



Assistance Association for Political Prisoners (Burma)

နိုင်ငံရေးအကျဉ်းသားများကူညီစောင့်ရှောက်ရေးအသင်း (မြန်မာနိုင်ငံ)

P.O Box 93, Mae Sot, Tak Province 63110, Thailand
e.mail: info@aappb.org website: www.aappb.org

CRITERIA FOR AAPP'S DEFINITION OF A POLITICAL PRISONER

Information Release

Date: September 30, 2011

AAPP defines a political prisoner as anyone who is arrested because of his or her perceived or real active involvement or supporting role in political movements with peaceful or resistant means. AAPP maintains that the motivation behind the arrest of every individual in AAPP's database is political, regardless of the laws they have been sentenced under.

The State Law Order Restoration Council and State Peace Development Council denied the existence of political prisoners; a denial reiterated by the current Thein Sein administration. Due to this, those who are in real or perceived opposition to the regime are routinely criminalized. For example, the authorities have repeatedly used false, tenuous, or trumped-up criminal charges to imprison political activists, journalists, students, and those in real or perceived opposition to the regime. To distinguish political prisoners from criminal offenders, AAPP considers the individual's actions rather than their alleged charges. In short, the motivation behind the arrest must be political.

Rumors of an impending amnesty have been gaining traction after Foreign Minister Wunna Maung Lwin's recent claims to the United Nations General Assembly that an amnesty will be forthcoming at an "appropriate time in the near future¹." His statements make no mention of political prisoners. If the administration is to grant a general amnesty, it must include the unconditional release of political prisoners and a wiping of their criminal records.

AAPP welcomes the release of any political prisoner, but in the absence of the rule of law, in the face of an impartial judiciary and laws that criminalize basic civil and political rights, political activists as well as ordinary people will face the ongoing threat of arrest. A future amnesty must be motivated by genuine political will if the Thein Sein administration were to shore up any credibility in the eyes of the international community.

Note: In support of the national reconciliation process and a genuine democratic transition, AAPP does not discriminate against those who participated in the armed struggle or were wrongfully convicted with criminal charges. AAPP uses the term political prisoner as a blanket phrase for all those who have been imprisoned for participating in the struggle for democracy and national reconciliation.

¹ http://gadebate.un.org/sites/default/files/gastatements/66/MM_en_0.pdf

Laws commonly used to arbitrarily detain activists or criminalize dissent

The following is an overview of the most common laws used to detain and imprison activists. However, this is by no means an exhaustive list and a number of other laws are regularly used to stifle dissent. These include, but are not limited to:

| Law | Section | Offences | Maximum Term |
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| Penal Code | 121, 122(1), 122(2) | Definition of high treason; punishment for high treason | Death or life imprisonment |
| Penal Code | 124, 124(A), and 124(B) | Misprision of high treason; sedition; advocating overthrow of an organ of the Union or of its constituent units by force. | Seven years; life imprisonment; three years |
| Penal Code | 143-146 | Unlawful assembly | Two years |
| Penal Code | 295, 295(A) | Insulting Religion | Two years |
| Penal Code | 505 (B) | Making a statement or rumor conducive to public mischief. | Two years |
| Unlawful Association Act (1908) | 17/1 & 17/2 | Membership of an unlawful association; management or promotion (or assisting) of an unlawful association. | Three years; Five years |
| State Protection Law (1975) | 10(a) & 10(b) | Detention of a citizen who is endangering State sovereignty and security without charge or trial; house arrest. | Five years, renewable by an additional year |
| Emergency Provisions Act (1950) | 5(d); 5(e); 5(j) | Causing public alarm; spreading false news; undermining the security of the Union or the restoration of law and order. | Seven years |
| Electronic Transactions Law (2004) | 33(a), 33(b) & 38 | Using electronic transactions technology to commit any act detrimental to the security of the State; sending or receiving information relating to secrets of the security of the State; attempting, conspiring, or abetting. | Fifteen years |
| 6/88 | 5, 6, 7 | Prohibition of: forming organizations that are not permitted to register under the Political Parties Registration Law 1988; organizations that attempt to incite arrest; membership thereof or aiding and abetting. | Five years |
| Law protecting the peaceful and systematic transfer of state responsibility and the | 3, 4, 5, 6 | “Disturbing, destroying, obstructing, inciting, delivering speeches, making oral or written | Twenty years |

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| successful performance of the functions of the National Convention against disturbances and oppositions (5/1996) | | statements and disseminating in order to undermine, belittle and make people misunderstand the functions being carried out by the National Convention for the emergence of a firm and enduring Constitution” | |
| Printers & Publishers Act (1962) | 17/20 | All printed material must be submitted to the Press Scrutiny Board for vetting prior to publication. | Seven years |
| Official Secrets Act (1923) | 3 | Any person who communicates information calculated to be, directly or indirectly, useful to an enemy. | Fourteen years |
| Television and Video Law (1996) | 32(B) | Copying, distributing, hiring, or exhibiting etc a video that has not passed censorship. | Three years |
| Public Order Preservation Act (1947) | | Provisions for preserving peace and order. | Five years |
| Arms Act (1878) | | Manufacturing, conversion, sale of arms without a license, import/export and transport of arms without a license, going armed and possessing arms without a license | Seven years |
| Public Property Protection Act (1947) | | Anyone who obtains public property without permission; or believes it to be abandoned, including outside of the country of Myanmar, must report it to the authorities | Seven years |
| Press (Emergency Powers) Act (1931) | Article 17 | “Unauthorized news-sheet or unauthorized newspaper which is being produced from an undeclared press” | Six months |
| Export/Import Act | Article 5/1 | Contravening any order under export/import act, including the import, export, carriage coastwise or shipment as ships' stores, of goods of any specified description. | Seven years |

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For more information:

Tate Naing (Secretary): +66 (0) 81 287 8751

Bo Kyi (Joint Secretary): +66 (0) 81 962 8713

P.O Box 93, Mae Sot, Tak Province 63110, Thailand, e.mail: info@aappb.org, web: www.aappb.org