Blinded by greed in the Golden Land — Japan's relationship with Burma

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The Japan-Burma[1] relationship constitutes an interesting dilemma in that Japan did, and to a certain extent still does, provide large amounts of assistance to a military dictatorship. Indeed, until 1990 Japan's aid program to Burma was a 'no questions asked' relationship. This policy direction perhaps illustrates a Japanese notion of Burma being a country of immense economic potential. In more recent times, the question of whether or not the Japanese government places more importance on economic development over improvements in human rights and the democratisation of the country has been raised. This is perhaps a dilemma facing the Japanese government today. How can the Japanese government legitimately be a supporter of regimes in Asia that view human rights as being subordinate or apart from economic development, whilst being a recognised member of the Western democratic bloc of nations and a respected Member State of the United Nations?

Firstly, it is important to identify the Japan-Burma relationship within the Japanese government's overall ODA policy structure. Japan has a number of international economic cooperation instruments. The term Overseas Development Assistance (ODA) is used to describe grants, technical aid, and concessional yen loans extended by the Japanese government, along with non-concessional lending provided by the Import-Export Bank of Japan. However, among Japanese aid planners, private investment is also characterised as economic cooperation. Occasionally, Japanese aid planners use ODA and economic cooperation interchangeably. This causes confusion in the West, especially since other industrialised donors tend to strictly adhere to the Development Assistance Committee (DAC) definition of ODA. According to the DAC, the following criteria must be met if aid is to be regarded as ODA. Firstly it must be provided by an official agency of the donor. Secondly, the objectives of ODA must be mainly to promote the economic development and welfare of the recipient. Thirdly the aid must be sufficiently concessional to avoid becoming a burden and have a grant element of 25%. ODA may consist of capital grant assistance, technical

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1 This article will use the better known names of Burma instead of Myanmar and Rangoon instead of Yangon.

cooperation, capital subscriptions, government loans or contributions to United Nations (UN) agencies and international financial institutions.

The Japanese government has received criticism over the years for what has been seen as the tying of ODA and economic interests. Indeed, the term 'economic cooperation' has become associated with Japan's economic relations with countries in Southeast Asia. The word 'aid' has never been used; therefore a degree of confusion has developed in the West over what constitutes development assistance and how much it is aimed to assist Japanese companies. Up until the 1970s, when the Middle East oil shock saw the Japanese government increasingly use ODA as a foreign policy tool, Japanese ODA was primarily aimed at assisting Japanese industry rather than developing recipient countries. The private sector in Japan has often been a magnet for concessional ODA flows. Japanese ODA officials have even described ODA as 'seed' money for investments in developing countries (Orr 1990: 59). As a result, Japan's largest ODA recipients are, except for Burma, countries with which Japan has tangible trade interests.

Due to the unofficial and official links between the government, bureaucracy and industry, corporate sector interests have often been over-represented in the ODA distribution process. Most of Japan's ODA has been specified for the development of infrastructure, especially for the transport and communication sectors. A high amount of ODA also goes to industry, mining and construction. The official explanation behind this is that adequate infrastructure is the foundation for development (Drifte 1996: 114-5). However, this type of policy initiative clearly benefits the Japanese private sector; by utilising ODA in the development of overseas infrastructure projects, Japanese trading and investment firms gain very tangible benefits. For example, in 1990, Japan's then largest trading company – C Itoh – received contracts totalling between $350 and $400 million annually from Japanese ODA (Orr 1990: 60-1).

Two events in the early 1990s did however stimulate a rethinking of Japan's ODA policy. One event was the collapse of the Soviet Union and the demise of the Cold War. The implication of this event on ODA was to reinforce questions about the relationship between ODA and the worldwide democratisation process generally. A changing international environment began to bring the issue of linking aid to democratisation to the forefront of ODA policy (Brooks & Orr 1993: 346). The Gulf War also brought home to the Japanese government the implications of its senior aid donor status: greater international querying of its ODA and the need to accept liability for the long term effects of its ODA. Japan had assisted in the development of Iraq and as a consequence of the Gulf War the need to reassess the basic philosophies behind its ODA became a necessity. As a result, in April 1991, Prime

