

## Myanmar: New Threats to Humanitarian Aid

### I. OVERVIEW

The delivery of humanitarian assistance in Burma/Myanmar is facing new threats. After a period in which humanitarian space expanded, aid agencies have come under renewed pressure, most seriously from the military government but also from pro-democracy activists overseas who seek to curtail or control assistance programs. Restrictions imposed by the military regime have worsened in parallel with its continued refusal to permit meaningful opposition political activity and its crackdown on the Karen. The decision of the Global Fund for AIDS, Tuberculosis and Malaria to withdraw from the country in 2005 was a serious setback, which put thousands of lives in jeopardy, although it has been partly reversed by the new Three Diseases Fund (3D Fund). There is a need to get beyond debates over the country's highly repressive political system; failure to halt the slide towards a humanitarian crisis could shatter social stability and put solutions beyond the reach of whatever government is in power.

In the early 2000s, it seemed that political elites on all sides were willing to cooperate on humanitarian issues. The military rulers showed new signs of working with the international community, and opposition groups modified their call for isolating the regime. Donors led by Australia, the UK and the European Union (EU) stepped up humanitarian aid and broader social support. Agencies initiated groundbreaking programs addressing sensitive issues such as HIV/AIDS and expanding into remote areas which have long suffered from conflict and neglect. Over the past few years, however, the general political environment has deteriorated, domestic repression has increased and new confrontations and mutual suspicion between the military government and international critics have put many of those programs at risk.

Since the purge in late 2004 of General Khin Nyunt and other high-ranking officials, the military government has taken a more aggressively nationalistic line with international agencies, including the aid community. Intrusive attempts to control programs and force agencies to work with government-affiliated organisations have been compounded by immense

confusion within the government itself, creating a more difficult operational environment. Although conditions overall are still better than they were in the 1990s, and the impact of recent changes varies between agencies and programs, frustrations are palpable across the aid community and even within parts of the government.

The situation has been further complicated by renewed pressure from international critics. While the democratic opposition increasingly favours assistance, some parliamentarians and advocacy groups abroad have stepped up efforts to restrict and micro-manage aid flows. This was particularly evident in respect to the Global Fund, which in August 2005 terminated a planned \$98 million program in Myanmar after intense pressure from U.S.-based groups undermined sensitive negotiations with the government over operational conditions.

So far, the emerging commitment of donors to assist the millions of households suffering from conflict, harsh and capricious governance and international isolation appears steadfast. EU governments, in particular, have moved quickly to replace the Global Fund, openly rejecting the U.S. position. In the coming months and years, however, the aid community in Myanmar will need to counter further moves by the military government to limit its access to vulnerable populations and abuse humanitarian programs for political gain. For this, it will require the support of donors, headquarters and critics alike to engage with the authorities on the ground in order to rebuild relations and trust, and refocus on the very real needs in the country.

This briefing updates a single element of the Myanmar situation on which Crisis Group has reported extensively in the past. A comprehensive review would have to take greater account as well of the continued effort of the military rulers to retain their authority both by refusing a legitimate role to the democratic opposition and by pursuing harsh repression of ethnic groups. Undermining of humanitarian aid by protagonists on all sides, however, not only goes against international humanitarian principles but could also rekindle a new cycle of conflict and humanitarian emergencies that would make any prospect of positive political change even more remote.

## II. WORSENING HUMANITARIAN SITUATION

While the political deadlock in Myanmar<sup>1</sup> continues, a humanitarian crisis in-the-making threatens not only lives and livelihoods but also political stability and the long-term prospects for internal peace, democracy and economic revival.<sup>2</sup> Despite official claims that the economy is growing by more than 10 per cent annually, independent surveys and observations show steadily deteriorating living standards for the large majority of the population, driven by high inflation, weakening health and education systems and a generally depressed economic environment caused by decades of government mismanagement.

According to calculations based on the 1997 and 2001 government household surveys, the proportion of people living under the poverty line increased from 23 per cent to 32 per cent over this period.<sup>3</sup> A UN survey from 2005 set the number at “more than 30 per cent” in the country as a whole, but much higher in Chin state (70 per cent) and Eastern Shan state (52 per cent).<sup>4</sup> It further indicated that, everything else equal, an increase of just 15-20 per cent in food prices would push “well over 50 per cent” of the total population below the poverty line, a prospect

that, with continuing high inflation, could soon become reality.<sup>5</sup>

Other survey data show that:

- ❑ more than 30 per cent of children under five suffer from malnutrition (in Rakhine state the number is nearly double);
- ❑ the HIV/AIDS epidemic has spread from high-risk groups into the general population, affecting at least 1.3 per cent of the adult population and claiming an estimated 37,000 lives in 2005 alone;
- ❑ morbidity and mortality rates for malaria and tuberculosis remain very high and incidences of drug resistance are rising for both diseases; and
- ❑ nearly half the school-age children never enrol, and only around 30 per cent complete five years of primary education.<sup>6</sup>

The situation is particularly acute in conflict-affected areas along the Thai border, where local communities suffer violence and displacement.<sup>7</sup> But all over the country signs of economic breakdown and social dislocation are becoming ever more evident. Increasing crime rates in Yangon and other major cities, the continuing outflow of legal and illegal migrants in large numbers to neighbouring countries and the many women and girls being trafficked to Thai brothels every year speak clearly to the destitution afflicting many of the country's 50 million plus people.

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<sup>1</sup> This report uses the official English name for the country, as applied by the UN, the national government and most countries outside the U.S. and Europe. This is neither a political statement nor a judgment on the right of the military regime to change the name. In Burma/Myanmar, “Bamah” and “Myanma” have both been used for centuries, being respectively the colloquial and the more formal names for the country in the Burmese language.

<sup>2</sup> Previous Crisis Group reporting on this issue includes Asia Briefing N°34, *Myanmar: Update on HIV/AIDS Policy*, 16 December 2004; Asia Report N°82, *Myanmar: Aid to the Border Areas*, 9 September 2004; Asia Briefing N°15, *Myanmar: The HIV/AIDS Crisis*, 2 April 2002; and Asia Report N°32, *Myanmar: The Politics of Humanitarian Aid*, 2 April 2002. For Crisis Group reporting on broader aspects of the Myanmar crisis, see Asia Report N°78, *Myanmar Sanctions: Engagement or Another Way Forward?*, 26 April 2004; Asia Report N°52, *Myanmar Background: Ethnic Minority Politics*, 7 May 2003; Asia Briefing N°21, *Myanmar: The Future of the Armed Forces*, 27 September 2002; Asia Report N°28, *Myanmar: The Military Regime's View of the World*, 7 December 2001; Asia Report N°27, *Myanmar: The Role of Civil Society*, 6 December 2001; and Asia Report N° 11, *Burma/Myanmar: How Strong is the Military Regime?*, 21 December 2000.

<sup>3</sup> Crisis Group interview, Yangon, March 2005.

<sup>4</sup> “Speaking Notes”, UN resident coordinator, Burma Forum, Brussels, 28 March 2006.

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<sup>5</sup> From 1 July 2005 to 1 July 2006, the price of lowest quality rice jumped 50 per cent, while cooking oil increased 55 per cent. Japanese Embassy, Economic section.

<sup>6</sup> UN resident coordinator, op. cit.; “Report on the Global AIDS Epidemic”, Joint UN Program on AIDS, May 2006; see also “Myanmar: A Silent Humanitarian Crisis in the Making”, UN country team, letter to headquarters 30 June 2001; “Strategic Framework for the UN Agencies in Myanmar”, UN country team, 22 April 2005. UN survey data are generally corroborated in case studies by INGOs and other organisations, although they are inevitably on the conservative side as many remote and conflict-affected areas are not included.

<sup>7</sup> According to a recent report, public health indicators along the Thai border “closely resemble other countries facing humanitarian disasters, such as Sierra Leone, the Democratic Republic of Congo, Niger, Angola, and Cambodia shortly after the ouster of Khmer Rouge”. “Chronic Emergency: Health and Human Rights in Eastern Burma”, Backpack Health Worker Team, 2006. The situation has been exacerbated by the renewed army offensive in northern Karen state and eastern Bago division in 2006, which has led to further killings and large-scale displacement of civilians. For details, see “Situation of Human Rights in Myanmar”, Special Rapporteur on Human Rights in Myanmar, Report to the UN General Assembly, 21 September 2006, A/61/369.

