

MARCH CHRONOLOGY 2017

Summary of the Current Situation:

There are **299** individuals oppressed in Burma due to political activities.

93 are currently serving prison sentences,

85 are awaiting trial inside prison,

121 are awaiting trial outside prison.



Picture from Irrawaddy © 2017
Accessed March 21, 2017

	Assistance Association for Political Prisoners (Burma)
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MONTH IN REVIEW

This month, 420 people were arrested. 320 of these were arrested by the Myanmar National Democratic Alliance Army, 91 by the Ta'ang National Liberation Army, and two by the Border Guard Force. In March, 80 people were charged, including four people under Section 66(d) of the Telecommunications Law, one individual under Section 500 of the Penal Code, and 50 individuals for protesting at the Letpadaung Copper Mine. In March, ten people were sentenced and four people are suffering from bad health in prison.

One year into the NLD-led government, the Government is facing its first unofficial annual review. Sky-high expectations and cautious optimism underlies the critiques on poor performance, critiques that were echoed by State Counselor Daw Aung San Suu Kyi when she urged the people of Burma to remain patient. AAPP understands and is, to a certain extent, sympathetic with the Government regarding the separation of powers, the entrenched military control, and the struggles inherited from the previous U Thein Sein Government which continues to undermine the democratization process. However, the inaction on the continued existence of political prisoners, and restrictions on civil and political rights is for AAPP unacceptable and AAPP hopes the Government will start to take some steps forward in their coming months. The people's assessment of the party's performance will become apparent in the by-elections on April 1. Although the elections will not have a significant influence on the distribution of power in Parliament, it will gauge the public opinion.

Section 66(d) of the Telecommunications Law continues to be used as a tool to imprison individuals for defamation. Myanmar Now Chief Reporter Swe Win [pictured above] is being sued under Section 66(d) of the Telecommunications Law for allegedly defaming The Association for the Protection of Race and Religion (Ma Ba Tha) leader U Wirathu. He had stated in a Facebook post U Wirathu had transgressed the Buddhist monk code by publicly praising the murder of prominent Muslim lawyer and National League Democracy legal adviser U Ko Ni, and had refused to apologize to the monk. His refusal to apologize spurred U Wirathu to order Ma Ba Tha member Kyaw Myo Shwe to file a lawsuit under section 66(d). The issue stirred public debate, arousing discontent with Swe Win, especially from the members of the Patriotic Myanmar Monks Union (PMMU), as well as public support for the reporter. It is not yet clear whether the case will progress to court. AAPP predicts Ko Swe Win will be charged under a provision in Chapter XV of the Penal Code relating to offences relating to religion, most likely 295(a) or 298. We are closely monitoring this story and will report on exact charges when we have verified the information. AAPP believes that this case exemplifies how Section 66(d) is used to limit freedom of expression and condemns any charge against Swe Win on grounds of insulting religion with a statement denouncing violence.

Following the Swe Win lawsuit, Kyaw Myo Shwe himself received a similar lawsuit for a Facebook post stating that if a military coup happened again, it would be the fault of the General's daughter. Kyaw Myo Shwe denies his comment was referring to Daw Aung San Suu Kyi, and believes the lawsuit is a result of his own lawsuit against Swe Win.

Section 66(d) continues to be used in civil cases as well as political. This can be seen in two main examples this month. First, Section 66(d) was also cited to charge former ethnic armed group (EAG) member Phoe Thada, when he sent a threatening text message to National League for Democracy (NLD) Chairman Sai Gyi from Bawlakhe Township, Karen State. Second, 21-year-old Wana Oo faces up to three years in prison for calling his mother a prostitute on Facebook. Both of these cases demonstrate the vagueness in the terminology of the law and thus its arbitrary use for both politically motivated and non-politically motivated 'defamation'. AAPP denounces the use of the defamation clause for handling such cases. NLD MP Ye Htut of Sagaing Region Constituency 6, addressed the press on March 10, discussing his efforts to amend or abolish Section 66(d) a few months ago. He had submitted a proposal to the scrutinizing committee, who replied that this matter was not yet appropriate. Despite the discouragement, Ye Htut said intends to submit the proposal again at the next Upper House Meeting. AAPP urges Upper House Officials to reconsider the proposal in the next meeting, and immediately amend or repeal the Telecommunications Law. The wording of the Law needs to be revised as a matter of urgency to prevent it being used arbitrarily. Not only does the law prevent the right to freedom of expression as enshrined in Article 19 of the Universal Declaration of Human Rights (UDHR), but the penalties of up to three years' incarceration, or fine, or both, are completely disproportionate to the alleged crimes being committed.

Section 500 of the Penal Code, also detailing defamation, continues to be used as a repressive tool as well. Baptist Church Official Naung Lat, who was held incommunicado for one month from December 24 to January 19, and charged under Section 17/1 and Section 8 of the Import and Export Law with his associate Gam Seng for alleged association with the Kachin Independence Army (KIA), has now been additionally charged for defaming the Military under Section 500 of the Penal Code. Like Section 66(d), Section 500 of the Penal Code also prescribes repressive penalties with a maximum prison term of up to two years or with fine or with both.

