

# JANUARY CHRONOLOGY 2018

## Summary of the Current Situation:

There are **229** individuals oppressed in Burma due to political activities.

**45** are currently serving prison sentences,

**51** are awaiting trial inside prison,

**133** are awaiting trial outside prison.



Picture from the Irrawaddy © 2017  
Accessed January 2017



### Assistance Association for Political Prisoners (Burma)

နိုင်ငံရေးအကျဉ်းသားများ ကူညီစောင့်ရှောက်ရေးအသင်း (မြန်မာနိုင်ငံ)

P.O Box 93, Mae Sot, Tak Province 63110, Thailand

E-mail: [info@aappb.org](mailto:info@aappb.org), [info.aappburma@gmail.com](mailto:info.aappburma@gmail.com) Website: [www.aappb.org](http://www.aappb.org)

For more Information contact:

**Ko Tate Naing** Secretary +95(0) 94280 23828

**Ko Bo Kyi** Joint Secretary +66(0) 81 9628 713

# MONTH IN REVIEW

In January, 11 people were arrested, two protesters under Penal Code section 153 and 505(b), eight demonstrators under Section 19 of the Peaceful Assembly and Peaceful Protest Act (PAPPA), and one man under both the Flag Law and the PAPPL. Five of the nine protesters arrested under the PAPPA were charged, carried out their 20-day sentences, and were released this month, while three others had their charges dropped. This month, 13 people in total were charged: six under sections 153 and 505(b) of the Penal Code, two under the Privacy Law, four under Section 19 of the Peaceful Assembly and Peaceful Protest Act, and one under both the PAPPA and the Flag Law. Eight people were sentenced, all under Section 19 of the Peaceful Assembly and Peaceful Protest Act. In January, 13 people were released, including five from the New Mon State Party (NMSP), who had been carrying out sentences under Section 17/1 of the Unlawful Associations Act.

## **Crackdown on Protests**

Throughout January, AAPP tracked an increase in the Government's crackdown on protests for those who dare to use their rights of freedom of assembly when it explicitly goes against Government policies or actions. For instance, on January 12 the court sentenced five Karenni youth to 20 days in prison for leading a permit-less protest in December 2017 on the Military's alleged murder of a civilian and three KNPP soldiers. Permit-less protests violate Section 19 of the vaguely worded Peaceful Assembly and Peaceful Procession Act (PAPPA or Act). They were released on January 24 after serving their sentences. In an attempt to further silence the voices of the protesters and stifle freedom of expression, authorities banned groups from sharing information on the five at a Karenni National Day celebration. Finally, in another effort to revoke protesters' rights in Karenni State, police arrested and subsequently released three men who were detained after leading a January 5 protest against the prosecution of the abovementioned youth. At the time of arrest, they too faced charges under Section 19 of the PAPPA. These arrests and sentences are in conflict with rights protected under the Universal Declaration of Human rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), citing Article 19 the right to freely disseminate information, and Article 20 of the UDHR and Article 21 of the ICCPR, the right to peaceful assembly. As a United Nations (UN) member state, Burma is obligated to comply with these international standards. Further, it is disturbing that authorities continue to be quick to arrest and suppress people's voices when it concerns the Military and their alleged dealings with citizens, which harms the peace process and national reconciliation efforts in Burma. The law is being used to suppress the voices of activists and political dissidents, and erodes faith in the judiciary, as well as the Government. AAPP urges authorities to stop arresting and charging individuals under Section 19 of the PAPPA due to its vague wording and urges the Government to re-evaluate the Act as it continues to lead to countless arrests, and only allows protests after permission is granted. In order to move toward a new era in Burma's democracy, the PAPPA must be rewritten to ensure civil and political rights are able to be realized throughout the country without fear of prosecution.