According to the UN resident coordinator, the situation does not yet qualify as a humanitarian crisis but “there are geographic pockets of acute need in the country as well as aspects of suffering that constitute both a national and regional emergency”, and conditions continue to deteriorate. The country, he warns, is not only losing the fight to stop the progression of serious health epidemics within the general population but also the skills and capacities necessary to cope with these and other development challenges.<sup>8</sup>

### III. EXPANDED HUMANITARIAN ASSISTANCE

Throughout the 1990s, key donors and lobby groups opposed the delivery of humanitarian as well as other assistance to Myanmar before the military handed over power to an elected civilian government.<sup>9</sup> Taking the cue from the position then held by the democratic opposition, many considered efforts to help the country’s poor futile or even detrimental to the greater objective of regime change.<sup>10</sup> Yet, with no political breakthrough in sight, growing evidence of acute and widening suffering and a generally more positive attitude to humanitarian aid taken by the National League for Democracy (NLD) and other opposition groups,<sup>11</sup> humanitarian concerns have increasingly moved to the forefront of the international agenda.

#### A. DONOR POLICIES

Australia was the first Western donor to extend assistance beyond pure emergency relief but the most significant shift has taken place within the EU, which today has by far the most comprehensive aid portfolio in Myanmar.

Having suspended most assistance since 1988, EU member states, led by the UK, committed for the first time in 2002 large-scale bilateral and European Commission (EC) funding in support of HIV/AIDS programs. Two years later, after an internal policy review, the Common Position on Myanmar was substantially revised, to include the possibility of even “non-humanitarian aid and development programs” for a wide variety of purposes: “(a) human rights, democracy, good governance, conflict prevention and building the capacity of civil society, (b) health and education, poverty alleviation and in particular the provision of basic needs and livelihoods for the poorest and most vulnerable populations, and (c) environmental protection”.<sup>12</sup> By this time, the EC was firmly committed to providing humanitarian aid independently of the political situation and political strategies. Commissioner for Development and Humanitarian Aid Poul Nielson said:

We do not know when democracy will return to Burma/Myanmar. And we cannot wait for this moment to act. The human costs of social deprivation are much too large to be left aside. The international community needs to be able to continue humanitarian operations without conditionalities or benchmarks.<sup>13</sup>

Against this backdrop, the EC in 2005 initiated work on its first ever Myanmar Country Strategy. This is about to be finalised and is expected to commit substantial new funding over the next six years for bilateral health, education and possibly livelihood programs. According to EC officials, the new program is intended “to launch a serious dialogue with the Myanmar government aimed at accomplishing longer-term policy change, while also strengthening efforts to build social capital and civil society”.<sup>14</sup> Several bilateral aid agencies in Europe have also started new programs.<sup>15</sup>

<sup>8</sup> UN Resident Coordinator, *op. cit.* This assessment was echoed by UN Under Secretary-General Ibrahim Gambari in his first briefing to the Security Council in December 2005, in a Crisis group interview, New York, December 2005, and by UN Special Rapporteur on Human Rights in Burma Paulo Sergio Pinheiro in his final report to the Commission on Human Rights, 7 February 2006, available at <http://www.ohchr.org/english/bodies/chr/sessions/62/listdocs.htm>.

<sup>9</sup> “Humanitarian assistance” is understood in this briefing to include not just emergency relief but also broader efforts to provide for the basic needs of the population and empower local communities to take charge of their own socio-economic progress. While most donors initially limited themselves to the former, many today embrace a broader set of activities, corresponding with the wider definition.

<sup>10</sup> See Crisis Group Report, *The Politics of Humanitarian Aid*, *op. cit.*

<sup>11</sup> On recent opposition views, see, for example, fn. 73 below.

<sup>12</sup> Council of the European Union, “Common Position of 25 October 2004” (2004/423/CFSP).

<sup>13</sup> “Advocating the Needs of the Vulnerable”, Commissioner Poul Nielson, keynote address, “Open Burma Day”, Brussels, October 2003.

<sup>14</sup> Crisis Group interview, Yangon, July 2005.

<sup>15</sup> The UK’s Department for International Development (DFID) in 2004 put an aid officer back in the embassy in Yangon and, with substantial new bilateral aid, has taken the lead in exploring and defining appropriate uses of assistance under the current difficult circumstances. Several other governments, including Sweden, Denmark and the Netherlands, which like the UK have traditionally taken a tough political line against the military regime, are also gearing up for new programs, focusing on health and education, as is non-EU member Norway.

The withdrawal of the Global Fund from Myanmar in August 2005, after political pressure from the U.S. Congress and other U.S.-based groups, at first looked to be a major setback to this approach.<sup>16</sup> However, the EU countries have openly challenged the anti-aid lobby, setting up – with significant pledges also from Norway and Australia – a new Three Diseases Fund (3D Fund) to replace the Global Fund as well as the still existing Fund for HIV/AIDS in Myanmar (FHAM).<sup>17</sup> The general shift in donor attitudes is evident, too, in the private fundraising of INGOs, which likewise has increased in recent years. The U.S. is largely isolated within the donor community in its refusal to provide significant bilateral assistance.<sup>18</sup>

## B. ASSISTANCE PROGRAMS

Overall assistance to Myanmar is still among the lowest in the world at less than \$3 per capita per year (well below what is needed and feasible to implement),<sup>19</sup> but the upward trend in recent years is noticeable, as are the results. A few examples demonstrate the expansion that has taken place in terms of size as well as coverage.

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<sup>16</sup> The Global Fund Board had accepted proposals from Myanmar for programs for tuberculosis (Round 2) and HIV/AIDS and malaria (Round 3) to a total of \$98 million over five years. Only \$11 million had been committed, however, when the entire program was terminated. The Fund at first demanded all unspent money be returned but eventually agreed to release the \$11 million so programs already underway would continue until other funding sources could be found. Amounts designated in dollars (\$) in this report are in U.S. dollars unless otherwise noted.

<sup>17</sup> The 3D Fund has drawn total pledges of \$99.5 million for the next five years. DFID has committed £20 million and Australia \$11 million to the new Fund, while Sweden, Norway, the Netherlands and the EC have pledged the remainder and are processing proposals. Funding was available from November 2006 to carry over programs initiated under the Global Fund. Crisis Group interview, UNAIDS, Yangon, October 2006.

<sup>18</sup> The U.S. contributes substantially to UN Myanmar programs (with the exception of the UN Development Program, UNDP, and the UN Population Fund, UNFPA) and to a few American INGOs, but humanitarian assistance through the U.S. Agency for International Development (USAID), inside the country is limited to a \$2 million HIV/AIDS program and some support for government avian flu preparedness. Although some within the U.S. government support further assistance, they have been blocked by members of Congress working with U.S.-based lobby groups, notably the Institute for Asian Democracy.

<sup>19</sup> Laos per capita is \$50, Cambodia \$35, Nepal \$15 and Bangladesh \$7. “UNDP Human Development Report 2004”.

## 1. Scaling-up

Since 2001, most aid agencies in Myanmar have significantly increased their activities. The UN Development Program (UNDP), for example, has expanded its Human Development Initiative from \$8 million per year in phase three to \$24 million in phase four, increasing townships covered from 24 to 66 (out of 324),<sup>20</sup> while the World Food Program (WFP) and the UN Population Fund (UNFPA) have started entirely new programs. Many large INGOs, including World Vision, Population Services International (PSI) and Médecins Sans Frontières (MSF)-Holland, have expanded their programs several-fold.<sup>21</sup> Overall, the INGO sector grew from 30 organisations in 2001 with a total budget of \$15 million to 41 in 2004 with a budget of some \$30 million,<sup>22</sup> and more continue to arrive. Local NGOs have stepped up activities in many parts of the country as well, some funded by international agencies. In total, humanitarian aid for Myanmar doubled from around \$75 million in 2000 to almost \$150 million in 2005.<sup>23</sup>

## 2. Geographical expansion

The aid community has also greatly expanded its geographical reach, particularly in the border regions. Although conflict-affected areas along the Thai border remain a critical gap,<sup>24</sup> UNDP today is physically present in all fourteen states and divisions, including full coverage of Chin state and new offices in ceasefire areas in Kachin and Shan states under the administration of armed ethnic groups. Several INGOs have started work in remote areas of Chin, Shan and Kayah states and Tanintharyi division. In eastern Shan and northern Rakhine states, joint UN-INGO programs have gained momentum under the umbrella of the UN Office on

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<sup>20</sup> Crisis Group interview, UNDP, Yangon, July 2006.

