include: forced labor requirements; burning of villages by the military and subsequent free-fire zones; extra-judicial killing or arbitrary arrest of parents; and the general disruption of village life by military authorities who view all civilian activities as subordinate to military and state interests.³⁶

Reports from Karen State and an education study in Mon State provide evidence that the education policy of the regime promotes ‘Burmanization’ throughout the education system to the detriment of ethnic groups. Burmese is the only medium for instruction permissible for state primary and secondary schools. Ethnic nationality children rarely get the opportunity to study in their own language or topics related to their cultural heritage.³⁷

Food Insecurity

While Burma is self-sufficient in food production at the national level, many people do not have food security (defined as sustainable access to safe food of sufficient quality and quantity, including energy foods, protein and micro-nutrients). According to the UN and other sources, since the World Bank’s national government survey in 1997, which found that only about 40% of households consumed calories at or above recommended daily allowance, and only 55% consumed enough protein, conditions have worsened: ‘Widely scattered reports of spontaneous emergency feedings, purchase of rice water for food, and reliance on inferior cereals such as millet all suggest increasing stress... The conclusion must be that consumption of many families is less than usual, less than needed, and under increasing pressure.’³⁸

³⁴ U.S State Department’s 2002 human rights report, section on children.

³⁵ UN Working Group, Human Development in Myanmar (Yangon: UNDP, 1998), at p. 7.

³⁶ NCGUB, Human Rights Yearbook Burma 2000-2001, at 326-7.

³⁷ Ibid, at 328.

³⁸ ICG humanitarian assistance report, quoting UN/Myanmar, Food Security in Myanmar: A Proposal to Deal with Natural Shocks, January 2000, internal report, and the People’s Tribunal on Food Scarcity and Militarization in Burma, ‘Voice of the Hungry Nation’, (found at: www.hrschool.org/tribunal/index.htm), at p. 10.

Burma's armed forces continue to be directly responsible for the most severe violations of the right to food. Violations of the right to food in Burma are systemically linked to the ongoing expansion of militarization. Counter-insurgency operations randomly destroy food stocks and crops, relocate civilian communities, and expropriate cash and materials. Reports indicate that in some areas military operations directly target rural food supplies and crops without distinction, displace people from villages, scatter them into hills and jungles or force them into relocation sites. Standing between these people and starvation is nothing more than their extraordinary tenacity. Widespread dislocation is resulting in serious and long-term structural food scarcity, not mere seasonal hunger due to occasional military incursions. Evidence of growing malnutrition among Burmese children is of particular concern.

Displacement

Independent monitoring or assistance to displaced persons has so far not been authorized by the regime and it is very difficult to verify their number. Estimates of the total number of displaced persons in Burma range between one and two million,³⁹ with around 300,000 in north-eastern Shan State, 100,000-200,000 in Karen State, 70,000-80,000 in Karenni State, 60-70,000 in Mon State and about 100,000 in Arakan State.⁴⁰

According to a recent report, more than 2,500 villages have either been relocated, destroyed or abandoned due to activity by the Burma army since 1996. A minimum of one million people in eastern Burma have been displaced since 1996. At least 150,000 have fled as asylum seekers, and there are at least 633,000 displaced persons still either living in hiding or in more than 176 relocation sites in the border areas adjacent to Thailand.⁴¹

Most of the asylum seekers arriving in Thailand had previously lived for some time as displaced persons. They became displaced either as they were forcibly relocated, or in anticipation of forced relocation, or else they fled when human rights abuses or military threats become intolerable. In urban areas, massive forced relocation has reportedly taken place for purposes of "land development planning" and other urban works.⁴²

Relocation site residents are frequently subject to extortion, forced to work on government infrastructure projects or income generating programs for the military and are vulnerable to abuse. Those who choose not to enter the relocation sites flee their villages, and live in hiding in the jungle. The military launches regular patrols, aimed at seeking out these IDPs, destroying their temporary shelters and rice supplies.

³⁹ UN General Assembly, 22 August 2000, Situation of Human Rights in Myanmar (UN symbol: A/55/359); U.S Department of State Report, February 2001, section 2.d.

⁴⁰ Mr. Paulo Sergio Pinheiro, Special Rapporteur of the Commission on Human Rights, "Report on the situation of human rights in Myanmar", in accordance with Commission resolution 2001/15, 10 January 2002, UN Doc. E/CN.4/2002/45 [hereinafter CHR 2002 report], at para. 100.

⁴¹ Burmese Border Consortium, Internally Displaced People and Relocation Sites in Eastern Burma, September 2002, at 2.

⁴² Source: Global IDP Project, Norwegian Refugee Council, at www.db.idpproject.org.

Displaced persons hiding in the jungle and in relocation sites lack basic necessities such as food, appropriate shelter, medicine, access to basic health services, education and security. Rates of malnutrition, infant mortality and deaths from preventable diseases such as malaria, respiratory infections and diarrheal diseases are high.

This year has seen a marked increase in the frequency of anti-resistance operations in ethnic areas, leading in turn to an increase in the level of displacement.⁴³ Displaced persons are now finding it increasingly difficult to flee Burma and seek asylum in neighboring countries as the Burma army now controls most of the border, the number of land mines in use has substantially increased and they face an uncertain welcome from neighboring authorities.

Landmines

Landmines are now believed to affect 9 out of 14 of the states or divisions of Burma, in areas near its borders with Bangladesh, India and Thailand, with a heavy concentration in eastern Burma. Landmines are placed by the Burma army and anti-resistance groups. Civilians are known to be used as human minesweepers by the Burma army in anti-resistance campaigns.⁴⁴

The number of landmine casualties in Burma is now believed to surpass even that of Cambodia, and the manufacture of anti-personnel landmines is on the rise.⁴⁵ Sixty percent of victims are combatants; the remaining forty percent are civilian victims.⁴⁶ The number of landmine victims in Burma remains unknown. There is currently no centralized agency collecting statistics on landmine incidents or survivors within Burma. Relying on disparate data, *Landmine Monitor Report 2000* estimated that conflict in Burma produced approximately 1,500 mine victims in 1999 alone.

The landmine casualty rate may be increasing. Statistics of landmine victims transported for surgery by Mediciens Sans Frontières show a modest increase during the year 2000 over the previous two years.⁴⁷ There is no humanitarian demining in Burma; mine

⁴³ Refugees International, "Burma's Internally Displaced: No Options for a Safe Haven", 10 October 2002.

⁴⁴ See Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), Geneva, 2 July 1998, at paras. 300, 319, 327-9, 300 found at: [http://www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanma3a.htm#\(1\)%20Portering](http://www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanma3a.htm#(1)%20Portering). Also see, KHRG, 'Northeastern Pa'an District: Villagers Fleeing Forced Labor Establishing SPDC Army Camps, Building Access Roads and Clearing Landmines', 20 February 2001 found at: <http://www.ibiblio.org/freeburma/humanrights/khrg/archive/khrg2001/khrg01u1.html>, and 'Flight from Hunger and Survival: Landmines' (October 2001) found at: www.ibiblio.org/freeburma/humanrights/khrg/archive/khrg2001/khrg0103c.html#Landmines.

⁴⁵ See *Landmine Monitor Report 2000*, at <http://www.igc.org/nonviolence/burmamines/lm2.html> and Yeshua Moser-Paungsuwan 'Seeds of Destruction' *Burma Debate*, Vol. VII, No. 4 Winter 2000/01 found at www.burmaproject.org.

⁴⁶ See Landmine Monitor 2001 Report: Toward a Mine-Free World, Country Report for Burma (Myanmar): www.icbl.org/lm/2001/burma/.

⁴⁷ See Landmine Monitor 2001 Report: www.icbl.org/lm/2001/burma/. Also see Andrew Selth, 'Landmines in Burma, The Military Dimension', November 2000, found at: <http://www.burmaproject.org/burmadebate/winter00landmines.html> and; Stephen Goose, "Burma: One of

survivors receive little assistance: unless a victim can pay for treatment, no care is available; Burma still produces mines and is not a party to the Mine Ban Treaty. Most disturbing are reports from users of mines of ‘lost’ mines - mines planted with no record of their position.

Why Is There A Humanitarian Crisis in Burma?

‘The problems of Burma are due to bad government...So it is like pouring water into a bucket with a hole in it’ – Daw Aung San Suu Kyi on ‘aid and investment’, TIME Magazine, 19 November 1999

The UN, INGOs, donors, the international community and other interested parties must understand the underlying causes of the crisis to ensure that humanitarian assistance neither prolongs nor reinforces the causes of Burma’s current crisis.

Vital indicators – health, education, development status and the human rights situation – have all deteriorated under the successive military regimes that have ruled Burma as discussed above. ‘The underlying cause of the social, political and economic crises which have created untold hardships for the people is the lack of good governance.’⁴⁸

There is no evidence of sufficient political will within the regime to address the underlying causes of the crisis. Until this year, the regime has not acknowledged the gravity of the situation. Two days before Daw Aung San Suu Kyi was released, the regime employed a Washington lobbyist group, DCI Associates for a total value of US\$550,000 for one year (ending 15 May 2003), to “work with members of Congress and the administration to begin a dialogue on political reconciliation and humanitarian issues” amongst other objectives. This amount is over 18 times the SPDC’s budget for HIV/AIDS.⁴⁹ This is after stating it needs international assistance as the country is too poor to solve the humanitarian crisis alone.⁵⁰

The causes underlying the crisis situation are well-known and well documented. This paper will highlight a few major causes: economic mismanagement; oppression of civil society; ongoing conflict perpetuating displacement and human rights abuses.

Economic mismanagement

The Asian Development Bank (ADB) stated in a report on the Burmese economy in November 2001 that the country's economy is on the verge of collapse, as the military

the World’s Landmine ‘Black Spots’”, October 2000, found at: www.irrawaddy.org/database/2000/vol8.10/landmine.html.

⁴⁸ Daw Aung San Suu Kyi, Foreword to the Working Paper prepared for the Workshop on Humanitarian Aid to Burma, May 24, 1999 (Rangoon, May 1999).

⁴⁹ See Altsean, “Peace of Pie? Burma’s Humanitarian Aid Debate”, October 2002, appendix IV: DCI Associates – SPDC’s newest weapon, at p. 78. Found at: <http://www.ibiblio.org/obl/docs/peaceofpie.htm> [hereinafter “Altsean’s report”]. See Glenn Kessler, “Burma Moves to Improve Relations with US: Ruling Junta Hires Lobbying Firm of GOP Strategist to Press for Normalization,” Washington Post 23 July 2002; “Firm lobbies with US for more sops to Myanmar government” Washington Post 31 May 2002.

⁵⁰ See id, pp. 19-22 for discussion on SPDC’s call for aid.

government struggles to provide basic services. It reveals a country that has suffered from massive economic mismanagement, instability and stagnation under decades of military rule. The report argues that Burma's economy needs thorough reform and without it there is little prospect of reducing the widespread poverty in the country. Government expenditure on education and health is amongst the lowest in the world, while the country's state economic enterprises are inefficient and a drain on the economy.⁵¹

The ADB's Asian Development Outlook 2002 report criticized the SPDC for delaying reforms and pursuing haphazard economic policies. The report states: "There are no clear prospects for the introduction of necessary widespread economic reforms by the government of Myanmar to correct macroeconomic imbalances and reduce poverty. It lacks the necessary policies, and its strategies are ad hoc and respond to a variety of problems in, at times, contradictory ways. Moreover, the capacity to implement policies is lacking."⁵²

James Kelly, the U.S. State Department's senior Asia policymaker said recently that "Burma was once poised to be one of the most prosperous countries of Southeast Asia. Now its broken economy has trouble feeding itself. This is a man-made, not a natural phenomenon, and Burma's leaders should hang their heads in shame."⁵³

Among the SPDC's policy mistakes is its excessive spending on the military. The regime decided to spend U.S. \$150 million on twelve MiG fighter planes from Russia in 2001.⁵⁴ Meanwhile there has been a steady decline of government expenditures for education and healthcare on a per capita basis. Spending on healthcare and education is one of the lowest in the world at under 1% (US\$0.60 and US\$0.28 per annum respectively).

UNICEF pointed out the serious lack of government priority on social welfare in their letter to then UN Secretary-General Boutros Boutros-Ghali in 1992: "These problems all have one thing in common, namely a chronic and malignant failure by the State to provide for the survival, protection and development needs of children...these problems also reflect the Government's persistent refusal, since 1962, to allocate any part of its foreign exchange earnings to the non-military sector."

This has led to serious humanitarian repercussions as illustrated by the WHO report 2000 grading Burma's overall health system performance as 190th of 191 countries. The expansion in military capacity is not compatible with the national reconciliation process.⁵⁵

⁵¹ See Asian Development Bank report found at <http://aric.adb.org/aem/myanmar.pdf> and 'Myanmar teeters on the verge of collapse', ASIA TIMES, 13 December 2001.

⁵² See http://www.adb.org/Documents/Books/ADO/2002/Update/southeast_asia.pdf at p. 8.

⁵³ Agence France-Presse, Myanmar's leaders should "hang their heads in shame": top US official, 22 November 2002.

⁵⁴ Roger Mitton, 'The Arms Deals: Burma and Thailand Go Shopping', *Asiaweek*, 10 August 2001.

⁵⁵ Burma UN Service Office, "Briefing Paper on the Current Political and Human Rights Situation in Burma 2002", 13 February 2002, p. 3.

The overall economic environment is not conducive to improving the humanitarian situation in a sustainable manner. Without political change, economic change cannot occur. The same is true for the humanitarian situation.

Oppression of Civil Society

An open civil society has support networks which allow the flow of information, the sharing of knowledge, development of skills and building of capacity. Such networks empower people to understand issues affecting themselves and their communities. This has direct bearing on a country's humanitarian situation. Knowledge about HIV/AIDS in Burma for example is severely lacking and has been hampered by the oppression of civil society by the regime.⁵⁶

There is extremely limited independent civil society participation in Burma. Since 1988 the regime has foreclosed all opportunities for the development of civil institutions and has nationalized or co-opted all existing NGOs in Burma. It has established several para-statal organizations (GONGOs) to work with INGOs, thus creating additional barriers to effective humanitarian intervention. At the community level, the lack of sustainable civic structures deprives alternate means to social services delivery.

As Altsean points out in its report, 'A Peace of Pie?' "Systematically oppressing civil society is nothing short of a myriad of multiple human rights violations and a direct causal factor in the humanitarian situation in Burma."⁵⁷ See capacity-building section below for more information about civil society in Burma.

Ongoing Conflict, Displacement, Human Rights Abuses and Access

The correlation between increased militarization, human rights abuses and humanitarian problems is extremely strong. The ongoing armed conflict and its attendant human rights atrocities are a direct cause of the dire humanitarian situation. People in areas where there are anti-resistance forces are the most vulnerable populations in terms of humanitarian need.

According to the SPDC, around 17 resistance groups have concluded cease-fire agreements with the SPDC, however open conflict is occurring in ethnic areas – especially Shan, Karen and Karenni States, as well as pockets in cease-fire areas where splinter groups have taken up arms against the government due to dissatisfaction with the cease-fire deals which have not addressed political issues.

Ongoing armed conflict directly results in and prolongs human suffering. Civilians have been forcibly relocated, displaced, used for forced labor and portering of military equipment to frontline areas, for laying landmines and acting as human minesweepers, and are subjected to torture and or extrajudicial killing if suspected of having links with

⁵⁶ Altsean's report at 24.

