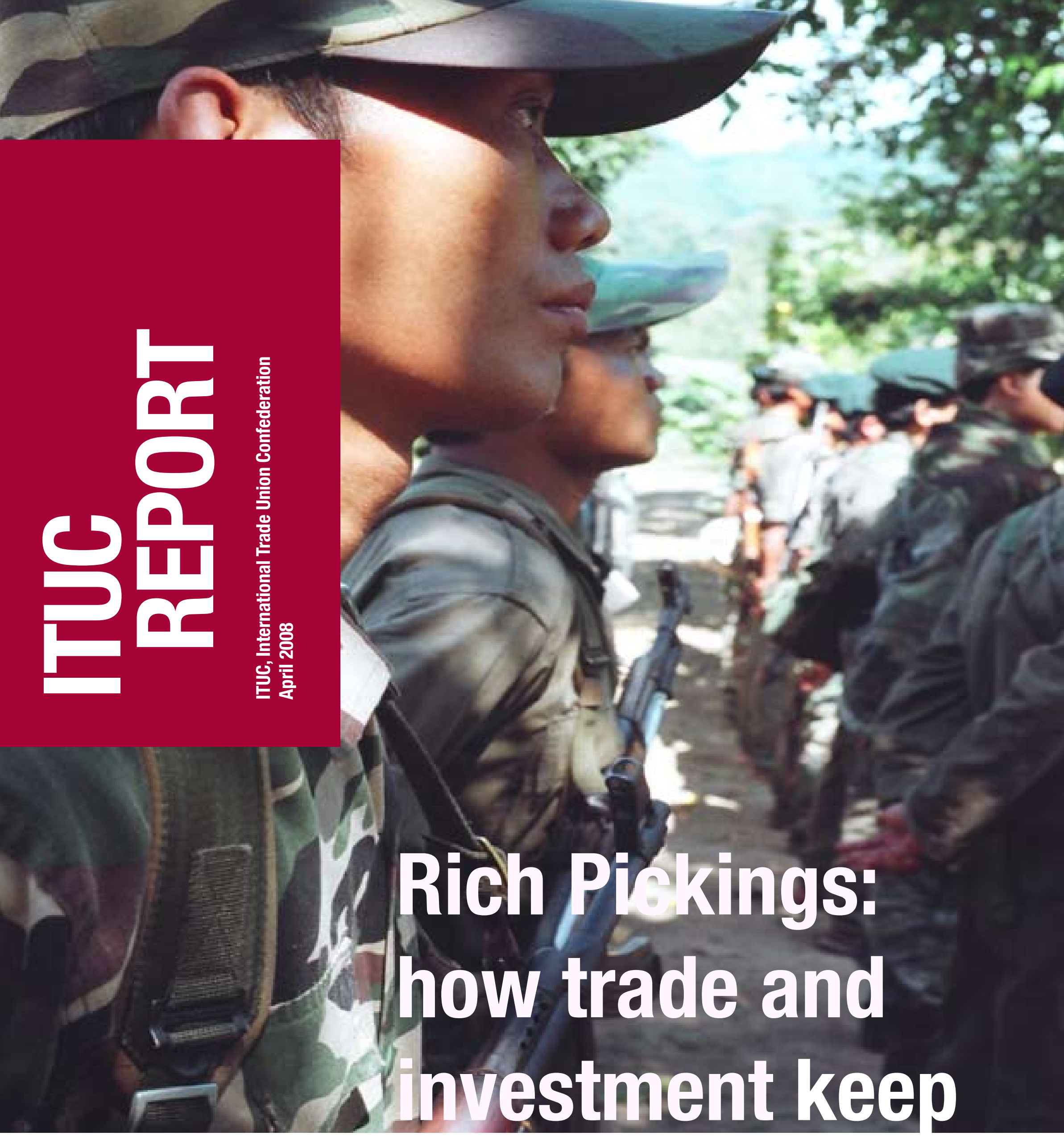

ITUC REPORT

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Rich Pickings: how trade and investment keep the Burmese junta alive and kicking

ITUC CSI IGB

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Rich Pickings: how trade and investment keep the Burmese junta alive and kicking

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"I don't think we have found evidence that sanctions have harmed the Burmese people. (…) Sanctions have a role to play because they are a strong political message. But also because they are an economic message."[1]

Aung San Suu Kyi

"I maintain my belief that no one or no government should wait to take action; the journey begins with one step. Businesses and governments have a choice if they want to do business with the oppressive regime in Burma, or not. Business with the regime puts weapons in the hands of those who massacred thousands in 1988; are responsible for creating more than a million internally displaced people who cannot find shelter and security in their own country; those who systematically rape women. Individuals and governments must take a stand against tyranny and those who protect and fund it."[2]

Desmond Tutu

Introduction

In September 2007, the Burmese people mobilised their largest social and political uprising since 1988. Thousands of monks and ordinary people marched to protest grinding poverty and the country's repressive military dictatorship. The resulting crackdown by the regime was news all over the world: it is believed that at least 110 people were killed and thousands were hurt by rubber bullets, tear gas, bamboo clubs and rubber batons.

And yet, through it all, business as usual – especially foreign business as usual – continued in most of the country. The generals responsible for the violence continued filling their pockets with the help of foreign investors. Even as the reports came in of deaths in custody, torture, disappearances, ill-treatment and denial of food, water and medical treatment to those in detention, big business and a handful of governments – China, India and Thailand in particular – kept pouring in the foreign investment that fuels the regime.

For the last two decades, the majority of people in Burma[3] have become poorer while the ruling generals, and a few people close to them, have creamed off substantial amounts of money for themselves. This is set to continue as the generals find new sources of wealth, including newly profitable oil and gas reserves, but continue to show little evidence that they care whether the civilian population is scraping a living. Burma used to be known as a country with an underutilised economic potential and consequently a military dictatorship perennially on the brink of bankruptcy. Yet today it is increasingly recognised as a "petro-dollar" dictatorship. The result may be even more repression of the country's democracy movement, its ethnic nationalities and the population in general.

When Burma is in the news, the topics are democracy, human rights and geopolitics. Only seldom do accounts of the economic and social situation in the country appear in the mainstream media. But the issues are linked and deserve far greater attention. It is Burma's resource-based, export-oriented, state-capitalist economy that keeps its rulers in power. Repression and lack of democracy mean Burma's people can only express discontent through protests and uprising. But much of the source of their discontent is poverty. The previous uprising in 1988, which led to the military's massacre of 3,000 people, was triggered by the devaluation of the country's currency, the kyat, and subsequent food shortages. The events in September 2007, known as the 'saffron revolution' because of the mass participation of saffron-robed Buddhist monks, started as a direct protest over the government's doubling of fuel prices, which increased transport costs and hence the prices of staple foods.

This report will look at the linkages between the political and the socio-economic situations in the country. It will endeavour to show how Burma's rulers are reaping the economy's profits while its population is suffering ever-greater poverty. It will uncover how Burma's neighbours are pursuing an increasing number of their economic and political interests through shameless cooperation with and support for the military regime. And finally it will call for further sanctions on the military junta and for disinvestment from the country. It would be best if neighbouring countries changed their policies towards the unelected rulers of Burma, severing their economic relations too, but as there is little sign that they will do so, this analysis calls for financial sanctions to be imposed by other parts of the world.

The economic and social situation in Burma

Once the second largest rice exportor in the world, Burma's economy started going backwards after the first coup.