Accusations of affiliation with ethnic armed groups continue to threaten people from ethnic areas, and impede reconciliation. Two villagers in Eastern Shan State were released by the Border Guard Force (BGF) on March 17, following an arrest earlier this month under the suspicion of being informants of the Restoration Council of Shan State (RCSS) and/or their armed wing, the Shan State Army-South (SSA-S). 21 soldiers of the Shan State Progress Party (SSPP) and its armed wing, the Shan State Army-North (SSA-N), who were arrested in April 2016, appeared before the Muse Township Court. The soldiers face charges under Section 17/1 of the Unlawful Associations Act, despite the

Nationwide Ceasefire Agreement (NCA). AAPP urges the government to keep in mind that involvement with ethnic armed groups is often an inevitable and unfortunate consequence of the widespread conflict in Burma. Rather than repression of association with ethnic armed groups, AAPP would like to see the genuine intent to reach reconciliation with ethnic minorities, and increased efforts to achieve sustainable peace.

AAPP urges the Government to proceed with the 21st Century Panglong Peace Conference in an inclusive manner. Individuals from ethnic areas also continue to be forcibly recruited into Ethnic Armed Groups. The Military reported that 260 individuals were forced to attend military training in Nant Hsan Township, allegedly by Myanmar National Democratic Alliance Army (MNDAA), while the Ta'ang National Liberation Army (TNLA) was accused of mass abduction. According to the allegations, 91 locals were kept for one day, and while 88 were released the next day, two did not return. AAPP is tracking this case, and are working towards gathering more information about their whereabouts.

Confiscation of farmlands and inadequate compensation for such confiscation persists, and farmers' rights are still encroached upon. A few cases of compensation have been highlighted in the media, such as the promise to return over 768.9 acres of previously confiscated land in Mandalay Region to their original farmers in April this year. The promise followed protests addressing both land seizure and detention of farmers. 381 other farmers in Mandalay Region were financially compensated for confiscated lands,

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“Consultation with victims is paramount when dealing with reparation in land grabbing cases”
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which was a satisfactory solution for some, but less so for others. In Irrawaddy division, land committees received funds to financially compensate over 699 farmers for lands confiscated during river pumping activities. AAPP welcomes these events, but stresses that adequate compensation for victims of land grabbing is still not systematically implemented. AAPP urges the Government to take into consideration the wishes of victims of land grabbing. Monetary compensation may not necessarily be the answer for

many victims who may prefer the return of their land. AAPP stress that consultation with victims is paramount when dealing with reparations in land grabbing cases.

In Sagaing Division, residents staged mass protest to urge the Chinese run Letpadaung Copper Mine to award adequate compensation for damaged lands. 50 of these protesting farmers were subsequently charged under Section 6(1) of the Public Protection Act, Section 19 of the Peaceful Association and Peaceful Assembly Act, and Sections 143 and 333 of the Penal Code for unlawful assembly and voluntarily causing grievous hurt to deter public servant from his duty, respectively. AAPP reaffirms the role of the government to not only refrain from confiscating land, but also prevent third parties from confiscating or damaging farmlands, arrange adequate compensation to farmers for any land confiscated, and ensure consultation mechanisms for any potential future activities

which require the use of occupied lands. Notably, AAPP reiterates the right to peaceful assembly and freedom of expression, and highlights the importance of such rights in the agency of farmers and to ensure that farmers are no longer criminalized for attempting to regain ownership of land arbitrarily and illegally confiscated.

The right to assemble as enshrined in Article 20(1) of the UDHR continues to be oppressed. In aforementioned protests in Sagaing Division on March 24, 10 farmers were injured by rubber bullets in police assaults. This is a violation of the right to security of person, which in turn obstructs de facto enjoyment of the right to peaceful assembly. Four activists, Front of Socialist Democratic Union member Kyaw Ko Ko, All Burma Students' Democratic Front member (ABSDF) Kaung Htet Kyaw, Youth of New Society member Ye Aung Aye and Activist Naing Zaw Kyi Win, protested these violent crackdowns, and were subsequently charged with Section 19 of the Peaceful Assembly and Peaceful Processions Act, and warned they might be prosecuted for failing to apply for permission. Such legal actions infringe on their right to assemble. Section 19 of the Peaceful Assembly and Processions Act was also cited in the case this month against social activists Zaw Win, Oo Than Hlaing and Win Naing in Rakhine state. The social activists had called members of the citizenship committee national betrayers, and were sentenced to 15 days of imprisonment and a fine under Section 19. Mindful of both cases, AAPP emphasizes that in a truly democratic society, the public voicing discontent is crucial, and the pivotal role the right to assemble plays in that response. In this light, AAPP condemns the repressive use of Section 19 of the Peaceful Assembly and Peaceful Processions Act.

Parliament has not yet initiated fundamental reforms of the judiciary or the prison system. The NLD Government released a one-year performance report, claiming that the judicial system is in accordance with standard practice in democratic countries. Legal experts challenged this claim. They have repeatedly stated that no significant improvement has been observed under the new Government, and founding member of Myanmar Lawyers' Network (MLN) Thein Than Oo reportedly stated that the military origins in the existing judicial system is reflected in training and mindsets of judicial staff. The experts vocalize again the necessity of fundamental reforms. AAPP urges the Government to heed these remarks, refrain from settling for the current judicial system and instead instigate fundamental judiciary reforms without hesitation as soon as possible.