Minister Toshiki Kaifu stated that in the implementation of its ODA, Japan would give 'due consideration' to a recipient's arms expenditure, promotion of democracy, movement towards a market economy and the protection of freedom and human rights (Rix 1993: 34). The redirection of Japan's ODA resulted in the adoption of a revised ODA Charter by the Cabinet in April 1992. This revised Charter called for the avoidance of any use of ODA for military purposes, making direct references to the Burmese government.[2] This move certainly informed the Burmese junta that being a recipient of high levels of ODA was inconsistent with high levels of expenditure on the armed forces and massive human rights abuses.

Japan's official aid program to developing countries in Asia began when Japan joined the Colombo Plan in December 1954. This was two years after Japan was reinstated into the international community upon her signing of the San Francisco Treaty. Though this marked the beginning of official assistance, Japan had started another type of official assistance in November 1954, when it provided Burma with $200 million in reparations. The impetus behind this payment was to redevelop a close prewar relationship between the two countries; the Japanese military had trained influential Burmese independence leaders like Aung San Suu Kyi's father, and Burma's future military leader, Ne Win. Furthermore, the Allied powers during the Second World War made no provision for Burmese reparations with Japan. Thus, the reparations agreement between the two countries was indicative of the special private, political and economic relationships that existed between the two countries.

Following receipt of the aforementioned reparations there developed a full-scale aid donor-recipient relationship. But, since Burma's military ruler from 1962 to 1988, Ne Win, was suspicious of foreigners, a sentiment shared by many Burmese due to the colonial experience, he was hesitant to receive aid. It seems he thought of Japan as the least of many foreign evils and less ominous than Burma's large neighbours, China and India, whose nationals had a commanding role in Burma's colonial economy. Furthermore, as Burma was a non-aligned state, Ne Win was reluctant to receive aid from either of the then superpower states (Seekins 1992: 254). Therefore, in the late 1970s, when a Ne Win regime that extremely disliked foreign intervention found it necessary to seek foreign aid, they turned to 'politically weak' and 'economically strong' countries like Japan and West Germany.

For Burma, a country that traditionally viewed foreign regimes with great suspicion, a Japanese aid program that did not demand political conditions was viewed as

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2 A copy of the revised ODA Charter can be found in *Japan's Official Development Assistance Summary, 1996.*

attractive. Burma's suspicion towards foreign countries was reflected in its sudden decision to refuse US aid in 1964, due to the regime's belief that the CIA was meddling in its domestic affairs. Soon after, refusing to have any group scrutinise its economy, Burma effectively cut relations with the World Bank. A political dispute with China in 1967 over the Cultural Revolution caused the suspension of their assistance, which was not insignificant, and the Sino-Soviet split resulted in the truncating of the Russian effort (Kudo 1993: 12). In this environment, it is not surprising that Burma sought aid from Japan. Indeed, Japanese aid to Burma went up tenfold, from about US$20 million in the 1960s to around US$200 million in the 1970s. Furthermore, between 1974-75, Japan was Burma's chief source of imports, providing 30% of the total and receiving 11% of Burma's exports (Silverstone 1977: 194). Thus, in the 1970s, as both the Japanese government and private sector began to realise the economic potential of Burma's largely untapped natural resources, both these sectors began to invest heavily in Burma.

What does become apparent on a closer inspection of the Japan-Burma relationship is the importance of viewing this relationship in the context of overall Japanese government and private sector objectives in Asia. Both these sectors have historically seen Burma as a country with enormous economic potential. It has a small population in relation to land, and prior to the Second World War was one of the wealthiest countries in Asia due to its status as the world's largest exporter of rice. Apart from its agricultural capacity and rich oil and natural gas reserves, it has substantial deposits of jade, tin, silver and tungsten. Burma also has the world's largest teak forests and considerable offshore fishery interests. Furthermore, due to a prolonged period of military rule, which has seen living standards fall, the cost of labour is cheap. Indeed, per capita income is only $US 200. Burma's position as a natural junction between South, Southeast, and East Asia makes it ideal as a base for the export of cheap goods.

