

# APRIL CHRONOLOGY 2017

## Summary of the Current Situation:

There are **305** individuals oppressed in Burma due to political activities.

**99** are currently serving prison sentences,

**91** are awaiting trial inside prison,

**115** are awaiting trial outside prison.



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**Assistance Association for Political Prisoners (Burma)**

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# MONTH IN REVIEW

This month, 23 people were arrested, 16 farmers, two individuals from ethnic areas, one individual under Section 68(a) of the Telecommunications Law, and 4 individuals under Section 19 of the Peaceful Assembly and Peaceful Procession Act. In April, seven people were charged, including two individuals for unlawful association, one individual under Section 68(a) of the Telecommunications Law, and four individuals under Section 19 of the Peaceful Assembly and Peaceful Procession Act. There were 20 sentences in the month of April. Nine individuals were released, four under Section 66(d) of the Telecommunications Law, one under Section 68(a) of the Telecommunications Law, and four individuals incarcerated under Section 19 of the Peaceful Assembly and Peaceful Procession Law. Three incarcerated political prisoners are reported to be in bad health.

In April, individuals from ethnic areas continue to be accused of affiliation with ethnic armed groups (EAGs). On April 10, Abbot Nanda Thara and Khine Ni Min were arrested in Arakan State's Mrauk Oo Township after a case was filed by a Light Infantry Battalion #540 under the Unlawful Association Act. The men had organized a football match dubbed the 'Arakan Army Cup' commemorating the founding of the Arakan Army in 2009. The men were charged under Section 17/1 of the Unlawful Association Act. Human Rights Defender and Deputy Information Officer of Arakan Liberation Party (ALP) Khaing Myo Htun was prosecuted after nine months in detention. On May 5, 2016, Lieutenant Colonel Tin Naing Tun of the Military filed a complaint against Khaing Myo Htun under Sections 505(b) and (c) of the Penal Code for sedition and incitement respectively, following a statement on behalf of the ALP on April 24, 2016, implicating the military for using civilian forced labor and committing international crimes against civilians in Arakan State. These charges go against the reconciliation measures initiated by the government, and violate the citizens' fundamental right to freedom of association enshrined in Article 20 of the Universal Declaration of Human Rights (UDHR). AAPP therefore urges the government to proceed with the 21<sup>st</sup> Century Panglong Peace Conference to be held in May in an inclusive manner. This means involving all ethnic

armed groups, including those which have not signed the National Ceasefire Agreement (NCA), in the discussions.

The organisation of the Conference should be prioritized to avoid the incidents like the United Wa State Army claiming “Inequality” because they were only given observatory passes.

People from ethnic minorities also continue to experience unfair treatment after arbitrary arrest. Lahpai Gam, a 56-year-old Kachin political prisoner, is suffering from serious stomach illness, which may be a result of the torture he endured at the time of his arrest in 2012. He was sentenced to eight years of imprisonment under Sections 3 and 4 of the Explosive Substances Act in relation to bombs that were planted in Kachin State. Concerns have been raised about his access to medical care in prison. Indeed, his health concerns were so serious that he had to be hospitalized in March 2017. He was sent back to prison on April 20 after his health had sufficiently improved. Lahpai Gam is however still unaware of what the medical condition is and the required treatment, which supports the need for prison reform regarding living conditions and access to adequate healthcare. The trial of the two Baptist Church officials arrested in December 2016 for allegedly providing information, recruiting troops, and transporting fuel to the Kachin Independence Army (KIA) was delayed because the plaintiffs did not attend court. This has given their lawyer more leverage to try and obtain their release on bail or get the charges dropped. AAPP strongly recommend that the government amend the Unlawful Association Act appropriately so that people are not arrested for ‘associating’ with EAGs which is oftentimes unavoidable, and that pre-trial detention is only used as a method of last resort. AAPP also call upon the authorities to ensure investigations and detentions are conducted in an impartial manner and that convicted persons suffering from health conditions have access to adequate medical care.

This month, farmers continue to be arrested and sentenced over land confiscation disputes. On April 24, ten farmers (pictured on front page) from Namt Lin Cham village, Naungcho Township, Shan State were sentenced to 16 months in jail with hard labor under the Penal Code Sections 446 for burglary, 427 for causing damage, 294 for obscene behavior, and 506 for criminal intimidation. Since 2014, the farmers have been

cultivating farm lands of a coffee plantation that the Ministry of Agriculture and Irrigation grabbed in 2003. On April 26, seven farmers who staged a protest over their confiscated land in Son Ye Inn, Mandalay Division, were sentenced to two months imprisonment by

the Sintgaing Township Court under Articles 427 and 447 of the Penal Code for mischief causing damage and trespass respectively. In 2014, the Department of Industrial Crop Development under the Ministry of Agriculture and Irrigation decided to lease 1,100 acres of land to the Mudon Maung Maung Company for a period of twenty years. In response, farmers from Shan Kan Village, Soon Ye Inn Village and Kyauk Kone Village staged a protest claiming that these lands have been in their families for generations and thus belonged to them. As farmer's issues remain unresolved, protests over land grabbing keep increasing. On April 23, 2017, an estimated 100 farmers in Kanbalu Township, Sagaing Region, staged a demonstration asking for a quick resolution to the issue of 1129 acres of confiscated farmlands. On April 26, 2017, 15 farmers from Katha district, Sagaing Region, staged a protest in Naypyidaw to demand compensation for seized lands for government projects between 2007 and 2015. According to the protesters, farmers either did not receive any compensation or were awarded inadequate compensation – a sum of money below market price.

