

MARCH CHRONOLOGY 2018

Summary of the Current Situation:

There are 248 individuals oppressed in Burma due to political activities,

54 political prisoners are serving prison sentences,

74 are awaiting trial inside prison,

120 are awaiting trial outside prison.



Picture from Aung Khant © The Myanmar Times
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Assistance Association for Political Prisoners (Burma)

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MONTH IN REVIEW

March in Numbers

Arrests

In March, 39 people were arrested. Of these, 37 were arrested by Ethnic Armed Groups (EAGs): 21 by the Kachin Independence Army (KIA), and 16 by the Myanmar National Democratic Alliance Army (MNDAA). A further two people were arrested by authorities.

Charges

Five people were charged this month. Three were women charged under Sections 341 and 333 of the Penal Code for protesting against police forcing their way into their village. One was the daughter-in-law of a Kachin civilian murdered by the Military. She was charged under Section 17(1) of the Unlawful Association Act for associating with the KIA. Finally, former child soldier Aung Ko Htwe was charged under Section 7 of the State Flag Law for standing on a copy of the 2008 Constitution to protest his detention.

Sentences

Three people were sentenced. These included Aung Ko Htwe, who was sentenced under Section 505(b) of the Penal Code for inciting the public after telling his story of forced child military conscription. Two others, Thar Ni and Phyu Thee Khine, were sentenced under Section 35 of the Farmland Law after refusing to evict their homes for the construction of an airport.

Releases

34 people were released; five by authorities and 29 by EAGs. The five released by authorities were all previous suspects in the Sittwe bomb blasts, and are now on bail due to lack of sufficient evidence to bring them to trial. A Karen Armed Group arrested 27 Mon villagers who were later released. The KIA arrested two

ethnic Naga people in Tanai Township who have since been released.

Political prisoners - 54

Facing trial: 194-74 inside prison, 120 outside prison

Total: 248

7 prisoners are in poor health

Legal Restrictions Threaten Civil and Political Rights

The Government's Upper House approved amendments to the Peaceful Assembly and Peaceful Procession Act (PAPPA) this month. AAPP strongly opposes the proposed changes, which are now in line for discussion in the Lower House. They further restrict freedoms and liberties which are already suppressed using PAPPA (as outlined in our [2017 Yearly Analysis](#)), including the rights to peaceful assembly and association and freedom of expression.

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The rights to peaceful assembly and association are described by the [Special Rapporteur](#) as “key human rights in international human rights law”, and they are enshrined in both Article 20 of the [Universal Declaration of Human Rights](#) and Article 8 of the [International Covenant on Economic, Social and Cultural Rights](#). The right to freedom of peaceful assembly is also guaranteed in Article 21 of the [International Covenant on Civil and Political Rights](#) (ICCPR).

The exercise of such fundamental freedoms should not be subject to previous authorization by the authorities, yet the proposed amendments stipulate that protest organizers must now inform the local authority of the estimated costs and funding sources of demonstrations. Further, the vague provisions in Section 18 give authorities the power to reject a protest application based on ambiguous grounds, even if it is a peaceful gathering in accordance with international standards. AAPP condemns these changes and calls for an environment in which the freedom to protest is the norm and its restriction the exception.

We stand in solidarity with CSOs who are protesting the proposed amendments, and echo the concerns expressed in a [statement](#) released by The Asian Forum for Human Rights and Development (FORUM-ASIA). Finally, we call on The House of Representatives (Lower House) to reject the changes to PAPP on the grounds that they are in direct conflict with international human rights law and have no place in a democratic society. The interdependence and interrelatedness of the rights to peaceful assembly and association with other rights make them a valuable indicator of a State’s respect for the enjoyment of many other human rights. In this vein, we believe that the Lower House’s decision will serve as a reflection of the Government’s commitment to democratic progress in Burma.

The proposed creation of a law that would restrict International Non-Governmental Organization (INGO) work in Burma is a further example of legal restrictions being imposed on the enjoyment of human rights throughout the country. The Draft Law on International Non-Governmental Organizations contains a vague definition of the groups it would monitor, leaving it open to interpretation as to the NGOs who could potentially see their work suspended in Burma.

