

Pleading Not Guilty In Insein

A special report on the summary trial of 22 political prisoners in Burma's infamous Insein Prison.

Trail document translated by Naing Luu Aung

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"there is essentially no freedom of thought, opinion, expression or association in Myanmar. The absolute power of SLORC is exercised to silence opposition and penalize those holding dissenting views or beliefs."

Judge Rajsoomer Lallah

United Nations Special Rapporteur of the Commission on Human Rights

October

PREFACE

This report is about human courage and dignity. In face of the most stringent deprivation and under the harshest duress, man can stand up and show that there is still one freedom that can't be taken away: the freedom to choose how to respond to the situation. The political prisoners of Insein could have chosen to bow to the use of force. Their spirit could have been broken by torture and solitary confinement. But instead, they have chosen to respond with calmness and nobility. Not only have they pleaded not guilty to the trumped up charges of the SLORC, they spoken out in their defense, defending their basic human rights and dignity and denouncing the unfair trial.

The report is an authentic document and in a sense a SLORC official document. It shows the perception and the standard used by the SLORC in as far as human rights are concerned. Writing, reading, drawing pictures, listening to radio programmes, communicating and other basic freedoms of expression are considered an offense liable to long years of imprisonment and hard labor.

As we read through this report, we can imagine the conditions of life in the infamous Insein prison. The image which came to my mind is one of a medieval goal. Only the instruments of torture may be different but the disregard of human life and the arbitrariness remain the same. This regime advocates law and order but there is only a farcical rule of law as SLORC governs by their own decrees and controls the courts of justice. This report confirms there is only a semblance of court proceedings, for no matter how weak the accusation, how valiant and accurate the defense, the sentence could have been written in advance. The courts of justice bow again to the higher *raison d'etat* which in this case is the survival of the regime.

The situation in Burma is a challenge to the world community. There are people who want to accommodate the SLORC saying that business is business and what SLORC does or how much people suffered is their own business. This attitude of condoning atrocities is self-centered and may result in short-term gain at the expense of longer-term dignified relationship. The unconditional admission of SLORC as full member of ASEAN is an example of such an attitude. The SLORC would like to use ASEAN as a gate way towards international legitimacy. As a member of ASEAN it would sit at the same table as respectable world leaders, and its generals would walk on red carpet alongside heads of states reviewing the truth of honour. But what honour would they have as long as they persist in the suppression of the people.

There must be tangible improvement in human rights and democracy in Burma before it becomes a member of ASEAN. In concrete terms, the high-handed national convention should be replaced by a genuine one where the SLORC, the democratic opposition and the ethnic nationalities can start negotiations on the basis of mutual respect with the aims of achieving union and reconciliation. ASEAN could demand such tripartite negotiations begin in exchange for the SLORC's admission into the group. In other words, ASEAN governments should be firm in winning

concrete concessions from the SLORC or else there should be no deal.

Unfortunately, some ASEAN governments seem to partially espouse the SLORC's view that puts human rights on for the sake of security, economic growth or the like. Democracy and good governance are not achieved at the expense of exclusion of the maintenance of the rule of law or economic progress. The exclusivity of on against the further only reflects the shortcomings of the present group of leaders. If some ASEAN governments can change their attitude on this matter they will be in a better position to influence positive change in Burma. Then the admission of Burma into ASEAN will reflect the spirit of amity and interdependence.

The 22 defendants who pleaded not guilty in Insein are suffering in their struggle for what they believe. Today, they may be reviled by the SLORC, but tomorrow their deeds will be remembered. Today, some of us may already show our gratitude and recognition of their sacrifice. We may learn from their experiences. It would be a poor excuse to say that we cannot act to defend human rights as they did because we are afraid. The SLORC punishes them as an example to show what may happen to those who oppose it. It wants to create a culture of fear. To counter this, we may invoke a quote from Aung San Suu Kyi:

"A people who would build a nation in which strong democratic institutions are firmly established as a grantee against state induced power must first learn to liberate their own minds from apathy and fear...If we want democracy, we need to show courage...the courage to do what one knows is right even if one is afraid."

This report is homage to the 22 defendants who have the courage and integrity to do what they know is right. May they be an inspiration for us. With that inspiration we should redouble to efforts to assure the release of all political prisoners in Burma.

Dr. Gothon Arya

Chair,

Programme for the Promotion of Non-violence in Thai Society

February 17, 1997

ACKNOWLEDGEMENTS

We are firstly indebted to those who risked their lives in helping smuggle the original trail document out of Burma. It is only through courageous effort of this kind that we are able to bring such examples of human rights violations to the world's attention.

Thanks also goes to Naing Luu Aung for his patience and translating an often difficult document, his assistance in organizing the report, and for his over all coordinating role in the project. We are also grateful for the efforts to Aung Moe Htet who edited the publication and assisted in its planning.

Special Thanks must also go to various independence human rights organizations which provided us with valuable advice, information and support the report.

ABBREVIATIONS

ABSDF: All Burma Students' Democratic Front

ABFSU: All Burma Federation of Students' Union

BBC: British Broadcasting Corporation

CPB: Communist Party of Burma

DPNS: Democratic Party for New Society

DVB: Democratic Voice of Burma

ICRC: International Committee of the Red Cross

MIS: Military Intelligence Service

NLD: National League for Democracy

SLORC: State Law and Order Restoration Council

UN: United Nations

VOA: Voice of America

ABSDF APPEAL

In January 1997 we were reminded of the corrupt state of Burma's judiciary when 20 people who took part in protests in Rangoon a month earlier were jailed for seven years.

The group, which included six members of the National League for Democracy (NLD), was accused of "inciting students and non-students during December 1996 student demonstrations". Their trial was held in a closed session in Rangoon and the accused were denied access to legal counsel. NLD leader Aung San Suu Kyi commented that if the group was actually guilty, there

shouldn't be any reason why the government should not hold their trial in public.

The demonstrations in December 1996 were the largest against the ruling State Law and Order Restoration Council (SLORC) since 1988 thousands of protesters were brutally gunned down by Burma's military forces. The SLORC announced weeks after the December protests that it had released all those who were taken into custody during the demonstrations. However at the time of writing, the ABSDF understands that up to 500 protesters, mainly students, still remain in detention.

Hundreds more political prisoners are still being held in jails throughout Burma. The use of torture against the political prisoners is commonplace, especially in the maximum security Insein Prison in Rangoon. United Nations Special Rapporteurs have repeatedly expressed concern over the treatment of prisoners in Burma, particularly political prisoners. For Special Rapporteurs, Professor Yozo Yokota, was refused access to prison cells and to detainees in 1995, and SLORC has also rejected the International Committee of the Red Cross (ICRC) standard for requirements for visiting places of detention.

The ABSDF calls on the SLORC to immediately release all political prisoners and allow the ICRC confidential access to prisoners in all places of detention in Burma.

ABOUT THE TRIAL REPORT

'Pleading Not Guilty in Insein' is the translation of an official report was written by the judge who presided over the case. It is apparently the first time under the SLORC that such an official report of political prisoners has found its way to opposition group and been made public.

The official report is significant as a record of a trial held in the maximum security Insein Prison, and for the insight it provides into the working of the justice system in Burma. It also provides important information regarding the accused, several of whom are prominent political prisoners.

The official report details the evidence and testimonies presented at the trial and the judge's reasons for finding all 22 prisoners guilty of the charge brought against them. It begins with an introduction to the charge followed by detailed testimony by two plaintiff witnesses against 21 of the 22 prisoners. The

evidence is then listed, followed by the prisoners' testimonies and the judge's summary, verdict and sentencing.

The official report has been faithfully translated from the original document (see Section II). We have included for most prisoners brief biographical information. Where no biographical information is listed, either no information was available or the precise identity of the prisoners could not be confirmed.

The brackets () have been used in the translation where words or phrase have been added for clarity.

SECTION I

Introduction

In mid-November 1995, the authorities at Insein Prison in Rangoon raided the cells of 22 political prisoners. Following the raids the prisoners were interrogated, and some were beaten, tortured and held in tiny cells usually kept for prison dogs.

Among these prisoners were prominent journalist U Win Tin, magazine publisher Myo Myint Nyein, and National League for Democracy (NLD) parliamentarians U Hla Than and Dr. Zaw Myint Maung, both of whom won seats in the 1990 election.

As a result of the raids the prison authorities alleged they seized 'seditious' material that was 'damaging' to the SLORC regime. These magazines included pro-democracy magazines, short stories and poems; Time and Newsweek magazines; transcripts of news items from the British Broadcasting Corporation (BBC), Voice of America (VOA) and Democratic Voice of Burma (DVB); and letters to Aung San Suu Kyi, the International Committee of the Red Cross (ICRC), and the United Nations.

Each of the 22 prisoners was subsequently charged under Section 5 (E) of the 1950 Emergency Provision Act (see Appendix III) for writing and distributing allegedly false information. If found guilty of this charge a person can be jailed for up to seven years and receive a fine. The law states that to receive a conviction a person must either know that the information distributing was not correct, or there must be enough evidence to show the information was not correct.

Among the materials seized was a letter to former Special Rapporteurs to Burma Professor Yokota, which contained

information about conditions inside Insein Prison. Insein is the oldest and also the largest of Burma's 36 prisons, and is the country's most notorious in terms of human rights abuses. Nearly all of Burma well known political prisoners have spent some time there. The trail of these 22 prisoners was held inside Insein Prison.

The prisoners were refused access to legal counsel at the trail and they defended themselves. All 22 prisoners pleaded not guilty to the charge brought against them, either on the grounds that what they had written was the truth or that the charge was false. As a statement to their courage the prisoners spoke out against the authorities, complaining of torture and beatings in prison, and calling for prisoners' rights and for access to legal counsel. Some also accused the authorities of holding the political trail and criticized the handling of the trail and the presentation of the evidence.

This case was specifically mentioned in an interim United Nations report on human rights in Burma as an example of the denial of freedom of expression in prisons. The report, complained by the UN Special Rapporteurs of the Commission on Human Rights, Judge Rajsoomer Lallah, stated that '20 prisoners' were 'allegedly tried and given additional sentences of 5 to 7 years' (see Appendix I). However, according to the official report of the trail, translated here, 22 prisoners were tried and they all received a additional seven years with hard labor.

Since the trail, U Hla Than has died in custody. His death certificate states that he died of pulmonary tuberculosis. His request to be allowed to die at home was rejected reportedly because he refused to resign from the NLD.

The other 21 political prisoners are still being held in Insein Prison.

The Trail Report Translation

Capital Criminal Case 7/96

Rangoon Division Court (Northern District Court)
Criminal Case No.7, 1996

Police Lieutenant U Khin Htay vs.

