



## Assistance Association for Political Prisoners (Burma)

နိုင်ငံရေးအကျဉ်းသားများ ကူညီစောင့်ရှောက်ရေးအသင်း (မြန်မာနိုင်ငံ)

P.O Box 93, Mae Sot, Tak Province 63110, Thailand

E-mail: [info@aappb.org](mailto:info@aappb.org), [info.aappburma@gmail.com](mailto:info.aappburma@gmail.com) Website: [www.aappb.org](http://www.aappb.org)

### The role of civil society in Burma's transition to democracy

#### Definition of civil society

The term civil society is difficult to define. In modern political science, the term is generally accepted to refer to "the intermediary between the private sector and the state<sup>1</sup>." For the purposes of this paper, civil society involves private individuals acting collectively to check the powers of the state and hold the state accountable, as well as to make demands on the state.

Civil society includes the broad spectrum of associations concerned with social and public affairs that may be loose, informal networks such as charitable initiatives, or more formalized such as non-governmental organizations. Other examples of civil society actors include humanitarian groups, educational networks, charities, religious associations, human rights defender networks, etc.

#### Introduction

To be free is not merely to cast off one's chains, but to live in a way that respects and enhances the freedom of others<sup>2</sup>.

**Nelson Mandela**

The important role of civil society in Burma's transitional period must not be overlooked. The rapid changes that officially dismantled decades of brutal dictatorial rule, resulting in the restoration of Parliament, would not have been possible without popular social movements. The supportive contribution of civil society has provided much-needed legitimacy and popular weight to the democratic transition. The role civil societies play in advancing the democratic progress of Burmese society is pivotal, and it is imperative to recognize the work they are undertaking. It also important to note the obstacles and challenges that continue to hamper their progress.

A true democratic transition in Burma will require civil society members to play an active role. When a country like Burma is emerging from absolute military rule it becomes vital that civil society is free to perform its most basic role: to monitor and check state powers. Every country requires a robust civil society environment that acts as a watchdog and counter-weight to the power of the state. However, this will not be possible if the ruling administration continues to feel

---

<sup>1</sup>S. Bunbongkarn, "The Role of Civil Society in Democratic Consolidation in Asia", *Growth and Governance in Asia* (Honolulu, Hawaii: Asia-Pacific Center for Security Studies, 2004)

<sup>2</sup> N. Mandela, "The Long Walk to Freedom" (New York City, Little Brown & Co, 1994), pp 624-625

threatened by independent social action movements. In order for any transition period to be successful, the transitional government must work with, not against, civil society members.

Burma has a long tradition of a vibrant and effective civil society that spans a diverse spectrum. For decades, civil society members have bravely responded to gaps in critical social issues such as poverty reduction; natural disaster response; social empowerment; human rights education; and affordable health care. Official policy towards independent social and humanitarian efforts has been, and remains, hostile.

Civil society movements in Burma are a clear reminder that democracy is about more than elections. Democracy is about strong institutions such as an independent and transparent judiciary and respect for the rule of law. Democracy is also about state powers responding to the needs of the people in an equitable manner, and ensuring accountability when state officials fail to listen to the voices of the people. Lastly, no democratic state can properly function without the respect and support of the people. Civil society seeks to create this partnership by acting as a key mediator between the government and the people. To deny this partnership would be to deny democracy.

### **Restrictions on civil society undermine the development of democracy**

“A dynamic and autonomous civil society, able to operate freely, is one of the fundamental checks and balances necessary for building a healthy society, and one of the key bridges between governments and their people. It is therefore crucial that NGOs are able to function properly in countries in transition, as well as in established democracies<sup>3</sup>.”

#### **Navi Pillay, UN High Commissioner for Human Rights**

Now that Burma has entered the dawn of President U Thein Sein’s second year presidential term, it is time for the people of Burma to ask critical questions to assess the depths of reforms that have taken place since 2011 when elections led to the official dissolution of six decades of military rule.

Civilian representation in the political process is questionable, particularly the involvement of marginalized groups such as women, young people and ethnic organizations. Laws in Burma should adhere to international standards and maintain a clear goal of promoting and protecting basic rights, with more conviction than has previously been seen in 2010. The transparency and accountability of the institutions that uphold and promote these rights should come under close scrutiny to assess their commitment to supporting civilian societies in gaining a voice in Burma.