Despite this image of Burma being a land of opportunity, the reality is one of a people who suffer under grinding poverty and state sponsored human rights abuses. Despite the amount of aid provided by Japan to the Burmese, little of the assistance ever reaches those persons in need. The Burmese Economic Development Corporation is intimately involved in the management of Japan's ODA and is an enterprise set up by the military in the 1950s. Due to the management structure of this company, aid is often funnelled into programs that are profitable for military figures. There are no real success stories in relation to joint venture programs with Japan. Ne Win's military regime not only nationalised foreign companies but also closed domestic enterprises (Taylor 1987: 257). State corporations control nearly all areas of the economy, suggesting that Japan's ODA program to Burma was and still is heavily biased to fulfil personal pledges.

More recently, the Burmese military authorities have also embarked on a series of policy initiatives that have resulted in economic disaster for the country. On 1 September 1987, the junta announced the most sweeping economic liberalisation program Burma had ever seen. Nine grains were freed from the government market which allowed farmers to buy and sell on the free market. The immediate effect of this policy saw farm incomes rise (Steinberg 1990: 21). Despite these initiatives, on 11 December 1987, the UN General Assembly declared Burma a "Least Developed Nation", with annual incomes lower than US$200 per capita and a poor level of industrial development and literacy. Countries in this category, like Chad, Nepal and Bangladesh, appear destined to subsist on foreign aid. On 5 September 1987, Ne Win introduced another part of his economic liberalisation plan. Contrary to the ideals behind his grain liberalisation initiative, Ne Win banned all bank notes above the denomination of US$2.50, wiping out 70% of currency in the economy.

Ne Win's program affected the entire Burmese community, with instantaneous results. As students demonstrated, schools were closed to prevent full-scale riots. Growing government violence against youth contributed to political frustration which exploded in March 1988. In the ensuing clashes between riot police and students, many were arrested. In contravention of Article 9 of the Universal Declaration of Human Rights (UDHR), many protestors were subject to arbitrary arrest and detention. During this period of violence, Aung San Suu Kyi first appeared as leader of the democracy movement. On 16 June, the situation further worsened, with student demonstrations held in Rangoon. By 21 June, the military had killed a large but unknown number of students, a curfew had been introduced in Rangoon and universities were closed.

In an attempt to calm the situation, Ne Win resigned and called for a plebiscite on whether a multi-party system should be introduced. Ne Win was replaced by Sein Lwin, a military man with a record for suppressing dissent. Sein Lwin declared martial law in Rangoon, but the demonstrations gained momentum until 8 August 1988, when troops were ordered to open fire on a group of demonstrators. Continuing demonstrations and the announcement of a general strike forced Sein Lwin to relinquish power. He was momentarily succeeded by a civilian jurist, Dr Maung Maung, and arrangements were made for multi-party elections. But, in the ensuing political melee and Rangoon's descent into martial law, the military snatched power under Saw Maung.[3] All government organs were made redundant, being replaced by a military junta in September 1988. Much in the same way as the Khmer Rouge cleansed Cambodia into the Orwellian-like Nation State of

3 The Economic Intelligence Unit, 1997 p 4.

Kampuchea, the military junta renamed the state of Burma, *Pyidaungsu Myanmar Naingngan-daw* or the 'Union of Myanmar'.

Bowing to public pressure, the junta now made preparations for elections to go ahead in May 1990. More than 200 parties registered for the election but the two main parties were the National Unity Party (NUP) and the National League for Democracy (NLD), nominally led by Aung San Suu Kyi. Despite restrictive conditions, including Suu Kyi's placement under house arrest, the NLD won 60% of the vote, which converted to 392 of the seats in a 485 member legislature. Despite international condemnation, the junta refused to recognise the election result, insisting that the vote had been held to choose a committee which would draft a new constitution. In April 1991, the military declared its intention to rule, and in 1992 General Than Shwe, the commander in chief of the army, succeeded Saw Maung as leader of the junta.[4]

Despite UN concerns in relation to violations of human rights in Burma, Japan's 'Myanmar' policy remained relatively constant. In March 1988 the Japanese government unilaterally warned Burma that it would reconsider its ODA position in Burma unless economic reforms were initiated. This move is perhaps indicative of the Japanese government's misplaced support of regimes in Asia that view human rights as being subordinate to or apart from economic development. Though, some time later, Japan suspended its ODA in response to the reported killing of pro-democracy demonstrators in Rangoon, within only five months of suspending its ODA program, Japan resumed its assistance to Burma in February 1989.