1. Myo Myint Nyein
2. Zaw Tun
3. Nyunt Zaw
4. Soe Htet Khaing
5. Aung Kyaw Oo
6. Zaw Min
7. Phyo Min Thein
8. Win Thein
9. Aung Myo Tint
10. Htay Win Aung
11. Yin Htway
12. Win Tin
13. Hla Than
14. Ko Ko Oo (aka Bo Bo)
15. Kyi Pe Kyaw (aka Kyaw Gyi)
16. Kyaw Min Yu (aka Jimmy)
17. Myat Tun
18. Tun Win
19. Sein Hlaing
20. Zaw Myint Aung
21. Soe Myint
22. Ba Myo Thein

Plaintiff:

Maung Maung Hla
(District Judicial Officer)

Defendants:

The defendants themselves

Charge:

Section 5 (E), 1950 Emergency Provision Act

Verdict:

(blank)

Date:

March 20, 1996.

CHARGES

In the year 1996, Myo Myint Nyein (inmate no. 9570/C) from Insein Prison and his accomplices secretly wrote and distributed a seditious magazine in commemoration of the Diamond Jubilee of the founding of Rangoon University, and another news magazine entitled *New Blood Wave*.

A letter written and addressed to the Secretary-General of the United Nations was also secretly smuggled out of the prison. The letter, entitled 'The Testimonials Of Prisoners Of Conscience From Insein Central Prison Who Have Been Unjustly Imprisoned; Demands And Requests Regarding Human Rights Violations In Burma' is dated July 1, 1995.

Furthermore, the defendants smuggled radios into the prison in order to receive news from outside, and distribute it in the form of news bulletins. They did this knowing that the news was incorrect with the aim to distribute false information.

Following an investigation, twenty two defendants including Myo Myint Nyein were charged under Section 5 (E) of the 1950 Emergency Provision Act by Police Lieutenant U Khin Htay from Insein Police Station.

During the trial ten out of the 15 witnesses were present and testified against the defendants. U Khin Htay (plaintiff witness 1) and U Ye Nyunt (plaintiff witness 2) resented to the court details of each and every part that the 22 defendants played in the time.

Myo Myint Nyein

Myo Myint Nyein, 35, has been detained since September 1990 when he was sentenced to seven years imprisonment by a military court for "organising youths and students to create instability". He is a magazine publisher and worked for the Information Department of the NLD and for the group 'Thone Yaung Chae' which provided bodyguards for Daw Aung San Suu Kyi. At his 1990 trial, officials stated his magazine 'Bar Dwa Phyt Gone Byi Lae' (What Has Become of Us?) was an "anti-government propaganda publication, aimed at making people misunderstand the government and defense forces". Between mid-November 1995 and January 1996 he was held in a small cell in Insein in which prison dogs are normally kept.

Myo Myint Nyein smuggled *Time* and *Newsweek* magazines into the prison by unlawful means and distributed them for other prisoners to read. He took responsibility for the layout of the magazine written in commemoration of the Diamond Jubilee of the founding of the Rangoon University, which contained seditious literature against the State. Furthermore, he organized other prisoners to write seditious pieces. He also persuaded Nyunt Zaw to copy this seditious literature by hand, providing him with paper and ball-point pens. At the same time, he persuaded Phyo Min Thain, Nyunt Zaw and Kyi Pe Kyaw to make a cloth for the magazine and adorn it with illustrations. When the publication was finished in September 1995, he kept it in Cell 18, Long Hall 4.

Moreover, in early May of 1995, he read the magazine *New Blood Wave*, published in Short Hall 4, in memory of 7th anniversary of the death of Phone Maw⁽¹⁾. U Khin Htay also alleged that from June of 1994, Myo Myint Nyein collected news from visitors during prison visits and distributed this information in a news bulletin every Sunday.

Kyaw Min Yu (aka Jimmy) asked Nyunt Zaw, who had beautiful handwriting, to copy the news from the BBC, and DVB, but Myo Myint Nyein took charge of distributing it in the news bulletin.

In early May of 1995, Myo Myint Nyein, Nyunt Zaw, Kyi Pe Kyaw, Zaw Min and Phyo Min Thein discussed collecting information on events within the prison and presenting this information, along with their demands, to the Secretary-General of the United Nations. They gathered this information, and in the month of June, 1995, Win Tin asked Nyunt Zaw to copy it on a Ajinomoto⁽²⁾ plastic bag, spreading out the bag in the form of a sheet of paper. After concealing this paper in the handle of a plastic basket made in prison, it was given to Phone Myint Tun during visiting time.

Similarly, in March of 1993, Myo Myint Nyein held discussions with Phyo Min Thein and Kyaw Min Yu (aka Jimmy) about a conference to be held in Vienna, Austria (UN Human Rights Conference). As a result, Phyo Min Thein wrote a paper in English on a short-sleeved prison shirt and smuggled it out of the prison.

In early 1994, he wrote 'new year greeting for Aung San Suu Kyi from her colleagues' on a white cloth and asked 107 prisoners to sign their names on it.

Nyunt Zaw

Beginning in the month of June 1995, while serving his term in Cell 7, Hall 4, Nyunt Zaw copied articles and manuscripts in the evening for the magazine to be published in commemoration of the Diamond Jubilee of the founding of Rangoon University. He also drew illustrations of Shwe Dagon Pagoda and the monument erected in memory of the 1920 Student Boycott on pages 2 and 3 of the magazine.

Additionally, Nyunt Zaw drew cartoon illustrations for an article entitled 'Blood Path: Take It And Walk On It Bravely' and other cartoons on pages 22 and 23 of the magazine. He also copied the final draft letter entitled 'The Testimonials Of Prisoners; Demands And Requests Regarding Human Rights Violations In Burma' onto the Auinomoto plastic bag. The letter was concealed in the handle of a plastic basket in Cell 18, Hall 4, where Myo Myint Nyein and Kyi Pe Kyaw lived.

At the request of Myo Myint Nyein, Nyunt Zaw copied the final versions of the news for the weekly news bulletin. He also copied and distributed news from the BBC, VOA etc, which broadcast false news about Burma.

Zaw Tun

Zaw Tun, a second-year student from the Workers' College, has been detained since 1991 when he was sentenced to 12 years imprisonment on charges of having links with the 208th Battalion of the ABSDF. Between mid-November 1995 and January 1996 he was placed in a prison dog cell.

Zaw Tun sat on the 'Committee for the publication of the magazine of the Diamond Jubilee of Rangoon University'. His duty was to read and screen manuscripts for the magazine. He contributed an article entitled 'Meeting with Great Leaders', and the poems 'Historic Peacock' and 'Taking A Decision'.

Zaw Min

Zaw Min wrote in the same magazine an artistic piece entitled 'Kow-towing To Mother', a poem entitled 'Appendix To A Cup Of Light Sweet Tea' and the short story 'Day Of Hope'.

Zaw Min was a signatory to the human rights letter written on the Ajinomoto plastic bag and addressed to the United Nations. He also participated in the writing of a letter acknowledging 'happiness' at the release of Daw Suu Kyi and was a signatory to this letter.

Phyo Min Thein

Phyo Min Thein is a member of the Democratic Party for New Society(DPNS) and the All Burma Federation of Students' Union (ABEFU)

After a discussion with Zaw Min, Nyunt Zaw and Soe Htet Khaing, Phyo Min Thein took responsibility for collecting articles from the prisoners in Long Hall 4, Short Hall 4 and Hall 3 for the Diamond Jubilee magazine. He also took charge of preparing the back cover of the magazine and sent it to Myo Myint Nyein when it was finished. Phyo Min Thein translated the letter to the Vienna Human Rights Conference and also sent it to Myo Myint Nyein.

furthermore, Phyo Min Thein was one of the signatories to the letter written in English on the prison shirt. Similarly, at the request of Myo Myint Nyein, he signed his name on the plastic bag as a part of the letter to the Secretary-General of the United Nations. He also signed his name to the letter written on another plastic bag addressed to Daw Aung San Suu Kyi, informing her of their delight on her release from house arrest.

Soe Htet Khaing

Soe Htet Khing, 32, was a second-year Rangoon University student when he was detained in October 1989 and sentenced by a military tribunal to ten years imprisonment, He had reportedly never been politically active, and is thought to have been arrested on account of his father's and brother's reported anti-governement activities during the 0988 demonstrations. Between mid-November 1995 and January 1996 he was held in aprison dog cell.

Soe Htet Khaing participated in the discussions on publishing the magazine to honor the Diamond Jubilee of Rangoon University. He

also proof-read articles and other writings and was a signatory to the letter for the release of Daw Suu Kyi.

Aung Kyaw Oo

Aung Kyaw Oo, a first-year student from the Workers' College, was arrested with Zaw Tun in August 1991 and sentenced to 12 years imprisonment on charges of having links with the 208th Battalion of the ABSDF.

Aung Kyaw Oo was a member of the 'Committee To Publish The Diamond Jubilee Magazine'. He wrote the poem ' Together With Infinite Strength' published in the magazine.

Aung Myo Tint

Aung Myo Tint was placed in a prison dog cell between mid-November 1995 and January 1996 in Insein.

In February 1995, Aung Myo Thit discussed with Htay Win Aung, Win Thein and Myint Htway the publication of a magazine in memory of the 7th anniversary of Phone Maw's death. He persuaded other prisoners to contribute articles, poems and cartoons to it. He wrote a short story called 'Summer Dream: Purple Flower', and poems entitled ' Conception Of A Kant Kaw Flower'⁽³⁾ and 'Night Beyond Its Prime'. He rewrote the magazine in his own handwriting. After discussion with Htay Win Aung, the magazine was named ***New Blood Wave***. They then sent it to the prisoners of Long Hall 4 and short Hall 4 to read, after which it was buried in the ground beside the hall.

Win Thein

Win Thein is a member of the NLD Youth.

Win Thein [participated in discussions concerning the publication of New Blood Wave. He wrote letters to prisoners in other cells requesting manuscripts. He also edited and proof-read them for the magazine.

Win Thein also participated in the prayers and memorial services held for the anniversaries of [the deaths of] Phone Maw and Thaw Ka, and provided the participants with coffee and snacks. He was a signatory to the letter written for the 50th birthday of Daw Suu Kyi, which called for her freedom. He played an instrumental role in the naming and the successful publication of the ***New Blood Wave*** magazine. In it, Win Thein wrote poems such as ' Phone Maw: Intriduction To A New History', ' The Immortal', ' Anger of 13-16 and 'Water Current'. He also drew illustrations for the publication.

Yin Htway

Yin Htway is a member of the Central Executive Committee of the DPNS and was placed in a prison dog cell between mid-November 1995 and January 1996.

Yin Htway took part in the discussions to publish the New Blood Wave magazine. He wrote an article entitled 'With Broad Based Politics', a short story called ' Acceleration Of Light' and the poem ' Errors On The Right', He gave his writings to Aung Myo Tint.

Hla Than

The late U Hla Than won the seat of Coco Islands in the 1990 election for the NLD. He was arrested in October 1990 for attending a meeting to form a provisional government and sentenced to 25 years imprisonment with hard labor. He was also found to have infringed election laws and was banned from future electins. Between mid-November 1995 and January 1996 he was held in aprison dog cell and was not permitted visits by his family. On August 2, 1996 he died in custody at the age of 52. The death certificate attributed his death to pulmonary tuberculosis and stated he had tested positive for HIV. His request to be allowed to die at home was turned down by

prison authorities, reportedly because of his refusal to resign from the NLD.