In addition to suppressing protesters' right to assemble in Karenni State, authorities fatally cracked down on a protest that turned violent in Mrauk-U, northern Arakan State on January 16, leading to seven civilian deaths and 12 injured. In connection to this, five youth have been fined 30,000 kyat (US\$22.50) each under Section 19 of the PAPPA due to holding a response protest to on January 17 without first seeking approval from authorities. Their charges show the great flaw within the PAPPA, because citizens must be allowed to peacefully react to events in a timely fashion, and the strict stipulations in

this law prevents individuals from doing this. AAPP strongly urges the Government to amend this law so that it is not used to the detriment of citizens carrying out rights found in international instruments.

In addition to these troubling charges, authorities are currently investigating eight youth, who sustained injuries during the protest, and are being detained in the hospital's prisoner wing, violating their ICCPR and UDHR right to freedom of movement (Articles 12 and 13, respectively), and is essentially a form of pre-trial detention. The youths had their hands and legs cuffed while being treated for injuries, which is not only a violation of healthcare rights, but also violates their right to dignity, and contravenes stipulations found in the UN Standard Minimum Rules for the Treatment of Prisoners (SMRs). AAPP calls on the Government to enforce international standards for arrests, and ensure that, as stated in the UDHR, ICCPR, and SMRs their dignity is respected in all interactions (Article 1 UDHR, Article 10 ICCPR, and SMR 60).

This month, students held their first protest since the instatement of the NLD Government. Led by the All Burma Federation of Students' Union (ABFSU), they protested for a raise to the education budget, as well as the construction of school buildings and more adequate teaching materials. The Defense Department's request for a budget increase, which is already larger than the education budget and health budgets combined, sparked the protest. After threatening a hunger strike if demands were not met, authorities briefly detained 72 students on January 25. Since their release, 36 students have been expelled for offenses such as breaching codes of conduct, misbehaving in classrooms, and disobeying

teachers. The students' dismissal has triggered response protests at a university Sagaing Division. It is distressing that university officials have ended the academic careers for students taking part in protests, a right that is protected under international instruments, and must be allowed in institutions of higher education where freedom of thought, opinion and assembly should be celebrated. The Government must be willing to work with students on a compromise to provide the teaching materials and facilities for Burmese universities to be competitive on the international level, which will help grow the country's working force, and GDP. AAPP condemns the Government for the handling of this event, especially in light of how and why the NLD came into existence - due to the historic student protests in 1988, now known at the 8888 uprising, of which many NLD members participated. AAPP commends the students for exercising their rights and urges officials to work toward a compromise that helps Burmese students meet their potential.

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### **Closing Space for Freedom of Expression**

In January, AAPP continued to monitor cases that restrict freedom of expression. Unfortunately, multiple cases that erode these rights arose throughout the month. Reuters Journalists, Wa Lone and Kyaw Soe Oo, were officially charged under the Official Secrets Act on January 10 and continue to be detained awaiting sentencing despite international uproar from the UN, foreign governments, and civil society organizations (CSOs), including AAPP. As stated in last month's chronology, their arrest, and detention are incompatible under international instruments, citing protection from arbitrary arrest and detention, and freedom of expression, in Articles 9 and 19(2) of the ICCPR, respectively. Further, the act of arresting and formally charging journalists damages the country's democratic transition and

destroys trust in the Courts as press freedom and freedom of the judiciary are pillars to democracy. AAPP reiterates the call for their charges to be immediately dropped and for their unconditional release.

Wa Lone and Kyaw Soe Oo were not the only journalists facing restrictions in January. Journalists covering an ongoing high-profile arms case were denied entry to the trial. According to Section 4(d) of the 2014 News Media Law, as well as the Supreme Court's handbook for the media, journalists are given access to courts and legally allowed to cover cases. Although they had previously registered with the Court and were given access cards, they were prevented from doing their jobs, which violates international instruments as well as Burma's domestic law. These types of restrictions fall within the larger context of journalists in Chin and Shan states being unable to get access to the Parliament and judiciary, making it unreasonably difficult to report on matters of local and national interest. AAPP urges the authorities to give journalists unrestricted access to Parliamentary sessions and court hearings, which is in line with domestic law, and a right protected by Article 19 of the ICCPR. Journalists must be allowed to receive and impart correct information in a timely fashion to encourage a free flow of information in the country. In Burma's 2017 Freedom of the Press score, Freedom House classified Burma as a society without a free press, AAPP agrees with Freedom House in that this trend of arresting journalists is a primary reason why.