<sup>21</sup> World Vision grew from \$2 million in 1999 to \$8.5 million in 2005 (and expects a further doubling by 2010). PSI and MSF-Holland have both doubled their staff since 2002 and substantially expanded most aspects of their work. Crisis Group interviews, Yangon, March 2006.

<sup>22</sup> Estimates by INGO resident representatives, Crisis Group interviews, Yangon, January 2002 and January 2005.

<sup>23</sup> “Country paper 2002” (internal draft), UN/Myanmar country team; UN resident coordinator, op. cit.

<sup>24</sup> The International Committee of the Red Cross (ICRC) in 2003-2004, temporarily, gained access to the eastern border areas for protection and relief activities but has recently been shut down again. UNHCR has been able to initiate some operational activities in the south east to prepare for resettlement of refugees and internally displaced persons (IDPs) when the political and security situation allows. Cross-border and local NGO programs also reach some displaced communities. But overall access remains extremely limited, presenting a major challenge for the humanitarian response.

Drugs and Crime (UNODC) and the UN High Commissioner for Refugees (UNHCR) respectively. The largest local NGO, Metta Development Foundation, has programs in five states and two divisions.<sup>25</sup> Density of activities remains low in most areas but PSI's social marketing of condoms now reaches at least 294 of the country's 324 townships, demonstrating what is possible.<sup>26</sup>

### 3. New activities

The most notable expansion has been on HIV/AIDS. While the government in the late 1990s still denied the existence of an epidemic, sensitive programs have since been established and are expanding rapidly through activities such as condom distribution, public information, harm reduction for drug users and, most recently, permission for INGOs to participate in the scaling-up of voluntary and confidential counselling and testing.<sup>27</sup> Annual international funding for HIV/AIDS has gone from less than \$1 million in 2000 to \$21.5 million in 2005.<sup>28</sup> Most projects remain focused in the health sector but UNICEF is planning a major new educational initiative supported by the EC, UK, Denmark and Norway. In addition, there has been some limited dialogue with the government about basic human rights issues which seriously affect the livelihoods and survival of millions.<sup>29</sup> Donors and aid agencies are also paying increased attention to the need for reliable socio-economic indicators, improved coordination between aid agencies and local capacity-building for civil society organisations.

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<sup>25</sup> Crisis Group interview, Yangon, March 2006.

<sup>26</sup> "Speaking Notes", Guy Stallworthy, resident representative PSI, "Burma Day", European Commission, Brussels, 5 April 2005.

<sup>27</sup> Crisis Group interviews, Yangon, March/October 2006; "Fund for HIV/AIDS in Myanmar: Annual Progress Report 2005/06", draft, UNAIDS.

<sup>28</sup> UNAIDS/Myanmar estimate.

<sup>29</sup> The most extensive discussions with relevant government officials were held on forced labour and prison conditions by the International Labour Organisation (ILO) and ICRC respectively but they largely stopped in 2006. Some dialogue continues, particularly on human trafficking and child rights. A UN official says: "We are making progress on protection issues. The authorities are much more willing to discuss issues today than they were three years ago; they even bring them up themselves. We get this both from the police and the military. I think it is a combination of external pressure, but also our willingness to engage positively with them. We have both foreigners and nationals now who have credibility with the government". Crisis Group interview, Yangon, December 2005. Concrete progress for the victims of abuses remains limited – and, in some areas, is being reversed – though all international agencies involved point to substantive changes in the protection environment and signs of learning among national officials involved.

## IV. NEW GOVERNMENT RESTRICTIONS

The expansion of aid programs in the early 2000s was driven not just by increased funding but also by increased humanitarian space.<sup>30</sup> While the military leadership formerly kept a tight rein on outside agencies, General Khin Nyunt, the military intelligence chief, began to actively facilitate broader humanitarian access.<sup>31</sup> This was particularly evident in respect to protection agencies such as the International Labour Organisation (ILO), UNHCR and the International Committee of the Red Cross (ICRC), which worked directly with him and like-minded officials to launch important new initiatives on forced labour, prison visits and protection of conflict-affected populations. Many mainstream aid agencies also negotiated access to previously closed areas at the same time as important breakthroughs were made in types of programming. When faced with opposition from other parts of the regime, aid agencies were often able to use military intelligence contacts to resolve the problems.

Since the purge of Khin Nyunt in late 2004, however, the military leadership has taken a more uncompromising, nationalistic line. There are today no meaningful contacts with the opposition, whose leader, Aung San Suu Kyi, remains under house arrest. The government has also all but stopped cooperating with international agencies, including the Special Rapporteurs on Human Rights and the ILO, as well as the Centre for Humanitarian Dialogue, although in 2006 it has twice received UN Under Secretary-General for political Affairs Ibrahim Gambari. The aid community, so far, has been less seriously affected. Yet, new restrictions on programs, along with ongoing adjustments in the political and administrative system, raise concern about its ability to continue to deliver assistance effectively and responsibly.

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<sup>30</sup> "Humanitarian space" refers to the operational environment for humanitarian agencies in a given area/country. It concerns the extent to which agencies are able to freely access vulnerable populations and independently evaluate needs, deliver required assistance and monitor outcomes. The quality of humanitarian space is determined primarily by political actors but humanitarian agencies can and do work proactively to expand or protect it. They may also inadvertently provoke political actors to reduce it.

<sup>31</sup> Some have speculated that Khin Nyunt was playing the international card in an internal power struggle. That may have been the case but the improvements in humanitarian space were real and continued even after renewed confrontations with the opposition and the international community in 2003 until he was removed in October 2004.

The forced suspension of most of ICRC's programs is of particular concern.<sup>32</sup>

## A. POLITICAL CHANGES

The post-2004 political landscape is extraordinarily volatile and opaque but three developments in particular are complicating the operational environment for aid agencies.

### 1. New leadership

The purge of Khin Nyunt and dozens of other high-ranking officials has radically changed the government leadership line-up. Day-to-day policy decisions and administrative affairs, which previously fell under Khin Nyunt, have moved to the army chief, Vice-Senior General Maung Aye and the new prime minister, Lt. General Soe Win. The ministers of labour and home affairs – both key interlocutors for international agencies in the past – have been replaced, while the minister of planning and economic development has become more prominent in managing aid relations. This new group has had much less exposure to international aid programs and is strongly nationalistic, inward-looking and deeply suspicious of aid agencies, which they fear may serve as a Trojan horse for Western political agendas.

### 2. Government reorganisation

The broader reorganisation of the government necessitated by the purge of supposed Khin Nyunt loyalists and dissolution of his military intelligence apparatus is another critical element of the political environment. Since 2004, thousands of officials have been hired, fired or reassigned, new departments established and many intelligence responsibilities transferred to other agencies, primarily the police Special Branch. The sudden relocation in late 2005 of the entire government to the new capital in Naypyidaw, 350 kilometres north of Yangon, dumped officials into unfinished offices far from their homes and families. These changes have created great confusion at all levels of the civil service, as new people struggle to cope with unfamiliar responsibilities and surroundings. Fearful of getting caught up in the purge, many officials are avoiding potentially controversial issues and generally doing as little as possible. This is particularly evident among those dealing with international aid agencies, who apparently have taken Khin Nyunt's fate as a warning not to get too close to foreigners.