While many celebrated political prisoners have since been freed, dissenters are still imprisoned, tortured, silenced, in exile, or on the run due to state-sponsored harassment and persecution. Arbitrary arrests, prolonged incommunicado detention, lengthy pre-trial detentions, harsh prison conditions, unlawful searches and seizures, secret court trials, unsanctioned late-night visits by

---

<sup>3</sup>“Restrictions on NGOs Worldwide Undermining Human Rights, says UN Senior Official”, *UN News Center*, 25 April 2012, <http://www.un.org/apps/news/story.asp?Cr1=&NewsID=41858&Cr=non-governmental+organizations#.UeZaNH-vky0> Date Accessed: 22 July 2013

intelligence officers, restrictions on freedom of speech, assembly and the press are all daily realities for the people of Burma.

The influence of Burma's military past still affects aspects of the political system which control numerous institutions in the country. The lack of judicial autonomy and the control politicians still maintain over the legal process is of major concern in the movement towards freedom. Despite the shedding of a long-held status as a pariah state, Burma has some way to go before it becomes a rights respecting, rather than a rights abusing, country.

The international community has long recognized the critical role civil society plays in democracy development due to its knowledge of and proximity to excluded communities. Marginalized voices are often included in the political process thanks to civil society partnerships, a role highlighted in a number of UN documents. However in order to be effective in helping to solve pressing and complex issues that affect people's lives, civil society requires an environment that respects core rights already enshrined in Burma's Constitution, namely freedom of assembly and association and freedom of expression and information, as well as enabling a political and legal space.

A first step in creating an enabling environment for civil society to flourish is for the government to seriously address the following human rights issues that are a matter of genuine and abiding concern for the people of Burma.

#### **a. Continued imprisonment of political prisoners**

While around 983 political prisoners have been released in 10 separate amnesties under the U Thein Sein administration, at least 103 remain behind bars and over 100 more are being detained awaiting trials for holding views contrary to the ruling government or for performing legitimate human rights work<sup>4</sup>. The releases were conditional in accordance with Article 401 (1) of the Code of Criminal Procedure, and as such, enable the imposition of the remaining sentence if the President believes that a condition on which the sentence was remitted was not fulfilled. Upon his release under 401 (1), dissident journalist Sithu Zeya remarked that he felt like he was being released with a rope around his neck<sup>5</sup>. This rope now exists for thousands of former political prisoners in Burma. The fear of re-arrest became real when charity worker Nay Myo Zin was sentenced to an additional 6 years of his original 10 year sentence under 401 (1) in an order that came directly from the military<sup>6</sup>.

In a positive step, the government of Burma initiated a committee to verify the remaining number of political prisoners. Former political prisoners who were recently seen as outcasts and enemies of the state are now dialoguing directly with government members in what can be a model for future reconciliation efforts in Burma. Despite considerable obstacles, it is hoped that the formation of the committee will result in the quick release of remaining political prisoners without conditions and a complete wiping of their criminal records.

---

<sup>4</sup>"AAPP (B) condemns sentencing of former political prisoner under Article 401 (1)," *AAPP (B) Statement Release*, 8 May 2013, <http://www.aappb.org/release212.html>, Date Accessed: 22 July 2013

<sup>5</sup>"Burma frees high profile dissidents in amnesty", *BBC News Asia*, 13 January 2012 2012, <http://www.bbc.co.uk/news/mobile/world-asia-16540871> Date Accessed: 22 July 2013

<sup>6</sup>AAPP-B, "AAPP-B condemns the sentencing of former political prisoner under Article 401 (1)", *AAPP-B Statement Release*, 8 May 2013, <http://www.aappb.org/release212.html> Date Accessed: 22 July 2013

The continued imprisonment of political prisoners is directly related to the un-rule of law. For example, the arrest of a peaceful activist is in violation with the Constitution of Burma, which requires respect for human rights including freedom of expression, assembly, and belief. In view of ongoing arbitrary arrests and detentions on political grounds, it is imperative that the verification committee review cases on an ongoing and permanent basis.

The downward trend in political prisoner numbers does not coincide with fewer arrests. Those perceived as opponents continue to be arrested and detained. However, instead of being placed behind bars as under previous military rule, those detained are now released on bail after being formally indicted. Often, the charges against the suspects are spurious and do not correlate with accusations. There have been many cases where the detainees are not even clear what the charges against them are, if any. The case of Wai Phyo, a youth activist arrested in July 2013 for initiating a signature campaign calling for the release of political prisoners in July 2011, is an illustration of how the previous activities of activists can come back to haunt them at any time. In an effort to restrict freedom of movement, those indicted are often faced with multiple simultaneous court hearings in different townships. For example, 9 activists who organized a march calling for peace in Kachin State faced criminal charges for demonstrating without a permit in September 2012. Several of the accused were forced to attend 30 multiple court hearing in different townships in Rangoon in a two and a half month period. According to one of the accused activists, "There are costs involved, like transportation, but the delaying of our day to-day lives and work impacts us more than money. There is a lot of stress and tension. I have to balance my work, the court schedules, and my family life, and it is very difficult<sup>7</sup>."

