

# JULY CHRONOLOGY 2018

## Summary of the Current Situation:

There are **275** individuals oppressed in Burma due to political activity.

**33** are currently serving prison sentences,

**53** are awaiting trial inside prison,

**189** are awaiting trial outside prison.

Protestors detained for protesting the creation of a cement Factory in Pyigyidagun Township in Mandalay Region



*Accessed July 2018 ©Irrawady*



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

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# MONTH IN REVIEW

## July in Numbers

### **Arrests: 7**

Four activists in Karenni State were arrested for opposing the construction of a statue of General Aung San. Three civilians were arrested for protesting against a cement factory.

### **Charges: 37**

23 were charged under Section 505 (b) and/or (c) of the Penal Code and Sections 19 and/or 20 of the Peaceful Assembly and Peaceful Procession Law (PAPPL) for opposing the construction of a statue of General Aung San in Loikaw, Karenni State. Three were charged under Section 19 of PAPPL for staging a protest to get back confiscated land, and 11 were charged under Section 19 of PAPPL and Section 22 of the Roads and Bridges Law for protesting against a cement factory.

### **Sentences: 7**

Five farmers were sentenced under Sections 447 and 427 of the Penal Code and two activists were sentenced under Section 19 of PAPPL.

### **Releases: 5**

Five activists were released in July.

### **Prisoners in Poor Health: 2**

Two political prisoners, Zaw Win and Min Sai, are reported to be in poor health.

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“Corruption and the lack of political will to enforce the rule of law, leads to drastic consequences for the lives and dignity of ordinary people”

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### **● ● ●** Space for Freedom of Expression Shrinks Further

It was expected that, during the new presidency, levels of press freedom and transparency in Burma would increase. Unfortunately, events in July only affirmed the fact that journalists still face great consequences for seeking out the truth.

One example is the case of the two *Reuters* journalists, Wa Lone and Kyaw Soe Oo. Despite local and international demands for their release and months of pre-trial hearings riddled with inconsistencies and contradictions, on July 9 a judge decided to accept the arbitrary charges against the reporters under the colonial-era Official Secrets Act. Wa Lone testified in court for the first time in July. His account detailed how the journalists were framed by police and arrested under false

accusations, and were then pressured to not release their investigative report into a Military-led massacre in Arakan State

during their interrogation. The police also forced the journalists' to disclose their phone passwords.

The events described above directly contradict Principle 21 of the [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#), which states that "no detained person while being interrogated shall be subject to violence, threats or methods of interrogation which impair his capacity of decision or his judgement". The *Reuters* case is a prime example of the ways in which attacks on press freedom are hindering not only the national reconciliation process, but also the judicial reforms that were aimed to tackle the corruption still staining the legal sector. AAPP reiterates that accountability and transparency are crucial for a democracy to hold any credibility. We urge the Government to release Wa Lone and Kyaw Soe Oo immediately along with addressing the underlying issues that led to their arbitrary arrest and the arrest of other journalists who are targeted simply for doing their job.

In addition, an appeal filed by Tanintharyi Journal was rejected this month. The journal had against appealed against charges relating to a satirical article published in November 2017 that mocked the Regional Government. This is another example of the shrinking space for freedom of expression in the country, a fundamental right that is increasingly undermined by authorities in order to prevent any form of critique or open debate. Consequently, AAPP urges the Government to amend or retract the repressive laws which continue to be used to attack journalists. The Government's election manifesto, published in 2015, stated that "[we will fight for the right to independence and the right to information in accordance with journalism ethics and dignity as journalists are the ears and eyes of people](#)" (AAPP translation of Burmese source). If the Government is truly committed to democratic ideals, we insist that they act according to their own promises rather than contradicting them.

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The freedom of expression of civilians is also facing restrictions. The following cases, from July, are only a handful of examples that highlight how various laws are used to stifle the right to expression:

- 23 Karenni youth activists were sued under Sections 19 and/or 20 of PAPPL and Section 505 (b) and/or (c) of the Penal Code in connection with their protests against the construction of a statue of General Aung San, as well as for distributing pamphlets explaining the history of Karenni State.
- Than Htike and Thet Hnin Aung were sentenced to three months' imprisonment for participating in anti-war protests in Mandalay.
- Five residents who protested the construction of a cement factory are being sued under Section 19 of PAPPL in Mandalay Division. Seven other protesters also had charges brought against them under Section 22 of the Roads and Bridges Law.
- A court rejected a plea to drop the case against three Kachin activists, Lum Zawng, Jau Jat and Nang Pu, who were sued for defamation under Section 500 of the Penal Code.

- The Military has appealed against a sentence given to eight students under Section 500 of the Penal Code for staging an anti-war play, claiming dissatisfaction with the sentencing. The case has now been re-opened.

As can be observed above, Sections 500 and 505 (b) and (c) of the Penal Code (13 people charged in July) and Sections 19 and 20 of PAPPL (24 people charged in July) are often used to restrict civilians' freedom of expression. Not only does this contravene international standards, but it also violates chapter eight of Burma's own [Constitution](#), in which Article 354 (a) stipulates the right of an individual to express his or her beliefs and opinions, which is a clear endorsement of freedom of expression. Furthermore, Article 354 (b) also determines the rights to peaceful assembly and peaceful procession.