## 3. Transitional politics

While internal changes have slowed down the government in many ways, the leadership has maintained its sights on the broader political transition, which it carefully controls and orchestrates and which has been in prospect for more than a decade. Indeed, the transition drive may have been given impetus by the desire of the administration to prove itself more progressive than Khin Nyunt's clique.<sup>33</sup> With the new capital beginning to function and the National Convention nearing conclusion,<sup>34</sup> preparations for the next steps of the regime's roadmap have been stepped up, including for a referendum on the new constitution, fresh elections and, presumably, a nominal withdrawal of the army from government.<sup>35</sup> This is evident in several areas, including

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<sup>33</sup> Many army officers are said to have been irked by the not so subtle support Khin Nyunt enjoyed from regional governments, which were counting on him to pull Myanmar out of the abyss. The new administration has seemed at pains over the last year or two to demonstrate that the former military intelligence apparatus, which operated almost as a state-within-the-state, in fact was the problem, and that it will do better. A local journalist says: "At times, it seems the main rationale for new policy initiatives has been simply to do things differently than Khin Nyunt". Crisis Group interview, Yangon, October 2006.

<sup>34</sup> The National Convention, which is charged with laying down the basic principles to be included in the new constitution, has dragged on since 1993 through numerous postponements, including an eight-year hiatus from 1996 to 2004. However, in November 2006 the delegates were presented with the government work committee's proposals for the content of the remaining seven chapters, suggesting that the Convention could be wrapped up by the end of 2006 or in January 2007 at the latest. The various delegate groups have already finalised their deliberations on the first three of these chapters ("Election", "Political Parties" and "Provision on State of Emergency"), leaving only "Amendment of the Constitution", "State Flag/State Seal/National Anthem and the Capital", "Transitory Provisions", and "General Provisions". Most appear to have given up any attempt at influencing the final outcome at this time but the amendment issue could prove contentious as some hope to be able to change things later.

<sup>35</sup> According to the blueprint for the constitution, the new system of government will be presidential, with a bi-cameral parliament and local parliaments in the fourteen states/divisions filled through multi-party elections. The military, however, will have 25 per cent of the seats in all parliaments, as well as the ministries of defence, home affairs and border areas, and is expected, at least initially, to exercise absolute political control through the Union Solidarity and Development Association (USDA), which is being positioned to dominate the elections (see below). It remains uncertain whether genuine opposition parties like the NLD will even be allowed to participate, or under what conditions.

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<sup>32</sup> See below.

plans for a leadership succession<sup>36</sup> and reorganisation of local administrative units.<sup>37</sup> More problematic, aggressive efforts are underway by the regime's mass organisations to organise local communities and promote themselves as lead agents of socio-economic development.

## B. EMERGING PROBLEMS

These political changes have produced a confusing operational environment for aid agencies. Frequent policy revisions and greater than ever variations in implementation across different parts of the government and the country make it hard to get an accurate picture. However most of the emerging problems seem to centre around a few basic issues.

### 1. Relations with authorities

Less access to decision-makers, more intrusive intelligence surveillance and greater pressure on agencies to work with government-organised NGOs (GONGOs) have made aid agency relations with the government more difficult, and complicate day-to-day management of programs.

Access to government decision-makers has deteriorated dramatically, impeding efforts to deal with all other problems. Compared to Khin Nyunt, the remaining top leaders are reclusive and generally unresponsive to both foreigners and their own staff. Although many working-level officials remain supportive of aid efforts, they are wary of openly pushing new initiatives and less able to do so as their positions have weakened. The move to Naypyidaw has increased the psychological as well as physical distance between the government and aid agencies. The long journey to the new capital and the overstretched transport and accommodation facilities that are involved mean that much more time and money

must be spent chasing permissions, which usually require personal meetings.

Surveillance of aid activities has become more intense, more intrusive and, worst of all, less reliable. The requirement that international staff travelling upcountry be accompanied by government minders now appears to apply without exception. Surveillance of daily activities has also increased. The old military intelligence apparatus had significantly relaxed its watch over established agencies but the Special Branch is again following aid officials around, interrogating local staff and demanding to sit in on internal meetings. This has created problems on a number of occasions, when misleading intelligence reports to the top generals have led to crackdowns on innocuous activities.<sup>38</sup> A UN official emphasises: "Faulty intelligence is far more dangerous to humanitarian work than good intelligence, because good intelligence would gather what we do and why".<sup>39</sup>

Most worrying, aid agencies face growing pressures from regime mass organisations, in particular the Union Solidarity and Development Association (USDA), which try to position themselves – and, by extension, the state – as welfare providers.<sup>40</sup> Over the past year, several high-level missions from overseas, as well as the UN country team, have been "invited" to meet with the USDA leadership to discuss development issues. At the same time, some agencies have come under pressure to work

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<sup>36</sup> Sources close to the military say Than Shwe has been preparing to hand over his top military job to the joint chief of staff, General Shwe Man, while Maung Aye would be replaced as head of the army by Maj. General Myint Aung, currently regional commander in Patheingyi. The plan also supposedly involves appointing several new regional commanders, transferring commanders to ministries and retiring ministers into the USDA. It may, however, be facing opposition within the military hierarchy. Crisis Group interviews, Yangon, October 2006.

<sup>37</sup> The government recently announced that military secretaries of state/division and district Peace and Development Councils will be replaced by civilians and that all members of the village/ward councils will also be replaced. Nominations for the latter positions are currently being made, based on requirements that members must be 35-45 years old, university-educated and not have served as officials before.

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<sup>38</sup> In March 2005, for example, an intelligence officer's misreporting of a planned village health contingency fund as a scheme for "area liberation" resulted in prompt instructions from Vice Senior General Maung Aye to all ministers that INGOs should no longer be allowed to work in communities and should hand over program money to the government, which would do the implementation. Crisis Group interview, Yangon, March 2006. The matter was eventually cleared up with help from sympathetic officials, and no long-term change in activities resulted. But it illustrates how easily small misunderstandings create big problems in an environment saturated with fear and suspicion.

<sup>39</sup> Crisis Group interview, November 2006.

<sup>40</sup> The USDA is the regime's main civilian-front organisation. Set up in 1993, soon after the National Convention was first convened, it claims an exaggerated 25 million members and is widely expected to be turned into a political party (or at least be used to secure support for one or more loyal parties in future elections). Its explicit aim is to support the military state, and it has been used both to organise rallies in support of particular government objectives and intimidate the opposition. Since 2004, local USDA chapters have been tasked with registering everyone in their communities and their organisational ties. The organisation has become so influential that even military officers and other officials have been known to complain about it. It is, however, backed strongly by Senior General Than Shwe, its official patron, so is untouchable.

directly with local USDA and other GONGO chapters. The highest-profile incident was USDA's attempt in December 2005 to join ICRC prison visits, which has been followed by independent visits from USDA teams presenting themselves as an alternative to the ICRC. But this case is typical of other recent efforts by GONGOs to get involved in and/or take credit for international programs. During floods in Mandalay in October 2006, international offers were met with demands that help be channelled through such groups, with the result that little materialised.<sup>41</sup>

GONGO influence is not uniform across the country, nor do the interventions appear systematic. They are, however, part of a push to strengthen the role of the regime's civilian-front organisations and so increase the military government's local legitimacy in preparation for an eventual referendum on the new constitution and elections. There is, therefore, an increased risk that aid programs could be co-opted and abused for political purposes. Local NGOs in areas where the GONGOs are strong already face growing intimidation, including pressure to appoint USDA or other members to their boards, work in partnership or, in a few cases, hand over projects altogether.

## 2. Restrictions on programs

These shifts in relations with the authorities do not necessarily hinder aid delivery but they create a more politicised environment, which threaten independence and effectiveness. Agencies face more direct restrictions, including program closures, travel limitations, stricter regulations and longer delays in getting permissions.

The most dramatic interventions have been forced closure of entire programs or parts of programs. Worst affected is the ICRC, which in November 2006 was ordered by the government to close all its field offices around the country.<sup>42</sup> This followed growing restrictions on nearly all its core programs, including prison visits (blocked altogether since December 2005), access to conflict-affected areas along the border and even basic relief operations. With only its projects for physical rehabilitation

for amputees unaffected, the agency may be forced to withdraw from Myanmar altogether.<sup>43</sup> Other program suspensions have been temporary, such as in August 2005, when all agencies working with the Ministry of Home Affairs were told to suspend their work, then advised the next day that they could continue, just not initiate new activities until they had negotiated new terms with a different set of offices.<sup>44</sup> A few local NGOs, however, have been forced to stop activities, mainly on the grounds that they did not have the required permission.