⁵⁷ Altsean's report at 24.

anti-resistance forces. Women and girls in particular are vulnerable to rape and other forms of gender-based violence by Burma army soldiers.⁵⁸

Independent monitoring or assistance to displaced persons has not been authorized by the government. Estimates of the total number of displaced persons in Burma range between 600,000 to one million. An estimated 400,000 Burmese asylum seekers and refugees are currently living in neighboring countries. Over 1,000 new asylum seekers cross the Thai border every month.

Government displacement programs have taken place at least since the late 1960s. Known as the 'Four Cuts' policy to cut links between civilians and armed groups, supplies of food, funds, recruits and intelligence to opposition forces are cut thereby reducing the impact of armed groups. Villages and food supplies are burnt in areas where resistance forces are active, and civilians are forcibly relocated into Burma army-controlled sites or are ordered to simply leave the area. To prevent villagers from remaining or returning, villages are burnt down and designated 'free fire zones.' Civilians found in these areas are shot on sight.

Since 1996, over 2,500 villages are known to have been relocated or burnt down in the States and Divisions adjacent to the Thai border (Shan, Karen, Karenni and Mon States and Tenasserim Division). There are more than 176 forced relocation sites. At least one million people have been affected. This is a conservative estimate and does not include the western border. Relocation site residents are frequently subject to extortion, forced to work on government infrastructure projects or income generating programs for the military and are vulnerable to abuse. Those who choose not to enter the relocation sites flee their villages, and live in hiding in the jungle. The military launches regular patrols, aimed at seeking out these IDPs, destroying their temporary shelters and rice supplies and subjecting them to further serious human rights abuses.⁵⁹

Displacement disproportionately affects children in ethnic areas as they are most vulnerable to disease and malnutrition due to lack of access to health care. They have no access to education, no security and are at risk of further serious human rights abuses if found by members of the Burma army.

Aid channeled into the system which created such a dire humanitarian situation is unlikely to succeed without a proper institutional mechanism to ensure accountability, transparency and independent monitoring. Otherwise it is unlikely that aid will reach the

⁵⁸ See Shan Women's Action Network & Shan Human Rights Foundation, LICENCE TO RAPE, June 2002. The report can be accessed at: http://www.ibiblio.org/obl/docs/License_to_rape.pdf. The report documents 173 cases of rape and sexual violence involving at least 625 girls and women by Burma army soldiers from 1996 to 2001 in Shan state, Burma. Most of the rapes took place in Central Shan State where over 300,000 villagers have been forcibly relocated from their homes since 1996 as part of an anti-resistance campaign. Also see Refugees International Bulletin: "Burma Army Uses Rape as a Weapon in Ethnic Conflict," October 9, 2002; and EarthRights International, "Burma's Soldiers: Equal Opportunity Rapists," November 26, 2002.

⁵⁹ See Burmese Border Consortium, "Internally Displaced People and Relocation Sites in Eastern Burma", September 2002.

most vulnerable populations. A serious discussion on the institutional processes to ensure aid reaches the right people in the right way is urgently required.

The National League for Democracy's Position

The NLD's position regarding humanitarian aid has been consistent in the last decade. The NLD proposed two main principles on foreign donor aid in communications with the UNDP in 1996:

1. When providing humanitarian aid to Burma, UN agencies have an obligation to work in close cooperation or consultation with the elected NLD leadership; and
2. Aid should be delivered to the right people in the right way.⁶⁰

Neither of these principles have been heeded to date. For example, international aid agencies have been discouraged from consulting with the NLD (this may change with Daw Aung San Suu Kyi's recent release from house arrest. However, there must be genuine consultation rather than merely informing her of projects); and local NGOs have been politicized by the regime through purges of all members with NLD associations.

Since her release on 6 May 2002, Daw Aung San Suu Kyi has given several messages and statements concerning humanitarian aid.

On 19 July 2002, she reiterated the NLD's position: "We have always said that assistance to Burma should depend on accountability, transparency, and independent monitoring, which is to say that assistance projects, aid projects must be opened to scrutiny... we have said everything that we do, we do only with the benefit of the people in mind, which is why we insist that assistance and aid must be opened to scrutiny to ensure that the right assistance is getting to the right people in the right way, ensure that our people are really benefiting from whatever aid or assistance is given to the state."

She further outlined the conditions of accountability, transparency and independent monitoring in an interview in August: "Unless there is accountability and transparency, you can never say what happens to all that assistance. It may not go to help the people, on the contrary, it may go into schemes that harm the people. So unless there is accountability and transparency we cannot say that humanitarian aid is assisting the people."⁶¹

The paper will look at current humanitarian assistance in Burma before considering how humanitarian assistance could contribute to peace initiatives and advance the peace, democracy and national reconciliation agenda.

⁶⁰ Letter of Aung San Suu Kyi to Gustave Speth, UNDP Administrator, 14 January 1996.

⁶¹ "Better Governance is the Answer", transcript of interview with Daw Aung San Suu Kyi, August 2002, found in Altsean's report at 11-13.

Current Humanitarian Assistance in Burma

At present 9 UN agencies have branch offices in Burma and about 30 international NGOs maintain humanitarian assistance programs in Burma.

Most international aid agencies have focused on providing safe drinking water and sanitation, supporting access to education and health care, starting community-based projects and micro-loans, and confronting the HIV/AIDS crisis. The UN system entities in Burma include: the UN Development Program (UNDP); the UN Children's Fund (UNICEF); the UN Populations Fund (UNFPA); the UN International Drug Control Program (UNDCP); the World Food Program (WFP); the Food and Agriculture Program (FAO); the World Health Organization (WHO); the UN High Commissioner for Refugees (UNHCR); the Joint UN Program on HIV/AIDS (UNAIDS); and the UN Information Center (UNIC). Refer to Annex I for a summary of the UN agencies projects and Annex II for a list of international NGOs and their project areas.

Specific challenges faced by international agencies in Burma

Aid providers generally encounter the following constraints implementing their projects:

- ***Bureaucratic inefficiencies and delays:*** All international aid agencies require a Memorandum of Understanding (MOU) from the respective government ministry(ies) to legally operate (usually the Ministry of Health). The application is determined on a case-by-case basis. Signing an MOU is a lengthy and complex process, taking an average of 12 months, and there is a risk of being denied;⁶²
- ***Independence:*** An MOU does not guarantee international aid agencies independence in selection of project sites, hiring and other issues related to project implementation and evaluation;
- ***Access to ethnic nationality areas:*** Approval to operate in ethnic nationality areas requires the international aid agency to obtain sponsorship of the relevant substantive ministry, register with a branch of the government, receive approval of the Ministry of Progress of Border Areas and National Races and Development Affairs to program, and have the authorization of the local military commander;⁶³

⁶² See David Tegenfeldt, 'International Non-Government Organizations in Burma (Myanmar)', a paper delivered at the conference on *The Current Situation in Burma: Background, Prospects, and Possible Solutions*, Bonn, 25 July 1998.

⁶³ David I Steinberg, 'Civil Society, NGOs and Pluralism in Burma', at 29.

General overview of international humanitarian relief efforts

Humanitarian relief can only succeed when it is linked to initiatives aimed at resolving political differences among the factions in conflict. Otherwise relief efforts will be never-ending and unsustainable. International NGOs themselves need not be involved in peace negotiations, but their long-term goal must be the generation of peace.

Humanitarian assistance needs carefully planning and thought as evidence suggests that if poorly conceived or poorly directed 'aid more often worsens conflict, even when it is effective in humanitarian and or development terms, rather than helps mitigate it'.¹ Well-meaning no longer suffices for well-conceived or well-done.

The general negative impacts of humanitarian assistance comprise two basic dimensions: the first results from the actual transfer of resources, and the second involves the ethical message conveyed by the provision of assistance.¹

- In the case of resource transfer, the most direct negative impact occurs when warring forces gain control of supplies provided for humanitarian assistance, either by imposing levies on humanitarian assistance operations, by stealing supplies or using civilians as shields.
- More indirectly, when INGOs meet the needs of civilian populations, the government and rebels are freed to use their resources for military spending.
- Unofficial markets for the trade of stolen commodities may emerge.
- Intergroup tensions may be reinforced when international aid agencies provide external resources to some groups and not to others.
- Humanitarian assistance may also unintentionally convey complicated and compromised ethical messages. For example, international aid agencies operations are increasingly intertwined with those of official agencies giving 'legitimacy' to repressive regimes. Preoccupation with logistics and delivery systems which involves military personnel may replace and in turn undermine local capacities to carry out locally initiated developmental activities.

International NGOs pride themselves on their independence. However constraints are imposed on their independence as international NGOs largely function as implementing agents for the UN and donors. In the case of the UN, member states govern that body, which limits the freedom of its agencies and in turn of international NGOs under contract to those agencies. Donor governments can be compromised by competing foreign policy considerations which may allow them to favor relief aid at the expense of political solutions.

Financial constraints: International aid agencies are required to exchange money at the central bank rate rather than at the local rate. Goods imported into the country for distribution (health and educational supplies) require in each case separate authorization for duty-free customs clearance.⁶⁴ Donors have placed international NGOs in direct competition with the regime for access to funding. This has created tensions when the UNDP grants funds for international NGOs rather than to the regime (even though these are specifically earmarked funds for international NGOs);⁶⁵

- **Corruption:** Aid brings hard currency to the regime as a result of the 3-tiered exchange system. International agencies change U.S. dollars into Foreign Exchange Currency (FECs), which has a growing disparity against the U.S.\$\$. It is claimed the UN accepts a rate approximately 40% lower than the market rate. Paying rent, electricity and other commodities at inflated prices also benefits the regime. Other moneys are siphoned off through taxes and other bureaucratic procedures.⁶⁶
- **Control over delivery:** Funds or equipment are distributed by the local military in accordance with the approved project, although INGOs are allowed to ensure that the materials reach its designated groups. Only after a period of testing are INGOs allowed to carry out projects directly without involving the local military in distribution, although the military continues to be involved in the approval process;⁶⁷
- **Fungibility:** The provision of humanitarian aid allows the regime to reallocate budgetary resources away from health and education to security and defense; further cutting already meager spending on social services as there is no obligation on the regime to match funds;
- **Discrimination:** The provision of humanitarian aid risks privileging populations favored by the regime (areas where access is granted) or via distribution processes which exclude, for example, members of the NLD;
- **Capacity-building and sustainability:** It is difficult for international aid agencies to engage in capacity-building or to ensure the sustainability of their projects given the level of oppression of civil society. International aid agencies are pressured to have partnerships with government organized NGOs. Truly independent NGOs are denied NGO status by the regime and cannot legally receive and accept external funding (except at the official exchange rate). Therefore there are few community-based organizations to engage in capacity-building to ensure sustainability of projects;

⁶⁴ Steinberg, id.

⁶⁵ Confidential source.

⁶⁶ See Altsean's report at 48-9.

⁶⁷ Steinberg, at 30.

- **International aid agency cooperation:** International aid agencies compete for funds due to limited funding for aid activities in Burma. This hinders cooperation.
- **Scrutiny:** International aid agencies implement projects under intense scrutiny by the regime. This can generate paranoia that the regime is collecting information to use as a reason to expel them. This appears to be a reason for their reluctance to engage with the NLD and border groups;⁶⁸
- **Human rights violations smokescreen:** The presence of international aid agencies has been used by the regime to counter charges of human rights violations⁶⁹ and to convey an impression of international legitimacy (given the length of delays in securing MOUs, the appearance of legitimacy is a plausible reason for allowing access).

Special Rapporteur, Mr. Paulo Sergio Pinheiro, stated in his report to the Commission on Human Rights in March 2002, that international NGOs must be encouraged to develop their activities to address the serious humanitarian situation. To this end, the relationship between INGOs and the SPDC must improve. He noted recent restrictive measures affecting INGOs operations:⁷⁰

- In July 2001, the Department of Health instructed all INGOs working with it (most INGOs) that every time they travel to the field, they must be accompanied by Department staff;
- Since September 2001, expatriate staff and family members are no longer eligible for gratis visas;
- There are difficulties regarding the importation, purchase and registration of vehicles;
- In the last two to three months, INGOs were not allowed to have more than three staff for educational activities.

Mr. Pinheiro emphasized that it is “in the best interests of the SPDC to demonstrate to the international community that these organizations do operate freely, within the laws of the country, thus facilitating their access to funding and contributing to the alleviation of the existing humanitarian situation.”⁷¹

Incidences of concern involving international aid agencies

Given the number of challenges and operational constraints on international aid agencies in implementing their projects, it is not surprising that there have been incidences of concern relating to the provision of humanitarian aid. The following incidences are but a

⁶⁸ See Altsean’s report at 50-51 for discussion on the defensiveness of international aid agencies about their operations and fear of being linked to border groups.

⁶⁹ The most recent example of this was the SPDC using ICRC’s presence in Shan State and Mr. Pinheiro’s visit there to counter allegations of widespread rape in Shan State.

⁷⁰ Pinheiro’s CHR 2002 report, para. 113.

⁷¹ Pinheiro’s CHR 2002 report, at page 31, para 113.

few to illustrate the concerns. Note these incidences are not detailed as most have been received in confidence and due to the reluctance of humanitarian workers to share such information given the sensitivity of their presence inside. The incidences illustrate the problems in providing humanitarian assistance in Burma if: line ministries and government organized NGOs are used to implement projects; and, UN agencies, INGOs and donors are not prepared to consult with the NLD and other political, ethnic and community-based groups.

Incidences include:

- Aid cargoes have been siphoned by the military as relief organizations often rely upon the existing delivery system of the state;
- Authorities have demanded vehicles or other equipment;
- Medicines provided by UN agencies have been resold at markets;
- A request by a UN agency to local authorities to build a road to benefit a project site led to forced labor of local villagers who were the intended beneficiaries of the project;
- Educational materials for remote villages in Chin and Arakan States were provided by a UN agency in Burmese which could be perceived as promoting the regime's assimilation program of ethnic groups;
- In 1999 the regime allowed the ICRC to inspect two prisons. As a result, hundreds of political prisoners were removed from Insein jail and dispersed in prisons throughout Burma before the inspection was made. The immediate effect was greatly increasing the hardship of political prisoners and their families who could not easily visit them;⁷²
- A UN agency funded the provision of free polio vaccines to children in Kyaukpadaung Township, Mandalay Division between December 1998 and January 1999. Ministry of Health personnel charged each family 10 kyats for the vaccine, and local government authorities forced villagers to purchase it. As a consequence, approximately 300 children in the area received the dose of oral polio vaccine, while over 500 had received it previously when it was provided without charge, as intended by the donor;⁷³
- Members of government organized NGOs were trained under capacity-building programs – the concern is that such training, given the military-dominated civil service, supports the military's control infrastructure.

International aid agencies have been criticized for either not monitoring the human rights situation in the areas they have access to or not sharing this information, even privately, with human rights organizations. Their silence has led to criticism of complicity. For more incidences of concern please refer to Altsean's report, "Peace of Pie?"⁷⁴

⁷² If the NLD had been consulted before the inspections took place, they could have informed them of prison transfers and asked them to take necessary action with the military authorities.

⁷³ See NLD Statement #20, February 10, 1999.

⁷⁴ Pages 50-51.

