

FEBRUARY CHRONOLOGY 2017

Summary of the Current Situation:

There are **292** individuals oppressed in Burma due to political activities.

86 are currently serving prison sentences,

85 are awaiting trial inside prison,

121 are awaiting trial outside prison.



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Assistance Association for Political Prisoners (Burma)

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MONTH IN REVIEW

This month, 92 people were arrested, 90 of whom are from ethnic areas. In January, 42 people were charged, including 36 farmers, and six activists. Two people were sentenced in January. 17 individuals were released, 15 of whom are farmers. Two incarcerated political prisoners are reported to be in bad health.

People from ethnic areas continue to be accused of being associated with ethnic armed groups. On February 7, two Baptist Church officials Naung Lat and Gam Seng from Mong Ko Township, Kachin State, were charged under Section 17/1 of the Unlawful Associations Act by the Muse Township Court. They were arbitrarily taken into custody on December 24, 2016 and kept in secret detention for almost a month until January 19, 2017. The Court has added a new charge against Naung Lat and Gam Seng under Section 8 of the Export and Import Law, which prescribes a maximum of three years of imprisonment for exporting or importing restricted / prohibited goods or goods that require permission without due approval. These charges go against the reconciliation process between the government and ethnic minorities. AAPP therefore urges the Government continues to work towards national peace and reconciliation by moving forward with the second meeting of the 21st Century Panglong Peace Conference in an inclusive manner. Individuals from ethnic areas also continue to be forcibly recruited into Ethnic Armed Groups. This can be seen this month in the forced recruitment of over 90 individuals into the Kachin Defense Army (KDA).

In February, farmers' issues remained unresolved in Burma. On 23 February, 25 residents of Letpadaung in Sagaing Region were prosecuted under Section 19 of the Peaceful Assembly and Peaceful Procession Act, and Sections 143 and 431 of the Penal Code for unlawful assembly and causing mischief on a public road. On 21 February, the protesters blocked the road to the mine, and demanded that Wanbao Mining Copper Ltd. Company give them the 1,900 acres of land they were supposed to receive according to the recommendations of a Parliamentary commission in 2013. The land was to be granted as compensation to offset the damage to villagers' crops, livelihood, and social standing as a result of the construction of the project. The copper mine project is a joint venture between the Chinese Wanbao Mining Co. Ltd., the military-controlled Myanmar Economic Holdings Ltd. and the government of Burma. On November 29, 2012, over 70 monks and ten civilians, while staging a peaceful protest against the project, suffered injuries as a result of violent force used against them by Burmese security forces. U Thein Sein's Government formed an investigation commission led by Daw Aung San Suu Kyi to resolve the matter. The villagers are claiming that the Company has breached the agreement signed in 2013 by not giving them the promised land.

This case highlights ongoing loss of farmers' rights in Burma. AAPP urges the government to review all cases of land grabbing, amend and/or repeal relevant law related to land confiscation, and provide compensation for victims of arbitrary confiscation, to ensure that farmers are no longer criminalized for attempting to regain ownership of land arbitrarily and illegally confiscated.

Both the Telecommunications Law and the Electronic Transactions Law continue to be used to silence individuals expressing their right to freedom of expression. On February 1, Kamaryut Township Court, Rangoon Division, ruled to continue the case against Myo Yan Naung Thein after assessing evidence submitted by the police. Myo Yan Naung Thein was charged under Section 66(d) of the Telecommunications Law, and has been in detention since his arrest on November 3, 2016, having been denied bail four times. He is accused of having defamed Military Commander-in-Chief, Senior General Min Aung Hlaing by criticizing the army's response to the border-post attacks in Rakhine State in October. The Army has filed a lawsuit against Chairman of a human rights activists group, Tun Tun Oo, for posting on Facebook a video file portraying a critical drama of armed clashes between ethnic groups and the Military performed by the Nine Students at the Bassein Hotel in Patheingyi Township, Irrawaddy Division [see January Chronology]. On February 3, he was summoned to the police station where a lawsuit was filed against him under Section 34(d) of the Electronics Transactions Law intending to punish any person for a maximum term of five years, or with fine, or with both for: *'Creating, modifying or altering information or distributing information created, modified or altered by electronic technology to be detrimental to the interest of or to lower the dignity of any organization.'*