Burma is a country with considerable natural resources, including minerals, precious stones, timber, oil and natural gas. Under British rule until 1948, agriculture flourished and the country became one of the world's leading rice exporters. Its economic prospects at independence looked bright. Indeed, George Orwell, the British writer who served as a civil servant in Burma in the 1920s, predicted that of all the countries in the British Empire, none was more likely to prosper on achieving independence than Burma. At the time it was still the largest exporter of rice in the world and known as the 'rice bowl of Asia'. Under democratic government until 1962, the country made slow but steady economic progress comparable to that of other developing countries. The first military coup changed that. Since then economic development has been limited, and Burma has fallen further and further behind the development of the other countries in the region.

In 1988, at the time of the crackdown on the popular uprising, which included massacres of thousands of civilians, the country was literally bankrupt as a result of the Burmese military junta's seclusion, xenophobia and general economic mismanagement. After the 1988 crackdown, in response both to bankruptcy and to the perceived threat of a strengthened democracy movement, the regime reversed three decades of economic isolationism and for the first time welcomed foreign investment. Multinational corporations, particularly oil and gas companies, promptly answered the regime's call and started investing heavily. The government collected most of this money and spent it on rebuilding its military capabilities and on re-establishing its control of the country.

The junta has developed its own form of state capitalism, controling the economy through military joint venture.

For the past twenty years, foreign investment has been flowing in – first from Europe and the US, then in recent years from China, India, Malaysia, Singapore, South Korea, Thailand and other countries in the region. Oil and gas as well as other extractive industries are the main targets for such investment. So far it has mainly strengthened the military's capacity to repress the Burmese people and to line the pockets of the generals and their friends. This is because most investment is Burma is carried out through joint ventures with the military or simply directed through companies owned and operated by the military.

Ironically, the junta claims to be socialist. But it has developed its own form of state capitalism, which ensures the generals' prosperity and power. In practice, the economy is controlled through several industrial conglomerates, the main ones being the Union of Myanmar Economic Holdings (UMEH), the Myanmar Economic Corporation (MEC), and the Myanmar Oil and Gas Enterprise (MOGE). The MEC channels revenue from private enterprises into defence spending. The UMEH provides opportunities for secondary incomes for military personnel and their families. The MOGE acts as the local joint-venture company for foreign investment in oil and gas and is quickly becoming the regime's main cash cow.

"The junta gets the meat and civilians get the bones": tourist guide

Even the tourism that takes place within the country benefits the military junta rather than private companies and ordinary people, as tourists tend to stay at hotels that the military either operate or are partners in. "When tourist planes arrive at the airport, only tour companies connected to the junta can enter the terminal to meet tourists. Civilian companies like ours are not allowed to enter. So in this way they get the meat and they get bone," said Nilar, a 28-year-old guide working for a small tourism firm in Rangoon, when interviewed for the ITUC in the fall of 2007.[4] Furthermore, a large part of the infrastructure used for tourism has been built by the use of forced labour, as documented in ILO reports. The junta's tight grip on this part of the economy as well made Aung San Suu Kyi note back in 1995 that "We think it is too early for either tourists or investment or aid to come pouring into Burma." In 2002, she reiterated this call for a boycott: "Our policy with regard to tourism has not changed, which is to say that we have not yet come to the point where we encourage people to come to Burma as tourists."[5]

The vast majority of oil and gas revenue goes to military.

Over the last couple of years, discoveries of both onshore and offshore natural gas fields within Burma's borders have made this resource the country's main export. Production and profits have skyrocketed – and are expected to continue to do so in the future as global fuel prices rise. There are, however, no signs that the people living where the discoveries have been made are benefiting either directly or indirectly from the new projects. Indeed, the increased attention of the state towards these communities may simply mean increased repression. Many of the problems in the Burmese economy stem from the fact that investment in the oil and gas sector, and other extractive industries, does not generate much employment nor ensure substantial transfer of skills or technology to local people. This means that the vast majority of the revenue from these new activities goes to the generals and their cronies and that the benefits to the Burma's people are very limited.

In fact the generals virtually treat the country's economy as their own household, almost interpreting 'economy' according to its Greek root, 'oikonomia', which meant household management. According to Sean Turnell of Macquarie University in Sydney, Australia, an economist and expert on Burma, "Burma's state is almost wholly predatory, and is not so much parasitic of its host as all-consuming. If in other countries ruling regimes behave occasionally as Mafioso in skimming a 'cut' from prosperous business, then Burma is akin to a looter – destroying what it can neither create nor understand."[6]

What the Burmese people see of development

Today, poverty in Burma is pervasive and severe. And with the recent rise in the price of key commodities in the country – the trigger for the September demonstrations – survival at any level of decency is becoming more and more difficult. The United Nations Development Programme recently conducted a

95% of the people live on less than $1 per day:

household survey with the permission of the committee of twelve generals that makes up Burma's supreme ruling body, the State Peace and Development Council (SPDC). This showed that 95 percent of the population live on less than US $1 a day and that 90 percent live on less than US 65 cents a day. The SPDC refused to release the report, but the UNDP is nevertheless planning to release some of the findings.[7]

Similarly, on United Nations Day in October 2007, the UN Country Team in Burma released a statement on the humanitarian situation in the country, which noted that the uprising in September 2007 "clearly demonstrated the everyday struggle to meet basic needs, and the urgent necessity to address the deteriorating humanitarian situation in the country." The UN team said it "sees every day that this potentially prosperous country's basic human needs are not met."[8]

Today, Burma's estimated per capita GDP is less than half that of Cambodia or Bangladesh, according to the UN. The average household is forced to spend almost 75 percent of its budget on food[9] – compared to Indonesia where it is 59 percent, Bangladesh where it is 57 percent, and Thailand where it is 32 percent. Yet even when spending most of their income on food, most Burmese are unable to satisfy their need for nutrients: the country has seen an alarming rise in beriberi, a disease caused by B vitamin deficiency, which has been eliminated in most other countries around the world and only in Burma figures as a major factor in child mortality.[10]

Poverty is driving women into the sex trade.

Tin Tin Khaine, a 29-year-old market trader who took part in the demonstrations in September and was interviewed for the ITUC in the fall of 2007, summarises the present socio-economic situation like this: "Our lives are miserable. Working people like me in Shwepyitha, even if they have a job, can't eat twice a day. They can only afford one meal a day, and even for this last meal they have to struggle a lot."[11] She is complemented by Dr Khin, a 33-year-old HIV/AIDS specialist who has fled Burma, where she volunteered for Médecins Sans Frontières. Dr. Khin confirms what pervasive poverty may force people to do: "A young woman in the village would be lucky to get even 100 kyat a day (which is less than US 10 cents). Rural women face many hardships, so they prefer to come to cities like Rangoon where they can easily earn 1,000 kyat (less than US $1) working in a karaoke bar or massage parlour. The next step is becoming a sex worker."[12]

But while the general population struggles to make a living amid the harshest poverty, cities like Rangoon and Mandalay have been transformed and now host new homes, condominiums, tower blocks, modern shopping complexes, lavish office buildings, luxury restaurants, stylish hotels and fancy foreign cars. There has been some investment in the country's transport infrastructure – although critics point out that this allows the military to tighten its grip on the country, as it can now reach remote areas and deploy troops more quickly. The junta has just spent some of the money it has reaped from natural gas development on building a new capital, Naypyidaw, in the middle of what was jungle. This project is thought to have been built primarily for security reasons:

The military spent US$300 million to build itself a new capital city.

it is away from the potentially protesting masses and also from the regime's oddball, imagined threat of an American invasion by sea. Even though much of it is thought to have been built using forced labour, the construction of the city is estimated to have cost US $300 million. The new capital has been blamed for diverting already unpredictable electricity supplies away from Rangoon, the country's economic centre, and from many of the rest of the mere five percent of the population estimated to have access to electricity.