This resumption of aid to Burma can be explained by the existence of close personal relationships between members of the Japanese Diet and the Burmese military junta, which manifest themselves in the form of powerful NGOs. Japan's 'Burma Lobby' includes war veterans who have organised associations within Japan and have assisted local Burmese with small private projects. More important for ODA is the business oriented 'Japan-Burma Association' (JBA). The JBA is headed by Diet Upper House member Ms Yoshiko Yamaguchi: a Liberal Democratic Party (LDP) member and close friend of Ne Win. The Association was founded in 1933, during Burma's colonial period under the British, and has an office in Akasaka, Tokyo (Seekins 1995: 255). The office is conveniently located near government ministries, the Diet and LDP headquarters.

Lower House member and Deputy Prime Minister and Foreign Minister in the

4 The Economic Intelligence Unit, 1997 p 5.

Miyazawa cabinet, Mr Michio Watanabe, also has a keen interest in Burma. He visited Burma during an August 1990 tour of Southeast Asia to talk with the military leader, General Saw Maung. Watanabe had served in previous cabinets as the minister in charge of the Ministry of International Trade and Industry and the Ministry of Finance, which placed him at the epicentre of ODA policy initiatives. Another site of inter-elite intercourse is the 'Japan-Burma Parliamentarians' Friendship League', consisting of about 60 members of the Diet, including Yamaguchi and Watanabe (ibid). The existence of these powerful NGOs and the pressure they exert on Japan's ODA to Burma have led to a failure by the Japanese government to promote the ideals of the UN-sponsored Covenant on Economic, Social and Cultural Rights and the Covenant on Civil and Political Rights in Burma.

Due to the aforementioned close links, the Japanese government's posture towards the military junta in Burma has been one of gentle persuasion. Japan has not resorted to sanctions, instead compelling the military junta to deregulate the economy and stop human rights abuses. It is evident that the Japanese government believes the junta will introduce democratisation on its own. This approach is fundamentally based on the presumption that economic development will lead to democratisation; a presumption which is unacceptable to figures like Aung San Suu Kyi (Nemoto 1995: 24). Upon her release from house arrest in May 2002, Suu Kyi asked the foreign community to 'please continue to support the struggle for democracy in Burma in every way you can.' (Baker 2002) Based on the junta's continued detention of 1500 members of the democracy movement, there is little evidence that their release or democratisation will occur.

Some argue that the aforementioned 'gentle persuasion' which the Japanese government exerts on the Burmese authorities is based on an 'Asian values' approach to human rights. Some regional politicians and academics have attained notoriety by claiming 'Asian values' and 'Asian culture' to be incompatible with contemporary human rights due to perceived Western influence on the latter. This 'cultural relativist' position consists of a complex combination of assertions being characterised as a set of values shared by people of many different nationalities in East and Southeast Asia. These values include an emphasis on the community rather than the individual, the acceptance of order and harmony over personal freedom, refusal to separate religion away from other spheres of life, an insistence on hard work, a respect for political leadership, a belief that government and business need not be adversaries and an emphasis on family loyalty.[5] The aforementioned ideals have led regional figures like Prime Minister Mahathir of Malaysia and Senior

5 *Asiaweek* 'The Asian Way' (2 March 1994) pp 22-25.

Minister Lee Kuan Yew of Singapore to articulate an Asian expression of concern regarding certain 'Western' notions of human rights. Indeed, this concern is related to a perceived stress on the individual rather than the community (Theodore de Barry 1998: 159).