Tun Tun Oo is the father of one of the nine students who are now facing trial under Section 500 of the Penal Code. He gave the opening speech at the peace discussion where the critical performance took place on behalf of civil society organizations. Head of the National League for Democracy (NLD) office in Chaungtha Village, Aye Aye Aung, sued a teacher and her husband under Section 66(d) of the Telecommunications Law for a defamatory post against State Counsellor Daw Aung San Suu Kyi and the NLD. The complaint was filed on February 26 at the Chaungtha Township police station against Sandar Myint, who is alleged to be the owner of the said Facebook account, and her husband Nway Oo. Pursuant to the complaint, the police arrested the couple for interrogation. Sandar Myint was released on bail whereas her husband continues to remain in detention. Activist Daw Amar Ni is currently facing a lawsuit under Section 66(d) of the Telecommunications Law for defaming remarks on Facebook against the NLD's Mandalay Division Vice-Chair Ko Ko Lay. According to the police, Ko Ko Lay filed a complaint against Daw Amar Ni on February 16 at the Maha Aung Myay police station, Mandalay Division. On February 28, Rangoon resident Zaw Zaw, who goes by the name 'Nga Pha' on Facebook, was sentenced to six months of imprisonment with hard labor

by the North Dagon Township Court under Section 66(d) of the Telecommunications Law. Zaw Zaw will be serving sentence in the Insein Central Prison for posting defamatory content against State Counsellor Daw Aung San Suu Kyi and President U Htin Kyaw. On December 14, Zaw Zaw was formally charged under Section 66(d) in North Okkalapa Township Court, Rangoon. He was arrested on October 10, 2016 and has been in detention ever since.

Section 66(d) also continues to be a tool for charging in civil cases. On February 12, Kyaing Ton District Administrator, Nay Oo, filed a complaint against Deputy Director of the Department of Consumer Affairs of the Ministry of Commerce, Min Aung, under Section 66(d) of the Telecommunication Law, for defaming the Shan State Administrator

and the Military on Facebook. Kyaing Ton Police Station, Shan State, reported that Min Aung has not been arrested yet and that they are seeking permission from the Ministry of Commerce to investigate the case. On February 13, Assistant General Manager of Aung

Kabar Company Limited, Htein Lin, filed a complaint against Phone Kyaw at Hlaingtharya Township Police under Section 66(d) of the Telecommunications Law for a Facebook post defaming the Aung Kabar Company Limited. By comparing on social media, the differences in prices and age of road sweepers imported by the company, Phone Kyaw has allegedly insinuated that the machines were old and expensive.

These laws are in violation of fundamental human rights and are disproportionate to the 'crimes' reported. Section 66(d) has been widely used to crack down on individuals exercising their rights to freedom of expression, a fundamental human right enshrined in Article 19 of the Universal Declaration of Human Right (UDHR), which has often resulted in needless pre-trial detentions. AAPP are aware that cases of genuine defamation do occur, and in these cases, appropriate legal action should be taken. However, the cases AAPP have been tracking are the result of interpretation of the vague terminology of Section 66(d). These cases highlight the continued restriction on freedom of expression in Burma. Consequently, AAPP recommends the immediate repeal and/or amendment of the laws prohibiting citizens from expressing their opinions including Section 66(d) which is used to restrict freedom of expression and undermine the democratization process under the guise of 'defamation'.

Under the new government, civil and political rights continue to be restricted. The Peaceful Assembly and Peaceful Procession Law continues to criminalize peaceful protest and the right to assemble enshrined in Article 20 of the UDHR. On February 6, Htin Kyaw, the leader of the Movement for Democracy Current Force (MDCF) and Soe Zaw, a member of the MDCF, were sentenced to two months' imprisonment under Section 19 of the Peaceful Assembly and Peaceful Procession Law by the Kyauktada Township Court, Rangoon. On September 30, 2016, they staged a protest in front of the

Rangoon Division Parliament calling for adherence to rule of law, a fairer judicial system, the amendment of the 2008 constitution and for action to be taken against corruption. Soe Zaw was released from prison for time already served awaiting trial, however, Htin Kyaw remains detained in Insein Prison, Rangoon Division, facing trials in two townships. On February 4, final-year medical student Nyan Myo Aung [pictured above] from Magwe Township, Magway District, was arrested under Section 19 of the Peaceful Assembly and Peaceful Processions Act for staging a one-man protest against the ongoing war in Burma. He was alleged to have violated the provisions of the law according to which, organizers of a demonstration must obtain a police permit at least 48 hours prior to the protest. Nyan Myo Aung claimed that he was not in violation of this provision as this was a case of a single individual standing in front of the building. He was released on bail the same day. On February 9, the Kyauktaw Myoma Police Station, Rakhine State, filed a complaint against Kyaw Aye and Aye Kyaw for violating the Peaceful Assembly and Peaceful Procession Act. On February 5, they organized and staged a protest of 2000 people against the military insignia placed on the Kyauktaw Mahar Myatmuni Pagoda. Although they received permission to protest, they are being prosecuted because the length, location, and number of people present at the protest allegedly exceeded the limits allowed by the authorities. The two men were released on bail on February 13. Thinzar Maung Maung, who carried out a one-woman protest march against the Burmese law enforcement system from Bago City to Naypyidaw City since February 6, was barred by the police from entering Naypyidaw on February 10.