AAPP is troubled by the strong similarities between the proposed law and the restrictions Burma placed on international relief efforts - and its hostility to the international community - following Cyclone Nargis in 2008, which ultimately resulted in insufficient funding and freedoms required by international actors to meet the needs of many affected communities. The increasing suspicion with which INGO work is coming to be viewed is echoed throughout Southeast Asia, with nearby countries already having passed laws comparable to Burma’s proposed Draft Law. The devastating consequences that these have had on NGOs’ freedom of speech and association in neighboring countries should be taken as a serious note of caution, particularly when the Draft Law’s overarching characteristic is that it is clearly designed to shut down INGOs which fall afoul of the government. It therefore fails to meet numerous standards set out in the UDHR and international human rights treaties, potentially threatening the recent gains made by civil society groups and undercutting efforts to hold the Government to account in the transition process.

The Draft Law should not provide a preset for undermining the rights to freedom of association, expression, and assembly. For this reason, AAPP recommends that the Government either significantly revises or rejects the Draft Law. If it is to be revised, it must meet minimal human rights standards, which would include making registration voluntary, eliminating the penalties for organizations that do not register, and clarifying vague provisions so that groups critical of the Government are not targeted and denied registration.

The Broken Promises on Freedom of Expression

A high-profile case which highlights how existing laws are already being used to restrict freedom of expression is that of the two jailed Reuters reporters, Wa Lone and Kyaw Soe Oo. Numerous inconsistencies emerged during their hearings this month, and the journalists' lawyers have requested that the case be dismissed due to lack of evidence. Government officials have previously denied that the arrests represent an attack on press freedom, but the growing discrepancies raise serious questions regarding the arbitrary nature of the reporters' arrest.

This case is particularly pertinent when considering the overall backslide in media freedom that has taken place since the National League for Democracy (NLD) came to power, leading to media vacuums that are most prominent in ethnic areas. During a [meeting](#) held this month on Media Freedom in Conflict Areas, participants reported that they face more restrictions gathering news under the NLD Government than the former USDP Government. Likewise, a 2017 [survey](#) conducted by Free Expression Myanmar (FEM) revealed that 55% of reporters believe violence against journalists has increased in the past year. It also found that 78% of journalists have low or very low levels of freedom to cover news in conflict areas such as Kachin, Shan, and Arakan states.

It is the media's responsibility to hold those in positions of power to account, making press freedom a cornerstone of any democratically-functioning society, and a crucial reflection of a State's commitment to democracy. It is therefore extremely distressing that these rights are becoming further restricted under a democratically elected Government, even more so considering that the NLD itself clearly stated in its [2015 Manifesto](#) that it would "ensure that the media has the right to stand independently in accordance with self-regulation of matters relating to ethics and dignity, and the right to gather and disseminate news". These election promises ring hollow, however, when we note that the Government has not only failed to reform or repeal repressive laws enacted during both Colonial and Military rule, but continues to use them, sometimes even more often than the Military dictatorship. For example, within the first year that the NLD took power, Section 66(d) of the 2013 Telecommunications Law was used to file [800%](#) more defamation cases for social media posts than those filed under its Union Solidarity and Development Party (USDP) predecessor.

The legislation used to clamp down on vital reporting has ultimately ensured that a climate of fear has continued into Burma's fledgling democracy, where the fundamental right to freedom of expression, as outlined in Article 19 of the ICCPR and the Universal Declaration of Human Rights (UDHR), remains under constant attack. This damages the credibility of the unsteady democratic transition and casts doubt on where the Government's loyalties lie. While authorities refuse to accept transparency and accountability as pillars of a democratic society, and press freedom its foundation, the peace process cannot move forward with any integrity. AAPP therefore reiterates its call for the unconditional release of Wa Lone, Kyaw Soe Oo, and all other journalists incarcerated simply for doing their job, along with the immediate repeal of laws used to repress the right to freedom of expression. Unfortunately, the attacks on the media in Burma are part of a growing trend of similar restrictions across Southeast Asia. AAPP also recommends that organizations such as ASEAN take responsibility for ensuring that concrete steps be taken toward creating a region in which people are able to report on such crucial issues without fear of persecution.

Impunity Continues Unabated

This month, former child soldier Aung Ko Htwe was sentenced to two years in prison with hard labor. He was charged with inciting the public after speaking out about his ordeal as a child soldier and was later slapped with additional charges relating to contempt of court.

The Government has made numerous commitments to stop the forced conscription of minors. Recent pieces of legislation include the [Joint Action Plan \(JAP\)](#), agreed between the UN and the Government in 2012, and [The Paris Principles on Children Associated with Armed Forces or](#)

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[Armed Groups](#) in 2017. Since the JAP, up to 849 child soldiers have been released, although the lack of transparency on the issue makes it difficult to determine exactly how much progress has been made to date.