While the junta spends virtually nothing on the welfare of the Burmese people, it seems to have plenty to spend on key supporters and those keeping it in power. In April 2006, the government announced massive pay increases of between 500 and 1,200 percent for about one million civil servants and military officers. Such pay rises not only add to the growing inequalities in Burma but also add to the inflationary pressure in the country. This means the prices of food and other basic commodities rise, and people outside the charmed circle of core civil servants and the army not only become poorer relative to the wealthier classes, but also in absolute terms.[13]

Agricultural yields are falling.

It is not only the junta's self-interested policies that hurt the Burmese people. So does its apparent lack of a coherent approach to development, and the general mismanagement of the country. Though agriculture still accounts for over half of Burma's GDP and more than 80 percent of employment, the government does nothing to nurture this sector. Farmers, for example, are unable to borrow money from commercial banks but must instead obtain funds from the state-owned Myanmar Agricultural Development Bank (MADB). This bank, however, provides less than ten percent of the credit needed by the farmers it lends to, and many more do not even qualify for access to the MADB.[14] Furthermore, government policies have made agricultural inputs so expensive that farmers are using less and less fertiliser, which means yields are dropping. This has made many families abandon agriculture, become landless, and migrate through the country in search of paid employment.[15]

10% of the children are malnourished: "you can't see muscles, just bone and skin".

The mismanagement has become so bad that in October 2007, thirteen humanitarian NGOs released a statement noting that "current social and economic policies have led to conditions which have pushed many below subsistence levels, continuously weakening existing coping mechanisms of local communities," and that "low public expenditure in the health and education sectors leave people with little to no access to basic affordable services in many parts of the country."[16] The World Food Programme estimates that five million people in the country lack enough food and are on the borderline of famine. One in three children under five are suffering from malnutrition, and less than half of the country's children are able to complete their primary education.[17] Furthermore, ten percent of children are classified as 'wasted', meaning that they are acutely malnourished. As doctors at the health clinics dealing with some of these children put it: "The skin peels easily. The eyes look drowsy. There's muscle wasting – you can't see the muscle, just bone and skin." Even high-tech medical imaging cannot detect what should be normal layers of muscle under the skin, say the doctors. "We do ultrasounds and the transducer goes straight to the organs."[18]

Plenty of money for the military - but not for hospitals or schools.

The Burmese government spends 0.5 percent of its GDP on health and 0.9 percent on education, far less than any other government in the region. By comparison, Cambodia and Laos, among the poorest countries in Asia, spend 3.5 and 3.3 percent respectively. On the other hand, Burma's defence budget, at 40% of GDP, is over 28 times higher than health and education combined. Even what the government spends on education and healthcare reinforces the country's gross social inequities: the military run schools and hospitals are the best in the country, while civilian hospitals are poorly funded and unable to respond to rampant HIV/AIDS, malaria and tuberculosis. If the generals fear that local treatment is below the standard they and their families need, they fly to Singapore to be treated in some of Asia's most expensive private hospitals.

Burma and Thailand compared: the development and welfare that could have been

A comparison of the social and economic state in Burma and Thailand illustrates the high price that the Burmese have paid for living under the rule of successive military dictatorships. It shows what Burma could have achieved and puts in perspective the poor level of development of its people, their health and well-being, that the country's junta has brought about. This comparison, simple as it is, makes sense because it shows how the Burma that was considered one of the most promising economies in Asia when it gained independence has been mismanaged ever since; how its military government has missed all opportunities to improve things; and how, when foreign investment has entered the country, the people have seen none of the progress it could have produced.

Infant mortality is five times as high as in Thailand.

Burma, as has been noted, was once known as the 'rice bowl of Asia' and fed itself and other parts of the British Empire. Today it cannot even feed itself: ten percent of its population show signs of severe malnutrition. Thailand, by contrast, has emerged as the world's leading rice exporter. And while Thailand also exports fruit and poultry around the world, Burmese farmers can often not even get their crops to the local market because of poor road and transport systems.

The availability of communication facilities – the main infrastructural component of a modern economy as well as a key tool in the development of vibrant civil societies – is also a good indicator of the wide gap between the level of development in Burma and that in Thailand. For every 1,000 people in Burma, there are eight telephone land-lines, compared to 107 in Thailand; two mobile phone subscribers, compared to 430 in Thailand; and one internet user, compared to 109 in Thailand.[19]

These may be considered 'luxuries', even technologies the military junta may discourage because it sees them as a threat. But Thailand is also way ahead of Burma in basic matters of survival. In Burma, 10 children out of 100 die before they reach the age of 5, the worst record in Asia. In Thailand the figure is 2 out of 100. Similarly, in Burma, a woman has a 1 in 75 risk of dying while giving birth. In Thailand the risk is only 1 in 900. Indeed, Burma's health system was ranked as the second worst in the world in 2000, in the only global comparison ever carried out by World Health Organisation (WHO) – out of 191 countries only Sierra Leone ranked lower. Thailand's was considered the 47th best.[20]

Second worst health system in the world.

While millions of people on the Burmese side of the Burma-Thai border suffer from chronic malnourishment, those living on the other side are now so well fed that obesity among children of wealthier families has reached the headlines. The malnourishment of Burmese children means that 32 percent of them are significantly below the expected height for their age. The same is true for only 13 percent of Thai children. While the situation in Thailand is far from perfect, at the end of the day, the difference between living in Burma and Thailand can be expressed in the average years one can expect to live. In Burma it is 61. In Thailand it is 71[21].

Second most corrupt country in the world.

All in all, under the rule of the military junta, agricultural productivity has plummeted and poverty has soared, and with it ill-health. To top it off, corruption has grown so much that Burma is now the second most corrupt country in the world, according to the pressure group Transparency International. In spite of increasing trade and investment within the last few years, the social situation is as bad as ever. It is probably matched in Asia only by North Korea and elsewhere only by some of the poorest countries in Africa.

New riches consolidate the power of the junta

In spite of the pervasive poverty and lack of development in Burma, the country, as noted already, is rich in resources and already generates substantial income from the sale of timber, gems, hydropower, oil and gas. With the development of more hydropower projects and the recent discoveries of new gas fields, the military junta is sitting on even higher levels of potential income. Burma's neighbours are increasingly helping them collect this income, which in turn is strengthening the junta. For every bit of foreign currency that enters Burma, a substantial part goes into the modern, sophisticated weaponry and military personnel that keep the Burmese people in check. The following will detail where the generals get most of their income and why it is likely to rise.

Huge economic potential being squandered.

For decades Burma has had a proliferating logging industry, both legal and illegal. This business has not only had devastating environmental consequences but to a large extent has also been based on forced labour and has caused the displacement of local communities. The logging industry is controlled by the Myanmar Timber Enterprise (MTE), which is staffed primarily by retired military officers and has full jurisdiction over forest conservation and exploitation. Logging, primarily the sale of teak, has traditionally accounted for around 20 percent of Burma's exports.[22] In the fiscal year 2006-2007, the MTE had exports worth US $519 million and was ranked the country's second largest exporter, after the Myanmar Oil and Gas Enterprise (MOGE).[23] Similarly, the extraction of gems, particularly jade, has brought a steady stream of revenue to the junta. Myanmar Economic Holdings reportedly receives 60 percent of the income from the sale of gems by companies it leases out to, bringing in around US $200 million in revenue a year[24].

Millitary takes 60% of the revenue from the gem trade.

However, the generals' main income comes from natural gas, production of which started in 1974. In 1975, gas production reached 4,575 million cubic feet, rising to some 40,000 million cubic feet in 1990 and to 58,575 million cubic feet in 1996/97.[25] In 1990 – two years after the government opened up to foreign investment – the first overseas companies bought offshore natural gas concessions. These were Britain's Premier Oil and France's Total.