Building the capacity of civil society

In order to overcome the challenges faced by international aid agencies and to avoid the recurrence of such incidences cited above, international aid agencies must focus on fostering and empowering civil society in Burma. Building the capacity of civil society is crucial for the sustainability of aid projects. Such capacity-building depends on the strength of civil society, which is extremely weak in Burma. This section explores the current state of civil society in Burma, the partnerships international aid agencies have with government organized NGOs and community based groups, and the potential for international aid agencies to assist in fostering the foundation for independent community based groups to expand their activities and role in the provision of humanitarian aid.

‘Civil society’ generally refers to all organized groups, small and large, which act independently from government.⁷⁵ A flourishing civil society implies an open political and economic system and the dispersion of power. A weak civil society is generally related to the centralization of power and a lack of tolerance for dissent. Civil society in Burma is at its weakest state as decades of military rule has created little space in which independent groups have been allowed to emerge and develop.⁷⁶

When Burma was under democratic government from 1948 to 1962, a vibrant civil society existed in urban areas. Since General Ne Win’s coup in 1962, successive regimes have sought to stamp out civil society and permit only state-controlled organizations that further the regime’s interest. Civil society re-emerged during the nationwide pro-democracy demonstrations in 1988, with an explosion of student organizations, political parties, and independent media. After the military retook control in September it clamped down on most independent organizations. There is tight control over the media and there is a pervasive intelligence network that permeates all institutions. The regime maintains a policy of zero tolerance for dissent.⁷⁷

Meanwhile, the regime has established numerous military-led organizations which promote loyalty to it and its policies. It has attempted to create its own civil society. The largest such organization is the United Solidarity and Development Association (USDA) under the patronage of General Than Shwe. Despite its ostensible social welfare functions, the USDA has been referred to as an “auxiliary national defense force.”⁷⁸

There are several government-organized NGOs (GONGOs). These include the Myanmar Red Cross Society, the Myanmar Medical Association; the Myanmar National

⁷⁵ This includes the private media, business and legal associations, religious, cultural and social welfare organizations, student groups and political parties.

⁷⁶ International Crisis Group, ‘Myanmar: The Role of Civil Society’, ICG Asia Report No 27, 6 December 2001, executive summary [hereinafter “ICG civil society report”].

⁷⁷ ICG civil society report, at 9.

⁷⁸ General Maung Aye quoted in ‘Council Meets Trainees of USDA Management Course’, *New Light of Myanmar*, 24 June 1997, quoted by ICG, id at 10. In the mid and late 1990s, the regime also set up several new professional organizations. Current or retired military officers were generally appointed to head these organizations, which are expected to support regime policies.

Committee for Women's Affairs, the Myanmar Maternal and Child Welfare Association (MMCWA), and the Auxiliary Fire Brigades. These organizations have no independent role and like the USDA and professional organizations are controlled by the regime.⁷⁹

One of the few independent NGOs permitted by the regime is the Metta Development Foundation established in 1998 by a Kachin woman after the SPDC negotiated a cease-fire with the Kachin Independence Organization (KIO). The KIO insisted that foreign NGOs be able to work as part of its cease-fire deal - most other cease-fire groups do not have this arrangement. The Foundation focuses on sustainable community based projects and skills training. As long as it stays away from politics and manages its relations with authorities at various levels, it seems able to operate fairly independently.

Some religious, cultural, and social welfare organizations have been allowed to function outside direct government control, at the local level mostly in cease-fire areas. Such NGOs include the Young Women's Christian Association (YWCA), the Myanmar Council of Churches (MCC), the Muslim Free Hospital, the Myanmar Baptist Convention (MBC), and the Salvation Army. These groups generally focus on social welfare projects such as clean water and food for the needy.

In the early and mid-1990s, most international NGOs worked through GONGOs but since then have increasingly dealt with church and women's groups and encouraged formation of village or ward-level associations. This is essential for moving beyond providing direct services, such as food, health care and shelter to ensure sustainable development. It is also important in terms of not relaying the message that international NGOs that have partnerships with GONGOs support the regime. The NCGUB supports the partnerships international NGOs have with these community groups.

Some UN agencies and INGOs still work with GONGOs. For example, UNICEF works closely with the MMCA and the ICRC is planning to hand over its prosthesis center in Pa-an, Karen State, to the Myanmar Red Cross.

Working in partnership with GONGOs strengthens the SPDC, jeopardizes effective assistance and risks prolonging human suffering.⁸⁰ The existence of these organizations is part of the problem, not the solution to addressing the humanitarian situation.

Independent organizations would proliferate if the space emerged for them to do so as they have in the past when the opportunity presented itself. Establishing and consolidating the foundation of real community groups to expand their activities and roles in civil society is crucial to ensure sustainable development. It is the duty of international aid agencies to actively pursue establishing this foundation if they are truly committed to empowering the people of Burma. Donors should require this and the Special Rapporteur should raise and persuade the regime to allow a less rigorous registration process to allow independent community based groups to operate.

⁷⁹ GONGOs are often run by military officers or their wives. For example, the MMCWA is run by General Khin Nyunt's wife.

⁸⁰ See Altsean's report at 32.

Joint principles of operation/code of conduct for international NGOs

While the provision of humanitarian aid through INGOs is the preferred mechanism for the NCGUB, as monitoring of small-scale projects is easier, INGOs need to be held accountable to a code of conduct to ensure the aid reaches the intended beneficiaries in the right way. In an attempt to overcome the challenges faced by INGOs in the delivery of aid, a group of international NGOs devised a framework for the delivery of assistance. Although this framework is welcomed by the NCGUB, there is room for improvement in the actual framework devised.

A group of INGOs operating inside Burma developed a Joint Principles of Operation (JPO) for Humanitarian Assistance, distributed in June 2000 (See Annex III for the ‘Joint Principles of Operation of International Non-Governmental Organizations Providing Humanitarian Assistance in Burma/Myanmar’). These principles have been developed to clarify the role and ethical principles of INGOs working in Burma at this time. The intended audience is the regime, foreign governments, current and potential donors, INGOs inside and outside the country, UN agencies and other interested parties.

The JPO was drafted as a response to the discussion about the ability of INGOs to undertake humanitarian assistance due to the political situation. INGOs who adhere to the JPO are confident that they have developed and maintain a high level of ethical and effective programming that the complex operating environment demands. There is a belief that their experience over the last decade has improved their strategies and interventions. It is recognized that maintaining high operational and ethical standards while minimizing the potential negative impact of their presence is of critical importance.

On its face the JPO sets clear standards on issues such as independence, monitoring and accountability, accessibility, capacity building, sustainability and INGO cooperation. It is stated that there are variations in how organizations operationalize these principles and it is up to each organization to produce supplementary documents to these principles to further explain their operations in Burma.

Signing and implementing a code of conduct or this JPO is part of reflecting organizational commitment to ethical performance. However signing and introducing the JPO may not be sufficient to guarantee ethical performance. The effectiveness of the JPO hinges on personal interpretation and application by individual practitioners.⁸¹

The organizations which supposedly adhere to the JPO are not listed. This is confidential information. Apparently this is due to ‘fear’ that the regime will be displeased, target them for more scrutiny and gather ‘evidence’ to expel them. How can their adherence to the JPO be assessed? This is extremely problematic.

The JPO does not mention adherence to international humanitarian law or human rights standards, a crucial aspect to humanitarian assistance. Humanitarian assistance cannot

⁸¹ Lancaster, opcit, at 7.

ignore the situation of human rights (see Annex IV, The Sphere Project – Humanitarian Charter and Minimum Standards in Disaster Response). Reference to IHL and human rights principles should be made in the JPO otherwise INGOs may appear complicit in the human rights abuses committed by members of the armed forces.

The “Monitoring and Accountability” section in the JPO is also cause for concern. It states that “INGOs are accountable to donors and beneficiaries and adopt and implement necessary monitoring mechanisms to ensure all assistance reaches the intended targeted beneficiaries...[and] are prepared to discontinue assistance if we become unable to implement and/or monitor our programs in an ethical and effective manner.” On its face this sounds reasonable; however it does not refer to independent monitoring and evaluation of assistance programs. Human rights monitors should be deployed to help protect local populations from exploitation and repression by the fighting factions. INGOs should monitor human rights in the area around their projects – if prevented from advocacy on human rights issues these agencies should provide information to human rights groups (inside and outside the country) and the UN privately.

The JPO does not elaborate on the decision to discontinue assistance. Consultation with beneficiaries about the magnitude of abuses committed by factions and whether to impose conditions or terminate assistance should be part of this decision-making process. However, the imposition of conditions and threat of withdrawal are pointless unless all the INGOs operating in the area are united.

There is no mention of security for INGO staff. This is an area of global concern as aid workers have increasingly been targeted by parties in conflict. It is crucial that security is not provided by the regime or any other party to the conflict. This may seem obvious but should be made clear.

Another area which could be added in the section on INGO cooperation is to share and coordinate closely to keep payments at reasonable levels for housing, transport and local salaries to ensure an aid dependent economy is not established which will cause hardship for staff and beneficiaries if the INGO leaves or is expelled.

In implementing the JPO: there must be periodic certification and auditing to assure compliance with the standards, and well-defined and fair enforcement procedures including sanctions on non-compliance.

A revised JPO, which addresses the shortcomings illustrated above, would become a crucial tool of humanitarian aid in Burma. An INGO’s public endorsement and adherence to a JPO is crucial. However having a JPO is not by itself enough. An INGO Council or its equivalent should be established to act as a clearing house of information for INGOs – crucial if funding for humanitarian assistance increases as this will act as a magnet for more INGOs to work inside – and has an accountability/monitoring committee to oversee compliance and implementation. Donors should not give funding to INGOs that do not publicly endorse and abide by the JPO and participate in the INGO Council in good faith.

Humanitarian Cease-Fires: Potential Peace-Building Tool

“International agencies – such as UNDP, UNICEF, FAO, WHO or UNDCP – have not confronted the government over rights of access and NGOs have not gained unimpeded access to the displaced in contested areas”- Burma Ethnic Research Group, September 2000

One insurmountable challenge in the current political context for international aid agencies is access to ethnic nationality areas, particularly those where there is open conflict. These areas are where the most vulnerable populations of Burma are found – those who have been displaced and are either living in relocation sites or as IDPs. It is highly unlikely that the regime will agree to a nationwide cease-fire or permit access to this population in the foreseeable future. A possible initiative to explore is replacing the term ‘nationwide cease-fire’ with ‘humanitarian cease-fires’ in the form of ‘Peace Corridors’, ‘Days of Tranquility’ or ‘Sanctuaries of Peace.’ The NCGUB believes this could be a point of entry for further confidence-building between the SPDC and non-Burman ethnic nationalities groups by creating much needed political space for promoting a dialogue. Humanitarian cease-fires would allow the immunization of children and address the severe health needs of people in Burma’s conflict areas.

Humanitarian cease-fires are attempts to get the much-needed humanitarian space in the midst of violent armed conflict. In the 1990s humanitarian cease-fires were extensively applied to allow the provision of health and humanitarian assistance, such as immunization campaigns (e.g., the Global Polio Eradication Initiative) and food supplies to populations in need. They became a relatively common practice in current conflicts and constituted one of the few ‘entries’ into long-standing and particularly violent conflicts, in conditions otherwise inaccessible for other types of international actions.

In different forms – “humanitarian cease-fires”, “Days of Tranquility” and “Safe/Peace Corridors” – have been carried out in the midst of wars in 19 countries since 1985: Afghanistan, Angola, Bosnia, Chechnya/Russia, Democratic Republic of the Congo, El Salvador, Guinea-Bissau, Indonesia, Iraq, Lebanon, Mozambique, Philippines, Dominican Republic, Sierra Leone, Somalia, Sri Lanka, Sudan, Tajikistan, and Uganda.⁸²

An overview of the different cases of application of humanitarian cease-fires is rather complex, as the borderline with traditional cease-fires is often very blurred. Moreover, most if not all cease-fires establish measures resulting from humanitarian concerns. However, the distinction is of importance as the two are different in nature and objectives, even if the ultimate goal is the same.

Humanitarian cease-fires have lasted from one to several days, to one or more months. In many cases more than one short humanitarian cease-fire was negotiated in one year or during several years of war.

⁸² WHO, ‘Humanitarian Cease-Fires List by Country As Of April 2001’, found at: <http://www.who.int/disasters/hbp/hcfentrs.htm>.

An explanation of the main concepts:

Humanitarian Cease-Fires: cease-fires agreed to by protagonists in an armed conflict to allow the provision of health and humanitarian assistance, such as immunization campaigns and food supplies. Normally refers to a geographic area that will be affected by the cessation of hostilities. It can be the whole territory (as in the case of El Salvador, 1985-91), or only some regions (Angola, 1995; Sudan, 1998 and 2000; Afghanistan, 2000; Sierra Leone, 1998).

Days of Tranquility: negotiated truces to allow the provision of health and humanitarian assistance as well as to allow for other activities not possible during hostilities. This is similar to humanitarian cease-fires but the aim emphasizes the limited time-span of the suspension of fighting (in terms of just days) and particularly the informality of the suspension (to counter fears that a party will use such a humanitarian arrangement as a method of being recognized politically or legally). For example, El Salvador, 1985; Afghanistan, 1996; Angola, 1999; Sri Lanka, 1999; DRC, August 1999 and 2000.

Corridors of Peace: transit routes designated for safe passage for non-combatants and humanitarian supplies. For example, Sudan, 1989; Iraq, 1991; Bosnia, 1995; Somalia, 1993; Uganda, 1986; Sierra Leone, 1999; Mozambique, 1985-1993.

Safe Havens: term used in the Balkans conflict to identify villages or human settlements that were only for civilian inhabitants and not to be attacked.

Sanctuaries of Peace: health/medical institutions, not to be affected by war.

Children as 'Zones of Peace' or as a 'Conflict-free Zone': the idea was formulated by UNICEF in the early 1980s to acknowledge that children need special protection in situations of armed conflict, as they are highly vulnerable to violence.

Humanitarian Pause: used in the conflict in Aceh, Indonesia (2000-1). Consisted of a moratorium of violence, which was designed to facilitate joint dialogue and permit the free flow of humanitarian aid. This type can be interpreted as an attempt to conciliate both humanitarian and political concerns.

Health as a Bridge for Peace (HBP): as a WHO program, HBP was formally accepted by the 51st World Health Assembly in May 1998 as a feature of the 'Health for All in the 21st Century' Strategy. HBP aims at providing a policy and planning framework to strengthen the returns of health sector investments in areas affected by conflict or undergoing post-conflict transition. HBP integrates the delivery of health care with conflict management, social reconstruction, and sustainable community reconciliation. It has been adopted as a program in countries like Mozambique, Croatia, Bosnia, Sri Lanka, Angola and Indonesia.

In all cases the arrangement was concluded with the intervention of third parties as facilitators. Third parties were always international and sometimes also national. Amongst the main international actors were the following: UNICEF, the UN secretariat, WHO, OCHA, ICRC, IFRC, MSF, Rotary International, USAID, and World Conference on Religion and Peace (WCRP).

The arranged suspension of hostilities could be either:

- Jointly agreed by all warring parties (formally or informally) (Afghanistan, 2000 & 2001; El Salvador, 1985-91; Sudan, 1989, 1995, 1998 & 2000); or
- Unilaterally declared by only one of the armed factions in the conflict (Angola, 1995; Sierra Leone, 2001) in its area of control or of operations.