#### **b. Freedom of expression**

"According to a traditional Burmese saying, people shouldn't say something if it is not good for others, even if it is right<sup>8</sup>."

#### **President U Thein Sein, defending the temporary reversion to censorship in Burma**

After banning freedom of expression for decades, the media environment in Burma is arguably more free and open than it ever has been. 2012 was the first year since 1996 that Burma did not imprison a journalist<sup>9</sup>. The government has begun to overhaul legislation that stifled and imposed restrictions on print and broadcast media. Media activists have taken advantage of the easing of government control by forming unions that openly defend freedom of expression and information with at least 3 now operating in Burma.

Journalists are courageously covering sensitive topics that would have previously landed them behind bars. An example is the coverage of the violent government crackdown of protests denouncing the Letpadaung Copper Mine, a controversial Chinese government backed project.

---

<sup>7</sup>"Burma: Drop Charges Against Peaceful Protesters", *Human Rights Watch*, January 13, 2013, <http://www.hrw.org/news/2013/01/13/burma-drop-charges-against-peaceful-protesters> Date Accessed: 22 July 2013

<sup>8</sup>S. Roughneen, "Burma's Press Council Threatens Resignation Over Media Rules", *The Irrawaddy*, July 8 2013, <http://www.irrawaddy.org/archives/39522> Date Accessed: 22 July 2013

<sup>9</sup>C. Campbell, "In Burma, Media Reform Tests the Limits of Free Speech", *Time World*, January 30 2013, <http://world.time.com/2013/01/30/in-burma-media-reform-tests-the-limits-of-free-speech> Date Accessed: 22 July 2013

Media outlets, such as the Irrawaddy, published harrowing images of the victims showcasing their burnt flesh, wounds, and disfigured bodies. Journalists are also reporting on the ethnic conflicts, albeit from rebel-controlled areas. The less hostile media landscape has led to an upsurge in internet usage by the public, with internet café owners saying they no longer receive visits by police officers requesting a log of customers using their computers<sup>10</sup>.

The refusal of the government to completely ban censorship puts the depth of these reforms in doubt. Censorship will not come to an end until all the draconian laws still in place that restrict freedom of expression and information are lifted and replaced with laws that guarantee the rights of and freedoms of media workers. The main offenders to a free media environment include The Electronic Transactions Act 2004, The Printers and Publishers Act 1962, and section 505/b of the penal code. According to Irrawaddy editor Kyaw Zwa Moe, “the real political revolution would be to disband the censorship bureau<sup>11</sup>.”

Media workers continue to face a number of dangers to their work. The Paris-based Reporters without Borders (RSF) reports that since 2012, there have been many lawsuits brought against privately owned media outlets by state authorities<sup>12</sup>. Journalists who expose corruption or criticize state-backed projects are especially vulnerable to trumped up charges of defamation, by ministry officials and civil servants. *Modern Journey* journal faced a civil action lawsuit spearheaded by an engineer at the Ministry of Construction after reporting on poor road conditions in Mandalay in 2012. Similarly, the Ministry of Mining filed a lawsuit against the *Voice Weekly* after the journal exposed corruption in the government agency. The allegations of corruption stemmed from a report by the attorney general’s office. Kyaw Min Swe, executive editor of the *Voice Weekly* and secretary of the Myanmar Peace Council responded to the charges by saying “we try to be neutral but we are biased toward the people and the nation<sup>13</sup>.” The executive editor was required to attend 28 court hearings in a 6 month period as a result of the indictment which carried a possibility of 3 month imprisonment. No government officials have faced charges for the corruption charges raised by the report<sup>14</sup>.

These regressions put the government’s stated commitment to upholding freedom of expression and information in serious doubt. In August 2012, media activists banded together to decry the growing restrictions on press freedom by launching a Stop Killing Press campaign. The campaign included public protests as well as organizing a number of leading journals to black out their front pages for a day as a symbol of their dissatisfaction with the increasingly repressive media environment. Journalists, publishers, and editors, seem to understand that their right to press freedom in Burma will not be won without a fight.