In the early 1990s, the junta invited foreign bids for further offshore exploration in eighteen concession blocks, thirteen in the Gulf of Martaban and five off the coast of Arakan state. Multinationals such as Unocal, Texaco, Total and Premier Oil were among the successful bidders. Two major offshore gas fields, Yadana and Yetagun, were discovered in the Gulf of Martaban. Production from the Yadana field started in 1998 while production from Yetagun commenced in 2000. The discovery of a new gas field off the coast of the Arakan was announced in 2004. The Shwe gas field, named after the country's current leader, SPDC chair General Than Shwe, has been divided into several blocks, of which the A-1 and A-3 blocks are currently under development.[26]

According to the Japan Oil, Gas and Metals National Corporation, an independent administrative body, at the end of 2006 Burma's national gas reserves were estimated to be about 538 million cubic metres, making it the third-largest reserve in Southeast Asia, just after Indonesia and Malaysia.[27] The Shwe gas field alone is estimated to be able to bring in between US $600 and $850 million per year for the military junta, or up to US $20 billion over the lifetime of the project. All offshore deposits are expected to yield from US $37 to US $52 billion in the coming years.[28]

Junta controls $ billions in oil and gas inome.

Many of these hundreds of millions are already rolling in. In the fiscal year 2006-2007, Burmese exports of gas stood at US $2.16 billion and accounted for 43 percent of Burma's total exports, according to statistics released by the Burmese Customs Department. This was twice as much as in the previous fiscal year, 2005-2006, albeit this was primarily due to an increase in gas prices, not to a rise in the total amount of natural gas exported, according to the country's Energy Ministry.[29] Thailand is by far the biggest buyer of Burma's natural gas.

At least 27 companies from 13 countries help extract the gas and get it to the end user. Including offshore havens, they come from 13 countries, according to the pressure group Human Rights Watch: Australia, the British Virgin Islands, China, France, India, Japan, Malaysia, the Netherlands, Russia, Singapore, South Korea, Thailand and the United States. A 'production-sharing contract' between these foreign companies and the Myanmar Oil and Gas Enterprise (MOGE) specifies how much the company has to pay the government of Burma in fees and taxes. Such contracts also give the government the right to become a partner in the project after a period of time if it wishes. This typically means that foreign companies spend money up front to explore for oil and gas as well as to produce end products such as petroleum, and the junta gets a cut of the sales once initial costs are recovered. Many of the foreign companies involved are wholly or partially owned by governments, including the governments of China, India, Japan, Malaysia, Russia, South Korea and Thailand.[30]

This high level of activity, a result of the region's growing energy needs, makes natural gas the sector that attracts the most foreign direct investment to Burma. Oil and gas investment reached a record high of US $471.8 million in the fiscal year 2006-07, accounting for more than 61 percent of total foreign investment, according to newly-released government statistics.[31] And the interest in making new deals with the junta continues to be strong: between September 2006 and September 2007 ten new deals, covering 14 blocks, were signed. As a result of such investment, proceeds from the oil and gas sector are expected to increase.

Hydropower is another area that will bring substantial income to Burma's military regime in the future – but one which also might threaten the livelihoods of the national minority, ethnic communities in the Karen, Karenni, Mon and Shan States, where such projects are most likely. The interest in hydroelectric power primarily comes from China, Thailand and other ASEAN countries. However, it is not only individual nations that are investing in Burma. The Asian Development Bank is promoting a US $4.6 billion regional electricity scheme, to be powered in part by the Tasang Dam on the Salween River in Burma. The plan is for twelve hydropower projects in Burma as well as in China and Laos to fuel the so-called Mekong Power Grid and generate electricity for consumers in Thailand and Vietnam.[32]

Most foreign investment is in oil, gas and electricity generation.

In the fiscal year 2006-07, US $281.2 million in foreign investment went into the power sector, which accounted for 36.8 percent of foreign investment. According to Burma's Ministry of National Planning and Development, all the foreign investment in this sector came from China. All in all, the oil, gas and power sectors accounted for more than 98 percent of all foreign investment in the last fiscal year.[33]

Foreign interests strengthen

Hundreds of foreign companies doing business with Burma.

Overseas players have been central to the development of the Burmese economy and to the economic lifeline of the country's military regime. As noted, the junta was bankrupt when it opened up to outside actors in 1988 but has since literally gone from rags to riches. The global labour movement has monitored what foreign companies have links to Burma and thereby directly or indirectly support the generals' repression of the Burmese people, its use of forced labour, its denial of freedom of association and abuse of other human rights. By October 2007, the labour movement had 427 companies in its database, which were all once again – and for the ninth time in seven years – directly requested to sever their links with the Burmese military regime.[34] Some companies do act on such requests. Most state that they are acting legally under the law of their home country, and that they will not retreat unless legal sanctions relating to their sector are imposed on Burma.

Some sanctions are in place.

Fortunately, the United States, the European Union and Australia have imposed sanctions on Burma and strengthened them on several occasions over the last five years. Already in 1997, the US prohibited new investment in Burma by US persons and US persons' facilitation of new investment in Burma by foreign persons. And in 2003, the US banned most Burmese imports. Generally speaking, US citizens and companies are also banned from delivering financial services in Burma.[35] The EU has enacted an arms embargo and a ban on non-humanitarian aid to Burma. It has also ended so-called GSP trade privileges to the country and issued a visa ban for senior regime officials and their families as well as frozen assets held in Europe by people on the visa ban list. Moreover, in 2004, the EU introduced a limited investment ban on Burma, which banned European companies from investing in a small number of – relatively insignificant – state-owned enterprises of which none were in the central timber, mining, oil and gas sectors. In October and November 2007, after the crackdown, the EU also enacted an export ban on equipment to the sectors of logs and timber and mining of metals, minerals, and precious stones as well as an import ban of products from these sectors and an investment ban in these sectors.[36] In the time after the brutal repression of the protests known by the monks' participation, Canada and Australia also strengthened sanctions, the former by banning all imports and exports to and from Burma except for humanitarian goods.[37]

So far, though, these countries have left out the sectors and areas where the effect would be the greatest – the US in relation to existing investment in oil and gas, and the EU in terms of all investment in oil and gas and the financial sector. It is paramount that the US and the EU include those sectors in the future. In the fiscal year 2006-07, for example, companies from the United Kingdom were the largest foreign investors in Burma's oil and gas sector, with investments worth US $240.68 million.[38]

China, India and Thailand are the biggest players.

Yet, while more and more governments, especially in the wake of the brutal crackdown on Burmese protesters in September 2007, do impose sanctions on Burma, the country's neighbours and other economic powers in the region seem ever more eager to do business with the regime. Singapore, Russia and South Korea were some of the largest investors in the oil and gas sector in the last fiscal year, while at US $281 billion, China was the main foreign investor in the power sector.[39] And when it comes to trade, investment, economic cooperation and political influence taken together, three immediate neighbours stand out as the main backers of the military junta, and hence as the holders of the keys to the freedom of the Burmese people: Thailand, China and India.

Thailand

Thailand is Burma's main trading partner, accounting for 48.8 percent of its exports and 22.1 percent of its imports in the fiscal year 2006-2007.[40] In this period, Burma's exports to Thailand stood at US $2.409 billion.[41] That is the result of consecutive rises in exports from Burma to Thailand, as only a couple of years earlier in 2004 they totalled US $1.2 billion, which was in turn up 40 percent from 2003.[42]

Business with Thailand is booming.

