



15 October 2012

Not in Theory, Not in Practice: Freedom of Assembly and Association in Burma

The rights of peaceful assembly and association in Burma are fragile at best. The Burma government has enacted reforms to address this gap in human rights protection. Sadly the reforms are lacking and citizens are regularly denied any semblance of protection in relation to international human rights standards.

The Unlawful Associations Act¹ and the NGO Registration Law haven't been repealed; these remain large obstacles if Burma is to have freedom of assembly and association.

Many organizations are still listed as "unlawful" and the fact that the law remains in place is an ever-present threat for activists. There have been numerous instances of Kachin people being arrested and detained for suspected, but in no way proven, links to the Kachin Independence Organization. These incidences of "unlawful association" have only increased with the resumption of armed conflict in Kachin State since June 2011.

The current 1988 NGO Registration Law is overly restrictive and prohibits NGOs' involvement in politics and advocacy for rule of law and good governance. The law also requires NGOs to pay an unrealistic amount, up to 500,000 kyat (around US\$550), for registration fees.

Despite the approval by President Thein Sein on 2 December 2011 of the Peaceful Demonstration and Gathering Law, the government of Burma regularly arrests and intimidates peaceful protesters. Both assembly and association are still tightly controlled and restricted. Additionally there are serious flaws in the law itself.

More specifically, the law requires peaceful protesters to obtain permission five days in advance of any assembly or protest². The fact that permission is required as opposed to notification is severely problematic. The law also requires that every person who is going to participate must apply for permission.

¹ The Unlawful Associations Act, 11 December 1908. <http://bit.ly/Rf0Ouv>

² "Myanmar: The Decree on the Right to Peaceful Assembly and Peaceful Procession," Article 19, 20 September 2012. <http://bit.ly/Rf1iRo>

To date there have been protests composing of thousands of citizens, to require each and every one to apply five days in advance is an unacceptable burden. Slogans used during the demonstration must also be approved.

The new law has provisions that make it a criminal offense to give speeches that “contain false information”, “saying anything that could hurt the state and union” or “do anything that causes fear, a disturbance, or blocks roads, vehicles or the public.”³ This is in contradiction with the principle that limitations to human rights must be narrowly identified and strictly necessary and proportionate.⁴

In numerous instances, mentioned more specifically below, the government has refused to give permission. In Article 21 of the International Covenant on Civil and Political Rights, the right to freedom of assembly can only be restricted if there is a threat to public order, public safety, protection of health and morals, protection of the rights and freedoms of others and national security. The Burma government seems to have taken a different philosophy. The new law states that the police chief may refuse a permit if the application is “contrary to Union security, prevalence of law and order, community peace and tranquillity or public order and morality.”⁵ Moreover, it appears that if the protest is in agreement with the government, permission is granted; if it is in disagreement, permission is denied. An example of this would be the granting of permission to Buddhists to protest against Rohingyas throughout the country, but the denial to protest against land confiscation, power outages, against the government itself or the government’s actions in the past.

Not only has the government repeatedly denied permission for peaceful protest, it has used the requests for permission to identify and subsequently arrest and bring legal charges against activists. This is a particularly egregious violation of the right to associate and assemble. Citizens who try to comply with an unreasonable law are denied the basic human right to protest and when they do protest are rewarded with arrest, with their initial application used to identify them.

There is a very distinct correlation between arrest rates and peaceful assemblies. The Assistance Association for Political Prisoners (Burma) has noted that the more protests there are, the more arrests there are.⁶

In general there exist disturbing trends in the Burma government’s treatment towards the right to assemble and associate. Many civil society groups are unable to register and therefore participate in the political process; innocent citizens are routinely arrested and detained under the Unlawful Associations Act. The new Peaceful Demonstration and Gathering Law is overly restrictive and does not comply with international human rights standards. Permission to demonstrate is regularly denied and when citizens have protested they have been harassed, arrested, and charged with criminal offenses.

³ “Burma: New Law on Demonstrations Falls Short,” Human Rights Watch, 15 March 2012. <http://bit.ly/Rf1HmS>

⁴ Ibid

⁵ Ibid

⁶ “Arbitrary Arrests in Burma: a tool to repress critical voices,” Assistance Association for Political Prisoners (Burma), 27 September 2012. <http://bit.ly/Rf2cxt>

Below is an update on the “Situation of Freedom of Peaceful Assembly and Association” prepared by Human Rights Defenders from Burma and submitted in July 2012 to the Special Rapporteur.