---

<sup>10</sup>Reporters Without Borders, “Burmese Spring,” December 2012, p. 9, [http://en.rsf.org/IMG/pdf/rsf\\_rapport\\_birmanie-gb-bdissue.pdf](http://en.rsf.org/IMG/pdf/rsf_rapport_birmanie-gb-bdissue.pdf), Date Accessed: 22 July 2013

<sup>11</sup>Reporters Without Borders, “Burmese Spring,” December 2012, p. 19, [http://en.rsf.org/IMG/pdf/rsf\\_rapport\\_birmanie-gb-bdissue.pdf](http://en.rsf.org/IMG/pdf/rsf_rapport_birmanie-gb-bdissue.pdf), Date Accessed: 22 July 2013

<sup>12</sup>Reporters Without Borders, “Call For Concrete Media Reforms”, *Radio Free Asia*, January 16 2013, <http://www.rfa.org/english/news/myanmar/media-01162013191833.html>, Date Accessed: 22 July 2013

<sup>13</sup>S. W. Crispin, “Burma Falters, Backtracks on Press Freedom”, *Committee to Protect Journalists (CPJ) Special Report*, June 13 2013, <http://www.cpi.org/reports/2013/06/burma-falters-backtracks-on-press-freedom-1.php>, Date Accessed: 22 July 2013

<sup>14</sup>S. W. Crispin, “Burma Falters, Backtracks on Press Freedom”, *Committee to Protect Journalists (CPJ) Special Report*, June 13 2013, <http://www.cpi.org/reports/2013/06/burma-falters-backtracks-on-press-freedom-1.php>, Date Accessed: 22 July 2013

### **c. Freedom of assembly and association**

The people in Burma have been testing the limits of the reform process by taking to the streets in record numbers to invoke their right to freedom of assembly and association. The growing number of demonstrations illustrates the deep-seated frustrations the people have in regards to low living standards and general disrespect for basic rights. Remarkably, those on the frontlines are not veteran activists but a new crop of first time activists, such as landless farmers or minimum wage workers, who are courageously taking advantage of the political opening to escalate pressure on the government to deliver on their promises of democratic freedoms.

The disturbing trend of land confiscations has prompted landless farmers to respond in creative ways: affected farmers and landowners nationwide are plowing their confiscated lands as a form of protest. According to a March 2013 parliamentary report prepared by the Farmland Investigation Committee, the military forcibly seized about 250,000 acres of land from villagers between July 2012 and January 2013<sup>15</sup>. And lastly, people around the country walked for peace as a way of supporting ceasefire talks between the government and ethnic resistance groups, as well as to highlight the plight of refugees who still cannot return home due to the ongoing conflict.

Despite the growing number of demonstrations, the right to assembly and association, enshrined in Burma's Constitution, is still not respected in Burma. The main reason for this is the passing of an oppressive bill that significantly curbs an individual's right to demonstrate coupled with uneven implementation of the bill by police officers and state officials.

The bill, referred to as the Peaceful Assembly and the Peaceful Procession Act 2012, has received international condemnation for failing to meet basic international human rights standards. If a peaceful assembly or procession takes place without the requisite permit, the participants are subject to one-year imprisonment as well as a 30,000 kyats fine under section 18 of the protest bill. At least over 70 people have faced trial since the protest bill has come into effect, and at least 23 have been put behind bars under the maximum terms of 18 months for permit violations. The protest bill is being invoked alongside other repressive laws that restrict the right to freedom of assembly and association. This includes sections 505 (b) of the penal code, the Law Relating to the Forming of Organizations 1988, and the Unlawful Associations Act 1908. These laws and acts call for a maximum of 2 year, 5 year and 3 year imprisonment respectively.

The protest bill currently requires individuals to apply for permits to peacefully assemble five days in advance. In addition, slogans, chants and biographies of the leaders of the procession or demonstration must be submitted in advance for approval. These provisions are being used to place disproportionate restrictions on the right to assembly and association. The requirement of a permit is problematic as permits are being denied and granted arbitrarily for political reasons. According to the Special Rapporteur in his March 2013 report to the Human Rights Council, "organizers should instead be required only to notify authorities of plans to organize an assembly so that the

---

<sup>15</sup>A. K. Khaing & H. N. Zaw, "Military Involved in Massive Land Grabs: Parliamentary Report", *The Irrawaddy*, 5 March 2013, <http://www.irrawaddy.org/archives/28506>, Date Accessed: 22 July 2013

State is able to facilitate the exercise of the right to freedom of peaceful assembly, and ensure the protection of participants, public order, public safety and the rights and freedoms of others<sup>16</sup>.”

### **Civil Society in Burma: An Overview**

“No dictatorship has ever given freedom to the people. They need to be pushed. In our country, change is coming from the top, but it has to come from the bottom, too.<sup>17</sup>”

#### **Win Nyi Nyi Zaw, co-founder of Yangon School of Political Science**

Just a few years ago civil society actors were seen as enemies of the state. They are now finding themselves in unchartered territory as they seek to build positive relations with a government that has brutally oppressed them for decades. It is important to note that when the military regime disbanded in favor of the civilian regime, many of the military leaders remained in power, albeit in civilian clothes.