Humanitarian cease-fires usually have the following features:⁸³

1. The need to maintain transparency, impartiality and equity in all operations;
2. The need to acquire the trust of the conflicting parties prior to the cease-fire;
3. The NGOs and other organizations responsible for the cease-fire must be aware of the root causes of the conflict in advance;
4. The organizations must be 'humanitarian by impetus, but political in their understanding,' and must understand the political consequences of their aid activities;
5. Conflicting parties may never agree to talk to each other directly – they may discuss all details through a third party;
6. The initial suspicion voiced by one or more parties to the conflict that a cease-fire would enable the other side(s) to build up their forces needs to be overcome e.g., by using terms such as 'days of tranquility', 'corridors of peace', etc;
7. The pre-cess-fire negotiations must clearly specify the categories of items to be permitted such as aid, medicines, vaccines, food, clothing and so on;
8. The cease-fire zones must be clearly demarcated. Vehicle transporting materials must be clearly defined;
9. Assurances from all sides are required against transporting any military equipment;
10. The parties need to agree on time limits of the cease-fire. A long cease-fire may lead to a 'relief dependency syndrome,' where the parties get so used to the relief being provided that they never get down to peace talks;
11. The division of labor between the NGOs, the UN, the government and conflicting parties needs to be established from the beginning, based on the differing capacities of the organizations; and
12. All parties to the cease-fire must be willing to negotiate and make compromises.

Please refer to Annex V: Case Studies of Humanitarian Intervention, which includes the humanitarian pause in Aceh. The 'pause' was conceived both for humanitarian and political purposes.

⁸³ Walker in Shankar, 1998, at 28.

Lessons learnt by the World Health Organization in the 1990s¹

The WHO has, through its Health as a Bridge to Peace project, identified a number of lessons learnt that can be relevant to Burma. The lessons, in part, identified by WHO were:

- When there is an underlying genuine thrust towards peace and reconciliation, health can play a role as catalyst in the peace process.
- Health and humanitarian assistance can be explicitly linked to peace-building processes.
- Neutrality and impartiality cannot represent a deviation from the principle that health assistance should be delivered proportionally to the needs.
- An effective contribution to the sustainability of peace can be ensured by addressing the root causes of conflict.
- Humanitarian assistance cannot ignore the situation of human rights.
- Lack of comprehensive and locally-owned strategy can generate inconsistent, short-lived and even counter-productive outcomes.
- It is essential to shift from vertical to horizontal technical programming in order to involve people in reconciliation process.
- Different partnerships – public/non-profit, central/peripheral, and international/national – are crucial elements for effective peace-building.
- Coordination facilitates a common understanding of respective roles and responsibilities.
- Decentralized cooperation/twinning/social partnerships among local communities is a tool to promote human development and peace.
- Training activities can involve professionals from different conflict groups.

More specifically

- Elaborate strategic planning based on a broad political understanding of the conflict, a wide public health approach, a comprehensive perspective of victims and political actors, and a full consideration of human rights issues.
- Involve local capacities for change.
- Create partnerships, with a strong presence of local civil society organizations.
- Promote coherence of objectives and strategies and coordination.
- Prevent side effects of humanitarian programs, which can foster dependency of beneficiaries on external aid.
- Develop training for leaders and staffs in war-prone regions.
- Affirm the primacy of field experience (bottom-up, instead of top-down approach) in the definition, (re)adjustment and evaluation of HBP strategies.

Potential Institutional Processes for the Provision of Humanitarian Assistance

Humanitarian cease-fires can contribute to conflict resolution and peace-building, but only under certain conditions. When humanitarian cease-fires have been arranged in an ad-hoc basis, their outcome has varied depending on a wide range of factors.

As such a set of guidelines for the arrangement of humanitarian cease-fires could make humanitarian cease-fires effective for peace-building. These guidelines seek to respond to the following aims:⁸⁴

1. To address the humanitarian needs in the most effective way, according to the given conditions in a country;
2. To minimize possible perverse side-effects, which can result in prolonging the war;
3. To maximize the contribution they can give to peace-building, especially by enhancing confidence-building measures amongst warring parties.

In order to be effective, humanitarian cease-fires need high levels of flexibility to adjust to different conditions (political, socioeconomic and cultural) existing in a given conflict at a national level, but also taking into account the international context. Notwithstanding this necessary flexibility, it is possible to identify a core set of elements, which should be present in all humanitarian cease-fires, whatever form they take.

The proposed guidelines respond to an attempt to set a minimum standard for humanitarian cease-fires and consists of three elements:

1. General principles, which should be the basis for any design and arrangement;
2. Key elements to be considered when arranging humanitarian cease-fires and which reflect the Principles;
3. Stages of humanitarian cease-fires, in which all actions should contain the Key Elements.

1. The **General Principles** are:

Strategic Planning: from the conception of an humanitarian cease-fires an overall plan should be established, which includes strategic aims/objectives, feasible means to accomplish them in different scenarios, and a monitoring system. This plan should entail a coordinated approach (amongst all actors involved) and should refer to both the humanitarian needs to be addressed and the political dimension of the ongoing conflict.

⁸⁴ This section is taken from Guido Galli, "Humanitarian Cease-fires in Contemporary Armed Conflicts: Potentially Effective Tools for Peacebuilding", University of York (Post-war reconstruction & Development Unit, Department of Politics), September 2001, at 80-83.

Also, a time frame should be established. This principle aims at guaranteeing the *effectiveness* of the action.

Involvement of Local Capacities: at all stages of humanitarian cease-fires there should be a deep analysis of the humanitarian crisis and the conflict, including a specific analysis of root causes, prevailing interests of the warring parties and major processes of social change. Local actors (such as government, opposition, civil society, media and armed groups) should be involved at all stages of this process. This principle aims at guaranteeing the *appropriateness* of the action.

Addressing Local Sources of Conflict: any humanitarian cease-fire should be based on the knowledge of the root causes of the conflict, as well as the particular interests of the warring parties. The strategic planning of humanitarian cease-fires should take into consideration those elements in order to address them, as much as possible, or at least avoid ‘feeding them’, making the situation worse. This means that at all stages of the humanitarian cease-fire, actions should be prioritized which are capable of addressing the sources of conflict and preventing/restraining any perverse impact on the dynamics of the conflict. Particular attention should be given to the respect for human rights and international humanitarian law. This principle aims at guaranteeing the *sustainability* of the action.

2. The **key elements** are the following:

- The facilitator(s) elaborate a conflict analysis;
- The objectives of the humanitarian intervention are clearly set out – appropriate means are defined;
- A coordinated approach should be present;
- The time frame is clearly set out;
- Prevention/reactions to possible misuse of humanitarian cease-fires are set out;
- A monitoring system is defined and implemented, referring both to the implementation of humanitarian cease-fires and the respect of human rights and international human rights law;
- The humanitarian cease-fire zones are clearly marked;
- Internal facilitators are clearly marked;
- Local actors are involved in the conflict analysis, the design (defining the humanitarian needs to be addressed and the confidence-building measures to promote amongst warring parties), the implementation (distribution of relief packages), and the monitoring/evaluation of humanitarian cease-fires;
- Local and international media are involved and monitored;
- An appropriate strategy for confidence-building process (between warring parties) is defined;
- The relief actions are transferred, as soon as possible and as much as possible, to locals;
- At all stages, the impact of the action on the sources of conflict is monitored and analyzed and necessary corrections taken;

- The short-term emergency action is linked to mid/long term development strategies (relief-development continuum), in a flexible way and in full awareness of possible side-effects of this linkage.

3. The **stages** are:

Design of humanitarian cease-fire: from the origins of the humanitarian concern to the elaboration of a complete plan of action.

Implementation of humanitarian cease-fire: from the first moment of application until its natural end or definitive interruption.

Exit/assessment from the end of humanitarian cease-fire.

Please refer to Annex VI for the guidelines table, which combines all these elements with a view to assisting the arrangement of any humanitarian cease-fire.

According to this framework, humanitarian cease-fires have to be based on strategic planning, to involve local capacities for change and to address (as much as possible through a humanitarian intervention) local sources/root causes of conflicts. These conditions would guarantee effectiveness, appropriateness and sustainability of the humanitarian intervention undertaken during a humanitarian cease-fire, thus contributing to a peace-building process.

These guidelines refer to humanitarian interventions which must face the challenge of addressing the urgent humanitarian needs, while at the same time promoting the creation of conditions favorable to the respect of human rights and a peaceful settlement of the conflict. Humanitarian cease-fires, as a form of humanitarian intervention, should always be political in nature or at the very least based on a political understanding.

A Possible Humanitarian Assistance Model for Burma

UN Special Rapporteur, Mr. Pinheiro, raised the possibility at the Commission on Human Rights in Geneva 2002 of a “functional committee with a mixed composition under the patronage of the UN coordination system with the role of monitoring and evaluation assistance provided to [Burma]. Such a committee could be one element of the trust-building process initiated through the dialogue between the Government and the NLD, thereby linking national peace/reconciliation promotion and political consultation and participation of key stake-holders: the Government, the democratic opposition, ethnic groups, NGOs and women.”⁸⁵ Language in the Commission on Human Rights resolution 2002/67 concerning the ‘Situation of human rights in Myanmar,’ reflects this idea.⁸⁶

It is the NCGUB’s understanding that the SPDC is not ready to accept joint consultative mechanisms. However this initiative should be the top agenda item in any substantive political dialogue which begins between the NLD and the SPDC. This initiative should be supported by the UN, the international community, other political groups and ethnic nationalities. Given the political context, assistance by donors should not be given to the ministries of the SPDC as this will increase the likelihood that assistance will not reach the right people in the right way and thus will not mitigate the potentially adverse consequences of such aid. The NCGUB believes that funding of small-scale projects managed by INGOs is preferable to an increase of funding to the UN agencies, whose mandate requires them to work through the SPDC’s ministries (except for the UNDP) and GONGOs. Until the joint consultative mechanisms can prove there is transparency and accountability in the delivery of assistance, funding should not substantially increase to support UN agencies projects.

Humanitarian cease-fires should be negotiated between the NLD, the SPDC and other relevant political and non-Burman ethnic nationality groups where such interventions are necessary to enable humanitarian relief activities and to promote confidence-building measures towards achieving a peaceful solution to the conflict. Humanitarian cease-fires should be negotiated in order to access vulnerable populations in Chin, Karen, Karenni Rakhine and Shan States. Aid should also be delivered in cease-fire areas and non-cessate-fire areas to the most vulnerable groups of the population. Cross-border assistance should continue. There should be four main bodies to oversee the provision of humanitarian aid. First, the groundwork.

Needs assessment survey

A needs assessment survey should be conducted by an international agency in consultation with the actors mentioned to identify key target aid beneficiary groups. Proposed interventions should be based on the survey.

⁸⁵ See Pinheiro’s CHR 2002 report at para. 11.

⁸⁶ At paragraphs 4(h) and 7(n) (see supra note 1 for language).

Facilitator

There should be an officially recognized external facilitator of the negotiating process. This facilitator must have or be able to obtain the trust of all parties, and have their impartiality recognized. Actors should be brought into the process by the facilitator at appropriate stages. It will be of utmost importance that the facilitator has the full support of the international community in fulfilling its mandate.

Humanitarian and conflict analysis

An analysis of the conflict and humanitarian crisis should be elaborated with the assistance of a university or an expert who specializes in this area. This must include a specific analysis of the root causes, prevailing interests of the warring parties and major processes of social change. Local actors must be actively involved in the research and preparation of this conflict analysis.

Objectives

The objectives of humanitarian interventions for Burma must have both a humanitarian and a political purpose. They could include:

1. Conducting immunization days/weeks in currently inaccessible areas due to security concerns and permission;
2. Providing assistance to the internally displaced and forcibly relocated populations, including cross-border assistance;
3. Providing selective aid for village and household food security in cease-fire areas;
4. Provision of security modalities with a view to supporting the delivery of humanitarian assistance and to reducing tension and violence which may cause further suffering;
5. All humanitarian interventions are to be conducted in a coordinated approach by the actors involved in the interventions;
6. Promotion of confidence-building measures towards a peaceful solution to the conflict situation in Burma.

Time frame

The time frame should depend on the aid project. Different timeframes should be negotiated for immunization campaigns as opposed to the provision of food aid and health services to IDPs. The hope is to expand the timeframe following the success of pilot humanitarian cease-fires.

Consultative mechanisms

There should be at least four main bodies to oversee the provision of humanitarian assistance. All would equally integrate representatives of the regime, the NLD, and ethnic nationalities. There needs to be a discussion as to the representation of the ethnic

nationalities – should the United Nationalities Alliance choose or elect one representative, or should there be up to 7 representatives for each proposed forum? The forum should not be too big as it will become harder to negotiate consensus. The following forums should be considered:

1. The **Joint Consultative Forum** at the national level consisting of representatives of the NLD, the SPDC, the ethnic nationalities and the UNDP Resident Representative (as coordinator of the UN country team).

The Forum would primarily be mandated to formulate policy and review progress by:

- Prioritizing issues and target areas to be addressed;
- Formulating guiding principles for implementing agencies;
- Formulating procedures to prevent parties from misusing the HCF to strengthen their positions;
- Defining confidence-building measures;
- Discussing policy reform at the national level; and
- Reviewing reports by the monitoring teams.

In order to be effectively involved in any humanitarian policy initiatives, the NLD and ethnic nationality representatives should be empowered to establish technical teams on various humanitarian themes and be permitted to consult with technical experts both inside Burma and outside the country.

2. A **Joint Committee on Humanitarian Action**, in order to coordinate humanitarian assistance, from needs assessment to ensuring unhindered access for delivery assistance. This body should coordinate with the proposed INGO Council. In terms of delivery and distribution, the following is advised:

- Independent local leaders and community based organizations must be consulted;
- A proper distribution mechanism must be established by all actors delivering assistance to ensure aid reaches intended beneficiaries;
- Delivery should be by INGOs that publicly endorse and abide by the JPO;
- Assistance should not be delivered through the military or organizations directly or indirectly under the regime's control. For example, GONGOs such as the Myanmar Maternal and Child Welfare Association, the Myanmar Medical Association, the Myanmar Red Cross Society, and the Union Solidarity Development Association;
- Assistance must be delivered to vulnerable populations in 'Black' and 'Brown' security areas in ethnic nationality states which are currently inaccessible due to lack of permission by the regime and where the need is greatest;
- Cross-border activities should be expanded into border areas of ethnic nationality states through Thai-based relief organizations.

3. A **Joint Committee on Security Modalities**, mainly in order to guarantee the absence of offensive military actions in the areas where humanitarian assistance is being provided. Representatives of the **Burmese Army and armed-resistance** groups would need to be represented on this Committee.

4. An **INGO Council** to act as a clearing-house for exchange of information. Members publicly adhere to and abide by the proposed revised JPO and has an accountability/monitoring committee to oversee implementation.

These consultative mechanisms would facilitate humanitarian aid in areas in need countrywide. This would include both cease-fire and non cease-fire areas.

Monitoring

In order to ensure respect for human rights and international humanitarian law, transparency, accountability and non-discrimination in the delivery and distribution of humanitarian aid, proper monitoring mechanisms must be established.

