



## **CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE)**

### **Meeting report:**

### **Steps Toward Housing, Land and Property Rights in a Democratic Burma**

*August 2006*

#### **1. Overview**

The Centre on Housing Rights and Evictions (COHRE) is an independent, non-governmental human rights organisation operating at the international level to combat the global housing rights crisis. COHRE works in partnership with a worldwide network to lead the global fight to prevent forced evictions and protect people's human rights to adequate housing, land and property (HLP).

On 24 and 25 August 2006, COHRE convened a meeting in Chiang Mai, Thailand, with two key objectives. Firstly, the meeting was convened to assess the HLP rights situation in Burma today, including legal and policy challenges faced by democratic opposition groups, and examine how to more comprehensively address HLP issues in Burma today.

Secondly, the gathering was held to provide a venue for a discussion between citizens of Burma and their supporters with some of the world's leading experts on HLP rights issues in countries undergoing deep political transition. In almost all countries which have undergone transitions during the past 20 years - South Africa, East Timor, Bosnia-Herzegovina, Afghanistan, Kosovo and many others - work on and understanding of HLP rights issues only took place *following* the transition concerned. As such, it was felt that discussing the lessons learned on addressing HLP rights issues *prior to* any eventual transition that may take place in Burma would assist in creating a far better approach to the numerous HLP rights challenges that will invariably face the people of Burma when democracy returns to the country.

Thirty nine participants from inside and outside Burma took part in this closed forum, including Burmese civil society actors, politicians, activists, researchers, international supporters and HLP experts. Participants shared their experiences on HLP issues and the implications for Burma under the current climate of widespread human rights violations largely perpetrated by the State Peace and Development Council (SPDC) military regime.

The meeting also aimed to assess key lessons from other countries in transition, and develop a more strategic approach to addressing HLP rights violations in Burma. Participants from inside and outside Burma made a commitment to work together in mapping a path ahead. International participants offered insights from their experiences working in over 30 post-conflict nations, many of which have undergone structural transitions from authoritarian, racist, non-democratic and dictatorial regimes to more democratic forms of governance. At the conclusion of the meeting a series of recommendations were produced for future joint action.

#### **2. Key HLP Rights Issues in Burma Today**

Since the beginning of military rule in 1962, the people of Burma have faced increasing human rights abuses. A recent resolution on the Human Rights Situation in Myanmar<sup>1</sup> adopted by the UN General Assembly in March 2006, documents the ongoing systematic violation of human rights, including:

civil, political, economic, social and cultural [rights]... including violations of the right to an adequate standard of living, discrimination and violations suffered by persons belonging to ethnic nationalities, women and children... extra-judicial killings, rape and other forms of sexual violence persistently carried out by members of the armed forces... torture, deaths in custody, political arrests... forced relocation; forced labour, including child labour; trafficking... use of child soldiers, use of landmines, and the confiscation of arable land, crops, livestock and other possessions;<sup>2</sup>

A categorisation of HLP issues in Burma emerging from a detailed study on patterns of displacement and forced migration<sup>3</sup> was outlined in the meeting. Violations associated with militarisation and land confiscation, population transfer, forced relocation and opium eradication, natural resource exploitation (eg. logging and mining), 'development' projects (eg. gas and dam projects financed by foreign investors), infrastructure development (roads, transportation etc), urban displacement, border development, state agriculture policies, extortion and extraction were described. It has become clear that land is now being utilised as a key resource to fuel the conflict and that HLP rights issues have a particularly important bearing on the military's grip on power.

Meeting participants elaborated on this list in more detail, and on the way that abuses are impacting on particular states and ethnicities. Studies were presented from Mon, Shan, Karen, Karenni and Lahu perspectives, and nationwide human rights and development groups pointed to the common threads.

A complex state of affairs thus engulfs Burma and there are many questions that remain unanswered. What is the right approach for HLP advocacy and action? How can change be promoted within Burma as well as externally? What is a viable point of entry for dialogue on HLP issues with the SPDC?

### 3. Outcomes

Case studies presented by international participants grappled with some of the above questions and drew parallels (as well as many differences) with experiences from Afghanistan, Bosnia-Herzegovina, Bougainville, Cambodia, East Timor, Kosovo, Rwanda, Solomon Islands, Sri Lanka and Sudan<sup>4</sup>.

Key lessons, potential obstacles, and areas for analysis were raised for the consideration of the Burmese participants and supporters. These included: assessment of customary and other existing bodies of law and related concepts of land; the centrality of land to the conflict; possibilities for the emergence of new land-related conflicts; cultural approaches to HLP and gender issues; and means for developing international engagement and institutionalising HLP responses while maintaining national and local level control over regime change.

The importance of addressing HLP issues in the early stages of post-conflict rehabilitation was highlighted, not only for the large numbers of displaced themselves but in order to avoid new conflict and create long term peace and stability.