While most agencies continue their programs, many have been constricted in their ability to travel on project missions or bring donors in to see projects. The announcement from the Ministry of Health in July 2005 that international staff could no longer stay up-country for more than a week, which became the catalyst for the withdrawal of the Global Fund, was rescinded soon after, and the situation appears to be slowly improving. But many organisations continue to face access difficulties. In November 2005, MSF-France left the country due to constraints on travel and cooperation with local doctors regarding its malaria projects in Karen and Mon states.<sup>45</sup>

Along with overt restrictions, aid agencies face tougher control measures, including new regulations requiring that all NGOs register with the Ministry of Home Affairs, that all activities be approved by local aid committees and that all organisations seek formal permission before holding workshops outside their offices. Agencies also report longer delays in getting permission for travel, visas and imports, which have led to cancellation or postponement of activities. In many cases, these appear to be innocent delays caused by personnel changes and more cumbersome procedures. But some aid workers suspect officials may also deliberately postpone decisions indefinitely so as to avoid having to refuse activities with which they are not comfortable.

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<sup>41</sup> Crisis Group interview, Yangon, October 2006.

<sup>42</sup> ICRC, press release, 27 November 2006. The head of police, Brig. General Khin Yi, subsequently stated that the government had only "temporarily suspended" the operation of the offices, pending new rules and regulations governing the functions of foreign organisations. ICRC activities, he said, "may be in a position to disrupt peace and stability". Xinhua General News Service, 29 November 2006. If there is any hope in that statement, it is very limited, as relations between the government and the ICRC have been going from bad to worse for some time.

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<sup>43</sup> ICRC spokespeople have emphasised that leaving Myanmar is out of the question unless all options are exhausted. In 1995, however, the organisation withdrew its international staff and closed all but some small activities, returning only in 1999. Working according to strict humanitarian principles, it may have little choice but to do so again unless conditions improve.

<sup>44</sup> Crisis Group interview, Yangon, March 2006.

<sup>45</sup> For an official explanation, see 'Why the French Section of MSF Has Ended Its Activities in Myanmar', 30 March 2006, [www.msf.org](http://www.msf.org). Aid officials in Yangon suggest there may also have been internal reasons for cutting a program that was not working well. Crisis Group interviews, Yangon, March 2006. But the problems MSF-France faced are not unique.

### 3. New guidelines

Throughout 2005, changes in the operational environment appeared mainly ad hoc and often arbitrary. In February 2006, however, the government issued its first ever set of formal “Guidelines for UN Agencies, International Organisations and INGOs/NGOs”.<sup>46</sup>

The overarching purpose appears to be to reassure the military regime that activities do not threaten its political agenda, by ensuring that programs and priorities correspond better to the national objectives it sets and to rein in what it perceives as rogue behaviour by some agencies. The guidelines establish a new structure of committees at central, state/division and township levels to “coordinate” all aid activities in their areas.<sup>47</sup> Several requirements are imposed, including that all agencies be registered with the Ministry of Home Affairs, that all international aid officials travelling up-country be accompanied by government minders, that national as well as international staff be vetted by the government and that all aid funds be funnelled through the Myanmar Foreign Trade Bank. None of these requirements are truly new but they have never before been stringently implemented. The formality of the guidelines and increased high-level attention to these issues suggests this may be changing.

Significant uncertainty remains, however. There are two versions of the guidelines – an English text and a more restrictive Myanmar version. The planning minister has told international officials they only need concern themselves with the former,<sup>48</sup> but the more restrictive text has been circulated all around the country to local authorities.<sup>49</sup> Under concerted pressure from the aid

community, including donors, UN agencies and INGOs, the government has agreed to further technical discussions of the details. In the meantime though, the state and local committees are being set up in parts of the country. There have also been attempts by at least one minister to incorporate guideline language into new memorandums of understanding (MoU) with INGOs (including the requirement, not in the English version, that national staff be vetted).<sup>50</sup> Some aid officials fear that the government, while pretending to negotiate, will eventually present the new restrictions as *faits accomplis*.

There is, of course, nothing wrong with coordination as such. Aid agencies have long struggled to improve this among themselves. More committees, however, are likely to mean more bureaucracy, delays and possibilities for spoilers to create problems. Also, the guidelines refer explicitly to the need to close loopholes relating to agencies acting outside their MoUs, including surveying socio-economic conditions without permission, establishing offices before proper vetting and bringing in money outside the official banking system, suggesting the purpose is more control than coordination. Most troubling perhaps, the committees supposedly will include members of all the main GONGOs, thus formalising their role in overseeing aid activities and giving them added leverage for involvement in future programs. The issues of registration and hiring processes, so far, have mainly affected local organisations, and only sporadically.<sup>51</sup> These moves may be separately linked to the push to organise and control domestic civil society.

### C. DIFFERENT IMPACTS

Many of the emerging problems remain vague, with restrictions imposed only to be quickly repealed or modified. But agencies are differently affected. While the closure of programs by the ICRC in particular but also MSF-France and some smaller, mainly local organisations, is a cause of serious concern, most agencies so far face fewer problems. Some continue to expand programs, including most of those working on HIV/AIDS. There appears to be a mix of factors rather than a single one behind these differences.

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<sup>46</sup> This followed a special cabinet meeting in January when all ministries were requested to report on difficulties with international aid agencies, suggesting that a systematic reassessment of international assistance had been underway for some time.

<sup>47</sup> The minister of planning is appointed chairman of the national coordination committee and generally given a strengthened mandate to oversee international assistance. State/division and township level committees are to be led by the relevant heads of the general administration department of the Ministry of Home Affairs, which coordinates government activities around the country.

<sup>48</sup> Crisis Group interview, Yangon, July 2006.

<sup>49</sup> The main differences are stipulations in the Myanmar version, absent in the English, that: (1) national staff of international agencies must be hired from a list provided by the relevant ministry; (2) all incoming project funds must be channelled through the Myanmar Foreign Trade Bank; and (3) conducting and distributing surveys is not permitted unless approved in the project document. According to a planning ministry official, the Myanmar version was not intended for publication, only to help inform local authorities. Crisis Group

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interview, Yangon, October 2006. Of course, this does not really explain differences.

<sup>50</sup> This was successfully resisted by the INGO in question. Agencies in several cases around the country have also been able to persuade local authorities that the new committees are unnecessary. Crisis Group interviews, July/October 2006.

<sup>51</sup> Some unregistered local NGOs have recently been interrogated by local authorities and have felt compelled to suspend or at least scale back activities to avoid trouble. Crisis Group interviews, Yangon, October 2006.

## 1. Type of Program

It is no coincidence that most agencies working on human rights have had their access and activities seriously curtailed, while more traditional development or humanitarian agencies have been less affected. This mirrors the perceived association between the former agencies and the political agendas of Western governments. Similarly, while it is too early to tell, agencies working on community development/empowerment are likely to be particularly hard hit by any further restrictions, while pure service delivery programs, for example, may face fewer problems.

## 2. Location

A second factor is the physical location of projects. Several agencies have come under pressure to relocate away from sensitive border regions or focus new programs in central Myanmar. While Khin Nyunt, as the main architect of the ceasefires, appeared to have a genuine interest in supporting development in these areas, the current leadership shows stronger signs of traditional Burman chauvinism, which may link also to the more uncompromising line it is taking in dealing with the ceasefire groups politically. There are exceptions to this seeming discrimination against ethnic minority areas though. In particular, programs under the UNHCR umbrella in northern Rakhine state and UNODC in Eastern Shan state are relatively unaffected. Many smaller border region projects also continue, often with personal support from local commanders.