To claim human rights are tainted by Western ideals is a difficult proposition to support. Adopted without a single negative vote in the UN General Assembly in December 1948, the UDHR provides ample proof of the existence of globally accepted definitions of human rights. The UDHR was proclaimed 'as a common standard of achievement for all people and all nations'. In its preamble, the UDHR asserts that 'all human beings are born free and equal in dignity and rights without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status' (Welch & Leary 1990: 5). Based on the total acceptance of the UDHR by all members of the UN General Assembly, it is unconvincing to assert that 'human rights' are not applicable to the Asian hemisphere.

Furthermore, the position that concepts originating outside of one's own culture should be rejected as being tainted in some way is rather odd. Some concepts, no matter what their origin, are considered applicable to any social context because of their universal appeal. As Aung San Suu Kyi has suggested: 'If ideas and beliefs are to be denied validity outside the geographical and cultural bounds of their origin, Buddhism would be confined to north India, Christianity to a narrow tract of the Middle East, and Islam to Arabia' (Aung San Suu Kyi 1995: 175). The argument against the recognition of universal human rights is made more confusing by the fact that more often than not, those who use such arguments, adopt numerous other aspects of Western culture. Indeed, the adoption of the latest industrial and household technologies have brought about more changes in Asia than human rights is ever likely to (Vervoorn 1998: 46). Therefore, to assert that human rights are not applicable to the Asian region is an oversimplified argument.

The suggestion that a set of 'Asian values' operates throughout Asia certainly contradicts some very basic facts about Asia. Even a rudimentary knowledge of Asia reveals the existence of ancient religious and philosophical divisions in the region (Yash Ghai 2000: 551). Furthermore, many so-called 'Asian values' are equally Western values, and in some cases have been deliberately introduced in Asian societies as a consequence of the influence on Asian elites of Western philosophies. The role of the writings of the philosopher Samuel Smiles in developing the philosophy of 'hard work' and 'self-help' in Japan is just one example of such an influence (Kinmonth 1981). Indeed, cultures are fluid things, they are reconstructed to serve specific purposes. Therefore, it can be stated that the assertion that 'Asian

values' are incompatible with human rights because of its related Western origins is based on double standards.

In the case of a number of Asian regimes, like Burma, the specific purpose of raising Asian values is that of defending an undemocratic form of government. Such regimes hide their autocratic ways in arguments about cultural relativism. Asian values are often the ideological constructs of Asian leaderships rather than the popularly held beliefs of their people. The ideology of Asian values is a form of conservatism that serves the needs of capitalism at a particular stage of its development in specific Asian societies. Indeed, there is disagreement within the Asian region about the concept of 'Asian values', with several influential regional figures championing the cause of human rights. President Kim Dae-jung of South Korea has commented that the biggest obstacle to strengthening human rights in Asia 'is not its cultural heritage but the resistance of authoritarian rulers and their apologists.' (Inbaraj 1996:2) Even Singapore's former Foreign Minister Wong Kan Seng has stated 'diversity cannot justify violations of human rights ... no one claims torture as part of his cultural heritage.' (ibid) Hence, to claim human rights are purely Western is founded on rhetoric used by those in positions of power to mask human rights abuses and undemocratic forms of government.

Even though Singapore's former Foreign Minister Wong Kan Seng has stated 'diversity cannot justify violations of human rights' in Asia, it would appear that the Japanese government and Japanese private sector ignore or factor in human rights abuses into the relationship. On the Burmese side of the relationship, they have remained relatively solid as it is their best economic and diplomatic interests to nurture their ties with Japan. This stability has been further fostered through Japanese businessmen residing in Burma who believe it to be in the Japanese private sector's best economic interest to cultivate close personal relationship networks. This policy has been pursued as business opportunities for Japanese companies in Southeast Asia are rapidly diminishing, due to increasing competition from the newly industrialising economies of South Korea, Hong Kong and Taiwan.