After two days of discussion and exchange, participants produced a list of recommendations for future coordinated actions. Longer-term recommendations for discussion at a follow-up meeting included:

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a) Capacity-building among field-based human rights workers and NGOs on:

- Technical and policy aspects of HLP law both inside and outside Burma
- Land survey documentation and registration processes
- Community advocacy

(Capacity-building may take the form of: training; a study tour to a post-conflict country; or a pilot scheme / model of community mapping in a border area).

b) Documentation of:

- HLP rights violations
- Property loss claims
- Secondary occupation of land belonging to displaced persons
- Customary law for ethnic groups
- Community documentation of land claims

c) Routine information exchange and advocacy through:

- Development of a Burma focus group to discuss HLP rights and act as a focal point for advocacy
- Input into the Constitutional drafting process in addition to parallel processes
- Development of a Burma HLP listserv
- Clarification of advocacy strategies and the use of training as a foundation for further community advocacy
- Routine meetings, including a possible meeting to be held inside Burma in coordination with the UN country team
- A follow-up Burma HLP rights meeting planned for November 2006, to include Burmese lawyers and to consider possible formation of a steering committee
- Exploration of pressure mechanisms to ensure that foreign funded investment projects recognise and address HLP rights
- Promotion of a UN resolution on HLP rights in Burma
- Exploration of the UN Special Rapporteur mechanisms and functions
- Distribution of a summary of meeting outcomes to UN, NGOs and related bodies

d) Research and policy development on:

- All relevant HLP laws in Burma, including a comprehensive compilation that can be used as an organising tool and a basis for further legal analysis and advocacy
- Customary law and its compatibility with statutory law
- Colonial and other laws being used by the military for land expropriation

e) Resource development:

- Adaptation, translation and distribution of relevant materials including a UNHCR document titled *Housing, Land and Property Rights in Post-Conflict Societies: Proposals for a New United Nations Institutional and Policy Framework* by Scott Leckie

Sharing experiences from other countries in transition, in combination with the admirable strength of Burmese participants and supporters, ensured that the meeting concluded with an air of enthusiasm and concrete commitment. COHRE would like to express its thanks to all involved for their support, thoughtful contributions and commitment, and looks forward to future partnerships in placing HLP rights firmly on the agenda in a democratic Burma.

For additional information, please contact COHRE's Operations Director Fionn Skiotis: [fionn@cohre.org](mailto:fionn@cohre.org) / ph: +61.3.9417.7505.



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On 24 and 25 August 2006, COHRE convened a meeting in Chiang Mai, Thailand, with two key objectives. Firstly, the meeting was convened to assess the HLP rights situation in Burma today, including legal and policy challenges faced by democratic opposition groups, and examine how to more comprehensively address HLP issues in Burma today.

Secondly, the gathering was held to provide a venue for a discussion between citizens of Burma and their supporters with some of the world's leading experts on HLP rights issues in countries undergoing deep political transition. In almost all countries which have undergone transitions during the past 20 years - South Africa, East Timor, Bosnia-Herzegovina, Afghanistan, Kosovo and many others - work on and understanding of HLP rights issues only took place *following* the transition concerned. As such, it was felt that discussing the lessons learned on addressing HLP rights issues *prior to* any eventual transition that may take place in Burma would assist in creating a far better approach to the numerous HLP rights challenges that will invariably face the people of Burma when democracy returns to the country.

Thirty nine participants from inside and outside Burma took part in this closed forum, including Burmese civil society actors, politicians, activists, researchers, international supporters and HLP experts. Participants shared their experiences on HLP issues and the implications for Burma under the current climate of widespread human rights violations largely perpetrated by the State Peace and Development Council (SPDC) military regime.

The meeting also aimed to assess key lessons from other countries in transition, and develop a more strategic approach to addressing HLP rights violations in Burma. Participants from inside and outside Burma made a commitment to work together in mapping a path ahead. International participants offered insights from their experiences working in over 30 post-conflict nations, many of which have undergone structural transitions from authoritarian, racist, non-democratic and dictatorial regimes to more democratic forms of governance. At the conclusion of the meeting a series of recommendations were produced for future joint action.

#### **2. Key HLP Rights Issues in Burma Today**

Since the beginning of military rule in 1962, the people of Burma have faced increasing human rights abuses. A recent resolution on the Human Rights Situation in Myanmar<sup>1</sup> adopted by the UN General Assembly in March 2006, documents the ongoing systematic violation of human rights, including:

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A categorisation of HLP issues in Burma emerging from a detailed study on patterns of displacement and forced migration<sup>3</sup> was outlined in the meeting. Violations associated with militarisation and land confiscation, population transfer, forced relocation and opium eradication, natural resource exploitation (eg. logging and mining), 'development' projects (eg. gas and dam projects financed by foreign investors), infrastructure development (roads, transportation etc), urban displacement, border development, state agriculture policies, extortion and extraction were described. It has become clear that land is now being utilised as a key resource to fuel the conflict and that HLP rights issues have a particularly important bearing on the military's grip on power.

Meeting participants elaborated on this list in more detail, and on the way that abuses are impacting on particular states and ethnicities. Studies were presented from Mon, Shan, Karen, Karenni and Lahu perspectives, and nationwide human rights and development groups pointed to the common threads.

A complex state of affairs thus engulfs Burma and there are many questions that remain unanswered. What is the right approach for HLP advocacy and action? How can change be promoted within Burma as well as externally? What is a viable point of entry for dialogue on HLP issues with the SPDC?

### 3. Outcomes

Case studies presented by international participants grappled with some of the above questions and drew parallels (as well as many differences) with experiences from Afghanistan, Bosnia-Herzegovina, Bougainville, Cambodia, East Timor, Kosovo, Rwanda, Solomon Islands, Sri Lanka and Sudan<sup>4</sup>.

Key lessons, potential obstacles, and areas for analysis were raised for the consideration of the Burmese participants and supporters. These included: assessment of customary and other existing bodies of law and related concepts of land; the centrality of land to the conflict; possibilities for the emergence of new land-related conflicts; cultural approaches to HLP and gender issues; and means for developing international engagement and institutionalising HLP responses while maintaining national and local level control over regime change.

The importance of addressing HLP issues in the early stages of post-conflict rehabilitation was highlighted, not only for the large numbers of displaced themselves but in order to avoid new conflict and create long term peace and stability.

After two days of discussion and exchange, participants produced a list of recommendations for future coordinated actions. Longer-term recommendations for discussion at a follow-up meeting included:

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