Concrete issues about the judiciary were raised by the Regional Hluttaw Judicial, Rule of law, Complaints and Appeals Scrutiny Committee (JRLCASC), in their investigation of the independence of courts. The JRLCASC spoke out against courts and other judicial offices being housed on land owned by the General Administration, pointing out that the branches of Government should be separated. Their recommendations focus on ridding the poor image of the judiciary system, and include separation of both the court office and legal office from other general offices, the reconstruction of courts and police stations with poor appearance, the formation of watch teams for the judicial system,

Constitutional amendments, while the committee steers toward fundamental reform. AAPP would like to see these recommendations implemented as part of the greater judiciary reform.

Another issue that challenges the integrity of the judiciary is corruption. In March, a proposal passed in the Lower House to allow Parliament to oversee the judiciary in an effort to curb corruption. Chief Justice Soe Nyunt opposed the proposal, claiming less than one percent of the judges were found guilty of corruption charges. Yet when Parliament's Judicial and Legal Affairs Complaints and Appeals Committee was inspecting the courthouses, there were many allegations of judges demanding bribes. Fact-finding plays an essential role on the road to fundamental judicial reform, and AAPP highlights the importance of an open public debate to achieve comprehensive fact-finding. It is therefore important that systematic illicit action is not denied, but rather exposed, especially in Parliamentary debate. AAPP would like to see corruption adequately addressed in any judicial reform or any other systematic improvement.

What is furthermore important is that the Government develops a formal definition of political prisoners. This month, Deputy Home Affairs Minister, Major General Aung Soe stated that the Military has no plans to define the meanings of 'Political Prisoners' and 'Political Offence'. Until such definitions are in place, meaningful communications between civil society, media, and the Government about the issue remains challenging. The lack of such definition is causing a serious bottleneck in the protection of rights of political prisoners. AAPP urges the Government to adopt [AAPP's definition](#) of political prisoners to ensure the safeguarding of groups including farmers and ethnic minorities.

This month, a new Privacy Bill was passed by the Government. The Bill limits household arrests, detention over 24 hours, and inspections, as well as surveillance of individuals and their private communications including phone taps, prescribing prison terms and fines for violations. The Bill was received with skepticism, and several civil society organisations spoke out against it, denouncing its vague wording and claiming it does not meet international standards. AAPP echoes calls for public consultation on important public issues such as these and would like to see the issues that were brought up by civil society addressed by Parliament.

No intent to reform the Prison System has been expressed. Despite the special report by news agency 'Irrawaddy' on widespread corruption and human rights abuses in Burma's 48 prison labor camps, prisoners continue to be treated in violation of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMRs). Myanmar Now Journalist Swe Win photographed dozens of shackled prisoners performing hard manual work in Zin Kyeik Labour Camp, Mon State. This is a direct violation of Sections 33 and 34 the SMRs which state that instruments of restraint, including shackles, shall not be used as punishment, only be used under extremely limited conditions and never be used longer than necessary. Further, reports were made of violations of the 1930 Forced Labor

Convention of the International Labor Organisation. Swe Win's work underpins the importance of visual documentary of prison conditions in the continuous effort to align prison conditions with international standards.

The Myanmar National Human Rights Commission (MNHRC) reported it found no human rights abuses in the Rangoon Prison System, while prisons in Mon State initiated repairs following another MNHRC report. AAPP believes in continuous review of state practice, and encourages governmental bodies to remain critical in such reviews. Only under transparent and impartial reviews, will prison reform be potentially successful. This month, the Government announced that the number of prison employees will increase by 1,500, to diminish the workload in currently understaffed prisons. While this change is worthwhile, AAPP stresses that for proper results, it must be combined with greater prison reforms including immediate address of the severe state of overcrowding and the training of prison staff in human rights and international human rights law.

AAPP continues to monitor the development of and activities by former political prisoners. Well-known former student leaders and political activists of the 88 Generation Peace and Open Society Ko Ko Gyi, Min Zayya and Thet Htun plan to form a new political party in early 2018 to contest in the 2020 general election. They do not see themselves as an opposition party, but will criticize and advise the ruling party where necessary. Further, NLD lawmaker and former political prisoner Dr. Aye Zan was appointed as the Chief Minister of Mon State on March 1. AAPP is pleased to announce that United States based nonprofit human development organization FHI 360 will provide 50 fellowships for former political prisoners in Burma, provided these ex-prisoners are not currently affiliated with a particular organisation or already have a steady income.

Although the Government continue to take measures to achieve national reconciliation and promote the rule of law in Burma, the country's human rights situation continues to deteriorate. The stories 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, restrictions on civilians' freedom of expression and other human rights. We strongly urge the government to immediately and unconditionally release all remaining political prisoners as recognized by AAPP. The peace process must be prioritized and legislative reform undertaken urgently to secure civil and political rights for all people in Burma.