The military junta has certainly benefited from the existence of a Japan-Burma relationship fostered through close personal relationships. Indeed, the Japanese government quickly recognised the military junta as the official government of Burma on 17 February 1989. An apparent source of pressure on the Japanese government came from within two Second World War veteran's associations with close ties to the right-wing of the LDP. Their members had been refused access to Burma to make their annual pilgrimage to the graves of their fallen comrades because of a ban on official contacts. These groups have ties with Burma's old guard, both inside and outside the military regime. But the agent that counted most was the

existence of several LDP leaders, namely Michio Watanabe and Shintaro Abe, who are members of the Japan-Burma Parliamentary Association, which has close links with the veterans (Holloway 1989: 21). The recognition of the military junta by the Japanese government assisted their international campaign to be recognised diplomatically by other nations and saw the flow of Japanese ODA to Burma resumed.

If the Japanese private sector have their way, Burma will be Japan's next Asian tiger economy. Some of Japan's major firms, like the Mitsubishi Tokyo Financial Group and the Mitsui-Sumitomo Group, have become more interested in Burma than ever before. Though most are not investing a lot of capital, they are moving to lay the foundations for a major presence in the future. And with Burma's entry into ASEAN in 1997, and Aung San Suu Kyi's release from house arrest in May 2002, that time may be fast approaching. Japan's business leaders believe Burma is an ideal candidate for the next site of their labour intensive manufacturing operations. Indeed, since 1994, Mitsui has worked to draft a master plan for Burma's rapid industrialisation (Fairclough 1996: 65). For the previously mentioned Japanese firms, Burma is the last large market in Southeast Asia and to procrastinate further may see their chances to gain the economic upper hand diminish.

In Japan, Keidanren (Federation of Economic Organizations) had already created a bilateral-relations committee by November 1996 to promote business and trade with Burma. The Marubeni Corporation, a company affiliated with Keidanren at that time, predicts a considerable increase in Japanese investment in Burma. Indeed, the company has stated that 'there is a growing need among affiliates [already in the region] to shift labour intensive work' due to the rise in wages in neighbouring countries such as Thailand (Kanabayashi 1997). This certainly was an important signal to the military junta. If they continue to focus on economic liberalisation, with only token 'advances' in democratisation, then Burma will receive investment from the Japanese private sector. This is a very appealing prospect for a regime that is in need of politically untied foreign investment. Such considerations may have provided the impetus for Aung San Suu Kyi's release from house arrest in May 2002.

On a more positive note, there appears to be a growing concern from within Japan towards human rights abuses in Burma. Indeed, in 1993[6] and 1994[7], the UN Special

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6 <www.unhchr.ch/programme/extra-conventionalmechanisms/countrymandates/documents/report/E/CN.4/1993/37.html>.

7 <www.unhchr.ch/programme/extra-conventionalmechanisms/countrymandates/documents/report/E/CN.4/1994/57.html>.

Rapporteur on Burma, Dr Yozo Yokota of Japan, compiled two reports on the human rights situation in Burma. The reports' findings were disturbing, outlining junta sponsored human rights abuses which include extra-judicial, summary or arbitrary executions, the killing of civilians, torture, arbitrary arrest and detention. There is also evidence of numerous deaths in custody, an absence of due process of law, severe restrictions on freedom of opinion, expression, assembly and association, violations of freedom of movement, forced relocation, forced labour and portering and the imposition of oppressive measures directed in particular at ethnic and religious minorities. All these abuses are in direct contravention of the UDHR.

Taking into account the aforementioned violations of human rights in Burma, three members of the Japanese Lower House formed the JP League in 1995 to promote democracy and respect for universal human rights in Burma. The deputy chairman of the League, Mr Yukio Hatoyama, has attempted to explain the motives behind the official Japanese approach to Burma. Known as the 'North Winds and the Sun' policy, the sun signifies the Japanese government's ODA to Burma, which will supposedly promote democracy in Burma. But, based on the evidence of numerous UN Special Rapporteurs, this policy initiative has provided sustenance to an autocratic regime and prolonged the suffering of the Burmese people. Mr Hatoyama has also stated in a policy document that Japanese politicians have a limited knowledge of the human rights situation in Burma. In an attempt to remedy the situation, the JP League has made several statements on the junta's activities, and continues to closely monitor the human rights situation in Burma (Sugawara 1997: 4).