In addition to the troubling trends facing journalists, individuals continued to be suppressed through Burma's stringent defamation laws. However, a worrying trend of filing charges under the Privacy Law has started to emerge. Enacted in March 2017, the law protects the privacy and personal security of citizens. However, Section 8(f) includes a clause that criminalizes harm to reputation, and the law has quickly deteriorated into a tool to prosecute critics. In January, two cases were filed under section 8(f) and one case under Section 10 (which refers to Section 8) of the law. In Mon State, a man was sued by a member of the Mon State Ethnic Affairs Committee for Facebook posts criticizing the Mon State Chief Minister, Aye Zaw. If charged, he could be incarcerated for up to three years, and fined up to 1,500,000 kyats (US\$1,100). In Magway Township, a man was sued for publishing critical Facebook posts in July and November 2017 about the City Development Committee. Finally, in the U Ko Ni murder trial one of the defendants will sue the prosecution's lawyers under this law for statements they made about him in a January 12 hearing. Previously, defamation charges were brought under or Section 505 of the Penal Code, or the flawed Section 66(d) of the Telecommunications Act, which, thus far, has had a 100 percent conviction rate. It is too early to tell if these new suits are part of a larger shift in filing charges, but, if it is, this shows the Government is adapting its methods of control due to the international outcry that has taken place regarding Section 66(d). AAPP urges the Government to decriminalize defamation and ensure that individuals are not charged with defamation for simply questioning the Government, a right they have as part of a democratic society.

On January 15, the Myanmar National Human Rights Commission (MNHRC) investigated Pyay and Paungde Prisons, police stations to assess whether the prison was in line with international human rights standards. They found that the prison has many issues with sanitation. According to MNHRC Commissioner, Yu Lwin Aung, if prisoners fight with each other, other prisoners from the different cells, who are appointed to manage prisoners, beat them. To prevent the violations of prisoner rights, prison authorities must address this issue immediately. In the days following charges to the Reuters Journalists, Wa Lone and Kyaw Soe Oo, as well as the arrests of those associated with the Mrauk-U events, the *Global New Light of Myanmar* published opinion pieces explaining the necessity of the laws

under which they were arrested. The laws analyzed included the 1923 Official Secrets Act, Penal Code 121 (High Treason), and Unlawful Associations Act. These published pieces not only served as a harrowing reminder that those who critique the Government will be prosecuted, but also raised concerns about the independence of the judiciary from the executive branch. As the NLD's 2016 victory supposedly ushered in a new democratic wave in Burma's political history, AAPP urges the party to remain independent from the courts as the judiciary is the only branch with the power and mandate to interpret the application of laws.

In addition to this, AAPP observed how the new Youth Rights Policy the Government enacted this month runs counter to cases that have recently been tried in the Courts. Burma's youth population makes up more than a third of the country's population and helped draft a policy focused on issues related to youth education, health, drug use, job opportunities, economics, political research, literature, arts, and culture. Following the release of this policy, 133 civil society organizations issued a statement on youth arrests throughout 2017, including recent cases of Karenni youth, and Reuters journalists. In addition to these cases, in January, the judge presiding over the trial of former child soldier, Aung Ko Htwe, decided the case would continue, despite calls for its dismissal. Further, in January, a handful of university students were on the receiving end of harsh Government laws against peaceful protests by being expelled from school [see Crackdown on Protests section]. These cases highlight ways that Burma's legal system has actually been very harsh on Burma's youth. AAPP stands with youth activists and journalists who are fighting for a democratic society in Burma and have been prosecuted for their beliefs and activism. AAPP additionally reminds the Government that enacting a youth policy must be followed up by action that protects the rights of all youth - even those who are incarcerated.