Despite being involved in these external policies, there is currently no national legislation in Burma that comprehensively prohibits the military recruitment of minors. Of notable concern is the Military rule era 1993 [Child Law](#). In addition to this Law's failure to include the issue of underage military recruitment, it also defines a child as a person under the age of 16. This contravenes the definition set by the UN [Convention on the Rights of the Child](#), to which Burma is a state party, which specifies that anyone under 18 years of age is categorized as a child.

AAPP expresses its deepest concerns over the attempts to silence Aung Ko Htwe and cover up testimonies of former child soldiers, actions that not only directly contradict its legal obligations and international human rights standards, but also its own previous acknowledgement of the systematic use of child soldiers throughout Burma. The punishment of victims who speak out is an attempt to control the narratives surrounding child military recruitment, which implies a cover-up of key information and guarantees impunity for those involved in the recruitment process. This in turn discredits the authenticity of official statements regarding the past and present extent of the practice, and casts doubt upon the Government's political will to truly acknowledge, apologize to, and compensate victims.

This is especially significant given the country's ongoing transition from Military rule to a democratic Government. The transition should focus on addressing past atrocities and their continued influence on the present. In this vein, reparations for former child soldiers would mark an essential move in beginning to rectify past wrongs. AAPP calls for systematic investigations to hold the perpetrators of child recruitment accountable and urges the Government to ratify the UN [Optional Protocol to the Convention on the Rights of the Child on Children and Armed Conflict](#) without delay. If the Government is serious about implementing sustainable reform, it should stop silencing the victims of child recruitment and work to redress the abuses and obstacles they continue to face after release.

Another case which highlights the impunity inherent in the judicial system is the beating and extrajudicial killing, allegedly by the Military, of two Kachin internally displaced persons (IDPs) this month. Amidst demands from [human rights organizations](#) for a full and impartial investigation into the assassinations, the Government has instead charged the daughter-in-law of one of the victims for alleged association with the KIA. Another report this month involved a civilian from Shan State who was allegedly tortured by the Military after they falsely accused him of spying for the Restoration Council of Shan State (RCSS/SSA). Also in Shan State, a defendant died due to torture he was subjected to while being held in a police station. In Irrawaddy Division, four police officers were arrested for the torture of two burglary suspects.

The above cases are testament to a systematic pattern of torture and extrajudicial killings, primarily against civilians from ethnic minorities. Such practices are [most prevalent](#) in areas where EAGs operate, while the abuses in Kachin and Shan States in particular have been denounced by [Amnesty International](#) as war crimes. The [UN Human Rights Council fact-finding mission](#) has also raised concerns over the recent spike in human rights abuses and violations of international humanitarian law in Kachin and Shan States.

Although Burma is yet to sign and ratify most international human rights and humanitarian law treaties, freedom from torture is a universal and fundamental human right for all. The violations of this right are therefore classified as breaches of customary international law norms. The Government's failure to recognize and act on widespread reports documenting the increase in

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such abuses raises serious concerns as to the NLD's commitment to end the decades-long ethnic armed conflicts, and to promote the respect and enjoyment of human rights throughout Burma.

The immediacy of this issue demands that urgent measures be taken to address allegations of human rights violations and to avoid their further escalation. Firstly, AAPP asks for full and proper investigations into the incidents reported this month in Kachin and Shan States. These must be aligned to international standards with a view to publicly prosecuting those responsible for unlawful acts and their commissioning, factors crucial to any action countering impunity. In addition to installing credible investigations, we advise the Government to address barriers to accountability by reforming laws that protect those involved in torturing and murdering civilians.

Finally, AAPP strongly encourages that the Government sign and ratify the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT). We also urge the State to sign and ratify its Optional Protocol (OPCAT), which specifically aims to protect those deprived of their liberty from torture and ensures transparent and independent monitoring in all places of detention. Committing to these treaties would indicate that the NLD is taking a clear stance on human rights protection and conflict resolution, factors which must be prioritized in the ongoing peace process. Its success will also hinge on the Government's efforts to adhere to accountability standards and respect for the rights of all civilians, including ethnic minorities.

Drug Policy Reforms: A Sign of Progress?

The announcement this month of the new [National Drug Control Policy](#), developed with support from the United Nations Office of Drugs and Crime (UNODC), is an encouraging move toward a progressive approach to tackling the issue of narcotics. AAPP commends the Government for shifting focus from punitive measures and criminalization to a more health oriented approach that promotes alternatives to imprisonment for drug offenses and recommends medical treatment for drug users. It is also worth noting that this is the first time that the Government has formally adopted a harm-reduction approach to drug use.