## 3. Mode of Operation

The leadership, not surprisingly, prefers agencies that work closely with relevant ministries in support of their national plans and is more suspicious of those that work independently in local communities. Agencies such as the World Health Organisation (WHO) and the Food and Agriculture Organisation (FAO) thus have fewer problems than, for example, UNDP or many INGOs. Also, since most recent travel restrictions affect international staff only, the impact on programs and projects has varied depending on how much each relies on expatriates. This is another result of the deep suspicion many top decision makers have about foreigners, but perhaps of jealousy as well. Some officials have long been jealous of foreign aid personnel, complaining that too much money is spent on salaries and that Myanmar nationals are capable of doing the work.<sup>52</sup>

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<sup>52</sup> One INGO warded off pressure to reduce its international staff simply by showing that the number was in fact relatively

## 4. Counterparts

One of the most decisive factors though, has little to do with the agencies or programs, but rather who they work with. Aid policy directions from the top generals are rarely very specific or closely followed up. There is significant scope for interpretation and initiative by ministers, regional commanders and other officials at the implementing level. How different agencies are affected, therefore, depends on their counterpart in the government. ICRC, for example, may have been hit particularly hard not just because of the nature of its programs, but also because it traditionally has been under the Ministry of Home Affairs, which since 2004 has undergone enormous change under new leadership.<sup>53</sup> By contrast, some agencies continue to receive full support from their counterparts.

Most aid officials in Myanmar can rank the ministers/ministries according to their attitude towards international assistance. The picture is not always consistent, however. Even the most supportive ministers may take restrictive action when under pressure from above, or simply to prove their nationalist credentials. This appears to have been what happened in July 2005 when the health minister, who had worked pro-actively to facilitate agreement with the Global Fund, imposed the travel restrictions which became the catalyst for its withdrawal.

The importance of personalities is reflected also at the local level, where some commanders block aid activities even if they are permitted by Yangon, while others are openly supportive and may promote activities that lack official sanction. In other words, the system is sufficiently fragmented to allow officials at different levels to act to some degree according to their own values, interests and fears. The biases of key officials for or against assistance matter, as does how secure and influential each official feels within the military hierarchy.

## 5. Level of Trust

Even programs that score equally on these objective criteria can be differently affected. Ultimately, much depends on inter-personal relations and trust. However authoritarian and xenophobic some of Myanmar's leaders may be, they will sometimes allow even sensitive

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small compared to the local staff and to number of beneficiaries. Crisis Group interview, Yangon, March 2006.

<sup>53</sup> The former minister of home affairs, Colonel Tin Hlaing, was a staunch supporter of Khin Nyunt's open door policy towards aid agencies and had collected under him an array of sensitive programs. The current minister, Maj. General Maung Oo, has made it clear he wants nothing to do with foreign agencies. In early 2006 he even tried to hand responsibility for the ICRC over to the health minister.

programs to go ahead if they trust the agency in question. Such trust may be based on personal relations with resident representatives, the agency's history of cooperation with the government or the nature of its programs, but also on the status and respect enjoyed by local staff members. The importance of trust is not new but has become more of an issue since 2004 because many current officials have had little prior experience with foreign organisations. Indeed, previous close association with Khin Nyunt now seems to count against organisations. In some cases, local staff have come under pressure to guarantee programs, putting them in a potentially precarious position.

## 6. Local NGOs

The situation for local NGOs is particularly ambiguous. Being subject to the domestic legal system, they are highly vulnerable to pressure and can face serious personal repercussions for failing to cooperate. This includes vulnerability to the USDA and other GONGOs, which informally control numerous rewards and punishments. Yet, while some organisations have felt compelled to scale down activities, many others report no change in their status or programs.<sup>54</sup> Foreign aid officials working with local NGOs also generally speak enthusiastically about the expansion and growing dynamism of this sector, despite recent restrictions.<sup>55</sup> This seemingly contradictory picture may reflect differences in the relative strength of the GONGOs and independent organisations in different areas. The latter are not defenceless victims, and where local communities are strong, they are often able to resist.

## D. OUTLOOK

There is an ongoing, though subtle, tug-of-war within the military regime between hardline nationalists, who believe international agencies are trouble and would be happy to see them leave, and more supportive officials, who are aware of the aid community's contribution. For the past two years, the former have been in the ascendancy but they are neither unchallenged nor necessarily absolutely certain how far they want to go.

In some respects, the pressure may deepen, as the leadership pursues its political roadmap. To secure a favourable outcome in the planned referendum and subsequent elections, the pressure is on the military and its auxiliary organisations to improve their image as a provider of benefits and to ensure that no one stirs up local resistance. For both these reasons, the authorities

may take further steps to capture or contain aid programs and local welfare activities.

However, the recent restrictions reflect, at least in part, unfamiliarity with the aid agencies and their programs, as well as a heightened sense of uncertainty within the government, conditions which are likely to improve over time. Aid officials who have experienced previous swings in the operational environment point out that new restrictions usually have weakened over time as the push from above dissolved and officials tired of enforcing them or began actively circumventing them.<sup>56</sup>

How these opposite trends play out is likely to depend on two things: first, internal reassessments linked to future changes in the military leadership, and secondly, external responses. Many observers in Myanmar believe the next tier of military leaders is both more aware of the country's problems and more pragmatic. The hope is that they will have a more cooperative attitude toward the international community in general and aid in particular (assuming there is a leadership succession). Much hinges on the broader context of international policy on Myanmar. Since many problems the assistance agencies face are connected to the use of foreign aid by political actors whose first priority is regime change, developments in that area are likely to be important.

## V. RESURGENT INTERNATIONAL ACTIVISM

While humanitarian agencies struggle with new military government restrictions, they are under pressure on a second front as well. Since 2004, renewed activism from the U.S. Congress and advocacy groups overseas, who have long tried to curtail foreign aid to Myanmar, has limited their funding and operational flexibility and contributed to their strained relations with the Myanmar authorities.<sup>57</sup>

### A. THE GLOBAL FUND WITHDRAWAL

As the single biggest aid initiative in Myanmar in twenty years, the Global Fund came under intense pressure from U.S.-based groups. Fund spokespeople claimed the

<sup>54</sup> Crisis Group interviews, Yangon, March and July 2006.

<sup>55</sup> Crisis Group interviews, Yangon, October 2006.

<sup>56</sup> Crisis Group interviews, March and October 2006.

<sup>57</sup> The campaign against aid to Myanmar eased significantly in the early 2000s while the government was talking with Aung San Suu Kyi and the NLD and seemed generally more cooperative. Since 2003, anger and frustration over the renewed crackdown on the opposition has fuelled a renewed push against engagement with the regime.

August 2005 withdrawal was motivated by technical considerations only,<sup>58</sup> but the funding process was intensely politicised and from the outset had in it the seeds of its ultimate failure.

Soon after the Global Fund signed its first grant agreement for Myanmar in August 2004, three senior U.S. Senators wrote jointly to its executive director criticising the Fund and UNDP for “failing to recognise that the SPDC [military regime] is solely responsible for creating the myriad humanitarian crises faced by Burma today”, and requesting that the Fund “withhold the disbursement of additional funds to Burma”.<sup>59</sup>

When the Global Fund refused, the Congress went after UNDP. In early 2005, Senator Mitch McConnell introduced an amendment to the 2006-2007 Foreign Appropriations Bill, which threatened to withdraw about \$50 million – roughly half – of U.S. core funding for the agency if it failed to certify that all its programs in Myanmar, including those it administered for others such as the Global Fund, provided “no financial, political, or military benefit, including the provision of goods, services, or per diems, to the SPDC or any agency or entity of, or affiliated with, the SPDC”.<sup>60</sup> Although the bill did not specifically mention the Global Fund, it was a thinly veiled attempt to force the UNDP to withdraw as the principal recipient of its money, a step which likely would have led to termination of the programs. Local organisations specified in the bill as being affiliated with the government were the same as those named as implementation partners in Global Fund documents,

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<sup>58</sup> “Given new restrictions recently imposed by the government which contravene earlier written assurances it has provided the Global Fund, the Global Fund has now concluded that the grants cannot be implemented in a way that ensures effective program implementation. After discussions with the UNDP, the Global Fund has decided to terminate the grant agreements....The decision...is a result of a change in the environment...rather than due to pressure on the Global Fund”. “Fact Sheet: Termination of Grants to Myanmar”, The Global Fund, 18 August 2005, available at [www.theglobalfund.org](http://www.theglobalfund.org).

