Joint report: Burma Lower Council BLC and AAPP on Burmese Political Prisoners.

December 13, 2001.

In the 40 years it seized power and over threw the country's Constitution, Burma's military rulers ruled in different garbs. From legal aspect, this is an interesting study. In 1962, Ne Win ruled with the laws which he took over from the democratic government headed by U Nu. Except the abolition of Supreme court and the constitutional rights for redress of infringement of fundamental rights, he ruled with the earlier legislation, old judiciary and legal system. In 1974, he floated 1974 constitution. The judiciary was drastically changed and a new law the State Protection Law was enacted.

It was introduced in 1975. The date is important because this was done after the 1974 Constitution of Burmese Socialist Programme Party (BSPP) was passed. Articles regarding fundamental rights had been incorporated in that Constitution. The State Protection Law therefore patently violated the Constitution, which the military rulers brought in the guise of BSPP. Its birth was flawed. Since Law making body and the Executive was one and the same. i.e. the BSPP One-Party, the question of challenging its legality had no scope. Truth was that State Protection Law governed the country and not the Constitution, which was kept as a facade.
Before going into the flaws of the Law, it will be interesting to address the question as to why the Law was enacted. This Law was not considered necessary in earlier periods.

1. The position in respect of State Security Law during colonial days was almost same as the State Peace and Development Council (SPDC) regime. The Penal Code was extensively used and Defense of Burma Act similar to State Protection Law (1975) was used selectively.
2. In the period 1948 - 62, U Nu government had ruled under Public Order Provision Act (POPA), the Emergency Provision Act (EPA)(1950) and Unlawful Association Act (UAA) (1908). There was countrywide unrest. Its government lost control and became only repressing Rangoon government. Yet a Law like State Protection Law was not enacted. The three laws POPA, EPA and UAA were enacted to meet the abnormal conditions of the Country. By and large POPA was used and in extreme cases S 120 Penal Code was resorted to. The redeeming feature was that there was Constitution and Supreme Court and legal remedies were available.
3. In period' 62 - 74 (military rule) when Revolutionary Council ruled under Ne Win after toppling the democratic government of U Nu, the necessity of this Law was not felt. Ne Win ruled under Emergency Provision Law 1950 and The Unlawful Association Act 1950--. It is to the credit of Ne Win that he did not feel the necessity of State Security Law. Those two Laws ironically passed by the democratic government were enough. Of course the MIS apparatus was the paramount Law to keep him in power.

The question therefore is -: Previous regimes did not resort to such draconian Law; Its creator was '74 regime, same as the Revolutionary Council in the guise of political Party, BSPP. In spite of its own constitution with power to declare state of emergency or martial law and "elected judges" it had to resort to such a law as State Protection Law. In spite of holding Referendum and getting 99% people's approval why did it resort to such blatant act?

The reason is that situation was explosive and unpredictable. People through their life experience learnt about the misdeeds of the Military officers. There had been a series of sporadic protests against military rule. Country was speeding towards a volcanic situation. The military regime needed an absolutely arbitrary Law. The more instability and threat a regime feels the more it has to resort to draconian Laws. This historical background has been provided to appreciate the roots of this Law.

However in 1991 SPDC made the law harsher by amendment 11/91. The right of appeal to judiciary was abolished. The semblance of justice was removed. The punishment of arbitrary detention was enhanced from 3 to 5 years. The pattern of law making by the military leaders confirms the theory that more they feel insecure, harsher the law they made and used them as tools to suppress any dissent.

This report attempts to examine the incompatibility of some of those extensively used laws with international human rights standard and that Burma is beyond the Law.

Background
Over two thousand political prisoners at present remain in prison to long terms of imprisonment after fake trials. They have been sentenced which they have served, many have been kept under continued arbitrary detention. Daw Aung San Su Kyi leader of the NLD has been placed under house arrest. Notwithstanding " Guest House" discriminatory scheme, prison conditions constituted cruel, in human or degrading treatment, and torture of political prisoners is frequently reported. Ethnic minority civilians are systematically subjected to forced labor in defiance of law. The cease fire agreements are breached consciously.
Under international pressure and its own constraints, the SPDC has engaged in talks with Daw Aung San Su Kyi. The on-going talks are very relevant to improvement of the situation in respect of rule of law.