Thailand is indeed a close ally that not only consumes most of Burma's natural gas but also actively encourages Burmese trade: in 2005 Thailand granted Burma tax exemptions for 390 different products after having lowered the taxes, in accordance with ASEAN rules, on 460 other products in 2004.[43]

Burma and Thailand have also been expanding the number of trading points along their 1,800 km common border and the level of activity at these points. This trade is presently valued at US $248 million. Currently Burma is engaged in building a new border trade zone in Myawaddy, across from the Thai border town of Maesot, a hub for the illegal timber and gem trade. Myawaddy stands to become the second largest border trade zone in Burma after the Muse zone, which stands next to another notorious border town, Ruili in China's Yunnan province.[44]

Nevertheless, Thailand's main economic interests in Burma are in energy. Thailand is the single largest customer of Burma's most developed natural gas fields. According to Total, the French oil company present in Burma, the Yadana and Yetagun gas projects currently account for more than 20 percent of Thailand's energy needs.[45]

It is estimated that Burma receives aroud US $ 160 million per month from natural gas supplies to Thailand.

Thailand not only buys gas, but it has also taken a strong part in gas field development. The Yadana project was developed by a consortium of Total, Unocal, PTT-EP of Thailand and Burma's own MOGE, and is now operated by Total. The gas from the Yadana field is transported via a 346 km underwater pipeline and a 63 km onshore pipeline to the border between Burma and Thailand at Ban I Thong. At the border, it connects to a pipeline built by Thailand, which carries the gas to its destination near Bangkok, providing fuel to the Rathcaburi and Wang Noi power plants. The Yetagun gas field was developed by a joint venture of Texaco, Premier Oil and Nippon Oil. Following Texaco's withdrawal in 1997 and Premier Oil's in 2002, Yetagun is today operated by Malaysia's Petronas in partnership with MOGE, Nippon Oil and Thailand's PTT-EP. The gas is transported by a 210 km underwater pipeline and 67 km onshore pipeline, linking up with the Yadana pipeline on Thai soil.[46] It is estimated that Burma earns around US $160 million a month in sales revenue from its natural gas supplies to Thailand.

Furthermore, Thailand has a strong interest in the development of hydropower in Burma. In 2005, the two countries signed an agreement to build four new dams on the Salween River and one on the Tenasserim River.[47] And in 2006, they introduced a joint venture hydropower project, Tar-hsan, a 7,110 megawatt venture being constructed on Burma's Thanlwin River in the eastern Shan state.[48]

US $ 7.3 billion in Thai investment since 1988.

With this interest in Burma's energy sources, both fossil and hydro, Thailand's combined investment in Burma since 1988 is reported to stand at US $7.3 billion. Thai investment in Burma represents more than 53 percent of Burma's total foreign investment since the country opened up to such activities.[49] But Thailand's interest in investing in Burma does not end there. Under an economic cooperation strategy agreed in November 2003 at a summit of Cambodia, Laos, Burma and Thailand in the Burmese city of Bagan, Thailand is planning to substantially increase and diversify its investment in Burma.

The fact is that Thailand's interests in Burma, legitimate as they may seem from a Thai perspective, are to a very large extent what is keeping the Burmese junta economically afloat. Through its business links, Thailand is the generals' main financial sponsor. The income that Burma gets from exporting natural gas to Thailand is claimed to be at least twice as much as Burma could have earned from trade with the US and the EU had they not applied sanctions,[50] putting any potential impact of such sanctions in stark perspective.

China

Burma refers to China as its 'Paukphaw', a Burmese word for siblings. China is the only country this word is used for, reflecting the historically close relationship between the two countries.[51] Besides being a political ally, China is a major supplier of consumer goods to Burma, in particular through border trade. The country also engages in large-scale economic cooperation in the areas of infrastructure and state-owned economic enterprises. And like Thailand, it has special interests in Burma's energy and power. As will be described below, China also has substantial geo-political interests in having access to and through Burma.

China: a political ally and a major trading partner.

China presently accounts for 5.2 percent of Burma's exports and 35.1 percent of its imports.[52] Since the 1990s, Burma's Chinese imports have grown more rapidly than its exports. While exports to China increased just 1.3-fold, from US $133.7 million in 1988 to US $169.4 million in 2003, its imports from China rose by a factor of 7.1, from US $136.2 million in 1988 to US $967.2 million in 2003. This meant that Burma had a huge trade deficit of US $797.7 million with China in 2003, a deficit that due to surpluses elsewhere was 4.4 times larger than the country's total trade deficit that year. As China has developed economically and industrially, Burma has become much more dependent on Chinese imports, with the share of Chinese goods in the country's total imports rising from about one-fifth in the latter half of the 1990s to about one-third today.[53]

However, this relationship may change in the future. As the Chinese economy continues its rapid growth, China's quest for energy sources abroad is intensifying, and Burma's oil and gas reserves as well as the potential for hydropower on its rivers have drawn China's attention. China now is heavily involved in both sectors. Moreover, Burma may be crucial to the security and price of China's vital oil supplies from Africa and the Middle East.

Chinese investment is growing.

From October 2004 to January 2005, the China National Offshore Oil Corporation (CNOOC) signed six contracts on production sharing with the MOGE. The China Petroleum and Chemical Corporation (SINOPEC) and its subsidiary Dian Quiangui Petroleum Exploration also work on Burma's inland oil and gas fields. Moreover, the China National Petroleum Corporation (CNPC) and its subsidiary Chinnery Assets has won contracts to upgrade four old oilfields in central Burma. These companies are now at various stages of exploration and have made financial commitments of US $163 million. This is still relatively small compared to the total amount of foreign investment in Burma's oil and gas sector of at least US $2,635 million.[54] It is nevertheless only recently that Chinese companies started investing in Burma, and their investment pace is expected to increase. Out of a total of 26 Chinese foreign investments in Burma, 16 projects were made in fiscal years 2004-2005 or 2005-2006, representing nearly 70 percent of total Chinese investment. Most were in the energy and mining sectors.[55]

The largest and most significant business deal between Burma and China relates to the Shwe gas field and was only officially announced in August 2007. At that time an official from Burma's Energy Ministry noted that Burma had "decided to sell the gas from A-1 and A-3 to China and [that] details are under negotiation. Once we reach an agreement, we will go ahead." He added that "if everything goes well, the gas from these offshore blocks will be sold to China through a pipeline."[56] The comments were the first confirmation from the military junta of this deal, which had been suspected for a while.

In April 2007 different media had already reported that Burma had signed a memorandum of understanding with the PetroChina company to export Shwe gas via a 2,380 km inland pipeline, the construction of which was worth US $1.04 billion. The gas will travel from western Burma's Arakan state and through central Burma to its destination of Kunming, the capital of China's Yunnan province. Besides the price of the gas and the taxes and fees that may be collected on it, for 30 years China will provide the Burmese regime with an annual transit fee of US $150 million as compensation for the pipeline's 990 km stretch in Burma.

According to assessments made by the US-based international certification agency GCA, the A-1 and A-3 fields off the Arakan coast, which China has gained access to, contain reserves of 5.7 to 10 trillion cubic feet of gas. Of the expected production of 600 million standard cubic feet of gas a day from the two blocks, Burma has decided to export 560 million standard cubic feet to China.[57] The gas should start flowing in 2009, and the military regime will then have another steady and substantial source of foreign income.

Burma is an important source of, and a conduit for, energy supplier to China.

China also sees Burma as an important potential source for hydroelectric power. It is known that the Burmese junta has signed contracts with two Chinese companies, CITIC Technology and Sino Hydro Corporation, to build a new hydroelectric facility, the 790-megawatt Yeywa hydropower plant on the Dukhtawaddy River near Mandalay.[58] This means hydropower development is also set to become an important source of income as well as political backing from China for Burma's generals.