Hla Than received from Myo Myint Nyein the pieces of thin Ajinomoto plastic bag on which Win Tin had written a letter to the United Nations. Hla Than concealed this letter in the handle of the plastic basket he had made.

Win Tin

U Win Tin, 66, is a prominent journalist and secretary of the NLD's Executive Council. He was arrested in July 1989 and since then has been sentenced three times to a total of 19 years imprisonment. He was charged in October 1989 with offering hospitality to a young girl who had undergone an illegal abortion and was sentenced to three years imprisonment with hard labor. In 1992 he was sentenced to a further 11 years under the 1950 Emergency Provisions Act. In mid-November 1995 he was placed in a prison dog cell and not allowed family visit, and in January 1996 he was transferred to solitary confinement. He is reportedly suffering from a heart condition, acute inflammation of the vertebrae and is in need of dental treatment having lost several teeth during his imprisonment.

Win Tin wrote a draft paper called 'Ten Principles Of Unity' with which he organized and agitated the prisoners. He also wrote another paper under the pen-name of Yae Hlaing (Water Wave), and contributed an article to the New Blood Wave magazine entitled 'Students, Youth And Human Rights'.

Win Tin wrote reports on NLD meetings held in prison, and other articles and papers calling on people to accept the leadership of Daw Aung San Suu Kyi. He wrote a paper supporting the work of Daw Aung San Suu Kyi under the title 'To The Lady's Birthday' in honor of her release (from house arrest).

Likewise, he wrote policy papers calling for the NLD, DPNS, the Communist Party of Burma (CPB) and others to work co-operatively in areas of common interest, and to work separately in other areas.

Win Tin also wrote papers calling for the release of Daw Aung San Suu Kyi, the transfer of power to the Hluttaw⁽⁴⁾ and for the abolition of the National Convention. He also attempted to smuggle these papers out of the prison.

Ko Ko Oo (aka Bo Bo)

Ko Ko is a member of the NLD Youth and worked in the organization's national headquarters in Rangoon. He was arrested in April 1991 and was politically active during the high school student movement in 1988, for which he was detained for one month.

Ko Ko Oo secretly brought in a 'Crown' 8-band radio to the prison. He listened to the news from the BBC, VOA and DVB, rewrote the news and distributed it among the prisoners. He also took part in publishing the weekly news bulletin.

Kyaw Min Yu (aka Jimmy)

Kyaw Min Yu is a member of the Central Executive Committee of the DPNS and was arrested in late 1989/early 1990 and sentenced to 20 years imprisonment, which was commuted to ten years in 1993.

Kyaw Min Yu was a DPNS representative in the 'Organization To Protect The Rights Of Prisoners' within the prison. He was the one who initiated sending human rights reports to the UN Commission on Human Rights. He also signed his name on the letter to the UN. On the Christmas greeting to Daw Aung San Suu Kyi, he wrote alongside his signature 'I would like to greet you with genuine democracy'. Similarly, he helped put together the news bulletin for which he once contributed an article entitled 'False News From Burma'.

Myat Tun

Myat Tun is a member of the NLD Youth and was detained in June/July 1991 and sentenced to eight years imprisonment on charges of establishing contacts with NLD members in exile.

Myat Tun listened to Ko Ko Oo's radio in order to collect and reprint news for the news bulletin. He was also involved in the distribution of this bulletin.

Zaw Myint Maung

Dr. Zaw Myint Maung, 45, won a seat in parliament in the 1990 election for the NLD. He was arrested in February 1991 for allegedly attending a meeting with the aim to form a provisional government and was sentenced to 25 years imprisonment. This sentenced was commuted to ten years in 1993. He was dismissed from parliamentary membership by the election commission in November 1991 and banned from running in future elections. Between mid-November 1995 and January 1996 he was held in a prison dog cell in Insein.

Zaw Myint Maung was a member of the 'Organization To Protect The Rights Of Prisoners'. He contributed a poem called 'Noble Mother (or) To My Mother' to the Diamond Jubilee magazine and another poem entitled 'History Of The Fighting Peacock's Ability' to the ***New Blood Wave*** magazine. He is signed his name to the paper calling for the release of Daw Suu Kyi.

Kyi Pe Kyaw (aka Kyaw Gyi)

Kyi Pe Kyaw is a member of the DPNS.

Kyi Pe Kyaw (aka Kyaw Gyi) crocheted pictured of a peacock and of Rangoon University on the front cover of the Diamond Jubilee Magazine. He was also a participant in a meeting organized to write a paper on the protection of the rights of prisoners.

Electirc wires, a water-heating electrode, a Newsweek magazine, an English dictionary and ball-point pen refills were seized from his cell.

Ba Myo Thein

Ba Myo Thein, 42, is associated with the Democracy Solidarity Front and worried as an assistant supervisor in the Myanmar Agriculture Head Office in Rangoon. He was

believed to have been arrested after September 1990 and was sentenced to seven years imprisonment under the 1950 Emergency Provision Act. Between mid-November 1995 and January 1996 has was held in a prison dog cell.

Ba Myo Thein signed as a representative of the Da Nya Ta⁽⁵⁾ on the document on the protection of the rights of prisoners which was to be sent to the United Nations.

Soe Myint

Soe Myint was held in a prison dog cell in Insein between mid-November 1995 and January 1996.

Soe Myint wrote the song 'The Battle Cry' published in the ***New Blood Wave*** magazine.

Sein Hlaing

Sein Hlaing, 41, is a writer and has been detained at Insein since September 1990. He was a Central Committee member of the All Burma Federation of Youth Unions and a former leader of the Thone Yaung Chae group. He was sentenced in a military court with Myo Myint Nyein to seven years imprisonment under the 1950 Emergency Provision Act. Between mid-November 1995 and January 1996 he was held in a prison dog cell.

Sein Hlaing took responsibility for the distribution of the weekly News Bulletin in Long Hall 4.

Win Tun

Win Tun unlawfully smuggled a 'National' 8-band radio along with 80 batteries into the prison.

These were the charges brought against the accused prisoners by (plaintiff witnesses) U Khin Htay and U Ye Nyunt.

EVIDENCE

The evidence produced in court consisted of radios and batteries, two magazines (*The Diamond Jubilee and the New Blood Wave*) a weekly news bulletin and a number of pieces of paper.

Chief Warden U Zaw Myint (plaintiff witness 4), testified that he participated in the search of Cells to 18 in Hall 12 on November 1995, along with the team leader of the raid Warden U Thein Myint. Chief Warden U Zaw Myint testified that they found:

- an iron water pipe
- a Thuta Swae Sone (Assorted Knowledge) magazine issued in November 1994
- a Veda (Astrology) magazine
- a copy of February 1995 Dana (Wealth) magazine
- six sheets of paper on which were written brief summaries of radio broadcasts
- a letter of condolence and a book of poems written on the 4th anniversary of Maung Thaw Ka's⁽⁶⁾ death
- a copy of a hand-written news bulletin issued on May 7, 1995
- 25 sheets of paper containing suggestions for the movement to secure the release of Nobel Peace Prize winner Daw Aung San Suu Kyi
- 22 sheets of paper on which were written short news stories
- a number of other papers.

The papers of short news stories and the iron pipe seized from Hall 4 were placed under Evidence Category I. According to Warden U Thein Myint, the team leader of the raid, all the other evidence seized during the raid of cell 1 to 18 were listed under Evidence Categories C, D, E, F, G and H.

On November 12, 1995, Warden U Nyunt Wai (plaintiff witness 5) searched Cell 7, Long Hall 4 and found:

- 76 sheets of hand written manuscripts for the Diamond Jubilee magazine aimed at opposing the State
- five sheets of handwritten papers written in English
- a book of (Buddhsit) Sutras.

They were listed under Evidence Category J. According to U Nyunt Wai, prisoners Zaw Tun and Nyunt Zaw lived in this cell.

According to the testimony of Warden U San Ya (plaintiff witness 6) he was told to search Hall 4 on the morning of November 13, 1995 along with the authorities in charge of Halls 4,

5, 6. The authorities seized 37 sheets of paper torn out from various English magazines from Cell 29 where Sein Hlaing, Win Thein and Aung Myo Tint lived.

Warden U San Ya also testified that Khaing Soe, Saw Myint Maung, Moe Kyaw and Maung Gyi lived in Cell 18 and that 21 pages from an English magazine were seized from their cell. He further verified that the authorities found 3 lamps wrapped up in a cement bag buried in front of Cell 21, Hall 4 where Kyaw Zin Htwe and Pyone Cho lived. He also testified that Maung Swe Oo and Phyo Min Thein lived in Cell 5 of Hall 4.

According to the confession of Ko Ko Oo, Warden Maung Hla, Warden Tint Lwin and Corporal Shwe Win searched in the garbage pile and toilet behind Hall 5 on November 19, 1995 and found a ten-and-a-half foot long black wire, two four-foot long white wires, ten small 'National' batteries, a destroyed speaker and broken bits of a radio.

The search team also found in the area between the pond and the officers' houses a copy of the ***New Blood Wave*** magazine and another copy of the same magazine, which were listed in Record No. 2 under Evidence Categories M and B. A draft copy of seditious literature listed as Record No. 12 was also found buried in the ground near Hall 4.

Warden Kan Myint (plaintiff witness 7) testified that he was ordered to search Cells 2 and 13 of Hall 3 on November 12, 1995. In his testimony, he stated that Win Tin lived in Cell 2. He said his team found:

- two ***Newsweek*** magazines
- a nail cutter
- two ball-point pens, a pair of felt pens and two refills
- three bottles of home-made medicine
- a lighter
- illegal literature written on 109 pieces of plastic and 39 pieces of paper.

Furthermore, Warden Kan Myint testified that the team found another batch of evidence in Cell 13 of Hall 3. They were:

- two new gas lighters and three old gas lighters
- three shaving blades and a shaving metal blade
- a container for colored pencils

- a painting brush
- two copies of ***Today Burma***
- a book of English usage
- a thermometer
- 12 colored pencils, seven colored pens and 14 felt pens
- an article called 'Living Revolution' written on eight pieces of torn plastic bags
- 155 kyat⁽⁷⁾
- a ***Newsweek*** magazine
- five 'Spoken English' books
- an old nail cutter
- a picture of Bogyoke (Aung San)
- five picture of Aung San Suu Kyi.

According to the testimony of handwriting expert U Tin Sein (plaintiff witnesses 8), he was able to confirm that the handwriting of the publications, except the weekly news bulletin (Record A-1), was that of Nyunt Zaw. After carrying out an examination of his writing alongside that of Zaw Myint Maung, Aung Kyaw Oo, Zaw Tun, Kyaw Min Yu, Phyo Min Thein, Myat Tun and Win Tin, he found the hand writing in the A-1-1 copy and the magazine for the Diamond Juilee of Rangoon University was identical to that of Nyunt Zaw.