Arbitrary arrest, violent acts and threats towards people participating in demonstrations

- **7 August:** Police in Mandalay detained labor activist Aye Thein for attempting to negotiate with local authorities on behalf of approximately 100 vendors who were protesting their relocation to another market.
- **31 August:** Wai Lu, a former political prisoner who was helping protesting farmers win back land confiscated by a copper mining company in the Latpadaung mountain range, was detained for two weeks on his way back to Rangoon from the protest.
- **10 September:** Twelve women who were protesting against the expansion of a copper mine were arrested in Sarlingyi Township, Sagaing Division. Nine were released on 11 September but three were detained until 14 September. The remaining three were also physically abused. “They pulled our hair, twisted our arms and waist and pushed us on the ground,” stated one of the women.

Arrest of students on 7 July commemoration

In early July, the government harassed and detained student activists in order to prevent them from holding commemorations of the 50th anniversary of the military regime’s murderous crackdown against students in Rangoon.

- **5 July:** Police in Mandalay Division summoned All Burma Federation of Students’ Union (ABFSU) members and warned them not to hold any commemorative ceremony on 7 July.
- **6 July:** The authorities detained more than two dozen ABFSU members including De Nyein Lin, Sithu Maung, Ye Myat Hein of Federation of Student Union Organizing Committee and Phyo Phyo Aung from All Burma Federation of Student Union in Rangoon, Mandalay, and several other locations across the country. Among those detained were several activists who were released from prison in January under a presidential amnesty. The authorities also raided the Rangoon headquarters of the 88 Generation Students looking for ABFSU leaders. In addition, the regime deployed police and military personnel to a Buddhist monastery in Mandalay, which had planned to hold a commemoration of the anniversary.
- **7 July:** The government released all the activists detained the previous day. Defying the regime’s intimidation and harassment, the ABFSU conducted ceremonies in Mandalay to commemorate the anniversary of the 1962 crackdown. In addition, about 300 people attended a commemorative event at the 88 Generations Students’ headquarters in Rangoon.⁷

⁷ ALTSEAN-Burma, “Burma Bulletin,” Issue 67, July 2012. <http://bit.ly/V00czl>

Peaceful candlelight protest for electricity and SIM cards

- **2 February:** Police in Akyab, Arakan State, warned “24-hour electricity campaign” activists not to wear campaign t-shirts during an upcoming local festival.⁸
- **4 February:** Police in Akyab, Arakan State, stripped the campaign t-shirts off a group of “24-hour electricity campaign” activists who participated in a local festival despite the police warning.⁹
- **28 February:** Regime authorities in Rangoon’s South Dagon Township briefly detained 11 activists who demanded the liberalization of the SIM card market.¹⁰
- **21 May:** Mandalay residents held a peaceful candlelight protest at the regime’s electric power office demanding 24-hour access to electricity. Protests were also held in front of the Sedona Hotel and the Chinese Embassy. A total of 1,500 people were involved in the protests. On 22 May, Special Branch police briefly detained and interrogated about 40 people in connection with the protests the previous day.¹¹
- **24 May:** About 400 people peacefully demonstrated over inadequate supplies of electricity in Prome, Pegu Division. Police arrested and briefly detained six people after attacking and beating protesters.¹²

Denial of holding demonstrations and events

Despite allowing official ceremonies to be held in numerous locations across Burma to mark Martyrs’ Day on 19 July, the government prevented several groups of National League for Democracy (NLD) members from organizing their own public commemorative events.

- **10 July:** Municipal authorities in Pegu barred local NLD members from assembling in front of a statue of General Aung San.¹³
- **11 July:** Government authorities in Ye Township, Mon State, barred local NLD members from holding Martyrs’ Day commemorative ceremonies in front of the Martyrs’ monument in Ye.¹⁴
- **18 July:** It was reported that authorities in Lashio, Northern Shan State, rejected a request by local NLD members for a commemorative ceremony in front of the Martyrs’ monument. It was also reported that regime authorities had rejected similar requests in Naypyidaw.¹⁵

⁸ ALTSEAN-Burma, “Burma Bulletin,” Issue 62, February 2012. <http://bit.ly/V1e5Yl>

⁹ Ibid

¹⁰ Ibid

¹¹ ALTSEAN-Burma, “Burma Bulletin,” Issue 65, May 2012. <http://bit.ly/Rtjozn>

¹² Ibid

¹³ “NLD barred from assembling during martyrs day in Pegu,” DVB, 11 July 2012. <http://bit.ly/RtiXVK>