The increase in tensions surrounding land grabbing and the increase of demonstration is evidence that the issue will not go away until the government takes action. AAPP therefore urges the government to address all cases of land confiscations and to amend/or repeal relevant law so that farmers are no longer criminalized for trying to return to, and cultivate their own land. AAPP also stress the need to consult with victims of land grabbing cases to ensure that their ideas of adequate compensation are considered before they are provided with, for example, a sum of money which is not appropriate for their specific needs.

The Telecommunications Act continues to be used to silence individuals expressing their right to freedom of expression. On April 5, DVB Reporter Wanna Tun was arrested and charged by the Letpadan police in Bago Division under Section 68(a) of the Telecommunications Law for distributing incorrect information. Last year, Wanna Tun released a report stating that the village administrators were exaggerating the land

surface owned by local farmers so that they could secure higher loans. He has been released on bail. Section 66(d) of the Telecommunications Law in particular continues to be used as a repressive tool to charge people in an arbitrary manner. Myanmar Now's Editor Swe Win is still facing defamation charges under Section 66(d) of the Telecommunications Law in Mandalay for defaming U Wirathu, although the case against him under 295(a) of the Penal Code for insulting religion was dropped on April 21. On February 28, 2017, Swe Win used his Facebook account to state that the Association for the Protection of Race and Religion (Ma Ba Tha) member U Wirathu had transgressed the Buddhist monk code by publicly praising the murder of prominent Muslim lawyer and National League for Democracy (NLD) NLD legal adviser, U Ko Ni. In response to which, two legal cases were slammed against him for defaming U Wirathu under Section 66(d) of the Telecommunications Law in Mandalay, and Section 295(a) of the Burma Penal Code in Rangoon. The latter case was dropped while the charges in Mandalay are still held. On April 5, the Ministry of Religious Affairs and Culture, in an opinion statement, declared that Swe Win's statement was based on facts and thus could not be classified as defamation.

On April 7, NLD member Phoe Htaung was convicted to six months in prison under Section 66(d) of the Telecommunication Law in Naypyidaw's Zabuthiri Township Court for using the official seal of the NLD in a Facebook post that erroneously declared the resignation of senior party official Win Htein. In his defense, he claims he shared the information after he found it on Facebook, rather than having fabricated it himself. Phoe Htaung has been detained for more than five months, since the initial lawsuit was brought against him in October. On April 7, Myo Yan Naung Thein was sentenced by the Kamayut Township Court to six months in prison under Section 66(d) of the Telecommunications Law. Following the military crackdown in Rakhine state last October, he posted a status on Facebook on October 14, criticizing Commander-in-Chief Senior General Min Aung Hlaing for not resigning. Lieutenant Colonel Lin Htun filed a lawsuit against him at the Hlaing Police Station on October 31, and Myo Yang Naung Thein was subsequently arrested on November 3. He was kept in detention during his trial after his bail applications were denied repeatedly. Phoe Htaung and Myo Yan Naung Thein were both released from prison as part of a mass amnesty on April 12.



These cases highlight the continued restriction on fundamental rights in Burma. AAPP denounces the arbitrary use of the Telecommunications law to prevent individuals from exercising their right to freedom of speech and expression which is enshrined in Article 19 of the UDHR. AAPP acknowledges that cases of defamation do occur from time to time, however AAPP criticizes the use of Section 66(d) to deal with defamatory cases. The wording of the Law is too vague which results in the Law being used arbitrarily, and further the sentence prescribed in the Law of three years in jail, or with fine, or both is far too severe for the crimes being described. According to Director General of the Ministry of Transport and Communications, Soe Thein, the Ministry is holding intra-ministry discussions regarding the amendment of Section 66(d) of the Telecommunications Law. Soe Thein recognized that the law needs to be revised, especially regarding the grant of bail. AAPP strongly supports this initiative and urges the government to immediately repeal and/or amend the laws which go against the democratization process.