Fair Trial Concerns
SPDC's judiciary has been emasculated and fair trial and the due process of law have been consistently denied. The proceedings were not open to the public, and defendants were only rarely allowed to engage counsel to argue their case. Most of the trials were carried out in summary fashion, with scant regard being shown to the evidence adduced. Defendants were not presumed innocent without the relevant witnesses being examined. There was no effective right of appeal to an independent higher forum. Trials were brief and perfunctory. The judges would read out the charges. The accused would be asked to plead guilty or not. The court would announce its verdict invariably one of guilt. It would be disproportionately harsh in relation to the alleged offences. The validity of trials is also doubtful under the Basic Principles on the Independence of

the Judiciary. In most of the cases verdicts are determined in advance of the trials. The judges also warn the lawyers not to be proactive. The lawyers fail to play an effective role which is essential in Fair Trial.

Harsh prison conditions
There is lack of adequate food, water, sanitation and medical care. Political prisoners are treated as arch enemies. The Judicial Law makes it incumbent for the Supreme Court judges to visit prisons. This is never complied with. But for the intervention of the ICRC, prisons would have been veritable hell. The Jail manual is gathering dust. To put it in a nutshell prisons are slave houses which were constructed by the colonialists. Hardly the SPDC has built any new prisons on the model of modern prisons. They are dungeon with hardly sanitation and ventilation On top of the harsh prison term is added this repugnant prison condition. If this is not inhuman and degrading, what else it is.

Torture and Ill Treatment
A substantial body of well-documented reports exists on the subjects. The military intelligence is the prime offender. The UN special reporter and Amnesty International have published credible accounts. Many Prison Superintendents are also guilty of having committed this offence. It is a crime against humanity and is punishable under International law. Aung Kyaw Moe was sentenced for 10 years in 1989 and kept in Tharawaddy Prison. His sentence was served. Even then he was kept under detention under S 10 (A) State Protection Law (SPL). He protested. He along with six others went for hunger-strike. Drinking water was stopped and other physical torture inflicted. He died in prison due to inhuman torture while on hunger strike on May 10,1998.

Forced Labor
Burma is a party to International Labor Organization (ILO) since 1955. It has indicted the SPDC as it has not complied with Convention 29. It upheld ILO measures in June. UN Special rapporteur report was accepted by 1999, December General Assembly. The Village Act and the Towns Act have been abused. ILO has taken measures against Burma. It has become a pariah state.

Freedom of Expression
SPDC has clamped down heavily on freedom of expression There is wide spread censorship of the media. Apart from the Printers' and Publishers Registration Law of 1962,. there is Law No5/96 Any writing or otherwise which would affect law and order is actionable Drawing up or writing or distributing a Constitution is an offence with punishment of 20 years Most revealing is the fact that this law is used in conjunction with other laws such as the Emergency Provisions Act and the Unlawful Associations Act. This means that the alleged offender has not committed any offence under SPDC media laws. Freedom of expression has to be stifled hook or crook by recourse to other draconian laws. Two cases are given to illustrate the arbitrary nature of the punishment.

In February,1998, Ko Aung Htun, a central executive committee member of the All Burma Federation of Students Union (ABFSU) was arrested and sentenced to three years imprisonment for breaking the 1962 Printer and Publishers Registration Act; to seven years under the provisions of the Unlawful Association Act, and to another seven years under the Emergency Provision Act for a total of 17 years imprisonment. He is alleged to have committed the heinous crime of attempting to write a history of the student movement.

Dr. Maung Maung Kyaw, respected lawyer, was charged under Article 5 (J) and sentenced to 5 years imprisonment on 15 May1991. He was released in 1992 and struck off as Advocate on 30 June 1993. He is currently under detention for allegedly supplying historical details and other information to the student leader Ko Aung Htun. He was charged under the Printer and Registration Act section 17 (20) and the 1950 Emergency Provision Act section 5 (j), and has been refused access to legal counsel.