### **Prison and Government Reforms**

Prison reform continues to be a necessity to bring Burmese prisons up to international standards. On January 15, the Myanmar National Human Rights Commission (MNHRC) investigated Pyay and Paungde Prisons, police stations to assess whether the prison was in line with international human rights standards. They found that the prison has many issues with sanitation. According to MNHRC Commissioner, Yu Lwin Aung, if prisoners fight with each other, other prisoners from the different cells, who are appointed to manage prisoners, beat them. To prevent the violations of prisoner rights, prison authorities must address this issue immediately. The MNHRC further stated overcrowding is a major issue and is a human rights violation. There are many ways Burma's prison conditions, and overcrowding specifically, are in violation of international law. According to Principle 5 of the Basic Principles for the Treatment of Prisoners, all prisoners are afforded rights listed in the UDHR, ICCPR, and International Covenant on Economic, Social, and Cultural Rights (ICESCR), unless directly contrary to liberties revoked as prisoners. Under Article 11 of the ICESCR, the Government must provide adequate food, clothing, and housing to those within its borders. As Burma has ratified this Covenant, it is bound by its Articles. Adequate food, clothing, and housing are not revocable rights for those incarcerated as it is a public health issue, and the lack of adequate bathing and bedding facilities are violations of SMR 9 and 13. Further, according to the UN Human Rights Council, overcrowding is a form of torture. The report concludes with a few ways the Corrections Department can address these issues by reforming 'easy to fix' areas, such as using pre-trial detention only as a last resort and lowering disproportionate drug charges. Many of these reforms, however, may not be carried out, as prison reform is sadly, not a legislative priority for the ruling NLD. Although the NLD granted hundreds of amnesties within hours of victory, and is a party made up of many former political prisoners, its policies

have not been reflective of this. Under the NLD there has been a spike in imprisoning journalists and activists. AAPP commends the MNHRC for reporting on these issues but urges the MNHRC to monitor and intervene when necessary in order to ensure changes are made and that rights are not violated. Further, AAPP implores the Government to follow through on legislative promises and adhere to obligations under international law.

On January 19, A military court in Mansi Township, Kachin State, sentenced six soldiers to 10 years in prison for the killing of three Kachin men from Maihkawng Camp in May 2017. Relatives of the victims and a few local civil society representatives were invited to the military court for the sentencing. This is the first time in six years, civilians have been invited to observe a military court session. AAPP commends this sentencing and urges the government to sign Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) to end all forms of torture.

In January, an International Court of Justice (ICJ) report found that the Government must act to counteract decades of Military impunity for human rights violations. Due to provisions in the 2008 Constitution, the 1959 Defence Services Act and the 1995 Police Force Maintenance of Discipline Law, the Military are rarely held accountable for rights violations. The report calls on the Government to address issues of impunity and help restore justice and the rule of law for individual victims, rights defenders, and journalists. Constitutional reform is a necessary first step to address this impunity and create a true democracy. AAPP calls on the Government to push forward the reconciliation process, and move Burma toward a true democratic society.

### **Land Issue Updates**

Farmers continue to face challenges with confiscation and land-grabbing throughout Burma. In some instances, although the State was willing to help, their lack of resources and mechanisms for recourse proved to be the biggest hurdle. Further, the lack of legislation that is in line with international standards when regulating land ownership and disputes has raised concerns with farmers. In January, the Farmers Affairs Committee announced that the 2017 Draft Land Acquisition Act is in accordance with the international standards for those who have had their land confiscated, and that citizens will receive compensation for confiscated lands. However, and land activists and civil society groups in Kachin State working with internally displaced peoples (IDPs) and indigenous people have raised concerns about the lack of opportunities for people to have their land returned. Activists have discussed that the law should include indigenous peoples and be based on human rights because the implementation of 2017 Land Acquisition Draft Law may negatively affect the peace process. AAPP has been unable to see a copy of the draft law but urges the Government to refer to international jurisprudence on land confiscation as outlined in the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement, which obligates States to refrain from confiscating land if the action does not contribute to the enjoyment of human rights. Further, AAPP advises the Government to adhere to Article 8 of the United Nations Declaration on the Rights of Indigenous Peoples, which obligates the State to provide effective mechanisms for prevention of, and redress for any action that has the aim or effect of dispossessing indigenous peoples of their lands. AAPP will continue to monitor the situation and provide recommendations to the Government based upon obligations under international law.

