

DECEMBER MONTH IN REVIEW 2016

Summary of the Current Situation:

There are **194** individuals oppressed in Burma due to political activities.

86 political prisoners are serving prison sentences.

40 are awaiting trial inside prison.

68 are awaiting trial outside prison.



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Assistance Association for Political Prisoners (Burma)

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MONTH IN REVIEW

This month, 12 people were arrested, 9 of whom are from ethnic areas and two of whom were arrested under Section 66(d) of the Telecommunications Law. Three people were charged under 66(d) of the Telecommunications Law. 85 people were sentenced including 82 farmers, and 22 individuals were released. Two incarcerated political prisoners are reported to be in bad health.

Farmers continued to be sentenced over arbitrary land confiscation disputes. On December 23, four farmers from Yebyu Township in Tanintharyi Division were each ordered to pay a fine of 5000 Kyat (US\$3.60) by the Township Court under Section 447 of the Penal Code for the offense of trespassing. On December 22, 32 women and 40 men in Taunggyi Township, Southern Shan State, were sentenced by the Township Court to one month imprisonment with hard labor after trespassing charges were brought against them by the Military's Eastern Command. Six people were ordered to pay a fine and released on December 22, 2016. These incidents highlight the fact that the farmer's rights and restoration of arbitrarily confiscated land, which was promised to be defended by the NLD, remains an unresolved problem in the country. The Government therefore needs to immediately address this issue and resolve pending land confiscation matters to prevent further sentences against farmers trying to cultivate their own land.

The Unlawful Association Act continues to be a tool for the arrest, detention and sentence of civilians accused of being associated with unrecognized organizations and ethnic armed groups. On December 21, Tun Tun Naing was sentenced to five years' imprisonment by Rathedaung Township Court in Arakan State, under Section 17(1) of the Unlawful Association Act for his association with the Arakan Army. On December 15, Aung Min Soe from Pyu Township, Bago Division, who was arrested in Mae Sot for being associated with the Democratic Karen Benevolent Army (DKBA) was sentenced to three years' imprisonment under Section 17(1). On December 22, another four men were sentenced to life imprisonment under Article 122 of the Penal Code, for the offence of High Treason, by the Mandalay District Court. Zaw Min Htwe from Mandalay, Myint Thein, Ayar Mann from Bhamaw, and Khin Maung Shwe from Mohnyin were arrested and charged for alleged connections with the Kachin Independent Army (KIA) working to establish the 'Islamic Army'. Min Htay, a central committee member of the All Burma Students' Democratic Front (ABSDF), a signatory group of the nationwide ceasefire agreement (NCA), was arrested by the Army in Momauk Township, Kachin State. ABSDF has been negotiating for his release with the Army through the Joint-ceasefire Monitoring Committee (JMC). On December 14, five villagers from Lashap village in Northern Shan State were arrested by the military. They were suspected of being affiliated with an ethnic armed group. The Special Branch Police in Lashio, Shan State, arrested 17 civilians from a guesthouse in Lashio. 13 were unconditionally released, with the police claiming that the remaining four, who continue to be detained, have ties with the Ta'ang National Liberation Army (TNLA), an ethnic armed group forming a part of Northern Alliance.

Not only are these arrests likely to impede the peace process and the national reconciliation measures initiated by the government but also violate the citizens' fundamental right to freedom of association. Article 20(1) of the Universal Declaration of

Human Rights (UDHR), enunciates that ‘Everyone has the right to peaceful assembly and association’. AAPP, therefore, urges the government to make appropriate amendments to the legislation and unconditionally release these prisoners without any further delay.

The Telecommunications Law continues to be used to crack down on individuals expressing their opinions on social media. On December 14, Zaw Zaw who goes by the name Nga Pha on Facebook, was formally charged under Article 66(d) of the Telecommunication Law in North Okkalapa Township Court, Rangoon, for making defamatory posts about State Counselor Daw Aung San Suu Kyi on social media. Nyein Chan, the youth coordinator of National League for Democracy (NLD) in Letpadan Township, Pegu Division, was arrested on December 15 for slandering a municipal official in a Facebook post in July this year. Deputy Officer of the Township Planning Department in Salin Township, Magway Region, Tun Min Latt, was sentenced to six months imprisonment on December 28 by the Salin Township Court. The sentence was handed down after charges were brought against him under Section 66(d) of the Telecommunications Law for writing hate speech and using profane language against Daw Aung San Suu Kyi on social media, amounting to defamation.