While it is too early to gauge the government’s good faith in the democratic transition, for which a key test will be the government’s willingness to create an enabling environment for civil society to operate, most of Burma’s civil society members have remarkably expressed their desire to work in tandem, not in tension, with the government.

Amidst a rights abusing environment that seeks to crackdown on critical and marginalized voices, it would be natural to assume that civil society in Burma is nothing more than a patchwork of persecuted activists and academics. In fact, civil society has furnished the country’s public and political sphere with a fresh supply of popular leaders and thinkers now standing tall as Members of Parliament, leaders of esteemed think tanks, and humanitarian trailblazers. The ever growing civil society in Burma is increasingly a repository for key democratic change makers.

A clear illustration of this is the road political prisoners have travelled from prison to parliament: 26 former political prisoners are now Members of Parliament. These newly minted lawmakers are harnessing their personal experiences under a corrupt dysfunctional legal system to enact positive legislative change. Former political prisoner and current Member of Parliament Sandar Min, arrested twice and imprisoned for 8 years for her activism, plans to improve the rights of farmers by drafting a bill that will allow farmers to own their land<sup>18</sup>.

Dr. Aung Moe Nyo, a former political prisoner and MP representing Pwintbyu in the Lower House, bravely raised the issue of ongoing state-sponsored torture in Burma by introducing a motion to ratify the UN Convention against Torture in March 2013. The motion was regrettably denied by

---

<sup>16</sup>“Report of the Special Rapporteur on the situation of human rights in Myanmar, Tomas Ojea Quintana,” Human Rights Council, A/HRC/22/58, 6 March 2013, p.8, <http://www.burmapartnership.org/wp-content/uploads/2013/03/SR-Report-to-HRC-March-2013.pdf>, Date Accessed: 22 July 2013

<sup>17</sup>K. Rich, “Doubts over Reform Zeal”, *Oman Daily Observer*, 20 March 2012, <http://omanobserver.om/node/87494>, Date Accessed: 22 July 2013

<sup>18</sup>W. L. George, “Sandar Min, Former Political Prisoner, Runs in Burma Election”, *Global Post*, 22 March 2013, <http://www.globalpost.com/dispatch/news/regions/asia-pacific/120319/burma-myanmar-elections-ex-political-prisoner-sandar-min>, Date Accessed: 22 July 2013

House Speaker Thura U Shwe Mann, who in his closing statements, shed light on the pro-military and deeply anti-human rights mentality of the government. His observations failed to note that torture is widespread and routinely practiced in Burma.

Despite Aung San Suu Kyi's presence in the national legislature, women are woefully underrepresented, particularly in parliament and in positions of power in general. Women have long been excluded from the political process and public leadership roles due to a deep patriarchy, drawn from traditional gender roles, that is embedded in Burma's society. There are a number of initiatives in rural and urban areas alike that are working towards dismantling the barriers that keep women from realizing their full potential. One such initiative is the Political Empowerment Program (PEP), launched by the Women's League of Burma, an exile organization based in Thailand aiming since December 1999 to increase the participation of women in the national peace and reconciliation process, and in the democracy and human rights movement. PEP is a six month training program that equips women with the knowledge and skills needed to become positive forces of social change and leadership in Burma. So far PEP has trained 40 women and has plans to start a similar school in Burma by 2014.

Education in Burma is currently in an abysmal state. Available data from 2005-2011 confirms that the military regime allocated only 1.3 % of the GDP for education<sup>19</sup> ranking Burma 164<sup>th</sup> out of 168 countries in the UNDP Human Development Index for public expenditure on education<sup>20</sup>. Elements of the previous administration still retain control of the Ministry of Education and as a result, have the final say in curricular and administrative decisions. For over half a century the public education system in Burma has lacked autonomy to make such decisions. Political science and human rights subjects, deemed too controversial in the U Ne Win area, remain absent in Burma. According to the Asian Human Rights Commission, "degree courses in political science have not recommenced in universities, and no department of political science exists in a state institution<sup>21</sup>."

Civil society groups have been filling this yawning gap by initiating informal and formal education institutes that parallel broken state schools. These initiatives aim to empower and educate the people to view the complex issues facing Burma through an analytical and critical lens, which is in itself a revolutionary concept considering the education system in Burma is based in rote learning. This is being accomplished through the establishment of political and human rights education institutes, basic education trainings in rural and remote areas, and extensive teacher trainings. The Human Rights Education Institute (Burma), Education Network (NLD), Shan Human Rights Foundation, Human Rights Foundation of Mon State, and Civil Society Strengthening Initiative are just a few examples of non-governmental initiatives engaged in improving the educational system.