AAPP tracked land-related breaches to international obligations in the following townships and villages in January:

- **Shan State**

Farmers in southern Shan State, Taunggyi Township will be sued for squatting on land they claim has been theirs for more than 20 years. In 1993, a certain amount of land was allocated to Taunggyi University and the Road Transport Administration Department; however, according to people squatting on the area in question, fences are encroaching on their land, and they have complained to multiple Government departments. The Deputy Director of Taunggyi Township's City Development Committee, Aye Ko, says the Committee will not hold negotiations with the 120 households who will be listed on the suit. AAPP calls on the Taunggyi Township City Development Committee to drop the suit and ensure the city's building projects do not encroach on individuals' land. Further, AAPP strongly urges the regional Government to listen to the complaints of farmers and ensure that their livelihoods and homes are not confiscated for Government projects, as advised under the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement.

- **Kachin State**

IDPs in Waingmaw Township, Kachin State are worried about land grabbing from companies establishing banana plantations while displaced from their homes. Residents know there is no mechanism for recourse with the regional Government. AAPP urges the Government to remember obligations under Principle 21 (3) of the UN Guidelines for Internally Displaced Peoples, citing protection of property left behind against arbitrary use. It is extremely distressing that residents fleeing from their homes due to violence must worry about their livelihoods upon return. AAPP stresses that the Government must establish bodies to ensure IDPs retain full ownership and use of their lands once they return home, and to ensure that no one else uses their land during the time it is unsafe for them to be physically present. Further, AAPP reminds the Government that as a UN member state, it must remember its obligations under UN principles and guidelines.

- **Magway Region**

According to Pyithu Hluttaw Deputy Minister for Transport and Communications, Kyaw Myo, compensation will be given to farmers whose lands were disrupted by the Pakkoku-Kyangin and Minbu-An railroads. Farmers will receive 3.24 billion kyat (US\$2,430,187.50) for 2,292.16 acres in Minbu Township. The regional farmland management group made an assessment of compensation for land in the Kanyay Village Tract in the 2016-2017 fiscal year and are currently assessing the four other affected village tracks. AAPP commends the Government for rightfully compensating farmers who lost land due to this infrastructure project and urges the regional management group to swiftly assess the land in remaining village tracks in order to ensure speedy compensation and no loss of livelihood for those depending on the lands to live and work.

- **Karen State**

Myo Min Tun officials in Hpa-an Township will take legal action against farmers in February if they do not remove road barriers to Lon Nya Mountain. Farmers have blocked, this now

destroyed, road leading to the mountain in an effort to stop the building process of Eindu-Kawkareik Highway. 900 farmers signed a petition to stop highway production, but never received a response from authorities. Rock production has taken place on the mountain since 2007 for various projects, and authorities have failed to consult farmers on a number of these projects before starting production. It is disheartening that farmers have not been consulted on projects that affect their everyday lives, and their community. AAPP urges an open dialogue between Township officials and residents in the area before any legal action is taken.

- **Arakan State**

In January, farmers from Mauk Kyait Village Tract, Mye Pon Township, submitted a petition to Vice President, Henry Van Thio, to return more than 200 acres land to owners that the Prison Department took. In 2004, the Prison Department took the farmland to grow rice, and expand shrimp and salt businesses. In 2010, however, the Department stopped these businesses, but leased the land out to others instead of returning it.