Burma's previous handling of drug use exclusively as a criminal matter has led to [48%](#) of Burma's prisoners having been detained for drug-related offenses, while little progress has been made in reducing addiction or its effects on communities. AAPP, therefore, recommends that the decriminalization highlighted in the new Policy is extended to include drug users already incarcerated in Burma's prisons.

However, the release of another key document, the amended 1993 Narcotic Drugs and Psychotropic Substances Law, less than a week before the National Drug Control Policy was announced, continues to heavily lean on criminal justice, the use of repression, and harsh prison penalties for drug users. The contradictory and, at times, incompatible priorities between these two models of drug control will lead to difficulties in implementing the changes in policy on the ground.

Harsh prison penalties and forced eradication have no place in a model designed around public health, rural development and human rights. AAPP therefore recommends the rapid adoption of adequate by-laws and internal orders to address the divides between the amended Drug Law and the National Drug Control Policy. Further, the Government must ensure the practical application of the new Policy to make reality what will otherwise remain hypothetical recommendations.

Corporations, Land Confiscation and the Criminalization of Activists

In March, 95% of complaints received by State authorities in Rangoon were related to land confiscations, while in Mandalay 90% concerned land complaints. Likewise, civilian protests against the confiscation of their land, often by extractive industries, have taken place across the country:

In Arakan State, protests were organized against the China National Petroleum Corporation (CNPC) and Myanmar Oil and Gas Enterprise (MOGE) for failing to provide compensation for damaged farmland and plantations. Also, heads of household were imprisoned for refusing to evict their homes for the building of an airport in Manaung Township.

In Tennesserim Division, local people held a press conference concerning 1,600 acres of land confiscated for the Kyaukpyher Project, for which only 100 acres were used.

In Irrawaddy Division, farmers from Sinbo Village in Einme Township submitted a letter to the Irrawaddy Division Government demanding the return of 30 acres of land which were confiscated by the Military in the 1990s.

In Shan State, civilians from Talone Village in Hsipaw Township released a statement protesting the Government's continued requests that they evict their land for the construction of a hydroelectric power project. Further, the Military told Parliament this month that it will not hand back to farmers land it confiscated in Shan State's Kyethi Township in the 1990s.

In Bago Division, farmers protested for the fifth time against seven businessmen who confiscated 3,000 acres of their land in Hlawkar Village, Bago Township.

Burma is no stranger to tensions arising between communities and corporations with regard to land-grabbing; its land laws and regulatory weaknesses are easily exploited by well-connected powerful private companies that are able to confiscate land from farmers who have been cultivating it for years. These weaknesses have been exacerbated by the passing of the Farmland Law in 2012. Brought in despite criticism from experts and CSOs, this law reiterates previous mandates of land nationalization, and retains government authority in the seizure of land and determination of land usage. A case in point this month are the heads of household jailed under Section 35 of the Farmland Law for refusing to evict their homes to make way for the Samon Tae Airport construction in Arakan State. This is one of many cases in which the Farmland Law is used to persecute farmers.

Land confiscations such as those in the cases above completely fail to meet international human rights standards. The chronic lack of prior consultation, compensation for the land taken, and appropriate relocation arrangements routinely violate the [UN Guidelines on Eviction and Displacement](#), which stipulate that numerous actions which ensure the protection of an individual's rights must be taken before a confiscation even begins. Corporations involved in these confiscations are repeatedly chastised for poor transparency, accountability and compensation practices. The land-grabbing enacted by a multitude of companies, many of which were also protested against this month in Burma, represents an extreme and urgent threat to the livelihoods of people across the country.

The right to work and the right to adequate housing are enshrined in Article 6 and Article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Burma ratified in 2017. The confiscation of lands essential to the livelihoods of civilians throughout the country therefore violates the State's international legal obligations. As a primary step to curb these ongoing human rights abuses, AAPP urges the Government to uphold the Articles in the ICESCR.

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AAPP also recommends the amendment of the relevant laws, including the Farmland Law, to form a sound domestic legal framework. This should prioritize the protection of people and environment from the economic interests of powerful businesses.

Incidents in this month's chronology were reported in a broader context of conflict between the military and ethnic armed groups, continued abuse of farmers' land rights and restrictions on civilians' freedom of expression and other civil and political rights. In light of this report, AAPP urges the Government to prioritize the review and amendment of repressive legislation in order to secure civil and political rights for its citizens and therefore achieve national peace and reconciliation. Moreover, AAPP appeals to the Government to immediately and unconditionally release all remaining political prisoners.

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