U Tin Sein further testified that:

- the hand writing on Record A-2 belonged to Nyunt Zaw.
- Aung Myo Tint wrote ***New Blood Wave*** (Record A-3)
- Record A-4 and Evidence Category P were Aung Kyaw Oo's writings
- writing on the back of an oil-soaked paper used for wrapping up snacks from 'Joker Bakery' was written by Zaw Tun (Record A-5, Evidence Category Q)
- writing in red ink on 10 pieces of paper was written by Kyaw Min Yu (aka Jimmy) (Record A-6, Evidence Category R)
- Phyo Min Thein wrote two sheets of paper constitution Record A-7, Evidence Category S
- Record A-8, Evidence Category T, was in Myat Tun's handwriting
- Win Tin's handwriting was on Record A-9, Evidence Category N

Following an investigation, the State brought various charges against Myo Myint Nyein along with 21 other partners-in-crime

involved in the case. They were charged under Section 5 (E) of the 1950 Emergency Provision Act for writing and distributing seditious literature and drawing cartoons and illustrations aimed at discrediting the State despite knowledge and proof that the information contained in these documents was false.

The court also produced evidence for the case involving the Diamond Jubilee magazine and 20 sheets of paper addressed to the United Nations (Evidence Category C); the weekly news bulletin – 6 different editions of which were seized from Myo Myint Nyein's cell (Evidence Category D); minutes of NLD meetings in prison (Evidence Category F); and the ***New Blood Wave*** magazine and other literature (Evidence Category K).

All the accused denied the charges. All the accused with the exception of Zaw Min, Hla Than and Sein Hlaing testified as witnesses during the trial and produced witnesses.

TESTIMONY OF THE ACCUSED

Myo Myint Nyein

In his main statement Myo Myint Nyein told the court that he discussed with Phyo Min Thein writing a message to the UN Human Rights Conference in Vienna, Austria in 1993. The message stated that "we (Burmese) hope for more support from the international community for the promotion of human rights in Burma." He also confessed that along with Phyo Min Thein he signed the message written in English on the prison shirt. The message was later sent to the Human Rights Conference.

Myo Myint Nyien stated he made arrangements to send a message of congratulations from 'political prisoners, colleagues and friends' to Daw Aung San Suu Kyi when she was released (from house arrest). He said he made arrangements for the publishing of the weekly news bulletins, distributed them among those who wished to read them, and wrote articles for the bulletin. He testified that he also held discussions with Phyo Min Thein to publish a magazine in commemoration of the Diamond Jubilee of Rangoon University, and he took joint responsibility for the magazine.

Myo Myint Nyien said he wrote a paper on the 'rights and grievances of the prisoners' to be presented to the United Nations through the ICRC during their proposed visit to the prison. He said

he was unable to deliver the paper because he could not meet the ICRC delegation.

Myo Myint Nyien also testified that he received messages on the 4th anniversary of Maung Thaw Ka's death, and that he was sent to Cell 2 of Hall 6 while his cell was being searched on November 11 and 15, 1995. He said he was also responsible for the letter sent to the government suggesting the release of Daw Aung San Suu Kyi when she was not freed as expected, and that this letter was not distributed.

He further testified that he was responsible for the evidence contained in Evidence Categories C, D, E and K, that he had never seen the New Blood Wave magazine before, and that it was not true that he asked Nyunt Zaw to copy the news after receiving it from the BBC, VOA and DVB, and nor did he distribute this news. He said it was also not true that the news was read by the prisoners from Long Hall 4, and Short Halls 4 and 3. He said it was only sent it to the political prisoners in Long Hall 4 to be read.

Myo Myint Nyien said it was not true that Myo Nyunt Thein signed his name on the prison shirt to be sent to the Vienna Human Rights Conference, and added that the news contained on the shirt was all correct. He said the meeting of the VOA correspondent with leaders of the country was proof of that, and said the information contained in the papers, magazines and bulletins was all true.

Zaw Tun

Zaw Tun testified that his room was not searched on November 11, 1995 and that he and Nyunt Zaw were brought out of their cell when Hall 4 was searched on November 12, 1995. He said nothing was found in his cell.

Zaw Tun also said he learned from Warden U Nyunt Wai that the search team found a package when another search was conducted in their absence. He said the first time he had seen the package was when Warden U Nyunt Wai showed it to him.

He said did not read the Diamond Jubilee magazine, and asserted that, as written in the 'Historic Peacock' poem, it was true that a number of students had died or were injured on July 7, 1962, during the 1974 U Thant Funeral Strike, at the Hmaing Centennial Strike, during the 1987 Demonstration Strike and on the day of Phone Maw's death in 1988.

He said he was not guilty.

Nyunt Zaw

Nyunt Zaw testified that on November 12 1995, the authorities searched his cell in his absence. He said he did not sign the documentary record (listing the evidence found in his cell). He also said that the Diamond Jubilee magazine was written by hand in recognition of the plight of political prisoners. Nyunt Zaw further testified that he only copied news collected from visiting during prison visits at the request of Myo Myint Nyein, and said there was also news from Radio Myanmar in the news bulletin.

Soe Htet Khaing

Although he did not refute the charges explicitly, Soe Htet Khaing told the court that the allegations stated by U Ye Nyunt (plaintiff witness 2) were incorrect.

Aung Kyaw Oo

Aung Kyaw Oo told the court that he was a member of the 'Committee to Publish The Diamond Jubilee Magazine', and that he had only participated in putting the magazine together. He did not deny the fact that Nyunt Zaw, Phyo Min Thein, Kyi Pe Kyaw were involved in publishing the magazine.

Zaw Min

As a defendant, Zaw Min answered 11 questions asked by the court. He did not produce any witness to refute the charges, and he did not act as a witness during any of the other cases being tried.

Phyo Min Thein

Phyo Min Thein testified that after a discussion with Myo Myint Nyein in early May 1993, he signed his name on the prison shirt on which they wrote that 'the political prisoners welcome the Vienna Conference', that 'the rays of hope for human rights will be

brightened in Burma' and that 'we are still under detention in the SLORC prison where no human rights are practiced'.

He said he held discussion with Myo Myint Nyein to compile a paper on human rights violations common in prison to present to the ICRC when its delegation was scheduled to visit the prison. Phyo Min Thain said he was a participant, along with others, in the preparation of the paper to be presented to the UN through the ICRC. He said the paper was unable to be presented to the UN through the visit was canceled. Similarly, he said they could not send the paper (to the UN) by any other means. Phyo Min Thain stated that what was contained in this paper regarding the situation in prison was true and the information was based on his own experience under detention.

Phyo Min Thain said he took the main responsibility for publishing the magazine in honor of the Diamond Jubilee of Rangoon University. He said he drew illustrations on both the front and back covers, and that anyone could participate in the writing and preparation of the magazine. He said there was no committee as such for the publishing of the magazine and that he informed only those who could help him put the magazine together.

He testified that he asked Myo Myint Nyein to do the layout of the Diamond Jubilee magazine, and asked Nyunt Zaw, who had beautiful handwriting, to copy the final draft. He stated the information contained in the magazine was all correct and that it reflected the genuine feelings of political prisoners.

He pleaded not guilty.

Win Thain

Win Thain testified that nothing was found in his cell during the special search conducted on November 11, 1995. He said the ***New Blood Wave*** magazine that Warden U San Ya alleged was discovered there was not in his possession and stated that he had no connection with the magazine.

Win Thain told the court he was beaten during his interrogation. He pleaded not guilty.

Aung Myo Tint

Aung Myo Tint testified that on November 12, 1995 a warden and other prison officials took him from his cell (no. 29, Short Hall 4)

saying that he would have to meet the chief warden. He said that he was tortured that night.

Aung Myo Tint said he was taken away again on November 16, 1995 and officials showed him a hand written book and asked if he had written it. When he denied this, he said they asked him to write something on paper (to check his handwriting).

Aung Myo Tint testified that the accusations made by the prison officials against him were biased and untrue. He said he had not held any discussions with Win Thein, that he did not share a cell with Pyone Cho and Yin Htwe, had nothing to do with them, and that his prison visiting time was not the same as theirs.

He said that according to prosecution witnesses, the notebook was found near the official quarters. He also said he was not connected with the ***New Blood Wave*** magazine.

Aung Myo Tint pleaded not guilty.

Htay Wing Aung⁽⁸⁾

Htay Wing Aung is a member of the ABFSU and was placed in a prison dog cell in Insein between mid-November 1995 and January 1996.

Htay Wing Aung testified that on November 12, 1995 he was taken away from his cell, his head having been covered with a mask, and was beaten during an interrogation. He also told the court that on November 16, 1995 he was treated in the same way during another interrogation. He said six officials interrogated him using threats and torture.

Htay Wing Aung said he had no connection with the evidence found elsewhere and that nothing was found in his cell. He said U Khin Htay's allegations against him were wrong. He denied that the handwriting in the ***New Blood Wave*** magazine was his, that he and Aung Myo Tint named the magazine, that Aung Myo Tint drew illustrations and copied the writing in the magazine, or that he wrote the poems 'Summer Dream: Purple Flower', 'Phone Maw' or 'He Whose History Does Not Die' and 'Anger of 13-16'.

He pleaded not guilty.

Yin Htway

Yin Htway testified that on November 12, 1995 he was sent to Cell 7, Hall 6 before U Myint Thein and his team searched his cell.

He said after he was interrogated, he signed a paper because he was asked to do so.

Yin Htway said that Warden U San Ya claimed he found the ***New Blood Wave*** magazine, he could not tell the court exactly where he found he it. He said the magazine had nothing to do with Hall 4 where he lived and that he had no connection with the publication.

Yin Htway pleaded not guilty.

Win Tin

Win Tin testified that Military Intelligence Services (MIS) personnel took him to a show entitled 'Windy With Big Wave' at Envoy Hall on U Wisara Road while he was serving a prison term for previous offenses. He said the MIS asked him to write a 25-page assessment paper and he complied with this.

He told the court the main points in the paper were: 'the Army was working for continued military domination in Burma', 'he could not accept the fact the Tamadaw⁽⁹⁾ was creating a destiny for the country', 'he objected to the military intervention during the 1988 Uprising in which a new generation of students and the entire nation participated', 'he supported Daw Aung San Suu Kyi's tireless effort to establish democracy for the generation to come' and 'he presented the sufferings of political prisoners when he was allowed to meet two foreign delegations'. He said that when he was allowed to meet a foreign delegation for a second time, he also presented some of his views on the release of Daw Suu Kyi and political prisoners, on the meeting, which the SLORC held with Daw Suu Kyi, and on the abolition of the National Convention. He said that the current situations that he had been legally permitted to undertake.

Win Tin testified that the statement in the letter to the UN that 'political prisoners did not receive sufficient medication in prison', was a true statement. He said he himself had not received sufficient medication. He told the court that political prisoners refused to eat food for three days to protest against the punishment received by Bala Gyi (aka Than Htut.) He said when U Hla told him of the (punishment) incident he refused offd as part of the protest. When he was told (by the authorities) to change his mind, he said he did not. He said he began to eat again when Bala Gyi was exempted from punishment.