The newly founded Yangon School of Political Science (YSPS), an initiative by young intellectuals, is an example of the obstacles facing those working towards a free and fair educational system. The school is not registered because human rights and political science are still sensitive subjects for

---

<sup>19</sup>United Nations Data, Myanmar, United Nations, <http://data.un.org/CountryProfile.aspx?crName=MYANMAR#Summary>, Date Accessed: 22 July 2013

<sup>20</sup>"Education in Burma", *Oxford Burma Alliance*, <http://www.oxfordburmaalliance.org/education-in-burma.html>, Date Accessed: 22 July 2013

<sup>21</sup>Urgent Appeals Program, "Burma: Community Educator Charged For Teaching Political Science", *Asian Human Rights Commission*, 5 April 2013, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-057-2013>, Date Accessed: 22 July 2013



the ruling administration, leaving the founders and students vulnerable to harassment. In January 2013, charges were brought against Min Min, a community educator, for teaching courses on political science<sup>22</sup>. A case was opened against him after he refused to comply with warnings from authorities that he ceases teaching political science at the Olive Branch, his community education center that offers free courses on human rights, domestic law, journalism, leadership skills, among other subjects. Regardless of the arrests and judicial harassment facing schools that provide an alternative to official state ideology, YSPS continues to hold free courses on social movements theory, democracy, and English language, because according to Win Nyi Nyi Zaw, one of the school's founders, "we need to nourish critical thinking"<sup>23</sup>."

The tide of arrests and detentions facing civil society actors require courageous human rights lawyers to work in their defense. Lawyers in Burma have to work in limiting circumstances, leading them to be reluctant to take on human rights cases. Such cases are not profitable and can lead to the revocation of the lawyer's license. In 2011, at least 32 human rights lawyers in Burma were disbarred for political reasons<sup>24</sup> rendering them unable to earn for their livelihood.

Harassment and intimidation of lawyers who take on political cases remains a common practice in Burma. Prominent human rights lawyer U Aung Thein had his passport confiscated after returning from a trip to Hong Kong where he attended a meeting on the elimination of torture and ill treatment in Asia in July 2012. According to U Aung Thein; "banning my passport indicates that human rights defenders are discriminated [against] in Myanmar"<sup>25</sup>."

The rule of law is crucial to a successful democratic transition. Lawyers groups are now needed to play a leading role in development and reform of Burma's legal and judicial framework. These groups have a shared interest of upholding the rule of law through professional means and include The Lawyers' Network, Myanmar's Lawyer Council, Human Rights Defenders and Promoters Network, Farmers' Affairs Group, NLD Legal Committee, individual lawyers, and more. Issues covered by the groups range from building capacity of lawyers through overseas training, providing free legal defense to marginalized and at-risk communities, initiating awareness raising campaigns on rule of law issues, to monitoring the government's progress on legal reform efforts.

The Lawyers' Network for example, has been engaged in transforming popular discontent into powerful and credible legal cases. Following a violent government crackdown on hundreds of peaceful protestors demonstrating against development of the Letpadaung Copper Mine in Sagaing Division, The Lawyers' Network responded quickly by collecting forensic evidence at the scene of the crackdown. The evidence confirmed suspicions that police officers used white phosphorus against the protestors with the launch of their groundbreaking report on February 2013<sup>26</sup>. The

---

<sup>22</sup>Urgent Appeals Program, "Burma: Community Educator Charged For Teaching Political Science", *Asian Human Rights Commission*, 5 April 2013, <http://www.humanrights.asia/news/urgent-appeals/AHRC-UAC-057-2013>, Date Accessed: 22 July 2013

<sup>23</sup>K. Rich, "Doubts over Reform Zeal", *Oman Daily Observer*, 20 March 2012, <http://omanobserver.om/node/87494>, Date Accessed: 22 July 2013

<sup>24</sup>W. K. Shing, "Myanmar: Appeal to Review Cases of 32 Lawyers Disbarred for Political Reasons", *Asian Legal Resource Center*, 22 December 2011, [http://www.alrc.net/doc/mainfile.php/alrc\\_st2011/696](http://www.alrc.net/doc/mainfile.php/alrc_st2011/696), Date Accessed: 22 July 2013

<sup>25</sup>"Burma: Rights Lawyers' Passports Confiscated, AHRC writes to government", *Asian Human Rights Commission*, 23 August 2012, <http://www.humanrights.asia/news/press-releases/AHRC-PRL-033-2012>, Date Accessed: 22 July 2013