China's interests in Burma are, however, not only related to the country's resources. China is also interested in Burma's geographic access to the Indian Ocean, through the Bay of Bengal and the Andaman Sea. There are economic as well as military and security reasons for this. Around 80 percent of the oil that China consumes is transported through the narrow and shallow Malacca Strait between the west coast of Malaysia and the Indonesian island of Sumatra. The strait is already plagued by piracy, and regional conflicts or terror attacks could seal it off, making it much more difficult and expensive to get oil to China. So if China is able to transport some of the oil it buys in Africa and the Middle East through Burma, it may be able both to save on transportation costs and to increase its security of supply.

Furthermore, access to the Burmese coast is seen as a way for Yunnan province, now one of China's least developed and poorest regions, to accelerate its development., as such access will make it easier for the region to take part in global trade. Finally, China's military is keen on getting direct access to the Indian Ocean, as this will give it more flexibility in pursuing the country's geopolitical interests. For all these reasons, China is not only engaged in establishing a pipeline between Yunnan's capital Kunming and the

China reportedly building a large sea-port in Arakan State - with the help of a drug-lord with military links.

Burmese coast, but also in connecting them through the construction of a road and a railway.

According to local reports, China is presently building a large seaport on Padae Island in Arakan State. The island is about 5 km from Kyauk Phyu city, and on the Bay of Bengal. This port would have a depth of 20 metres and be capable of accommodating the largest freight and container vessels and would facilitate transit trade to the Indian Ocean and beyond. Kyauk Phyu is located along the land route connecting southwestern China's Kunming city to the Arakan capital of Sittwe.[59] Since early 2007, Asia World, a privately-owned Burmese firm with strong business interests in Singapore, Malaysia, and China – and which is owned by one of the Burmese cronies and drug dealers closely linked to the military – has been involved in the early stages of the sea port's construction.[60]

While China's political influence and interests in Burma have been high for some time, they seem set to increase. And while China's economic interests so far have been relatively meagre, they too will develop together with Burma's growth in oil, gas and hydropower. This means China holds one of the main keys, if not the main one, to changes in Burma. The question is whether China will pressure Burma to institute democratic changes that China itself is reluctant to accept. If not, the wait for changes in Burma may be long.

India

Although it shares with Burma a history as part of the British Empire, India took a relatively cool stance on Burma until the 1990s. Since then, relations between the two countries have become closer. Today they cooperate in the promotion of trade and investment as well as in more geopolitical areas. India regards Burma as an economic bridge to the rest of Southeast Asia, and this has influenced its trading priorities. Burma for its part has an interest in India's growing economy and the potential for counterbalancing China's political and Thailand's financial influence on the country with India's capacity in both areas.

India's trade with Burma increasing every year.

India has now become Burma's second largest export market, accounting for 12.7 percent of Burmese exports. India is also the seventh most important source for Burma's imports. In the fiscal year 2006-07, the two countries' bilateral trade reached US $650 million, up from US $557.68 million in 2005-06 and US $341.40 million in 2004-05.[61] Both India and Burma are committed to increase this trade.

The two countries are also part of BIMSTEC, the Bay of Bengal Initiative for Multi-Sectoral Technical and Economic Cooperation, which is a regional body comprising Burma, Bangladesh, India, Sri Lanka and Thailand.[62] The BIMSTEC nations are working towards concluding a free trade agreement among themselves. India, obviously the main player in the co-operation, has already concluded free trade agreements with Sri Lanka in 1998 and Thailand in 2004, but has yet to finalise its agreements with Bangladesh and Burma.

India's investments are diversified.

New Indian oil deal signed during September crackdown.

India and Burma are also considering a series of initiatives for expansion of border trade between the two countries. India is engaged in several river and land-based projects in Burma, including port reconstruction in the town of Settwe, the Kaladan Multi-Modal Transport project and the Tamu-Kalewa-Kalemyo road project.[63] And India has approved a proposed agreement with Burma for the avoidance of double taxation and the prevention of income tax evasion for citizens doing business in both countries. Once the agreement comes into effect it is intended to stimulate the flow of investment, technology and labour from India to Burma and vice-versa and generally boost economic cooperation between the two countries.[64]

India is already one of Burma's largest investors, active primarily in Burma's oil and gas sector but also in agriculture, fisheries, pearl cultivation, infrastructure, mining and tourism. The most significant investment is India's involvement in the massive Shwe gas project, which is supposed to include a gas pipeline running to India. Indian companies – Oil and Natural Gas Company Videsh, and the Gas Authority of India - are partners in the development of the Shwe field, which is led by South Korea's Daewoo. In fact it was initially planned that the gas from the A-1 Block of the Shwe field would all go to India via a planned pipeline through Burma's Arakan and Chin states, across Bangladesh to Kolkata (formerly Calcutta) in India.[65]

But this project fell victim to diplomatic stalemate, as India felt Bangladesh demanded too many concessions from India for having the pipeline run through its territory. In December 2005, while India and Bangladesh deliberated on a solution, Burma seized the opportunity to sign a memorandum of understanding with PetroChina for the sale of gas from the A-1 block to China. The Burmese generals seem very much aware of the political as well as the financial advantages they can reap from the Shwe gas field.

India is nevertheless still very much engaged in the exploration of Burma's oil and natural gas and continues to cooperate with the military junta on this issue. Burma has assured India that it contains enough natural gas for both Indian and Chinese markets. India is expected to become a market for Burmese natural gas, via a pipeline that either runs through or circumvents Bangladesh.[66] India's commitment to Burma was made clear when its oil minister, Murli Deora, flew into Rangoon in late September 2007 to sign a US $150 million oil deal with the military junta, even as world attention focused on the generals' brutal crackdown on the pro-democracy uprising.[67]

Democracy and freedom in Burma through new sticks and carrots

Military directly consumes 40% of the national budget.

All this makes it clear that money is pouring into the coffers of the Burmese generals. In spite of this, the Burmese people face the most severe poverty they have experienced in decades. None of the foreign money appears to be trickling down to anyone but the junta and their closest allies. Hence, further foreign investment in oil, gas, hydropower or any other sectors will not promote Burma's evolution into a modern democracy that provides for its people – nor, clearly, will it equip Burma's people to overthrow their government. Instead it will strengthen the current regime.

Foreign investment and trade with Burma has already enabled the junta to expand the armed forces dramatically. In 1988 there were less than 200,000 military personnel. Today there are more than 400,000, a figure expected to grow to half a million. Military spending fluctuated between a third and a half of the regime's budget during the 1990s and is today estimated to comprise at least 40 percent. Today, there is a clear link between income from the sale of Burma's gas and the regime's purchases of arms used to repress its population. Hence, since 2002 when the junta started receiving its first revenues from the Yadana pipeline, it has been on an accelerated shopping spree for new weapons and military equipment. In the year that Total paid a US $15 million signatory bonus to MOGE, the regime purchased 24 Soviet-era helicopters from the Polish company PZL, prompting one Polish diplomat to note that "the Burmese paid us with Total money."[68] Similarly, in 2001 Jane's Defence Weekly reported that the military had bought 10 MiG 29 jet fighters from Russia and that the money came from Thai gas purchases. The down-payment for the fighters came in the same week as the state-owned Petroleum Authority of Thailand paid Burma US $100 million in royalties for gas.[69] It seems inevitable that more money for the generals will mean more spending on advanced military and police equipment and personnel, not on much-needed investment in health, education and the rural economy that most Burmese depend on.

Gas profits going directly to buy sophisticated military hardware.

Burma's neighbours are getting ever more involved in its affairs, directly and indirectly supporting the present unelected, dictatorial government. Even when these countries profess to care for democracy and human rights, the hunger for energy caused by their booming economic growth means they turn a blind eye to repression and human rights abuses in Burma. And in countries where these rights and values are already repressed, as in China, there is even less scope for critical engagement with or pressure on the Burmese junta.