U Thar Ban, Advocate, was charged under Article 5 (j) of the Emergency Act 1950 and sentenced to 5 years imprisonment on 30 May 1991. Released in 1995, he was expelled as advocate on 30 June 1993. He was again charged under Printer and Publisher Registration Act section 17(20) and 1950 Emergency Act 5 (J) and sentenced to 10 years imprisonment in 1997.

Is Political situation changing in favor of rule of law?
Since end of 2000, there began appearing signs of a reversal of the hard line of the Junta It began engagement and started talks with Daw Aung San Su Kyi. Total prisoners released [up to now] 190 NLD including MP 30. Prominent persons released were Duwar Zaw Aung, Daw San, Nye Ma Than, San San New, Pa Pa Lay, U Lu Zaw, U Khin Kyaw Han.

ILO, EU, and ICRC have been allowed to visit the country and conduct the their study reports. Human Rights training by Australian government has been permitted.

Same process of soft line took place in April' 1992. The regime had entered in to cease-fire agreement, allowed UNHCR to visit. In September' 1994, there were talks between SPDC and Daw Aung San Su Kyi. In 1995 she was released from house arrest. But then the pendulam suddenly swung and worst kind of repression followed with arrests of the entire Central Committee of NLD and house arrest of Daw Aung San Su Kyi. SPDC has acted in this highhanded manner People have lost trust on SPDC and entertain serious doubts about its sincerity. It has still kept Daw AungSan Suu Kyi under house arrest. The secretary of CRPP and also leader of Arkan League of Democracy, U Aye Tha Aung is still under detention. The political prisoners have not been released. There is no freedom of expression. Even the fact of ongoing talks has not been reported in the newspaper. The talks are also unnecessarily prolonged and have not reached the dialogue stage. People

consider the talks not as concession but as a device for SPDC to launch yet another offensive attack as had been previously done, against pro-democracy movement.

Characteristics of Law:
1. It must not be vague and ambiguous.
2. There must be certainty and based on principles of justice.
3. There must not be retrospectively.
4. It must not be open to various interpretations.
5. There must be judicial review.

International standard
In Universal Declaration of Human Rights:
Article 9: No one shall be subjected to arbitrary arrest, detention or exile. The current detention of all prisoners under this law violates this provision.
Article 10: The charge brought against him is criminal refer s 124 Penal Code and he is entitled to public hearing. "Everyone is entitled----.
Article 11: "Every one charged
Detainee has the right of presumption of innocence. This is also the principle of domestic law: Ref: S 1, Evidence Act.
In brief, the State Protection Law under which detainees are undergoing detention is not a law failing to meet the minimum standards laid down under UDHR.
Article 13: "Everyone has right to freedom of movement."

All these above have been systematically violated by the ruling SPDC. A few of these laws have been selected and analyzed.