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On February 16, the police blocked access to Majoi Hall in Myitkyina, Kachin State, where the first Kachin National Conference was supposed to be held. Despite officials’ previous refusal to let the organizers of the Kachin Conference use the facilities, the meeting went ahead as scheduled. Around 200 participants were trapped inside the building when authorities barricaded the entrances. After several hours of negotiation between police officers, Kachin leaders and Government officials, the conference could begin in the afternoon.

As can be seen from the cases above, the Peaceful Procession and Peaceful Assembly Act continues to be used in a repressive manner. It must not be

disregarded that cases like those detailed above are likely to hamper the peace process initiated by the Government. AAPP therefore urges the Government to amend the Peaceful Procession and Peaceful Assembly Act in line with Article 20(1) of the UDHR, which states that ‘Everyone has the right to peaceful assembly and association’. Not only will appropriate amendments to the legislation allow citizens to exercise their

fundamental right to freedom of association, but it will be consistent with the national reconciliation measures introduced by the Government.

On February 21, the South Dagon Township Court, Rangoon Division dropped the case against Zaw Zaw Aung, who was charged under Article 66(d) of the Telecommunication Law for criticizing Members of Parliament from South Dagon Township, Rangoon, on Facebook. He was released the same day. On February 8, nine students who staged a dramatic performance, critical of armed clashes between ethnic groups and the military, were granted bail at one million Kyat (US\$724) each by the Patheingyi Township Court, Irrawaddy Division. On February 20, Patheingyi Township Court adjourned the trial of four of the students under Section 540 of the Criminal Code on account of their matriculation exam on March 8. The students are expected to appear before the Court after their exams. On February 23, 11 farmers and two activists supporting the farmers were released on bail by the Pyin Oo Lwin Township Court in Mandalay Division. They had been in detention since October 23, 2016 when they were arrested for staging a ploughing protest to recover their lands, which were confiscated for the coffee project in Pyin Sar Village, Thet Kan Village and Thapayay Yay Village in Pyin Oo Lwin Township. The farmers and activists were charged under Sections 447, 440, and 392 of the Penal Code for criminal trespass, mischief and robbery. On February 21, eight women and seven men from Taunggyi Township, Southern Shan State, who were sentenced under section 447 of the Penal Code for Criminal Trespass and for vandalism amounting to 'mischief' under 427 of the Penal Code, after continuing to plough their farmland which was confiscated by the military, were released from prison.

AAPP strongly welcomes these releases, however these cases also highlight the fact that farmers continue to be arbitrarily arrested and detained over land confiscation disputes. AAPP therefore urges the Government to promptly resolve pending land confiscations matters and reiterates the urgent need to stop land grabbing, return stolen lands, provide compensation, and release all currently incarcerated farmers.

This month, several legislative issues have also been addressed. Firstly, the Union Election Commission (UEC) has drafted a comprehensive Bill in accordance with the Constitution allowing voters to recall a Hluttaw representative in case of inefficiency, disqualification, unacceptable behavior or law infringement, therefore giving the public some power over officials. The Bill will soon be tabled and all MPs are strongly encouraged to fully cooperate in its implementation. Second, The Ministry of Transport and Communications is reviewing the Telecommunications Law for possible amendment of Section 66(d). With the assistance of legal experts from international institutions such as the World Bank and Asian Development Bank, the Ministry must decide whether the electronic defamation clause should be revised. As Section 66(d) has been widely used to silence political dissidents, reform to this clause would represent significant progress towards democratization of Burma. Third, Lower House speaker Win Myint stressed the need for a Bill sanctioning surveillance actions which are

violating the privacy of individuals and insulting their dignity. Such behaviours involving tailing, taking photos or recording private communications are still widespread in Burma. This bill would enable citizens to complain to the police if they suspect any surveillance or intrusion without their knowledge. Fourth, according to Union Minister for Agriculture, Livestock and Irrigation, Dr Aung Thu, the Union Government plans to amend two laws to solve disputes over land confiscation. This topic is still one of great concern to the current government, and any initiative towards its resolution is welcome. Fifth, and finally, the Patheingyi Township Court in Irrawaddy Division has introduced a project aimed at speeding up court hearings, regarding both criminal and civil cases. The parties to the proceedings will be expected to attend the hearings without fault in order to avoid any delay. Quicker court proceedings will inevitably decrease the number of people detained awaiting trial, therefore reducing prison overcrowding and improving the conditions of political prisoners and criminal prisoners alike.

Although the Government has been taking several measures towards national reconciliation and the promotion of the rule of law, Burma's human rights situation keeps deteriorating. Incidents in this month's chronology were reported in a broader context of continued abuse of farmers' land rights, restrictions on civilians' freedom of expression and association and other civil and political rights. In light of this report, AAPP urges the government to prioritize legislative reforms in order to secure civil and political rights for its citizens and therefore take a significant step towards national peace and reconciliation. Moreover, AAPP appeals to the government to immediately and unconditionally release all remaining political prisoners as recognized by AAPP.

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