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***The national reconciliation process will not succeed while civilians and journalists continue to be persecuted for speaking truth to power.***

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In addition to domestic law, Article 19 of the [Universal Declaration of Human Rights \(UDHR\)](#) and Article 19 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#), both stipulate the right to freedom of expression. Burma's failure to comply with its own standards as well as international customary law is an insult to the values behind the national reconciliation process, which will not succeed until the Government makes concrete steps to preventing civilians and journalists from being persecuted for speaking truth to power. As a result, AAPP urges the Government to promote freedom of expression by immediately amending or abolishing the relevant sections of PAPPL and the Penal Code, which are regularly used to repress citizens.

### **Wrongful Imprisonment Systemic in Burma's Prisons**

In July, the Myanmar National Human Rights Commission (MNHRC) investigated reports of human rights violations in eight prisons, police cells and labor camps. According to their findings, some prisoners have been wrongfully imprisoned for crimes they did not commit. The detention and incarceration of innocent people exposes the defects of the country's judicial system and its inability to ensure that everyone is treated equally before the law. This is especially disappointing considering that Burma has been implementing a [judiciary strategic planning](#) process since 2015 which is supposedly reforming the judicial sector.

The amount of prisoners that are wrongfully jailed is a result of systematic, multifaceted problems within the judicial system and rule of law. Further, corruption and the lack of political will to enforce the rule of law, leads to drastic consequences for the lives and dignity of ordinary people.

Consequently, AAPP calls on the Government to acknowledge the issue of wrongful imprisonment, induce reforms that prevent it from happening, and ensure the release of those who should never have been detained in the first place.

### **Criticism of Labor Camps Continues**

As well as wrongful imprisonment, MNHRC also reported that there are not enough tents for leisure activities in the quarrying camps and female prisoners in quarrying camps are forced to carry heavy rocks. This will affect the long-term health of the prisoners, and especially female prisoners, who will face unnecessary future health problems (further analysis available in [AAPP's June 2018 Month in Review](#)). Rules 96 to 103 of [United Nations Standard Minimum Rules for the Treatment of Prisoners \(the Mandela Rules\)](#) details rules relating to inmates' work while in prison. States are required to comply with strict criteria. Prisoners must be guaranteed safe working conditions, be able to choose the type of vocational work they carry out, and receive monetary compensation for their labor. Labor in prisons must also be implemented with a view to rehabilitation. AAPP reiterates its calls on the Prisons Department to implement the UN Mandela Rules in their entirety.

### **Lack of Improvement in Prison Conditions**

Poor conditions are still a matter of grave concern in Burma's prisons. MNHRC investigated 47 prisons between 2014 and July 2018. It found that most prisons suffer from a lack of medical professionals and medicine. There are also not many toilets and not enough water for bathing. Moreover, prisoners are beaten. Overcrowding was deemed the main problem in prisons. AAPP has consistently advocated on this issue, information on which can be found in our report [here](#). We again urge the Government to sign and ratify the [United Nations Convention against Torture \(UNCAT\)](#) as a step to ending the inhumane conditions in prisons, which AAPP argues constitute a form of torture. The [ICCPR](#) must also be signed without delay in order for prisoners to have their rights respected.

### **Human Rights Abuses Continue in Ethnic Areas**

While the Union Peace Conference (21st Century Panglong Conference) was held in July, conflicts between the Military and Ethnic Armed Organizations (EAOs) continued to rage across ethnic areas. As a consequence, reports of the torture and murder of ethnic minority civilians continued to emerge this month. The Ta'ang National Liberation Army (TNLA) released a statement accusing the Military of killing six female medics after they were arrested following a clash in Namkham Township on July 11. Locals found their bodies in a shallow grave three days later. Incidents such as those above are an insult to the peace process championed in the Panglong Conference, casting doubt on the truth behind high-level meetings that continue to be held while little changes on the ground. The grand ideas propping up the national reconciliation process, however, will remain ineffectual without clear actions that aim to repair inter-communal trust throughout the country.

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***Rampant human rights abuses cast doubt on the level of commitment behind high-level meetings that continue to be held while little changes on the ground.***

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In addition, it should not need to be highlighted that murder is an extremely serious human rights abuse, violating Article 6 of the [ICCPR](#) which stipulates; "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived



of his life". It also violates Article 10 of ICCPR, which states that; "All persons deprived of their

liberty shall be treated with humanity and with respect for the inherent dignity of the human person." Moreover, Principle 6 of the [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#) states that; "No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". As long as Burma does not ratify and respect these treaties and principles, impunity for perpetrators will remain widespread, encouraging the continuation of these crimes. We therefore urge the Government to sign and ratify the ICCPR.