The provisions of the State Protection Law analyzed section by section

S2 (a): The definition of the word "act" the main ingredient of the offence prescribed by the Law is totally vague. It may mean anything. It has been made worse by inclusion of "to act" "preparation" . This word is the core word in s 7, which empowers the Board of Ministry to impose restriction on individual's rights. If I say, that the government should improve the conditions of hospital, that saying "act" may me interpreted as posing danger to public order. Compare this with the explanation 2 & 3 of S 124 A of Penal Code. Explanation 2: Comments expressing disapprobation of the measure of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section. Explanation 3: Comment expressing disapprobation of the administrative or other action of the Government, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.
S 7 of State Protection Law has abrogated these explanations. When Law is promulgated, explanations in footnotes as in S 124 (A), Penal Code are added to prevent any misconstruction. S 2(A) of State Protection Law has deliberately made it confusing.
S 3 of the Law ---- Refers to Council of State
S 4 of the Law ---- Refers to Pyithuhlutaw. (People Parliament)
With the coming of SLORC, the above two ceased to exist. If Council of State means SPDC, what will Pyithuhultaw mean? More over the legal implication is different. Council of State is creation of 1974 Constitution. So what is substituting what?
S 3 of the Law is important and can be constructed as preamble of the Law. It says about the powers to declare emergency. The Law therefore is conceived in the context of Emergency. No Emergency has been declared. Admittedly according to SPDC, peace and law and order prevails. The regime has therefore styled itself as State Peace Development Council
S 3: "pre-emptive action in order to protect the State's sovereignty and security, and public law and order from the possible dangers of those seeking to sabotage and damage them, without affecting the fundamental rights of the citizens."
What is state's sovereignty and security? The detainees were not involved in any public demonstrations or strikes or were arrested with any arms. It has nothing to do with enforcement of law. Only fear that something may happen to disturb the rulers led them to invoke the State Protection Law. If the fear had some substance, then surely the detainees would have been put up for trial. But there was no evidence. They knew the trial would be a force. Even though they have their own judges to convict the detainees on in insufficient evidence, they dare not risk. The only way to make the process watertight was to keep the detainees under protective custody.
Burma Penal Code provides actions, which are violence-related activities, which constitute breaches of public order. Perpetrators or advocates of violence, which hit specific provisions of the Penal Code, are Rioting (S 146), Assault (S 351), Murder (S 300), Incitement (S 153), High Treason (S 121).

The Heading of Chapter 2 says restriction on fundamental rights. The Law spells out the condition to take action in that context. It is therefore argued that there must be a prior proclamation of Emergency to give validity to rest of the Law and enable enforcement of the mechanism for preservation of sovereignty, state and public order S 7, the rock bottom of the Act). Further the restriction clause 9 (2) is to be read in accordance with the principle of natural justice. It means that meaning of a sub-clause in a section has to be gathered from the main provision. The main provision of section 3 is emergency. Emergency having not been declared the entire Law stands inoperative.
S 7: " If a citizen has performed or is performing or is believed to be performing an act endangering the state sovereignty and security, and public law and order."
"act" "if reason to be believe" if the "act" has been done or is being done or will do and there is " reason to believe ", then restriction can be put. What is meaning of " reason to believe " is stated in s 26, Penal Code. A person is said to have reason to believe a thing he has sufficient cause to believe that thing but not otherwise".
When there are true facts, there can be reason to believe. S 3 of Evidence Act explains what is fact. Non-violent opinions are facts within its meaning. Whether the facts are true or not, can be verified only when they are tested. For example the accused person is given the opportunity to explain the charges against him or to test that the facts alleged are admissible or