Monitoring teams should be established to assess the implementation of the humanitarian action and of the security modalities. The teams:

- Should be composed of both internal and external actors;
- Must report periodically to the Committees and the INGO Council;
- Must monitor and report on abuses – in delivery, violence and human rights violations witnessed during implementation - and what proportion of deliveries actually reached the intended beneficiaries;
- Must consult with local actors and beneficiaries as to the magnitude of abuses committed by factions and whether to impose conditions or terminate assistance;
- Must monitor and analyze the impact of action taken on the root causes of the conflict.

In terms of external monitors, donor governments could nominate technical experts that have no links to implementing agencies, to partake in an independent evaluation mission or as part of the mixed monitoring team.

Internal facilitators and local actors

To ensure capacity-building of civil society and sustainability, it is of utmost importance to identify internal facilitators to assist the main facilitator. This may not be possible given the current degree of polarization in Burma. Consideration of potential candidates should be reviewed periodically.

Local actors should be identified to assist:

- In the needs assessment survey and the humanitarian and conflict analysis;
- In identifying strategies or measures to address sources of conflict;
- Identifying confidence-building measures between the different actors in their area;

- In overseeing the delivery of aid, and;
- Provide analysis of the impact of the intervention to the monitoring teams.

Such local actors should be or include members of the community-based organizations - the religious, cultural, and social welfare organizations that have been allowed to function outside direct government control.

Sustainability and empowerment of local people

Results achieved by international aid programs can only be sustained with the development of competent community-based local NGOs. Skills training at the grassroots level should be conducted to empower people. Local people should be recruited as working partners to impart experience. The relief actions should be transferred to locals as much as possible and as soon as possible. The SPDC must be persuaded to permit space for local community-based organizations and NGOs to develop without interference.

Donors and the international community

The donor and international community must:

- Highlight the reasons for the humanitarian situation with the SPDC to ensure the success and sustainability of any humanitarian aid effort.
- Pressure the SPDC to undertake political and economic reforms;
- Pressure the SPDC to acknowledge the extent of the humanitarian crisis and allow joint consultative mechanisms to be established;
- Ensure that the SPDC allocates more of its budget on social priorities such as health and education, in order to mitigate ‘fungibility’;
- Consult regularly with the joint consultative mechanisms;
- Not fund any UN agency or INGO that does not participate in good faith in the proposed joint consultative mechanisms.

Such participation will ensure that the donor forum will have a constructive role to play in the reconstruction of Burma when democratic transition takes place.

ANNEX I – SUMMARY OF UN AGENCIES AND PROJECTS INSIDE BURMA

1. THE UN DEVELOPMENT PROGRAM (UNDP)

The United Nations Development Program (UNDP) has operated in Burma since 1993 within the framework of the Human Development Initiative (HDI) program. The UNDP Resident Representative is also the coordinator of the UN country team. In compliance with guidelines established by the Governing Council and Executive Board decisions of UNDP, resources are allocated to meet critical humanitarian and basic human needs in Burma and are targeted towards programs having sustainable impact at the grass-roots level in the areas of:

- primary health care;
- the environment;
- HIV/AIDS;
- training and education, and;
- food scarcity.

All projects are meant to target the poorest people in some of the most deprived areas of the country through social mobilization concepts and practices thus empowering villagers themselves to formulate development strategies to raise their living standards.

The locations of HDI townships are in:

Ayeyarwaddy Delta: Laputta, Mawlamyainggyun, and Bogalay townships;

Shan State: Ywangan, Pindaya, Kalaw, Nyaung Shwe and Pinlaung townships;

Dry Zone: Magway, Chaung U and Kyaukpadaung townships;

Rakhine State: Maungdaw, Buthidaung, Rathedaung, Mrauk U, Kyauktaw and Minbya townships;

Chin State: Falam, Tiddim, Thantlang, Haka and Paletwa townships;

Kachin State: Myitkyina and Waingmaw townships.

There are primary health, water and sanitation, HIV/AIDS, primary education, micro finance and food security projects in the Shan, Dry Zone and Delta townships.

There are Community Development in Remote Townships projects in Mrauk U, Kyauktaw and Minbya townships, Rakhine State, the five townships in Chin State and the two townships in Kachin State. This project is delivering a small parallel project – the Preparatory Assistance for Northern Rakhine State - in the three townships bordering Bangladesh (Buthidaung, Maungdaw and Rathedaung) where the UNHCR has resettled over 230,000 returnees from Bangladesh.

2. THE UN CHILDREN'S FUND (UNICEF)⁸⁷

UNICEF has operated in Burma for 51 years. The UNICEF Executive Board approved the UNICEF-Myanmar Country Program for 2001-2005 in September 2000.

The Overall goal of the UNICEF Country Program for the period 2001 - 2005 is to advocate for and contribute towards the progressive establishment of an environment where the rights to survival, development, protection and participation of children and women are realized according to the obligations and responsibilities assumed by Burma as a State Party to the Convention on the Rights of the Child (CRC) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Programs for Children and Women are implemented through the following sectoral areas:

- Health and Nutrition
- Water, Environmental Sanitation & Hygiene
- Basic Education & Children in Need of Special Protection
- Advocacy, Information and Communication
- Capacity Building for Planning & Monitoring

Objectives are:

- To build new and strengthen existing partnerships for the promotion and realization of the CRC and CEDAW.
- To reduce disparities through universal coverage of immunization (87 per cent in 1998), Vitamin A supplementation (71 per cent in 2000), sanitation (70 per cent in 1999) and the consumption of iodized salt (65 per cent in 1997), and access to FFL messages on child care.
- To reduce transmission of HIV/AIDS and its impact on children, women and young people.
- To explore and develop well co-ordinated multisectoral efforts to provide essential care and satisfy needs during pregnancy and early childhood, and demonstrate their impact on the survival, growth, development and protection of children in one third of the townships, with an emphasis on the most disadvantaged.
- To increase the availability, reliability and use of essential data on children and women for planning, programming and monitoring

The following broad strategies will be used to help achieve the country program goal and objectives:

- Strengthening partnerships and alliances
- Disparity reductions through universal coverage of specific interventions
- Convergence of all UNICEF area focused projects to enhance inter-sectoral collaboration and to meet the needs of the whole child in about one-third of the townships in the country
- Communication and social mobilization
- Advocacy, capacity building, service delivery and field monitoring of programs

⁸⁷ Information from UNICEF's website

Interventions in the Country Program will be at three levels: national level, nation-wide, and area-focused townships. The national level activities include advocacy, policy analysis and capacity-building to facilitate an enabling environment for positive change. Increasing allocations to basic social services, and ensuring national legislation and the legal framework are compatible with international conventions, such as the Convention for the Rights of the Child, will be critical components of the Country Program.

Those activities which, according to past experience proved to be effective, because of low cost and high impact, will be implemented nation-wide and cover all townships. They will focus on prevention and aim at:

- achieving polio eradication, neonatal tetanus elimination, and, reduction in measles, malaria and HIV infections
- preventing infant and child mortality and morbidity through wide distribution of Vitamin A
- eliminating iodine deficiency disorders and ensure the best start to life through universal use of iodized salt
- providing sanitation facilities to ensure hygienic practices
- achieving changes in knowledge and attitudes and promoting best practices among families and communities. Facts for Life messages will be disseminated nationwide, translated into different languages and customized to better reach ethnic minorities
- strengthening monitoring systems to provide access to reliable, analytical information on the situation of children in Myanmar in order to facilitate effective and efficient planning and programming

To provide essential care and satisfy needs during pregnancy and childhood in a holistic manner, convergence will be promoted gradually to cover one-third of all townships, referred to as area focused townships (AFTs), by the end of the program cycle. Within the AFTs, modalities will be explored to build and strengthen intersectoral linkages and their management at the township and community levels, with a balanced basic education and health thrust. For example, the school will be a point of convergence for education, health, nutrition, safe water, sanitation services and communication, re-enforced with community-based health services. Although the majority of program activities will converge increasingly in AFTs, the high prevalence of HIV/AIDS and malaria, for example, and program opportunities may see specific activities implemented in some non-AFT areas.

Project reports for 2000 activities are available for:

- All Children in School: Education & ECD Program, July 2000
- Prevention of HIV/AIDS through Promotion of Reproductive Health, July 2000
- Border Areas Primary Health Care & Development Project Report, April 2000 (period March 1999 to Feb 2000)
- Universal Salt Iodization (USI) and Iodine Deficiency Disorder Elimination (IDDE) Project, May 2000
- Rehabilitation of Water & Sanitation Facilities Affected by Floods, July 1999
- Women's Health Project in Myanmar, September 2000

On 14 May, UNICEF announced plans to increase its funds up to US\$2.5 million from \$2 m on HIV/AIDS this year. Priority will be given to preventing child to mother transmission. These programs, which were conducted in seven townships last year, are planned to expand to five more this year: Taunggyi, Magway, Pakkoku, Meiktila and Myeik.

3. THE UN POPULATION FUND (UNFPA)⁸⁸

The United Nations Population Fund (UNFPA) was granted approval to support a special program of humanitarian assistance to Burma over the period 2002-2005 in the amount of \$12 million from regular resources, with an additional \$4 million through co-financing modalities, in September 2001.

The overall objective of program is to serve the urgent needs of the poorest and most vulnerable segments of the population in terms of:

1. preventing HIV/AIDS and other sexually transmitted infections (STIs)
2. reducing high levels of maternal mortality through support for reproductive health information and services and;
3. the provision of reproductive health commodities, including condoms and other contraceptives;
4. supporting the collection and analysis of data to better understand the reproductive health and HIV/AIDS situation in the country and to provide the basis for monitoring and evaluating program results.

The main purpose will be to contribute to an increased utilization of integrated, quality and gender-sensitive reproductive health services by women, men and young people, as well as to achieving behavioural changes in favour of healthy reproductive and sexual practices through appropriate reproductive health and HIV/AIDS information and counselling.

UNFPA will coordinate its activities in partnership with INGOs and with the other UN agencies, especially UNDP and UNICEF. UNFPA will work closely with the members of the United Nations system that are co-sponsors of the UNAIDS Joint Plan of Action (2001-2002), ensuring that all activities complement and supplement each other. Currently, UNFPA is the co-chair with Population Services International of the UNAIDS subcommittee on targeted condom use and reproductive health. Coordination among executing and implementing agencies for the proposed program will be carried out primarily through sectoral task forces.

INGOs, national NGOs, the private sector and community organizations will be entrusted with implementation of the program. In order to reach the maximum number of rural communities, they will use certain parts of the public health infrastructure, namely service delivery points at the community level, such as hospitals, clinics, rural health centers and sub-centers. Information, education and communication (IEC) activities will be implemented through lower levels of the public sector infrastructure in collaboration with those local NGOs that have an outreach network that reaches to the grass-roots level.

The program draws on recommendations from a UNFPA-supported reproductive health needs assessment carried out in May 1998 as well as an external evaluation that was conducted in October 1999 with the involvement of international consultants on reproductive health.

⁸⁸ See UN Population Fund Proposed Projects and Programs, "Recommendations by the Executive Director: Proposed Special Assistance to Myanmar", UN Doc. DP/FPA/MMR 13 July 2001.

4. THE WORLD FOOD PROGRAM (WFP)⁸⁹

The WFP has a Protracted Relief and Recovery Operation (PRRO) which provides assistance to returnees and vulnerable groups in Northern Rakhine State (NRS) covering three townships: Maungdaw, Rathedaung, and; Buthidaung, which are estimated to have a yearly food deficit of between 20,000 to 40,000 mt, aggravated by a weak infrastructure, variable climatic conditions, inadequate farming inputs, irrigation systems, lack of access to land tenure and rice trade restrictions.

WFP's most recent operation began in April 1994, under a MOU between the government and UNHCR, under which WFP provided food through general distribution to returnees from the mass exodus to Bangladesh in 1992. These interventions broadened into food for work in 1994, and later included food for training in 1996.

The executive board (based in Rome), approved the continuation of WFP's operations for two years in February 2002, starting 1 July 2002. The operation will be implemented in coordination with an anticipated UNDP-led effort in the NRS following the expected withdrawal of UNHCR. More than 60 WFP staff are stationed in the field offices for project implementation, regular assessment and monitoring of activities at the grass-roots level.

The immediate objective of the WFP operation is to bridge the food gaps for the vulnerable poor, including returnees, particularly during periods of severe food deficit through:

- (a) providing relief food assistance to returnees (about 5,000 who are expected to return in the next 2 years – 6 month food ration of 25 kg per month) and chronically vulnerable households during the lean season (pre-harvest season, July-Sept, beneficiaries receive 100kg of rice in two distributions) – in total about 62,000 food aid beneficiaries (5,000 returnees and 57,000 vulnerable individuals, 87% will be women);
- (b) creating opportunities for vulnerable groups to gain and preserve social and economic assets;
- (c) promoting human development through increased enrolment and attendance of girls in primary schools;
- (d) enhancing year-round agricultural productivity through improved irrigation structures and natural resource management; and
- (e) facilitating access to markets and basic services by rehabilitating and upgrading local infrastructure.

Activities which stress the altering of household trade-offs in favor of nutrition, education and asset-creation, and the linkage between short-term consumption and long-term sustainability can be broadly categorized into three components:

- (a) assistance to vulnerable families, including returnees, through relief rations (target groups: returnees, female-headed households, landless);
- (b) formal education, through food for education and informal education through food for training (target groups: female headed-households, primary-school girls);
- (c) agricultural production and infrastructure rehabilitation through food for community asset creation (target groups: landless, seasonal laborers).

⁸⁹ Information from WFP's website.

WFP has identified female-headed households, the elderly, orphans, landless, mentally and physically disabled, primary-school girls and returnees as the most vulnerable and deprived groups. Overall, approximately 59% of the beneficiaries will be women.

Since 1996, WFP has implemented the food for education activity in 95% of the primary schools in the NRS for levels between kindergarten and grade 5 (approx. 10 years of age). Girls who meet the 80% attendance criteria per academic year are entitled to 15 kg of rice per month, for a total ration of 90 kg through 3 bimonthly distributions. The % of girls to boys enrolled in primary schools has increased from 32 to 57%.

WFP supports teachers to increase the availability of teaching staff in primary schools. Those who meet the attendance requirement of 90% of the academic year are entitled to a monthly honorarium of 100kg. The food for education activity will provide assistance to a total of 105,000 girls and 1,250 teachers.

WFP supports vocational training activities implemented by MRCS and other NGOs such as fishnet-weaving, bamboo crafts-making and tailoring. This will reach approximately 40,000 food aid beneficiaries, approx. 60% of whom will be women.

Rice is the only commodity required under the operation – locally purchased and received in Sittwe and transported by boat to the 4 WFP warehouses in the NRS. Owing to state limitations on the movement of rice, WFP currently works with the NaSaKa, the agency mandated with administrative and legal control on the NRS border area, to facilitate transport arrangements to the warehouses. Discussions have led to the possibility of using commercial transporters. A commodity tracking system is being established which will systematically track commodity movements from source to beneficiaries and allow for more accurate and timely reporting of receipts and distribution.

WFP currently cooperates with UNHCR, UN Office for Project Services (UNOPS), three international NGOs and one local agency in project implementation. It is a participant in the UN Country Team and Common Country Assessment. It will continue to seek participation from community-based organizations (CBOs) and the village development committees in the identification of beneficiaries and activity areas, as well as in evaluation and food management tasks. Cooperation with some government ministries on returnee issues will also be maintained: Immigration and National Registration Department (INRD); the Ministry of Progress of Border Areas and National Races and Development Affairs; the Ministry of Social Welfare, Relief and Resettlement.