<sup>59</sup> Letter, in Crisis Group’s possession, dated 28 September 2004 and signed by Judd Greg, chairman, U.S. Senate Committee on Health, Education, Labor and Pensions, Mitch McConnell, chairman, U.S. Senate Subcommittee on Foreign Operations, and Sam Brownback, chairman, U.S. Senate Subcommittee on East Asia and Pacific Affairs.

<sup>60</sup> “2006/2007 Foreign Operations Appropriations Bill”, 6 May 2005. UNDP since the mid-1990s has operated under similar restrictions from the U.S. Congress but the new provisions went further by including all programs it executed or administered, not just those funded from its core budget, and a wider range of allegedly government-affiliated agencies. As a result, the amount UNDP stood to lose increased from approximately \$10 million to \$40-50 million.

including the Myanmar Council of Churches (a genuine NGO), and the Myanmar Medical Association, which while under government influence, is generally judged by aid officials to be a competent and useful professional organisation.<sup>61</sup>

In parallel, U.S.-based advocacy groups led by the Open Society Institute put strong pressure on the Global Fund to institute additional safeguards on its Myanmar programs. Although OSI indicated that in principle it favoured Global Fund grants to Myanmar, it insisted, among other things, that “none of [its] programs should be conducted by or with financial assistance to the ruling military junta or government-organised NGOs (GONGOs)”.<sup>62</sup> As a result, the Global Fund introduced tighter restrictions on use of its funds, to a point that compromised program effectiveness<sup>63</sup> and seemed in breach of its own regulations.<sup>64</sup>

Suggestions by aid officials in Yangon that members of the Congress directly threatened the Global Fund secretariat with withdrawing part of the U.S. contribution if the Fund insisted on pursuing its programs in Myanmar cannot be confirmed. Yet, given the pressure exerted on UNDP (and on other

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<sup>61</sup> The UNDP resident representative, Charles Petrie, judged at the time: “UNDP has only two options, attempt to influence the proposed U.S. legislation, or immediately transform UNDP-Myanmar’s operation into a state of compliance”. Crisis Group interview, Yangon, August 2005. The latter would have jeopardised its role as principal recipient for the Global Fund and FHAM administrator.

<sup>62</sup> Memorandum, in Crisis Group’s possession, Aryeh Neier (OSI) to Brad Herbert (Global Fund), 24 September 2005.

<sup>63</sup> The additional safeguards were not formally announced but reportedly included: (a) zero cash-flow to the government and affiliated entities; (b) no capacity-building for government agencies; and (c) no project signing ceremony pictures with government officials or affiliated agencies. As a result of the “zero cash-flow” policy, UNDP staff had to travel all over the country to personally pay out \$2 per diems to each individual participant in government-hosted workshops, wasting much time and money. Similarly, all program vehicles had to have UN drivers and be parked on UN premises overnight. Crisis Group interviews, Yangon, October 2006. A study commissioned by DFID concluded: “The measures will complicate the implementation in a context where considerable logistical difficulties already exist....It is also questionable whether the safeguards are developmentally sound”. “Aid Effectiveness in Burma/Myanmar”, Adeze Igboemeka, August 2005, available at <http://www2.dfid.gov.uk/mdg/aid-effectiveness/newsletters/burma-report.pdf>.

<sup>64</sup> The additional safeguards are a standard mechanism used by the Global Fund Secretariat to ensure accountability in perceived problem countries. In this case, however, they crossed a conceptual line and became political conditionalities. Capacity-building and project signings have little to do with accountability.

organisations like the World Bank in the past), Global Fund officials would certainly have had reason to worry that the controversial Myanmar programs could be used to justify a cut in funding and thus were detracting from the Fund's broader responsibilities.<sup>65</sup>

With the general deterioration in operational conditions for the aid community in Myanmar in 2005, Global Fund programs, too, were potentially heading for trouble. Aid officials, however, believe the political pressure exercised on the Fund was itself a contributing factor to that deteriorating environment. Specifically, they argue, members of the government who had gone out of their way to accommodate increasingly restrictive regulations imposed by the Fund experienced a backlash from the top generals, who saw the demands as politically motivated and an affront to sovereignty.<sup>66</sup> Some also believe the rigid performance criteria of the Global Fund in general were part of the problem and should be relaxed for the sake of the disease victims.<sup>67</sup>

Ultimately, despite the efforts of both international aid officials and some officials within the Myanmar government to make the Global Fund programs work, they were frustrated by the accelerating politicisation of humanitarian aid by hardliners on both sides.

## B. THE DAMAGE

Exactly how much was lost with the withdrawal of the Global Fund from Myanmar is contested. While the decision drew harsh criticism from some aid officials,<sup>68</sup> others felt the programs were flawed, and the Fund

might not have been the best vehicle for addressing needs.<sup>69</sup> These divergent views reflect different ideologies and perspectives on the challenges facing humanitarian agencies in Myanmar. Since the programs were cut before they really got underway, there is no way to know how well they would have functioned. It is clear though, first, that the termination has significantly reduced the aid money available for Myanmar, including but not limited to HIV/AIDS, malaria and tuberculosis programs, and secondly, that it has complicated the ability of agencies to deal with the operational challenges they face.

### 1. Loss of Funding

At first glance, it looks like the loss of the Global Fund (U.S.\$ 98 million over five years) has been compensated for by the new 3D Fund (around \$99.5 million over five years). The 3D Fund, however, also replaces the Fund for HIV/AIDS in Myanmar (FHAM). The total funding available through these multi-donor funding mechanisms from 2007 will, therefore, be significantly less than before.<sup>70</sup> In addition, termination of the Global Fund killed Myanmar's prospects for Round Five, for which proposals already had been prepared and were expected to elicit further commitments.<sup>71</sup>

There are significant opportunity costs associated with the new commitments to the 3D Fund as well. It seems inevitable that the need to allocate extra money for HIV/AIDS, malaria and tuberculosis in Myanmar (beyond existing contributions to the Global Fund) will take away from programs in other critical sectors. This appears to be happening already within the EC Country Strategy (2007-2013). While a draft from March 2005 specified two priority sectors – "social development" (including health and education) and "sustainable livelihoods" – by the time public consultations started in November 2005, the latter had been cut, except for a reference to possible future action. Since new livelihood programs would

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<sup>65</sup> The Global Fund's announcement that it was terminating its programs was made shortly before its annual meeting with the U.S. Congress.

<sup>66</sup> Crisis Group interviews, Yangon, March and October 2006.

<sup>67</sup> Says one UN official: "Many of the countries worst affected by HIV/AIDS, malaria and tuberculosis are countries which, like Myanmar, suffer from weak governance. As the pre-eminent source of global funding for these diseases, it should, therefore, be the responsibility of the Fund to find a way to operate in such countries by exercising the necessary flexibility to work around local constraints. In the case of Myanmar, that flexibility was clearly lacking". Crisis Group interview, Yangon, October 2006.

<sup>68</sup> The UN resident coordinator, Charles Petrie, is quoted as saying: "The Global Fund was never given a chance to function. Without exaggeration, people are going to die because of this decision. People who survived the regime are going to die because we are not able to provide the humanitarian aid to help them survive the diseases". Los Angeles Times, 27 December 2005. UNAIDS Resident Representative Brian Williams expressed similar sentiments, likening the withdrawal to stopping feeding people in a refugee camp. Crisis Group interview, Yangon, March 2006.

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<sup>69</sup> See, for example, "Consensus Statement by Selected INGOs Working in Health in Myanmar", 30 September 2005, which "regrets" the loss of the Global Fund but discusses some of the weaknesses of its programs in Myanmar.

<sup>70</sup> The annual contribution to HIV/AIDS programs from FHAM was \$8 million and the (scheduled) Global Fund contribution \$12 million; the expected 3D Fund contribution will be \$12 million. In other words, there will be \$8 million less available for HIV/AIDS in 2007 (and possibly also in 2008 and beyond) than there would have been had the Global Fund and FHAM continued. Crisis Group interview, Yangon, October 2006.

<sup>71</sup> Global Fund officials are said to have encouraged Myanmar to apply again for Round Six but both government officials and international agencies have rejected this, fearing a repeat of past experience with the Fund. Crisis Group interview, Yangon, July 2006.

have been an important contribution, essential for addressing the causes of poverty and putting money in people's hands for health and education, this is a meaningful loss.