not, or whether concocted or whether the facts could come within the principle of" benefit of doubt ". The fundamental principle in criminal law is presumption of innocence. Only when there is hard evidence beyond reasonable doubt, can a person be said to have committed an offence. Under this section, there is no standard prescribed to determine "reason to believe". It is the whim or wish of the punishment giver to decide it. How critical it is that the detaining authority is given the absolute power of detention under a supposed law, which is no law. The arbitrariness is manifest. Law prescribes that to prove offence, burden of proof of an alleged offence is on the person who alleges. By detention and avoiding trial, the SPDC circumvents its legal duty to discharge burden of proof.
S 9 (e): "accuse" "if sufficiency of fact/ evidence"
It is argued that "if insufficiency of fact/ evidence" shall not be accused" - the person has to be released. not kept. under detention- no where this appears In the absence of provision, principle of natural justice applies.. What cannot stand trial i.e. insufficient evidence, how can it be given legality by alternative of detention? This is a case of absurdity. Insufficiency of evidence being given a premium to hold a person's liberty to ransom.
S 9 (h): It says that arrested person after his release cannot be put under arrest for a second time on same matters. Extension of detention is prohibited. This also includes cases where the term of arrest expires but not released. Min KO Naing Case.
S 11: "move" - travel ban. (Daw Aung San Su Kyi)
S 14: Enhancement from 6 months to 1 year. Maximum from 3 yrs to 5 yrs.
S 16: Provide Review (periodically) by detainees.
S 19: Right of review from "Head" to "Head" - Same authority to review its own decision.
Accused not even informed of the right.
S 21: Right of appeal has been given to Peoples' Judges Council Law 11/ 93 abolished Article 21. The situation therefore is that there is no effective remedy at all which is contrary to Article 8 UDHR. "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."
The law has to be taken into account together with its context. The context was that it was passed by Parliament of BSPP and the lawmaker of that Law provided right of appeal to Judges as integral part of the Law. When the integral part is torn out, the Law itself is vitiated. It is argued that amendment 11/ 91 has rendered the Law invalid.
A Law to be a Law in its universally accepted sense has to be enacted by a body, which represents the will of the people. That is the main characteristic i.e. acceptability by people. SPDC as demonstrated by 1990 Election was voted out unacceptable. The military coup September 1988 founded the present regime on force. Its lack of legitimacy was further demonstrated by 1990 Election. It is this regime, which is extensively using the-State Protection Law.
The Internal Security Act, Malaysia provides detention for 2 years. Same with Singapore, India and Bahrain. In Bahrain, the detention order is subject to appeal to High Court. In the event the detainee refuses to seek remedy, the prosecutor general has to do it. In India the order is appeasable to High Court, Supreme Court and Human Rights commission. The underlying principle is to make the Law as least Penal as possible. In Burma the situation is just the reverse. Law has been made harsher. From initial detention period of 3 yrs it has been extended to 5 yrs. From right of judicial appeal, the provision for judicial review has been revoked. There is no effective remedy. Detention now is a continued process for any number of years even till death. It is an inverted death sentence without charge and without trial. 2 cases: Si Thu (aka) Ye Naing was in Tharawaddy Prison and Aung Kyaw Moe was in Tharawaddy Prison too. Both of them died while under detention.

There are 50 cases available, which are mala fide, and absolutely arbitrary within the ambit of the State Protection Act in as much as the original terms, under which the prisoners were undergoing, had expired. Having served their sentences, the current detention is under the extension period exercised under Section 21 of the State Protection Law. All have completed the 10 year sentences and are being held under Section 10 (A) State Protection Law. (in Annexure)
Out of 50 cases, the cases of the legendary figure Min Ko Naing and Daw Aung San Su Kyi. the valiant pro-democracy leader have been selected for detailed analysis in the report as a focus.

Min Ko Naing
Detention absolutely arbitrary because:
1. SPDC, detaining Authority has no legality.
It is a regime based on no rule of Law or Constitution for the last 12 years. Its forced seizure of power does not stand the test of International Law. The "doctrine of necessity" has ceased to operate due to flux of time and due to the Election it held in May 1990. The Election was a massive demonstration of people to end the military Rule. The SPDC prior to holding Election made public declaration of multiparty democracy and its intention to transfer power to the elected representatives of the people. The Election having been held, SPDC became functus-officio except the duty to convene the Parliament. In such a context, SPDC's wielding power under State Protection Law is not only highly arbitrary but also immoral. Any law passed by such a regime without legal basis is invalid.
2. According to response of SPDC sent by UN 22- 10- 2001. Min Ko Naing was convicted under S 124 Burma Penal Code and 17 (1) Printing Act. Prison term expired in July 1999. He was placed under detention thereafter under State Protection Law. This detention is totally illegal. If he was to be put under further detention, it could have been done only after releasing him and on fresh evidence of his illegal activities during the period subsequent to his release. A prisoner who is in prison cannot be inflicted with punishment under State Protection Law, which requires evidence "acts" for detention. Infact, by continuing to keep Min Ko Naing in prison after he has served his term, the Authority virtually nullified the order of commutation to 10 years, which it had passed. The continued indefinite detention can ironically extend up to death of the prisoner. It is a tragic case of a prisoner subjected to death sentence without trial. It is hard to imagine. how obnoxious it is..
3. Min Ko Naing is in prison from 23- 3- 1989. Present detention order was on 21st July' 1999. That is when he is in prison for 15 years with hard labor. During this long period of being in prison, how could he have committed "acts" which constitute grounds for detention under State Protection Law. The absurdity of the situation adds to the degree of the arbitrary action. It is reported that Min Ko Naing has been kept under detention from 21- 7- 1999 under S 10 (A) State Protection Law. The issue is simple. Could it be done? It violates S: 9(h) of State Protection Law, which prohibits extension. Further the extension has been made for alleged subversive activity against the State. How can a person who has been in prison from 23- 3- 1989 till 21- 7- 1999, do anything to warrant further detention. Through out this long period with no contact with outside world being practically kept in solitary confinement, with broken health, it is inconceivable how such allegation could be made. The allegation is patently false, devoid of any sense. The detention squarely comes under the category of arbitrary detention as discussed above.