<sup>26</sup>Lawyer Network and Justice Trust, "Myanmar/Burma: Lawyer Network and Justice Trust report on Letpadaung copper mine controversy", *International State Crime Initiative*, 14 February 2013, [http://statecrime.org/online\\_article/myanmarburma-lawyer-network-and-justice-trust-report-on-letpadaung-copper-mine-controversy/](http://statecrime.org/online_article/myanmarburma-lawyer-network-and-justice-trust-report-on-letpadaung-copper-mine-controversy/), Date Accessed: 22 July 2013

Lawyer's Network has also been vocal in fighting for the preservation of Rangoon's historic colonial buildings by organizing protests and raising awareness on the issue<sup>27</sup>.

The right to social protection from the state is a basic human right enshrined in a number of UN documents<sup>28</sup>. Social protection is often understood to refer to a set of programs aimed at empowering the poor and marginalized by equipping them with the required tools and skills so as to achieve their "freedom from want and from fear and to provide them with their rights to live in dignity<sup>29</sup>."

Despite this responsibility placed upon the state, social protection programs are virtually nonexistent in Burma. The social welfare programs that do exist target only a small number of people that fall under disadvantaged categories, such as orphans, the disabled or frail older people. It is estimated that the sum of Burma's state social welfare programs cater to only 13,000 people and over half of those are in pre-primary school<sup>30</sup>. Similarly, government-led social security schemes have an extremely limited reach resulting in coverage only for 500,000 formal workers in select industrial establishments. This means that the bulk of Burma's population, estimated at 55 million<sup>31</sup>, have no social safety net that would allow them access to essential services.

The current administration views privately led social protection initiatives with suspicion, continuing a policy of harassment rampant under previous military rule. The international community was shocked to learn that instead of being praised for their heroic work, humanitarian activists were being arrested and given 10+ year prison sentences in the wake of Cyclone Nargis in 2008. Their alleged "crime" was providing disaster relief such as aid delivery to hard hit areas where there was no government response. Further to this point, the first political prisoner under President U Thein Sein was Nay Myo Zin, a former army captain turned charity worker. He was arrested and sentenced on his way home from running a blood donation service.

Engaged citizens, relying mainly on a team of volunteers and small donations, have been uniting for decades to provide essential services that are often promised by politicians but never delivered. These services range from free health care, emergency response to natural disasters, humanitarian aid to victims of conflict, backpack medical service to remote areas, community beautification, shelters for sexual assault victims, safe houses for HIV positive population, and more.

In June 2013 volunteers from Free Funeral Services (FFS), an organization that provides burials, ambulance services, health and dental care all for free, began to pick up litter around Rangoon and used the opportunity to educate citizens on the virtues of garbage disposal. The initiative was blocked by the city's Municipal Committee. According to Kyaw Thu, co-founder of FFS, "If people are gathering and doing something, the authorities still think that they might do bad things that will

---

<sup>27</sup>A. A. Win & A. P. Writer, "Burmese Lawyers Push to Save Colonial Buildings", *The Irrawaddy*, 11 September 2012, <http://www.irrawaddy.org/archives/13723>, Date Accessed: 22 July 2013

<sup>28</sup>United Nations Trust Fund for Human Security, "Human Security for All," *UNOCHA*, <http://unocha.org/humansecurity/about-human-security/human-security-all>, Date Accessed: 22 July 2013

<sup>29</sup>Country Report of the ASEAN Assessment on the Social Impact of the Global Financial Crisis: Myanmar," *ASEAN*, July 2013, <http://www.aseansec.org/wp-content/uploads/2013/07/Myanmar.pdf>, p. 4, Date Accessed: 22 July 2013

<sup>30</sup>Country Report of the ASEAN Assessment on the Social Impact of the Global Financial Crisis: Myanmar," *ASEAN*, July 2013, <http://www.aseansec.org/wp-content/uploads/2013/07/Myanmar.pdf>, p. 4, Date Accessed: 22 July 2013

<sup>31</sup>The World Factbook, Population of Burma estimated at 55,167,330, 10 July 2013, <https://www.cia.gov/library/publications/the-world-factbook/geos/bm.html>, Date Accessed: 22 July 2013

defame the government. To pick up trash in the city is not with the goal of condemning the Municipal Committee but just to tell the people to keep the city clean<sup>32</sup>.”

The youth and students of Burma have always played an integral role in uniting the people of Burma to call for the restoration of democracy. Since 1988, student unions have proven to be fertile breeding grounds for the country’s key democracy leaders. The young stars of the 1988 student movement, imprisoned for their activism, have now assumed powerful positions as national legislators, heads of oppositional political parties, leaders of national women’s movements, and more. Their shared work in organizing the 1988 protests has led to the formation of the 88 Student Group in 2005 which continues to be a powerhouse of the civil society movement for their charitable initiatives throughout the country, which includes human rights education campaigns, women leadership programs and humanitarian assistance to political prisoners.