Though Japan's role in providing ODA to the junta in Burma is disappointing from a moral standpoint, it is important to remember that both Burma and Japan have failed to meet their obligations as prescribed by international human rights standards. The obligation of States to respect the fundamental rights of all persons is embodied in the UN Charter. Article 56 of the Charter states that all Members pledge to take joint and separate action in cooperation with the UN for the achievement of the purposes of the Charter.[8] Therefore, as a Member State, Burma is granted membership under the Charter and has an obligation to cooperate with the UN and other Member States like Japan in taking progressive measures and joint action to promote the observance of human rights within Burma as stated in the UDHR.

As a respected Member State of the UN, Japan should exert pressure on the Burmese junta to fulfill its obligations as set out in numerous international human rights

8 <www.unhchr.ch/programme/extra-conventionalmechanisms/countrymandates/documents/report/E/CN.4/1994/57.html>.

standards. By taking advantage of the special political, economic and social ties that exist between the two countries, the Japanese government is in an excellent position to act as mediator between the junta and the pro-democracy movement. The Japanese government could quite legitimately assert that notions of State sovereignty, as set down in international law, limit the Japanese government's ability to act. But it is clear that both the Japanese government and private sector feel that the economic benefits of remaining silent are more important. Some laws within Burma affect freedom of thought, information, expression, association and assembly through fear of arrest. Indeed, there is a number of laws commonly utilised by the military junta to restrict the enjoyment of civil and political rights. These laws include the 1950 *Emergency Provisions Act*, the 1975 *State Protection Law* and Law No. 5/96 *Protecting the Stable, Peaceful and Systematic Transfer of State Responsibility and the Successful Implementation of National Convention Tasks Free from Disruption and Opposition*. As far as the author is aware, the Japanese government has never raised the legitimacy of using such laws to filch the human rights of Burmese citizens.

The 1950 *Emergency Provisions Act* allows the imprisonment for up to seven years of any person who either infringes upon the integrity, health and respect of State military organisations and government employees, or spreads 'false' information about the Government or fractures the morality of the citizenry. The 1975 *State Protection Law* is also used by the military regime to carry out arbitrary arrests and detention of political opponents. Under this law, the Council of Ministers is able to pass orders restricting the fundamental rights of an individual, if there is 'suspicion' that they have committed or are about to commit an act which infringes the security of the State. The same Law further provides for detention to continue for a period not exceeding one year at a time up to a total of five years.[9]

The existence of the above laws in Burma, leads one to the conclusion that arrests are arbitrary when measured by international standards and constitute a violation of basic international human rights norms. The Burmese junta's dismal human rights record is also evidenced by its dismissal of Resolutions 53/162 and 54/186 of the UN General Assembly, dealing with democratisation in Burma. The junta continues to reject Burma's 1990 election results and also displayed a lack of cooperation with numerous UN Special Rapporteurs. Such actions certainly contravene Japan's ODA Charter, which take into account a nation's respect for human rights, and the level of democratisation, when allocating development assistance.

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9 <www.unhchr.ch/programme/extra-conventionalmechanisms/countrymandates/documents/reportA/53/364.html>.

Japan's Burma dilemma may be a legacy of history. There are strong personal ties between some Japanese members of the Diet and their contemporaries in Burma. But as new military leaders are emerging in Burma, their Japanese counterparts are finding it increasingly difficult to relate to them. This was perhaps a motivating factor for figures like Yukio Hatoyama, who developed the JP League. As a new generation of politicians aware of the human rights abuses being perpetrated in Burma become more prominent in the Japanese government, Japan's ODA to Burma will surely be questioned. Burma's debt to Japan continues to worsen. Japan has been extending around 3 billion yen in grants per year since 1992 to Burma to be used for debt repayment.[10] Indeed, in May 2002, Japan was touted as Burma's biggest creditor,[11] with debt continuing to increase at nearly 1 billion yen a month in interest alone. In past attempts to solve this debt problem, the military junta ordered the sale of part of its embassy in Tokyo, for which it received $US240 million. But, it is believed that the funds were used to purchase arms (Lintner 1991: 41). It may be actions like this that eventually force the politicians in Tokyo to ignore the wishes of private enterprise and some NGO groups and reconsider the appropriateness of its aid program to Burma. ●