The analysis here is confined to State Protection Law. The laws Emergency Provision Act (1950), Unlawful Association Act, fair trial, due process of laws and other abuses, which Min Ko Naing suffered, have not been made subject matter in the above analysis as .he has already served his term under these laws and criticisms of these laws are available elsewhere in this report and also from different sources. The focus here is on State Protection Law under which Min Ko Naing is prime victim. The domestic Law namely Penal Code, Criminal Procedure Code, SPDC's own law of reduction of 10 years, the Jail Manual all have been flouted. He is not even an NLD leader. He is student crusader of human rights. SPDC should put its head down in shame when such a dedicated person is depicted as villain, a threat to the State.

Daw Aung San Suu Kyi

Daw Aung San Suu Kyi is presently kept under house arrest since 22nd September' 2000 without trial on grounds of alleged breach of travel ban Section11(c) of the State Protection Law (1975)".

She is a citizen exercising her human right of freedom of movement UDHR "Article 13".

Secondly she is the leader of a political party duty registered by the SPDC. Her party NLD contested Election 1990 with land slide victory. The Election was held by SPDC and results announced by SPDC's head of the Party acclaimed by the people. It is incumbent on her part to meet the people and her party workers to honor the mandate given to her...Freedom of association and assembly., freedom of expression and political freedom are rights guaranteed under UNDHR. .Daw Aung San Su Kyi was exerting her human rights when she went out on travel., The fact that her Party was not banned is further evidence that there was no threat to the State The SPDC has no legal authority to invoke SPL. If these had been breaches of Law, she could have not put up in a trial where they could put up defense. The punishment that SPDC has given to defenseless person, a woman and an internationally famed personality, is barbaric.

As head of the party acclaimed by the people, it is incumbent on her part to meet the people and her party workers to honor the mandate. Freedom of association and assembly, freedom of expression and political freedom are rights guarantees under UDHR.
The action under S11(c) is to be read with S 10
In other words traveling is an " act endangering state sovereignty and security and public order." If that be so, the UDHR provision is a fraud. Under S 10 (a) S.P.L, a person has to be a " potential danger to the state". Suu Kyi cannot be "potential danger" as is now evidenced by the talks that space is carrying on with her. It could be that she wanted implementation of 1990 Election Result but that could not be constituted as being " potential danger " to the state. It is a clear case of a politically motivated detention of a political opponent. Travel ban itself is illegal and noncompliance of the order cannot constitute " breach" of law, far less a punishment of indefinite detention. The travel ban is a total defiance of Rule of Law Under Art 5 UDHR. The punishment is in human and degrading.
To sum up, Suu Kyi 's house arrest is grossly arbitrary for among others, the following reasons.