Youth in Burma have continued this tradition of being the face of change into the transition period. Initiatives like the Student and Youth Congress of Burma and Nationalities Youth Forum actively work to bring youth from diverse ethnic backgrounds together under the common goals of reinstating democracy, restoring human rights, and establishing a federal union. This is achieved by providing training sessions, holding conferences, and issuing joint reports on the status of youth across the country.

Despite the optimism surrounding the youth movement in Burma, there are still risks. Student unions, due to their historical role in organizing anti-government protests, are still illegal. Students who enter universities must sign a form pledging they will not become involved in any political activities. In July 2012, students peacefully gathered to commemorate the 50 year anniversary of the state-backed fatal bombing of a student union building in Rangoon by laying a wreath at the building. Authorities responded by arresting around 20 student leaders in a pre-emptive act.

The 2008 Constitution offers no real protection for the many ethnic nationalities in Burma, and many of the leaders from the different communities have voiced their concerns that it is meant to wipe out the diverse cultures of the people in Burma. Civil war continues to rage in ethnic nationality areas with large populations living in internally displaced camps or refugee camps along the border. Civil society is working to facilitate the inclusion of the voices of ethnic nationality groups in the peace process with the goal of having ethnic nationality representatives participate as unified actors in the future governance of their country. Civil society groups provide them with new tools and opportunities for dialogue and coexistence, such as advanced workshops, consultative visits between community leaders, legal advice, political seminars, etc. They advocate for current reforms in Burma to focus on dismantling the institutional structures and policies that enable continued discriminations and forced assimilation against ethnic and religious minorities.

U Khun Htun Oo, Member of Parliament and Chairman of the Shan Nationalities League for Democracy (SNLD), perfectly represents civil society efforts to create and maintain ceasefires between ethnic nationalities and the Burmese government. Arrested in 2005 for opposing the military regime but released in January 2012 in a presidential amnesty, he was presented with the

---

<sup>32</sup>Z. Mann, “FFSS’s Kyaw Thu Reflects on a Life of Healing the Living and Burying the Dead”, *The Irrawaddy*, 1 June 2013, <http://www.irrawaddy.org/archives/36155>. Date Accessed: 22 July 2013

Democracy Award by the National Endowment for Democracy (NED) in Washington D.C. in 2012. It acknowledges his long fight for all ethnic nationalities to obtain democracy, equality, self-determination and a genuine federal union in Burma. His example affirms the Shan Nationalities League for Democracy's commitment and determination to seek a political solution to the problems faced by ethnic minorities in Burma.

### **Conclusion: Truth and Justice**

The presence of military leaders in positions of power, combined with the recent history of brutal authoritarian rule, continues to have an effect on Burma's society and may be a challenge for the strengthening of civil society. The continued arrests, secret detentions, and use of torture in ethnic nationality areas are a stark reminder that the militaristic mindset of state authorities has not changed. While the initial reforms are undoubtedly having a positive influence on the desire and willingness of the people of Burma to participate in civil society, the full potential of the reforms will not be seen until there is an environment that enables a free and unhindered civil society.

The memory of the brutality suffered by the Burmese people should serve as a reminder of the importance of its citizens in continuing the drive towards true freedom. Civil society organizations provide the bedrock for this on-going effort. Their existence reiterates the determination of the Burmese people to leave the shadow of military dictatorship behind them. The justice system in Burma must work accordingly to ensure no one is above the rule of law. Having operated under military rule for so long the transition to a free democratic society must go hand in hand with the provision of a fair and just legal system. Groups who face persecution and unfair punishment from the government must be able to address these issues in a fair and impartial manner, without fear of reprisal.

As a country still in the throes of transition it is of particular importance that civilian groups maintain this commitment and continue to fight for their causes. It is impossible for the transition from dictatorship to democracy to become a fully functioning reality if the people do not support it. It is only with the bravery and determination of civil society groups, who continue to remind the government of what a democracy really means for its people, that truth and justice will remain essential to the development of the country. The efforts of civil society campaigners, protesters and activists in continuing to demand these freedoms is the only way Burma can achieve a permanent transition from dictatorship to a truly free democratic state.

More Information contact to

Ko Tate Naing (Secretary): +(66) 8128 78751

Ko Bo Kyi (Joint-Secretary): + 66(0) 81 9628 713

+ 95 (0) 942530 8840