The Peaceful Assembly and Peaceful Procession Law continues to be a tool to restrict civil and political rights under the new government. On April 3, police forces in Ottarathiri Township, Naypyidaw, stopped a group of 20 protesters in their peaceful march. The police said the interference was warranted, referring to Section 4(f) of the Peaceful Assembly and Peaceful Procession Act. The protesters were raising awareness about what they called the lack of righteous and fair law. A leader of the group stated this disagreement with the police interference, calling it “Absurd in a democratic country”. On April 26, 2017, four students were arrested while protesting against the Sagaing Education College, Sagaing Division, which they found too oppressive by restricting their handphone use. Zaw Ye Htut, Thet Hnin Aung, Kaung Zaw Hein, and Ye Myo Swe were chanting slogans and holding placards in front of the Department of Higher Education in Mandalay, Mandalay Division, when they were arrested by the police. Police Major Thet Win justified their arrest by claiming that the students did not notify the authorities of their intention to protest. They were charged under Section 19

of the Peaceful Procession and Peaceful Assembly Law. As can be seen from the cases above, the right to assemble as enshrined in Article 20(1) of the UDHR continues to be infringed, therefore hampering the reconciliation measures initiated by the government. AAPP condemns the repressive use of the Peaceful Assembly and Peaceful Procession Law and requests that the legislation be urgently amended to be in line with the UDHR. AAPP also urges the government to unconditionally release any prisoner detained under the Peaceful Assembly and Peaceful Procession Law and thus act consistently with the peace process initiated last year.

After their release, former political prisoners (FPPs) are still facing difficulties regarding their reintegration into society. FPPs who are still active continue to be at risk. On April 4, Amnesty International released a statement to protect FPP and prominent human rights lawyer Robert Sann Aung, who has been receiving death threats since December 2016. From then on, he has been watched, followed and approached; he has received death threats and experienced intimidation, including the threat that he would be killed next, in reference to the killing of NLD legal adviser U Ko Ni in January. Robert Sann Aung is reluctant to report the intimidation to the police, as he says the authorities might be connected to the intimidation. AAPP condemns such practices and urges the authorities to investigate the threats and hold perpetrators accountable. It is the responsibility of security forces to ensure the safety of human rights defenders like Robert Sann Aung and all FPPs.

In terms of services, access to healthcare is not always easy for FPPs. The Hanthawaddy U Win Tin Foundation Clinic, which has provided free medical services to FPPs since 2012, had to temporarily close in April due to financial constraints. The clinic supported FPPs and their family members with access to healthcare, education and rehabilitation. Foundation Chairman Kyaw Aung said he hopes to see the clinic reopen next month, but adds they are short on medicine. The plan is to keep the clinic open until September, but lack of donors since the death of U Win Tin in 2014 makes it difficult. U Win Tin was FPP detained for 19 years from 1989 to 2008 after being sentenced to three years in prison for his critical writings of the military regime and his founding role in the NLD. April 21

marked his anniversary and was commemorated by people from all over the world wearing blue shirts and using the hashtag #blueshirt4burma. This campaign, initiated by Burma Campaign UK, is an expression of solidarity with the late U Win Tin, who refused to give up his blue prison shirt, and continued to wear a blue shirt every day after his release from prison in protest against the detention of political prisoners. He is famously quoted as stating “If there are no political prisoners I will take off my shirt, but up until now I have seen no good indication.” On the occasion of this year’s commemoration, 24 organizations, including AAPP, released a statement denouncing politically motivated persecution in Burma and calling for the immediate release of all political prisoners and the establishment of an independent review mechanism to address both short and long-term issues of politically motivated persecution.

As was made very public in Burma, there was a mass amnesty on April 12, during which

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*“Unlike 2016, no political prisoners were released as part of this year’s mass amnesty ”*  
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saw 1,883 prisoners across the country released from prison. Prisoners were released on the grounds of good behavior, under paragraphs 847 and 848 of the bylaws in the Jail Manual. However, AAPP would like to highlight that this amnesty is an annual new year event and that no political prisoners were released on this occasion. In comparison to the same period last year, 235 political activists were released following a series

of presidential amnesties in April 2016. AAPP therefore urges the government to follow their own example from April 2016 and finally, immediately, and unconditionally release all political prisoners.

April saw some promising advancements in the human rights context. Firstly, as of the new fiscal year, prisoners from all prisons will be allowed to practice religious activities, according to the Prisons Department Deputy Director from the Security Sector Min Tun Soe. In previous years, conducting monthly religious activities and opening meditation centres were allowed in Ohbo, Tharyarwady, and Insein prisons, while other prisons only allowed inmates to carry out religious activities on days of religious significance. Under the new orders, prisoners of all religions will be allowed to practice religious

activities monthly. AAPP welcomes this initiative, although would like to note that religious freedom in prisons it is already a right enshrined in Articles 41 and 42 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (SMRs). Second, the Supreme Court Deputy Director-General Tin Nwe Soe confirmed lingering corruption in court. Court Director-General Ko Ko Naing recognized that many complaints were submitted against the judicial system, but he also admitted that reform suggestions could not be implemented overnight. AAPP strongly supports the reform of the Burmese judicial system to eradicate corruption and encourages all suggestions for judicial enhancements.

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 conflict between the military and ethnic armed groups, continued abuse of farmers' land rights, restrictions on civilians' freedom of expression and other civil and political rights. In light of this report, AAPP urges the government to prioritize progressive legislative reforms 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 as recognized by AAPP.

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