In Ann Township, the Army and related departments have returned land. However, most farmers have not received their land yet because the Ann Township Land Committee has not done anything to address the return of land. On January 8, farmers held a public meeting to urge the Government to return land to its original owners. In January 2016, 1,600 acres were returned; while some farmers have received land, others have not. Former farmers, as well as current farmers are encouraged to report confiscated land to the Committee, in order to help quicken the process.

AAPP urges the Government to support the livelihoods and right to work of Arakan State farmers, as stipulated under Article 6 of the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which Burma ratified October 6, 2017. Although it was inappropriate for the Prison Department to confiscate land in the first place, the Government must now ensure the land is returned to its rightful owners instead of leased to businesses at the will of the Department. AAPP urges the Land Committee to prioritize returning land to the correct owners so that farmers can work and earn a living in the way they choose.

- **Mandalay Division**

Residents from Gan Na Mar Village and Inn Kyel Village, Pathein Gyi Township have requested that the Government revoke the protected area status of Mae-U Mountain and the 200 acres of land surrounding it. According to locals, many farmers have been working on the same land identified as their ancestors by the 1907 the Department of Land Records. However, in 2013, the Department of Land recognized Mae-U Mountain as a Government protected area, but farmers are worried the Government will confiscate the land near the mountain in the future. On January 23, they submitted a petition to Mandalay Division Government to cancel the protected land status. It is distressing that the Government may use a protected land status to confiscate lands and take away livelihoods of farmers in the Township. While AAPP understands that the Mae-U Mountain may need to keep its status as a protected area, AAPP stresses that the Government cannot confiscate farmers' land near the mountain in an arbitrary manner and asks

for an open dialogue between the farmers and Government to protect the livelihoods of those working the land and assuage the fears of the local people. On January 17, farmers from Yae Kyi Village, Naung Pin Village, Youe Su Village, and Pathein Gyi Township, threatened to begin working on land again if it is not returned by the end of the month. In 1997, more than 173 acres land from 28 farmers was confiscated to build a Fire Department Training Centre, and then passed to the Former Military Serviceman Training School. According to Farmer Khin Oo, since the local farmers have not had land for the past 20 years, they have been doing any work they can find. Since 2012, the farmers have sent letters to different Departments, including the President's Office, but there has been no response. As a signatory of the ICESCR, the Government is obligated to ensure the full realization of rights found in the instrument. The lack of Government support and response in this matter breaches the right to work found in Article 6 and must swiftly be rectified so farmers can return to the work of their choice.

- **Irrawaddy Division**

On January 20, residents protested for the return of unused land, and for fair compensation of land confiscated for the Ngwe Saung Hotel Project at Ngwe Saung Town, Irrawaddy Division. The protesters held V9 signs and called on the land committee to review this case and respect the requests of the people. In 2000, Ngwe Saung Beach Committee, Township and District Authority confiscated 315 acres of land from 248 farmers. They didn't give compensation for the land, only for the coconut trees found on the land at 4500 kyat (US\$3.38) per tree. Demonstrators said in 2015 the Government announced the return of land to the owners, but the hotel continued to be built. AAPP therefore urges the government to give compensation and to return land to farmers who face trouble for their daily life.

- **West Bago Division**

Kwin Tha Village, Pa Dat Village Tract, Nattalinn Township farmers have lost work because the Department of Land never carried out exact measurements for the land. Failure on part of the Government to carry out this process is directly against the rights to work, housing, and food found in Articles 23 and 25 of the UDHR and Articles 6 and 11 of the ICESCR. AAPP, therefore, calls on the Government to swiftly comply with international obligations and ensure citizens have the right to work on land that is rightfully theirs by properly measuring land for farmers.

Incidents in this month's chronology were reported in a broader context of conflict between the military and ethnic armed groups, continued abuse of farmers' land rights and restrictions on civilians' freedom of expression and other civil and political rights. In light of this report, AAPP urges the Government to prioritize the review and amendment of repressive legislation in order to secure civil and political rights for its citizens and therefore achieve national peace and reconciliation. Moreover, AAPP appeals to the Government to immediately and unconditionally release all remaining political prisoners.