Win Tin testified that when prisoners demanded their rights, the authorities only allowed prisoners to heat up their food before eating it. He said that although he demanded the status of political prisoners be clearly defined, (the authorities) did not comply with this.

He told the court that the facts contained in the letter to the United Nations, describing the situation with regard to the treatment of prisoners in solitary confinement and other matters, were correct and were beyond the limits of regulations outlined in the prison manual.

Win Tin said that the search of his cell on November 12, 1995, the officers confiscated many papers and materials from the cell. He said he did not know if all of the confiscated materials were shown to the court, but said that among the materials shown in court he had not seen the paper about the NLD meetings in prison or the paper entitled 'To The Lady's Birthday'.

He said he had not seen the 'Ten Principles of Unity' document or his view on the Joint Action Committee. He said although officials claimed that the letter of Ko Phyo, addressed to 'Ah Ba' or father, was found in his cell, this was not correct. He added that the 'De Hlaing' poem was not written in his handwriting, and that he could not write poems because he was old. He said he was only a newspaper writer, but testified that he did not write any of the articles in the ***New Blood Wave*** magazine. He said just because there was no name alongside an article, didn't mean that he had written it.

Win Tin said the letter written on Aung San Suu Kyi's 50th birthday entitled 'Bowling To The Lady On Her Birthday' was a personal letter, not a political letter. He said he wrote the greeting letter to Aung San Suu Kyi on her release (from house arrest).

Win Tin pleaded not guilty because he said all of what he had written was based on the truth.

Hla Than

Hla Than did not act as a witness, but as a defendant. He answered only two questions posed by the court. He didn't produce anything to prove he was not guilty.

Ko Ko Oo (aka Bo Bo)

In his defense, Ko Ko Oo told the court that on November 12, 1995 he was taken from Cell 14, Hall 3 and interrogated in the 'special' hall. He further alleged that he was interrogated again on the following day in Cell 6, Hall 6.

He said he was again taken away from his cell on November 20, 1995. He said he was taken to the plot behind Hall 5 and saw a group of prisoners digging away a garbage heap of about 6 feet square. Ko Ko Oo said he was then taken to a dug-out for human excrement about 30 yards away (from the garbage pit). He said an official ordered a prisoner to poke the pit with something and the prisoner refused. He said two officials, Warden U San Ya and U Hla, were present at that time and he saw them abusing and beating the inmates. He said he also saw someone bringing batteries and cables, and that although he had no idea what the group of prisoners who had been beaten earlier had found in the sewerage pit, he saw them cleaning something at the water tap. He said he was then interrogated.

He testified that in February 1996 he was charged for allegedly being involved in the smuggling of an 8-band radio into the prison. He said he had heard news that this had been done in 1994. He denied his involvement in this, further testifying that the radio parts and cables were not his, that they were not found in his room, and that there was no evidence that he listened to the BBC, VOA, DVB, Voice of Myanmar, and Far East Radio, and redistributed the news. He said he was not guilty of this charge.

During cross-examination by the law enforcement official, Ko Ko Oo refused to answer all the questions and denied that he listened to the news and distributed the news. He also asserted that the news contained in the news bulletin was all correct.

Kyi Pe Kyaw (aka Kyaw Gyi)

Kyi Pe Kyaw was acquitted from a case on November 12, 1995 (while serving a prison term). He was again recalled to the court on February 5, 1996 to face charges.

He testified in court that a special search was conducted in his cell on November 12, 1995 and that he was transferred from his cell to Cell 2, Hall 6 during the search. He told the court the statement that Warden U Thein Myint searched Long 18 and Long Hall 4 alone was incorrect.

Kyi Pe Kyaw denied that he decorated the Diamond Jubilee magazine and that he sent a letter to the UN detailing the abuse of the prisoners in Insein. During cross-examination, he denied his participating in putting out the news bulletin and denied that he had discussed with anyone. He also testified that he co-signed the letter to the UN written by Win Tin, because the authorities told him to sign the letter.

Kyaw Min Yu (aka Jimmy)

In his defense, Kyaw Min Yu testified that he was recalled back to Insein by MIS (6) and that he had to stay in Tharawaddy Prison from August 6 to November 20, 1995. He said he did not advise Myo Myint Nyein to write a letter to the Vienna Human Rights Conference on the prison shirt in 1995. In addition, he said he did not know anything about the letter. He said he was not involved in the collection of manuscripts for the finalizing of, of the distribution of the news bulletin, and told the court he had never talked about the news bulletin with Myo Myint Nyein. He also told the court that broadcasting stations such as the BBC and VOA were good for the people and that these stations broadcast only correct and confirmed news.

Kyaw Min Yu denied that it was his handwriting (Evidence Category R) that was found in the news bulletin despite verification from the handwriting expert. He said he grew more confident after he took the (hand-writing) test. Furthermore, Kyaw Min Yu said it was not true that he co-signed the Christmas card addressed to Daw Aung San Suu Kyi. He said all he knew was that the card was destroyed without it being sent to her. He told the court that the note 'I would like to greet you with genuine democracy' had nothing to do with the charge that had been brought against him.

Kyaw Min Yu pleaded not guilty on the grounds that he had done nothing related to the charge.

Myat Tun

Myat Tun testified that the authorities did not find anything illegal in his cell during the search and that they only found a nail cutter, a photo, a small Dharma Setkya⁽¹⁰⁾ and a note written on a piece of paper used for wrapping up snacks. He said the note in Evidence

Category T was just a note of news that he had received during a prison visit. He said did not distribute any news nor tell any news to anyone.

Myat Tun pleaded not guilty.

Win Tun

Win Tun confessed that the search team found a radio and batteries in his cell. He further testified that the search was conducted in his absence. During cross-examination, he told the court that he listened to the BBC, VOA, etc., but did not distribute any news to anyone.

Sein Hlaing

Sein Hlaing allowed himself to be questioned as a defendant. He answered only two questions and did not have any witness to present to the court.

Zaw Myint Maung

Zaw Myint Maung testified that he heard loud noises similar to digging on the ground with axes from the direction of Hall 4 at about 8:30 p.m. on November 11, 1995. He said the following day, a team led by Chief Warden U Kan Myint searched all of the 14 cells in Hall 3 using hoes and axes to dig. He said the officials found nothing in his cell. He said that on November 13, 1995, the team dug the ground in front of Cells 6 to 9 and also dug in front of his cell (no. 10, Hall 3) and nothing was found. On November 15, 1995, he said he and some other prisoners were taken away from their cells and ordered into separate cells in which they are still living. He said the officials did not even allow him to drink water during his period of interrogation.

Zaw Myint Maung told the court that he was later shown two sheets of paper and was accused of writing a poem in the Diamond Jubilee magazine, and a poem and an article in the ***New Blood Wave*** magazine. He said he had never heard of the existence of nor read these magazines. He said he had seen his name in the magazines and suggested that it may have been written by the investigators. He added that on November 23, 1995 the authorities took a sample of his handwriting. He said the

words he was told to write were designed to hurt his political dignity.

Zaw Myint Maung said although it was alleged that he wrote the poem 'Noble Mother' (Evidence Category C), he could not find this title in the table of contents (of the Diamond Jubilee magazine). he added that the testimony of handwriting expert U Tin Sein was incorrect and that it was unnecessary to counter his claims. Therefore he did not answer the law enforcement official's question regarding his handwriting (Evidence Category O).

Zaw Myint Maung denied all the charges.

Soe Myint

Soe Myint testified that it was difficult to determine who was responsible for putting out the *New Blood Wave* magazine because Warden U San Ya could not verify where it was found. He said he did not write the song 'Battle Cry' in the magazine, and added that U Ye Nyunt himself had answered 'no' when asked if he knew whether the song was written by Nantawshayt Saya Tin⁽¹¹⁾. He refused the accusation on the grounds that the prosecution told the court that it was true only according to the investigation rather than in fact.

He again denied writing the song when under cross-examination and denied reading or distributing the *New Blood Wave* magazine.

Ba Myo Thein

Ba Myo Thein testified that the search of his cell was conducted from November 12, 1995 to November 14, 1995 and that he was interrogated on January 20, 1996. He said he learned three days later that he would be charged formally at the court.

Ba Myo Thein told the court that he did sign the plastic bag on which the letter was written to the UN Secretary General, or the white sheet of paper. He said although his cell was searched, the authorities did not find anything so he didn't need to sign any document acknowledging anything was found.

Ba Myo Thein pleaded not guilty on the grounds that the prosecution only alleged that they had found evidence of his involvement in the crime on February 5, 1996. He denied all the charges during the cross-examination.

The testimonies of defense witness U Saw Nay Dun and U Tin Maung Lwin could only verify the accused were put in solitary confinement and tortured during their interrogation. They were not able to tell the court anything that would support the defense case against the other charges.

Myo Myint Nyein

As the court listened to testimony from both sides, Myo Myint Nyein told the court that the information contained in the letter to the Vienna Human Rights Conference was not fabricated, but based on true accounts. He said he wrote the letter to Daw Aung San Suu Kyi when he heard that she had been released (from house arrest) but said it was not sent to her because she was not released. He added the facts in this letter were correct and contained no false statements.

Myo Myint Nyein also testified that when he wrote the news bulletin in 1994/95, the news in it was also true and that those who were interested in it were allowed to read it. He said he also wrote a paper to present to (former UN Special Rapporteur) Professor Yokota when he was scheduled to visit the prison and although he was not able to give him the letter because he did not see him, the content of the letter was based on actual events in Insein prison.

Myo Myint Nyein took responsibility for publishing the Diamond Jubilee Magazine and said the news and facts published in the magazine were all true accounts. He therefore pleaded not guilty.

Zaw Tun

He further testified that he was not on the 'Committee to Publish the Diamond Jubilee Magazine' and said that the facts in the magazine were all correct. He said he did not write any poems and that Nyunt Zaw copied the manuscripts at the arrangement of Phyo Min Thein.

Zaw Tun said statements such as 'Phone Maw's death' and 'It is better to play chess' had nothing to do with Section 5 (E) of the Emergency Provision Act (the formal charge brought against him.) He said although he discussed with Phyo Min Thein what

should be told to the ICRC when its representatives paid a visit to the prison, some of the accusations made were not covered in that discussion.

Nyunt Zaw

Nyunt Zaw testified that he wrote the Diamond Jubilee magazine and all the facts published in it were genuine. He said the prosecution could not produce any proof the information in the magazine was not correct. Despite the fact that the letter to the UN investigator was unable to be delivered, the details in it were all based on realities in the prison. He said he also wrote the news bulletin.

Soe Htet Khaing

Soe Htet Khaing said there were no witnesses other than U Khin Htay and U Ye Nyunt who testified that he endorsed both the letter to the UN and the letter to Aung San Suu Kyi. He said their testimonies were based on his confessions which were made during his interrogation. He therefore pleaded not guilty.

Aung Kyaw Oo

Aung Kyaw Oo said it was true that he wrote the poem 'Together With Infinite Strength' in the Diamond Jubilee magazine. He said everyone has strength and requested that the court rule to give prisoners the right to read and write if they are convicted under the present charge.