1. The detaining Authority is SPDC. It has lost its legal authority to detain as it had lost the Election Under 1990 Election held by SPDC, Su Kyi's Party (National League for Democracy) came out with massive mandate. The SPDC became functus officio except that it was to convene the people's parliament. Instead of that it has made law unto itself. Detention is not only arbitrary, it is absolutely malafide and politically motivated to ensure remaining the country's rulers.
2. There is no legal basis for their detention after the sentence has been served. Article 10 (B) " the accused shall be detained up to one year "; Su Kyi was put under restriction on September 2000. One year period has expired. Yet she is kept under restriction. This is simply illegal.
3. Detention is contempt of political/ human rights ideas proclaimed in Article 9 of UDHR.
4. Detention has denied the right of fair trial enshrined in UDHR. The detention is malafide and renders it in an arbitrary character.
5. They have not been detained for any opinion or expression. Nor for any peaceful activities or for violence related activities which are threat to state. SPDC did not specify the violence related activities.
6. All issues of detention, trial and release are determined by due process of law. The penal code says that there is no arrest without warrant and criminal procedure code has the requirements. The State Protection Law is a clear case of scrumptious circumvention of due process of Law. It says a person is to be brought before Court within 24 hours, then remand for 14 days.
7. There is no provision for representation at review and Judicial review.
8. Contrary to Article 13 and Article 21 (3) of UDHR
9. The working group (UN) held that previous detention (20th July 1989 to 1995) was unlawful and arbitrary. This precedence lends support to the argument that the present detention was malafide.
10. The most important point is that the term of Daw Suu Kyi's detention period has expired .She was put under house arrest in September 2000.Under Section 11(3) of the Law there can be only 1 year house arrest; it cannot be extended .The present detention is beyond 1 year and is absolutely illegal.

Emergency Provisions Act 1950

The law is not concern with a State of Emergency. It is a widely worded law which has been used to suppress dissent even in the absence of proclaimed State of Emergency. Under the act "whoever violates all in fringes upon the integrity, health, conduct and respect of state military organization and government employees towards the government", or "causes all intends to spread false news about the government" or "causes or intends to disrupt the morality or the behavior of a group of people or the general public" is liable to imprisonment for up to 7 years. The law also makes it and offence, punishable with dead, to "intend to or cause sabotage of hinder the successful functioning of the state military organization and criminal investigative organization."
The law violates the fundamental tenets of civilize jurisprudence. No one shall be subjected to punishment more than

required. Any one subjected to arrest must be inform of the reason of arrest. He must be produced before a Judge where he can seek bail.

The following cases 5(j) of the Act
Giving Information … U Aye Thar Aung serving 21 years
Distributing … U Do Htaung and U Hkun Myint Tun 7 years
Slandering … U Kyin Thein 7 years
Causing Misunderstanding… U Min Soe Lin 7 years
Demonstrations … U Saw Naing Naing 21 years
Disturbances … U Toe Po 7 years

Unlawful Association Act, 1908
This is a law which the SPDC extensively uses to arbitrarily arrest and detain political opponents Anyone who Hs been a member of, or associated with any association"
(a) which encourages or aids persons to commit acts of violence or intimidation or of which the members habitually commit such acts; or
(b) which has been declared unlawful by the President of the Union." Anyone managing or assisting in the management of an unlawful association, or who promotes or assists in promoting a meeting of such an association, can be subjected to similar punishment. By conferring wide and untrammeled powers on the executive to declare any association unlawful, it subjects the rights and freedoms of Burma's peoples to greater restrictions than is strictly necessary to meet the requirements of morality, public order and the general welfare. The Act's incompatibility with international standards is underlined by the arbitrary, indiscriminate and heavy-handed manner in which it has been applied in practice, usually to suppress peaceful dissent.

U Saw Oo Rah
Giving support to insurgent groups 3 years
Publishing 7 years
10 years

Conclusion

1. Junta's adherence to legal form is a façade. It has failed to abide by basic principles of legality, internationally recognized international human rights and humanitarian law standards although Burma "upheld the principles in UN charter and UDHR and abided by them scrupulously" UN document A/C. 3/45/SR 53,3.
2. Junta has subverted the rule of law the provisions for fair trials.
3. The present regime has no legitimacy. The seizure of power in 1962 was illegal. The present regime rulers are successors of the earlier regime hence they inherited the illegality. This illegality has been further fortified by 1990 May election which the regime itself held, the people voted proxy of the regime out and gave landslide victory to NLD. The regime's continued refusal to abide by the democratic will of the people has made Burma a pariah state.