This month, section 66(d) garnered much attention when Eleven Media Group Chief was denied bail despite suffering from a serious heart disease. Than Htut Aung (CEO) and Wai Phyo (Editor In-Chief) were repeatedly denied bail in December. The bail appeal was essentially based on serious health concerns for Than Htut Aung. Not only was he brought to the Court by wheelchair but also had to lie on the bench during one of the court hearings after having suffered a heart attack on his way to the Court from Insein Prison. The judge also denied his appeal to meet his personal doctor. On December 27, EMG released a statement apologizing for the defamatory editorial. Secretary of the Central Research for the National League for Democracy (NLD), Myo Yan Naung Thein who has been charged under section 66 (d) of the Telecommunications Law, was also denied bail by Yangon Region West District Court on December 26. The Court cited invalid grounds to seek bail as the reason for refusing his appeal.

Four persons charged under 66(d) were released on bail in December. Sandi Myint Aung, who was arrested under Article 66(d) of the Telecommunication Law for criticizing Daw Aung San Suu Kyi, was released on bail by the Bago Township court on December 26. San Shwe, vice-chair of Patheingyi NLD, who was arrested under Section 66(d) of the Telecommunications Law, was granted bail by the Township Court for health reasons on December 9. He was accused of insulting Sinma Village Administrator Aung Ko Lwin through a Facebook post. The two men, Sinma Village NLD Chairman Myint Naing and Vice-Chairman Lwin Oo, were released as they were found to be unrelated to the said Facebook post. Naypyidaw based Journalist Maung Maung Tun was released on bail on December 5, following his arrest last month, under Article 66(d) of the Telecommunications Law. He was accused of criticizing freelance journalist Zaw Min Aung, who used to work for state-run newspaper, the “Mirror Daily”. Zin Mar Kyi, who was arrested under 66 (d) on December 18 for defaming the Former Union Solidarity and Development Party (USDP) lawmaker, Hla Swe, was released on bail on December 19.

These cases exhibit that there is no standard criterion for detention or granting of bails to persons charged under 66(d) as some people continue to remain in prison despite submitting valid grounds for being released. Not only does Section 66(d) of the

Telecommunications law dictate severe penalties, not equal to the crime committed, but there are also disparities between its provisions and other legislation condemning defamation such as Section 500 of the Penal Code which stipulates less harsh sentences. AAPP strongly recommends that the lawmakers, following the submission of a proposal to make amendments to Section 66(d) of the Telecommunications Law by Shwe Mann, not only immediately and unconditionally amend or preferably repeal this repressive law but also other laws which prohibit civilians from exercising their freedom of speech and expression.

On December 21, political activist Khaing Nay Min from Myauk Oo Township, who was sentenced to four years' imprisonment, was released from Sittwe Prison. On December 12, The Ta'ang National Liberation Army (TNLA), released 11 Mong Kat village residents from Kyaukme Township in Northern Shan State, who were detained on November 20 following a clash between the TNLA and Shan State Army - South (SSA-S). TNLA suspected these detainees of being members for the Restoration Council of Shan State (RCSS), the political wing of SSA-S.

AAPP also invites immediate attention of the Government on the issue of overcrowding of prisons in Burma, Such overcrowding in the prisons not only leads to violations of basic rights of the prisoners but also prevents the prison as an institution from serving as a correctional facility for the detainees. Therefore, AAPP recommends that the government must expeditiously proceed to implement institutional reforms for reducing overcrowding in the prisons.

Although the civilian government has been taking multiple measures to achieve national reconciliation and promote rule of law, the country's human rights situation continues to deteriorate. These incidents were reported in the broader context of the conflict between the military and ethnic armed groups, continued abuse of farmers' land rights, restrictions on civilians' freedom of expression and other civil and political rights. Therefore, in light of this report, AAPP appeals to the government to immediately and unconditionally release all remaining political prisoners as recognized by AAPP, prioritize the peace process and more progressive legislative reforms in order to secure the civil and political rights for its citizens.