Zaw Min

Zaw Min testified that he was not in Insein Prison during the period between August 6, 1995 and November 21, 1995. He said he did not write the poem 'Kow-towing To Mother', the poem titled 'Appendix To A Cup Of Light Sweet Tea' or the short story 'Day Of Hope'. He said there was no proof he had written them, nor had any drafts of them been found.

He also said it was untrue that Soe Htet Khaing and Aung Kyaw Oo had helped him. Zaw Min said there was also no proof

that he signed the letter to the UN. He denied he discussed the letter with Nyunt Zaw, Kyi Pe Kyaw and Phyo Min Thein, because it was already stated that U Win Tin alone had written the letter.

Phyo Min Thein

Phyo Min Thein also said he was transferred from Taungoo Prison to Insein Prison on November 24, 1995. He said after the investigation he was formally charged for alleged involvement in this case.

He stated that the prosecution could not prove that the contents of the Diamond Jubilee magazine were false or that he edited it. He said although he was accused of writing the poem 'Kow-towing to the Mother', the authorities also accused another prisoner of writing the same poem. He confessed that he wrote the letter to Daw Aung San Suu Kyi, and the other letter on the prison shirt to the UN.

Phyo Min Thein maintained that all the facts contained in these letters were based on genuine accounts and on these grounds he pleaded not guilty.

Win Thein

Win Thein said that a special team searched his cell on November 11, 1995. He testified that on November 15, 1995 he was beaten while being interrogated.

He asserted that there was no proof that he wrote a piece in the ***New Blood Wave*** magazine. Furthermore, he stated that according to Warden U San Ya the magazine was found at a place far away from his cell and this showed that he had nothing to do with it. He said he did not participate in the publishing of the magazine because he was too tired – both in body and mind – due to his constant torture in prison.

Aung Myo Tint

Aung Myo Tint said he did not organize or discuss with Pyone Cho, Yin Htway and Win Thein about the ***New Blood Wave*** magazine. He told the court that his handwriting was different from those on pages 5, 28, 32, 33, 35, 37, 53 and 93 although the handwriting expert claimed that these writings were his. He also said he had

never met Soe Myint or Ne Oo, and had not seen the news bulletin before.

Htay Win Aung

Htay Win Aung told the court that he was not allowed to hire a lawyer to represent him. He pleaded not guilty on the grounds that the charges against him were unfounded, that there was no proof to back up the accusations, and that the prosecution testimonies were based on information obtained through interrogation.

Yin Htway

Yin Htway stated he was not allowed to hire a lawyer to represent him. He further testified that the accusations against him with regard to the ***New Blood Wave*** magazine were erroneous. He asked the court when it sentenced the prisoners to urge the authorities to allow the others full rights of prisoners in prison.

Win Tin

Win Tin said he did what he believed was right and there was not a single fact written that was incorrect. He told the court that the loss of human rights and torture in prison were all genuine and added that the prosecution could not prove that these points were inaccurate.

He said he did not write the 'reports on the NLD'. The facts contained in the letter to the UN he said were real, and that he did not anything in the ***New Blood Wave*** magazine under the name of 'De Hlaing'. He also told the court that the materials brought to the court as evidence were all mixed up. He said the 'Ten Principles To Unity' document was a confession from him during torture.

Win Tin said that although he wrote the letter to Daw Aung San Suu Kyi, it contained true accounts of what was going on. He admitted that he wrote the piece 'To the Lady's Birthday'. He said he met the UN delegation with the permission of the authorities.

Win Tin pleaded not guilty on the grounds that all he told the court was correct.

Hla Than

Hla Than attested that there was no way that he could have met Kyi Pe Kyaw. Likewise, he said he did not meet Soe Htet Khaing and Yhyo Min Thein.

Ko Ko Oo (aka Bo Bo)

Ko Ko Oo pleaded not guilty on the grounds that the prosecution was not able to produce any evidence against him.

Kyi Pe Kyaw (aka Kyaw Gyi)

Kyi Pe Kyaw said he did not co-operate with Phyo Min Thein, Hla Than and Nyunt Zaw. He said the poem entitled 'Mother Irrawaddy' was not included in any of the publications so he pleaded not guilty.

Kyaw Min Yu (aka Jimmy)

Kyaw Min Yu further testified that he did not know anything about the New Blood Wave magazine and that he did not distribute it. He also said he was not involved in the letter to the UN written on the prison shirt and that it was not true that he had written the letter to Daw Aung San Suu Kyi.

He admitted that Evidence Category R was his handwriting, but he pleaded not guilty on the grounds that the contents were all based on true accounts.

Myat Tun

Myat Tun told the court that he was not guilty because the record of news that he had collected during prison visits (Evidence Category T) was accurate.

Win Tun

Win Tun told the court that it was true the search team found a radio in his possession, but it was not true that he distributed news to prisoners. He said he had no connection with the news bulletin or the Diamond Jubilee magazine. This being the case, he

said he should only be punished in accordance with Section 42 of the prison manual.

Sein Hlaing

Sein Hlaing countered the charges on the grounds that the materials allegedly found in connection with him were all mixed up and that the locations of where the materials were found were also presented incorrectly to the court. He also told the court that prisoners from Halls 3 and 4 could not see each other and that for this reason he had no way of meeting with Myo Myint Nyein.

Zaw Myint Maung

Zaw Myint Maung said he did not sign his name on the message of congratulations [to Daw Aung San Suu Kyi] and did not write a letter to her on her release [from house arrest]/ He said it was also incorrect that he had written a poem in the Diamond Jubilee magazine and said he had never read the *New Blood Wave* magazine, stating that he did not even know where it was found.

Zaw Myint Maung said the sample of his handwriting had not been taken in accordance with the law and asserted that he was being tried for political reasons.

Soe Myint

Soe Myint contended that he was not guilty because no witnesses other than U Khin Htay and U Ye Tun accused him of the crimes.

Ba Myo Thein

Regarding the accusation that Ba Myo Thein drew illustrations in the Diamond Jubilee magazine as shown in the evidence, the accused claimed this evidence had not been obtained in accordance with the regulations. He denied his participation in the letter to the UN and the endorsement on behalf of Da Nya Ta. He said that the letter was written by Win Tin alone.

Ba Myo Thein Pleaded not guilty.

SUMMARY⁽¹²⁾

The judicial officer told the court that all the evidence shown to the court was either seized or found in the possession of the defendants. He ascertained that although they were written by hand, they were still magazines and literature according to Section 2(a) and (c) of the Printing and Distributing Act and that it was clear that the accused co-wrote, read and distributed the magazines and other literature. It was also evident that they listened to the news broadcasts from foreign broadcasting stations and distributed this false information.

The handwriting expert verified that those accused of writing Records A-1 to A-9 had actually written the literature concerned. Since the radios had been seized from Ko Ko Oo and Tun Win, it was evident that that they had distributed the news from the radio.

Although Win Tin claimed that he wrote the letters according to his version of the truth, they contained facts that were unacceptable to the government. In addition, Myo Myint Nyein had confessed that he took responsibility for the publication of the Diamond Jubilee magazine and the evidence showed that all the accused worked together to publish the magazines.

He [the judicial officer] therefore appealed to the court that they be given sentences under the charges that had been laid against them.

As mentioned, Nyunt Zaw wrote the news bulletin (Record A-1). Similarly, the handwriting found on the Diamond Jubilee magazine was his. The investigators found that he had copied false news from the BBC, VOA and DVB.

The judicial officer told the court that all the writings-poems, articles, descriptive pieces, aesthetic writings, cartoons, short and long stories-contained in the 102 page Diamond Jubilee magazine were aimed at defaming and discrediting the government. the person responsible was no other than Nyunt Zaw as testified by the plaintiff witnesses and from the confessions of the accused.

In the defense of Myo Myint Nyein, he confessed that he co-operated with Phyo Min Thein to put out the magazine. Although he claimed the handwriting in the magazine was his, it was obvious from the evidence that it was Nyunt Zaw's.

The poem 'History Of The Fighting Peacock's Ability' (Record A-2) was entirely against the government. It reads as follows:

'Let it be known to
those in the military who hunger for power,
those demonic military,
wishing to build a military nation,
under a military democracy and military politics,
that we shall resist defiantly with the strength of the fighting
peacock,
may it be eternally recorded in history!'

It was evident that this poem was written by Zaw Myint Maung from U Tin Sein's testimony and from Evidence Category N.

The ***New Blood Wave*** magazine (Record A-3) was written by Aung Myo Tint. He contested the allegation by U Tin Sein that the handwriting in certain pages of the magazine was not identical to that shown in Evidence Category K. U Tin Sein confirmed in his testimony that Aung Myo Tint did not ask a cross question about it. There were poems, stories, satirical pieces, songs, articles and aesthetic writings in the magazine and these were aimed at discrediting the government and presenting inaccurate information.

From U Tin Sein's testimony combined with the Evidence Category N it was undeniable that the handwriting of the poem 'Together With Infinite Strength' was Aung Kyaw Oo's. It was a poem which was libelous to the government.

The two pages of 'Meeting With Great Leaders' (Record A-6, Evidence Category Q) as accepted by the court, were clearly seditious literature. They were written in Zaw Tun's handwriting, as testified by U Tin Sein and confirmed by Evidence Category N.

The Record A-7, Evidence Category R, was in the handwriting of Kyaw Min Yu. This was confirmed by U Tin Sein's testimony together with Evidence Category N. In any case, Kyaw Min Yu himself admitted that it was his handwriting.

The two sheet letter that was Record A-7, Evidence Category S, started with the word 'Father' followed by the signature 'Ko Phyo' and ended with the date '15-1-95'. According to Evidence Category N and the testimony of U Tin Sein, it was written by Phyo Min Thein. The facts contained in this were defamatory to the government.

The Record A-8, Evidence Category T, was the record of inaccurate news broadcast by the DVB. The testimony of U Tin Sein and Evidence Category N affirmed that it was Myat Tun who had copied it out. He admitted that these were not false statements. The law enforcement official testified in court that the news from the DVB (Evidence Category T) was damaging to the country as it had been fabricated.

Record A-9, Evidence Category T, contains an anti-government poem written on bits of thin plastic bag, and brief notes of NLD meetings and policies. The documents were addressed to Win Tin at Cell 2 in Hall 3 and according to evidence and testimonies of U Tin Sein, it was proven that the handwriting on these documents were Win Tin's. But Win Tin testified that it was not entirely true that all these documents were written in his handwriting, as some were in other handwriting styles that he did not recognize. U Tin Sein did not ask a return question regarding this.

As mentioned, it is clearly evident that Nyunt Zaw, Zaw Myint Maung, Aung Myo Tint, Aung Kyaw Oo, Zaw Tun, Kyaw Min Yu, Phyo Min Thein, Myat Tun and Win Tin had written in his handwriting, as some were in other handwriting styles that he did not recognize. U Tin Sein did not ask a return question regarding this.

Myo Myint Nyein did not deny that he wrote the letter to the Human Rights Conference on the prison shirt. He also did not deny his involvement in the work of the Diamond Jubilee magazine (Evidence Category C), the letter requesting rights for political prisoners, the news bulletin (Evidence Category Q) and the ***New Blood Wave*** magazine (Evidence Category E). He in fact confessed that he was involved with the Diamond Jubilee magazine and the news bulletin.