## 2. Operational Complications

Whatever the exact size of the monetary loss, it may not be the worst consequence of the withdrawal of Global Fund from Myanmar. The debates surrounding the Global Fund programs brought to the surface again the politicisation of humanitarian aid by groups in the West and have left much resentment within the Myanmar government, which further complicates the sensitive negotiations facing international aid agencies in the months and years ahead. In its efforts to sell the withdrawal decision as purely technical, Global Fund spokespeople in effect placed some of the responsibility on the UN resident coordinator in Myanmar, thus compromising the lead representative and negotiator for the aid community.<sup>72</sup> Government hardliners felt confirmed in their long-standing suspicion that aid agencies serve – or at least are subject to – the political agenda of the U.S. government. This can only increase their perceived need to further regulate aid activities and limit access to sensitive parts of the country. It also makes it less likely that sympathetic officials will continue to fight for international programs at significant personal risk.

## C. BEYOND THE GLOBAL FUND

The withdrawal of the Global Fund and the criticism it was met with initially appeared to cause a rethinking among some critics of aid to Myanmar. Within the U.S. Congress, support for the McConnell amendment targeting the UNDP dropped away, and the Appropriations Bill was passed into law in December 2005 without it. Lobby groups in the U.S., which had pushed for Congressional action, seemed to quietly distance themselves from the outcome. While these developments, together with support by the NLD and other opposition groups for the 3D Fund,<sup>73</sup> suggest that politicisation of humanitarian aid could ease again, new pressures are emerging.

<sup>72</sup> See fn. 58 above.

<sup>73</sup> The NLD in a "Special Statement" on 20 April 2006, explained: "Because of the insufficiency of financial resources ...the situation is reached whereby humanitarian assistance from international organisations...is urgently required". See also "Statement of the Students Generations since 1988 on Humanitarian Assistance to Myanmar", 6 September 2005, and "Pro-Aid, Pro-Sanctions, Pro-Engagement: A Position Paper on Humanitarian Aid", Burma Campaign UK, July 2006. The latter paper, which is endorsed by nineteen exile and pro-democracy advocacy groups, including the National

Nearly everyone but the military government, China and Russia welcomes inclusion of Myanmar on the Security Council agenda since September 2006.<sup>74</sup> Nevertheless, the Council's spotlighting of threats to the region arising from the country's poverty and health epidemics has done little to dispel the impression among the regime's senior leadership that the humanitarian community is an extension of the West's sanctions policy. It thus complicates any attempt to gain recognition within the government of the seriousness of the humanitarian situation and the critical role played by the humanitarian agencies in addressing it.

Several groups have been asking how the EU expects to succeed when the Global Fund failed – the wrong question perhaps, since the Global Fund did not really fail as much as it was killed, but a clear indication of the scepticism regarding the 3D initiative in some circles. The 3D Fund has been set up to protect it from political pressures from advocacy groups. Unlike UNDP, the fund manager, the UN Office for Project Services (UNOPS), does not receive core funding from the U.S. and thus is less vulnerable to Congressional pressure. Also, the donors have been careful to keep performance assessments more flexible to ensure that short-term swings in the operational environment are not crippling. The 3D Fund, however, is not immune to pressure from within donor countries, provided critics get support from influential politicians who wield power over aid decisions (as may happen in the UK). If nothing else, critics may cause it problems by provoking further restrictive measures from an already suspicious military government.

## VI. CONCLUSION

The operational environment for humanitarian agencies in Myanmar today is more restrictive than it was two years ago (in some areas, much more restrictive), though it is still better than just five or six years ago, not to mention the early 1990s when the first humanitarian programs began. While a list of the problems can seem overwhelming, aid agencies generally have become adept at working in spaces that are visible only from the ground and finding support from officials at the working level. The question is whether the emerging problems

Coalition Government of the Union of Burma (NCGUB) and the Ethnic Nationalities Council (ENC), expresses support for humanitarian assistance in parallel with targeted sanctions and diplomatic efforts.

<sup>74</sup> Crisis Group, which has always focused on Myanmar for its conflict prevention implications rather than for the humanitarian or human rights situations as such, strongly concurs that it is an appropriate subject for the Security Council.

will deepen or the situation will swing back, allowing the longer-term positive trend to develop.

The aid community has responded to the new government restrictions with unusual unity. The clear message to the government from the UN Secretary-General,<sup>75</sup> donors and aid officials on the ground has been that further restrictions will make it impossible to provide much-needed humanitarian assistance. In order to strengthen his role as intermediary between the government and the aid community as a whole, the UN resident coordinator has been formally designated also as “humanitarian coordinator”, a step which will likewise prompt increased involvement by the UN Office for Coordination of Humanitarian Affairs (OCHA). By reconfirming their commitment to basic humanitarian principles, UN agencies and INGOs in addition are trying to dispel the misconception among government leaders that they are under the control of the U.S. government and other political actors.<sup>76</sup>

How these efforts will fare remains uncertain. The first aggressive government push appears to have been halted, and some negative policies have been reversed. Notably, the 3D Fund has received renewed official commitment that, despite the government-issued guidelines, normal operational standards will be respected.<sup>77</sup> On the other hand and apart from the immediate humanitarian consequences, recent actions against the ICRC, coming at the same time as the regime has moved harshly against the Karen, send a very negative signal. If not reversed, they can only complicate the attempt to find a new *modus operandi* for international humanitarian engagement.

While there is great concern about the new threats to humanitarian space, aid officials invariably emphasise that humanitarian aid should not be considered optional. Given the serious situation in Myanmar, the international community, they say, is duty-bound to help vulnerable populations survive and prepare them to take a more

active role in their own development and that of the country as a whole.<sup>78</sup>

In strategic terms, the feeling among at least some international officials is that many of the emerging problems have less to do with inherent hostility of the government than lack of understanding. They believe that the long-standing politicisation of assistance by donors and lobby groups has created false perceptions of their role, which can only be overcome by engaging openly and transparently with the relevant authorities, including the GONGOs, to explain the work, increase awareness of its importance and restore personal relations and trust. While operational independence is critical, they believe avoiding the powers that be altogether would backfire and ultimately limit their ability to help the people.

Whether the aid community can succeed thus depends not only on itself and the government, but perhaps equally on the critics. Assistance to Myanmar remains highly sensitive; judging from recent developments, critics of aid remain very influential. There is a fear among some humanitarian officials that the lobby groups are gearing up for an attack on the 3D Fund and that they may well, as so often in the past, be given the necessary ammunition by hardliners in the Myanmar government who ultimately would be happy to see the agencies go. If this happens, the people of Myanmar will again pay a high price and the prospects for change will weaken further.

**Yangon/Brussels, 8 December 2006**

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<sup>75</sup> Ibrahim Gambari, during both his trips to Myanmar in 2006 on behalf of the Secretary-General, made it clear to the military leadership that the UN views the growing restrictions on aid agencies with great concern. He also emphasised the importance of this matter in his subsequent briefings to the Security Council, reportedly prompting the Chinese and other governments in the region to raise the issue with Naypyidaw as well. Crisis Group interviews, New York, May and November 2006.

<sup>76</sup> “Guiding Principles for the Provision of Humanitarian Assistance”, UN Resident Coordinator’s Office, February 2006.

<sup>77</sup> These guarantees were provided in written form by the Ministry of Health after being confirmed by the Foreign Affairs Policy Committee and are included in the formal MoU. Crisis Group interviews, October/November 2006.

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<sup>78</sup> This assessment is shared by the Special Rapporteur on Human Rights in Burma, Paulo Sergio Pinheiro, who in his statement to the UN General Assembly on 20 October 2006 warned that “humanitarian assistance cannot be made hostage of politics. Any decision on humanitarian assistance must be solely guided by the best interests of children, women, people living with disabilities, those affected by diseases and minority groups. It would be a terrible mistake to wait for the political normalisation of Myanmar to help the population and to reinforce the strengths of the community”, available at <http://www.ibrary.org/obl/docs3/GA2006-SRM-oral2.pdf>.

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