If things continue as they are now, nothing will change. If the current growth in trade and investment, and political co-operation along with it, keep to their current patterns, a new day for the Burmese people will remain distant. Instead, the Burmese generals will acquire even more power and a greater ability to reinforce it by suppressing democracy and freedom in the country.

Intensified, more sophisticated sanctions are the only solution

Nearly twenty years of constructive engagement with the regime, selective sanctions by some countries, and a string of envoys and resolutions from the UN have failed to bring about a single democratic reform in Burma. Those arguing against sanctions have ignored the uncompromising nature of the junta, the connection between the military's economic base and its political support, and the leverage that sanctions would provide for the democracy movement in its negotiations with the generals. Those who oppose sanctions are effectively saying Burma's rulers should be allowed to continue to reap financial benefits from foreign trade and investment. But it is becoming clearer that such benefits only feed the junta's power base while bringing no benefits to the ordinary Burmese people.

Rigorous, sophisticated and targetted sanctions needed, to stop the flow of money to the military.

Rigorous, sophisticated and targeted sanctions, applied by all major players in the Burmese economy, are the only way to deal with the generals and force them to change. Some will find such sanctions harsh and might genuinely fear that they will hurt the Burmese people by crippling the economy and creating more unemployment. But while these fears may be warranted in some circumstance, sanctions could be very effective and appropriate in Burma. Far from being a blunt and indiscriminate tool as some fear, sanctions on Burma could be capable of exerting considerable pressure on the military regime to make the changes needed to benefit the Burmese people.

Junta insists that Burma's elected leaders drop call for sanctions.

This is because the junta's support base consists of regional commanders, high and middle ranking military officers and the families and business associates of the military establishment – a constituency that together with the SPDC itself and the highest ranking generals owns and controls most of the formal economy, which thrives on access to foreign investment and markets. Reducing the regime's ability to keep this constituency satisfied should breed political pressure for reform within the military establishment. The democracy movement in the country and the representatives who won 82 percent of the seats in the country's last parliamentary elections in 1990 continue to call for sanctions. The junta says they must withdraw this demand as the prerequisite for dialogue with the leader of the pro-democracy movement, Aung San Suu Kyi, and her colleagues. This is proof that sanctions do hurt the regime and that the generals fear them and their consequences.

Furthermore, sanctions would affect the Burmese people to only a very limited extent. Most Burmese are subsistence farmers or work at other activities in the so-called informal economy, which has almost nothing to do with either foreign investment or markets. The impact of sanctions that are targeted at the formal economy, particularly oil, gas and other forms of energy, would therefore be

No sign at all that foreign business links benefit anyone excep the military and their close friends.

Burma's democratic trade union federation FTUB supports call for sanctions.

minimal for the vast majority of Burma's people. The average Burmese does not send money abroad, cannot afford to travel, has no assets in offshore bank accounts, and does not seek to raise funds in overseas capital markets. Therefore the Burmese will not be hit by sanctions that target such activities. Neither can it be reasonably held that foreign investment provides serious benefits to the local populations. The French oil and gas multinational Total is said to employ a mere 270 national staff on the site of its Yadana pipeline. The company also boasts regularly about its socio-economic development projects in the region, which it claims benefits up to 45,000 people, i.e., less than 0.1% of Burma's total population of 48 million!

Finally, opponents of sanctions may argue that allowing unfettered increases in foreign trade and investment in Burma will foster a new middle-class that will claim democracy and freedom. While there are precedents for such developments elsewhere, this seems a false hope in Burma. A commercial middle-class does not exist in Burma, and history shows that such a thing is very unlikely to emerge from a dictatorship economy that is based on natural resources and extractive industries. Burma's economic elite and anyone associated with it were notable for their absence from the demonstrations of September 2007. Foreign business in Burma benefits only a small oligarchic minority. And oligarchs, as history has shown again and again, usually prove to be very poor democrats.

Burma's democracy movement continues to call for sanctions on the country. And so does a still increasing part of the Burmese people. 'Hari', a 27-year-old commercial trader who in fear of reprisals asked not to be indentified further, told the ITUC, "I would like to request the world to use economic sanctions and every means possible until human rights are restored in Burma."[70] This is an appeal that Maung Maung, general secretary of Burma's Federation of Trade Unions (FTUB), often meets: "We have been asked by the people in the country to have sanctions on the regime, especially on the industries, the ventures, that create money directly for the regime and its cronies. What we have been told by people from the very ground level, the factory workers, the people on the work floor, is 'Look, just shut it down. Maybe we'll all go hungry for a month. But it's better to change the system now than to go suffering for ever like this.'"[71]

Yet sanctions are not only discussed in relation to their effect and whether they are morally right or wrong. The legality of sanctions is also used as a cloak to continue business as usual or even, in good faith, presented as an obstacle by those otherwise in favour of sanctions. Hence many people, policy-makers, government officials and ministers among them, contend that sanctions contradict WTO rules and could lead to trade disputes on behalf of Burma, which is a WTO member, with the consequence that sanctions would be found an illegitimate trading practice. This is however not the case. The negative arguments concerning WTO rules are unfounded and sanctions against Burma are wholly feasible without fear of ill-effect. There are several reasons – that is, legal premises – to this.

The outset for the legality of sanctions with regards to WTO rules is the investigative work done by the UN's International Labour Organisation and the subsequent resolutions passed by its decision making bodies. In 1996 the ILO established a special Commission of Inquiry on the systematic use of forced labour (in relation to ILO Convention 29 on Forced or Compulsory Labour), which delivered its report on the issue in 1998. It concluded that "there is abundant evidence before the Commission showing the pervasive use of forced labour imposed on the civilian population throughout Myanmar by the authorities and the military for portering, the construction, maintenance and servicing of military camps, other work in support of the military, work on agriculture, logging and other production projects undertaken by the authorities or the military, sometimes for the profit of private individuals, the construction and maintenance of roads, railways and bridges, other infrastructure work and a range of other tasks, none of which comes under any of the exceptions listed in Article 2(2) of the Convention."[72] In 2000, the International Labour Conference, which is the highest decision making body of the ILO, "recommend[ed] to the Organisation's constituents as a whole – governments, employers and workers – that they: (i) review, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with [Burma] and take appropriate measures to ensure that [Burma] cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour (…) and to contribute as far as possible to the implementation of its recommendations; and (ii) report back in due course and at appropriate intervals to the Governing Body".[73] The terms of this resolution were further recalled and strengthened by the International Labour Conference in June 2006.

International Labour Organisation points to pervasive use of forced labour.

In WTO rules there is ample space to allow for such concerns to prevail over those of basic market access. The GATT article XX (a) refers to "measures necessary to protect public morals" as an acceptable justification of restrictions of trade – the choice to refuse to undertake trade with a country that uses forced labour and in general has an oppressive, authoritarian regime that grossly undermines human rights, would definitely be an expression of the public morals of the country taking such measures. The GATT article XX (b) refers to the legitimacy of measures "necessary to protect human, animal or plant life or health" – it leaves the possibility of being used to protect human health in the exporting country, in the case of Burma by preventing the expansion of exports produced to the detriment of the health of the workers concerned, inflicted upon civilians subjected to forced labour, including deprivation of health care, food, water and rest. The GATT article XX (c) explicitly provides for measures "relating to the products of prison labour." Though the interpretation of prison labour has never been clarified in GATT jurisprudence, there is a strong argument that this provision could be interpreted as offering a justification for trade measures against forced labour. The GATT article XXI (c) allows countries to introduce trade restrictions if that is "in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security. These provisions should equally apply to decisions taken by a specialised agency of the United Nations, in this case the ILO, and would mean that sanctions could be justified as a means to eliminate the source of international tension and insecurity that Burma's junta is responsible for creating.[74]

WTO rules do allow for sanctions on Burma.