5. THE UN DRUG CONTROL PROGRAM IN BURMA (UNDCP)⁹⁰

The UNDCP and its predecessor UNFDAC have worked with the government for the past 25 years to reduce the illicit cultivation, production, trafficking and abuse of drugs. Burma is part of a UNDCP Sub-regional cooperation action-plan with China, Cambodia, Laos, Thailand and Vietnam. Burma has overtaken Afghanistan this year as the world's largest producer of opium, accounting for some 50 or 60 percent of the global supply of the drug, according to the United Nations International Narcotics Control Board (INCB).

⁹⁰ Information from UNDCP's website.

The UNDCP country program has a strong emphasis on the elimination of opium poppy cultivation. The country office has 3 international and two national staff members.

The Wa Alternative Development project is located in the southern portion of the Wa area. The project covers the District of Mong Pawk which comprises the southern portion of the Wa Special Region 2, in the north-east of Eastern Shan State adjoining the China border. The district has five townships: Mong Pawk, Ho Tao, Mong Phen, Mong Kar and Nam Phai. Under this project, UNDCP has established an opium poppy cultivation monitoring system that will provide a better understanding of the social and economic conditions of the opium growing communities. This will also provide guidance for policy making and development planning in the border areas. The goal is to achieve sustainable improvement in living standards of rural communities which will eliminate the need for rural communities to grow opium poppy, produce and sell raw opium.

Other UNDCP programs in the supply reduction sector support the local communities in the Kokang region and Nam Tit township (Northern Shan) in their efforts to establish an alternative to the opium based economy. The immediate objective is that the area under irrigation is increased, improved varieties and crops are introduced and road access is improved.

In the field of demand reduction, UNDCP is funding a drug injection prevention program in Kachin State to reduce the risk of HIV/AIDS transmission. The project is implemented by local communities, supported by INGOs. UNDCP is also supporting small-scale projects for improving the provision of treatment, detoxification and rehabilitation services for drug users and increasing awareness on the dangers of drugs among the communities.

There is a community based demand reduction project in Northern Shan State which aims to reduce the incidence of drug abuse in villages near Muse to key townships along the Mandalay-Muse transport corridor, namely: Lashio, Kuktai and wider Muse township itself. Using community based offices the project will provide and monitor revolving loans for community-based demand reduction, and social development activities to villages within these townships.

Additional international assistance to Burma is needed to counter the problem of drug production, trafficking and abuse, particularly with the emergence of new synthetic drugs and Amphetamine Type Stimulants. The limited level of international assistance causes the country to be a weak link in the supply control chain, by not providing the tools to attack the traffickers and money launderers.

The UNDCP launched a 'Stars Against Drugs' campaign last year, which has enlisted celebrities to raise awareness of the dangers of substance abuse.

On 22 May 2002, UNDCP's resident representative, Mr Jean-Luc Lemahieu said international aid is desperately needed to ensure that Burma can sustain opium reduction programs. He was speaking at a ceremony in Rangoon at which UNDCP and 8 NGOs signed a MOU on a 'Civil Society Initiative' to work together against drug abuse. He said UNDCP would approach potential private sector donors to support the work of the consortium. NGOs in the consortium include: the Association of Medical Doctors of Asia, the Myanmar Anti-Narcotics Association, the Myanmar Council of Churches, the Young Men's Buddhist Association and the Border Areas Development Association.

6. THE OFFICE OF THE UN HIGH COMMISSIONER FOR REFUGEES (UNHCR)⁹¹

Operations in Burma

UNHCR has been working in Burma since the beginning of 1994 to facilitate the repatriation from Bangladesh of Burmese refugees and their reintegration. By the end of 2000 some 232,000 of 250,000 refugees had returned. UNHCR has offices in Rangoon and Maungdaw in Northern Rakhine State (NRS). It operated with 59 staff, consisting of 13 international and 46 national staff last year.

A 5 year UN Integrated Development Program (UN-IP), led by the UN Country Team was expected to take over UNHCR's reintegration activities in Northern Rakhine State in January 2001 and preparations were under way during 2000. UNDP will take a lead in development activities under the Basic Needs Assistance Program due to start mid-2001. This has not started due to 'lack of support from the authorities'.

Constraints: slow repatriation movement due to the lengthy verification process required by the authorities, the existence of mixed marriages between cleared and non-cleared families and the presence of newborn infants' whose fathers did not appear on the list of cleared cases, delays in granting clearance and visas to new UNHCR staff and implementing partners.

Issues of concern impeding stabilization efforts: compulsory labor, extortion, land reallocation, the lack of citizenship, and restrictions on freedom of movement. Demands for compulsory labor decreased towards the end of the year due to SPDC instructions dated 1 November 2000, which prohibited requisition of compulsory labor.

Activities and assistance

Community Services: A total of 1,520 girls and women, both returnees and local population, received training in sewing, needlecraft (including fishing nets) and mat-weaving, at 4 Magsaysay centers for women. Special assistance, such as emergency cash grants and household assistance, was given to 7,749 people, including female heads of households, unaccompanied children or elderly people, and the physically or mentally disabled. 13 community development centers in Maungdaw and Buthidaung were run with UNHCR's assistance.

Crop production: Village stores were set up to provide better access to agricultural supplies, such as improved seeds and cheaper pesticides. Through 'seed banks', improved seeds were given to 920 farmers, mainly returnees, as a type of loan to be repaid in kind after the harvest.

Domestic needs/household support: All 1,323 returnees who returned during the year received a cash grant of 10,000 kyats each as assistance to help them resettle.

Education: Five new schools were built, and 15 existing schools were rehabilitated. On-the-job training courses were provided for 92 people, a total of 300 women participated in literacy training, 2,218 children were reintegrated into state primary school, 250 teachers became skilled literacy teachers. A survey of educational needs was conducted in NRS, as basis for future educational assistance programs.

⁹¹ Information found on UNHCR's website and world report.

Fisheries: Equipment and chemicals for shrimp breeding were procured, training on aquaculture was provided.

Food: Rice was purchased and utilized for voluntary repatriation assistance, emergency assistance to vulnerable individuals, food for school girls, food-for-work and food-for-training.

Health/Nutrition: During repatriation, health assistance was provided to returnees as required. Mass vaccination campaigns targeted children and women of childbearing age. A health outreach system was instituted in 16 selected villages and health education was given to community health workers and leaders. Various health education classes were provided at local primary schools. Awareness campaigns were conducted on eradication of polio; 13 community-based oral rehydration therapy centers were established for children who required intensive care; volunteers were trained in reproductive health and family planning.

Income generation: Representatives of over 4,500 households were assisted in organizing 922 rotating savings and credit associations. Assistance was extended to 2,517 households to establish various income-generating activities.

Legal assistance: All returnees received returnee identification cards upon arrival at the reception centers. Registration cards for their communities were also issued.

Livestock: training on poultry keeping was provided for 50 livestock farmers; 2,200 chickens were distributed to the poorest and most vulnerable.

Water: A total of 15 tube wells were dug and installed with hand pumps at primary schools to reduce risk of water borne diseases.

UNHCR works closely with 11 implementing partners: one government agency (Immigration and National Registration Department), 5 UN agencies (FAO, UNESCO, UNICEF, UNOPS, WFP), three INGOs (Bridge Asia Japan, Community and Family Services International and Groupe de recherche et d'échanges technologiques), two national NGOs (Myanmar Maternal and Child Welfare Association and Myanmar Red Cross Society).

Operations along the Thai-Burma border

UNHCR has had an office in Bangkok since 1977 but only secured a protection mandate along the Thai-Burma border at the end of 1998. UNHCR's stated protection priorities and challenges in Thailand are: to ensure that asylum seekers/ refugees have admission to the territory and that the principle of *non-refoulement* is respected; to ensure that all asylum seekers have access to asylum; to ensure the physical safety of refugees; to facilitate durable solutions for refugees situations; to promote refugee law and advocacy, and; to strengthen and build capacities. Three permanent field offices (Kanchanaburi, Mae Sot and Mae Hong Son) have been established along the border to provide international protection to refugees, but it has no role in providing humanitarian assistance to the camps.

With respect to urban refugees, UNHCR's objective will be to ensure that they are granted protection and that their fundamental rights are respected until a durable solution is found. UNHCR will also continue promoting accession to the 1951 Refugee Convention and the adoption of national legislation on asylum. To this end, UNHCR will make efforts to enhance

awareness of UNHCR's mandate and refugee law among Government officials and civil society, especially NGOs, the media and universities.

7. THE FOOD AND AGRICULTURE ORGANISATION⁹²

The FAO is the UN's lead agency for food, agriculture, forestry, fisheries and rural development. The mandate of the FAO is to eliminate world hunger and rural poverty, to increase agricultural production and improve the living conditions of rural populations. It acts as an information center, a neutral forum for policy dialogue, an adviser to the Government, and a development agency.

FAO works to alleviate poverty and hunger by promoting sustainable development of agriculture, a long-term strategy for increasing food production and food security while preserving and managing natural resources. The aim is to meet the needs of both present and future generations by promoting a sustainable development that does not degrade the environment and is technically appropriate, economically viable and socially acceptable.

Information

FAO collects, analyses, interprets and disseminates information on nutrition, food, agriculture, forestry and fisheries. It publishes authoritative reports on global conditions and trends regarding these fields. The organization serves as a clearing-house providing farmers, scientists, traders, and government planners with the information they need to make rational decisions on planning, investment, marketing, research or training.

FAO's information mandate includes two major undertakings:

The Global Information and Early Warning System which monitors the crop and food outlook to detect emerging food shortages and assess possible emergency food requirements.

The World Agricultural Information Center which provides access to FAO's data and analysis on agriculture, forestry, fisheries and rural development in a variety of forms, including the internet, diskettes and CD-ROMs.

FAO in Burma

Burma became a member of FAO in 1947. The first FAO/UNDP project became operational in 1973. Over the last 20 years, FAO has provided assistance through 115 national and 21 regional field projects. These projects covered most of the FAO mandatory sectors including agriculture and rural investment planning, census and statistics, research in all sectors, food and industrial crops, crops processing and food technology, plant protection and animal health.

In 1999, the FAO funded 4 technical cooperation projects related to hybrid rice, fruit, vegetables and flowers, emergency supply of seeds, and agriculture market information. Out of the 10 HDI projects funded by UNDP, FAO is the executing agency for the three food security projects, which also focus on sustainable management of natural resources. Since July 1999, FAO also

⁹² Information about the FAO comes from 'United Nations in Myanmar', Office of the UN Resident Coordinator, September 2000, at 43-46.

executes a sustainable agriculture development project funded by UNHCR in Northern Arakan State.

Six regional projects were active in 1999 in Burma in the areas of animal genetic resources, wood energy, forestry policies and institutions, watershed management, and statistics.

8. WORLD HEALTH ORGANISATION (WHO)⁹³

WHO provides technical support for global health needs through a highly decentralized structure composed of regional and country offices. The objective of WHO is the attainment by all people of the highest possible level of health. Its two main constitutional functions are to act as the directing and coordinating authority on international health work, and to encourage technical cooperation in the areas of health with member states.

WHO has been working in Burma since 1948. In 1954, WHO and the Burmese government signed an agreement under which WHO provides technical assistance to the Ministry of Health.

WHO's assistance covers the majority of the projects under the National Health Plan. This includes direct technical support in areas such as malaria and vector-borne disease control, TB and HIV/AIDS control, expanded programs of immunization, family health, community health, and population issues. A special financial and technical support is provided to poliomyelitis eradication.

WHO promotes and supports capacity building of selected professionals from the Ministry of Health, by organizing seminars, training programs and meetings of expert advisory panels, and helps various departments of the Ministry to prepare and execute operational research projects.

Activities

- Strengthening health policy and national health planning;
- Development of health infrastructures, including human resources for health;
- Development of research capabilities;
- Health promotion, including women's health and development, health education, nutrition, essential drugs and vaccines, environmental health, and integrated management of maternal childhood illness;
- Control of communicable diseases in particular vector-borne diseases such as TB, HIV/AIDS, leprosy and neonatal tetanus;
- Eradication of poliomyelitis;
- Roll Back Malaria Initiative;
- Control of non-communicable diseases;
- Tobacco Free Initiative.

Partnerships

WHO collaborates with UNICEF in the fields of immunization, maternal and childhood illnesses, and essential drugs. WHO also works with UNDP and UNICEF in the fields of HIV/AIDS, malaria control and elimination of iodine deficiency disorders.

⁹³ Id, at 47-49.

9. JOINT UN PROGRAM ON HIV/AIDS (UNAIDS)⁹⁴

UNAIDS is an innovative joint venture of the UN. UNAIDS brings together the resources and varied expertise of seven UN system organizations (UNICEF, UNDP, UNFPA, UNDCP, UNESCO, WHO and the World Bank) to help prevent new HIV infections, to provide care and support for those already infected and affected by the disease, to reduce the vulnerability of individuals and communities to HIV/AIDS, and to alleviate the socioeconomic and human impact of the epidemic.

The Joint Plan (2001-2002) constitutes the practical framework for UN co-ordinated support for HIV/AIDS in Burma. The current text/Plan has been approved by all the members of the UN Country Team.

The Plan has the following objectives:

- To support the implementation of interventions which decrease the spread of HIV and mitigate the impact of HIV/AIDS on individuals, families and communities
- To provide a commonly agreed framework for UN support to the national response to HIV/AIDS/STI and provide a point of reference for enhanced collaboration and co-ordination of the UN system (current and planned support)
- To maximize the utilization of UNAIDS Program Acceleration Funds for 2001 and guarantee the implementation of key steps in each of the priority areas where funds are not available from other sources
- To address gaps and intensify action across selected priority areas, in line with objectives of the National Health Plan (HIV/AIDS/STI)
- To build national capacity for decentralized responses to HIV/AIDS through a range of key stakeholders and partners (local and international) in coordination with the Ministry of Health
- To garner increased resources for an intensified response to HIV/AIDS.

The priority areas are:

- Targeted condom use and reproductive health (pilot project in 4 townships initially)
- Behavioral development and Change Communication (key messages for specific target audiences to be developed, mixed media channels, different national languages)
- Compassion, Care and Support for Persons Living With AIDS and affected by HIV/AIDS (guidelines and tools to be developed, training)
- Reducing the Harmful Consequences of Injecting Drug Use (HIV prevention and drug treatment services, counseling, care and support)
- Expansion of Blood Safety Programs to cover remote areas and communities (more facilities needed for transfusion safety)
- Improved multi-sectoral coordination and enhancement of national NGOs capacity (all Ministries, organizations, private sector and community need to participate)
- Surveillance and research (to track the epidemic and its impact, sentinel surveillance needs to be upgraded that links serological and behavioral indicators)

⁹⁴ UNAIDS, 'United Nations Response to HIV/AIDS in Myanmar: The United Nations Joint Plan of Action 2001-2002'.

The Joint Plan will focus on a number of priority population groups in order to reach people with high-risk behavior and those in vulnerable situations. A second priority will be to reach people who may adopt high-risk behavior or fall into vulnerable situations in the future: women in the entertainment industry; clients of such; injecting drug users and their sexual partners; people with STIs; vulnerable people, including married women in risk situations, exposed to husband's risk behavior and young women about to marry.