Nyunt Zaw did not ask U Tin Sein a cross-question although he denied that the handwriting on the Diamond Jubilee magazine was his.

With regard to charges made against Soe Htet Khaing, he countered that U Ye Nyunt's accusations were unfounded because he did not name the Diamond Jubilee magazine. Soe Htet Khaing contended that he saw the magazine only when he arrived at the court. Similarly, he denied the charge that he read the news bulletin which Myo Myint Nyein passed on to him. But according to

the confiscated materials and testimonies of witnesses, it has already been proven that he had worked with Zaw Tun, Aung Kyaw Oo, Nyunt Zaw, Kyi Pe Kyaw, Zaw Min and Phyo Min Thein on the publishing of the Diamond Jubilee Magazine.

Aung Kyaw Oo testified in court that he carried out work supportive of democracy and human rights. During cross-examination he confessed that he participated in the work of the Diamond Jubilee magazine.

Zaw Min allowed himself to be questioned as a defendant. He denied all the charges. He cross-examined U Khin Htay regarding 'Kow-towing To Mother', the poem titled 'Appendix To A Cup Of Light Sweet Tea', the short story 'Day Of Hope' and the letter to the UN in relation to human rights issues in Burma. Evidence Category C contains the poem 'Appendix To A Cup Of Light Sweet Tea' and 'Day Of Hope' on page 28 and page 96 respectively in the Diamond Jubilee Magazine.

In the testimony of Win Thein, he mainly focused on making an appeal. During cross-examination he denied his involvement in discussions with Pyone Cho, Lwin Oo, Yin Htway and Aung Myo Tint about collecting manuscripts and publishing a magazine in commemoration of the 7th anniversary of Phone Maw's death. He also denied that he wrote 'The Immortal' for the ***New Blood Wave*** magazine. Win Thein however did not say in his main testimony if he was involved in providing coffee and snacks to the participants in the prayers and memorial services (held on the anniversaries for the deaths of Phone Maw and Maung Thaw Ka).

Htay Win Aung in his main testimony did not deny his involvement in naming the magazine ***New Blood Wave*** and in drawing illustrations for it. Likewise, he could not deny writing 'The Immortal' and 'Auger of 13-16' on page 2 of the magazine.

Yin Htay's testimony was similar to that of other defendants. He also told the court of his dissatisfaction in prison. He casually denied that he was involved with the ***New Blood Wave*** magazine. He however could not deny the charges by the prosecution.

Hla Than answered only 3 questions (among those posed by the court). He allowed himself to be questioned as a defendant. He did not defend the charges as a witness of produce any witness to the court.

Ko Ko Oo (aka Bo Bo) did not defend himself against any of the main charges. Instead, he told the court of his feelings,

desires, demands and beliefs. He denied smuggling the radio into the prison (Evidence Category F), but he did not deny explicitly the fact that the radio and its paraphernalia was found in the place to which he had guided the search party.

Kyi Pe Kyaw denied the accusation that he crocheted pictures of a peacock on the Diamond jubilee magazine. During cross-examination, he confirmed that he shared a cell with Myo Myint Nyein and Si Thu (aka Khin Maung Lwin). He denied discussing anything with them, but he did not present any witness to support this to the court.

Tun Win confirmed that a radio was seized from his cell and that he listened to news from foreign broadcasts. But he contended that he did not know about the document sent to the Vienna Human Rights Conference, the letter to the UN Secretary General or the ***New Blood Wave*** magazine. However, he did not deny in his main testimony that he distributed news from the radio and batteries were seized from his cell (Evidence Category D).

Sein Hlaing answered only two questions and did not present any witnesses to the court.

Soe Myint denied knowing anything about the ***New Blood Wave*** magazine and said that he believed it was ownerless. He also denied he wrote the song 'Battle Cry'. He presented no witnesses to the court.

In the main testimony of Ba Myo Thein, he contended that the testimonies of U Khin Htay and U Ye Nyunt were untrue and that he did not sign the document acknowledging the seizure of materials from his cell. During cross-examination, he denied writing the brief news reports and denied he discussed anything with Zaw Myint Maung, Myint Naing and Jimmy. He however was unable to present any proof to back up his denials.

To analyze all the testimonies and the materials shown as evidence – the Diamond Jubilee (Evidence Category C), the requests regarding human rights issues addressed to the UN Secretary General (Evidence Category D) the message of condolence at the death of Maung Thaw Ka seized from Myo Myint Nyein's cell, the drafts of the news bulletin, and other papers and literature (Evidence Categories F, A, D, P, Q, R, T and U) – they are all damaging to the State. It is evident that although the accused had reason to believe that what they were doing was incorrect, although the accused had reason to believe that what

they were doing was incorrect, they were distributing and planning to distribute false news not only within the prison but to organizations outside.

Although conclusions cannot be drawn from the testimonies of the handwriting expert alone, it is evident that all the 22 accused worked together in committing these crimes, a fact supported by other materials and testimonies of the witness and of the accused themselves.

The accused prisoners committed a crime while serving out prison terms received for various other offenses. For this reason there is no justification in showing them mercy. Their sentences are handed out as follows:

The court hereby sentences the following accused to seven years each with hard labor under Section 5 (E) of the 1950 Emergency Provision Act:

| | |
|----------------------------|--------------------------|
| Myo Myint Nyein | (son of U Kyar Ba Nyein) |
| Zaw Tun | (son of U Kan Tun) |
| Nyunt Zaw | (son of U Lay Myint) |
| Soe Htet Khaing | (son of U Myint Thein) |
| Aung Kyaw Oo | (son of U Kyaw Hlaing) |
| Zaw Min | (son of U Tint Swe) |
| Phyo Min Thein | (son of U Khin Tun) |
| Win Thein | (son of U Ohn) |
| Aung Myo Tint | (son of U Soe Tint) |
| Htay Win Aung | (son of U Win Aung) |
| Yin Htway | (son of U Mya Soe) |
| Win Tin | (son of U Pu) |
| Hla Than | |
| Ko Ko Oo (aka Bo Bo) | (son of U Yan Aung) |
| Kyi Pe Kyaw (aka Kyaw Gyi) | (son of U Hla Kyi) |
| Kyaw Min Yu (aka Jimmy) | (son of U Tin Yu) |
| Myat Tun | (son of U Myo Thwin) |
| Tun Win | (son of U Htway Nyo) |
| Sein Hlaing | (son of U Ba Yi) |
| Zaw Myint Maung | (son of U Maung) |
| Soe Myint | (son of U Maung Phat) |
| Ba Myo Thein | (son of U Aung Thein) |

If they have already served a period detention for these crimes, this period must be reduced from the sentence. All money

presented at the court will be confiscated as the property of the State as soon as the period of appeal has expired. At which time all materials presented as evidence in this case will be destroyed.

Signed,

Kyaw Htun

Deputy-Divisional Judge

Ragoon Division Court

(Northern District Court)

Date: March 28, 1996

Footnotes

- (1) Phone Maw was the first student to die in the 1988 demonstrations.
- (2) Company brand name.
- (3) Hardwood evergreen with sweet scented white blossoms.
- (4) Burma's parliament
- (5) The now defunct Alliance for Democratic Solidarity, Union of Burma.
- (6) Maung Thaw Ka was a famous writer and member of the NLD who died in Insein Prison after being beaten and tortured.
- (7) Burma's currency.
- (8) No allegations were listed against Htay Win Aung in the trail report.
- (9) Burma's armed forces.
- (10) Wheel of Dharma, first sermon given by the Lord Buddha.
- (11) A well known pre-WWII composer of classical Burmese songs.
- (12) This heading is not in the original report and has been added by the translator.

Conclusion

The official trial report shows the lack of due process of law in Burma and the judiciary's contempt for fundamental human and legal rights. It demonstrates how the SLORC uses its repressive laws as a tool to suppress political opposition with the aid of an acquiescent judiciary.

Denying the prisoners access to legal counsel is contrary to one of the most basic legal rights and to international standards for fair trials. Without such access to legal counsel the accused should never have been convicted of the charge brought against them.

Perhaps one of the more disturbing aspects of the trial report is how the judiciary accepts the use of interrogations, beatings and torture in prison. It is evident from the official report that these were used as a means to obtaining confessions for use as evidence against some of the accused.

The denial of freedom of expression also demonstrates how the treatment of prisoners by the SLORC's prison administration falls well short of international minimum standards (Appendix IV). The trial report shows how political prisoners are not only refused the right to read, write or have access to national and international news, but that such activity is regarded as punishable.

An examination of the evidence produced at the trial also shows that the prisoners should not have been found guilty of the charge under Section 5 (E) of the 1950 Emergency Provision Act. Under this law a person can be convicted of planning to, or actually disseminating false information either if they know the information to be false, or there's enough proof that it's false. In court, the accused argued that they knew the information contained in the letters and magazines to be the truth. Therefore, the prosecution had to prove that this information was no discussion regarding the truthfulness of the information was instead false for the judge to then convict the accused of the charge. However, there was no discussion regarding the truthfulness of the information – it was only stated that it was 'damaging' to the government. For this reason the 22 accused should, once again, never have been convicted of the charge brought against them.

Such abuses of fundamental legal and human rights are used by SLORCs as a means to silence political opposition. In the face of such abuses, there is a continuing need for increasing international pressure on the SLORC to respect justice and

individual freedoms and heed the will of the people it purports to represent in their call for democratic reform.

SECTION II

The Original Trail Report

The original copy of the trail report is reproduced in full on the following pages. The original document is 26 pages long and has been reduced to 60% of its actual size for this publication.

Each page of the original report has at least two stamps which state that the report is an official court document.

APPENDICES

APPENDIX I

Extract from 'Human Rights Questions: Human Rights Situations And Reports Of Special Rapporteurs And Representatives- 'Situation of Human Rights in Burma'

Prepared by Judge Rajsoomer Lallah, UN Special Rapporteur of the Commission on Human Rights, dated October 8, 1996, and presented at the fifty-first session of the UN General Assembly as agenda item 110 (c) –

E. Prison Conditions

82. Freedom of expression is denied in Myanmar prisons. Prisoners are reportedly denied reading and writing material. One prisoner, who was found with a piece of paper, was allegedly placed in shackles in a 'police dog cell' for one month. Prisoners suspected of having sent letters with allegations of ill-treatment and poor conditions to the former Special Rapporteur, Professor Yokota, have reportedly been ill treated since November 1995 in Insein Prison. On March 28 1996, 20 prisoners implicated in the drafting of the letter, as well as in the hiding of three radio sets and distributing a clandestine newspaper within the prison, were allegedly tried and given additional sentences of 5 to 7 years. Among them were newspaper editor Win Tin and editors of the Bay Buhlwé magazine, Myo Myint Nyein and Sein Hlaing. Zaw

Myo Aung, General-Secretary of Ma Ka Tha Pha, the National Students' Organization, was reportedly sentenced to three months solitary confinement in a 'police dog cell' in Insein Prison for breaking prison rules, the reason being a dispute on philosophy with another prisoner held after 9 p.m. and the fact that he said that "he was not afraid to tell the truth to any one even if he was a prison official", which was considered lack of respect for prison authorities.