¹⁴ ALTSEAN-Burma, “Burma Bulletin,” Issue 67, July 2012. <http://bit.ly/V00czl>

- **2 August:** Authorities in Rangoon denied permission to demonstrate against land confiscation in Labutta Township in the Irrawaddy Region.¹⁶
- **17 September:** Thirteen representatives from a network of more than 20 civil society organizations known as the Peace Network applied for assembly permits in each of the 10 townships in Rangoon through which a procession from Sule pagoda to Inya Lake was planned. Organizers submitted their slogans and other protest materials to the authorities as required by the 2011 law, including signs reading “Stop Civil War.” The authorities rejected the applications on 18 and 19 September, stating the event would disrupt traffic, pose a threat to the public, and risk violence.¹⁷

Ban on literature talk by social critics

- **Early February:** Authorities prevented cartoonist Aw P Kyel from giving literary talks in Thayet, Chauk, Seikphyu, Pakokku, and Yesagyo Townships in Magwe Division.¹⁸
- **10 February:** Authorities banned writer Than Myint Aung’s literary talk planned for the next day in Mankaleik Village, Kungyangon Township, Rangoon Division.¹⁹
- **15 February:** Authorities in Rambree Township, Arakan State, summoned organizers of literary talks delivered by several local Rakhine writers and demanded that they submit audio and video recordings of the lectures made on 7-9 February.²⁰

Prosecution of protesters

According to Article 18 of the new Peaceful Demonstration and Gathering Law, anyone who protests without authorization and violates the law faces one year imprisonment and 30,000 kyat fine.

- **22 and 23 September:** Thirteen organizers of the Peace Network demonstration on 21 September, whose details were submitted to the authorities in the applications as required by the law, received a written summons to appear at a Rangoon police station along with two “guarantors.” The organizers and their guarantors had to sign a document stating they agreed to appear in court if formal charges were brought against them or face a 1 million kyat fine (US\$1,160).²¹
- **8 October:** Ahmar Ni who participated in the electricity protests in May, was informed by Mandalay’s Police Station-8 that she would be charged for protesting without a permit. Additionally

¹⁵ ALTSEAN-Burma, “Burma Bulletin,” Issue 67, July 2012. <http://bit.ly/V00czl>

¹⁶ Mizzima: “Farmers will sue over denial of protest,” Mizzima, 2 August 2012. <http://bit.ly/V00wyi>

¹⁷ “Burma: Peaceful Protest Organizers Charged,” Human Rights Watch, 1 October 2012. <http://bit.ly/RtjW8l>

¹⁸ ALTSEAN-Burma, “Burma Bulletin” Issue 62, February 2012. <http://bit.ly/V1e5Yl>

¹⁹ Ibid

²⁰ Ibid

²¹ “Burma: Peaceful Protest Organizers Charged,” Human Rights Watch, 1 October 2012. <http://bit.ly/RtjW8l>

Min Htet Nyein Chan, vice president of Mandalay Base Environmental Group, stated that at least 10 other activists, including himself, have been charged by the police.²²

- **12 October:** Seven leaders of a workers' protest at Tawwin Family Co., Ltd's Finished Products and Furniture Factory in Myaungdagar Industrial Zone in Rangoon on 8 October were charged for demonstrating without a permit.²³

Arrest and intimidation of family members

- **15 March:** Aung Myint protested the lack of freedom in Burma by wearing a prison uniform and iron shackles; both he and his daughter were detained and severely interrogated. Aung Myint was ordered to a mental health hospital for a week. His daughter was also verbally threatened with the retraction of her law degree.²⁴

The Unlawful Associations Act

- **12 October:** Lahtaw Brang Shawng, a Kachin villager displaced by internal conflict, was set to appear in court. He is suspected of 3 bombings that took place in Kachin State and is being charged under Section 17/1 of the Unlawful Associations Act and Section 3 of the Explosive Substances Act.²⁵

²² "Officials press charges against 'electricity protestors,'" DVB, 9 October 2012. <http://bit.ly/Rtk73s>

²³ "More demonstrators charged for protesting without permits," DVB, 12 October 2012. <http://bit.ly/Rticfg>

²⁴ "Arbitrary Arrests in Burma: a to repress critical voices," Assistance Association for Political Prisoners (Burma), 27 September 2012. <http://bit.ly/RtkhrA>

²⁵ "Burma: Allow Torture Victim Medical Treatment and Prosecute Security Forces Responsible for Torture," Assistance Association for Political Prisoners (Burma), 13 July 2012. <http://bit.ly/RtkoTW>