Implementation: since the beginning of 2000, the UN Theme Group on HIV/AIDS work in country has been coordinated and implemented in a three level structure:

- Theme Group
- Technical Working Group
- 5 Strategic Sub-groups

The Theme Group, chaired by the TG Chairperson, is composed of the heads of cosponsoring agencies (UNICEF, UNDCP, WHO, UNFPA, UNDP/UNOPS) and other UN agencies working in Burma.

The Technical Working Group is chaired by the UNAIDS Country Program Advisor and composed of technical focal points from the cosponsoring agencies, as well as representatives of the National AIDS Program, international and national NGOs.

The Strategic Sub Groups will depend on changing emphasis in the work. UN agencies that are working on HIV/AIDS are: WHO, UNICEF, UNFPA, UNDCP, and UNDP.

INGOs active in HIV/AIDS control, and largely funded and partnered by UN agencies, are:

- ICRC – supports activities of MRCS countrywide;
- World Vision – community based prevention & care in Mandalay & Thai-Burma border areas and feeder areas for cross-border migration - Kyaingtong, Dawei and Myeik
- CARE – prevention & care in Rangoon & Mandalay divisions, Muse, Northern Shan State, Monywa District, and Mon State
- Save the Children (UK) – prevention education with focus on youth in Northern Shan, Mon and Kayin States
- Population Service International – social marketing of condoms in 203 townships
- Medecins du Monde – education materials and assistance in Rangoon and Kachin State
- Medecins sans Frontieres (Holland) – clinics and outreach for health education, condom distribution, treatment of STIs and care for AIDS patients in Rangoon, Kachin and Rakhine States
- Marie Stopes International – CBOs in Rangoon & Mandalay
- World Concern – preventive education especially for youth involved in high risk activity in Kachin State
- Population Council – provides technical support to a range of institutions and government bodies in the field of reproductive health research.

INGOs have been able to work with people engaging in high-risk activities who are usually hard to reach, most particularly sex workers and drug users. The majority of their activities to date have been in the field of behavioral development and change communication, and reproductive health especially STI prevention and management, but increasingly they are turning their attention to care.

COMPOSITION OF THE THEMATIC/WORKING GROUPS IN BURMA IN 2001

Thematic groups bring together key staff with relevant expertise of different UN agencies, NGOs and sometimes Government. These groups identify important development issues, exchange information and facilitate a coherent and complementary approach by all organizations regarding these issues.⁹⁵

Thematic Group⁹⁶	UN Agencies
Monitoring & Evaluation (M & E) Working Group	Office of the UN Resident Coordinator (RCO); UNDP (chair); UNICEF (chair); UNDCP; UNFPA; UNHCR; WHO; FAO
Management Committee on Common Premises and Services (MCCPS)	UNDP (chair); UNICEF; UNDCP; UNFPA; UNHCR; WHO; WFP; FAO
Information, Education & Communication (IEC) Working Group	RCO; UNDP; UNICEF (chair); UNDCP; UNFPA; UNHCR; WHO; WFP; FAO
Thematic Group on Disaster Preparedness	UNDP; UNICEF; UNDCP; UNHCR; WHO; WFP (chair); FAO
Thematic Group on Food Security and Nutrition	UNDP; UNICEF; UNDCP; WHO; WFP; FAO (chair)
Thematic Group on Gender	UNDP; UNICEF (chair); UNDCP; UNFPA; UNHCR; WHO; WFP; UNAIDS
Thematic Group on Primary Education	UNDP; UNICEF
Thematic Group on Water and Sanitation	UNDP; UNICEF; UNDCP; UNHCR; WHO
Workgroup on Illicit Drugs	UNDP; UNICEF; UNDCP (chair); UNHCR; WHO; WFP; FAO; UNAIDS
UNAIDS Theme Group	RCO; UNDP; UNICEF; UNDCP; UNFPA; WHO (chair)
UNAIDS Technical Working Group + subgroups	RCO; UNDP; UNICEF; UNDCP; UNFPA; WHO; UNAIDS (chair)

⁹⁵ Office of the UN Resident Coordinator, 'United Nations in Myanmar', September 2000, at 9.

⁹⁶ Office of the UN Resident Coordinator, "Annual Report of the Resident Coordinator in Myanmar 2001", 31 January 2002, Annex II.

ANNEX II: INTERNATIONAL NGOS OPERATING IN BURMA

Name of Organization	Year established	Main sectors of activities
1. Medecins Du Monde	1991	Health, HIV/AIDS
2. World Vision	1991	Health, HIV/AIDS, micro-credit, street children
3. Medecins Sans Frontieres – Holland	1992	Health, HIV/AIDS
4. International Federation of Red Cross (The Federation)	1993	Health
5. Association Francois-Xavier Bagnoud	1994	Programs, including preventive, for sex workers, HIV/AIDS care
6. Action Contre La Faim (ACF)	1994	Rakhine State: assisting reintegration of Rohingyas, sanitation, medical program
7. Adventist Development and Relief Agency (ADRA-Myanmar)	1995	Health, sanitation
8. Bridge Asia Japan (BAJ)	1995	Income generation
9. Care (Australia)	1995	Health, HIV/AIDS, agro-forestry
10. Groupe de Recherche et d'Echanges Technologiques (GRET), France	1995	Micro-credit, food security
11. Population Council	1995	Reproductive health

12.	Population Services International	1995	HIV/AIDS, social marketing
13.	Pact	1995	Micro-credit
14.	Save the Children-UK	1995	Social development, child development
15.	Save the Children-US	1995	Health, education, income generation
16.	World Concern	1995	Health, education, income generation, food security
17.	Oisca International (Japan)	1996	Rural development, agro-forestry
18.	Association of Medical Doctors of Asia (AMDA)	1997	Health
19.	Grameen Trust Bank	1997	Micro-credit
20.	International Committee of the Red Cross (ICRC)	1998	Prison conditions, health
21.	Marie Stopes International	1998	Reproductive health
22.	Association for Aid and Relief	1999	Disability rehabilitation
23.	Karamosia International (Jap)	1999	Integrated development, environment
24.	Medecins Sans Frontieres – Suisse	1999	Malaria
25.	Partners	1999	Water and sanitation
26.	Medecins Sans Frontieres – France	2000	Malaria
27.	U-Law	2000	Drug rehabilitation
28.	Center for	2000	Humanitarian activities

	Humanitarian Dialogue		
29.	Aide Medicale Internationale (AMI)	2001	Health
30.	SWISSAID	2001	Environment, agricultural development
31.	Capacity Building Initiative (CBI)	Jan 2001	Training/workshops for INGO staff
32.	Malteser Germany	Jan 2002	Primary Health Care, Health System Development, Water, Sanitation, CDC
33.	Save the Children Japan (SCJ)		Health - maternal and child health program

Sources: Adapted from UN/Myanmar, Country Paper, January 2002 [internal working draft]; Directory of International Non-Government Organizations Working in Myanmar/Burma, February 2001, and; Altsean "Peace of Pie?" October 2002.

ANNEX III – JOINT PRINCIPLES OF OPERATION OF INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS (INGOs) PROVIDING HUMANITARIAN ASSISTANCE IN BURMA/MYANMAR, JUNE 2000

1. Humanitarian Imperative

INGOs recognise that the right to receive humanitarian assistance, and to offer it, is a fundamental humanitarian principle that should be enjoyed by all citizens of all countries. When we give humanitarian assistance it is not a political or partisan act and should not be viewed as such. Our primary motivation for working in this country or in any other country in which we work is to improve the human condition and alleviate human suffering.

2. Non-discrimination

INGOs follow a policy of non-discrimination regarding ethnic origin, sex, nationality, religion, sexual orientation, political orientation marital status or age in regard to the target populations with whom we work.

3. Respect for Culture and Custom

INGOs respect the local culture, religions and traditions of the people of Burma/Myanmar.

4. Independence

- INGOs are agencies that function independently from all governments, government controlled/organised bodies, and political parties.
- INGOs set independent policies, design our own programs and use implementation strategies which we believe are in the best interests of the humanitarian needs of individuals, families, and communities of the target population and, ultimately, in the best long-term interests of the people.
- While INGOs operate in Burma/Myanmar with permission from the host government, we do not implement the policies of the host government nor are instruments of foreign policy of donor governments, *except in so far as these policies coincide with the independently set policies of the INGOs.*
- INGOs select where we work based on our organisational mandate, our independent assessment of need and organisational capacity.
- INGOs do not knowingly allow ourselves to be used to gather information of a political, military, or economically sensitive nature for governments or other bodies that may serve purposes other than those purposes that are strictly humanitarian.
- INGOs provide funds and project materials directly to project beneficiaries.

- INGOs do not provide funds or materials directly or indirectly to government departments or parastatal organisations for project implementation.
- INGOs work with organisations that are determined to be independent non-governmental organisations, which may include religious and cultural groups, business associations, and others.
- INGOs recruit and hire staff independently of any outside influence.

5. Monitoring and Accountability

- INGOs are accountable to donors and beneficiaries and adopt and implement necessary monitoring mechanisms to ensure all assistance reaches the intended targeted beneficiaries.
- INGOs are prepared to discontinue assistance if we become unable to implement and/or monitor our programs in an ethical and effective manner.

5.1 Financial Accountability

- INGOs consider themselves stewards of our donors' funds and accept that responsibility with the utmost seriousness.
- INGOs have monitoring and control systems in place to ensure that our financial resources and assets are used solely by and for our intended project beneficiaries and are not diverted by the government or any other party.
- INGOs seek to maximise the financial impact of our programs and we do not exchange money at the central bank rate of US\$1 = 6 Kyats.
- INGOs have financial audit systems in place that verify all financial expenditures.

5.2 Accessibility

INGOs work directly with and have direct access to project beneficiaries and their communities to, assess, evaluate and monitor projects.

6 Rights-Based Programming and Advocacy

- INGOs respect fundamental human rights as defined by the United Nations and our programs take a constructive approach to advocate for rights of individuals as consistent with program objectives in the communities where we work.
- INGOs seek to promote an environment in which fundamental human rights are respected through a variety of means. INGOs balance the importance of our advocacy activities with the importance of our operations.

7. Capacity Building

- INGOs seek to operate in a way that supports civil society and builds the capacity of human resources in the country.

- INGOs are committed to enhancing the capacity of local community-based organisations.
- INGOs are committed to enhancing the capacity of individuals working within our individual organisations, across a wide variety of skills, including technical skills.
- critical thinking, problem solving and leadership skills.
- INGOs are committed to enhancing both the technical and organizational capacities of our beneficiaries.
- INGOs foster understanding amongst our staff members and between staff members and our target populations, recognising the importance of reconciliation and understanding amongst Burma/Myanmar's diverse peoples.

8. Sustainability

INGOs employ a diverse set of strategies with a long-term goal of achieving sustainable impact in our programming. Sustainability can be defined in a number of different ways, including the long-term impact of a specific intervention following the closure of a project, continued financial viability of an institution, or capacity built within the community, within local community-based organisations or among staff members. Different INGOs may employ different definitions and different methods, but all of us consider sustainability of paramount importance and strive to achieve it.

9. INGO Co-operation

- INGOs exercise mutual respect for each agency's mandate, methodology, independence and self-determination.
- INGOs practice transparency and confidentiality in engaging in a regular dialogue with one another regarding these principles and encourage one another to maintain the highest possible level of ethical programming.
- INGOs encourage and support additional INGOs entering the country to develop and undertake responsible ethical programming to provide needed humanitarian assistance.
- INGOs encourage donor agencies to significantly increase funding for ethical and responsible humanitarian assistance activities within the country.

ANNEX IV- THE SPHERE PROJECT: HUMANITARIAN CHARTER AND MINIMUM STANDARDS IN DISASTER RESPONSE

Part I:

The Humanitarian Charter

Humanitarian agencies committed to this Charter and to the Minimum Standards will aim to achieve defined levels of service for people affected by calamity or armed conflict, and to promote the observance of fundamental humanitarian principles.

The Humanitarian Charter expresses agencies' commitment to these principles and to achieving the Minimum Standards. This commitment is based on agencies' appreciation of their own ethical obligations, and reflects the rights and duties enshrined in international law in respect of which states and other parties have established obligations.

The Charter is concerned with the most basic requirements for sustaining the lives and dignity of those affected by calamity or conflict. The Minimum Standards which follow aim to quantify these requirements with regard to people's need for water, sanitation, nutrition, food, shelter and health care. Taken together, the Humanitarian Charter and the Minimum Standards contribute to an operational framework for accountability in humanitarian assistance efforts.

1 Principles

We reaffirm our belief in the humanitarian imperative and its primacy. By this we mean the belief that all possible steps should be taken to prevent or alleviate human suffering arising out of conflict or calamity, and that civilians so affected have a right to protection and assistance. It is on the basis of this belief, reflected in international humanitarian law and based on the principle of humanity, that we offer our services as humanitarian agencies. We will act in accordance with the principles of humanity and impartiality, and with the other principles set out in the *Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations in Disaster Relief (1994)*.

The Humanitarian Charter affirms the fundamental importance of the following principles:

1.1 The right to life with dignity

This right is reflected in the legal measures concerning the right to life, to an adequate standard of living and to freedom from cruel, inhuman or degrading treatment or punishment. We understand an individual's right to life to entail the right to have steps taken to preserve life where it is threatened, and a corresponding duty on others to take such steps. Implicit in this is the duty not to withhold or frustrate the provision of life-saving assistance. In addition, international humanitarian law makes specific provision for assistance to civilian populations during conflict, obliging states and other parties to

agree to the provision of humanitarian and impartial assistance when the civilian population lacks essential supplies.⁹⁷

1.2 The distinction between combatants and non-combatants

This is the distinction which underpins the 1949 Geneva Conventions and their Additional Protocols of 1977. This fundamental principle has been increasingly eroded, as reflected in the enormously increased proportion of civilian casualties during the second half of the twentieth century. That internal conflict is often referred to as 'civil war' must not blind us to the need to distinguish between those actively engaged in hostilities, and civilians and others (including the sick, wounded and prisoners) who play no direct part. Non-combatants are protected under international humanitarian law and are entitled to immunity from attack.⁹⁸

1.3 The principle of non-refoulement

This is the principle that no refugee shall be sent (back) to a country in which his or her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion; or where there are substantial grounds for believing that s/he would be in danger of being subjected to torture.⁹⁹

2 Roles and Responsibilities

- 2.1 We recognize that it is firstly through their own efforts that the basic needs of people affected by calamity or armed conflict are met, and we acknowledge the primary role and responsibility of the state to provide assistance when people's capacity to cope has been exceeded.
- 2.2 International law recognizes that those affected are entitled to protection and assistance. It defines legal obligations on states or warring parties to provide such assistance or to allow it to be provided, as well as to prevent and refrain from behavior that violates fundamental human rights. These rights and obligations are contained in the body of international human rights law, international humanitarian law and refugee law.
- 2.3 As humanitarian agencies, we define our role in relation to these primary roles and responsibilities. Our role in providing humanitarian assistance reflects the reality that those with primary responsibility are not always able or willing to perform this role themselves. This is sometimes a matter of capacity. Sometimes it constitutes a willful

⁹⁷ Articles 3 and 5 of the *Universal Declaration of Human Rights* 1948; Articles 6 & 7 of the *International Covenant on Civil and Political Rights* 1966; common Article 3 of the four Geneva Conventions of 1949; Articles 23, 55 and 59 of the *Fourth Geneva Convention*; Articles 69 to 7 of *Additional Protocol I* of 1977; Article 18 of *Additional Protocol II* of 1977 as well as other relevant rules of international humanitarian law; *Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment* 1984; Articles 10, 11, 12 of the *International Covenant on Economic, Social, and Cultural Rights* 1966; Articles 6, 37, and 24 of the *Convention on the Rights of the Child* 1989; and elsewhere in international law.