APPENDIX II

Article from 'The Nation', Friday April 5, 1996

'New jail sentence' for Burma prisoners

Associated Press

TWENTY-ONE political prisoners in Burma have received new prison sentences, apparently for attempting to pass information about prison condition to a representative of the United Nations, the human rights group Amnesty International said.

The London-based organization said it had learned that 21 prisoners were sentenced on March 28 to new jail terms of five to 12 years each.

The trials of the prisoners, many of whom are members of the National League for Democracy, the main political party opposed to the country's military government, took place in closed session in Insein Prison – just outside Rangoon – where the men are being held.

"The group was accused of hiding three radio sets and circulating a newsletter in Insein Prison," Amnesty said, adding that among the materials confiscated was a letter to the United Nations Special Rapporteur for Burma, whose mandate includes investigation of human rights and political conditions in the country.

The men were sentenced under a 1950 emergency law calling for punishment for anyone who "accuses or intends to disrupt the morality or behavior of a group of people or the general public, or to disrupt the security or the reconstruction of the stability of the Union," the report said.

Amnesty International said the prisoners had no legal counsel during the proceeding against them – contrary to international fair trial standards – and may have been punished

solely for exercising their right to contact with the outside world, a right guaranteed under international conventions.

The report said two prominent prisoners, Win Tin, an NLD leader, and Myo Myint Nyein, a magazine editor, "had been held in tiny military dog cells, forced to sleep on concrete floors with no bedding, and forbidden any family visits."

Burma's military government came to power in 1988 after violently suppressing pro-democracy demonstration.

It is widely criticized for human rights violations and failure to move towards democratic rule.

In another recent report, Amnesty International estimated that more than 1,000 political prisoners remain behind bars, most of them jailed after receiving unfair trials.

"Prison conditions are so deplorable as to constitute cruel, inhuman and degrading treatment", it said.

A US State Department report released last month also reached similar conclusions.

APPENDIX III

Extracts from Section 5, 1950 Emergency Provision Act

Section 5 has 13 sub-section, (A), (E) and (J) of which are reproduced here, translated from the 1950 Emergency Act.

"(A) if a person commits an act that will influence members of the armed forces of government servants to lose trust in the government, to mutiny or to commit treason, or if a person commits an act that will affect the morale, loyalty, discipline, health and training of members of the armed forces or government servants of hamper or prevent them from carrying out their duties,"

"(E) if a person aims to disseminate false information and has committed such an act or is in the process of doing so, knowing that the news is not correct or there is enough proof that the news is not correct,"

"(J) if a person commits an act with the aim to undermine the morality and alter the behavior of the people, or of a group of people, in order to threaten the national security and the restoration of law and order,"

"If found guilty, a person can be sentenced up to seven years or fined or both."

APPENDIX IV

Extracts from the United Nations Standard Minimum Rules for the Treatment of Prisoners.

Established by the UN in 1955 and approved by the Economic and Social Council in its resolution 663 C (XXIV) of July 31 1957 and 2076 (LXII) of 13 May 1977.

Basic Principle.

6. (1) The following rules shall be applied impartially. There shall be no discrimination on grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(2) On the other hand, it is necessary to respect the religious beliefs and moral precepts of the group to which a prisoner belongs.

Clothing and Bedding.

17. (1) Every prisoners who is not allowed to wear his own clothing shall be provided with and outfit of clothing suitable for the climate and adequate to keep him in good health. Such clothing shall in no manner be degrading or humiliating.

(2) All clothing shall be clean and kept in proper condition. Underclothing shall be changed and washed as often as necessary for the maintenance of by giene.

(3) In exceptional circumstances, whenever a prisoner is removed outside the institution for an authorized purposed, he shall be allowed to wear his own clothing or other inconspicuous clothing.

18. If prisoners are allowed to wear their own clothing arrangements shall be made on their admission to the institution to ensure that it shall be clean and fir for use.

19. Every prisoner shall, in accordance with local or national standard, be provided with a separate bed, and with separate and

sufficient bedding which shall be clean when issued, kept in good order and changed often enough to ensure its cleanliness.

Food.

20. (1) Every prisoner shall be provided by the administration at the usual hours with food of nutritional value adequate for health and strength, of whole some quality and well prepared and served.
(2) Drinking water shall be available to every prisoner whenever he needs it.

Exercise and Sport.

21. (1) Every prisoner who is not employed in outdoor work shall have at least one hour of suitable exercises in the open air daily if the weather permits.
(2) Young prisoners, and others of suitable age and physique, shall receive physical recreational training during the period of exercise. To this end space, installations and equipment should be provided.

Medical Services.

22. (1) At every institution there shall be available the services of at least on qualified medical officer who should have some knowledge of psychiatry. The medical services should be organized in close relationship to the general health administration of the community or nation. They shall include a psychiatric service for the diagnosis and, in proper cases, the treatment of states of mental abnormality.
(2) Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, there equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers.
(3) The services of a qualified dental officer shall be available to every prisoner.

23. (1) In women's institutions there shall especial accommodation for all necessary pre-natal and post-natal care and treatment. Arrangements shall be made wherever practicable for children to be born in a hospital outside the institution. If a child is born in

prison, this fact shall not be mentioned in the birth certificate.

(20) Where nursing infants are allowed to remain in the institution with their mother, provision shall be made for a nursery staffed by qualified persons, where the infants shall be placed when they are not in the care of their mothers.

24. The medical officers shall see and examine every prisoner as soon as possible after his admission and thereafter as necessary, with a view particularly to the discovery of physical or mental illness and the taking of all necessary measures; the segregating of prisoners suspected of infectious or contagious conditions; the noting of physical or mental defects which might hamper rehabilitation, and the determination of the physical capacity of every prisoner for work.

25. (1) The medical officer shall regularly inspect and advise the director upon:

- (a) The quantity, quality, preparation and service of food.
- (b) The hygiene and cleanliness of the institution and the prisoners;
- (c) The sanitation, heating, lighting and ventilation of the institution;
- (d) The suitability and cleanliness of the prisoners' clothing and bedding;
- (e) The observance of the rules concerning physical education and sports, in cases where there is no technical personal in charge of these activities.

(2) The director shall take into consideration the reports and advice that the medical officer submits according to rules 25 (2) and 26 and, in case he concurs with the recommendations made, shall take immediate steps to give effect to those recommendations; if they are not within his competence or if he does not concur with them, he shall immediately submit his own report and the advice of the medical officer to a higher authority.

Discipline and Punishment.

27. Discipline and order shall be maintained with firmness, but with no more restriction than is necessary for safe custody and well-ordered community life.
28. (1) No prisoner shall be employed, in the service of the institution, in disciplinary capacity.
(2) This rule shall not, however, impede the proper functioning of a system based on self-government, under which specified social, educational or sports activities or responsibilities are entrusted, under supervision, to prisoners who are formed into groups for the purposes of treatment.
29. The following shall always be determined by the law or by the regulation of the competent administrative authority:
 - (a) Conduct constituting a disciplinary offense;
 - (b) The types and duration of punishment which may be inflicted;
 - (c) The authority competent to impose such punishment.
30. (1) No prisoner shall be punished except in accordance with the terms of such law or regulation, and never twice for the same offense.
(2) No prisoner shall be punished unless he has been informed of the offense alleged against him and given a proper opportunity of presenting his defense. The competent authority shall allow him to make his defense through an interpreter.
31. Corporal punishment, punishment by placing in a dark cell, and all cruel, inhuman or degrading punishments shall be completely prohibited as punishments for disciplinary offenses.
32. (1) Punishment by close confinement or reduction of diet shall never be inflicted unless the medical officer has examined the prisoner and certified in writing that he is fit to sustain it.
(2) The same shall apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner. In no case may such punishment be contrary to or depart from the principle stated in rule 31.
(3) The medical officer shall visit daily prisoners undergoing such punishments and shall advise the director if he

considers the termination or alteration of the punishment necessary on grounds of physical or mental health.

Instruments of Restraint.

33. Instruments of restraint, such as handcuffs, chain, irons and straitjackets, shall never be applied as a punishment furthermore; chains or irons shall not be used as restraints. Other instruments of restraint shall not be used except in the following circumstances:
- (a) As a precaution against escape during a transfer, provided that they shall be removed when the prisoner appears before a judicial or administrative authority;
 - (b) On medical grounds by direction of the medical officer;
 - (c) By order of the director, if other methods of control fail, in order to prevent a prisoner from injuring himself or others or from damaging property; in such instances the director shall at once consult the medical officer and report to the higher administrative authority.
34. The patterns and manner of use of instruments of restraint shall be decided by the central prison administration. Such instruments must not be applied for any longer time than is strictly necessary.

Information To and Complaints By Prisoners.

35. (1) Every prisoner on admission shall be provided with written information about the regulations governing the treatment of prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matter as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution.
- (2) If a person is illiterate, the aforesaid information shall be conveyed to him orally.

36. (1) Every prisoner shall have the opportunity each week day of making requests or complaints to the director of the institution or the officer authorized to represent him.
- (2) It shall be possible to make requests or complaints to the inspector of prisons during his inspection. The prisoner shall have the opportunity to talk to the inspector or to any other inspecting officer without the director or the members of the staff being present.
- (3) Every prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the central prison administration, the judicial authority or other proper authorities through approved channels.
- (4) Unless it is evidently frivolous or groundless, every request or complaint shall be promptly dealt with and replied to without undue delay.

Contact With The Outside World.

37. Prisoners shall be allowed under necessary supervision to communicate with their family and reputable friends at regular intervals, both by correspondence and by receiving visits.
38. (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong.
- (2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task it is to protect such persons.
39. Prisoners shall be kept informed regularly of the more important items of news by the reading of newspapers, periodicals or special institutional publications, by hearing wireless transmissions, by lectures or by any similar means as authorized or controlled by the administration.

Books.

40. Every institution shall have a library for the use of all categories of prisoners, adequately stocked with both recreational and instructional books, and prisoners shall be encourage to make full use of it.

Inspection.

55. There shall be a inspection of penal institutions and services by qualified and experienced inspectors appointed by a competent authority. Their task shall be in particular to ensure that these institutions are administered in accordance with existing laws and regulations and with a view to bringing about the objectives of penal and correctional services.

FURTHER READING

Information contained in this report is verified by the reports of independent human rights organizations. For further reading please see:

Amnesty International

"Arrests and Trails of Political Prisoners, January-July 1991"
ASA 16/10/91

"The Climate of Fear Continues," ASA 16/11/93

"Myanmar: Human Rights Still Denied" ASA 16/18/94,
November 1994

"Myanmar: Conditions in Prisons and labor Camps" ASA
16/22/95, September 1995

"Myanmar, No Law At All," Human Rights Violations Under
Military Rule," ASA 16/11/96

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