In a speech on WTO law in relation to the international legal order, WTO Director General Pascal Lamy also emphasised that the WTO's legal panels would authorise sanctions if they were compatible with decisions by other international bodies. After outlining the many parts and aspects of WTO law he concluded: "I hope it is now clear that WTO Members' trade restrictions imposed to implement non-trade considerations will be able to prevail over WTO market access obligations so long as they are not protectionist. In other words, the WTO provisions themselves recognize the existence of non-WTO norms and other legal orders and attempts to limit the scope of application of its own provisions, thereby nourishing sustainable coherence within the international legal order." He further noted that in relation to other international organisations, "…the norms that they produce have a certain authority in creating a presumption of WTO compatibility when such international standards are respected. Therefore, the WTO encourages Members to negotiate norms in other international fora which they will then implement coherently in the context of the WTO," before he once again emphasised his conclusion: "The WTO does, therefore, take into account other norms of international law. Absent protectionism, a WTO restriction based on non-WTO norms, will trump WTO norms on market access."[75]

The way forward

Existing economic pressure on the junta undermined by neighbouring countries.

The United States and recently, to some extent, Australia, Canada and the EU, have tried to have some impact on the economic interests of the Burmese regime and its constituency by imposing limited sanctions on trade and investment. But their effect has been undercut by the inaction of governments in Asia, particularly Burma's closest neighbours. There is not and has never been any legal obstacle to Asian companies doing business with Burma. And the measures adopted by the US, the EU and Australia have been weak, with no measures that would seriously threaten the Burmese military regime. For example they have not targeted the generals' key income from oil and gas, and they have not been fully implemented with regard to financial transactions – at least not by the EU.

Financial deals and payment to junta companies should be blocked.

Instead, a United Nations Security Council decision should prohibit all countries from making any new investment in Burma's oil and gas fields. And countries should block company payments that help sustain Burma's brutal military rule, in practice by blocking dealings with any of the state-owned companies such as the Union of Myanmar Economic Holdings (UMEH), the Myanmar Economic Corporation (MEC), and the Myanmar Oil and Gas Enterprise (MOGE). Basically all investment in and trade with Burma should be suspended until a regime change takes place in the country. This would also mean that foreign companies should temporarily divest their assets in Burma.

Money pipeline to the military leaders should be cut off.

However, even the EU and the US, who do have certain sanctions on Burma, have lacked the will to take such measures. This makes it all the more unrealistic to suppose that Thailand, China and India, never mind other investors such as Singapore, South Korea, Malaysia and Russia, will take meaningful action. So while trade sanctions including a ban on oil and gas import from Burma remain essential, they need to be complemented by financial measures. But there is another way. As most international financial transactions pass through Western clearance banks, the EU and the US have the potential to jointly block virtually all international transactions by or to the Burmese leaders. This would halt their access to foreign currency and hence diminish the importance of their control over oil, gas and other natural resources.

The way to do this is to impose targeted financial sanctions on companies owned and controlled by the Burmese military, or whose revenues substantially benefit the military; by freezing bank accounts belonging to military-controlled companies; and by imposing additional sanctions to block their financial transactions. The US and Australia have already partly imposed such sanctions. And they have indeed had an effect: banks in Singapore have frozen accounts belonging to Tay Za, a prominent crony of the Burmese regime, with the result that one of his key holdings, Air Bagan, has had to suspend flights between Burma and Singapore.

Banking and financial sanctions are needed.

But if the EU does not join the US and Australia in banking and financial sanctions, Burmese transactions will just shift to Euro accounts. And even if the EU comes along, there is still a risk that Singapore and Hong Kong dollars will become the escape valve for the junta's dealings. Therefore, banks in Singapore and Hong Kong must also be included in imposing sanctions – as they have been in similar measures aimed at curbing military development in North Korea.

Pressure is also being put on companies through shareholder action in support of disinvestment from Burma prompted through the Global Unions' Committee on Workers' Capital. These actions alone are putting heavy pressure on the junta, but comprehensive global sanctions as described above must also be put in place. The international trade union movement's campaign on Burma includes action to convince foreign companies not to have business links with Burma. A public data base lists more than 400 companies believed to have such links (see: www://ituc-csi.org/spip.php?rubrique177). Several companies have responded positively to the ITUC's call for them to end their links, but others have not.

The bottom line is that as long as Burma's neighbours fail to take the necessary measures, banking and financial sanctions by the EU, the US and other countries are the most practical and most effective economic measures available to force desperately needed change in Burma.

End notes

(1) “Companies Supporting the Regime in Burma”, The Dirty List, The Burma Campaign UK
(2) “The European Union and Burma: The Case for Targeted Sanctions”, The Burma Campaign UK, March 2004
(3) This document will call the country Burma throughout. Myanmar, an attempt to render the written Burmese version of the country’s name more closely in English, was imposed in 1989 by the military dictatorship, and though recognised by the UN, is not recognised by most English-speaking countries or by the Burmese democracy movement. It will be used here in the official names of organisations set up by the ruling junta.
(4) ITUC Burma Rough Assembly Shot-list, Parachute Pictures
(5) “Tourism”, The Burma Campaign UK
(6) “Burma’s Despair: The Economic Follies and Fundamentals Behind the ‘Saffron Revolution”, Sean Turnell, Burma Economic Watch, October 2007
(7) These statistics were given by the UNDP to an ITUC-FIDH mission to Burma in October 2007. See “Preliminary Key Findings of Joint ITUC-FIDH Mission on Burma”, http://www.ituc-csi.org/spip.php?article1520. Similar figures are quoted by unnamed UN officials in ‘Burma’s Economy: The Junta’s Achilles’ heel’, Larry Jagan, , Mizzima News, 6 August 2007
(8) “Statement of the United Nations Country Team in Myanmar”, 24 October 2007, Yangon - After releasing this statement the UN’s top resident diplomat – Charles Petrie – was kicked out of the country by the military junta.
(9) “Statement of the United Nations Country Team in Myanmar”, 24 October 2007, Yangon
(10) Larry Jagan, Burma’s Economy: The Junta’s Achilles’ heel, Mizzima News, 6 August 2007
(11) ITUC Burma Rough Assembly Shot-list, Parachute Pictures
(12) ITUC Burma Rough Assembly Shot-list, Parachute Pictures
(13) Because of the state and nature of Burma’s government it is very difficult to get access to the most basic social and economic indicators of the country. For example, the standard indicator for economic inequality, the Gini coefficient, is unknown when it comes to Burma. It is for this reason that this part of the briefing uses other indicators and accounts to show the increasing economic inequality in the country
(14) Burma’s Despair: The Economic Follies and Fundamentals Behind the ‘Saffron Revolution”, Sean Turnell, Burma Economic Watch, October 2007
(15) Larry Jagan, Burma’s Economy: The Junta’s Achilles’ heel, Mizzima News, 6 August 2007
(16) Statement signed by Action Contre la Faim, Aide Medicale Internationale, Asian Harm Reduction Network, CESVI, Deutsche Welthungerhilfe/German Agro Action, Enfants du Monde Droits de l'Hommes, International HIV/AIDS Alliance, Malteser International, Medecins du Monde, Norwegian People's Aid, Population Services International, Save the Children, Terre des Hommes Italia - http://www.npaid.org/?module=Articles;action=Article.publicShow;ID=5470
(17) “Statement of the United Nations Country Team in Myanmar”, 24 October 2007, Yangon
(18) “Between Myanmar and Thailand, a modest waterway and a gaping divide”, Thomas Fuller, International Herald Tribune, October 24, 2007
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