References

Arase D 'Japanese Policy Towards Democracy and Human Rights in Asia' (1993) 33 No 10 *Asian Survey* at 935-952

Aung San Suu Kyi *Freedom from Fear and Other Writings* England Penguin Books 1995

Baker M 'Burma's Freed Leader Pleads' (7 May 2002) *Sydney Morning Herald*

Brooks W & Orr R (eds) *Japan's Foreign Aid: Power and Policy in a New Era* San Francisco Westview Press 1993

Drifte R *Japan's Foreign Policy in the 1990s* New York St Martin's Press 1996

Economic Intelligence Unit, *Country Profile: Myanmar (Burma) 1996-97* Canberra Department of Foreign Affairs and Trade 1997

Fairclough G 'Enter at Own Risk' (15 August 1996) *Far Eastern Economic Review* at 62-65

10 <www.atimes.com/japan-econ/BF02Dh01.html>.

11 'Suu Kyi Gets to Work but Sanctions Stay in Place' *Sydney Morning Herald* (8 May 2002).

Holloway N 'Muted Harping' (16 March 1989) *Far Eastern Economic Review* at 20-21

Inbaraj S 'Authoritarianism: Asian Trait or Course' (1996) Vol 5 No 2 *Human Rights Defender* at 2-5

Kanabayashi M 'Japanese Investors are Touting Burma to Investors Despite Political Problems' (11 March 1997) *Asian Wall Street Journal*

Kinmonth E *The Self Made Man in Meiji Japanese Thought* Berkeley University of California 1981

Kudo T *'Nihon no tai Biruma Enjou-seisaku no Hensen to Mondaiten'* (The Changes and Concerns of Japan's ODA to Burma) 26 November 1993 *Tsushin* at 1-18

Lintner B 'The Odd Couple' 11 July 1991 *Far Eastern Economic Review* at 39-41

Nemoto K 'The Japanese Perspective in Burma' (1995) 2 No 4 *Burma Debate* at 20-25

Orr R *The Emergence of Japan's Foreign Aid Power* New York Columbia University Press 1990

Peek J 'Japan, The UN and Human Rights' (1992) 32 No 3 *Asian Survey* at 217-229

Seekins D 'Japan's Aid Relations with Military Regimes in Burma, 1962-1991' (1992) 32 No 8 *Asian Survey* at 246-262

Silverstone J *Burma: Military Rule and the Politics of Stagnation* London Cornell University Press 1977

SMH 'Suu Kyi Gets to Work but Sanctions Stay in Place' (8 May 2002) *Sydney Morning Herald*

Soderberg M *The Business of Japanese Aid* New York Routledge 1996

Steinberg D 'Democracy, Power and the Economy in Burma – Donor Dilemma' (1991) 31 No 8 *Asian Survey* at 729-742

Steinberg D *The Future in Burma: Crisis and Choice in Myanmar* New York University Press of America Inc 1990

Suguwara S 'Biruma no minshu-ka o sokushin suru tame no kokusai seiji shidosha netowaku' (International Network of Political Leaders Promoting Democracy in Burma) *Seisaku Bunsho* (Policy Document) Tokyo, 1997

Taylor R *The State in Burma* London Orient Longman Ltd 1987

Theodore de Barry W *Asian Values and Human Rights* Cambridge Harvard University Press 1998

Uchida I 'Embracing the Future: Japan Must Rethink its Myanmar Policy' (1995) 2
No 4 *Burma Debate* at 26-30

Vervoorn A, *Re Orient* (Melbourne; Oxford University Press, 1998)

Welsh C & Leary V (eds) *Asian Perspective on Human Rights* Boulder Westview Press 1990

Yash Ghai 'Human Rights and Governance: The Asia Debate' in Steiner J & Alston P *International Human Rights In Context: Law, Politics, Morals* Cornwall Oxford University Press 2000

Websites

<www.unhchr.ch>

<www.atimes.com>