⁹⁸ The distinction between combatants and non-combatants is the basic principle underlying international humanitarian law. See in particular common Article 3 of the four *Geneva Conventions* of 1949 and Article 48 of *Additional Protocol I* of 1977. See also Article 38 of the *Convention on the Rights of the Child* 1989.

⁹⁹ Article 33 of the *Convention on the Status of Refugees* 1951; Article 3 of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* 1984; Article 22 of the *Convention on the Rights of the Child* 1989.

disregard of fundamental legal and ethical obligations, the result of which is much avoidable human suffering.

- 2.4 The frequent failure of warring parties to respect the humanitarian purpose of intervention has shown that the attempt to provide assistance in situations of conflict may potentially render civilians more vulnerable to attack, or may on occasion bring unintended advantage to one or more of the warring parties. We are committed to minimizing any such adverse effects of our interventions in so far as this is consistent with the obligations outlined above. It is the obligation of warring parties to respect the humanitarian nature of such interventions.
- 2.5 In relation to the principles set out above and more generally, we recognize and support the protection and assistance mandates of the International Committee of the Red Cross and of the United Nations High Commissioner for Refugees under international law.

3 Minimum Standards

The Minimum Standards which follow are based on agencies' experience of providing humanitarian assistance. Though the achievement of the standards depends on a range of factors, many of which may be beyond our control, we commit ourselves to attempt consistency to achieve them and we expect to be held to account accordingly. We invite other humanitarian actors, including states themselves, to adopt these standards as accepted norms. By adhering to the standards set out in chapters 1-5 we commit ourselves to make every effort to ensure that people affected by disasters have access to at least the minimum requirements (water, sanitation, food, nutrition, shelter and health care) to satisfy their basic right to life with dignity. To this end we will continue to advocate that governments and other parties meet their obligations under international human rights law, international humanitarian law and refugee law. We expect to be held accountable to this commitment and undertake to develop systems for accountability within our respective agencies, consortia and federations. We acknowledge that our fundamental accountability must be to those we seek to assist.

End of relevant section. See <http://www.sphereproject.org/handbook/hc.htm> for further information.

ANNEX V – CASE STUDIES OF HUMANITARIAN INTERVENTION¹⁰⁰

The 1990s illustrated disastrous consequences of the international community's acceptance of the concept of the use of force in humanitarian interventions. Military interventions in civil war situations for substantially humanitarian objectives occurred in:

1. The April 1991 intervention to create 'Safe Havens' for displaced and prosecuted Kurds in northern Iraq;
2. The February 1992 creation of the UN Protection Force in the Former Yugoslavia;
3. The December 1992 deployment of US troops in Somalia as part of the UN Task Force (UNITAF) operation.

In October 1993, the murder of 18 US troops in Somalia confirmed the general failure of the mission and thus, of the whole humanitarian intervention.

After the genocide in Rwanda, which claimed the lives of approximately 800,000 people in a matter of months, a new deployment of Western Countries' troops took place, both in Rwanda and Zaire. The purely humanitarian activities of these military contingents around and inside the massive refugee camps prevented them from addressing the problem of armed elements in the camps.

In 1995, the UN emphasis on humanitarian responses was discredited by the fall of Srebrenica, a safe haven in Bosnia. A year later, the operation in Liberia was not renewed 'because extensive looting [of UN material] resulted in [...] contributing to the war economy.' At the end of the same year, the so-called 'Safe Havens' in northern Iraq were destroyed by military actions.

Following these clear failures of military-humanitarian interventions, a general reluctance developed in interventionist countries (like the U.S., France et al) towards getting involved in missions in war-torn countries/regions, where the strategic interests were low and the political risks high. From that moment on, humanitarian interventions were mostly conceived as *in lieu* of political commitments to address root causes and not as part of a united multifaceted strategy.

The humanitarian INGO Medecins du Monde in 1999 stated that the 'humanitarian label' affixed to the missions in Bosnia, Somalia and Rwanda, 'often allowed the international community to provide the appearance of a response, rather than an actual solution'. These missions required political, rather than humanitarian solutions.

The UN is leading a new trend in the direction of considering the humanitarian access to needy populations as a strong imperative to the international community and a right of the individuals in need. Many humanitarian cease-fire case studies illustrate attempts to

¹⁰⁰ Taken from Guido Galli, "Humanitarian Cease-fires in Contemporary Armed Conflicts: Potentially Effective Tools for Peacebuilding", University of York (Post-war reconstruction & Development Unit, Department of Politics), September 2001, at 70-80 [hereinafter, "Galli"].

promote a space for humanitarian aid in the midst of civil armed conflict. These studies show how they achieved their humanitarian objectives but did not contribute to shortening the conflict (e.g., El Salvador and the Sudan).

HCF need to have a political aspect to make them more effective in their response to contemporary challenges. It has been demonstrated that the need goes beyond humanitarian space to the creation of political space – this is a space for setting up conflict resolution processes and for promoting a dialogue, which goes beyond the armed elites and horizontally involves local actors.

The Humanitarian Pause in Aceh was conceived both for humanitarian and political purposes. In terms of patterns of HCF arrangements and mechanisms used it is the most developed system since a structured system of bilateral bodies and a monitoring system were set out. In terms of impact of HCF on the dynamics of conflicts and the building of peace, the Pause in Aceh has probably been the most successful to date, even if partially, as it deliberately set up confidence-building measures.

One caveat at the beginning: the Pause constituted a major achievement in Aceh as it opened up a dialogue between the Parties to the conflict, to an extent that seemed impossible only some months prior to the Pause. However, it could not prevent widespread violence and a high number of human rights violations from taking place.

Case Study - The Humanitarian Pause in Aceh

Conflict Background (in brief)

On 21 May 1998 President Suharto stepped down in the face of a deep crisis that was simultaneously political (new middle class tired of military rule), economic and social (student riots in 1996). Security had been kept together by the military rule of Indonesia's armed forces, ABRI.

There is a low-intensity armed conflict in Aceh between ABRI and local independent forces, GAM. Historically, Aceh was an independent Sultanate which was violently subjugated by the Dutch in 1903. It provided financial and material support for the nascent Indonesian Republic its struggle against both the Japanese occupied forces and the Netherlands. Immediately after independence, Jakarta curbed the de facto autonomy of the province provoking an armed rebellion. This was settled in the early 1960s by President Sukarno who returned Aceh's provincial status and recognized its autonomy solely in cultural and religious matters.

In the 1970s, President Suharto called the province's autonomy into question and started a policy of economic colonization and ethnic "javanization" of the area. This led to uprisings and the creation of the Free Aceh Movement (GAM), which symbolically declared the independence of Aceh on 4 December 1976. ABRI violently suppressed the movement however the armed conflict erupted again with more intensity in 1988/89 and has not stopped. The fall of Suharto in 1998 increased the conflict's intensity as well as raising the expectations for a political settlement.

There are three main cleavages:

1. Economic: the province possesses important natural and mineral resources, mainly gas, oil, palm oil, timber and minerals. The Acehnese receive only minimum benefits from these resources, which enrich the political, military and business elites of Jakarta. This is why the GAM focuses its attacks mainly on the Arun natural gas fields worked by Exxon Mobil Oil.
2. Political: the demands of the Acehnese range from full independence to a significant autonomy from Jakarta;
3. Religious: Aceh constituted the first region of the archipelago to be converted to Islam. The imposition of the Sharia, is one of the main issues at stake in the conflict. Since independence the vision of Islam in Jakarta is essentially secular while in Aceh the separation between the religious and political spheres is not considered necessary.
4. Human rights: Indonesia's security forces have committed serious human rights violations, as well as violations of IHL against Acehnese people. The government's failure to prosecute past abuses has become a further source of conflict.

After the fall of Suharto, the government of Habibie scaled back the activities of security forces in Aceh. An independent commission was appointed in order to investigate the abuses committed against civilians. The Indonesian Parliament approved new laws on decentralization, which established the transfer to regions of certain prerogatives of central power. A specific law on Aceh's status was also approved, 'which defined a "special status" of the province as the right to organize its own religious, cultural and educational affairs within the national guidelines set by Jakarta'. However, the new government failed to address the root causes of the issue. Armed violence erupted again, with more intensity and the repression was extremely violent.

In October 1999, Wahid was appointed President. He had already launched a dialogue with the Acehnese. This also involved the GAM. In July 2001, Wahid was replaced by Megawati Sukarnoputri.

The Humanitarian Pause

With the facilitation of the Henry Dunant Center for Humanitarian Dialogue (HDC), important exploratory talks between the Indonesian government and the GAM took place in Geneva. The first important result was the 'Joint Understanding on a Humanitarian Pause for Aceh', signed by representatives of the government and the GAM on 12 May 2000.

By recognizing the 'imperative to reduce tension and suffering of the population', the Party signatories agreed to declare a Humanitarian Pause, as

‘[...] A means to promote confidence of the people and parties to this Joint Understanding in their common endeavor towards achieving a peaceful solution to the conflict situation’ (Preamble).

‘The objectives of the Humanitarian Pause are:

- A. Delivery of humanitarian assistance to the population of Aceh affected by the conflict situation;
- B. Provision of security modalities with a view to supporting the delivery of humanitarian assistance and to reducing tension and violence which may cause further suffering;
- C. *Promotion of confidence-building measures towards a peaceful solution to the conflict situation in Aceh* (my emphasis).’

The Joint Understanding established three main bodies, all of them equally integrating representatives of the government and GAM:

1. A Joint Forum (JF), in order to formulate policy and review progress;
2. A Joint Committee on Humanitarian Action (JCHA), in order to coordinate humanitarian assistance, from needs assessment to ensuring unhindered access for its delivery;
3. A Joint Committee on Security Modalities (JCSM), mainly in order ‘to guarantee the absence of offensive military actions [...]’.

Two monitoring teams, one responding to JCHA and the other one to JCSM, assess the implementation of the humanitarian action and of the security modalities, respectively.

The HDC is officially recognized as facilitator within the JF and JCHA. Additionally, it ‘facilitates the process of fundraising for humanitarian assistance’.

The Humanitarian Pause came into effect on 2 June 2000 for an initial period of three months. During the third Joint Forum meeting in Geneva, it was extended until 15 January 2001.

On 10 March 2001, the Humanitarian Pause was replaced by the ‘Peace through Dialogue Agreement’, including a cease-fire and consultations to end the conflict. Trials of cease-fire arrangements were introduced in various parts of the province between March and April.

In April 2001, the government released the Presidential Instruction 4/2001 on ‘Comprehensive steps in the context of resolving the Aceh problem.’ The problem is defined as ‘the dissatisfaction of the people and the existence of an armed separatist movement’, in reference to members of GAM. The military began to scale up its operations against GAM an offensive was officially announced on 2 May 2001.

However, the space for dialogue remained open and a new round of negotiations took place in Geneva in July 2001.

Analysis

Facilitators: The HDC was the officially recognized external facilitator of the negotiating process. It was able to obtain the trust of all parties, and its impartiality was recognized.

The Center tried to involve internal actors as additional facilitators but the polarization did not permit success in this attempt. As such, only GAM and the government signed the Joint Understanding.

As fundraiser, the HDC was not able to get the necessary back-up/involvement of the international community. The lack of funds, crucial in a situation of transition in order to soften tensions and polarization, failed to support the Humanitarian Pause.

Conflict analysis: HDC elaborated a conflict analysis, with the aid of the Post-war Reconstruction and Development Unit of the University of York, UK. During the period in which the Humanitarian Pause was in effect, HDC developed contacts with most of the social actors of Aceh, sharing conflict analysis. However, the field presence of the Center was too limited, as well as the capacity to adjust the analysis and strategies to the fast-evolving political context.

Objectives: The objectives and time frame were clearly stated. The objectives had both a humanitarian (delivery of humanitarian assistance) and a political nature (measures of confidence-building between the warring parties in order to facilitate a peaceful settlement of the conflict).

Monitoring: The two teams set up were extremely useful in giving certainty to the process and involving the Acehnese civil society in the dialogue. However, the participation of civil society was too limited. Only some NGOs participated in the two teams. Moreover, the monitoring activity was completely overwhelmed by the failure of the Pause to guarantee real security in the province. Widespread violence and human rights violations were frequent.

Misuse: Both GAM and the Indonesian army took advantage to strengthen their positions. This was more evident in the case of GAM, which expanded its control, both political and military, within the province. It seems the structures of the Pause failed to properly prevent/react to misuse from the parties.

Outcome: There were high levels of violence (during and after the Pause) and virtually no progress in the process of finding a solution to the conflict. However, the Pause had a very important impact on the dynamics of the issue in Aceh. First, it allowed the flow of needed humanitarian assistance. Secondly, it gave a determinant contribution to bringing the warring parties together, thus creating a 'space' for dialogue. Thirdly, the negotiation itself of the Pause may also have implied "recognition that the conflict in its present form is 'unwinnable.'" It is likely the Pause also delayed a full-scale military onslaught.

In conclusion:

- The Pause was a major achievement in Aceh as it opened up a dialogue between the parties to the conflict, to an extent that seemed impossible only some months prior to the Pause.
- The Pause was meant to further dialogue between the armed, elite state and non-armed state actors. The Pause was locally arranged, with the intervention of external facilitators but this facilitation was practically isolated and not significantly supported by the international community. The outcome was an initially solid negative peace, which later on failed to avoid violence, mainly due to the fact that the army and some factions of GAM had a different political agenda.
- Civil society was not adequately participating in the endeavor, notwithstanding HDC attempts.
- Moreover, the deep crisis of the Indonesian regime made the task of the Pause even harder to accomplish ending the conflict through peaceful means as this requires vigorous national political leadership (ICG, 2001b: 27).
- The limited importance given to human rights protection during the Pause represented one of the main weaknesses of the strategy of the Humanitarian Pause (AI, 2001).

ANNEX VI - GUIDELINES TABLE FOR THE ARRANGEMENT OF HUMANITARIAN CEASE-FIRES

STAGES PRINCIPLES	DESIGN	IMPLEMENTATION	EXIT
STRATEGIC PLANNING (Effectiveness)	Objectives/Mean defined Time frame established Coordinated approach HCF zones marked Prevention of misuse set out Monitoring system defined	Actions implemented International media involved in mobilizing Reaction of misuse undertaken Monitoring system in action	Evaluation of HCF Media involved in socializing results
INVOLVEMENT OF LOCAL CAPACITIES (Appropriateness)	Conflict analysis Internal facilitators Needs assessment Confidence-building measures defined	Actions implemented Local media involved in mobilizing Monitoring system in action (HCF, human rights, international humanitarian law)	Evaluation of HCF Relief transferred to locals
ADDRESSING LOCAL SOURCES OF CONFLICT (Sustainability)	Conflict analysis Confidence-building measures defined Attention to human rights and IHL	Confidence-building measures taken Analysis of impact	Analysis of impact Measures to address sources of conflict advised Relief action linked to development strategies