Conflicts between the Military and EAOs in Shan State and Kachin State continued unabated this month, leading to more victims of the civil war. In July, seven people were arrested by the Military for allegedly working as guides and porters in Hpakant and Namati, Kachin State and more than 50 young men from villages in Mong Pan Township, Shan State were allegedly forcibly recruited by the Restoration Council of Shan State/Shan State Army (RCSS/SSA). Incidents such as these are unavoidable for local ethnic minorities. Under the cover of impunity, it is common for disappearances and murders to occur during detention, along with the additional dangers caused by conscription. Forced recruitment is also a direct infringement of Article 9 of the [UDHR](#) and the [ICCPR](#) which protect an individual from arbitrary arrest, detention or exile. These incidents will be prevented from happening if the Government fosters actions that aim to achieve sustainable peace. Hence, ratifying international treaties will assist with this process.

Torture is also a serious human rights violation. While the Government fails to address this issue, ethnic minorities in conflict areas will continue to be vulnerable. On July 19, Shan Human Rights Foundation (SHRF) released a statement accusing the Military and local militias in southern Shan State of engaging in torture and other human rights violations. Soldiers searched the residents' homes, beating villagers and warning them that anyone who assisted Shan troops would face 20 years in prison. This is extremely concerning for Burma's national reconciliation process. In order to possess any credibility, the Government must show that it is serious about ending torture. Again, a step towards this would be signing and ratifying the [ICCPR](#) and the [UNCAT](#). Despite not being party to these treaties, the prohibition against torture is well established under customary international law as *jus cogens*. In other words, it has the highest standing in customary law and is so fundamental as to supercede all other treaties and customary laws aside from other *jus cogens* laws. The Government is therefore responsible under the highest level of international customary law to protect its civilians from torture and cruel, inhuman or degrading treatment or punishment. The lack of political will to address this issue is disappointing and calls into question the commitment behind the ideals driving the so-called democratic transition.

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***The Government is responsible under the highest level of international customary law to protect civilians from torture and cruel, inhuman or degrading treatment.***

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Civilians in ethnic areas this month also died as a result of alleged torture by police officers this month. This month we highlight the cases of Khaing Min Wai, who died while he was under police interrogation, and Zaw Min Tun, who was arrested for allegedly stealing fishing nets and died during police interrogation. We particularly call on MNHRC to immediately investigate these cases in an impartial, transparent, and independent manner. AAPP also

emphasizes that, if the authorities were serious about ending the physical and mental torture systematic across Burma's interrogation centers, these men and others like them would still

be alive. International standards with regards to the police underline the importance of respecting human rights. Article 2 of the [Code of Conduct for Law Enforcement Officials](#) states;

"In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons", while Article 6 dictates; "No law enforcement official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment." AAPP therefore urges the Government to adhere to these universal codes of conduct and to bring justice for the victims of such heinous acts and the families left behind.

Each year, MNHRC receives an increasing number of complaints concerning human rights violations perpetrated by police officers. This is extremely worrying, especially given the fact that law enforcement officials are responsible for protecting the rights of individuals. We recommend that the Government initiate investigations into the atrocities without delay. As more complaints are received from Irrawaddy Division out of all states and regions, we call on the authorities in this area in particular to instigate immediate and thorough reforms.

### **Land Rights: Activism and Repression Continue**

Protests concerning land rights have continued across the country this month. Despite the Government having returned 6,400 out of 15,810 acres of seized farmland to original land owners in Mandalay Division, it is important to highlight that this is miniscule in comparison with the amount of confiscated land that remains to be compensated across the country. Meanwhile, farmers and land right activists continued to be charged and sentenced in July, and protests remained ongoing in multiple regions and states. The following are only examples of a much wider issue that has still not been addressed effectively by the Government:

- On July 1, two protest leaders were charged under Section 19 of PAPPL in Seikkan Township for not asking permission to demonstrate over seized farmland.
- On July 17, five farmers in Mandalay Division were sentenced for ploughing confiscated land.
- On July 8, over 200 farmers in Tanintharyi Division staged a protest against Shwe Kanbawza palm oil company's seizure of their land and destruction of their crops.
- On July 13, over 100 residents in Pyay Township protested against land confiscations seized by Nawaday sugar mill and the police between 1996 and 1997.
- On July 23, residents and MPs in eastern Shan State agreed in a meeting to send a petition to the Union Government in protest of a proposed gold mining project on more than 140,000 acres of paddy field.

The farmland sector is one of Burma's principal industries. Delays in returning seized land will only fan the flames of land disputes, and will cause long-term consequences for the agriculture sector. In addition, farmers who rely on land for their livelihoods will face ongoing difficulties

due to their inability to provide for their families. Article 6 of the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#), which Burma has signed and ratified, stipulates that individuals must be permitted to freely choose their employment. The

confiscation of farmland directly contravenes this, and AAPP urges the Government to adhere to its international legal obligations. In particular, we call on the Land and Other Lands Recruiting Committee, led by Vice President Henry Van Thio, to return seized land immediately. AAPP also calls for the unconditional release of farmers and land rights activists who have been sued and sentenced simply for defending their human rights.

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